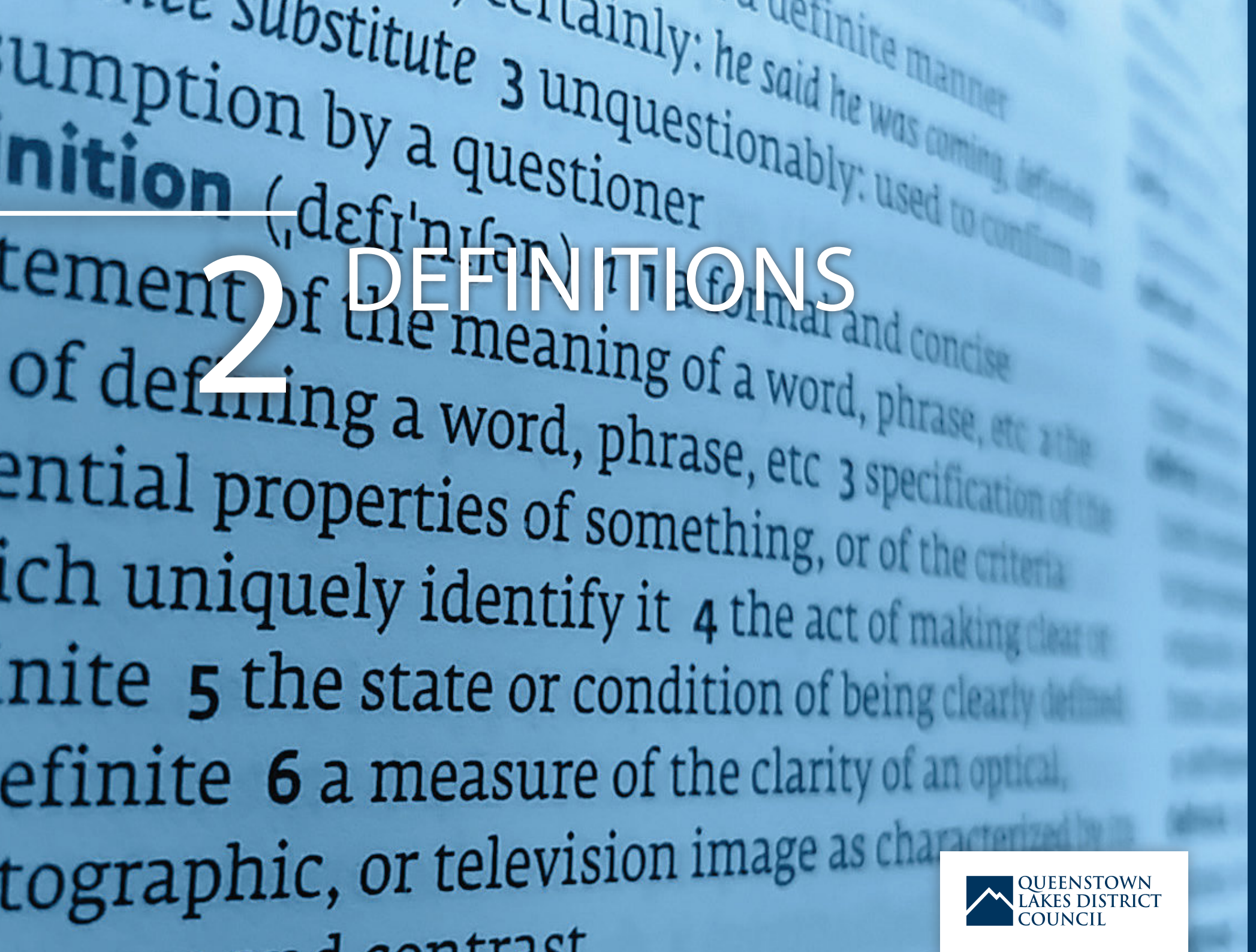
Appendix C - A copy of the relevant parts of the decision



2 DEFINITIONS

QUEENSTOWN LAKES DISTRICT COUNCIL

2.1 Definitions

Notes:

a. Unless the context otherwise requires, the definitions in this chapter apply throughout the plan whenever the defined term is used. The reverse applies to the designations in Chapter 37. The definitions in Chapter 2 only apply to designations where the relevant designation says they apply.

b. Where a term is not defined within the plan, reliance will be placed on the definition in the Act, where there is such a definition.

c. Chapter 5: Tangata Whenua (Glossary) supplements the definitions within this chapter by providing English translations-explanations of Maori words and terms used in the plan

d. Acoustic terms not defined in this chapter are intended to be used with reference to NZS 6801:2008 Acoustics - Measurement of environmental sound and NZS 6802:2008 Acoustics - Environmental noise.

e. Any defined term includes both the singular and the plural.

f. Any notes included within the definitions listed below are purely for information or guidance purposes only and do not form part of the definition.

g. Where a definition title is followed by a zone or specific notation, the intention is that the application of the definition is limited to the specific zone or scenario described.

D Definitions

Access	Means that area of land over which a site or lot obtains legal vehicular and/or pedestrian access to a legal road. This land may include an access leg, a private way, common land as defined on a cross-lease or company-lease, or common property (as defined in section 2 of the Unit Titles Act 2010).
Access Leg (Rear Lot or rear site)	Means the strip of land, which is included in the ownership of that lot or site, and which provides the legal, physical access from the frontage legal road to the net area of the lot or site.
Access Lot	Means a lot which provides the legal access or part of the legal access to one or more lots, and which is held in the same ownership or by tenancy-in-common in the same ownership as the lot(s) to which it provides legal access.
Accessory Building	Means any detached building the use of which is incidental to the principal building, use or activity on a site, and for residential activities includes a sleep out, garage or carport, garden shed, glasshouse, swimming pool, mast, shed used solely as a storage area, or other similar structure, provided that any garage or carport which is attached to or a part of any building shall be deemed to be an accessory building.
Accessway	Means any passage way, laid out or constructed by the authority of the council or the Minister of Works and Development or, on or after 1 April 1988, the Minister of Lands for the purposes of providing the public with a convenient route for pedestrians from any road, service lane, or reserve to another, or to any public place or to any railway station, or from one public place to another public place, or from one part of any road, service lane, or reserve to another part of that same road, service lane, or reserve[1].
Act	Means the Resource Management Act 1991.
Activity Sensitive To Aircraft Noise (ASAN) / Activity Sensitive to Road Noise	Means any residential activity, visitor accommodation activity, community activity and day care facility activity as defined in this District Plan including all outdoor spaces associated with any education activity, but excludes activity in police stations, fire stations, courthouses, probation and detention centres, government and local government offices.
Adjoining Land (Subdivision)	Includes land separated from other land only by a road, railway, drain, water race, river or stream.
Aerodrome	Means a defined area of land used wholly or partly for the landing, departure, and surface movement of aircraft including any buildings, installations and equipment on or adjacent to any such area used in connection with the aerodrome or its administration.
Aircraft	Means any machine that can derive support in the atmosphere from the reactions of the air otherwise than by reactions of the air against the surface of the earth. Excludes remotely piloted aircraft that weigh less than 15 kilograms.

[1]. From section 315 of the Local Government Act 1974

D Definitions

Aircraft Operations	Means the operation of aircraft during landing, take-off and taxiing but excludes: a. aircraft operating in an emergency; b. aircraft using the Airport as an alternative to landing at a scheduled airport; c. military aircraft movements; and d. engine testing.
Air Noise Boundary Queenstown (ANB)	Means a boundary as shown on the District Plan Maps, the location of which is based on the predicted day/night sound level of 65 dB Ldn from airport operations in 2037.
Airport Activity	Means land used wholly or partly for the landing, departure, and surface movement of aircraft, including: a. aircraft operations which include private aircraft traffic, domestic and international aircraft traffic, rotary wing operations; b. aircraft servicing, general aviation, airport or aircraft training facilities and associated offices; c. runways, taxiways, aprons, and other aircraft movement areas; d. terminal buildings, hangars, air traffic control facilities, flight information services, navigation and safety aids, rescue facilities, lighting, car parking, maintenance and service facilities, fuel storage and fuelling facilities and facilities for the handling and storage of hazardous substances.
Airport Related Activity	Means an ancillary activity or service that provides support to the airport. This includes: a. land transport activities; b. buildings and structures; c. servicing and infrastructure; d. police stations, fire stations, medical facilities and education facilities provided they serve an aviation related purpose; e. retail and commercial services and industry associated with the needs of Airport passengers, visitors and employees and/or aircraft movements and Airport businesses; f. catering facilities; g. quarantine and incineration facilities; h. border control and immigration facilities; i. administrative offices (provided they are ancillary to an airport or airport related activity.
All Weather Standard	Means a pavement which has been excavated to a sound subgrade, backfilled and compacted to properly designed drainage gradients with screened and graded aggregate and is usable by motor vehicles under all weather conditions, and includes metalled and sealed surfaces.

D Definitions

Amenity Or Amenity Values	Means those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes[2].
Antenna	Means telecommunications apparatus, being metal rod, wire or other structure, by which signals are transmitted or received, including any bracket or attachment but not any support mast or similar structure.
Archaeological Site	Means, subject to section 42(3) of the Heritage New Zealand Pouhere Taonga Act 2014: a. any place in New Zealand, including any building or structure (or part of a building or structure), that – i. was associated with human activity that occurred before 1900 or is the site of the wreck of any vessel where the wreck occurred before 1900; and ii. provides or may provide, through investigation by archaeological methods, evidence relating to the history of New Zealand; and b. includes a site for which a declaration is made under section 43(1) of the Heritage New Zealand Pouhere Taonga Act 2014.
Area Median Income (AMI)	Means the median household income for the Queenstown Lakes District as published by Statistics New Zealand following each census, and adjusted annually by the Consumer Price Index (CPI).
Bar (Hotel or Tavern)	Means any part of a hotel or tavern which is used principally for the sale, supply or consumption of liquor on the premises. Bar area shall exclude areas used for storage, toilets or like facilities and space.
Biodiversity Offsets	Means measurable conservation outcomes resulting from actions designed to compensate for residual adverse biodiversity impacts arising from project development after appropriate avoidance, minimisation, remediation and mitigation measures have been taken. The goal of biodiversity offsets is to achieve no net loss and preferably a net gain of biodiversity on the ground.
Biomass Electricity Generation	Means electricity generation derived from biomass systems being recently living organisms such as wood, wood waste, by products of agricultural processes and waste.
Boat	Means any vessel, appliance or equipment used or designed to be used for flotation and navigation on or through the surface of water, other than a wetsuit or lifejacket, and includes any aircraft whilst such aircraft is on the surface of the water. Craft or boating craft shall have the same meaning. Boating activities shall mean activities involving the use of boats on the surface of water.
Boundary	Means any boundary of the net area of a site and includes any road boundary or internal boundary. Site boundary shall have the same meaning as boundary.

[2] From section 2 of the Act

D Definitions

Building	Shall have the same meaning as the Building Act 2004, with the following exemptions in addition to those set out in the Building Act 2004: a. fences and walls not exceeding 2m in height; b. retaining walls that support no more than 2 vertical metres of earthworks; c. structures less than $5m^2$ in area and in addition less than 2m in height above ground level; d. radio and television aerials (excluding dish antennae for receiving satellite television which are greater than 1.2m in diameter), less than 2m in height above ground level; e. uncovered terraces or decks that are no greater than 1m above ground level; f. the upgrading and extension to the Arrow Irrigation Race provided that this exception only applies to upgrading and extension works than involve underground piping of the Arrow Irrigation Race; g. flagpoles not exceeding 7m in height; h. building profile poles, required as part of the notification of Resource Consent applications; i. public outdoor art installations sited on Council owned land; j. pergolas less than 2.5 metres in height either attached or detached to a building; Notwithstanding the definition set out in the Building Act 2004, and the above exemptions a building shall include: a. any vehicle, trailer, tent, marquee, shipping container, caravan or boat, whether fixed or moveable, used on a site for a residential accommodation unit for a period exceeding 2 months.
Building Coverage	Means that portion of the net area of a site which is covered by buildings or parts of buildings, including overhanging or cantilevered parts of buildings, expressed as a percentage or area. Building coverage shall only apply to buildings at ground, or above ground level. The following shall not be included in building coverage: a. pergolas; b. that part of eaves and/or spouting, fire aprons or bay or box windows projecting 600mm or less horizontally from any exterior wall; c. uncovered terraces or decks which are not more than 1m above ground level; d. uncovered swimming pools no higher than 1m above ground level; e. fences, walls and retaining walls; f. driveways and outdoor paved surfaces.
Building Line Restriction	Means a restriction imposed on a site to ensure when new buildings are erected or existing buildings re-erected, altered or substantially rebuilt, no part of any such building shall stand within the area between the building line and the adjacent site boundary.

D Definitions

Building Supplier	Means a business primarily engaged in selling goods for consumption or use in the construction, modification, cladding, fixed decoration or outfitting of buildings and without limiting the generality of this term, includes suppliers of: a. glazing; b. awnings and window coverings; c. bathroom, toilet and sauna installations; d. electrical materials and plumbing supplies; e. heating, cooling and ventilation installations; f. kitchen and laundry installations, excluding standalone appliances; g. paint, varnish and wall coverings; h. permanent floor coverings; i. power tools and equipment; j. locks, safes and security installations; and k. timber and building materials.
Camping Ground	Means camping ground as defined in the Camping Ground Regulations 1985[3].
Carriageway	Means the portion of a road devoted particularly to the use of motor vehicles.
Clearance of Vegetation	Means the removal, trimming, felling, or modification of any vegetation and includes cutting, crushing, cultivation, soil disturbance including direct drilling, spraying with herbicide or burning. Clearance of vegetation includes, the deliberate application of water or oversowing where it would change the ecological conditions such that the resident indigenous plant(s) are killed by competitive exclusion. Includes dryland cushion field species.
Commercial	Means involving payment, exchange or other consideration.
Commercial Activity	Means the use of land and buildings for the display, offering, provision, sale or hire of goods, equipment or services, and includes shops, postal services, markets, showrooms, restaurants, takeaway food bars, professional, commercial and administrative offices, service stations, motor vehicle sales, the sale of liquor and associated parking areas. Excludes recreational, community and service activities, home occupations, visitor accommodation, registered holiday homes and registered homestays.
Commercial Livestock	Means livestock bred, reared and/or kept on a property for the purpose of commercial gain, but excludes domestic livestock.
Commercial Recreational Activities	Means the commercial guiding, training, instructing, transportation or provision of recreation facilities to clients for recreational purposes including the use of any building or land associated with the activity, excluding ski area activities.

[3] Greyed out text indicates the provision is subject to variation and is therefore is not part of the Hearing Panel's recommendations.

D Definitions

Common Property	Means: a. all the land and associated fixtures that are part of the unit title development but are not contained in a principal unit, accessory unit, or future development unit; and b. in the case of a subsidiary unit title development, means that part of the principal unit subdivided to create the subsidiary unit title development that is not contained in a principal unit, accessory unit, or future development unit[4].
Community Activity	Means the use of land and buildings for the primary purpose of health, welfare, care, safety, education, culture and/or spiritual well being. Excludes recreational activities. A community activity includes day care facilities, education activities, hospitals, doctors surgeries and other health professionals, churches, halls, libraries, community centres, police purposes, fire stations, courthouses, probation and detention centres, government and local government offices.
Community Housing	Means residential activity that maintains long term affordability for existing and future generations through the use of a retention mechanism, and whose cost to rent or own is within the reasonable means of low and moderate income households.
Comprehensive Development (For the purpose of Chapters 12 and 13 only)	Means the construction of a building or buildings on a site or across a number of sites with a total land area greater than 1400m^2.
Contributory Buildings (For the purpose of Chapter 26 only)	Means buildings within a heritage precinct that contribute to the significance of a heritage precinct some of which may be listed for individual protection in the Inventory under Rule 26.8. They may contain elements of heritage fabric, architecture or positioning that adds value to the heritage precinct. They have been identified within a heritage precinct because any future development of the site containing a contributory building may impact on the heritage values of heritage features, or the heritage precinct itself. Contributory buildings are identified on the plans under Section 26.7 'Heritage Precincts'. (Refer also to the definition of Non-Contributory Buildings).
Council	Means the Queenstown Lakes District Council or any Committee, Sub Committee, Community Board, Commissioner or person to whom any of the Council's powers, duties or discretions under this Plan have been lawfully delegated pursuant to the provisions of the Act. District council shall have the same meaning.
Critical Listening Environment	Means any space that is regularly used for high quality listening or communication for example principle living areas, bedrooms and classrooms but excludes non-critical listening environments.
Day Care Facility	Means land and/or buildings used for the care during the day of elderly persons with disabilities and/or children, other than those residing on the site.
Design Sound Level	Means 40 dB L_{dn} in all critical listening environments.
District	Means Queenstown Lakes District

[4] From the Unit Titles Act 2010

D Definitions

Domestic Livestock	Means livestock bred, reared and/or kept on a property, excluding that which is for the purpose of commercial gain. a. In all zones, other than the Rural, Rural Lifestyle and Rural Residential Zones, it is limited to 5 adult poultry per site, and does not include adult roosters or peacocks; and b. In the Rural, Rural Lifestyle and Rural Residential Zones it includes any number of livestock bred, reared and/or kept on a site for family consumption, as pets, or for hobby purposes and from which no financial gain is derived, except that in the Rural Residential Zone it is limited to only one adult rooster and peacock per site. Note: Domestic livestock not complying with this definition shall be deemed to be commercial livestock and a farming activity.
Earthworks	Means the disturbance of land surfaces by the removal or depositing of material, excavation, filling or the formation of roads, banks, and tracks. Excludes the cultivation of land and the digging of holes for offal pits and the erection of posts or poles or the planting of trees[5].
Ecosystem Services	Means the resources and processes the environment provides that people benefit from e.g. purification of water and air, pollination of plants and decomposition of waste.
Education Activity	Means the use of land and buildings for the primary purpose of regular instruction or training including early childhood education, primary, intermediate and secondary schools, tertiary education. It also includes ancillary administrative, cultural, recreational, health, social and medical services (including dental clinics and sick bays) and commercial facilities.
Electricity Distribution	Means the conveyance of electricity via electricity distribution lines, cables, support structures, substations, transformers, switching stations, kiosks, cabinets and ancillary buildings and structures, including communication equipment, by a network utility operator.
Energy Activities	Means the following activities: a. small and community-scale distributed electricity generation and solar water heating; b. renewable electricity generation; c. non-renewable electricity generation; d. wind electricity generation; e. solar electricity generation; f. stand-alone power systems (SAPS); g. biomass electricity generation; h. hydro generation activity; i. mini and micro hydro electricity generation.
Environmental Compensation	Means actions offered as a means to address residual adverse effects to the environment arising from project development that are not intended to result in no net loss or a net gain of biodiversity on the ground, includes residual adverse effects to other components of the environment including landscape, the habitat of trout and salmon, open space, recreational and heritage values.

[5] Greyed out text indicates the provision is subject to variation and is therefore is not part of the Hearing Panel's recommendations.

D Definitions

Exotic (Trees and Plants)	Means species which are not indigenous to that part of New Zealand.
Extent of Place (For the purpose of Chapter 26 only)	Means the area around and/or adjacent to a heritage feature listed in the Inventory under Section 26.8 and which is contained in the same legal title as a heritage feature listed in the Inventory, the extent of which is identified in Section 26.8.1. (Refer also to the definition of Setting).
External Alterations and Additions (For the purpose of Chapter 26 only)	Means undertaking works affecting the external heritage fabric of heritage features, but excludes repairs and maintenance, and partial demolition. External additions includes signs and lighting.
External Appearance (Buildings)	Means the bulk and shape of the building including roof pitches, the materials of construction and the colour of exterior walls, joinery, roofs and any external fixtures.
Factory Farming	Includes: a. the use of land and/or buildings for the production of commercial livestock where the regular feed source for such livestock is substantially provided other than from grazing the site concerned; b. boarding of animals; c. mushroom farming.
Farming Activity	Means the use of land and buildings for the primary purpose of the production of vegetative matters and/or commercial livestock. Excludes residential activity, home occupations, factory farming and forestry activity. Means the use of lakes and rivers for access for farming activities.
Farm Building	Means a building (as defined) necessary for the exercise of farming activities (as defined) and excludes: a. buildings for the purposes of residential activities, home occupations, factory farming and forestry activities; b. visitor accommodation and temporary accommodation.
Flatboard	Means a portable sign that is not self-supporting[6].
Flat site	Means a site where the ground slope is equal to or less than 6 degrees (i.e. equal to or less than 1 in 9.5). Ground slope in relation to building height shall be determined by measurement over the extremities of each building elevation. Where all elevations indicate a ground slope of less than 6 degrees (i.e. equal to or less than 1 in 9.5), rules applicable to flat sites will apply.
Flood Protection Work	Means works, structures and plantings for the protection of property and people from flood fairways or lakes, the clearance of vegetation and debris from flood fairways, stop banks, access tracks, rockwork, anchored trees, wire rope and other structures.

[6] Greyed out text indicates the provision is subject to variation and is therefore is not part of the Hearing Panel's recommendations.

D Definitions

Forestry Activity	Means the use of land primarily for the purpose of planting, tending, managing and harvesting of trees for timber or wood production in excess of 0.5ha in area.
Formed Road	Means a road with a carriageway constructed to an all-weather standard with a minimum width of 3m.
Free Standing Sign	Means a self supporting sign not attached to a building and includes a sign on a fence and a sandwich board[7].
Frontage	Means the road boundary of any site.
Full-Time Equivalent Person	Means the engagement of a person or persons in an activity on a site for an average of 8 hours per day assessed over any 14 day period.
Garage	Is included within the meaning of residential unit, and means a building or part of a building principally used for housing motor vehicles and other ancillary miscellaneous items.
Gross Floor Area (GFA)	Means the sum of the gross area of the several floors of all buildings on a site, measured from the exterior faces of the exterior walls, or from the centre lines of walls separating two buildings.
Ground Floor Area (For Signs)	Shall be measured: a. horizontally by the length of the building along the road, footpath, access way or service lane to which it has frontage. b. vertically by the height from the surface of the road, footpath, access way or service land or as the case may be to the point at which the verandah, if any, meets the wall of the building or to a height of 3m above the surface of the road, footpath, access way or service lane, whichever is less[8].
Ground Floor Area	Means any areas covered by the building or parts of the buildings and includes overhanging or cantilevered parts but does not include pergolas (unroofed), projections not greater than 800mm including eaves, bay or box windows, and uncovered terraces or decks less than 1m above ground level.

[7, 8] Greyed out text indicates the provision is subject to variation and is therefore is not part of the Hearing Panel's recommendations.

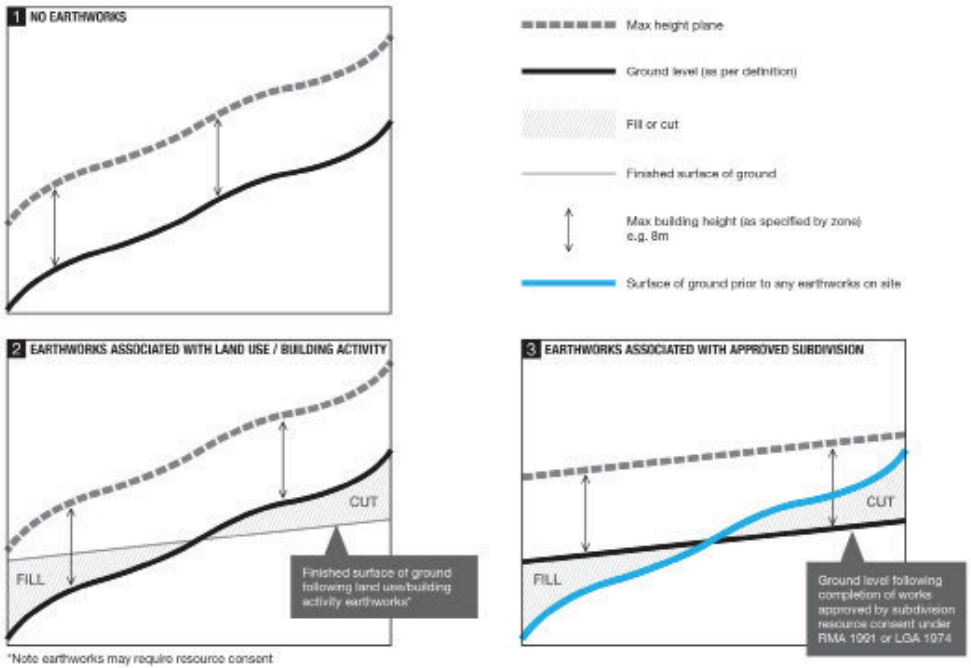
D Definitions

Ground Level	Means: The surface of the ground prior to any earthworks on the site, except that where the surface of the ground has been altered through earthworks carried out as part of a subdivision under the Resource Management Act 1991 or Local Government Act 1974 "ground level" means the finished surface of the ground following completion of works associated with the most recently completed subdivision. a. "earthworks" has the meaning given in the definition of that term in this Plan and includes earthworks carried out at any time in the past; b. "completed subdivision" means a subdivision in respect of which a certificate pursuant to section 224(c) of the Resource Management Act 1991 or a completion certificate under the Local Government Act 1974 has been issued; c. "earthworks carried out as part of a subdivision" does not include earthworks that are authorized under any land use consent for earthworks, separate from earthworks approved as part of a subdivision consent after 29 April 2016; d. ground level interpretations are to be based on credible evidence including existing topographical information, site specific topography, adjoining topography and known site history; e. changes to the surface of the ground as a result of earthworks associated with building activity do not affect the "ground level" of a site; f. subdivision that does not involve earthworks has no effect on "ground level"; Notes: a. See interpretive diagrams in the definition of Height; b. Special height rules apply in the Queenstown town centre, where "metres above sea level" is used. This is not affected by the definition of "ground level" above, which applies elsewhere.
Handicrafts	Means goods produced by the use of hand tools or the use of mechanical appliances where such appliances do not produce the goods in a repetitive manner according to a predetermined pattern for production run purpose.
Hangar	Means a structure used to store aircraft, including for maintenance, servicing and/or repair purposes.
Hard Surfacing	Means any part of that site which is impermeable and includes: a. concrete, bitumen or similar driveways, paths or other areas paved with a continuous surface or with open jointed slabs, bricks, gobi or similar blocks; or hardfill driveways that effectively put a physical barrier on the surface of any part of a site; b. any area used for parking, manoeuvring, access or loading of motor vehicles; c. any area paved either with a continuous surface or with open jointed slabs, bricks, gobi or similar blocks; The following shall not be included in hard surfacing: a. paths of less than 1m in width; b. shade houses, glasshouses and tunnel houses not having solid floors.

D Definitions

Hazardous Substance	Means any substance with one or more of the following characteristics: a i explosives ii flammability iii a capacity to oxidise iv corrosiveness v toxicity (both acute and chronic) vi ecotoxicity, with or without bio-accumulation; or b which on contact with air or water (other than air or water where the temperature or pressure has been artificially increased or decreased) generates a substance with any one or more of the properties specified in paragraph a to this definition.
Health Care Facility	Means land and/or buildings used for the provision of services relating to the physical and mental health of people and animals but excludes facilities used for the promotion of physical fitness or beauty such as gymnasia, weight control clinics or beauticians.
Heavy Vehicle	Means a motor vehicle, other than a motor car that is not used, kept or available for the carriage of passengers for hire or reward, the gross laden weight of which exceeds 3500kg; but does not include a traction engine or vehicle designed solely or principally for the use of fire brigades in attendance at fires. (The Heavy Motor Vehicle Regulation 1974).

D Definitions

Height (Building)	Means the vertical distance between ground level (as defined), unless otherwise specified in a District Plan rule, at any point and the highest part of the building immediately above that point. For the purpose of calculating height in all zones, account shall be taken of parapets, but not of: a. aerials and/or antennas, mounting fixtures, mast caps, lightning rods or similar appendages for the purpose of telecommunications but not including dish antennae which are attached to a mast or building, provided that the maximum height normally permitted by the rules is not exceeded by more than 2.5m; and b. chimneys or finials (not exceeding 1.1m in any direction); provided that the maximum height normally permitted by the rules is not exceeded by more than 1.5m. See interpretive diagrams below and definition of GROUND LEVEL. 

D Definitions

Heritage Fabric (For the purpose of Chapter 26 only)	Means any physical aspect of a heritage feature which contributes to its heritage values as assessed with the criteria contained in section 26.5. Where a heritage assessment is available on the Council's records this will provide a good indication of what constitutes the heritage fabric of that heritage feature. Where such an assessment is not available, heritage fabric may include, but is not limited to: a. original and later material and detailing which forms part of, or is attached to, the interior or exterior of a heritage feature; b. the patina of age resulting from the weathering and wear of construction material over time; c. fixtures and fittings that form part of the design or significance of a heritage feature but excludes inbuilt museum and art work exhibitions and displays, and movable items not attached to a building, unless specifically listed. d. heritage features which may require analysis by archaeological means, which may also include features dating from after 1900.
Heritage Feature or Features (For the purpose of Chapter 26 only)	Means the collective terms used to describe all heritage features listed in the Inventory of Heritage Features under Section 26.8.
Heritage Significance (For the purpose of Chapter 26 only)	Means the significance of a heritage feature (identified in this Chapter as Category 1, 2, or 3) as evaluated in accordance with the criteria listed in section 26.5. A reduction in heritage significance means where a proposed activity would have adverse effects which would reduce the category that has been attributed to that heritage feature.

D Definitions

Historic Heritage	Means those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities: a. archaeological; b. architectural; c. cultural; d. historic; e. scientific; f. technological; and and includes: a. historic sites, structures, places, and areas; and b. archaeological sites; and c. sites of significance to Maori, including wāhi tapu; and d. surroundings associated with natural and physical resources. e. heritage features (including where relevant their settings or extent of place), heritage areas, heritage precincts, and sites of significance to Maori.
Holding	Means an area of land in one ownership and may include a number of lots and/or titles.
Home Occupation	Means the use of a site for an occupation, business, trade or profession in addition to the use of that site for a residential activity and which is undertaken by person(s) living permanently on the site, but excludes homestay.
Homestay	Means a residential activity where an occupied residential unit is also used by paying guests[9].
Hospital	Means any building in which two or more persons are maintained for the purposes of receiving medical treatment; and where there are two or more buildings in the occupation of the same person and situated on the same piece of land they shall be deemed to constitute a single building.
Hotel	Means any premises used or intended to be in the course of business principally for the provision to the public of: a. lodging; b. liquor, meals and refreshments for consumption on the premises.
Household	Means a single individual or group of people, and their dependents who normally occupy the same primary residence.
Household Income	Means all income earned from any source, by all household members.

[9] Greyed out text indicates the provision is subject to variation and is therefore is not part of the Hearing Panel's recommendations.

D Definitions

Hydro Generation Activity	Means activities associated with the generation of hydro electricity and includes the operation, maintenance, refurbishment, enhancement and upgrade of hydro generation facilities.
Indigenous Vegetation	Means vegetation that occurs naturally in New Zealand, or arrived in New Zealand without human assistance, including both vascular and non-vascular plants.
Indoor Design Sound Level	Means 40 dB L_{dn} in all critical listening environments.
Industrial Activity	Means the use of land and buildings for the primary purpose of manufacturing, fabricating, processing, packing, or associated storage of goods
Informal Airport	Means any defined area of land or water intended or designed to be used for the landing, departure movement or servicing of aircraft and specifically excludes the designated 'Aerodromes', shown as designations 2, 64, and 239 in the District Plan. This excludes the airspace above land or water located on any adjacent site over which an aircraft may transit when arriving and departing from an informal airport.
Internal Boundary	Means any boundary of the net area of a site other than a road boundary.
Internal Alterations (For the purpose of Chapter 26 only)	Means undertaking works affecting the internal heritage fabric of heritage features, but excludes repairs and maintenance. Internal alterations includes the partial removal and replacement of decoration, windows, ceilings, floors or roofs that only affect the interior of the building.
Kitchen Facility	Means any space, facilities and surfaces for the storage, rinsing preparation and/or cooking of food, the washing of utensils and the disposal of waste water, including a food preparation bench, sink, oven, stove, hot-plate or separate hob, refrigerator, dish-washer and other kitchen appliances.
$L_{Aeq\ (15min)}$	Means the A frequency weighted time average sound level over 15 minutes, in decibels (dB).
L_{AFmax}	Means the maximum A frequency weighted fast time weighted sound level, in decibels (dB), recorded in a given measuring period.
L_{dn}	Means the day/night level, which is the A frequency weighted time average sound level, in decibels (dB), over a 24-hour period obtained after the addition of 10 decibels to the sound levels measured during the night (2200 to 0700 hours).
Lake	Means a body of fresh water which is entirely or nearly surrounded by land [10].
Landfill	Means a site used for the deposit of solid wastes onto or into land[11].
Landmark Building (For the purposes of Chapter 12 only)	Means the provision of tree and/or shrub plantings and may include any ancillary lawn, water, rocks, paved areas or amenity features, the whole of such provision being so arranged as to improve visual amenity, human use and enjoyment and/or to partially or wholly screen activities or buildings, and/or to provide protection from climate.

[10] From section 2 of the Act
[11] Greyed out text indicates the provision is subject to variation and is therefore is not part of the Hearing Panel's recommendations.

D Definitions

Landscaping	Means the provision of tree and/or shrub plantings and may include any ancillary lawn, water, rocks, paved areas or amenity features, the whole of such provision being so arranged as to improve visual amenity, human use and enjoyment and/or to partially or wholly screen activities or buildings, and/or to provide protection from climate.
Landside	Means an area of an airport and buildings to which the public has unrestricted access.
Laundry Facilities	Means facilities for the rinsing, washing and drying of clothes and household linen, and the disposal of waste water, and includes either a washing machine, tub or clothes dryer.
Licensed Premises	Means any premises or part of any premises, in which liquor may be sold pursuant to a licence, and includes any conveyance, or part of any conveyance on which liquor may be sold pursuant to the licence.
Lift Tower	Means a structure used for housing lift machinery and includes both the lift shaft and machinery room.
Liquor	Shall have the same meaning as alcohol as defined in the Sale and Supply of Alcohol Act 2012.
Living Area	Means any room in a residential unit other than a room used principally as a bedroom, laundry or bathroom.
Loading Space	Means a portion of a site, whether covered or not, clear of any road or service lane upon which a vehicle can stand while being loaded or unloaded.
Lot (Subdivision)	Means a lot, two or more adjoining lots to be held together in the same ownership, or any balance area, shown on a subdivision consent plan, except that in the case of land being subdivided under the cross lease or company lease systems or the Unit Titles Act 2010, lot shall have the same meaning as site.
Low Income	Means household income below 80% of the area median Income.
Manoeuvre Area	Means that part of a site used by vehicles to move from the vehicle crossing to any parking, garage or loading space and includes all driveways and aisles, and may be part of an access strip.
MASL	Means "metres above sea level".
Mast	Means any pole, tower or similar structured designed to carry antennas or dish antennas or otherwise to facilitate telecommunications.
Mineral	Means a naturally occurring inorganic substance beneath or at the surface of the earth, whether or not under water and includes all metallic minerals, nonmetallic minerals, fuel minerals, precious stones, industrial rocks and building stones and a prescribed substance within the meaning of the Atomic Energy Act 1945.
Mineral Exploration	Means any activity undertaken for the purpose of identifying mineral deposits or occurrences and evaluating the feasibility of mining particular deposits or occurrences of 1 or more minerals; and includes any drilling, dredging, or excavations (whether surface or subsurface) that are reasonably necessary to determine the nature and size of a mineral deposit or occurrence; and to explore has a corresponding meaning.
Mineral Prospecting	Means any activity undertaken for the purpose of identifying land likely to contain mineral deposits or occurrences; and includes the following activities: a. geological, geochemical, and geophysical surveys; b. the taking of samples by hand or hand held methods; c. aerial surveys.

D Definitions

Mini and Micro Hydro Electricity Generation	Means conversion of the energy of falling water into electricity. Mini and micro generation may utilise impulse or reaction turbines and include intake or diversion structures, small weir, headrace, penstock, channel, pipes and generator.
Mining	Means to take, win or extract, by whatever means: a. a mineral existing in its natural state in land; or b. a chemical substance from a mineral existing in its natural state in land.
Mining Activity	Means the use of land and buildings for the primary purpose of the extraction, winning, quarrying, excavation, taking and associated processing of minerals and includes prospecting and exploration[12].
Minor Alterations and Additions to a Building (For the purposes of Chapter 10 only)	Means the following: a. constructing an uncovered deck; b. replacing windows or doors in an existing building that have the same profile, trims and external reveal depth as the existing; c. changing existing materials or cladding with other materials or cladding of the same texture, profile and colour.
Minor Repairs and Maintenance (For the purpose of Chapter 26 only)	Means repair of building materials and includes replacement of minor components such as individual bricks, cut stone, timber sections, roofing and glazing. The replacement items shall be of the original or closely matching material, colour, texture, form and design, except that there shall be no replacement of any products containing asbestos, but a closely matching product may be used instead. Repairs and maintenance works that do not fall within this definition will be assessed as alterations.
Minor Trimming (For the purpose of Chapter 32 only)	Means the removal of not more than 10% of the live foliage from the canopy of the tree or structural scaffold branches within a single calendar year.
Minor Trimming of a Hedgerow (For the purpose of Chapter 32 only)	Means the removal of not more than 50% of the live foliage within a single five year period.

[12] Greyed out text indicates the provision is subject to variation and is therefore is not part of the Hearing Panel's recommendations.

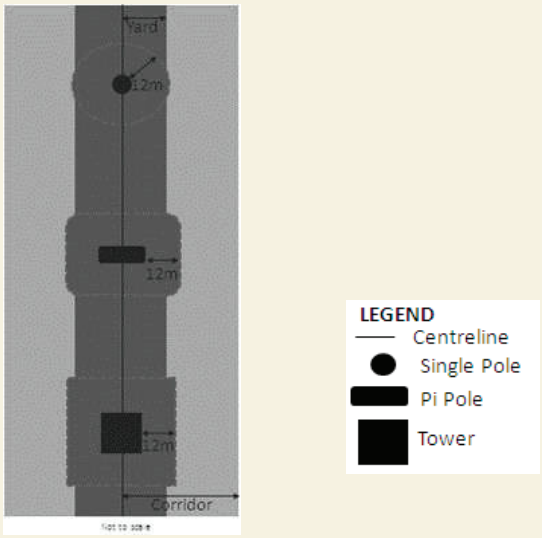
D Definitions

Minor Upgrading (For the purpose of Chapter 30 only)	Means an increase in the carrying capacity, efficiency or security of electricity transmission and distribution or telecommunication lines utilising the existing support structures or structures of similar character, intensity and scale and includes the following: a. addition of lines, circuits and conductors; b. reconducting of the line with higher capacity conductors; c. re-sagging of conductors; d. bonding of conductors; e. addition or replacement of longer or more efficient insulators; f. addition of electrical fittings or ancillary telecommunications equipment; g. addition of earth-wires which may contain lightning rods, and earth-peaks; h. support structure replacement within the same location as the support structure that is to be replaced; i. addition or replacement of existing cross-arms with cross-arms of an alternative design; j. replacement of existing support structure poles provided they are less or similar in height, diameter and are located within 2 metres of the base of the support pole being replaced; k. addition of a single service support structure for the purpose of providing a service connection to a site, except in the Rural zone; l. the addition of up to three new support structures extending the length of an existing line provided the line has not been lengthened in the preceding five year period.
Moderate Income	Means household income between 80% and 120% of the area median income.
Motorised Craft	Means any boat powered by an engine.
National Grid	Means the network that transmits high-voltage electricity in New Zealand and that, at the notification of this Plan, was owned and operated by Transpower New Zealand Limited, including: a. transmission lines; and b. electricity substations[13].
National Grid Corridor	Means the area measured either side of the centreline of above ground national grid line as follows: a. 16m for the 110kV lines on pi poles b. 32m for 110kV lines on towers c. 37m for the 220kV transmission lines. Excludes any transmission lines (or sections of line) that are designated.

[13] Adapted from the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009

National Grid Sensitive Activities	Means those activities within the national grid corridor that are particularly sensitive to risks associated with electricity transmission lines because of either the potential for prolonged exposure to the risk, or the vulnerability of the equipment or population that is exposed to the risk. Such activities include buildings or parts of buildings used for, or able to be used for the following purposes: a. child day care activity; b. day care facility activity; c. educational activity; d. home stay; e. healthcare facility; f. papakainga; g. any residential activity; h. visitor accommodation.

D Definitions

National Grid Yard	Means: a. the area located 12 metres in any direction from the outer edge of a national grid support structure; and b. the area located 12 metres either side of the centreline of any overhead national grid line; (as shown in dark grey in diagram below)  Excludes any transmission lines (or sections of line) that are designated.
Nature Conservation Values	Means the collective and interconnected intrinsic value of indigenous flora and fauna, natural ecosystems (including ecosystem services), and their habitats.
Navigation Infrastructure	Means any permanent or temporary device or structure constructed and operated for the purpose of facilitating navigation by aircraft.
Net Area (Site or Lot)	Means the total area of the site or lot less any area subject to a designation for any purpose, and/or any area contained in the access to any site or lot, and/or any strip of land less than 6m in width.

D Definitions

Net Floor Area	Means the sum of the floor areas, each measured to the inside of the exterior walls of the building, and shall include the net floor area of any accessory building, but it shall exclude any floor area used for: a. lift wells, including the assembly area immediately outside the lift doors for a maximum depth of 2m; b. stairwells; c. tank rooms, boiler and heating rooms, machine rooms, bank vaults; d. those parts of any basement not used for residential, retail, office or industrial uses; e. toilets and bathrooms, provided that in the case of any visitor accommodation the maximum area permitted to be excluded for each visitor unit or room shall be $3m^2$; f. 50% of any pedestrian arcade, or ground floor foyer, which is available for public thoroughfare; g. parking areas required by the Plan for, or accessory to permitted uses in the building.
Noise Event	Means an event, or any particular part of an event, whereby amplified sound, music, vocals or similar noise is emitted by the activity, but excludes people noise. Where amplified noise ceases during a particular event, the event is no longer considered a noise event.
Noise Limit	Means a $L_{Aeq\ (15min)}$ or L_{AFmax} sound level in decibels that is not to be exceeded.
Non-Contributory Buildings (For the purpose of Chapter 26 only)	Means buildings within a heritage precinct that have no identified heritage significance or fabric and have not been listed for individual protection in the Inventory under Rule 26.8. They have been identified within a heritage precinct because any future development of a site containing a non-contributory building may impact on the heritage values of heritage features or contributory buildings within the heritage precinct. Non-Contributory Buildings are identified on the plans under Section 26.7 'Heritage Precincts'.
Non Critical Listening Environment	Means any space that is not regularly used for high quality listening or communication including bathroom, laundry, toilet, pantry, walk-in-wardrobe, corridor, hallway, lobby, cloth drying room, or other space of a specialised nature occupied neither frequently nor for extended periods.
No net loss	Means no overall reduction in biodiversity as measured by the type, amount and condition.
Notional Boundary	Means a line 20m from any side of residential unit or the legal boundary whichever is closer to the residential unit.
Office	Means any of the following: a. administrative offices where the administration of any entity, whether trading or not, and whether incorporated or not, is conducted; b. commercial offices being place where trade, other than that involving the immediately exchange for goods or the display or production of goods, is transacted; c. professional offices.
Open Space	Means any land or space which is not substantially occupied by buildings and which provides benefits to the general public as an area of visual, cultural, educational, or recreational amenity values.

D Definitions

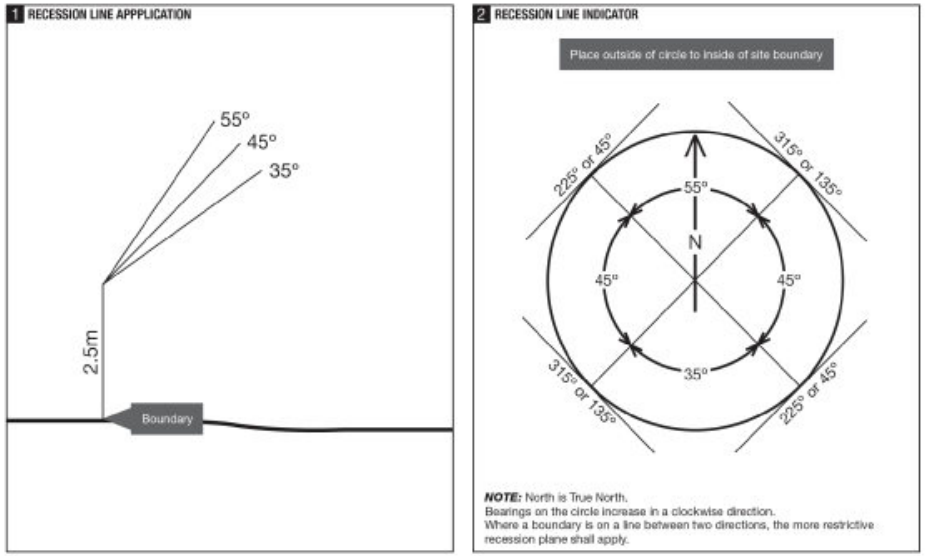
Outdoor Living Space	Means an area of open space to be provided for the exclusive use of the occupants of the residential unit to which the space is allocated.
Outdoor Recreation Activity	Means a recreation activity undertaken entirely outdoors with buildings limited to use for public shelter, toilet facilities, information and ticketing.
Outdoor Storage	Means land used for the purpose of storing vehicles, equipment, machinery, natural and processed products and wastes, outside a fully enclosed building for periods in excess of 4 weeks in any one year.
Outer Control Boundary (OCB)	Means a boundary, as shown on district plan maps, the location of which is based on the predicted day/night sound levels of 55 dBA Ldn from airport operations in 2036 for Wanaka Airport and 2037 for Queenstown Airport.
Park and Ride Facility	Means an area to leave vehicles and transfer to public transport or car pool to complete the rest of a journey into an urban area. Park and Ride Facilities include car parking areas, public transport interchange and associated security measures, fencing, lighting, ticketing systems, shelter and ticketing structures, landscape planting and earthworks[14].
Parking Area	Means that part of a site within which vehicle parking spaces are accommodated, and includes all parking spaces, manoeuvre areas and required landscape areas.
Parking Space	Means a space on a site available at any time for accommodating one stationary motor vehicle.
Partial Demolition (For the purpose of Chapter 26 only)	Means the demolition of the heritage fabric of a heritage feature exceeding 30% but less than 70% by volume or area whichever is the greater. Volume is measured from the outermost surface of the heritage feature (including any surfaces below ground) and the area is measured by the footprint of the heritage feature. Partial demolition shall be determined as the cumulative or incremental demolition of the heritage fabric as from the date that the decision [specify] on Chapter 26 of the District Plan is publicly notified.
Passenger Lift Systems	Means any mechanical system used to convey or transport passengers and other goods within or to a Ski Area Sub-Zone, including chairlifts, gondolas, T-bars and rope tows, and including all moving, fixed and ancillary components of such systems such as towers, pylons, cross arms, pulleys, cables, chairs, cabins, and structures to enable the embarking and disembarking of passengers. Excludes base and terminal buildings.
Photovoltaics (PV)	Means a device that converts the energy in light (photons) into electricity, through the photovoltaic effect. A PV cell is the basic building block of a PV system, and cells are connected together to create a single PV module (sometimes called a 'panel'). PV modules can be connected together to form a larger PV array.
Potable Water Supply	Means a water supply that meets the criteria of the Ministry of Health 'Drinking Water Standards for New Zealand 2005 (revised 2008)'.
Principal Building	Means a building, buildings or part of a building accommodating the activity for which the site is primarily used.
Private Way	Means any way or passage whatsoever over private land within a district, the right to use which is confined or intended to be confined to certain persons or classes of persons, and which is not thrown open or intended to be open to the use of the public generally; and includes any such way or passage as aforesaid which at the commencement of this Part exists within any district[15].
Projected Annual Aircraft Noise Contour (AANC)	Means the projected annual aircraft noise contours calculated as specified by the Aerodrome Purposes Designation 2, Condition 13.

[14] Greyed out text indicates the provision is subject to variation and is therefore is not part of the Hearing Panel's recommendations.
[15] From the Local Government Act 1974.

D Definitions

Protected Feature (For the purpose of Chapter 26 only)	Means the collective terms used to explain all buildings, features, and structures listed in the Inventory of protected features (26.9).
Public Area	Means any part(s) of a building open to the public, but excluding any service or access areas of the building.
Public Place	Means every public thoroughfare, park, reserve, lake, river to place to which the public has access with or without the payment of a fee, and which is under the control of the council, or other agencies. Excludes any trail as defined in this Plan.
Public Space (For the purposes of Chapter 32 only)	Means the parts of the district that are owned and managed by the Queenstown Lakes District Council, are accessible to the public within the Residential Arrowtown Historic Management Zone including roads, parks and reserves.
Radio Communication Facility	Means any transmitting/receiving devices such as aerials, dishes, antennas, cables, lines, wires and associated equipment/apparatus, as well as support structures such as towers, masts and poles, and ancillary buildings.
Rear Site	Means a site which is situated generally to the rear of another site, both sites having access to the same road or private road, and includes sites which have no frontage to a road or private road of 6m or more.

D Definitions

Recession Lines/Recession Plane	Means the lines constructed from points or above a boundary surface or a road surface, the angle of inclination of which is measured from the horizontal, at right angles to a site boundary and in towards the site. See interpretive diagrams below. 
Recreation	Means activities which give personal enjoyment, satisfaction and a sense of well being.
Recreational Activity	Means the use of land and/or buildings for the primary purpose of recreation and/or entertainment. Excludes any recreational activity within the meaning of residential activity.
Regionally Significant Infrastructure	Means: a. renewable electricity generation activities undertaken by an electricity operator; and b. the national grid; and c. telecommunication and radio communication facilities; and d. state highways; and e. Queenstown and Wanaka airports and associated navigation infrastructure.

D Definitions

Registered Holiday Home	Means a stand-alone or duplex residential unit which has been registered with the Council as a Registered Holiday Home. For the purpose of this definition: a. a stand-alone residential unit shall mean a residential unit contained wholly within a site and not connected to any other building; b. a duplex residential unit shall mean a residential unit which is attached to another residential unit by way of a common or party wall, provided the total number of residential units attached in the group of buildings does not exceed two residential units; c. where the residential unit contains a residential flat, the registration as a Registered Holiday Home shall apply to either the letting of the residential unit or the residential flat but not to both. Advice Notes: a. a formal application must be made to the Council for a property to become a Registered Holiday Home. b. there is no requirement to obtain registration for the non-commercial use of a residential unit by other people (for example making a home available to family and/or friends at no charge)[16].
Registered Homestay	Means a Homestay used by up to 5 paying guests which has been registered with the Council as a Registered Homestay. Advice Note: A formal application must be made to the Council for a property to become a Registered Homestay[17].
Relocated/Relocatable Building	Means a building which is removed and re-erected on another site, but excludes any newly pre-fabricated building which is delivered dismantled to a site for erection on that site. This definition excludes removal and re-siting.
Relocation (For the purpose of Chapter 26 only)	Means the relocation of heritage features, both within, or beyond the site. The definition of Relocation (Buildings) in Chapter 2 (which means the removal of a building from any site to another site) shall not apply to chapter 26.
Relocation (Building)	Means the removal of any building from any site to another site.
Remotely Piloted Aircraft	Means an unmanned aircraft that is piloted from a remote station.
Removal (Building)	Means the shifting of a building off a site and excludes demolition of a building.
Renewable Electricity Generation (REG)	Means generation of electricity from solar, wind, hydro-electricity, geothermal and biomass energy sources.

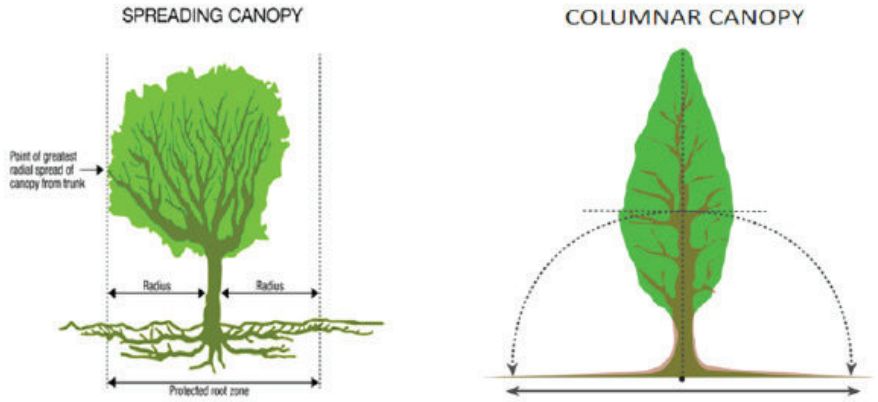
[16, 17] Greyed out text indicates the provision is subject to variation and is therefore is not part of the Hearing Panel's recommendations.

D Definitions

Renewable Electricity Generation Activities	Means the construction, operation and maintenance of structures associated with renewable electricity generation. This includes small and community-scale distributed renewable generation activities and the system of electricity conveyance required to convey electricity to the distribution network and/or the national grid and electricity storage technologies associated with renewable electricity. Includes research and exploratory scale investigations into technologies, methods and sites, such as masts, drilling and water monitoring. This definition includes renewable electricity generation (REG), solar water heating, wind electricity generation, and mini and micro hydro electricity generation (as separately defined).
Renewable Energy	Means energy that comes from a resource that is naturally replenished, including solar, hydro, wind, and biomass energy.
Reserve	Means a reserve in terms of the Reserves Act 1977.
Residential Activity	Means the use of land and buildings by people for the purpose of permanent residential accommodation, including all associated accessory buildings, recreational activities and the keeping of domestic livestock. For the purposes of this definition, residential activity shall include Community Housing, emergency refuge accommodation and the non-commercial use of holiday homes. Excludes visitor accommodation[18].
Residential Flat	Means a residential activity that comprises a self-contained flat that is ancillary to a residential unit and meets all of the following criteria: a. the total floor area does not exceed; i. 150m^2 in the Rural Zone and the Rural Lifestyle Zone; ii. 70m^2 in any other zone; not including in either case the floor area of any garage or carport; b. contains no more than one kitchen facility; c. is limited to one residential flat per residential unit; and d. is situated on the same site and held in the same ownership as the residential unit. Note: A proposal that fails to meet any of the above criteria will be considered as a residential unit.
Residential Unit	Means a residential activity which consists of a single self contained household unit, whether of one or more persons, and includes accessory buildings. Where more than one kitchen and/or laundry facility is provided on the site, other than a kitchen and/or laundry facility in a residential flat, there shall be deemed to be more than one residential unit.
Re-siting (Building)	Means shifting a building within a site.
Resort	Means an integrated and planned development involving low average density of residential development (as a proportion of the developed area) principally providing temporary visitor accommodation and forming part of an overall development focused on onsite visitor activities.
Restaurant	Means any land and/or buildings, or part of a building, in which meals are supplied for sale to the general public for consumption on the premises, including such premises which a licence has been granted pursuant to the Sale and Supply of Alcohol Act 2012.

[18] Greyed out text indicates the provision is subject to variation and is therefore is not part of the Hearing Panel's recommendations.

D Definitions

Retail Sales / Retail / Retailing	Means the direct sale or hire to the public from any site, and/or the display or offering for sale or hire to the public on any site of goods, merchandise or equipment, but excludes recreational activities.
Retirement Village	Means the residential units (either detached or attached) and associated facilities for the purpose of accommodating retired persons. This use includes as accessory to the principal use any services or amenities provided on the site such as shops, restaurants, medical facilities, swimming pools and recreational facilities and the like which are to be used exclusively by the retired persons using such accommodation.
Reverse Sensitivity	Means the potential for the operation of an existing lawfully established activity to be constrained or curtailed by the more recent establishment or intensification of other activities which are sensitive to the established activity.
Right of Way	Means an area of land over which there is registered a legal document giving rights to pass over that land to the owners and occupiers of other land.
River	Means a continually or intermittently flowing body of fresh water; and includes a stream and modified watercourse; but does not include any artificial watercourse (including an irrigation canal, water supply race, canal for the supply of water for electricity power generation, and farm drainage canal)[19].
Road	Means a road as defined in section 315 of the Local Government Act 1974.
Road Boundary	Means any boundary of a site abutting a legal road (other than an accessway or service land) or contiguous to a boundary of a road designation. Frontage or road frontage shall have the same meaning as road boundary.
Root Protection Zone (For the purposes of Chapter 32 only)	Means for a tree with a spreading canopy, the area beneath the canopy spread of a tree, measured at ground level from the surface of the trunk, with a radius to the outer most extent of the spread of the tree's branches, and for a columnar tree, means the area beneath the canopy extending to a radius half the height of the tree. As demonstrated by the diagrams below. 

[19] From section 2 of the Act.

D Definitions

Rural Industrial Activity	Means the use of land and buildings for the purpose of manufacturing, fabricating, processing, packing and/or storage of goods and materials grown or sourced within the Rural Zone and the storage of goods, materials and machinery associated with commercial contracting undertaken within the Rural Zone.
Sense of Place (For the purpose of Chapter 12 only)	Means the unique collection of visual, cultural, social, and environmental qualities and characteristics that provide meaning to a location and make it distinctly different from another. Defining, maintaining, and enhancing the distinct characteristics and quirks that make a town centre unique fosters community pride and gives the town a competitive advantage over others as it provides a reason to visit and a positive and engaging experience. Elements of the Queenstown town centre that contribute to its sense of place are the core of low rise character buildings and narrow streets and laneways at its centre, the pedestrian links, the small block size of the street grid, and its location adjacent to the lake and surrounded by the ever-present mountainous landscape.
Service Activity	Means the use of land and buildings for the primary purpose of the transport, storage, maintenance or repair of goods.
Service Lane	Means any lane laid out or constructed either by the authority of the council or the Minister of Works and Development or, on or after 1 April 1988, the Minister of Lands for the purpose of providing the public with a side or rear access for vehicular traffic to any land[20].
Service Station	Means any site where the dominant activity is the retail sale of motor vehicle fuels, including petrol, LPG, CNG, and diesel, and may also include any one or more of the following: a. the sale of kerosene, alcohol based fuels, lubricating oils, tyres, batteries, vehicle spare parts and other accessories normally associated with motor vehicles; b. mechanical repair and servicing of motor vehicles, including motor cycles, caravans, boat motors, trailers, except in any Residential, Town Centre or Township Zone; c. inspection and/or certification of vehicles; d. the sale of other merchandise where this is an ancillary activity to the main use of the site. Excludes: i. panel beating, spray painting and heavy engineering such as engine reboring and crankshaft grinding, which are not included within mechanical repairs of motor vehicles and domestic garden equipment for the purposes of b. above.
Setback	Means the distance between a building and the boundary of its site. Where any building is required to be set back from any site boundary, no part of that building shall be closer to the site boundary than the minimum distance specified. Where any road widening is required by this Plan, the setback shall be calculated from the proposed final site boundary. The setback distance shall only apply to buildings at ground, or above ground level.

[20]. From section 315 of the Local Government Act 1974

D Definitions

Setting (For the purpose of Chapter 26 only)	Means the area around and/or adjacent to a heritage feature listed under the Inventory in Section 26.8 and defined under 26.8.1, which is integral to its function, meaning, and relationships, and which is contained in the same legal title as the heritage feature listed on the Inventory. (Refer also to the definition of 'Extent of Place').
Showroom	Means any defined area of land or a building given over solely to the display of goods. No retailing is permitted unless otherwise specifically provided for in the zone in which the land or building is located.
Sign and Signage	Means: a. any external name, figure, character, outline, display, delineation, announcement, design, logo, mural or other artwork, poster, handbill, banner, captive balloon, flag, flashing sign, flatboard, free-standing sign, illuminated sign, moving signs, roof sign, sandwich board, streamer, hoarding or any other thing of a similar nature which is: i) intended to attract attention; and ii) visible from a road or any public place; b. all material and components comprising the sign, its frame, background, structure, any support and any means by which the sign is attached to any other thing: c. any sign written vehicle/trailer or any advertising media attached to a vehicle/trailer. Notes: i. This does include corporate colour schemes. ii. See definitions of SIGN AREA and SIGN TYPES[21].
Sign Area	The area of a sign means the surface area of a sign and the area of a sign includes all the area actually or normally enclosed, as the case may be, by the outside of a line drawn around the sign and enclosing the sign[22].

[21, 22] Greyed out text indicates the provision is subject to variation and is therefore is not part of the Hearing Panel's recommendations.

D Definitions

Sign Types	Above Ground Floor Sign: means a sign attached to a building above the verandah or above 3 metres in height from the ground. Arcade Directory Sign: means an externally located sign which identifies commercial activities that are accessed internally within a building or arcade Banner: means any sign made of flexible material, suspended in the air and supported on more than one side by poles or cables. Flag: means any sign made of flexible material attached by one edge to a staff or halyard and includes a flagpole. Flashing Sign: means an intermittently illuminated sign. Flat Board Sign: means a portable flat board sign which is not self-supporting. Free Standing Sign: means any sign which has a structural support or frame that is directly connected to the ground and which is independent of any other building or structure for its support; and includes a sign on a fence[23].

[23] Greyed out text indicates the provision is subject to variation and is therefore is not part of the Hearing Panel's recommendations.

	Hoarding: means any sign that is for purely commercial brand awareness purposes and which does not relate to land use activity conducted on the site. Moving Sign: means a sign other than a flag or a banner that is intended to move or change whether by reflection or otherwise. Off-Site Sign: means a sign which does not relate to goods or services available at the site where the sign is located and excludes a Hoarding. Roof Sign: means any sign painted on or attached to a roof and any sign projecting above the roof line of the building to which it is attached. Sandwich Board: means a self-supporting and portable sign. Signage Platform: means a physical area identified for the purpose of signage. Temporary Event Sign: means any sign established for the purpose of advertising or announcing a single forthcoming temporary event, function or occurrence including carnivals, fairs, galas, market days, meetings exhibitions, parades, rallies, filming, sporting and cultural events, concerts, shows, musical and theatrical festivals and entertainment; but does not include Electioneering Signs, Real Estate Signs, Construction Signs, a Land Development Sign, Off-Site Sign or Temporary Sale Sign. Temporary Sale Sign: means any sign established for the purpose of advertising or announcing the sale of products at special prices. Under Verandah Sign: means a sign attached to the underside of a verandah. Upstairs Entrance Sign: means a sign which identifies commercial activities that are located upstairs within a building. Wall Sign: means a sign attached to the wall of a building[24].
Significant Trimming (For the purposes of Chapter 32 only)	Means the removal of more than 10% of the live foliage from the canopy of the tree or structural scaffold branches.

[24] Greyed out text indicates the provision is subject to variation and is therefore is not part of the Hearing Panel's recommendations.

D Definitions

Site	Means: a. an area of land which is: i. comprised in a single lot or other legally defined parcel of land and held in a single Certificate of Title; or ii. comprised in a single lot or legally defined parcel of land for which a separate certificate of title could be issued without further consent of the Council. Being in any case the smaller land area of i or ii, or b. an area of land which is comprised in two or more adjoining lots or other legally defined parcels of land, held together in one certificate of title in such a way that the lots/parcels cannot be dealt with separately without the prior consent of the Council; or c. an area of land which is comprised in two or more adjoining certificates of title where such titles are: i. subject to a condition imposed under section 37 of the Building Act 2004 or section 643 of the Local Government Act 1974; or ii. held together in such a way that they cannot be dealt with separately without the prior consent of the Council; or d. in the case of land not subject to the Land Transfer Act 1952, the whole parcel of land last acquired under one instrument of conveyance; Except: a. in the case of land subdivided under the cross lease of company lease systems, other than strata titles, site shall mean an area of land containing: i. a building or buildings for residential or business purposes with any accessory buildings(s), plus any land exclusively restricted to the users of that/those building(s), plus an equal share of common property; or ii. a remaining share or shares in the fee simple creating a vacant part(s) of the whole for future cross lease or company lease purposes; and b. in the case of land subdivided under Unit Titles Act 1972 and 2010 (other than strata titles), site shall mean an area of land containing a principal unit or proposed unit on a unit plan together with its accessory units and an equal share of common property; and c. in the case of strata titles, site shall mean the underlying certificate of title of the entire land containing the strata titles, immediately prior to subdivision. In addition to the above. a. A site includes the airspace above the land. b. If any site is crossed by a zone boundary under this Plan, the site is deemed to be divided into two or more sites by that zone boundary. c. Where a site is situated partly within the District and partly in an adjoining District, then the part situated in the District shall be deemed to be one site[25].

[25] Greyed out text indicates the provision is subject to variation and is therefore is not part of the Hearing Panel's recommendations.

D Definitions

Ski Area Activities	Means the use of natural and physical resources for the purpose of establishing, operating and maintaining the following activities and structures: a. recreational activities either commercial or non-commercial; b. passenger lift systems; c. use of snow groomers, snowmobiles and 4WD vehicles for support or operational activities; d. activities ancillary to commercial recreational activities including avalanche safety, ski patrol, formation of snow trails and terrain; e. installation and operation of snow making infrastructure including reservoirs, pumps and snow makers; and f. in the Waiorau Snow Farm Ski Area Sub-Zone vehicle and product testing activities, being activities designed to test the safety, efficiency and durability of vehicles, their parts and accessories.
Ski Area Sub-Zone Accommodation	Means the use of land or buildings for short-term living accommodation for visitor, guest, worker, and a. includes such accommodation as hotels, motels, guest houses, bunkhouses, lodges and the commercial letting of a residential unit; and b. may include some centralised services or facilities such as food preparation, dining and sanitary facilities, conference, bar and recreational facilities if such facilities are ancillary to the accommodation facilities; and c. is limited to visitors, guests or workers, visiting and or working in the respective Ski Area Sub-Zone.
Sloping Site	Means a site where the ground slope is greater than 6 degrees (i.e. greater than 1 in 9.5). Ground slope in relation to building height shall be determined by measurement over the extremities of each building elevation. Where any elevation indicates a ground slope of greater than 6 degrees (i.e. greater than 1 in 9.5), rules applicable to sloping sites will apply.
Small and Community-Scale Distributed Electricity Generation	Means renewable electricity generation for the purpose of using electricity on a particular site, or supplying an immediate community, or connecting into the distribution network.
Small Cells Unit	Means a device: a. that receives or transmits radiocommunication or telecommunication signals; and b. the volume of which (including any ancillary equipment, but not including any cabling) is not more than $0.11m^3$.
Solar Electricity Generation	Means the conversion of the sun's energy directly into electrical energy. The most common device used to generate electricity from the sun is photovoltaics (PV). This may include free standing arrays, solar arrays attached to buildings or building integrated panels.
Solar Water Heating	Means devices that heat water by capturing the sun's energy as heat and transferring it directly to the water or indirectly using an intermediate heat transfer fluid. Solar water heaters may include a solar thermal collector, a water storage tank or cylinder, pipes, and a transfer system to move the heat from the collector to the tank.

D Definitions

Stand-Alone Power Systems (SAPS)	Means off-grid generation for activities including residential, visitor and farming activities, on remote sites that do not have connection to the local distribution network. SAP's will usually include battery storage, a backup generator, an inverter and controllers etc, as well as generation technologies such as solar, mini or micro hydro, wind electricity generation or a combination thereof.
Structure	Means any building, equipment device or other facility made by people and which is fixed to land and includes any raft.
Structure Plan	Means a plan included in the district plan, and includes spatial development plans, concept development plans and other similarly titled documents.
Subdivision	Means: a. the division of an allotment: i. by an application to the Registrar-General of Land for the issue of a separate certificate of title for any part of the allotment; or ii. by the disposition by way of sale or offer for sale of the fee simple to part of the allotment; or iii. by a lease of part of the allotment which, including renewals, is or could be for a term of more than 35 years; or iv. by the grant of a company lease or cross lease in respect of any part of the allotment; or v. by the deposit of a unit plan, or an application to the Registrar-General of Land for the issue of a separate certificate of title for any part of a unit on a unit plan; or b. an application to the Registrar-General of Land for the issue of a separate certificate of title in circumstances where the issue of that certificate of title is prohibited by section 226[26].
Subdivision and Development	Includes subdivision, identification of building platforms, any buildings and associated activities such as roading, earthworks, lighting, landscaping, planting and boundary fencing and access/gateway structures.
Tavern	Means any premises used or intended to be used in the course of business principally for the provision to the public of liquor and other refreshments but does not include an airport bar.
Technical Arborist (For the purposes of Chapter 32 only)	Means a person who: a. by possession of a recognised arboricultural degree or diploma and on-the-job experience is familiar with the tasks, equipment and hazards involved in arboricultural operations; and b. has demonstrated proficiency in tree inspection and evaluating and treating hazardous trees; and c. has demonstrated competency to Level 6 NZQA Diploma in Arboriculture standard or Level 4 NZQA Certificate in Horticulture (Arboriculture) standard (or be of an equivalent arboricultural standard).

[26] From section 218 of the Act

D Definitions

Temporary Activities	Means the use of land, buildings, vehicles and structures for the following listed activities of short duration, limited frequency and outside the regular day-to-day use of a site: a. temporary events; b. temporary filming; c. temporary activities related to building and construction; d. temporary military training; e. temporary storage; f. temporary utilities; g. temporary use of a site as an informal airport as part of a temporary event.

D Definitions

Temporary Events	Means the use of land, buildings, tents and marquees, vehicles and structures for the following activities: a. carnivals; b. fairs; c. festivals; d. fundraisers; e. galas; f. market days; g. meetings; h. exhibitions; i. parades; j. rallies; k. cultural and sporting events; l. concerts; m. shows; n. weddings; o. funerals; p. musical and theatrical entertainment, and q. uses similar in character. Note: The following activities associated with Temporary Events are not regulated by the PDP: a. Food and Beverage; b. Sale of Alcohol.
Temporary Filming Activity	Means the temporary use of land and buildings for the purpose of commercial video and film production and includes the setting up and dismantling of film sets, and associated facilities for staff.
Temporary Military Training Activity (TMTA	Means a temporary military activity undertaken for defence purposes. Defence purposes are those in accordance with the Defence Act 1990.
Total Demolition (For the purposes of Chapter 26 only)	Means the demolition of the heritage fabric of a heritage feature equal to or exceeding 70% by volume or area whichever is greater. Volume is measured from the outermost surface of the heritage feature (including any surfaces below ground) and the area is measured by the footprint of the heritage feature.

D Definitions

Trade Supplier	Means a business that is a mixture of wholesaling and retailing goods in one or more of the following categories: a. automotive and marine suppliers; b. building suppliers; c. catering equipment suppliers; d. farming and agricultural suppliers; e. garden and patio suppliers f. hire services (except hire or loan of books, video, DVD and other similar home entertainment items); g. industrial clothing and safety equipment suppliers; and h. office furniture, equipment and systems suppliers.
Trade Wastes	Means any water that is used in a commercial or industrial process, and is then discharged to the Council's waste water system.
Trail	Means any public access route legally created by way of a grant of easement registered after 11 December 2007 for the purpose of providing public access in favour of the Queenstown Lakes District Council, the Crown or any of its entities, and specifically excludes: a. roads, including road reserves; b. public access easements created by the process of tenure review under the Crown Pastoral Land Act; and c. public access routes over any reserve administered by Queenstown Lakes District Council, the Crown or any of its entities.
Under Verandah Sign	Means a sign attached to the under side of a verandah[27].
Unit	Means any residential unit, or visitor accommodation unit of any type.
Urban Development	Means development which is not of a rural character and is differentiated from rural development by its scale, intensity, visual character and the dominance of built structures. Urban development may also be characterised by a reliance on reticulated services such as water supply, wastewater and stormwater and by its cumulative generation of traffic. For the avoidance of doubt, a resort development in an otherwise rural area does not constitute urban development.
Urban Growth Boundary	Means a boundary shown on the planning maps which provides for and contains existing and future urban development within an urban area.

[27] Greyed out text indicates the provision is subject to variation and is therefore is not part of the Hearing Panel's recommendations.

D Definitions

Utility	Means the systems, services, structures and networks necessary for operating and supplying essential utilities and services to the community including: a. substations, transformers, lines and necessary and incidental structures and equipment for the transmissions and distribution of electricity; b. pipes and necessary incidental structures and equipment for transmitting and distributing gas; c. storage facilities, pipes and necessary incidental structures and equipment for the supply and drainage of water or sewage; d. water and irrigation races, drains, channels, pipes and necessary incidental structures and equipment (excluding water tanks); e. structures, facilities, plant and equipment for the treatment of water; f. structures, facilities, plant, equipment and associated works for receiving and transmitting telecommunications and radio communications; g. structures, facilities, plant, equipment and associated works for monitoring and observation of meteorological activities and natural hazards; h. structures, facilities, plant, equipment and associated works for the protection of the community from natural hazards; i. structures, facilities, plant and equipment necessary for navigation by water or air; j. waste management facilities; k. flood protection works; and l. anything described as a network utility operation in s166 of the Resource Management act 1991. Utility does not include structures or facilities used for electricity generation, the manufacture and storage of gas, or the treatment of sewage.
Vehicle Crossing	Means the formed and constructed vehicle entry/exit from the carriageway of any road up to and including that portion of the road boundary of any site across which vehicle entry or exit is obtained to and from the site, and includes any culvert, bridge or kerbing.
Verandah	Means a roof of any kind which extends out from a face of a building and continues along the whole of that face of the building.

D Definitions

Visitor Accommodation	Means the use of land or buildings for short-term, fee paying, living accommodation where the length of stay for any visitor/guest is less than 3 months; and i. Includes such accommodation as camping grounds, motor parks, hotels, motels, boarding houses, guest houses, backpackers' accommodation, bunkhouses, tourist houses, lodges, homestays, and the commercial letting of a residential unit; and ii. May include some centralised services or facilities, such as food preparation, dining and sanitary facilities, conference, bar and recreational facilities if such facilities are associated with the visitor accommodation activity. For the purpose of this definition: a. The commercial letting of a residential unit in (i) excludes: • A single annual let for one or two nights. • Homestay accommodation for up to 5 guests in a Registered Homestay. • Accommodation for one household of visitors (meaning a group which functions as one household) for a minimum stay of 3 consecutive nights up to a maximum (i.e: single let or cumulative multiple lets) of 90 nights per calendar year as a Registered Holiday Home. (Refer to respective definitions). b. "Commercial letting" means fee paying letting and includes the advertising for that purpose of any land or buildings. c. Where the provisions above are otherwise altered by Zone Rules, the Zone Rules shall apply[28].
Wall Sign	Means a sign attached to a wall within the ground floor area[29].
Waste	Means any contaminant, whether liquid solid, gaseous, or radioactive, which is discharged, emitted or deposited in the environment in such volume, constituency or manner as to cause an adverse effect on the environment, and which includes all unwanted and economically unusable by-products at any given place and time, and any other matters which may be discharged accidentally or otherwise, to the environment. Excludes cleanfill.
Waste Management Facility	Means a site used for the deposit of solid wastes onto or into land, but excludes: a. sites situated on production land in which the disposal of waste generated from that land takes place, not including any dead animal material or wastes generated from any industrial trade or process on that productive land; b. sites used for the disposal of vegetative material. The material may include soil that is attached to plant roots and shall be free of hazardous substances and wastes; and c. sites for the disposal of clean fill.

[28, 29] Greyed out text indicates the provision is subject to variation and is therefore is not part of the Hearing Panel's recommendations.

D Definitions

Waterbody	Means fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area [30].
Wetland	Includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions[31].
Wholesaling (Airport Zones)	Means a business engaged in the storage and distribution of goods to businesses (including retail activities) and institutional customers.
Wind Electricity Generation	Means the conversion of the energy from wind into electricity, through the use of the rotational motion. A wind turbine may be attached to a building or freestanding. Wind turbine components may include blades, nacelle, tower and foundation. This definition shall include masts for wind monitoring.
Works Within the Root Protection Zone (For the Purpose of Chapter 32 only)	Means works including paving, excavation, trenching, ground level changes, storage of materials or chemicals, vehicle traffic, vehicle parking, soil compaction, construction activity, whether on the same site or not as the tree.
2037 Noise Contours	Means the predicted airport noise contours for Queenstown airport for the year 2037 in 1dB increments from 70dB L_{dn} to 55dB L_{dn} inclusive. Note: These contours shall be available from the council and included in the airport noise management plan.
2037 60 dB Noise Contours	Means the predicted 60 dB L_{dn} noise contour for Queenstown airport for 2037 based on the 2037 noise contours.

[30, 31] From Section 2 of the Act

2.2 Acronyms Used in this Plan

Listed below are acronyms used within the plan. They do not include the acronyms of names of activity areas identified within structure plans adopted under the PDP.

AANC	Projected annual aircraft noise contour
AMI	Area median income
ANB	Air noise boundary
ASAN	Activity sensitive to aircraft noise
C	Controlled
CPI	Consumer price index
CPTED	Crime prevention through environmental design
dB	Decibels
D	Discretionary
GFA	Gross floor area
GHOA	Glenorchy Heritage Overlay Area
HD	Hanley Downs
LAR	Limited access roads
LENZ	Land Environments New Zealand
MHOA	Macetown Heritage Overlay Area
NC	Non-complying
NES	National Environmental Standard
NESETA	Resource Management (National Environmental Standard for Electricity Transmission Activities) Regulations 2009
NOR	Notice of requirement
NZTA	New Zealand Transport Agency
OCB	Outer control boundary
ONF	Outstanding natural feature
ONL	Outstanding natural landscape
P	Permitted
PR	Prohibited
PV	Photovoltaics
RCL	Rural character landscape

RD	Restricted discretionary
REG	Renewable electricity generation
RMA	Resource Management Act 1991
SAPS	Stand-alone power systems
SEL	Sound exposure level
SHOA	Skippers Heritage Overlay Area
SMLHOA	Sefferton and Moke Lake Heritage Overlay Area
SNA	Significant natural areas
UGB	Urban growth boundary

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report 14

Report and Recommendations of Independent Commissioners Regarding Whole of Plan, Chapter 2 (Definitions) and Chapter 28 (Natural Hazards)

Commissioners

Denis Nugent (Chair)

Trevor Robinson

PART C: DEFINITIONS

4. NOTES TO DEFINITIONS:

87. As notified, Chapter 2 had the following notes:

"2.1.1 The following applies for interpreting amendments to text:

- ~~*Strikethrough*~~ *means text to be removed.*
- *Underline means new text to be added.*

2.1.2 The definitions that relate to Tangata Whenua that have been removed now sit within Chapter 5.

2.1.3 Any definition may also be amended in Stage 2 of the District Plan review."

88. The Stream 1 Hearing Panel queried the strikethrough/underlining in Chapter 2 as part of a more wide-ranging discussion of the staged nature of the District Plan review. The advice from counsel for the Council to that Hearing Panel[54] was that the strike through/underlining purported to show the changes from the definitions in the ODP, but this was an error and a clean version of the Chapter should have been notified. In April 2016, that correction was made, and the three notes in the notified Chapter 2 deleted, by Council pursuant to Clause 16(2).

89. Presenting the Section 42A Report on Chapter 2, Ms Leith suggested that what was the second note would merit amplification in a new note. She suggested that it read as follows:

"Definitions are also provided within Chapter 5: Tangata Whenua (Glossary). These defined terms are to be applied across the entire Plan and supplement the definitions within this Chapter."

90. We have no difficulty with the concept that a cross reference might to be made to the glossary in Chapter 5. We consider, however, that both the notified note and the revised version suggested by Ms Leith mischaracterised the nature of that glossary. They are not 'definitions'. Rather, the glossary provides English translations and explanations of Maori words and terms used in the Plan and we think, for clarity, that should be stated.

91. Accordingly, we recommend that Ms Leith's proposed note be amended to read:

"Chapter 5: - Tangata Whenua (Glossary) supplements the definitions within this chapter by providing English translations – explanations of Maori words and terms used in the plan."

92. A related point arises in relation to the QLDC corporate submission[55] requesting that all references to Maori words within Chapter 2 are deleted and that instead, reliance be placed on the Chapter 5 Glossary. In Ms Leith's consideration of this submission[56] she observed that the notified Chapter 2 included four Maori 'definitions' – of the terms 'hapū', 'iwi', 'koiwi tangata' and 'tino rangatiratanga'. Ms Leith observes that the term 'iwi' has the same definition at both the Chapter 5 Glossary and in Chapter 2. We agree that the Chapter 2 definition might therefore appropriately be deleted.

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54 Refer Counsel's Opening Submissions in Stream 1 dated 4 March 2016 at Schedule 3.

55 Submission 383

56 Section 42A Report at Section 26

93. Ms Leith observed that the term 'hapū' is defined slightly differently between the Chapter 5 Glossary and Chapter 2. To us, if anything, this is all the more reason to delete the Chapter 2 definition in preference for the updated Chapter 5 'definition' that, understandably, tangata whenua submitters will have focussed on.

94. Ms Leith's advice was that 'koiwi tangata' is only found within Chapter 37 – Designations. We discuss the application of the Chapter 2 definitions to designations shortly. In summary, for the reasons below, we agree with Ms Leith's recommendation that the defined term should be deleted.

95. Lastly, Ms Leith advised that while 'tino rangatiratanga' is not contained in the Glossary, the word 'rangatiratanga' is. Given the overlap, and that the definitions are essentially the same, we agree with Ms Leith's recommendation that the Chapter 2 definition should be deleted.

96. The Oil Company submitters[57] sought in their submission a statement in Chapter 2 that reliance will be placed on definitions in the Act where there are such 'definitions' and no alternative is provided through the Plan. Ms Leith supported this submission and, in her Section 42A Report, supported inclusion of a more comprehensive note to the effect that the definitions in Chapter 2 have primacy over definitions elsewhere, that in the absence of a Chapter 2 definition, the definitions in the Act should be used, and that the ordinary dictionary meaning should apply where neither provides a definition. Mr Laurenson's tabled statement agreed with that suggestion. We discussed with Ms Leith the desirability of referring to dictionary definitions given that while this is obviously the interpretative starting point, a dictionary will often give multiple alternative meanings or shades of meaning for the same word and different dictionaries will often have slightly different definitions for the same word. In her Reply Evidence, Ms Leith returned to this point and referred us to the approach taken in the Auckland Unitary Plan that refers one to a contextual analysis undertaken in the light of the purpose of the Act and any relevant objectives and policies in the Plan. She suggested augmenting the note at the commencement of Chapter 2 accordingly.

97. In our view, as amended, this particular note was getting further and further from the jurisdictional base provided by the Oil Companies' submission and that it needed to be pared back rather than extended.

98. We also admit to some discomfort in seeking to circumscribe the interpretation process.

99. The starting point is to be clear what the definitions in the Chapter apply to. Ms Leith suggested a note stating that the definitions apply throughout the Plan whenever the defined term is used. We inquired of counsel for the Council as to whether we could rely on the fact that this is literally correct, that is to say that on every single occasion where a defined term is used, it is used in the sense defined. While that is obviously the intention, we observed that section 1.3 of the PDP used the term "*Council"* to refer to councils other than QLDC (the defined term). The existence of at least one exception indicates a need for some caution and we suggested that it might be prudent to use the formula typically found in legislation[58] that definitions apply "*unless the context otherwise requires"*. Ms Leith adopted that suggestion in her reply.

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57 Submission 768

58 See e.g. Section 2(1) of the Act

100. More substantively, counsel for the Council observed in opening submissions that the defined terms in Chapter 2 did not apply to the designation chapter[59]. We discussed with counsel whether there was anywhere in the notified Plan that actually said the Chapter 2 definitions did not apply to designations, and if not, why that should be the case. Initially, Counsel referred us to Section 176(2) of the Act as justifying that position[60]. We thought that this was a somewhat slender basis on which to form a view as to how designations should be interpreted, but Ms Scott also observed that a number of the designations had been rolled over from the ODP (and we infer, potentially from still earlier planning documents). We agree that to the extent that defined terms have changed through successive District Plans, it cannot be assumed that the designation would use the term in the sense set out in Chapter 2 of the PDP.

101. Ms Leith amplified the point in her reply evidence drawing our attention to the limited number of cases where designations in Chapter 37 in fact refer to the definitions in Chapter 2 and the problem that where the Council is not the relevant requiring authority, any amendments to definitions used in designations would need to be referred to (and agreed by) the requiring authority.

102. Accordingly, we think that there is merit in the Staff recommendation that designations be specifically referenced as an exception, that is to say that Chapter 2 definitions apply to designations only if the designation states that. We have drawn that intended approach to the attention of the Hearing Panel considering Chapter 37 (Designations).

103. In summary, we therefore agree with the form of note suggested in Ms Leith's reply with some minor rewording as follows:

"Unless the context otherwise requires, the definitions in this chapter apply throughout the plan whenever the defined term is used. The reverse applies to the designations in Chapter 37. The definitions in Chapter 2 only apply to designations where the relevant designation says they apply."

104. With that note, reference in a second note to the definitions in Chapter 2 having primacy over other definitions elsewhere is unnecessary. We think that the second note suggested by Ms Leith can accordingly be limited to state:

"Where a term is not defined in the plan, reliance will be placed on the definition in the Act, where there is such a definition."

105. Ms Leith suggested to us that a third note should be added to say that where a definition includes reference to another defined term in this Chapter, this definition should be relied upon in the interpretation of the first definition. As Ms Leith explained it in her Section 42A Report[61] this was intended to address the many instances of interrelated definitions. We think, however, that the note is unnecessary. If, as stated in the first note, the definitions in Chapter 2 apply throughout the Plan when a defined term is used, unless the context requires otherwise, that necessarily applies to the interpretation of Chapter 2 because it is part of the Plan.

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59 Opening submissions at paragraph 4.1

60 Section 176(2) states that the provisions of a District Plan apply to land that is subject to a designation only to the extent that the land is used for a purpose other than the designated purpose

61 At paragraph 7.5

106. Ms Leith also suggested inclusion of a note stating that where a word or phrase is defined, the definition applies also to any variations of the word or phrase including singular for plural and vice versa.

107. We discussed with Ms Leith whether the suggested note needed to be more precise as to what was meant by "*variations"*. We read the intent as seeking to capture section 32 of the Interpretation Act 1999 – so that a definition would be read to include different parts of speech and grammatical forms - and wondered whether it should not say that more clearly. Ms Leith undertook to ponder the point and in her reply evidence, she recommended that the note she was proposing to add be simplified to refer just to singular and plural versions of words. We agree with that (Section 32 of the Interpretation Act will apply irrespective), but suggest that the wording of a note might be simplified from that suggested by Ms Leith, so it would read as follows:

"Any defined term includes both the singular and the plural."

108. We discussed with counsel whether it would be helpful to identify defined terms in the text through methods such as italics, underlining or capitalisation. Ms Leith responded in her reply evidence that use of such methods can result in Plan users interpreting that the defined term is of greater importance in a provision, which is not necessarily desirable. She also noted that capitalisation can be problematic as it can be confused with terms that are capitalised because they are proper nouns. We record that Arcadian Triangle Limited[62] suggested that greater consistency needed to be employed as regards the use of capitalisation so that either all defined terms are capitalised, or none of them are.

109. We agree with that suggestion in principle although Ms Leith suggested adding a separate list of acronyms used in the Plan to Chapter 2. We think that is helpful, but most acronyms are capitalised so that would be an exception to the general rule.

110. It follows that where terms are currently capitalised in the body of Chapter 2 (and elsewhere), they should be decapitalised unless they are proper nouns. We have made that change without further comment, wherever we noted it as being necessary, and have recommended to other Hearing Panels that they do the same.

111. We have, however, formed the view that it would be helpful to readers of the PDP if defined terms are highlighted in the text. While we accept Ms Leith's point that the approach has its dangers, the potential for readers of the PDP not to appreciate terms are used in a sense they may not have anticipated is, we think, rather greater. The revised chapters of the PDP recommended by other Hearing Panels reflect that change, which we consider to be of no substantive effect given the ability, where necessary, to debate whether context requires a different meaning.

112. Ms Leith suggested a further note to the effect that notes included within the definitions are purely for information or guidance and do not form part of the definition. She referred us to Submission 836 as providing a jurisdictional basis for this suggested amendment. That submission (of Arcadian Triangle Limited) is limited to the notes to the definition of "*residential flat"* but we think that the submitter makes a sound general point. Elsewhere in her Section 42A Report, Ms Leith referred to some notes being fundamental to the meaning of the defined term (so that accordingly, they should be shifted into the definition). She recognised, however, that this posed something of a problem if Clause 16(2) was being relied on as the

[62] Submission 836: Supported by FS1097

jurisdictional basis for the change (if the presence or absence of a 'note' makes a fundamental difference, it is difficult to classify their incorporation in the definition as a minor change).

113. We have approached the definitions on the basis that the Arcadian Triangle submission is correct and advice notes are solely for information purposes and cannot have substantive effect. If a definition cannot be read coherently without reference to the advice note, that suggests the definition is defective and needs work. If there is no submission to provide a basis for a substantive change to the definition, then it needs to be the subject of variation.

114. Coming back to the notes at the commencement of Chapter 2, we therefore agree with Ms Leith's recommendation that there should be a note stating:

"Any notes included within the definitions listed below are purely for information or guidance purposes only and do not form part of the definition."

115. Lastly, Ms Leith suggested a note stating:

"Where a definition title is followed by zone or specific notation, the application of the definition shall only be limited to the specific zone or scenario described."

116. She explained that this was a consequential point arising from her recommending that definitions contained within Chapter 26 (historic heritage) be shifted into Chapter 2, but remain limited in their application to Chapter 26.

117. We drew to Ms Leith's attention the fact that chapter specific definitions had also been recommended within Chapters 12 and 13. In her reply, Ms Leith accepted that the same conclusion should follow, that those definitions should be imported into Chapter 2 as a consequential change and be subject to the suggested note.

118. We agree with that suggestion and with the substance of the suggested note. We think, however, that as Ms Leith framed it, it appeared to be an instruction with substantive effect rather than a note. We therefore suggest that it be reworded as follows:

*"*Where *a definition title is followed by a zone or specific notation, the intention is that the application of the definition is limited to the specific zone or scenario described."*

119. We note that it does not necessarily follow that a copy of the relevant definitions should not also be in the Chapter to which they relate, but that is a matter for the Hearing Panels considering submissions on those chapters to determine.

120. We note also that where definitions with limited application have been shifted/copied into Chapter 2 with no substantive amendment (other than noting the limitation) we have not discussed them further.

5. GENERAL ISSUES WITH DEFINITIONS

121. There are a number of general issues that we should address at the outset of our consideration of the Chapter 2 definitions. The first arises from the fact that defined terms (and indeed some new definitions of terms), have been considered by the Hearing Panels addressing submissions on the text of the PDP.

122. We canvassed with counsel for the Council the appropriate way for us to address definitions in this category. While we have the responsibility of making recommendations on the final form on Chapter 2, our consideration of the Chapter 2 definitions should clearly be informed by the work that other Hearing Panels have undertaken on the definition of terms. We have accordingly asked each Hearing Panel to report to us on their recommendations as to new or amended definitions that should be in Chapter 2. Where we have no evidence to support a substantive change from another Hearing Panel's recommendations, we have almost invariably adopted those recommendations. In some cases, we have recommended non-substantive grammatical or formatting changes. We do not discuss those definitions further in our Report. Similarly, where another Hearing Panel has considered submissions on a defined term (or seeking a new definition) and recommended rejection of the submission, we have not considered the matter further in the absence of further evidence.

123. Where we have had evidence on terms that have been considered in earlier hearings, we have considered that evidence, along with the reasoning of the Hearing Panel in question, and come to our own view**.**

124. In the specific instance where Ms Leith recommended changes to definitions that had been considered in earlier hearings, counsel for the Council identified, and we agreed, that this created a natural justice problem, because submitters heard at those earlier hearings had not had the opportunity to make submissions on the varied position of Council staff. Accordingly, as already noted[63], we directed that the submitters in question should have the opportunity to make written submissions to us. In the event, however, no further submissions were filed within the allotted time and thus there was no additional material to consider.

125. The second general point which we should address is the fact that as notified, Chapter 2 contained a number of definitions that were in fact just cross references to the definition contained in legislation[64]. We suggested, and Ms Leith agreed, that it would be of more assistance to readers of the PDP if the actual definition were set out in Chapter 2. Having said that, there are exceptions where the definition taken from a statute is not self-contained, that is to say, it cannot be read without reference to other statutory provisions. We consider that in those circumstances, it is generally better to utilise the notified approach of just cross referencing the statutory definition. We also consider that where a definition has been incorporated from either the Act, or another Statute, that should be noted in a footnote to the definition so its source is clear. We regard inserting definitions from statutes and footnoting the source as a minor change under Clause 16(2). Accordingly, our suggested revision of Chapter 2 makes those changes with no further comment. Similarly, where we have chosen to retain a cross reference to a statutory definition, we have not commented further on the point.

126. In one case (the definition of 'national grid') the definition in the regulations has an internal cross reference that we consider can easily by addressed by a non-substantive amendment, as discussed below.

127. The next general point is that in her Section 42A Report, Ms Leith identified[65] that a number of definitions contained within Chapter 2 are of terms that are not in fact used within the PDP and/or which are only applicable to zones that are not included within the PDP (either because

63 Refer Section 1.4 above

64 See for example the definition of "*reserve*".

65 At paragraph 27.1

they were never part of Stage 1 of the District Plan review or because they have subsequently been withdrawn). She recommended deletion of these definitions and of any references to such zones within definitions. We agree. Given that the purpose of Chapter 2 is to define terms used in or relevant to the PDP, deletion of definitions which do not fall within this category is, by definition, a minor change within the ambit of Clause 16(2). Again, our recommended revised Chapter 2 in Appendix 1 shows such deletions without further comment[66]. In some cases, terms we would have recommended be deleted on this basis are the subject of the Stage 2 Variations. In those cases, they are greyed out, rather than deleted.

128. It follows also that where submissions[67] sought new definitions, sought retention of definitions of terms not used in the PDP, or amendments to definitions that apply only in zones not the subject of the PDP, those submissions must necessarily be rejected.

129. Another general consideration relates to definitions that are currently framed in the form of rules. The definition of "*domestic livestock"* for instance is expressed in the language of a rule. It purports to state numerical limits for particular livestock in particular zones. Such definitions are unsatisfactory. Rules/standards of this kind should be in the relevant zone rules, not buried in the definitions. We will address each definition in this category on a case by case basis. Where we find that we do not have jurisdiction to correct the situation, we will make recommendations that the Council address the issue by way of variation.

130. Our next general point relates the notified definition of "*noise"* which reads as follows: *"*Acoustic *terms shall have the same meaning as in NZS 6801:2008 Acoustics – Measurement of environmental sound and NZS 6802:2008 Acoustics – Environmental noise.*

L_{dn}:

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66 The terms deleted from Appendix 1 on this basis are:
'Amenity Tree Planting'; 'Amenity Vegetation; Automotive and Marine Supplier (Three Parks and Industrial B Zones)'; 'Back Lane Site (Three Parks Zone)'; 'Balcony'; 'Block Plans (Tree Parks Zones)'; 'Boundary Fencing'; Building (Remarkables Park Zone)'; 'Bus Shelters (Mount Cardrona Special Zone)'; 'Comprehensive Residential Development'; 'Condominiums'; 'Development (Financial Contributions)'; 'Design Review Board'; 'Elderly Persons Housing Unit'; 'Farming and Agricultural Supplier' (Three Parks and Industrial B Zones); 'Farm Yard Car Park'; 'Food and Beverage Outlet (Three Parks Zone)'; ''Front Site'; 'Garden and Patio Supplier (Three Parks and Industrial B Zones)'; Ground Level (Remarkables Park Zone)'; 'Habitable Space (Three Parks Zone)'; 'Hazardous Wastes'; 'Historic Equipment'; 'Home Occupation (Three Parks Zone)';'Large Format Retail (Three Parks Zone)'; 'Manufacturing of Hazardous Substances'; 'Multi Unit Development'; 'Night Time Noise Boundary Wanaka'; 'North Three Parks Area'; 'Office Furniture, Equipment and Systems Suppliers (Three Parks and Industrial B Zones)'; 'On-Site Workers (Three Parks and Industrial B Zones)'; 'Outline Development Plan';' Place of Assembly'; 'Place of Entertainment'; 'Relocatable'; 'Retention Mechanism'; 'Rural Selling Place'; 'Sandwich Board'; 'Secondary Rear Access Lane'; 'Secondary Unit'; 'Secondhand Goods Outlet (Three Parks and Industrial B Zones)'; 'Specialty Retail (Three Parks Zone)'; 'Stakeholder Deed'; 'Step In Plan'; 'Storey (Three Parks Zone)'; 'Tenancy (Three Parks Zone)'; 'Visually Opaque Fence'; 'Yard Based Service Activity'; 'Yard Based Supplier (Three Parks and Industrial B Zones)'; 'Zone Standards'

67 E.g. submission 836: Neither supported nor opposed in FS1117

Means the day/night level, which is the A-frequency-weighted time-average sound level, in decibels (dB), over a 24-hour period obtained after the addition of 10 decibels to the sound levels measured during the night (2200 to 0700 hours).

$L_{Aeq(15\ min)}$:
Means the A-frequency-weighted time-average sound level over 15 minutes, in decibels (dB).

L_{AFmax}:
means the maximum A-frequency-weighted fast-time-weighted sound level, in decibels (dB), recorded in a given measuring period.

Noise Limit:
Means a $L_{Aeq(15\ min)}$ or L_{AFmax} sound level in decibels that is not to be exceeded.

In assessing noise from helicopters using NZS 6807: 1994 any individual helicopter flight movement, including continuous idling occurring between an arrival and departure, shall be measured and assessed so that the sound energy that is actually received from that movement is conveyed in the Sound Exposure Level (SEL) for the movement when calculated in accordance with NZS 6801: 2008.

131. This 'definition' is unsatisfactory. Among other things, it does not actually define the term 'noise'.

132. In her reply evidence, Ms Leith noted that the reporting officer and the acoustic expert giving evidence for Council in the context of Chapter 36 – Noise had not raised any concerns with the above definition or recommended any amendments, and that there was only one submission[68] on it, seeking deletion of the day/night level (which was not supported). Accordingly, while Ms Leith recognised that the definition was somewhat anomalous, she did not recommend any change to it. Ms Leith also identified that while the definition of "*sound"* in Chapter 2 cross references the relevant New Zealand Standards and states that the term has the same meaning as in those standards, the Standards do not in fact define the term "*sound".* Again, however, Ms Leith did not recommend any amendment.

133. We disagree. The definition of "*noise"* is a combination of:
   a. A note that reference should be made to the relevant New Zealand Standards when considering acoustic terms.
   b. A definition of some terms, not including 'noise'; and
   c. A rule as to how particular noise (from helicopters) should be assessed.

134. In our view, the aspects of this definition that constitute a note should be shifted into the notes to Chapter 2, and be reframed as such – rather than being expressed in the language of a rule.

135. Accordingly, we suggest that the notes at the start of Chapter 2 have added to them the following:
"Acoustic terms not defined in this chapter are intended to be read with reference to NZS 6801:2008 Acoustics – Measurement of environmental sound and NZS 6802:2008 Acoustics – environmental noise".

136. The terms that are actually defined within the definition of "*noise"* should be set out as separate definitions of their own. The Hearing Panel on Chapter 36 did not recommend that

[68] Submission 243: Opposed by FS1224 and FS1340

Ms Brych's submission[69] be accepted and accordingly, we have no basis on which to recommend removal of the definition of Ldn.

137. Lastly, on this point, we recommend to the Chapter 36 Hearing Panel that the helicopter rule/assessment standard should be incorporated in Chapter 36.

138. The 'definition' of 'sound' should likewise be deleted, because the cross reference it contains is impossible to apply. It is therefore of no assistance as it is.

139. As another general point, we note that there is no consistency as to definition formatting. Some definitions have bullets, some have numbering systems, and where the latter, the numbering systems differ.

140. We think it is desirable, on principle, for all subparts of definitions to be numbered, to aid future reference to them. Our revised Chapter 2 therefore amends definitions with subparts to insert a consistent numbering system. We regard this as a minor non-substantive change, within Clause 16(2).

141. Lastly at a general level, we do not propose to discuss submissions seeking the retention of existing definitions if there is no suggestion, either in other submissions or by Ms Leith, that the definition should be changed.

6. DEFINITIONS OF SPECIFIC TERMS

142. We now turn to consider the content of Chapter 2 following the notes to definitions. Where suggested changes fall within the general principles set out above, we do not discuss them further. Accordingly, what follows is a discussion of those terms that were:
   a. The subject of submissions heard in this hearing stream;
   b. The subject of recommendations by Ms Leith; or
   c. In a small number of cases, where we identified aspects of the definition that require further consideration.

6.1. Access

143. As notified, this definition included reference to 'common property' *"as defined in Section 2 of the Unit Titles Act 2010"*. Consistent with the general approach to cross references to definitions in legislation discussed above, Ms Leith suggested deleting the reference to the Unit Titles Act and inserting the actual definition of common property from that Act. Because the end result is the same, these are non-substantive amendments within the scope of Clause 16(2).

144. We agree with Ms Leith's approach, with one minor change. We think it would be helpful to still cross reference the Unit Titles Act in the definition of 'access' but suggest the cross reference be put in brackets. As above, the proposed additional definition of 'common property' should be footnoted to source that definition to the Unit Titles Act 2010.

6.2. Access leg:

145. In the marked-up version of Chapter 2 attached to her Section 42A Report, Ms Leith suggested deletion of the initial reference in the notified definition to this relating to rear lots or rear sites. As far as we could ascertain, there is no discussion of this suggested change in the body

[69] Submission 243

of the Report and no submission which would provide jurisdiction for it. We have some concerns as to whether deletion of reference to rear lots or rear sites falls within Clause 16(2). On the face of the matter, it has the effect that the definition is broadened to apply to every site, because every site will have a strip of land included within the lot or site which provides legal physical access to the road frontage. On that basis, we do not agree with the suggested amendment. However, we think the cross reference to rear lots and rear sites might appropriately be shifted to the term defined, using the convention applied to other defined terms.

6.3. Access Lot:

146. Ms Leith recommended that this definition be deleted because the term is not used within the PDP. We discussed with her whether this might be an exception, where it was nevertheless useful to include the definition, given that the term is commonly used in subdivision applications.

147. In her reply evidence, the text[70] reiterates the position that the definition should be deleted, to be consistent with her other recommendations. However, her marked up version of Chapter 2 has a note appended to this definition saying that the definition is necessary as the term is frequently used on survey plans.

148. For our part, we think there is value in having the definition of access lot for the reason just identified. In addition, while the term 'access lot' is not used in the PDP, Chapter 27 refers to 'lots for access'[71].

149. Accordingly, we recommend that the notified definition of access lot be retained in Chapter 2.

6.4. Accessory Building:

150. Ms Leith recommends that the opening words to this definition, "*in relation to any site"* be deleted. Again, we could not locate any discussion of this particular amendment in the Section 42A Report but, on this occasion, we think that it falls squarely within clause 16(2) of the First Schedule – it is self-evident that the term relates to activities on a site. Having deleted the opening words, however, we think that a minor grammatical change is required where the definition refers to "*that site"* in the second line. Consequential on the suggested amendment, the reference in the second line should be to "*a site"*.

6.5. Activity Sensitive to Aircraft Noise (ASAN):

151. Ms Leith recommended two changes to this definition, both stemming from the staff recommended amendments considered in the Stream 6 hearing relating to Chapters 7-11 (Urban Residential Zones).

152. The first is to utilise the same definition for activities sensitive to road noise and the second to substitute reference to any "*education activity"* for *"educational facility"*. The latter change reflects the staff recommendation to delete the definition of 'educational facility'. The Stream 6 Hearing Panel identifies the commonality of issues raised by the effects of aircraft and road noise in its report[72] and we agree that it is useful to combine the two with one definition. We discuss the deletion of 'educational facility' later in this report, but we agree that consequential on our recommendation to delete that definition, the cross reference to it

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70 At paragraph 6.1

71 E.g. recommended Rule 27.6.2 (Report 7)

72 Refer Report 9A at Section 36.1

needs to be amended in this context. Accordingly, we recommend acceptance of the suggested amendments.

6.6. Activities Sensitive to Aircraft Noise (ASAN) Wanaka:

153. Ms Leith recommended deletion of this definition, consequent on a recommendation to that effect to the Stream 8 Hearing Panel considering Chapter 17 (Airport Mixed Use Zone).

154. The Stream 8 Hearing Panel concurs that this would remove duplication and aid clarity[73]and for our part, we heard no evidence that would suggest that we should take a different view. Accordingly, we recommend that this definition be deleted.

6.7. Adjacent and Adjoining:

155. In her Section 42A Report[74], Ms Leith drew our attention to the use of the terms 'adjacent' and 'adjoining' in the PDP. As Ms Leith observes, 'adjoining land' is defined as:

"In relation to subdivision, land should be deemed to be adjoining other land, notwithstanding that it is separated from the other land only by a road, railway, drain, water-race, river or stream."

156. Ms Leith was of the view that it was desirable that this definition be expanded to apply in situations other than that of subdivision, to provide for the consistent implication of the term 'adjoining' between land use and subdivision consent applications. We agree that this is desirable. Chapter 27 uses the term 'adjoining land' in a number of places. Where necessary, it is qualified to refer to "*immediately adjoining"* lots[75]. It makes sense to us that a consistent approach should be taken across subdivision and land use provisions, which are frequently combined. We also agree, however, that with no submission on the point, there is no jurisdiction to make substantive changes to this definition.

157. Accordingly, we accept Ms Leith's suggestion that we recommend that this be considered further by Council, either at a later stage of the District Plan process or by way of District Plan variation. In the interim, we recommend that consistent with the formatting of other definitions, the limited purpose of the definition be noted in the defined term, and that it be expressed as a definition and not a rule. Appendix 1 shows the suggested changes.

158. Ms Leith considered, at the same time the use of the term 'adjacent' in the context of the PDP. She referred us to dictionary definitions aligning 'adjacent' with 'adjoining'. She did not consider it was necessary to define the term given its natural ordinary meaning. We agree with that recommendation also.

6.8. Aircraft:

159. Ms Leith recommended that an additional sentence be inserted on the end of this definition to exclude remotely piloted aircraft weighing less than 15kg. Again, this recommendation reflects a suggested amendment considered and accepted by the Stream 8 Hearing Panel[76].

160. As with the previous definition, we heard no evidence that would cause us to take a different view. Accordingly, we recommend that the definition be amended to include the sentence:

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73 Refer Report 11 at Section 63.3

74 A Leith, Section 42A Report at Section 29

75 E.g. Recommended Rule 27.5.4

76 Refer Report 11 at Section 63.4

"Excludes remotely piloted aircraft that weigh less than 15kg."

6.9. Aircraft Operations:

161. As notified, this definition was expressed to include the operation of aircraft during landing, take-off and taxing, but excluding certain specified activities. The Stream 8 Hearing Panel has considered submissions on it and recommends no change to the notified version. Ms Leith, however, recommended that the definition be converted from 'including' these matters to 'meaning' these matters. In other words, they are to be changed from being inclusive to exclusive.

162. We could not identify any specific discussion of this suggested change in the Section 42A Report. Shifting a definition from being inclusive to exclusive would normally have substantive effect and therefore fall outside Clause 16(2). However, in this case, the only conceivable activity involving aircraft not already specified is when they are in flight and section 9(5) excludes the normal operation of aircraft in flight from the control of land uses in the Act. Accordingly, we consider that this is a minor change that provides greater clarity as to the focus of the PDP. We therefore recommend that Ms Leith's suggestion be adopted.

6.10. Air Noise Boundary:

163. Ms Leith recommended deletion of this definition consequent on a recommendation to the Stream 8 Hearing Panel considering Chapter 17. The Stream 8 Hearing Panel agreed that the definition was redundant and should be deleted[77]. We heard no evidence that would cause us to take a different view.

164. Accordingly, we recommend that this definition be deleted.

6.11. Airport Activity:

165. Ms Leith recommended a series of changes to this definition consequent on changes recommended to the Stream 8 Hearing Panel considering Chapter 17, together with non-substantive formatting changes. The most significant suggested changes appear to be in the list of buildings that are included. In some respects, the ambit of the definition has been expanded (to include flight information services), but in a number of respects, the number of buildings qualifying as an airport activity have been reduced (e.g. to delete reference to associated offices). The Stream 8 Hearing Panel concurred with the suggested amendments[78] and we heard no evidence that would cause us to take a different view. In particular, although the Oil Companies[79] sought that the notified definition be retained, the tabled statement of Mr Laurenson for the submitters supported the suggested amendments. Accordingly, we recommend that the definition be amended to incorporate the changes suggested by Ms Leith and shown in Appendix 1 to this Report.

166. We should note that in Ms Leith's section 42A Report, she recorded that the intention of the Reporting Officer on Chapter 17 was to make the now bullet pointed list of specified airport activities exclusive, rather than inclusive, by suggesting deletion of the words "*but not limited to"*[80].

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77 Refer Report 11 at Section 63.6

78 Refer Report 11 at Section 63.8

79 Submission 768

80 A Leith, Section 42A Report, paragraph 30.2

167. To our mind, it is perfectly clear that a definition like that of 'Airport activity' which provides an initial definition and says that various specified matters are included is not intended to be exhaustive. The words "*but not limited to"* add only emphasis. They do not change the meaning. If the Council desires to alter an existing definition that is expressed inclusively, to be exclusive, in the absence of a submission on the point, that would generally be a substantive change that will need to be achieved by way of variation. The same point arises in relation to the definition of the 'airport related activity', which we will discuss shortly.

6.12. Airport Operator:

168. Ms Leith recommended this definition be deleted as it is not used in the PDP. Ms O'Sullivan from QAC[81]noted in her tabled evidence that it was used in a designation (of Wanaka Airport Aerodrome Purposes) and suggested that it would be appropriate to retain it.

169. This raises the question addressed earlier and more generally regarding the inter-relationship between the designations in Chapter 37 and the Chapter 2 definitions. For the reasons we discussed above, we take a different view to the Stream 8 Hearing Panel (which recommended to us that the definition be retained[82]) and find that if this term needs to be defined for the purposes of a designation, that is a matter for the Stream 7 Hearing Panel to address.

170. We therefore recommend it be deleted from Chapter 2.

6.13. Airport Related Activity:

171. Ms Leith made a series of suggested changes to this definition largely reflecting recommendations to the Stream 8 Hearing Panel. The additional changes recommended by Ms Leith are for non-substantive formatting matters. The effect of the recommended changes was to shift many of the activities formally identified as 'airport activities' to being 'airport related activities'. The Stream 8 Hearing Panel concurred with the suggested changes[83] and, for our part, we heard no evidence to suggest we should take a different view.

6.14. All Weather Standard

172. In her Section 42A Report, Ms Leith recommended that this term be deleted on the basis that it was not used within the PDP. She reconsidered that recommendation in her reply evidence, having noted that it was used within the definition of 'formed road'. On that basis, she recommended that the notified definition be retained. We agree, for the same reason.

6.15. Bar:

173. Ms Leith recommended a rejigging of this definition to delete the initial reference in the notified definition to any hotel or tavern, placing that reference into the term defined. We agree with the suggested reformulation, save that a minor consequential change is required so that rather than referring in the first sentence to '*the'* hotel or tavern, the definition should refer to '*a'* hotel or tavern.

6.16. Biodiversity Offsets:

174. This is a new definition flowing from the recommendation to the Stream 2 Hearing Panel, considering Chapter 33 – Indigenous Vegetation & Biodiversity. The Stream 2 Hearing Panel concurred with this recommendation and we heard no evidence that would cause us to take a different view. Accordingly, we recommend the definition be inserted in the form suggested by Ms Leith and shown in Appendix 1 to this Report.

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81 Submission 433

82 Refer Report 11 at Section 63.10

83 Refer Report 11 at Section 63.11

6.17. Boundary:

175. Ms Leith recommended that this definition be amended by deleting the note in the notified version referring the reader to the separate definitions of '*internal boundary'* and '*road* boundary'. Ms Leith described it in her marked up version of Chapter 2 as a non-substantive amendment. We agree with that. We agree both with that classification and consider that the note was unnecessary. We therefore recommend that the note in the notified version of this definition be deleted.

6.18. Building:

176. Ms Leith recommended that shipping containers be added as an additional exception and that reference be to residential units rather than residential accommodation in this definition, consequent on recommendations to the Stream 5 Hearing Panel considering Chapter 35 – Temporary Activities and Relocated Buildings. The second is a consequential change that we have no issue about, but the Stream 5 Hearing Panel queried the jurisdiction to insert the first, making no recommendation.

177. Although the Oil Companies[84] sought that the notified definition be retained, Mr Laurenson's tabled statement described the suggested changes as minor, and indicated agreement with Ms Leith's recommendations.

178. The notified definition includes an explicit extension of the statutory definition of 'building' to include, among other things, shipping containers used for residential purposes for more than 2 months. The clear implication is that shipping containers would not otherwise be considered a 'building'. We are not at all sure, however, that is correct. The reporting officer on Chapter 35, Ms Banks, thought they were[85] and we tend to agree with that (as a starting premise at least).

179. That would suggest to us that including an exclusion for shipping containers, irrespective of use and albeit for 2 months only, is a substantive change to the definition.

180. We are not aware of any submission having sought that exemption. Accordingly, we conclude that we have no jurisdiction to accept Ms Leith's recommendation in that regard.

181. The same problem does not arise with Ms Leith's recommendation that the introduction to the last bullet refer both to the statutory definition and the specified exemptions. We regard that as a non-substantive clarification. Ms Leith also suggests some minor grammatical changes for consistency reasons that we have no issues with.

182. Queenstown Park Ltd[86] sought in its submission that the definition excludes gondolas and associated structures. Giving evidence for the submitter, Mr Williams recorded that the effect of the definition referring to the Building Act 2004, rather than its predecessor (as the ODP had done) was to remove the ODP exclusion of cableways and gondola towers, but gave no evidence as to why this was not appropriate. Rather, because he went on to discuss and agree with the recommendation of Mr Barr to the Stream 2 Hearing Panel that 'passenger lift systems' be specifically defined, we infer that Mr Williams agreed with the analysis in Ms Leith's Section 42A Report that the submission has been addressed in a different way.

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84 Submission 768

85 See Banks Reply Evidence in relation to Chapter 35 at 10.4

86 Submission 806

Certainly, Mr Williams gave us no reason why we should not accept Ms Leith's recommendation in this regard.

183. Accordingly, we recommend that the only amendments to this definition be the consequential change to refer to 'residential unit' noted above, Ms Leith's suggested clarification of the role of the final bullet, and her suggested minor grammatical changes.

6.19. Building Supplier (Three Parks and Industrial B Zones):

184. Ms Leith recommended two sets of amendments to this definition. The first is to delete the reference in the term defined to the Three Parks and Industrial B Zones, arising out of a recommendation to and accepted by[87] the Stream 8 Hearing Panel considering Chapter 16-Business Mixed Use Zone. Given that the Three Parks and Industrial B Zones are not part of the PDP, were it not for inclusion of the term in Chapter 16, we would have recommended deletion of the definition. Accordingly, we agree with the suggested change.

185. The second suggested amendment is a reformatting of the definition. Currently it switches between identifying different types of building suppliers (glaziers and locksmiths), and identification of the goods a building supplier will supply. Ms Leith suggests focussing it on the latter and making appropriate consequential amendments. We agree with that suggested minor reformatting.

186. Lastly, the structure of the definition is an initial description of what a building supplier is, continuing "*and without limiting the generality of this term, includes…"*. The phrase "*without limiting the generality of this term"* adds nothing other than emphasis, and in our view should be deleted.

187. Accordingly, we recommend that the revised definition of 'building supplier' should be as follows:

"Means a business primarily engaged in selling goods for consumption or use in the construction, modification, cladding, fixed decoration or outfitting of buildings includes suppliers of:

a. glazing;
b. awnings and window coverings;
c. bathroom, toilet and sauna installations;
d. electrical materials and plumbing supplies;
e. heating, cooling and ventilation installations;
f. kitchen and laundry installations, excluding standalone appliances;
g. paint, varnish and wall coverings;
h. permanent floor coverings;
i. power tools and equipment;
j. locks, safes and security installations; and
k. timber and building materials."

6.20. Cleanfill and Cleanfill Facility:

188. In her Section 42A Report, Ms Leith recommended that definitions of these terms be added to Chapter 2, responding to the submission of HW Richardson Group[88]. The point of the submission relied on is that the definition of 'cleanfill' from Plan Change 49 should be included in the PDP. Although the submission was limited to 'cleanfill', Ms Leith identified that the

87 Refer Report 11 at Section 49

88 Submission 252

definition of earthworks she separately recommended be amended to align with the outcome of Plan Change 49 (accepting submission 768 in this regard) refers to both cleanfill and cleanfill facilities. She regarded addition of a definition of cleanfill facilities (from Plan Change 49) as being a consequential change. The tabled statement of Mr Laurenson for the Oil Companies[89], however, noted that the definitions of 'cleanfill' (and consequently 'cleanfill facility') could be interpreted to include a range of substances that should not be considered to fall within that term, such as contaminated soils and hazardous substances. Mr Laurenson also drew attention to Ministry for the Environment Guidelines exempting such materials from the definition of 'cleanfill'.

189. In her reply evidence[90], Ms Leith accepted Mr Laurenson's point. She noted that Submission 252 did not provide scope to introduce definitions of 'cleanfill' and 'cleanfill facility' reflecting the Ministry's guidance, and recommended that the best approach was not to define those terms, thereby leaving their interpretation, when used in the definition of earthworks, at large pending review of the Earthworks Chapter of the District Plan, proposed to occur in Stage 2 of the District Plan Review process.

190. We agree with Ms Leith's revised position, substantially for the reasons set out in her reply evidence. It follows that we recommend that Submission 252 (seeking inclusion of the definition of 'cleanfill' from Plan Change 49) be rejected. We note that the Stage 2 Variations propose introduction of new definitions of both 'clean fill' and 'cleanfill facility'.

6.21. Clearance of Vegetation (includes indigenous vegetation):

191. Ms Leith recommended insertion of reference to "*soil disturbance including direct drilling"* in this definition, reflecting in turn, recommendations to the Stream 2 Hearing Committee considering Chapter 33 – Indigenous Vegetation and Biodiversity. That Hearing Panel accepted that recommendation, but has also recommended additional changes; to delete the reference to indigenous vegetation in brackets in the term defined and to introduce reference to oversowing[91]. We heard no evidence that would cause us to take a different view on any of these points. Accordingly, we recommend that the definition be amended as shown in Appendix 1 to this Report.

6.22. Community Activity:

192. Ms Leith recommended two amendments to this definition. The first is to broaden the notified reference to "*schools"* to refer to *"daycare facilities and education activities"*, reflecting recommendations to the Stream 6 Hearing Panel considering Chapter 7 – Low Density Residential Zone. We note that this suggested change was supported by the tabled evidence for the Ministry of Education of Ms McMinn[92] and we agree with it (as did the Stream 6 Hearing Panel). The second suggested change responded to the submission of New Zealand Police[93] by amending the previous reference to "*Police Stations"* to refer to "*Police Purposes"*. We can readily understand the rationale for that amendment[94] although the Council may wish to consider whether reference to Fire Stations should similarly be broadened by way of variation since presumably the same logic would apply to New Zealand Fire Services Commission as to New Zealand Police.

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89 Submission 768

90 A Leith, Reply Evidence at 20.4

91 Report 4A at Section 47.2

92 Submission 524

93 Submission 57

94 Refer the tabled letter/submission of Mr O'Flaherty for NZ Police emphasising the restriction on the scope of police activities otherwise.

193. Lastly, we note that in the course of the hearing, we discussed with Ms Leith the rationale for excluding recreational activities from this definition. Ms Leith frankly admitted that this was something of a puzzle. While the intention may have been to exclude commercial recreational activities, use of land and buildings for sports fields and Council owned swimming pools would clearly seem to be community activities, in the ordinary sense. We drew this point to the Council's attention in our Minute of 22 May 2017 as an aspect where a variation might be appropriate given the lack of any submission providing jurisdiction to address the point.

194. Given those jurisdictional limitations, we recommend that the definition be amended in line with Ms Leith's evidence, as shown in Appendix 1 to this Report.

6.23. Community Facility:

195. Ms Leith recommended that this definition be deleted, consequent on a recommendation to the Stream 6 Hearing Panel considering Chapter 7 – Low Density Zone. The point was also considered in the Stream 4 hearing and the Stream 4 Hearing Panel considering Chapter 27 (Subdivision) recommends that the definition be deleted.

196. The tabled evidence of Ms McMinn for the Ministry of Education queried the staff planning recommendation in relation to Chapter 7 and whether staff in that context had actually recommended the definition be deleted.

197. Be that as it may, it appeared to us that the Ministry's concern related to use of the term"community *facility"* in any new subzone, that will necessarily be the subject of a future plan process. It can accordingly be considered at that time.

198. Likewise, the tabled evidence of Ms McMinn for Southern District Health Board[95] drew our attention to the desirability of retaining the term 'community facility' in order that the PDP might clearly provide for Frankton Hospital at its existing location should the Community Facility Sub-Zone be reintroduced as part of Stage 2 of the District Plan review process.

199. It seems to us that, as with her concern on behalf of the Ministry of Education, this is an issue that should be addressed as part of a later stage of the District Plan review. The Council will necessarily have to consider, should it reintroduce the Community Facility Sub-Zone, what additional terms need to be defined for the proper administration of those provisions. We do not believe it is appropriate that we seek to anticipate the consequences of Council decisions that are yet to be made.

200. We therefore recommend deletion of this definition.

6.24. Community Housing:

201. Ms Leith recommended that this definition be amended by decapitalising the terms previously themselves the subject of definitions. Although she did not specifically identify this change as responding to the Arcadian Triangle submission referred to earlier, her recommendation is consistent with that submission and we agree with it. We therefore recommend a like change in the marked version of Chapter 2 annexed in Appendix 1.

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95 Submission 678

6.25. Critical Listening Environment:

202. The only change recommended by Ms Leith to this definition is correction of a typographical error pointed out in the evidence of Ms O'Sullivan for QAC[96] and also noted by the Stream 8 Hearing Panel; substitution of "*listening"* for "*living"* in the last line. We regard this as a minor change, correcting an obvious error.

6.26. Domestic Livestock:

203. The notified version of this definition read:

"*Means the keeping of livestock, excluding that which is for the purpose of commercial gain:*

- *In all Zones, other than the Rural General, Rural Lifestyle and Rural Residential Zones, it is limited to 5 adult poultry, and does not include adult roosters; and*

- *In the Rural General, Rural Lifestyle and Rural Residential Zones it includes any number of livestock bred, reared and/or kept on a property in a Rural Zone for family consumption, as pets, or for hobby purposes and from which no financial gain is derived, except that in the Rural Residential Zone it is limited to only one adult rooster per site.*

Note: Domestic livestock not complying with this definition shall be deemed to be commercial livestock in a farming activity as defined by the Plan."

204. This definition needs to be read together with the definition of 'commercial livestock':

"*Means livestock bred, reared and/or kept on a property for the purpose of commercial gain, but excludes domestic livestock."*

205. The definition of 'farming activity' is also relevant:

"*Means* the *use of land or buildings for the primary purpose of the production of vegetative matters and/or commercial livestock…"*

206. There were two submissions on the definition of 'domestic livestock'. The first, that of Ms Brych[97], sought that the definition refer to the livestock rather than their keeping. The second, that of Arcadian Triangle Limited[98], made a number of points:

a. There is an inconsistency between the two bullet points in that the second refers to livestock on a property and, per site, whereas the first bullet does not do so.
b. The use of reference in the second bullet point variously to "*a property"* and "*per site"* is undesirable given that the second is defined, whereas the first is not.
c. Similar controls should be imposed on adult peacocks to those in relation to adult roosters.
d. The words in the note "*as defined by the Plan"* are unnecessary and should be deleted.

207. Ms Leith agreed with Ms Brych's submission that the inconsistency of terminology as between 'commercial livestock' and 'domestic livestock' was undesirable and should be corrected.

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96 Submitter 433

97 Submission 243: Opposed by FS1224

98 Submission 836

208. Ms Leith also agreed with the points made in the Arcadian Triangle submission, and recommended amendments to address those issues. Ms Leith also recommended minor changes to the references to zones, to bring them into line with the PDP terminology.

209. More fundamentally, Ms Leith observed that this is one of the definitions that is framed more as a rule than as a definition. Although she did not identify all the consequential changes that would be required, her recommendation was that the operative parts of the definition (i.e. those that appear more as a rule), might appropriately be shifted into the relevant zone. In her reply evidence, Ms Leith identified that the term 'domestic livestock' only appears in the Rural and Gibbston Character Zones. Her view was that given the absence of any submission, that would need to be rectified by way of variation.

210. In our view, there are even more fundamental problems with this definition that largely stem from the absence of any definition as to what animals come within the concept of 'livestock'. The Collins English Dictionary[99] defines livestock as *"cattle, horses, poultry, and similar animals kept for domestic use but not as pets – esp. on a farm or ranch".*

211. Dictionary.com gives the following definition:

"The horses, cattle, sheep, and other useful animals kept or raised on a farm or ranch".

212. Lastly, Oxford Living Dictionaries[100] defines 'livestock' as "*farm animals regarded as an asset".*

213. These definitions suggest that the concept of 'livestock' on property that is not farmed is something of a contradiction in terms.

214. The subtle differences between these definitions raise more questions than they answer given the implication of the second bullet point in the notified definition that livestock includes animals kept as pets or for hobby purposes. We are left wondering whether a single horse kept for casual riding as a hobby, if held on a property not within the Rural, Rural Lifestyle or Rural Residential Zones, would be considered livestock falling outside the definition of 'domestic livestock', and therefore be deemed to be 'commercial livestock', and consequently a 'farming activity'.

215. Or perhaps even more problematically, a household dog of which there are presumably many located within the District's residential zones.

216. Similarly, is it material that a dog might be considered 'useful' or an 'asset' on a farm, even if it is kept as a pet within a residential zone, so that a resource consent is required for a border collie (for instance), but not a miniature poodle?

217. Ms Leith's recommendation that peacocks be specifically referred to tends to blur the position further; peacocks would not normally (we suggest) be considered 'farm animals'.

218. We discussed with Ms Leith whether control of poultry in residential zones, for instance, should not better be undertaken through the Council bylaw process. That would obviously be an alternative option considered in the course of any section 32 analysis. In addition, as pointed out in our 22 May 2017 Minute, the existing definition treats the Gibbston Character

99 1979 edition

100 www.oxforddictionaries.com

Zone as a effectively a non-rural zone. Ms Leith thought that that was an error, but we lack the scope to recommend a change to the definition that would address it.

219. These considerations prompt us to the view that while, as an interim step, we should recommend the amendments suggested by Ms Leith, responding to the submissions on this definition and to the minor errors she has identified, we recommend that the Council consider regulation of animals, as a land use activity, afresh, determining with significantly greater clarity than at present, what animals it seeks to regulate through the District Plan and determining appropriate standards for the number of those animals that is appropriate for each zone in the relevant chapters of the PDP (not the definitions). Defining what is considered 'livestock' would seem to be a good starting point.

6.27. Earthworks:

220. As already noted (in the context of our discussion of 'cleanfill' and 'cleanfill facility' Ms Leith recommended amending the definition of earthworks to adopt the definition established through Plan Change 49, thereby responding to the submission of the Oil Companies[101]. Ms Leith's recommendation has been overtaken by the Stage 2 Variations which propose amendments to this definition and thus we need not consider it further.

6.28. Earthworks within the National Grid Yard:

221. In her Reply Evidence[102], Ms Leith noted the tabled representation of Ms Bould reiterating the evidence on behalf of Transpower New Zealand Limited[103] seeking a new definition of 'earthworks within the national grid yard'. This submission and evidence was considered by the Stream 5 Hearing Panel which has determined that no new definition is required for the purposes of the implementation of Chapter 30[104].

222. Ms Bould raised the point that the definition of 'earthworks' does not capture earthworks associated with tree planting. However, Ms Leith observed that the recommended rules in Chapter 30 specifically exclude such earthworks and so the recommended new definition would not provide the desired relief, and would in fact be inconsistent with the rules recommended in Chapter 30. We note also the Stream 5 Hearing Panel's conclusion[105] that the recommended rules were essentially as proposed by Transpower's planning witness. Accordingly, we do not accept the need for the suggested definition.

6.29. Ecosystem Services:

223. Ms Leith recorded that there were two submissions on this definition, one from the Council in its corporate capacity[106], and the other from Ms Brych[107].

224. The Council's submission sought substantive changes to the definition, adopting a definition provided by Landcare Research.

225. Ms Brych sought that the definition should be re-written to cover more than just the services that people benefit from.

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101 Submission 768
102 A Leith, Reply at 22.1
103 Submission 805
104 Refer Report 8, Section 5.15
105 Ibid
106 Submission 383
107 Submission 243

226. Ms Leith observed that the notified definition is practically identical to the definition in the Proposed RPS which is now beyond appeal in this respect. While, as a matter of law, we are not required to give effect to the proposed RPS, there appears no utility in contemplating amendments to take this definition to a position where it is inconsistent the definition we now know will form part of the future operative Regional Policy Statement.

227. As regards Ms Brych's submission, Ms Leith provided additional commentary in her reply evidence to the effect that while a wide range of flora and fauna benefit from ecosystem services, that term is usually identified in the PDP alongside 'nature conservation values', 'indigenous biodiversity' and 'indigenous fauna habitat'. She was of the view, and we agree, that the PDP therefore already addresses those other attributes in another way. Ms Brych did not appear to support her submission, or to explain why we should accept it in preference to adopting the Proposed RPS definition.

228. Accordingly, we recommend acceptance of Ms Leith's revised definition which varies from the notified version only by way of the minor wording and formatting changes shown in Appendix 1.

6.30. Educational Facilities:

229. Ms Leith recommended deletion of this definition and substitution of a new definition for 'education activity', reflecting an officer recommendation we now know the Stream 6 Hearing Panel has accepted**.** Ms Leith also recommended a minor grammatical amendment to the definition of education activity. We heard no evidence that would suggest that we should not accept these recommendations[108] or take a different view. Accordingly, we recommend deletion of the definition of 'education facility' and insertion of the suggested definition of 'education activity'.

6.31. Electricity Distribution Corridor and Electricity Distribution Lines:

230. Ms Leith recommended two new definitions, consequent on recommendations to the Stream 5 hearing committee considering Chapter 30 – Energy and Utilities. The Stream 5 Hearing Panel has not recommended insertion of these definitions and accordingly, we do not accept Ms Leith's recommendation either.

231. We note, however, that the Stream 5 Hearing Panel recommends a new definition of 'electricity distribution', responding to a submission of Aurora Energy[109], and intended to include those electricity lines that do not form part of the National Grid, reading as follows:

"Means the conveyance of electricity via electricity distribution lines, cables, support structures, substations, transformers, switching stations, kiosks, cabinets and ancillary buildings and structures, including communication equipment, by a network utility operator."

232. We heard no evidence to cause us to take a different view, accordingly, we recommend inclusion of the suggested new definition[110].

6.32. Energy Activities:

233. Ms Leith recommended a definition of this term be inserted consequent on recommendations to the Stream 5 Hearing Panel considering Chapter 30. That Hearing Panel recommends that the suggested definition be varied to delete the initial reference to the generation of energy

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108 Ms McMinn supported that recommendation in her evidence for Ministry of Education

109 Submission 635

110 Refer Report 8 at Section 6.6

and to make it exclusive, rather than inclusive. We adopt the recommendation of the Stream 5 Hearing Panel[111] with the minor change recommended by Ms Leith – decapitalising the bullet pointed terms.

6.33. Environmental Compensation:

234. Ms Leith recommended a new definition of this term, consequent on a recommendation to the Stream 2 Hearing Panel considering Chapter 33 – Indigenous Vegetation & Biodiversity. The Stream 2 Hearing Panel accepted the suggested new definition[112] and we heard no evidence to cause us to disagree.

6.34. Exotic:

235. Initially, Ms Leith recommended only a minor formatting change to this definition in her section 42A Report (consistent with the recommendations of the Stream 5 Hearing Panel that considered submissions on the term). We discussed with her, however, what the reference in the suggested definition to species indigenous "to that part of the New Zealand" means.

236. Putting aside the typographical error, which part?

237. In her reply evidence Ms Leith suggested that the definition should be clarified to refer to species not indigenous to the District. Having reflected on the point, we admit to some discomfort with the suggested revision of the definition because we consider it has potentially significant effect given the implication that what is exotic is (by definition) not indigenous. We have not previously seen a definition of indigenous flora and fauna that was more specific than New Zealand as a whole. We also wonder whether it is practical to determine whether species are indigenous to Queenstown-Lakes District, or whether they might have been imported from other parts of New Zealand, potentially as far away as Cromwell or Tarras, and indeed, whether that should matter.

238. Adopting a narrower definition than one relating to New Zealand as a whole is also, in our view, potentially inconsistent with section 6(c) of the Act. Both the Operative and the Proposed RPS likewise define "*indigenous"* as relating to New Zealand as a whole.

239. Last but not least, the definition of 'indigenous vegetation' in Chapter 2 similarly takes a New Zealand wide focus. We cannot understand how vegetation could be both exotic and indigenous for the purposes of the PDP.

240. This reasoning suggests to us that we should leave well-enough alone.

241. Accordingly, the only amendments we recommend to this definition are to adopt the formatting change Ms Leith recommended (shifting reference to trees and plants into the defined term) and to correct the typographical error in the second line, deleting the word "*the"*.

6.35. External Appearance:

242. Ms Leith recommended a reformatting change to this definition, shifting reference to buildings into the defined term. We consider this is a minor change that aids understanding and we support that recommendation.

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111 Among other things, suggesting that energy might be generated contradicts the first law of thermodynamics

112 Refer Report 4A, Section 51.2

6.36. Factory Farming:

243. Ms Leith recommended that this definition be amended so that rather than including the three bullet pointed matters it should "mean" those three matters i.e. converting the definition from being inclusive to exclusive. In her Section 42A Report, Ms Leith explained that the definition is unclear whether the list is intended to be exhaustive or not. She recommended that this be made clear[113].

244. As far as we can establish, there is no submission seeking this change. Rather the contrary, the submissions of Federated Farmers of New Zealand[114] and Transpower New Zealand[115] both sought that the existing definition be retained. Those submissions were before the Stream 2 Hearing Panel that does not recommend any change to the existing definition.

245. Ms Leith did not explain the basis on which she determined that the definition of 'factory farming' was intended to be exclusive and it is not obvious to us that that is the intention. Accordingly, we regard this as a substantive change falling outside Clause 16(2) and we do not accept it. We therefore recommend that the definition remain as notified, other than by way of the minor grammatical change suggested by Ms Leith (decapitalising the first word in each of the bullet points).

6.37. Farm Building:

246. Ms Leith recommended a minor grammatical change to this definition (shifting the location of the word "*excludes")*. We agree that the definition reads more easily with the suggested change and we recommend that it be amended accordingly.

6.38. Flat Site:

247. Ms Leith recommended that a definition for this term be inserted, consequent on a recommendation to the Stream 6 Hearing Panel that has the effect that the definition of 'flat site' previously found in notes to rules in Chapters 7, 8 and 9 is converted to a definition in Chapter 2[116]. The Stream 6 Hearing Panel accepts the desirability of distinguishing between flat and sloping sites[117]. Ms Leith also suggested a minor grammatical change that we believe improves the definition. We heard no evidence seeking to contradict Ms Leith's recommendation. Accordingly, we recommend that the slightly varied definition Ms Leith also suggested be inserted, as shown in Appendix 1 to this Report.

6.39. Floor Area Ratio:

248. Ms Leith recommended deletion of this definition consequent on a recommendation to the Stream 6 Hearing Panel. The Stream 6 Hearing Panel accepted that recommendation[118] and we had no reason to take a different view.

6.40. Formed Road:

249. Federated Farmers[119] sought that this definition be amended to distinguish between publicly and privately owned roads in the District.

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113 Refer Section 42A Report at 30.4

114 Submission 600: Supported in FS1209 and FS1342; Opposed in FS1034

115 Submission 805

116 Refer Report 9A, Section 37.1

117 Refer the discussion in Report 9A at Section 37.1

118 Report 9A at Section 36.8

119 Submission 600: Supported in FS1209; Opposed in FS1034 and FS1040

250. Ms Leith referred us to the definition of 'road' which, in her view, means that a 'formed road' must necessarily be a formed public road. When Federated Farmers appeared before us, its representative accepted Ms Leith's analysis, as do we. Accordingly, we recommend that the submission be rejected.

6.41. Ground Level:

251. As notified, this definition had the effect that where historic ground levels have been altered by earthworks carried out as part of a subdivision under either the Local Government Act 1974 or the Act, ground level is determined by a reference to the position following that subdivision, but otherwise, any historic changes in actual ground level do not affect the ground level for the purposes of the application of the PDP.

252. This position was the subject of two submissions. Nigel Sadlier[120] sought that the definition be retained as proposed. We note in passing that that submission was itself the subject of a further submission[121] seeking to alter the definition. The Stream 1B Hearing Panel discussed the permissible scope of further submissions in Report 3. We refer to and rely on the reasoning in that report[122], concluding, therefore, that this is not a valid further submission that we can entertain.

253. The second submission of this definition is that of Arcadian Triangle Limited[123]. This submission focussed on the third bullet point of this definition which, as notified, read as follows:

> *""Earthworks carried out as a part of a subdivision" does not include earthworks that are authorised under any land use consent for earthworks, separate from earthworks approved as part of a subdivision consent*."

254. The submission makes the point that for a period prior to Plan Change 49 becoming operative on 29 April 2016, the Council routinely required subdividers to obtain land use consent for earthworks associated with their subdivision (following a policy decision to this effect). This bullet point accordingly had the potential to alter ground levels for future purposes where they have been changed as a result of earthworks that were actually associated with subdivision. The submitter sought that the bullet point apply to the position after 29 April 2016. Ms Leith agreed with the point made by the submitter and recommended that the relief sought be granted.

255. Ms Leith also recommended (as minor changes) that three of the notified notes to this definition should be relocated into the definition itself, and that a statement at the end of the notified definition that it did not apply to the Remarkables Park Zone or the Industrial B Zone should be deleted.

256. We agree with Ms Leith's recommendations, as far as they go but we have a fundamental problem with the definition insofar as it requires an inquiry as to what the ground level was prior to earthworks being carried out "*at any time in the past*". We discussed with Ms Leith the futility, for instance, of seeking to establish what changes gold miners operating in the 1860s made to the pre-existing ground level and whether it would be more practical to

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120 Submission 68

121 Of Erna Spijkerbosch – FS1059

122 Report 3 at Section 1.7

123 Submission 836

nominate a specific date before which any changes to the pre-existing ground level could be ignored.

257. Ms Leith provided us with further information in her evidence in reply. Apparently, the original definition of 'ground level' in the ODP nominated the date of the ODP's public notification as just such a reference point but this posed problems because establishing ground level at that date (10 October 1995) was found to be difficult and in some cases impossible. Plan Change 11B was promulgated to address the issue and the notified definition in the PDP reflects the resolution of appeals through the Environment Court. Given that the current definition appeared to be the combination of much previous assessment and consideration, she did not recommend any additional amendments to it.

258. Ms Leith did not refer us to an Environment Court decision settling appeals on Plan Change 11B and we could not locate one ourselves. We infer that the resolution of appeals may have been by way of consent order.

259. Be that as it may, and with due respect to the Court, it appears to us to be illogical to address a problem caused by the inability to establish ground levels at a date in 1995, by putting in place a regime requiring knowledge of ground levels at all times in the past, that is to say tens if not hundreds of years before 1995.

260. The obvious solution, it seems to us, is to nominate a reference point when there was adequate knowledge of ground levels across the District, possibly in conjunction with provision for an earlier date if public records provide adequate certainty as to the historic ground level. For this reason, the Chair included this definition as one of the points recommended for variation in his 22 May 2017 Minute.

261. In the meantime, however, we have no jurisdiction to recommend a material change to the definition of 'ground level' from that recommended by Ms Leith. Appendix 1 therefore reflects those changes only.

6.42. Hanger:

262. Ms Leith recommended a change to this definition (to insert the word "means") consequent on a recommendation to the Stream 8 Hearing Panel considering Chapter 17 – Airport Zone. The Stream 8 Hearing Panel concurred[124] and we had no basis to take a different view.

6.43. Hazardous Substance

263. This definition was the subject of a submission from the Oil Companies[125] supporting the existing definition. Ms Leith recommended only minor formatting changes that do not make any difference to the meaning of a definition. We accept her recommendations in that regard. The relevant changes are as shown in Appendix 1 to this report.

6.44. Height:

264. Ms Leith recommended a minor formatting change to this definition and deletion of reference to assessment of height in the Three Parks Zone, recognising that that zone is not part of the PDP. We agree with Ms Leith's suggestions on both points and the revised definition in Appendix 1 to this Report shows the relevant changes.

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124 Refer Report 11 at Section 63.1

125 Submission 768

6.45. Heritage Landscape:

265. We recommend deletion of this definition, consequent on the recommendation of the Stream 3 Hearing Panel concerning Chapter 26 – Historic Heritage that this term not be used in Chapter 26[126].

6.46. Home Occupation:

266. Ms Leith recommended an amendment to this definition to delete the final sentence, stating the position applying in the Three Park Zone, given that that Zone is not part of the PDP. We agree with that recommendation for the reasons set out above.

6.47. Hotel:

267. This definition was the subject of a submission[127] pointing out that there appeared to be a word missing. Ms Leith accepted the point and recommended a minor change to correct the error, together with minor reformatting changes. We accept Ms Leith's suggestions and the revised version of the definition in Appendix 1 shows the relevant changes.

6.48. Indigenous Vegetation:

268. Ms Leith recommended a change to this definition consequent on a recommendation to the Stream 2 Hearing Panel considering Chapter 33 – Indigenous Vegetation & Biodiversity. The Stream 2 Hearing Panel agreed with that recommendation (to refer to vascular and non-vascular plants) and we had no evidence to suggest that we should take a different view.

6.49. Indoor Design Sound Level:

269. In Appendix 1, we have corrected the reference to L_{dn}, to reflect the defined term.

6.50. Informal Airport:

270. Ms Leith recommended a minor non-substantive change to the note to this definition.

271. We agree that her suggested change shown in Appendix 1 to this Report provides greater clarity and recommend it accordingly.

6.51. Internal Boundary:

272. Ms Leith recommended that the note referring the reader to other definitions is unnecessary. We agree and recommend that it be deleted.

6.52. Kitchen Facility:

273. Ms Brych[128] suggested in her submission that this definition is not very clear but did not identify either the particular problem with it, or how it might be amended to address any issue. Ms Leith was unsure as to what was not clear, as were we. Accordingly, we do not recommend any change to the definition.

6.53. Landside:

274. Ms Leith recommended a minor change consequent on a recommendation to the Stream 8 Hearing Panel considering Chapter 17- Airport Zone. That Panel agreed and we have no basis to disagree with the suggested revision shown in Appendix 1 to this Report.

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126 Refer Report 5 at Section 3

127 Christine Brych – Submission 243: Opposed by FS1224

128 Submission 243; Opposed by FS1224

6.54. Liquor:

275. Consistent with the general approach we suggested to her, Ms Leith recommended that this definition set out in full the defined term rather than cross referencing the definition in the Sale and Supply of Alcohol Act 2012. However, on this occasion, the definition is so detailed that we think the cross reference to the legislation from which it is taken is appropriate.

276. Accordingly, we recommend that the notified definition be retained.

6.55. Lot:

277. Ms Leith recommended a minor formatting change (to shift the reference to subdivision into the defined term). We agree that this is clearer and recommend the amendment shown in Appendix 1 to this Report.

6.56. Low Income:

278. Ms Leith recommended minor formatting changes to remove unnecessary capitals in this definition. We agree and Appendix 1 shows the relevant changes.

6.57. MASL:

279. Ms Leith recommended that this definition be shifted to the separate section she recommended containing acronyms used in the PDP. While, as defined, it is indeed an acronym (standing for metres above sea level), reference to it raises a more substantive issue.

280. Given the continuous and ongoing rise in sea levels, use of the literal meaning of MASL as a fundamental reference point in the PDP is unsatisfactory. The Chair's 22 May 2017 memorandum recommended that Council promulgate a variation to define sea level as 100 metres above Otago Datum in order to provide a reference point that will not shift over time. We have no scope to make that change ourselves in the absence of any submission, but anticipating a possible variation, we recommend in the interim that 'MASL' remain in the first section of Chapter 2, rather than being shifted into a separate section of acronyms.

6.58. Mast:

281. In her tabled evidence for QAC, Ms O'Sullivan drew our attention to a potential issue with the definitions of 'mast' and 'antenna', because both of those terms are framed as being specific to telecommunications. Ms O'Sullivan's concern was that the rules in Chapter 30 governing installation of masts and antenna would not, therefore, address structures used for radio communications, navigation or metrological activities – all matters of obvious importance to QAC.

282. Ms O'Sullivan accepted that QAC had not filled a submission with respect to these definitions but drew our attention to the issue in case we could identify scope to address the point.

283. Ms Leith's initial view was that there was no scope to broaden the definitions. We canvassed various possible options in discussions with Ms Leith, but she remained of the view that there was no scope through submissions to recommend these changes.

284. We think that Ms O'Sullivan's concern might be slightly overstated because the ordinary natural meaning of telecommunications includes communications by way of radio waves and to the extent that navigation and metrological facilities on masts and antenna communicate data, they might similarly be considered to fall within the existing definitions. To the extent that this is not the case, however, we have insufficient evidence to conclude that broadening

the definitions to provide more clearly for these facilities would be a minor change for the purposes of Clause 16(2). Accordingly, we conclude that this is a matter which should be addressed by the Council by a way of variation, as Ms Leith recommended to us.

6.59. Mineral Exploration:

285. Ms Leith recommended a new definition for this term consequent on recommendations to the Stream 2 Hearing Panel considering Chapter 21 – Rural Zone

286. The Stream 2 Hearing Panel agreed with that recommendation. Ms Leith, however, suggested two changes to the definition considered by the Stream 2 Hearing Panel. The first is non-substantive in nature (deleting "any" in the third line). The second, however, is more problematic, in our view. The definition recommended to, and accepted by the Stream 2 Hearing Panel had the concluding words "*and to explore has a corresponding meaning"*. Ms Leith suggested that this be deleted on the basis that the definition relates to exploration. While this is correct, the extra words provide for a change of grammatical form (from a noun to a verb) and make it clear that the definition applies to both. We think for our part that that is helpful and we disagree with Ms Leith's recommendation in that regard. Appendix 1, accordingly, only shows the minor change noted above from the version recommended by the Stream 2 Hearing Panel.

6.60. Mineral Prospecting:

287. Ms Leith recommended a new definition of this term be inserted consequent on a recommendation to the Stream 2 Hearing Panel considering Chapter 21 – Rural Zone. That Hearing Panel concurred. Ms Leith has suggested only a minor grammatical change (decapitalising the initial word in each bullet point). We had no evidence to suggest substantive changes to the definition from that recommended by the Stream 2 Hearing Panel, but we agree that the minor grammatical change suggested by Ms Leith is appropriate. Appendix 1 to this Report shows the revised definition.[129]

288. As a consequential change, the existing definition of 'prospecting' should be deleted.

289. Before leaving this term, however, we should note the concern expressed by the Stream 2 Hearing Panel that the way the definition is expressed (being inclusive rather than exclusive) does not accord with the apparent intent – that it describe a low impact activity. The Panel suggested that Council needed to revise it in a future variation. We concur.

6.61. Mini and Micro Hydro Electricity Generation:

290. Ms Leith recommended a minor amendment to insert the word "*means"* at the start of the defined term. The suggested amendment does not alter the meaning, but is consistent with how other defined terms are framed. We accordingly recommend that change.

6.62. Mining Activity:

291. Ms Leith recommended a substantive change to this definition consequent on a recommendation to the Stream 2 Hearing Panel, considering Chapter 21 – Rural Zone, subject only to minor reformatting changes. This recommendation has been overtaken by the Stage 2 Variations, which propose amendments to the notified definition and thus we need not consider it further, although we note that a new definition of 'mining' has been inserted into our recommended revised Chapter 2 consequent on the recommendation of the Stream 2 Hearing Panel.

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[129] Report 4A at Section 4.12

6.63. Minor Alterations and Additions to a Building:

292. Ms Leith suggested amendments to this definition consequent on recommendations to the Stream 6 Hearing Panel considering Chapter 10 – Arrowtown Residential Historic Management Zone and accepted by that Hearing Panel[130]. We had no basis to take a different position. The defined term is, however, specific to Chapter 10, and so it needs to be noted as such. Accordingly, Appendix 1 to this Report shows the relevant changes.

6.64. Minor Upgrading:

293. Ms Leith recommended a series of changes to this definition consequent on recommendations to the Stream 5 Hearing Panel considering Chapter 30 – Energy and Utilities. The Stream 5 Hearing Panel largely accepts that recommendation (changing only the tense of the introduction of the specified items: *"shall include"* to "*includes")*. Ms Leith adopted that recommendation subject only to minor formatting changes. Ms Bould's tabled statement for Transpower New Zealand Limited[131] drew our attention to the evidence of Ms McLeod for Transpower in the context of the Stream 5 hearing seeking provision in the definition for a 15% increase to the height of support structures. Although not apparent from Ms Bould's statement, the relief supported by Ms McLeod suggests that the proposed increase could only occur when necessary to comply with NZECP 34:2001, and so is more limited than would appear to be the case.

294. Be that as it may, Ms Bould provided us with no additional evidence not already put before the Stream 5 Hearing Panel. In addition, Ms Leith drew our attention to the difficulty in judging compliance with such a permitted activity condition and to the potential for significant increases to the height of support structures incurring incrementally over time as permitted activities[132].

295. We are unsure whether the second point is a valid concern given that the relief supported by Ms McLeod is limited to extensions necessary to provide clearance under the NZECP, but ultimately, we have no basis on which to form a different view to the Stream 5 Hearing Committee.

296. Ms Irving drew our attention to the evidence for Aurora Energy[133] in the Stream 5 Hearing in her tabled memorandum, but provided no additional evidence or argument to cause as to doubt the conclusions of the Stream 5 Hearing Panel. Accordingly, we do not recommend that the definition be extended further from that recommended by the Stream 5 Hearing Panel, other than to make it clear that it is limited in application to Chapter 30.

297. We also heard evidence from Ms Black for Real Journeys Limited[134], who sought an expansion of the definition to provide for upgrades to infrastructure other than electricity transmission. The particular point of concern to Ms Black was the need to provide from time to time for upgrades to wharves. After the conclusion of the hearing, Ms Black provided us with suggested wording for a revised definition (2 options).

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130 Report 9A at Section 36.10

131 Submission 805

132 Refer Leith reply evidence at 21.2

133 Submission 635: Supported in part in FS1301; Opposed in FS1132

134 Submission 621

298. Ms Leith did not support the suggested amendment of the 'minor upgrading' definition[135]. Ms Leith observed that the requested relief went beyond a change to the definition and would require new rules which have not been recommended in the Stream 5 Hearing Report. In our view, there would be no point providing an amended definition if the term is not used in the context of an upgrade other than electricity infrastructure.

299. In addition, we have a concern that upgrades of wharves located in sensitive rural areas such as at Walter Peak, might have significant adverse effects.

300. Last but not least, Real Journeys Limited did not seek an amendment to this definition in its submission and we could not identify any jurisdiction for the relief now sought.

301. Accordingly, our revised version of the definition in Appendix 1 is limited to the amendments referred to above.

6.65. Moderate Income:

302. Ms Leith recommended minor amendments (decapitalising words) in this definition that we agree are desirable for consistency reasons. Appendix 1 shows the suggested amendments.

6.66. National Grid:

303. Ms Leith recommended a new definition of this term, arising out of the Stream 5 Hearing in relation to Chapter 30 – Energy and Utilities. The recommended definition in that hearing suggested a cross reference to the Resource Management (National Environmental Standards for Electricity) Transmission Activities Regulations 2009 which define what the National Grid is. The Stream 5 Hearing Panel accepted the desirability of having a definition in the terms recommended, but consistent with the general approach for such cross references, Ms Leith suggested reproducing what the regulations actually say. While we agree that this is more user-friendly, the definition in the Regulations refers to the ownership of the National Grid as at the commencement of the regulations which, if retained, defeats the intention of making the Chapter 2 definition self-contained. We recommend replacing that with a cross reference to notification of the PDP. Given that Transpower has owned the National Grid at all material times, this change falls within Clause 16(2).

6.67. National Grid Corridor:

304. Ms Leith recommended deletion of this definition and its replacement by a new term (National Grid Subdivision Corridor) consequential on recommendations to the Stream 5 Hearing Panel considering Chapter 30 – Energy and Utilities. The new term is proposed to have the same definition save for a minor non-substantive amendment to the note, and a grammatical change in the second line (delete the word "*the")*.

305. The description of the area either side of national grid lines was the subject of discussion in both the Stream 4 and Stream 5 hearings. The recommendations from those Hearing Panels are that the term used in the relevant rules should be 'National Grid Corridor', that is to say, the notified defined term. Accordingly, we reject Ms Leith's recommendation in that regard. In addition, we think it is unnecessary to state (in the same note) that the term does not include underground lines – the opening words of the definition make it perfectly clear that it only relates to above ground lines. However, the amendment she suggested to what was formerly the note aids understanding of the inter-relationship between the defined term and any lines that are designated and so we recommend that 'National Grid Corridor' be amended as shown in Appendix 1.

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135 Refer A Leith, Reply at 21.3

6.68. National Grid Sensitive Activities:

306. Ms Leith recommended a revised definition for this term, reflecting recommendations to the Stream 5 Hearing Committee considering Chapter 30 – Energy and Utilities, subject to minor grammatical changes (removing capitalisation of initial words in bullets and a surplus "*the"*). The Stream 5 Hearing Panel agreed with the recommendation. We heard no evidence to suggest that we should take a different view other than a consequential change to reflect our recommendation above to delete the definition of "education facility" and in relation to Ms Leith's suggested minor additional changes. Accordingly, we recommend the revised definition in the form set out in Appendix 1.

6.69. National Grid Yard:

307. Ms Leith recommended an amendment to this definition (to replace the diagram), reflecting a recommendation to the Stream 5 Hearing Panel, together with a minor non-substantive change to the former note to the definition. The Stream 5 Hearing Panel accepted the recommendation to amend the diagram and we heard no evidence to suggest that we should take a different view. As regards the note, we consider that as with the definition of 'national grid corridor', it is preferable that the body of the definition makes clear that it relates to overhead lines, rather than that being stated in a note.

308. Accordingly, we recommend that amended definition set out in Appendix 1.

6.70. Nature Conservation Values:

309. Ms Leith recommended a revised definition for this term, reflecting a recommendation to the Stream 1B Hearing considering Chapter 3 – Strategic Direction. The Report of the Stream 1B Panel recommends a slightly different definition which refers at the end to habitats rather than landscapes and inserts reference to ecosystem services as an aspect of natural ecosystems, but otherwise accepts the staff recommendation. The only submission on this term listed for hearing in Stream 10 was that of X-Ray Trust Limited[136], which sought a definition of the term, but did not suggest how it should be worded. Accordingly, we have no basis on which to disagree with the Stream 1B Hearing Panel and recommend a revised definition in the terms set out in Appendix 1.

6.71. Navigation Facility:

310. The Airways Corporation of New Zealand Limited[137] sought a new definition for this term. Wording was provided in the submission.

311. Ms Leith's Section 42A Report however identifies that as a result of recommended amendments, the term is no longer used in Chapter 30. Accordingly, in her view, there is no utility in inserting a definition for it[138]. While that is correct, we note that the Stream 1B Hearing Panel has recommended the definition of 'regionally significant infrastructure' that refers, among other things, to 'navigation infrastructure' associated with Queenstown and Wanaka Airports. It appears to us that, therefore, there is value in defining that term.

312. The definition suggested in the Airways Corporation submission for 'navigation facility' was:

"Means any permanent or temporary device or structure constructed and operated for the purpose of facilitating navigation by aircraft or shipping."

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136 Submission 356

137 Submission 566: Supported by FS1106, FS1208, FS1253 and FS1340

138 Refer Section 42A Report at 14.5

313. While as a matter of fact, navigation infrastructure includes shipping (e.g. at the entrance to Queenstown Bay), the reference to shipping is unnecessary given the context in which the term is used in the PDP, but otherwise we think that the suggested definition is perfectly serviceable. Accordingly, we recommend the submission be accepted in part by inclusion of a new term 'navigation infrastructure' defined as:

"*Means any permanent or temporary device or structure constructed and operated for the purpose of facilitating navigation by aircraft."*

6.72. Net Area:

314. Ms Leith recommended a formatting change to this definition to shift the reference to sites or lots into the defined term, consistent with the approach to other terms in Chapter 2. This is a minor non-substantive change, but we agree that with some simplification, it improves readability. Accordingly, we recommend revision of the term as shown in Appendix 1.

6.73. Net Floor Area:

315. Ms Leith recommended a minor wording change to substitute "*means*" for "*shall be*" at the start of this definition. The end result is the same so it falls within Clause 16(2). We agree with the suggested change, which makes the definition consistent with other terms in Chapter 2.

6.74. Noise Event:

316. Ms Leith recommended correction of a typographical error in the fourth line of this definition that was also noted by the Stream 5 Hearing Panel. We agree that this is a minor error that should be corrected under Clause 16(2).

6.75. No Net Loss:

317. Ms Leith recommended a new definition for this term, reflecting a recommendation to the Stream 2 Hearing Panel considering Chapter 33 – Indigenous Vegetation & Biodiversity. The Stream 2 Hearing Panel accepted that recommendation and we heard no evidence which would provide us with a basis to take a different view. Accordingly, we recommend a new definition in the terms set out in Appendix 1.

6.76. Notional Boundary:

318. Ms Leith recommended amendment to this definition, reflecting a change recommended to the Stream 5 Hearing Panel considering Chapter 36 – Noise (to refer to "*any side"* of a residential unit rather than to "*the facade")* together with a minor grammatical change ("*any"* to "*a")*. The Stream 5 Hearing Panel agreed with the staff recommendation and we heard no evidence that would give us a basis to take a different view. We also agree that the minor additional change suggested by Ms Leith aids readability. Accordingly, we recommend a revised definition in the terms set out in Appendix 1.

6.77. Outer Control Boundary (OCB) Queenstown:

319. Ms Leith recommended deletion of this term, reflecting a recommendation to the Stream 8 Hearing Panel considering Chapter 17 – Airport Zone to consolidate this definition with that of 'Outer Control Boundary (OCB) Wanaka'. The Stream 8 Hearing Panel accepted that recommendation and we heard no evidence that would cause us to take a different view. Accordingly, we likewise recommend its deletion.

6.78. Outer Control Boundary (OCB) Wanaka:

320. Ms Leith recommended amendments to this definition that reflected some (but not all of the) changes suggested to the Stream 8 Hearing Panel considering Chapter 17. In particular, the version of the definition recommended by Ms Leith in her section 42A Report retained reference to a date which was omitted from the definition recommended to and accepted by the Stream 8 Hearing Panel. In her tabled evidence for QAC, Ms O'Sullivan pointed out that any reference to a date in this definition needed to acknowledge that the relevant dates were different as between Queenstown and Wanaka. When Ms Leith appeared, we also discussed with her the potential ambiguity referring to "*future predicted day/night sound levels*" – that might be taken to mean future predictions rather than the current prediction of the position at a future date (as intended). Ms Leith suggested amendments to address both points.

321. We think it is preferable to specify the reference date at both airports (as Ms Leith suggests) rather than leave that open (as the Stream 8 Hearing Panel's recommendation would do) to be clearer what it is that the OCBs seek to do. Accordingly, we recommend acceptance of Ms Leith's revised definition, as shown in Appendix 1.

6.79. Passenger Lift System:

322. Ms Leith recommended a new definition for this term, reflecting a recommendation to the Stream 2 Hearing Panel considering Chapter 21 – Rural Zone. The Stream 2 Hearing Panel accepted that recommendation.

323. Remarkables Park Limited[139] and Queenstown Park Limited[140] supported the suggested definition before us. We also received written legal submissions from Mr Goldsmith representing Mount Cardrona Station Limited[141] expressing concern about the way in which the suggested definition was framed. However, when Mr Goldsmith appeared before us, he advised that on further reflection, he considered the concerns expressed in his written submissions unfounded and he withdrew them.

324. We discussed with Mr Williams, the planning witness for Remarkables Park Ltd and Queenstown Park Ltd, the logic of confining the definition of 'passenger lift system' to systems that transport passengers within or to a ski area sub-zone, given that the most visible (and well-known) passenger lift system in the District (the Skyline Gondola) does neither. Mr Williams advised that from a planning perspective, there was merit in broadening the definition and addressing the need for specific provisions governing lift systems in and around ski areas through the rules of Chapter 21. In her reply evidence however, Ms Leith advised that the submission the recommendation responded to was that of Mount Cardrona Station Limited, which was limited to integration between ski area sub-zones and nearby urban and resort zones. She advised further that neither that submission, nor the other submission seeking similar relief provided jurisdiction for definition of a passenger lift system not in the context of a ski area sub-zones, and therefore there was no jurisdiction to make the change we discussed with Mr Williams.

325. We accept that analysis. We contemplated a recommendation that the PDP be varied to provide for passenger lift systems not associated with ski area sub-zones, but given the Skyline Gondola was the subject of resource consent applications to permit a major refurbishing of

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139 Submission 807

140 Submission 806

141 Submission 407: Supported in FS1097, FS1329 and FS1330

the existing facility that were before the Environment Court around the time of our hearing, we do not regard this as necessary at this point.

326. Given the lack of jurisdiction we have noted, we have no basis to recommend a change to the definition from that suggested by Ms Leith. Appendix 1 shows the suggested new definition.

6.80. Photovoltaics (PV):

327. Again, Ms Leith recommended a minor non-substantive change to improve consistency of expression in the Chapter. We agree with her suggested change, which is shown in Appendix 1.

6.81. Potable Water Supply:

328. In her Section 42A Report, Ms Leith noted (in the context of her discussion of the definition of the word 'site') her understanding that it is ultra vires to refer to future legislation within the PDP via a term such as 'replacement Acts'. Ms Leith's position reflected the legal submissions made to us by counsel for the Council. The reason why reference to future legislation is ultra vires is due to the uncertainty as to what that future legislation may contain.

329. When Ms Leith appeared before us, we inquired whether the same principle that counsel had made submissions on and she had accepted would apply to the definition of Potable Water Supply which, as notified, refers to the current drinking water standard "*or later editions or amendments* of *the Standards"*. In her reply evidence, Ms Leith confirmed that the reference to future versions of the drinking water standards was an issue and recommended that it be deleted, in conjunction with a minor consequential amendment. We agree that this is appropriate. Because the deleted phrase is ultra vires and of no effect, its removal is a minor change within Clause 16(2).

6.82. Precedent:

330. Alan Cutler[142] submitted that a definition of 'precedent' should be included in the PDP. Mr Cutler's reasons appeared to relate to the decisions of Council in relation to implementation of the ODP. Ms Leith advised, however, that the term is not used within the PDP. On that ground, and because the law on the significance of precedents in decisions under the Act is still evolving, she recommended definition not be included in Chapter 2. We agree, essentially for the same reasons, and recommend that this submission be declined.

6.83. Projected Annual Aircraft Noise Contour (AANC):

331. Ms Leith recommended a correction to the cross reference to the designation conditions, reflecting a recommendation accepted by the Stream 8 Hearing Panel considering Chapter 17 – Condition 13, not Condition 14.

332. We have no reason to take a different view and Appendix 1 reflects the suggested change.

6.84. Public Place:

333. This definition refers to the "*District Council"* when the defined term (council) should be used. Appendix 1 reflects that change.

6.85. Radio Communication Facility:

334. Ms Leith recommended a new definition for this term be inserted, accepting the submission of Airways Corporation of New Zealand Limited[143] in this regard. Ms Leith identified that although 'radio communication facility' was no longer an activity in its own right, following

142 Submission 110

143 Submission 566: Supported by FS1106, FS1208, FS1253 and FS1340

recommended amendments to the Stream 5 Hearing Panel considering Chapter 30 Energy and Utilities, the term was used in the recommended definition of 'regionally significant infrastructure' and on that account, it is useful to have it defined.

335. In her reply evidence[144], Ms Leith noted that the reference to the Radio Communications Act 1989 at the end of the definition sought by the submitter was unnecessary and recommended its deletion. We agree both that the definition of the term is desirable for the reasons set out in Ms Leith's Section 42A Report (given our recommendation to accept that aspect of the definition of "regionally significant infrastructure") and that the reference to the Radio Communications Act 1989 sought by the submitter should be deleted (not least because that Act does not actually define the term "*Radio Communication Facility")*. Accordingly, we recommend that this submission be accepted in part with a new definition as set out in Appendix 1.

6.86. Recession Lines/Recession Plane:

336. Although not the subject of submission or evidence, we noted as part of our deliberations that this definition (and the accompanying diagrams) are very difficult to understand. They appear designed for the benefit of professionals who already understand the concept of recession planes, and what the diagrams seek to achieve. While there are some aspects of the PDP where lay people may need the assistant of professional advisors, this need not be one of them. We recommend that the Council give consideration to a variation to this aspect of Chapter 2 to provide a definition and interpretative diagrams that might be better understood by lay readers of the PDP. We have attempted to formulate a more readily understood definition ourselves, which is attached to this Report as Appendix 4

6.87. Regionally Significant Infrastructure:

337. Ms Leith recommended insertion of a new definition of this term, reflecting recommendations made to the Stream 1B Hearing Panel considering Chapter 3 – Strategic Direction, supplemented by changes recommended to the Stream 5 Hearing Panel considering Chapter 30 – Energy and Utilities. Ms Leith also recommended updating the suggested cross reference to the Resource Management (National Environmental Standards for Telecommunication Facilities Regulations 2016). The Stream 1B Hearing Panel recommended several amendments to the definition of this term, which the Stream 5 Hearing Panel adopted. We have no basis to take a different view from the Hearing Panels that have already considered the matter.

338. We note that we do not consider the suggested cross reference to the Regulations noted above to be helpful as neither 'telecommunication facility' nor 'radio communication facility' are in fact defined in the Regulations. Our recommendation, reflecting the recommendations we have received from the Stream 1B (and Stream 5) Hearing Panels, is set out in Appendix 1.

6.88. Registered Holiday Home:

339. Ms Leith recommended minor grammatical changes to the definition, deletion of the first advice note and amendment of the second note. However, this definition is the subject of the Stage 2 Variations (which proposes that it be deleted) and thus we need not consider it further.

6.89. Registered Home Stay:

340. Ms Leith recommended deletion of the advice note notified with this application, for the same reason as the corresponding note in relation to 'registered holiday home'. Again, however, this definition is the subject of the Stage 2 Variations and we therefore do not need to form a view on Ms Leith's recommendations.

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144 A Leith, Reply Evidence at 9.1

6.90. Relocated/Relocatable Building:

341. Ms Leith recommended amendment to this definition, reflecting a recommendation to the Stream 5 Hearing Panel considering Chapter 35 – Temporary Activities & Relocated Buildings. The Stream 5 Hearing Panel recommends an additional change (to insert the word *"newly"),* but otherwise agrees with the recommendation[145] . We heard no evidence that would cause us to take a different view although we recommend that the capitalising and bolding of the terms 'removal' and 're-siting' be removed, to promote consistency with the use of defined terms. Appendix 1 reflects the recommended end result.

6.91. Relocation:

342. Ms Leith recommended a reformatting change to shift the initial reference to building into the defined term. We agree with that suggested change which promotes greater consistency in Chapter 2. The Stream 5 Hearing Panel also recommends removal of the words "*and re-siting'* from this definition to avoid confusion[146]. We agree with that change also. Appendix 1 shows the recommended end result.

6.92. Remotely Piloted Aircraft:

343. Ms Leith recommended a new definition for this term, reflecting a recommendation to the Stream 8 Hearing Panel considering Chapter 17 – Airport Zone. That Hearing Panel agrees with the recommendation and we had no basis on which to take a different view. Accordingly, our recommended Appendix 1 shows the suggested new definition.

6.93. Removal of a Building:

344. Ms Leith recommended a new definition of this term, reflecting a recommendation to the Stream 5 Hearing Panel considering Chapter 35 – Temporary Activities & Relocated Buildings. The Stream 5 Hearing Panel agreed with the desirability of a new definition. Ms Leith's suggested definition shifts some of the definition into the defined term and includes reference to demolition as an express exclusion. Both suggested changes are minor in nature. To promote consistency in the way other terms have been defined in Chapter 2, however, we think that the cross reference to building should be in brackets: i.e. "*Removal (Building)"*. The second suggested change provides a desirable clarification for the avoidance of doubt.

6.94. Renewable Electricity Generation Activities:

345. Ms Leith recommended minor grammatical changes (removing unnecessary capitals for separately defined terms). We agree with the suggested change which promote consistency in the reference to defined terms. Appendix 1 shows the recommended end result.

6.95. Residential Flat:

346. In her Section 42A Report[147], Ms Leith noted that although this term was discussed in the course of the Stream 2 Hearing Panel's consideration of Chapter 21 – Rural Zone and was the subject of staff recommendations on submissions, that Hearing Panel directed that the relevant submissions be transferred to this hearing. Ms Leith recommended three changes to the notified definition:

- Insert provision for an increased floor area (up to 150m²) in the Rural and Rural Lifestyle Zones;
- Remove reference to leasing;

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145 Refer Report 8 at Section 20.2

146 Ibid

147 Section 15

- Delete the second note stating that development contributions and additional rates apply.

347. In the case of the first two suggested changes, Ms Leith adopted the recommendations that had earlier been made to the Stream 2 Hearing Panel.

348. She also referred us to the reasoning contained in her own Section 42A Report to the Stream 6 Hearing Panel, considering Chapter 7 of the PDP.

349. There were a number of submissions on this term that were scheduled for hearing as part of Stream 10:
   a. Dalefield Trustee Limited[148] and Grant Bissett[149], supporting the notified definition.
   b. Christine Brych[150], seeking clarification as to whether the definition refers to the building or its use.
   c. QAC[151], seeking a limitation that a residential flat is limited to one per residential unit or one per site, whichever is less.
   d. Arcadian Triangle Limited[152], seeking to replace the limitation on gross floor area with a limitation based on the percentage occupation of the site, to delete reference to leasing or shift that reference into the advice notes and to delete the advice notes or make it clear that they are for information only.

350. Addressing the submission seeking changes to the notified definition, Ms Leith's Chapter 7 Staff Report pointed out that the term 'residential activity' is defined to mean the use of land and buildings. The term 'residential flat' in turn incorporates 'residential activity' as defined. This effectively answers Ms Brych's concern. The definition relates both to the building and the use of the building.

351. Ms Leith (again in the context of her Chapter 7 Report) suggested that there was good reason not to limit sites to a maximum of one residential unit and one residential flat. She pointed in particular to the intent of the PDP to address growth and affordability issues[153]. QAC's tabled evidence did not seek to pursue their submission and thus Ms Leith's reasoning was effectively left uncontradicted. We agree with her reasoning in that regard.

352. Ms Leith's suggested amendment to make special provision for residential flats in the Rural and Rural Lifestyle Zones reflected Mr Barr's reply evidence in the context of the Stream 2 hearing, accepting an argument Mr Goldsmith had made for Arcadian Triangle Limited that the 70m² maximum size reflected an urban context[154]. The Stream 2 Hearing Panel agreed with that recommendation, as do we. We also agree with Ms Leith's reasoning in her Chapter 7 Report that a rule that allowed residential flats to be established by reference to the size of the principal residential unit would permit over large residential flats associated with very large residential units. While arbitrary, a maximum floor area provides the appropriate degree of control[155]. Accordingly, we recommend that that aspect of the Arcadian Triangle submission may be accepted only in part.

148 Submission 330
149 Submission 568
150 Submission 243: Opposed by FS1224
151 Submission 433: Opposed by FS1097 and FS1117
152 Submission 836
153 Refer Chapter 7 Section 42A Report at 14.21
154 Refer C Barr Reply Evidence in Stream 2 Hearing at 6.4
155 Refer Chapter 7, Section 42A Report at 14.23-14.24

353. Ms Leith accepted the underlying rationale of the Arcadian Triangle submission regarding specific reference to leasing. We agree with that reasoning also. A residential flat might be leased. It might be occupied by family members. It might be occupied by visitors on an unpaid basis. We do not understand why, there is any need to refer specifically to a leasehold arrangement, and impliedly exclude other arrangements that the landowners might enter into.

354. Lastly, we agree with Ms Leith's suggested deletion of the note relating to development contributions and rates. Development contributions are levied under the separate regime provided in the Local Government Act 2002. Rates are levied under the Local Government (Rating) Act 2002. The District Plan should not presume how the separate statutory powers under other legislation will be exercised in future.

355. We also do not think there is any necessity to qualify the first note providing clarification as to the relationship between residential flats and residential units as Arcadian Triangle seeks. It does not have substantive effect – it describes the position that would result in the absence of any note.

356. In summary, we recommend that the definition of "*residential flat',* be as suggested to us by Ms Leith to the extent that differs from the recommendation we have received from the Stream 2 Hearing Panel. Appendix 1 reflects that position.

6.96. Residential Unit:

357. Ms Leith recommended deletion of the reference to dwelling in the first line of the notified definition, reflecting in turn, a recommendation to the Stream 6 Hearing Panel considering Chapter 7 – Low Density Residential. That Hearing Panel accepted that recommendation[156].

358. In her Section 42A Report, Ms Leith discussed a submission by H Leece and A Kobienia[157] seeking that rather than focussing on kitchen and laundry facilities, the definition should include flats, apartments and sleepouts on a site that are installed with ablution facilities that enable independent living. The purpose of this submission is to preserve, in particular, rural living amenity values.

359. Ms Leith's response[158] is that the 'residential unit' is the key concept to control the number and intensity of residential activities within each zone. She notes that the definition of 'residential unit' does not incorporate 'residential flats' which are intended to be a minor form of accommodation within the same ownership, but which enable self-contained living separate from the residential unit (potentially we note in a separate building). Ms Leith notes that the PDP enables 'residential flats' in order to promote housing diversity and as a result, did not agree with the submission that residential flats be included within the definition of 'residential units'.

360. Ms Leith also observes that self-contained apartments are already within the definition of 'residential units'.

361. Ms Leith discussed sleepouts, they being buildings capable of residential living that are not completely self-contained and which therefore require access to the 'residential unit'. In her

156 Refer Report 9A at Section 35.11

157 Submission 126

158 A Leith, Section 42A Report at Section 16

view, a sleepout containing only a bathroom and no kitchen could not easily be resided in for long-term purposes without a relationship to the 'residential unit' on the site. She therefore thought that they were appropriately categorised as an accessory building.

362. We canvassed with Ms Leith whether there was a potential problem with sleepouts given that, as an accessory building, they could be located within boundary setback distances. In her reply evidence, Ms Leith discussed the point further. She pointed out that there are rules that apply to accessory buildings within normal setbacks which manage potential adverse effects and that although the ODP permits establishment of sleepouts as accessory buildings now, that has not proven to be a problem in practice. Having tested Ms Leith's reasoning, and in the absence of any evidence from the submitter, we accept her recommendation that the relief sought by the submitter should be declined and that deletion of reference to dwellings in the first line should be the only amendment we recommend. The revised version of the definition in Appendix 1 reflects that position.

6.97. Re-siting:

363. Ms Leith recommended insertion of a new definition, reflecting recommendations to the Stream 5 Hearing Panel considering Chapter 35 – Temporary Activities & Relocated Buildings, but reformatted to include reference to buildings within the defined term. We heard no evidence which would cause us to take a different view about the desirability of having a new definition from the Stream 5 Hearing Panel, which accepted the officer's recommendation[159]. However, we recommend that the reference to buildings in the defined term be in brackets for consistency with other definitions in Chapter 2 with a limited subject matter. Appendix 1 shows the recommended end result.

6.98. Resort:

364. As discussed below, in the context of 'Urban Development', the Stream 1B Hearing Panel recommends a definition of this term be added, consequent on the changes it recommends to the definition of 'Urban Development'. Appendix 1 reflects the recommended addition.

6.99. Retail Sales/Retail/Retailing:

365. The definition of this term was the subject of extensive evidence and submissions on behalf of Bunnings Limited[160]. The thrust of the case advanced for Bunnings was that building suppliers should be expressly excluded from the definition of 'retail'. The rationale for the Bunnings case was that the very large format enterprises operated by Bunnings do not sit comfortably within the policy framework for retail activities which seek to consolidate retail and commercial activities in town centres. As it was put to us, the result of the existing definition of 'retail' combined with the strategic direction contained in Chapter 3 is that either large-scale trade and building suppliers like Bunnings will be forced to locate in the town centres, which will undermine the objective of locating core retail activities in those areas to create vibrant centres, or alternatively, those large scale trade and building suppliers will be precluded from locating in the District entirely.

366. We discussed the issues posed by the Bunnings submission with Mr Minhinnick, counsel for Bunnings, at some length because it appeared to us that although the submitter had identified a real issue, the suggested solution of excluding trade and building suppliers from the definition of 'retail' was unsatisfactory and, indeed, might even have precisely the opposite result from that which the submitter sought.

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159 Refer Report 8 at Section 20.2

160 Submission 746: Supported by FS1164

367. More specifically, although the evidence of Ms Davidson for Bunnings was a little coy about the percentage of Bunnings' operations represented by retail sales to the public, compared to sales to builders and other tradesmen, it was clear to us that the typical Bunnings operation has a substantial retail component. On the face of the matter, therefore, it was inappropriate to deem such operations not to be retail activities when they are retail activities[161].

368. We also noted that so called 'big box retail' is currently already provided for by the ODP in the Three Parks Area in Wanaka. Assuming the ODP provisions are not materially changed when that part of the ODP is reviewed, if trade suppliers were to be excluded from the definition of 'retail', they would consequently be excluded from establishing within the Three Parks Zone, leaving no obvious site for them in Wanaka.

369. Moreover, Bunnings had not sought a parallel amendment to the definition of 'industrial activity' and its planning witness, Ms Panther Knight, told us that in her view it would be inappropriate to amend that definition to include a Bunnings-type operation.

370. We observed to Mr Minhinnick that the Chapter 3 approach was to avoid non-industrial activities occurring within industrial zoned areas – refer notified Policy 3.2.1.2.3 - suggesting that if a Bunnings-type operation was excluded from the definition of 'retail', and did not fall within the definition of an industrial activity, there might be nowhere within the District, in practice, for it to establish. We invited the representatives of Bunnings to consider these matters and to revert to us if they could identify a more satisfactory solution.

371. Counsel for Bunnings duly filed a memorandum suggesting that, rather than excluding building and trade suppliers from the definition of 'retail', the alternative relief sought by Bunnings was to amend the definition of 'trade supplier'. We will return to the issues raised by Bunnings in the context of our discussion of that definition. Suffice it to say that, as we think Bunnings representatives themselves came to accept, we do not consider an exclusion of building and trade suppliers from the definition of 'retail' to be appropriate. We therefore agree with the recommendation of Ms Leith[162] that the submissions initially made by Bunnings to us be rejected.

6.100. Reverse Sensitivity:

372. Ms Leith recommended a new definition for this term, responding to the submissions of the Oil Companies[163] and Transpower New Zealand Limited[164]. In her Section 42A Report[165], Ms Leith recorded that the Section 42A Report on Chapter 30 – Energy and Utilities reported on Transpower's submission and recommended its rejection on the basis that the term 'reverse sensitivity' has been defined by case law, and there is therefore potential that it might be further redefined. Ms Leith observes, however, that that recommendation (and consequently the Stream 5 Hearing Panel's consideration of the point) did not consider the submission of the Oil Companies seeking a somewhat less verbose definition (than that of Transpower) and the fact that the Proposed RPS has adopted a definition of 'reverse sensitivity' which is identical to that proposed by the Oil Companies. Lastly, Ms Leith observed that no appeals were lodged against the Proposed RPS as regards that definition.

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161 Cf *Hawke's Bay and Eastern Fish and Game Councils v Hawke's Bay Regional Councils* [2014] NZHC 3191 on 'factual deeming'

162 Refer Leith Reply Evidence at 23.2

163 Submission 768: Supported by FS1211 and FS1340

164 Submission 805:Supported by FS1211; Opposed by FS1077

165 Refer A Leith Section 42A Report at section 17

373. We consider that a definition of reverse sensitivity is desirable given that the term is used in a number of different contexts in the PDP. As Ms Leith observed, given that the Proposed RPS has adopted the meaning advocated by the Oil Companies and that it has not been appealed on the point, there is good reason to do likewise in the PDP context.

374. For that reason, we recommend a new definition of reverse sensitivity accepting the Oil Companies' submission.

6.101. Road Boundary:

375. Ms Leith recommended deletion of the note to this definition as notified. We agree that the note is unnecessary and recommend that it be deleted accordingly.

6.102. Sensitive Activities – Transmission Corridor:

376. Ms Leith recommended deletion of this term, reflecting in turn, the recommendation to the Stream 5 Hearing Panel considering Chapter 30 – Energy and Utilities. The Stream 5 Hearing Panel agrees with the recommendation and we heard no evidence that would give us a basis to take a different view. Accordingly, we too recommend its deletion.

6.103. Sensitive Activities:

377. X-Ray Trust Limited[166] sought a definition of *"sensitive activities"* is included within the PDP. The submission was cross referenced to notified Objective 21.2.4 which relates to the conflict between sensitive activities and existing and anticipated activities in the Rural Zone. The submitter did not suggest how the term might be defined. Given that, we would have difficulty inserting a definition which provided anything other than the natural and ordinary meaning of the term, for natural justice reasons. If any definition could only express the natural and ordinary meaning, one has to ask whether it serves any useful purpose.

378. Ms Leith also directed us to the objectives and policies of Chapter 21 which provide clarification as to how sensitivity might be assessed in the rural context. She noted that the specific instance of sensitivity of activities within the National Grid Corridor is addressed by a separate definition.

379. In summary, we agree with Ms Leith's recommendation[167] that there is no need to define the term 'sensitive activities'.

380. We note that the submitter sought also that new definitions of 'valuable ecological remnants' and 'ecological remnants' be inserted. Those terms are only used in Chapter 43 and the Stream 9 Hearing Panel considering that Chapter did not recommend inclusion of new definitions of those terms[168]. X-Ray Trust did not provide wording to support its submission and Council has accepted the recommendations of the Stream 9 Hearing Panel (that were released in advance of the reports of other Hearing Panels). We do not consider we have any basis to recommend amendment to these definitions.

6.104. Service Station:

381. Ms Leith recommended a minor non-substantive change to this definition to separate out the exclusion in the second bullet point of the notified definition. We think that it is desirable to separate the exclusion to make the end result clearer, notwithstanding the support of the Oil

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[166] Submission 356

[167] A Leith, Section 42A Report at 18.6

[168] Refer Millbrook Recommendation Report1 September 2017 at 97

Companies[169] for the definition as notified. However, we recommend that the end result be expressed slightly differently, but still ultimately to the same effect. Appendix 1 shows our suggested revision.

6.105. SH6 Roundabout Works:

382. Ms Leith recommended acceptance of New Zealand Transport Agency[170] submission seeking that this definition be deleted as it is part of a notice of requirement. We have already discussed the relationship between Chapter 2 and Chapter 37 (Designations), essentially agreeing with the position underlying this submission. Accordingly, we recommend that the definition be deleted.

6.106. Sign and Signage:

383. Ms Leith's discussion of this issue in her Section 42A Report[171] recorded that the Council's corporate submission[172] sought that all definitions relating to signage be replaced with those recently made operative under Plan Change 48. Ms Leith analysed the Plan Change 48 definitions, identifying that the PDP definitions of 'sign and signage' and related terms differ from those in Plan Change 48 only by way of formatting. Ms Leith also noted that the only term related to signage used in the PDP is 'sign and signage'. She recommended that the related terms all be deleted. While we agree with that recommendation for those definitions within our jurisdiction, most of the definitions concerned are the subject of the Stage 2 Variations, and therefore, whether they remain in Chapter 2 will be determined in that process.

384. As regards the definition of 'sign and signage', Ms Leith recommended two changes that she described as non-substantive in nature.

385. The first suggested change is to remove the word "*includes"* in the third bullet point. We agree with that recommendation. Because the definition commences, "*means:…",* use of the word "*includes"* does not fit the form of the definition.

386. The second recommendation related to the notes to the definition addressing corporate colour schemes and cross referencing other terms. That recommendation has been overtaken by the Stage 2 Variations and thus we need not address it further.

387. Accordingly, we recommend that the term be amended to delete the words "*includes"* (in the third bullet point), and leave any consideration of the matters covered by the notified Notes to the Stage 2 Variation hearing process.

6.107. Site:

388. This term has been the subject of discussion at a number of hearings on the PDP. It is of particular importance to the provisions related to subdivision. The Reporting Officer in the Stream 4 hearing (Mr Nigel Bryce) deferred consideration of these issues until this hearing.

389. Ms Leith's discussion of the point[173] also noted a recommendation from the Reporting Officer in the Stream 6 Hearing Chapter 9 – High Density Residential (Ms Kim Banks) that the definition of 'site' be addressed either at this hearing, or by way of variation.

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169 Submission 768
170 Submission 719
171 At Section 25
172 Submission 383
173 A Leith, Section 42A Report at Section 19

390. The Stage 2 Variations now propose a new definition of 'site'. We therefore need not consider it further.

6.108. Ski Area Activities:

391. Ms Leith recommended amendments to this definition, reflecting recommendations to the Stream 2 Hearing Panel considering Chapter 21 – Rural Zone. That Hearing Panel accepted those recommendations and for our part, we had no basis for taking a different view. Accordingly, we recommend that the definition be amended as shown in Appendix 1.

6.109. Sloping Site:

392. Ms Leith recommended a new definition of this term, reflecting a recommendation made to the Stream 6 Hearing Panel considering Chapter 9 – High Density Residential, but including a minor formatting change to express the new term consistently with other definitions in Chapter 2. The Stream 6 Hearing Panel agreed with the suggested definition[174] and we had no basis to take a different view. Accordingly, Appendix 1 shows the suggested new definition in the terms recommended by Ms Leith.

6.110. Small Cells Unit

393. Ms Leith initially recommended a new definition of the term "*small cells"*, reflecting a recommendation made to the Stream 5 Hearing Panel considering Chapter 30 – Energy & Utilities. The tabled statement of Mr McCallum-Clark on behalf of the telecommunication companies[175] pointed out that the National Environmental Standard for Telecommunication Facilities 2016 provides a definition of small cells (more specifically, for "*Small Cells Unit")* and recommended that that be used in the PDP. That suggestion accords with the recommendation of the Stream 5 Hearing Panel, reflecting its recommendation that relevant rules refer to "*small cells unit".*

394. We agree with that recommendation. Appendix 1 shows the revised definition, as per the 2016 NES.

6.111. Solar Water Heating:

395. Ms Leith recommended a minor reformatting change to this definition to make it consistent with the balance of the Chapter 2 definition. We agree with her suggested change and Appendix 1 shows the recommended revised definition.

6.112. Stand-Alone Power Systems (SAPS):

396. Again, Ms Leith recommended minor reformatting/grammatical changes to make this definition consistent with the balance of Chapter 2. We agree with her suggested changes, which are shown in Appendix 1.

6.113. Structure Plan:

397. While not the subject of submission or comment from Ms Leith, we note that the Stream 4 Hearing Panel recommends a definition of 'Structure Plan' be inserted into Chapter 2, to assist interpretation of rules that Hearing Panel has recommended be inserted.

398. The suggested definition is:

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174 Refer Report 9A at Section 37.1

175 Submissions 179, 191 and 781

"Structure Plan means a plan included in the District Plan and includes Spatial Development Plans, Concept Development Plans and other similarly titled documents."

399. We have no basis to take a different view, and accordingly recommend a new definition in those terms

6.114. Subdivision and Development:

400. At this point, we note the recommendation[176] of the Stream 1B Hearing Panel considering Chapter 6 that we include a definition of 'Subdivision and Development'. We heard no evidence to suggest we should take a different view and accordingly recommend accordingly. Appendix 1 shows the suggested definition.

6.115. Support Structure:

401. Ms Leith recommended a new definition of this term reflecting a recommendation to the Stream 5 Hearing Panel considering Chapter 30 – Energy and Utilities. Mr McCallum-Clark on behalf of the telecommunication companies[177] suggested in his tabled statement that the new definition needed to include reference to telecommunication lines, as the term is used within the definition of 'minor upgrading'. Ms Leith agreed with that point in the summary of her evidence presented at the hearing. The Stream 5 Hearing Panel, however, notes that the definition sought by the relevant submitter [178] did not include reference to telecommunication lines and concluded that it did not have jurisdiction to recommend a satisfactory definition. We agree and accordingly do not accept Ms Leith's recommendation[179].

6.116. Telecommunication Facility:

402. Ms Leith recommended deletion of this term consequent on a recommendation to the Stream 5 Hearing Panel considering Chapter 30 – Energy and Utilities. The Stream 5 Hearing Panel accepts the suggested deletion[180] and we heard no evidence that would cause us to take a different view.

6.117. Temporary Activities:

403. Ms Leith recommended amendment to this term reflecting recommendations made to the Stream 5 Hearing Panel considering Chapter 35 – Temporary Activities & Relocated Buildings, together with minor grammatical/reformatting changes. The Stream 5 Hearing Panel largely accepts the suggested amendments. It considers, however, that there is no scope to expand the ambit of provision for informal airports and recommends that the final bullet point be amended to provide a limit on that provision[181]. We heard no evidence that would cause us to take a different view.

404. Accordingly, Appendix 1 shows the changes recommended by Ms Leith, save for the final bullet point, where we have adopted the Stream 5 Hearing Panel's recommendation.

6.118. Temporary Events:

405. Ms Leith Recommended insertion of a note on the end of this definition, reflecting in turn a recommendation to the Stream 5 Hearing Panel considering Chapter 35 – Temporary Activities

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176 Refer Recommendation Report 3 at Section 8.4
177 Submissions 179, 191 and 781
178 Aurora Energy: submission 635
179 Recommendation report 8 at Section 20.3
180 Report 8 at Section 6.3
181 Refer Recommendation Report 8 at Section 20.3

& Relocated Buildings. The Stream 5 Hearing Panel largely accepts that recommendation[182] and we had no basis on which to take a different view. Appendix 2 accordingly shows the term defined as per Ms Leith's recommendation.

6.119. Temporary Military Training Activity (TMTA):

406. Ms Leith recommended this new definition, reflecting in turn a recommendation to the Stream 5 Hearing Panel considering Chapter 35 – Temporary Activities & Relocated Buildings, subject only to a minor reformatting change to be consistent with other definitions. The Stream 5 Hearing Panel accepts the recommendation with minor wording changes[183]. We heard no evidence that would cause us to take a different view. Accordingly, Appendix 1 shows the new definition.

6.120. Tourism Activity:

407. Ms Leith drew to our attention[184] that a number of submitters sought a definition of this term and that the Section 42A Report on Chapter 21 – Rural Zone recommended that those submissions be rejected. Four additional submissions seeking the same relief were listed for hearing as part of Stream 10 – those of D & M Columb[185], Cardrona Alpine Resort Limited[186], Amrta Land Limited[187] and Nga Tahu Tourism Limited[188], together with the relevant further submissions. None of the other submitters in question appeared to explain to us why a definition of this term would be beneficial notwithstanding the recommendation to the Stream 2 Hearing Panel, and the submissions themselves are relatively uninformative, containing a bare request for a new definition, with suggested wording, but (apart from Submission 716) no reasons. Submission 716 suggested that differentiating tourism activities from other commercial activities would provide certainty and aid effective and efficient administration of the Plan. However, it did not explain how the suggested definition would do that, and from our observation, the suggested wording is so broadly expressed that it is difficult to conceive of many commercial activities in the district that would fall outside it.

408. Accordingly, like Ms Leith, we see no reason to conclude that a definition of 'tourism activity' should be inserted into the PDP.

6.121. Trade Supplier:

409. Ms Leith recommended a new definition of this term, reflecting in turn a recommendation to the Stream 8 Hearing Panel considering Chapter 16 – Business Mixed Use Zone. The Stream 8 Hearing Panel recommends acceptance of that position.

410. As above, Bunnings Limited[189] suggested that its submission might appropriately be addressed by an amendment to this definition reading:
"Trade suppliers are to be treated in the Plan as both retail and industrial activities, unless trade suppliers are otherwise specifically provided for."

411. This suggestion reflected a discussion we had with counsel for Bunnings Limited and with its planning witness, Ms Panther Knight to the effect that part of the problem Bunnings had was

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182 Report 8 at Section 20.4
183 Ibid
184 Section 42A Report at Section 21
185 Submission 624: Supported by FS1097
186 Submission 615: Supported by FS1097, FS1105, FS1117, FS1137, FS1153, and FS1187
187 Submission 677: Supported by FS1097, and FS1117; Opposed by FS1035, FS1074, FS1312 and FS1364
188 Submission 716: Supported by FS1097 and FS1117
189 Submission 746

that its large format operations were something of a hybrid, partly retail and partly industrial in nature.

412. Bunnings also suggested that the word "*wholly*" should be deleted from the definition recommended to the Stream 8 Hearing Panel.

413. Ms Leith considered this suggestion in her reply evidence. While she supported deletion of the word "*wholly*" in order to allow for some flexibility, she did not support the substantive change at the end of the definition, considering that that would pre-empt the content of the review of the Industrial Zone provisions that is yet to come, and indeed the review of any other chapter that might be suitable for a trade supplier, such as the Three Parks Special Zone. She also noted that the Business Mixed Zone already specifically provides for 'Trade Suppliers' and so the amendment is not required.

414. Ms Leith's concerns have some validity. While we think there is merit in the suggestion that the non-retailing component of Bunnings-type operations should be recognised, the suggested amendment to the definition reads like a rule rather than a definition. On reflection, we are also uncomfortable with defining trade suppliers to be, in part, industrial activities. On the basis of the evidence we heard from Ms Davidson for Bunnings, we think that the large format operations that Bunnings and its principal competitor (Mitre 10 – Mega) undertake are more correctly described as a mixture of retailing and wholesaling. Whether it is appropriate for such operations to be provided for in Industrial Zones is a different question that needs to be addressed in a subsequent stage of the PDP review process. Relevant to that consideration, the Stream 1B Hearing Panel has recommended that what was Policy 3.2.1.2.3 be softened so that it now provides for non-industrial activities ancillary to industrial activities occurring within Industrial Zones.

415. In summary, therefore, we accept that some amendment to the definition of 'Trade Supplier' is desirable from that recommended by the Stream 8 Hearing Panel, but suggest it be limited to altering it to read:
"Means a business that is a mixture of wholesaling and retailing goods in one or more of the following categories…"

6.122. Trail:

416. While not the subject of submission or consideration by Ms Leith, the Stream 1B Hearing Panel recommends[190] a minor non-substantive change to this definition. We have no reason to take a different view to that Hearing Panel and accordingly Appendix 1 shows the recommended amendment.

6.123. Urban Development:

417. Ms Leith recommended a substantial amendment to this definition, reflecting recommendations to the Stream 1B Hearing Panel considering Chapter 3 – Strategic Direction. The Stream 1B Hearing Panel recommends further changes to the definition of 'urban development' and insertion of a new term 'resort'.

418. The Hearing Panel's Report contains a lengthy discussion of the rationale for the suggested changes[191].

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190 See Report 3 at Section 8.7

191 Refer Report 3 at Section 3.5

419. Ms Leith referred us to the submission of MacTodd[192] which sought that the definition of 'urban development' be amended in accordance with the Environment Court's decision in *Monk v* Queenstown *Lakes District Council*[193]. MacTodd did not appear before us to explain how exactly it thought that the definition should be amended, but the Stream 1B Hearing Report considers the Environment Court's decision at some length, as well as MacTodd's submission, before arriving at its recommendation. Further consideration of MacTodd's submission does not cause us to come to a different view to the Stream 1B Hearing Panel.

420. Mr Goldsmith appeared at the Stream 10 Hearing on behalf of Ayrburn Farm Estate Limited[194] and took issue with the recommended exclusion of Millbrook and Waterfall Park Special Zones from the definition of urban development. Mr Goldsmith made it clear when he appeared before us that he was not seeking to debate the merits but wished to alert the Hearing Panel to the relevance of this point to the argument he was yet to make in the context of the Wakatipu Basin Mapping Hearing as to the location of the Arrowtown Urban Growth Boundary. He also queried the jurisdiction for excluding Millbrook and Waterfall Park.

421. The Stream 1B Hearing Report addresses both the jurisdictional issues[195] and the merits of how 'urban development' should be defined for the purposes of the PDP. Mr Goldsmith did not present us with any arguments that suggested to us that the logic of the Stream 1B Hearing Panel's recommendations is unsound and we adopt those recommendations. Accordingly, Appendix 1 has both a new definition of 'resort' and a revised definition of 'urban development'.

6.124. Urban Growth Boundary:

422. MacTodd[196] sought that this definition be amended in accordance with the Environment Court's decision in *Monk v Queenstown Lakes District Council* referred to in the context of the definition of 'urban development'. We have reviewed the *Monk* decision and while the Environment Court discusses the interrelationship between the definitions of 'urban development' and 'urban growth boundary' it does not appear to us to offer any guidance as to what the definition of the latter term should be, if it is to be amended.

423. MacTodd did not appear before us to assist us in that regard. Accordingly, we recommend that MacTodd's submission be rejected.

424. Ms Leith, however, recommended a minor change to the definition to remove the repetitive reference to boundaries in the notified definition, together with a minor grammatical change. We agree that the recommended objective reads more simply and clearly and, accordingly, adopt Ms Leith's suggestion in Appendix 1.

6.125. Utility:

425. Ms Leith recommended two changes to this definition, both arising out of recommendations to the Stream 5 Hearing Panel considering Chapter 30 – Energy and Utilities. The first is to refer to substations in the context of other infrastructure related to the transmission and distribution of electricity and the second to add reference to flood protection works. The Stream 5 Hearing Panel agrees with both recommendations and we did not hear any evidence that would cause us to take a different view.

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192 Submission 192

193 [2013] NZEnvC 12

194 Submission 430

195 The submission of Millbrook Country Club (696) clearly provides jurisdiction

196 Submission 192

426. We note the tabled memorandum of Ms Irving for Aurora Energy Ltd[197] on this point. Ms Irving suggested that the term 'utility' needed to be amended to catch a wider range of electricity distribution infrastructure. Ms Irving's point has largely been overtaken by our recommendation to insert a separate definition of 'electricity distribution' and in any event, we note that the definition has a catchall referring back to the Act's definition of 'network utility operation', which would include all of Aurora's network.

427. We do not believe therefore that further amendments are required to address Ms Irving's concerns.

428. We do suggest, however, that the words "but not limited to" be deleted as unnecessary verbiage, and that the cross reference to the definition of telecommunication facilities should be deleted, consequent on removal of that definition.

429. Accordingly, with the addition of correction of a typographical error (the first bullet point should refer to transmission singular of electricity) and the deletions just referred to, we recommend the amendments to this term endorsed by the Stream 5 Hearing Panel.

6.126. Visitor Accommodation:

430. This definition was the subject of a number of submissions. However, consideration of the issues raised by those submissions has been overtaken by the Stage 2 Variations, which propose an amended definition. We need not, therefore, consider it further.

6.127. Waste:

431. H W Richardson Group[198] sought that this definition be amended to specify that 'waste' does not include cleanfill. Ms Leith recommended that that submission be accepted as a helpful amendment to the definition[199]. We agree with that recommendation and Appendix 1 reflects the suggested change.

6.128. Waste Management Facility:

432. Ms Leith noted that this definition differs from that in Plan Change 49, related to earthworks, but considered that there was no scope to recommend substantive amendments to the PDP definition on this basis[200]. She did, however, recommend non-substantive amendments to correct typographical errors and clarify the relationship between the specified exclusions. We agree with those suggested amendments, which are shown in Appendix 1.

6.129. Wetland:

433. Ms Leith recommended deletion of the cross reference to the definition in the Act given that the balance of the notified definition in fact already sets out the Act's definition of this term. We agree that the deleted text is unnecessary and that it should therefore be deleted.

6.130. Wholesaling:

434. In her Section 42A Report, Ms Leith recommended that this definition be referenced to the Airport Zone (as well as Three Parks and Industrial B Zones as notified), consequent on a recommendation to the Stream 8 Hearing Panel. The Stream 8 Hearing Panel refers the matter to us, so that it might be considered in the context of the whole Plan.

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197 Submission 635

198 Submission 252

199 A Leith, Section 42A Report at 24.8

200 Refer A Leith, Section 42A Report at 24.9

435. Reference to the Three Parks and Industrial B Zone should be deleted, given that those zones are not part of the PDP. The reporting officer on Stream 8 (Ms Holden) identified scope for the definition to apply in the Airport Zone[201].

436. We discussed with Ms Leith whether there was a case for the definition to apply beyond the three nominated zones. In her reply evidence, she acknowledged there is merit in a broader application, but expressed the opinion that there is no scope for amending the definition further.

437. We accept Ms Leith's conclusion that there is no scope to expand the application of the definition beyond the Airport Zone, and recommend that Council consider the desirability of a variation on the point.

438. In the interim, we recommend that the definition just be referenced to the Airport Zone, as Ms Holden recommended.

6.131. Wind Electricity Generation:

439. Ms Leith recommended a minor non-substantive amendment to this definition which promotes consistency with the formatting of the other definitions in Chapter 2. We agree that that consistency is desirable. Appendix 1 therefore sets out the change suggested by Ms Leith.

7. ACRONYMS:

440. Ms Leith suggested insertion of a new Section 2.2 in Chapter 2 collecting together all of the acronyms used in the PDP. We think that this is helpful for readers of the PDP. She considered that this was a non-substantive change simply providing clarification to Plan users (and therefore within Clause 16(2)). We agree and Appendix 1 includes a new Section 2.2 with a brief opening explanation as to what it includes.

441. In the list of acronyms, the acronyms currently referring to Heritage Landscapes[202] each need to be amended consequent on the recommendation of the Stream 3 Hearing Panel that these areas be described as Heritage Overlay Areas.

442. For similar reasons, RCL should be 'Rural Character Landscape', consequent on the recommendations of the Stream 1B Panel.

443. Lastly, the acronym 'R' suggested by Ms Leith is not required, given that it is only used in the Jacks Point Structure Plan.

8. SUMMARY OF RECOMMENDATIONS ON CHAPTER 2:

444. Our recommended amendments to Chapter 2 are set out in Appendix 1 to this Report.

445. In our detailed discussion of the definitions in Chapter 2, and those that might be added to it, we have recommended that Council consider variations to the PDP to insert new/amended definitions of a number of defined terms, as follows:

a. Community Activity;

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201 Submission 433

202 GHL, MHL, SHL, SMHL

b. Domestic Livestock/Livestock;
c. Ground Level;
d. MASL;
e. Mineral prospecting
f. Recession Lines/Recession Plane;
g. Wholesaling.

446. Attached as Appendix 4 is a suggested basis for an amended definition/explanation of 'Recession Line/Recession Plane' should Council agree with our recommendation that the existing definition would benefit from clarification.

447. 'The need for Council to insert the relevant date into the definition of *'partial demolition'* before release of the Council's decisions on our recommendations is also noted.

448. As previously noted, Appendix 3 to this report contains a summary of our recommendations in relation to each submission before us.

3 STRATEGIC DIRECTION

QUEENSTOWN LAKES DISTRICT COUNCIL

3.1 Purpose

This chapter sets out the over-arching strategic direction for the management of growth, land use and development in a manner that ensures sustainable management of the Queenstown Lakes District's special qualities:

a. dramatic alpine landscapes free of inappropriate development;

b. clean air and pristine water;

c. vibrant and compact town centres;

d. compact and connected settlements that encourage public transport, biking and walking;

e. diverse, resilient, inclusive and connected communities;

f. a district providing a variety of lifestyle choices;

g. an innovative and diversifying economy based around a strong visitor industry;

h. a unique and distinctive heritage;

i. distinctive Ngāi Tahu values, rights and interests.

The following issues need to be addressed to enable the retention of these special qualities:

a. Issue 1: Economic prosperity and equity, including strong and robust town centres, requires economic diversification to enable the social and economic wellbeing of people and communities.

b. Issue 2: Growth pressure impacts on the functioning and sustainability of urban areas, and risks detracting from rural landscapes, particularly its outstanding landscapes.

c. Issue 3: High growth rates can challenge the qualities that people value in their communities.

d. Issue 4: The District's natural environment, particularly its outstanding landscapes, has intrinsic qualities and values worthy of protection in their own right, as well as offering significant economic value to the District.

e. Issue 5: The design of developments and environments can either promote or weaken safety, health and social, economic and cultural wellbeing.

f. Issue 6: Tangata Whenua status and values require recognition in the District Plan.

This chapter sets out the District Plan's strategic Objectives and Policies addressing these issues. High level objectives are elaborated on by more detailed objectives. Where these more detailed objectives relate to more than one higher level objective, this is noted in brackets after the objective. Because many of the policies in Chapter 3 implement more than one objective, they are grouped, and the relationship between individual policies and the relevant strategic objective(s) identified in brackets following each policy. The objectives and policies in this chapter are further elaborated on in Chapters 4 – 6. The principal role of Chapters 3 - 6 collectively is to provide direction for the more detailed provisions related to zones and specific topics contained elsewhere in the District Plan. In addition, they also provide guidance on what those more detailed provisions are seeking to achieve and are accordingly relevant to decisions made in the implementation of the Plan.

3.2 Strategic Objectives

3.2.1 The development of a prosperous, resilient and equitable economy in the District. (addresses Issue 1)

3.2.1.1 The significant socioeconomic benefits of well designed and appropriately located visitor industry facilities and services are realised across the District.

3.2.1.2 The Queenstown and Wanaka town centres[1] are the hubs of New Zealand's premier alpine visitor resorts and the District's economy.

3.2.1.3 The Frankton urban area functions as a commercial and industrial service centre, and provides community facilities, for the people of the Wakatipu Basin.

3.2.1.4 The key function of the commercial core of Three Parks is focused on large format retail development.

3.2.1.5 Local service and employment functions served by commercial centres and industrial areas outside of the Queenstown and Wanaka town centres [2], Frankton and Three Parks, are sustained.

3.2.1.6 Diversification of the District's economic base and creation of employment opportunities through the development of innovative and sustainable enterprises.

3.2.1.7 Agricultural land uses consistent with the maintenance of the character of rural landscapes and significant nature conservation values are enabled. (also elaborates on SO 3.2.4 and 3.2.5 following)

3.2.1.8 Diversification of land use in rural areas beyond traditional activities, including farming, provided that the character of rural landscapes, significant nature conservation values and Ngāi Tahu values, interests and customary resources, are maintained. (also elaborates on S.O.3.2.5 following)

3.2.1.9 Infrastructure in the District that is operated, maintained, developed and upgraded efficiently and effectively to meet community needs and to maintain the quality of the environment. (also elaborates on S.O. 3.2.2 following)

[1] Defined by the extent of the Town Centre Zone in each case
[2] Defined by the extent of the Town Centre Zone in each case

3.2.2 Urban growth is managed in a strategic and integrated manner. (addresses Issue 2)

3.2.2.1 Urban development occurs in a logical manner so as to:

a. promote a compact, well designed and integrated urban form;

b. build on historical urban settlement patterns;

c. achieve a built environment that provides desirable, healthy and safe places to live, work and play;

d. minimise the natural hazard risk, taking into account the predicted effects of climate change;

e. protect the District's rural landscapes from sporadic and sprawling development;

f. ensure a mix of housing opportunities including access to housing that is more affordable for residents to live in;

g. contain a high quality network of open spaces and community facilities; and.

h. be integrated with existing, and planned future, infrastructure.

(also elaborates on S.O. 3.2.3, 3.2.5 and 3.2.6 following)

3.2.3 A quality built environment taking into account the character of individual communities. (addresses Issues 3 and 5)

3.2.3.1 The District's important historic heritage values are protected by ensuring development is sympathetic to those values.

3.2.4 The distinctive natural environments and ecosystems of the District are protected. (addresses Issue 4)

3.2.4.1 Development and land uses that sustain or enhance the life-supporting capacity of air, water, soil and ecosystems, and maintain indigenous biodiversity.

3.2.4.2 The spread of wilding exotic vegetation is avoided.

3.2.4.3 The natural character of the beds and margins of the District's lakes, rivers and wetlands is preserved or enhanced.

3.2.4.4 The water quality and functions of the District's lakes, rivers and wetlands are maintained or enhanced.

3.2.4.5 Public access to the natural environment is maintained or enhanced.

3.2.5 The retention of the District's distinctive landscapes. (addresses Issues 2 and 4)

3.2.5.1 The landscape and visual amenity values and the natural character of Outstanding Natural Landscapes and Outstanding Natural Features are protected from adverse effects of subdivision, use and development that are more than minor and/or not temporary in duration.

3.2.5.2 The rural character and visual amenity values in identified Rural Character Landscapes are maintained or enhanced by directing new subdivision, use or development to occur in those areas that have the potential to absorb change without materially detracting from those values.

3.2.6 The District's residents and communities are able to provide for their social, cultural and economic wellbeing and their health and safety. (addresses Issues 1 and 6)

3.2.7 The partnership between Council and Ngāi Tahu is nurtured. (addresses Issue 6).

3.2.7.1 Ngāi Tahu values, interests and customary resources, including taonga species and habitats, and wahi tupuna, are protected.

3.2.7.2 The expression of kaitiakitanga is enabled by providing for meaningful collaboration with Ngāi Tahu in resource management decision making and implementation.

3.3 Strategic Policies

Visitor Industry

3.3.1 Make provision for the visitor industry to maintain and enhance attractions, facilities and services within the Queenstown and Wanaka town centre areas and elsewhere within the District's urban areas and settlements at locations where this is consistent with objectives and policies for the relevant zone. (relevant to S.O. 3.2.1.1 and 3.2.1.2)

Town Centres and other Commercial and Industrial Areas

3.3.2 Provide a planning framework for the Queenstown and Wanaka town centres that enables quality development and enhancement of the centres as the key commercial, civic and cultural hubs of the District, building on their existing functions and strengths. (relevant to S.O. 3.2.1.2)

3.3.3 Avoid commercial zoning that could undermine the role of the Queenstown and Wanaka town centres as the primary focus for the District's economic activity. (relevant to S.O. 3.2.1.2)

3.3.4 Provide a planning framework for the Frankton urban area that facilitates the integration of the various development nodes. (relevant to S.O. 3.2.1.3)

3.3.5 Recognise that Queenstown Airport makes an important contribution to the prosperity and resilience of the District. (relevant to S.O. 3.2.1.3)

3.3.6 Avoid additional commercial zoning that will undermine the function and viability of the Frankton commercial areas as the key service centre for the Wakatipu Basin, or which will undermine increasing integration between those areas and the industrial and residential areas of Frankton. (relevant to S.O. 3.2.1.3)

3.3.7 Provide a planning framework for the commercial core of Three Parks that enables large format retail development. (relevant to S.O. 3.2.1.4)

3.3.8 Avoid non-industrial activities not ancillary to industrial activities occurring within areas zoned for industrial activities. (relevant to S.O. 3.2.1.3 and 3.2.1.5)

3.3.9 Support the role township commercial precincts and local shopping centres fulfil in serving local needs by enabling commercial development that is appropriately sized for that purpose. (relevant to S.O. 3.2.1.5)

3.3.10 Avoid commercial rezoning that would undermine the key local service and employment function role that the centres outside of the Queenstown and Wanaka town centres, Frankton and Three Parks fulfil. (relevant to S.O. 3.2.1.5)

3.3.11 Provide for a wide variety of activities and sufficient capacity within commercially zoned land to accommodate business growth and diversification. (relevant to S.O. 3.2.1.1, 3.2.1.2, 3.2.1.5, 3.2.1.6 and 3.2.1.9)

Climate Change

3.3.12 Encourage economic activity to adapt to and recognise opportunities and risks associated with climate change.

Urban Development

3.3.13 Apply Urban Growth Boundaries (UGBs) around the urban areas in the Wakatipu Basin (including Jack's Point), Wanaka and Lake Hawea Township. (relevant to S.O. 3.2.2.1)

3.3.14 Apply provisions that enable urban development within the UGBs and avoid urban development outside of the UGBs. (relevant to S.O. 3.2.1.8, 3.2.2.1, 3.2.3.1, 3.2.5.1 and 3.2.5.2)

3.3.15 Locate urban development of the settlements where no UGB is provided within the land zoned for that purpose. (relevant to S.O. 3.2.1.8, 3.2.2.1, 3.2.3.1, 3.2.5.1 and 3.2.5.2)

Heritage

3.3.16 Identify heritage items and ensure they are protected from inappropriate development. (relevant to S.O. 3.2.2.1, and 3.2.3.1)

Natural Environment

3.3.17 Identify areas of significant indigenous vegetation and significant habitats of indigenous fauna, as Significant Natural Areas on the District Plan maps (SNAs). (relevant to S.O. 3.2.1.7, 3.2.1.8, 3.2.4.1, 3.2.4.3 and 3.2.4.4)

3.3.18 Protect SNAs from significant adverse effects and ensure enhanced indigenous biodiversity outcomes to the extent that other adverse effects on SNAs cannot be avoided or remedied. (relevant to S.O. 3.2.1.7, 3.2.1.8, 3.2.4.1, 3.2.1.2, 3.2.4.3 and 3.2.4.4)

3.3.19 Manage subdivision and / or development that may have adverse effects on the natural character and nature conservation values of the District's lakes, rivers, wetlands and their beds and margins so that their life-supporting capacity and natural character is maintained or enhanced. (relevant to S.O. 3.2.1.8, 3.2.4.1, 3.2.4.3, 3.2.4.4, 3.2.5.1 and 3.2.5.2)

Rural Activities

3.3.20 Enable continuation of existing farming activities and evolving forms of agricultural land use in rural areas except where those activities conflict with significant nature conservation values or degrade the existing character of rural landscapes. (relevant to S.O. 3.2.1.7, 3.2.5.1 and 3.2.5.2)

3.3.21 Recognise that commercial recreation and tourism related activities seeking to locate within the Rural Zone may be appropriate where these activities enhance the appreciation of landscapes, and on the basis they would protect, maintain or enhance landscape quality, character and visual amenity values. (relevant to S.O. 3.2.1.1, 3.2.1.8, 3.2.5.1 and 3.2.5.2)

3.3.22 Provide for rural living opportunities in areas identified on the District Plan maps as appropriate for rural living developments. (relevant to S.O. 3.2.1.7, 3.2.5.1 and 3.2.5.2)

3.3.23 Identify areas on the District Plan maps that are not within Outstanding Natural Landscapes or Outstanding Natural Features and that cannot absorb further change, and avoid residential development in those areas. (relevant to S.O. 3.2.1.8 and 3.2.5.2)

3.3.24 Ensure that cumulative effects of new subdivision and development for the purposes of rural living does not result in the alteration of the character of the rural environment to the point where the area is no longer rural in character. (relevant to S.O. 3.2.1.8, 3.2.5.1 and 3.2.5.2)

3.3.25 Provide for non-residential development with a functional need to locate in the rural environment, including regionally significant infrastructure where applicable, through a planning framework that recognises its locational constraints, while ensuring maintenance and enhancement of the rural environment. (relevant to S.O. 3.2.1.8, 3.2.1.9 3.2.5.1 and 3.2.5.2)

3.3.26 That subdivision and / or development be designed in accordance with best practice land use management so as to avoid or minimise adverse effects on the water quality of lakes, rivers and wetlands in the District. (relevant to S.O. 3.2.1.8, 3.2.4.1 and 3.2.4.3)

3.3.27 Prohibit the planting of identified exotic vegetation with the potential to spread and naturalise unless spread can be acceptably managed for the life of the planting. (relevant to S.O.3.2.4.2)

3.3.28 Seek opportunities to provide public access to the natural environment at the time of plan change, subdivision or development. (relevant to S.O.3.2.4.6)

Landscapes

3.3.29 Identify the District's Outstanding Natural Landscapes and Outstanding Natural Features on the District Plan maps. (relevant to S.O.3.2.5.1)

3.3.30 Avoid adverse effects on the landscape and visual amenity values and natural character of the District's Outstanding Natural Landscapes and Outstanding Natural Features that are more than minor and or not temporary in duration. (relevant to S.O.3.2.5.1)

3.3.31 Identify the District's Rural Character Landscapes on the District Plan maps. (relevant to S.O.3.2.5.2)

3.3.32 Only allow further land use change in areas of the Rural Character Landscapes able to absorb that change and limit the extent of any change so that landscape character and visual amenity values are not materially degraded. (relevant to S.O. 3.2.19 and 3.2.5.2)

Cultural Environment

3.3.33 Avoid significant adverse effects on wāhi tūpuna within the District. (relevant to S.O.3.2.7.1)

3.3.34 Avoid remedy or mitigate other adverse effects on wāhi tūpuna within the District. (relevant to S.O.3.2.7.1)

3.3.35 Manage wāhi tūpuna within the District, including taonga species and habitats, in a culturally appropriate manner through early consultation and involvement of relevant iwi or hapū. (relevant to S.O.3.2.7.1 and 3.2.7.2)

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan
Report 3
Report and Recommendations of Independent Commissioners Regarding
Chapter 3, Chapter 4 and Chapter 6

Commissioners
Denis Nugent (Chair)
Lyal Cocks
Cath Gilmour
Trevor Robinson
Mark St Clair

PART B - CHAPTER 3

2. OVERVIEW/HIGHER LEVEL PROVISIONS

66. As notified, Chapter 3 contained a Statement of Purpose (in 3.1) and then seven subsections (3.2.1-3.2.7 inclusive) each with its own "*goal",* one or more objectives under the specified goal and in most but not all cases, one or more policies to achieve the stated objective. The specified goals are as follows:

> *"3.2.1 Goal Develop a prosperous, resilient and equitable economy;*
> *3.2.2 Goal The strategic and integrated management of urban growth;*
> *3.2.3 Goal A quality built environment taking into account the character of individual communities;*
> *3.2.4 Goal The protection of our natural environment and ecosystems;*
> *3.2.5 Goal Our distinctive landscapes are protected from inappropriate development;*
> *3.2.6 Goal Enable a safe and healthy community that is strong, diverse and inclusive for all people.*
> *3.2.7 Goal Council will act in accordance with the principles of the Treaty of Waitangi and in partnership with Ngāi Tahu."*

67. The initial question which requires determination is whether there should be a strategic chapter at all. UCES[125] sought that some aspects be shifted out of Chapter 3 into other chapters, but otherwise that the entire chapter should be deleted. We note in passing that in terms of collective scope, this submission would put virtually all relief between Chapter 3 as notified and having no strategic chapter, within scope.

68. As Mr Haworth explained it to us, the UCES submission forms part of a more general position on the part of the Society that, with some specified changes, the format and context of the ODP should remain unchanged. At the core of his argument, Mr Haworth contended that the ODP was generally working well and should simply be rolled over, certainly as regards the management of the rural issues of interest to UCES. He appeared to put this in part on the basis of the character of the PDP process as a review of the ODP and in part on his own, and UCES's, experience of the ODP in operation. He referred specifically, however, to a Council's monitoring report[126], quoting it to the effect that "*Council should consider carefully before setting about any comprehensive overhaul".*

69. We note that the quotations Mr Haworth extracted from the 2009 monitoring report were somewhat selective. He omitted mention of what was described[127] as the major qualification, a concern that the Plan may not be effective in avoiding cumulative adverse effects on the landscape and in preventing urban style expansion in some areas.

70. Nor do we think there is anything in this being a *'review'* of the ODP. The discretion conferred by section 79 is wide, and in this case the Council has considered whether changes are required and determined that a different approach, employing a greater degree of strategic direction, is needed. That said, where submissions (such as those of UCES) seek reversion to the

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125 Submission 145: Opposed in FS1162, FS1254, FS1313

126 District Plan Monitoring Report: Monitoring the Effectiveness and Efficiency of the Rural General Zone, QLDC April 2009

127 At page 3

structure and/or content of the ODP, section 32 requires that we consider that as a possible alternative to be recommended.

71. In that regard, Mr Haworth also drew attention to the increased complexity of management of rural subdivision and development which, under the PDP as notified, is split between Chapter 3, Chapter 6 and Chapter 21. He also criticised the content of those provisions which provided, as he saw it, a weakening of the ability to protect landscape values in the rural environment, but we regard that as a different point, which needs to be addressed in relation to the provisions of the respective chapters.

72. While there is much that can be learned from the decisions that gave rise to the ODP, equally, it needs to be recognised that those decisions are now more than 15 years old. The evidence of the Council on the extent of growth in the District over that period is clear. While the Environment Court remarked on those trends in its 1999 decision, particularly in the Wakatipu Basin, the District is now significantly further along the continuum towards an optimal level of development (some might say it is already sub-optimal in some locations). Mr Haworth himself contended that there is more pressure on the ONLs of the District.

73. Case law has also advanced. The Supreme Court's decision in *King Salmon* in particular, provides us with guidance that was not available to the Environment Court in 1999.

74. Lastly, the jurisdiction of the Environment Court was constrained by the document that was the result of Council decisions, and the scope of the appeals before it. We do not know if the Environment Court would have entertained a strategic directions chapter in 1999. It does not appear to have had that option available to it, and the Court's decisions do not record any party as having sought that outcome.

75. We also accept Mr Paetz's evidence that there is a need for a greater level of strategic direction than the ODP provided to address the challenging issues faced by the District[128].

76. In summary, we do not recommend complete deletion of Chapter 3 as sought by UCES. While, as will be seen from the discussion following, there are a number of aspects of Chapter 3 that might be pared back, we think there is value in stating strategic objectives and policies that might be fleshed out by the balance of the PDP. Put in section 32 terms, we believe that this is the most appropriate way to achieve the purpose of the Act in this District at this time. Similarly, while we do not recommend complete substitution of the ODP for the existing strategic chapters, there are aspects of the ODP that can usefully be incorporated into the strategic chapters (including Chapter 3). We discuss which aspects in the body of our report.

77. If Chapter 3 is to be retained, as we would recommend, the next question is whether its structuring is appropriate. Queenstown Park Limited[129] sought that the strategic direction section be revised "*so that the objectives and policies are effects based, and provide a forward focussed, strategic management approach".* Those two elements might arguably be seen as mutually contradictory, but the second half of that relief supports a view that we would agree with, that there needs to be a focus on whether what is provided is indeed forward looking and genuinely *'strategic'*. Put another way, the guidance it provides needs to be pitched at a high level, and not focus on minutiae.

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128 Most of the other planners who gave evidence appeared to take the desirability of having one or more 'strategic' chapters as a given. Mr Tim Williams, however, explicitly supported the concept of having higher order provisions (at paragraph 10 of his evidence).

129 Submission 806

78. In terms of general structuring, the submission of Real Journeys Limited[130] that provisions should be deleted where they duplicate or repeat other provisions might be noted. We agree that where provisions are duplicated, that duplication should generally be removed. The challenge is of course to identify where that has occurred.

79. The telecommunication companies[131] sought that the relationship of the goals, objectives and policies with the other Chapters of the Plan be defined and that the goals be deleted but retained as titles. Another variation on the same theme was provided by Darby Planning LP[132], which sought that the goals be deleted and incorporated into the relevant objective.

80. Remarkables Park Limited[133] and Queenstown Park Limited[134] also sought deletion of the goal statements "*to remove confusion as to their status and relationship to objectives and policies".*

81. We think that the starting point when looking at the structuring of Chapter 3, both internally and with respect to the balance of the PDP, is to decide what the goals are, and what purpose they serve. When counsel for the Council opened the hearing on 7 March 2016, he suggested that the goals were a mixture of objectives and issues, or alternatively a mixture of issues and anticipated environmental results. Consistent with that view, in his reply evidence, Mr Paetz stated:

"The goals are more than the description of an issue, having the aspirational nature of an objective."

82. He opposed, however, relabelling them as objectives as that would potentially create structural confusion with objectives sitting under objectives. In Mr Paetz's view, the use of the term "*goal"* is commonly understood by lay people and he saw no particular problem with retaining them as is.

83. We do not concur.

84. As Mr Paetz noted, lay people have a reasonably clear understanding what a goal is. However, as counsel for Darby Planning LP pointed out to us, that understanding is that a goal is an objective (and vice versa)[135]. It is inherently unsatisfactory to have quasi-objectives with no certainty as their role in the implementation of the PDP. Objectives have a particular role in a District Plan. Other provisions are tested under section 32 as to whether they are the most appropriate way to achieve the objectives. As Mr Chris Ferguson[136] noted, they also have a particular legal significance under section 104D of the Act. Accordingly, it is important to know what is an objective and what is not. We recommend that the goals not remain stated as *'goals'*.

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130 Submission 621

131 Submissions 179, 191, 781: Opposed in FS1132; Supported in FS1121

132 Submission 608: Opposed in FS1034

133 Submission 807

134 Submission 806

135 *Ngati Kahungunu Iwi Inc v Hawkes Bay Regional Council* [2015] NZEnvC50 at [42] citing the Concise Oxford Dictionary

136 Planning witness appearing for Darby Planning LP, Soho Ski Area Ltd, Treble Cove Investors, Hansen Family Partnership

85. There appear to be at least four alternative options. They could be deleted or alternatively converted to titles for the respective subsections, as the telecommunication submitters suggest. The problem with the goals framed as titles is that they would then add little value and would not reflect the process by which the objectives and policies were developed, which as we understand it from the evidence of Council, reflected those goals.

86. That would be still more the case if they were simply deleted, as Remarkables Park Ltd and Queenstown Park Ltd seek.

87. They could be incorporated into the objectives, as Darby Planning LP suggests. That would preserve the work that went into their formulation, but the submission does not identify how exactly the objectives should be revised to achieve that result[137].

88. Logically there are two ways in which the goals might be incorporated into the objectives. The first is if the wording of the goals were melded with that of the existing objectives. We see considerable difficulties with that course. On some topics, there are a number of objectives that relate back to a single goal. In other cases, a single objective is related to more than one goal. It is not clear to us how the exercise could be undertaken without considerable duplication, and possibly an unsatisfactory level of confusion.

89. The alternative is to reframe the *'goals'* as higher-level objectives, each with one or more focused objectives explicitly stated to be expanding on the higher-level objective. This avoids the problem of excessive duplication noted above, and the fact that some of the existing objectives relate back to more than one *'goal'* can be addressed by appropriate cross-referencing. It also addresses the problem Mr Paetz identified of potential confusion with objectives under objectives. We recommend this approach be adopted and Chapter 3 be restructured accordingly. We will discuss the wording of each goal/higher-level objective below.

90. One problem of expressing the goals as higher-level objectives is that they fail to express the issues the strategic objectives seek to address[138]. The result is something of a leap in logic; the high-level objectives come 'out of the blue' with little connection back to the special qualities identified in section 3.1.

91. The reality is, as the section 32 report for this aspect of the Plan makes clear[139], that the *'goals'* were themselves derived from a series of issues, worded as follows:

> *"1. Economic prosperity and equity, including strong and robust town centres;*
> *2. Growth pressures impacting on the functionality and sustainability of urban areas, and risking detracting from rural landscapes;*
> *3. High growth rates can challenge the qualities that people value in their communities;*
> *4. Quality of the natural environment and ecosystems;*
> *5. The District's outstanding landscapes offer both significant intrinsic and economic value for the District and are potentially at threat of degradation given the District's high rates of growth;*
> *6. While median household incomes in the District are relatively high, there is significant variation in economic wellbeing. Many residents earn relatively low wages, and the cost of living in the district is high – housing costs, heating in winter, and transport. This affects the social and*

137 Mr Chris Ferguson, giving planning evidence on the point, supported this relief (see his paragraph 109) but similarly did not provide us with revised objectives illustrating how this might be done.

138 A role both counsel for the Council and Mr Paetz identified, the goals as having, as above.

139 Section 32 Evaluation Report – Strategic Direction at pages 5-11

economic wellbeing of some existing residents and also reduces the economic competitiveness of the District and its ability to maximise productivity. The design of developments and environments can either promote or deter safety and health and fitness.

7. *Tangata whenua status and values require recognition in the District Plan, both intrinsically in the spirit of partnership (Treaty of Waitangi), but also under Statutes;"*

92. These issues have their faults. There is an undesirable level of duplication between them. The fourth issue is not framed as an issue. The sixth issue is in fact two discrete points, the first of which, as well as being extremely discursive, is actually an aspect of the first issue.

93. Even given these various faults, however, we consider a modified version of the section 32 report issues would add value as part of the background information in Section 3.1, explaining the link between the special qualities it identifies and the objectives set out in Section 3.2. Unlike the objectives, the issues have no legal status or significance and we regard them as merely clarifying the revised higher-level objectives by capturing part of what was previously stated in the *'goals'*.

94. We will revert to how the *'issues'* might be expressed in the context of our more detailed discussion of Section 3.1.

95. More generally in relation to the structuring of Chapter 3, we have formed the view that the overlaps between goals, and the separation of each subsection of Chapter 3 into a goal, followed by one or more objectives, with many of those objectives in turn having policies specific to that objective, has created a significant level of duplication across the chapter. In our view, this duplication needs to be addressed.

96. We are also concerned that there has been a lack of rigour in what has been regarded as *'strategic'*, which has in turn invited suggestions from some submitters that Chapter 3 ought to be expanded still further [140].

97. We recommend that the best way to approach the matter is to collect together the strategic objectives in one section and the strategic policies in a separate section of Chapter 3. Objectives and policies duplicating one another are then no longer required and can be deleted.

98. It is recognised that it is still important to retain the link between objectives and policies, but this can be done by insertion of internal cross referencing. As previously discussed, we consider it is helpful to set out the issues that have generated the higher-level objectives, and we suggest a similar cross referencing approach to the links between the issues and the higher-level objectives. The revised PDP Chapter 3 attached to this report shows how we suggest this might best be done.

99. We also concur with the suggestion in the telecommunication submissions that there is a need for clarification as to the relationship between Chapter 3 and the balance of the PDP initially, and then the relationship of Part Two[141] with the balance of the Plan. The apparent intent (as set out in Mr Paetz's Section 42A Report) is that they should operate as a hierarchy with

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140 Counsel for DJ and EJ Cassells, Bulling Family and M Lynch and Friends of Wakatipu Gardens and Reserves for instance suggested to us that this was required to provide balance

141 Comprising Chapters 3-6 inclusive

Chapter 3 at the apex, but the PDP does not actually say that. The potential confusion is enhanced by the fact that the ODP was drafted with the opposite intent[142].

100. The last paragraph of Section 3.1 is the logical place for such guidance. Mr Chris Ferguson[143] suggested we might utilise a similar paragraph to that which the independent Hearing Panel for the Replacement Christchurch District Plan approved – stating explicitly that Chapter 3 has primacy over all other objectives and policies in the PDP, which must be consistent with it. That wording, however, reflected the unique process involved there, with the Strategic Directions Chapter released before finalisation of the balance of the Plan, and we think a more tailored position is required for the PDP to recognise that we are recommending revisions to the whole of Stage 1 of the PDP to achieve an integrated end product. Combining this concept with the need to explain the structure of the revised chapter, we recommend that it be amended to read as follows:

"This Chapter sets out the District Plan's high-level objectives and policies addressing these issues. High level objectives are elaborated on by more detailed objectives. Where these more detailed objectives relate to more than one higher level objective, this is noted in brackets after the objective. Because many of the policies in Chapter 3 implement more than one objective, they are grouped, and the relationship between individual policies and the relevant strategic objective(s) identified in brackets following each policy. The objectives and policies are further elaborated on in Chapters 4-6. The principal role of Chapters 3-6 collectively is to provide the direction for the more detailed provisions related to zones and specific topics contained elsewhere in the District Plan. In addition, they also provide guidance on what those more detailed provisions are seeking to achieve, and are accordingly relevant to decisions made in the implementation of the Plan."

2.1. Section 3.1 - Purpose

101. With the exception of clarification of the relationship between the different elements of Chapter 3 and the balance of the PDP, as above, the submissions seeking amendments to the Statement of Purpose in Section 3.1[144] appear to be seeking to incorporate their particular aspirations as to what might occur in future, rather than stating the special qualities the District currently has, which is what Section 3.1 sets out to do. Accordingly, we do not recommend any change to the balance of Section 3.1.

102. We note that the amendments sought in Submission 810 was withdrawn when the submitter appeared at the Stream 1A hearing.

103. To provide the link between the specified special qualities and the high-level objectives in Section 3.2, we recommend the issues set out in the section 32 report be amended.

104. As discussed above, the sixth issue is effectively two issues with the first part an overly discursive aspect of the first issue. Looking both at the first part of sixth issue and the explanation of it in the section 32 report, the key point being made is that not all residents are able to provide for their social economic wellbeing due to a low wage structure and a high cost of living. The concept of an equitable economy in the first issue captures some of those issues,

142 C180/99 at [126]

143 Planning witness for Darby Planning LP

144 Submission 238: Opposed in FS1107, FS1157, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248, FS1299; and Submission 598: Supported in FS1287

but it also suggests a need to highlight both the need for greater diversification of the economy[145] and for enhanced social and economic prosperity.

105. The second, fourth and fifth issues refer variously to rural landscapes, the natural environment and outstanding landscapes. There is significant overlap between these elements. The outstanding landscapes of the District are generally rural landscapes. They are also part of the natural environment. The fourth issue also separates ecosystems from the natural environment when in reality, ecosystems are part of the natural environment. It is also not framed as an issue. Clearly outstanding landscapes require emphasis, given the national importance placed on their protection, but we recommend these three issues be collapsed into two.

106. Lastly, the reference to the reasons why Tangata Whenua status and values require recognition is unnecessary in the statement of an issue and can be deleted without losing the essential point.

107. In summary, we recommend that the following text be inserted into Section 3.1 to provide the linkage to the objectives and clarification we consider is necessary:

a. *"Issue 1: Economic prosperity and equity, including strong and robust town centres, requires economic diversification to enable the social and economic wellbeing of people and communities.*
b. *Issue 2: Growth pressure impacts on the functioning and sustainability of urban areas, and risks detracting from rural landscapes, particularly its outstanding landscapes.*
c. *Issue 3: High growth rates can challenge the qualities that people value in their communities.*
d. *Issue 4: The District's natural environment, particularly its outstanding landscapes, has intrinsic qualities and values worthy of protection in their own right, as well as offering significant economic value to the District.*
e. *Issue 5: The design of developments and environments can either promote or weaken safety, health and social, economic and cultural wellbeing.*
f. *Issue 6: Tangata Whenua status and values require recognition in the District Plan."*

2.2. Section 3.2.1 – Goal – Economic Development

108. The goal for this subsection is currently worded:

"Develop a prosperous, resilient and equitable economy".

109. Submissions specifically on this first goal (apart from those supporting it in its current form) sought variously that it be amended by a specific reference to establishment of education and research facilities[146] and that the word "*equitable"* be deleted[147].

110. As part of UCES's more general opposition to Chapter 3, Mr Haworth opposed Goal 1 on the basis that it was not required because the economy was already flourishing, and elevating recognition of the economy conflicted with the emphasis given to the importance of protecting the environment in a manner that is likely to threaten landscape protection.

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145 Submission 115 sought that the first goal refer specifically to establishment of education and research facilities to generate high end jobs which we regard as an example of economic diversification

146 Submission 115

147 Submission 806

111. Mr Paetz did not recommend any amendment to this goal.

112. The RPS contains no over-arching objective related to the economy that bears upon how this goal is expressed. We should note, however, Policy 1.1.2 of the Proposed RPS which reads:

"Provide for the economic wellbeing of Otago's people and communities by enabling the use and development of natural and physical resources only if the adverse effects of those activities on the environment can be managed to give effect to the objectives and policies of the Regional Policy Statement."

113. This is in the context of an objective[148] focussing on integrated management of resources to support the wellbeing of people and communities.

114. If the restructuring we have recommended is accepted, so that each goal is expressed as a high-level objective expanded by more focussed objectives, we believe that the concerns underlying the submissions on this goal would largely be addressed. Thus, if Goal 1 has what is currently Objective 3.2.1.3 under and expanding it, the Plan will recognise the diversification that Submission 115 seeks, albeit more generally than just with reference to education and research facilities.

115. Similarly, while we can understand the concern underlying Submission 806, that reference to equity could be read a number of different ways, provision of a series of more focused objectives to flesh out this goal assists in providing clarity.

116. We do not accept Mr Haworth's contentions either that a high-level objective focussing on economic wellbeing is unnecessary or that it threatens environmental values, including landscape values. The evidence we heard, in particular from Mr Cole[149], indicates to us that economic prosperity (and social wellbeing) are not universally enjoyed in the District. We also intend to ensure that it is clear in the more detailed provisions expanding on this broad high-level objective that while important, economic objectives are not intended to be pursued without regard for the environment (reflecting the emphasis in the Proposed RPS quoted above).

117. In summary, therefore, the only amendments we recommend to the wording of Section 3.2.1 are to express it as an objective and to be clear that it is the economy of this district which is the focus, as follows:

"*The development of a prosperous, resilient and equitable economy in the District."*

118. We consider a higher-level objective to this effect is the most appropriate way to achieve the purpose of the Act.

2.3. Section 3.2.1 – Objectives – Economic Development

119. As notified, Section 3.2.1 had five separate objectives. The first two (3.2.1.1 and 3.2.1.2) focus on the economic contribution of central business areas of Queenstown and Wanaka and the commercial and industrial areas outside those areas respectively. The other three objectives focus on broader aspects of the economy.

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148 Proposed RPS Objective 1.1

149 For Queenstown Lakes Community Housing Trust.

120. A common feature of each of the objectives in Section 3.2.1 is that they commence with a verb: recognise, develop and sustain; enable; recognise; maintain and promote.

121. Nor is Section 3.2.1 alone in this. This appears to be the drafting style employed throughout Chapters 3, 4 and 6 (and beyond). Moreover, submitters have sought to fit in with that drafting style, with the result that almost without exception, the amendments sought by submitters to objectives would be framed in a similar way[150].

122. We identified at the outset an issue with objectives drafted in this way. Put simply, they are not objectives because they do not identify "*an end state of affairs to which the drafters of the document aspire"*[151].

123. Rather, by commencing with a verb, they read more like a policy – a course of action[152] (to achieve an objective).

124. We discussed the proper formulation of objectives initially with Mr Paetz and then with virtually every other planning witness who appeared in front of us. All agreed that a properly framed objective needed to state an environmental end point or outcome (consistent with the *Ngati Kahungunu* case just noted). At our request, Mr Paetz and his colleague Mr Barr (responsible for Chapter 6) produced revised objectives for Chapters 3, 4 and 6, reframing the notified objectives to state an environmental end point or outcome. Counsel for the Council filed a memorandum dated 18 March 2016 producing the objectives of Chapters 3, 4 and 6 reframed along the lines above. As previously noted, the Chair directed that the Council's memorandum be circulated to all parties who had appeared before us (and those who were yet to do so) to provide an opportunity for comment.

125. We note that because the task undertaken by Mr Paetz and Mr Barr was merely to reframe the existing objectives in a manner that explicitly stated an environmental end point or outcome, rather than (as previously) just implying it, we do not regard this is a scope issue[153], or as necessitating (to the extent we accepted those amendments) extensive evaluation under section 32.

126. Similarly, to the extent that submitters sought changes to objectives, applying the drafting style of the notified plan, we do not regard it as a scope issue to reframe the relief sought so as to express objectives so that they identify an environmental end point or outcome. We have read all submissions seeking amendments to objectives on that basis.

127. As notified, Objective 3.2.1.1 read:

"Recognise, develop and sustain the Queenstown and Wanaka central business areas as the hubs of New Zealand's premier alpine resorts and the Districts economy."

128. The version of this objective ultimately recommended by Mr Paetz and attached to counsel's 18 March 2016 Memorandum read:

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150 Submission 761 (Orfel Ltd) was a notable exception in this regard, noting that a number of Chapter 3 objectives are stated as policies, and seeking that they be reframed as aspirational outcomes to be achieved.

151 *Ngati Kahungunu Iwi Incorporated v Hawkes Bay Regional Council* [2015] NZEnvC50 at [42]

152 *Auckland Regional Council v North Shore City Council* CA29/95 at page 10

153 Quite apart from the scope provided by Submission 761 for a number of the '*objectives'* in issue.

"The Queenstown and Wanaka town centres are the hubs of New Zealand's premier alpine resorts and the District's economy."

129. We think that substituting reference to Queenstown and Wanaka town centres is preferable to referring to their "*central business areas"* because of the lack of clarity as to the limits of what the latter might actually refer to. Although the evidence of Dr McDermott for the Council suggested that he had a broader focus, the advantage of referring to town centres is because the PDP maps identify the Town Centre zones in each case. Mr Paetz agreed that a footnote might usefully confirm that link, and we recommend insertion of a suitably worded footnote.

130. NZIA suggested that rather than referring to central business areas, the appropriate reference would be to the Queenstown and Wanaka waterfront. While that may arguably be an apt description for the central area of Queenstown, we do not think that it fits so well for Wanaka, whose town centre extends well up the hill along Ardmore Street and thus we do not recommend that change.

131. The focus of other submissions was not so much on the wording of this particular objective but rather on the fact that the focus on the Queenstown and Wanaka town centres failed to address the increasingly important role played by commercial and industrial development on the Frankton Flats[154], the role that the Three Parks commercial development is projected to have in Wanaka[155], and the role of the visitor industry in the District's economy, facilities for which are not confined to the Queenstown and Wanaka town centres[156]. In his Section 42A Report, Mr Paetz recognised that the first and third of these points were valid criticisms of the notified PDP and recommended amended objectives to address them.

132. Turning to the RPS to see what direction we get from its objectives, the focus is on a generally expressed promotion of sustainable management of the built environment[157] and of infrastructure[158]. The policies relevant to these objectives are framed in terms of promoting and encouraging specified desirable outcomes[159], minimising adverse effects of urban development and settlement[160], and maintaining and enhancing quality of life[161]. As such, none of these provisions appear to bear upon the objectives in this part of the PDP, other than in a very general way.

133. The Proposed RPS gets closer to the point at issue with Objective 4.5 seeking effective integration of urban growth and development with adjoining urban environments (among other things). The policies supporting that objective do not provide any relevant guidance as to how this might be achieved. Policy 5.5.3, however, directs management of the distribution of commercial activities in larger urban areas "*to maintain the vibrancy of the central business district and support local commercial needs"* among other things by "*avoiding unplanned*

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154 E.g. Submission 238: Supported in FS1097 and FS1117; Opposed in FS1107, FS1157, FS1226, FS1239, FS1241, FS1242, FS1248, FS1249; Submission 806: Supported in FS1012; Submission 807

155 Submission 249: Supported in FS1117

156 E.g. Submission 615: Supported in FS1105, FS1137; Submission 621: Supported in FS1097, FS1117, FS1152, FS1333, FS1345; Submission 624; Submission 677; Supported in FS1097, FS1117; Opposed in FS1035, FS1074, FS1312, FS1364; Submission 716: Supported in FS1097, FS1117, FS1345

157 RPS Objective 9.4.1

158 RPS Objective 9.4.2

159 RPS Policies 9.5.2 and 9.5.3

160 RPS Policy 9.5.4

161 RPS Policy 9.5.5

extension of commercial activities that has significant adverse effects on the central business district and town centres."

134. We read this policy as supporting the intent underlying this group of objectives, while leaving open how this might be planned.

135. Addressing each objective suggested by Mr Paetz in turn, the version of his recommended Frankton objective presented with his reply evidence reads:

"The key mixed use function of the Frankton commercial area is enhanced, with better transport and urban design integration between Remarkables Park, Queenstown Airport, Five Mile and Frankton Corner".

136. This is an expansion from the version of the same objective recommended with Mr Paetz's Section 42A Report reflecting a view (explained by Mr Paetz in this reply evidence[162]) that the Frankton area should be viewed as one wider commercial locality, comprising a network of several nodes, with varying functions and scales.

137. Dr McDermott gave evidence for the Council, supporting separate identification of the Frankton area on the basis that its commercial facilities had quite a different role to the town centres of Wanaka and Queenstown and operated in a complimentary manner to those centres.

138. We also heard extensive evidence from QAC as to the importance of Queenstown Airport to the District's economy[163].

139. We accept that Frankton plays too important a role in the economy of the District for its commercial areas to be classed in the 'other' category, as was effectively the case in the notified Chapter 3. We consider, however, that it is important to be clear on what that role is, and how it is different to that of the Queenstown and Wanaka town centres. That then determines whether a wider or narrower view of what parts of the Frankton area should be the focus of the objective.

140. The term Dr McDermott used to describe Frankton was "mixed use" and Mr Paetz recommended that that be how the Frankton area is described.

141. The problem we had with that recommendation was that it gives no sense of the extent of the *'mix'* of uses. In particular, "*mixed use*" could easily be taken to overlap with the functions of the Queenstown town centre. Dr McDermott described the latter as being distinguished by the role it (and Wanaka town centre) plays in the visitor sector, both as destinations in their own right and then catering for visitors when they are there[164]. By contrast, he described Frankton as largely catering for local needs although when he appeared at the hearing, he emphasised that local in this sense is relative, because of the role of the Frankton retail and industrial facilities in catering for a wider catchment than just the immediate Frankton area. While Dr McDermott took the view that that wider catchment might extend as far as Wanaka, his opinion in that regard did not appear to us to be based on any hard evidence. However, we accept that Frankton's role is not limited to serving the immediate '*local'* area.

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162 At paragraph 5.7

163 In particular, the evidence of Mr Mark Edghill

164 Dr P McDermott, EiC at 2.1(c).

142. Mr Chris Ferguson suggested to us that because of the overlapping functions between commercial centres, referring to *"the wider Frankton commercial area"* confused the message[165].

143. Evidence we heard, in particular from the NZIA representatives, took the same point further, suggesting that Frankton's importance to the community was not limited to its commercial and industrial facilities, and that it had an important role in the provision of educational, health and recreation facilities as well. We accept that point too. This evidence suggests a need to refer broadly to the wider Frankton area than just to specific nodes or elements, and to a broader range of community facilities.

144. The extent to which this objective should focus on integration was also a matter in contention. The representatives for QAC opposed reference to integration for reasons that were not entirely clear to us and when he reappeared on the final day of hearing, Mr Kyle giving evidence for QAC, said that he was ambivalent on the point.

145. For our part, we regard integration between the various commercial and industrial nodes of development on the Frankton Flats (including Queenstown Airport), and indeed its residential areas[166], as being important, but consider that this is better dealt with as a policy. We will come back to that.

146. In summary, we recommend that Mr Paetz's suggested objective largely be accepted, but with the addition of specific reference to its focus on visitors, to provide a clearer distinction between the roles of Queenstown and Wanaka town centres and Frankton and Three Parks respectively.

147. Accordingly, we recommend that the wording of Objective 3.2.1.1 (renumbered 3.2.1.2 for reasons we will shortly explain) be amended so read:

"The Queenstown and Wanaka town centres[167] are the hubs of New Zealand's premier alpine visitor resorts and the District's economy."

148. We further recommend that a new objective be added (numbered 3.2.1.3) as follows:

"The Frankton urban area functions as a commercial and industrial service centre, and provides community facilities, for the people of the Wakatipu Basin."

149. The case for recognition of the Three Parks commercial area is less clear, While, when the development is further advanced, it will be a significant element of the economy of the Upper Clutha Basin, that is not the case at present.

150. Mr Dippie appeared before us and made representations on behalf of Orchard Road Holdings Limited[168] and Willowridge Developments Limited[169] advocating recognition of Three Parks in the same way that the Frankton commercial areas were proposed (by Council staff) to be

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165 C Ferguson, EiC at paragraph 103

166 A key issue for QAC is how Queenstown airport's operations might appropriately be integrated with further residential development in the wider Frankton area

167 Defined by the extent of the Town Centre Zone in each case.

168 Submission 91/Further Submission 1013

169 Submission 249/Further Submission 1012

recognised, but was reasonably non-specific as to exactly how that recognition might be framed.

151. Dr McDermott's evidence in this regard suffered from an evident unfamiliarity with the Wanaka commercial areas and was therefore not particularly helpful. However, we were assisted by Mr Kyle who, although giving evidence for QAC, had previously had a professional role assisting in the Three Parks development. In response to our query, he described the primary function of the Three Parks commercial area as being to provide more locally based shopping, including provision for big box retailing. He thought there was a clear parallel between the relationship between Frankton and Queenstown town centre.

152. Mr Paetz recommended in his reply evidence that the Three Parks area be recognised in its own objective as follows:

"The key function of the commercial core of the Three Parks Special Zone is sustained and enhanced, with a focus on large format retail development'.

153. We do not regard it is appropriate for the objective related to Three Parks to provide for "*sustaining and enhancing*" of the function of the commercial part of the Three Parks area; that is more a policy issue. Similarly, saying that the Three Parks Commercial Area should be focussed on large format retail development leaves too much room, in our view, for subsidiary focusses which will erode the role of the Wanaka town centre. Lastly, referring to the Three Parks *'Special Zone'* does not take account of the possibility that there may not be a *'Special Zone'* in future.

154. Ultimately, though, we recommend that the Three Parks Commercial Area be recognised because it is projected to be a significant element of the economy of the Upper Clutha Basin over the planning period covered by the PDP.

155. To address the wording issues noted above, we recommend that the objective (numbered 3.2.1.4) be framed as follows:

"The key function of the commercial core of Three Parks is focussed on large format retail development".

156. The only submission seeking amendment to the notified Objective 3.2.1.3, sought that it be reworded as an aspirational outcome to be achieved, rather than as a policy[170]. In his reply evidence, the version of this objective suggested by Mr Paetz (addressing this point) read:

"Development of innovative and sustainable enterprises that contribute to diversification of the District's economic base and create employment opportunities."

157. Although only an issue of emphasis, we see the environmental outcome as being related to the District's economic base. Development of enterprises contributing to economic diversity and employment are a means to that end.

158. Accordingly, we recommend that the objective (renumbered 3.2.1.6) be reframed as follows:

[170] Submission 761

"Diversification of the District's economic base and creation of employment opportunities through the development of innovative and sustainable enterprises."

159. As already noted, a number of submissions raised the need for specific recognition of the visitor industry outside the Queenstown and Wanaka town centres.

160. The objective recommended by Mr Paetz in his reply evidence to address the failure of the notified plan to recognise the significance of the visitor industry to the District economy in this context was framed as follows:

"The significant socioeconomic benefits of tourism activities across the District are provided for and enabled."

161. While we accept the need for an objective focused on the contribution of the visitor industry outside the Queenstown and Wanaka town centres to the District's economy, including but not limited to employment, the phraseology of Mr Paetz's suggested objective needs further work. Talking about the benefits being provided for does not identify a clear outcome. The objective needs to recognise the importance of the visitor industry without conveying the impression that provision for the visitor industry prevails over all other considerations irrespective of the design or location of the visitor industry facilities in question. Policy 5.3.1(e) of the Proposed RPS supports some qualification of recognition for visitor industry facilities – it provides for tourism activities located in rural areas "*that are of a nature and scale compatible with rural activities"*. Similarly, one would normally talk about enabling activities (that generate benefits) rather than enabling benefits. Benefits are realised. Lastly, we prefer to refer to the visitor industry rather than to tourism activities. Reference to tourism might be interpreted to exclude domestic visitors to the District. It also excludes people who visit for reasons other than tourism.

162. In summary, we recommend that a new objective be inserted worded as follows:

"The significant socioeconomic benefits of well designed and appropriately located visitor industry facilities and services are realised across the District."

163. Given the importance of the visitor industry to the District's economy and the fact that the other objectives addressing the economy are more narrowly focused, we recommend that it be inserted as the first objective (fleshing out the revised goal/higher-level objective stated in Section 3.2.1) and numbered 3.2.1.1.

164. Objective 3.2.1.2 was obviously developed to operate in conjunction with 3.2.1.1. As notified, it referred to the role played by commercial centres and industrial areas outside the Wanaka and Queenstown central business areas.

165. Many of the submissions on this objective were framed around the fact that as written, it would apply to the Frankton Flats commercial and industrial areas, and to the Three Parks commercial area. As such, if our recommendations as above are accepted, those submissions have effectively been overtaken, being addressed by insertion of specific objectives for those areas.

166. In Mr Paetz's reply evidence, the version of this objective he recommended read:

"Enhance and sustain the key local service and employment functions served by commercial centres and industrial areas outside of the Queenstown and Wanaka town centres and Frankton."

167. Starting with two verbs, this still reads more like a policy than an objective. Mr Paetz's suggested objective also fails to take account of his recommendation (which we accept) that the commercial area of Three Parks be the subject of a specific objective. Lastly, and as for renumbered Objective 3.2.1.2, it needs clarity as to the extent of the *'town centres'*.

168. Addressing these matters, we recommend that this objective (renumbered 3.2.1.5) be amended to read as follows:

"Local service and employment functions served by commercial centres and industrial areas outside of the Queenstown and Wanaka town centres[171], Frankton, and Three Parks are sustained."

169. Objective 3.2.1.4 as notified read:

"Recognise the potential for rural areas to diversify their land use beyond the strong productive value of farming, provided a sensitive approach is taken to rural amenity, landscape character, healthy ecosystems, and Ngai Tahu values, rights and interests."

170. This objective attracted a large number of submissions querying the reference to farming having a "*strong productive value"*[172]with many of those submissions seeking that the objective refer to "*traditional"* land uses. Some submissions[173] sought that the objective be more overtly *'enabling'*. One submission[174] sought to generalise the objective so that it does not mention the nature of current uses, but rather focuses on enabling *"tourism, employment, recreational, and residential based activities"* and imports a test of *"functional need to be located in rural areas."* Mr Carey Vivian, giving evidence both for this submitter and a further submitter opposing the submission[175], suggested to us that a *'functional need'* test would ensure inappropriate diversification does not occur. Mr Chris Ferguson supported another submission[176] that suggested a functional need test[177], but did not comment on how that test should be interpreted. We are not satisfied that Mr Vivian's confidence is well founded. As we will discuss later in this report in relation to suggestions that activities relying on the use of rural resources should be provided for, these seem to us to be somewhat elastic concepts, potentially applying to a wide range of activities.

171. Many submissions also sought deletion of the reference to a *"sensitive*" approach[178].

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171 Defined by the extent of the Town Centre Zone in each case

172 See e.g. Submissions 343, 345, 375, 407, 437, 456, 513, 522, 532, 534, 535, 537, 696, 806, 807; Supported in FS1097, FS1192, FS1256, FS1286, FS1322; Opposed in FS1004, FS1068, FS1071, FS1120, FS1282, FS1322.

173 E.g. Submission 621

174 Submission 519; Supported in FS1015 and FS1097; Opposed in FS1356

175 Further Submission 1356

176 Submission 608-Darby Planning LP

177 As part of a revised version of the objective that has similarities to that sought in Submission 519, but also some significant differences discussed further below.

178 See e.g. Submissions 519, 598, 600, 791, 794, 806, 807; Supported in FS1015, FS1097, FS1209; Opposed in FS1034, FS1040, FS1356

172. Suggestions varied as to how potential adverse effects resulting from diversification of land uses might be addressed. One submitter[179] suggested adverse effects on the matters referred to be taken into account, or alternatively that an *'appropriate'* approach be taken to adverse effects. Mr Vivian, giving planning evidence on the point, suggested as a third alternative, an *'effects-based'* approach. Another submitter[180] suggested that potential adverse effects be avoided, remedied or mitigated. Mr Jeff Brown supported the latter revision in his planning evidence[181], on the basis that he preferred the language of the Act. Yet another submission[182], supported by the planning evidence of Mr Chris Ferguson, suggested that reference to adverse effects be omitted (in the context of a reframed objective that would recognise the value of the natural and physical resources of rural areas to enable specified activities and to accommodate a diverse range of activities).

173. By Mr Paetz's reply evidence, he had arrived at the following recommended wording:

"*Diversification of land use in rural areas providing adverse effects on rural amenity, landscape character, healthy ecosystems and Ngai Tahu values, rights and interests are avoided, remedied or mitigated."*

174. Looking to the RPS for direction, we note that Objective 5.4.1 identifies maintenance and enhancement of the primary production capacity of land resources as an element of sustainable management of those resources. Policy 5.5.2 is also relevant, promoting retention of the primary productive capacity of high class soils. We did not hear any evidence as to whether any, and if so, which, soils would meet this test in the District, but Policy 5.5.4 promotes diversification and use of the land resource to achieve sustainable land use and management systems. While generally expressed, the latter would seem to support the outcome the PDP objective identifies, at least in part.

175. The Proposed RPS focuses on the sufficiency of land being managed and protected for economic production[183]. This is supported by policies providing, inter alia, for enabling of primary production and other activities supporting the rural economy and minimising the loss of significant soils[184]. This also supports recognition of the primary sector.

176. We accept that the many submissions taking issue with the reference to the strong productive value of farming have a point, particularly in a District where the visitor industry makes such a large contribution to the economy, both generally and relative to the contribution made by the farming industry[185]. Nor is it obvious why, if the effects-based tests in the objective are met, diversification of non-farming land uses is not a worthwhile outcome.

177. The alternative formulation of the objective suggested by Darby Planning LP, and supported by Mr Ferguson, would side-step many of the other issues submissions have focussed on, but ultimately, we take the view that stating rural resources are valued for various specified purposes does not sufficiently advance achievement of the purpose of the Act. Put simply, it invites the query: so what?

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179 Submission 519; Supported in FS1015 and FS1097; Opposed in FS1356

180 Submission 806

181 At paragraph 4.7

182 Submission 608; Supported in FS1097, FS1117, FS1155, FS1158; Opposed in FS1034

183 Proposed RPS, Objective 5.3

184 Proposed RPS, Policy 5.3.1

185 We note in particular the evidence of Mr Ben Farrell (on behalf of Real Journeys Ltd in relation to this point).

178. Reverting to Mr Paetz's recommendation, in our view, it is desirable to be clear what the starting point is; diversification from what? Accordingly, we recommend the submissions seeking that reference be to traditional land uses in rural areas be accepted. Clearly farming is one such traditional land use and we see no issue with referring to that as an example. We do not accept that a *'functional need'* test would add value, because of the lack of clarity as to what that might include.

179. We also agree that the reference in a notified objective to a sensitive approach requires amendment because it gives little clarity as to the effect of the sensitive approach on the nature and extent of adverse effects. We do not, however, recommend that reference be made to adverse effects being avoided, remedied or mitigated. For the reasons discussed above, this gives no guidance as to the desired level of adverse effects on the matters listed. The suggestions that the objective refer to adverse effects being taken into account, or that an appropriate approach be taken to them. would push it even further into the realm of meaninglessness[186]. Those options are not recommended either.

180. Some submissions[187] sought to generalise the nature of the adverse effects required to be managed, deleting any reference to any particular category of effect.

181. In our view, part of the answer is to be clearer about the nature of adverse effects sought to be controlled, combined with being clear about the desired end result. We consider that rural amenity is better addressed through objectives related to activities in the rural environment more generally. Reference to healthy ecosystems in this context is, in our view, problematic. The health of the ecosystems does not necessarily equate with their significance. In addition, why are adverse effects on healthy ecosystems more worthy of protection from diversified land uses than unhealthy ecosystems? One would have thought it might be the reverse.

182. The PDP contains an existing definition of "nature conservation values". When counsel for the Council opened the hearing, we queried the wording of this definition which incorporated policy elements and did not actually fit with the way the term had been used in the PDP. Counsel agreed that it needed amendment and in Mr Paetz's reply evidence he suggested the following revised definition of nature conservation values:

"The collective and interconnected intrinsic values of the indigenous flora and fauna, natural ecosystems and landscape."

183. We regard the inclusion of a generalised reference to landscape as expanding nature conservation values beyond their proper scope. Landscape is relevant to nature conservation values to the extent that it provides a habitat for indigenous flora and fauna and natural ecosystems, but not otherwise.

184. Objective 21.2.1 of the PDP refers to ecosystem services as a value deserving of some recognition. The term itself is defined in Chapter 2 as the resources and processes the environment provides. We regard it as helpful to make it clear that when natural ecosystems are referred to in the context of nature conservation values, the collective values of ecosystems include ecosystem services.

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186 As indeed would the further alternative suggested by Mr Vivian

187 E.g. Submissions 806 and 807

185. Accordingly, we recommend to the Stream 10 Hearing Panel that the definition of nature conservation values be amended to read:

"The collective and interconnected intrinsic values of indigenous flora and fauna, natural ecosystems (including ecosystem services), and their habitats."

186. Given this revised definition, nature conservation values is a concept which, in our view, could be utilised in this objective. However, given the breadth of the values captured by the definition, it would not be appropriate to refer to all nature conservation values. Some qualitative test is required; in this context, we recommend that the focus be on 'significant' nature conservation values.

187. Lastly, consequential on the changes to the Proposed RPS discussed in Report 2, and to the recommendations of that Hearing Panel as to how Objective 3.2.7.1 is framed, the reference to Ngāi Tahu values, **rights** and interests needs to be reviewed.

188. In summary, therefore, we recommend that the objective (renumbered 3.2.1.8) read as follows:

"Diversification of land use in rural areas beyond traditional activities, including farming, provided that the character of rural landscapes, significant nature conservation values and Ngāi Tahu values, interests and customary resources are maintained."

189. While we agree with Mr Paetz's recommendation that reference to the strong productive value of farming (in the context of notified Objective 3.2.1.4) be deleted, deletion of that reference, and amending the objectives to refer to realisation of the benefits from the visitor industry and diversification of current land uses leaves a gap, because it fails to recognise the economic value of those traditional farming activities. We accept that ongoing farming also provides a collateral benefit to the economy through its contribution to maintenance of existing rural landscape character, on which the visitor industry depends[188]. Mr Ben Farrell gave evidence suggesting, by contrast, that farming has had adverse effects on natural landscapes and that those *'degraded'* natural environments had significant potential to be restored[189]. We accept that farming has extensively modified the natural (pre-European settlement) environment. However, the expert landscape evidence we heard (from Dr Read) is that large areas of farmed landscapes are outstanding natural landscapes and section 6(b) requires that those landscapes be preserved. Cessation of farming might result in landscapes becoming more natural, but we consider that any transition away from farming would have to be undertaken with great care.

190. Continuation of the status quo, by contrast, provides greater surety that those landscapes will be preserved. As already noted, recognition of existing primary production activities is also consistent both with the RPS and the Proposed RPS. The notified Objective 3.2.5.5. sought to address the contribution farming makes to landscape values, as follows:

"Recognise that agricultural land use is fundamental to the character of our landscapes."

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188 The relationship between landscape values and economic benefits was recognised by the Environment Court as long ago as *Crichton v Queenstown Lakes District Council*. W12/99 at page 12. Dr Read gave evidence that this remains the position – see Dr M Read, EiC at 4.2.

189 B Farrell, EiC at [111] and [116]

191. That objective attracted a large number of submissions, principally from tourist interests and parties with an interest in residential living in rural environments, seeking that it recognise the contribution that other activities make to the character of the District's landscapes[190]. This prompted Mr Paetz to recommend that the focus of the objective be shifted to read:

"The character of the District's landscapes is maintained by ongoing agricultural land use and land management."

192. We agree with the thinking underlying Mr Paetz's recommendation, that as many submitters suggest, agricultural land uses are not the only way that landscape character is maintained.

193. However, we have a problem with that reformulation, because not all agricultural land use and land management will maintain landscape character[191].

194. We are also wary of any implication that existing farmers should be locked into farming as the only use of their land, particularly given the evidence we heard from Mr Phillip Bunn as to the practical difficulties farmers have in the Wakatipu Basin continuing to operate viable businesses. The objective needs to encourage rather than require farming of agricultural land.

195. The suggested objective also suffers from implying rather than identifying the desired environmental end point. To the extent the desired end point is continued agricultural land use and management (the implication we draw from the policies seeking to implement the objective), landscape character values are not the only criterion (as the policies also recognise – referring to significant nature conservation values).

196. We therefore recommend that Objective 3.2.5.5 be shifted to accompany the revised Objective 3.2.1.4, as above, and amended to read as follows:

"Agricultural land uses consistent with the maintenance of the character of rural landscapes and significant nature conservation values are enabled."

197. Logically, given that agricultural land uses generally represent the status quo in rural areas, this objective should come before the revised Objective 3.2.1.4 and so we have reordered them, numbering this Objective 3.2.1.7.

198. The final objective in Section 3.2.1, as notified, related to provision of infrastructure, reading:

"Maintain and promote the efficient operation of the District's infrastructure, including designated Airports, key roading and communication technology networks."

199. A number of submissions were lodged by infrastructure providers[192] related to this objective, seeking that its scope be extended in various ways, discussed further below. We also heard a substantial body of evidence and legal argument regarding the adequacy of treatment for

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190 Submissions 343, 345, 375, 407, 437, 456, 513, 515, 522, 531, 534, 535, 537, 598, 807; Supported in FS1097, FS1056, FS1086, FS1287, FS1292, FS1322; Opposed in FS1068, FS1071, FS1091, FS1120 and FS1282

191 Mr Dan Wells suggested to us the introduction of pivot irrigators for instance as an example of undesirable agricultural evolution from a landscape character perspective).

192 Submissions 251, 433, 635, 719, 805; Supported in FS1077, FS1092, FS1097, FS1115, FS1117, FS1159, FS1340; Opposed in FS1057, FS1117, FS1132

infrastructure in this regard, and elsewhere. We were reminded by Transpower New Zealand Limited[193] that we were obliged to give effect to the NPSET 2008.

200. Other submissions[194] sought deletion of an inclusive list. Submission 807 argued that the *'three waters'* are essential and should be recognised. That submission also sought that the objective emphasise timely provision of infrastructure. Submission 806 sought that the objective recognise the need to minimise adverse effects by referring to the importance of maintaining the quality of the environment.

201. Another approach suggested was to clarify/expand the description of infrastructure[195]

202. Mr Paetz recommended that we address these submissions by inserting a new goal, objective and policy into Chapter 3.

203. We do not agree with that recommendation. It seems to us that while important at least to the economic and social wellbeing of people and communities (to put it in section 5 terms), infrastructure needs (including provisions addressing reverse sensitivity issues) are ultimately an aspect of development in urban and rural environments so as to achieve a prosperous and resilient economy (and therefore squarely within the first goal/high-level objective), rather than representing a discrete topic that should be addressed with its own goal/high-level objective.

204. That does not mean, however, that this is not an appropriate subject for an objective at the next level down. Reverting then to the notified objective, we consider the submissions opposing the listing of some types of infrastructure have a point. Even though the list is expressed to be inclusive, it invites a '*me too*' approach from those infrastructure providers whose facilities have not been listed[196] and raises questions as to why some infrastructure types are specifically referenced, and not others. The definition of 'infrastructure' in the Act is broad, and we do not think it needs extension or clarification.

205. The essential point is that the efficient operation of infrastructure is a desirable outcome in the broader context of seeking a prosperous and resilient District economy. Quite apart from any other considerations, Objective 9.4.2 of the RPS (promoting the sustainable management of Otago's infrastructure[197]) along with Policy 9.5.2 (promoting and encouraging efficiency and use of Otago's infrastructure) would require its recognition. We regard that as an appropriate objective, provided that outcome is not pursued to the exclusion of all other considerations; in particular, without regard to any adverse effects on the natural environment that might result.

206. It follows that we accept in principle the point made in Submission 806, that adverse effects of the operation of infrastructure need to be minimised as part of the objective.

207. As regards the submissions seeking extension of the scope of the objective, we accept that this objective might appropriately be broadened to relate to the provision of infrastructure, as well

193 Submission 805

194 Submissions 806 and 807; Opposed in FS1077

195 Submissions 117 and 238: Supported in FS1117; Opposed in FS1107, FS1157, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248 and FS1249

196 Accepting that submissions of this ilk were not limited to infrastructure providers- NZIA sought that bridges be added to the list.

197 See Objective 4.3 of the Proposed RPS to similar effect

as its operation. Submitters made a number of suggestions as to how a revised objective might be framed to extend it beyond infrastructure *'operation'*. Variations included reference to:

a. Infrastructure *'development'*[198]
b. '*Provision'* of infrastructure[199]
c. *'Maintenance development and upgrading'* of infrastructure[200], wording that we note duplicates Policy 2 of the NPSET 2008.

208. In terms of how infrastructure should be described in the objective, again there were a number of suggestions. Some submissions sought that infrastructure provision be *'effective'*[201], again reflecting wording in the NPSET 2008. Submission 635 also suggested that reference be made to safety. Lastly, and as already noted, submission 807 sought that reference be made to the timing of the infrastructure provision.

209. Mr Paetz recommended the following wording:

"Maintain and promote the efficient and effective operation, maintenance, development and upgrading of the District's existing infrastructure and the provision of new infrastructure to provide for community wellbeing."

210. We do not regard Mr Paetz's formulation as satisfactory. Aside from the absence of an environmental performance criterion and the fact that it is not framed as an outcome, the suggested division between existing and new infrastructure produces anomalies. Existing infrastructure might be operated, maintained and upgraded, but it is hard to see how it can be developed (by definition, if it exists, it has already been developed). Similarly, once provided, why should new infrastructure not be maintained and upgraded? The way in which community wellbeing is referenced also leaves open arguments as to whether it applies to existing infrastructure, or just to new infrastructure.

211. We also think that *'community wellbeing'* does not capture the true role of, or justification for recognising, infrastructure. Submissions 806 and 807 suggested that reference be to infrastructure "*that supports the existing and future community"*, which is closer to the mark, but rather wordy. We think that reference would more appropriately be to meeting community needs.

212. The RPS is too generally expressed to provide direction on these issues, but we take the view that the language of the NPSET 2008 provides a sensible starting point, compared to the alternatives suggested, given the legal obligation to implement the NPSET. Using the NPSET 2008 language and referring to *'effective'* infrastructure also addresses the point in Submission 807 – effective infrastructure development will necessarily be timely. Lastly, while safety is important, we regard that as a prerequisite for all development, not just infrastructure.

213. Taking all of these considerations into account, we recommend that Objective 3.2.1.5 be renumbered 3.2.1.9 and revised to read:

"Infrastructure in the District that is operated, maintained developed and upgraded efficiently and effectively to meet community needs and which maintains the quality of the environment".

198 Submission 251; Supported in FS1092, FS1097, FS1115, FS1117; Opposed in FS1132
199 Submissions 635, 806, 807; Supported in FS 1159, Opposed in FS1077
200 Submission 805
201 Submissions 635, 805; Supported in FS1159

214. Having recommended an objective providing generically for infrastructure, we do not recommend acceptance of the New Zealand Fire Service Commission submission[202] that sought a new objective be inserted into Section 3.2.1 providing for emergency services. While important, this can appropriately be dealt with in the more detailed provisions of the PDP.

215. In summary, having considered all of the objectives in its proposed Section 3.2.1, we consider them individually and collectively to be the most appropriate way in which to achieve the purpose of the Act as it relates to the economy of the District.

2.4. Section 3.2.2 Goal – Urban Growth Management

216. The second specified *'goal'* read:

"The strategic and integrated management of urban growth".

217. A number of submissions supported this goal in its current form. One submission in support[203] sought that it be expanded to cover all growth within the district, not just urban growth.

218. One submission[204] sought its deletion, without any further explanation. Another submission[205] sought in relation to this goal, an acknowledgement that some urban development might occur outside the UGB.

219. A number of other submissions sought relief nominally in respect of the Section 3.2.2 goal that in reality relate to the more detailed objectives and policies in that section. We consider them as such.

220. Mr Paetz did not recommend any amendment to this goal.

221. The focus of the RPS previously discussed (on sustainable management of the built environment) is too generally expressed to provide direction in this context. The Proposed RPS focuses more directly on urban growth under Objective 4.5 (*"Urban growth and development is well-designed, reflects local character and integrates effectively with adjoining urban and rural environments"*). Policy 4.5.1 in particular supports this goal – it refers specifically to managing urban growth in a strategic and coordinated way.

222. Reverting to the submissions on it, we do not regard it as appropriate that this particular goal/high-level objective be expanded to cover all growth within the District. Growth within rural areas raises quite different issues to that in urban areas.

223. Nor do we accept Submission 807. The goal is non-specific as to where urban growth might occur. The submitter's point needs to be considered in the context of the more detailed objectives and policies fleshing out this goal.

224. Accordingly, the only amendment we would recommend is to reframe this goal more clearly as a higher-level objective, as follows:

"Urban growth managed in a strategic and integrated manner."

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202 Submission 438; Supported in FS1160

203 Submission 471; Supported in FS1092

204 Submission 294

205 Submission 807

225. We consider that a high-level objective in this form is the most appropriate way to achieve the purposes of the Act as it relates to urban growth.

2.5. Section 3.2.2 Objectives – Urban Growth Management

226. Objective 3.2.2.1 is the primary objective related to urban growth under what was goal 3.2.2. As notified it read:

"Ensure urban development occurs in a logical manner:
a. To promote a compact, well designed and integrated urban form;
b. To manage the cost of Council infrastructure; and
c. To protect the District's rural landscapes from sporadic and sprawling development."

227. Submissions on this objective sought variously:
a. Its deletion[206];
b. Recognition of reverse sensitivity effects on significant infrastructure as another aspect of logical urban development[207];
c. Deletion of reference to logical development and to sporadic and sprawling development, substituting reference to "urban" development[208];
d. Removal of the implication that the only relevant infrastructure costs are Council costs[209];
e. Generalising the location of urban development ("*appropriately located*") and emphasising the relevance of efficiency rather than the cost of servicing[210].

228. The version of this objective recommended by Mr Paetz in his reply evidence accepted the point that non-Council infrastructure costs were a relevant issue, but otherwise recommended only minor drafting changes.

229. In our view, consideration of this objective needs to take into account a number of other objectives in Chapter 3:

"3.2.2.2: Manage development in areas affected by natural hazards."[211]
3.2.3.1 Achieve a built environment that ensures our urban areas are desirable and safe places to live, work and play;
3.2.6.1 Provide access to housing that is more affordable;
3.2.6.2 Ensure a mix of housing opportunities.
3.2.6.3 Provide a high quality network of open spaces and community facilities."

230. Submissions on the above objectives sought variously:
a. Deletion of Objective 3.2.2.2[212];

206 Submission 806
207 Submissions 271 and 805; Supported in FS1092, FS1121, FS1211, FS1340; Opposed in FS 1097 and FS1117
208 Submission 608; Opposed in FS1034
209 Submission 635
210 Submissions 806 and 807
211 Although this could be read to apply to non-urban development in isolation, in the context of an urban development goal and a supporting policy focussed on managing higher density urban development, that is obviously not intended.
212 Submission 806

b. Amendment of 3.2.6.1 so that it is more enduring and refers not just to housing, but also to land supply for housing[213];
c. Addition of reference in 3.2.6.1 to design quality[214];
d. Collapsing 3.2.6.1 and 3.2.6.2 together[215];
e. Amendment of 3.2.6.2 to refer to housing densities and typologies rather than opportunities[216];
f. Amendment to 3.2.6.3 to refer to community activities rather than community facilities if the latter term is not defined to include educational facilities[217].

231. Remarkably, for this part of the PDP at least, Objective 3.2.3.1 does not appear to have been the subject of any submissions, other than to the extent that it is caught by UCES's more general relief, seeking that Chapter 3 be deleted.

232. Mr Paetz did not recommend substantive changes to any of these objectives, other than to rephrase them as seeking an environmental outcome.

233. We have already noted some of the provisions of the RPS relevant to these matters. As in other respects, the RPS is generally expressed, so as to leave ample leeway in its implementation, but Policy 9.5.5 is worthy of mention here – it directs maintenance and where practicable enhancement of the quality of life within the build environment, which we regard as supporting Objective 3.2.3.1.

234. The Proposed RPS contains a number of provisions of direct relevance to this group of objectives. We have already noted Objective 4.5, which supports a focus on good design and integration, both within and without existing urban areas. Aspects of Policy 4.5.1 not already mentioned focus on minimising adverse effects on rural activities and significant soils, maintaining and enhancing significant landscape or natural character values, avoiding land with significant risk from natural hazards and ensuring efficient use of land. These provisions provide strong support for the intent underlying many of the notified objectives.

235. In our view, the matters covered by the group of PDP objectives we have quoted are so interrelated that they could and should be combined in one overall objective related to urban growth management.

236. In doing so, we recommend that greater direction be provided as to what outcome is sought in relation to natural hazards. Mr Paetz's recommended objective suggests that development in areas affected by natural hazards "*is appropriately managed*". This formulation provides no guidance to decision makers implementing the PDP. While the RPS might be considered equally opaque in this regard[218], the proposed RPS takes a more directive approach. Policy 4.5.1, as noted, directs avoidance of land with significant natural hazard risk. Objective 4.1 of the Proposed RPS states:

"Risk that natural hazards pose to Otago's communities are minimised."

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213 Submissions 513, 515, 522, 528, 531, 532, 534, 535, 537: Supported in FS1256, FS1286, FS1292, FS1322; Opposed in FS1071 and FS1120

214 Submission 238: Opposed in FS1107, FS1157, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248, FS1249

215 Submission 806

216 Submission 608: Opposed in FS1034

217 Submission 524

218 Refer Objective 11.4.2 and the policies thereunder

237. Having regard to these provisions (as we are bound to do), we recommend that the focus on natural hazard risk in relation to urban development similarly be on minimising that risk.

238. It is also relevant to note that the Proposed RPS also has an objective[219] seeking that Otago's communities "*are prepared for and are able to adapt to the effects of climate change"* and a policy[220] directing that the effects of climate change be considered when identifying natural hazards. While the RPS restricts its focus on climate change to sea-level rise[221], which is obviously not an issue in this District, this is an area where we consider the Proposed RPS reflects a greater level of scientific understanding of the potential effects of climate change since the RPS was made operative[222].

239. As above, submissions focus on the reference to logical development. It is hard to contemplate that urban development should be illogical (or at least not intentionally so), but we recommend that greater guidance might be provided as to what is meant by a logical manner of urban development. Looking at Chapter 4, and the areas identified for urban development, one obvious common feature is that they build on historical urban settlement patterns (accepting that in some cases it is a relatively brief history), and we recommend that wording to this effect be inserted in this objective.

240. Lastly, consistent with our recommendation above, reference is required in this context to the interrelationship of urban development and infrastructure. Mr Paetz's suggested formulation (manages the cost of infrastructure) does not seem to us to adequately address the issue. First, the concept that costs would be managed provides no indication as to the end result – whether infrastructure costs will be high, low, or something in between. Secondly, while obviously not intended to do so (Mr Paetz suggests a separate objective and policy to deal with it), restricting the focus of the objective to the costs of infrastructure does not address all of the reverse sensitivity issues that both QAC and Transpower New Zealand Limited emphasised to us, the latter with reference to the requirements of the NPSET 2008.

241. The suggestion by Remarkables Park Ltd and Queenstown Park Ltd that the focus be on efficiency of servicing, while an improvement on '*managing'* costs, similarly does not get close to addressing reverse sensitivity issues.

242. We accordingly recommend that reference should be made to integration of urban development with existing and planned future infrastructure. While this is still reasonably general, the recommendations following will seek to put greater direction around what is meant.

243. We regard reference to community housing as being too detailed in this context and do not agree with the suggestion that sprawling and sporadic development is necessarily *'urban'* in character[223]. Mr Chris Ferguson[224], suggested as an alternative to the relief sought, that the objective refer to "*urban sprawl development",* which from one perspective, would restrict the ambit of the protection the objective seeks for rural areas still further. Mr Ferguson relied on

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219 Objective 4.2.2

220 Policy 4.1.1(d)

221 Policy 8.5.8

222 As well as reflecting the legislative change to add section 7(i) to the Act

223 Depending of course on how 'urban development' is defined. This is addressed in much greater detail below.

224 Giving planning evidence on the submission of Darby Planning LP

the fact that Mr Bird's evidence referred to sprawling development, but not to sporadic development, in his evidence. However, Mr Bird confirmed in answer to our question that he regarded sporadic development in the rural areas as just as concerning as sprawling development. Accordingly, we do not accept Mr Ferguson's suggested refinement of the relief the submission sought.

244. We likewise do not accept the alternative relief sought in Submission 529. We consider that the role of educational facilities is better dealt with in the definition section, as an aspect of community facilities, than by altering the objective to refer to community activities. Such an amendment would be out of step with the focus of the objective on aspects of urban development.

245. Finally, we consider all objectives and policies will be more readily understood (and more easily referred to in the future) if any lists within them are alphanumeric lists rather than bullet points. Such a change is recommended under Clause 16(2) and all our recommended objectives and policies reflect that change.

246. In summary, we recommend that Objective 3.2.2.1 be amended to read:

"Urban development occurs in a logical manner so as to:

a. promote a compact, well designed and integrated urban form;
b. build on historical urban settlement patterns;
c. achieve a built environment that provides desirable and safe places to live, work and play;
d. minimise the natural hazard risk, taking account of the predicted effects of climate change;
e. protect the District's rural landscapes from sporadic and sprawling development;
f. ensure a mix of housing opportunities including access to housing that is more affordable for residents to live in;
g. contain a high quality network of open spaces and community facilities; and
h. be integrated with existing, and planned future, infrastructure."

247. We consider that an objective in this form is the most appropriate way to expand on the high-level objective and to achieve the purpose of the Act as it relates to urban development.

2.6. Section 3.2.3 – Goal – Urban Character

248. As notified, the third goal read:

"A quality built environment taking into account the character of individual communities."

249. A number of submissions supported this goal. One submission[225] sought its deletion.

250. Mr Paetz did not recommend any change to this goal.

251. Recognition of the character of the built environment implements the generally expressed provisions of the RPS related to the built environment (Objective 9.4 and the related policies) already noted. A focus on local character is also consistent with objective 4.5 of the Proposed RPS.

[225] Submission 807

252. While Mr Haworth's criticism of it in his evidence for UCES (as being "*a bit waffly"* and *"obvious")* is not wholly unjustified, we consider that there is a role for recognition of urban character as a high-level objective that is expanded on by more detailed objectives. The goal as notified is already expressed in the form of an objective. Accordingly, we recommend its retention with no amendment as being the most appropriate way to achieve the purpose of the Act.

2.7. Section 3.2.3 – Objectives – Urban Character

253. We have already addressed Objective 3.2.3.1 as notified and recommended that it be shifted into Section 3.2.2.

254. Objective 3.2.3.2 as notified, read:

"Protect the District's cultural heritage values and ensure development is sympathetic to them."

255. The submissions on this objective either seek its deletion[226], or that protection of cultural heritage values be "*from inappropriate activities"*[227]*.*

256. Mr Paetz's reply evidence recommended that the objective be framed as:

"Development is sympathetic to the District's cultural heritage values."

257. Reference to cultural heritage includes both Maori and non-Maori cultural heritage. The former is, however, already dealt with in Section 3.2.7 and we had no evidence that non-Maori cultural heritage expands beyond historic heritage, so we recommend the objective be amended to focus on the latter.

258. Historic heritage is not solely an urban development issue, and so this should remain a discrete objective of its own, if retained, rather than being amalgamated into Objective 3.2.3.1.

259. Consideration of this issue comes against a background where Policy 9.5.6 of the RPS directs recognition and protection of Otago's regionally significant heritage sites through their identification in consultation with communities and development of means to ensure they are protected from inappropriate subdivision, use and development. Both the language and the intent of this policy clearly reflects section 6(f) of the Act, requiring that the protection of historic heritage from inappropriate subdivision, use and development be recognised and provided for, without taking the provisions of the Act much further.

260. The Proposed RPS provides rather more direction with a policy[228] that the values and places and areas of historic heritage be protected and enhanced, among other things by avoiding adverse effects on those values that contribute to the area or place being of regional or national significance, and avoiding significant adverse effects on other values of areas and places of historic heritage.

261. Taking the provisions of the RPS and the Proposed RPS on board, deletion of this objective, at least as it relates to historic heritage, clearly cannot be recommended. The guidance from *King Salmon* as to the ordinary natural meaning of "*inappropriate"* in the context of a provision

226 Submission 806

227 Submissions 607, 615, 621 and 716: Supported in FS1105, FS1137 and FS1345

228 Policy 5.2.3

providing for protection of something inappropriate from subdivision use and development means that the objective, with or without reference to inappropriate development, would go further (be more restrictive) than implementation of the RPS or consistency with the Proposed RPS would require. However, we do not think that Mr Paetz's suggested wording referring to sympathetic development (on its own) is clear enough to endorse.

262. In summary, we recommend that the objective be reworded as follows:

"The District's important historic heritage values are protected by ensuring development is sympathetic to those values."

263. Taking account of the objectives recommended to be included in Section 3.2.2, we consider that this objective is the most appropriate way to achieve the purpose of the Act as it relates to urban character.

2.8. Section 3.2.4 – Goal – Natural Environment

264. As notified, this goal read:

"The protection of our natural environment and ecosystems".

265. A number of submissions supported this goal. Two submissions opposed it[229]. Of those, Submission 806 sought its deletion (along with the associated objectives and policies).

266. Mr Paetz did not recommend any amendment to this goal.

267. Even as a high-level aspirational objective, the protection of all aspects of the natural environment and ecosystems is unrealistic and inconsistent with Objective 3.2.1. Nor does the RPS require such an ambitious overall objective - Objective 10.4.2 for instance seeks protection of natural ecosystems (and primary production) "*from significant biological and natural threats".* Objective 10.4.3 seeks the maintenance and enhancement of the natural character of areas "*with significant indigenous vegetation and significant habitats of indigenous fauna".*

268. The Proposed RPS addresses the same issue in a different way, focussing on the "values" of natural resources (and seeking they be maintained and enhanced[230]).

269. We consider it would therefore be of more assistance if some qualitative test were inserted so as to better reflect the direction provided at regional level (and Part 2 of the Act). Elsewhere in the PDP, reference is made to *'distinctive'* landscapes and this is an adjective we regard as being useful in this context. The more detailed objectives provide clarity as to what might be considered '*distinctive'* and the extent of the protection envisaged.

270. Accordingly, we recommend that this goal/high-level objective be reframed as follows:

"The distinctive natural environments and ecosystems of the District are protected."

271. We consider this is the most appropriate way to achieve the purpose of the Act in the context of a high-level objective related to the natural environment and ecosystems.

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229 Submissions 806 and 807

230 Proposed RPS, Objective 3.1

2.9. Section 3.2.4 – Objectives – Natural Environment

272. Objective 3.2.4.1 as notified, read as follows:

"Promote development and activities that sustain or enhance the life supporting capacity of air, water, soils and ecosystems."

273. The RPS has a number of objectives seeking maintenance and enhancement, or alternatively safeguarding of life supporting capacity of land, water and biodiversity[231], reflecting the focus on safeguarding life supporting capacity in section 5 of the Act. In relation to fresh water and aquatic ecosystems, the NPSFM 2014 similarly has that emphasis. The Proposed RPS, by contrast, does not have the same focus on life supporting capacity, or at least not directly so. The combination of higher order provisions, however, clearly supports the form of this objective.

274. The only submissions on the objective either support the objective as notified[232], or seek that it be expanded to refer to maintenance of indigenous biodiversity[233].

275. Mr Paetz recommended that the latter submission be accepted and reframing the objective to pitch it as environmental outcome, his version as attached to his reply evidence reads as follows:

"Ensure development and activities maintain indigenous biodiversity, and sustain or enhance the life supporting capacity of air, water, soil and ecosystems."

276. So framed, the objective still starts with a verb and therefore, arguably, states a course of action (policy) rather than an environmental outcome.

277. It might also be considered that shifting the '*policy'* from promoting an outcome to ensuring it occurs is a significant substantive shift that is beyond the scope of the submissions as above.

278. We accordingly recommend that this objective be reframed as follows:

"Development and land uses that sustain or enhance the life-supporting capacity of air, water, soil and ecosystems, and maintain indigenous biodiversity."

279. Objective 3.2.4.2 as notified read:

"Protect areas with significant Nature Conservation Values".

280. Submissions on this objective included requests for:
    a. Expansion to apply to significant waterways[234];
    a. Substitution of reference to the values of Significant Natural Areas[235];
    b. Amendment to protect, maintain and enhance such areas[236];

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231 RPS, Objectives 5.4.1, 6.4.3, 10.4.1..

232 Submissions 600, 755: Supported in FS1209; Opposed in FS1034 – noting the discussion above regarding the efficacy of further submissions opposing submissions that support the notified provisions of the PDP

233 Submissions 339, 706: Opposed in FS1097, FS1162 and FS1254

234 Submission 117

235 Submission 378: Opposed in FS1049 and FS1095

236 Submission 598: Supported in FS1287; Opposed in FS1040

c. Addition of reference to appropriate management as an alternative to protection[237].

281. The version of this objective recommended by Mr Paetz in his reply evidence is altered only to express it as an environmental outcome.

282. Objective 10.4.3 of the RPS, previously noted, might be considered relevant to (and implemented by) this objective[238].

283. As above, we recommend that the definition of '*Nature Conservation Values'* be clarified to remove policy elements and our consideration of this objective reflects that revised definition. We do not consider it is necessary to specifically state that areas with significant nature conservation values might be waterways. We likewise do not recommend reference to *'appropriate management'*, since that provides no direction to decision-makers implementing the PDP.

284. However, we have previously recommended that maintenance of significant Nature Conservation Values be part of the objective relating both to agricultural land uses in rural areas and to diversification of existing activities. As such, we regard this objective as duplicating that earlier provision and unnecessary. For that reason[239], we recommend that it be deleted.

285. Objective 3.2.4.3 as notified (and as recommended by Mr Paetz) read:

"Maintain or enhance the survival chances for rare, endangered or vulnerable species of indigenous plant or animal communities".

286. Submissions specifically on this point included:
a. Seeking that reference to be made to significant indigenous vegetation and significant habitats of indigenous fauna rather than as presently framed[240];
b. Support for the objective in its current form[241];
c. Amendment to make the objective subject to preservation of the viability of farming in rural zones[242].

287. The reasons provided in Submission 378 are that the terminology used should be consistent with section 6 of the RMA.

288. While, as above, we do not regard the terminology of the Act[243] as a panacea, on this occasion, the submitter may have a point. While significant areas of indigenous vegetation and significant habitats of indigenous fauna are matters the implementation of the PDP can affect (either positively or negatively), the survival chances of indigenous plant or animal communities will likely depend on a range of factors, some able to be affected by the PDP, and some not. Moreover, any area supporting rare, endangered, or vulnerable species will, in our view, necessarily have significant nature conservation values, as defined. Accordingly, for the same reasons as in relation to the previous objective, this objective duplicates provisions we

237 Submission 600: Supported in FS1097 and FS1209; Opposed in FS1034, FS1040 and FS1080
238 See also the Proposed RPS, Policy 3.1.9, which has a 'maintain or enhance' focus.
239 Consistent with the Real Journeys submission noted above
240 Submission 378: Supported in FS1097; Opposed in FS1049 and FS1095
241 Submissions 339, 373, 600 and 706: Opposed in FS1034, FS1162, FS1209, FS1287 and FS1347
242 Submission 701: Supported in FS1162
243 Or indeed of the RPS, which uses the same language at Objective 10.4.3

have recommended above. It might also be considered to duplicate Objective 3.2.4.1, as we have recommended it be revised, given that maintenance of indigenous biodiversity will necessarily include rare, endangered, or vulnerable species of indigenous plant or animal communities.

289. For these reasons, we recommend that this objective be deleted.

290. Objective 3.2.4.4 as notified, read:

"Avoid exotic vegetation with the potential to spread and naturalise."

291. Submissions on it varied from:
   a. Support for the wording notified[244];
   b. Amendment to refer to avoiding or managing the effects of such vegetation[245];
   c. Amendment to "*reduce wilding tree spread"*[246].

292. Submission 238[247] approached it in a different way, seeking an objective focussing on promotion of native planting.

293. The thrust of the submissions in the last two categories listed above was on softening the otherwise absolutist position in the notified objective and Mr Paetz similarly recommended amendments to make the provisions less absolute.

294. The version of the objective he recommended with his reply evidence read:

"Avoid the spread of wilding exotic vegetation to protect nature conservation values, landscape values and the productive potential of land."

295. We have already noted the provisions of the RPS and the Proposed RPS which, in our view, support the intent underlying this objective. Policy 10.5.3 of the RPS (seeking to reduce and where practicable eliminate the adverse effects of plant pests) might also be noted[248].

296. The section 32 report supporting Chapter 3[249] records that the spread of wilding exotic vegetation, particularly wilding trees, is a significant problem in this District. In that context, an objective focusing on reduction of wilding tree spread or *'managing'* its effects appears an inadequate objective to aspire to.

297. We agree that the objective should focus on the outcome sought to be addressed, namely the spread of wilding exotic vegetation, rather than what should occur instead. However, we see no reason to complicate the objective by explaining the rationale for an avoidance position. Certainly, other objectives are not written in this manner.

298. Lastly, we recommend rephrasing the objective in line with the revised style recommended throughout. The end result (renumbered 3.2.4.2) would be:

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244 Submissions 289, 373: Opposed in FS1091 and FS1347

245 Submission 590 and 600: Supported in FS1132 and FS 1209; Opposed in FS1034 and FS1040

246 Submission 608; Opposed in FS1034

247 Opposed in FS1107, FS1157, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248 and FS1249

248 Refer also Proposed RPS, Policy 5.4.5 providing for reduction in the spread of plant pests.

249 Section 32 Evaluation Report- Strategic Direction at page 9

"The spread of wilding exotic vegetation is avoided."

299. Objective 3.2.4.5 as notified read:

"Preserve or enhance the natural character of the beds and margins of the District's lakes, rivers and wetlands."

300. A number of submissions sought that the effect of the objective be softened by substituting "*maintain"* for "*preserve"*[250]*.*

301. Some submissions sought that reference to biodiversity values be inserted[251].

302. Some submissions sought deletion of reference to enhancement and inclusion of protection from inappropriate subdivision, use and development[252].

303. Mr Paetz did not recommend any change to the notified objective.

304. The origins of this objective are in section 6(a) of the Act which we are required to recognise and provide for and which refers to the '*preservation'* of these areas of the environment, and the protection of them from inappropriate subdivision, use and development.

305. Objective 6.4.8 of the RPS is relevant on this aspect – it has as its object: "*to protect areas of natural character…and the associated values of Otago's wetlands, lakes, rivers and their margins".*

306. By contrast, Policy 3.1.2 of the proposed RPS refers to managing the beds of rivers and lakes, wetlands, and their margins to maintain or enhance natural character.

307. The combination of the RPS and proposed RPS supports the existing wording rather than the alternatives suggested by submitters. While section 6(a) of the Act would on the face of it support insertion of reference to inappropriate subdivision, use and development, given the guidance we have from the Supreme Court in the *King Salmon* litigation as to the meaning of that phrase, we do not consider that either regional document is inconsistent with or fails to recognise and provide for the matters specified in section 6(a) on that account. We also do not consider that reference to biodiversity values is necessary given that this is already addressed in recommended Objective 3.2.4.1.

308. The RPS (and section 6(a) of the Act) would also support (if not require) expansion of this objective to include the water above lake and riverbeds[253], but we regard this as being addressed by Objective 3.2.4.6 (to the extent it is within the Council's functions to address).

309. Accordingly, the only recommended amendment is to rephrase this as an objective (renumbered 3.2.4.3), in line with the style adopted above, as follows:

"The natural character of the beds and margins of the District's lakes, rivers and wetlands is preserved or enhanced."

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250 See e.g. Submissions 607, 615, 621, 716: Supported in FS 1097, FS1105, FS 1137 and FS1345

251 Submissions 339, 706: Opposed in FS 1015, FS1162, FS1254 and FS 1287

252 Submissions 519, 598: Supported in FS 1015 and FS1287: Opposed in FS1356

253 See also the Water Conservation (Kawarau) Order 1997, to the extent that it identifies certain rivers in the District as being outstanding by reason of their naturalness.

310. Objective 3.2.4.6 as notified read:

"Maintain or enhance the water quality and function of our lakes, rivers and wetlands."

311. A number of submissions supported the objective as notified. The only submission seeking a substantive amendment, sought to delete reference to water quality[254].

312. A focus on maintaining or enhancing water quality is consistent with Objective A2 of the NPSFM 2014, which the Council is required to give effect to. While that particular objective refers to overall quality, the decision of the Environment Court in *Ngati Kahungunu Iwi Authority v Hawkes Bay Regional Council*[255] does not suggest that any great significance can be read into the use of the word 'overall'.

313. Similarly, while the policies of the NPSFM 2014 are directed at actions to be taken by Regional Councils, where land uses (and activities on the surface of waterways) within the jurisdiction of the PDP, impinge on water quality, we think that the objectives of the NPSFM 2014 must be given effect by the District Council as well.

314. One might also note Objective 6.4.2 of the RPS, that the Council is also required to give effect to, and which similarly focuses on maintaining and enhancing the quality of water resources.

315. Accordingly, we do not recommend deletion of reference to water quality in this context. The only amendment that is recommended is stylistic in nature, to turn it into an objective (renumbered 3.2.4.4) as follows:

"*The water quality and functions of the District's lakes, rivers and wetlands is maintained or enhanced."*

316. Objective 3.2.4.7 as notified read:

"Facilitate public access to the natural environment."

317. Submissions on this objective included:
   a. Support for the objective as is[256];
   b. Seeking that "*maintain and enhance"* be substituted for "*facilitate"* and emphasising public access *'along'* rivers and lakes[257];
   c. Inserting a link to restrictions on public access created by a subdivision or development[258];
   d. Substituting "*recognise and provide for"* for "*facilitate"*[259].

318. Mr Paetz in his reply evidence recommended no change to this particular objective.

319. To the extent that there is a difference between facilitating something and maintaining or enhancing it (any distinction might be seen to be rather fine), the submissions seeking that

254 Submission 600: Supported in FS1209; Opposed in FS1034 and FS1040.
255 [2015] NZEnvC50
256 Submissions 378, 625, 640: Opposed in FS1049, FS1095 and FS1347
257 Submissions 339, 706: Supported in FS1097, Opposed in FS1254 and FS1287
258 Submission 600: Supported in FS1209, Opposed in FS1034
259 Submission 806

change were on strong ground given that Objective 6.4.7 of the RPS (and section 6(d) of the Act) refers to maintenance and enhancement of public access to and along lakes and rivers. We do not think, however, that specific reference is required to lakes and rivers, since they are necessarily part of the natural environment.

320. We reject the suggestion that the objective should "*recognise and provide for"* public access, essentially for the reasons set out above[260].

321. In addition, while in practice, applications for subdivision and development are likely to provide the opportunity to enhance public access to the natural environment, we do not think that the objective should be restricted to situations where subdivision or development will impede existing public access. Any consent applicant can rely on the legal requirement that consent conditions fairly and reasonably relate to the consented activity[261] to ensure that public access is not sought in circumstances where access has no relationship to the subject-matter of the application.

322. Lastly, the objective requires amendment in order that it identifies an environmental outcome sought.

323. In summary, we recommend that this objective (renumbered 3.2.4.5) be amended to read:

"Public access to the natural environment is maintained or enhanced."

324. Objective 3.2.4.8 as notified read:

"Respond positively to Climate Change".

325. Submissions on it included:
a. General support[262];
b. Seeking its deletion[263];
c. Seeking amendment to focus more on the effects of climate change[264].

326. Mr Paetz recommended in his reply evidence that the objective remain as notified.

327. As already noted, the RPS contains a relatively limited focus on climate change, and might in that regard be considered deficient given the terms of section 7(i) of the Act (added to the Act after the RPS was made operative). The Proposed RPS contains a much more comprehensive suite of provisions on climate change and might, we believe, be regarded as providing rather more reliable guidance. The focus of the Proposed RPS, consistently with section 7(i), is clearly on responding to the effects of climate change. As the explanation to Objective 4.2 records, *"the effects of climate change will result in social, environmental and economic costs, and in some circumstances benefits".* The Regional Council's view, as expressed in the Proposed RPS, is that that change needs to be planned for.

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260 Paragraph 58ff above

261 Refer *Newbury District Council v Secretary of State for the Environment* [1981] AC 578 and the many cases following it in New Zealand

262 Submissions 117, 339, 708: Opposed in FS 1162

263 Submission 807

264 Submissions 598, 806 and 807 (in the alternative): Supported in FS1287; Opposed in FS1034

328. Against that background, we had difficulty understanding exactly what the outcome is that this objective is seeking to achieve. The sole suggested policy relates to the interrelationship of urban development policies with greenhouse gas emission levels, and their contribution to global climate change. As such, this objective appears to be about responding positively to the causes of global climate change, rather than responding to its potential effects.

329. At least since the enactment of the Resource Management (Energy and Climate Change) Amendment Act 2004, the focus of planning under the Act has been on the effects of climate change rather than on its causes.

330. It also appeared to us that to the extent that the PDP could influence factors contributing to global climate change, other objectives (and policies) already address the issue.

331. Accordingly, as suggested by some of the submissions noted above, and consistently with both the Proposed RPS and section 7(i) of the Act, the focus of District Plan provisions related to climate change issues should properly be on the effects of climate change. The most obvious area[265] where the effects of climate change are relevant to the final form of the District Plan is in relation to management of natural hazards. We have already discussed how that might be incorporated into the high level objectives of Chapter 3. While there are other ways in which the community might respond to the effects of climate change, these arise in the context of notified Policy 3.2.1.3.2. We consider Objective 3.2.4.8 is unclear and adds no value. While it could be amended as some submitters suggest, to focus on the effects of climate change, we consider that this would duplicate other provisions addressing the issues more directly. In our view, the better course is to delete it.

332. In summary, we consider that the objectives recommended for inclusion in Section 3.2.4 are individually and collectively the most appropriate way to achieve the purpose of the Act as it relates to the natural environment and ecosystems.

2.10. Section 3.2.5 Goal – Landscape Protection

333. As notified, this goal read:

"Our distinctive landscapes are protected from inappropriate development."

334. A number of submissions supported this goal.

335. Submissions seeking amendment to it sought variously:
   a. Amendment to recognise the operational and locational constraints of infrastructure[266].
   a. Substitution of reference to the values of distinctive landscapes[267].
   b. Substitution of reference to the values of '*outstanding'* landscapes and insertion of reference to the adverse effects of inappropriate development on such values[268].

336. A number of submissions also sought deletion of the whole of Section 3.2.5.

337. Mr Paetz did not recommend any amendment to this goal.

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265 See Submission 117 in this regard

266 Submissions 251, 433: Supported in FS1029, FS1061 and FS1085

267 Submission 807

268 Submission 806

338. The RPS focuses on outstanding landscapes[269], reflecting in turn the focus of section 6(b) of the Act. The Proposed RPS, however, has policies related to both outstanding and highly valued landscapes, with differing policy responses depending on the classification, within the umbrella of Objective 3.2 seeking that significant and highly-valued natural resources be identified, and protected or enhanced.

339. Like the Proposed RPS, the subject matter of Section 3.2.5 is broader than just the outstanding natural landscapes of the District. Accordingly, it would be inconsistent to limit the higher-level objective to those landscapes.

340. For the same reason, a higher-level objective seeking the protection of both outstanding natural landscapes and lesser quality, but still distinctive, landscapes goes too far, even with the qualification of reference to inappropriate development. As discussed earlier in this report, given the guidance of the Supreme Court in *King Salmon* as to the correct interpretation of qualifications based on reference to inappropriate subdivision use and development, it is questionable whether reference to inappropriate development in this context adds much. To that extent, we accept the point made in legal submissions for Trojan Helmet Ltd that section 6 and 7 matters should not be conflated by seeking to protect all landscapes.

341. The suggestion in Submissions 806 and 807 that reference might be made to the values of the landscapes in question is one way in which the effect of the goal/higher-level objective could be watered down. But again, this would be inconsistent with objectives related to outstanding natural landscapes, which form part of Section 3.2.5.

342. We recommend that these various considerations might appropriately be addressed if the goal/higher order objective were amended to read:

"The retention of the District's distinctive landscapes."

343. We consider that this is the most appropriate way to achieve the purpose of the Act in the context of a high-level objective related to landscapes.

2.11. Section 3.2.5 Objectives - Landscapes

344. Objective 3.2.5.1 as notified read:

"Protect the natural character of Outstanding Natural Landscapes and Outstanding Natural Features from subdivision, use and development."

345. This objective and Objective 3.2.5.2 following it (related to non-outstanding rural landscapes) attracted a large number of submissions, and evidence and submissions on them occupied a substantial proportion of the Stream 1B hearing. The common theme from a large number of those submitters and their expert witnesses was that Objective 3.2.5.1 was too protective of ONLs in particular, too restrictive of developments in and affecting ONLs, and would frustrate appropriate development proposals that are important to the District's growth[270].

346. Some suggested that the objective as notified would require that all subdivision use and development in ONLs and ONFs be avoided.[271] If correct, that would have obvious costs to the

269 RPS, Objectives 5.4.3, 6.4.8

270 See e.g. Mr Jeff Brown's evidence at paragraph 2.3.

271 E.g. Ms Louise Taylor, giving evidence for Matukituki Trust

District's economy and to future employment opportunities that would need to be carefully considered.

347. As already noted, a number of submissions sought the deletion of the entire Section 3.2.5[272]. As regards Objective 3.2.5.1, many submitters sought reference be inserted to "*inappropriate"* subdivision, use and development[273].

348. One submitter combined that position with seeking that adverse effects on natural character of ONLs and ONFs be avoided, remedied or mitigated, as opposed to their being protected[274].

349. Another suggestion was that the objective be broadened to refer to landscape values and provide for adverse effects on those values to be avoided, remedied or mitigated[275].

350. The Council's corporate submission sought specific reference to indigenous flora and fauna be inserted into this objective[276].

351. Submission 810[277] sought a parallel objective (and policy) providing for protection and mapping of wāhi tupuna.

352. The more general submissions[278] seeking provision for infrastructure also need to be kept in mind in this context.

353. In his Section 42A Report, Mr Paetz sought to identify the theme underlying the submissions on this objective by recommending that it be amended to read:

"Protect the quality of the Outstanding Natural Landscapes and Outstanding Natural Features from subdivision, use and development."

354. His reasoning was that a focus solely on the natural character of ONLs and ONFs was unduly narrow and not consistent with "*RMA terminology".* He did not, however, recommend acceptance of the many submissions seeking insertion of the word '*inappropriate'* essentially because it was unnecessary – "*in saying 'Protect the quality of the outstanding natural landscapes and outstanding natural features from subdivision, use and development', the 'inappropriate' test is implicit i.e. Development that does not protect the quality will be inappropriate."*[279]

355. By his reply evidence, Mr Paetz had come round to the view that the submitters on the point (and indeed many of the planning witnesses who had given evidence) were correct and that the word '*inappropriate'* ought to be added. He explained his shift of view on the basis that

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272 E.g. Submissions 632, 636, 643, 669, 688, 693, 702: Supported in FS1097; Opposed in FS1219, FS1252, FS1275, FS1283 and FS1316

273 E.g. Submissions 355, 375, 378, 502, 519, 581, 598, 607, 615, 621, 624, 716, 805: Supported in FS1012, FS1015, FS1097, FS1117, FS1137, FS1282 and FS1287; Opposed in FS1049, FS1095 FS1282, FS1320 and FS1356

274 Submission 519: Supported in FS1015, FS1097 and FS1117; Opposed in FS1282 and 1356

275 Submissions 806 and 807

276 Submission 809: Opposed in FS1097

277 Supported in FS1098; Opposed in FS1132

278 Submissions 251 and 433: Supported in FS1029, FS1061 and FS1085

279 Section 42A Report at 12,103

that amendment would enable applicants "*to make their case on the merits in terms of whether adverse impacts on ONFs or ONLs, including component parts of them, is justified"*[280].

356. Mr Paetz's Section 42A Report reflects the decision of the Supreme Court in the *King Salmon* litigation previously noted. His revised stance in his reply evidence implies that the scope of appropriate subdivision, use and development in the context of an objective seeking protection of ONLs and ONFs from inappropriate subdivision, use and development is broader than that indicated by the Supreme Court.

357. The legal basis for Mr Paetz's shift in position is discussed in the reply submissions of counsel for the Council. Counsel's reply submissions[281] emphasize the finding of the Supreme Court that section 6 does not give primacy to preservation or protection and draws on the legal submissions of counsel for the Matukituki Trust to argue that a protection against '*inappropriate*' development is not necessarily a protection against any development, but that including reference to it allows a case to be made that development is appropriate.

358. This in turn was argued to be appropriate in the light of the extent to which the district has been identified as located within an ONL or ONF (96.97% based on the notified PDP maps).

359. Although not explicitly saying so, we read counsel for the Council's reply submissions as supporting counsel for a number of submitters who urged us to take a '*pragmatic*' approach to activities within or affecting ONLs or ONFs[282].

360. Counsel for Peninsula Bay Joint Venture[283] argued also [284] that Objective 3.2.5.1 failed to implement the RPS because the relevant objective in that document[285] refers to protection of ONLs and ONFs "*from inappropriate subdivision, use and development".*

361. We agree that the objectives and policies governing ONFs and ONLs are of critical importance to the implementation of the PDP. While as at the date of the Stream 1B hearing, submissions on the demarcation of the ONLs and ONFs had yet to be heard, it was clear to us that a very substantial area of the district would likely qualify as either an ONL or an ONF. Dr Marion Read told us that this District was almost unique because the focus was on identifying what landscapes are not outstanding, rather than the reverse. As above, Council staff quantified the extent of ONLs and ONFs mapped in the notified PDP as 96.97%[286].

362. Given our recommendation that there should be a strategic chapter giving guidance to the implementation of the PDP as a whole, the objective in the strategic chapter related to activities affecting ONLs and ONFs is arguably the most important single provision in the PDP.

363. For precisely this reason, we consider that this objective needs to be robust, in light of the case law and the evidence we heard, and clear as to what outcome is being sought to be achieved.

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280 M Paetz, Reply Evidence at 5.23.

281 At 6.6

282 Mr Goldsmith for instance (appearing for Ayrburn Farms Ltd, Bridesdale Farms Ltd, Mt Cardrona Station) observed that elements of the existing planning regime for ONL's exhibited a desirable level of pragmatism.

283 Submission 378

284 Written submissions at paragraph 32

285 Objective 5.4.3

286 See QLDC Memorandum Responding to Request for Further Information Streams 1A & 1B, Schedule 3

364. The starting point is that, as already noted, the Supreme Court in *King Salmon* found that:

> *"We consider that where the term 'inappropriate' is used in the context of protecting areas from inappropriate subdivision, use or development, the natural meaning is that "inappropriateness" should be assessed by reference to what it is that is sought to be protected*.[287]"

365. When we discussed the matter with Mr Gardner-Hopkins, at that point acting as counsel for Kawarau Jet Services, he agreed that we were duty bound to apply that interpretation, but having said that, in his submission, the point at which effects tip into being inappropriate takes colour from the wider policy framework and factual analysis.

366. That response aligns with the Environment Court's decision in *Calveley v Kaipara DC*[288] that Ms Hill[289] referred us to. That case concerned both a resource consent appeal and an appeal on a plan variation. In the context of the resource consent appeal, the Environment Court emphasised that when interpreting the meaning of "*inappropriate subdivision, use and development"* in a particular plan objective, it was necessary to consider the objective in context (in particular in the context of the associated policy seeking to implement it). In that case, the policy supported an interpretation of the objective that was consistent with the natural and ordinary meaning identified by the Supreme Court in *King Salmon,* as above. However, as the Environment Court noted, neither the objective nor the policy suggested that subdivision development inevitably must be inappropriate. The Court found[290] that both the objective and policy recognised the potential for sensitively designed and managed developments to effectively protect ONL values and characteristics.

367. In that regard, it is worth noting that the Supreme Court in *King Salmon* likewise noted that a protection against '*inappropriate'* development is not necessarily protection against *'any'* development, but rather it allows for the possibility that there may be some forms of *'appropriate'* development[291]. That comment was made in the context of the Supreme Court's earlier finding as to what inappropriate subdivision, use and development was, as above.

368. Ultimately, though, we think that the *Calveley* decision is of peripheral assistance because the issue we have to confront is whether this particular objective should refer to protection of ONLs and ONFs from inappropriate subdivision, use and development. The wording of the policy seeking to implement the objective is necessarily consequential on that initial recommendation. Accordingly, while we of course accept the Environment Court's guidance that a supporting policy might assist in the interpretation of the objective, the end result is somewhat circular given that we also have to recommend what form the supporting policy(ies) should take.

369. We should note that Ms Hill also referred us to the Board of Inquiry decision on the Basin Bridge Notice of Requirement, but we think that the Board of Inquiry's decision does not particularly assist in our inquiry other than to the extent that the Board recorded its view that

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287 [2016] NZSC38 at [101]

288 [2014] NZEnvC 182

289 Counsel for Ayrburn Farm Estate Limited, Bridesdale Farm Developments Limited, Shotover Country Limited, Mt Cardrona Station Limited

290 At [132]

291 *King Salmon* at [98]

it was obliged by the Supreme Court's decision to approach and apply Part 2 of the Act having regard to the natural meaning of "*inappropriate"* as above[292].

370. Objective 5.4.3 of the RPS that the PDP is required to implement (absent invalidity, incompleteness or ambiguity) seeks:

"To protect Otago's outstanding natural features and landscapes from inappropriate subdivision, use and development."

371. Objective 5.4.3 is expressed in almost exactly the same terms as section 6(b) of the Act. There is accordingly no question (in our view) that the RPS is completely consistent with Part 2 of the Act in this regard. It also means that cases commenting on the interpretation of section 6(b), and indeed the other subsections using the same phraseology, are of assistance in interpreting the RPS. In that regard, while, as the Environment Court in *Calveley* has noted, the term "*inappropriate"* might take its meaning in plans from other provisions that provide the broader context, in the context of both RPS Objective 5.4.3 and section 6, 'inappropriate' should clearly be interpreted in the manner that the Supreme Court has identified[293].

372. As counsel for the Council noted in their reply submissions, the Supreme Court stated that section 6 does not give primacy to preservation or protection. We think however, that Counsel's submissions understate the position, because what the Supreme Court actually said was:

"Section 6 does not, we agree, give primacy to preservation or protection; it simply means that provision must be made for preservation and protection as part of the concept of sustainable management."[294]

373. The Supreme Court went on from that statement to say that a Plan could give primacy for preservation or protection and in the Court's view, that was what the NZCPS policies at issue had done.

374. The point that has troubled us is how in practice one could make provision for the protection, in this case of ONLs and ONFs, whether as part of the concept of sustainable management (or as implementing Objective 5.4.3), without actually having an objective seeking that ONLs and ONFs be protected. We discussed this point with Mr Gardner-Hopkins[295] who submitted that while there has to be an element of protection and preservation of ONLs in the PDP, we had some discretion as to where to set the level of protection. Mr Gardner-Hopkins noted that the Supreme Court had implied that there were environmental bottom lines in Part 2, but that they were somewhat "*saggy"* in application.

375. We think that counsel may have been referring in this regard to the discussion at paragraph [145] of the Supreme Court's decision in which the Court found that even in the context of directive policies requiring avoidance of adverse effects, it was improbable that it would be necessary to prohibit an activity that has a minor or transitory adverse effect, even where the natural character sought to be preserved was outstanding.

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292 *Final report and decision of the Board of Inquiry into the Basin Bridge Proposal* at paragraph [188](c)

293 As the Basin Bridge Board of Inquiry found

294 *King Salmon* at [149]

295 At this point appearing for the Matukituki Trust

376. We think, therefore, that we would be on strong ground to provide in Objective 3.2.5.1, that ONLs and ONFs should be protected from adverse effects that are more than minor and/or not temporary in duration[296]. This approach would also meet the concern of a number of parties that the objective should not indicate or imply that all development in ONLs and ONFs is precluded[297].

377. Based on our reading of the Supreme Court's decision in *King Salmon* however, if the adverse effects on ONLs and ONFs are more than minor and/or not temporary, it is difficult to say that the ONL or ONF, as the case may be, is being protected. Similarly, if the relevant ONL or ONF is not being protected, it is also difficult to see how any subdivision, use or development could be said to be '*appropriate'.*

378. Even if we are wrong, and *King Salmon* is not determinative on the ambit of '*inappropriate subdivision use and development',* we also bear in mind the general point we made above, based on the guidance of the Environment Court in its ODP decision C74/2000 at paragraph [10] that it was not appropriate to leave these policy matters for Council to decide on a case by case basis.

379. We do not accept the argument summarised above that was made for Peninsula Bay Joint Venture that because the RPS objective refers to inappropriate subdivision, use and development, so too must Objective 3.2.5.1. The legal obligation on us is to give effect to the RPS[298]. The Supreme Court decision in *King* Salmon confirms that that instruction means what it says. The Supreme Court has also told us, however, that saying that ONL's must be protected from inappropriate subdivision, use and development does not create an open-ended discretion to determine whether subdivision, use and development is 'appropriate' on a case-by-case basis. By contrast, it has held that any discretion is tightly controlled and must be referenced back to protection of the ONL or ONF concerned. Accordingly, omitting reference to inappropriate subdivision, use and development does not in our view fail to give effect to the RPS, because it makes no substantive difference to the outcome sought.

380. The Proposed RPS approaches ONLs and ONFs in a slightly different way. Policy 3.2.4 states that outstanding natural features and landscapes should be protected by, among other things, avoiding adverse effects on those values that contribute to the significance of the natural feature or landscape.

381. The Proposed RPS would certainly not support an open-ended reference to inappropriate subdivision, use and development. It does, however, support Mr Paetz's recommendation that the focus not be solely on the natural character of ONLs and ONFs. While we had some concerns as to the ambiguity that might result if Mr Paetz's initial recommendation (in his Section 42A Report) were accepted, and reference be made to the quality of ONLs and ONFs, we think he was on strong ground identifying that natural character is not the only quality of ONLs and ONFs. We note that the planning witness for Allenby Farms Limited and Crosshill Farms Limited, Mr Duncan White, supported the reference in the notified objective to natural character as being "*the significant feature of ONLs and ONFs"*[299].

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296 Mr White, planning witness for Allenby Farms Ltd and Crosshill Farms Ltd, supported that approach.

297 This was a rationale on which Mr Dan Wells, for instance, supported addition of the word 'inappropriate' to the notified objective.

298 Section 75(3)(c) of the Act

299 D White, EiC at 3.2

382. Mr White, however, accepted that the so-called *Pigeon Bay* criteria for landscapes encompassed a wide variety of matters, not just natural character.

383. Mr Carey Vivian suggested to us that the objective might refer to "*the qualities"* of ONLs and ONFs, rather than "*the quality"* as Mr Paetz had recommended. It seems to us, however, that broadening the objective in that manner would push it too far in the opposite direction.

384. In our view, some aspects of ONLs and ONFs are more important than others, as the Proposed RPS recognises. Desirably, one would focus on the important attributes of the particular ONL and ONF in question[300]. The PDP does not, however, identify the particular attributes of each ONL or ONF. The ODP, however, focuses on the landscape values, visual amenity values and natural character of ONLs in the Wakatipu Basin, and we recommend that this be the focus of the PDP objective addressing ONLs and ONFs more generally – accepting in part a submission of UCES that, at least in this regard, there is value in rolling over the ODP approach.

385. Identifying the particular values of ONLs and ONFs of most importance also responds to submissions made by counsel for Skyline Enterprises Ltd and others that the restrictive provisions in the notified plan had not been justified with reference to the factors being protected.

386. An objective seeking no more than minor effects on ONLs and ONFs would effectively roll over the ODP in another respect. That is the policy approach in the ODP for ONLs in the Wakatipu Basin and for ONFs.

387. The structure of the ODP in relation to ONLs and ONFs is to have a very general objective governing landscape and visual amenity values, supported by separate policies for ONLs in the Wakatipu Basin, ONLs outside the Wakatipu Basin and ONFs. Many of the policies for the Wakatipu Basin ONLs and ONFs are identical. At least in appearance, the policies of the ODP are more protective of ONLs in the Wakatipu Basin than outside that area. The key policies governing subdivision and development outside the Wakatipu Basin focus on the capacity of the ONLs to absorb change, avoiding subdivision and development in those parts of the ONLs with little or no capacity to absorb change and allowing limited subdivision and development in those areas with a higher potential to absorb change. We note though that capacity to absorb change will be closely related to the degree of adverse effects when landscape and visual amenity values are an issue and so the difference between the two may be more apparent than real.

388. Submitters picked up on the different approach of the PDP from the ODP in this regard. UCES supported having a common objective and set of policies for ONLs across the district, utilising the objectives, and policies (and assessment matters and rules) in the ODP that apply to the ONLs of the Wakatipu Basin. When he appeared before us in Wanaka, counsel for Allenby Farms Limited, Crosshill Farms Limited and Mt Cardrona Station Limited, Mr Goldsmith, argued that when the Environment Court identified in its Decision C180/99 the desirability of a separate and more restricted policy regime for the Wakatipu Basin ONLs, it had good reason for doing so (based on the greater development pressures in the Wakatipu Basin, the extent of existing development activity and the visibility of the ONLs from the Basin floor). Mr Goldsmith submitted that there is no evidence that those factors do not still apply, and that accordingly the different policy approaches for Wakatipu Basin ONLs, compared to the ONL's in the balance of the District should be retained.

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300 Refer the recommendations of Report 16

389. This relief was not sought by Mr Goldsmith's clients in their submissions and so we have regarded it as an example of a submitter (or in this case three submitters) seeking to rely on the collective scope provided by other unspecified submissions (i.e. the point discussed earlier in this report). In this particular case, the argument Mr Goldsmith pursued arguably falls within the jurisdiction created by the submissions already noted seeking deletion of the whole of Section 3.2.5 and we have accordingly considered it on its merits.

390. Discussing the point with us, Mr Goldsmith agreed that the Environment Court's key findings were based on evidence indicating a need for stringent controls on the Wakatipu Basin and a lack of evidence beyond that. While he agreed that the lack of evidence before the Environment Court in 1999 should not determine the result in 2016 (when we heard his submissions), Mr Goldsmith submitted that there was no evidence before us that the position has changed materially. We note, however, that Mr Haworth suggested to us that the contrary was the case, and that development pressure had increased significantly throughout the District since the ODI was written[301]. Mr Haworth provided a number of examples of residential development having been consented in the ONLs of the Upper Clutha and also drew our attention to the tenure review process having resulted in significant areas of freehold land becoming available for subdivision and development within ONLs.

391. In addition, the Environment Court's decision in 1999 reflected the then understanding of the role of section 6(b) of the Act in the context of Part 2 as a whole[302]. That position has now been overtaken by the Supreme Court's decision in *King Salmon,* that we have discussed extensively already. The Supreme Court's decision means that we must find a means to protect ONLs and ONFs as part of the implementation of the RPS and, in consequence, the sustainable management of the District's natural and physical resources. In that context, we think that a different policy regime between ONLs in different parts of the district might be justified if they varied in quality (if all of them are outstanding, but some are more outstanding than others). But no party sought to advance an argument (or more relevantly, called expert evidence) along these lines.

392. We accordingly do not accept Mr Goldsmith's argument. We find that it is appropriate to have one objective for the ONLs and ONFs of the District and that that objective should be based upon protecting the landscape and visual amenity values and the natural character of landscapes and features from more than minor adverse effects that are not temporary in nature.

393. We do not consider that reference is required to wāhi tupuna given that this is addressed in section 3.2.7.

394. We record that we have considered the submission of Remarkables Park Limited[303] and Queenstown Park Limited[304] that, in effect, a similar approach to that in the ODP should be taken, with a very general objective supported by more specific policies. The structure of the PDP is, at this strategic level, one objective for ONLs and ONFs, and another objective for other rural landscapes. We regard that general approach as appropriate. Once one gets to the point of determining that there should be an objective that is specific to ONLs and ONFs, it is not

301 J Haworth, Submissions and Evidence at page 16
302 Refer C180/99 at paragraph [69]
303 Submission 806
304 Submission 807

appropriate, for the reasons already canvassed, that the outcome aspired to is one which provides for avoiding, remedying or mitigating adverse effects[305].

395. The last point that we need to examine before concluding our recommendation is whether an objective that does not provide for protection of ONLs and ONFs from inappropriate subdivision, use and development fails to provide for critical infrastructure and/or fails to give effect to the NPSET 2008.

396. QAC expressed concern that an overly protective planning regime for ONLs and ONFs would constrain its ability to locate and maintain critical meteorological monitoring equipment that must necessarily be located at elevated locations around Queenstown Airport which are currently classified as ONLs or ONFs. QAC also noted that Airways Corporation operates navigational aids on similar locations which are critical to the Airport's operations[306]. QAC did not provide evidence though that suggested that the kind of equipment they were talking about would have anything other than a minor effect on the ONLs or ONFs concerned.

397. Transpower New Zealand also expressed concern about the potential effect of an overly protective regime for ONLs on the National Grid. The evidence for Transpower was that, there is an existing National Grid line into Frankton through the Kawarau Gorge and while the projected population increases would suggest a need to upgrade that line within the planning period of the PDP, the nature of the changes that would be required would be barely visible from the ground. The Transpower representatives who appeared before us accepted that that would be in the category of "*minor"* adverse effects. They nevertheless emphasised the need to provide for currently unanticipated line requirements that would necessarily have to be placed in ONLs given that the Wakatipu Basin is ringed with ONLs (assuming the notified plan provisions in this regard remain substantially unchanged). Counsel for Transpower, Ms Garvan, and Ms Craw, the planning witness for Transpower, drew our attention to Policy 2 of the NPSET 2008, which reads:

"In achieving the purpose of the Act, decision-makers must recognise and provide for the effective operation, maintenance, upgrading and development of the electricity transmission network.[307]"

398. They also emphasised the relevance of Policy 8 of the NPSET 2008, which reads as follows:

"*In rural environments, planning and development of the transmission system should seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character and areas of high recreation value and amenity and existing sensitive activities."*

399. Ms Craw also referred us to the provisions of the Proposed RPS suggesting that the PDP is inconsistent with the Proposed RPS. We note in this regard that Policy 4.3.3 of the Proposed RPS reads:

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305 We note the planning evidence of Mr Tim Williams in this regard: Mr Williams was of the opinion (stated at his paragraph 14) that high-level direction for protection and maintenance of the District's nationally and internationally revered landscapes was appropriate.

306 Consideration of such equipment now needs to factor in the provisions in the Proposed RPS indicating that it is infrastructure, whose national and regional significance should be recognised (Policy 4.3.2(e)).

307 The NPSET 2008 defines the electricity transmission network to be the National Grid.

*"*Minimise *adverse effects from infrastructure that has national or regional significance, by all of the following:*

…

*(b) Where it is not possible to avoid locating in the areas listed in (a) above [*which includes outstanding natural features and landscapes*], avoiding significant adverse effects on those values that contribute to the significant or outstanding nature of those areas;…"*

400. We tested the ambit of the relief Transpower was contending might be required to give effect to the NPSET 2008, by suggesting an unlikely hypothetical example of a potential new national grid route[308] and inviting comment from Transpower's representatives as to whether the NPSET 2008 required that provision be made for it. Counsel for Transpower accepted that the PDP was not required to enable the National Grid in every potential location, but rejected any suggestion that the PDP need only provide for Transpower's existing assets and any known future development plans[309].

401. We enquired of counsel whether, if the NPSET 2008 requires the PDP to enable the National Grid in circumstances where that would have significant adverse effects on ONLs or ONFs, the NPSET 2008 might itself be considered to be contrary to Part 2 and therefore within one of the exceptions that the Supreme Court noted in *King Salmon* to the general principle that a Council is not able to circumvent its obligation to give effect to a relevant National Policy Statement by a reference to an overall broad judgement under section 5.

402. We invited Counsel for Transpower New Zealand Limited to file further submissions on this point.

403. Unfortunately, the submissions provided by Counsel for Transpower did not address the fundamental point, which is that the Supreme Court expressly stated that:

"…. If there was an allegation going to the lawfulness of the NZCPS, that would have to be resolved before it could be determined whether a decision-maker who gave effect to the NZCPS as it stood was necessarily acting in accordance with pt 2."[310]

404. To the extent that counsel for Transpower relied on a recent High Court decision addressing the relevance of the NPSFM 2011 to a Board of Inquiry decision[311], we note that the consistency or otherwise of the NPSFM 2011 with Part 2 of the Act was not an issue in that appeal. Rather, the point of issue was whether the Board of Inquiry had correctly given effect to the NPSFM 2011.

405. More recently, the High Court in *Transpower New Zealand Ltd v Auckland Council*[312] has held that national policy statements promulgated under section 45 of the Act (like the NPSET) are not an exclusive list of relevant matters and do not necessarily encompass the statutory purpose. The High Court found specifically[313] that the NPSET is not as all-embracing of the Act's purpose set out in section 5 as is the New Zealand Coastal Policy Statement and that a decision-maker can properly consider the Act's statutory purpose, and other Part 2 matters,

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308 From Frankton to Hollyford, via the Routeburn Valley

309 Addendum to legal submissions on behalf of Transpower New Zealand Limited dated 21 March 2016 at paragraph 2.

310 *King Salmon* at [88]

311 *Hawke's Bay and Eastern Fish and Game Council v Hawke's Bay RC* [2015] 2 NZLR 688

312 [2017] NZHC 281

313 Ibid at [84]

as well as the NPSET, when exercising functions and powers under the Act. As the Court observed, that does not mean we can ignore the NPSET; we can and should consider it and give it such weight as we think necessary.

406. Ultimately, we do not think we need to reach a conclusion as to whether the NPSET 2008 is consistent with Part 2 of the Act for the purposes of this report, because the NPSET 2008 does not expressly say that Transpower's development and expansion of the national grid may have significant adverse effects on ONLs or ONFs. Policy 8 says that Transpower must seek to avoid adverse effects, but gives no guidance as to how rigorously that policy must be pursued. Similarly, Policy 2 gives no indication as to the extent to which development of the National Grid must be provided for. It might also be considered that a contention that Transpower should be able to undertake developments with significant adverse effects on ONLs would be contrary to the Proposed RPS policy Ms Craw relied on (given that a significant adverse effect on ONLs will almost certainly be a significant adverse effect on the values that make the landscape outstanding).

407. In circumstances where Transpower did not present evidence suggesting any compelling need to provide for significant adverse effects of the National Grid on ONLs and ONFs, we do not think that the primary objective of the PDP should be qualified to make such provision.

408. We accept Mr Renton, giving evidence for Transpower, did suggest that there might be cause to route a National Grid line up the Cardrona Valley and over the Crown Range Saddle. However, he did not present this as anything more than a hypothetical possibility.

409. We note that the Environment Court came to a similar conclusion when considering the relevance of the NPSET 2008 to objectives and policies governing protection of indigenous biodiversity in the Manawatu-Wanganui Region, commenting[314]:

"As with the NPSREG, we do not find that the NPSET gives electricity transmission activities so special a place in the order of things that it should override the regime that applies to indigenous biodiversity. In any case, we were not persuaded that this regime would present insurmountable obstacles to continuing to operate and expand the electricity transmission network to meet the needs of present and future generations."

410. In summary, while we think that there does need to be additional provision for infrastructure, including, but not limited to, the National Grid, in the more specific policies in Chapter 6 implementing this objective, we recommend that Objective 3.2.5.1 be amended to read as follows:

"The landscape and visual amenity values and the natural character of Outstanding Natural Landscapes and Outstanding Natural Features are protected from adverse effects of subdivision, use and development that are more than minor and/or not temporary in duration."

411. Turning to non-outstanding landscapes, Objective 3.2.5.2 as notified read:

"Minimise the adverse landscape effects of subdivision, use or development in specified Rural Landscapes."

412. A large number of submissions sought to amend this objective so as to create a greater range of acceptable adverse effects. Suggestions included:

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314 *Day et al v Manawatu-Wanganui* RC [2012] NZEnvC 182 at 3-127

a. Substituting recognition of rural landscape values in conjunction with making provision for management of adverse effects[315];
b. Providing for recognition of those values with no reference to adverse effects[316];
c. Providing for management, or alternatively avoiding, remedying or mitigating of adverse effects[317];
d. Inserting reference to inappropriate subdivision use and development[318];
e. Shifting the focus from adverse landscape effects to adverse effects on natural landscapes[319];
f. Incorporating reference to the potential to absorb change, among other things by incorporating current Objective 3.2.5.3 as a policy under this objective[320].

413. In his Section 42A Report, Mr Paetz expressed the view that while the word '*minimise'* was utilised in this objective to provide greater direction, that level of direction might not be appropriate in rural areas not recognised as possessing outstanding landscape attributes. He recommended alternative wording that sought to maintain and enhance the landscape character of the Rural Landscape Classification, while acknowledging the potential "*for managed and low impact change"*. When Mr Paetz appeared to give evidence, we discussed with him whether the two elements of his suggested amended objective (*'maintain and enhance'* v *'managed and low impact change'*) were internally contradictory[321].

414. In his reply evidence, Mr Paetz returned to the point[322]. He acknowledged that there is at least probably, some tension or ambiguity introduced by the combination of terms and revised his recommendation so that if accepted, the objective would read:

"The quality and visual amenity values of the Rural Landscapes [the amended term for the balance of rural areas that Mr Paetz recommended] *are maintained and enhanced."*

415. The common feature of the relief sought by a large number of the submissions summarised above is that, if accepted, they would have the result that the objective for non-outstanding rural landscapes would not identify any particular outcome against which one could test the success or otherwise of the policies seeking to achieve the objective.

416. We have discussed earlier the need for the PDP objectives to be meaningful and to identify a desired environmental outcome. Many of the submissions on this objective, if accepted, would not do that.

417. Accordingly, we do not recommend that those submissions be accepted, other than that they might be considered to be 'accepted in part' by our recommendation below.

418. The starting point for determining the appropriate objective for non-outstanding rural landscapes is to identify the provisions in the superior documents governing this issue. As

315 Submissions 437, 456, 513, 522, 532, 534, 537, 608; Supported in FS1071, FS1097, FS1256, FS1286, FS1292, FS1322 and FS1349; Opposed in FS1034 and FS1120
316 Submission 515, 531
317 Submissions 502, 519, 598, 607, 615, 621, 624, 696, 716, 805: Supported in FS1012, FS1015, FS10976, FS1105 and FS1137; Opposed in FS 1282 and FS1356
318 Submissions 502, 519, 696: Supported in FS1012, FS1015 and FS1097; Opposed in FS1282 and FS1356
319 Submissions 502, 519: Supported in FS1012, FS1015 and FS1097; Opposed in FS1282 and FS1356
320 Submission 806
321 As Ms Taylor, giving planning evidence for Matukituki Trust, suggested to us was the case.
322 M Paetz, Reply Evidence at 5.25

already discussed, the RPS focuses principally on protection of ONLs and ONFs. The only objectives applying to the balance of landscapes and features are expressed much more generally, with non-outstanding landscapes considered as natural resources (degradation of which is sought to be avoided, remedied or mitigated[323]) or land resources (the sustainable management of which is sought to be promoted[324]). In terms of the spectrum between more directive and less directive higher other provisions identified by the Supreme Court in *King Salmon*[325], these objectives provide little clear direction, and consequently considerable flexibility in their implementation.

419. The national policy statements likewise do not determine the general objective for non-outstanding landscapes, although both the NPSET 2008 and the NPSREG 2011, in particular need to be borne in mind.

420. The Proposed RPS is of rather more assistance. As previously noted, the Proposed RPS has policies both for ONLs and ONFs, and for highly valued (but not outstanding) natural features and landscapes, under the umbrella of an objective[326] seeking that significant and highly-valued natural resources be "*identified, and protected or enhanced".*

421. Policy 3.2.5 clarifies that "*highly-valued"* natural features and landscapes are valued for their contribution to the amenity or quality of the environment.

422. Policy 3.2.6 states that highly-valued features and landscapes are protected or enhanced by "*avoiding significant adverse effects on those values which contribute to the high value of the natural feature* [or] *landscape"* and avoiding, remedying or mitigating other adverse effects.*"*.

423. The approach of the Proposed RPS to identification of "*highly-valued"* natural features and landscapes appears consistent with the relevant provisions in Part 2 of the Act. The first of these is section 7(c) pursuant to which we are required to have particular regard to "*the maintenance and enhancement of amenity values".*

424. The second is section 7(f) of the Act, pursuant to which, we are required to have particular regard to "*maintenance and enhancement of the quality of the environment"*.

425. These provisions were the basis on which the Environment Court determined the need to identify "*visual amenity landscapes",* which were separate from and managed differently to "*other rural landscapes"* in 1999. The Environment Court did not, however, identify which landscapes were in which category. In fact, it found that it had no jurisdiction to make a binding determination (for example, which might be captured on the planning maps[327]). In an earlier decision[328], however, the Court observed that an area had to be of sufficient size to qualify as a '*landscape'* before it could be classed as an ORL. It pointed to the Hawea Flats area as the obvious area most likely to qualify as an other rural landscape (ORL) and indicated that the area now known as the Hawthorn Triangle in the Wakatipu Basin might do so[329].

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323 RPS Objective 5.4.2

324 RPS Objective 5.4.1

325 *King Salmon* at [127]

326 Proposed RPS, Objective 3.2

327 *Wakatipu Environmental Society Incorporated and Ors v Queenstown Lakes District Council* C92/2001

328 *Lakes District Rural Landowners Society Incorporated and Ors v Queenstown Lakes District Council* C75/2001

329 Refer paragraph [27]

426. We should address here an argument put to us by counsel for GW Stalker Family Trust and others that section 7(b) operates, in effect, as a counterweight to section 7(c).

427. Section 7(b) requires that we have particular regard, among other things, to "*the efficient use and development of natural and physical resources*". Mr Goldsmith characterised section 7(b) as encouraging an enabling regime allowing landowners to develop their land in order to generate social and economic benefits, and section 7(c) as acting as a brake on such development.

428. We do not accept that to be a correct interpretation either of section 7(b), or of its inter-relationship with section 7(c), or indeed with the other subsections of section 7.

429. Our understanding of efficiency and of efficient use and development of natural and physical resources is that it involves weighing of costs and benefits of a particular proposal within an analytical framework. The Environment Court has stated that consideration of efficiency needs to take account of all relevant resources and desirably quantify the costs and benefits of their use, development and protection[330]. Quantification of effects on non-monetary resources like landscape values may not be possible[331] and the High Court has held that it is not necessary to quantify all benefits and costs to determine a resource consent application[332]. We do not understand, however, the Court to have suggested that non-monetary costs are thereby irrelevant to the assessment of the most efficient outcome.

430. In a Proposed Plan context, we have the added direction provided by section 32 that quantification of costs and benefits is required if practicable. Irrespective of whether the relevant costs and benefits are quantified, though, we think it is overly simplistic to think that it is always more efficient to enable development of land to proceed. One of the purposes of the inquiry we are engaged upon is to test whether or not this is so.

431. It follows that the weighting given to maintenance and enhancement of amenity values in section 7(c) forms part of the weighing of costs and benefits, not a subsequent step to be considered once one has an initial answer based on a selective weighing of costs and benefits, so as potentially to produce a different conclusion.

432. In its earlier decision[333], the Court emphasised the need to identify what landscapes fall within particular categories, as an essential first step to stating objectives and policies (and methods) for them[334]. We adopt that approach. While we acknowledge that the submissions on mapping issues are being resolved by a differently constituted Panel, we take the approach of the notified PDP as the appropriate starting point. In the Upper Clutha Basin, rural areas south of Lakes Hawea and Wanaka were generally (the Cardrona Valley is an exception) identified as RLC. Within the Wakatipu Basin (including the Crown Terrace), there are ONF's identified, but the bulk of the rural areas of the Basin are identified as Rural Land Classification (or RLC) on the PDP maps as notified.

433. The evidence of Dr Marion Read was that farming is the dominant land management mechanism in the rural areas of the District, but that there is an observable difference between the Wakatipu Basin and the Upper Clutha Basin; the latter is much more extensive farming

330 *Lower Waitaki River Management Society Inc v Canterbury RC* C80/2009

331 Or not with any certainty

332 *Meridian Energy Ltd v Central Otago DC* CIV 2009-412-000980

333 C180/99

334 See in particular paragraphs [57] and [97]

than intensive. Dr Read was careful to emphasise that her description of the Wakatipu Basin as being "*farmed"* did not imply that landholdings were being operated as economically viable farming enterprises. Rather, it was a question of whether the land use involved cropping, stocking, or other farming activities.

434. For this reason, she did not believe that her evidence was materially different from that of Mr Baxter, who was the only other landscape expert that we heard from. Mr Baxter's concern was to emphasise the extent to which rural living now forms part of the character of the Wakatipu Basin, but when we asked whether the Basin was still rural in character, he confirmed that his opinion was that it retained its pastoral character notwithstanding the extent of rural living developments. He also agreed that the balance of open space in the Basin was essential, drawing our attention in particular to the need to protect the uninterrupted depth of view from roads.

435. The evidence we heard from Dr Read and Mr Baxter also needs to be read in the light of the findings of the Environment Court in the chain of cases leading to finalisation of the ODP.

436. Even in 1999, the Environment Court clearly regarded rural living developments as having gone too far in some areas of the Wakatipu Basin. It referred to "*inappropriate urban sprawl"* on Centennial Road in the vicinity of Arrow Junction and along parts of Malaghan Road on its south side[335]. It concluded in relation to the non-outstanding landscapes of the Basin:

"In the visual amenity landscape (inside the outstanding natural landscape) structures can be built, with appropriate remedial work or mitigation down to some kind of density limit <u>that avoids inappropriate domestication</u>" [emphasis added]

437. We should note that a footnote linked to remedial work in the passage quoted states as an example of appropriate remedial work, removal of inappropriate houses in the adjoining natural landscape.

438. Elsewhere[336] the Court described '*urban sprawl*' as a term referring to undesirable domestication of a landscape. The Court referred to domestication as being evidenced, among other things, by the chattels or fixtures (e.g. clothes lines/trampolines) that accumulate around dwelling houses.

439. The Court returned to this point in a subsequent decision[337], agreeing with one of the expert witnesses who had given evidence before it that a stretch of the south side of Malaghan Road some 900 metres long containing 11 residential units within a rectangular area containing 22 hectares constituted "*inappropriate over-domestication"*. The Court stated that future development on this and other rural scenic roads, that form a ring around the Basin needed to be "*tightly controlled"*.

440. Dr Read gave evidence that since then, a substantial number of building platforms have been consented in the Wakatipu Basin, and to a lesser extent in the Upper Clutha Basin, suggesting to us an even greater need for clear direction as to the environmental outcomes being sought by the PDP[338].

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335 See 180/99 at [136]

336 C180/99 at Paragraph [155]

337 C186/2000 at [38]

338 We note also the information to similar effect supplied under cover of counsel for the Council's memorandum dated 18 March 2016

441. Picking up on the Court's identification of over-domestication as the outcome that is not desired in rural areas, we think that the emphasis of the objective needs to be on rural character and amenity values, rather than as Mr Paetz suggested, the quality and visual amenity values so that it is directed at the aspects of environmental quality that are highly valued (employing the Proposed RPS test) and which are potentially threatened by further development.

442. Turning to the desired outcome, we have some concern that Policy 3.2.5 is both internally contradictory (combining a *'protect and enhance*' focus with avoidance only of significant adverse effects) and inconsistent with sections 7(e) and 7(f) of the Act that support retention of a maintenance and enhancement outcome, notwithstanding the evidence we heard suggesting that this would pose too high a test.[339]

443. Put more simply, we think that the objective needs to be that rural areas remain rural in character. We note that rural character is mainly an issue of appearance, but not solely so[340].

444. Policy 5.3.1 of the Proposed RPS supports that approach with its focus on enabling farming, minimising the loss of productive soils and minimising subdivision of productive rural land into smaller lots.

445. The need to provide greater direction suggests to us that there is merit in Queenstown Park Ltd's submission that Objective 3.2.5.3 might be incorporated as a component of Objective 3.2.5.2. The precise relief sought is that it be a policy but for reasons that will be apparent, we think that it might provide more value as an element of the Objective itself. As notified, Objective 3.2.5.3 read:

"Direct new subdivision, use or development to occur in those areas which have potential to absorb change without detracting from landscape and visual amenity values."

446. Most of the submissions on this objective were focussed on the word '*direct*', seeking that it be softened to '*encourage'*[341]. Mr Chris Ferguson suggested in his planning evidence that should be "*encourage and enable",* but we could not identify any submission that would support that extension to the relief sought in submissions[342] and so we have not considered that possibility further.

447. One submitter[343] sought that the ambit of this objective be limited to urban use or development.

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339 E.g. from Mr Jeff Brown who supported a "recognise and manage" approach that in our view, would not clearly signal the desired outcome.

340 Mr Tim Williams suggested to us that spaciousness, peace and quiet and smell were examples of landscape values going beyond the visual, albeit that he was of the view that the visual values were the key consideration.

341 Submissions 513, 515, 519, 522, 528, 531, 532, 534, 535, 537, 608: Supported in FS1015, FS1097, FS1256, FS1286, FS1292 and FS1322; Opposed in FS1034, FS1068, FS1071, FS1120, FS1282 and FS1356

342 Mr Ferguson did not himself identify any submission he was relying on.

343 Submission 600: Supported in FS1209, Opposed in FS1034

448. Another submitter[344] sought that the extent to which adverse effects were controlled be qualified by inserting reference to *'significant'* detraction from landscape and visual amenity values.

449. Some submissions[345] suggested deleting reference to detraction from the identified values, substituting the words *"while recognising the importance of".*

450. Another suggestion[346] was to explicitly exempt development of location-specific resources.

451. Mr Paetz recommended acceptance of the submission that would limit the focus of the objective to urban activities. In his Section 42A Report Mr Paetz expressed the view that rural subdivision and development could be contemplated on more of a case by case, effects-based perspective, whereas it was more appropriate for urban development to be directed to particular locations "*with a firmer policy approach taken on spatial grounds'*.

452. For the reasons already expressed, we do not agree that subdivision, use and development should be the subject of a case by case merits assessment with little direction from the PDP. As Dr Read noted in her evidence before us, there is a problem with cumulative effects from rural living developments, particularly in the Wakatipu Basin. We consider that it is past time for the PDP to pick up on the Environment Court's finding in 1999 that there were areas of the Wakatipu Basin that required careful management, because they were already at or very close to the limit at which over domestication would occur.

453. Dr Read's report dated June 2014[347] referenced in the section 32 analysis supporting Chapter 6 identifies the rural areas within the Wakatipu Basin where, in her view, further development should be avoided, as well as where increased development might be enabled, on a controlled basis.

454. The Hearing Panel considering submissions on the Rural Chapters (21-23) requested that the Council consider undertaking a structure planning exercise to consider how these issues might be addressed in greater detail. The Council agreed with that suggestion and the end result is a package of provisions forming part of the Stage 2 Variations providing greater direction on subdivision, use and development in the non-outstanding rural areas of the Wakatipu Basin. As at the date of our finalising this report, submissions had only just been lodged on those provisions and so it is inappropriate that we venture any comment on the substance of those provisions. However, we note that hearing and determination of those submissions will provide a mechanism for management of the adverse cumulative effects we have noted, even if the shape the provisions take is not currently resolved.

455. One side-effect of the rezoning of rural Wakatipu Basin land is that there now appears to be no non-outstanding Rural Zoned land in the Basin. Although some provisions of Chapter 6 (as notified) have been deleted or amended, our reading of key policies that remain (as discussed in Part D of this report) is that the landscape categories still only apply in the Rural Zone. We have not identified any submission clearly seeking that this position be changed so that the categorisations would apply more broadly.

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344 Submission 643

345 Submissions 513, 515, 522, 528, 531, 532, 534, 535, 537: Supported in FS1097, FS1256, FS1286, FS1292 and FS1322; Opposed in FS1068, FS1071, FS1120

346 Submissions 519, 598: Supported in FS1015, FS1287; Opposed in FS1091, FS1282 and FS1356

347 Read Landscapes Ltd, *'Wakatipu Basin Residential Subdivision and Development Landscape Assessment'*

456. It follows that this particular objective, together with other strategic objectives and policies referring to (as we recommend below they be described) Rural Character Landscapes, does not apply in practice in the Wakatipu Basin. If this is not what the Council intends, we recommend it be addressed in a further variation to the PDP.

457. Lastly, we agree with Submission 643 (and the planning evidence of Mr Wells) that some qualification is required to ensure that this is not a '*no development*' objective. That would not be appropriate in a non-outstanding rural environment.

458. Providing a complete exemption for location-specific resources would, however, go too far in the opposite direction. A provision of this kind could perhaps be justified with respect to use and development of renewable energy resources, relying on the NPSREG 2011, but we heard no evidence of any demand for such development in the non-outstanding rural areas of the District. In any event, the submission that such provision be made was advanced on behalf of mining interests who were clearly pursuing a different agenda.

459. Because the focus of this objective is on rural character and the landscapes in question are only a relatively small subset of the rural landscapes of the district, we recommend that the term utilised on the planning maps and in the PDP generally for these landscapes is '*Rural Character Landscapes'.*

460. In summary, for all of these reasons, we recommend that Objectives 3.2.5.2 and 3.2.5.3 be combined in an amended Objective 3.2.5.2 reading as follows:

"The rural character and visual amenity values in identified Rural Character Landscapes are maintained or enhanced by directing new subdivision, use or development to occur in those areas that have the potential to absorb change without materially detracting from those values."

461. Objective 3.2.5.4 as notified read as follows:

"Recognise there is a finite capacity for residential activity in rural areas if the qualities of our landscapes are to be maintained."

462. Most of the focus of submissions on this objective was on the word "*finite*". The issue, as it was put by Mr Tim Williams[348] to us, is that without an identification of what that finite capacity is, and where current development is in relation to that capacity, the objective serves little purpose. Mr Williams supported greater direction as to which areas have capacity to absorb further development, and which areas do not[349]. Many of the submissions also sought that the objective provide for an appropriate future capacity for residential activity.

463. In his reply evidence, Mr Paetz recommended that this objective be revised to read:

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348 Giving planning evidence for Skyline Enterprises Ltd, Totally Tourism Ltd, Barnhill Corporate Trustee Ltd & DE, ME Bunn & LA Green, AK and RB Robins & Robins Farms Ltd

349 As did Ms Robb, counsel for the parties Mr Williams was giving evidence for, and Mr Goldsmith, counsel for GW Stalker Family Trust and Others

"The finite capacity of rural areas to absorb residential development is considered so as to protect the qualities of our landscapes."

464. As restated, we do not consider the objective adds any value that is not already captured by our recommended revised Objective 3.2.5.2/3.

465. We recommend that it be deleted.

466. In summary, we consider that the objectives recommended are individually and collectively the most appropriate way to achieve the purpose of the Act as it relates to landscapes in the District.

2.12. Section 3.2.6 – Community Health and Safety

467. As notified, this goal read:

"Enable a safe and healthy community that is strong, diverse and inclusive for all people."

468. A number of submissions supported this goal.

469. Submission 197 opposed it on the basis that large employers in the District should be responsible for providing affordable accommodation for their employees.

470. Submission 806 sought removal of unnecessary repetition. The reasons provided for the submission suggest that the area of repetition referred to is in relation to urban development.

471. Submission 807 sought that the whole of Section 3.2.6 should be deleted, or in the alternative the number of objectives and policies should be significantly reduced.

472. Mr Paetz did not recommend any change to this goal.

473. The focus of the RPS (Objective 9.4.1) is on sustainable management of built environment as a means, among other things, to meet people's needs. This is both extremely general and more narrowly directed than the PDP goal. Policy 9.5.5 gets closer, with a focus on maintaining, and where practicable enhancing, quality of life, albeit that the means identified for doing so are generally expressed.

474. The Proposed RPS has a chapter entitled "*Communities in Otago are resilient, safe and healthy*"[350]. The focus of objectives in the chapter is on natural hazards, climate change, provision of infrastructure and the supply of energy, management of urban growth and development, and of hazardous substances. The following chapter is entitled "*People are able to use and enjoy Otago's natural and built environment"*, with objectives focussing on public access to the environment, historic heritage resources, use of land for economic production and management of adverse effects.

475. Policy 1.1.3 of the Proposed RPS focuses more directly on provision for social and cultural wellbeing and health and safety, albeit in terms providing flexibility as to how this is achieved, except in relation to human health (significant adverse effects on which must be avoided).

476. We regard the higher level focus of these chapters as supporting the intent of this goal, and Policy 1.1.3 as providing guidance as to how it might be framed.

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350 Proposed RPS, Chapter 4

477. At present, this goal is framed as a policy, commencing with a verb.

478. Looking at what outcome is being sought here and the capacity of the District Plan to achieve that outcome, we take the view that this particular higher-level objective is better framed in section 5 terms; emphasis is therefore required on people in communities providing for their social, cultural and economic well being and their health and safety. As above, this is also the direction Policy 1.1.3 of the Proposed RPS suggests.

479. So stated, there is an area of overlap with Goal/Objective 3.2.2 (as Submission 806 observes), but we nevertheless regard this as a valuable high-level objective, particularly for the non-urban areas of the District.

480. Accordingly, we recommend that this goal/high-level objective be reframed to read:

"The District's residents and communities are able to provide for their social, cultural and economic wellbeing and their health and safety."

481. We regard this, in conjunction with the other high-level objectives it has recommended, to be the most appropriate way to achieve the purpose of the Act.

2.13. Section 3.2.6 – Additional Objectives

482. We have already addressed Objectives 3.2.5.5, 3.2.6.1, 3.2.6.2 and 3.2.6.3, recommending that they be amalgamated into what was 3.2.2.1.

483. Objective 3.2.6.4 as notified read:

"Ensure planning and development maximises opportunities to create safe and healthy communities through subdivision and building design."

484. While the submissions on all of these objectives were almost universally in support, we view these matters, to the extent that they are within the ability of the PDP to implement[351], as being more appropriately addressed in the context of Chapter 4. We therefore accept the point made in Submission 807 summarised above, that the objectives in this section might be significantly pared back.

485. Although this leaves the higher-level objective without any more focused objectives unique to it, we do not regard this as an unsatisfactory end result. To the extent the goal/high-level objective relates to non-urban environments, these matters can be addressed in the more detailed plan provisions in other chapters. In summary, therefore, we are satisfied both the amendments and the relocation of the objectives in Section 3.2.6 we have recommended are the most appropriate way to achieve the purpose of the Act.

2.14. Section 3.2.7 – Goal and Objectives

486. Lastly in relation to Chapter 3 objectives, we note that the goal in Section 3.2.7 and the two objectives under that goal (3.2.7.1 and 3.2.7.2) are addressed in the Stream 1A Hearing Report (Report 2).

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[351] Provision of community facilities is more a Local Government Act issue than a matter for the PDP.

487. The revised version of these provisions in the amended Chapter 3 attached to this Report as Appendix 1 shows the recommendations of that Hearing Panel for convenience.

2.15. Potential Additional Goals and Objectives

Before leaving the strategic objectives of the PDP, we should note submissions seeking entirely new goals and/or objectives. We have already addressed some of those submissions above.

488. A number of submitters[352] sought insertion of a 'goal' specifically related to tourism, generally in conjunction with a new strategic objective and policy. We have already addressed the submissions related to objectives and policies for tourism. While important to the District, ultimately we consider tourism is an aspect of economic development and therefore covered by (now) higher order objective 3.2.1. We therefore recommend rejection of these submissions.

489. The Upper Clutha Tracks Trust[353] sought insertion of a new goal worded as follows:

"*A world class network of trails that connects communities."*

490. The submitter also sought a new objective to sit under that goal as well as a series of new policies.

491. The submitter did not appear so as to provide us with any evidential foundation for such change. In the absence of evidence, we do not regard the relief sought by the submitter as so obviously justified as a high-level objective of the PDP that it would recommend such amendments.

492. NZIA[354] likewise sought insertion of a new goal, worded as follows:

"Demand good design in all development."

493. Mr Paetz did not recommend acceptance of this submission. While we acknowledge that good design is a worthwhile aspiration, we see it as an aspect of development that might more appropriately be addressed in more detailed provisions that can identify what good design entails. We will return to the point in the context of Chapter 4 rather than as a discrete high-level objective of its own. Accordingly, we do not recommend acceptance of this submission.

494. Slopehill Properties Limited[355] sought a new objective (or policy) to enable residential units to be constructed outside and in addition to approved residential building platforms with a primary use of the increased density is to accommodate family. Mr Farrell gave planning evidence on this submission, supported by members of the Columb family who own property between Queenstown and Arthurs Point. Clearly, a case can be made to address situations like that of the Columb family where different generations of the same family seek to live in close proximity. The difficulty we see with an objective in the District Plan (or indeed a policy) providing for this situation is that there appears to be no safeguard against it being used on a large scale to defeat the objective seeking to retain the rural character of land outside existing

352 Submissions 607, 615, 621, 677: Supported in FS1097, FS1105, FS1117, FS1137, FS1152, FS1153, FS1330 and FS1345; Opposed in FS1035, FS1074, FS1312 and FS1364

353 Submission 625: Supported in FS1097; Opposed in FS1347

354 Submission 238: Opposed in FS1107, FS1157, FS1226, FS1234, FS1239, FS1242, FS1248 and FS1249

355 Submission 854: Supported in FS1286; Opposed in FS1349

urban areas. Certainly, Mr Farrell was not able to suggest anything to us. Nor was Mr Farrell able to quantify the potential implications of such an objective for the District more broadly.

495. In summary, while we accept that the Columbs' personal situation is meritorious, we cannot recommend acceptance of their submission against that background.

496. In summary, having reviewed the objectives we have recommended, we consider that individually and collectively, they are the most appropriate way to achieve the purpose of the Act within the context of strategic objectives, for the reasons set out in this report.

3. POLICIES

497. Turning to the policies of Chapter 3, given the direction provided by section 32, the key reference point of our consideration of submissions and further submissions is whether they are the most appropriate means to achieve the objectives we have recommended.

3.1. Policy 3.2.1.1.3 – Visitor Industry

498. Consistent with our recommendation that the objectives should be reordered with the initial focus on the benefits provided by the visitor industry, we recommend that what was Policy 3.2.1.1.3 be the first policy.

499. As notified, that policy read:

"Promote growth in the visitor industry and encourage investment in lifting the scope and quality of attractions, facilities and services within the Queenstown and Wanaka central business areas."

500. The submissions on this policy all sought to expand its scope beyond the Queenstown and Wanaka central areas. Many submissions have sought that the focus be district-wide. One submission[356] sought to link the promotion of visitor industry growth to maintenance of the quality of the environment.

501. When Real Journeys Limited appeared at the hearing, its representatives emphasised the need for provision for visitor accommodation facilities, not all of which could practically be located within the two town centres. They also took strong exception to the implication of Policy 3.2.1.1.3 that the quality of existing attractions, facilities and services for visitors (as distinct from their scope) needed improvement.

502. Mr Paetz recommended that the submissions be addressed by a minor amendment to the existing policy (to refer to Queenstown and Wanaka town centres rather than to their central business areas) consistent with his recommended objective, and a new policy framed as follows:

"Enable the use and development of natural and physical resources for tourism activity where adverse effects are avoided, remedied or mitigated".

503. We accept the thrust of the submissions and evidence we heard on this aspect of the PDP, that attractions, facilities and services for visitors are not and should not be limited to the Queenstown and Wanaka town centres. We also accept the logic of Mr Paetz's suggested

356 Submission 806

approach of providing for the visitor industry more broadly, but are concerned with the open-ended nature of the suggested broader policy.

504. In his Section 42A Report, Mr Paetz acknowledged that his recommending a policy focus on adverse effects being avoided, remedied or mitigated was not consistent with the general approach of the PDP seeking to minimise the use of that phrasing. He considered it appropriate in this context because the policy is not specific to the environmental effects it is concerned with. In Mr Paetz's view, a higher bar would be set in more sensitive landscapes or environments by other objectives and policies.

505. While this may be so, we consider that greater direction is required that this is the intention.

506. It seems to us that part of the issue is that visitor industry developments within the '*urban*' areas of the district outside the Queenstown and Wanaka town centres raise a different range of issues to visitor industry developments in rural areas. In the former, the objectives and policies for the zones concerned provide more detailed guidance. In the latter, the strategic objectives and policies focused on landscape quality and rural character provide guidance. Policy 5.3.1(e) of the Proposed RPS might also be noted in this context – it supports provision for tourism activities in rural areas "*of a nature and scale compatible with rural activities".* It is apparent to us that while some specific provision is required for visitor industry developments in rural areas, this is better located alongside other strategic policies related to the rural environment. We return to the point in that context.

507. We also identify some tension between a policy that seeks to '*promote growth'* in the visitor industry with recommended issues and objectives seeking to promote diversification in the District's economy. Consequently, we recommend that this wording be softened somewhat.

508. In summary, we recommend that Policy 3.2.1.1.3 be renumbered 3.3.1 as follows and amended to read as follows:

"Make provision for the visitor industry to maintain and enhance attractions, facilities and services within the Queenstown and Wanaka town centre areas and elsewhere within the District's urban areas and settlements at locations where this is consistent with objectives and policies for the relevant zone."

509. We consider that this policy, operating in conjunction with the other policies it will recommend, is the most appropriate way to achieve Objectives 3.2.1.1 and 3.2.1.2 as recommended above.

3.2. Policies 3.2.1.1.1 and 3.2.1.1.2 – Queenstown and Wanaka Town Centres

510. As notified these two policies read:

"3.2.1.1.1 Provide a planning framework for the Queenstown and Wanaka central business areas that enables quality development and enhancement of the centres as the key commercial hubs of the District, building on their existing functions and strengths.

3.2.1.1.2 Avoid commercial rezoning that could fundamentally undermine the role of the Queenstown and Wanaka central business areas as the primary focus of the District's economic activity."

511. Submissions on these policies reflected the submissions on Objective 3.2.1.1 discussed above, seeking to expand its scope to recognise the role of Frankton's commercial areas in relation to

Queenstown, and Three Parks in relation to Wanaka. Willowridge Developments Ltd[357] sought to confine both policies to a focus on the business and commercial areas of Queenstown and Wanaka. Queenstown Park Limited[358] also sought to soften Policy 3.2.1.1.2 so that it was less directive. NZIA[359] sought recognition that the Queenstown and Wanaka town centres play a broader role than just as commercial hubs.

512. In his reply evidence, Mr Paetz recommended:
   a. Consequential changes in the wording based on his recommended objective, to refer to Queenstown and Wanaka town centres;
   b. Amending Policy 3.2.1.1.1 to refer to the civic and cultural roles of the two town centres;
   c. Deletion of the word '*fundamentally*' from Policy 3.2.1.1.2;
   d. Addition of four new policies recognising the role of Frankton commercial areas and the importance of Queenstown Airport, and a further policy focused on Three Parks.

513. Addressing first the suggested amendments to Policies 3.2.1.1.1 and 3.2.1.1.2, we agree with Mr Paetz's recommendations with only a minor drafting change. NZIA make a good point regarding the broader role of the town centres. Similarly, the word '*fundamentally*' is unnecessary. Testing whether additional zoning could '*undermine*' the role of the existing town centres already conveys a requirement for a substantial adverse effect.

514. We also agree that, provided the separate roles of the Frankton and Three Parks are addressed, a strong policy direction is appropriate.

515. As a result, we recommend that Policies 3.2.1.1.1. and 3.2.1.1.2 be renumbered and amended to read as follows:

> *"3.3.2 Provide a planning framework for the Queenstown and Wanaka town centres that enables quality development and enhancement of the centres as the key commercial, civic and cultural hubs of the District, building on their existing functions and strengths.*
>
> *3.3.3 Avoid commercial rezoning that could undermine the role of the Queenstown and Wanaka town centres as the primary focus for the District's economic activity."*

516. We note that the provisions of the RPS related to management of the built environment[360] are too high level and generally expressed to provide direction on these matters. Policy 5.3.3 of the Proposed RPS, however, supports provisions which avoid "*unplanned extension of commercial activities that has significant adverse effects on the central business district and town centres, including on the efficient use of infrastructure, employment and services."*

517. As regards the new policies suggested by Mr Paetz for Frankton and Three Parks, we agree with the recommendations of Mr Paetz with five exceptions.

518. We recommend that reference to Frankton not be limited to the commercial areas of that centre because existing industrial areas play an important local servicing role (as recognised by the revised recommended objective above) and Queenstown Airport has a much broader role than solely "*commercial"*. We also consider that reference to "mixed-use' development

357 Submission 249: Opposed in FS1097

358 Submission 806: Supported in FS1012

359 Submission 238: Supported in FS1097 and FS1117; Opposed in FS1107, FS1157, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248, FS1249

360 RPS, Section 9.4

nodes is unnecessary. Having broadened the policy beyond commercial areas, the uses are obviously "mixed".

519. Secondly, Mr Paetz recommended that recognition of Queenstown Airport refer to its "*essential"* contribution to the prosperity and "*economic"* resilience of the District.

520. While Queenstown Airport plays an extremely important role, we take the view that categorising it as "*essential"* would imply that it prevailed over all other considerations. Given the competing matters that higher order documents require be recognised and provided for (reflecting in turn Part 2 of the Act), we do not regard that as appropriate.

521. We have also taken the view that the nature of the contribution Queenstown Airport makes is not limited to its economic contribution. The evidence for QAC emphasised to us that Queenstown Airport is a lifeline utility under the Civil Defence Emergency Management Act 2002 with a key role in planning and preparing for emergencies, and for response and recovery in the event of an emergency. We accordingly recommend that the word "*economic"* be deleted from Mr Paetz's suggested policy.

522. In addition, we have determined that greater direction is required (consistent with the objective we have recommended) regarding the function of the Frankton commercial area in the context of Mr Paetz's suggested policy that additional commercial rezoning that would undermine that function be avoided.

523. It follows that we do not accept the suggestion of Mr Chris Ferguson in his evidence that the new Frankton policy should only constrain additional zoning within Frankton. Mr Paetz confirmed in response to our question that his intention was that the policy should extend to apply to areas outside Frankton – most obviously Queenstown itself – and we agree that this is appropriate.

524. Lastly, we do not think it necessary to refer to "*future"* additional commercial rezoning given that any additional rezoning will necessarily be in the future.

525. In summary, we recommend four new policies numbered 3.3.4-3.3.7 and worded as follows:

"Provide a planning framework for the Frankton urban area that facilitates the integration of the various development nodes.

Recognise that Queenstown Airport makes an important contribution to the prosperity and resilience of the District.

Avoid additional commercial rezoning that will undermine the function and viability of the Frankton commercial areas as the key service centre for the Wakatipu Basin, or which will undermine increasing integration between those areas and the industrial and residential areas of Frankton.

Provide a planning framework for the commercial core of Three Parks that enables large format retail development."

526. We are satisfied that collectively these policies are the most appropriate way, in the context of high-level policies, to achieve Objectives 3.2.1.2-4 that we have recommended.

3.3. Policies 3.2.1.2.1 – 3 – Commercial and Industrial Services

527. Policy 3.2.1.2.3 as notified read:

"Avoid non-industrial activities occurring within areas zoned for industrial activities."

528. Submissions on this policy sought to soften its effect in various ways. Mr Paetz recommended that Submission 361 be accepted with the effect that non-industrial activities related to or supporting industrial activities might occur within industrial zones, but otherwise that the policy not be amended.

529. Policy 5.3.4 of the Proposed RPS is relevant on this point. It provides for restriction of activities in industrial areas that, among other things, may result in inefficient use of industrial land.

530. We accept in principle that, given the guidance provided by the Proposed RPS, the lack of land available for industrial development, and the general unsuitability of land zoned for other purposes for industrial use, non-industrial activities in industrial zones should be tightly controlled.

531. The more detailed provisions governing industrial zones are not part of the PDP, being scheduled for consideration as part of a subsequent stage of the District Plan review. At a strategic level, we recommend acceptance of Mr Paetz's suggested amendment with the effect that this policy (renumbered 3.3.8) would read:

"Avoid non-industrial activities not ancillary to industrial activities occurring within areas zoned for industrial activities."

532. We consider that this policy is the most appropriate way, in the context of high-level policies, to achieve the aspects of Objectives 3.2.1.3 and 3.2.1.5 related to industrial activities.

533. Policies 3.2.1.2.1 and 3.2.1.2.2 need to be read together. As notified, they were worded as follows:

"Avoid commercial rezoning that would fundamentally undermine the key local service and employment function role that the larger urban centres outside of the Queenstown and Wanaka Central Business Areas fulfil.

Reinforce and support the role that township commercial precincts and local shopping centres fulfil in serving local needs."

534. Submissions on Policy 3.2.1.2.1 sought either its deletion[361] or significant amendment to focus it on when additional commercial rezoning might be enabled[362]. Submissions on Policy 3.2.1.2.2 sought recognition of the role of industrial precincts in townships and broadening the focus beyond townships to commercial, mixed use and industrial zones generally, and to their role in meeting visitor needs[363].

535. Mr Paetz recommended relatively minor amendments to these policies, largely consequential on his recommendation that the role of Frankton be recognised with a separate policy regime.

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361 Submission 608: Opposed in FS1034

362 Submission 806

363 Submissions 726 and 806

536. Policy 5.3.3. of the Proposed RPS, already referred to in the previous section of our report, needs to be noted in this context also.

537. Logically, these policies should be considered in reverse order, addressing the positive role of township commercial precincts and local shopping centres first. We do not consider that it is necessary to both "*reinforce and support"* that role. These terms are virtually synonyms. We take the view, however, that greater direction is required in how such precincts and centres might be supported. We recommend reference to enabling commercial development that is appropriately sized for the role of those precincts and centres.

538. That is not to say that those areas do not have other roles, such as in meeting resident and visitor needs, and providing industrial services, but in our view, those are points of detail that can be addressed in the more detailed provisions of the PDP.

539. Mr Paetz suggested revision to Policy 3.2.1.2.1, to remove reference to the Queenstown and Wanaka town centres, would mean that there is an undesirable policy gap for centres within the Queenstown and Wanaka urban areas, but outside the respective town centres (apart from Frankton and Three Parks).

540. In summary, we recommend that these policies be renumbered 3.3.9 and 3.3.10, and amended to read:

"Support the role township commercial precincts and local shopping centres fulfil in serving local needs by enabling commercial development that is appropriately sized for that purpose.

Avoid commercial rezoning that would undermine the key local service and employment function role that the centres outside of the Queenstown and Wanaka town centres, Frankton and Three Parks fulfil."

541. We consider that these policies are the most appropriate way, in the context of high-level policies, to achieve objective 3.2.1.5.

3.4. Policies 3.2.1.3.1-2 – Commercial Capacity and Climate Change

542. As notified, these policies read:

"3.2.1.3.1 Provide for a wide variety of activities and sufficient capacity within commercially zoned land to accommodate business growth and diversification;

3.2.1.3.2 Encourage economic activity to adapt to and recognise opportunities and risks associated with climate change and energy and fuel pressures."

543. Submissions on Policy 3.2.1.3.1 either supported the policy as is[364] or sought that it be more overtly enabling[365]. One submission[366] sought amendment to remove reference to capacity and to insert reference to avoiding, remedying or mitigating adverse effects.

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364 Submissions 608: Opposed in FS1034

365 Submissions 615, 621, 716 and 807: Supported in FS1097, FS1105, FS1117, FS1137, FS1145

366 Submission 806

544. Submissions on 3.2.1.3.2 either supported the policy as is[367] or sought to delete reference to opportunities, and to energy and fuel pressures[368].

545. Mr Paetz recommended that the policies remain as notified.

546. We regard the current form of Policy 3.2.1.3.1 as appropriate. If it were amended to be more enabling, then reference would have to be made to management of adverse effects. Simply providing for avoiding, remedying or mitigating adverse effects on the environment, as suggested by Queenstown Park Limited, would provide insufficient direction for the reasons discussed already. The existing wording provides room for the nature of the provision referred to be fleshed out in more detailed provisions. We therefore recommend that Policy 3.2.1.3.1 be retained as notified other than to renumber it 3.3.11.

547. Turning to notified Policy 3.2.1.3.2, we have already discussed the provisions of both the RPS and the Proposed RPS related to climate change. While the former provides no relevant guidance, the Proposed RPS clearly supports the first part of the policy. While Policy 4.2.2(c) talks of encouraging activities that reduce or mitigate the effects of climate change, the reasons and explanation for the objective and group of policies addressing climate change as an issue note that it also provides opportunities. We therefore recommend rejection of the submission seeking deletion of reference to opportunities in this context.

548. We heard no evidence, however, of energy and fuel pressures such as would suggest that they need to be viewed in the same light as the effects of climate change.

549. Accordingly, we recommend renumbering Policy 3.2.1.3.2 as 3.3.12 and amending it to read:

"Encourage economic activity to adapt to and recognise opportunities and risks associated with climate change."

550. We consider that recommended Policies 3.3.11 and 3.3.12 are the most appropriate way, in the context of a package of high level policies, to achieve objectives 3.2.1.1, 3.2.1.2, 3.2.1.5, 3.2.1.6 and 3.2.1.9.

3.5. Policies 3.2.2.1.1 – 7 – Urban Growth

551. As notified, these policies provided for fixing of Urban Growth Boundaries (UGBs) around identified urban areas and detailed provisions as to the implications of UGBs both within those boundaries and outside them. In his Section 42A Report, Mr Paetz recommended that all of these policies be deleted from Chapter 3 because of the duplication they created with the more detailed provisions of Chapter 4. By his reply evidence, Mr Paetz had reconsidered that position and recommended that the former Policy 3.2.2.1.1 be reinserted, reading as follows:

"Apply Urban Growth Boundaries (UGBs) around the urban areas in the Wakatipu Basin (including Jacks Point), Arrowtown and Wanaka".

552. This policy also needs to be read with Mr Paetz's recommended amended Policy 3.2.5.3.1 reading:

"Urban development will be enabled within Urban Growth Boundaries and discouraged outside them."

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367 Submission 806

368 Submission 598: Supported in FS1287

553. The effect of the suggested Policy 3.2.5.3.1 is to materially amend the notified Policy 3.2.2.1.2 which sought avoidance of urban development outside of the UGBs.

554. We agree with Mr Paetz's underlying recommendation that most of the policies formerly in Section 3.2.2 should be shifted and amalgamated with the more detailed provisions in Chapter 4, both to avoid duplication and to better focus Chapter 3 on genuinely '*strategic*' matters.

555. We also agree with Mr Paetz's recommendation that the decision as to whether there should be UGBs and the significance of fixing UGBs for urban development outside the boundaries that are identified, are strategic matters that should be the subject of policies in Chapter 3.

556. Submissions on Policies 3.2.2.1.1 and 3.2.2.1.2 covered the range from support[369] to seeking their deletion[370].

557. One outlier is the submission from Hawea Community Association[371] seeking specific reference to a UGB for Lake Hawea Township. Putting aside Lake Hawea Township for the moment, within the extremes of retention or deletion, submissions sought softening of the effect of UGBs[372] or seeking to manage urban growth more generally, without boundaries on the maps[373].

558. The starting point, but by no means the finishing point, is that the ODP already contains a policy provision enabling the fixing of UGBs and the UGB has been fixed for Arrowtown after a comprehensive analysis of the site-specific issues by the Environment Court[374]. It is also relevant that Policy 4.5.1 of the Proposed RPS provides for consideration of the need for UGBs to control urban expansion, but does not require them.

559. The evidence for Council supported application of UGBs on urban design grounds (from Mr Bird) and in terms of protection of landscape and rural character values (Dr Read). The Council also rested its case on UGBs on infrastructure grounds and Mr Glasner's evidence set out the reasons why infrastructure constraints and the efficient delivery of infrastructure might require UGBs. However, his answers to the written questions that we posed did not suggest that infrastructure constraints (or costs) were actually an issue either in the Wakatipu Basin or the Upper Clutha Basin, where the principal demand for urban expansion exists. Specifically, Mr Glasner's evidence was that the only areas where existing or already planned upgrades to water supply and sewerage systems would not provide sufficient capacity for projected urban growth would be in Gibbston Valley and at Makarora. To that extent, Mr Glasner's responses tended to support the submissions we heard from Mr Goldsmith[375]. Mr Glasner did say, however, that the UGBs would be a key tool for long term planning, in terms of providing certainty around location, timing, and cost of infrastructure investments. We heard no expert evidence that caused us to doubt Mr Glasner's evidence in this regard.

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369 Submission 719

370 Submission 806

371 Submission 771, see also Submission 289 to the same effect

372 Submission 807 seeking in the alternative provision for "limited and carefully managed opportunities for urban development outside the Urban Growth Boundary": Opposed in FS1346

373 Submission 608 – although at the hearing, counsel for Darby Planning LP advised it had withdrawn its opposition to UGBs: Opposed in FS1034

374 See *Monk v Queenstown-Lakes District Council* [2013] NZEnvC12

375 On this occasion, when appearing for Ayrburn Farm Estate Ltd, Bridesdale Farm Developments Ltd, Shotover Country Ltd and Mt Cardrona Station Ltd.

560. Mr Paetz also sought to reassure us that the areas within the currently defined UGBs are more than sufficient to provide for projected population increases[376]. Ultimately, however, that evidence goes more to the location of any UGBs (and to satisfying us that the NPSUDC 2016 is appropriately implemented) rather than the principle of whether there should be any at all (and is therefore a matter for the mapping hearings).

561. The evidence from submitters we heard largely either supported or accepted the principle of UGBs. Mr Dan Wells[377] was a clear exception. He emphasised that unlike the historic situation in Auckland where the metropolitan limits have previously been "*locked in"* by being in the Regional Policy Statement, UGBs in a District Plan do not have the same significance, because they can be altered by future plan changes (including privately initiated plan changes). Mr Wells also expressed the view that a resource consent process was just as rigorous as a plan change and there was no reason why the PDP should preclude urban expansion by resource consent. Mr Wells noted, however, that both processes had to be addressing development at a similar scale for this to be the case. In other words, a resource consent application for a one or two section development would involve must less rigorous analysis than a Plan Change facilitating development of one hundred sections.

562. To us, the most pressing reason for applying UGBs is that without them, the existing urban areas within the District can be incrementally expanded by a series of resource consent applications at a small scale, each of which can be said to have minimal identifiable effects relative to the existing environment.

563. This is of course the classic problem of cumulative environmental effects and while a line on a map may be somewhat arbitrary, sometimes lines have to be drawn to prevent cumulative effects even when they cannot be justified on an "effects basis" at the margin[378].

564. The other thing about a line on a map is that it is clear. While, in theory, a policy regime might have the same objective, it is difficult to achieve the necessary direction when trying to describe the scope of acceptable urban expansion beyond land which is already utilised for that purpose. It is much clearer and more certain if the policy is that there be no further development, which is why we regard it as appropriate in relation to urban creep in the smaller townships and settlements of the District, as discussed further below.

565. In summary, we conclude that UGBs do serve a useful purpose (in section 32 terms they are the most appropriate way in the context of a package of high-level policies to implement the relevant objective, (3.2.2.1), as we have recommended it be framed.

566. Accordingly, we recommend that with one substantive exception, and one drafting change discussed shortly, Policy 3.2.2.1.1 be retained.

567. The substantive exception arises from our belief that it is appropriate to prescribe a UGB around Lake Hawea Township. The Hawea Community Association[379] sought that outcome and the representatives of the Association described the extent of consultation and community consensus to us on both imposition of a UGB and its location when they appeared

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376 M Paetz, Reply Evidence at section 7

377 Giving evidence for Millbrook Country Club, Bridesdale Farm Developments and Winton Partners Fund

378 Compare *Contact Energy Limited v Waikato Regional Council* CIV2006-404-007655 (High Court – Woodhouse J) at [69]-[83] in the context of setting rules around water quality limits

379 Submission 771

before us. They also emphasised that their suggested UGB provided for anticipated urban growth.

568. No submitter lodged a further submission opposing that submission and we recommend that it be accepted.

569. The more minor drafting change is that Policy 3.2.2.1.1 as recommended by Mr Paetz refers both to the urban areas in the Wakatipu Basin and to Arrowtown. Clearly Arrowtown is within the Wakatipu Basin. It is not in the same category as Jacks Point that is specifically mentioned for the avoidance of doubt. We recommend that specific reference to Arrowtown be deleted.

570. Accordingly, we recommend that this policy be renumbered (as 3.3.13) and amended to read:

"Apply Urban Growth Boundaries (UGBs) around the urban areas in the Wakatipu Basin (including Jacks Point), Wanaka, and Lake Hawea Township."

571. The second key question is how the PDP treats urban development outside the defined UGBs. There are two sides to this point. The first relates to the smaller townships and settlements of the District, where no UGB is proposed to be fixed. Putting aside Lake Hawea Township which we have recommended be brought within the urban areas defined by UGBs, these are Glenorchy, Kingston, Cardrona, Makarora and Luggate.

572. Policy 3.2.2.1.7 as notified related to these communities and provided:

"That further urban development of the District's small rural settlements be located within and immediately adjoining those settlements."

573. NZIA[380] sought that urban development be confined to within the UGBs. Queenstown Park Limited[381] sought amendment of the policy to ensure its consistency with other policies related to UGBs.

574. Mr Paetz recommended that the policy provision in this regard sit inside Chapter 4 and be worded:

"Urban development is contained within existing settlements."

575. As notified, Policy 4.2.1.5 was almost identical to Policy 3.2.1.7. In that context, NZIA was the only submitter seeking amendment to the Policy; that it simply state:

"Urban development is contained."[382]

576. Clearly Mr Paetz is correct and the duplication between these two policies needs to be addressed[383]. We consider, however, that the correct location for this policy is in Chapter 3 because it needs to sit alongside the primary policy on UGBs. Secondly, it needs to be clear that this is a complementary policy. As recommended by Mr Paetz, the policy is in fact

380 Submission 238: Opposed in FS1097, FS1107, FS1157, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248 and FS1249

381 Submission 806

382 Opposed in FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248 and FS1249

383 Refer the Real Journeys Submission noted on the more general point of duplication

inconsistent with 3.2.2.1 because in the urban areas with UGBs, provision is made to varying degrees for further urban development outside the existing settled areas.

577. In summary, we recommend that the policy be renumbered (as 3.3.15) and read:

"Locate urban development of the settlements where no UGB is provided within the land zoned for that purpose."

578. We accept that there is an element of circularity in referring to the existing zone provisions in this regard, but we regard this as the most appropriate way to achieve Objectives 3.2.1.8, 3.2.2.1, 3.2.3.1, 3.2.5.1 and 3.2.5.2 (as those objectives bear upon the point) given that the Township Zone provisions are a matter assigned to a subsequent stage of the District Plan review.

579. The last substantive issue that needs to be addressed under this heading is the extent to which urban development is provided for outside UGBs (and outside the other existing settlements).

580. The starting point is to be clear what it is the PDP is referring to when policies focus on "*urban development".*

581. The definition of urban development in the PDP as notified reads:

"Means any development/activity within any zone other than the rural zones, including any development/activity which in terms of its characteristics (such as density) and its effects (apart from bulk and location) could be established as of right in any zone; or any activity within an urban boundary as shown on the District Planning maps."

582. At first blush, this definition would suggest that any development within any of the many special zones of the PDP constitute "*urban development"* since they are not rural zones and the qualifying words in the second part of the definition do not purport to apply to all urban development. Similarly, no development of any kind within the rural zones is defined to be urban development. Given that one of the principal purposes of defining urban growth boundaries is to constrain urban development in the rural zones, the definition would gut these policies of any meaning.

583. This definition is largely in the same terms as that introduced to the Operative Plan by Plan Change 50. The Environment Court has described it, and the related definition of "*Urban Growth Boundary"* in the following terms[384]:

"A more ambivalent and circular set of definitions would be hard to find."

584. The Court found that urban development as defined means:

"… any development/activity which:
- *a. Is of an urban type, that is any activity of a type listed as permitted or controlled in a residential, commercial, industrial or other non-rural zone; or*
- *b. Takes place within an "Urban Growth Boundary"* as shown on the District's Planning Maps."

384 *Monk v Queenstown-Lakes District Council* [2013] NZEnvC12 at [20]

585. The Court also commented that a definition is not satisfactory if it relies on an exercise of statutory interpretation[385].

586. We entirely agree.

587. When counsel for the Council opened the Stream 1A and 1B hearing, we asked Mr Winchester to clarify for us what the definition really meant. He accepted that it was unsatisfactory and undertook to revert on the subject. As part of the Council's reply, both counsel and Mr Paetz addressed the issue. Mr Paetz suggested, supported by counsel, that a revised definition adapted from the definition used in the Proposed Auckland Unitary Plan (as notified) should be used, reading as follows:

"Means development that by its scale, intensity, visual character, trip generation and/or design and appearance of structures, is of an urban character typically associated with urban areas. Development in particular special zones (namely Millbrook and Waterfall Park) is excluded from the definition."

588. This recommendation is against a background of a submission from Millbrook Country Club[386] seeking that the definition be revised to:

"Means develop and/or activities which:
a. Creates or takes place on a site of 1500m² or smaller; and
b. Is connected to reticulated Council or community water and wastewater infrastructure; and
c. Forms part of ten or more contiguous sites which achieve both (a) and (b) above; but
d. Does not includes resort style development such as that within the Millbrook Zone."

589. We also note MacTodd's submission[387] seeking that the definition be amended in accordance with the Environment Court's interpretation of the existing definition, as above.

590. Although counsel for Millbrook referred to the Proposed Auckland Unitary Plan definition of urban activities (as notified[388]) as part of his submissions[389], it appears that Millbrook's formal submission had been drafted with an eye to the definition in the then Operative Auckland Regional Policy Statement that reads:

"Urban development – means development which is not of a rural nature. Urban development is differentiated from rural development by its scale, density, visual character, and the dominance of built structures. Urban development may also be characterised by a reliance on reticulated services (such as water supply and drainage), by its generation of traffic and includes activities (such as manufacturing), which are usually provided for in urban areas."

591. We also had the benefit of an extensive discussion with counsel for Millbrook, Mr Gordon, assisted by Mr Wells who provided planning evidence in support of the Millbrook submission, but not on this specific point.

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385 See paragraph [24]

386 Submission 696

387 Submission 192

388 Noting that the Independent Hearing Panel recommended deletion of that definition, apparently on the basis that it did no more than express the ordinary and natural meaning of the term, and Auckland Council accepted that recommendation in its decisions on the Proposed Plan

389 As did counsel for Ayrburn Farm Estate Ltd and Others

592. A large part of that discussion was taken up in trying to identify whether the Millbrook development is in fact urban development, and if not, why not. Mr Gordon argued that Millbrook was something of a special case because it provides for activities that are neither strictly urban nor rural. He distinguished Jacks Point, which is contained within an existing UGB because it has provision in its structure planning for facilities like childcare, kindergartens, schools, convenience stores and churches, as well as being of a much larger scale than Millbrook.

593. We also had input from counsel for Darby Planning LP, Ms Baker-Galloway, on the point. She submitted that the definition should not be a quantitative approach, e.g. based on density, but should rather be qualitative in nature. Beyond that, however, she could not assist further.

594. We agree that quantitative tests such as those suggested by Millbrook are not desirable. Among other things, they invite developments that are designed around the quantitative tests (in this case, multiple 9 section developments or developments on sites marginally over 1500m²). We also note the example discussed in the hearing of houses on 2000-3000m² sites in Albert Town that are assuredly urban in every other respect.

595. We also have some difficulties with the definition suggested by Mr Paetz because some types of development are typically associated with urban areas, but also commonly occur in rural areas, such as golf courses and some industries. We think that there is value in the suggestion from Millbrook (paralleled in the referenced Operative Auckland Regional Policy Statement definition in this regard) that reference might be made to connections to water and wastewater infrastructure, but we do not think they should be limited to Council or community services. It is the reticulation that matters, rather than the identity of its provider. Jacks Point, for instance, has its own water and wastewater services, whereas Millbrook is connected to Council water supply and wastewater services.

596. Insofar as Millbrook sought an exclusion for "*resort style development",* that rather begs the question; what is a resort?

597. Having regard to the submissions we heard from Millbrook, we think that the key characteristics of a resort are that it provides temporary accommodation (while admitting of some permanent residents) with a lower average density of residential development than is typical of urban environments, in a context of an overall development focused on on-site visitor activities. Millbrook fits that categorisation, but Jacks Point does not, given a much higher number of permanent residents, the geographical separation of the golf course from the balance of the development and the fact that the overall development is not focussed on on-site visitor activities. It is in every sense a small (and growing) township with a high-quality golf course.

598. The last point we have to form a view on is whether, as Mr Paetz recommends, the Waterfall Park Zone should similarly be excluded from the definition of urban development. Mr Paetz's reply evidence accepted that the density of a permitted development within the Waterfall Park Zone would be closer to urban development and made it clear that the entire Waterfall Park Zone is an anomaly; in his words:

"The sort of sporadic and ad hoc urban intensity zoning in the middle of the countryside that Council is looking to discourage through the PDP"[390]*.*

[390] M Paetz, Reply Evidence at 6.16

599. The Waterfall Park Zone has not been implemented. We have no evidence as to the likelihood that it will be implemented and form part of the 'existing' environment in future. Certainly, given Mr Paetz's evidence, we see no reason why a clearly anomalous position should drive the wording of the PDP policies on urban development going forward.

600. For these reasons, we do not consider special recognition of Waterfall Park is required.

601. A separate Hearing Panel (Stream 10) will consider Chapter 2 (Definitions)of the PDP. That Hearing Panel will need to form a view on the matters set out above and form a final view in the light of the submissions and evidence heard in that stream, what the recommendation to Council should be.

602. For our part, however, we recommend to the Stream 10 Hearing Panel that the definition of urban development be retained to provide clarity on the appropriate interpretation of the PDP[391] and amended to read:

"Means development that is not of a rural character and is differentiated from rural development by its scale, intensity, visual character and the dominance of built structures. Urban development may also be characterised by a reliance on reticulated services such as water supply, wastewater and stormwater and by its cumulative generation of traffic. For the avoidance of doubt, a resort development in an otherwise rural area does not constitute urban development".

We further recommend that a new definition be inserted as a consequence of our recommendation as above:

"Resort" – means an integrated and planned development involving low average density of residential development (as a proportion of the developed area) principally providing visitor accommodation and forming part of an overall development focussed on on-site visitor activities."

603. We have proceeded on the basis that when the objectives and policies we have to consider use the term 'urban development', it should be understood as above.

604. Turning then to the more substantive issue, whether urban development, as defined, should be avoided or merely discouraged outside the UGBs and other existing settlements, Mr Paetz's recommendation that Policy 3.2.5.3.1 be amended to provide the latter appears inconsistent with his support for Policy 4.2.2.1 which reads:

"Urban Growth Boundaries define the limits of urban growth, ensuring that urban development is contained within those identified boundaries, and urban development is avoided outside of those identified boundaries."

605. Mr Paetz did not explain the apparent inconsistency, or indeed, why he had recommended that Policy 3.2.5.3.1 should be amended in this way.

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391 The need for clarity as to the classification of Millbrook and other similar resorts that might be established in future causes us to take a different view on the need for a definition than that which the Auckland Independent Hearings Panel came to.

606. Ultimately, we view this as quite a simple and straightforward question. Mr Clinton Bird, giving urban design evidence for the Council, aptly captured our view when he told us that you have either got an urban boundary or not. If you weaken the boundary, you just perpetuate urban sprawl.

607. This is the same approach that is taken in the Proposed RPS, which provides[392] that where UGBs are identified in a District Plan, urban development should be avoided beyond the UGB.

608. It follows that we favour a policy of avoidance of urban development outside of the UGB's, as provided for in the notified Policy 3.2.2.1.2. Our view is that any urban development in rural areas should be the subject of the rigorous consideration that would occur during a Plan Change process involving extension of existing, or creation of new, UGBs.

609. The revised definition we have recommended to the Stream 10 Panel provides for resort-style developments as being something that is neither urban nor rural and therefore sitting outside the intent of this policy.

610. In summary, and having regard to the amendments recommended to relevant definitions, we recommend retention of Policy 3.2.2.1.2 as notified (but renumbered 3.3.14) as being the most appropriate way, in the context of a package of high-level policies, in which to achieve Objectives 3.2.1.8, 3.2.2.1, 3.2.3.1, 3.2.5.1 and 3.2.5.2.

3.6. Section 3.2.2.2. Policies – Natural Hazards

611. As notified, policy 3.2.2.2.1 read:

"Ensure a balanced approach between enabling higher density development within the District's scarce urban land resource and addressing the risks posed by natural hazards to life and property."

612. The sole submission specifically on it[393] sought its deletion or in the alternative, amendment "*for consistency with the RMA"*. The word "*addressing"* was the subject of specific comment – the submitter sought that it be replaced by "*mitigated"*.

613. Although Mr Paetz recommended that this Policy be retained in Chapter 3 as notified, for the same reasons we have identified that the relevant objective should be amalgamated with other objectives relating to urban development, we think that this policy should be deleted from Chapter 3, and the substance of the issue addressed as an aspect of urban development in Chapter 4. We think this is the most appropriate way in the context of a package of high-level policies to achieve the objectives of the plan related to urban development.

3.7. Section 3.2.3.1 Policies – Urban Development

614. The policies all relate to a quality and safe urban development. As such, while Mr Paetz recommends that they remain in Chapter 3, for the same reasons as the more detailed urban development policies have been deleted and their subject matter addressed as part of Chapter 4, we recommend that the three policies in Section 3.2.3.1 all be deleted, and their subject matter be addressed as part of Chapter 4, that being the most appropriate way to achieve the objectives of the plan related to urban development.

3.8. Section 3.2.3.2 Policy – Heritage Items

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392 Proposed RPS, Policy 4.5.2

393 Submission 806

615. Policy 3.2.3.2.1 as notified read:

"Identify heritage items and ensure they are protected from inappropriate development."

616. Three submitters on this policy[394] sought that the policy should be amended to state that protection of identified heritage items should occur in consultation with landowners and tenants.

617. Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou, Te Rūnanga o Moeraki, Hokonui Rūnanga [395] sought that the policy be expanded to refer to wāhi Tūpuna as well as heritage items.

618. Mr Paetz did not recommend any amendment to this policy.

619. The RPS has an objective identifying recognition and protection of heritage values as part of the sustainable management of the built environment[396]. The policy supporting this objective, however, focuses on identification and protection of "*regionally significant heritage sites"* from inappropriate subdivision, use and development. The RPS predates addition of section 6(f) of the Act[397]. The upgrading of historic heritage as an issue under Part 2 means, we believe, that the RPS cannot be regarded as authoritative on this point.

620. The Proposed RPS has a suite of policies supporting Objective 5.2, which seeks an outcome whereby historic heritage resources are recognised and contribute to the region's character and sense of identity. Policy 5.2.3, in particular, seeks that places and areas of historic heritage be protected and enhanced by a comprehensive and sequential set of actions. Those provisions include recognition of archaeological sites, wāhi tapu and wāhi taoka (taonga), avoidance of adverse effects, remedying other adverse effects when they cannot be avoided, and mitigating as a further fallback.

621. Unlike the previous policies, heritage items are not solely found in urban environments and therefore it is not appropriate to shift this policy into Chapter 4.

622. We do not recommend any amendments to it (other than to renumber it 3.3.16) for the following reasons:
   a. While consultation with landowners is desirable, this is a matter of detail that should be addressed in the specific chapter governing heritage;
   b. Addition to refer to wāhi tupuna is not necessary as identification and protection of wāhi tupuna is already governed by Section 3.2.7 (generally) and the more specific provisions in Chapter 5.
   c. While the reference to inappropriate development provides limited guidance, the submissions on this policy do not provide a basis for greater direction as to the criteria that should be applied to determine appropriateness, for instance to bring it into line with the Proposed RPS approach.

623. In summary, given the limited scope for amendment provided by the submissions on this policy, we consider its current form is the most appropriate way to achieve Objectives 3.2.2.1 and 3.2.3.1 in the context of a package of high-level policies.

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394 Submissions 607, 615 and 621: Supported in FS1105, FS1137 and FS1345

395 Submission 810: Supported in FS1098

396 RPS Objective 9.4.1(c)

397 And corresponding deletion of reference to historic heritage from section 7.

3.9. Section 3.2.4.2 Policies – Significant Nature Conservation Values

624. As notified, the two policies under this heading read:

> *"3.2.4.2.1 Identify areas of significant indigenous vegetation and significant habitats of indigenous fauna, referred to as Significant Natural Areas on the District Plan maps and ensure their protection.*
>
> *3.2.4.2.2 Where adverse effects on nature conservation values cannot be avoided, remedied or mitigated, consider environmental compensation."*

625. Submissions on 3.2.4.2.1 either sought acknowledgement that significant natural areas might be identified in the course of resource consent application processes[398] or sought to qualify the extent of their protection[399].

626. Submissions on Policy 3.2.4.2.2 sought variously:
   a. A clear commitment to avoidance of significant adverse effects and an hierarchical approach ensuring offsets are the last alternative considered[400];
   b. Amendment to make it clear that offsets are only considered as a last alternative to achieve no net loss of indigenous biodiversity and preferably a net gain[401];
   c. To draw a distinction between on-site measures to avoid, remedy or mitigate adverse effects and environmental compensation "*as a mechanism for managing residual effects"*[402];

627. Mr Paetz recommended no change to Policy 3.2.4.2.1, but that Policy 3.2.4.2.2. be deleted. His reasoning for the latter recommendation was partly because he accepted the points for submitters that Policy 3.2.4.2.2 was inconsistent with the more detailed Policy 33.2.1.8, but also because, in his view, the policy was too detailed for the Strategic Chapter[403].

628. Mr Paetz cited a similar concern (that the relief sought is too detailed) as the basis to reject the suggestion that identification of significant natural areas might occur through resource consent processes.

629. The Department of Conservation tabled evidence noting agreement with Mr Paetz's recommendations.

630. Ms Maturin appeared to make representations on behalf of Royal Forest and Bird Protection Society. She maintained the Society's submission on Policy 3.2.4.2.1, arguing that the Policy was in fact inconsistent with more detailed policy provisions indicating that such areas would be identified through resource consent applications, and that the failure to note that would promote confusion, if not mislead readers of the PDP. She supported, however, Mr Paetz's recommendation that the following policy be deleted.

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398 Submissions 339, 373, 706: Supported in FS1040; Opposed in FS1097, FS1162, FS1254, FS1287, FS1313, FS1342 and FS1347

399 Submissions 600 and 805: Supported in FS1209; Opposed in FS1034 and FS1040

400 Submission 339, 706: Supported in FS1313; Opposed in FS1015, FS1097, FS1162, FS1254 and FS1287

401 Submission 373: Supported in FS1040; Opposed in FS1015, FS1097, FS1254, FS1287, FS1342 and FS1347

402 Submission 598: Supported in FS1287; Opposed in FS1040

403 Section 42A Report at 12.89-12.90

631. In response to a question from us, Ms Maturin advised that the Society viewed any reference to environmental compensation or offsets as problematic and expressed the view that an applicant should provide a nationally significant benefit before offsets should even be considered.

632. Consideration of the submissions and evidence is against a background of the RPS having three objectives bearing on biodiversity issues:

a. Objective 10.4.1:

"*To maintain and enhance the life-supporting capacity of Otago's biota."*

b. Objective 10.4.2:

"To protect Otago's natural ecosystems and primary production from significant biological and natural threats."

c. Objective 10.4.3:
"To maintain and enhance areas with significant habitats of indigenous fauna."

633. Policy 10.5.2 should also be noted, providing for maintenance and where practicable enhancement of the diversity of Otago's significant indigenous vegetation and significant habitats of indigenous fauna meeting one of a number of tests (effectively criteria for determining what is significant).

634. Policy 3.2.2 of the Proposed RPS takes a more nuanced approach than does the RPS, following the same sequential approach as for landscapes (in Policy 3.2.4, discussed above). Policy 5.4.6, providing for consideration of offsetting of indigenous biological diversity meeting a number of specified criteria, also needs to be noted.

635. We agree with Mr Paetz's recommendation on Policy 3.2.4.2.1. The reality is if the Strategic Chapters have to set out every nuance of the more detailed provisions, there is no point having the more detailed provisions. We do not regard the fact that the more detailed provisions identify that significant natural areas may be identified through resource consent processes as inconsistent with Policy 3.2.4.2.1. Similarly, given the terms of the RPS and the Proposed RPS (and section 6(c) of the Act, sitting in behind them) we consider the policy is correctly framed, looking first and primarily to protection.

636. We are concerned, however, that the effect of Mr Paetz's recommendation that Policy 3.2.4.2.2 be deleted is that it leaves the protection of Significant Natural Areas as a bald statement that the more detailed provisions in Chapter 33 might be considered to conflict with.

637. In addition, none of the submissions on this specific point sought deletion of Policy 3.2.4.2.2. While the much more general UCES submission referred to already. provides scope to delete any provision of Chapter 3 (since it seeks deletion of the entire chapter) we prefer that the policies state more clearly the extent of the protection provided, and the circumstances when something less than complete protection might be acceptable, in line with the approach of the Proposed RPS.

638. Having said that, we take on board Ms Maturin's caution that this particular area is a veritable minefield for the unwary and that any policy has to be framed quite carefully.

639. The first point to make is that given the terms of the higher order documents, we think the submitters seeking a policy direction that significant adverse effects on Significant Natural Areas are not acceptable are on strong ground.

640. Secondly, submitters are likewise on strong ground seeking that it be clear that the first preference for non-significant adverse effects is that they be avoided or remedied. We are not so sure about referring to mitigation in the same light[404].

641. While the High Court has provided guidance as to the distinction between mitigation and environmental offsets/environmental compensation[405], we recommend that the policy sidestep any potential debate on the distinction to be drawn between the two.

642. Thirdly, the submission seeking a requirement for no net loss in indigenous biodiversity and preferably a net gain is consistent with the Proposed RPS (Policy 5.4.6(b)) and this also needs to be borne in mind.

643. Lastly, we recommend that the division between the two policies be shifted so that Policy 3.2.4.2.1 relates to the identification of Significant Natural Areas and Policy 3.2.4.2.2 outlines how those areas will be managed.

644. In summary, we recommend that the policies as notified be renumbered 3.3.17 and 3.3.18 and amended to read:

"Identify areas of significant indigenous vegetation and significant habitats of indigenous fauna as Significant Natural Areas on the District Plan maps (SNAs);

Protect SNAs from significant adverse effects and ensure enhanced indigenous biodiversity outcomes to the extent that other adverse effects on SNAs cannot be avoided or remedied."

3.10. Section 3.2.4.3 – Rare Endangered and Vulnerable Species

645. Policy 3.2.4.3.1 suggests a general requirement that development not adversely affect survival chances of rare, endangered or vulnerable species. Submissions sought variously:
   a. Expansion of the policy to cover development *"and use"*[406];
   b. Qualifying the policy to limit *"significant"* adverse effects[407];
   c. Qualifying the policy to make it subject to the viability of farming activities not being impacted[408]; and
   d. Retaining the policy as notified.

646. Given that we see these policies as the means to achieve recommended Objective 3.2.4.1, we do not consider it necessary or appropriate to insert an additional policy on maintenance of biodiversity as sought in submission 339 and 706[409].

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404 Although accepting that the Proposed RPS does so at Policy 5.4.6(a)

405 Refer *Royal Forest & Bird Protection Society of New Zealand Inc v Buller District Council* [2013] NZHC 1346

406 Submissions 339 and 706: Opposed in FS1162

407 Submission 600: Supported in FS1209; Opposed in FS1034 and FS1040

408 Submission 701: Supported in FS1162

409 Opposed in FS1132, FS1162, FS1254 and FS1287

647. We have recommended the objective that this policy seeks to implement be deleted on the basis that it duplicates protection of areas with significant nature conservation values and the emphasis given elsewhere to maintenance of indigenous biodiversity.

648. Similar reasoning suggests that this policy is unnecessary. Any area which is relevant in any material way to the survival chances of rare, endangered or vulnerable species will necessarily be a significant natural area, as that term is defined. Consistently with that position, in the RPS policy discussed above (10.5.2), the fact that a habitat supports rare, vulnerable or endangered species is one of the specified criteria of significance. If any area falling within that description is not mapped as a SNA, then it should be so mapped so as to provide greater certainty both that the relevant objective will be achieved and for landowners, as to their ability to use land that is not mapped as a SNA. Accordingly, on the same basis as for the objective, we recommend that this policy be deleted, as being the most appropriate way, in combination with Policies 3.3.17 and 3.3.18, to achieve Objectives 3.2.1.7, 3.2.18, 3.2.4.1 and 3.2.4.3-4 inclusive as those objectives relate to indigenous biodiversity.

3.11. Section 3.2.4.4 Policies – Wilding Vegetation

649. As notified, policy 3.2.4.4.1 read:

"That the planting of exotic vegetation with the potential to spread and naturalise is banned."

650. A number of submissions sought retention or minor drafting changes to this policy. Federated Farmers[410] however sought that the effect of the policy be softened to refer to appropriate management and reduction of risks.

651. In his Section 42A Report, Mr Paetz recognised that the policy might be considered too absolute. He recommended that it be revised to read:

"Prohibit the planting of identified exotic vegetation with the potential to spread and naturalise."

652. As discussed in relation to Objective 3.2.4.4, wilding vegetation is a significant issue in the District. It is also quite a discrete point, lending itself to strategic direction[411]. We recommended that the objective aspired to is avoidance of wilding exotic vegetation spread. Management and reduction of risk would not achieve that objective, without a clear statement as to the outcome of management and/or the extent of risk reduction.

653. On the other hand, a prohibition of planting of exotic vegetation described only by the characteristic that it has potential to spread and naturalise would go too far. The public are unlikely to be able to identify all the relevant species within this very general description. Mr Paetz suggested limiting the prohibition to identified species[412], but we think there also needs to be greater guidance as to what the extent of the '*potential'* for spread needs to be to prompt identification, to ensure that the costs of a prohibition are not excessive, relative to the benefits and to make the suggested prohibition practicable, in terms of RPS Policy 10.5.3. We note in this regard the submissions on behalf of Federated Farmers by Mr Cooper that some wilding species are important to farming in the District at higher altitudes. For the same

410 Submission 600: Supported in FS1091 and FS1209; Opposed in FS1034 and FS1040

411 A combination of circumstances which leads us to reject the suggestion of Mr Farrell that this issue does not justify having a high-level policy addressing it.

412 Identified in this case meaning identified in the District Plan

reason, we consider there is room for a limited qualification of the policy prohibition, but only if wilding species can be acceptably managed for the life of the planting.

654. Accordingly, we recommend that Policy 3.2.4.4.1 be renumbered 3.3.27 and worded:

"Prohibit the planting of identified exotic vegetation with the potential to spread and naturalise unless spread can be acceptably managed for the life of the planting."

655. We consider that this policy wording is the most appropriate way to achieve Objective 3.2.4.2 in the context of a high-level policy,

3.12. Section 3.2.4.5 Policies – Natural Character of Waterways

656. Policy 3.2.4.5.1 as notified read:

"That subdivision and/or development which may have adverse effects on the natural character and nature conservation values of the District's lakes, rivers, wetlands and their beds and margins be carefully managed so that life-supporting capacity and natural character is maintained or enhanced."

657. The only amendments sought to this policy sought that reference be added to indigenous biodiversity[413].

658. Mr Paetz did not recommend any change to the policy as notified.

659. Objectives 6.4.3 and 6.4.8 of the RPS require consideration in this context. Objective 6.4.3 seeks to safeguard life supporting capacity through protecting water quality and quantity. Objective 6.4.8 seeks to protect areas of natural character and the associated values of wetlands, lakes, rivers and their margins. While these objectives are strongly protective of natural character and life-supporting capacity values, the accompanying policies are rather more qualified. Policy 6.5.5 promotes a reduction in the adverse effects of contaminant discharges through, in effect, a *'maintain and enhance'*, approach but with the rider "*while considering financial and technical constraints".* Policy 6.5.6 takes a similarly qualified approach to wetlands with an effective acceptance of adverse effects that are not significant or where environmental 'compensation' (what we would now call off-setting) is provided. Lastly Policy 6.5.6 takes an avoid, remedy or mitigate approach to use and development of beds and banks of waterways, but poses maintenance (and where practicable enhancement) of life-supporting capacity as a further test.

660. As previously noted, the RPS predates the NPSFM 2014 and therefore, its provisions related to freshwater bodies must therefore be treated with some care. While the NPSFM 2014 is principally directed at the exercise of powers by regional councils[414], its general water quality objectives[415], seeking among other things, safeguarding of life supporting capacity and maintenance or improvement of overall water quality need to be noted. Objective C1 is also relevant, seeking improved integrated management of fresh water and use and development of land. From that perspective, we do not regard there being any fundamental inconsistency between the RPS and the subsequent NPSFM 2014, such as would require implementation of a different approach to that stated in the RPS.

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413 Submissions 339 and 706: Opposed in FS1015, FS1162, FS1254 and FS1287

414 The policies are almost all framed in terms of actions regional councils are required to take

415 Seeking among other things, safeguarding of the life supporting capacity and maintenance or improvement of overall water quality

661. The Kawarau WCO has a different focus to either RPS (operative or proposed) or the NPSFM 2014. It identifies the varying characteristics that make different parts of the catchment outstanding and for some parts of the catchment, directs their preservation as far as possible in their natural state, and for the balance of the catchment[416], directs protection of the characteristics identified as being present. The Kawerau WCO is principally targeted at the exercise of the regional council's powers. To the extent it is relevant to finalisation of the PDP, its division of the catchment, with different provisions applying to different areas, does not lend itself to being captured in a general policy applying across the District.

662. Lastly Policies 3.1.1 and 3.1.2 of the Proposed RPS take a *'maintain and enhance"* position for the different characteristics of water and the beds of waterways, respectively, in the context of an objective [417] seeking that the values of natural resources are *"recognised, maintained or enhanced"*.

663. Against this background, we regard the adoption of the *'maintain or enhance'* test in the PDP policy as being both consistent with and giving effect to the relevant higher order documents.

664. An amendment to refer to indigenous biodiversity in this context would not reflect the form of the objective recommended, and so we do not support that change.

665. We do, however, recommend minor drafting amendments so that the policy be put more positively. We also do not consider that the word "*carefully"* adds anything to the policy since one would hope that all of the policies in the PDP will be implemented carefully.

666. Accordingly, we recommend that Policy 3.2.4.5.1 be renumbered 3.3.19 and amended to read:

"Manage subdivision and/or development that may have adverse effects on the natural character and nature conservation values of the District's lakes, rivers, wetlands and their beds and margins so that their life-supporting capacity and natural character is maintained or enhanced."

667. We consider that this policy is the most appropriate way in the context of a high-level policy to achieve the objectives of this chapter related to natural character and life supporting capacity of waterways and their margins (3.2.1.7, 3.2.4.1-4 inclusive, 3.2.5.1 and 3.2.5.2).

3.13. Section 3.2.4.6 Policies – Water Quality

668. As notified, policy 3.2.4.6.1 read:

"That subdivision and/or development be designed so as to avoid adverse effects on the water quality of lakes, rivers and wetlands in the District."

669. Submissions on the policy sought variously:
   a. Provision for remediation or mitigation of adverse effects on water quality[418];
   a. Restriction to urban development[419];

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416 Excluding the lower Dart River, the lower Rees River, and the lower Shotover River that have provisions permitting road works and flood protection works.

417 Proposed RPS, Objective 3.1

418 Submission 598: Supported in FS1287; Opposed in FS1040

419 Submission 600: Supported in FS1209; Opposed in FS1034

b. Avoidance of significant adverse effects[420];
c. Provision for remediation or mitigation where avoidance is not possible[421];
d. Avoidance of significant adverse effects on water quality where practicable and avoidance, remediation or mitigation of other adverse effects[422];
e. Insert reference to adoption of best practice in combination with designing subdivision development and/or to avoid, remedy or mitigate adverse effects[423].

670. Mr Paetz did not recommend any amendment to the policy as notified.

671. The same provisions of the RPS, the NPSFM 2014 and the Proposed RPS as were noted in relation to the previous policy are relevant in this context. We note in particular the qualifications inserted on the management of contaminant discharges in Policy 6.5.5 of the RPS.

672. The RPS also states[424] a policy of minimising the adverse effects of land use activities on the quality and quantity of water resources.

673. We accept the general theme of the submissions seeking some qualification of the otherwise absolute obligation to avoid all adverse effects on water quality, irrespective of scale or duration, given that the practical mechanisms to manage such effects (riparian management and setbacks, esplanade reserves, stormwater management systems and the like) are unlikely to meet such a high hurdle, even if that could be justified on an application of section 32 of the Act.

674. We think there is value in the minimisation requirement the RPS directs in combination with a best land use management approach (accepting the thrust of Submission 807 in this regard) so as to still provide clear direction. We do not accept, however, that the policy should be limited to urban development given that the adverse effects of development of land on water quality are not limited to urban environments.

675. While a minimisation policy incorporates avoidance, if avoidance is practically possible, we consider there is value in emphasising that avoidance is the preferred position.

676. In summary therefore, we recommend that Policy 3.2.4.6 be renumbered 3.3.26 and amended to read:

"That subdivision and/or development be designed in accordance with best practice land use management so as to avoid or minimise adverse effects on the water quality of lakes, rivers and wetlands in the District."

677. We consider that this policy is the most appropriate way in the context of a high-level policy to achieve the objectives of this chapter related to water quality (3.2.1.8, 3.2.4.1 and 3.2.4.4).

3.14. Section 3.2.4.7 Policies – Public Access

678. Policy 3.2.4.7.1 as notified read:

420 Submission 768
421 Submission 805
422 Submission 635: Supported in FS1301
423 Submission 807
424 RPS, Policy 5.5.5

"Opportunities to provide public access to the natural environment are sought at the time of plan change, subdivision or development."

679. One submission seeking amendment to this policy[425] sought to emphasise that any public access needs to be *'safe'* and would substitute the word "*considered"* for "*sought"*.

680. Another submission[426] sought that specific reference be made to recreation opportunities.

681. Mr Paetz does not recommend any amendment to this policy.

682. Policy 6.5.10 of the RPS targets maintenance and enhancement of public access to and along the margins of water bodies. This is achieved through "*encouraging"* retention and setting aside of esplanade strips and reserves and access strips and identifying and providing for other opportunities to improve access. There are a number of exceptions specified in the latter case[427], but the thrust of the policy is that exceptional reasons are required to justify restriction of public access.

683. Objective 5.1 of the Proposed RPS seeks maintenance and enhancement of public access of all areas of value to the community. Policy 5.1.1, supporting that objective, takes a similar approach to the RPS, directing maintenance and enhancement of public access to the natural environment unless one of a number of specified criteria apply.

684. Neither of the higher order documents require that all opportunities for enhancing public access be seized.

685. While reference to public safety would be consistent with both the RPS and the Proposed RPS, we do not consider that the amendments sought in Submission 519[428]are necessary. The policy as it stands does not require public access, it suggests that public access be sought. Whether this occurs will be a matter for decision on a case by case basis, having regard as appropriate, to the regional policy statement operative at the time. The provisions of both the RPS and the Proposed RPS would bring a range of matters into play at that time, not just health and safety.

686. Similarly, we do not consider specific reference to recreational opportunities is required. Public access to the natural environment necessarily includes the opportunity to recreate, once in that environment (or that part of the natural environment that is publicly owned at least). If the motive underlying the submission is to enable commercial recreation activities then in our view, it needs to be addressed more directly, as an adjunct to provision for visitor industry activities, as was sought by Kawarau Jet Services Ltd[429] in the form of a new policy worded:

"Provide for a range of appropriate Recreational and Commercial Recreational activities in the rural areas and on the lakes and rivers of the District."

687. The suggested policy does not identify what might be an appropriate range of activities, or how issues of conflict between commercial operators over access to the waterways of the

425 Submission 519: Supported in FS1015; Opposed in FS1356
426 Submission 836: Supported in FS1097, FS1341 and FS1342
427 Including health and safety
428 Supported by the evidence of Mr Vivian
429 Submission 307: Supported in FS1097, FS1235, FS1341

District (previously an issue in a number of Environment Court cases) might be addressed. For all that, the suggested policy has merit. We will discuss shortly the appropriate policy response to commercial recreation activities in rural areas generally. We think the more specific issue of commercial recreation activities on the District's waterways is more appropriately addressed in Chapter 6 and we will return to it there.

688. We therefore recommend only a minor drafting change to put the policy (renumbered 3.3.28) more positively as follows:

"Seek opportunities to provide public access to the natural environment at the time of plan change, subdivision or development."

689. We consider that this wording in the context of a high-level policy is the most appropriate way to achieve objective 3.2.4.5.

3.15. Section 3.2.4.8 – Policies – Climate Change

690. The sole policy under this heading read as notified:

"Concentrate development within existing urban areas, promoting higher density development that is more energy efficient and supports public transport, to limit increases in greenhouse gas emissions in the District".

691. Submissions seeking changes to this policy sought variously:
   a. To be less directive, seeking encouragement where possible and deletion of reference to greenhouse gas emissions[430];
   b. Retaining the existing wording, but deleting the connection to greenhouse gas emissions[431];
   c. Opposed it generally on the basis that suggested policy does not implement the objective[432].

692. Mr Paetz did not recommend any amendment to the policy.

693. We see a number of problems with this policy. As Submission 519 identified, not all development is going to be within existing urban areas. Quite apart from the fact that the UGBs provide for controlled growth of the existing urban areas, non-urban development will clearly take place (and is intended to take place) outside the UGBs.

694. If the policy were amended to be restricted to urban development, as we suspect is the intention, it would merely duplicate the UGB policies and be unnecessary.

695. In summary, we recommend that the most appropriate way to achieve the objectives of this chapter is if Policy 3.2.4.8.1 is deleted.

696. That is not to say that the PDP has no role to play in relation to climate change. We have already discussed where and how it might be taken into account in the context of Objective 3.2.4.8.

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430 Submission 519: Supported in FS1015; Opposed in FS1356

431 Submissions 519 and 598: Supported in FS1015 and FS1287; Opposed in FS1356

432 Submission 798

697. Submission 117 sought a new policy to be applied to key infrastructure and new developments, relating to adaption to the effects of climate change. The submission specifically identified hazard management as the relevant adaptation.

698. We have already recommended specific reference to the need to take climate change into account when addressing natural hazard issues in the context of Objective 3.2.2.1.

699. We view further policy provision for adaption to any increase in natural hazard risk associated with climate change better dealt with as an aspect of management of development in both urban and rural environments rather than more generally. Accordingly, we will return to it in the context of our Chapter 4 and 6 reports.

700. We note that notified Policy 3.2.1.3.2 related to adaptation to climate change in other respects. We discuss that policy below.

3.16. Section 3.2.5 Policies - Landscape

701. As notified, Policy 3.2.5.1.1 related both to identification of ONLs and ONFs on the District Plan maps and to their protection.

702. In his Section 42A Report, Mr Paetz recommended that the policy be deleted on the basis that it duplicated matters that were better addressed in Chapter 6.

703. By his reply evidence, Mr Paetz had reconsidered that view and recommended that the first part of the policy, providing for identification of ONLs and ONFs on the plan maps, be reinstated.

704. Submissions on the policy as notified sought variously:
   a. Either deletion of the ONL and ONF lines from the planning maps or alteration of their status so that they were indicative only[433];
   b. Qualifying the extent of protection to refer to inappropriate subdivision, use and development[434];
   c. Qualifying the reference to protection, substituting reference to avoiding, remedying or mitigating adverse effects, or alternatively management of adverse effects[435].

705. The argument that ONLs and ONFs should not be identified on the planning maps rested on the contention (by Mr Haworth for UCES) that the lines as fixed are not credible. The exact location of any ONL and ONF lines on the planning maps is a matter for another hearing. However, we should address at a policy level the contention that there is an inadequate basis for fixing such lines and that establishing them will be fraught and expensive.

706. Dr Marion Read gave evidence on the work she and her peer reviewers undertook to fix the ONL and ONF lines. While Dr Read properly drew our attention to the fact that the exercise she had undertaken was not a landscape assessment from first principles, she clarified that qualification when she appeared before us. In Dr Read's view, the impact of not having worked from first principles was very minor in terms of the robustness of the outcome.

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433 Submission 145: Supported in FS1097; Opposed in FS1162 and FS1254

434 Submissions 355, 519, 598, 600, 805: Supported in FS1015, FS1117, FS1209 and FS1287; Opposed in FS1034, FS1097, FS1282, FS1320 and FS1356

435 Submissions 519, 607, 615, 621, 624, 716: Supported in FS1015, FS1097, FS1105 and FS1137; Opposed by FS1282 and FS1356

707. That may well be considered something of an understatement given that Dr Read explained that she had gone back to first principles for all of the new ONL and ONF lines she had fixed. The areas where there might be considered a technical deficiency for failure to go back to first principles were where she had relied on previous determinations of the Environment Court.

708. We think it was both pragmatic and sensible on Dr Read's part that where the Environment Court had determined the location of an ONL or ONF line she took that as a given rather than reinventing that particular wheel. We asked a number of the parties who appeared before us if it was appropriate to rely on Environment Court decisions in this regard, and there was general agreement that it was[436].

709. In summary, we do not accept the submission that the ONL and ONF lines are not credible. That is not to say that we accept that they are correct in every case and at every location. As above, that is a matter for differently constituted hearing panels to consider, but we are satisfied that the process that has been undertaken for fixing them is robust and can be relied upon unless and until credible expert evidence calls the location of those lines into question.

710. So far as the question of costs and benefits is concerned, Dr Read accepted in evidence before us that the process for confirming the lines set out in the planning maps will likely be fraught and expensive but as she observed, the current process where the status of every landscape (as an ONL, ONF, VAL or ORL) has to be determined as part of the landscape assessment for the purposes of a resource consent application is fraught and expensive. She did not know how one would go about trying to quantify and compare the relative costs of the two and neither do we.

711. What we do know is that the Environment Court found in 1999 that one could not properly state objectives and policies for areas of outstanding natural landscape unless they had been identified[437]. In that same decision, it is apparent that the Court approached the appeals on what ultimately became the ODP with considerable frustration that with certain notable exceptions, the parties appearing before it (including the Council) had not identified what they contended to be the boundaries of ONLs or ONFs. It appears[438] that the only reason that the Court did not fix lines at that point was the amount of effort and time that it would take to undertake a comprehensive assessment of the District. We are not in that position. The assessment has been undertaken by Dr Read and her peer reviewers to arrive at the lines currently on the maps. All the parties who have made submissions on the point will have the opportunity to call expert evidence to put forward a competing viewpoint in the later hearings on mapping issues.

712. Most importantly, at the end of the process, the Council will have recommendations as to where those lines should be based on the best available evidence.

713. We accept that even after they are fixed, it will still be open to parties to contend that a landscape or feature not currently classified in the plan as an ONL or ONF is nevertheless outstanding and should be treated as such for the purposes of determination of a future

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436 Mr Goldsmith for instance expressed that view (for Allenby Farms Ltd, Crosshill Farms Ltd and Mt Cardrona Station Ltd). We note however that some parties sought to draw a distinction between lines that had been drawn by the Court after a contested hearing of landscape experts and those that were the result of consent orders and/or where the issue was not contested.

437 C180/99 at [97]

438 From paragraph [99]

resource consent process[439]. Nevertheless, we think there is value in the PDP providing direction in this regard.

714. We also note that Policy 3.2.3 of the Proposed RPS directs that areas and values, among other things, of ONLs and ONFs be identified. We are required to have regard to that policy and that is exactly what the PDP does. It defines areas of ONLs and ONFs. We note the submission of Otago Regional Council in this regard[440], supporting the identification of ONLs and ONFs, reflecting in turn the policies of the Proposed RPS directing identification of outstanding and highly-valued features and landscapes we have previously discussed[441].

715. In summary, we do not accept the UCES submission that the ONL/ONF lines should be deleted, or alternatively tagged as being indicative only.

716. The secondary question is whether if, as we would recommend, Policy 3.2.5.1.1 is retained, it, or a subsequent strategic policy in this part of Chapter 3, should specify what course of action is taken consequential on that identification or whether, as Mr Paetz recommends, those matters should be dealt with in Chapter 6.

717. In summary, we recommend that a separate policy be inserted following what was Policy 3.2.5.1.1 stating in broad terms that the policy is for management of activities affecting ONLs and ONFs. Quite simply, we see this as part of the strategic direction of the Plan. While Chapter 6 contains more detailed provisions, Chapter 3 should state the overall policy.

718. We have already discussed at some length the appropriate objective for ONLs and ONFs, considering as part of that analysis, the relevant higher order provisions, and concluding that the desired outcome should be that the landscape and visual amenity values and natural character of ONLs and ONFs are protected against the adverse effects of subdivision use and development that are more than minor and/or not temporary in duration.

719. To achieve that objective, we think it is necessary to have a high-level policy addressing the need to avoid more than minor adverse effects on those values and on the natural character of ONLs and ONFs that are not temporary in duration.

720. We have had regard to the many submissions we received at the hearing emphasising the meaning given to the term "*avoid"* by the Supreme Court in *King Salmon* (not allow or prevent the occurrence of[442]).

721. It was argued for a number of parties that an avoidance policy in relation to ONLs and ONFs would create a '*dead hand*' on all productive economic activities in a huge area of the District.

722. A similar '*in terrorem'* argument was put to the Supreme Court in *King Salmon* which rejected the contention that the interpretation they had given to the relevant policies of the NZCPS would be unworkable in practice[443]. The Court also drew attention to the fact that use and development might have beneficial effects rather than adverse effects.

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439 Refer Unison Networks Limited v Hastings District Council CIV2007-485-896

440 Submission 798

441 Proposed RPS, Policies 3.2.3 and 3.2.5

442 [2014] NZSC38 at [93]

443 See [2014] NZSC38 at [144]-[145]

723. The evidence we heard was that many of the outstanding landscapes in the District are working landscapes. Dr Read's evidence is that the landscape character reflects the uses currently being made of it and in some cases, the character of the landscapes is dependent on it. Clearly continuation of those uses is not inconsistent with the values that lead to the landscape (or feature) in question being categorised as outstanding.

724. Our recommendation makes it clear that minor and temporary effects are not caught by this policy. That will permit changes to current uses that are largely consistent with those same values. If a proposal would have significant adverse effects on an ONL or an ONF, in our view and having regard to the obligation on us to recognise and provide for the preservation of ONLs and ONFs, that proposal probably should not gain consent.

725. In summary therefore, we recommend that there be two policies in relation to ONLs and ONFs in Chapter 3 (numbered 3.3.29 and 3.3.30) reading as follows:

"Identify the District's Outstanding Natural Landscapes and Outstanding Natural Features on the District Plan maps."

"Avoid adverse effects on the landscape and visual amenity values and natural character of the District's Outstanding Natural Landscapes and Outstanding Natural Features that are more than minor in extent and or not temporary in duration."

726. We consider that these policies are the most appropriate way to achieve Objective 3.2.5.1, in the context of the package of high-level policies recommended in this report.

727. Turning to non-outstanding landscapes, Policy 3.2.5.2.1 as notified read:

"Identify the district's Rural Landscape Classification on the District Plan maps, and minimise the effects of subdivision, use and development on these landscapes."

728. With the exception of UCES[444], who submitted (consistently with its submission on Policy 3.2.5.1.1) that there should be no determinative landscape classifications on planning maps, most submitters accepted the first half of the policy (identifying the Rural Landscape Classification on the maps) and focussed on the consequences of that identification. Many submitters sought that adverse effects on these landscapes be avoided, remedied or mitigated either by amending the policy or by adding a stand-alone policy to that effect[445]. Some of those submitters also sought reference to inappropriate subdivision, use and development.

729. Another option suggested was to substitute '*manage'* for '*minimise'*[446].

730. Mr Paetz recommended that the policy be deleted on the basis that both aspects of the policy were better addressed in Chapter 6.

731. We do not concur. Consequential on the recommendation as above, that the policies for ONLs and ONFs should state both the intention to identify those landscapes and features on the planning maps and separately and in broad terms, the course of action proposed, we consider

444 Submission 145: Supported in FS1097; Opposed in FS1162

445 Submissions 437, 456, 513, 515, 522, 531, 532, 534, 535, 537, 608, 643, 696, 805: Supported in FS1097, FS1256, FS1286, FS1292, and FS1322; Opposed in FS1034, FS1068, FS1071 and FS1120

446 Submission 519, 598: Supported in FS1015, FS1117 and FS1292; Opposed in FS1282 and FS1356

that it follows that Chapter 3 should also follow the same format for non-outstanding landscapes.

732. It is also consequential on the recommendations related to the ONL and ONF policies that that we do not recommend that the UCES submission be accepted. Having identified ONLs and ONFs on the planning maps, there seems to be little point in not identifying the balance of the rural landscape.

733. Accordingly, the only suggested changes are minor drafting issues and a change of terminology, consequential on the recommendation as above that these balance rural landscapes be termed Rural Character Landscapes so that the renumbered Policy 3.3.31 would read:

"Identify the District's Rural Character Landscapes on the District Plan Maps."

734. Turning to the consequences of identification, a number of the submitters on this policy noted the need for it to reflect the terminology and purpose of the Act. This is an example of the general point made at an earlier part of this report, where utilising the terminology of the Act provides no direction or guidance as to the nature of the course of action to be undertaken.

735. This is still more the case with those submissions seeking that adverse effects be managed.

736. For these reasons, we do not recommend acceptance of the relief sought in these submissions.

737. We do, however, accept that the focus on minimising adverse effects is not entirely satisfactory.

738. While we do not accept the opinion of Mr Ben Farrell (that a policy of minimising adverse effects is ambiguous), the relevant objective we have recommended seeks that rural character and amenity values in these landscapes be maintained and enhanced by directing new subdivision, use and development to occur in appropriate areas – areas that have the potential to absorb change without materially detracting from those values.

739. We also have regard to notified Policy 6.3.5.1 which states that subdivision and development should only be allowed "*where it will not degrade landscape quality or character, or diminish identified visual amenity values."*

740. We think that particular policy goes too far, seeking no degradation of landscape quality and character and diminution of visual amenity values and needs to have some qualitative test inserted[447], but the consequential effect of aligning the policy with the objective together with incorporating elements from Policy 6.3.5.1 is that the policy addressing activities in Rural Character Landscapes should be renumbered 3.3.32 and read:

"Only allow further land use change in areas of the Rural Character Landscape able to absorb that change and limit the extent of any change so that landscape character and visual amenity values are not materially degraded."

741. We consider that the recommended Policies 3.3.31 and 3.3.32 are the most appropriate way to achieve Objectives 3.2 1.9 and 3.2.5.2, in the context of the package of high-level policies recommended in this report.

[447] To that extent we accept the substance of Submissions 456, 598 and 806 on Policy 6.3.5.1.

3.17. Section 3.2.5.3 – Policies – Urban Development

742. As notified, this policy read:

> *"Direct urban development to be within urban growth boundaries (UGBs) where these apply, or within the existing rural townships."*

743. Mr Paetz recommended that this policy be amended to provide both for urban development within and outside UGBs.

744. Either in its notified form or as Mr Paetz has recommended it be amended, this policy entirely duplicates the policies discussed above related to urban development (the recommended revised versions of Policies 3.2.2.1.2 and 3.2.2.1.6).

745. Accordingly, we recommend that the most appropriate way to achieve the objectives of this chapter related to urban development is that it be deleted, consistent with the Real Journeys' submission that duplication generally be avoided.

3.18. Section 3.2.5.4 Policies – Rural Living

746. As notified, these two policies addressed provision for rural living as follows:

> "3.2.5.4.1 *Give careful consideration to cumulative effects in terms of character and environmental impact when considering residential activity in rural areas.*
>
> *3.2.5.4.2 Provide for rural living opportunities in appropriate locations."*

747. There were two submissions on Policy 3.2.5.4.1, one seeking its deletion on the basis that it may conflict with case law related to weighting of cumulative effects, the permitted baseline and the future environment[448] and the other seeking more effective guidance on how much development is too much[449].

748. Most of the submissions on Policy 3.2.5.4.2 supported the policy in its current form. One submitter[450] sought that the Council should continue with its plans to rezone land west of Dalefield Road to Rural Lifestyle or Rural Residential, but did not seek any specific amendment to the policy. Mr Paetz did not recommend any change to the wording of these policies.

749. While we do not support the submission seeking that Policy 3.2.5.4.1 be deleted, the submitter has a point in that the policy is expressed so generally that it may have consequences that cannot currently be foreseen. Notwithstanding that, clearly cumulative effects of residential activity is an issue requiring careful management, as we heard from Dr Read. The problem is that a policy indicating that cumulative effects will be given "*careful consideration"* is too non-specific as to what that careful consideration might entail. As Submission 806 suggests, greater clarity is required as to how it will operate in practice.

750. The policies of Section 6.3.2 (as notified) give some sense of what is required (acknowledging the finite capacity of rural areas to accommodate residential development, not degrading landscape character and visual amenity, taking into account existing and consenting

448 Submission 519: Supported in FS1015; Opposed in FS1356

449 Submission 806: Supported in FS1313

450 Submission 633

subdivision or development). We recommend that some of these considerations be imported into policy 3.2.5.4.1 to confine its ambit, and thereby address the submitter's concern.

751. One issue in contention was whether the description in the ODP of rural non-outstanding landscapes as being *"pastoral (in the poetic and picturesque sense rather than the functional sense) or Arcadian landscapes"*[451] should be retained. Mr Goldsmith[452] argued that this description, which was coined by the Environment Court[453], should be retained if circumstances have not changed.

752. The evidence of Dr Read was that this description has proven confusing, and has been interpreted as a goal, rather than as a description. Her June 2014 Report[454] fleshed this out, suggesting that neither lay people nor professionals have had a clear understanding of what an arcadian landscape is, and that a focus on replicating arcadia has produced an English parkland character in some areas of the Wakatipu Basin that, if continued, would diminish the local indigenous character.

753. Dr Read also emphasised the need to acknowledge the differences between the character of the Upper Clutha Basin and the Wakatipu Basin.

754. Mr Goldsmith acknowledged those differences but suggested to us that the PDP treated the Wakatipu Basin as if it were the Hawea Flats, whereas his description of the ODP was that it did the reverse (i.e. treated the Hawea Flats as they were the Wakatipu Basin)[455].

755. We take his point and have accordingly looked for a broader description that might exclude ONL's and ONF's (where the focus is necessarily on protection rather than enabling development), but capture both areas, while allowing their differences (and indeed the differences in landscape character within the Wakatipu Basin that Mr Goldsmith sought recognition for) to be taken into account.

756. Mr Jeff Brown[456] suggested to us that the ultimate goal is met if the character of an area remains '*rural'*[457], and therefore the test should be if the area retains a rural '*feel'.* While this comes perilously close to a test based on the '*vibe'*[458]*,* we found Mr Brown's evidence helpful and have adapted his suggested approach to provide a more objective test.

757. The interrelationship with Policy 3.2.5.4.2 also needs to be noted. Better direction as to what a careful consideration of cumulative effects means, requires, among other things, identification of where rural living opportunities might be appropriate. As Submission 633 notes, one obvious way in which the PDP can and does identify such appropriate locations is through specific zones. Another is by providing greater direction of areas within the Rural Zone

451 ODP 4.2.4(3)

452 Addressing us on this occasion on behalf of GW Stalker Family Trust and others

453 In C180/99

454 '*Wakatipu Basin Residential Subdivision and Development: Landscape Character Assessment*'

455 Legal Submissions for GW Stalker and others at 6.3(c)

456 Giving evidence on behalf of Ayrburn Farms Ltd, Bridesdale Farms Developments Ltd, Shotover Park Ltd and Trojan Helmet Ltd

457 NZIA's Submission 238 makes a similar point

458 Refer the film, 'The Castle' (1997)

where rural living developments are not appropriate[459]. We agree that a greater level of direction would assist plan users in this regard.

758. In summary, we recommend the following amendments to Policies 3.2.5.4.1 and 3.2.5.4.2 (renumbered 3.3.22 and 3.3.24), together with addition of a new Policy 3.3.23 as follows:

"Provide for rural living opportunities in areas identified on the District Plan maps as appropriate for rural living developments.

Identify areas on the District Plan maps that are not within Outstanding Natural Landscapes or Outstanding Natural Features and that cannot absorb further change, and avoid residential development in those areas.

Ensure that cumulative effects of new subdivision and development for the purposes of rural living does not result in the alteration of the character of the rural environment to the point where the area is no longer rural in character."

759. We consider that the combination of these policies operating in conjunction with recommended Policies 3.3.29-3.3.32, are the best way in the context of high-level policies to achieve Objectives 3.2.1.8, 3.2.5.1 and 3.2.5.2, as those objectives relate to rural living developments.

760. It is appropriate at this point that we address the many submissions we had before us from infrastructure providers seeking greater recognition of the needs of infrastructure.

761. Objective 3.2.1.9 discussed above is the reference point for any additional policies on infrastructure issues.

762. In the rural environment, the principal issue for determination is whether infrastructure might be permitted to have greater adverse effects on landscape values than other development, and if so, in what circumstances and to what extent. Consideration also has to be given as to whether recognition needs to be given at a strategic level to reverse sensitivity effects on infrastructure in the rural environment.

763. Among the suggestions from submitters, new policies were sought to enable the continued operation, maintenance, and upgrading of regionally and nationally significant infrastructure and to provide that such infrastructure should where practicable, mitigate its impacts on ONLs and ONFs [460].

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459 Mr Goldsmith (on this occasion when appearing for GW Stalker Family Trust and Others) suggested to us that specific areas might be identified and nominated the north side of Malaghans Road and a portion of Speargrass Flat Road as potential areas that could be specifically identified as being unable to absorb further development, rather than relying on generic policies. Mr Ben Farrell similarly supported what he termed a finer grained approach to management of the Wakatipu Basin. We note that PDP Chapter 24 notified as part of the Stage 2 Variations seeks to provide greater guidance to development within the Wakatipu Basin

460 Submissions 251, 433: Supported in FS1077, FS1092, FS1097, FS1115, FS1121 and FS1211; Opposed in FS1040 and FS1132

764. Transpower New Zealand Limited[461] sought the inclusion of a new definition for regionally significant infrastructure which would include:

a. "Renewable electricity generation facilities, where they supplied the National Electricity Grid and local distribution network; and
b. The National Grid; and
c. The Electricity Distribution Network; and
d. Telecommunication and Radio Community facilities; and
e. Road classified as being of national or regional importance; and
f. Marinas and airports; and
g. Structures for transport by rail".

765. Transpower's focus on nationally and regionally significant infrastructure is consistent with Policy 4.3.2 of the Proposed RPS, which now reads:

a. "Recognise the national and regional significance of all of the following infrastructure:
b. Renewable electricity generation activities, where they supply the national electricity grid and local distribution network;
c. Electricity transmission infrastructure;
d. Telecommunication and radiocommunication facilities;
e. Roads classified as being of national or regional importance;
f. Ports and airports and associated navigation infrastructure;
g. Defence facilities;
h. Structures for transport by rail."

766. This policy wording differs from the corresponding policy (3.5.1) in the notified version of the Proposed RPS that was the relevant document at the date of hearing[462] in the following material respects:
a. (a) now applies to renewable electricity generation "activities", rather than facilities;
b. Reference to associated navigation infrastructure has been added to (e);
c. Recognition of defence facilities is new.

In addition, the term *'electricity transmission infrastructure'* is now defined to mean the National Grid (adopting the definition in the NPSET 2008).

767. The submission of Aurora Energy Limited[463] suggested a different definition of regionally significant infrastructure that varied from both that suggested by Transpower and the Proposed RPS, but included among other things, electricity distribution networks, community water supply systems, land drainage infrastructure and irrigation and stock water infrastructure. Aurora also sought the inclusion of an additional definition for *'critical electricity lines'*[464].

768. Mr Paetz's Section 42A Report largely adopted the *'definition'* of regionally significant infrastructure in the notified version of the Proposed RPS with the following changes:

461 Submission 805: Supported in whole or in part in FS1077, FS1106, FS1121, FS1159, FS1208, FS1211, FS1253 and FS1340
462 And that obviously formed the basis of the relief sought in the Transpower submission
463 Submission 635: Supported in whole or in part in FS1077, FS1097 and FS1211; Opposed in FS1132
464 Opposed in FS1301 and FS1322

a. Mr Paetz recommended that renewable electricity generation facilities qualify where they are operated by an electricity operator (a defined term under the Electricity Act 1992) so as to exclude small and community-scale electricity generators;
b. He suggested reference to '*designated*' airports;
c. He deleted reference to ports, there being none in a landlocked District;
d. He deleted reference to rail structures, there being no significant rail lines within the District.

769. This recommendation produced considerable discussion and debate during the course of the hearing.

770. QAC pointed out that Glenorchy is a designated airport, but one would struggle to regard it as regionally significant. QAC agreed that reference might appropriately be limited to Queenstown and Wanaka airports.

771. Transpower New Zealand Limited expressed considerable concern that the National Grid was not specifically mentioned. We found this a little puzzling since the NPSET uses the term *'electricity transmission infrastructure'* and the National Grid clearly comes within that term (the NPSET 2008 in fact defines them to be one and the same thing). Also, quite apart from the NPSET 2008, no one could seriously contend that the National Grid was not regionally and nationally significant.

772. The discussion we had with representatives of Transpower did however, highlight an issue at the other end of the spectrum. While the Decisions Version of the Proposed RPS now puts it beyond doubt (by adopting the NPSET 2008 definition), the general term *'electricity transmission infrastructure'* could be argued to include every part of the electricity transmission network, down to individual house connections, which while extremely important to the individuals concerned, could not be considered regionally significant.

773. We invited the representative of Aurora Energy, Ms Dowd, to come back to us with further information on those parts of Aurora's electricity distribution network that might properly be included within the term regionally significant infrastructure. She identified those parts of the Aurora Network operating at 33kV and 66kV and four specific 11kV lines servicing specific communities. Ms Dowd also drew our attention to the fact that a number of other Regional Policy Statements and District Plans have a focus on "*critical infrastructure"*.

774. In Mr Paetz's reply evidence, he suggested a further iteration of this definition to limit electricity transmission infrastructure to the National Grid (necessarily excluding any electricity transmission lines in the Aurora network), add reference to key centralised Council infrastructure, and refer only to Queenstown and Wanaka airports.

775. Having regard to the Proposed RPS, as we are bound to do, we take the view that the focus should primarily be on regionally significant infrastructure (not some more broad ranging description such as '*critical*' infrastructure).

776. Secondly, identification of '*regionally*' significant infrastructure is primarily a matter for the Regional Council, except where the Proposed RPS might be considered ambiguous or inapplicable.

777. We therefore agree with Mr Paetz that reference to ports and rail structures might be deleted.

778. We cannot recommend acceptance of Mr Paetz's suggestion that key Council infrastructure should be included. While it would satisfy the Aurora test of critical infrastructure, the Regional Council has not chosen to identify it as regionally significant and while critical to the District, it is difficult to contend that it has significance beyond the District boundaries.

779. For similar reasons, we do not recommend identifying particular aspects of the Aurora distribution network. Again, while they would meet a test of critical infrastructure from the District's perspective, the Regional Council has not identified them as *'regionally significant'* – in the Decisions Version of the Proposed RPS, the Regional Council has explicitly excluded electricity transmission infrastructure that does not form part of the National Grid. Mr Farrell's contention that tourism infrastructure should be included within *'regionally significant infrastructure'* fails for the same reasons.

780. We also think that the reference to roads of national or regional significance can be simplified. These are the state highways.

781. Reference to Airports can, as QAC suggested, be limited to Queenstown and Wanaka Airports, but as a result of the amendment in the Proposed RPS to the relevant policy, reference should be made to associated navigation infrastructure.

782. We do not consider, however, that reference needs to be made to defence facilities. NZ Defence Force did not seek that relief in its submission[465] which is limited to relief related to temporary activities (in Chapter 35), from which we infer the Defence Force has no permanent facilities in the District. Certainly, we were not advised of any.

783. Lastly, the representatives of Transpower New Zealand Limited advised us that there are no electricity generation facilities supplying the National Grid in the District. The Roaring Meg and Wye Creek hydro generation stations are embedded in the Aurora line network and the Hawea Control Structure stores water for the use of the large hydro generation plants at Clyde and Roxburgh (outside the District) but does not generate any electricity of its own. We think that having regard to Policy A of the NPSREG 2011, this aspect of the definition needs to be amended to recognise the national significance of those activities.

784. In summary, we recommend that the Stream 10 Hearing Panel consider a definition of regionally significant infrastructure for insertion into the PDP as follows:

"Regionally significant infrastructure – means:

a. Renewable electricity generation activities undertaken by an electricity operator; and
b. The National Grid; and
c. Telecommunication and radiocommunication facilities; and
d. State highways; and
e. *Queenstown and Wanaka Airports and associated navigation infrastructure."*

785. This then leaves the question of the extent to which recognition of regionally significant infrastructure is required in the PDP.

786. Mr Paetz did not recommend an enabling approach to new infrastructure given the potential conflicts with section 6(a) and (b) of the Act.

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465 Submission 1365

787. We appreciate his point. The Proposed RPS would not require that and in the extensive discussion earlier regarding the inter-relationship between significant infrastructure, in particular the National Grid, and the objective related to ONLs and ONFs, we concluded that the NPSET 2008 did not require provisions that would permit development of the National Grid in ways that would have significant adverse effects on ONLs and ONFs.

788. We do think, however, that it would be appropriate to provide some recognition to the locational constraints that infrastructure can be under.

789. Nor are locational constraints solely limited to infrastructure. The District has a number of examples of unique facilities developed for the visitor industry in the rural environment that by their nature, are only appropriate in selected locations. We have also already discussed submissions on behalf of the mining industry seeking to provide for the location-specific nature of mining[466].

790. As with infrastructure, provisions providing for such developments cannot be too enabling, otherwise they could conflict with the Plan's objectives (and the relevant higher order provisions) related to the natural character of waterways, ONLs and ONFs and areas of indigenous vegetation and significant habitats of indigenous fauna. However, we consider that it is appropriate to make provision for such facilities.

791. Accordingly, we recommend that the following policy (numbered 3.3.25) be inserted:

"Provide for non-residential development with a functional need to locate in the rural environment, including regionally significant infrastructure where applicable, through a planning framework that recognises its locational constraints, while ensuring maintenance and enhancement of the quality of the rural environment."

792. So far as regionally significant (and other) infrastructure in rural areas is concerned, this general recognition will need to be augmented by more specific policies. We will return to the point in the context of Chapter 6.

793. We have also considered the separate question, as to whether specific provision needs to be made for reverse sensitivity effects on infrastructure (regionally significant or otherwise) at a strategic level, in the rural environment. Clearly the Proposed RPS (Policy 4.3.4) supports some policy provision being made and we accept that this is an issue that needs to be addressed. The only issue is where it is best covered. We have concluded that this is a matter that can properly be left for the Utilities and Subdivision Chapters of the PDP.

794. This leaves open the question of provision for infrastructure in urban environments. We have taken the view that with limited exceptions, the high-level policy framework for urban development should be addressed in an integrated manner in Chapter 4. Consistent with that position, we will return to the question of infrastructure in that context.

795. It follows that we consider that recommended Policy 3.3.25 is the most appropriate way to achieve Objectives 3.2.1.8, 3.2.1.9, 3.2.5.1 and 3.2.5.2 as they relate to locationally-constrained developments, supplemented by more detailed policies in Chapters 4, 27 and 30.

3.19. Section 3.2.5.5 Policies – Ongoing Agricultural Activities

796. As notified there are two related policies on this subject that read as follows:

[466] Policy 5.3.5 of the Proposed RPS also supports recognition of mining in this context

"3.2.5.5.1 *Give preference to farming activity in rural areas except where it conflicts with significant nature conservation values;*

3.2.5.5.2 Recognise that the retention of the character of rural areas is often dependent on the ongoing viability of farming and that evolving forms of agricultural land use which may change the landscape are anticipated."

797. These policies attracted a number of submissions.

798. Some submissions sought deletion of Policy 3.2.5.5.1[467].

799. Many other submissions sought that Policy 3.2.5.5.1 be broadened to refer to "*other activities that rely on rural resources."*[468]

800. Some submissions sought deletion of the qualification referring to significant nature conservation values[469].

801. Many of the same submitters sought that Policy 3.2.5.5.2 be broadened, again to refer to activities that rely on rural resources, and to expand the reference to agricultural land use to include "*other land uses"*[470]*.*

802. Other more minor changes of emphasis were also sought.

803. Consideration of these policies takes place against a background of evidence we heard from Mr Philip Bunn of the challenges farmers have in continuing to operate in the District, particularly in the Wakatipu Basin.

804. The theme of many of the submitters who appeared before us was to challenge the preference given to farming over other land uses. As such, this formed part of the more general case seeking recognition of non-farming activities in the rural environment, particularly visitor industry related activities and rural living, but also including recreational use[471].

805. We discussed with the counsel and expert planners appearing for those submitters the potential ambit of a reference to activities *"relying on rural resources"*. From the answers we received, this is a somewhat elastic concept, depending on definition. Some counsel contended, for instance, that rural living (aka houses) would satisfy the test of being reliant on rural resources[472].

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467 Submissions 598, 608, 696: Supported in FS1097 and FS1287; Opposed in FS1034, FS1091, and FS1132

468 Submissions 345, 375, 437, 456, 513, 515, 522, 531, 532, 534, 535, 537: Supported in FS1097, FS1256, FS1286 and FS1322; Opposed in FS1068, FS1071, FS1120 and FS1282

469 Submissions 701 and 784: Supported in FS1162

470 Submissions 343, 345, 375, 437, 456, 515, 522, 531, 532, 534, 535: Supported in FS1097, FS1292 and FS1322; Opposed in FS1068, FS1071 and FS1282. See also Submissions 607, 615, 643; Supported in FS1097, FS1105and FS1077 to like effect

471 See e.g. submission 836

472 For example, Ms Wolt advanced that position, appearing for Trojan Helmet Ltd, and supported by Mr Jeff Brown's evidence. Mr Tim Williams, giving planning evidence for Skyline Enterprises Ltd, Totally Tourism Ltd, Barnhill Corporate Trustee Ltd & DE, ME Bunn & LA Green, AK & RB Robins & Robins Farm Ltd, Slopehill JV, expressed the same opinion from a planning perspective. By contrast Chris Ferguson, the planning witness for Darby Planning LP and Hansen Family Partnership, suggested that a slightly different test (functional need) would be met by rural contracting depots but not by '*rural living*'.

806. We have made recommendations above as to how use of rural land for rural living should be addressed at a strategic policy level. We therefore do not consider that changes are necessary to these policies to accommodate that point, particularly given the potential ambiguities and definitional issues which might arise.

807. Turning to use of rural land by the visitor industry, Policy 6.3.8.2 provides wording that in our view is a useful starting point. As notified, this policy read:

"Recognise that commercial recreation and tourism related activities locating within the rural zones may be appropriate where these activities enhance the appreciation of landscapes, and on the basis that they would protect, maintain or enhance landscape quality, character and visual amenity values."

808. This wording would respond to the evidence of Mr Jeff Brown on behalf of Kawarau Jet Services Limited supporting specific reference to commercial recreational activities in recreational areas and on lakes and rivers in the district[473]. We do not think that specific reference needs to be made to lakes and rivers in this context, as, with the exception of Queenstown Bay, they are all within the Rural Zone. As discussed above, any unique issues arising in relation to waterways can more appropriately be addressed in Chapter 6.

809. Policy 6.3.8.2 was supported by Darby Planning LP[474], but a number of other submissions with interests in the visitor industry sector sought amendments to it. Some submissions[475] sought that the policy refer only to managing adverse effects of landscape quality, character and visual amenity values. Others sought that the policy be more positive towards such activities. Real Journeys Limited[476] for instance sought that the policy be reframed to encourage commercial recreation and tourism related activities that enhanced the appreciation of landscapes. Submissions 677[477] and 696[478] suggested a "*recognise and provide for"* type approach, combined with reference only to appreciation of the District's landscapes. Lastly, Submission 806 sought to remove any doubt that recreational and tourism related activities are appropriate where they enhance the appreciation of landscapes and have a positive influence on landscape quality, character and visual amenity values, as well as provision of access to the alpine environment.

810. Mr Barr did not recommend any change to this policy in the context of Chapter 6 and we were left unconvinced as to the merits of the other amendments sought in submissions. In particular, converting the policy merely to one which states the need to manage adverse effects does not take matters very far.

811. Similarly, appreciation of the District's landscapes is a relevant consideration, but too limited a test, in our view, for the purposes of a policy providing favourably for the visitor industry.

812. We have already discussed the defects of a "*recognise and provide for"* type approach in the context of the District Plan policies.

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473 J Brown, EiC at 4.11

474 Submission 608: Opposed in FS1034

475 Submissions 610, 613: Supported in FS1097.

476 Submission 621: Supported in FS1097

477 Supported in FS1097; Opposed in FS1312

478 Supported in FS1097

813. Lastly, incorporation of provision of access to the alpine environment as being a precondition for appropriateness would push the policy to far in the opposite direction, excluding visitor industry activities that enable passive enjoyment of the District's distinctive landscapes.

814. In summary, we recommend that Policy 6.3.8.2 be shifted into Chapter 3, renumbered 3.3.21 but otherwise not be amended.

815. Reverting to farming activities in rural areas, we accept that the policy of giving preference to farming might go too far, particularly where it is not apparent what the implications are of that preference. Mr Paetz recommended that these two policies be amended to read:

"3.2.5.5.1 Enable farming activity in rural areas except where it conflicts with significant nature conservation values;

3.2.5.5.2 Provide for evolving forms of agricultural land use."

816. We agree that an enabling focus better expresses the underlying intent of the first policy (as well as being consistent with Policy 5.3.1 of the Proposed RPS), but we also think that some reference is required to landscape character, since as already discussed, not all farming activities are consistent with maintenance of existing landscape character.

817. We also think that while it is appropriate to enable changing agricultural land uses (to address the underlying issue of lack of farming viability), reference to landscape character has been lost, and that should be reinserted, along with reference to protection of significant nature conservation values.

818. We also see the opportunity for these two policies to be combined. We recommend one policy replace Policies 3.2.5.5.1 and 2, numbered 3.3.20 and worded as follows:

"Enable continuation of existing farming activities and evolving forms of agricultural land use in rural areas except where those activities conflict with significant nature conservation values or degrade the existing character of rural landscapes."

819. We are satisfied that recommended Policy 3.3.20 is the most appropriate way to achieve Objectives 3.2.1.1, 3.2.1.7, 3.2.1.8, 3.2.4.1, 3.2.5.1 and 3.2.5.2 in the context of a package of high-level policies and taking account of the additional policies we recommend for Chapter 6.

3.20. Section 3.2.6.3 Policies – Urban Development

820. Policies 3.2.6.3.1 and 3.2.6.3.2 related to the location and design of open spaces and community facilities. While Mr Paetz recommended that these policies remain as is, for similar reasons as above, we recommend that these are more appropriately deleted from Chapter 3 and their subject matter addressed in the context of Chapter 4.

3.21. Overall Conclusion on Chapter 3 Policies

821. We have considered all the of the policies we have recommended for this chapter. We are satisfied that individually and collectively, they are the most appropriate way to achieve the Chapter 3 policies at this high level, taking account of the additional policies we recommend for Chapters 4 and 6. We note that the revised version of Chapter 3 annexed as Appendix 1 contains three additional policies we have not discussed (3.3.33-35 inclusive). These policies are discussed in the Stream 1A Report and included in our revised Chapter 3 for convenience,

in order that the chapter can be read as a whole. Lastly, we consider that understanding of the layout of the policies would be assisted by insertion of headings to break up what would otherwise be a list of 35 policies on diverse subjects. We have therefore inserted headings intended to capture the various groupings of policies.

4. PART B RECOMMENDATIONS

822. Attached as Appendix 1 is our recommended Chapter 3.

823. In addition, as discussed in our report, we recommend to the Stream 10 Hearing Panel that the following new and amended definitions be included in Chapter 2:

***"Nature Conservation Values** – means the collective and interconnected intrinsic values of indigenous flora and fauna, natural ecosystems (including ecosystem services), and their habitats.*

***Regionally significant infrastructure** - means:*

a. Renewable electricity generation activities undertaken by an electricity operator; and
b. The National Grid; and
c. Telecommunication and radio communication facilities; and
d. State Highways; and
e. Queenstown and Wanaka airports and associated navigation infrastructure.

***Urban Development** – means development which is not of a rural character and is differentiated from rural development by its scale, intensity, visual character and the dominance of built structures. Urban development may also be characterised by a reliance on reticulated services such as water supply, wastewater and stormwater and by its cumulative generation of traffic. For the avoidance of doubt, a resort development in an otherwise rural area does not constitute urban development.*

***Resort-** means an integrated and planned development involving low average density of residential development (as a proportion of the developed area) principally providing temporary visitor accommodation and forming part of an overall development focused on on-site visitor activities."*

824. Lastly, as discussed in the context of our consideration of Objective 3.2.5.2, if the Council intends that provisions related to the Rural Character Landscape apply in the Wakatipu Basin, and more generally, outside the Rural Zone, we recommend Council notify a variation to the PDP to make that clear.

6 LANDSCAPES AND RURAL CHARACTER

QUEENSTOWN LAKES DISTRICT COUNCIL

6.1 Purpose

The purpose of this chapter is to provide greater detail as to how the landscape, particularly outside urban settlements, will be managed in order to implement the strategic objectives and policies in Chapter 3. This chapter needs to be read with particular reference to the objectives in Chapter 3, which identify the outcomes the policies in this chapter are seeking to achieve. The relevant Chapter 3 objectives and policies are identified in brackets following each policy.

Landscapes have been categorised to provide greater certainty of their importance to the District, and to respond to regional policy and national legislation. Categorisations of landscapes will provide decision makers with a basis to consider the appropriateness of activities that have adverse effects on those landscapes.

6.2 Values

The District's landscapes are of significant value to the people who live in, work in or visit the District. The District relies in a large part for its social and economic wellbeing on the quality of the landscape, open spaces and the natural and built environment. Those landscapes also have inherent values, particularly to tangata whenua.

The landscapes consist of a variety of landforms created by uplift and glaciations, which include mountains, ice-sculpted rock, scree slopes, moraine, fans, a variety of confined and braided river systems, valley floors and lake basins. These distinct landforms remain easily legible and strong features of the present landscape.

Indigenous vegetation also contributes to the quality of the District's landscapes. While much of the original vegetation has been modified, the colour and texture of indigenous vegetation within these landforms contribute to the distinctive identity of the District's landscapes.

The open character of rural land is a key element of the landscape character that can be vulnerable to degradation from subdivision, development and non-farming activities. The prevalence of large farms and landholdings contributes to the open space and rural working character of the landscape. The predominance of open space over housing and related domestic elements is a strong determinant of the character of the District's rural landscapes.

Some rural areas, particularly those closer to the Queenstown and Wanaka urban areas and within parts of the Wakatipu Basin, have an established pattern of housing on smaller landholdings. The landscape character of these areas has been modified by vehicle accesses, earthworks and vegetation planting for amenity, screening and shelter, which have reduced the open character exhibited by larger scale farming activities.

While acknowledging these rural areas have established rural living and development, and a substantial amount of further subdivision and development has already been approved in these areas, the landscape values of these areas are vulnerable to degradation from further subdivision and development. Areas where rural living development is at or is approaching the finite capacity of the landscape need to be identified if the District's distinctive rural landscape values are to be sustained. Areas where the landscape can accommodate sensitive and sympathetic rural living developments similarly need to be identified.

The lakes and rivers both on their own and, when viewed as part of the distinctive landscape, are a significant element of the national and international identity of the District and provide for a wide range of amenity and recreational opportunities. They are nationally and internationally recognised as part of the reason for the District's importance as a visitor destination, as well as one of the reasons for residents to belong to the area. Managing the landscape and recreational values on the surface of lakes and rivers is an important District Plan function.

Landscapes have been categorised into three classifications within the Rural Zone. These are Outstanding Natural Landscapes (ONL) and Outstanding Natural Features (ONF), where their use, development and protection are a matter of national importance under Section 6 of the RMA. The Rural Landscapes (RLC) makes up the remaining Rural Zoned land and has varying types of landscape character and amenity values. Specific policy and assessment matters are provided to manage the potential effects of subdivision and development in these locations [1].

6.3 Policies

Rural Landscape Categorisation

6.3.1 Classify the Rural Zoned landscapes in the District as:

a. Outstanding Natural Feature (ONF);

b. Outstanding Natural Landscape (ONL);

c. Rural Character Landscape (RCL) (3.2.5.1, 3.2.5.2, 3.3.29, 3.3.31).

6.3.2 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 maps 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. (3.2.1.1, 3.4.4.4, 3.3.21).

6.3.3 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. (3.2.1.1, 3.2.1.7, 3.2.1.8, 3.2.5.2, 3.3.20-24, 3.3.32).

Managing Activities in the Rural Zone, the Gibbston Character Zone, the Rural Residential Zone and the Rural Lifestyle Zone

6.3.4 Avoid urban development and subdivision to urban densities in the rural zones. (3.2.2.1, 3.2.5.1, 3.2.5.2, 3.3.13-15, 3.3.23, 3.3.30, 3.3.32).

6.3.5 Ensure that the location and direction of lights does not cause excessive glare and avoids unnecessary degradation of views of the night sky and of landscape character, including of the sense of remoteness where it is an important part of that character. (3.2.5.1, 3.2.5.2, 3.3.19, 3.3.20, 3.3.30, 3.3.32).

6.3.6 Ensure the District's distinctive landscapes are not degraded by production forestry planting and harvesting activities. (3.2.1.8, 3.2.5.1, 3.2.5.2, 3.3.19, 3.3.29, 3.3.31).

6.3.7 Enable continuation of the contribution low-intensity pastoral farming on large landholdings makes to the District's landscape character. (3.2.1.7, 3.2.5.1, 3.2.5.2, 3.3.20).

[1]. Greyed out text indicated the provision is subject to variation and is therefore not part of the Hearing Panel's recommendation.

6.3.8 Avoid indigenous vegetation clearance where it would significantly degrade the visual character and qualities of the District's distinctive landscapes. (3.2.1.8, 3.2.5.1, 3.2.5.2, 3.3.19, 3.3.30, 3.3.32).

6.3.9 Encourage subdivision and development proposals to promote indigenous biodiversity protection and regeneration where the landscape and nature conservation values would be maintained or enhanced, particularly where the subdivision or development constitutes a change in the intensity in the land use or the retirement of productive farm land. (3.2.1.7, 3.2.4.1, 3.2.5.1, 3.2.5.2, 3.3.19, 3.3.20, 3.3.30, 3.3.32).

6.3.10 Ensure that subdivision and development in the Outstanding Natural Landscapes and Rural Character Landscapes adjacent to Outstanding Natural Features does not have more than minor adverse effects on the landscape quality, character and visual amenity of the relevant Outstanding Natural Feature(s). (3.2.5.1, 3.3.30).

6.3.11 Encourage any landscaping to be ecologically viable and consistent with the established character of the area. (3.2.1.8, 3.2.5.1, 3.2.5.2, 3.3.30, 3.3.32).

Managing Activities in Outstanding Natural Landscapes and on Outstanding Natural Features

6.3.12 Recognise that subdivision and development is inappropriate in almost all locations in Outstanding Natural Landscapes and on Outstanding Natural Features, meaning successful applications will be exceptional cases where the landscape or feature can absorb the change and where the buildings and structures and associated roading and boundary changes will be reasonably difficult to see from beyond the boundary of the site the subject of application. (3.2.1.1, 3.2.5.1, 3.3.21, 3.3.30).

6.3.13 Ensure that the protection of Outstanding Natural Features and Outstanding Natural Landscapes includes recognition of any values relating to cultural and historic elements, geological features and matters of cultural and spiritual value to tangata whenua, including tōpuni and wahi tūpuna. (3.2.3.1, 3.2.5.1, 3.2.7.1, 3.3.16, 3.3.30, 3.3.33 - 35, Chapter 5).

6.3.14 Recognise that large parts of the District's Outstanding Natural Landscapes include working farms and accept that viable farming involves activities that may modify the landscape, providing the quality and character of the Outstanding Natural Landscape is not adversely affected. (3.2.1.7, 3.2.1.8, 3.2.4.1, 3.2.5.1, 3.3.20, 3.3.30).

6.3.15 The landscape character and amenity values of Outstanding Natural Landscapes are a significant intrinsic, economic and recreational resource, such that new large scale renewable electricity generation or new large scale mineral extraction development proposals are not likely to be compatible with them. (3.2.5.1, 3.3.25, 3.3.30).

6.3.16 Maintain the open landscape character of Outstanding Natural Features and Outstanding Natural Landscapes where it is open at present. (3.2.1.7, 3.2.1.8, 3.2.4.1, 3.2.5.1, 3.3.20-21, 3.3.30).

6.3.17 Locate, design, operate and maintain regionally significant infrastructure so as to seek to avoid adverse effects on Outstanding Natural Landscapes and Outstanding Natural Features, while acknowledging that location constraints and/or the nature of the infrastructure may mean that this is not possible in all cases. (3.2.1.9, 3.2.5.1, 3.3.25, 3.3.30).

6.3.18 In cases where it is demonstrated that regionally significant infrastructure cannot avoid adverse effects on Outstanding Natural Landscapes and Outstanding Natural Features, avoid significant adverse effects and minimise other adverse effects on those landscapes and features. (3.2.1.9, 3.2.5.1, 3.3.25, 3.3.30).

Managing Activities in Rural Character Landscapes

6.3.19 Recognise that subdivision and development is unsuitable in many locations in Rural Character Landscapes and successful applications will need to be, on balance, consistent with the objectives and policies of the Plan. (3.2.1.1, 3.2.1.7, 3.2.5.2, 3.3.20-24, 3.3.32).

6.3.20 Encourage plan changes applying Rural Lifestyle and Rural Residential Zones to land as the appropriate planning mechanism to provide for any new rural lifestyle and rural residential developments in preference to ad-hoc subdivision and development and ensure these zones are located in areas where the landscape can accommodate the change. (3.2.1.8, 3.2.5.2, 3.3.22, 3.3.24, 3.3.32).

6.3.21 Require that proposals for subdivision or development for rural living in the Rural Zone take into account existing and consented subdivision or development in assessing the potential for adverse cumulative effects. (3.2.1.8, 3.2.5.2, 3.3.23, 3.3.32).

6.3.22 Have particular regard to the potential adverse effects on landscape character and visual amenity values where further subdivision and development would constitute sprawl along roads. (3.2.1.1, 3.2.1.7, 3.2.5.2, 3.3.21, 3.3.24-25, 3.3.32).

6.3.23 Ensure incremental changes from subdivision and development do not degrade landscape quality or character, or important views as a result of activities associated with mitigation of the visual effects of proposed development such as screen planting, mounding and earthworks. (3.2.1.1, 3.2.1.8, 3.2.5.2, 3.3.21, 3.3.24, 3.3.32).

6.3.24 Locate, design, operate and maintain regionally significant infrastructure so as to seek to avoid significant adverse effects on the character of the landscape, while acknowledging that location constraints and/or the nature of the infrastructure may mean that this is not possible in all cases. (3.2.1.9, 3.2.5.2, 3.3.25, 3.3.32).

6.3.25 In cases where it is demonstrated that regionally significant infrastructure cannot avoid significant adverse effects on the character of the landscape, such adverse effects shall be minimised. (3.2.1.9, 3.2.5.2, 3.3.25, 3.3.32).

6.3.26 Avoid adverse effects on visual amenity from subdivision, use and development that:

a. is highly visible from public places and other places which are frequented by members of the public generally (except any trail as defined in this Plan); or

b. forms the foreground for an Outstanding Natural Landscape or Outstanding Natural Feature when viewed from public roads. (3.2.1.1, 3.2.1.8, 3.2.5.1, 3.2.5.2, 3.3.20-21, 3.3.24-25, 3.3.30, 3.3.32).

6.3.27 In the Wakatipu Basin, avoid planting and screening, particularly along roads and boundaries that would degrade openness where such openness is an important part of its landscape quality or character. (3.2.1.1, 3.2.1.8, 3.2.5.2, 3.3.20-21, 3.3.24-25, 3.3.32).

6.3.28 In the Upper Clutha Basin, have regard to the adverse effects from subdivision and development on the open landscape character where it is open at present. (3.2.1.1, 3.2.1.8, 3.2.5.2, 3.3.20-21, 3.3.24-26, 3.3.32).

6.3.29 Encourage development to utilise shared accesses and infrastructure, and to locate within the parts of the site where it will minimise disruption to natural landforms and to rural character. (3.2.1.1, 3.2.1.8, 3.3.21, 3.3.24, 3.3.32).

Managing Activities on Lakes and Rivers

6.3.30 Control the location, intensity and scale of buildings, jetties, moorings and infrastructure on the surface and margins of water bodies and ensure these structures maintain or enhance landscape quality and character, and amenity values. (3.2.1.1, 3.2.4.1, 3.2.4.3, 3.2.5.1, 3.2.5.2, 3.3.19, 3.3.21, 3.3.26, 3.3.30, 3.3.32).

6.3.31 Recognise the character of the Frankton Arm including the established jetties and provide for these on the basis that the visual qualities of the District's distinctive landscapes are maintained and enhanced. (3.2.4.3, 3.2.5.1, 3.3.30).

6.3.32 Recognise the urban character of Queenstown Bay and provide for structures and facilities providing they protect, maintain or enhance the appreciation of the District's distinctive landscapes. (3.2.1.1, 3.2.4.1, 3.2.4.4, 3.2.5.1, 3.2.5.2, 3.3.19, 3.3.21, 3.3.30, 3.3.32).

6.3.33 Provide for appropriate commercial and recreational activities on the surface of water bodies that do not involve construction of new structures. (3.2.1.1, 3.2.4.4, 3.2.5.1, 3.2.5.2, 3.3.21, 3.3.30, 3.3.32).

6.4 Rules

6.4.1 The Landscape Chapter and Strategic Direction Chapter's objectives and policies are relevant and applicable in all zones where landscape values are at issue.

6.4.2 The landscape assessment matters do not apply to the following within the Rural Zone:

a. ski Area Activities within the Ski Area Sub Zones.;

b. the area of the Frankton Arm located to the east of the Outstanding Natural Landscape line as shown on the District Plan maps;

c. the Gibbston Character Zone;

d. the Rural Lifestyle Zone;

e. the Rural Residential Zone [1].

[1]. Greyed out text indicates the provision is subject to variation and is therefore is not part of the Hearing Panel's recommendations.

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan
Report 3
Report and Recommendations of Independent Commissioners Regarding
Chapter 3, Chapter 4 and Chapter 6

Commissioners
Denis Nugent (Chair)
Lyal Cocks
Cath Gilmour
Trevor Robinson
Mark St Clair

PART D - CHAPTER 6

8. OVERVIEW

1107. The purpose of this chapter is to recognise the landscape as a significant resource to the District which requires protection from inappropriate activities that could degrade its qualities, character and values. General submissions on Chapter 6 included requests that the entire chapter, or alternatively the objectives and policies in the chapter, be deleted and either replaced with the provisions already in section 4.2 of the ODP or unspecified elements thereof[611].

1108. Some of these submissions made quite specific suggestions as to desired amendments to the existing section 4.2 of the ODP. Others were more generalised. A variation was in submissions such as submissions 693[612] and 702 asking that Chapter 6 be deleted, and parts amalgamated with the Rural Chapter Section.

1109. Collectively, these submissions provide a broad jurisdiction to amend Chapter 6.

1110. We have addressed at some length in the context of our discussion of submissions on Chapter 3 whether it is appropriate to revert to the approach taken in the ODP to landscape management and have concluded that while a number of aspects of the ODP remain both relevant and of considerable assistance, the changed circumstances some 17 years after the initial key decision of the Environment Court on the form of the ODP[613] mean that a more strategic, directive approach is required. The commentary provided by Mr Barr in his Section 42A Report on Chapter 6 provides additional support for this view.

1111. Accordingly, we do not recommend wholesale changes to Chapter 6 to bring it into line with the ODP. Nor do we recommend it be amalgamated into the rural chapters. We consider it provides valuable strategic direction, consistent with the general structure of the PDP, with separate 'strategic' chapters. At an overview level, though, we recommend that the title of the chapter be amended to "*Landscapes and Rural Character"* to more correctly describe its subject matter. We regard this as a minor non-substantive change.

1112. Another theme of submissions on landscape issues was that the PDP's provisions were too protective of landscape values and existing activities that contribute to those values[614]. In his evidence, Mr Jeff Brown put to us the proposition that growth will inevitably affect landscape values, that this needed to be accepted and that the focus of PDP needed to be on appropriate management of those effects[615]. Counsel for Skyline Enterprises Ltd and others, Ms Robb, put a similar proposition to us, submitting[616]:

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611 Submissions 145, 632, 636, 643, 669, 688, 693, 702: Opposed in FS1097, FS1162, FS1254 and FS1313

612 Supported in FS1097

613 C180/99

614 See e.g. Submission 806

615 J Brown, EiC at [2.2]

616 Summary of legal submissions for Skyline Enterprises Ltd, Totally Tourism Ltd, Barnhill Corporate Trustee Ltd, DE, ME Burn and LA Green, AK and RB Robins and Robins Farm Ltd and Slopehill JV at 6.1.-6.3

"The regime does not recognise the fundamental need for development to accommodate inevitable growth (both in the tourism and living sectors) or that certain development will contribute to people and communities' appreciation of the District.
The assumption to be gained from the PDP is that Council is trying to protect rural areas from any development (other than productive rural activity) when in fact that is not what the PDP should be striving to achieve, at all.

Overall the PDP does not strike an appropriate balance between the protection, use and development of all resources. Accordingly, it is not the most appropriate regime to achieve the purpose of the Act."

1113. Such submissions raise questions of the extent to which the PDP can and should provide for growth.

1114. We posed the question to Ms Black, who gave evidence on behalf of Real Journeys Ltd, whether it might be time to put out the *"full up"* sign at the entrance to Queenstown, rather than seek to cater for an ever-expanding influx of visitors to the District. Her initial reaction was one of surprise that one could contemplate such a position. Having reflected on the point, she suggested that it was very difficult to stop development. She drew our attention to the economic benefits to other districts from the number of visitors drawn to Queenstown and Wanaka, and also to the national objectives of the tourism industry.

1115. All of these matters are worthy of note, but Ms Black accepted also that there is a risk of too much development in the District *'killing the golden goose'*. Ms Black's opinion might also be contrasted with the view expressed by Mr Goldsmith[617] that Queenstown can't just keep growing.

1116. Overlaid on these considerations is now the NPSUDC 2016 which aims "*to ensure that planning decisions enable the supply of housing needed to meet demand"* while not anticipating *"development occurring with disregard to its effect"*[618].

1117. Ultimately, it is about arriving at the best balance we can between the use, development and protection of the District's natural and physical resources[619], while complying with the legal obligations the Act imposes.

1118. We have not considered submissions[620] that although nominally on Chapter 6, in fact raise issues outside the Council's jurisdiction.

1119. Lastly, we note that our consideration of submissions on Chapter 6 needs to take into account the variation of some of its provisions notified on 23 November 2017. At a purely practical level, to the extent that the Stage 2 Variations delete or amend parts of Chapter 6, we do not need to make recommendations on those parts and existing submissions on them have been automatically transferred to the variation hearing process, by virtue of Clause 16B(1) of the First Schedule to the Act.

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617 When giving submissions for Ayrburn Farms Ltd, Bridesdale Farm Ltd, Shotover Country Ltd and Mt Cardrona Station Ltd

618 NPSUDC 2016 Forward at pages 3 and 4

619 Noting that that was how Ms Robb concluded her submissions – putting her position in terms of how the PDP had struck that balance.

620 See Submission 380

1120. Our recommended version of Chapter 6 in Appendix 1 therefore shows the provisions of the notified Chapter the subject of the Stage 2 Variation greyed out, to differentiate them from the provisions we recommend.

8.1. Section 6.1 - Purpose

1121. This section provides a general outline of the Purpose of the chapter as whole.

1122. The only submission seeking specific amendments to it was that of NZIA[621] seeking that it also refer to urban landscapes.

1123. Mr Barr recommended only drafting changes in his Section 42A Report.

1124. The primary focus of Chapter 6 is on rural landscapes, and the visual amenity issues in urban areas are dealt with in Chapter 4, and the more detailed provisions of Part Three of the PDP. However, Chapter 6 is not solely on rural landscapes and we accept that some amendment to the Statement of Purpose in Section 6.1 is appropriate to recognise that.

1125. In addition, submissions on Chapter 3 discussed above[622] sought greater guidance on the relationship between Chapter 3 and the balance of the PDP. We have recommended an amendment to Section 3.1 to provide such guidance. As a consequential measure, we recommend that parallel changes should be made to Section 6.1.

1126. Lastly, the second paragraph of Section 6.1 requires amendment in various respects:
   a. It is something of an overstatement to say categorisation of landscapes will provide certainty of their importance to the District. We recommend inserting the word "*greater"* to make it clear that this is an issue of degree;
   b. The reference to regional legislation needs to be corrected. The relevant instruments are Regional Policy Statements;
   c. Saying that categorisation of landscapes has been undertaken "*to align with"* regional [policy] and national legislation is somewhat misleading. Certainly, categorisation of landscapes aligns with the Proposed RPS, but it would be more correct to say that categorisation of landscapes "*responds to*" regional policy and national legislation;
   d. The reference to the RMA at the end of the second paragraph appears an unnecessary duplication, as well as lacking clarity. Given the specific reference to ONLs and ONFs, this is shorthand for consideration of adverse effects.

1127. In summary, we recommend that the Statement of Purpose be amended to read as:

"The purpose of this chapter is to provide greater detail as to how the landscape, particularly outside urban settlements, will be managed in order to implement the strategic objectives and policies in Chapter 3. It needs to be read with particular reference to the objectives in Chapter 3, which identify the outcomes the policies in this chapter are seeking to achieve.

Landscapes have been categorised to provide greater certainty of their importance to the District, and to respond to regional policy and national legislation. Categorisations of landscapes will provide decision makers with a basis to consider the appropriateness of activities that have adverse effects on those landscapes."

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621 Submission 238: Opposed in FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248 and FS1249

622 Submissions 179, 191, 781: Supported in FS1121; Opposed in FS1132

8.2. Section 6.2 - Values

1128. Section 6.2 contains a general discussion of landscape values that provide the background to the objectives and policies that follow in the balance of the chapter.

1129. Submissions on Section 6.2 include:
   a. Requesting that it be more descriptive and acknowledge the inherent values of the District's rural landscapes, especially ONLs and ONFs[623];
   b. Requesting it acknowledge urban landscapes and their values, and that references to farmland, farms and farming activities be amended[624];
   c. Requesting it acknowledge the role of infrastructure and the locational constraints that activity has[625];
   d. Requesting that it note the form of landscape Council wishes to retain and plan for a variety of future housing in both urban and rural areas[626];
   e. Requesting it acknowledge the appropriateness of rural living, subject to specified preconditions[627];
   f. Requesting insertion of a broader acknowledgement of activities that might be enabled in rural locations[628];
   g. Support for its current text[629] or its intent[630].

1130. Mr Barr recommended an amendment to the text to acknowledge that there is some, albeit limited, capacity for rural living in appropriate locations in rural areas, but otherwise recommends only minor drafting changes.

1131. We also record that the Stage 2 Variations delete the final (eighth) paragraph of the notified Section 6.2. Our recommended version of Chapter 6 accordingly shows that paragraph as greyed out, and we have not addressed submissions on it.

1132. We accept NZIA's request that reference in the fourth paragraph to productive farmland be amended to "*rural land"*. While Dr Marion Read noted in her evidence the relationship of farming to rural character, its open character is not related to the productivity of the land. Otherwise, we do not recommend acceptance of the NZIA submissions, reflecting the fact that the primary focus of the chapter is on rural landscapes.

1133. We agree with Mr Barr that some acknowledgement of rural living is required. We take the view, however, that the amendments to the sixth paragraph of Section 6.2 need to be a little more extensive than Mr Barr suggests. If the discussion is going to acknowledge that rural living is appropriate in some locations, it needs to provide greater guidance as to where those locations might be (and equally where the locations are where such development would not be appropriate). We do not consider that the broader acknowledgement requested in submission 608 is required in an introductory discussion.

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623 Submission 110: Opposed in FS1097

624 Submission 238: Opposed in FS1107, FS1226, FS1234, FS1238, FS1241, FS1242, FS1248, FS1249 and FS1255

625 Submissions 251, 433, 805: Supported in FS1077, FS1092, FS1097, FS1115 and FS1117

626 Submission 442

627 Submissions 375, 430, 437, 456: Supported in FS1097; Opposed in FS1084, FS1087, FS1160 and FS1282

628 Submission 608: Supported in FS1097, FS1154 and FS1158; Opposed in FS1034

629 Submission 600: Opposed in FS1034

630 Submission 755

1134. Similarly, we do not recommend that specific reference be made to infrastructure requirements in this context. While these issues are important and need to be addressed in the policies of Chapter 6, this introductory discussion does not purport to discuss every matter addressed in the substantive provisions that follow, nor need it to do so.

1135. We acknowledge that landscapes have inherent values, and agree that such values might be acknowledged.

1136. Other submissions are expressed too generally for us to base substantive amendments on.

1137. The first paragraph of Section 6.2 uses the term '*environmental image'*. The same term was used in Section 4.1 and we have recommended that *"the natural and built environment*" be substituted in that context. For consistency, the same amendment should be made in this context.

1138. The fifth paragraph refers to rural areas closer to Queenstown and Wanaka town centres as having particular characteristics. It would be more accurate to refer to rural areas closer to Queenstown and Wanaka urban areas.

1139. In summary, we recommend the following changes to Section 6.2:
   a. Substitute *"the natural and built environment"* for "*environmental image"* at the end of the first paragraph and add a further sentence:

      "T*hose landscapes also have inherent values, particularly to tangata whenua."*

   b. Substitute "*rural land"* for "*productive farmland"* in the first line of the fourth paragraph;
   c. Substitute reference to "*urban areas"* for "*town centres"* in the fifth paragraph;
   d. Amend the sixth paragraph to read as follows:

      "While acknowledging these areas have established rural living and development, and a substantial amount of further subdivision and development has already been approved in these areas, the landscape values of these areas are vulnerable to degradation from further subdivision and development. Areas where rural living development is at or approaching the finite capacity of the landscape need to be identified if the District's distinctive rural landscape values are to be sustained. Areas where the landscape can accommodate sensitive and sympathetic rural living developments similarly need to be identified."

8.3. Section 6 Objectives

1140. A number of submissions have been made on the objectives of Chapter 6. Mr Barr recommended one objective be deleted and that amendments be made to the balance. We have taken a broader view of the matter.

1141. The objectives all overlap with the objectives of Chapter 3, insofar as the latter address landscape values and rural character. The submissions on the objectives, if accepted, would not materially alter this position[631]. The Chapter 3 objectives already specify the desired end result and our view is that Chapter 6 need only specify additional policies to assist achievement of those broad objectives.

631 Many submissions, if accepted, would make the objectives inconsistent with the direction provided in Chapter 3, or alternatively would make them generalised to the point where they provide no meaningful assistance in achieving the purpose of the Act.

1142. In summary, therefore, to avoid duplication[632] we recommend deletion of all of the objectives in Chapter 6 as being the most appropriate way to achieve the purpose of the Act, as it relates to landscape and rural character.

1143. We have generally classified the many submissions seeking to soften the effects of the objectives as notified in a multitude of different ways as 'Accepted in Part'.

1144. Some submitters have sought additional objectives be inserted into Chapter 6. In particular, NZIA[633] requests addition of a new objective framed:

"Recognise the importance of high quality town centre landscapes within the District's natural landscape."

1145. We do not recommend that this objective be inserted for the following reasons:
   a. It is not framed as an objective (an environmental end point) and it is difficult to discern how it could be redrafted in order to do so.
   b. The urban areas of the District are too small to constitute a landscape in their own right[634].
   c. As above, the principal focus of Chapter 6 is on rural landscapes.

1146. None of the other objectives suggested appeared to us to add value against the background of the provisions recommended in Chapter 3.

8.4. Policies – Categorising Rural Landscapes

1147. As notified, Policies 6.3.1.1.and 6.3.1.2 provided for identification of ONLs and ONFs on the planning maps and classification of Rural Zoned landscapes as ONL, ONF and Rural Landscape Classification.

1148. The only submissions specifically seeking changes to them, sought their deletion[635], identification of the balance of rural landscapes on the planning maps[636] and a change in the label for those rural landscapes[637].

1149. Policy 6.3.1.1 duplicated recommended Policy 3.3.29 and accordingly, we recommend that it be deleted.

1150. As regards Policy 6.3.1.2, the notified version of Chapter 6 has a number of other provisions relating to the landscape classifications: Policy 6.3.8.3 and 6.3.8.4 together with Rules 6.4.1.2-4. It is appropriate that those provisions be considered here, subject to the effect of the Stage 2 Variations.

1151. As notified, Policy 6.3.8.3 read:

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632 Consistent with Real Journeys Limited's submission (Submission 621)

633 Submission 238: Supported in FS1097; Opposed in FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248 and FS1249

634 See the discussion for example in *Lakes District Rural Landowners Society Inc and Ors v Queenstown Lakes District Council* C75/2001 at paragraph 7 on the need for a '*landscape'* to meet a minimum areal requirement.

635 Submission 806

636 Submission 761

637 Submissions 375 and 456: Opposed in FS1282

"Exclude identified Ski Area Sub-Zones from the landscape categories and full assessment of the landscape provisions while controlling the impact of the ski field structures and activities on the wider environment."

1152. Policy 6.3.8.4 read:

"Provide a separate regulatory regime for the Gibbston Valley, identified as the Gibbston Character Zone, in recognition of its contribution to tourism and viticulture while controlling the impact of buildings, earthworks and non-viticulture related activities on the wider environment."

1153. Lastly, Rules 6.4.1.2-4 read:

"6.4.1.2 The landscape categories apply only to the Rural Zone. The Landscape Chapter and Strategic Directions Chapter's objectives and policies are relevant and applicable in all zones where landscape values are in issue.

6.4.1.3 The landscape categories do not apply to the following within the Rural Zones:

a. *Ski Area Activities within the Ski Area Sub-Zones;*
b. *The area of the Frankton Arm located to the east of the Outstanding Natural Landscape Line as shown on the District Plan maps;*
c. *The Gibbston Character Zone;*
d. *The Rural Lifestyle Zone;*
e. *The Rural Residential Zone.*

6.4.1.4 The landscape categories apply to lakes and rivers. Except where otherwise stated or shown on the Planning Maps, lakes and rivers are categorised as Outstanding Natural Landscapes."

1154. The Stage 2 Variations have made amendments to both Rules 6.4.1.2 and 6.4.1.3, which will need to be considered as part of the hearing process for these variations. Specifically:
a. The first sentence of Rule 6.4.1.2 has been deleted;
b. The first line of Rule 6.4.1.3 has been amended to refer to landscape "*assessment* matters*"* rather than landscape "*categories"*;
c. Rules 6.4.1.3 c., d. and e. have been deleted.

1155. The submissions on the provisions quoted included:
a. Support for exclusion of the ski areas from landscape categories[638];
b. A request to extend the ski area exclusion to include access corridors, delete reference to environmental controls and add recognition of the importance of these areas[639];
c. A request to extend the ambit of Rule 6.4.1.2 to exclude Chapter 6 from having any application outside the Rural Zone[640];
d. A request for clarification as to whether landscape classification objectives and policies apply to special zones like Millbrook[641];
e. A request for clarification that landscape classification objectives and policies do not apply to the Rural Lifestyle Zone and the Rural Residential Zone[642];

638 Submissions 608, 610, 613: Opposed in FS1034
639 Submission 806: Supported in FS1229
640 Submissions 443 and 452
641 Submission 696
642 Submissions 669 and 694

f. A request to revise the drafting of Rule 6.4.1.2 and 6.4.1.3 to more clearly express what is included or excluded[643];
g. A request to add the Hydro Generation Zone as a further zone excluded from the landscape classifications[644];
h. A request to add reference to trails undertaken by the Queenstown Trail or Upper Clutha Tracks Trusts[645];
i. A request to delete Rule 6.4.1.4 or clarify the reference to ONLs[646].

1156. Mr Barr recommended deletion of Rules 6.4.1.2 and 6.4.1.4 and amendment of Rule 6.4.1.3 to refer to landscape assessment matters (rather than landscape categories) and to delete reference in the Rule to the Gibbston Character Zone, the Rural Lifestyle Zone and the Rural Residential Zone. Some of those recommendations have been overtaken by the Stage 2 Variations and do not need to be considered further. Mr Barr did not recommend amendment to the two policies noted above (which are not the subject of the Stage 2 Variations).

1157. We found these provisions collectively exceedingly confusing, overlapping, and, in part, contradictory. It is not surprising there were so many submissions seeking clarification of them.

1158. Mr Barr's recommendations did not materially assist and, in one view, confused the matter still further by implying that while the landscape assessment criteria apply only in the Rural Zone, the landscape categorisations as ONL, ONF and Rural Character Landscape (as relabelled) apply as shown on the planning maps, with the sole exceptions of the Ski Area Sub-Zones and the Gibbston Valley Character Zone (by virtue of Policies 6.3.8.3 and 6.3.8.4). That would mean all of the special zones, the Rural Lifestyle Zone and the Rural Residential zone are subject to the landscape categorisations. Inclusion of the special zones would in turn be inconsistent with Mr Barr's recommended revised Policy 6.3.1.1. (that like notified Policy 6.3.1.2) indicates that the intention is to classify the "*Rural Zoned Landscapes"*. On the face of the matter, land in the Rural Lifestyle Zone and the Rural Residential Zone would not qualify as "*Rural Zoned landscapes"* either (given it refers to "*Rural Zoned"* rather than "*rural zoned"* landscapes).

1159. The effect of the Stage 2 Variations is to remove the explicit statements in Section 6.2 and Rule 6.4.1.2 that the landscape categories apply only in the Rural Zone, but does not change notified Policy 6.3.1.2.

1160. Last, but not least, as some submitters pointed out at the hearing, the planning maps identify ONFs within special zones in Arrowtown and at Jacks Point. The Stage 2 Variations do not change that position either.

1161. Stepping back from the explicit and implicit statements in the PDP regarding application of the landscape categories, we make the following observations:
a. The Planning Maps do not clearly or consistently identify the boundaries of the areas denoted ONL, ONF and (particularly) RLC (now RCL) in all locations.
b. Land in the Rural Residential and Rural Lifestyle Zones has been identified as such either because it is already developed or because it has the capacity (in landscape terms) to absorb a greater density of development than the balance of rurally zoned areas. If more

643 Submission 836: Supported in FS1085
644 Submission 580: Opposed in FS1040
645 Submission 671
646 Submission 836

land is identified as appropriately having one or other of these zones applied to it following the mapping hearings, it will be for the same reasons. While the objectives and policies of Chapter 22 refer to the potential for such zones to be located in sensitive landscapes, and have provisions to address that situation, those provisions are not framed with reference to the landscape categories.

c. The Gibbston Character Zone has its own specific provisions to manage landscape character and there might similarly be considered to be a case for it to sit outside the categorisation process as a result;

d. The special zones are just that, "*special"*. They vary in nature, but a common feature is that landscape provisions have already been taken into account in identifying the land as subject to a special zone. In addition, to the extent that Mr Barr's recommended relief would or might have the effect that special zones are subject to the landscape classifications, we consider there is no scope to make that change. Submission 836 (that Mr Barr has relied upon), seeks only non- substantive drafting changes. As regards the specific request by Contact Energy Ltd to add specific reference to the Hydro Generation Zone, this is neither necessary nor appropriate. The Hydro Generation Zone is a *'special*' zone under the ODP. Assuming it retains that status in subsequent stages of the District Plan process, it will be excluded automatically. More to the point, if we were to list that particular zone, we would presumably have to list all the special zones, to avoid the implication that they were not excluded;

e. The Frankton Arm is not readily considered under a classification that seeks to retain its rural character. It is obviously not "*rural"*. As such, it might appropriately be excluded from the classification process entirely, having been identified as not outstanding. That raises questions in our minds as to the apparent classification of a large section of the Hawea River, and the lower section of the Cardrona River, above its confluence with the Clutha, as Rural Character Landscapes, but those rivers might be considered small enough that the policies related to that classification are still applicable;

f. The fact that the District Plan maps show parts of ONFs in Arrowtown and Jacks Point respectively as being within special zones is an anomaly if the intention is that all ONFs and ONLs be managed in accordance with the objectives and policies governing ONLs and ONFs. The special zone at Arrowtown will be considered as part of a subsequent stage of the District Plan review and we recommend the area occupied by the ONF be zoned Rural as part of that process. The Jacks Point Structure Plan already recognises the landscape values of the areas currently identified as ONF and ONL within the boundary of the zone, with provisions precluding development in those areas, reinforced by the recommended provisions of Chapter 41, and so there is not the same imperative to address it.

g. The fact that the PDP maps shows ONL and ONF lines as extending into residential zones appears to be an error, given the provisions of the PDP already noted. We discussed the incursion of the Mt Iron ONF line into the residential zoned land on the west side of the mountain with Mr Barr and he advised it was a mapping error. We will treat that (and the other examples we noted) as being something to be addressed in the mapping hearings, assuming there is jurisdiction and evidence to do so.

h. Although perpetuating the ODP in this regard, the exclusion for the Ski Area Sub-Zones is anomalous because it is contrary to case law[647] holding that the inquiry as to whether a landscape is outstanding is a discrete issue that needs to be resolved on landscape grounds, and that the planning provisions are a consequence of its categorisation as outstanding, not the reverse. Counsel for Darby Planning LP argued that the ski areas were properly excluded from the ONL classification because they are not *'natural'*. That may be the case (Darby Planning did not adduce expert evidence to support that contention), but the ski areas appear too small to constitute a separate *'landscape'* based

647 *Man O'War Station Limited v Auckland Council* [2015] NZHC 767: Affirmed [2017] NZCA 24

on the tests previously applied by the Environment Court. In any event, we have no submission that would give us jurisdiction to delete the exclusion for the ski area subzones in Policy 6.3.8.3[648] and thus we only note it as an anomaly. The Council should consider whether it is necessary to initiate a variation in this regard;

i. Given the *Man O'War* decisions (referred to above) though, the submissions for Queenstown Park Limited[649] and Queenstown Trails Trusts seeking additional exclusions from the consequences of classification as ONL (or ONF) cannot be accepted.

1162. We also note that it was not at all clear to us whether the contents of Section 6.4.1 are correctly described as "*rules".*

1163. While section 76(4) of the Act is silent as to what a rule in a District Plan may do, normally rules govern activities having an adverse effect on the environment. Rules 6.4.1.2-4 quoted above are (as the heading for Section 6.4.1 suggests) essentially explanations as to how policies should be interpreted and applied. Rule 6.4.1.1. is a clarification of the term "*subdivision and development".* Rule 6.4.1.5 is similarly a clarification as to the applicability of the objectives and policies of the landscape chapter to utilities. Mr Barr recommended, in any event, that it be deleted as it is not necessary.

1164. Mr Barr recommended in his reply evidence that Section 6.4 might more appropriately be headed Implementation Methods. That recommendation has now been overtaken by the Stage 2 Variations, meaning that Rules 6.4.1.2-3 must remain in Chapter 6, as amended, for future consideration. We consider, however, that the content of Rule 6.4.1.4 would more appropriately be addressed in policies in common with notified Policies 6.3.8.3 and 6.3.8.4. Rule 6.4.1.1 might appropriately be shifted to the definition section (Chapter 2). Currently that rule reads:

"The term 'subdivision and development' includes subdivision, identification of building platforms, any buildings and associated activities such as roading, earthworks, lighting, landscaping, planting and boundary fencing and access/gateway structures".

1165. A submission was made on this *'rule'* by PowerNet Limited[650] seeking that "*subdivision and development"* should not include "*infrastructure structures and activities that are not associated with the subdivision and development".*

1166. It is not clear whether the submitter seeks an exclusion from the policies in Chapter 6 for infrastructure that is associated with subdivision and development (read literally that would be the effect of the submission, if accepted). If that is the intention, we do not accept it. It is important that the effects of a subdivision be considered holistically. It would be unrealistic and undesirable if, for instance, the effects of a subdivision on landscape character were considered without taking into account the effects of the internal roading network necessitated by the subdivision. No amendment is necessary for infrastructure not associated with the subdivision and development because the existing rule only includes "*associated"* activities as it is.

1167. In summary, we recommend no change to the rule, but that it be shifted to Chapter 2. The end result will of course be the same.

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[648] The exclusion formerly in Rule 6.4.1.2(a) has been effectively removed by the Stage 2 Variations.

[649] Submission 806

[650] Submission 251: Supported in FS1092 and FS1097

1168. We agree with Mr Barr that Rule 6.4.1.5 is an unnecessary duplication and should be deleted.

1169. Turning then as to how Rule 6.4.1.4 might be amalgamated into the policies along with 6.3.8.3 and 6.3.8.4, we have no jurisdiction to expand notified Policy 6.3.1.2 to apply beyond the Rural Zone. Its deletion (as sought in Submission 806) would have the effect that the landscape categories would not have any policy support indicating where they apply. Given the deletions from the text of Chapter 6 accomplished by the Stage 2 Variations and the lack of consistency in the planning maps identifying their location, we do not regard that as a satisfactory outcome – the lack of clarity, legitimately the subject of a number of submissions, would be exacerbated.

1170. We do not regard retention of Policy 6.3.1.2 as inconsistent with the varied provisions notified in November 2017. While Rule 6.4.1.2, as revised by the Stage 2 Variations, states that the objectives and policies of Chapters 3 and 6 apply in all zones where landscape values are in issue, that application presumably must depend on the terms of the relevant objective or policy. Recommended Objective 3.2.5.1 for instance will not apply to landscapes that are not ONL's.

1171. In summary, therefore, we recommend that Policy 6.3.1.2 be renumbered 6.3.1, and refer to Rural Character Landscapes, but otherwise be retained unamended, and that two amended policies numbered 6.3.2 and 6.3.3 be inserted to follow it, building on existing policies as follows:

"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 maps from the Outstanding Natural Feature, Outstanding Natural Landscape and Rural Character Landscape landscape categories applied to the balance of the Rural Zone.

Provide a separate regulatory regime for 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 landscape categories, and the policies of this chapter related to those categories, do not apply unless otherwise stated."

1172. While the two policies have a similar end result and could potentially be collapsed together, we consider there is some value in differentiating the zones that have discrete chapters in the PDP outlining how they are to be managed, from the Ski Area Sub-Zones and the Frankton Arm that are part of the Rural Zone.

1173. We recommend that Rule 6.4.1.4 should be deleted, as a consequence.

1174. We consider that these policies, operating in conjunction with the policies of Chapter 3 related to categorisation of landscapes are the most appropriate way to achieve Objectives 3.2.1.1, 3.2.1.7, 3.2.1.8, 3.2.5.1 and 3.2.5.2 at a strategic level, having regard to the jurisdictional limitations on our consideration of these matters.

8.5. Policies – Managing Activities in the Rural Zones

1175. Consequential on the suggested deletion of the objectives in this chapter, there is a need to organise the policies flowing from categorisation of rural landscapes into a logical order. We recommend that this be done first by grouping the policies managing activities throughout the

rural zones (that is, within the Rural, Rural Residential, Rural Lifestyle and Gibbston Character Zones); secondly by gathering the policies that are specific to managing activities in ONLs and ONFs; thirdly by grouping together policies related to managing activities in RCLs; and lastly by grouping together the policies related to managing activities related to lakes and rivers. We recommend that this division be made clear by including suitable headings as follows:

a. *"Managing Activities in the Rural Zone, the Gibbston Character Zone, the Rural Residential Zone and the Rural Lifestyle Zone;*
b. *Managing Activities in Outstanding Natural Landscapes and on Outstanding Natural Features;*
c. *Managing Activities in Rural Character Landscapes;*
d. *Managing Activities on Lakes and Rivers".*

1176. Insertion of headings for the balance of the chapter requires a new heading for the three policies related to land categorisation that we have already recommended. We recommend the heading "*Rural Landscape Categorisation"* be inserted.

1177. Turning to the policies falling under the first bullet pointed heading above, the first that requires consideration is what was formerly numbered Policy 6.3.1.5, which read:

"Avoid urban subdivision and development in the rural zones."

1178. Submissions on this policy sought a wide range of relief from its deletion to significant amendments. Mr Barr recommended its amendment to read:

"Discourage urban subdivision and urban development in the rural zones."

1179. The substance of this policy has already been addressed in the context of our Chapter 3 report above and we have recommended that urban development outside the defined UGBs and existing settlements where UGBs have not been defined should be avoided. It follows that we recommend that all of the submissions on this policy (apart from the single submission seeking its retention) be rejected. The only amendment we recommend to the policy is to clarify what is meant by "*urban subdivision"*.

1180. Accordingly, we recommend that Policy 6.3.1.5 be renumbered 6.3.4 and amended to read:

"Avoid urban development and subdivision to urban densities in the rural zones".

1181. The second policy common to all of the rural zones is Policy 6.3.1.8 which as notified, read:

"Ensure that the location and direction of lights does not cause glare to other properties, roads, and public places or the night sky."

1182. Submissions on this policy sought variously its deletion[651], shifting provision for lighting into the rural chapter[652], carving out an exception for navigation and safety lighting[653], and generally to give greater prominence to the significance of the night sky as a key aspect of the District's natural environment[654].

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651 Submission 761
652 Submission 806
653 Submission 621: Supported in FS1097; Opposed in FS1282
654 Submission 340

1183. We also note a separate submission seeking recognition of the maintenance of the ability to view and appreciate the naturalness of the night sky and to avoid unnecessary light pollution in Chapter 3[655]. As discussed in Part C of our r report, while we do not consider that this passes the rigorous requirement for inclusion in Chapter 3, we have taken this submission into account in this context.

1184. Mr Barr recommended the policy be amended to read:

"Ensure that the location and direction of lights avoids degradation of the night sky, landscape character and sense of remoteness where it is an important part of that character."

1185. As Submission 568 (G Bisset) pointed out, the issue under this policy is views of the night sky (rather than degradation of the night sky per se). The night sky itself cannot be impacted by any actions taken on the ground.

1186. Second, we think that Real Journeys is correct, and provision needs to be made for navigation and safety lighting. We suggest that the policy refer to "*unnecessary*" degradation of views of the night sky. We also take on board a point made by Mr Ben Farrell in his evidence, that Mr Barr's recommendation omitted reference to glare, the minimisation of which is important to night-time navigation on Lake Wakatipu.

1187. Mr Barr's reasoning[656] was that zone provisions control glare. However, in our view, some reference to glare is required at broader policy level. Again though, it is not all glare that needs to be avoided.

1188. We also think that Mr Barr's suggested reformulation treats loss of remoteness as a discrete issue when (where applicable) it is an aspect of landscape character. It might also be seen to introduce some ambiguity as to what the qualifier (where it is an important part of that character) refers to. This can be avoided with a little redrafting.

1189. Accordingly, we recommend that Policy 6.3.1.8 be renumbered 6.3.5 and amended to read:

"Ensure that the location and direction of lights does not cause excessive glare and avoids unnecessary degradation of views of the night sky and landscape character, including of the sense of remoteness where it is an important part of that character."

1190. Policy 6.3.1.9 as notified read:

"Ensure the District's distinctive landscapes are not degraded by forestry and timber harvesting activities."

1191. One submission on this policy sought clarification of linkages with provisions related to indigenous vegetation and biodiversity and as to the extent of any limitations on timber harvesting[657]. Another submission sought that the policy be deleted in this context and shifted to the rural chapter[658].

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655 Submission 568

656 In the Section 42A Report at page 22

657 Submission 117

658 Submission 806

1192. We do not recommend the latter as this is a landscape issue common to all rural zones. We do recommend minor changes responding to Submission 117, to make it clear that this policy has no connection to indigenous vegetation or biodiversity provisions and to limit the breadth of the reference to timber harvesting (which might otherwise be seen as inconsistent with the policy focus on controlling wilding species). Accordingly, we recommend that Policy 6.3.1.9 be renumbered 6.3.6 and amended to read:

"Ensure the District's distinctive landscapes are not degraded by production forestry planting and harvesting activities."

1193. Policy 6.3.1.10, as notified, read:

"Recognise that low-intensity pastoral farming on large land holdings contributes to the District's landscape character."

1194. Submissions on this policy sought variously deletion of specific reference to pastoral farming and to the size of land holdings[659], deletion of the reference to the size of land holdings[660], deletion of the policy entirely or its amendment to recognise that it is the maintenance of landscape values that contributes to landscape character[661].

1195. Mr Barr did not recommend any change to his policy. Consequent with our recommendations in relation to notified Policy 3.2.5.5.1, we recommend that the focus of this policy should be enabling low intensity pastoral farming to continue its contribution to landscape character. While it is understandable that submitters take the view that many activities contribute to rural landscape character, large pastoral land holdings in the District have a particular role in this regard and we consider it is appropriate that they be recognised. We also consider no specific reference is required to more intensive farming[662], since the policy does not purport to enable that.

1196. In summary, we recommend that Policy 6.3.1.10 be renumbered 6.3.7 and amended to read:

"Enable continuation of the contribution low-intensity pastoral farming on large land holdings makes to the District's landscape character."

1197. Policy 6.3.7.2, as notified, read:

"Avoid indigenous vegetation clearance where it would significantly degrade the visual character and qualities of the District's distinctive landscapes."

1198. Submissions on this policy sought variously its deletion[663], its retention[664] or softening the policy to refer to avoiding, remedying or mitigating indigenous vegetation clearance[665] or

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659 Submission 238: Supported in FS1097; Opposed in FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248 and FS1249

660 Submission 600: Supported in FS1209; Opposed in FS1034 and FS1282

661 Submission 806

662 See e.g. Submission 110

663 Submission 806

664 Submission 600: Supported in FS1209; Opposed in FS1034

665 Submissions 519 and 598 (the latter in tandem with deletion of the word "*significantly")*: Supported in FS1015, FS1097 and FS1287; Opposed in FS1356

alternatively to significant ONFs and ONLs[666]. Mr Barr did not recommend any change to the policy as notified.

1199. Given that the focus of the policy is on significant degradation to visual character and landscape qualities, we take the view that an avoidance policy is appropriate. It could be amended to expand its focus (as Submission 598 suggests) but we see little value in an "*avoid, remedy or mitigate"* type policy in this context. We also consider that the policy has broader application than just indigenous vegetation in ONLs and on ONFs (that are significant by definition).

1200. Accordingly, we recommend no change to this policy, other than to renumber it 6.3.8.

1201. Policy 6.3.7.1, as notified, read:

"Encourage subdivision and development proposals to promote indigenous biodiversity protection and regeneration where the landscape and nature conservation values would be maintained or enhanced, particularly where the subdivision or development constitutes a change in the intensity in the land use or the retirement of productive farm land."

1202. Two submissions[667] sought amendment to this policy – that it refers to 'biodiversity' rather that 'nature conservation' values, and recognise that values might change over time. Mr Barr recommended that it remain as notified and, other than renumbering it 6.3.9, we concur. Given the revised definition of 'nature conservation values' we consider it an appropriate focus in this context. Similarly, we consider the policy already contemplates change.

1203. We also consider that this policy provides adequate support at a high level for offsetting, fleshed out by the provisions of Chapters 21 and 33. We therefore concur with Mr Barr's view that no new policy on the subject[668] is required.

1204. Policies 6.3.8.1 and 6.3.8.2 related to tourism infrastructure, commercial recreation and tourism related activities. Policy 6.3.8.1 provided for acknowledgement of tourism infrastructure. 6.3.8.2 involved recognition of the appropriateness of commercial recreation and tourism related activities. Most of the submissions on these policies were supportive, seeking amendments to extend their ambit.

1205. We have recommended that Policy 6.3.8.2 be shifted into the Strategic Chapter to better recognise the importance of these matters. We do not see Policy 6.3.8.1 as adding any value independently of 6.3.8.2 and accordingly both should be deleted from this chapter, as a consequential change.

1206. Policy 6.3.3.2 as notified read:

"Ensure that subdivision and development in the Outstanding Natural Landscapes and Rural Landscapes adjacent to Outstanding Natural Features would not degrade the landscape quality, character and visual amenity of Outstanding Natural Features."

666 Submission 378: Opposed in FS1049 and FS1282

667 Submissions 378 and 806: Opposed in FS1049 and FS1282

668 As sought in Submission 608: Supported in FS1097 and FS1117; Opposed in FS1015 and FS1034

1207. Submissions on this policy sought variously minor drafting changes[669], clarification that a significant degree of degradation is required[670] and its deletion[671].

1208. Mr Barr did not recommend any change to this policy.

1209. We have considered whether this policy should properly extend to subdivision and development in the Rural Residential, Rural Lifestyle and Gibbston Character Zones. While Mr Carey Vivian suggested an amendment that would have this effect, given the limited scope of submissions on this policy, an extension of its ambit would in our view be outside scope and require a variation. Having considered that possibility on its merits, we do not recommend such a variation be advanced. Land is zoned Rural Lifestyle, or Rural Residential in the knowledge that that zoning involves acceptance of a greater density of development than the Rural Zone. If land is adjacent to an ONF, that proximity, and the potential for adverse effects on the ONF should be considered at the point the land is zoned. The Gibbston Character Zone is not adjacent to an ONF, and so the issue does not arise for land in the Gibbston Valley.

1210. Returning to the notified form of Policy 6.3.3.2, we regard degradation as importing a more than minor adverse effect, but for clarity, recommend that the policy be amended to say that. We have considered the evidence as to alternative ways in which a qualitative element might be introduced into this policy. Ms Louise Taylor[672] suggested adding "*as a whole",* so as to give it a spatial dimension. Mr Carey Vivian suggested that the test be whether the landscape quality and visual amenity "*values"* of the ONF are adversely affected. Given the objective sought to be achieved (3.2.5.1), we consider a *'more than minor adverse effect'* test is a more appropriate test. We also think that a more than minor adverse effect would, in all likelihood degrade an ONF *'as a whole'* and adversely affect the values that make it significant[673]. The only other amendments we would recommend are consequential (to refer to Rural Character Landscapes and renumber it 6.3.10) and clarification (to make it clear that the focus is on the ONF to which subdivision and development is adjacent).

1211. Accordingly, we recommend that this Policy be amended to read:

"Ensure that subdivision and development in the Outstanding Natural Landscapes and Rural Character Landscapes adjacent to Outstanding Natural Features does not have more than minor adverse effects on the landscape quality, character and visual amenity of the relevant Outstanding Natural Feature(s)."

1212. Policy 6.3.5.4 as notified read:

"Encourage any landscaping to be sustainable and consistent with the established character of the area."

1213. The only submissions specifically on this policy sought its retention. Mr Barr recommended one minor change, to clarify that the reference to sustainability in this context is not the broad concept in section 5 of the Act, but rather relates to whether landscaping is viable.

669 Submission 375: Opposed in FS1097 and FS1282

670 Submissions 519 and 598: Supported in FS1015, FS1097 and FS1287; Opposed in FS1282 and FS1356

671 Submissions 355 and 598: Supported in FS1287; Opposed in FS1282 and FS1320

672 Giving evidence for Matukituki Trust

673 The focus of Proposed RPS, Policy 3.2.4

1214. We agree with the thinking behind that suggested change, but consider it could be made clearer. Accordingly, we recommend that this Policy be renumbered 6.3.11 and amended to read:

"Encourage any landscaping to be ecologically viable and consistent with the established character of the area."

1215. In summary, having reviewed the policies in this section, we consider that individually and collectively with the policies both in Chapter 3 and in the balance of this chapter, they are the most appropriate way to achieve the objectives in Chapter 3 relevant to use, development and protection of the rural areas of the District at a strategic level.

8.6. Policies – Managing Activities in ONLs and on ONFs

1216. As notified, Policy 6.3.1.3 read:

"That subdivision and development proposals located within the Outstanding Natural Landscape, or an Outstanding Natural Feature, be assessed against the assessment matters in provisions 21.7.1. and 21.7.3 because subdivision and development is inappropriate in almost all locations meaning successful applications will be exceptional cases."

1217. Submissions on this policy included:

a. Seeking that the Policy be restricted to a cross reference to the assessment matters[674];
b. Seeking to delete reference to the assessment matters, but retain the emphasis on subdivision and development being generally inappropriate[675];
c. Seeking to delete it entirely[676];
d. Seeking to amend the concluding words to soften the expectations as the number of locations where developments will be inappropriate[677];
e. Seeking to amend the policy to state the intention to protect ONLs or ONFs from inappropriate subdivision, use or development[678];
f. Seeking to qualify the policy to provide specifically for infrastructure with its own test, or alternatively add a new policy the same effect[679].

1218. In his reply evidence, Mr Barr recommended this policy be amended to read:

"That subdivision and development proposals located within the Outstanding Natural Landscape, or an Outstanding Natural Feature, be assessed against the assessment matters in provisions 21.7.1 and 21.7.3 because subdivision development is inappropriate in almost all locations within the Wakatipu Basin, and inappropriate in many locations throughout the districtwide Outstanding Natural Landscapes."

674 Submissions 249, 355, 502, 519, 621: Supported in FS1012, FS1015 and FS1097; Opposed in FS1282, FS1320 and FS1356
675 Submissions 375, 437, 456: Opposed in FS1015, FS1097, FS1160 and FS1282
676 Submissions 624, 806
677 Submissions 598: Supported in FS1097, FS1117 and FS1287; Opposed in FS1282
678 Submission 581: Supported in FS1097; Opposed in FS1282
679 Submissions 251, 805: Supported in FS1092, FS1097 and FS1115; Opposed in FS1282

1219. The recommended amendment recognises a distinction drawn in the initial Environment Court decision on the ODP[680] between the reduced capacity of the Wakatipu Basin ONLs to absorb change, compared to the ONLs in the balance of the District[681].

1220. A number of the planning witnesses who appeared at the hearing criticised this policy as notified as inappropriately prejudicing applications yet to be made. Ms Louise Taylor suggested to us for instance that such predetermination was inconsistent with the caselaw applying a *'broad judgment'* to resource consent applications.

1221. Mr Tim Williams noted also that there were a number of examples where developments in ONLs had been found to be appropriate. While Mr Williams did not say so explicitly, the implication was that it is not factually correct that appropriate development in an ONL is an exceptional case.

1222. As against those views, Mr John May gave evidence suggesting that the notified policy was both realistic and reflected the sensitivity and value of the District's landscapes.

1223. The Environment Court thought it was necessary to make comment about the likelihood of applications being successful in the ODP to make it clear that the discretionary activity status afforded activities in ONLs and ONFs under the ODP did not carry the usual connotation that such activities are potentially suitable in most if not all locations in a zone[682]. The Environment Court made it clear that, were this not able to be stated, a more restrictive, non-complying activity would be appropriate.

1224. Mr Goldsmith[683] submitted to us that the existing reference to appropriate development in ONLs being an exceptional case originated from the Environment Court's identification of the ONLs in the Wakatipu Basin as requiring a greater level of protection. He also submitted that elevation of the existing provision into a policy required justification and evidence[684].

1225. We do not think Mr Goldsmith's first point is factually correct. While the initial consideration in the Environment Court's mind might have been the vulnerability of the Wakatipu Basin ONLs, the ODP text the Court approved reads:

> *"… in or on outstanding natural landscapes and features, the relevant activities are inappropriate in almost all locations within the zone, **particularly** within the Wakatipu Basin or in the Inner Upper Clutha area…"* [Emphasis added]

1226. On the second point, we do not think elevation from a provision explaining the rule status ascribed to a policy requires justification in the sense Mr Goldsmith was arguing. Clearly the Environment Court thought that was the position as a fact. Whether it should now be expressed as a policy turns on whether that is the most appropriate way to achieve the relevant objective (3.2.5.1) which we have already found to be the most appropriate way to achieve the purpose of the Act. This is the basis on which we have approached the matter.

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680 C180/99 at [136]

681 See ODP Section 1.5.3iii(iii)

682 Refer the discussion in Lakes District Rural Landowners Society Inc v Queenstown Lakes District Council C75/2001 at 41-46

683 When appearing for Ayrburn Farm Estate Ltd, Bridesdale Farm Developments Ltd, Shotover Country Ltd and Mt Cardrona Station Ltd. Mr Brown gave planning evidence supporting that submission.

684 Mr Carey Vivian also drew our attention to the way in which the language had been changed from the ODP, and expressed the view that it made little sense as a policy.

1227. As regards Ms Taylor's *'broad judgment'* point, we rely on the confirmation provided by the Supreme Court in *King Salmon* that plan policies may emphasise protection rather than use and development consistently with the purpose of the Act, depending on the circumstances. We also note more recent authority[685] holding that reference back to Part 2 of the Act[686] is only required where plan provisions are invalid, incomplete or unclear.

1228. For our part, we had a problem with Policy 6.3.1.3 (and Policy 6.3.1.4 that follows it) because of the way they refer to assessment matters. As Ms Taylor observed[687], the role of assessment matters is to assist implementation of policies in a plan. We do not consider that it is appropriate that assessment matters act as quasi-policies. If they are effectively policies, they should be stated as policies in the Plan.

1229. We also consider it would be more helpful to explain not just that successful applications will be exceptional, but also to give some guidance as to what characteristics will determine whether they will be successful. As Mr Vivian observed, merely stating the general point makes little sense as a policy. The capacity to absorb change is clearly one important factor – refer notified Policy 6.3.4.1. The ODP identifies as another important touchstone (in the context of the policies governing ONLs in the Wakatipu Basin and ONFs) whether buildings and structures and associated roading and boundary developments are reasonably difficult to see. Mr Haworth (arguing in support of the more general UCES submission seeking that the ODP provisions governing development in rural areas should be retained in preference to the PDP provisions) was particularly critical of the loss of this criterion, and we consider it to be an aspect of the ODP that could usefully be carried over into the PDP.

1230. There is, however, one issue with the ODP wording. The ODP provides no indication of the viewpoint from which changes to the landscape must be reasonably difficult to see. This is surprising given that in the initial Environment Court decision on the ODP, the Environment Court observed:

> *"Further, even if one considers landscapes in the loose sense of 'views of scenery' the first question that arises is as to where the view is from. One cannot separate the view from the viewer and their viewpoint."*[688]

1231. The specific question of how this particular criterion should be framed was considered in a later decision in the sequence finalising the ODP[689].

1232. From that decision, it appears that the Council proffered a test of visibility based on what could be seen "*outside the property they are located on"*. Mr Goldsmith, then acting for a number of parties on the ODP appeals, is recorded as having argued that that qualification was otiose[690]. Counsel for the Council, Mr Marquet, is recorded as having argued that they protected landowners' rights.

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685 *RJ Davidson Family Trust v Marlborough District Council* [2017] NZHC 52

686 And therefore to a broad judgment on the application of section 5

687 As part of her evidence on behalf of X-Ray Trust Ltd.

688 C180/99 at [74]

689 C74/2000

690 That is, serving no useful purpose

1233. The Court took the position[691] that the views enjoyed by neighbours should not be determinative, and directed that the qualification be deleted.

1234. With respect to the reasoning of the Environment Court, the problem we see with the end result is that without definition of the viewpoint, reasonable visibility should presumably be determined from every relevant point. Moreover, virtually nothing will be "*reasonably difficult to see"* if one views it from sufficiently close range (unless a development takes place entirely underground). The point of having a visibility test depends on having a viewpoint that is far enough away to provide a developer with an opportunity to construct a development that meets the test. Clearly that will not be possible in all cases, nor, perhaps, in many cases.

1235. But the developer needs to have that opportunity, otherwise the policy becomes one which, as counsel and witnesses for a number of submitters contended was the case with the existing PDP policies in relation to development in ONLs, can never be met.

1236. In summary, we think that the test needs to be what is reasonably difficult to see "*from beyond the boundary of the site the subject of application"*. The location of the boundary of the site in relation to the development will of course vary according to the circumstances. The land beyond the boundary might be privately or publicly owned. We considered specifying visibility from a public viewpoint (i.e. a road). Given, however, that the purpose of this requirement is ultimately to provide better definition of more than minor adverse effects of subdivision, use and development on (among other things) visual amenity values of ONLs (refer recommended Objective 3.2.5.1), this would not be the most appropriate way to achieve the objective in section 32 terms.

1237. Any alternative viewpoint would necessarily be arbitrary (some specified minimum distance perhaps) and somewhat unsatisfactory for that reason.

1238. In summary, therefore, we recommend that Policy 6.3.1.3 be renumbered 6.3.12 and amended to read:

> *"Recognise that subdivision and development is inappropriate in almost all locations in Outstanding Natural Landscapes and on Outstanding Natural Features, meaning successful applications will be exceptional cases where the landscape or feature can absorb the change and where the buildings and structures and associated roading and boundary changes are reasonably difficult to see from beyond the boundary of the site the subject of application."*

1239. Policy 6.3.1.12, as notified read:

> *"Recognise and provide for the protection of Outstanding Natural Features and Landscapes with particular regard to values relating to cultural and historic elements, geological features and matters of cultural and spiritual value to Tangata Whenua including* Tōpuni*."*

1240. Submissions on this policy sought variously its deletion[692], introduction of reference to inappropriate subdivision, use and development both with and without reference to the

691 C74/2000 at [15]

692 Submissions 621 and 806: Opposed in FS1282

specific values currently identified[693], reference to a method that would identify the values in question[694], and expansion of the policy to include reference to Wāhi Tupuna[695]

1241. When Mr Barr appeared at the hearing, we asked why it was appropriate to refer to the specific values noted in this policy as a subset of all of the values that ONLs and ONFs might have. He explained that the intention was to capture the values that might not be obvious, and he recommended no change to the policy.

1242. Mr Barr makes a good point, that these particular values would not be obvious to the casual observer. As is discussed in the Hearing Panel's Stream 1A report (Report 2), consultation with Tangata Whenua is an important mechanism by which one can identify cultural elements in a landscape that would not otherwise be obvious. On that basis, we think it appropriate in principle to identify the significance of these particular values.

1243. For the same reason, we do not think it necessary or appropriate to insert reference to a method whereby the Council will identify all the values in question. In the case of cultural values at least, while the mapping of Wāhi Tupuna planned as part of a later stage in the District Plan review process will assist, it is primarily the responsibility of applicants for resource consent to identify whether and what values are present in landscapes that might be affected by their proposals.

1244. Submitter 810 makes a valid point, seeking reference to wāhi tupuna. The representatives of the submitter who gave evidence as part of the Stream 1A hearing indicated that there was likely to be an overlap in practice between ONLs and wāhi tupuna. Chapter 5 addresses the protection of wāhi tupuna, but if this policy is going to make specific reference to tōpuni as a matter of cultural and spiritual value to tangata whenua, we think that reference should also be made to wāhi tupuna.

1245. We have already discussed at length the utility of a qualification of policies such as this by reference to inappropriate subdivision, use and development. In summary, given the interpretation of that term by Supreme Court in its *King Salmon* decision, we do not think that it would materially alter the effect of a policy such as this.

1246. Having said that, we do have a problem with the existing wording in that recommended Objective 3.2.5.1. and Policy 3.3.29 already "*recognise and provide for"* the protection of ONLs and ONFs. The role of this policy is to flesh out how Objective 3.2.5.1 is achieved beyond what Policy 3.3.29 already says. To avoid that duplication, we recommend that the policy be renumbered 6.3.13 and reframed slightly to read:

"Ensure that the protection of Outstanding Natural Features and Outstanding Natural Landscapes includes recognition of any values relating to cultural and historic elements, geological features and matters of cultural and spiritual value to tangata whenua, including tōpuni and wāhi tupuna."

1247. Policy 6.3.4.2 as notified read:

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693 Submissions 355 and 806: Supported in FS1097; Opposed in FS1282 and FS1320

694 Submission 355: Supported in FS1097; Opposed in FS1282 and FS1320

695 Submission 810 (noting that the other aspect of the relief sought by this submitter – referring to Manawhenua rather than Tangata Whenua – was withdrawn by the submitter by submitters representatives when they appeared in the Stream 1A Hearing)

"Recognise that large parts of the District's Outstanding Natural Landscapes include working farms and accept that viable farming involves activities which may modify the landscape, providing the quality and character of the Outstanding Natural Landscapes is not adversely affected."

1248. Only one submitter sought amendments specifically to this policy, seeking that it be broadened to enable any uses that might modify the landscape[696].

1249. Mr Barr did not recommend any change to this policy. We concur.

1250. In the part of our report addressing Chapter 3, we recommended that the viability of farming be identified as a specific issue to be addressed by the strategy objectives and policies of that chapter. The same reasoning supports this policy.

1251. We do not consider it is appropriate to provide an open-ended recognition for any changes to ONLs. We do not think such recognition would be consistent with recommended Objective 3.2.5.1. We note also that Mr Jeff Brown, giving evidence on behalf of submitter 806 among others, did not support the relief sought in this submission.

1252. Mr Tim Williams suggested that reference might be made to other land uses, while retaining reference to the quality and character of the ONLs. While that approach is not open to the obvious objection above, we regard the extent to which non-farming activities in ONLs are accommodated as something generally best left for determination under the more general policies of Chapter 3. We discuss possible exceptions to that position below.

1253. Accordingly, we recommend that policy 6.3.4.2 be renumbered 6.3.14 but otherwise adopted with only a minor grammatical change to read:

"Recognise that large parts of the District's Outstanding Natural Landscapes include working farms and accept that viable farming involves activities that may modify the landscape, providing the quality and character of the Outstanding Natural Landscapes is not adversely affected."

1254. Policy 6.3.3.1 of the PDP as notified read:

"Avoid subdivision and development on Outstanding Natural Features that does not protect, maintain or enhance Outstanding Natural Features."

1255. Submitters on this policy sought that it be deleted or alternatively qualified to refer to qualities of the relevant ONFs, to refer to inappropriate subdivision and development, or to have less of an avoidance focus. Although Mr Barr did not recommend any change to this policy, we view it as duplicating recommended Policy 3.3.30 and therefore recommend that it be deleted as adding no additional value.

1256. Policy 6.3.4.4. as notified read:

"The landscape character and amenity values of the Outstanding Natural Landscape are a significant intrinsic, economic and recreational resource, such that large scale renewable electricity generation or new large scale mineral extraction development proposals including

696 Submission 806

windfarm or hydro energy generation are not likely to be compatible with the Outstanding Natural Landscapes of the District".

1257. Submissions on this policy largely opposed it. The view was expressed that the policy inappropriately predetermines the outcome of resource consent applications yet to be made.

1258. Mr Barr recommended one minor change to make it clear that the policy refers to '*new*' large scale renewable electricity generation proposals.

1259. Mr Vivian suggested to us that there was a need to balance the landscape values affected against the positive benefits of renewable electricity generation.

1260. At least in the case of ONLs and ONFs, we do not think there is scope for the balancing process Mr Vivian had in mind.

1261. Mr Napp, appearing for Straterra[697] sought to persuade us that the Waihi and Macraes mines provided examples of large scale proposals with well-developed restoration protocols. Mr Napp, however, accepted that the nature of the terrain any open cast mine would encounter in this District would make reinstatement a difficult proposition and that it was hard to imagine any large open cast mining proposal in an ONL would be consentable. While Mr Napp emphasised that modern mining techniques are much less destructive of the landscape than was formerly the case, we think that the existing policy wording still leaves room for an exceptional proposal. Mr Napp also did not seek to persuade us that there was any great likelihood of such a proposal being launched within the planning period.

1262. Mr Druce, appearing as the representative of Contact Energy[698], likewise indicated that that company was not anticipating any new generation being installed in the Upper Clutha Catchment. Given the terms of the Water Conservation Order on the Kawarau River and its tributaries (as recently extended to include the Nevis River), there would thus appear to be no likelihood of any new large hydro generation facilities being constructed in the District within the planning period either.

1263. The policy refers specifically to wind farm or hydro energy developments. We do not think that specific reference is necessary given the definition of renewable electricity generation in the NPSREG 2011. We think that a new large scale solar electricity generation plant would be equally unlikely to be compatible with the values of ONLs and the resources to fuel any other renewable electricity generation project are not available within the District.

1264. We also find the duplicated reference to ONLs somewhat clumsy and consider it could be shortened without loss of meaning.

1265. Accordingly, we recommend that this policy be renumbered 6.3.15 and amended to read:

"The landscape, character and amenity values of the Outstanding Natural Landscapes are a significant intrinsic, economic, and recreational resource, such that new large scale renewable electricity generation or new large-scale mineral extraction development proposals are not likely to be compatible with them."

697 Submission 598

698 Submission 580

1266. In relation to activities in ONLs and ONFs, Trojan Helmet Limited[699] sought that the notified Policy 6.3.5.6 (which applied to non-outstanding landscapes and emphasised the relevance of open landscape character where it is open at present), be shifted so as to apply to ONLs. As the submitter noted, this is already a policy of the ODP. Mr Jeff Brown supported that position in his evidence.

1267. We will address the relevance of open landscape character in non-outstanding landscapes shortly, but in summary, we agree that open landscape character is an aspect both of ONLs and ONFs that should be emphasised.

1268. Accordingly, we recommend that this submission be accepted and that a new policy related to managing activities of ONLs and ONFs numbered 6.3.16 be inserted as follows:

"Maintain the open landscape character of Outstanding Natural Landscapes and Outstanding Natural Features where it is open at present."

1269. Another area where submissions sought new policies was in relation to recognition of infrastructure. We heard extensive evidence and legal argument from both Transpower New Zealand Limited and QAC seeking greater recognition of the significance of infrastructure and the locational constraints it is under. Representatives for Transpower also emphasised the relevance of the NPSET 2008 to this issue.

1270. We have already discussed at some length the latter point, but in summary, we recognise that greater recognition for regionally significant infrastructure is desirable.

1271. Mr Barr recommended that a new Policy 6.3.1.12 be inserted reading:

"Regionally significant infrastructure shall be located to avoid, remedy or mitigate degradation of the landscape, while acknowledging location constraints, technical or operational requirements."

1272. We agree that the correct focus, consistent with Policy 4.3.2 and 4.3.3 of the Proposed RPS, is on regionally significant infrastructure. We have already commented on the appropriate definition of that term[700].

1273. When we discussed this policy wording with Mr Barr, he explained that reference to "*acknowledging"* locational constraints was intended to mean something between just noting them and enabling infrastructure to proceed as a result of such constraints. He was reluctant, however, to recommend qualifiers that, in his view, would require a significant amplification of the text.

1274. We also bear in mind the reply evidence of Mr Paetz who, after initially been supportive of an alternative policy wording (in the context of Chapter 3) providing for mitigation of the impacts of regionally significant infrastructure on ONLs and ONFs where practicable, came to the view that this would not be likely to allow the Council to fulfil its functions in terms of sections 6(a) and 6(b) of the Act.

699 Submission 437: Supported (in part) in FS1097

700 Refer our discussion of this issue at Section 3.18 above.

1275. We note the comments of the Environment Court in its initial ODP decision[701] rejecting a "*where practicable"* exclusion for infrastructure effects on ONLs. The Court stated:

"That is not a correct approach. The policy should be one that gives the Council the final say on location within Outstanding Natural Features."

1276. We record that counsel for Transpower Limited appeared reluctant to accept that even a "*where practicable"* type approach would be consistent with the NPSET 2008 formulation, "*seek to avoid"*. For the reasons stated in our Chapter 3 report, we do not agree with that interpretation of the NPSET 2008.

1277. Having regard to the fact that we are considering what policies would most appropriately give effect to our recommended Objectives 3.2.1.9 and 3.2.5.1, we think it follows that the policy cannot permit significant adverse effects on ONLs and ONFs.

1278. Similarly, and consistently with the NPSET 2008, we think the initial approach should be to seek to avoid all adverse effects. Where adverse effects cannot be avoided, we think that they should be reduced to the smallest extent practically possible; i.e. minimised.

1279. In summary, therefore, we recommend insertion of two new policies numbered 6.3.17 and 6.3.18, worded as follows:

"Locate, design, operate and maintain regionally significant infrastructure so as to seek to avoid adverse effects on Outstanding Natural Landscapes and Outstanding Natural Features, while acknowledging that location constraints and/or the nature of the infrastructure may mean that this is not possible in all cases.

"In cases where it is demonstrated that regionally significant infrastructure cannot avoid adverse effects on Outstanding Natural Landscapes and Outstanding Natural Features, avoid significant adverse effects and minimise other adverse effects on those landscapes and features."

1280. We recognise that this leaves a potential policy gap for infrastructure that does not fall within the definition of regionally significant infrastructure. We consider the issues posed by such infrastructure are appropriately addressed in the more detailed provisions of Chapters 21 and 30. This is also consistent with our recommendation above that the former Rule 6.4.1.1 be converted to a new definition. As a result, the provision of infrastructure associated with subdivision and development will be considered at the same time as the development to which it relates.

1281. Submission 608[702] also sought a new policy providing for offsetting for wilding tree control within ONLs and ONFs. The submitter did not provide evidence supporting the suggested policy, relying on the reasons in its submission which, while advocating for the policy, did not explain how it would work in practice. Mr Barr recommended against its acceptance. As he put it, it seemed "*the submitter wishes to trade the removal of a pest for accepting degradation of the landscape resource"*. We agree. In the context of ONLs and ONFs, whose protection we are required to recognise and provide for, we would require considerable convincing that this is an appropriate policy response, including but not limited to a cogent section 32AA analysis, which the submitter did not provide.

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701 C180/99 at [72]

702 Supported in FS1097 and FS1117; Opposed in FS1015 and FS1034

1282. Lastly under this heading, we note that Policy 6.3.1.7 as notified read:

"When locating urban growth boundaries or extending urban settlements though plan changes, avoid impinging on Outstanding Natural Landscapes or Outstanding Natural Features and minimise disruption to the values derived from open rural landscapes."

1283. Mr Barr recommended a minor drafting change to this policy. For our part, and for the reasons discussed in our Chapter 4 report, we view this as a matter that is more appropriately dealt with in Chapter 4. We recommend that it be deleted from Chapter 6 and the submissions on it addressed in the context of Chapter 4.

1284. In summary, having reviewed the policies in this section, we consider that individually and collectively with the policies of Chapter 3 and those in the balance of this chapter, these policies are the most appropriate way, at a strategic level, to achieve the objectives in Chapter 3 relevant to use, development and protection of ONLs and ONFs – principally Objective 3.2.5.1, but also including Objectives 3.2.1.1, 3.2.1.7, 3.2.1.9, 3.2.3.1, 3.2.4.1 and 3.2.7.1.

8.7. Policies – Managing Activities in Rural Character Landscapes

1285. Policy 6.3.1.4, as notified, read:

"That subdivision and development proposals located within the Rural Landscape be assessed against the assessment matters in provisions 21.7.2 and 21.7.3 because subdivision and development is inappropriate in many locations in these landscapes, meaning successful applications will be, on balance, consistent with the assessment matters."

1286. This policy attracted a large number of submissions. Submissions included:
   a. Seeking deletion of the policy[703];
   b. That it refer only to assessment against the assessment matters[704];
   c. Deleting reference to the assessment matters and providing for adverse effects to be avoided, remedied or mitigated[705];
   d. Qualifying the application of the policy by reference to the requirements of regionally significant infrastructure[706].

1287. Mr Barr recommended that the word "*inappropriate"* be substituted by "*unsuitable"* but otherwise did not recommend any changes to this policy.

1288. For the reasons set out above in relation to Policy 6.3.1.3, we do not support a policy cross referencing the assessment criteria. The reference point should be the objectives and policies of the PDP. We also do not support a policy that refers simply to avoidance, remediation or mitigation of adverse effects. For the reasons set out at the outset of this report, such a policy would provide no guidance, and would not be satisfactory.

1289. We accept that regionally significant infrastructure raises particular issues. We recommend that those issues be dealt with in new and separate policies, which will be discussed shortly.

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703 Submission 806

704 Submissions 355, 761: Supported in FS1097; Opposed in FS1282 and FS1320

705 Submissions 437, 456, 513, 515, 522, 531, 532, 534, 535, 537, 608: Supported in FS1097, FS1256, FS1286, FS1292 and FS1322; Opposed in FS1034, FS1120 and FS1160

706 Submissions 635, 805: Opposed in FS1282

1290. We accept Mr Barr's suggested minor drafting change.

1291. In summary, we recommend that Policy 6.3.1.4 be renumbered 6.3.19 and reworded as follows:

"Recognise that subdivision and development is unsuitable in many locations in these landscapes and successful applications will need to be, on balance, consistent with the objectives and policies of the Plan."

1292. Policy 6.3.1.6, as notified, read:

"Enable rural lifestyle living through applying Rural Lifestyle Zone and Rural Residential Zone plan changes in areas where the landscape can accommodate change".

1293. A number of submissions on this policy sought amendments so it would refer to "*rural living"* rather than "*rural lifestyle living",* deleting specific reference to the Rural Residential and Rural Lifestyle Zones, and adding reference to "*carefully considered applications for subdivision and development for rural living"*, or similar descriptions.

1294. Millbrook Country Club[707] sought to broaden the focus of the policy to include resort activities and development.

1295. Queenstown Park Ltd[708] sought that reference be added to the positive effects derived from rural living.

1296. Mr Barr initially recommended some recognition for resort zone plan changes in his Section 42A Report, but when we discussed the matter with him, accepted that given there is no "*Resort Zone"* as such, the matter needed further consideration[709].

1297. In his reply evidence, Mr Barr discussed the issue more generally. He characterised some of the planning evidence for submitters seeking to rely on the extent to which the landscape character of the Wakatipu Basin has been and will continue to be affected by consented development as reading like '*the horse has bolted'* and that this position should be accepted. Mr Barr did not agree. He relied on Dr Read's evidence where she had stated that the ODP had not succeeded in appropriately managing adverse cumulative effects. We asked Dr Read that specific question: whether the horse had bolted? She did not think so, or that management of the cumulative effects of rural living in the Wakatipu Basin was a lost cause, and neither do we[710]. However, it is clearly an issue that requires careful management.

1298. Mr Barr recommended in his reply evidence that this policy be reframed as follows:

"Encourage rural lifestyle and rural residential zone plan changes in preference to ad-hoc subdivision and development and ensure these occur in areas where the landscape can accommodate change."

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707 Submission 696

708 Submission 806

709 Mr Chris Ferguson suggested in his evidence that the reference be to Special Zones for this reason

710 That conclusion also accords with Mr Baxter's evidence that while the Wakatipu Basin is not composed of working farms any more, lots of properties in the Basin still look like farms, from which we infer they still have an identifiably *'rural'* character.

1299. We largely accept the thinking underpinning Mr Barr's recommendation. It follows that we do not accept the many submissions insofar as they sought that reference be made to rural living being enabled through resource consent applications (the epitome of ad-hoc development). Indeed, this policy is focussing on plan changes as an appropriate planning mechanism, in preference to development by a resource consent application. If anything, we think that needs to be made clearer.

1300. We do not think that specific reference needs to be made to plan reviews as an alternative planning mechanism to plan changes (as suggested by Mr Ferguson). On any plan review including management of residential development in rural areas, all of these issues will be considered afresh.

1301. Ideally also, this policy would refer to the new zone (the Wakatipu Basin Lifestyle Precinct) proposed in the Stage 2 Variationss, but we cannot presume that zoning will be confirmed after the hearing of submissions on the variations, and we lack jurisdiction to do so in any event.

1302. In summary, therefore, we recommend that Policy 6.3.1.6 be renumbered 6.3.20 and reworded as follows:

"Encourage Rural Lifestyle and Rural Residential Zone Plan Changes as the planning mechanism to provide for any new rural lifestyle and rural residential developments in preference to ad-hoc subdivision and development and ensure these zones are located in areas where the landscape can accommodate the change."

1303. Policy 6.3.2.3 as notified read:

"Recognise that proposals for residential subdivision or development in the Rural Zone that seek support from existing and consented subdivision or development have potential for adverse cumulative effects. Particularly where the subdivision and development would constitute sprawl along roads."

1304. Submissions on this policy included:
   a. Seeking deletion of the final sentence referring to sprawl along roads[711];
   b. Seeking to insert reference to inappropriate development in the Rural Zone[712];
   c. Seeking to delete this policy and the one following it, and substitute a policy that would ensure incremental subdivision and development does not degrade landscape character or visual amenity values including as a result of 'mitigation' of adverse effects[713].

1305. When Mr Barr appeared, we asked him what the words "*seeking support"* were intended to refer to, and he explained that this was intended to be a reference to the "*existing environment"* principle recognised in the case law[714]. In his reply evidence, Mr Barr sought to make this clearer. He also recommended acceptance of a submission seeking deletion of the last sentence of the Policy, given that it duplicates matters covered in Policy 6.3.2.4.

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711 Submission 456

712 Submission 600: Supported in FS1209; Opposed in FS1034

713 Submission 761: Opposed in FS1015

714 Acknowledging the observations of the High Court in *Royal Forest and Bird Protection Society v Buller District Council* [2013] NZHC1324 at [13] and following regarding the inappropriateness of it as a description of the relevant legal principles.

1306. We largely accept Mr Barr's recommendation. The exception is that we think that the reference to "*residential subdivision or development"* would benefit from clarification. The term 'rural living' was used extensively in the planning evidence we heard and we suggest that as an appropriate descriptor. We do not accept the suggestion in Submission 761 – for the reasons set out in our discussion of the appropriate strategic policy in Chapter 3 governing rural character landscapes, a general policy of *'no degradation'* would in our view go too far.

1307. However, we think there is room for a more restrictive approach to '*mitigation'* of proposed developments, which is also suggested in this submission, but which more properly relates to Policy 6.3.2.5. This is addressed shortly.

1308. In summary, we recommend Policy 6.3.2.3 be renumbered 6.3.21 and amended to read:

"Require that proposals for subdivision or development for rural living in the Rural Zone take into account existing and consented subdivision or development in assessing the potential for adverse cumulative effects."

1309. Policy 6.3.2.4 as notified read:

"Have particular regard to the potential adverse effects on landscape character and visual amenity values from infill within areas with existing rural lifestyle development or where further subdivision and development would constitute sprawl along roads."

1310. Apart from Submission 761 already noted, submissions included a suggestion that reference to infill be deleted[715].

1311. Mr Barr recommended that that submission be accepted. We agree. To the extent the policy seeks to manage the adverse effects of infill development, this is caught by Policy 6.3.2.3 (now 6.3.21) and as Mr Jeff Brown noted in his evidence, the assessment should be the same for *'infill'* as for *'outfill'*. Accordingly, we recommend that the policy be renumbered 6.3.22 and worded:

"Have particular regard to the potential adverse effects on landscape, character and visual amenity values where further subdivision and development would constitute sprawl along roads."

1312. Policy 6.3.2.5 as notified read:

"Ensure incremental changes from subdivision and development do not degrade landscape quality, character or openness as a result of activities associated with mitigation of the visual effects of a proposed development such as a screening planting, mounding and earthworks."

1313. Submissions included:
   a. Seeking deletion of the policy[716];
   a. Seeking to delete or amend reference to "*openness"*[717]*;*
   b. Amending the policy to require a significant effect or to focus on significant values[718];

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715 Submission 456

716 Submission 378: Opposed in FS1049 and FS1282

717 Submissions 437, 456: Supported in FS1097; Opposed in FS1160

718 Submissions 598 and 621: Supported in FS1287; Opposed in FS1282

c. Seeking that specific reference to mitigation be deleted[719]
d. Softening the policy to be less directive[720].

1314. Mr Barr did not recommend any changes to the policy as notified.

1315. As noted above in the discussion of the relief sought in Submission 761, we take the view that '*mitigation'* of adverse effects from subdivision and development should not be permitted itself to degrade important values. Clearly landscape quality and character qualify.

1316. The submissions challenging reference to openness in this context, however, make a reasonable point. The policy overlaps with others referring to openness and this duplication is undesirable. The submission of Hogans Gully Farming Ltd[721] suggested that "important views" be substituted. We regard this suggestion as having merit, since it captures an additional consideration.

1317. We also find the term "*screening planting"* difficult to understand. We think the intention is to refer to "*screen planting".*

1318. In summary, therefore, we recommend that this policy be renumbered 6.3.23 and read:

"Ensure incremental changes from subdivision and development do not degrade the landscape quality or character, or important views, as a result of activities associated with mitigation of the visual effects of proposed development such as screen planting, mounding and earthworks."

1319. As above, we recognise that provision also needs to be made for regionally significant infrastructure in the management of activities in RCLs. Many of the considerations discussed above in relation to recognising the role of infrastructure in relation to the ONL policies also apply although clearly, given the lesser statutory protection for RCLs, a more enabling policy is appropriate in this context.

1320. Having said that, we still regard it as appropriate that infrastructure providers should seek to avoid significant adverse effects on the character of RCLs.

1321. In summary, we recommend that two new policies be inserted in this part of the PDP numbered 6.3.24 and 25, reading:

"Locate, design, operate and maintain regionally significant infrastructure so as to seek to avoid significant adverse effects on the character of the landscape, while acknowledging that location constraints and/or the nature of the infrastructure may mean that this is not possible in all cases.

In cases where it is demonstrated that regionally significant infrastructure cannot avoid significant adverse effects on the character of the landscape, such adverse effects shall be minimised."

1322. Policy 6.3.5.2 as notified read:

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719 Submission 621: Opposed in FS1282
720 Submission 696
721 Submission 456

"Avoid adverse effects from subdivision and development that are:

- *Highly visible from public places and other places which are frequented by members of the public generally (except any trail as defined in this Plan); and*
- *Visible from public roads."*

1323. Again, a large number of submissions were made on this policy. Most of those submissions sought that the policy provide for avoiding, remedying or mitigating adverse effects (paralleling the ODP in this regard). Some submissions[722] sought deletion of visibility from public roads as a test.

1324. One submitter[723] sought greater clarity that this policy relates to subdivision and development on RCLs. Another submitter[724] sought reference be inserted to "*inappropriate subdivision, use and development".*

1325. Lastly, Transpower New Zealand Limited[725] sought an explicit exclusion for regionally significant infrastructure.

1326. Having initially (in his Section 42A Report) recommended against any change to the notified policy, Mr Barr recommended in his reply evidence that this policy be qualified in two ways – first to provide for avoiding, remedying or mitigating adverse effects, and secondly to limit the policy to focussing on visibility from public *'formed'* roads.

1327. We accept the point underlying the many submissions on this policy that avoiding adverse effects (given the clarification the Supreme Court has provided as to the meaning of "*avoid"* in *King Salmon)* poses too high a test when the precondition is whether a subdivision and development is visible from any public road. On the other hand, if the precondition is that the subdivision and development is "*highly visible"* from public places, we take the view that an avoidance approach is appropriate, because of the greater level of effect.

1328. The first bullet in Policy 6.3.5.2 also needs to be read in the light of the definition of trails, given that trails are excluded from the list of relevant public places.

1329. The current definition of trail reads:

"Means any public access route (excluding (a) roads and (b) public access easements created by the process of tenure review under The Crown Pastoral Land Act) legally created by way of grant of easement registered after 11 December 2007 for the purpose of providing public access in favour of the Queenstown Lakes District Council, the Crown or any of its entities."

1330. There are no submissions on this definition. However, we consider clarification is desirable as to the exclusions noted (which are places, the visibility from which will be relevant to the application of notified Policy 6.3.4.2). Among other things, we recommend that the status of public access routes over reserves be clarified. Such access routes will not be the subject of a grant of easement and so this is not a substantive change.

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722 E.g. Submissions 513, 515, 531, 537, 608: Supported in FS1097, FS1256, FS1286 and FS1292; Opposed in FS1034

723 Submission 761: Opposed in FS1015

724 Submission 806

725 Submission 805

1331. In summary, we recommend to the Stream 10 Hearing Panel that the definition of trail be amended to read:

"Means any public access route legally created by way of a grant of easement registered after 11 December 2007 for the purpose of providing public access in favour of the Queenstown Lakes District Council, the Crown or any of its entities, and specifically excludes:

a. Roads, including road reserves;

b. Public access easements created by the process of a tenure review under the Crown Pastoral Land Act; and

c. Public access routes over any reserve administered by Queenstown Lakes District Council, the Crown or any of its entities."

1332. Returning to Policy 6.3.4.2, Mr Goldsmith[726] sought to justify constraining the policy to refer to public formed roads on the basis that the policy should not apply to roads that were not actually used. He accepted, however, that paper roads were used in the District as cycle routes and agreed that visibility from such routes was something the policy might focus on.

1333. For the same reason, we do not accept Mr Barr's recommendation that the policy refer to public formed roads.

1334. Rather than insert an *'avoid, remedy or mitigate'* type policy or some variation thereof (Mr Jeff Brown suggested "*avoid or appropriately mitigate"*), we prefer to provide greater direction by limiting the scope of the policy in other ways.

1335. Given that public roads are public places (and as such, would be used when testing whether a proposal would be highly visible), we recommend greater focus on narrowing the description of roads that are relevant for this aspect of the policy. To us, the key roads where visibility is important are those where the land adjoining the road forms the foreground for ONLs or ONFs. Effects on visual amenity from such roads are important because they diminish the visual amenity of the ONL or ONF.

1336. The second way in which we suggest the restrictiveness of the policy might be lessened is to make it clear that what is in issue are adverse effects on visual amenity, rather than any other adverse effects subdivision and development might have.

1337. Lastly, we recommend that the focus of the policy should be on subdivision, use and development as suggested in Submission 806. For the reasons set out above, we do not consider adding the word "*inappropriate"* would materially change the meaning of the policy.

1338. In summary, we recommend that Policy 6.3.5.2 be renumbered 6.3.26 and amended to read:

"Avoid adverse effects on visual amenity from subdivision, use and development that:

a. is highly visible from public places and other places which are frequented by members of the public generally (except any trail as defined in this Plan); or

b. forms the foreground for an Outstanding Natural Landscape or Outstanding Natural Feature when viewed from public roads."

1339. Policies 6.3.5.3 and 6.3.5.6 both deal with the concept of openness. As notified, they read:

[726] Then appearing for GW Stalker Family Trust (Submission 535) and others.

"6.3.5.3 Avoiding planting and screening, particularly along roads and boundaries, which would degrade openness where such openness is an important part of the landscape, quality or character;

6.3.5.6 Have regard to the adverse effects from subdivision and development on the open landscape character where it is open at present."

1340. Submissions on Policy 6.3.5.3 included:
   a. Seeking amendment to refer to significant adverse effects on existing open landscape character[727];
   b. Seeking to substitute reference to views rather than openness, combined with emphasising that it is the appreciation of landscape quality or character which is important [728;]
   c. Seeking to reframe the policy to be enabling of planting and screening where it contributes to landscape quality or character[729].

1341. Many submitters sought deletion of the policy in the alternative. One submitter[730] sought that reference be made to inappropriate subdivision use and development.

1342. A similar range of submissions were made on Policy 6.3.5.6.

1343. A number of parties appearing before us on these policies emphasised to us the finding of the Environment Court in its 1999 ODP decision that protection of the open character of landscape should be limited to ONLs and ONFs and that non-outstanding landscapes might be improved both aesthetically and ecologically by appropriate planting[731].

1344. We note that the Court also mentioned views from scenic roads as an exception which might justify constraints on planting, so clearly in the Court's mind, it was not a legal principle that admitted of no exceptions.

1345. More generally, we think that open landscape character is not just an issue of views as many submitters suggest, although clearly views are important to visual amenity, and that a differentiation needs to be made between the floor of the Wakatipu Basin, on the one hand, and the Upper Clutha Basin on the other. It appears to us that the Environment Court's comments were made in the context of evidence (and argument) regarding the Wakatipu Basin. In that context, and on the evidence we heard, the focus should be on openness where it is important to landscape character (i.e. applying notified policy 6.3.5.3). We note that the Stage 2 Variations provide detailed guidance of the particular landscape values of different parts of the Wakatipu Basin.

1346. Dr Read identified the different landscape character of the Wakatipu Basin compared to the Upper Clutha Basin in her evidence, with the former being marked by much more intensive use and development, as well as being more enclosed, whereas the Upper Clutha Basin is marked by more extensive farming activities and is much bigger. She noted though that on

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727 Submission 356: Supported in FS1097

728 Submissions 437, 456, 513, 515, 522, 531, 537, 608: Supported in FS1097, FS1256, FS1286 and FS1292; Opposed in FS1034

729 Submission 806

730 Submission 513

731 C180/99 at [154]

the Hawea Flat, existing shelter belts mean that while more open, the Upper Clutha Basin is not as open as one might think.

1347. In summary, we recommend that Policies 6.3.5.3 and 6.3.5.6 be renumbered 6.3.27 and 6.3.28 and amended to read as follows:

"In the Wakatipu Basin, avoid planting and screening, particularly along roads and boundaries, that would degrade openness where such openness is an important part of its landscape quality or character.

In the Upper Clutha Basin, have regard to the adverse effects from subdivision and development on the open landscape character where it is open at present."

1348. Policy 6.3.5.5 as notified read:

"Encourage development to utilise shared accesses and infrastructure, to locate within the parts of the site where they will be least visible, and have the least disruption of the landform and rural character."

1349. Submissions on this policy sought variously, qualification to reflect what is operationally and technical feasible[732] and to delete reference to visibility substituting reference to minimising or mitigating disruption to natural landforms and rural character[733].

1350. Mr Barr recommended acceptance of the substance of the latter submission. We agree. Visibility is dealt with by other policies and should not be duplicated in this context. However, saying both minimise or mitigate would make the policy unclear. Consistent with the existing wording, minimisation is the correct focus.

1351. We do not consider that qualification is necessary to refer to operational and technical feasibility given that the policy only seeks to encourage the desired outcomes.

1352. We do accept, however, that the focus should be on 'natural' landforms, as opposed to any landforms that might have been created artificially.

1353. In summary, we recommend that Policy 6.3.5.5 be renumbered 6.3.29 and amended to read:

"Encourage development to utilise shared accesses and infrastructure, and to locate within the parts of the site where it will minimise disruption to the natural landform and to rural character."

1354. Policy 6.3.4.1 as notified read:

"Avoid subdivision and development that would degrade the important qualities of the landscape, character and amenity, particularly where there is little or no capacity to absorb change. "

1355. While Mr Barr recommended that this policy be retained as is, the amendments we have recommended to notified Policy 6.3.1.3 (in relation to ONLs and ONFs) means that Policy

732 Submission 635

733 Submission 836: Supported in FS1097

6.3.4.1 no longer serves a useful purpose. Accordingly, it should be deleted as a consequential change.

1356. The same reasoning prompts us to recommend deletion of Policy 6.3.1.11 which as notified, read:

"Recognise the importance of protecting the landscape character and visual amenity values particularly as viewed from public places."

1357. This policy has effectively been overtaken by the package of policies we have recommended and should be deleted as a consequential change.

1358. Policy 6.3.1.11 was almost identical to notified Policy 6.3.4.3 which read:

"Have regard to adverse effects on landscape character and visual amenity values as viewed from public places, with emphasis on views from formed roads."

1359. It too should be deleted as a consequential change.

1360. Policy 6.3.5.1 as notified read:

"Allow subdivision and development only where it will not degrade landscape quality or character, or diminish the visual amenity values identified for any Rural Landscape."

1361. While Mr Barr recommended that this policy remain as is, it overlaps (and conflicts) with Policy 3.3.32 that we have recommended.

1362. Accordingly, we recommend that this policy be deleted as a consequential change.

1363. Lastly, under this heading, we should discuss Policies 6.3.2.1 and 6.3.2.2, which relate to residential development in the rural zones. As notified, these policies read respectively:

"Acknowledge that subdivision and development in the rural zones, specifically residential development, has a finite capacity if the District's landscape quality, character and amenity values are to be sustained.

Allow residential subdivision only in locations where the District's landscape character and visual amenity would not be degraded."

1364. While Mr Barr recommended that these policies be retained, we have a number of issues with them. As discussed in the context of Objective 3.2.5.2, a Plan provision referring to finite capacity for development is of little use without a statement as to where the line is drawn, and where existing development is in relation to the line. More materially, the two policies purport to govern development across the rural zones and therefore encompasses ONLs, ONFs and Rural Character Landscapes. We have endeavoured to emphasise the different tests that need to be applied, depending on whether a landscape is an ONL (or ONF) or not.

1365. Last but not least, these policies overlap (and in some respects conflict) with other policies we have recommended in Chapter 3 (specifically 3.3.21-23, 3.3.30 and 3.3.32) and in Chapter 6 (specifically 6.3.12). Therefore, we recommend they be deleted.

1366. In summary, having reviewed the policies in this section, we consider that individually and collectively with the policies of Chapter 3 and the balance of this chapter, these policies are the most appropriate way, at a strategic level, to achieve the objectives in Chapter 3 relevant to use, development and protection of landscapes that are not ONLs or ONFs – principally Objective 3.2.5.2 but also including Objectives 3.2.1.1, 3.2.1.7, 3.2.1.8, 3.2.1.9, 3.2.3.1, 3.2.4.1 and 3.2.7.1.

8.8. Policies – Managing Activities on Lakes and Rivers

1367. Policy 6.3.6.1 as notified read:

"Control the location, intensity and scale of buildings, jetties, moorings and utility structures on the surface and margins of water bodies and ensure these structures maintain or enhance the landscape quality, character and amenity values."

1368. Submissions on this policy sought variously:
   a. Qualification of amenity values to refer to "*visual amenity values"*[734]*;*
   a. Deletion of the latter part of the policy identifying the nature of the controls intended[735];
   b. Qualifying the reference to enhancement so that it occurs *"where appropriate"*[736];
   c. Qualifying the policy so it refers to management rather than controlling, identifies the importance of lakes and rivers as a resource and refers to avoiding, remedying or mitigating effects[737].

1369. Mr Barr recommended that the word "*infrastructure"* be substituted for utility structures as the only suggested change to this policy. This is more consistent with the terminology of the PDP and we do not regard it as a substantive change.

1370. Against the background of recommended Objective 3.2.4.3, which seeks that the natural character of the beds and margins of lakes, rivers and wetlands is preserved or enhanced, it is appropriate that buildings on the surface and margins of water bodies are controlled so as to assist achievement of the objective. For the same reason, a generalised "*avoid, remedy or mitigate"* policy is not adequate.

1371. We also do not consider that adding the words "*where appropriate"* will provide any additional guidance to the application of the policy.

1372. Further, we do not agree that reference to amenity values should be qualified and restricted to just visual amenity. To make that point clear requires a minor drafting change.

1373. We also recommend that the word "*the"* before landscape be deleted to avoid any ambiguity as to which values are in issue. Again, we consider that this is a minor non-substantive change.

1374. In summary, we recommend that these, together with the drafting change suggested by Mr Barr be the only substantive amendments, with the result that the policy, now renumbered 6.3.30, would read as follows:

734 Submission 110
735 Submission 621
736 Submission 635
737 Submission 766 and 806: Supported in FS1341

"Control the location, intensity and scale of buildings, jetties, moorings and infrastructure on the surface and margins of water bodies and ensure these structures maintain or enhance landscape quality and character, and amenity values."

1375. Policy 6.3.6.2 as notified read:

"Recognise the character of the Frankton Arm including the established jetties and provide for these on the basis that the visual qualities of the District's distinctive landscapes are maintained and enhanced."

1376. Submissions on this policy included:
   a. A request to refer to the "*modified"* character of the Arm and to delete reference to how the Arm should be managed[738].
   b. A request to provide greater guidance as to how this policy will be applied to applications for new structures and activities and to support the importance of providing a water based public transport system[739]

1377. Mr Barr did not recommend any change to this policy.

1378. We consider that, as with Policy 6.3.6.1, the relief suggested in Submission 621 would not be consistent with Objective 3.2.4.5. Having said that, to the extent that the existing character of the Frankton Arm is modified, the policy already provides for that. To the extent that other submissions seek greater guidance on how this policy might be applied, it is supplemented by more detailed provisions in the Rural Zone Chapter.

1379. Accordingly, we do not recommend any changes to this policy other than to renumber it 6.3.31.

1380. Policy 6.3.6.3 as notified read:

"Recognise the urban character of Queenstown Bay and provide for structures and facilities providing they protect, maintain or enhance the appreciation of the District's distinct landscapes."

1381. Submissions on this policy sought to delete the proviso[740] and to seek additional guidance along the same lines as sought for the previous policy[741]

1382. Mr Barr did not recommend any change.

1383. With one minor exception, we agree. A policy that recognises and provides for something with no indication of the extent of that provision is not satisfactory, as it provides no guidance to the implementation of the PDP. However, as with the previous policy, more detailed guidance is provided in the relevant zone chapter[742].

738 Submission 621
739 Submissions 766 and 806: Supported in FS1341
740 Submission 621
741 Submissions 766, 608 and 806: Supported in FS1341
742 Chapter 12: Queenstown Town Centre Zone

1384. The exception noted above relates to the reference to "*distinct"* landscapes in the policy. This appears to be a typographical error. The term should be "*distinctive"*. Correcting that error, the policy we recommend, renumbered 6.3.31, is:

"Recognise the urban character of Queenstown Bay and provide for structures and facilities providing they protect, maintain or enhance the appreciation of the District's distinctive landscapes."

1385. It is notable that the three policies we have just reviewed under the heading Lakes and Rivers all relate to structures and other facilities on the surface and margins of the District's water bodies. There is no policy specifically relating to the use of the surface of the District's water bodies. That omission was the subject of comment in the evidence. We have already discussed the submission of Kawarau Jet Services Limited[743] seeking a new policy worded:

"Provide for a range of appropriate Recreational and Commercial Recreational activities in the rural areas and on the lakes and rivers of the District."

1386. In the part of this report discussing Chapter 3[744], we said that we thought it appropriate that commercial recreation activities in rural areas be addressed there and that the specific issue of commercial recreation activities on the District's waterways be addressed in Chapter 6. We also note the submission of Real Journeys Limited[745] seeking, as part of greater recognition for tourism activities at a policy level, protection for "*existing transport routes and access to key visitor attractions from incompatible uses and development of land and water".*

1387. Mr Ben Farrell provided evidence on this submission. Mr Farrell supported the concept proposed in the Real Journeys' submission that there be a separate chapter for water, as he described it, "*to more appropriately recognise and provide for the significance of fresh water".*

1388. When Mr Farrell appeared at the hearing in person, he clarified that what he was suggesting was greater emphasis on water issues and that this might be achieved either by a separate chapter, or at least a separate suite of provisions. He summarised his position as being one where he was not seeking substantive change in the provisions, but rather to focus attention on it as an issue. He noted specifically that the landscape provisions seemed silent on water.

1389. We concur that there appears insufficient emphasis on water issues in Chapter 6. We have endeavoured to address that by appropriate headings, but we think that the Kawarau Jet submission points the way to a need to address both recreational and commercial use of the District's waterways in policy terms.

1390. Having said that, we think that there are flaws with the relief Kawarau Jet has sought. As the Real Journeys' submission indicates, one of the issues that has to be confronted in the implementation of the PDP is competition for access to the District's waterways. A policy providing for a range of activities on lakes and rivers could be read as implying that every waterway needs to accommodate a range of activities, whereas the reality is that in many situations, access is constrained because the waterways in question are not of sufficient breadth or depth to accommodate all potential users.

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743 Submission 307

744 Refer Section 3.14 above

745 Submission 621

1391. The Kawarau Jet submission does not provide a sufficient jurisdictional basis for us to recommend direction on how these issues should be resolved. The Real Journeys' submission gets closer to the point, but only addresses some of the issues. One point that can be made is that any general policy is not intended to cut across the more detailed policies already governing structures. Other than that however, while we would prefer a more directive policy, we have concluded that the best that can be done in the context of Chapter 6 is a policy that provides a framework for more detailed provisions in Chapters 12 and 21.

1392. We also do not consider that commercial use should be limited to commercial recreation – that would exclude water taxis and ferry services, and we do not consider there is a case for doing that.

1393. Accordingly, we recommend a new policy numbered 6.3.33, worded as follows:

"Provide for appropriate commercial, and recreational activities on the surface of water bodies that do not involve construction of new structures."

1394. Contact Energy[746] sought a new policy, seeking to recognise changes to landscape values on a seasonal basis resulting from electricity generation facilities. The submitter's focus is obviously on changes to levels and flows in Lake Hawea and the Hawea River resulting from operation of the Hawea Control Structure. Those activities are regional council matters and we do not consider the proposed policy is required in this context.

1395. In summary, within the jurisdictional limits we are working within, we consider that the policies we have recommended in relation to lakes and rivers are the most appropriate way, at a strategic level, to achieve the objectives of Chapter 3 applying to waterways – specifically Objectives 3.2.1.1, 3.2.1.7, 3.2.4.1, 3.2.4.3, 3.2.4.4, 3.2.5.1 and 3.2.5.2.

1396. We have also stood back and reflected on the policies and other provisions of Chapter 6 as a whole. For the reasons set out above, we consider that individually and collectively the policies are the provisions recommended represent the most appropriate way to achieve the objectives of Chapter 3 relevant to landscape and rural character.

9. PART D RECOMMENDATIONS

1397. As with Chapters 3 and 4, Appendix 1 contains our recommended Chapter 6.

1398. In addition, we recommend[747] that the Stream 10 Hearing Panel consider addition of a new definition of 'subdivision and development' be inserted in Chapter 2, worded as follows:

"Subdivision and Development - *includes subdivision, identification of building platforms, any buildings and associated activities such as roading, earthworks, lighting, landscaping, planting and boundary fencing and access/gateway structures".*

1399. We also recommend[748] the Stream 10 Hearing Panel consider amendment of the existing definition of 'trail' as follows:

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746 Submission 580: Opposed in FS1040

747 Refer the discussion of this point at Section 8.4 above.

748 Refer in this instance to Section 8.7above.

Trail *– means any public access route legally created by way of a grant of easement registered after 11 December 2007 for the purpose of providing public access in favour of the Queenstown Lakes District Council, the Crown or any of its entities, and specifically excludes:*

a. roads, including road reserves;

d. public *access easements created by the process of tenure review under the Crown Pastoral Land Act; and*

e. public *access routes over any reserve administered by Queenstown Lakes District Council, the Crown or any of its entities*

12 QUEENSTOWN TOWN CENTRE

QUEENSTOWN LAKES DISTRICT COUNCIL

12.1 Zone Purpose

Town centres provide a focus for community life, retail, entertainment, business and services. They provide a vital function for serving the needs of residents, and as key destinations for visitors to our District, they provide a diverse range of visitor accommodation and visitor-related businesses. High visitor flows significantly contribute to the vibrancy and economic viability of the centres.

Queenstown will increasingly become a dynamic and vibrant centre with high levels of tourism activity that provides essential visitor-related employment. It serves as the principal administrative centre for the District and offers the greatest variety of activities for residents and visitors. It has a range of entertainment options and serves as a base for commercial outdoor recreation activities occurring throughout the Wakatipu Basin. Visitor accommodation is provided within and near to the town centre. Over time, Queenstown town centre will evolve into a higher intensity and high quality urban centre.

Development within the Special Character Area of the Town Centre Zone (shown on Planning Maps) is required to be consistent with the Queenstown Town Centre Design Guidelines 2015, reflecting the specific character and design attributes of development in this part of the Town Centre. The Entertainment Precinct (also shown on Planning Maps) has permitted noise thresholds that are higher than other parts of the Town Centre in order to encourage those noisier operations to locate in the most central part of town, where it will have least effect on residential zones.

The Queenstown Waterfront Sub-Zone makes an important contribution to the amenity, vibrancy, and sense of place of the Queenstown Town Centre as a whole.

12.2 Objectives and Policies

12.2.1 Objective - A Town Centre that remains relevant to residents and visitors alike and continues to be the District's principal mixed use centre of retail, commercial, administrative, entertainment, cultural, and tourism activity.

Policies

12.2.1.1 Enable intensification within the Town Centre through:

a. enabling sites to be entirely covered with built form other than in the Town Centre Transition Sub-Zone and in relation to comprehensive developments provided identified pedestrian links are retained; and

b. enabling additional building height in some areas provided such intensification is undertaken in accordance with best practice urban design principles and the effects on key public amenity and character attributes are avoided or satisfactorily mitigated.

12.2.1.2 Provide for new commercial development opportunities within the Town Centre Transition Sub-Zone that are affordable relative to those in the core of the Town Centre in order to retain and enhance the diversity of commercial activities within the Town Centre.

12.2.1.3 Recognise the important contribution that night time activity makes to the vibrancy and economic prosperity of the Town Centre by enabling restaurant and bar activities to occur subject to appropriate noise controls.

12.2.1.4 Enable residential activities and visitor accommodation activities while acknowledging that there will be a lower level of residential amenity due to increased noise and activity resulting from the mix of activities and late night nature of the town centre.

12.2.2 Objective - Development that achieves high quality urban design outcomes and contributes to the town's character, heritage values and sense of place.

Policies

12.2.2.1 Require development in the Special Character Area to be consistent with the design outcomes sought by the Queenstown Town Centre Design Guidelines 2015.

12.2.2.2 Require development to:

a. maintain the existing human scale of the Town Centre as experienced from street level through building articulation and detailing of the façade, which incorporates elements which break down building mass into smaller units which are recognisably connected to the viewer; and

b. contribute to the quality of streets and other public spaces and people's enjoyment of those places; and

c. positively respond to the Town Centre's character and contribute to the town's 'sense of place'.

12.2.2.3 Control the height and mass of buildings in order to:

a. provide a reasonable degree of certainty in terms of the potential building height and mass; or

b. retain and provide opportunities to frame important view shafts to the surrounding landscape; or

c. maintain sunlight access to public places and to footpaths, with a particular emphasis on retaining solar access into the Special Character Area (as shown on Planning Maps 35 and 36); or

d. minimise the wind tunnel effects of buildings in order to maintain pleasant pedestrian environments.

12.2.2.4 Allow buildings to exceed the discretionary height standards in situations where:

a. the outcome is of a high-quality design, which is superior to that which would be achievable under the permitted height; and

b. the cumulative effect of the additional height does not result in additional shading that will progressively degrade the pedestrian environment or enjoyment of public spaces, while accepting that individual developments may increase the shading of public pedestrian space to a small extent provided this is offset or compensated for by the provision of additional public space or a pedestrian link within the site; and

c. the increase in height will facilitate the provision of residential activity.

12.2.2.5 Prevent buildings exceeding the maximum height standards except that it may be appropriate to allow additional height in situations where:

a. the proposed design is an example of design excellence; and

b. building height and bulk have been reduced elsewhere on the site in order to:

i. reduce the impact of the proposed building on a listed heritage item; or

ii. provide an urban design outcome that has a net benefit to the public environment.

For the purpose of this policy, urban design outcomes that are beneficial to the public environment include:

a. provision of sunlight to any public space of prominence or space where people regularly congregate;

b. provision of a new or retention of an existing uncovered pedestrian link or lane;

c. where applicable, the restoration and opening up of Horne Creek as part of the public open space network;

d. provision of high quality, safe public open space;

e. retention of a view shaft to an identified landscape feature;

f. minimising wind tunnel effects of buildings in order to maintain pleasant pedestrian environments.

g. the creation of landmark buildings on key block corners and key view terminations.

12.2.2.6 Ensure that development within the Special Character Area reflects the general historic subdivision layout and protects and enhances the historic heritage values that contribute to the scale, proportion, character and image of the Town Centre.

12.2.2.7 Acknowledge and celebrate our cultural heritage, including incorporating reference to tangata whenua values, in the design of public spaces, where appropriate.

12.2.2.8 Acknowledge that parts of the Queenstown Town Centre are susceptible to flood risk and mitigate the effects of this through:

a. requiring minimum floor heights to be met; and

b. encouraging higher floor levels (of at least RL 312.8 masl) where amenity, mobility, streetscape, and character values are not adversely affected; and

c. encouraging building design and construction techniques which limit the impact of flooding or ponding in areas of known risk.

12.2.2.9 Require high quality comprehensive developments within the Town Centre Transition Sub-Zone and on large sites elsewhere in the Town Centre, which provides primarily for pedestrian links and lanes, open spaces, outdoor dining, and well planned storage and loading/ servicing areas within the development.

12.2.3 Objective – An increasingly vibrant Town Centre that continues to prosper while maintaining a reasonable level of residential amenity within and beyond the Town Centre Zone.

Policies

12.2.3.1 Minimise conflicts between the Town Centre and the adjacent residential zone by avoiding high levels of night time noise being generated on the periphery of the Town Centre and controlling the height and design of buildings at the zone boundary.

12.2.3.2 Recognise the important contribution that night time activity makes to the vibrancy and economic prosperity of the Town Centre and specifically provide for those activities, while mitigating effects on residential amenity by:

a. enabling night time dining and socialising, both indoors and outdoors, to varying degrees throughout the Town Centre; and

b. providing for noisier night time activity within the entertainment precinct in order to minimise effects on residential zones adjacent to the Town Centre; and

c. ensuring that the nature and scale of licensed premises located in the Town Centre Transition Sub-Zone result in effects that are compatible with adjoining residential zones.; and

d. enabling activities within the Town Centre Zone that comply with the noise limits; and

e. requiring sensitive uses within the Town Centre to mitigate the adverse effects of noise through insulation.

12.2.3.3 Enable residential and visitor accommodation activities within the Town Centre while:

a. acknowledging that it will be noisier and more active than in residential zones due to the density, mixed use, and late night nature of the Town Centre and requiring that such sensitive uses are insulated for noise; and

b. discouraging residential uses at ground level in those areas where active frontages are particularly important to the vibrancy of the Town Centre; and

c. avoiding, or, where this is not possible, mitigating adverse traffic effects from visitor accommodation through encouraging operators to provide guests with alternatives to private car travel, discouraging the provision of onsite car parking, and through the careful location and design of any onsite parking and loading areas; and

d. only enabling new residential and visitor accommodation uses within the Town Centre Entertainment Precinct where adequate insulation and mechanical ventilation is installed.

12.2.3.4 Avoid the establishment of activities that cause noxious effects that are not appropriate for the Town Centre.

12.2.3.5 Ensure that the location and direction of lights in the Town Centre does not cause significant glare to other properties, roads, and public places and promote lighting design that mitigates adverse effects on views of the night sky.

12.2.3.6 Recognise the important contribution that sunny open spaces, footpaths, and pedestrian spaces makes to the vibrancy and economic prosperity of the Town Centre.

12.2.4 Objective - A compact Town Centre that is safe and easily accessible for both visitors and residents.

Policies

12.2.4.1 Encourage a reduction in the dominance of vehicles within the Town Centre and a shift in priority toward providing for public transport and providing safe and pleasant pedestrian and cycle access to and though the Town Centre.

12.2.4.2 Ensure that the Town Centre remains compact, accessible and easily walkable by avoiding outward expansion of the Town Centre Zone. Encourage walking to and within the Town Centre by improving the quality of the pedestrian experience by:

a. maintaining and enhancing the existing network of pedestrian linkages and ensuring these are of a high quality;

b. requiring new pedestrian linkages in appropriate locations when redevelopment occurs;

c. strictly limiting outward expansion of the Town Centre Zone and commercial activity beyond it;

d. encouraging the provision of verandas along pedestrian-oriented streets, while acknowledging that verandas may not be appropriate or necessary in applications involving a heritage building; or where no verandas exist on adjoining buildings, and may need to be specifically designed so as to not interfere with kerbside movements of high-sided vehicles;

e. promoting and encouraging the maintenance and creation of uncovered pedestrian links and lanes wherever possible, in recognition that these are a key feature of Queenstown character;

f. promoting the opening up of Horne Creek wherever possible, in recognition that it is a key visual and pedestrian feature of Queenstown, which contributes significantly to its character; and

g. ensuring the cumulative effect of buildings does not result in additional shading that will progressively degrade the pedestrian environment or enjoyment of public spaces, while accepting that individual developments may increase the shading of public pedestrian space to a small extent provided this is offset or compensated for by the provision of additional public space or a pedestrian link within the site.

12.2.4.3 Minimise opportunities for anti-social behaviour through incorporating Crime Prevention Through Environmental Design (CPTED) principles as appropriate in the design of streetscapes, carparking areas, public and semi-public spaces, accessways/ pedestrian links/ lanes, and landscaping.

12.2.4.4 Off-street parking is predominantly located at the periphery of the Town Centre in order to limit the impact of vehicles, particularly during periods of peak visitor numbers.

12.2.4.5 Plan for future public transport options by considering the needs of public transport services and supporting infrastructure when designing roading improvements or considering jetty applications.

12.2.4.6 Encourage visitor accommodation to be located and designed in a manner that minimises traffic issues that may otherwise affect the safety efficiency, and functionality of the roading network, and the safety and amenity of pedestrians and cyclists, particularly in peak periods.

12.2.5 Objective - Integrated management of the Queenstown Bay land-water interface, the activities at this interface and the establishment of a dynamic and attractive environment that benefits both residents and visitors.

Policies

12.2.5.1 Encourage the development of an exciting and vibrant waterfront, which maximises the opportunities and attractions inherent in its location and setting as part of the Town Centre.

12.2.5.2 Promote a comprehensive approach to the provision of facilities for water-based activities.

12.2.5.3 Conserve and enhance, where appropriate, the natural qualities and amenity values of the foreshore and adjoining waters, recognising in particular, the predominantly undeveloped character of the 'Queenstown beach and gardens foreshore area' (as identified on the Planning Map) and the important contribution this area makes to providing views to the lake and mountains, pedestrian and cycle connections, water-based commercial recreation activities, and passive recreation opportunities.

12.2.5.4 Retain and enhance all the public open space areas adjacent to the waterfront.

12.2.5.5 Maximise pedestrian accessibility to and along the waterfront for the enjoyment of the physical setting by the community and visitors.

12.2.5.6 Provide for structures within the Queenstown Bay waterfront area subject to compliance with strict bulk location and appearance criteria , provided the existing predominantly open character and a continuous pedestrian waterfront connection will be maintained or enhanced.

12.2.5.7 Provide for public water ferry services within the Queenstown Town Centre Waterfront Subzone.

12.3 Other Provisions and Rules

12.3.1 District Wide

Attention is drawn to the following District Wide chapters.

1	Introduction	2	Definitions	3	Strategic Direction
4	Urban Development	5	Tangata Whenua	6	Landscapes and Rural Character
25	Earthworks	26	Historic Heritage	27	Subdivision
28	Natural Hazards	29	Transport	30	Energy and Utilities
31	Signs	32	Protected Trees	33	Indigenous Vegetation
34	Wilding Exotic Trees	35	Temporary Activities and Relocated Buildings	36	Noise
37	Designations		Planning Maps		

12.3.2 Interpreting and Applying the Rules

12.3.2.1 A permitted activity must comply with all the rules listed in the activity and standards tables.

12.3.2.2 Where an activity does not comply with a Standard listed in the Standards table, the activity status identified by the 'Non-Compliance Status' column shall apply.

13.3.2.3 Where an activity breaches more than one Standard, the most restrictive status shall apply to the Activity.

12.3.2.4 The following abbreviations are used within this Chapter.

P	Permitted	C	Controlled	RD	Restricted Discretionary
D	Discretionary	NC	Non-Complying	PR	Prohibited

12.4 Rules - Activities

	Activities located in the Queenstown Town Centre Zone	Activity status
12.4.1	Activities which are not listed in this table and comply with all standards	P
12.4.2	Visitor Accommodation Control is reserved to: a. the location, provision, and screening of access and parking, traffic generation, and travel demand management, with a view to maintaining the safety and efficiency of the roading network, and minimising private vehicle movements to/ from the accommodation; ensuring that where onsite parking is provided it is located or screened such that it does not adversely affect the streetscape or pedestrian amenity; and promoting the provision of safe and efficient loading zones for buses; b. landscaping; c. the location, nature and scale of visitor accommodation and ancillary activities relative to one another within the site and relative to neighbouring uses; and d. where the site adjoins a residential zone: i. noise generation and methods of mitigation; ii. hours of operation, in respect of ancillary activities.	C

	Activities located in the Queenstown Town Centre Zone	Activity status
12.4.3	Commercial Activities within the Queenstown Town Centre Waterfront Sub-Zone (including those that are carried out on a wharf or jetty) except for those commercial activities on the surface of water that are provided for as discretionary activities pursuant to Rule 12.4.7.2. Control is reserved to: a. any adverse effects of additional traffic generation from the activity; b. the location and design of access and loading areas in order to ensure safe and efficient movement of pedestrians, cyclists, and vehicles; and c. the erection of temporary structures and the temporary or permanent outdoor storage of equipment in terms of: i. any adverse effect on visual amenity and on pedestrian or vehicle movement; and ii. the extent to which a comprehensive approach has been taken to providing for such areas within the Sub-Zone.	C
12.4.4	Licensed Premises 12.4.4.1 Other than in the Town Centre Transition Sub-Zone premises licensed for the consumption of liquor on the premises between the hours of 11pm and 8am, provided that this rule shall not apply to the sale of liquor: a. to any person who is residing (permanently or temporarily) on the premises; and/or b. to any person who is present on the premises for the purpose of dining up until 12am. 12.4.4.2 Premises within the Town Centre Transition Sub-Zone licensed for the consumption of liquor on the premises between the hours of 6pm and 11pm provided that this rule shall not apply to the sale of liquor: a. to any person who is residing (permanently or temporarily) on the premises; and/or b. to any person who is present on the premises for the purpose of dining up until 12am. In relation to both 12.4.4.1 and 12.4.4.2 above, control is reserved to: a. the scale of the activity; b. effects on amenity (including that of adjoining residential zones and public reserves); c. the provision of screening and/ or buffer areas between the site and adjoining residential zones; d. the configuration of activities within the building and site (e.g. outdoor seating, entrances); and e. noise issues, and hours of operation.	C

	Activities located in the Queenstown Town Centre Zone	Activity status
12.4.5	Licensed Premises within the Town Centre Transition Sub-Zone Premises within the Town Centre Transition Sub-Zone licensed for the consumption of liquor on the premises between the hours of 11 pm and 8 am. This rule shall not apply to the sale of liquor: a. to any person who is residing (permanently or temporarily) on the premises; and/or b. to any person who is present on the premises for the purpose of dining up until 12 am. Discretion is restricted to: a. the scale of the activity; b. effects on amenity (including that of adjoining residential zones and public reserves); c. the provision of screening and/ or buffer areas between the site and adjoining residential zones; d. the configuration of activities within the building and site (e.g. outdoor seating, entrances); and e. noise issues, and hours of operation.	RD
12.4.6	Buildings except temporary 'pop up' buildings that are in place for no longer than 6 months and permanent and temporary outdoor art installations Buildings, including verandas, and any pedestrian link provided as part of the building/ development. Discretion is restricted to: a. consistency with the Queenstown Town Centre Special Character Area Design Guidelines (2015), (noting that the guidelines apply only to the Special Character Area); b. external appearance, including materials and colours; c. signage platforms; d. lighting; e. the impact of the building on the streetscape, heritage values, compatibility with adjoining buildings, the relationship to adjoining verandas; f. the contribution the building makes to the safety of the Town Centre through adherence to CPTED principles; g. the contribution the building makes to pedestrian flows and linkages and to enabling the unobstructed kerbside movement of high-sided vehicles where applicable; h. the provision of active street frontages and, where relevant, outdoor dining/patronage opportunities; and i. where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: i. the nature and degree of risk the hazard(s) pose to people and property; ii. whether the proposal will alter the risk to any site; and iii. the extent to which such risk can be avoided or sufficiently mitigated.	RD

	Activities located in the Queenstown Town Centre Zone	Activity status
12.4.7	Wharfs and jetties, commercial surface of water activities, and moorings within the Queenstown Town Centre Waterfront Sub-Zone	
	12.4.7.1 Wharfs and Jetties within the 'active frontage area' of the Queenstown Town Centre Waterfront Sub-Zone as shown on the Planning Maps.	D
	12.4.7.2 Commercial Surface of Water Activities within the Queenstown Town Centre Waterfront Sub-Zone as shown on the Planning Maps.	D
	In respect of 12.4.7.1 and 12.4.7.2 the Council's discretion is unlimited but it shall consider: The extent to which the proposal will: a. create an exciting and vibrant waterfront which maximises the opportunities and attractions inherent in a visitor town situated on a lakeshore; b. maintain a continuous waterfront walkway from Horne Creek right through to St Omer Park; c. maximise the ability to cater for commercial boating activities to an extent compatible with maintenance of environmental standards and the nature and scale of existing activities; d. provide for or support the provision of one central facility in Queenstown Bay for boat refuelling, bilge pumping, sewage pumping. e. maintain or enhance public access to the lake and amenity values including character; f. affect water quality, navigation and people's safety, and adjoining infrastructure; and g. the extent to which any proposed wharfs and jetties structures or buildings will: i. enclose views across Queenstown Bay; and ii. result in a loss of the generally open character of the Queenstown Bay and its interface with the land; iii. affect the values of wāhi Tūpuna.	
	12.4.7.3 Moorings within the 'Queenstown beach and gardens foreshore area' of the Queenstown Town Centre Waterfront Sub-Zone (as shown on the Planning Maps).	RD
	In respect of 12.4.7.3 discretion is restricted to: a. whether they are dominant or obtrusive elements in the shore scape or lake view, particularly when viewed from any public place, including whether they are situated in natural bays and not headlands; b. whether the structure causes an impediment to craft manoeuvring and using shore waters; c. the degree to which the structure will diminish the recreational experience of people using public areas around the shoreline; d. the effects associated with congestion and clutter around the shoreline, including whether the structure contributes to an adverse cumulative effect; e. whether the structure will be used by a number and range of people and craft, including the general public; and f. the degree to which the structure would be compatible with landscape and amenity values, including colour, materials, design.	

	Activities located in the Queenstown Town Centre Zone	Activity status
12.4.8	Wharfs and jetties, buildings on wharfs and jetties, and the use of buildings or boating craft for accommodation within the Queenstown Town Centre Waterfront Sub-Zone 12.4.8.1 Wharfs and Jetties within the 'Queenstown beach and gardens foreshore area' of the Queenstown Town Centre Waterfront Sub-Zone as shown on the Planning Maps. 12.4.8.2 Any buildings located on Wharfs and Jetties within the Queenstown Town Centre Waterfront Sub-Zone. 12.4.8.3 Buildings or boating craft within the Queenstown Town Centre Waterfront Sub-Zone if used for visitor, residential or overnight accommodation.	NC
12.4.9	Industrial Activities at ground floor level Note: Specific industrial activities are listed separately below as prohibited activities.	NC
12.4.10	Factory Farming	PR
12.4.11	Forestry Activities	PR
12.4.12	Mining Activities	PR
12.4.13	Airports other than the use of land and water for emergency landings, rescues and firefighting.	PR
12.4.14	Panelbeating, spray painting, motor vehicle repair or dismantling, fibreglassing, sheet metal work, bottle or scrap storage, motorbody building.	PR
12.4.15	Fish or meat processing (excluding that which is ancillary to a retail premises such as a butcher, fishmonger or supermarket).	PR
12.4.16	Any activity requiring an Offensive Trade Licence under the Health Act 1956	PR

12.5 Rules - Standards

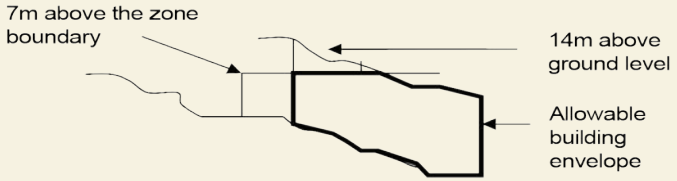
	Standards for activities located in the Queenstown Town Centre Zone	Non-compliance status
12.5.1	Maximum building coverage in the Town Centre Transition Sub-Zone and in relation to and comprehensive developments 12.5.1.1 In the Town Centre Transition Sub-Zone or when undertaking a comprehensive development (as defined), the maximum building coverage shall be 75%. Advice Note: While there is no maximum coverage rule elsewhere in the Town Centre, this does not suggest that 100% building coverage is necessarily anticipated on all sites as outdoor storage areas, and pedestrian linkages might be required. 12.5.1.2 Any application for building within the Town Centre Transition Sub-Zone or for Comprehensive Development Plan that covers the entire development area.	RD Discretion is restricted to: a. the adequate provision of cycle, vehicle, and pedestrian links and lanes, open spaces, outdoor dining opportunities; b. the adequate provision of storage and loading/ servicing areas; c. the provision of open space within the site, for outdoor dining or other purposes; d. the site layout and location of buildings, public access to the buildings, and landscaping, particularly in relation to how the layout of buildings and open space interfaces with the street edge and any adjoining public places and how it protects and provides for view shafts, taking into account the need for active street frontages, compatibility with the character and scale of nearby residential zones, listed heritage items, and heritage precincts, and the amenity and safety of adjoining public spaces and designated sites, including shading and wind effects.
12.5.2	Waste and Recycling Storage Space 12.5.2.1 Offices shall provide a minimum of 2.6m^3 of waste and recycling storage (bin capacity) and minimum 8m^2 floor area for every 1,000m^2 gross floor space, or part thereof. 12.5.2.2 Retail activities shall provide a minimum of 5m^3 of waste and recycling storage (bin capacity) and minimum 15m^2 floor area for every 1,000m^2 gross floor space, or part thereof. 12.5.2.3 Food and beverage outlets shall provide a minimum of 1.5m^3 (bin capacity) and 5m^2 floor area of waste and recycling storage per 20 dining spaces, or part thereof. 12.5.2.4 Residential and Visitor Accommodation activities shall provide a minimum of 80 litres of waste and recycling storage per bedroom, or part thereof.	RD Discretion is restricted to: a. the adequacy of the area, dimensions, design, and location of the space allocated, such that it is of an adequate size, can be easily cleaned, and is accessible to the waste collection contractor, such that it need not be put out on the kerb for collection. The storage area needs to be designed around the type(s) of bin to be used to provide a practicable arrangement. The area needs to be easily cleaned and sanitised, potentially including a foul floor gully trap for wash down and spills of waste.

	Standards for activities located in the Queenstown Town Centre Zone	Non-compliance status
12.5.3	Screening of Storage Areas Storage areas shall be situated within a building or screened from view from all public places, adjoining sites and adjoining zones.	RD Discretion is restricted to: a. effects on visual amenity; b. consistency with the character of the locality; c. effects on human safety in terms of CPTED principles; and d. whether pedestrian and vehicle access is compromised.
12.5.4	Verandas 12.5.4.1 Every new, reconstructed or altered building (excluding repainting) with frontage to the roads listed below shall include a veranda or other means of weather protection. a. Shotover Street (Stanley Street to Hay Street); b. Beach Street; c. Rees Street; d. Camp Street (Church Street to Man Street); e. Brecon Street (Man Street to Shotover Street); f. Church Street (north west side); g. Queenstown Mall (Ballarat Street); h. Athol Street; i. Stanley Street (Coronation Drive to Memorial Street). 12.5.4.2 Verandas shall be no higher than 3m above pavement level and no verandas on the north side of a public place or road shall extend over that space by more than 2m and those verandas on the south side of roads shall not extend over the space by more than 3m.	RD Discretion is restricted to: a. consistency of the proposal and the Queenstown Town Centre Design Guidelines (2015) where applicable; and b. effects on pedestrian amenity, the human scale of the built form, and on historic heritage values.

	Standards for activities located in the Queenstown Town Centre Zone	Non-compliance status
12.5.5	Residential Activities 12.5.5.1 Residential activities shall not be situated at ground level in any building with frontage to the following roads: a. Stanley Street (Coronation Drive to Memorial Street); b. Camp Street (Man Street to Earl Street); c. Queenstown Mall (Ballarat Street) ; d. Church Street; e. Marine Parade (north of Church Street); f. Beach Street; g. Rees Street; h. Shotover Street; i. Brecon Street; j. Athol Street; k. Duke Street.	RD Discretion is restricted to: a. effects on the ability to achieve active frontages along these streets; b. effects on surrounding buildings and activities; and c. the quality of the living environment within the building.
12.5.6	Flood Risk No building greater than $20m^2$ with a ground floor level less than RL 312.0 masl shall be relocated to a site, or constructed on a site, within this zone.	RD Discretion is restricted to: a. the level of risk from flooding and whether the risk can be appropriately avoided or mitigated; and b. the extent to which the construction of the building will result in the increased vulnerability of other sites to flooding.

	Standards for activities located in the Queenstown Town Centre Zone	Non-compliance status
12.5.7	Provision of Pedestrian Links and Lanes 12.5.7.1 All new buildings and building redevelopments located on sites which are identified for pedestrian links or lanes in Figure 1 (at the end of this chapter) shall provide a ground level pedestrian link or lane in the general location shown. 12.5.7.2 Where a pedestrian link or lane required by Rule 12.5.7.1 is open to the public during retailing hours the Council will consider off-setting any such area against development levies and car parking requirements. 12.5.7.3 Where an existing lane or link identified in Figure 1 is uncovered then, as part of any new building or redevelopment of the site, it shall remain uncovered and shall be a minimum of 4m wide and where an existing link is covered then it may remain covered and shall be at least 1.8 m wide, with an average minimum width of 2.5m. 12.5.7.4 In all cases, lanes and links shall be open to the public during all retailing hours. Location of Pedestrian Links within the Queenstown Town Centre a. Shotover St / Beach St, Lot 2 DP 11098; b. Trustbank Arcade (Shotover St/Beach St), Lot 1 DP Tn of Queenstown; c. Plaza Arcade, Shotover St/Beach 1 DP 17661; (d. Cow Lane/Beach Street, Sec 30 Blk I Tn of Queenstown; e. Cow Lane / Beach Street, Lot 1 DP 25042; f. Cow Lane / Ballarat Street, Lot 2 DP 19416; g. Ballarat St/Searle Lane, Sec 22 & Pt Sec 23 BLK II Tn Queenstown, h. Ballarat Street/Searle Lane and part of Searle Lane land parcel; i. Church St/Earl St, Sections Lot 1 DP 27486; j. Searle Lane/Church St, Lot 100 DP 303504 k. Camp/ Stanley St, post office precinct, Lot 2 DP 416867; l. Camp/ Athol St, Lot 1 DP 20875. Advice Notes: a. where an uncovered pedestrian link or lane (i.e. open to the sky) is provided in accordance with this rule, additional building height may be appropriate pursuant to Policies 12.2.2.4 and 12.2.2.5; b. where an alternative link is proposed as part of the application which is not on the development site but achieves the same or a better outcome then this is likely to be considered appropriate.	RD Where the required link is not proposed as part of development, discretion is restricted to: a. the adverse effects on the pedestrian environment, connectivity, legibility, and Town Centre character from not providing the link.

	Standards for activities located in the Queenstown Town Centre Zone	Non-compliance status
12.5.8	Discretionary Building Height in Precinct 1, Precinct 1(A), Precinct 2, Precinct 4 and Precinct 5 For the purpose of this rule, refer to the Height Precinct Map (Figure 2 at the end of this Chapter). 12.5.8.1 Within Precinct 1 and Precinct 1 (A) the maximum height shall be 12m: and 12.5.8.2 Within Precinct 1 (A) no part of any building shall protrude through a recession line inclined towards the site at an angle of 45 degrees commencing from a line 10m above the street boundary. 12.5.8.3 Within Precinct 2, no part of any building shall protrude through a recession line inclined towards the site at an angle of 30 degrees commencing from a line 6.5m above any street boundary. 12.5.8.4 Within Precinct 4, no part of any building shall protrude through a recession line inclined towards the site at an angle of 45 degrees commencing from a line 10m above the street boundary. 12.5.8.5 Within Precinct 5, the street front parapet shall be between 7.5 and 8.5m in height and no part of any building shall protrude through a recession line inclined towards the site at an angle of 45 degrees commencing from a line 7.5m above any street boundary.	RD Discretion is restricted to: a. the effect of any additional height on the urban form of the Town Centre and the character of the height precinct within which it is located. The Council will consider: i. the extent to which the proposed building design responds sensitively to difference in height, scale and mass between the proposal and existing buildings on adjacent sites and with buildings in the wider height precinct, in terms of use of materials, facade articulation and roof forms; and ii. the effect on human scale and character as a result of proposed articulation of the façade, the roofline, and the roofscape; and iii. the amenity of surrounding streets, lanes, footpaths and other public spaces, including the effect on sunlight access to public spaces and footpaths; the provision of public space and pedestrian links; and iv. the opportunity to establish landmark buildings on key sites, such as block corners and key view terminations; and b. The protection or enhancement of public views of Lake Wakatipu or of any of the following peaks: i. Bowen Peak; ii. Walter Peak; iii. Cecil Peak; iv. Bobs Peak; v. Queenstown Hill; vi. The Remarkables Range (limited to views of Single and Double Cone); and vii. effects on any adjacent Residential Zone; and viii. the historic heritage value of any adjacent heritage item/ precinct and whether it acknowledges and respects the scale and form of this heritage item/ precinct.

	Standards for activities located in the Queenstown Town Centre Zone	Non-compliance status
12.5.9	Maximum building and facade height For the purpose of this rule, refer to the Height Precinct Map (Figure 2 at the end of this Chapter). 12.5.9.1 In Height Precinct 1 Precinct 1 (A) and Precinct 2, subject to sub-clauses a – d below, the maximum absolute height limits shall be as follows: i. 15m on Secs 4-5 Blk Xv Queenstown Tn (48-50 Beach St); ii. 15.5m in Precinct 1(A); iii. 14m elsewhere. and a. throughout the precinct, the building shall contain no more than 4 storeys excluding basements; b. in addition, buildings within the block bound by Ballarat, Beetham, and Stanley streets as identified on the Height Precinct Map shall not protrude through a horizontal plane drawn at 7m above any point along the north-eastern zone boundary of this block, as illustrated in the below diagram;  c. in addition, on Secs 4-5 Blk Xv Queenstown Tn, (48-50 Beach Street) no part of any building shall protrude through a recession line inclined towards the site at an angle of 45 degrees commencing from a line 12m above any boundary; d. in addition, buildings within that part of the block bound by Man, Brecon, Shotover, and Hay streets shown on the Height Precinct Map as area P1 (i) shall not protrude through a horizontal plane drawn at 330.1 masl and that part of the block shown as P1 (ii) horizontal plane drawn at 327.1 masl. 12.5.9.2 In Height Precinct 3 (lower Beach St to Marine Parade and the Earl/ Church Street block) the maximum height shall be 8m and the street front parapet of buildings shall be between 7.5m and 8.5m and may protrude through the height plane. 12.5.9.3 For any buildings located on a wharf or jetty, the maximum height shall be 4 m above RL 312.0 masl.	NC

	Standards for activities located in the Queenstown Town Centre Zone	Non-compliance status
	12.5.9.4 In Height Precinct 7 (Man Street): a. in Area A shown on the Height Precinct Map, the maximum height shall be 11m above RL 327.1 masl. b. in Area B the maximum height shall be 14m above RL 327.1 masl; c. in Viewshaft C the maximum height shall be RL 327.1 masl (i.e. no building is permitted above the existing structure); d. in Viewshaft D, the maximum height shall be 3 m above RL 327.6masl. 12.5.9.5 For all other sites within the Town Centre Zone, the maximum height shall be 12m and, in addition, the following shall apply: a. in Height Precinct 6 (land bound by Man, Duke and Brecon streets): i. no building shall protrude through a horizontal plane drawn at RL 332.20 masl except that decorative parapets may encroach beyond this by a maximum of up to 0.9 metre. This rule shall not apply to any lift tower within a visitor accommodation development in this area, which exceeds the maximum height permitted for buildings by 1m or less; and ii. no part of any building shall protrude through a recession line inclined towards the site at an angle of 45º commencing from a line 10m above the street boundary.	

	Standards for activities located in the Queenstown Town Centre Zone	Non-compliance status
12.5.10	Noise 12.5.10.1 Sound* from activities in the Town Centre Zone and Town Centre Transition Sub-Zone (excluding sound from the sources specified in rules 12.5.10.3 to 12.5.10.5 below) shall not exceed the following noise limits at any point within any other site in these zones: a. Daytime (0800 to 2200hrs) 60 dB $L_{Aeq(15\ min)}$ b. Night-time (2200 to 0800hrs) 50 dB $L_{Aeq(15\ min)}$ c. Night-time (2200 to 0800hrs) 75 dB L_{AFmax} *measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008. 12.5.10.2 Sound from activities in the Town Centre Zone and Town Centre Transition Sub-Zone (excluding sound from the sources specified in rules 12.5.10.3 and 12.5.10.4 below) which is received in another zone shall comply with the noise limits set for the zone the sound is received in. 12.5.10.3 Within the Town Centre Zone, excluding the Town Centre Transition Sub-Zone sound* from music shall not exceed the following limits: a. 60 dB $L_{Aeq(5\ min)}$ at any point within any other site in the Entertainment Precinct; and b. at any point within any other site outside the Entertainment Precinct: i. daytime (0800 to 0100 hrs) 55 dB L $L_{Aeq(5\ min)}$ ii. late night (0100 to 0800 hrs) 50 dB $L_{Aeq(5\ min)}$ *measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008, and excluding any special audible characteristics and duration adjustments. 12.5.10.4 Within the Town Centre Zone, excluding the Town Centre Transition Sub-Zone sound* from voices shall not exceed the following limits: a. 65 dB $L_{Aeq(15\ min)}$ at any point within any other site in the Entertainment Precinct; and b. at any point within any other site outside the Entertainment Precinct: i. daytime (0800 to 0100 hrs) 60 dB $L_{Aeq(15\ min)}$ ii. late night (0100 to 0800 hrs) 50 dB $L_{Aeq(15\ min)}$ *measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008.	NC

	Standards for activities located in the Queenstown Town Centre Zone	Non-compliance status
	12.5.10.5 Within the Town Centre Zone, excluding the Town Centre Transition Sub-Zone sound* from any loudspeaker outside a building shall not exceed 75 dB $L_{Aeq(5\ min)}$ measured at 0.6 metres from the loudspeaker. * measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008, excluding any special audible characteristics and duration adjustments. Exemptions from Rule 12.5.10: a. the noise limits in 12.5.10.1 and 12.5.10.2 shall not apply to construction sound which shall be assessed in accordance and comply with NZS 6803:1999. b. the noise limits in 12.5.10.1 to 12.5.10.5 shall not apply to outdoor public events pursuant to Chapter 35 of the District Plan. c. the noise limits in 12.5.10.1 and 12.5.10.2 shall not apply to motor/ water noise from commercial motorised craft within the Queenstown Town Centre Waterfront Sub-Zone which is, instead, subject to Rule 36.5.13.	
12.5.11	Acoustic insulation, other than in the Entertainment Precinct Where any new building is erected, or a building is modified to accommodate a recent activity: 12.5.11.1 A mechanical ventilation system shall be installed for all critical listening environments in accordance with Table 5 in Chapter 36. 12.5.11.2 All elements of the façade of any critical listening environment shall have an airborne sound insulation of at least 40 dB R_w+C_{tr} determined in accordance with ISO 10140 and ISO 717-1.	RD Discretion is restricted to: a. the noise levels that will be received within the critical listening environments, with consideration including the nature and scale of the residential or visitor accommodation activity; b. the extent of insulation proposed; and c. whether covenants exist or are being volunteered which limit noise emissions on adjacent sites such that such noise insulation will not be necessary.
12.5.12	Acoustic insulation within the Entertainment Precinct Where any new building is erected, or a building is modified to accommodate a new activity: 12.5.12.1 A mechanical ventilation system shall be installed for all critical listening environments in accordance with Table 5 in Chapter 36. 12.5.12.2 All elements of the façade of any critical listening environment shall have an airborne sound insulation of at least 40 dB R_w+C_{tr} determined in accordance with ISO 10140 and ISO 717-1.	NC

	Standards for activities located in the Queenstown Town Centre Zone	Non-compliance status
12.5.13	Glare 12.5.13.1 All exterior lighting, other than footpath or pedestrian link amenity lighting, installed on sites or buildings within the zone shall be directed away from adjacent sites, roads and public places, and downward so as to limit the effects on views of the night sky. 12.5.13.2 No activity in this zone shall result in a greater than 10 lux spill (horizontal or vertical) of light onto any property within the zone, measured at any point inside the boundary of any adjoining property. 12.5.13.3 No activity shall result in a greater than 3 lux spill (horizontal or vertical) of light onto any adjoining property which is zoned High Density Residential measured at any point more than 2m inside the boundary of the adjoining property.	NC

12.6 Rules - Non-Notification of Applications

12.6.1 Applications for Controlled activities shall not require the written approval of other persons and shall not be notified or limited-notified except:

12.6.1.1 Where visitor accommodation includes a proposal for vehicle access directly onto a State Highway.

12.6.2 The following Restricted Discretionary activities shall not require the written approval of other persons and shall not be notified or limited notified:

12.6.2.1 Buildings.

12.6.2.2 Building coverage in the Town Centre Transition Sub-Zone and comprehensive development .

12.6.2.3 Waste and recycling storage space.

12.6.3 The following Restricted Discretionary activities will not be publicly notified but notice will be served on those persons considered to be adversely affected if those persons have not given their written approval:

12.6.3.1 Discretionary building height in Height Precinct 1 and Height Precinct 1(A).

Figure 1: Identified Pedestrian Links

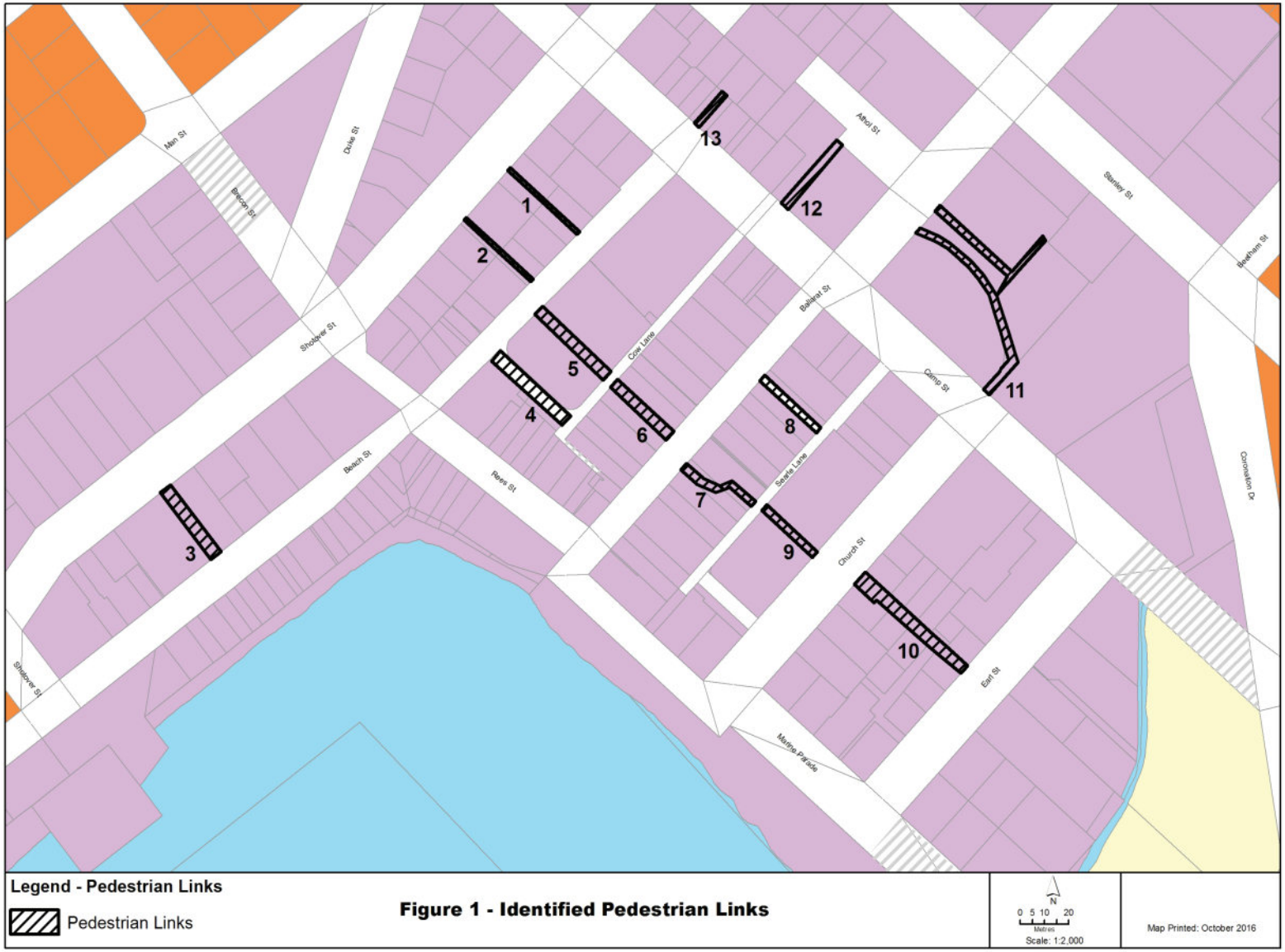
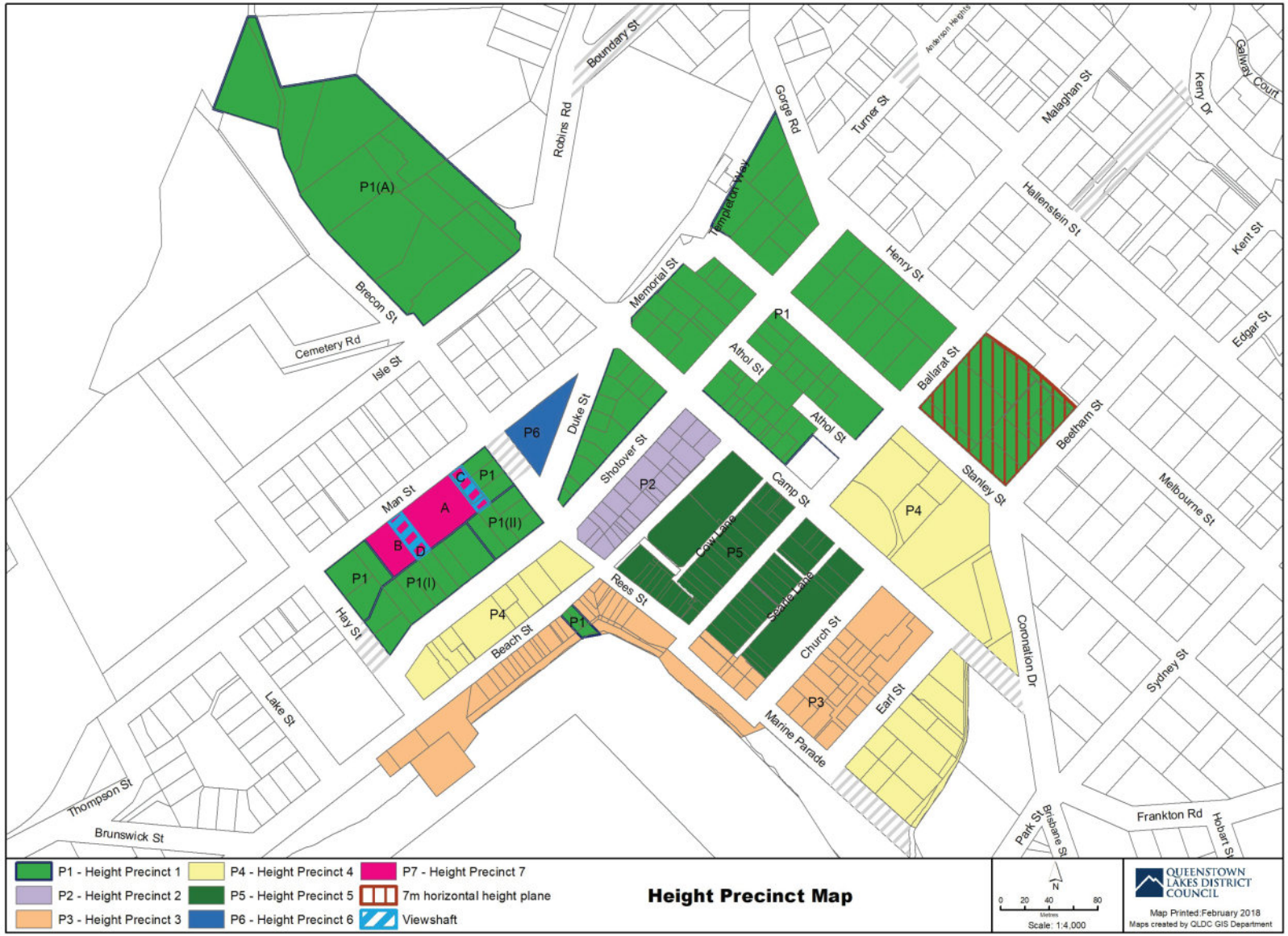


Figure 2: Queenstown Town Centre Height precinct map



QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report 11

Report and Recommendations of Independent Commissioners Regarding
Chapter 12, Chapter 13, Chapter 14, Chapter 15, Chapter 16 and Chapter 17

Commissioners
Denis Nugent (Chair)
Paul Rogers

PART B: CHAPTER 12 - QUEENSTOWN TOWN CENTRE

2. PRELIMINARY

30. Ms Vicki Jones prepared and presented the Section 42A Report for this chapter. In that report she provided a background to the QTCZ in addition to identifying the issues that arose from reviewing the ODP provisions. The PDP zone provisions sought to address those key issues. They were:
    a. A lack of capacity within the town centre and whether there was an opportunity to provide for further capacity within the existing town centre zone
    b. Could the existing town centre be expanded in a manner that retains the compactness and walkability of the town centre, provide legible boundaries, and not exacerbate reverse sensitivity issues?
    c. Were the existing rules, including those related to building height, bulk and location, appropriate, and would they achieve quality urban design and build efficiently and effectively, and result in efficient land use and intensification opportunities?
    d. Management of flood risk in the QTC
    e. Management of the interface between the town centre and lakefront
    f. Noise and reverse sensitivity issues and acoustic insulation
    g. The need for integrated land use and transport planning.

2.1. General Submissions

31. Some submitters[27] submitted generally on Chapter 12, seeking that all provisions in the chapter, not otherwise submitted on within their submission, be retained as notified unless they duplicate other provisions in which case they should be deleted.

32. E J L Guthrie[28] requested that the QTCZ provisions, including, but not limited to, the Zone Purpose and all Objectives, Policies and Rules, be confirmed as notified; and Tweed Developments Limited[29] requested the chapter be confirmed as notified as it related to the zoning of Lot 1 DP 20093 and Sections 20 & 21 Block II Town.

33. Jay Berriman[30] supported the Zone Purpose, although it is not clear from the submission whether he supported the geographic extent of the zoning or the zone as a whole.

34. Ms Jones recommended that those submissions seeking that the provisions be confirmed in part or whole be accepted in part and that Submission 217 supporting the zoning of certain sites be accepted. We agree with Ms Jones and recommend accordingly.

2.2. Extensions to the Queenstown Town Centre Zone

35. Ms Jones pointed out in her Section 42A Report that no submitter had opposed the notified QTC boundaries so she recommended no change in relation to the notified boundary.

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27 Submissions 663 (opposed by FS1139 and FS1191) and 672
28 Submission 212
29 Submission 617
30 Submission 217

36. She traversed in her report a number of submissions[31] supporting the notified changes to the extent of the town centre zone. Additionally, Tweed Developments Limited[32] specifically sought that the notified zoning be confirmed insofar as it related to the zoning of 74 Shotover Street and 11 & 13 The Mall. We recommend that submission be accepted.

37. We agree with Ms Jones' view that the notified extent of the QTCZ is appropriate for the reasons outlined in the Section 32 Evaluation Report and we support her recommendation that the supporting submissions be accepted.

2.3. Submissions not relating to matters controlled by the PDP

38. Downtown QT[33] sought that the provisions of the PDP align with the Town Centre Strategy. Ms Jones pointed out in her Section 42A Report that the Downtown QT website[34] notes its strategy will be a living document and will address the look and feel, transport, parking, accessibility, lighting and future development of the town centre and provide guidance on commercial resilience and growth, local relevance and sector alignment.

39. We note that the PDP cannot be aligned with a document that is forever changing without going through the Plan Change process. No evidence was provided to clarify how exactly the QTCZ should be changed. On this basis, we recommend the submission be rejected.

40. Ms Jones drew our attention to two groups of submissions which sought amendments to notified provisions, or the inclusion of additional provisions, relating to:
    a. Car parking in the QTCZ[35] and
    b. Public transport links on the water[36].

41. We agree that both matters are better dealt with when Chapter 29 Transport is considered for the reasons Ms Jones set out. Some of these submissions are deemed to be submissions on Chapter 29. In respect of the remainder, we note that we received insufficient evidence to justify the types of changes requested. We recommend those submissions[37] be rejected.

2.4. Section 12.1 – Zone Purpose

42. Kopuwai Investments Limited[38] sought that the words *"Precinct"* and "*has*" in the third paragraph of the zone purpose be amended to "*Precincts*" and "*have*". These are minor amendments which add no further value or clarification and therefore they are ineffective and inefficient. We reject the submission on that basis.

43. Remarkables Park Limited[39] sought deletion of the word "*administrative*" because it failed to recognise that as the District grows the Queenstown Town Centre may not continue to provide the administrative centre of the District. Rather that centre may be found or located in

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31 Submitter 630 (DowntownQT) Submitters 308 (WellSmart Investment Holdings Ltd) 398 (Man Street Properties Limited) opposed by FS 1274 (John Thompson &MacFarlane Investments Ltd) Submitter 394 (Stanley Street Investments Ltd & Kelso Investments Limited) opposed by FS 1117 (Remarkable Park Limited) Submitter 574 (Skyline Enterprises Ltd) opposed by FS 1063.22(Peter Fleming)

32 Submission 617

33 Submission 630, opposed by FS1043

34 http://www.downtowngt.nz/about/#town-centre-strategy

35 V Jones, Section 42A Report, paragraph 17.7

36 ibid, paragraphs 17.8 and 17.9

37 Listed in Footnotes 84 and 85 of Ms Jones' Section 42A Report

38 Submission 714, opposed by FS1318

39 Submission 807

Frankton. The submitter was concerned to see that the PDP did not artificially constrain development in Frankton.

44. Other submitters[40] sought to clarify what the word administrative means and submitted that ambiguity could be avoided by deleting the word "*administrative*" and replacing it with the words "*Local Government*".

45. We recommend that the word "*administrative*" be retained within the zone purpose because we consider the balance wording within the zone purpose provision supports the retention of the word administrative. As we read those words, the zone purpose is all about signalling the importance and priority of the town centre to the District. It follows that it is the principal or main location of administrative activities, whether they be civic, local government or business activities.

46. Also, we do not think that acknowledging the current reality that the existing town centre is the principal administrative centre for the District pre-determines what should happen in Frankton. However, we do accept the choice of word we recommend sends, to the extent a zone purpose can, a clear signal that the QTC is the principal or predominant centre for the District.

47. We do not see anything is gained by utilising the words "*civic*" or "*local government*". We see these words as being more aligned to civic buildings and Council or local authority activities. Those activities, and in particular civic buildings such as libraries and the like, are only a subset of the activities and types of buildings that exist in the town centre. The existing town centre activities are much broader than civic and local government activities and related buildings, and the zone purpose provision needs to recognise and provide for that.

48. We consider our recommendation, retaining the word "*administrative*" supports the strategic directions objectives, particularly Strategic Objective 3.2.1.2 which refers to Queenstown and Wanaka being the hubs for the District, which we take to include administrative activities. We note also that new Objective 3.2.1.3 provides for the role of Frankton Flats in a more general sense.

49. Two submissions[41] supported the Zone Purpose, but NZIA[42] sought to amend the Queenstown Town Centre Guidelines 2015 by extending the application of the guidelines. Failing that the submitter sought that the Zone Purpose be amended to acknowledge the importance of natural features, existing circulation patterns, roads and pathways, grid patterns, public open spaces, the quality, scale, and configuration of the built form, experiences, and Council landscaping in achieving a well-designed, high quality Town Centre.

50. We return later to the request to extend the application of the Queenstown Town Centre Design Guidelines but we do recommend rejection of this submission point. We agree with Ms Jones that including additional statements within the Zone Purpose, as sought by this submitter, would have little statutory weight, and would complicate consenting processes as many of the design considerations of interest to this submitter are dealt with by mechanisms either outside of the District Plan or through the subdivision chapter. We also consider it would make the Zone Purpose much more complicated and complex than required.

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40 Submissions 217 and 630

41 Submissions 380 (opposed by FS1318) and 238 (opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248, FS1249)

42 Submission 238.

51. If accepted this submission would result in the guidelines applying beyond the SCA and to more than only buildings. While such an extension could be useful, guidance on such matters is already available from a range of non-statutory documents. Also we consider expansion of the guideline, while not beyond scope would not be good practice or efficient because the opportunity to undertake widespread consultation on the proposed amendments would not be available. For these reasons we recommend rejection of this submission.

52. Ms Macdonald, legal counsel for Imperium[43], was opposed to any reference to the TCEP within the last paragraph of section 12.1. In summary, she was concerned that Ms Jones' Section 42A Report failed to address adequately the issues faced by existing noise sensitive activities which, she submitted, as a result of the creation of the Entertainment Precinct, would be exposed to even higher levels of noise than what currently occurs.[44]

53. Ms Jones[45] recommended a number of additional changes in relation to matters she had reconsidered since filing her Section 42A Report, specifically in response to evidence filed by submitters. She considered that those additional amendments would result in more appropriate provisions that would better contribute to the district wide objectives, and the purpose of the Act.

54. In that regard, Ms Jones recommended amending the Zone Purpose to acknowledge the importance of the WSZ to the QTC. In particular, she recommended that the contribution that the waterfront makes to the amenity, vibrancy and sense of place of the QTC as a whole needed to be recognised within the Zone Purpose.

55. Queenstown Wharves (GP) Limited[46] (Queenstown Wharves) sought the recognition of the waterfront's contribution to the QTC within its submission, and in a broad way within the evidence of Ms Carter.

56. We consider there is merit in that submission and merit in Ms Jones' response to it referred to above[47]. We recommend the inclusion of the following words as a last paragraph to the Zone Purpose at 12.1:

The Queenstown waterfront subzone makes an important contribution to the amenity, vibrancy and sense of place of the Queenstown Town Centre as a whole.

57. In our view after having considered these submissions and further submissions and the officers' report and relevant replies, we consider the wording of Ms Jones's Reply version of Section 12.1 is appropriate, as it includes recognition of the importance of WSZ which is consistent with, and supports, the recognition of the importance of the waterfront to the QTC, as discussed in the evidence of Ms Carter.

3. SECTION 12.2 OBJECTIVES AND POLICIES

58. As notified there were five objectives with supporting policies.

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43 Submission 151, supported by FS1043

44 We will discuss noise in greater detail, including why we support the TCEP later in this report at 12.5.11

45 V Jones, Summary of Evidence at [6]

46 Submission 766

47 V Jones, Summary of Evidence at [6]

3.1. General Drafting Improvements to the Objectives and Policies and correcting Format Errors.

59. In her Reply Statement, Ms Jones[48] identified for us general drafting improvements to the objectives policies and rules as well as identifying and correcting formatting errors. In so far as those drafting improvements relate to the objectives and policies we recommend those improvements be adopted and have incorporated them in our recommendations above.

60. Ms Jones[49] referred us to further general amendments recommended by Mr Goldsmith within his legal submissions for Mr John Thompson and MacFarlane Investments[50]. Those amendments relate to the consistent use of the term "*RL*" and removing all references to Otago datum. Ms Jones' recommended acceptance and we agree. We note that for consistency this has been applied across all chapters in the Stream, and where relevant the reference in the provisions is to masl.

3.2. Objective 12.2.1 and Policies 12.2.1.1 – 12.2.1.4

61. As notified these read:

> *12.2.1 Objective*
> *A Town Centre that remains relevant to residents and visitors alike and continues to be the District's principal mixed use centre of retail, commercial, administrative, entertainment, cultural, and tourism activity.*
>
> *Policies*
>
> *12.2.1.1* *Enable intensification within the Town Centre through providing for greater site coverage and additional building height provided effects on key public amenity and character attributes are avoided or satisfactorily mitigated.*
>
> *12.2.1.2* *Provide for new commercial development opportunities within the Town Centre Transition subzone that are affordable relative to those in the core of the Town Centre in order to retain and enhance the diversity of commercial activities within the Town Centre.*
>
> *12.2.1.3* *Recognise the important contribution that night time activity makes to the vibrancy and economic prosperity of the Town Centre by enabling restaurant and bar activities to occur without unduly restrictive noise controls.*
>
> *12.2.1.4* *Enable residential activities and visitor accommodation activities while acknowledging that there will be a lower level of residential amenity due to the mix of activities and late night nature of the town centre.*

62. Objective 12.2.1 attracted submissions in support[51] and those[52] that sought to alter its wording by deleting the word "*administrative*" and replacing it with "*local government".* For the same reasoning advanced when considering Section 12.1, we recommend retention of the word administrative, and therefore, recommend the objective be adopted as notified.

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48 Ibid at [2]
49 V Jones, Reply Statement at paragraph 2.3
50 FS1274
51 Submissions 217, 630 (opposed by FS1043 and FS1117) and 470
52 Submission 238, opposed by FS1318, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249

63. NZIA[53] sought to amend notified Policy 12.2.1.1 to provide for intensification by requiring that such intensification be undertaken in accordance with best practice in urban design principles. The submitter considered allowing intensification on the basis of effects on public amenity and character being either avoided or satisfactorily mitigated, to be too imprecise.

64. Ms Jones recommended retaining the words "*avoided or satisfactorily mitigated*". She was of the view the submitter's reference to best practice urban design principles helped overcome interpretive difficulties that could arise in trying to determine whether or not the effects on key public amenity and character attributes had been satisfactorily mitigated.

65. We consider that reference to the urban design principles provides a useful touchstone to answer that question. Ms Jones also recommended in her reply evidence that the policy be expanded to separate the issue of coverage from height. In her view it was the matter of height that should be guided by best practice urban design principles. In addition, she did not consider a comparison between the coverage allowed in the PDP with that allowed in the ODP to be relevant. We accept the recommendations proposed by Ms Jones for the reasons she advances. We consider the changes give effect to the operative RPS particular those objectives and policies seeking to avoid, remedy or mitigate adverse effects of the built environment.

66. Accordingly we recommend Policy 12.2.1.1 reads as follows with our changes shown as underlined and struck out:

> *12.2.1.1 Enable intensification within the Town Centre through: ~~providing for greater site coverage and~~*
>
> *a. enabling sites to be entirely covered with built form other than in the Town Centre Transition Subzone and in relation to comprehensive developments provided identified pedestrian links are retained and*
>
> *b. enabling additional building height in some areas provided such intensification is undertaken in accordance with best practice urban design principles and the effects on key public amenity and character attributes are avoided or satisfactorily mitigated.*

67. Ms Jones pointed out the linkage by way of subject matter between Policy 12.2.1.1 and Objective 12.2.2 and Policies 12.2.2.3 and 12.2.2.4. She made the point that Policy 12.2.1.1 seeks to address the circumstance created by the PDP no longer imposing coverage rules or recession planes within the town centre, in most instances. It was her view that Policy 12.2.1.1 is not intended to provide policy guidance when Rules 12.5.1, 12.5.9 and 12.5.10, which all relate to coverage or height, are breached. The policies that are relevant to these rules are those found following Objective 12.2.2. She said if this was unclear it may need to be clarified.

68. We do not think it necessary to link a policy to a particular rule by footnote or other method. This is because a particular rule which has been triggered should be read and interpreted within the context of all relevant objectives and policies. Which objective or policy is most relevant will be informed by the factual context that triggers the rule.

69. No submissions were received on notified Policy 12.2.1.2. However, we raised questions with Ms Jones as to how the relatively affordable opportunities referred to were to be provided.

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[53] Submission 238, opposed by FS1318, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249

70. She responded within her Reply, that rezoning land located at Upper Brecon Street and the Gorge Road/Memorial Avenue corner currently zoned Residential in the ODP to QTCZ would increase the supply of town centre land.[54] It was her opinion that, given the location of this land on the fringes of the existing town centre, it would be relatively affordable land, particularly when compared to land located within the QTC in the ODP.[55]

71. We agree with Ms Jones, given her Reply explanation linking the rezoning of land and the likely value of that land, the policy wording is appropriate and accordingly recommend policy 12.2.1.2 be adopted as notified.

72. Multiple submitters[56] sought to retain this policy and Imperium Group[57] requested the words "*unduly restrictive*" be replaced with the words "*subject to appropriate*". We agree with the submitter that the word "*appropriate*" means and requires an assessment of the context in which the noise is an issue and allows for imposition of a control appropriate to that context.

73. The words as they currently appear suggest, according to the submitter, that any control on noise should not be unduly restrictive implying that noise is enabled or allowed regardless of context. We agree with those concerns.

74. For these reasons we recommend rewording the policy as follows, with additional phrasing underlined and discarded wording struck-out:

> *12.2.1.3 Recognise the important contribution that night time activity makes to the vibrancy and economic prosperity of the Town Centre by enabling restaurant and bar activities to occur ~~without unduly restrictive~~ <u>subject to appropriate</u> noise controls.*

75. NZIA[58] requested that notified Policy 12.2.1.4 be amended: first, by deleting reference to a lower level of residential amenity; second, by including words to the effect that residential activities and visitor accommodation would be enabled while acknowledging increased noise and activity due to a mix of activities and the late night nature of the town centre.

76. We think that this policy is trying to provide for the reality of what now occurs within the town centre. It draws attention to the potential noise effects on residential amenity contributed to by the late night nature of town centre activities.

77. Notwithstanding the purpose of the policy we agree with the submitter's request because the wording proposed is clearer and does not allow or support noise at a level that will lower levels of residential amenity. Also, in our view, the submitter's wording appropriately captures the status quo. In reaching this recommendation we have considered the relevant sections of the Section 32 report and the opinions of Dr Chiles[59] relevant to this point.

78. We show these recommended amendments below as underlined and strike-through. For the reasons discussed, we recommend the wording of the policy be as follows;

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54 V Jones, Reply Statement at [2.2].

55 Ibid.

56 Submissions 587, 589, 630, 714, and 804

57 Submission 151

58 Submission 238, opposed by FS1318, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249

59 Dr S Chiles, EiC at [6.2, 9.2]

12.2.1.4 Enable residential activities and visitor accommodation activities while acknowledging that there will be a lower level of residential amenity due to increased noise and activity resulting from the mix of activities and late night nature of the town centre.

3.3. Objective 12.2.2 and Policies 12.2.2.1 - 12.2.2.9

79. As notified these read:

12.2.2 Objective
Development that achieves high quality urban design outcomes and contributes to the town's character, heritage values and sense of place.

Policies

12.2.2.1 Require development in the Special Character Area to be consistent with the design outcomes sought by the Queenstown Town Centre Design Guidelines 2015.

12.2.2.2 Require development to:

a. Maintain the existing human scale of the Town Centre as experienced from street level through building articulation and detailing of the façade, which incorporates elements which break down building mass into smaller units which are recognisably connected to the viewer and

b. Contribute to the quality of streets and other public spaces and people's enjoyment of those places and

c. Positively respond to the Town Centre's character and contribute to the town's 'sense of place.'

12.2.2.3 Control the height and mass of buildings in order to:

a. Retain and provide opportunities to frame important view shafts to the surrounding landscape and

b. Maintain sunlight access to public places and to footpaths, with a particular emphasis on retaining solar access into the Special Character Area (as shown on Planning Maps 35 and 36).

12.2.2.4 Allow buildings to exceed the discretionary height standards in situations where:

a. The outcome is of a high quality design, which is superior to that which would be achievable under the permitted height

b. The cumulative effect of the additional height does not result in additional shading that will progressively degrade the pedestrian environment or enjoyment of public spaces and

c. The increase in height will facilitate the provision of residential activity.

12.2.2.5 Allow buildings to exceed the non-complying height standards only in situations where the proposed design is an example of design excellence and building height and bulk have been reduced elsewhere on the site in order to:

a. Reduce the impact of the proposed building on a listed heritage item or

b. Provide an urban design outcome that is beneficial to the public environment. For the purpose of this policy, urban design outcomes that are beneficial to the public environment include:

i. Provision of sunlight to any public space of prominence or space where people regularly congregate

ii. Provision of a pedestrian link Provision of high quality, safe public open space

iii. Retention of a view shaft to an identified landscape feature

12.2.2.6 Ensure that development within the Special Character Area reflects the general historic subdivision layout and protects and enhances the historic heritage values that contribute to the scale, proportion, character and image of the Town Centre.

12.2.2.7 Acknowledge and celebrate our cultural heritage, including incorporating reference to tangata whenua values, in the design of public spaces, where appropriate."

12.2.2.8 Acknowledge that parts of the Queenstown Town Centre are susceptible to flood risk and mitigate the effects of this through:

a. Requiring minimum floor heights to be met

b. Encouraging higher floor levels (of at least 312.8 metres above sea level masl) where amenity, mobility, and streetscape are not adversely affected and

c. *Encouraging building design and construction techniques which limit the impact of flooding or ponding in areas of known risk*."

12.2.2.9 Require high quality comprehensive developments within the Town Centre Transition subzone and on large sites elsewhere in the Town Centre."

80. This objective is a big picture objective. It links with matters to do with building heights and setbacks view shafts and the like. Notwithstanding the scope of the objective we think that the goal or desired outcome of the objective is clear.

81. Ms Jones specifically referred us to NZIA's submission[60] which supported this objective but sought more information on what the words "*sense of place*" meant. The submitter also requested and questioned whether or not the Queenstown Town Centre Strategy needed updating. We acknowledge the updating of the Queenstown Town Centre Strategy was opposed by a number of further submissions.[61] Other submitters also supported this objective as notified.[62]

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60 Submission 238, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249, FS1318

61 FS1107, FS1226, FS1234, FS1239, FS1241, and FS1248.

62 Submissions 380 and 470

82. As Ms Jones pointed out, that because the Town Centre Strategy is not referred to within the PDP, it is beyond scope of this review.[63] We agree. In her Section 42A Report, she recommended accepting NZIA's request for relief and she included in an advice note in her Appendix 1 providing advice as to what the words "*sense of place*" might mean.

83. By the time her Reply Statement was provided, the advice note had been deleted. Ms Jones after reconsidering the issue recommended that matters to do with definition and explanation were best collected in one place and recommended definitions be located in her recommended reply rules 12.3.2.5 to 12.3.2.7. These rules provide for definitions applicable to Chapter 12. We do not agree that placing the definitions in one place within the Chapter assists readability and usability of the Chapter. We consider Chapter 2 to be the appropriate place for all definitions used in the PDP. To do otherwise would unnecessarily lengthen the document and potentially create ambiguities and inconsistencies.

84. For these reasons we recommend then the wording of Objective 12.2.2 remain as notified but that the definition of sense of place be included in Chapter 2 (this latter recommendation is to the Stream 10 Hearing Panel).

85. In her Section 42A Report, Ms Jones recommended amending Policy 12.2.1 in response to submissions by Lynda Baker[64] and Toni Okkerse.[65] However the submissions related to Policy 12.2.2.2. We deal with that below.

86. Some submitters[66] requested the following underlined words to be added to Policy 12.2.2.2: "12.2.2.2 Require development <u>visible from public places</u> to…"

87. In our view the inclusion of this wording would provide a limitation that is unnecessarily restrictive and as such we recommend this submission be rejected.

88. The issue which is perhaps not addressed is providing for development in those parts of the town centre which are located immediately adjacent to the Special Character Area.

89. Several submitters[67] considered this issue could be addressed by amending sub paragraph c. of Policy 12.2.2.2 by adding in the word "*historic*" before the word character.

90. Ms Jones recommended amending Policy 12.2.2.1 by adding words requiring development in both the Special Character Area and development adjacent to that area, a heritage precinct, or a listed heritage item, to respect its historic context. We do not think that there is scope for that relief available from the relevant submissions nor do we think it necessary.

91. We prefer to leave the wording of Policy 12.2.2.1 focused on the Special Character Area because the 2015 Guidelines only apply to the Special Character Area of the town centre as identified within the Guideline itself, and within the district plan.

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63 V Jones, Section 42A Report at [13.7].

64 Submission 59

65 Submission 82, supported by FS1265, FS1268 and FS1063, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249 and FS1274

66 Submissions 663 (opposed by FS1139 and FS1191) and 672

67 Submissions 82 (supported by FS1265, FS1268 and FS1063, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249 and FS1274), 59 (supported by FS1265, FS1268 and FS1063, opposed by FS1075), 206 (supported by FS1265, FS1268 and FS1063, opposed by FS1059 and FS1274) and 217,

92. In our view, some of Ms Jones' additional recommended wording is not required as the Guideline already applies to development within the SCA. The Guidelines specifically note that they have been through an RMA process to be incorporated by reference into the PDP.

93. Also the Guidelines and the PDP addressed the circumstances of providing for historic character in the areas of the town centre outside of the Special Character Area. The Guideline records that the QTCZ includes three heritage precincts, two of which are within the Special Character Area. All three are also identified as protected items in the PDP and are subject to the provisions of Chapter 26 (Historic Heritage). Development within the historic precincts must therefore adhere to the provisions of the historic heritage chapter and to Chapter 12.

94. As the PDP itself deals with development in a heritage precinct or the development of a listed heritage item already, there is no need for those reasons to alter this policy.

95. The remaining issue is, whether these two policies adequately deal with development of a site with some historic characteristic located adjacent to a Special Character Area, a heritage precinct or a listed heritage item.

96. Policy 12.2.2.2 c. is the focus for our consideration on this issue. We consider the QTC's character reflects its historic context, but historic heritage is only one element of its character. To qualify the word character by restricting it to historic character does not recognise that the character of the town centre is more than a historic heritage character. We also consider when Policy 12.2.2.2 c. is being applied to a particular context then the particular character of that part of the town centre will be relevant. It is during this application that the effects of the proposal on those characteristics will be examined.

97. In summary, we consider Policy 12.2.2.2 c. is sufficiently broad in its language to provide for the circumstance when a development occurs adjacent to the SCA, a heritage precinct or a listed heritage item. This is because Policy 12.2.2.2 c seeks to have the intended development respond to the relevant element of the Town Centres character.

98. The other key reason why we think notified Policy 12.2.2.2 c. is appropriate is because of the link to the definition of a "sense of place". This policy requires development to "positively respond" to the towns centre's character.

99. For these reasons we do not think it necessary to amend policy 12.2.2.2 c in the manner sought by the submitters[68]. Nor do we consider it necessary to amend Policy 12.2.2.1 for the reasons we set out above. We recommend that both policies be adopted as notified and the submissions[69] be rejected.

100. Policy 12.2.2.3 addressed height and mass of buildings. Later we will address building height in relation to the various height precincts in the QTCZ. This policy is to provide the policy framework relating to building height.

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68 Submissions 59, and 82

69 Submissions 59 and 82

101. Toni Okkerse[70] supported Policy 12.2.2.3, however wanted provision made for car parking based on the size of the building. We accept this submission insofar as it supports Policy 12.2.2.3. We have addressed the submission in relation to car parking above**.**

102. Three submissions[71] sought amendments to include other matters of control, such as wind tunnel effects of buildings, or ensuring the pleasantness of the environment for pedestrians. Submissions 672 and 663[72] noted that the intent of Policy 12.2.2.3 was to control building height and mass but were concerned that this intent was not followed through in the rules of the PDP. The submitters contended the rules would restrict building development and would not provide any certainty that new building development could occur. They wished to see this uncertainty corrected. They sought amendments to support the controlled activity status to manage effects of building height and mass on public spaces.

103. The same submissions sought amendments to provide certainty, due to costs involved and the level of investment required to fund building developments. This concern from a building developer's perspective is understandable, but we do not think that cost concern is a valid means of achieving Objective 12.2.2. However, we can accept that controlling the height and mass of a building will provide some level of certainty about a buildings height and mass. Ms Jones' recommended the inclusion in the policy of the following as subparagraph a[73]:

Provide a reasonable degree of certainty in terms of the potential building height and mass;

104. We agree with that amendment and recommend it be adopted.

105. In relation to including reference to wind tunnel effects on pedestrian environments, we agree that this effect is appropriately connected with both Objective 12.2.2 and Policy 12.2.2.3. Ms Jones recommended the following be included as the fourth matter under this policy[74]:

Minimise the wind tunnel effects of buildings in order to maintain pleasant pedestrian environments.

106. We think that that is an appropriate matter to be included Policy 12.2.2.3 and recommend it be adopted.

107. We note Ms Jones[75] recommended a correction by deleting the word "*and*" after it appeared at the end of the second bullet point of notified Policy 12.2.2.3. We understood including the word "*and*" was a printing error; that the sub paragraphs of notified Policy 12.2.2.3 were to be read and applied as separate.

108. We agree with that amendment and recommend the deletion of the word "*and*" as correction of a minor error under Clause 16(2).

109. Accordingly, for the reasons provided, we recommend changes to Policy 12.2.2.3 underlined and struck out as follows:

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70 Submission 82, supported by FS1063, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249 and FS1274

71 Submissions 621, 672 and 663

72 Opposed by FS1139 and FS1191

73 V Jones, Section 42A Report, Appendix 1

74 ibid

75 In her Section 42A Report, Appendix 1

12.2.2.3 Control the height and mass of buildings in order to:

a. <u>Provide a reasonable degree of certainty in terms of the potential building height and mass</u>

b. Retain and provide opportunities to frame important view shafts to the surrounding landscape ~~and~~

c. Maintain sunlight access to public places and to footpaths, with a particular emphasis on retaining solar access into the Special Character Area (as shown on Planning Maps 35 and 36)

d. <u>Minimise the wind tunnel effects of buildings in order to maintain pleasant pedestrian environments.</u>

110. Like some other policies, the bullet points included in the notified version of Policy 12.2.2.4 were replaced with subparagraphs labelled a., b. and c. in Ms Jones' Section 42A Report version. We utilise that labelling to discuss the notified policy.

111. We consider this policy appropriately links to Objective 12.2.2 and seeks to provide for the circumstance where the building would exceed the discretionary height standards. Ms Jones made it clear that in the absence of assessment matters in the PDP, the policy should provide some guidance about how the exceedance in height would be assessed.[76] Submitters[77] sought the inclusion of words within sub paragraph a. to provide that guidance.

112. Some submissions[78] requested that the policy be removed so that there be no provision made for buildings to exceed the height limits in the CBD. This outcome would not allow for growth in the CBD. Taking into account the evidence received, we conclude that increases in height can be provided for while still achieving high quality urban design outcomes that support the town's character heritage values and sense of place.

113. Undertaking a resource consent process enables appropriate assessments to be undertaken. In addition removing Policy 12.2.2.4 would not ensure buildings did not exceed permitted heights. Applications would still be possible and there would be no guidance for decision-makers. Absence of an encouraging policy does not equate to a prohibited activity. So for these reason we recommend those submissions[79] be rejected.

114. NZIA [80] sought to add a specific reference within the PDP requiring the urban design panel to review all projects in the town centre. In this way, they said, high quality urban design outcomes would be achieved. We have earlier commented that the Guidelines are restricted in application to the Special Character Area of the QTC. Presumably the authors of the Guidelines considered that limited application was appropriate.

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76 V Jones, Section 42A Report at [10.9a]

77 Submissions 621, 238 (opposed by FS1318, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249), 663, 672 and 630 (opposed by FS1043).

78 Submissions 59 (supported by FS1063, opposed by FS1236), 82 (supported by FS1063, opposed by FS1107, FS1226, FS1234, FS1236, FS1239, FS1241, FS1248, FS1249 and FS1274) and 206.

79 Submissions 59 (supported by FS1063, opposed by FS1236), 82 (supported by FS1063, opposed by FS1107, FS1226, FS1234, FS1236, FS1239, FS1241, FS1248, FS1249 and FS1274) and 206.

80 Submission 238, opposed by FS1318, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249

115. In any event, Ms Jones told us that, in her experience, most new builds and significant projects are in fact reviewed by urban design professionals or at least a single urban design professional while the project progresses through the consent phase.[81] She was of the view that not all buildings in the town centre would warrant such a review. She advised that the Council can, pursuant to section 92 of the Act, commission an urban design report if the context of the application so requires.[82]

116. Overall, she did not consider making an urban design review mandatory was appropriate primarily because mandatory reviews were not justified for all new builds and alterations.[83] Therefore, to do so was neither efficient nor effective. We agree. We also are persuaded to that point of view because we agree that the Council has other powers to commission urban design reports where they are warranted, for example, due to the significance of the site or the building within the town centre.

117. For these reasons we agree with her recommendation that a specific reference within subparagraph a. of Policy 12.2.2.4 requiring all buildings and alteration to obtain urban design panel approval not be included. This approach is also consistent with the approach provided for within the Guidelines themselves.

118. Two submitters[84] considered subparagraph b to be too restrictive because not increasing shading while increasing height was too difficult. They considered some degree of relaxation of the policy was necessary in order to implement the PDP's Strategic Objectives as expressed in Chapter 3 and, more particularly, Objective 12.2.2.

119. In response, Ms Jones sought to relax the policy by including words within subparagraph b acknowledging and accepting that increase in heights and individual developments may increase the shading of public pedestrian spaces.[85] However, provided that shading is limited, and provided that shading is offset or compensated for by either the provision of additional public space or a pedestrian link with the site, then that increased shading effect would be acceptable.[86]

120. We agree that increases in height are likely to lead to increases in shading and we agree that limiting shading of public pedestrian space is an important matter. However, we recognise and accept that a shading effect may be offset or compensated by the provision of either additional public space or a pedestrian link with the site. Available public spaces within the town centre are relatively limited. Increasing such spaces would help contribute to a high quality urban design outcome. Pedestrian links would contribute and support the town's character and its heritage values. Such links are part of both the town character and its heritage. Both public spaces and pedestrian links help add to the town centres sense of place. For these reasons we recommend the amendments to sub paragraph b of Policy 12.2.2.4 suggested by Ms Jones, be adopted.

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81 V Jones, Section 42A Report at [10.10].

82 Ibid.

83 Ibid.

84 Submissions 663 (opposed by FS1139 and FS1191) and 672.

85 V Jones, Section 42A Report at [10.9c]

86 Ibid.

121. So for the reasons set out above we recommend the inclusion of all of Ms Jones additions to sub paragraph b. of policy 12.2.2.4 and we recommend that the submissions seeking to disallow height exceedance being included in sub paragraph a is be rejected.

122. Accordingly, we recommend Policy 12.2.2.4 read, with the additions underlined, as follows:

12.2.2.4 Allow buildings to exceed the discretionary height standards in situations where:

a. *The outcome is of a high-quality design, which is superior to that which would be achievable under the permitted height; <u>and</u>*

b. *The cumulative effect of the additional height does not result in additional shading that will progressively degrade the pedestrian environment or enjoyment of public spaces, <u>while accepting that individual developments may increase the shading of public pedestrian space to a small extent provided this is offset or compensated for by the provision of additional public space or a pedestrian link within the site</u> and*

c. *The increase in height will facilitate the provision of residential activity.*

123. As Policy 12.2.2.5 relates to exceeding non-complying height standards, commencing the policy with the word "*allow*" is challenging. Three submitters[87] recognised this. They also sought to include the circumstances where it may be appropriate to allow additional height. In the main, submitters wished to retain urban design excellence for such buildings as well as gaining additional public benefits, such as pedestrian links and the opening up of Horne Creek.

124. Other submitters[88] requested that the policy be removed in its entirety and there be no provision for buildings to exceed height limits in the CBD.

125. If growth is to be achieved, opportunity needs to be provided for that growth by way of allowing exceedance of height limits. That is provided that urban design issues are addressed to ensure the town's character, heritage values and sense of place are respected and supported.

126. Ms Jones recommended[89] re-wording Policy 12.2.2.5 so as not to "*allow*", but to "*prevent*" buildings exceeding the non-complying height standards, except where preconditions (a) and (b)(i) or(ii) are satisfied. We support that wording change as it clarifies the intent of the policy. As we read those preconditions, they fully support objective 12.2.2 because they focus on urban design outcomes and particularise those urban design outcomes as being beneficial to the public environment.

127. The rewording Ms Jones' recommended set out in detail the urban design outcomes that would be beneficial to the public environment. The origins of the rewording arise from

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87 Submissions 238 (opposed by FS1318, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249), 663 (opposed by FS1139 and FS1191) and 672

88 Submissions 59 (supported by FS1063, opposed by FS1236),82 (supported by FS1063, opposed by FS1107, FS1226, FS1234, FS1236, FS1239, FS1241, FS1248, FS1249 and FS1274), 206 (supported by FS1063 and opposed by FS1236 and FS1274)

89 V Jones, Section 42A Report at [10.13]

submissions[90] she recommended should be accepted. The submissions sought to include, as urban design benefits, new or retention of existing, uncovered pedestrian links or lanes, restoration and opening up of Horne Creek as part of the open space network where applicable, and finally, the minimising of wind tunnel effects in order to maintain pleasant pedestrian environments.

128. We consider there is merit in the submissions and in the response of Ms Jones to them. Therefore we recommend acceptance of the submission points as they provide appropriate detail on urban design outcomes that have a net benefit to the public environment so assisting in attaining Objective 12.2.2.

129. Ms Jones[91] dealt with an additional urban design outcome beneficial to the public environment, namely landmark buildings. She sought to include this matter as a final bullet point. She considered landmark buildings on key corner sites would be an example of the urban design outcomes sought by this policy. She accordingly supported the submission of NZIA[92] on this point. She also relied on the evidence of Mr Tim Williams, in particular as it related to urban design when considering additional height within the town centre environment.[93]

130. We are satisfied that inclusion of this additional bullet point to Policy 12.2.2.5, accepting the submission of NZIA, would help implement Objective 12.2.2. In particular a reference to landmark buildings is more consistent with the Urban Design Guidelines and will potentially contribute better to the QTC's sense of place through the creation of landmark buildings.

131. We queried at the hearing if "*landmark*" **building** should be defined. Ms Jones in her reply recorded she conferred with Mr Church who seems to have supported including a definition of a "*Landmark Building*". Ms Jones accepted this view but did not consider including a definition was essential for this particular policy. She referred us to Reply Rule 12.5.9.5(d) which she considered provided clarification.

132. However she proposed to add wording to Rule 12.3.2 which is renumbered as Rule 12.3.2.4 within her reply to provide a definition of a Landmark building.[94] The rule is further re numbered 12.3.2.6 in Appendix 1. She relied on the NZIA[95] submission for scope to add this new provision. We agree a definition is required for a "*landmark building*" within the plan and given this definition applies to all of Chapter 12 then this definition applies to policy 12.2.2.5.

133. Accordingly we recommend that the amendments and additions proposed by Ms Jones to Policy 12.2.2.5 be adopted along with replacing the bullet points with labels.

134. We consequently recommend Policy 12.2.2.5 now read as follows with amendments shown as strikethrough and underlined:

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90 Submissions 238 (opposed by FS1318, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249) and 621.

91 V Jones, Summary of Evidence,

92 Submissions 238 (opposed by FS1318, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249)

93 V Jones, Section 42A Report at [13.40-41]

94 Section 42A Report of Ms Jones at [9.3].

95 Submitter 238

12.2.2.5 ~~*Allow Prevent buildings to*~~ *exceeding the* ~~*non-complying*~~ *maximum height standards, except that* ~~*only*~~ *it may be appropriate to allow additional height in situations where:*

a. *the proposed design is an example of design excellence; and* ~~*building height and bulk have been reduced elsewhere on the site in order to*~~

b. *Building* ~~*height*~~ *and* ~~*bulk*~~ *have been reduced elsewhere on the site in order to:*

i. Reduce the impact of the proposed building on a listed heritage item or

ii. Provide an urban design outcome that ~~*is*~~ *has a net benefit*~~*cia*~~*l to the public environment.*

For the purpose of this policy, urban design outcomes that are beneficial to the public environment include:

a. Provision of sunlight to any public space of prominence or space where people regularly congregate

b. Provision of a new, or retention of an existing, uncovered pedestrian link or lane

c. Where applicable, the restoration and opening up of Horne Creek as part of the public open space network

d. Provision of high quality, safe public open space

e. Retention of a view shaft to an identified landscape feature

f. Minimising wind tunnel effects of buildings in order to maintain pleasant pedestrian environment.

g. The creation of landmark buildings on key block corners and key view terminations.

135. Policy 12.2.2.6 did not attract any submissions. The policy was directed at the Special Character Area and in our view the wording of the policy was appropriate. We consider the policy is clear and prescribed a course of action which will implement Objective 12.2.2. We recommend this policy be adopted unaltered.

136. Ms Jones pointed out within her Section 42A Report[96] that some submitters[97] requested the deletion of Policy 12.2.2.7 as notified, stating it was too difficult to interpret or apply. Ms Jones noted that these submissions were also considered within Stream 1A Section 42A Report and Appendix 2 to that report recommended that this relief be rejected.[98] She agreed with that recommended rejection. The Stream 1A Panel did not hear any evidence on these submissions, from the submitters or the Council, and have made no recommendation on them.

137. We agree with Ms Jones and recommend retention of this policy because tangata whenua values are part of the town centre's heritage values and contribute to its sense of place.

96 V Jones, Section 42A Report at [6.5b] and [18.14]

97 Submissions 663 (opposed by FS1139 and FS1191) and 672

98 V Jones, Section 42A Report at [18.14].

Notified Policy 12.2.2.7 does not place obligations on individual landowners. Expression of cultural heritage values is to occur in the design of public spaces where appropriate. The language is a little imprecise in that it is not clear how appropriateness is determined. Nevertheless we recommend retention of the policy with a minor amendment.

138. Consequently we recommend retention of this policy with our small recommended amendment struck out as follows:

12.2.2.7 Acknowledge and celebrate ~~our~~ cultural heritage, including incorporating reference to tangata whenua values, in the design of public spaces, where appropriate.

139. Policy 12.2.2.8 related to flooding risk which is a known risk for the QTC. Given the town centre is well established, limited options are available to address flooding effects. Minimum floor heights are an available tool, particularly where new builds or renovations to existing buildings occur. To encourage higher floor levels is also appropriate.

140. However, we also agree that amenity and access to buildings and the general streetscape are considerations when assessing the effects of higher floor levels. Given that flooding will continue to occur encouraging building design and construction techniques which include installing electrical wiring and other services in buildings well above ground and flood level are sensible and pragmatic responses.

141. Some submitters[99] requested the policy only apply to land affected by flood risk, with this identification included on planning maps. Lines could be placed on maps identifying areas of flood risk. However there is no absolute certainty that a flood event would comply with those lines.

142. We agree with Ms Jones' approach that Policy 12.2.2.8 and its related rule 12.5.7 should require minimum floor level for properties with scope through the matters of discretion to seek alternative floor levels. Whether or not an alternative is suitable will be determined by the extent to which the alternate mitigation measure will sufficiently mitigate either flood risk or effect while ensuring any adverse effects of that measure on the amenity, accessibility and safety of the town centre are acceptable.

143. We also note Ms Jones' recommendation that each of the three sub paragraphs (a), (b) and (c) in Policy 12.2.2.8 are intended to be linked through the use of the word "*and*", so that they are read and applied jointly.[100] We agree.

144. The only other matter raised in submissions[101] was to include "*character values*" within subparagraph (b) as a matter for assessment of the effect of higher floor levels. We agree this is appropriate because differing floor levels can have an impact on character values justifying inclusion of this matter as a matter of assessment.

145. We recommend that Policy 12.2.2.8 read with the additions underlined as follows**:**

12.2.2.8 Acknowledge that parts of the Queenstown Town Centre are susceptible to flood risk and mitigate the effects of this through:

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99 Submissions 663 (opposed by FS1139 and FS1191) and 672

100 V Jones, Section 42A Report, Appendix 1, at p12-3.

101 Submissions 663 and 672

a. *Requiring minimum floor heights to be met; and*

b. *Encouraging higher floor levels (of at least RL 312.8 masl) where amenity, mobility, and streetscape, and character values are not adversely affected; and*

c. *Encouraging building design and construction techniques which limit the impact of flooding or ponding in areas of known risk.*

146. Several submitters[102] requested either deletion of Policy 12.2.2.9 or amendment of it. The amendments sought to diminish the policy by seeking to "*manage*" the design of comprehensive developments within the Town Centre Transition Sub-zone.[103] The policy as notified used the word "*require*" in relation to high quality comprehensive developments within that transition sub-zone.

147. The TCTSZ separates the QTCZ from the immediately surrounding high density residential zone. Appropriately providing for the transitions between zones is important. The policy is, however, further focused on comprehensive developments on large sites in the QTCZ.

148. In her Reply, Ms Jones recommended that identified details be shifted from Rule 12.5.1.1 to this policy to provide greater policy direction.[104] She stated that these details are already in the matters of discretion included in the rule with the exception of provision of open space which she supported to be included. She recommended the addition of words that direct attention to pedestrian links and lanes, open spaces, outdoor dining and well-planned storage loading/servicing areas being provided within the development.

149. We agree with her that it is the largest sites, both within the TCTSZ and within the QTC, which offer the opportunity to make a significant and positive contribution to the overall quality and character of the town. We also agree this outcome can be achieved particularly through the provision of pedestrian links or lanes, and open spaces.

150. In our view, the policy as notified using the word "*require*" is appropriate, particularly when considering Objective 12.2.2. We think Ms Jones' recommended refinement by the inclusion of additional words from Rule 12.5.1.1 within the policy is also helpful because it identifies with more precision outcomes or actions which better support Objective 12.2.2.

151. Our recommendation is to adopt Policy 12.2.2.9 with the amendments underlined as set out below:

12.2.2.9 Require high quality comprehensive developments within the Town Centre Transition Sub-Zone and on large sites elsewhere in the Town Centre, which provides primarily for pedestrian links and lanes, open spaces, outdoor dining, and well planned storage and loading/ servicing areas within the development.

3.4. Additional Policy

152. NZIA[105] requested that a further Policy 12.2.2.10 be added in recognition that Council has a role in managing and investing in the street environment and encouraging vitality through both soft and hard landscaping.

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102 Submissions 663 (opposed by FS1139 and FS1191) and 672

103 V Jones, Section 42A at [13.14].

104 V Jones, Reply Statement at [4.3a]

105 Submission 238, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249

153. Ms Jones, in her Section 42A Report, did not support the inclusion of such a policy within the QTCZ.[106] Nor do we, as while such council initiatives are integral to achieving the objective, the commitment to undertake such works is more appropriately determined in the Council's long term plan process. We therefore recommend this submission be rejected.

3.5. Objective 12.2.3 and Policies 12.2.3.1 – 12.2.3.6

154. As notified these read:

12.2.3. Objective
An increasingly vibrant Town Centre that continues to prosper while maintaining a reasonable level of residential amenity within and beyond the Town Centre Zone."

Policies

12.2.3.1 *Require activities within the Town Centre Zone to comply with noise limits, and sensitive uses within the Town Centre to insulate for noise in order to mitigate the adverse effects of noise within and adjacent to the Town Centre Zone.*

12.2.3.2 *Minimise conflicts between the Town Centre and the adjacent residential zone by avoiding high levels of night time noise being generated on the periphery of the Town Centre and controlling the height and design of buildings at the zone boundary.*

12.2.3.3 *Recognise the important contribution that night time activity makes to the vibrancy and economic prosperity of the Town Centre and specifically provide for those activities, while mitigating effects on residential amenity by:*

a. Enabling night time dining and socialising, both indoors and outdoors, to varying degrees throughout the Town Centre

b. Providing for noisier night time activity within the entertainment precinct in order to minimise effects on adjacent residential zones and

c. Ensuring that the nature and scale of licensed premises located in the Town Centre Transition subzone are compatible with adjoining residential zones.

12.2.3.4 *Enable residential and visitor accommodation activities within the Town Centre while:*

a. Acknowledging that the level of amenity will be lower than in residential zones due to the density, mixed use, and late night nature of the Town Centre and requiring that such sensitive uses are insulated for noise

b. Discouraging residential uses at ground level in those areas where active frontages are particularly important to the vibrancy of the Town Centre

c. Avoiding, or, where this is not possible, mitigating adverse traffic effects from visitor accommodation through encouraging operators to provide guests with alternatives to private car travel, discouraging the provision of onsite car

106 V Jones, Section 42A Report at [13.16].

parking, and through the careful location and design of any onsite parking and loading areas and

d. Discouraging new residential and visitor accommodation uses within the Entertainment Precinct.

12.2.3.5 Avoid the establishment of activities that cause noxious effects that are not appropriate for the Town Centre.

12.2.3.6 Ensure that the location and direction of lights in the Town Centre does not cause significant glare to other properties, roads, and public places and promote lighting design that mitigates adverse effects on the night sky.

155. This objective did not attract submissions in opposition[107]. One submitter[108] did seek to clarify the meaning of the words "*reasonable level*". That submitter sought clarification pointing out that policy 12.2.1.4 sought to enable residential activities and visitor accommodation. This raised the question as to what would a reasonable level of amenity be which would enable residential activities and visitor accommodation within and beyond the Town Centre Zone?

156. Ms Jones acknowledged the vagueness of the words. She went on to note that the vagueness was addressed when regard was had to the related policies and rules. It was her view, and we agree, that once the policies accompanying the objective and the relevant rules are considered, it is possible to better understand what is meant by the words "*reasonable level*". We agree with her that a footnote clarifying what would be a reasonable level of amenity is not required because that clarification is provided through the linked policies and rules and their application.

157. At the heart of the issue is the challenge to provide for a range of activities within the town centre, some of which are directed at entertainment and supporting the tourism market, while at the same time providing a level of amenity conducive to activities such as residential and accommodation for visitors.

158. Overall Ms Jones was of the view that notified objective 12.2.3 would appropriately give effect to the Act. She contended that the related policy direction, which we discuss below, would be generally appropriate for the reasons that are referred to in the Section 32 report. We agree with her views in relation to the notified objective and recommend it be adopted as notified.

159. As notified Policies 12.2.3.1 - 12.2.3.3 established a clear hierarchy of anticipated noise levels within the Town Centre.[109]

160. Two submitters[110] sought deletion of Policy 12.2.3.1 and incorporation of its intent into Policy 12.2.3.3. Ms Jones recommended acceptance of those submissions[111] and we agree.

161. We do not see value in a policy that requires activities within the town centre to comply with the noise limits. That is a given. Next, to a lesser extent, if a new sensitive activity wished to locate in the town centre then the existing noise environment would need to be taken into

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107 Submission 380 supported the objective

108 Submission 714

109 Section 42A Report of Ms Jones at [12.23].

110 Submissions 672 and 663 (opposed by FS1191, FS1318, FS1139)

111 Section 42A Report of Ms Jones at [12.17b].

account so as to provide for and avoid reverse sensitivity effects. Effectively a new noise sensitive activity in all likelihood would need to insulate for noise to achieve this outcome.

162. Finally, the issue of noise is really a night time noise issue. The evidence raised, in particular, the potential adverse impacts of night-time noise on amenity values and sleep disturbance for visitors within visitor accommodation in some areas of the QTC.

163. We agree with Ms Jones that this approach to sensitive uses within the town centre is best included within reworded Policy 12.2.3.3 as that policy relates to when noise is an issue, night time.

164. For these reasons we recommend that Policy 12.2.3.1 be deleted and its contents be addressed within Policy 12.2.3.3. This will cause a re-numbering of policies 12.2.3.2 to 12.2.3.7.

165. There were no submissions received on Policy 12.2.3.2 so we discuss it no further and recommend its adoption as notified.

166. We consider Policy 12.2.3.3 to be the key policy in this group. This policy recognises the importance to the Town Centre of the activities that cause that night time noise. It seeks to enable it by providing the Entertainment Precinct for noisier night time activity. We assume the expectation is, over time, those who need this noisier locality for their activities will gravitate or shift to it. At the same time the policy seeks compliance with noise limits in other parts of the QTCZ.

167. The provision of night-time entertainment, including dining and socialising indoors and outdoors, is an integral element of the town centre, adding to and supporting the vibrancy and economic prosperity of the town centre. Specifically providing for those activities as notified Policy 12.2.3.3 sought to do is important because many visitors to the QTC wish to avail themselves of night time dining and socialising.

168. Provision of such activities in the QTC is long standing and makes for an active and vibrant town centre. The availability of night time activities adds to the visitor's diversity of experience. Visitors know this offering is available in the Town Centre and will expect it be maintained. Many businesses have long standing investment in the broad entertainment activities the Town Centre offers.

169. Encouraging noisier night time activity within the TCEP in order to minimise noise effects on residential zones adjacent to the town centre is both a pragmatic and workable solution, albeit may take some time before the noisier night-time activities aggregate within the Entertainment Precinct.

170. Through controlling the nature and scale of licensed premises located in the Town Centre Transition Sub-Zone is also, we think, a useful and appropriate course of action to ensure that residential amenity in the adjoining residential zones is supported.

171. With the expectation that the TCEP, in particular, will both attract and provide for noisier night-time activity, we think it follows that those noise sensitive uses that wish to locate in the town centre will need to be able to mitigate the adverse effects of noise through insulation, or reverse sensitivity impacts or effects will undoubtedly arise. If this were not to occur then the desired outcome provided for within Objective 12.2.3 would not be realised.

172. Several submitters[112] supported the intent of Policy 12.2.3.3, and Kopuwai Investments limited[113] sought minor amendments to subparagraphs (b) and (c) to clarify the meaning of the policy. Imperium Group [114] sought to delete sub paragraph (b) of this policy.

173. Evan Jenkins[115] supported the general approach of the policies but broadly pointed out in his submission that 'vibrant' does not mean loud; that the town centre is for all age groups, and that unless well monitored, the less restrictive noise policy may be abused.

174. Ms Jones pointed out in her Section 42A Report that the notified policies and rules provide for the noisiest activity within the TCEP and they enable only minor noise increases beyond that in a manner that would effectively direct certain activities to the most suitable parts of the town centre.[116] Additionally, she pointed out that greater control over licenced premises within the TCTZ will create enclaves that will appeal to the different sectors of the resident and visitor community.[117] We also note Dr Chiles' advice that the noise levels now proposed reflect reality and are consistent with other town centres, and that it would be possible to monitor noise levels.[118] We accept the submission insofar as it supports Policy 12.2.3.3 and consider that, based on the conclusions of Ms Jones and the advice of Dr Chiles, that Mr Jenkins' concerns will be addressed.

175. We earlier referred to the submissions[119] seeking alteration to Policy 12.2.3.3 by amalgamating it with Policy 12.2.3.1 and we recommend this occur by including sub paragraphs (d) and (e) as we have set out below.

176. Accordingly the wording we recommend for Policy 12.2.3.3 is as follows;

"12.2.3.3 Recognise the important contribution that night time activity makes to the vibrancy and economic prosperity of the Town Centre and specifically provide for those activities, while mitigating effects on residential amenity by:

a. Enabling night time dining and socialising, both indoors and outdoors, to varying degrees throughout the Town Centre <u>and</u>

b. Providing for noisier night time activity within the entertainment precinct in order to minimise effects on ~~adjacent~~ residential zones <u>adjacent to the Town Centre and</u>

c. Ensuring that the nature and scale of licensed premises located in the Town Centre Transition Sub-Zone <u>result in effects that</u> are compatible with adjoining residential zones and

d. <u>Enabling activities within the Town Centre Zone that comply with the noise limits and</u>

112 Submissions 187 (opposed by FS1318), 587 (opposed by FS1318), 589 (opposed by FS1318) and 804
113 Submission 714
114 Submission 151
115 Submission 474
116 Section 42A Report of Ms Jones at [12.20].
117 Ibid.
118 Evidence of Dr Chiles at [7.2].
119 Submissions 672, and 663 (opposed by FS1139, FS1191)

e. Requiring sensitive uses within the Town Centre to mitigate the adverse effects of noise through insulation."

177. We have already recorded the importance of residential and visitor accommodation to both the town centre and the district itself. Policy 12.2.3.4 is important because it seeks recognition of the reality that the QTCZ is a noisy and active day and night time environment. In particular, night-time activities, such as entertainment bars and outdoor dining establishments, contribute to noise and high activity levels. The night-time activities can and do take place late into the night.

178. Policy 12.2.3.4 endeavoured to paint an accurate picture about what was occurring within the town centre and to send signals discouraging residential uses, particularly at ground level, and in those locations within the QTC where bars and restaurants predominate, particularly the TCEP.

179. NZIA[120] supported Policy 12.2.3.4 but sought amendment to refer to noisy and active rather than to lower amenity levels. We accept this as the requested change simply reflects the existing reality.

180. Kopuwai Investments Limited[121] sought acknowledgement of self-protection as a method by adding the words *"and self-protected*" to subparagraph (a) after the word '*insulated'*. We agree with Ms Jones that it is unclear what is meant by this wording and therefore that it is ineffective and inefficient.[122] We recommend this submission be rejected for that reason.

181. Imperium Group [123] sought to delete notified Policy 12.2.3.4(d). Ms Jones, within her Section 42A Report agreed in part with Submitter 151 to remove part (d) of notified Policy 12.2.3.4. She recommended that it be amended to better reflect the fact that the rules do not directly discourage such uses, but rather, only anticipate such uses where sufficient insulation was provided (by making it non-complying where this was not provided).[124]

182. We think this would send a clear signal that the TCEP is certainly not a preferred location for new residential and visitor accommodation. However, if that location were to be used for those activities, it would only be an appropriate location if adequate insulation and mechanical ventilation were installed. We consider Ms Jones' proposed amendments in response to this submission to be appropriate.

183. Accordingly, we recommend that Policy 12.2.3.4 be amended as underlined and struckout, to read:

12.2.3.4 Enable residential and visitor accommodation activities within the Town Centre while:

a. Acknowledging that ~~the level of amenity will be lower~~ it will be noisier and more active than in residential zones due to the density, mixed use, and late night

120 Submission 238, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249
121 Submission 714
122 V Jones, Section 42A Report at [12.17d].
123 Submission 151
124 V Jones, Section 42A Report at [12.17e]

nature of the Town Centre and requiring that such sensitive uses are insulated for noise; and

b. *Discouraging residential uses at ground level in those areas where active frontages are particularly important to the vibrancy of the Town Centre; and*

c. *Avoiding, or, where this is not possible, mitigating adverse traffic effects from visitor accommodation through encouraging operators to provide guests with alternatives to private car travel, discouraging the provision of onsite car parking, and through the careful location and design of any onsite parking and loading areas; and*

d. *Only enabling ~~Discouraging~~ new residential and visitor accommodation uses within the Town Centre Entertainment Precinct where adequate insulation and mechanical ventilation is installed.*

184. No submissions on Policy 12.2.3.5 were received and we recommend it be adopted as notified.

185. There was only one submission received on Policy 12.2.3.6.[125] Mr Jenkins sought additional detail be included within this policy directed at fairy lighting in trees. He referred to the southern light strategy to support his views.

186. Ms Jones did not recommend any further detail be included within Policy 12.2.3.6 and we agree with her recommendation. We think the policy, as expressed, adequately provides that the issue of glare and adverse effects on the night sky be appropriately addressed.

187. We do recommend a minor change to make it consistent with similar policies recommended by differently constituted Hearing Panels. That is, it is the effect on views of the night sky which the policy should deal with.

188. We discuss this issue in greater detail when considering the glare standard now renumbered as Rule 12.5.13.1 and for the reasons we there discuss, we recommend Policy 12.2.3.5 be amended as underlined below:

Ensure that the location and direction of lights in the Town Centre does not cause significant glare to other properties, roads, and public places and promote lighting design that mitigates adverse effects on views of the night sky.

3.6. New Policy

189. Several submitters[126], sought the inclusion of a new policy to recognise the important contribution that sunny open spaces, footpaths and pedestrian spaces make to the vibrancy and economic prosperity of the town centre.

190. We recognise how provision of open spaces, particularly sunny open spaces, utilisation of foot paths and provision of pedestrian space allows people to enjoy the outdoor aspect of the town centre. This is particularly so for outdoor dining during summer daytime periods. Having people in public places undertaking activities of this nature does this and we think adds to the sense of vibrancy of the town centre.

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125 Submission 474

126 Submissions 59, 82, 599, 206 and 417

191. In response to these submissions[127], Ms Jones recommended a new Policy 12.2.3.7.[128] We recommend the inclusion of this new policy as it assists in realising Objective 12.2.3. This will become Policy 12.2.3.6 with the deletion of Policy 12.2.3.1 earlier.

12.2.3.6 Policy
Recognise the important contribution that sunny open spaces, footpaths, and pedestrian spaces makes to the vibrancy and economic prosperity of the Town Centre.

3.7. Objective 12.2.4 and Policies 12.2.4.1 – 12.2.4.6

192. As notified these read:

12.2.4 Objective
A compact Town Centre that is safe and easily accessible for both visitors and residents.

Policies

12.2.4.1 *Encourage a reduction in the dominance of vehicles within the Town Centre and a shift in priority toward providing for public transport and providing safe and pleasant pedestrian and cycle access to and though the Town Centre.*

12.2.4.2 *Ensure that the Town Centre remains compact and easily walkable by avoiding outward expansion of the Town Centre Zone. Encourage walking to and within the Town Centre by improving the quality of the pedestrian experience by:*

a. *Maintaining and enhancing the existing network of pedestrian linkages and ensuring these are of a high quality*

b. *Requiring new pedestrian linkages in appropriate locations when redevelopment occurs*

c. *Strictly limiting outward expansion of the Town Centre Zone and commercial activity beyond it and*

d. *Encouraging the provision of verandas along pedestrian-oriented streets, while acknowledging that verandas may not be appropriate or necessary in applications involving a heritage building; or where no verandas exist on adjoining buildings.*

12.2.4.3 *Minimise opportunities for criminal activity through incorporating Crime Prevention through Environmental Design (CPTED) principles as appropriate in the design of lot configuration and the street network, car parking areas, public and semi-public spaces, access ways/ pedestrian links/ lanes, and landscaping.*

12.2.4.4 *Off-street parking is predominantly located at the periphery of the Town Centre in order to limit the impact of vehicles, particularly during periods of peak visitor numbers.*

12.2.4.5 *Plan for future public transport options by considering the needs of public transport services and supporting infrastructure when designing roading improvements.*

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127 Submissions 59, 82, 599, 206 and 417.

128 V Jones, Section 42A Report at [10.14].

12.2.4.6 Encourage visitor accommodation to be located and designed in a manner that minimises traffic issues that may otherwise affect the safety and amenity of pedestrians and cyclists, particularly in peak periods.

193. Several submitters[129] supported the objective as notified. In our view one of the key attributes of the town centre is that it is compact with the result that its small geographic size enables ease of access. Accessibility is enhanced through pedestrian walkways and laneways. This compactness and ease of accessibility is one of the features of the town centre which adds to its attractiveness and interest for both visitors and residents.

194. We agree with the submitters and recommend their submissions are accepted. We also recommend retaining Objective 12.2.4 as notified.

195. The only submission[130] on Policy 12.2.4.1 sought that it be retained. Submission 238 referred to this policy, but when the relief is examined, the reference was in error and should have referred to Policy 12.2.4.2.

196. We consider this policy is well suited and appropriate to implement Objective 12.2.4. Priorities in public transport and providing safe and pleasant pedestrian access is critical to implementing this objective. Also important is encouraging the reduction of vehicle dominance within the town centre itself.

197. Accordingly, we recommend it be adopted as notified.

198. While several submitters [131] supported Policy 12.2.4.2, two[132] also sought to change it. The Otago Regional Council[133] (ORC) requested the inclusion of the word "*accessibility*" into the opening paragraph. NZIA[134] requested additional bullet points relating to the promotion and encouragement of laneways and small streets being open to the sky, as well as promoting the opening up of Horne Creek as a visual feature.

199. The ORC submission sought the limitation of car parks in the periphery of the town centre so as to encourage or support the shift to shared and active transport modes. This is a transportation issue and we agree with Ms Jones that it is more appropriately considered in relation to Chapter 29 in Stage 2 of the PDP.

200. The ORC also wished to refine provisions relating to verandas within this policy, ensuring that they do not interfere with curb side movement of high sided vehicles.

201. Other submitters[135] were interested to ensure that the effects of buildings did not cause additional shading degrading the pedestrian environment or enjoyment of public spaces. Those submitters did, however, seek a trade-off where there was a small increase of shading of public pedestrian spaces such that it could be offset or compensated by the provision of additional public space or a pedestrian link within the site.

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129 Submissions 217, 380, 798 and 807

130 Submission 719

131 Submissions 719 and 807.

132 Submissions 238 and 798

133 Submission 798

134 Submission 238, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249

135 Submissions 59, 82, 206, 417, 599, 663, 672, 59, 82, 599, 206, 417 (opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249)

202. In the main, Ms Jones agreed with and supported these various submissions.[136] We agree. The addition of the word "*accessible*" derives a meaning from its context meaning the town centre is accessible to pedestrians in general. Verandas need to be sensibly designed so as not to interfere with curb side movement of high sided vehicles, although we thought this outcome would go without saying.

203. We agree that uncovered pedestrian links and lanes are both the key to, and an integral feature, of the QTC character. They should be promoted, retained and maintained. In respect of Horne Creek, we agree that all that can be achieved within the policy framework is to send the signal about promoting the opening up of Horne Creek as distinct from requiring the same.[137] We agree that those parts of the town centre where Horne Creek is opened up have a special character. The visual and aural appeal of running water in a semi natural state is a pleasing amenity feature in a busy town centre. However, given the Creek runs through both private and publicly-held land, and is partially covered over or piped, we consider the Council has no jurisdiction to require its opening, but does have the ability to promote it.

204. The final amendments link to other submissions relating to height of buildings and increasing the allowable height in various height precincts of the town centre. Increases in height lead to the need to carefully assess additional shading. Additional shading is inevitable with a height increase. That height increase enables one of the key characteristics of the town centre, namely its compact nature to be retained. We recognise an increase in height will inevitably lead to additional shading. However, the ability to offset any such effect by the provision of additional public space or pedestrian links is of value. We consider this policy, amended as recommended by Ms Jones, assists in achieving Objective 12.2.4. We recommend submissions amending Policy 12.2.4.2 be accepted.

205. We recommend Policy 12.2.4.2 read with the amendments underlined as follows:

"Ensure that the Town Centre remains compact, <u>accessible,</u> and easily walkable by avoiding outward expansion of the Town Centre Zone. Encourage walking to and within the Town Centre by improving the quality of the pedestrian experience by:

a. *Maintaining and enhancing the existing network of pedestrian linkages and ensuring these are of a high quality;*

b. *Requiring new pedestrian linkages in appropriate locations when redevelopment occurs;*

c. *Strictly limiting outward expansion of the Town Centre Zone and commercial activity beyond it; ~~and~~*

d. *Encouraging the provision of verandas along pedestrian-oriented streets, while acknowledging that verandas may not be appropriate or necessary in applications involving a heritage building; or where no verandas exist on adjoining buildings; <u>and may need to be specifically designed so as to not interfere with kerbside movements of high-sided vehicles</u>*

e. *<u>Promoting and encouraging the maintenance and creation of uncovered pedestrian links and lanes wherever possible, in recognition that these are a key feature of Queenstown character;</u>*

136 Section 42A Report of Ms Jones at [13.19].

137 Ibid.

f. Promoting the opening up of Horne Creek wherever possible, in recognition that it is a key visual and pedestrian feature of Queenstown, which contributes significantly to its character; and

g. Ensuring the cumulative effect of buildings does not result in additional shading that will progressively degrade the pedestrian environment or enjoyment of public spaces, while accepting that individual developments may increase the shading of public pedestrian space to a small extent provided this is offset or compensated for by the provision of additional public space or a pedestrian link within the site."

206. One submission[138] sought that Policy 12.2.4.3 be amended to refer to antisocial rather than criminal behaviour, and that the CPTED principles not be applied to the design of lot configuration, the street network, car parking areas, access ways, pedestrian links and/or lanes or landscaping.

207. Like Ms Jones, we think the word "antisocial behaviour" rather than "criminal activity" is more appropriate in the policy context. We also agree with Ms Jones that lot configuration and the design of any extension to the street network will be considered through the Subdivision Chapter.[139] Therefore, those particular matters do not need to be specifically mentioned within this policy. However, notwithstanding deletion of references to lot configuration and street network, and inclusion of reference to streetscapes, these CPTED principles are still deserving of mention and reference within this policy.

208. The references in Policy 12.2.4.3 relate in the main to the public domain. Generally CPTED matters are given effect to by councils while designing public spaces. Private land owners do tend to have differing priorities more focused on security.

209. Consequently, we recommend Policy 12.2.4.3 read:

Minimise opportunities for ~~criminal activity~~ anti-social behaviour through incorporating Crime Prevention Through Environmental Design (CPTED) principles as appropriate in the design of ~~lot configuration and the~~ streetscapes ~~network~~, carparking areas, public and semi-public spaces, accessways/ pedestrian links/ lanes, and landscaping.

210. NZTA[140] submitted in favour of Policy 12.2.4.4. ORC[141] suggested that accessibility to the Town Centre could be assisted by limiting the supply of car parks on the periphery of it. However, this submission did not directly refer to this policy and no evidence was provided in support of the submission.

211. We are satisfied this policy as worded appropriately supports the implementation of Objective 12.2.4 and accordingly recommend this policy be adopted as notified.

212. Ms Jones discussed Policy 12.2.4.5 in her Section 42A Report under Issue 9 Transportation. This policy received attention from other submitters[142]. However, only those submission

138 Submission 663, opposed by FS1139 and FS1191
139 V Jones, Section 42A Report at [13.21].
140 Submission 719
141 Submission 798
142 Submissions 719, 238, 621 and 798.

points that related directly to the objectives and policies contained in Chapter 12 are addressed by this Report.

213. ORC observed in its submission that public transport users are multi modal. This means they generally walk or cycle to access bus services therefore developments should create active transport connection linking existing public transport services and infrastructure where possible. ORC raised the point that poorly designed shop front veranda setbacks and heights can interfere with kerbside bus movement however no specific relief was sought. We note Ms Jones, when considering both this submission and notified Rule 12.5.5, recommended inclusion of wording to deal with this concern.[143]

214. NZTA[144] submitted in favour of retaining notified policy 12.2.4.5. NZIA[145] and Real Journeys Ltd[146] requested the policy not only be considered when designing roading improvements but also when designing any transportation related improvements, or, alternatively, when considering jetty applications.

215. Real Journeys, in particular, sought to include the consideration of jetty applications when considering current or future public transport needs. We agree with Ms Jones[147] that when jetty applications are being considered, it is appropriate to consider how those applications may impact on the planning for future public transport options. We consider that travel by watercraft assists in making the town centre accessible for both visitors and residents. We are satisfied that the amendments sought by the submitter support Objective 12.2.4.

216. For these reasons we recommend that Policy 12.2.4.5 be amended to include the words "*or considering jetty applications*" as shown underlined below:

Plan for future public transport options by considering the needs of public transport services and supporting infrastructure when designing roading improvements <u>or considering jetty applications.</u>

217. NZTA[148] sought amendments to Policy 12.2.4.6, while other submitters[149] requested the policy be deleted. The refinement sought by NZTA was to include words so as to ensure that the safety and efficiency and functionality of the roading network were matters considered when the location and design of visitor accommodation was being considered.

218. Like Ms Jones, we agree that the changes requested by NZTA are appropriate as incorporating them would help this policy better achieve Objective 12.2.4.[150]

219. We do not support the submissions requesting that the policy be deleted because traffic issues are an important consideration for the location and design of visitor accommodation, particularly when considering safety and accessibility of both visitors and residents alike.

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143 V Jones, Section 42A Report at [13.52].
144 Submission 719
145 Submission 238, supported by FS1097 and FS1117, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249
146 Submission 621
147 V Jones, Section 42A Report at [17.5]
148 Submission 719
149 Submissions 663 (opposed by FS1139 and FS1191) and 672
150 V Jones, Section 42A Report at [15.4].

220. We recommend the Policy read with the additions underlined as follows:

Encourage visitor accommodation to be located and designed in a manner that minimises traffic issues that may otherwise affect the safety, efficiency, and functionality of the roading network, and the safety and amenity of pedestrians and cyclists, particularly in peak periods.

3.8. Objective 12.2.5 and Policies 12.2.5.1 – 12.2.5.6

221. As notified, these read:

12.2.5 Objective
Integrated management of the Queenstown Bay land-water interface, the activities at this interface and the establishment of a dynamic and attractive environment for the benefit of both residents and visitors.

Policies

12.2.5.1 Encourage the development of an exciting and vibrant waterfront, which maximises the opportunities and attractions inherent in its location and setting as part of the Town Centre.

12.2.5.2 Promote a comprehensive approach to the provision of facilities for water-based activities.

12.2.5.3 Conserve and enhance, where appropriate, the natural qualities and amenity values of the foreshore and adjoining waters.

12.2.5.4 Retain and enhance all the public open space areas adjacent to the waterfront.

12.2.5.5 Maximise pedestrian accessibility to and along the waterfront for the enjoyment of the physical setting by the community and visitors.

12.2.5.6 Provide for structures within the Queenstown Bay waterfront area subject to compliance with strict location and appearance criteria.

222. The main issues Ms Jones[151] identified arising from the ODP were, first that the community and visual values of the land/water interface had not been properly identified in the ODP. Secondly, the extent of the Queenstown Bay Waterfront area was not clearly defined. She observed that all but one of the ODP policies had been included in the PDP.[152] However, those that referred to managing the waterfront area in accordance with various foreshore management plans were not included.

223. Several submitters[153] supported Objective 12.2.5 as notified. Te Anau Developments Limited[154] and Queenstown Park Limited[155], requested that Objective 12.2.5 and the supporting policies be amended to ensure tourism activities, including the transport of passengers and supporting buildings, infrastructure, and structures, were specifically provided for.

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151 V Jones, Section 42A Report at [16.6]
152 Ibid at [16.17].
153 Submissions 217, 380 and 817.
154 Submission 607
155 FS1097

224. In response to these submissions, Ms Jones expressed the view that it was unnecessary and inappropriate to change the objective and policies to specifically provide for tourism activities as both the objectives and policies already acknowledged the area is to be managed for visitors as well as residents[156]. We agree.

225. In addition, she suggested that an amended policy which provides for tourism, including supporting buildings and structures as sought, would be inconsistent with the rules. We will return to rules later, but we agree with Ms Jones that rules classify many buildings and structures that would arguably support tourism, as non-complying in this Sub-Zone.

226. Other submitters[157] sought the objective and all its related policies be amended to recognise the importance of public transport links on the water and better integration of land and water-based journeys. Ms Jones was of the view this matter was best addressed in Stage 2 of the proposed District Plan.[158] Consequently she recommended rejecting these particular submission points for those reasons.

227. The Stage 2 variations propose the addition of a seventh policy under this objective., relating to public ferry services. While this may satisfy the relief sought by those submitters, we recommend the submissions be rejected at this stage.

228. We recommend adoption of the objective with the minor wording changes recommended by Ms Jones to improve clarity[159]. This change can be made pursuant to Clause 16(2). We recommend Objective 12.2.5 read, with the amendments underlined, as follows:

Objective 12.2.5
Integrated management of the Queenstown Bay land-water interface, the activities at this interface and the establishment of a dynamic and attractive environment ~~for the~~ that benefit~~s of~~ both residents and visitors.

229. Multiple submitters[160] sought to amend notified Objective 12.2.5 and associated Policies 12.2.5.1, 12.2.5.2, 12.2.5.5, and 12.2.5.6 to recognise the importance of public transport links on the water and better integration of land and water-based journeys. The amendment proposed by the Stage 2 variations confirms that this is a matter better dealt with in association with the Transport Chapter. We recommend these submissions be rejected.

230. Real Journeys Limited[161] requested that Policy 12.2.5.2 be amended to promote the strategic comprehensive approach to the provision of facilities for water-based activities. Queenstown Wharves[162] requested it be deleted.

231. Ms Jones recognised that Policy 12.2.5.2 is an important policy which both appropriately and sufficiently signals the desire for a comprehensive approach to activities within the Sub-Zone. She was of the view[163], and we agree with her, that the inclusion of the word "strategic" is unnecessary. Accordingly, we recommend that Submissions 621 and 766 are rejected.

156 V Jones, Section 42A Report at [16.14a].
157 Submissions 766, 798, (supported by FS1341 and FS1342) and 807.
158 V Jones, Section 42A Report at [17.8].
159 V Jones, Summary of Evidence, Appendix 1
160 Submissions 766, 798, 807 and FS1341.
161 Submission 621
162 Submission 766, supported by FS1341
163 V Jones, Section 42A Report at [16.14b].

232. Remarkables Park Limited[164] and Queenstown Wharves[165] sought that Policy 12.2.5.3, regarding conserving and enhancing the natural qualities of the foreshore and adjoining waters, be deleted. Both of these submissions consider there to be a conflict between Policy 12.2.5.1 and Policy 12.2.5.3. Policy 12.2.5.1 seeks to encourage a vibrant waterfront and whilst the submitters consider retention of the waterfront amenity values to be important, they do not consider that there should be a separate policy to "*conserve and enhance*".

233. Real Journeys Limited[166] also sought that this policy be amended to conserve, maintain and enhance, as far as practical where appropriate, the natural qualities and amenity values of the foreshore and adjoining waters.

234. Ms Jones was of the view that referencing amenity and natural qualities was important to support the relevant rules which prevent certain activities and built forms in the more natural parts of the Sub-Zone[167]. She further considered that amending Policy 12.2.5.3 as sought by Real Journeys Limited, would weaken it because the submitter sought inclusion of the word "*maintain*" and the words "*as far as practical*"[168]. We agree with that conclusion.

235. However, in Ms Jones' Summary of Evidence presented at the hearing, she recommended additional wording for Policy 12.2.5.3 and Policy 12.2.5.6 to provide "more direction in terms of development within the QTC WSZ."[169] Ms Jones advised that these amendments were made in response to Ms Carter's evidence for Queenstown Wharves GP Limited.[170]

236. In particular Ms Carter was seeking greater direction within Policies 12.2.5.1 to 12.2.5.6 in order to achieve Objective 12.2.5, and a more integrated approach within those policies.[171] Indeed, we agree that Objective 12.2.5 seeks integrated management of the Queenstown Bay land –water interface.

237. Based on Ms Carter's evidence and the Queenstown Wharves submission, Ms Jones recommended the inclusion of additional words to Policy 12.2.5.3, immediately following the word waters, they are:

the foreshore and adjoining waters, recognising in particular, the predominantly undeveloped character of the 'Queenstown beach and gardens foreshore area' (as identified on the planning map) and the important contribution this area makes to providing views to the lake and mountains, pedestrian and cycle connections, water-based commercial recreation activities, and passive recreation opportunities.

238. We agree with Ms Jones' recommendation to include these additional words based as it is on the evidence of Ms Carter, with which we agree. We accept including these words better supports Objective 12.2.5 in achieving integrated management of this important Queenstown Bay environment. In particular, these words appropriately capture the existing context of the Bay against which integrated management can be achieved.

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164 Submission 807
165 Submission 766, supported by FS1341
166 Submission 621
167 V Jones, Section 42A Report at [16.14c].
168 Ibid
169 V Jones, Summary of Evidence at [6c].
170 Submission 766
171 J Carter, EiC at [6.7] and [7.1-7.2].

239. Queenstown Wharves[172] sought that Policy 12.2.5.4 be retained as notified.

240. Ms Jones in her Section 42A Report, recommended accepting this submission. Policy 12.2.5.4 relates to retention and enhancement of access to all public open space areas adjacent to the waterfront. We agree with the submission and Ms Jones' recommendation as access to public places adjacent the waterfront enables enjoyment of the Queenstown Bay area by both residents and visitors thus supporting Objective 12.2.5.

241. The only submission[173] on Policy 12.2.5.5 sought its amendment in relation to water transport. We agree with Ms Jones that is a matter better dealt with in the context of the Transport Chapter and recommend that submission be rejected.

242. NZIA[174] generally supported Policy 12.2.5.6 but requested it be amended to be read subject to the review by the urban design panel in recognition that it is not just location and appearance that is to be considered, but also the blocking of views and filling up of harbour space etc.

243. Real Journeys Limited[175] requested that Policy 12.2.5.6 be amended so as to provide for the development, maintenance and upgrading of structures within the Queenstown Bay waterfront area, recognising these structures are required to meet minimum safety and design standards subject to compliance with strict location and appearance criteria.

244. With regard to Policy 12.2.5.6 and the need to require structures in the Sub-Zone to be considered by the urban design panel (UDP), Ms Jones did not recommend mandating any such review through the policy in the District Plan[176].

245. We agree with her because we consider that matters such as potential effect on views can already be provided for in terms of the district plan. While review by the UDP may assist in decision-making, we do not consider it appropriate to make it a mandatory requirement via the PDP in the absence of clear design guidelines.

246. After considering Ms Black's evidence for Real Journeys Limited, Ms Jones recommended a limited amendment to provide more direction in terms of development within the WSZ.[177]

247. We agree with Ms Jones' recommended amendments as they provide more clarity as to why structures are subject to bulk, location and appearance criteria.

3.9. New Policies

248. Kopuwai Investments Limited[178] sought the inclusion of two new policies:

> *12.2.5.6 Encourage the day time and night time use of outdoor areas for the use by bars and restaurants in and around the Steamer Wharf Complex with appropriate seating, tables and/or planting to enhance the vibrancy and visual amenity.*

172 Submission 766, supported by FS1341
173 Submission 766, supported by FS12341
174 Submission 238, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249
175 Submission 621
176 Ibid at [16.14e].
177 V Jones, Summary of Evidence, at [6c].
178 Submission 714, opposed by FS1318

12.2.5.7 Ensure that residential development and visitor accommodation provide acoustic insulation over and above the minimum requirements of the Building Code to avoid reverse sensitivity.

249. Ms Jones did not recommend adding these additional policies as she considered the intent was somewhat covered by the more general notified Policy 12.2.5.1 and Policy 12.2.3.1 respectively.

250. Further, in relation to the first suggested policy, we consider that encouraging the daytime and night-time use of these areas is not a District Plan matter, rather it is an operational matter. In respect of the second suggested policy, we cannot direct that the Building Code be exceeded in the PDP. For those reasons, we recommend these two new policies not be adopted and that the Kopuwai submission is rejected.

251. Consequently, it is our recommendation that Policies 12.2.5.1 to 12.2.5.6 as set out by Ms Jones in her reply be adopted. We set out the amended policy wording below, with the amendments underlined:

12.2.5.1 Encourage the development of an exciting and vibrant waterfront, which maximises the opportunities and attractions inherent in its location and setting as part of the Town Centre.

12.2.5.2 Promote a comprehensive approach to the provision of facilities for water-based activities.

12.2.5.3 Conserve and enhance, where appropriate, the natural qualities and amenity values of the foreshore and adjoining waters, recognising in particular, the predominantly undeveloped character of the 'Queenstown beach and gardens foreshore area' (as identified on the planning map) and the important contribution this area makes to providing views to the lake and mountains, pedestrian and cycle connections, water-based commercial recreation activities, and passive recreation opportunities.

12.2.5.4 Retain and enhance all the public open space areas adjacent to the waterfront.

12.2.5.5 Maximise pedestrian accessibility to and along the waterfront for the enjoyment of the physical setting by the community and visitors.

12.2.5.6 Provide for structures within the Queenstown Bay waterfront area subject to compliance with strict bulk, location and appearance criteria, provided the existing predominantly open character and a continuous pedestrian waterfront connection will be maintained or enhanced."

4. 12.3 OTHER PROVISIONS AND RULES

4.1. 12.3.1 District Wide Chapters

252. Rule 12.3.1 is a cross reference to other District Wide Chapters that may apply in addition to the rules in Chapter 12.

253. There were no submissions received nor any comment in the officer's report relating to this section. Ms Jones recommended only minor amendments proposed in the interests of clarification and consistency with other parts of the Plan.

254. We recommend minor amendments be made as a minor change in accordance with Clause 16(2) consistent with our approach to this section throughout the PDP.

255. The recommended layout is shown in Appendix 1.

4.2. 12.3.2 Clarification and 12.3.2.3 General Rules Preliminary Matter

256. As with other chapters, this section contains a series of provisions that establish how the rules work, including which chapters have precedence over others.

257. Within rules 12.3.2.3-.5 there are three 'rules'. Each of them commence with the words "*For the purpose of this chapter*". The rules then proceed to define a comprehensive development, a landmark building and finally a sense of place.

258. The status of the provisions within the notified subheading of "*Clarification*" and "*General Rules*" has arisen in the previous hearings. Mr Winchester, for the Council, reminded us in his opening that, within the residential hearing, counsel suggested, so as to provide more certainty as to the regulatory status of these provisions, that they be further reordered under additional headings "*General Rules*" and "*Advice Notes*".[179] He advised that these changes do not affect the regulatory impact of these provisions and further those changes were considered to be non-substantive.[180]

259. He further elaborated that for the business chapters the clarification provisions should be placed under the subheadings "*General Rules*" and "*Advice Notes*" advising us that changes have also been made to the PDP to align with other chapters.[181]

260. We accept Mr Winchester's submission that altering the subheadings '*Clarification*' and '*General Rules*' is required to provide more certainty as to the regulatory status of the provisions. We agree also that his recommended changes are non-substantive. However we think that a sub heading should be more descriptive than simply '*General Rules*' or '*Advice Notes*' to provide greater clarity. In our view these provisions belong within a separate section entitled "*Interpreting and Applying the Rules*" because that is their purpose.

261. We recommend these minor amendments be made as a non-substantive change in accordance with Clause 16(2).

262. The recommended layout is shown in Appendix 1.

5. DEFINITIONS PROPOSED TO BE INSERTED

263. There are some definitions that are applicable to the provisions of Chapter 12. In her Reply, Ms Jones recommended that the definitions be located in Chapter 12. Ms Jones explained that in her view this was more appropriate that including these definitions in Chapter 2. This was because they are definitions for the purpose of this chapter, and they are not appropriate

179 Legal Submissions of Mr Winchester at [9.6].

180 Ibid.

181 ibid at [9.7].

to apply across all chapters in the PDP. Ms Jones recommended these definitions all sit under the heading "General Rules".[182]

264. While we do not totally disagree with Ms Jones, we understand that the officer reporting to the Stream 10 Hearing Panel (which heard submissions on Chapter 2 – Definitions) recommended that all definitions be located in that chapter. That recommendation has been accepted and we see little value in repeating definitions in this chapter also. We also note that while Ms Jones claimed the definitions were only used in this chapter, "comprehensive development" is also used in Chapter 13.

265. Our role is to consider the submissions on these definitions and recommend to the Stream 10 Hearing Panel the appropriate wording for the definitions and whether submissions are to be accepted or rejected. We discuss these definitions below.

Comprehensive Development

Comprehensive development *means the construction of a building or buildings on a site or across a number of sites with a total land area of greater than 1400 m².*

266. At notification, the definition of a comprehensive development, in part, resided in Rule 12.5.1. Ms Jones recommended in her Reply to locate this definition with the other relevant definitions for this chapter. We consider that removing the definition element from Rule 12.5.1 assists with the legibility of the rule and makes the provisions easier for plan users to understand. We note that the area of land to be the trigger for development was a matter of contention. We discuss this in detail in relation to Rule 12.5.1.

267. As this definition is derived from Rule 12.5.1, our reasons for recommending the wording of that rule contain the reasons for recommending the wording of this definition. On that basis, we recommend to the Stream 10 Hearing Panel that comprehensive development be defined as set out above.

Landmark Building

Landmark building *means a building that is easily recognisable due to notable physical features, including additional height. Landmark buildings provide an external point of reference that helps orientation and navigation through the urban environment and are typically located on corners or at the termination of a visual axis.*

268. The term "*landmark building*" is used in proposed Rule 12.5.8.5 (d) and its relevance is discussed in more detail when we discuss that rule. We questioned Ms Jones as to whether a definition should be included in the PDP.

269. In her Reply, Ms Jones advised that she had discussed this with Mr Church and she recommended adding a definition for the term landmark buildings.[183] She did note that whilst there was some clarification in notified Policy 12.2.2.5 and Rule 12.5.8.5(d) this definition would be useful for readers.[184]

270. We agree that it is useful to have a definition, and, like Ms Jones, we consider the definition proposed appropriate. We consider that as the definition is primarily for clarification it can be

182 V Jones, Reply Statement at [4.3d].

183 V Jones, Section 42A Report at [9.2]

184 Ibid

included under Clause 16(2), and recommend to the Stream 10 Hearing Panel that it be so included in Chapter 2.

Sense of Place
Sense of place *means the unique collection of visual, cultural, social, and environmental qualities and characteristics that provide meaning to a location and make it distinctly different from another. Defining, maintaining, and enhancing the distinct characteristics and quirks that make a town centre unique fosters community pride and gives the town a competitive advantage over others as it provides a reason to visit and positive and engaging experience. Elements of the Queenstown Town Centre that contribute to its sense of place are the core of low rise character buildings and narrow streets and laneways at its centre, the pedestrian links, small block size of the street grid and its location adjacent the lake and surrounded by the ever present mountainous landscape.*

271. NZIA[185] submitted that it was "*good to see acknowledgement of sense of place*" but sought more information on what this meant. In her Section 42A Report Ms Jones recommended that an explanation for the term "sense of place" be added as an advice note to Objective 12.2.2.[186] She subsequently recommended it be listed as a definition within this chapter.

272. We agree that this definition assists in responding to the NZIA submission. We recommend to the Stream 10 Hearing Panel that Submission 238 be accepted in part by including this definition in Chapter 2.

273. We set out the recommended definitions in Appendix 8.

6. 12.4 RULES – ACTIVITIES

6.1. Rule 12.4.1 Activities not listed in this table and comply with all standards

274. Rule 12.4.1 effectively provides a default permitted activity status to any activity that complies with all standards and is not otherwise listed in Activity Table 12.1.

275. Peter Fleming[187] opposed Rule 12.4.1 but did not give any reasons for his request. In the absence of any evidence and on the basis that we consider Rule 12.4.1 appropriate, we recommend this submission be rejected.

276. At the commencement of the Stream 8 hearings, during the Council's opening, we queried the approach taken in the various business chapters regarding the need to comply with all standards in order to be a permitted activity. In the QTC, WTC, ATC, LSC and BMU zones, activities which are not listed in this table and comply with all standards are permitted activities.

277. In the Reply Submissions, Ms Scott pointed out that default permitted activities need to state that any activity not listed must comply with all of the standards listed in the chapter, otherwise there would be no regulation around any unlisted activity at all.[188]

278. Ms Scott, again in the Reply, set out the way in which the provisions are intended to work:[189]

185 Submission 238, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248.
186 V Jones, Section 42A Report at [13.7b].
187 Submission 599
188 Submissions in Reply of Ms Scott on behalf of QLDC at [2.3].
189 bid at [2.4].

a. an activity not listed in the table must comply with all standards in order to be permitted
b. if an activity not listed in the table breaches one of the standards, then it is no longer permitted, and a consent is required and
c. the standard breached is what determines the basis on which consent is required (for example, if the unlisted activity breached Rule 12.5.1 then it would become restricted discretionary; if it breached Rule 12.5.10 then it would become noncomplying).

279. Ms Scott submitted that an argument that an activity does not contravene any District Rule in terms of section 9 of the Act merely because that activity is not expressly described in the table would not be tenable. She explained that this was because Rule 12.4.1 was drafted so as to capture all potential and described activities and require them to comply with a group of standards. In that respect, she said, Rule 12.4.1 is a catch- all District Rule for the purposes of section 9 of the RMA.

280. Ms Jones, in her Reply Statement, added that she considered the inclusion of this Rule at the start of the activity table in each chapter is the most legible approach.[190] She considered it important due to the fact that the default status varies between the zones.

281. She did point out the duplication arising from the advice note in 12.3.2.1 which also requires compliance with the standards table.[191] She pointed out that the purpose of the advice note is more focused on identifying the non-compliant status. She was of the view the inclusion within Rule 12.4.1 of the reference to compliance with all standards to be clearer and would ensure there was no room for debate as to the correct interpretation.

282. She noted that at first blush it seemed inconsistent to have listed activities default to a non-complying status in some instances and permitted and others.[192] However, she rationalised this apparent inconsistency, noting the vastly different purposes of the various zones.[193] For example, the likes of rural and residential having a relatively narrow purpose with a narrow range of uses being anticipated and the business zones being of a highly mixed use nature. Overall she did not recommend any changes to Rule 12.4.1.[194]

283. After considering Ms Scott's submissions and the views expressed by Ms Jones we agree that the tabular approach is appropriate. Also we agree that Rule 12.4.1 does not require change for all of the reasons advanced by both Ms Scott and Ms Jones. Accordingly, we recommend retention of the table and the approach contained in the replies to determining activity status. Also we recommend retention of Rule 12.4.1 unaltered.

6.2. Rule 12.4.2 Visitor Accommodation

284. As notified, Rule 12.4.2 provided for visitor accommodation (the activity rather than the buildings) in the QTCZ as a controlled activity, with control limited to (in summary):
a. Parking and traffic
b. landscaping
c. location, nature and scale and
d. noise effects when adjoining a residential zone.

190 V Jones, Reply Statement at [3.3].
191 Ibid at [3.4].
192 Ibid at [3.5].
193 Ibid.
194 Ibid at [3.6].

285. NZTA[195] sought to have the rule amended to include the words "*maintaining the safety and efficiency of the roading network*". The change to this rule mimicked the change NZTA sought to Policy 12.2.4.6.

286. Ms Jones supported the NZTA submission on this rule, considering that acknowledging the importance of the safety and efficiency of the roading network, was, while an important change, overall a minor change.[196]

287. Downtown QT[197] and Queenstown Chamber of Commerce[198] both supported the residential and visitor accommodation provisions in the QTCZ. The Chamber added the proviso that insulation and mechanical ventilation be included with residential and visitor accommodation to prevent reverse sensitivity effects. We will return to that point when we discuss noise within the QTCZ.

288. Peter Fleming[199] opposed the rule relating to visitor accommodation seeking that any existing use rights regarding visitor accommodation not be diminished.

289. In considering these submissions, Ms Jones noted that the rules in the PDP were similar to those within the ODP with the main difference being that external building appearance would now be subject to a restricted discretionary consent, whereas previously it was controlled. She noted that the location, nature and scale of visitor accommodation and ancillary activities within the relevant site and in relation to neighbouring sites was a new matter of control. She further noted that matters of traffic generation and traffic demand management were new matters of control and where the site adjoined a residential zone, the hours of operation of ancillary activities and noise generation were new matters of control.

290. For these reasons, she considered that Rule 12.4.2, as amended by the NZTA submission, would provide the Council with useful additional controls in terms of encouraging site layout that benefit street scape, avoid or minimise conflict between uses and avoid or minimise potential adverse effects on the roading network and pedestrian movement. We agree with Ms Jones' reasons.

291. As for Mr Fleming's submission[200] noted above, we agree with Ms Jones that it should be rejected. Adopting plan provisions only where they do not diminish existing use rights is neither a valid nor relevant consideration in determining the appropriateness of a plan provision. In any event, we observe existing use rights are provided for under section 10 of the Act and cannot be taken away.

292. We recommend the following wording for Rule 12.4.2, with our recommended amendments underlined and struck out:

12.4.2	***Visitor Accommodation**~~, in respect of:~~*	*C*
	Control is reserved to:	

195 Submission 719
196 V Jones, Section 42A Report, Appendix 1 at p 12-6.
197 Submission 630, opposed by FS1043
198 Submission 774
199 Submission 599
200 Submission 599

a. *The location, provision, and screening of access and parking, traffic generation, and travel demand management, with a view to maintaining the safety and efficiency of the roading network, and minimising private vehicle movements to/ from the accommodation; ensuring that where onsite parking is provided it is located or screened such that it does not adversely affect the streetscape or pedestrian amenity; and promoting the provision of safe and efficient loading zones for buses*

b. *Landscaping*

c. *The location, nature and scale of visitor accommodation and ancillary activities relative to one another within the site and relative to neighbouring uses and*

d. *Where the site adjoins a residential zone:*
i Noise generation and methods of mitigation;
ii Hours of operation, in respect of ancillary activities.

6.3. Rule 12.4.3 Commercial Activities within the Queenstown Town Centre Waterfront Subzone

293. As notified, this rule provided for commercial activities in the QTC Waterfront Subzone ("WSZ") as controlled activities, with control reserved to, in summary:
a. Traffic
b. Access and loading
c. Temporary structures and
d. Outdoor storage.

294. Real Journeys Limited[201] requested that subparagraph (a) be amended by including the bolded words as follows:
a. Any adverse effects of additional traffic generation from the activity **and mitigation of those effects.**

295. Ms Jones did not consider it was necessary to add this additional wording.[202] We agree with Ms Jones because the assessment of effects of the additional traffic generation will take into account the mitigation in determining the actual adverse effects of such additional traffic.

296. Our recommended wording is shown below using strikethrough and underlining:

12.4.3	***Commercial Activities within the Queenstown Town Centre Waterfront Subzone*** *(including those that are carried out on a wharf or jetty) except for those commercial activities on the surface of water that are provided for as discretionary activities pursuant to Rule 12.4.7.2~~, in respect of:~~* *Control is reserved to:* *a. Any adverse effects of additional traffic generation from the activity*	*C*

201 Submission 621
202 Section 42A Report of Ms Jones at [16.16].

b. The location and design of access and loading areas in order to ensure safe and efficient movement of pedestrians, cyclists, and vehicles and

c. The erection of temporary structures and the temporary or permanent outdoor storage of equipment in terms of:

i. any adverse effect on visual amenity and on pedestrian or vehicle movement; and

ii. the extent to which a comprehensive approach has been taken to providing for such areas within the subzone.

6.4. Rules 12.4.4 and 12.4.5 Licensed Premises

297. As notified, these rules provided for licensed premises. Rule 12.4.4 provided that a restricted discretionary consent was required for licenced premises in two circumstances:
   a. Other than in the TCTSZ for consumption of liquor on premises between 11pm and 8am and
   b. Within the TCTSZ for the consumption of liquor between 6pm and 11pm.

298. In both circumstances, discretion was restricted to:
   a. Scale
   b. Car parking and traffic
   c. Amenity effects
   d. Screening or buffering from residential areas
   e. Configuration of activities
   f. Noise and hours of operation and
   g. Consideration of any alcohol policy or bylaw.

299. Rule 12.4.5 required a discretionary activity consent for the consumption of liquor on the premises between 11pm and 8am in the TCTSZ.

300. The Good Group [203] submitted that the activity status of Rule 12.4.4.1 should be a controlled activity, as it was under the ODP.

301. Ms Jones supported this submission[204]. Ms Jones considered a controlled activity status would be efficient and effective, particularly where an application was in accordance with the Sale and Supply of Alcohol Act 2012 (SSAA).[205] Ms Jones noted the SSAA enables a wider range of amenity and good order nuisance-related effects to be considered.[206] Also, based on the opinions and evidence of Ms Swinney[207], Ms Jones considered this approach was proving to be effective.

302. We agree and think that effects relating to amenity, layout, screening, noise and hours of operation are all able to be managed through resource consent conditions.

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203 Submission 544
204 V Jones, Section 42A Report at [12.25]
205 Ibid at [12.25a].
206 ibid at [12.25b]
207 In particular at [5.6].

303. As such, we recommend accepting the Good Group submission and changing the activity status to controlled.

304. The Good Group also sought that there be no time restriction on serving alcohol to diners. Other submitters[208] requested a new rule enabling licensed premises to operate until 1.00am as a permitted activity and restricted thereafter, within a new Steamer Wharf Entertainment Precinct, and that the matters of discretion be amended.

305. Ms Jones addressed the issue of identifying Steamer Wharf as an entertainment precinct including extended hours of operation until 1.00am. She recommended against it on the basis of noise effects on nearby residentially zoned land.[209] This was particularly so if hours of night time operations are extended beyond 11pm. She referred us to the noise contours in the evidence of Dr Chiles to support her view.[210]

306. Currently, resource consents are required to extend hours of operation at Steamer Wharf. This approach allows assessment and the imposition of conditions to control details of the operation, and more effective and efficient monitoring and enforcement. Ms Jones also pointed out that extending operating hours for Steamer Wharf would be inconsistent with the rules that apply to licensed premises in the rest of the QTCZ.[211] We agree for the reasons advanced and recommend these submissions be rejected.

307. Peter Fleming[212] opposed notified Rule 12.4.4 specifically opposing the use of public areas for the consumption of liquor and hours of operation. Ms Jones pointed out that neither the ODP nor the PDP regulate liquor consumption in public areas.[213] However, both plans require a licensed premise to obtain a resource consent to operate after 11pm.

308. We recommend Mr Fleming's submission be rejected as the rule reflects the existing practice, and there was no evidence of any issues with that practice. In addition, there is a means of regulating the activity.

309. Kopuwai Investments Limited[214] sought that notified Rule 12.4.4.1 be amended and Rules 12.4.4.2 and 12.4.5 be deleted, with the effect of:

a. Relaxing the licensed premises rule in respect of the Town Centre Transition Sub-Zone such that licensed premises would be permitted up until 11 pm and restricted discretionary activity thereafter, as opposed to requiring a restricted discretionary activity consent for such activity to occur between 6 pm and 11 pm and a full discretionary consent thereafter
b. Removing Council's discretion over car parking and traffic generation; the configuration of activities within the building and site (e.g. outdoor seating, entrances); and any alcohol policy or bylaw.

310. We have already recommended that the activity status of notified Rule 12.4.4 be changed from restricted discretionary activity to controlled so that deals with that part of the submission. However, we note here that we recommend a further consequential amendment following on

208 Submissions 587, 589 (opposed by FS1318) and714.
209 V Jones, Section 42A Report at [12.27].
210 In particular the noise contours attached to Dr Chiles' evidence as Appendix C.
211 V Jones, Section 42A Report at [12.27].
212 Submission 599.
213 V Jones, Section 42A Report at [12.28].
214 Submission 714.

from the change in activity status for this rule. We discuss this minor change below when we discuss Ms Jones' Reply in relation to this rule.

311. In response to the remainder of Kopuwai Investments Limited submission, Ms Jones, relying in part on the evidence of Ms Swinney, was of the opinion that it remained appropriate to apply more stringent time constraints to licensed premises within the TCTZ and to apply a stricter activity status to any such premises that wished to operate after 11.00 pm.[215] She stated this was due to the fact that these areas were located directly across the road from residentially zoned land and as such, it was important that greater control was retained in order to ensure that the layout and noise management of any such premises was able to be conditioned or declined if necessary. We agree and support that approach for the reasons she advanced.

312. In line with having changed the activity status of notified Rule 12.4.4 to controlled, Ms Jones recommended changing the status of Rule 12.4.5 to restricted discretionary activity and to apply the matters of control listed for Rule 12.4.4 as matters of discretion in Rule 12.4.5.[216] Kopuwai Investments Limited sought a change in status for Rule 12.4.5 from the notified position of discretionary to restricted discretionary which Ms Jones supported.

313. We agree with this recommendation on both the status change and the using of the same control/discretion matters. As we see it the control/discretion matters are appropriate to allow assessment of the relevant effects of the activity within the context in which they would be occurring. The change in activity status would ensure Rule 12.4.5 remained effective given the TCTSZ is closer to more noise sensitive areas. This change would also ensure a consistency of approach to status as between the two rules.

314. In response to the request to amend the matters of discretion/control in notified Rule 12.4.4.[217], Ms Jones was of the opinion that car parking and traffic generation should be removed as a matter of control as onsite parking is not required or generally provided in the Town Centre.[218] We note that the Council has notified Chapter 29 (Transport) and, as notified, item 29.9.1 in Table 29.5 specified that no parks were required in the QTCZ for any activity. Thus, we agree with Ms Jones that there is no point in having those matters listed as matters of control or discretion.

315. The configuration of "*the premises…*" should, in Ms Jones' view, remain a matter of control as the location and design of outdoor seating can exacerbate (or help alleviate) potential conflicts with neighbouring sites (especially in the TCTSZ) and affect peoples' safety/wellbeing (in terms of complying with CPTED principles).[219]

316. Ms Jones recommended that consideration of any alcohol policy or bylaw be removed as a matter of control as it is unreasonably uncertain. With reference to evidence presented by Ms Swinney, Team Leader Alcohol Licensing for the Council, we agree it is not appropriate to include a matter of control as "Consideration of a*ny alcohol policy or bylaw*".

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215 Section 42A Report of Ms Jones at [12.31].

216 V Jones, Section 42A Report at [12.31].

217 Submission 599

218 V Jones, Section 42A Report at [12.32].

219 Ibid.

317. Ms Swinney told us that there were no current alcohol policies in place and that breach of any bylaw could result in enforcement action being required.[220]

318. Based on Ms Swinney's evidence we agree with Ms Jones' recommendation to remove the reference to this matter of control. Further, we agree with Ms Jones that the matters she has identified as matters of control/discretion are appropriate for the reasons she stated.

319. Because Ms Jones' recommendations in the above paragraphs were new, she undertook a Section 32AA assessment[221]. We have considered that assessment and adopt it.

320. We also considered Rule 12.4.4.2 needed a non-substantive amendment through deleting the words "*with respect to the scale of this activity, car parking, retention of amenity, noise and hours of operation*", as these matters were already listed within the matters of control causing a duplication. We recommend that this amendment be made utilising Clause 16(2).

321. Jay Berriman[222] requested that the Council restrict the number of liquor licenses in the QTC in order to discourage increases in noise and antisocial behaviour, and to achieve a more balanced approach to the night entertainment which promotes the town's image as a high end product.

322. After referring to Ms Swinney's evidence, which outlined the issues that have arisen when others have tried to impose a cap under the LAP process, Ms Jones' opinion[223] on limiting the number of premises is:
   a. There is no evidence that there is a clear relationship between the number of licenses and the environmental and economic effects that have been cited (relating to noise and economic and social wellbeing)
   b. The capping of premises would need to be extremely well justified in order to be defensible under the Act and, on the face of it, does not sit well with the enabling and effects-based nature of the legislation
   c. Such effects are more a function of how well designed, located, and managed the licensed premises are, rather than the sheer number of premises.

323. We agree with her reasoning and opinion and adopt it. In our view, simply restricting the number of liquor licences is a blunt instrument. Doing so would not allow resource consent applications to both made and assessed. Accordingly for these reasons we recommend rejection of this submission.

324. Real Journeys Limited[224] requested that notified Rule 12.4.4 be amended to also apply to premises hosting off-licenses. Ms Jones advised the ODP also only regulates the effects from on-licenses - those premises licenced for the consumption of alcohol on the premises.[225]

325. We note that Ms Swinney's evidence[226] confirmed that, in her opinion, off licenses are unlikely to result in environmental effects that cannot be adequately managed or avoided through the SSAA.

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220 S Swinney, EiC at [5.32].
221 V Jones, Section 42A Report, Appendix 4
222 Submission 217
223 V Jones, Section 42A Report at [12.35].
224 Submission 621
225 V Jones, Section 42A Report at [12.36].
226 S Swinney, EiC at [6.43].

326. Regardless, she noted that pursuant to the SSAA, off-licenses are only able to remain open until 11.00 pm (and most close by 10.00 pm due to cost implications of staying open later) and therefore the rule would only have any effect between the hours of 6.00pm – 11.00pm within the TCTSZ.[227] In summary, she did not consider it necessary to require a resource consent under the District Plan for off-licenses as the effects can be adequately managed under the SSAA.

327. We agree with that view for the reasons advanced and accordingly recommend rejection of the Real Journeys Limited submission.

328. A related issue was Warren Cooper's submission[228], requesting that the status quo be retained for outside dining hours. Queenstown Chamber of Commerce[229] specifically requested that the rules provide for extended outdoor trading to allow patrons to enjoy the evenings until 11.00 pm.

329. Ms Jones expressed the view that there is a perceived restriction on outdoor dining after 10pm.[230] While not specifically regulated in the PDP (or the ODP), this has arisen as a consequence of the restrictive noise rules which effectively prevented activity outdoors after 10.00 pm, and which have resulted in conditions on consents restricting such use under the ODP.[231]

330. Ms Jones further noted that notified Rule 12.4.4.1 would permit the serving of alcohol to any person (inside or outside) until 11.00 pm and to diners (inside or outside) until 12.00 am (midnight). She also observed that the more lenient noise rules (notified Rule 12.5.11) were likely to enable normal outdoor dining/ drinking activity to extend beyond 10.00 pm. Further, she considered that to be wholly appropriate given the objectives of the PDP and, for that reason recommended no change be made to these rules.

331. We agree with both her recommendation and the reasons she relied on.

332. Finally, in her reply, after considering our questions at the hearing, Ms Jones recommended Rule 12.4.4 be amended to read "*control is reserved*" rather than "*discretion is restricted*". We agree as this wording better fits the now controlled status of the activity. We are satisfied this is a minor non-substantive change under Clause 16(2) of the First Schedule.

333. We recommend Rules 12.4.4 and 12.4.5 be adopted in the form set out below:

12.4.4	**Licensed Premises**	C
	12.4.4.1 Other than in the Town Centre Transition Sub-Zone, premises licensed for the consumption of liquor on the premises between the hours of 11pm and 8am, provided that this rule shall not apply to the sale of liquor:	

227 ibid at [6.4]
228 Submission 654, supported by FS1043, FS1063, and FS1318
229 Submission 774
230 V Jones, Section 42A Report at [12.37].
231 ibid.

a. To any person who is residing (permanently or temporarily) on the premises and/or

b. To any person who is present on the premises for the purpose of dining up until 12am.

12.4.4.2 Premises within the Town Centre Transition sub-zone licensed for the consumption of liquor on the premises between the hours of 6pm and 11pm, provided that this rule shall not apply to the sale of liquor:

a. To any person who is residing (permanently or temporarily) on the premises; and/or

b. To any person who is present on the premises for the purpose of dining up until 12am.

In relation to both 12.4.4.1 and 12.4.4.2 above, control is reserved to:

a. The scale of the activity

b. Effects on amenity (including that of adjoining residential zones and public reserves)

c. The provision of screening and/ or buffer areas between the site and adjoining residential zones

d. The configuration of activities within the building and site (e.g. outdoor seating, entrances) and

e. Noise issues, and hours of operation.

12.4.5 **Licensed Premises within the Town Centre Transition Sub-Zone** RD

Premises within the Town Centre Transition sub-zone licensed for the consumption of liquor on the premises between the hours of 11 pm and 8 am.

This rule shall not apply to the sale of liquor:

a. To any person who is residing (permanently or temporarily) on the premises and/or

b. To any person who is present on the premises for the purpose of dining up until 12 am.

Discretion is restricted to:

a. The scale of the activity

b. Effects on amenity (including that of adjoining residential zones and public reserves)

c. The provision of screening and/ or buffer areas between the site and adjoining residential zones

d. The configuration of activities within the building and site (e.g. outdoor seating, entrances)

e. Noise issues, and hours of operation.

6.5. Rule 12.4.6 Buildings- Rules 12.4.6.1 and 12.4.6.2

334. As notified these rules read:

12.4.6	**Buildings** 12.4.6.1. Buildings, including verandas, and any pedestrian link provided as part of the building/ development: * Discretion is restricted to consideration of all of the following: Consistency with the Queenstown Town Centre Design Guidelines (2015), where applicable; External appearance, including materials and colours; Signage platforms; Lighting; The impact of the building on the streetscape, heritage values, compatibility with adjoining buildings, the relationship to adjoining verandas; The contribution the building makes to the safety of the Town Centre through adherence to CPTED principles; The contribution the building makes to pedestrian flows; The provision of active street frontages and, where relevant, outdoor dining/patronage opportunities; and Where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: an assessment by a suitably qualified person is provided that addresses the nature and degree of risk the hazard(s) pose to people and property; whether the proposal will alter the risk to any site; and the extent to which such risk can be avoided or sufficiently mitigated. And, in addition; 12.4.6.2 In the Town Centre Transition subzone and on sites larger than 1800m², any application under this rule shall include application for approval of a structure plan in respect of the entire site and adherence with that approved plan in consequent applications under this rule. *In addition to those matters listed in rule 12.4.6.1 above, the Council's discretion is extended to also include consideration of the provision of and adherence with the structure plan including:	RD*

the location of buildings, services, loading, and storage areas;
the provision of open and/or public spaces; and
pedestrian, cycle, and vehicle linkages

335. These rules, as notified, provided the activity status for all buildings within the QTC.

336. NZIA[232] requested restricted discretionary activity status only apply to buildings that have been to the UDP, and otherwise full discretionary status apply. The reason given in the submission was that there needed to be some incentive to have all buildings in the QTC subject to review by the UDP.

337. For a number of reasons set out in her Section 42A Report, Ms Jones did not support this submission[233]. We agree with her.

338. The key reason we recommend rejecting this submission is that for such a rule to be effective some sort of pass/fail from the UDP would be needed. That outcome would determine status and we think giving this power to a third party of deciding activity status is inappropriate. It is Council's role to determine and provide for status of an activity within its district plan. Also, having a process involving the UDP, as the submitter seeks, would, we think extend the resource consenting process raising issues as to efficiency.

339. Several submitters[234] requested that notified Rule 12.4.6.1 be amended such that all buildings were controlled, rather than restricted discretionary.

340. Some of these submissions[235] sought to change the matters of control (assuming status was changed to controlled), limiting them to consideration of external building design and appearance in relation to streetscape character, building design in relation to adjoining pedestrian links listed in notified Rule 12.5.8, signage platforms, and lighting. The submitters contended that it was a more succinct approach yet captured all but the natural hazard issue and provided greater certainty and would impose less cost. There were further submissions both in support and in opposition.[236]

341. Ms Jones pointed out that in the ODP, buildings in the SCA are a restricted discretionary activity and buildings beyond this area are a controlled activity. She agreed with the reasoning within the Section 32 report[237] behind the decision to propose restricted discretionary activity status to all buildings in the QTC.

342. In summary, those reasons were that applying a restricted discretionary activity status to building(s) throughout the QTCZ[238] would:
a. provide greater certainty and be more effective at requiring consistency with the SCA Design Guidelines, which would enable the Council to ensure that the key character elements of the SCA were recognised and reflected in designs

232 Submission 238, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1242 FS1248,and FS1249
233 V Jones, Section 42A Report at [13.24]
234 Submissions 606, 609, 614, 617, 596, 398, 663 (opposed by FS1139 and FS1191), 672, 724, 574, and 616.
235 Submitters 663,672, and 724
236 Supported by FS1200 and opposed by FS1274, FS1063, FS1139, and FS1191
237 V Jones, Section 42A Report at p23-26.
238 ibid at [13.27].

b. be more effective at achieving quality architecture and urban design and enable poor design to be declined
c. result in economic benefits to applicants and a reduction in transaction costs (and therefore the overall development costs). This conclusion was based on the fact that, even if a non-notified restricted discretionary activity consent were more costly to obtain than a controlled consent, this was counteracted by removing or relaxing the bulk and location controls of the ODP, that have routinely triggered potentially notifiable restricted discretionary activity and non-complying consents
d. be more efficient from a District Plan drafting and administration perspective in that it would enable a single rule to be relied on to manage the design of building(s) rather than having different rules for the SCA and the rest of the QTCZ.

343. We agree with her reasons outlined above and agree Rule 12.4.6 should have Restricted Discretionary status and so recommend.

344. Ms Jones also noted that, in the past the Council has had considerable leverage to influence design and quality at resource consent stage due to breaches in standards including building coverage standards[239]. Consequently, she advised, very few buildings have actually been processed as controlled activities (i.e. for design control only).

345. From Ms Jones' own experience as the Council's 'Manager: Strategy and Planning' and as a member of the UDP, she was personally aware of a number of examples where the outcome was improved greatly through a process that did not occur with controlled activity resource consents.[240]

346. Ms Jones did note that requiring a restricted discretionary consent for all buildings and external alterations will create greater uncertainty and cost. However, in her view this was justified by the importance of the QTC and the risks to the environment and the economy from poor design outcomes.[241]

347. In addition, Ms Jones was of the view that the non-notification clause for restricted discretionary buildings would reduce uncertainty, cost, and time delays considerably; and the consent would likely be less onerous than ODP rules, which, she advised, routinely trigger non-complying consent status.[242]

348. Finally, she noted the lack of controlled activity applications being processed under the ODP meant there was no evidence of the adequacy of the ODP classification.[243]

349. Ms Jones considered that a relaxation of the bulk and location rules and a strengthening of design control in the manner recommended was the most appropriate method to achieve the objectives.[244] As such, no change to the notified Rule 12.4.6 relating to status was recommended in her view.

239 ibid at [13.28].
240 Ibid at [13.30].
241 Ibid at [13.31].
242 Ibid at [13.31].
243 Ibid at [13.31].
244 Ibid at [13.32].

350. Mr Church agreed with this approach as to status for similar reasons but primarily because the restricted discretionary status would allow assessment.[245]

351. Taking into account all of these matters advanced by Ms Jones, and the recommendations and opinions of Mr Church, we agree and recommend no change to activity status for notified Rule 12.4.6.

352. Downtown QT[246] sought to provide for "pop up" buildings and art works and sculptures by providing such activities permitted activity status. The "pop up" building could be utilised for retail, bar and street entertainment purposes. For the "pop up" buildings a six month time limit would apply. The submitter contended this outcome would enable a diversity of street life. The relief sought that the rule apply to the entire QTC, or other areas such as the Lake Esplanade. The submitter suggested regulation of such activities was also provided via bylaws. Providing this exemption would help further support entertainment which is very important to the local economy.

353. In her Section 42A Report, Ms Jones agreed the exceptions sought were appropriate.[247] She recommended 'Pop Ups and Art Works' be exempted from obtaining a resource consent in respect of design.[248] We agree for the reasons advanced by the submitter and recommend this part of the submission be accepted resulting in an amendment to the notified version of Rule 12.4.6.

354. The ORC[249] sought provision for unobstructed movement of high sided vehicles within the matters of consideration. Ms Jones signalled support for this outcome in her Section 42A Report.[250] We agree. Efficient movement of transportation is important for the QTCZ. We recommend inclusion of this matter of consideration.

355. Finally, in relation to the matters for consideration under this rule, two submitters[251] sought minor changes to the matters relating to Natural Hazards. We see them as non-substantive changes and recommend they be adopted as they assist the legibility of that part of the rule.

356. In her Reply, Ms Jones recommended the removal of the word "*remedied*" from the natural hazard matter, and its replacement with the word "*reduced*" so as to make this provision consistence with other PDP Chapters.[252] We agree that the matter of discretion needs to be amended, but we adopt the wording used by the Stream 6 Panel so that administratively, natural hazard matters of discretion are included, rather than assessment matters. We consider this a non-substantive change and recommend it be made under Clause 16(2).

357. Ms Jones also recommended inclusion of additional words to the first assessment matter in rule 12.4.6.1 to make it clear the Design Guidelines related only to the SCA.[253] We agree with those clarifications and recommend acceptance.

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245 Ibid at [13.29].
246 Submission 630, opposed by FS1043
247 V Jones, Section 42A Report at [13.60].
248 Ibid at [13.68-69].
249 Submission 798
250 V Jones, Section 42A Report at [13.52]
251 Submissions 621 and 798
252 V Jones, Reply Statement at [2.1f].
253 Ibid at [2.1e].

Notified Rule 12.4.6.2

358. Several submitters[254] sought the deletion of notified Rule 12.4.6.2 which required the provision of the structure plan for sites over 1800 m² in any area, or for any site within the TCTSZ. They contended the rule would not achieve efficient land use, would be inefficient as it would add additional consenting costs, and would be unnecessary given the control over building provided through rule 12.4.6.1.

359. Although not recorded in the body of her Section 42A Report, Ms Jones recommended to delete Rule 12.4.6.2 as it duplicated Rule 12.5.1.2. In her Reply she identified errors in her Section 42A Report.[255] She recorded that paragraph 14.1(a) should have stated "*that it is recommended to remove Rule 12.4.6.2 rather than amend it.*"[256]

360. While we discuss comprehensive development later,[257] we recommend deleting Rule 12.4.6.2, preferring instead Rule 12.5.1; in particular Rules 12.5.1.1 and 12.5.1.2.

361. Our recommended wording for Rule 12.4.6 is as follows, with our recommended amendments underlined or struck out:

12.4.6	**Buildings <u>except temporary 'pop up' buildings that are in place for no longer than 6 months and permanent and temporary outdoor art installations</u>** ~~12.4.6.1~~ Buildings, including verandas, and any pedestrian link provided as part of the building/ development: ~~*~~ Discretion is restricted to ~~consideration of all of the following~~: a. Consistency with the Queenstown Town Centre <u>Special Character Area</u> Design Guidelines (2015), <u>(noting that the guidelines apply only to the Special Character Area)</u>; ~~where applicable~~ b. External appearance, including materials and colours c. Signage platforms d. Lighting e. The impact of the building on the streetscape, heritage values, compatibility with adjoining buildings, the relationship to adjoining verandas f. The contribution the building makes to the safety of the Town Centre through adherence to CPTED principles The contribution the building makes to pedestrian flows and linkages <u>and to enabling the unobstructed kerbside movement of high-sided vehicles where applicable</u>	RD~~*~~

254 Submissions 398,574,663 (opposed by FS1139 and FS 1191)

255 Reply of Ms Jones at [13.1b].

256 Ibid.

257 Rule 12.5.1

	g. The provision of active street frontages and, where relevant, outdoor dining/patronage opportunities and h. Where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: i. The nature and degree of risk the hazard(s) pose to people and property ii. whether the proposal will alter the risk to any site; and ~~the extent to which~~ iii. whether such risk can be avoided or sufficiently ~~mitigated remedied~~ reduced. ~~And, in addition;~~ ~~14.4.6.2 In the Town Centre Transition subzone and on sites larger than 1800m², any application under this Rule 12.2.6.1 shall include application for approval of a structure plan in respect of the entire site and adherence with that approved plan in consequent applications under this rule.~~ ~~*In addition to those matters listed in rule 12.4.6.1 above, the Council's discretion is extended to also include consideration of the provision of and adherence with the structure plan including:~~ ~~the location of buildings, services, loading, and storage areas;~~ ~~the provision of open and/or public spaces; and~~ ~~pedestrian, cycle, and vehicle linkages~~	

6.6. Rule 12.4.7 Surface of Water and Interface Activities and Rule 12.4.8 Surface of Water and Interface Activities

362. As notified, this rule read:

12.4.7	**Surface of Water and Interface Activities** 12.4.7.1 Wharfs and Jetties within the Queenstown Town Centre Waterfront Zone between the Town Pier and St Omer Park. 12.4.7.2 Commercial Surface of Water Activities within the Queenstown Town Centre Waterfront Zone. In respect of the above activities, the Council's discretion is unlimited but it shall consider: The extent to which the proposal will: a. Create an exciting and vibrant waterfront which maximises the opportunities and attractions inherent in a visitor town situated on a lakeshore b. Provide a continuous waterfront walkway from Horne Creek right through to St Omer Park c. Maximise the ability to cater for commercial boating activities to an extent compatible with maintenance of environmental standards and the nature and scale of existing activities and d. Provide for or support the provision of one central facility in Queenstown Bay for boat refuelling, bilge pumping, sewage pumping. The extent to which any proposed structures or buildings will: a. Enclose views across Queenstown Bay; and b. Result in a loss of the generally open character of the Queenstown Bay and its interface with the land.	D

363. These rules and the related sub-rules received attention from Ms Jones within her Section 42A Report, her summary of evidence and finally within her Reply.

364. Her summary of evidence was prepared after she had reviewed the submitters' pre-circulated evidence. This meant she was able to both update her Section 42A Report and provide a response to some of the submitter evidence when she presented her Section 42A Report at the hearing. Later she was able to further address submitter evidence and submitter legal submissions and respond to our question within her reply. As we move through these rules from beginning to end we will identify the source of Ms Jones' suggested changes, be it her Section 42A Report, her evidence summary or her reply. We also provide discussion and comment on submissions, submitter evidence and submitter legal submissions in the sequence that they were presented.

6.7. Minor Drafting Amendments

365. Ms Jones also noticed in reviewing the chapter that, while the waterfront area is referred to as the Queenstown Town Centre Waterfront Subzone in Rule 12.4.2, it is incorrectly referred to as the Queenstown Waterfront Zone in Rules 12.4.7.1, 12.4.7.2, 12.4.8.1, 12.4.8.2 and 12.4.8.3.[258] She advised this was a drafting error and should be corrected for consistency.[259] She considered that this was a non-substantive change and would not affect the regulatory impact of the rule. Further she considered it would avoid any uncertainty that the QTCZ zone-wide provisions also apply to the QTCWSZ.[260] In her Section 42A Report, she recommended it be changed by including the word "sub" before the word "zone" as that word appeared throughout the rules.

366. Ms Jones recommended in her Reply, following consideration of questions from us at the hearing, amending the headings of both Rules 12.4.7 and 12.4.8 from simply "*Surface of Water and Interface Activities*', so that the headings more clearly reflect the content of each rule.[261] She proposed wording the headings as "*Wharfs and jetties, commercial surface of water activities, and moorings within the Queenstown Town Centre Waterfront Subzone."* [262]

367. We agree both with her amended wording and that the amendment is not substantive but would improve efficiency through increased legibility.[263] We recommend adoption of these heading changes to Rule 12.4.7 and Rule 12.4.8 for these reasons. In our view, the recommended heading links much more directly to the content of the amended rules than the previous heading.

6.8. Mapping Issues

368. Next, we address mapping issues in Rules 12.4.7.1, 12.4.7.2, 12.4.8.2 and 12.4.8.3. Two submitters[264] requested that the Queenstown Waterfront Subzone be reinstated on proposed planning maps 35 and 36 as shown in the ODP, and that the boundary be clarified particularly in relation to the boundary of St Omer Park. The submissions noted that the intention in the PDP was to retain this as per the ODP and to make no change other than to make it clearer on the planning maps. Queenstown Wharves[265] noted in particular that it appeared from the planning maps that St Omer Park extended further than the lines denoting where the non-complying status ended.

369. Ms Jones advised in her Section 42A Report that the omission of the St Omer Park boundary was a mapping error in the notified planning maps.[266] Due to the importance of the specific rules that apply to the waterfront subzone, she recommend that the boundary be reinstated on the planning maps as per the ODP and in the manner intended. Ms Jones said adding this subzone boundary, together with a consequential change to wording of Rule 12.4.7.1, which refers specifically to the St Omer Park boundary, should rectify the ambiguity (that as currently drafted, part of the park is within the waterfront zone and part of it is outside of it) identified by the submitter.[267]

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258 Section 42A Report of Ms Jones at [16.5].
259 V Jones, Section 42A Report at [16.5].
260 Ibid.
261 V Jones, Reply Statement at [5.2].
262 V Jones, Replay Statement, Appendix 1 at p 12-11.
263 V Jones, Reply Statement at [5.2].
264 Submissions 383 and 766
265 Submission 766
266 V Jones, Section 42A Report at [16.3]
267 Ibid.

370. Real Journeys Limited[268] sought Rule 12.4.7. and Rule 12.4.8 be amended to ensure that all areas referred to in the rules were accurately identified on the planning maps and that the maps be referred to in the rules. Ms Jones recommended[269] that the reference to "*as shown on the planning maps*" be included in Rules 12.4.7.1, 12.4.7.2, 12.4.8.2 and 12.4.8.3.

371. Also in response to Submission 621, Ms Jones recognised the wording amendment she advanced for Rule 12.4.7.1, relating to including reference to St Omer Park, within her Section 42A Report was redundant.

372. Within her summary of evidence and presentation at the hearing she recommended removal of the words "between the Town Pier " and "and Queenstown Gardens" as those words would be redundant, given her recommendation to amend Rule 12.4.7.1.

373. Ms Carter, for Queenstown Wharves[270], noted in her evidence that while Ms Jones's suggested amendments to Rule 12.4.7.1 were helpful, further clarification was required. She provided her Figure 1 to illustrate the three different areas that make up the QTCWSZ, namely the active Frontage, Queenstown beach and the Queenstown Gardens shoreline.[271]

374. Ms Carter described the characteristics of those areas in her evidence and opined that those areas each had a different set of values and resource management issues.[272] Ms Carter recommended that a plan clearly show the three different areas within the QTCWSZ, and that the objective and associated policies and rules be re-drafted to recognise the three areas that comprise the WSZ.[273]

375. Ms Jones[274] responded to Ms Carter's evidence by proposing amendments to the QTCZ purpose[275] to acknowledge the importance of the QTCWSZ; and by amending Policies 12.2.5.3 and 12.2.5.6 to provide more direction in terms of development within the QTWSZ; adding more detail on Planning Map 35 to more clearly distinguish between the *'active frontage'* and the *'Queenstown Beach and Gardens foreshore*' areas; and by making minor non-substantive amendments to Rules 12.4.7.1 by adding reference to "*active frontage area*" and to 12.4.8.1 to refer to the two areas, "*Queenstown beach and gardens foreshore area*" in the QTCWSZ.

376. In our view the points raised by the submitters[276], and evidence in support from Ms Carter, along with the recommendations of Ms Jones, all assist with better defining and identifying the QTCWSZ and the key elements within it compared to the notified provisions. The amendments arising from these two sources would add clarity and certainty to these rule provisions and we recommend their adoption.

377. In her Summary of Evidence, Ms Jones also recommended making moorings within the *'Queenstown beach and gardens foreshore area'* of the QTCWSZ a restricted discretionary

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268 Submission 621, supported by FS1115
269 V Jones, Section 42A Report at [16.4]. 87
270 Submission 766
271 J Carter, EiC at p6.
272 Ibid at [4.8].
273 Ibid at [4.9]
274 V Jones, Summary of Evidence, at paragraph 6(c)
275 Section 12.1
276 Submission 621,and 766

activity rather than permitted as in the notified version.[277] She reasoned that this would more effectively conserve the natural qualities and amenity values of the foreshore and adjoining waters, enable cumulative effects of such to be considered via resource consent, and be more consistent with the rules relating to moorings in the majority of the Frankton Arm.[278]

378. To include a new rule numbered 12.4.7.3 and the matters to which discretion would be restricted, Ms Jones provided a Section 32AA evaluation of her recommended amendments within her reply at Appendix 2.[279] Having reviewed that assessment we agree with it and adopt it for the purposes of our recommendations. We agree with her recommendation and the need and wording of new Rule 12.4.7.3. We consider the assessment matters for the new rule are appropriate. The new Rule 12.4.7.3 and its related discretionary assessment matters are set out in full below.

6.9. Matters of Discretion

379. Two submissions[280] sought expansion of the assessment matters in respect of Rules 12.4.7.1 and 12.4.7.2 when processing applications for wharfs, jetties and surface water activities. These matters were fully detailed in paragraphs 16.21 and 16.22 of Ms Jones Section 42A Report. They included provision of one central facility in Queenstown Bay for boat refuelling, bilge and sewage pumping, maintaining or enhancing public access to the lake, water quality, navigation and people's safety. Ms Jones considered inclusion of some of these further assessment matters as appropriate to more fully inform Council discretion when processing applications for wharves, jetties and commercial surface of water activities. We agree with Ms Jones and the submitters that the inclusion within the rules of these additional assessment matters is necessary to enable an appropriate assessment of activities in this zone.

380. The same submitters also sought to include a reference to Rules 12.4.7.1 and 12.4.7.2 at the commencement of those discretionary matters. This, we consider, clarifies the overall rule and assists with legibility, particularly because of the subsequent inclusion of new Rule 12.4.7.3 and the new matters of discretion relevant to that rule. We agree and also recommend inclusion of those matters of discretion that appear in the recommended version of the rule set out below.

381. Submission 810 sought a further additional matter of discretion be included, namely the extent to which any proposed wharfs and jetties would affect the values of wahi tupuna. Ms Jones in her Section 42A Report[281] noted this submission was considered in Hearing Stream 1A with the relevant Section 42A Report recommending the relief sought being rejected.

382. Ms Jones recommended inclusion of this matter of discretion.[282] Although she provided no explanation as to her recommendation, we agree with this inclusion. We consider that this matter of discretion would aid in achieving Objective 12.2.2 and Policy 12.2.2.7. Just as we support these provisions in recognising and providing for cultural heritage, we also acknowledge and support the rule that seeks to implement the overarching objective to contribute to the town's heritage and sense of place.

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277 V Jones, Summary of Evidence at [6d].
278 Ibid.
279 V Jones, Reply Statement at [5.6].
280 Submitter 621 and 810 FS 1115.5
281 V Jones, Section 42A at paragraph 16.21 on page 90
282 ibid at [16.23].

383. Within submissions, a number of other issues were raised, such as providing for maintenance of wharves and jetties[283] and that the status of activities for Rules 12.4.7.1 and 12.4.7.2 be amended from discretionary to controlled.[284] We do not support those submissions for the same reasons as set out in Ms Jones' Section 42A Report[285].

6.10. Other Submissions

384. Real Journeys Limited[286] and Te Anau Developments Limited[287] wanted all of the provisions relating to the protection, use and development of the surface of lakes and rivers and their margins to be inserted into a separate chapter. We consider that these provisions fit appropriately within this Chapter because of the relationship with the town centre. Retaining these provisions within the Chapter also aids in making the PDP more legible and giving these provisions a separate section would increase the volume of the PDP. For those reasons we recommend the submissions be rejected. This recommendation is consistent with that made by the Stream 2 Hearing Panel, where the same matter was raised.

385. Two submitters[288] requested the amendment of Rule 12.4.7 to enable certain buildings (e.g. ticket offices) while continuing to restrict other buildings (as non-complying), with Real Journeys Limited[289] suggesting the inclusion of a new restricted discretionary activity provision.

386. Glare and effect on navigation was discussed by Ms Black in her evidence for Real Journeys[290]. However, the focus of her evidence on glare was directed at notified Rule 12.5.14.1 which dealt specifically with glare.[291] Rule 12.4.7 is restricted in its application to wharves, jetties, commercial surface of water activities and moorings. The glare she was concerned about emanated from buildings activities and lighting located not on wharves and jetties, but from buildings, street lights and the like in the town centre.

387. In our view, this rule can only control glare for navigation purposes from wharves and jetties. Nevertheless, even accepting the limited ambit of the application of the rule and observing Council's discretion under the rule is unlimited, we note the matters of discretion would include navigation and people's safety. Thus, to a limited extent, the submitter's concerns can be dealt with in the rule.

388. Manoeuvring of TSS Earnslaw was also raised as an issue by Ms Black. She described the challenges the characteristics of the vessel caused in relation to manoeuvring it. In that regard, she supported the discretionary activity status of Rule 12.4.7 considering that the manoeuvring issues raised could be addressed when that rule was triggered.[292]

389. Also, Ms Black considered these manoeuvring challenges would be assisted by making all structures and moorings between the Town Pier and Queenstown Gardens a non-complying

283 Submissions 621 (supported by FS1115) and 766
284 Submissions 766 and 807.
285 at paragraph 16.19.
286 Submission 621
287 Submission 607
288 Submissions 621 and 766 (supported by FS1341)
289 Submission 621
290 Submission 621
291 F Black, EiC at [3.1].
292 F Black, EiC at [3.6].

activity so as to avoid a proliferation of such structures in this area.[293] Ms Jones recommended the status of moorings in this area be restricted discretionary and recommended the matters of discretion include whether the structure would cause an impediment to craft manoeuvring.

390. While Ms Jones' recommendation on status differs from the submitter's relief, we think Ms Jones' recommendation strikes an appropriate balance between the competing interests and provides an efficient and effective mechanism to address issues.

391. We think that Ms Jones' recommended Rule 12.4.7.3 will be more effective and efficient at implementing revised Objective 12.2.5 and the associated policies. This new rule provides greater certainty as to what is expected to occur in the Queenstown gardens and beach part of the QTCWSZ whilst accepting that in the main the QTCWSZ would provide a dynamic environment.

392. Finally, in addition to the recommendations in response to submitters concerns, Ms Jones recommended a non-substantive change for consistency and clarity. In her Reply, Ms Jones[294] recommended amending the assessment matters by replacing the assessment matter commencing *'the extent to which any proposed structures or buildings…*' to '*the extent to which any proposed wharfs and jetties…*'. This, she said, would make this rule consistent with the fact that the rule only relates to wharfs and jetties.[295]

393. She noted[296] that any other buildings in the QTCWSZ are not subject to this rule but are, in fact, non-complying (under Rule 12.4.8.2) or restricted discretionary (under Rule 12.4.6). While not substantive, this minor amendment would, she said, improve efficiency by removing the existing conflict within the rule and thereby avoiding potential confusion. We agree.

Rule 12.4.8.2

394. Notified Rule 12.4.8.2 provided that any buildings located on wharves and jetties within the QTCWSZ were non-complying.

395. In addition to the restricted discretionary rule sought, Submission 621 sought to amend Rule 12.4.8.2 as follows:

Any buildings and structures, located on Wharfs and Jetties within the Queenstown Town Centre Waterfront Zone, which are not provided for by Rule 12.4.7.

396. Queenstown Wharves[297] sought to delete the non-complying activity rule for buildings located on jetties and wharves. Queenstown Wharves submitted that the effects from buildings could be adequately managed by Rule 12.4.7.1.

397. The submission also suggested that if the rule were to be retained, then it should be amended to exclude provision of buildings that are for the purpose of providing water based public transport facilities.

293 Ibid at [3.9].
294 V Jones, Reply Statement at [5.1].
295 Ibid.
296 Ibid.
297 Submission 766, supported by FS1341.15

398. Ms Jones did not consider that this would achieve the objectives of the PDP.[298] In her opinion, buildings on wharfs and jetties within the QTCWS specified in Rule 12.4.8 would have the potential to have a significant effect on views, natural qualities, amenity, and pedestrian flows/accessibility in the waterfront subzone. Also, she advised that there was ample commercial capacity within the QTCZ adjacent to subzone for buildings in which ticketing and the like could occur. She did not recommend any change in this regard.[299]

399. Submitters[300] raised the need to provide, in this part of the PDP, specific policies and rules for the provision of public transport. We agree with Ms Jones that this is a matter better dealt with in the context of the Transport Chapter and recommend those submissions be rejected.

400. In our view, redrafted Rule 12.4.7 in combination with Rule 12.4.8 would be more effective and efficient in achieving Objective 12.2.5 and associated policies. We accept that the QTCWSZ will provide a dynamic and vibrant area, but at the same time this rule provides certainty as to what is expected to occur in this area by outlining matters that will be considered in decision-making.

401. Buildings or structures in this area have the potential to impact on the views, natural qualities, amenity and accessibility of the QTCWSZ. The wording of the rule means that effects on the natural qualities of the Queenstown gardens and beach area and the views from both will be considered and conserved to a degree. Further understanding what is anticipated in the area provides some certainty also to the Earnslaw and other boating activity, that the area will be relatively free of obstacles, such as permanently moored craft.

402. In conclusion, for all of the reasons expressed above we recommend that Rules 12.4.7 and 12.4.8 be adopted in the form set out below.

298 V Jones, Section 42A Report at [16.26].

299 Ibid at [16.26].

300 Parts of submissions 766.2, 798.54, FS1341.1, FS1341.3 and FS1341.25, FS1342.16, 766.3, 766.5, 766.7, 766.33, FS1341.4, and FS1341.6, and 807.81 and 807.82 .

12.4.7	**Wharfs and jetties, commercial surface of water activities, and moorings within the Queenstown Town Centre Waterfront Subzone** 12.4.7.1 Wharfs and Jetties within the 'active frontage area' of the Queenstown Town Centre Waterfront subzone as shown on the planning maps; 12.4.7.2 Commercial Surface of Water Activities within the Queenstown Town Centre Waterfront Subzone, as shown on the planning maps. In respect of 12.4.7.1 and 12.4.7.2, the Council's discretion is unlimited but it shall consider the extent to which the proposal will: a. Create an exciting and vibrant waterfront which maximises the opportunities and attractions inherent in a visitor town situated on a lakeshore b. Maintain a continuous waterfront walkway from Horne Creek right through to St Omer Park c. Maximise the ability to cater for commercial boating activities to an extent compatible with maintenance of environmental standards and the nature and scale of existing activities d. Provide for or support the provision of one central facility in Queenstown Bay for boat refuelling, bilge pumping, sewage pumping e. Maintain or enhance public access to the lake and amenity values including character and f. Affect water quality, navigation and people's safety, and adjoining infrastructure; g. The extent to which any proposed wharfs and jetties structures or buildings will: i. Enclose views across Queenstown Bay and ii. Result in a loss of the generally open character of the Queenstown Bay and its interface with the land iii. Affect the values of wahi tupuna	D

	12.4.7.3 Moorings within the 'Queenstown beach and gardens foreshore area' of the Queenstown Town Centre Waterfront Subzone (as shown on the planning maps). In respect of 12.4.7.3, discretion is restricted to: a. Whether they are dominant or obtrusive elements in the shore scape or lake view, particularly when viewed from any public place, including whether they are situated in natural bays and not headlands b. Whether the structure causes an impediment to craft manoeuvring and using shore waters c. The degree to which the structure will diminish the recreational experience of people using public areas around the shoreline d. The effects associated with congestion and clutter around the shoreline. Including whether the structure contributes to an adverse cumulative effect e. Whether the structure will be used by a number and range of people and craft, including the general public f. The degree to which the structure would be compatible with landscape and amenity values, including colour, materials, design.	*RD*
12.4.8	**Wharfs and jetties, buildings on wharfs and jetties, and the use of buildings or boating craft for accommodation within the Queenstown Town Centre Waterfront Subzone** 12.4.8.1 Wharfs and Jetties within the 'Queenstown beach and gardens foreshore area' of the Queenstown Town Centre Waterfront Sub-Zone (as shown on the planning maps). 12.4.8.2 Any buildings located on Wharfs and Jetties within the Queenstown Town Centre Waterfront Sub-Zone, as shown on the planning maps; 12.4.8.3 Buildings or boating craft within the Queenstown Town Centre Waterfront Sub-Zone if used for visitor, residential or overnight accommodation, as shown on the planning maps.	*NC*

6.11. Rule 12.4.9 Industrial Activities at Ground Floor Level
Rule 12.4.10 Factory Farming
Rule 12.4.11 Forestry Activities
Rule 12.4.12 Mining Activities
Rule 12.4.13 Airports other than the use of land and water for emergency landings, rescues and firefighting
Rule 12.4.14 Panel beating, spray painting, motor vehicle repair or dismantling, fibre glassing, sheet metal work, bottle or scrap storage, motor body building
Rule 12.4.15 Fish or meat processing (excluding that which is ancillary to a retail premises such as a butcher, fishmonger or supermarket)
Rule 12.4.16 Any activity requiring an Offensive Trade Licence under the Health Act 1956.

403. Notified Rules 12.4.9 to 12.4.16 were not the subject of direct submissions but were subject to those submissions[301] requesting that all provisions not otherwise submitted on be retained as notified unless they duplicate other provisions, in which case they should be deleted.

404. We agree with the recommendation contained in Ms Jones' Section 42A Report that those seeking the provisions be confirmed in part or in whole are recommended to be accepted in part.[302]

405. Taking a broader view, in particular having regard to the desired purpose of the objectives and policies, we conclude that the activity status which is either non-complying or prohibited provided for by this group of rules is appropriate. This is because having provision for any of the activities provided for within this group of rules within the QTC would not achieve the desired purpose or the outcomes sought by the objectives and policies of the PDP.

7. 12.5 RULES – STANDARDS

7.1. Rule 12.5.1 Building Coverage in the Town Centre Transition subzone and comprehensive development of sites 1800m² or greater

406. As notified, this rule read:

12.5.1	**Building coverage in the Town Centre Transition subzone and comprehensive developments of sites 1800m² or greater** 12.5.1.1 In the Town Centre Transition subzone or for any comprehensive development of sites greater than 1800m², the maximum building coverage shall be 75%. primarily for the purpose of providing pedestrian links, open spaces, outdoor dining, and well planned storage and loading/ servicing areas within the development. Note: While there is no maximum coverage rule elsewhere in the Town Centre, this does not suggest that 100% building coverage is necessarily anticipated on all sites as setbacks, outdoor storage areas, and pedestrian linkages might be required.	RD*

301 Submissions 672, 663, 212 (supported by FS1117)
302 V Jones, Section 42A Report at [18.15].

	12.5.1.2 Any application for development within the Town Centre Transition Subzone or on a site 1800m² or greater shall be accompanied by a comprehensive Structure Plan for an area of at least 1800m². *In regard to rules 12.5.1.1 and 12.5.1.2, discretion is restricted to consideration of all of the following: a. The adequate provision of pedestrian links, open spaces, outdoor dining opportunities b. The adequate provision of storage and loading/ servicing areas c. The site layout and location of buildings, public access to the buildings, and landscaping, particularly in relation to how the layout of buildings and open space interfaces with the street edge and any adjoining public places and how it protects and provides for view shafts, taking into account the need for active street frontages, compatibility with the character and scale of nearby residential zones, and the amenity and safety of adjoining public spaces and designated sites.	

407. This rule deals with two matters:
   a. Rule 12.2.5.1 provided for a maximum building coverage of 75% for sites in the Town Centre Transition Subzone, or for any development on a site greater than 1800m².
   b. Rule 12.2.5.2 stated the need to provide a comprehensive Structure Plan when undertaking development in the Town Centre Transition Subzone, or for any development on a site greater than 1800m².

408. The maximum building coverage as notified for these described sites was 75%. Any activity that breached the 75% maximum coverage would be a restricted discretionary activity. The matters of discretion to consider related to how well the building fitted into its surrounds and in particular public access to the building.

409. By way of context the ODP provided differing building coverage percentages for differing precincts ranging from 95% to 70%. The ODP did not use a structure plan/comprehensive development approach based on site size.

410. There were several submissions received on Rule 12.5.1, both with respect to the 1800m² as the trigger site area and also the 75% maximum coverage percentage.

411. Seven submitters[303] sought to remove all controls over site coverage for the majority of the QTCZ. NZIA submitted to request that development over 80% of a site in the QTCZ be a discretionary activity.

412. Redson Holdings Ltd[304] submitted in support of the notified rule, on the proviso that there would be no restrictive site coverage provisions within the wider QTCZ on sites smaller than 1800m². The submitter owned a site in Beach Street which has an area of 555m².

303 Submissions 491, 596, 606, 609, 614, 616 and 650.

304 Submission 491, opposed by FS1236

413. IHG Queenstown Ltd and Carter Queenstown Ltd[305] submitted requesting that the 75% coverage only apply to the QTCT Subzone, and not to sites over 1800m². The submitter did not consider such a restriction would promote the efficient use of land in the QTCZ.

414. NZIA[306] requested that all development beyond 80% of a site be discretionary to allow for permeability and connections to be made through the sites. Further NZIA noted in its submission that this would align with that sought in Wanaka township.

415. Ms Jones advised that in her view it was still appropriate to enable 100% site coverage through the QTCZ, except in relation to large comprehensive developments and in the TCTZ.[307] (our emphasis added). She based this opinion on the Section 32 Evaluation Report[308] and Mr Church's evidence.[309] She said although there may be some times where there is benefit in providing some unbuilt private or semi-public space, she considered these opportunities would be rare in the heart of the QTC.[310] Rather, she was of the view that on balance the environmental and economic costs associated with imposing the site coverage rule on all sites would outweigh any benefits.[311]

416. As such, she recommended retaining the maximum site coverage rule with some amendments as follows.

7.2. 75% Maximum Coverage

417. Ms Jones explained how the 75% maximum coverage rule was determined. In summary:[312]

a. She considered the building coverage in the comprehensive development in the Marine Parade/Church/ Earl/ Camp Street block[313] at 75% and the building coverage provided within the post office precinct development at 67% to be good examples of comprehensively planned developments;
b. If the recommended viewshafts on the Man Street carpark block were developed as open space (as recommended in her Section 42A Report) then the building coverage would be 72%;
c. Development within the PC50 area is subject to maximum coverage rules of 70-80% in the respective Lakeview and Isle Street subzones.

418. Ms Jones said that, in the absence of evidence to the contrary, she considered that retaining the 75% maximum coverage requirement was appropriate.[314] She noted that if this 75% coverage were exceeded, then the activity status would be restricted discretionary and that would not preclude proposals from being considered on a case by case basis.[315] She further noted that this would avoid almost all resource consents in the Town Centre from having to obtain a resource consent, which was the case with the ODP.[316]

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305 Submission 663, opposed by FS1139 and FS1191
306 Submission 238, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248 and FS1249
307 V Jones, Section 42A Report at [14.4].
308 Section 32 Evaluation Report, namely at p18-19.
309 T Church, EiC, at [17.1-17.11]
310 V Jones, Section 42A Report at [14.4].
311 Ibid.
312 ibid at [14.9].
313 RM000902
314 V Jones, Section 42A Report at [14.10].
315 Ibid.
316 Ibid.

419. Relying on the aforementioned NZIA[317] submission for scope, Ms Jones recommended reducing the site size triggering the 75% maximum coverage rule to 1400m^2. The NZIA submission sought all sites to be subject to an 80% coverage. That would mean all sites would be subject to a maximum site coverage restriction. As such, Ms Jones relied on that to provide scope to recommend reducing the site size that would trigger the maximum restriction in order to enable the rule to apply to more sites.

420. Ms Jones' recommendation was informed by the expert evidence of Mr Church. Ms Jones sought Mr Church's opinion as to whether the notified 75% site coverage and Structure Plan requirement for comprehensive developments was appropriate.[318]

421. In his evidence, Mr Church referred to the same comprehensive developments as Ms Jones.[319] He said his understanding was that the 75% building coverage threshold was based on the recent Church Street and Ngai Tahu Courthouse developments.[320] In his view, those developments represented good urban design outcomes for comprehensive development within the context of the town centre.[321]

7.3. Reducing the site area trigger to 1400m²

422. Basing his opinion on an analysis of contiguous property across the town centre he considered the 1800m² threshold should be reduced to 1400m².[322] He included in his Appendix 1 a comparison of the QTCZ to show the likely additional sites captured by this reduction, based on current property configurations.

423. Mr Church was of the view, that a 1400m² threshold would capture a better range of larger sites where there was potential for redevelopment that could contain multiple buildings, laneways, open spaces and comprehensive car parking and servicing solutions.[323]

424. Ms Jones also asked Mr Church if the proposed removal of any maximum coverage rules from the Town Centre (other than large sites/Transition area) would be appropriate.[324]

425. In his evidence, Mr Church noted that the QTC is the most intensive urban form in the District. Based on his experience, it was his view that areas of intensification typically transfer on-site amenity and some services into the public realm.[325] He noted that Queenstown was no exception and he considered that there was a resulting heavy reliance on public amenity in the town centre, including good quality streetscape with street trees, and landscaped open spaces.[326] He further noted that views to the natural landscape beyond substitute for on-site landscape and amenity and provide critical visual relief within the town centre.[327]

317 Submission 238
318 T Church, EiC at [14.2].
319 Ibid at [14.3-14.5].
320 Ibid at [14.5].
321 Ibid.
322 Ibid at [14.6].
323 T Church, EiC at [14.6].
324 Ibid at [17.2].
325 Ibid at [17.3-17.4]
326 Ibid at [17.4].
327 Ibid.

426. In summary, Mr Church supported the removal of site coverage across the whole town centre and suggested 75% coverage be consistently applied to sites over the 1,400m² threshold and delivered as part of the Comprehensive Development Plan.[328]

427. Ms Jones, for her part, considered her re-draft of Rule 12.5.1, as per her Section 42A Report, would more effectively implement the outcomes sought by Objectives 12.2.2 and 12.2.4 and provide complementary support to Rules 12.4.6.2 and 12.5.8.

428. At the hearing several submitters presented evidence regarding site coverage.

429. Mr Richard Staniland[329] gave examples on behalf of Skyline Enterprises Limited[330] in relation to the O'Connells Pavilion site. Based on these examples of economic loss, it was his opinion the proposal to reduce the site size trigger from 1800 m² to 1400 m² should be rejected.

430. Mr Williams[331] agreed that the largest sites should be considered comprehensively with matters including mid-block connections, grain of development and massing becoming more important on those larger development sites.

431. It was his opinion that reducing the site size trigger to 1400 m² would represent an inefficient use of the town centre land resource and, moreover, it was not necessary to choose this trigger point to manage the potential effects the rule sought to manage.[332]

432. Mr Williams was of the view that the main driver of the comprehensive development rule and accompanying site coverage rules was to encourage additional lanes and pedestrian links and/or view shafts.[333] He noted that because the planning framework sought to identify pedestrian links within plan provisions and to protect them, that outcome needed to be taken into consideration when determining whether or not the 1400 m² site size trigger was actually required.[334] In other words, in his view, the outcome sought was already available via other plan provisions.

7.4. Scope for Amendments

433. Mr Todd, legal counsel for MSPL[335], submitted that there was no scope for Ms Jones' recommended coverage changes to Rule 12.5.1. Mr Todd pointed out that the relief sought by NZIA was that all development in excess of 80% of the site should be a discretionary activity. Therefore he questioned how this could justify a more restrictive rule whereby all development on sites over 1400 m² would have a maximum site coverage of 75%.

434. Ms Jones relied on the submission by NZIA[336] for scope for her recommended changes particularly to site size. Ms Jones considered the submission was couched in a zone –wide manner, presumably linked to the QTCZ, and provided a "reasonable argument"[337] that it provided scope to amend the notified coverage rule 12.5.1.

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328 Ibid at [17.11].
329 R Staniland, EiC at [4-8].
330 Submission 574.
331 T Williams, EiC at paragraphs 42-50 page10
332 Ibid at [45].
333 Ibid at [47].
334 Ibid.
335 Submission 398
336 Submission 238
337 V Jones Section 42A Report, at Paragraph 14.8 page 81

435. Ms Scott, in the Council's legal submissions in reply, pointed out the NZIA further submission sought an 80% coverage rule for all sites rather than being limited to only those sites in the town centre transition sub-zone and sites over 1800 m².

436. Ms Scott argued that the changes recommended by Ms Jones, principally in her Section 42A Report, also had the same effect of the NZIA submission of capturing more sites within the rule. However, she pointed out that Ms Jones took a different route to do so, being the reduction in the site size trigger to 1400 m² as distinct from 80% of site coverage across all sites as utilised by NZIA.

437. Ms Jones, in her Reply Statement, pointed out that in so far as Mr Todd's clients were concerned, the ODP already provided a 95% coverage rule for the O'Connell site with part of the site being subject to an 80% coverage rule.[338] Therefore, she said, her proposed rule would not represent a change from a permitted 100% coverage for the site. She made similar points for the Stratton House site, noting that a pedestrian link was offered and accepted within a resource consent in lieu of height breaches.

438. Ms Jones revisited Rule 12.5.1.1 in her Reply and suggested two alternatives, particularly if we found her suggested amendments were not in scope.

439. The first being to amend building coverage limit to 80% as sought by NZIA; or, alternatively, apply the 75% coverage as recommended in her Section 42A Report but limit its application only to sites over 1800 m².

440. We need to decide if reducing the site size to 1400m^2 would be within scope, and if necessary whether the alternatives raised in Ms Jones' Reply of either 80% site coverage or 75% coverage and a site size trigger for a structure plan at 1800m^2 would be within scope.

441. Certainly the NZIA further submission has some clarity issues. However, of the two competing arguments on scope we prefer the view of Ms Jones and Ms Scott over that of Mr Todd. In our view Mr Todd has taken a more limited and literal interpretation of the NZIA submission.

442. We think Ms Jones and Ms Scott are correct in that the effect of the NZIA submission would be to catch more sites, just as there would be more sites caught, albeit a lesser number than that caught by the NZIA submission, if the site size trigger were reduced to 1400m^2. We conclude there is scope for Ms Jones' recommendations.

443. Moving to consider the options presented to us by Ms Jones, she had, within her Section 42A Report, extensively outlined her support for a 75% threshold. Further she was in support of enabling 100% site coverage on smaller sites throughout the QTCZ. Changing to 80% of all sites seemed to us to be at odds with this earlier view. Also, increasing the allowable site coverage size even by a small amount did not seem to us to support Objectives 12.2.2 and 12.2.4 nor support Rules 12.4.6.2 and 12.5.8. We also consider adopting a site size trigger of 1400m^2 as opposed to the notified 1800m^2 better supports those same objectives and related rules.

444. Further, we are not convinced that smaller sites should be subjected to a maximum site coverage of 80%. We agree with Ms Jones and consider that in order to provide the most

338 V Jones, Rely Statement at [4.2].

efficient use of land in the QTCZ there should be no site coverage rules, for those sites under the 1400m² threshold.

445. For these reasons we recommend the NZIA further submission be accepted in part and the site coverage be 75% and the site size trigger be set at 1400m². We recommend rejecting those submissions that sought to increase the site coverage to 80% or retain the threshold at 1800m².

7.5. Matters of Discretion

446. Several submitters[339] sought to include additional points within the final matter of discretion. Those additional points related to listed heritage items and heritage precincts as well as consideration of shading and wind effects.

447. In her Section 42A Report, Ms Jones recommended including these in the matters of discretion. We agree. These are relevant considerations for development and recognise the importance of the QTC heritage and also recognise and provide for amenity effects on neighbouring sites from shading and wind.

448. We recommend these submissions are accepted and the additional points are included.

7.6. Rule 12.5.1.2

449. This Rule as notified required that any site to which Rule 12.5.1.2 applied should be accompanied by a comprehensive Structure Plan. Mr Church considered that based on his experience of structure planning and preparing the guidance for these, there are considerable benefits to RMA matters.[340] Referring to the Quality Planning website, he summarised these as the ability to:[341]

a. provide integrated management of complex environmental issues
b. coordinate the staging of development over time
c. ensure co-ordinated and compatible patterns and intensities of development across parcels of land in different ownership, and between existing and proposed areas of development and redevelopment
d. provide certainty regarding the layout and character of development
e. ensure that new development achieves good urban design outcomes by defining the layout, pattern, density and character of new development and transportation networks and
f. complement other tools such as urban design guides.

450. Mr Church noted that in some instances, namely greenfield or broad urban areas these structure planning processes can be significant undertakings.[342] However, both Ms Jones and Mr Church considered that the intention of the rule was not to be onerous for applicants, but rather to ensure that a "*well-considered, master planned approach is followed resulting in a plan that is carefully integrated into the town centre and surrounding context*."[343]

451. Mr Church supported this approach with one recommendation to rename the term from *'Structure Plan'* to a *'Comprehensive Development Plan'* or similar to better describe its

339 Submissions 59, 82, 206, 417, 599 and 621.
340 T Church, EiC at [14.10].
341 Ibid.
342 Ibid at [14.11].
343 T Church, EiC at [14.11].

purpose.[344] He also recommended the Council provided further guidance outside the Plan regarding the expected review process, required content of an application and interpretation of the matters of discretion, to give more certainty to future applicants.[345]

452. We recommend renaming this term as suggested by Mr Church. We also recommend that the Council consider Mr Church's recommendation to provide guidance to applicants outside of the Plan.

7.7. Minor Amendments

453. There are a number of consequential changes to the first assessment matter to include the words "*cycle* and *vehicle* and *lanes*." This change comes about as a consequence of Ms Jones' recommendation to remove Rule 12.4.6.2.

454. The next change recommended by Ms Jones within her Reply Statement related to shifting the words *"the provision of open space within the site, for outdoor dining or other purposes:"* from within paragraph 12.5.1.2 to the list of matters informing the exercise of the discretion. We agree and recommend that change because it enhances the clarity of the rule.

455. In her Reply Statement, Ms Jones also recommended that the definition of "comprehensive development" as she enhanced it be moved to Rule 12.3.2.3. We have discussed this earlier and recommend the definition sit in Chapter 2.

456. Finally, we have identified a drafting issue with this rule. Rule 12.5.1.1 states that the maximum building coverage in the two instances discussed shall be 75%. Non-compliance is stated to be restricted discretionary and matters of discretion are listed.

457. Rule 12.5.1.2 requires that in the same two instances, a Comprehensive Development Plan is to be provided, irrespective of the maximum building coverage proposed, and non-compliance is also a restricted discretionary activity subject to the same matters of discretion. Ms Jones' recommended amendments included the statement that the Comprehensive Development Plan is "*of sufficient detail to enable the matters of discretion listed below to be fully considered*". That implies that the Comprehensive Development Plan is a necessary part of any restricted discretionary consent application, however, if the proposal involves building coverage less than 75%, the lodgement of such a plan would satisfy the standard and no consent would be required. On the other hand, failure to lodge such a plan would equally require a restricted discretionary consent application and be tested against the same matters of discretion that the plan was supposed to enable full consideration of.

458. In our view, the only practical solution to this is to delete the words quoted above, noting that such a deletion is the only amendment within the scope of the submissions. However, it seems to us that the intention was to require Comprehensive Development Plans to be subject to some form of consent, whether in every development proposal on these sites, or only when the 75% coverage limit was breached. We recommend the Council review this rule, firstly determining whether it is setting a standard or an activity, then drafting a rule that achieves the outcome desired.

459. Taking all of the above into account we recommend Rule 12.5.1 be adopted as set out below:

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344 Ibid at [14.12].

345 Ibid at [14.14].

12.5.1	**Maximum building coverage in the Town Centre Transition Sub-Zone and in relation to comprehensive developments** 12.5.1.1 In the Town Centre Transition Sub-Zone or when undertaking a comprehensive development (as defined), the maximum building coverage shall be 75%. Advice note: While there is no maximum coverage rule elsewhere in the Town Centre, this does not suggest that 100% building coverage is necessarily anticipated on all sites as outdoor storage areas, and pedestrian linkages might be required. 12.5.1.2 Any application for building within the Town Centre Transition Sub-Zone or for a comprehensive development (as defined) shall include a Comprehensive Development Plan that covers the entire development area.	RD Discretion is restricted to: a. The adequate provision of cycle, vehicle, and pedestrian links and lanes, open spaces, outdoor dining opportunities b. The adequate provision of storage and loading/ servicing areas c. The provision of open space within the site, for outdoor dining or other purposes d. The site layout and location of buildings, public access to the buildings, and landscaping, particularly in relation to how the layout of buildings and open space interfaces with the street edge and any adjoining public places and how it protects and provides for view shafts, taking into account the need for active street frontages, compatibility with the character and scale of nearby residential zones, listed heritage items, and heritage precincts, and the amenity and safety of adjoining public spaces and designated sites, including shading and wind effects.

7.8. Rule 12.5.2 Street Scene - building setbacks

460. As notified Rule 12.5.2 provided for a minimum setback of 0.8 m for buildings on the north side of Beach Street and 1 m for buildings on the south side of Beach Street. Any non-compliance with these setbacks was a restricted discretionary activity with the matters of discretion being the effects on overall streetscape.

461. Several submitters[346] sought the removal or alteration of the setbacks on both sides of Beach Street. These submitters considered that the rule would limit the efficient use of a scarce resource and would place significant limits on development potential without any identifiable benefits[347]. They further considered that a suitable design could be achieved without arbitrarily imposing any additional bulk and location controls, and that imposing additional setbacks would not reflect the positive effects that the existing varied setbacks of the buildings have on the streetscape.

346 Submissions 383,606 (opposed by 1063),616.617

347 See Submission 616 and V Jones, Section 42A Report at [14.16].

462. Having considered the submitter's position, Ms Jones[348] noted the most compelling reason for retaining the setbacks was that on the north-side of Beach Street they provided an indirect way of achieving two-storey buildings with 7 m high facades and a parapet at the stipulated height or within the recession plane and with minimal effect on sunlight access. However, she concluded that the setbacks on Beach Street were not the most appropriate method of achieving Objectives 12.2.2 and 12.2.4.

463. In reaching that view she relied on the evidence of Ms Gillies and Mr Church. Ms Gillies, in her evidence[349], was very clear that because of the historic character of the heritage streetscape in Beach Street, which did not include setbacks from the street boundary, she did not support setbacks. She did observe that the ODP included a requirement for setbacks but explained that setbacks were an urban design theory designed to produce a varied frontage resulting in the visual interest and varied experiences.[350] However, she pointed out that this was a modern theory and did not relate to historic streetscape design as existed in Precinct P5.[351]

464. Mr Church expressed the view that he could see no urban design rationale for the Beach Street setbacks being retained, other than providing additional sunlight access to the street.[352] He was of the view that sunlight access could be addressed through the use of facade heights and recession planes.

465. Further, Mr Church noted Beach Street was now pedestrianised and therefore he saw no real merit in having the street any wider for other functions such as vehicle accessibility.[353] We assumed he did not see benefit in encouraging on-site outdoor dining. More importantly, we thought, he noted the intimacy of Beach Street without setbacks added to the character of the town centre, and it was one of the few narrow streets remaining from the early morphology of the town.[354]

466. Mr Church considered stepped or uneven building setbacks were not a characteristic that predominated across the SCA. He supported Ms Gillies' view and recommended removing the provision of the 0.8 m to 1.0 m setbacks on Beach Street in combination with appropriate facade height and recession plane controls to avoid any significant loss of sunlight to the Street.[355]

467. We note that Mr Williams, who had been engaged by submitters[356] with an interest in the Beach Street set back issue, supported Ms Jones' recommendation to remove the setback requirements for buildings on Beach Street. It was his view that those setbacks did not serve any real benefit to the built form outcomes and placed a constraint on efficient development of sites along Beach Street[357].

348 V Jones, Section 42A Report at [14.21].
349 J Gillies, EiC at [10.1-10.3]
350 Ibid at [10.2].
351 J Gillies, EiC at [10.2].
352 T Church, EiC at [18.1 to 18.7]
353 Ibid at [18.4].
354 Ibid at [18.5].
355 Ibid at [18.7].
356 Submission 616
357 T Williams, EiC at [15].

468. Appended to her Section 42A Report, Ms Jones undertook a Section 32AA evaluation of dispensing with the street scene setback rules for Beach Street.[358] Having considered that evaluation we accept it and adopt it.

469. Essentially for the reasons advanced by Ms Jones, Ms Gillies, Mr Church and Mr Williams, we agree that the notified Rule 12.5.2 applying to Beach Street should be deleted because it is not the most appropriate method of achieving Objectives 12.2.2 and 12.2.4.

470. We recommend the deletion of Rule 12.5.2 in its entirety.

7.9. Rule 12.5.3 Waste and Recycling Storage Space

471. This rule did not attract submissions. The only changes we recommend to it are the non-substantive minor changes to reference to the matters of discretion, consistent with the approach taken elsewhere in the PDP.

472. We recommend Rule 12.5.2 be worded as follows:

12.5.2	**Waste and Recycling Storage Space** 12.5.2.1 Offices shall provide a minimum of 2.6m³ of waste and recycling storage (bin capacity) and minimum 8m² floor area for every 1,000m² gross floor space, or part thereof. 12.5.2.2 Retail activities shall provide a minimum of 5m³ of waste and recycling storage (bin capacity) and minimum 15m² floor area for every 1,000m² gross floor space, or part thereof. 12.5.2.3 Food and beverage outlets shall provide a minimum of 1.5m³ (bin capacity) and 5m² floor area of waste and recycling storage per 20 dining spaces, or part thereof. 12.5.2.4 Residential and Visitor Accommodation activities shall provide a minimum of 80 litres of waste and recycling storage per bedroom, or part thereof.	RD Discretion is restricted to: a. The adequacy of the area, dimensions, design, and location of the space allocated, such that it is of an adequate size, can be easily cleaned, and is accessible to the waste collection contractor, such that it need not be put out on the kerb for collection. The storage area needs to be designed around the type(s) of bin to be used to provide a practicable arrangement. The area needs to be easily cleaned and sanitised, potentially including a foul floor gully trap for wash down and spills of waste.

[358] V Jones, Section 42A Report, Appendix 4, at p7.

7.10. Rule 12.5.4 Screening of Storage Space

473. This notified rule is carried over from the ODP. The rule attracted submissions[359] seeking changes. In essence the notified rule required that all storage areas on sites with frontage to certain streets be located within a building, or otherwise, be screened.

474. Real Journeys[360] sought to amend the rule to clarify that temporary storage of equipment on the wharf being transported via a vessel is either permitted or exempt from the rule. The submitter also sought to amend the rule to include a permitted rule allowing for storage of rubbish provided it was screened from neighbouring properties and public places.

475. IHG Queenstown Ltd and Carter Queenstown Ltd[361] requested that notified Rule 12.5.4.1 be deleted and that notified rule 12.5.4.2 should be applied to all sites in the zone. This would mean that storage areas would either be situated within the building or screened from view from all public places, adjoining sites including adjoining zones.

476. Ms Jones expressed the view that notified Rule 12.5.4.1 would not apply to the storage of goods on wharves as this rule only applied to sites that have frontage to Beach Street.[362] In other words, frontage to Beach Street (or one of the other streets listed) was required to trigger notified Rule 12.5.4.1. Goods stored on the wharf were controlled by notified Rule 12.4.3.

477. In relation to Submission 663, Ms Jones observed that the wording of notified Rules 12.5.4.1 and 12.5.4.2 had been carried over from the ODP but simplified to remove reference to street names and instead apply to the whole of the SCA. Also she ultimately agreed it was somewhat irrelevant whether the storage was within a building or within a well screened outdoor area.[363] She concluded, and we agree, that relaxing notified Rule 12.5.4.2 to enable this alternative of screening without the need for the storage to be within a building would simplify the rule and provide for a greater range of suitable storage options.

478. Ms Jones had also expressed a concern that allowing outdoor storage areas could cause adverse visual effects and crime related effects.[364] To address this concern, she recommended adding a further matter of discretion to the redraft rule relating to CPTED principles. She considered the addition of this further matter of discretion to be a consequential amendment of removing the need for storage to be within a building as required by notified Rule 12.5.4.1

479. In summary, Ms Jones recommended [365] removing notified Rule 12.5.4.1 and applying redrafted Rule 12.5.4.2 to all parts of the QTCZ, as well as adding a further matter of discretion to the redraft rule relating to CPTED principles.

480. We note that this redraft negates, to a degree, Ms Jones' comments that this rule would not apply to goods stored on the wharf. In our view, using the term "storage area" implies a permanent storage arrangement, not the temporary location of goods while they are waiting to be loaded onto a boat.

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359 Submissions 621 and 663 (opposed by FS1191, FS1139)
360 Submission 621
361 Submission 663, opposed by FS1139 and FS1191
362 V Jones, Section 42A Report at [13.46].
363 Ibid at [13.49]
364 Ibid.
365 ibid at [13.50].

481. We have considered Ms Jones' Section 32AA assessment in relation to her recommendation described above and we agree with it for the reasons she provides. Having greater flexibility for storage options provided they are well screened is a sensible outcome and preferred over the notified Rule.

482. Accordingly we recommend Rule 12.5.4 be renumbered and amended to read:

12.5.3	***Screening of Storage Areas*** *Storage areas shall be situated within a building or screened from view from all public places, adjoining sites and adjoining zones.*	*RD* *Discretion is restricted to:* *a. Effects on visual amenity* *b. Consistency with the character of the locality* *c. Effects on human safety in terms of CPTED principles and* *d. Whether pedestrian and vehicle access is compromised.*

7.11. Rule 12.5.5 Verandas

483. As notified, Rule 12.5.5 required all new, reconstructed or altered buildings with frontage to listed roads to provide a veranda or other means of weather protection. Non-compliance with this required consent as a restricted discretionary activity.

484. This rule attracted a single submission[366] that requested that buildings along Hay Street need not provide a veranda. Ms Jones explained the merit of requiring a veranda on Hay Street because it would provide an increasingly important pedestrian link to the Lakeview sub-zone. However, she also acknowledged that for practical reasons, namely the steepness of Hay Street, provision of verandas were impractical.[367] She also noted that there was no requirement to provide verandas in the Isle Street or Lakeview Town Centre sub-zone beyond Hay Street. Finally because an all-weather pedestrian link already exists through the centre of the Man Street block, she recommended Submission 663 be accepted so that the requirement to provide a veranda on Hay Street be deleted from notified Rule 12.5.5.1.

485. We agree with that reasoning and accordingly recommend that the rule be adopted subject to deletion of Hay Street from the list of streets where verandas are to be provided, and renumbered as 12.5.4.1.

486. The ORC[368] raised the issue of verandas potentially interfering with high-sided vehicles, in relation to notified Rule 12.5.5.2. We have discussed this issue earlier in relation to notified Rule 12.4.6.1. We are satisfied that with the amendment we are recommending to Rule 12.4.6.1, no change is necessary to this rule in response to this submission.

487. Consequently, we recommend the rule be renumbered as Rule 12.5.4, and be adopted as follows:

366 Submission 663, opposed by FS1139 and 1191

367 V Jones, Section 42A Report at [13.51].

368 Submission 798.

12.5.4	**Verandas** 12.5.4.1 Every new, reconstructed or altered building (excluding repainting) with frontage to the roads listed below shall include a veranda or other means of weather protection. a. Shotover Street (Stanley Street to Hay Street) b. Beach Street c. Rees Street d. Camp Street (Church Street to Man Street) e. Brecon Street (Man Street to Shotover Street) f. Church Street (north west side) g. Queenstown Mall (Ballarat Street) h. Athol Street i. Stanley Street (Coronation Drive to Memorial Street). 12.5.4.2 Verandas shall be no higher than 3m above pavement level and no verandas on the north side of a public place or road shall extend over that space by more than 2m and those verandas on the south side of roads shall not extend over the space by more than 3m.	RD Discretion is restricted to: a. Consistency of the proposal and the Queenstown Town Centre Design Guidelines (2015) where applicable and b. Effects on pedestrian amenity, the human scale of the built form, and on historic heritage values.

7.12. Rule 12.5.6 Residential Activities

488. There were no submissions on this rule. The only changes we recommend to it are renumbering it as Rule 12.5.5 and those formatting changes required for consistency with the approach we have taken through the PDP. Apart from those changes, which are shown in Appendix 1, we recommend the rule be adopted as notified.

7.13. Rule 12.5.7 Flood Risk

489. There were no submissions on this rule. We recommend it be renumbering as Rule 12.5.6 and rewording the standard to make it clearer. We recommend no changes to the matters of discretion. We recommend the standard read:

No building greater than 20m^2 with a ground floor level less than RL 312.0 masl shall be relocated to a site, or constructed on a site, within this zone.

7.14. Rule 12.5.8 Provision of Pedestrian Links

490. As notified, Rule 12.5.8 dealt with the provision of pedestrian links for any new buildings or building development in sites identified by the rule, both in Figure 1 and listed. Where the required link was not proposed, then the rule required consent as a restricted discretionary activity.

491. The NZIA submission[369] sought recognition of the importance of pedestrian links, particularly those that are open to the sky. Other submitters sought revisions to the pedestrian link map, complaining the link map was of an insufficient size that only detailed existing pedestrian linkages. They also suggested the map should include future linkages and encompass the Gorge Road retail area and the expanded town centre.

492. Peter Fleming[370] sought that the pedestrian link map include legal descriptions on sites over which pedestrian links were provided. Tweed Developments Limited[371] considered that the notified Rule 12.5.8 and Figure 1 should also include pedestrian connections provided as a result of covenants and agreements between the Council and property owners.

493. Ms Gillies[372] expressed the view that the pedestrian links were possibly a feature unique to the Queenstown town centre. She noted some have direct links to the town centre's historic beginnings while others are much more recent in time. Some were open to the sky. In her view, the character of the existing pedestrian links was varied.

494. Ms Gillies was very clear in her opinion that any existing pedestrian links should be retained.[373] She was less certain on whether or not new links should be open to the sky or closed. She agreed Figure 1 (showing the existing pedestrian links) was inaccurate and should be updated.[374] She supported new pedestrian links being encouraged as part of new developments. However, she did not think intended or proposed links should be shown on the PDP maps.[375] She considered that new links should evolve from an assessment of the relevant site and after careful regard of design issues arising.

495. Mr Church[376] supported Ms Gillie's opinion on the amendments and additions to the identified pedestrian links plan.[377] He supported the approach of a network of pedestrian links being maintained and enhanced through the targeted notified Rule 12.5.8.1.[378]

496. Mr Church also did not support potential future pedestrian links being included on the identified pedestrian links plan.[379] He, however, noted that recording those potential future links would have the benefit of potentially expanding the pedestrian link network across the

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369 Submission 238, supported by FS1368, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, and FS1249

370 Submission 599

371 Submission 617

372 J Gillies, EiC at [11.3 - 11.5].

373 Ibid at [11.2]

374 Ibid at [11.4]

375 ibid at [11.5].

376 T Church, EiC at paragraphs 15.1 to 15.3

377 Ibid at [15.6].

378 Ibid.

379 Ibid at [15.8].

town centre which would lead, he said, to positive urban design outcomes.[380] In his opinion it was preferred that provision of those potential future pedestrian links be reviewed more holistically with other parts of the movement and open space networks and be incorporated into non-statutory guidance, such as a revised town centre strategy or preparation of a streetscape framework.[381]

497. Essentially Mr Church supported identification of potential alignment of lanes through both non-statutory documents and the use of ongoing restricted discretionary applications for comprehensive development plans, site coverage and building rules to achieve identification.

498. He was also of the opinion that utilising pedestrian links and other types of open space as an incentive to fulfilling restricted discretionary or non-complying planning requirements was appropriate.[382] Overall he considered this halfway house where Council identified potential alignment of lanes early through non-statutory documents and then utilised the resource consenting process, provided an appropriate balance between anticipated outcomes and provided flexibility around exact alignment for future applicants.[383]

499. In Mr Church's view, the benefits of lanes being open to the sky would be that it would allow the narrow width of the lane to feel more spacious and allow the users to remain in touch with changes in the external environment and activities.[384] Being open to the sky would also allow connection with the surrounding natural and cultural landscape.

500. However, he also recognised that there was a place for covered lanes, bridging lanes and/or arcades, particularly in larger scale buildings with larger floor plates.[385] Overall, he was of the view that any new pedestrian link should be established as a lane that was open to the sky and with a minimum width of some 4 m.[386]

501. Following consideration of the submissions and the expert evidence of Ms Gillies and Mr Church, Ms Jones made a number of recommendations:[387]
    a. Correction of the notified pedestrian link map, Figure 1, so as to improve the map, accurately capture related legal descriptions, and ensure that all formal existing laneways in pedestrian links were included;
    b. The pedestrian link map be referred to in notified Rule 12.5.8 but the actual map be inserted at the end of Chapter 12;
    c. Future potent links and laneways not be included on the pedestrian link map in the PDP;
    d. Provision of links and laneways when consenting the buildings, or when development plans and building coverage applications were being considered. She agreed with Mr Church that it was appropriate that future links should be shown on documents such as the Queenstown Town Centre Strategy (2009), which document could be taken into account when consents were sought;
    e. Amending notified Policy 12.2.2.5 (b) to specify that where such links or laneways were being offered as a trade-off for height, then those laneways should be open to the sky. She noted that this could also include the uncovering and restoration of Horne Creek;

380 Ibid.
381 Ibid at [15.8].
382 Ibid at [15.10].
383 Ibid at [15.10].
384 ibid at [15.14].
385 Ibid at [15.16-15.17].
386 Ibid at [15.17].
387 V Jones, Section 42A Report at [13.56].

f. Amending notified Rule 12.5.8 to clarify that where existing lanes and links were open to the sky, then they were to remain so. Also, if provided as part of a redevelopment of the site, lanes would be a minimum of 4 m wide, but where the existing link was covered then when the site is redeveloped it could remain covered but be at least 1.8 m wide;
g. The pedestrian link map should not be extended beyond the town centre because to do so would be beyond the scope of Chapter 12;
h. It was unnecessary to include text in the PDP recognising covenants or the such like because the existence of such a covenant was available as a consequence of a title search and further, the rules specify connections only need be in a general location as distinct from a specific location. (In relation to the submission by Tweed Developments Limited[388]).

502. Ms Jones considered it was preferable for lanes and links to be open to the sky.[389] However, she recognised that existing use rights make such an outcome unrealistic, particularly in relation to existing links.[390] Further, she considered if the nature and scale of the development with an existing link was changing then it could be opened to the sky.[391] She observed, however, that the fine grain of the SCA could limit the suitability of wider mid-block lanes in that area and narrower pedestrian lanes, even those not open to the sky made an important contribution to the town centre character.[392]

503. Overall, Ms Jones was of the view that, provided any redevelopment of those existing lanes was of a high quality, and importantly the CPTED principles were adhered to, then those narrower closed lanes could continue to make a positive contribution in the town centre.[393] However, she was of the view that the narrower closed lanes should not be replicated in any new development areas on the periphery of the town centre where the scale of the grid and built form differs and where lanes of the sort provided in the Church Street and Post Office precincts were much more suited.[394]

504. Mr Williams, appearing for several submitters[395], accepted the desirability of providing pedestrian links but was concerned about the economic implications for the affected landowners of providing protection for those pedestrian links.

505. He referred us to the evidence of Mr Staniland and Mr Johnston for illustrations of the significance of the financial impact of providing pedestrian links.

506. Mr Johnston[396] made the point that a rule requiring a pedestrian link would not only greatly diminish potential future design flexibility and earning capability in the form of rental income but would be effectively a designation.[397] He added that it would strip Trojan Holding Limited of its development rights, with that company, not the designating authority, having to bear financial responsibility for the pedestrian link.[398] Mr Todd elaborated on this point in his legal submissions which we will return to later.

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388 Submission 617
389 V Jones, Section 42A Report at [13.57].
390 Ibid.
391 Ibid.
392 Ibid.
393 Ibid.
394 Ibid.
395 Submissions 398, 596, 606, 609. 616 and 617.
396 On behalf of Trojan Holdings Limited
397 N Johnston, EiC at [8].
398 Ibid.

507. Mr Staniland[399] was concerned that the PDP sought to formalise pedestrian links within the Skyline Arcade building. He explained that informal pedestrian access was provided as part of the development of the Arcade Building when it was erected many years ago.[400]

508. It was his opinion and concern that it was unfair for the Council to impose a penalty in the form of a de facto designation of a pedestrian link on the submitter because future development options would be reduced as would rental returns.[401] Also, because this was a de facto designation SEL would not be able to obtain compensation as would usually be the case from the designating authority.[402] He wished to see the pedestrian links proposal for the QTCZ rejected.

509. Mr Williams was concerned that while Objective 12.2.2.5 identified the potential to enable additional height, it only made reference to connections or pedestrian links if they were uncovered.[403] He noted, insofar as his clients were concerned, the Skyline Arcade and the link through Stratton House are covered.[404] He observed that those connections gave rise to a significant financial cost to development but under the objective as worded there did not appear to be methods to offset this cost or loss. As he put it, because the policy did not provide additional height when the proposed pedestrian link was covered, he considered the provision of a covered link should also enable consideration of offsets.[405]

510. Mr Williams also considered that, given the financial cost of providing a pedestrian link through a building, some regard should be had to already established existing pedestrian links.[406]

511. As an example he drew attention to the link through Stratton House, noting that link was within 15 m of another lane which provided connection from Beach Street to Cow Lane.[407] He also considered the PDP needed to recognise the significant financial cost of providing links and provide methods to compensate for this loss.[408]

512. Mr Todd, for these submitters[409], identified for us that those submitters had voluntarily provided pedestrian walkways. He identified two such pedestrian walkways within the Trojan Holdings and Beach Street Holdings Limited building known as Stratton House located between the Beach Street and Cow Lane and the other being within the Skyline Arcade between Cow Lane and the Mall.[410]

513. In essence, Mr Todd's clients' concern was the PDP[411] seeking to provide for the formalisation, the retention and, in some cases, enhancement to these pedestrian links and others, through various properties in the Queenstown Town Centre.[412] As we understood Mr Todd's

399 On behalf of Skyline Enterprises Limited.
400 R Staniland, EiC at [12].
401 Ibid.
402 Ibid.
403 T Williams, EiC at [53].
404 Ibid.
405 Ibid.
406 ibid at [54].
407 Ibid.
408 Ibid at [55].
409 Submitters 1238, 1239, 1241, 1248 and FS606, 609 and 616.
410 Synopsis of Legal Submissions of Mr Todd at [3].
411 Suggested in the Section 42A Report.
412 Synopsis of Legal Submissions of Mr Todd at [1].

submission, identification of those pedestrian links on the pedestrian link plan amounted to the formalisation he was concerned with.

514. Mr Todd submitted that the proposal to include in the PDP rules requiring such linkages was in effect the imposition of *de facto* designations.[413] Moreover, the Council had not taken any financial responsibility or indeed offered any compensation for the offsetting of such links.[414] This was exacerbated by the resultant potential loss of land available for development and subsequently leasing.

515. He further submitted that such a proposal was repugnant to sound resource management practice where no compensation or incentive was offered to the affected parties in return for something for which the public would benefit.[415] He further noted that it would be wrong to think that the Council was doing nothing more than formalising what was in existence through promoting this rule.[416]

516. Mr Todd submitted that it would be wrong for the Council to seek to take advantage of what is a public benefit from a developer who has chosen to provide a pedestrian link in a particular design of a building.[417] He referred to the Environment Court case of *Thurlow Consulting Engineers and Surveyors Ltd v Auckland City Council*[418] where the Court found it would be inappropriate to provide for what was effectively a designation over land providing for the identification of a future road without the Council using its designation powers to take the land and compensate the land owner.[419]

517. Within her Reply Statement, Ms Jones carried over many of the amendments to notified Rule 12.5.7 she recommended within her original Section 42A Report. The additional changes she recommended were matters of clarification, and we consider all of her further recommended changes provided certainty and clarity.

518. We find ourselves in agreement with her recommendations primarily for the reasons she advanced within her Section 42A Report. We agree with her that correctly referring to the location of existing pedestrian links with the QTC is important. We agree with the amendments she has made to correctly identify the location of these existing pedestrian links.

519. As to the submitters' concerns that including existing pedestrian links on Figure 1 within the PDP would amount to a *de facto* designation without providing them access to compensation, we find that we disagree.

520. We prefer the approach taken by Ms Scott in her legal submissions in reply[420]. We agree that the case relied upon by Mr Todd is capable of being distinguished. We also agree that the *Thurlow* case is not about the Court refusing to uphold a rule only because it was a *de facto* designation. More correctly, the Court refused to uphold the rule because of uncertain wording of the rule.

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413 Ibid at [4].
414 Ibid.
415 Ibid.
416 ibid at [5].
417 Ibid.
418 [2001] NZEnvC 82 (substantive) and [2001] NZEnvC 97 (costs)
419 Synopsis of Legal Submissions of Mr Todd at [6].
420 Legal Submissions in Reply of Mr Winchester at [5.13 to 5.17]

521. None of the uncertainty evident in the *Thurlow* case exists here. There is no uncertainty about the location of the existing pedestrian links. As we read the rules, it is clear that if a pedestrian link is not provided, resource consent will be required but that the link needs to be in the general rather than the exact location shown as per the Reply version of Rule 12.5.8.1.

522. Also, we think it clear from the advice note included in the rule that where an alternative link is proposed, as part of the resource consent application, which is not on the development site but achieves the same or better outcome, then that is likely to be considered appropriate.

523. There was no evidence presented to us that the pedestrian links require a designation. We accept Ms Scott's submission that the plan provisions for pedestrian links can be compared to other built form standards and requirements. Also, provided these plan rules are related to achieving the purpose of the Act, they can be included in a district plan as a standard as they have been in this case. We think the evidence of the submitters, as well as Mr Todd's submissions, ignore the fact that provision of new pedestrian links could result in gains for a resource consent applicant through additional height.

524. In conclusion, it is our view that the submitters' concerns about *de facto* designations and alternative nearby pedestrian links not being properly taken into account, are unfounded.

525. Accordingly, we recommend that the changes to notified Rule 12.5.8, renumbered 12.5.7, as set out below be adopted for the reasons we have set out above.

12.5.7	**Provision of Pedestrian Links and lanes** 12.5.7.1 All new buildings and building redevelopments located on sites which are identified for pedestrian links or lanes in Figure 1 (at the end of this chapter) shall provide a ground level pedestrian link or lane in the general location shown. 12.5.7.2 Where a pedestrian link or lane required by Rule 12.5.8.1 is open to the public during retailing hours the Council will consider off-setting any such area against development levies and car parking requirements. 12.5.7.3 Where an existing lane or link identified in Figure 1 is uncovered then, as part of any new building or redevelopment of the site, it shall remain uncovered and shall be a minimum of 4m wide and where an existing link is covered then it may remain covered and shall be at least 1.8 m wide, with an average minimum width of 2.5m. 12.5.7.4 In all cases, lanes and links shall be open to the public during all retailing hours.	RD Where the required link is not proposed as part of development, discretion is restricted to: a. The adverse effects on the pedestrian environment, connectivity, legibility, and Town Centre character from not providing the link.

	Location of Pedestrian Links within the Queenstown Town Centre. a. Shotover St/ Beach St, Lot 2 DP 11098~~,~~ Lot 3 DP 11098 b. Trustbank Arcade (Shotover St/ Beach St), Lot 1 DP 11098, Pt Sec 23 Bk VI Tn of Queenstown c. Plaza Arcade, Shotover St/ Beach St, Lot 1 DP 17661 d. Cow Lane/ Beach Street, Sec 30 Blk I Tn of Queenstown e. Cow Lane/ Beach Street, Lot 1 DP 25042 f. Cow lane/ Ballarat Street, Lot 2 DP 19416 g. Ballarat St/ Searle Lane, Sec 22 & Pt Sec 23 Blk II Tn of Queenstown h. Ballarat Street/ Searle Lane, part of the Searle Lane land parcel i. Church St/ Earl St, Lot 1 DP 27486 j. Searle Lane/ Church St, Lot 100 DP 303504 k. Camp/ Stanley St, post office precinct, Lot 2 DP 416867 l. Camp/ Athol St, Lot 1 DP 20875. Advice Notes: a. Where an uncovered pedestrian link or lane (i.e. open to the sky) is provided in accordance with this rule, additional building height may be appropriate pursuant to Policies 12.2.2.4 and 12.2.2.5. b. Where an alternative link is proposed as part of the application, which is not on the development site but achieves the same or a better outcome then this is likely to be considered appropriate.	

7.15. Height Rules

Height - General

526. As notified, the QTCZ introduced the concept of mapped height precincts as a clearer way of applying different heights to the various parts of the QTC than the approach taken in the ODP.

527. The two notified Rules, 12.5.9 and 12.5.10, dealt not only with height for the various precincts, but included recession line controls. The discretionary height controls for Precincts 1 and 1A were included within notified Rule 12.5.9.1, and the recession line controls for Precinct 1A were in Rule 12.5.9.2. Non-compliance with these rules required consent as a restricted discretionary activity.

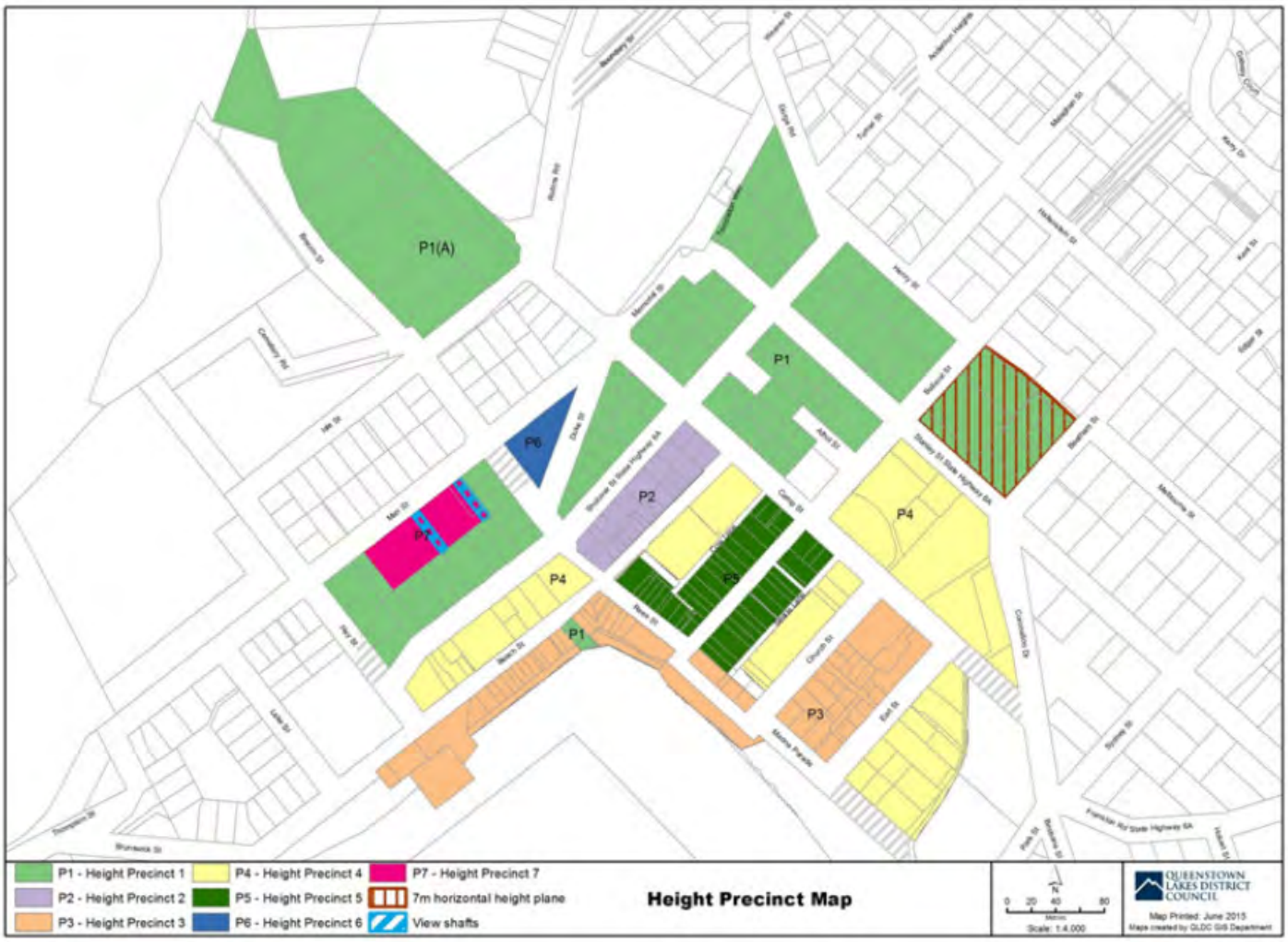
528. Notified Rule 12.5.10 included horizontal and recession plane line rules for Precincts 1, 2, 3, 4, 5, 6. This rule also provided view shaft rules for Precinct 7. We will return to these recession control sub-rules when we discuss each precinct. Rule 12.5.10 also set what was referred to in the rule as an "absolute" height limit in Precinct 1, and maximum height limits in all other parts of the QTC. Non-compliance with Rule 12.5.10 required consent as a non-complying activity.

529. Rules 12.5.9 and 12.5.10 both referred to the Height Precinct Map, Figure 2, which identified the height precincts and their locations. We will refer to this throughout our report as Figure 2, and identify which version we refer to. In addition to this, we include Figure 2 in the following discussion in order to aid the reader in understanding how the height precincts and rules evolved through the hearing process.

530. Christine Byrch[421] neither supported nor opposed notified Figure 2 and therefore we recommend this submission be rejected.

531. Notified Figure 2 was included in Chapter 12 as follows:

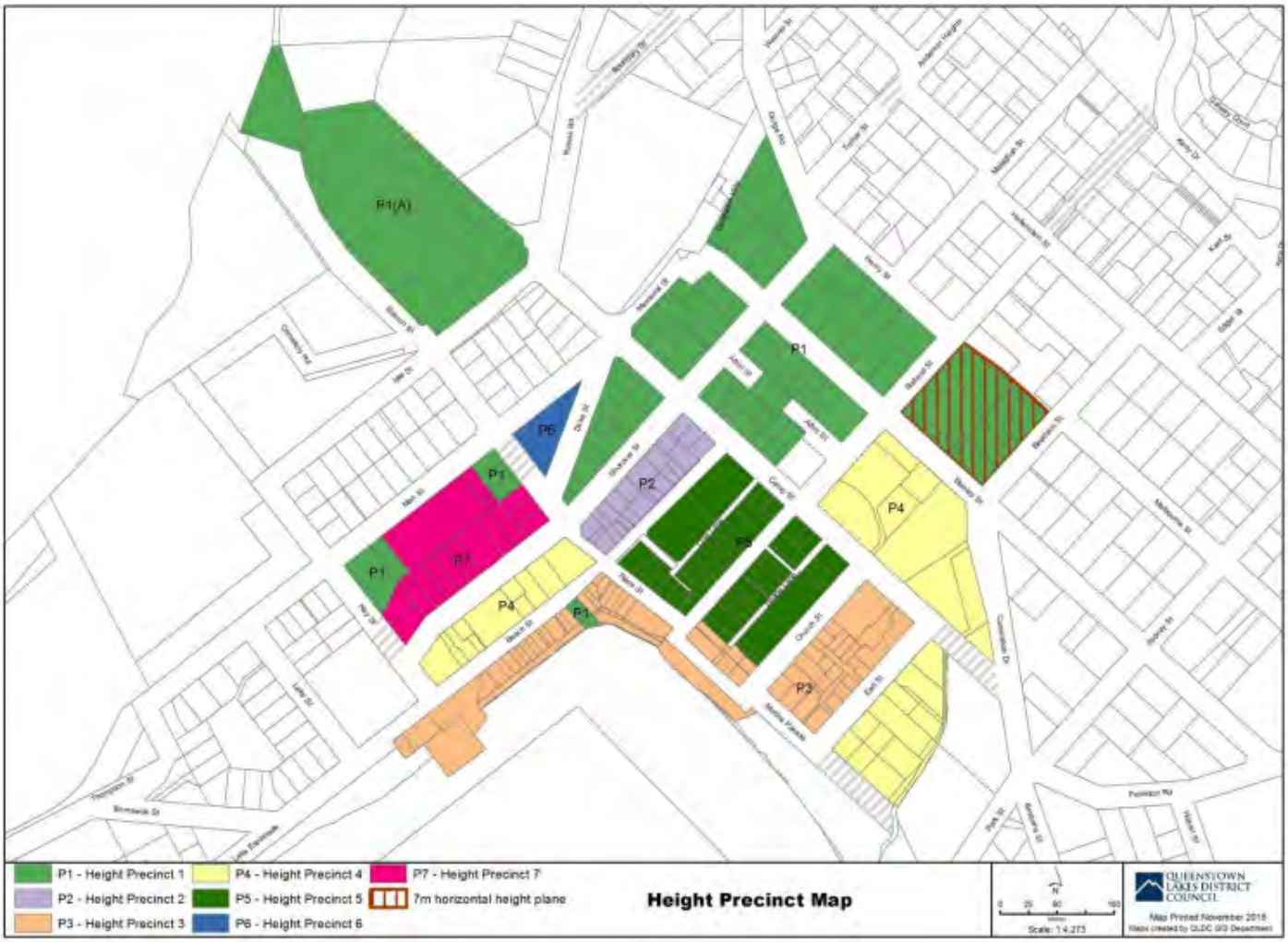
[421] Submission 243, opposed by FS1224



532. While out of chronological order, we note here the version of Figure 2 attached to Ms Jones Section 42A Report was inserted by error. Prior to the hearing, by memorandum of 8 November 2016, a version of Figure 2 consistent with the recommendations in her Section 42A Report, was circulated to all participants. That Map contained the following amendments to the Precincts:

a. Precinct 7 was extended down to Shotover Street to include the majority of the Man/Hay/Shotover/Brecon Street Block
b. Precinct 5 was extended to include those parts of the south side of Upper Beach Street and the North side of Church Street, which were shown as Precinct 4 in the notified version
c. That part of Precinct 3 between the Mall and Church Street was extended north-east to include the adjacent sites.

533. The 8 November 2016 version of Figure 2 (S42A Figure 2) was as follows:



Background to the Notified Height Rules

534. Before we discuss the submissions, we provide some background to the notified provisions, utilising the information in Ms Jones' Section 42A Report. Building height within the QTCZ was one of the principal issues in the Chapter 12 hearings and as such we think it important to provide a full discussion to aid in understanding the rules and the recommendations we make to amend the height rules.

535. Within her Section 42A Report, Ms Jones[422] helpfully included a table setting out a comparison between the ODP and PDP height rules for Precincts 1 to 7 and buildings on wharves.[423] She also identified if there were submissions on the changes to the various precincts.

536. Ms Jones summarised[424] the effect of the notified rules in the PDP, and we repeat that summary here:

a. Permitted heights in Precinct 1/ Precinct 1A were increased by virtue of the fact that the recession plane rule had been removed and buildings between 12m and 14m (15/ 15.5m on identified sites) were restricted discretionary rather than non-complying. However, given the 4 story maximum rule, the amount of additional floor space/ mass provided for

422 at Issue 2

423 V Jones, Section 42A Report at p 24-26.

424 Ibid at [10.20].

by the rules was unlikely to change significantly. Of significance, Precinct 1 sites adjacent to the proposed Precinct 7 were no longer subject to a horizontal plane rule

b. Permitted heights in Precinct 2 were increased along the Shotover Street frontage and a minor (0.5 m) height increase had been provided along the Beach Street frontage in order to achieve better design while minimising shading effects
c. The rules relating to Precinct 5, Precinct 6, and buildings on wharves/ jetties were unchanged and no submitter opposed those
d. Two large developed areas which were previously subject to restrictive (character-based) recession plane rules were now included in Precinct 4
e. In Precinct 7, the maximum height enabled was set at 11 m above the existing concrete slab (created by the underground carpark), which meant the height enabled a consistent building height across the site that was higher than under the ODP in some parts of the site, and possibly lower in others.

537. As to the reasons for the changes between the ODP and PDP in relation to height, Ms Jones referred us to the Monitoring Report for the town centre.[425] She identified that between 2004 and 2011 there were a sizeable number of resource consent applications seeking to obtain consent for over-height buildings.[426] Ms Jones also gave us a summary of development in the QTC over the last 17 years based on her own knowledge.[427] Whilst she advised this was not an exhaustive list, we found it helpful to gain an appreciation of the extent of resource consents obtained for recently constructed buildings.[428] She concluded that very few buildings managed to be designed within the ODP height rules and as such the emerging character of the town centre did not reflect those rules.[429]

538. Ms Jones further concluded that the height rules within the ODP were not efficient and did not provide any certainty or direction as to what level or extent of height breaches would be appropriate and why.[430] Further, she went on to say that the ODP rules did not accurately reflect the existing character/environment. The PDP rules proposed were, she advised, a more accurate reflection of the bulk and form evolving, particularly in Precinct 1, over recent years via non-complying resource consent applications[431].

539. Ms Jones set out in detail the shade modelling[432] used to test the extent of additional shading under various height scenarios so as to inform the ultimate height level rules within the PDP. She noted that the model provided an indication of the outcome that could be expected in terms of bulk and mass of buildings relative to street widths, adjacent buildings and open spaces.[433]

540. In the case of Precinct 7 and the surrounding Precinct 1 sites (the Man Street Block), Ms Jones told us that the effects that the various height scenarios could have on visual amenity, architectural outcomes, economic viability, and public and private views within the zone were also able to be considered utilising the model.[434]

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425 Ibid at [10.21].
426 Ibid.
427 Ibid.
428 ibid at [10.21].
429 Ibid at [10.22].
430 Ibid at [10.22a].
431 Ibid at [10.22b].
432 Undertaken by the QLDC IT Department in 2014 using CityEngine software.
433 V Jones, Section 42A Report at [10.23].
434 Ibid.

541. Ms Jones noted that, for all areas, other than Precinct 1A, the existing built environment was included in the model.[435] This provided a useful context in terms of the existing use rights/receiving environment of the town centre. It also demonstrated how extensively the buildings encroached beyond the ODP permitted heights.

542. For the precincts where Ms Jones recommended change, or submitters sought change, we utilised the results of the modelling to help us determine which outcome in terms of height was to be preferred. In some instances, where height had been specifically opposed by submitters, snap shots of various scenarios were created, enabling better evaluation of options. These snap shots were attached to Mr Church's evidence[436].

Shade Modelling

543. Ms Jones described the methodology, assumptions and limitations of the model.[437] She also detailed[438] how the model had been utilised for the purpose of considering submissions on the notified chapter. She described for us the dates chosen for modelling and reasons why.[439] Two dates were modelled: lunchtime on 11 July and 11 August, lunchtime being a busy time for pedestrians and diners wishing to eat outside. The July date fell within the winter peak season and coincided with New Zealand and Australian school holidays. She also provided specific details relating to the Man Street Block assessment methodology.

544. Ms Jones identified those submitters[440] who had lodged general submissions in relation to the height rules either seeking significantly higher heights, or opposing building height increases. Her response to those general submissions was that she considered, in principle, building height could be increased beyond those in the ODP in some parts of the town centre in order to achieve the objectives of a high quality urban design, character, heritage values and sense of place for the town centre.[441]

Policy Context for Consideration

545. Before turning to consider the height precincts we remind ourselves the policy settings focus on ensuring positive outcomes or net environmental benefits as a result of enabling additional height, rather than simply minimising adverse effects from allowing height increases. Also, the policy setting contemplates breaches in only exceptional circumstances and only where there are specific public benefits provided, such as pedestrian links, which outweigh negative effects. Increases in height can and do cause issues for public spaces, particularly loss of sunlight, increases in winter shading, and general reduction in amenity of those spaces. Again the policy setting recognises and addresses such issues.

546. Ms Jones discussed each of the precincts in turn in relation to the submissions received specifically on each precinct, drawing mainly on the evidence of Mr Church to develop and support her recommendations. We will discuss the issues, precinct by precinct. In doing so, we refer to them as precincts, although in the rules they are formally called Height Precincts.

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435 Ibid.

436 T Church, EiC, Appendix A

437 V Jones, Section 42A Report at [10.25].

438 Ibid, at paragraph 10.26

439 Ibid at [10.26 b].

440 Submissions 20, 187, 438, 159, 417, (opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249), 238 (supported by FS1368 and opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249)

441 V Jones, Section 42A Report at [10.27].

7.16. Notified Rule 12.5.9 Discretionary Building Height in Precinct 1 and Precinct 1(A) and Rule 12.5.10 maximum building and façade height.

547. As notified, Rule 12.5.9 provided for heights in Precinct 1 and 1(A) as follows:

a. In Precinct 1, buildings had a maximum permitted height of 12m, exceedance to 14m being a restricted discretionary activity, and higher than 14m being a non-complying activity. The exception being 48-50 Beach Street that had permitted height to 12m, restricted discretionary between 12m and 15m, above which was non-complying
b. Precinct 1(A) had a permitted height of 12m, restricted discretionary to 15.5m, above which was non-complying.

Precinct 1

548. Notified Precinct 1 included land outside the SCA which Ms Jones considered held potential for redevelopment and that would result in the least shading effects over and above the existing situation.[442]

549. In particular, Precinct 1 included most of the land fronting Shotover and Stanley Streets, the newly added (by virtue of the PDP) QTCZ on Upper Brecon Street and 48 to 50 Beach Street[443], currently occupied by AVA backpackers, adjacent to Earnslaw Park. Ms Jones reminded us that 48 to 50 Beach Street was recognised as a unique case due to existing use rights and the opportunity that particular site provided to create a landmark building when developed in the future.[444] She informed us the highest building heights in the town centre were allowed in this area.[445]

550. Precinct 1A was the area bounded by Isle Street, Brecon Street, and Roberts Road, all being land around and neighbouring the PC 50 land which has had its building height limits increased by that Plan Change.

551. Three submitters[446] sought that the maximum height limit in Precinct 1 be changed from 12 m down to 8.5 m. The reasons given, primarily in Ms Baker-Galloway's submission[447], were that an increase in height would adversely affect views, sunlight, and the quality of public spaces, and also would contradict notified Policies 12.2.2.2 and 12.2.2.3.

552. Ms Baker-Galloway was also concerned that an increase in height would, in turn, increase the number of workers and visitors to the town centre resulting in an increase in traffic congestion, pollution and parking. Peter Fleming[448] also opposed the notified height in Precinct 1 because increasing height would, in his view, effect the village square proposal and the waterfront.

553. Skyline Investments Limited & O'Connells Pavilion Limited[449] supported the 15m height allowance for secs 4-5 Blk XV Queenstown Tn (the lake front site adjacent to Earnslaw Park currently occupied by AVA backpackers); Skyline Properties Limited & Accommodation and

442 V Jones, Section 42A Report at [10.29].
443 Legal description: sections 4-5 Blk XV Queenstown Town
444 V Jones, Section 42A Report at [10.29].
445 Ibid.
446 Submissions 59 (supported by FS1059, FS1063, opposed by FS1236, FS1075, FS1125), 82 (supported by FS1063, opposed by FS1107, FS1125, FS1226, FS1234, FS1236, FS1239, FS1241, FS1248, FS1249, FS1274), 206 (supported by FS1063, opposed by FS1060, FS1236, FS1274)
447 Submission 59
448 Submission 599
449 Submission 606 (opposed by FS1063)

Booking Agents Queenstown Limited[450] supported the 14m height allowed on the Chester building site on Shotover Street; Shotover Memorial Properties Limited & Horne Water Holdings Limited[451] supported the inclusion of 9 Shotover St in Precinct 1 and the 14m/ no recession plane height rule that applied; and The New Zealand Fire Service[452] requested that notified Rule 12.5.9 be retained.

554. Relying upon Mr Church's evidence, and the Section 32 Report, with the exception of removing the reference to 4 storeys from notified Rule 12.5.9 and enabling the creation of landmark buildings to be considered at resource consent stage, Ms Jones considered the Precinct P1 height rules as notified (12 m) to be the most appropriate, when compared with the alternatives proposed: a maximum 8.5 m height; the ODP rules; or increase in heights beyond the 12 m height.[453]

555. Ms Jones was also of the view that the proposed height rules for Precinct 1 would be both effective and efficient at achieving the relevant objectives: Objectives 12.2.1, 12.2.2 and 12.2.4.[454] Overall, she considered the rules struck a balance between the status quo and enabling some modest increases in height which would help design and efficiency, without adversely affecting shading to any extent.[455]

556. Ms Jones relied heavily upon Mr Church's expert evidence[456] as to the results of the shade modelling and shade effects of heights at both 12 m and 14 m. She noted from these shading diagrams that buildings above 12m could potentially have unacceptable adverse effects on sunlight access to public space.[457] She considered the 14m height allowance as a restricted discretionary activity sent the signal that there should be no presumption that granting consent at 14m would be appropriate in all circumstances.[458] She observed beyond 14m would be subject to non-complying resource consent.

557. Ms Jones paid particular attention to the shading effects from the heights permitted by the notified rules on the sites specifically mentioned in submissions, with reference to Mr Church's evidence.[459] She concluded those heights were appropriate.

558. Ms Jones described that she undertook a shading analysis using the model when drafting the provisions.[460] She and Mr Church undertook a further analysis prior to preparation of both his evidence and her Section 42A Report.[461]

559. The criteria they chose was that the maximum permitted building height should not create any more than minor additional shading on a 2.5 m strip of public pedestrian space on the opposite side of the road up until at least 12:30 PM, that is, mid lunchtime. This time would be assessed at or around the time of year that this pedestrian strip came into full sun under the ODP rules following the mid-winter months.

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450 Submission 609 (opposed by FS1063)
451 Submission 614 (supported by FS1200)
452 Submission 428
453 V Jones, Section 42A Report at [10.33].
454 Ibid at [10.34].
455 Ibid.
456 In particular figures 10 and 12 in Appendix A to Mr Church's evidence.
457 V Jones, Section 42A Report at [10.36].
458 ibid
459 Ibid.
460 Ibid at [10.37].
461 Ibid.

560. Applying that criteria, Ms Jones and Mr Church found that on most streets, this pedestrian strip would be in full shade during the busy lunch hour for many of the winter months even under the ODP rules.[462] Her conclusion was that there was little point in considering shading effects during those months as they would essentially be nil.

561. The criteria, as Ms Jones explained, was further developed so as to ensure this key pedestrian strip of public space should be in sunlight for as many months of the year as possible.[463] She considered this outcome was important to achieve the amenity and vibrancy of the town centre, leading to its economic development and resulting in the social well-being of the wider community.[464] Essentially, access to sunlight was an important component in the criteria and that access was to be extended for as many months of the year as possible. She and Mr Church concluded that a model using the equinox as the key date was of little use, because in most instances there would be little if any effect on sunlight over the critical public space at that time of year, regardless of the height being tested.[465]

562. Ms Jones concluded that, given the objective, which was to recognise and provide for the amenity, social and economic benefits that accrue from providing sunny outdoor space, it was inappropriate to impose heights which would provide little or no sun to key public spaces and busy foot paths for up to 6 months of the year.[466] She explained this resulted in testing the model on the wider streets such as Shotover Street on 11 July, which is one of the busiest months in terms of tourism, and the narrow pedestrian streets of Beach Street and the Mall on 11 August.[467]

563. Taking into account Ms Jones' opinions and explanations as to the criteria chosen, how it was developed over time, the objective or outcome, and deployment of the model, we agree and accept all of these matters are appropriate to properly enable and inform choices in height for the various precincts. Our findings in this regard are also made in reliance upon Mr Church's evidence.

564. After undertaking the modelling exercises and other assessments described, Ms Jones expressed the opinion that a 14m high building could be designed to achieve a human scale and to accommodate four stories of reasonable internal quality, plus an interesting roof.[468]

565. Ms Jones considered that enabling a 14m height as a restricted discretionary activity, as opposed to being non-complying under the ODP, was a far more efficient outcome then triggering a non-complying consent.[469] She also considered this outcome would have the indirect effect of discouraging those wishing to develop four stories from trying to squeeze them into the 12m height available under the ODP, which resulted in a relatively poor outcome.[470]

462 Ibid.
463 Ibid at [10.38].
464 Ibid.
465 ibid at [10.38].
466 Ibid.
467 Ibid.
468 Ibid at [10.39].
469 Ibid.
470 Ibid

566. We agree with that opinion, particularly given the resource consent history Ms Jones referred us to. We see that adopting a restricted discretionary activity status as opposed to non-complying is preferred because it would be more efficient and effective.

567. We are also satisfied that the various heights promoted by Ms Jones have been properly and robustly assessed using appropriate criteria which has been informed by the overall objective or outcome sought for Precinct 1.

568. Specifically referring to 48 to 50 Beach Street, Ms Jones agreed with Mr Church's analysis and investigations that the shading effects of the proposed height limits at 12m as per Rule 12.5.9, as compared with the ODP building height, would be minimal.[471]

569. Ms Jones relied on Mr Church's view and opinion that the role of landmark buildings should be included as a matter of discretion in relation to whether granting restricted discretionary height is appropriate.[472] She recommended inclusion of this matter as new item d.

570. Taking all of the above into account, particularly the shading analysis, and the prior resource consent history within Precinct 1, we recommend that:
   a. the permitted height limit in Precinct 1 be 12 m;
   b. between 12 to 14 m be a restricted discretionary activity; and
   c. above 14 m be non-complying.

571. We also recommend that, in terms of 48 – 50 Beach Street:
   a. 12 m be the permitted height;
   b. between 12 to 15 m be a restricted discretionary activity; and
   c. above 15m be non-complying.

572. In coming to this conclusion, we have accepted the shading evidence of Mr Church, and the opinion of Mr Jones that these revised PDP rules would impose a lesser consenting barrier and lower consenting costs. In addition, we agree the increased height is likely to enable or encourage only a modest increase in capacity which would have no significant effect on the number of workers and visitors to the town centre, traffic congestion, pollution or parking.

573. Within Precinct 1 there is an area with a 7m horizontal plane rule, notified as a Rule 12.5.10.1 b including an explanatory diagram. That rule was not the subject of submissions. However, consequent on alterations to the Height Precinct Map, Ms Jones recommended some drafting alterations. We have suggested some clearer wording to this rule as well.

574. Our recommended wording of this rule, renumbered as Rule 12.5.9.b, is set out at the end of our discussion on height rules.

Precinct 1A

575. For Precinct 1A, QLDC[473] requested an amendment to notified Rules 12.5.9 and 12.5.10.1 such that building height up to 12 m would be permitted, heights between 12 and 15.5 m would be restricted discretionary, and those beyond 15.5 m would be non-complying. Skyline Enterprises Limited[474] opposed this relief, seeking an absolute height limit of 17.5 m over Section 1 SO 22971. We note that a further submission may only support or oppose a

471 ibid at [10.40].
472 ibid
473 Submission 383, opposed by FS 1236
474 FS1236

submission, not substitute a relief which goes beyond that in the original submission. We therefore disregard this request for additional height.

576. In its original submission[475], Skyline Enterprises Limited sought that the proposed maximum height allowed in Precinct 1A be changed to 15.5 m.

577. Other submissions[476] sought minor wording amendments to the Precinct 1A rule, which Ms Jones considered to be clarification only.

578. Ms Jones, referring to the Section 32 Evaluation Report and her further Section 32AA, said she considered the amendments sought by QLDC in terms of height within Precinct 1A to be the most appropriate compared to the alternatives of the ODP permitted building height (7-8 m), or retaining the notified PDP provisions (permitted up to 14 m and non-complying thereafter).[477]

579. As well, it was Ms Jones' view that the key reasons for recommending 12 m as permitted with a recession plane and up to 15.5 m as restricted discretionary, were that doing so would utilise the rule framework that was proposed for Precinct 1.[478]

580. That framework provided a base level of allowable height and an additional height providing the building was well designed. It also enabled more height, 15.5 m rather than 14 m, as is provided for in most parts of Precinct 1, in order to be consistent with building heights on the surrounding properties.

581. Ms Jones noted that on the surrounding properties, ODP Plan Change 50 had become operative with the effect that sites on the opposite side of Isle Street were subject to a 12 m height limit plus an additional 2 m roof bonus.[479] Also height could further be extended up to 15.5 m if the site exceeded 2000 m² and fronted Isle or Man Street. She considered the ODP 7-8 m limit to be inconsistent with the heights that were enabled by Plan Change 50, which affected many of the properties adjacent to Precinct 1A.[480]

582. Ms Jones pointed out that the notified limits were inconsistent, in that Rule 12.5.10.1 made all buildings over 14 m non-complying, thereby making notified Rule 12.5.9.2, which in theory enabled buildings up to 15.5 m high as restricted discretionary activities, redundant.[481]

583. In terms of the requests to increase height, Ms Jones was of the view a height of either 14 m or 15.5 m, as sought by Skyline, to be too high in the context of the site which was highly prominent from Gorge Road, Hallenstein Street and the Cemetery, and could result in unacceptable shading on Brecon Street.[482]

584. Similar alternatives to those considered in Precinct 1 were assessed. They were the ODP provisions, the notified PDP provisions, or submitter requests. Considering these available

475 Submission 574, opposed by FS1063
476 Submissions 663 (opposed by FS1139 and FS1191), 667 (opposed by FS1236) and 672
477 V Jones, Section 42A Report at [10.45].
478 Ibid at [10.46].
479 ibid at [10.45].
480 Ibid at [10.46].
481 Ibid at [10.47].
482 Ibid.

alternatives, we agree with Ms Jones that 12 m as a permitted activity with a recession plane, and up to 15.5 m as a restricted discretionary activity, are the preferred outcomes.

585. This has the benefit of utilising the same rule framework as that recommended for Precinct 1, namely a base level of allowable height and additional height provided a building is well designed. However, in the case of Precinct 1A, more height would be allowed, 15.5 m rather than 14 m, so as to be consistent with building heights on surrounding properties.

586. We agree and accept that the ODP height limit for Precinct 1A of 7/8 m is inconsistent with heights enabled by Plan Change 50 and does not synchronise with the Precinct 1 rule framework. We also agree with and adopt Ms Jones' Section 32AA evaluation, particularly as it relates to providing discretionary activity status for height between 12 m and 15.5 m.

587. Accordingly, we recommend these heights be included in what will be a re-numbered Rules 12.5.8 and 12.5.9.

588. The final matters to address in this rule are the recession planes. As notified, the Precinct 1A recession planes were provided for within notified Rule 12.5.9.2.

589. QLDC[483] sought to simplify and clarify that rule. Ms Jones recommended acceptance of those amendments. We agree. The amendments assist legibility and clarity of the rule.

590. We recommend adoption of notified Rule 12.5.9.2 as amended and re numbered as rule 12.5.8.2.

Precinct 2

591. Precinct 2 covered the block bounded by Shotover, Camp, Rees and Beach Streets. Ms Jones explained that it was unique in that the narrow width of Upper Beach Street meant that buildings within this precinct must adhere to shallow recession planes off boundaries, yet there were no adverse shading effects from enabling heights to extend up to 14 m, subject to complying with the recession plane.

592. QLDC[484] had identified clarity issues with notified Rule 12.5.10.1. As notified, it could be interpreted that Precinct 2 would be subject to this rule, as alluded to by Rule 12.5.10.1 (d), or that it would be subject to a 12m height as per the notified Rule 12.5.10.5.

593. Ms Jones recommended this submission be accepted and referred to the reasoning set out in the Section 32 Report. She explained that greater height would be enabled in order to offset the relatively restrictive recession plane/facade height enabled on the Beach Street frontage of that block.[485] This recognised, she said, that a considerable portion of ownerships within the block run through the whole block and have frontage to both streets.[486]

594. Trojan Holdings Limited and Beach Street Holdings Limited[487] requested that notified Rule 12.5.10.1 (d), which set a maximum and minimum parapet height along part of each street, be deleted. Modelling various facade heights and differing recession planes which represent the ODP, PDP, and submitter's outcomes, was undertaken in the manner described in relation to

483 Submission 383
484 Submission 383
485 V Jones, Section 42A Report at [10.52].
486 Ibid.
487 Submission 616

Precinct 1. These were illustrated in the visuals attached as Appendix A to Mr Church's evidence. The outcome was that at 12:30 PM on 11 August, 2.5 m of public space was fully in sun under the ODP rules, and the only effect on sunlight access at the same time under the PDP rules was minor, along the frontage of Glassons.

595. Ms Jones told us that such minor reduction in sunlight access would remain for about a week.[488] The modelling also disclosed the effect on sunlight access at the same time under a 7m high recession plane was significant. In Ms Jones' view, that was unacceptable, and not justified by the small increase in building height.[489]

596. For all of the above reasons and those provided with the Section 32 Evaluation Report, Ms Jones was of the opinion the proposed heights for Precinct 2 as amended and clarified as earlier described,[490] were considered to be the most appropriate way of enabling development within Precinct 2 that would achieve the objectives of the PDP.

597. We accept the reasons supporting the Precinct 2 heights advanced by Ms Jones and we accept and adopt the outcomes of Mr Church's modelling. We have carried through these recommendations into our Appendix 1.

598. Turning to recession lines under notified Rule 12.5.10 d, a breach of this rule within Precinct 2 was a non-complying activity. After reviewing the evidence of Mr Williams[491] and Mr Farrell[492], Ms Jones accepted this recession rule was more appropriately relocated to notified Rule 12.5.9. She agreed that the breach of the rule was more appropriately a restricted discretionary activity subject to the matters of discretion provided for in Rule 12.5.9.[493] We agree for the reasons she advanced and recommend adoption. The rule has been re numbered as Rule 12.5.8.3.

Precinct 3

599. Notified Precinct 3 covered the land directly abutting the QTCWSZ, extending from Poole Street to and including Steamer Wharf, as well as a recently developed block bound by Marine Parade, Church, Earl, and Camp Streets. This precinct allowed the lowest absolute height in the QTC by providing for a maximum height of 8m, above which was non-complying.

600. Ms Jones noted two submitters[494] supported Rule 12.5.10, including removal of the ODP parapet and recession plane controls. One submitter[495] sought the operative height rules for the QTC be reinstated. Another submitter[496] supported the removal of the ODP parapet and recession plane controls that would otherwise be applicable to the Town Pier site and to the Eichardts site.

601. In terms of heights, for the reasons advanced by Ms Jones, we recommend a height of 8m for Precinct 3, above which it would be non-complying.

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488 V Jones, Section 42A Report at [10.56].

489 Ibid.

490 12m permitted, 12m-14m restricted discretionary and above 14m non-complying.

491 Supporting Submissions 606 and 616

492 Supporting Submission 308

493 V Jones, Summary of Evidence at [6(b)]

494 Submissions 606 and 609 (opposed by FS1063)

495 Submission 417, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249

496 Submission 609, opposed by FS1063

602. The other issue that arose was a point of clarification around the boundaries of Precinct 3.

603. QLDC[497] requested that Precinct 3 be extended to include those areas to the immediate north which are currently either included in Precinct 5 or not included within any precinct. That is, the rear parts of the Marine Parade site at the corner of Marine Parade and Church Street which have no precinct assigned to them.

604. Skyline Investments Limited and O'Connells Pavilion Limited[498] sought that the same area be included within Precinct 4.

605. These sites were more particularly shown on three figures within Ms Jones' Section 42A Report[499]. What was clear was that realigning the Precinct 3 boundary to include the two areas referred to above would correspond with the ODP boundary and with the physical buildings and cadastral boundaries. We consider it impractical to split these existing sites into different height precincts.

606. We therefore agree with Ms Jones' recommendation that the Height Precinct Map be amended so as to include those sites within Height Precinct 3. We have included this site within Precinct 3 within Appendix 1 and recommend this inclusion be adopted.

607. Turning to recession and parapet rules, as notified (Rule 12.5.10.2) this precinct did not have such sub-rules. Relying on Ms Gillies[500] and the scope provided by Mr Boyle's submission[501], Ms Jones recommended reinstating the ODP rule specifying that a parapet be between 7.5 and 8.5 m in height and able to protrude through the maximum height plane.[502] This was because a recession plane commencing just 0.5 m below the maximum allowable height would be ineffective at mitigating shading effects or influencing design in any positive way. We agree and recommend this change to the notified rule be adopted.

608. For the reasons set out in Ms Gilles' evidence and Ms Jones' Section 42A Report[503], we recommend this amendment be adopted. We have included it re-numbered Rule 12.5.9.3 set out below at the end of our discussion on height.

Precinct 4

609. Notified Precinct 4 included the land to the north of Earnslaw Park on the northern side of Beach Street, the Novotel Hotel site, the land on the north side of Camp Street and east of and including the Post Office, most of the western side of Church Street, and most of the eastern side of Upper Beach Street.

610. The ODP height rule allowed 12 m building heights with a 10m high recession plane. Ms Jones explained these areas had either been recently redeveloped or the shading effects of not imposing a recession plane were not considered acceptable.[504]

497 Submission 383
498 Submission 606
499 V Jones, Section 42A Report at p 39.
500 J Gillies, EiC at [7.2].
501 Submission 417, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249
502 V Jones, Section 42A Report at [10.63].
503 Ibid.
504 Ibid at [10.66].

611. Notified Rule 12.5.10.5 carried forward the 12m height and the recession plane requirement in clause a.

612. Skyline Investments Limited and O'Connells Pavilion Limited[505] sought the removal of the recession plane controls in respect of the O'Connell Street site Trojan Holdings Limited and Beach Street Holdings Limited[506] supported the removal of the ODP parapet control from Stratton House.

613. Mr Boyle[507], as earlier noted, sought a return to the ODP rules zone wide.

614. Ms Jones noted that both Ms Gillies[508] and Mr Church[509], favoured replacing Precinct 4 as applied to the majority of the north side of Church Street (the premises extending from Nomads to the Night and Day), and to the majority of the south side of upper Beach Street, with Precinct 5.[510] Ms Jones explained that the effect of this was that a 45° recession plane commencing at 7.5 m above the street boundary would be applied to these sites rather than the recession plane commencing at 10 m as in notified Rule 12.5.10.5 a.

615. We agree with that reasoning and we recommend a height limit of 12 m for Precinct 4 with retention of the recession line as per notified rule 12.5.10.5 a. We further recommend that those sites identified above be placed within Precinct 5.

616. Turning to recession lines, under notified Rule 12.5.10.5 a, a breach of this rule within Precinct 4 was a non-complying activity. After reviewing the evidence of Mr Williams[511] and Mr Farrell[512], Ms Jones accepted this recession rule was more appropriately relocated to notified Rule 12.5.9. Also, she agreed that the breach of the rule was more appropriately a restricted discretionary activity subject to the matters of discretion provided for in Rule 12.5.9. We agree for the reasons she advanced and recommend adoption. The rule has been renumbered as Rule 12.5.8.4.

Precinct 5

617. Notified Precinct 5 included the land either side of The Mall on Lower Ballarat Street and that area on the north eastern side of Rees Street between The Mall and Beach Street.

618. As notified, Rule 12.5.10.5 enabled buildings up to 12 m and a 7.5 m recession plane was imposed, reflecting the fact this area was at the core of the Special Character Area and within a heritage precinct, and acknowledging the narrowness of the Mall.

619. Notified Rule 12.5.10 applying to this area was unchanged from the ODP. The Rule attracted no submissions. Accordingly we recommend the notified Rule 12.5.10.5 be adopted for Precinct 5, renumbered as Rule 12.5.9.5.

620. Turning to recession lines under notified rule 12.5.10.5 b, a breach of this rule within Precinct 5 was a non-complying activity. Consistent with her approach to rules as applied to the

505 Submission 606
506 Submission 616
507 Submission 417, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249
508 J Gillies, EiC at [8.1 to 8.6].
509 T Church, EiC at [18.1 to 18.7].
510 V Jones, Section 42A Report at [10.69].
511 On behalf of Submitters 606 and 616
512 On behalf of Submitter 308

precincts previously discussed, Ms Jones accepted this recession rule was more appropriately relocated to, as it then was, notified Rule 12.5.9, as she considered that the breach of the rule would be more appropriately dealt with as a restricted discretionary activity.[513] We agree for the reasons she advanced and recommend adoption. The rule has been re-numbered as Rule 12.5.8.5.

Precinct 6

621. Notified Precinct 6 included the triangular parcel of land bound by Duke, Man, Brecon and Shotover Streets. Notified Rule 12.5.10 applied a height limit of 12m, subject to horizontal and recession plane conditions.

622. This represented no change from the ODP and did not attract any submissions.

623. Accordingly we recommend the notified Rule 12.5.10.5 applying to Precinct 6 be adopted as renumbered Rule 12.5.9.5 a.

Precinct 7 and the surrounding Precinct 1 land within the Man Street Block

The Plans and the Precincts

624. Notified Precinct 7 included the majority of the land bound by Man, Brecon, Hay, and Shotover Streets (the Man Street Block) and notified Rule 12.5.10.4 applied a range of site specific height rules to this block. The maximum height limit proposed was 11 m above 327.1 masl, except that the two view shafts identified on the Height Precinct Map imposed a limit of 4 m above 321.7 masl.

625. No recession rules were proposed for Precinct 7.

626. This precinct would apply to the Man Street car park and all of the land in the Man Street Block fronting Shotover Street. The existing Man Street car park we generally refer to as the northern area, and that area fronting Shotover Street we refer to as the southern area.

627. Under the ODP the permitted height provided was up to 8 m above ground level and up to the height allowed on any adjacent sites. Sites below the Man Street car park fronting Shotover Street could be 1.5 m above the Man Street car park. The outcome was a height of 9.5 m. Thereafter, exceedance was non-complying.

628. Under the ODP, on the sites either side of Precinct 7 (fronting Hay and Brecon Streets), buildings up to 8 m were permitted and up to the maximum height permitted on any adjacent site and non-complying thereafter. Sites on the Shotover Street frontage[514] were permitted to 12 m and no more than 1.5 m above Man Street and non-complying thereafter. On other sites, height was permitted to 12 m and no more than 4 m above the level of Man Street and non-complying thereafter.

629. Within the Man Street Block there were, as well, two separate areas of Precinct 1, one to the east and one to the west. To help orientate, 10 Man Street, 10 and 14 Brecon Street and the Language School were located within Precinct 1 at the eastern end of Precinct 7, adjacent the Brecon Street steps. 30 Man Street was within the other area of Precinct 1 at the western end.

630. As notified, Precinct 1, applying notified Rules 12.5.9 and 12.5.10, provided for permitted height of up to 12 m, restricted discretionary between 12m and 14m, and non-complying

513 V Jones, Summary of Evidence at [6(b)].

514 Secs 23-26 The Lofts and Hamilton Extension

thereafter. Horizontal plane requirements were not imposed in Precinct 1 as it applied to the Man Street Block.

The Man Street Block and Issues

631. The Man Street Block slopes downhill from Man Street to Shotover Street. It is understood the slope is not uniform over the whole block. The properties in the block are in different ownership.

632. The issues, as we see them in relation to this area, revolve around determining what the appropriate building heights are for the various parts of the block, and how those heights interrelate to each other and height levels beyond the block.

633. First, there is the northern part of the block, the area above the existing Man Street car park, which includes the two view shafts. The issues for this part of the block include determining height levels that are appropriate given the Man Street streetscape and the need to ensure views via the view shafts are appropriate.

634. The two Precinct 1 areas on the western and eastern end of the Man Street Block had their own separate issues, though both areas step down the slope from Man Street.

635. On the eastern end, or the Language School site, the issues related to what was the appropriate height levels given the sloping nature of the site, the sites' relationship with the adjacent Brecon Street Steps and the adjoining Sofitel Hotel site. The heights selected also needed to relate well to the heights for the balance of the block.

636. For the western end, 30 Man Street, height relative to adjoining surrounding buildings and their height was the issue. Again linkage back to the balance of the block was important.

637. On the remaining part of the block, the southern side, being the area fronting Shotover Street, the issues were: height relative to building heights on the Man Street car park; effect of height on shading Shotover Street; and the impact of differing natural ground levels on how to determine appropriate heights.

638. The first issue we deal with is, we think, a relatively minor one. QLDC[515] requested that the topographical error in notified rule 12.5.10.4 be amended such that the reference to 321.7 masl is changed to 327.1 masl. While this was opposed, we agree with Ms Jones that this was an error which needs correction.[516] Accordingly we recommend accepting that submission.

Submissions on the PDP

639. Dealing with height limits (notified Rule 12.5.10.4) for Precinct 7, Mr Boyle[517] requested that the maximum building heights be no greater than in the ODP and any other related, consequential or alternate relief.

640. In relation to the view shafts above the Man Street car park, Man Street Properties Limited ("MSP")[518] supported the notified height for Precinct 7 at 11 m but requested the view shafts on the site be confirmed or moved so that the Western most view shaft was repositioned to correspond with section 26 Block IX Town of Queenstown.

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515 Submission 383, opposed by FS1274

516 V Jones, Section 42A Report, Appendix 1 at p12-19.

517 Submission 417, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249

518 Submission 398, opposed by FS1274

641. In relation to the two Precinct 1 sites, MSP sought that those sites also be subject to the rules which imposed a maximum height based on specified reduced levels or RLs rather than simply allowing 12 m above ground level.

642. For 30 Man Street, at the western end within Precinct 1, MSP sought height controls alternative to those notified.

643. On the eastern end of Precinct 7, within the Language School site, Maximum Mojo Holdings Limited[519] sought that the building height limit for that site (10 Man Street) be the same as the height limit for Precinct 7.

Ms Jones' Section 42A Report

644. Ms Jones advised she relied on the submission of Mr Cowie[520] to provide scope to recommend the amended heights, which may be higher than those achievable under the ODP or the PDP on some parts of the Man Street Block.[521] She also relied on the NZIA submission[522] to provide extra height in some areas of the Man Street car park site in lieu of lowering it on the view shafts and other parts so they could serve as open space and potentially as linkages through the site.[523] We note that we return to scope later.

645. Mr Cowie[524] sought that all areas should have significantly higher property heights, especially towards the centre of Queenstown, and far greater density with buildings of 4 to 5 storeys as the norm with hotels being higher.

646. NZIA[525] sought relief under the zone wide height rules and suggested that there could be incentives within the rules such as an additional height in exchange for linkages offered in desired areas.

647. Ms Jones pointed out[526], and we agree with her, that enabling buildings on the Man Street Block to extend up to heights of 14 m above original ground level, including on relatively elevated rear parts of their sites, without corresponding horizontal plane rules, would result in adverse effects on views, visual amenity, mass and bulk. Doing so would also impact on the overall quality of the resultant architectural and urban design outcomes particularly in relation to the Shotover Street frontage.

648. To address the site issues identified above, Ms Jones requested Mr Church to assess a redraft of the notified Rule 12.5.10.4 using modelled outcomes to assist in understanding the effects of those drafted rules on the matters referred to in the immediate preceding paragraphs.[527] The modelled outcome of these rules was detailed in Appendix A of Mr Church's evidence.

519 Submission 548, supported/opposed by FS1117
520 Submission 20
521 V Jones, Section 42A Report at [10.82].
522 Submission 238
523 V Jones, Section 42A Report at [10.82].
524 Submission 20.
525 Submission 238
526 V Jones, Section 42A Report at [10.83].
527 T Church, EiC at [12.8]

649. In Ms Jones' view, while the redrafts were worded differently to those suggested by MSP[528], the outcome was not dissimilar to the relief sought, and in Ms Jones' opinion, was the appropriate way of addressing the submitter's key issues as well as achieving the objectives of the PDP.[529]

650. Ms Jones[530] explained the outcome of the different height rules as they applied to labelled areas of Precinct 7 (Areas A, B, C and D) and Precinct 1. Ms Jones included a plan illustrating these areas in her Section 42A Report.[531] She recommended the plan set out in her Section 42A Report be included within Rule 12.5.10 so as to aid clarity.[532] We agree that showing the height areas would aid understanding the Rule.

651. For Precinct 7 Area A, being east of the central view shaft labelled D, buildings could extend to 11m above the known height of the concrete slab, in Area B to the west of the central view shaft labelled D, buildings could be 14m above the concrete slab. Ms Jones recommended Area D, the view shaft, be moved further west as sought by MSP for the reasons set out in that submission. We discuss this point further below. Ms Jones recommended that Area C, which is the eastern view shaft, have no buildings within it. For, Area D, which is the central view shaft, she recommended a maximum 3m building height.

652. This outcome, she said, would provide for two discrete building forms to be constructed of varying levels separated by view shafts/open plazas of approximately 12 m and 16 m width on this northern part of the site.[533]

653. In Ms Jones' opinion, this outcome would prevent a long horizontal built form stretching across this highly visible site and enable an extra floor of development in the western block[534]. This would result, she said, in more consistency with surrounding properties while still providing for three floors with uninterrupted views to the south.[535] Also, it would provide for a better streetscape along Man Street, with the buildings on the eastern block extending between approximately 7.5 m and 11 m above street level.

654. By comparison, Ms Jones pointed out that the notified PDP rules would result in the building at the western end of the site protruding between 4.5 m and 9 m above the street, which she considered would appear something of an anomaly.[536]

655. We acknowledge that evidence[537] promoted a different approach, proposing to remove the view shafts and, instead, promoting a comprehensive development plan rule. This evidence raised scope issues which we address subsequently. We also note the issue of the view shafts was canvassed fully in Ms Jones' Reply Statement after consideration of the submitter evidence. We will return to the matter of the view shafts subsequently.

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528 Submission 398
529 V Jones, Section 42A Report at [10.83].
530 Ibid at [10.86].
531 Ibid at p43.
532 Ibid at [10.84].
533 Ibid at [10.86].
534 Ibid at [10.86(b)].
535 Ibid.
536 V Jones, Section 42A Report at [10.86(b)].
537 J Edmonds, EiC.

656. As to a height within the balance area of Precinct 7, being the southern area fronting Shotover Street, Ms Jones recommended adding a new rule and a height map which effectively was a redraft of notified Rule 12.5.10.4.[538] She labelled these southern areas of the site fronting Shotover Street as Area E and Area F.

657. The redraft would enable buildings to extend to 12 m above (rolling) ground level. Also, it would require that within Area E, they be no more than 17 m above the level of Shotover Street adjacent to the respective site. In addition, buildings in Area F would be no more than 14 m above the level of Shotover Street adjacent to the respective site. Finally, the redraft would require buildings to comply with a 45° recession plane commencing at 10 m, which is a similar control to that within Precinct 4. She also recommended Precinct 7 be slightly expanded. She set out in detail in her report the beneficial outcomes of this redraft as she saw them[539].

658. This recommendation was challenged in submitter evidence and subsequently addressed by Ms Jones in two memoranda we received dated 8 and 18 November 2016 and in her Reply Statement. We address this matter further below.

659. Finally, in terms of the remaining sites to the east and west of the Man Street car park, Ms Jones' recommendation[540] was to retain them within Precinct 1, enabling buildings to be built to 12 m or potentially 14 m in height, as a restricted discretionary activity.

660. Ms Jones acknowledged these were higher than the heights allowed on the car park site. She did not consider those heights would be significantly inconsistent with the carpark heights or those enabled on the opposite side of Man Street under the ODP as amended by Plan Change 50.[541]

661. Ms Jones undertook a Section 32AA assessment of her recommended redraft to notified Rule 12.5.10, which we have carefully considered. The southern part of the site, fronting Shotover Street, was also the subject of challenge and submitter evidence. The issues were the appropriate maximum height level allowed in front of the Man Street car park site, including the horizontal plane level, and the use of the district wide rolling plane height. Finally, whether or not there should be a discretionary height allowance between 12 m and 14 m as per Precinct 1.

Changes in the Officer Recommendations

662. We observe here that as the hearing advanced, Ms Jones and Mr Church re-evaluated what they considered to be the appropriate rule response to this challenging site. While, within the Section 42A Report and expert evidence presented at the commencement of the hearings, we received recommendations as to the rules, these recommendations were altered and modified as further modelling was undertaken as a consequence of some oversights in the original modelling. Also some mapping errors were addressed.

663. Before touching on the relevant submitter evidence we record two memoranda were issued by the Council. The first, which we earlier referred to, was dated 8 November 2016. The purpose of this memorandum was to provide the Panel and submitters with updated versions of the height map that replaced those provided in the recommended Chapter 12 in Appendix

538 V Jones, Section 42A Report at [10.87].
539 Ibid at [10.87(a)-(g)].
540 Ibid at [10.88].
541 V Jones, Section 42A Report at [10.88]

1 of the Section 42A Report. This version of the height precinct map showed Precinct 7 as extending down to the southern part of the site, to include the majority of the Man/Hay/Shotover/Brecon Street block within Precinct 7.

664. The second memoranda was dated 18 November 2016 and this provided us with:
   a. updated versions of Figures 2, 11 and 20 in Appendix A to the statement of evidence of Mr Church; and
   b. updated recommendations to the Queenstown Town Centre chapter in Appendix 1 of the Section 42A Report for Chapter 12.

665. This information was provided prior to the hearing to "allow submitters an opportunity to consider the updated figures and recommendations in advance of the hearing".[542]

666. This memorandum made it clear that Ms Jones supported Mr Church's updated Figure 20[543] and the updated version of re-drafted Rule 12.5.10.4 as included in Appendix 2 to that memorandum. It was explained to us that, when using the Council's shading model to undertake further assessments, both Ms Jones and Mr Church became aware that, with respect to Precinct 7, the model did not accurately represent all of the recommended rules.[544]

667. In particular, the original Figure 20 did not accurately reflect the fact that redraft rules 12.5.10.4 (e) and 12.5.10.4 (f) required the buildings to be no more than 12 m above ground level. In the case of areas E and F, that meant 12 m was a rolling height plane relative to the sloping ground level rather than a flat horizontal plane as was originally modelled.[545] This was rectified in Mr Church's updated Figure 20.

668. Further changes resulting from a review of the model resulted in Ms Jones updating her recommendations. In particular, Ms Jones considered it unnecessary from a shading perspective, or for any other reason, to impose a recession plane height on Precinct 7, particularly for the southern part.[546] It was apparent on review of the model that removing the recession plane rule did not result in any greater shading of the opposite side of Shotover Street than resulted with the recession plane. This effectively reversed her recommendation contained within the Section 42A Report[547].

669. Consequently, Ms Jones recommended further amending Rule 12.5.10.4 in order to enable a 12 m building height at the Shotover Street boundary. This provided for the same building height at the street facade as would be enabled under notified Rule 12.5.9, being 12m as permitted, 12m-14m as restricted discretionary, and above 14m as non-complying. It was pointed out to us[548] that no submitter specifically sought the reintroduction of the recession plane rule but rather the general submission by Mr Boyle[549] was being relied on to recommend this change.

670. Finally, upon further investigation of the reduced levels (RLs) along the Shotover Street frontage of Precinct 7, Ms Jones advised that the levels vary across the block to a greater

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542 Memorandum of Counsel on behalf of QLDC dated 18 November 2016 at [2]
543 Figure 20 illustrates an indicative height envelope of the Man Street block.
544 Memorandum of Counsel on behalf of QLDC dated 18 November 2016 at [6]
545 Ibid.
546 Ibid at [7a], V Jones, Reply Statement at [6.10].
547 V Jones, Section 42A Report at [10.87].
548 Ibid at [10.54].
549 Submission 417, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249

extent than first thought.[550] The result was that the built outcome enabled by redraft rules 12.5.10.4 (e) and 12.5.10.4 (f) would be reasonably uncertain.

671. Ms Jones recommended that those rules be further amended so as to ensure that the buildings would not protrude above the car park level slab in Area F, and protrude no more than 3 m in area E.[551]

672. The diagrams attached to the 18 November 2016 memoranda provided us with a model view of the Section 42A Report recommended PDP height precincts. This was identified as Figure 2. Figure 11 provided us with a photograph showing the existing circumstances for Shotover Street in terms of street shading. That photograph was accompanied by a diagram which showed the ODP 12 m/45° height recession plane modelled at 11 August 2017 at 12:30 PM, compared with the PDP recommended 12 m height again modelled at the same time. A comparison of the two modelled results showed very little difference.

673. Mr Church's updated Figure 20 provided us with a model of the recommended Precinct 7 height controls from both a south east view and a north west view. Figure 21 related to the Man Street view shafts. The first figure was a photograph of the existing Man Street car park alongside which were human figures illustrating the recommended eastern view shaft and recommended western view shaft. We found these figures to be very helpful in both understanding perspective and evaluating the options.

674. Ms Jones confirmed at the hearing on 25 November her support for the amendments conveyed to us in both memoranda.[552]

Submitter Evidence

675. Mr Ben Farrell, a planning consultant, appeared for Well Smart Investments Limited[553]. The submitter has property interests in numbers 51 to 67 Shotover Street, within Area E of the diagram utilised by Ms Jones for notified height standard 12.5.10.4.

676. His evidence recorded many areas of agreement with Ms Jones' Section 42A Report.[554]

677. He disagreed with her recommendations as to height, opining that the permitted height standard should increase from 12 m to 15m, that the activity status for breaching the 10 m +45° height recession plane standard should change from non-complying to discretionary and the proposed 17 m height restriction above Shotover Street should be deleted. Mr Farrell outlined his rational for this opinion as:[555]

a. The Sofitel Hotel, Crown Plaza Hotel and Hamilton Building all exceed 17m above the height of Shotover Street;
b. Sites within area E, in his view, could absorb additional building height without creating significant adverse effects;
c. There should be a level of certainty as to the height of buildings that could be constructed without the need for public notification; and
d. There were no special or unique characteristics associated with the frontage of Shotover Street to justify discouraging building heights above 12m.

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550 Memorandum of Counsel on behalf of QLDC dated 18 November 2016 at [7c].
551 Ibid.
552 V Jones, Summary of Evidence at [4].
553 Submission 308
554 Mr Farrell, EiC at [7].
555 ibid at [11].

678. Mr Williams, providing planning evidence for MSP[556], agreed that retaining a specific set of height controls for the Man Street Block was the most efficient and effective way to provide certainty to landowners and the building form outcomes given the challenges around understanding of the original ground levels for this block.[557]

679. However, he considered that additional height on the southern side of Man Street over and above that recommended by Ms Jones should be provided.[558] He was also of the view that because of the interrelationship between development on Man Street and properties fronting Shotover Street, they should be considered together given the influence the development on Shotover Street would have on the building form outcomes and views from development on Man Street.[559]

Ms Jones Reply - Southern Part of Man Street Block/Areas E and F

680. We do note Ms Jones was clearly alive to the need to address the interrelationship between the two parts of the site but she was of the view, as expressed in her Reply Statement, which we agree with, that the matter of views from Man Street should not trump good urban design outcomes for the entire site particularly the Shotover Street frontage.[560]

681. In her Reply[561], Ms Jones responded to Mr Farrell's evidence and questions, by recommending that Areas E and F (as shown in notified Figure 2) be removed from Precinct 7 and replaced with Precinct 1, and consequential changes be made to Rules 12.5.10.4 and 12.5.10.1. These consequential changes included adding a rule to 12.5.10.1 that no building exceed a horizontal plane at 271.1/ 330.1 masl. The recommended rules in Appendix 1 to her Reply Statement would have the effect of providing the restricted discretionary activity status to buildings between 12 and 14m above ground level as in the rest of Precinct 1, while ensuring that anything above either 14m above ground level or 271/ 330 masl respectively would be non-complying. She considered this to be more efficient and effective than redraft Rules 12.5.10.4(e) and 12.5.10.4(f) that applied to this area in the version attached to the Section 42A Report.

682. Ms Jones explained that including the 330 masl building height, as opposed by MSP[562], would be very similar to that which existed in the ODP and that which was determined through a mediated agreement of all affected parties during the resolution of appeals on submissions to the ODP.[563]

683. Ms Jones also pointed out that Mr Farrell agreed it was not unreasonably difficult to determine ground level and, from that, the permitted height for Areas E and F.[564] She also observed that the rule she promoted resulted in an outcome that was relatively consistent with the approach taken for the Ballarat Street car park site, namely notified Rule 12.5.10.1.[565]

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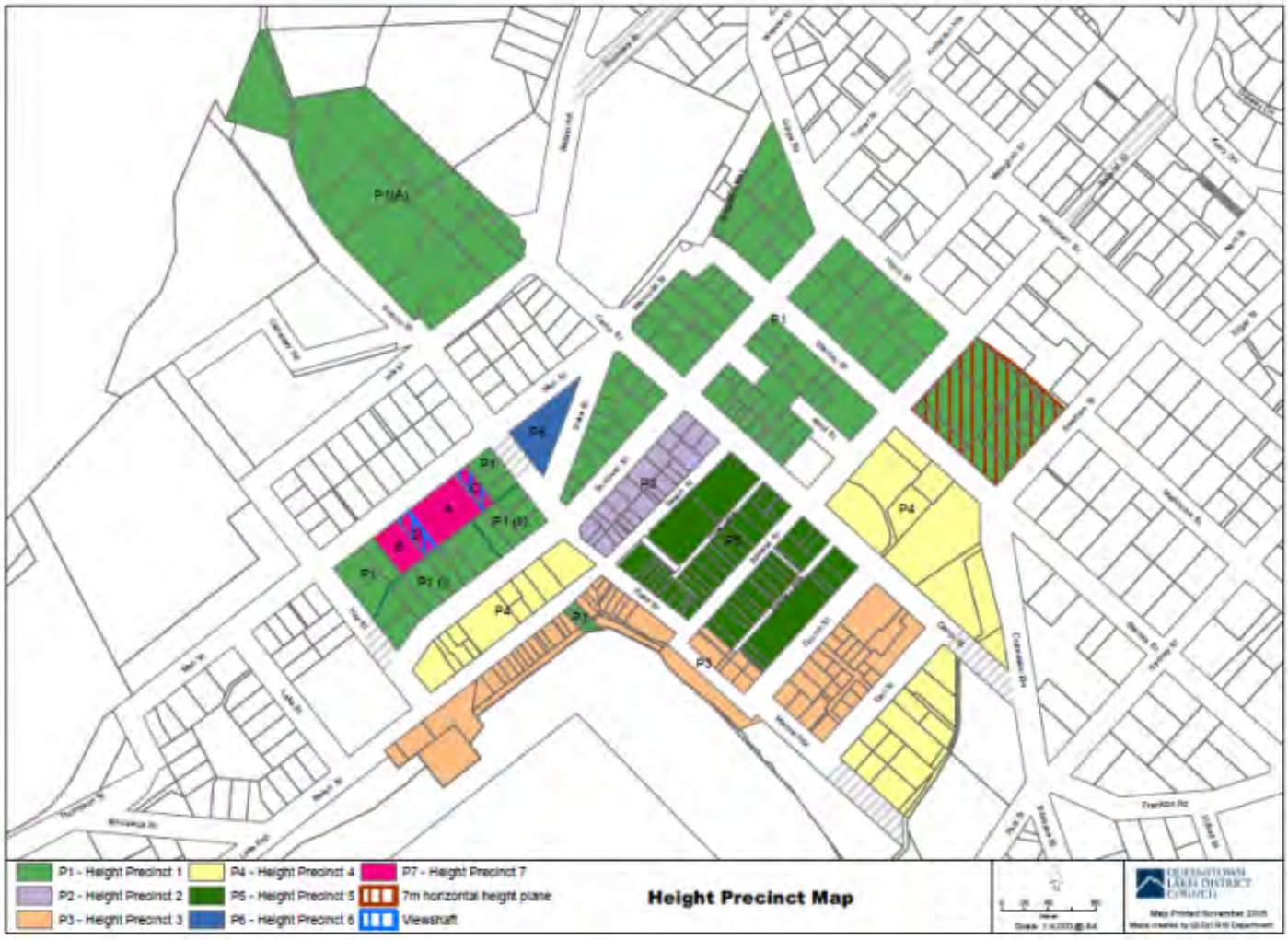
556 Submission 398
557 T Williams, EiC at [17].
558 Ibid at [19].
559 Ibid at [18].
560 V Jones, Reply Statement at [6.12a].
561 V Jones, Reply Statement at [6.10] page 11.
562 Submitter 398
563 V Jones, Reply Statement at [6.12a].
564 Ibid at [6.12b].
565 Ibid at [6.12c].

Reply Figure 2

684. Included in Ms Jones' Reply Statement was her final recommended Figure 2 (Reply Figure 2). We include this below in order to aid in understanding the recommendations that follow. Reply Figure 2 is also included in our recommended Chapter 12 set out in Appendix 1.



Recommendation on Southern Parts of the Man Street Block/Areas E and F

685. Having carefully considered the evidence of Mr Farrell, the opinions of Mr Church, and in particular Mr Church's amended Figure 20[566], and the reasons advanced by Ms Jones, particularly within her Reply evidence to support her amendments to the rules relating to areas E and F, we agree with her reasoning and accept the opinions of Mr Church.

686. We have paid careful attention to Ms Jones' Section 32AA evaluation which set out the costs and benefits of adopting her recommended amendments in relation to adopting Precinct 1 rules with sub-set precincts P (i) and P (ii) providing for horizontal plane requirements. These requirements were included in re-drafted rule 12.5.10.1 d. We also agree with her assessment under Section 32AA.

687. Our recommendation relating to the Southern Parts of the Man Street Block/ Areas E and F is that the Council accept the recommended rules as redrafted by Ms Jones, including removing areas E and F from Height Precinct 7 and placing them within Precinct 1 with a permitted

566 Included in Appendix 2 of the Council's Memorandum dated 18 November 2016.

building height at 12m, 12m -14m being restricted discretionary and above 14m being non-complying.

688. We also recommend the inclusion of horizontal plane requirements, with breach of them being a non-complying activity.

Ms Jones' Reply Man Street Car Park Portion

689. As to building heights for the Man Street car park, after considering Mr Todd's legal submissions and Mr Williams's evidence, Ms Jones remained of the view that her recommendations in relation to height on the Man Street car park should remain as recommended in her Section 42A Report[567].

690. Ms Jones' Section 32AA report reflected this position. Her recommended amendments were, we considered, non-substantive as they updated the reference within the rule to Reply Figure 2. The remaining recommendation was to include the RL reference. We recommend both amendments be adopted.

691. We agree with Ms Jones' reasoning for her recommended changes[568] and adopt it as supporting our recommendation that the wording of renumbered Rule 12.5.9.4, relating to the height of the Man Street carpark in Precinct 7, be as we have as set out in Appendix 1.

Ms Jones Reply on the View Shafts

692. The remaining issue with the Man Street car park related to the view shafts. MSP[569] supported the notified height rules and sought that the position of the view shafts and figure to be confirmed to ensure the western view shaft was located to align with Section 26 Block IX Town of Queenstown. However, the legal submissions and evidence presented at the hearing promoted a different approach, seeking to remove the view shafts and support a comprehensive development rule.

693. Ms Scott[570] submitted that MSP's submission did not seek removal of the second (Western) view shaft and accordingly there was no scope to do so. Ms Scott also pointed out that there were no other submitters who had sought removal of the second view shaft. We agree. Therefore, both Mr Todd's legal submissions and the evidence presented by Mr Williams in regard to the second view shaft was beyond scope and requires no consideration by us.

694. We record that Ms Jones, after considering the legal submissions from Mr Todd and the evidence of Mr Williams, advised us that her opinion on the view shafts remained unchanged. Accordingly, she maintained, it was appropriate to show both the view shafts on Reply Figure 2, as well as applying the zone wide coverage and comprehensive development rule to the site.[571]

695. Within her Reply Statement, Ms Jones also identified the possible consequences if the key western view shaft were not identified on a planning map to compliment Rule 12.5.1 and to provide greater certainty.[572]

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567 At paragraph 10.86.

568 ibid

569 Submission 398.

570 Submissions in Reply of Ms Scott at [5.6].

571 V Jones, Reply Statement at [6.14].

572 Ibid at [6.15].

Our Recommendation on View Shafts

696. We agree with Ms Jones and accept that, on this relatively large site, both view shafts serve numerous purposes and are a very important determinant of the eventual built form, effectively breaking up the site into discrete component parts, which we consider advantageous.

697. For these reasons, and the reasons Ms Jones advanced, including her Section 32AA evaluation, and for the reasons advanced by Mr Church in his evidence[573], we recommend the adoption of Rule 12.5.9.4 as set out in Appendix 1.

698. The final issue with the view shafts related to queries we raised during the hearing about whether the view shafts should be movable or their shape able to be altered. Ms Jones was of the view that she did not consider this to be necessary as the eastern view shaft was set, and she reminded us that there were limited alternate locations for the western view shaft. Overall, she preferred fixing their position on Reply Figure 2.

699. Ms Jones did, however, reconsider the recommended location of the western view shaft (Area D), which she had moved to the location specifically sought in MSP's submission[574]. After taking into account Mr Williams's evidence, she recommended[575] that the western view shaft be repositioned approximately 13 m to the west to avoid the lean to roof form that Mr Williams referred to in paragraph 11 of his evidence summary.

700. The consequence of this was that recommended Area B was reduced in size and, due to the rising level of Man Street, the height enabled in the view shaft could be raised by 0.5 m without impeding on views from the street. This has the added benefit of enabling more design flexibility for the first floor beneath.

701. We agree with the evidence of Mr Williams and Ms Jones on this point and accept Ms Jones' reasoning for the change in the location of the western view shaft. We recommend adoption of this change as shown on Reply Figure 2.

The Language School

702. The last issue to address is the Language School building heights. The first matter to address is one of jurisdiction. Mr Goldsmith presented legal submissions on behalf of John Thompson and MacFarlane Investments Ltd[576] (John Thompson). As a general matter, he expressed concern that the height rules in his view repeated earlier mistakes and that they referred to a range of differing measurement criteria.[577]

703. Mr Goldsmith contended that the process by which Council had identified jurisdiction to increase height limits within the Man Street block was questionable and could present a *vires* issue.[578] After setting out a range of Court authorities he submitted that for submitters to be put on notice of the issues sought to be raised, a submission must sufficiently identify issues with due particularity including the relief sought.[579]

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573 particularly at paragraph 12.12

574 Submission 398

575 V Jones, Reply Statement at [6.19].

576 Further Submission 1274

577 Amended Legal Submissions of Mr Goldsmith at [10].

578 Legal Submissions of Mr Goldsmith at [11].

579 Ibid at [12-15, particularly 13].

704. He noted the Council relied upon the Cowie submission[580] for jurisdiction to increase heights on the Man Street Block. He identified for us that part of the Cowie submission that he considered related to a request for relief relating to height. He submitted that the relief sought by Cowie could provide jurisdiction to increase height limits anywhere in the district by an unspecified amount. He then queried whether or not the relief sought met the relevant tests within the case law he referred us to. It was his submission that it was questionable whether Mr Cowie's submission could be relied upon as fairly and reasonably putting submitters on notice of this potential change to increase height.

705. In his Reply, Ms Scott referred directly to Mr Goldsmith's legal submissions.[581] We here observe that Mr Goldsmith filed these submissions on behalf of the submitter before the hearing in accordance with our Procedural Minute. He then subsequently replaced them with amended submissions at the hearing on 1 December 2016. We took from this that the earlier submissions in which this jurisdictional issue was raised had been formally replaced.

706. Like Ms Scott, we have assumed the question of whether Mr Cowie's submission provides scope for increased height limits in the QTC was not being pursued given those submissions were replaced. However, Ms Scott addressed this issue of jurisdiction in her Reply.

707. Essentially, Ms Scott pointed to the fact that the legal submissions of Mr Todd for MSP disclosed that both MSP and NZIA had made further submissions to the Cowie submission on the very matter of increased height within the QTC.[582] Ms Scott submitted, and we agree with her, that the existence of further submitters to Mr Cowie submission strongly supports the proposition that the matter of increased height limits in the QTC was a reasonably foreseeable outcome of Mr Cowie's submission.[583]

708. We agree and accept Council has jurisdiction to increase in height for the Man Street Block.

709. In her reply, Ms Jones accepted some of Mr Goldsmith's suggestions such as consistent use of the term RL throughout the rules and a removal of all references to the Otago datum level in brackets.[584] These amendments have been included within our recommended rules.

710. Mr John Edmonds, on behalf of John Thompson[585], presented his opinion on the appropriate approaches to height limits for the Language School site in pre-lodged evidence filed before the hearing. His evidence responded to Ms Jones' Section 42A Report and the pre-circulated urban design evidence of Mr Church. His evidence related to the properties located at 10 Man Street, 14 Brecon Street and 10 Brecon Street, collectively referred to as the "*Language School*."

711. Mr Edmonds raised several issues relating to the Language School. He was concerned about the practicality of using a sloping height limit on the Language School site.[586] He had concerns relating to the uncertainty of the original ground level which would be the basis of the height limit applicable to the Language School site.[587] Mr Edmonds considered that there would be

580 Submission 20
581 Submissions in Reply of Ms Scott at [5.1].
582 Ibid at [5.2].
583 Ibid.
584 V Jones, Reply Statement at [2.3].
585 J Edmonds, EiC
586 Ibid at [10].
587 Ibid at [11].

significant urban design issues in relation to both Brecon Street and the Man Street frontage.[588] Finally, he was concerned about the very real potential for conflict arising from a contested consent application.[589]

712. Mr Edmonds evidence set out in a proposed alternative approach for the Language School site to address the issues he had identified. He contended his proposed alternative provided a more appropriate method for implementing Objectives 12.2.2 and accorded with Policies 12.2.2.2 and 12.2.2.3.

713. Essentially his alternative approach was that the recommended maximum height limit applicable to the Language School site change from a sloping height limit above original ground level to a flat plane height limit being a specified RL or a masl level.[590]

714. Mr Edmonds contended adopting this approach to determining a height limit for the Language School would be more logical and rational particularly having regard to the context of having the Sofitel Hotel with its height to the north-east and the car park to the south-west.[591]

715. Additionally Mr Edmonds requested that area P1 in redraft Rule 10.5.10.4 be changed to Area G. He also considered that an additional sub clause be added to Rule 10.5.10.4 specifying the maximum height in Area G. In his view, the height in this Area G should be determined by Rule 12.5.10.4 rather than Rule 12.5.10.1.

716. Mr Edmonds considered that his suggested approach generally aligned with the relief sought by MSP, except with regard to the RL for the carpark building.[592]

717. Mr Williams, on behalf of MSP[593], in his pre-circulated evidence addressed the Man/Hay/Shotover/Brecon Street block controls. He addressed these controls further in his evidence summary presented at the hearing. He detailed the agreed position between submitters MSP and Mr Thompson.[594] He set out his opinion supporting, but with some exceptions, the approach recommended in the Council Memorandum dated 18 November.

718. The main exceptions were the cut of plane should avoid buildings above the Man Street Car Park Podium 327.1masl.[595] Also he still preferred the use of a height cut of plane and recession plane to manage the built form in relation to Shotover Street because of uncertainty around determining ground levels.[596]

719. Ms Jones[597], with the assistance of Mr Church, assessed this evidence and the alternate proposed approaches contained within it. She noted that there were three sites which comprise the Language School site and the site appeared to be in two separate ownerships, neither of whom had submitted on the height rules in the PDP.[598] The only submission on the

588 Ibid at [13].
589 Ibid at [14].
590 ibid at [15a].
591 Ibid at [19c].
592 ibid at [15a].
593 Submission 398
594 T Williams, Summary of Evidence at [2] and Appendix A.
595 Ibid at [6].
596 Ibid at [10].
597 V Jones, Reply Statement at [6.20 to 6.31]
598 Ibid at [6.22].

height of the Language School site she identified for us was from Maximum Mojo Holdings limited[599]. The relief sought in that submission was that the height on 10 Man Street be amended to be the same as on the Man Street car park site.

720. When considering Mr Williams and Mr Edmonds' evidence, Ms Jones' conclusions were that it was likely that less development would be enabled on the Language School site under Mr Williams and Mr Edmonds' suggestions, than under the PDP rules.[600]

721. It was her view that following Mr Williams' and Mr Edmonds' rules, the site would have significantly lesser views of the lake due to the level plane allowed over the three lots[601], and the site would be likely to need to be excavated below the Man Street level to achieve a well-designed two storey development along Man Street.[602]

722. Turning to considering which rules would best achieve an acceptable outcome on Man Street and the Brecon Street steps, Ms Jones was of the view that it was not a sound assumption that the PDP provisions would result in a 14m high building on the street frontage of the Language School site[603]. She noted that, in any event, Rule 12.5.9 included discretion over urban form and specifically in relation to whether the building would respond sensitively to different heights on adjacent sites and the effect on amenity of the street.[604]

723. In respect of the Man Street landscape, Ms Jones did not consider that, given the Language School site was a stand-alone site with view shafts either side, consistency in height with the adjacent buildings, such as the Man Street car park, when viewed from on the street, to be the most critical issue.[605] Rather, she considered the rule should enable quality building design and quality relationship between the Language School site and Man Street.[606]

724. Ms Jones considered the 7 m height limit on Man Street proposed by Mr Williams and Mr Edmonds to be too low, particularly in the context of the development enabled on the Man Street car park block and on the opposite side of the road enabled to by Plan Change 50.[607] She agreed that a high building on the Language School site would be likely to be similar in effect to the Sofitel Hotel.[608] However, she considered that the western end of the hotel was something of an anomaly and should not, in her view, lead future built form along this street edge.[609]

725. In terms of effects on the Brecon Street steps, Ms Jones noted that the Sofitel Hotel stepped down three times from Man Street to the narrow corner with Duke Street. She referred to this as an example of the sort of built form that can be achieved through a rule that applied a rolling height plane coupled with a horizontal high plane.[610] In her view it was important that

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599 Submission 548. This submitter owned 19 Man St and sought that height on 10 Man Street be amended to be the same as on the carpark site.

600 V Jones, Reply Statement at [6.24].

601 10 Man,10 Brecon and 14 Brecon Streets.

602 V Jones, Reply Statement at [6.24].

603 Ibid at [6.25(a)]

604 Ibid at [6.25a].

605 Ibid at [6.25b].

606 Ibid.

607 Ibid at [6.25c].

608 Ibid.

609 Ibid.

610 Ibid at [6.25d].

both sides of the Brecon Street steps bear some relationship to one another.[611] Stepping the built form down the Brecon Street steps would result, she thought, in an appropriate outcome.[612]

726. Ms Jones' primary concern with the rules proposed by Mr Edmonds and Mr Williams was that the allowed height above Brecon Street at the mid-block would be some 21.55 m above the street level.[613] She considered that to be too high, and that it would potentially create adverse visual dominance effects over Brecon Street.[614] She pointed out that such an outcome did not correspond with the step in the Sofitel Hotel built form, and provided some graphics to illustrate that point[615]. Overall, it was Ms Jones' opinion that a consistent height plane across all three properties fronting Brecon Street as supported by Mr Edmonds and Mr Williams, would result in a building that was too low on Man Street to contribute positively to the streetscape.[616] Also it would be an inefficient use of 10 Man Street and would potentially be visually dominating on Brecon Street. She did not support such an approach.

727. We note that having conferred with Mr Church, Ms Jones confirmed the view that the application of Precinct 1 to the Language School site and sloping height plane rules for the site was appropriate.

728. Ms Jones did propose the option of a lower height plane over the two uppermost sites, 10 Man Street and 14 Brecon Street, to 335.1 masl, although this was not her preference.[617] This would provide, she said, a consistent 3 m step between each building height limit and to some extent would match the hotel on the opposite side of Brecon Street.[618] However, she considered 8 m would restrict the building height to two low stories which was not the most appropriate outcome.[619]

Our Recommendations on 30 Man Street

729. Submitter evidence challenged Ms Jones' recommendation in relation to the appropriate heights for the Language School site, but as we understood the evidence, there was no challenge in relation to 30 Man Street. We agree with and adopt Ms Jones' recommendations in regard to 30 Man Street.

Our Recommendations on the Language School Site

730. Overall, having considered the various options presented to us by Mr Williams, Mr Edmonds and Ms Jones, we have concluded that applying the Precinct 1 height rules to this site and the adjoining two on Brecon Street would provide the most appropriate outcome. While the graphics included in Ms Jones' Reply Statement show the potential for a building on 10 Man Street to loom over any building on the adjoining 14 Brecon Street, we consider the stepped height regime of permitted, restricted discretionary and non-complying would enable a satisfactory urban design outcome along this portion of Brecon Street. Finally, we see no reason to limit the development potential of 10 Man Street solely to protect private views from another commercial property.

611 ibid at [6.25d].
612 Ibid.
613 Ibid at [6.26].
614 Ibid.
615 Ibid at p17-18.
616 Ibid at [6.28].
617 Ibid at [6.29].
618 Ibid.
619 Ibid.

731. For these reasons, and for the reasons advanced by Ms Jones, we recommend that the relevant rule version we have set out below be adopted.

Recommended wording of rule 12.5.9 and 12.5.10

732. It is clear that height in the QTCZ is a key issue. These rules attracted many submissions and further submissions and much analysis in particular by Ms Jones and Mr Church.

733. We wish to thank Ms Jones and Mr Church for their input and analysis which enabled us to determine the rule wording which we consider achieves the objectives and policies and ultimately supports the zone purpose as set out earlier in this decision.

734. We recommend these rules be renumbered as Rule 12.58 and Rule 12.5.9, and be adopted with the wording set out in Appendix 1. This wording incorporates necessary consequential changes resulting from the revisions we have discussed above. We also recommend including as Figure 2 the Height Precinct Plan shown as Reply Figure 2 above.

7.17. Rule 12.5.11 Noise

735. As notified, this rule set out the standards for activities in the QTCZ regarding noise. In the PDP, the noise limits were increased slightly throughout the QTC (other than in the TCTZ). The noise rules included a newly identified TCEP where a higher level of noise was allowed in order to encourage noisier venues to locate in the most central part of town, where they would have the least effect on residential zones (within which acoustic insulation is not required).

736. The issues raised by submitters relating to noise focused on:
   a. the appropriateness of the noise levels particularly the more enabling limits relating to music, voices and loud speakers and if those new limits applied to the TCTZ;
   b. establishing the Town Centre Entertainment Precinct and its possible expansion;
   c. determining if the noise limits applied to commercial motorised water based craft was a further issue.

Town Centre Entertainment Precinct (TCEP)

737. Turning first to the issue of whether the TCEP should be established and, if so, expanded.

738. Various submitters[620] opposed both the TCEP concept and its rules, requesting it be deleted and the whole of the QTC be subject to lower noise standards. Imperium Group[621] specifically requested that all consequential amendments necessary be made to remove the TCEP from the chapter.

739. The PDP introduced changes to noise limits resulting in a range of submitters[622] requesting that noise limits be lowered through the town centre. They requested the reinstatement of the ODP rules or the deletion of the exclusion of sound from the sources specified in notified Rules 12.5.11.3, 12.5.11.4, 12.5.11.1 and 12.5.11.2. Consequently, the second key issue was the appropriateness of the noise limits within the proposed rules.

740. Submitters opposing the proposed noise rules contended that raising the limits would increase adverse effects on residents and visitors staying in and around the town centre, users of the gardens and detract from amenity values generally.

620 Submissions 599, 151 and FS1318), 654 (supported by FS1043 and FS1063)
621 Submission 151.
622 Submissions 151, 503, 506, 654, 302, 474 and 217

741. Conversely a number of submitters[623] either supported the proposed noise rules or requested more lenient noise limits. Primarily they sought extending the TCEP rules to a greater area of the town centre such as Steamer Wharf, the waterfront area, or in discreet cases, such as 1876 Speights Ale House, The Pig & Whistle and Brazz, and to both sides of Seale Lane. They also requested particular exemptions to the rules.

742. Reasons the submitters put forward for extending the TCEP to the above areas included the point that there were no accommodation providers in some of the locations referred to but, rather, these areas were characterised by patrons occupying outdoor areas. Submitters linked to Steamer Wharf explained the wharf was a proven hospitality destination with 11 established bars, a central management structure, a good alcohol record, and resource consents allowing open air bars to operate to 12 am with positive results. They also pointed out there were limited numbers of sensitive receivers in the vicinity and a low possibility of such activities establishing within the complex. Submitters also contended applying the TCEP to Steamers Wharf would result in consolidation of entertainment type activities resulting in minimising conflict with other users and also making enforcement and self-monitoring easier.

743. Including the Queenstown Bay waterfront, according to some submitters[624], was essential to maintaining Queenstown's reputation as a premier destination. Those submitters also noted that Pog Mahones was a long-time business associated with this vibrant area and including it within the TCEP was considered appropriate.

744. Similarly with Searle Lane, submitters[625] made the point that this was already a busy vibrant hospitality precinct. Including it in the TCEP would ensure its ongoing development. Submitters made the point that the central location of Searle Lane worked well to insulate noise from leaving this area.

745. Other submitters[626] requested that the rules that apply to the TCEP, namely notified Rules 12.5.11.3 (a) and 12.5.11.4 (a), should apply throughout the whole QTCZ except the TCTSZ.

746. In considering and determining a response to these submissions, Ms Jones relied upon the expert evidence of Dr Stephen Chiles.[627] As well as being well-qualified, Dr Chiles recorded in his evidence that he had worked extensively on acoustic issues in the district for over a decade.[628] He told us his involvement in the district has been primarily with respect to disturbance or potential disturbance from various restaurants and bars at nearby residential and visitor accommodation.

747. Before evaluating the noise rules and submitter position, Dr Chiles made what we think is a very important context point: the town centre noise limits in the ODP are, according to Dr Chiles, more stringent than most other districts in New Zealand.[629] They do not allow for the degree of night-time entertainment enabled by both the policies and rules in the PDP. The PDP, according to Dr Chiles, would provide more lenient noise limits for night-time

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623 Submissions 714, 804 (opposed by FS1318), 774, 70, 247, 587, 589, 835, 839, 777, 71, 774, 596 (opposed by FS1318), 549 (supported by FS1134, opposed by FS1318)

624 Submissions 70, 71, 714 (opposed by FS1318), 774,247, 587, 589, 835, 839, and 777.

625 Submissions 549, FS1134.2 (opposed by FS1318.14)

626 Submissions 250, 544 (supported by FS1134), 630 (opposed by FS1043 and FS1318)

627 V Jones, Section 42A Report at [12.19].

628 Dr S Chiles, EiC at [1.5].

629 Ibid at [2.1a].

entertainment.[630] As we understood the evidence before us, we did not understand anybody to challenge Dr Chiles on these points.

748. Dr Chiles expressed the opinion that the PDP would be likely to compromise residential amenity in the QTC and to a lesser extent in nearby residential zones.[631] He went on to note that he was not aware of a practical alternative to avoid compromising either noisy or noise sensitive activities in the QTC.[632] He did express the opinion, however, that the proposed compromise of residential amenity in the town centre and nearby residential zones was reasonable and should be acceptable in these environments.

749. Dr Chiles was of the view the PDP noise limits were robust and practical. He noted that while bar and restaurant activity would be enabled to a greater extent than under the ODP, he pointed out that those activities would still need to be subject to standard noise management practices, such as limiting sound system volumes.[633]

750. In relation to the TCEP, Dr Chiles made the point that the purpose of the precinct was to provide for fewer restrictions on some bar and restaurant activities in an area.[634] He said that area had been selected to minimise effects on residential zones and to avoid conflict with existing residential and visitor accommodation in the QTC, as far as practicable.[635]

751. Dr Chiles explained to us that due to the distribution of visitor accommodation throughout the QTCZ there were some effects that could not be avoided. This circumstance was aptly demonstrated by the Eichardt's Private Hotel (Eichardt's), given that its location at 2 Marine Parade was immediately adjacent to the proposed TCEP. Dr Chiles noted that the nearest parts of Eichardt's facing the TCEP were occupied by retail units on the ground floor.[636] These units were not considered noise sensitive because of the nature of activities performed in them and, more importantly, because they were unlikely to be occupied at night.[637]

752. Dr Chiles noted the first floor hotel spaces appeared to have sound insulating glazing and in any event they were currently exposed to sound from people in the Mall at night.[638] He observed that, based on his past experience, night-time noise from people in the Mall would often generate sound levels similar to or higher than those permitted by the PDP noise limits.[639] Finally, he noted that because Eichardt's was not in the entertainment precinct itself, the more stringent noise limits in notified Rules 12.5.11.3 (b) and 12.5.11.4 (b) would apply to any sound within the TCEP received at Eichardt's.[640]

753. He also made the point that the precinct would serve as a guide for future developments in the QTC as the most appropriate location for both noisy and noise sensitive activities.[641] We understood this to mean that the existence of the precinct would encourage noisier activities to locate within it and it would discourage the location of noise sensitive activities.

630 Ibid.
631 Ibid.
632 Ibid.
633 Ibid at [2.1b].
634 ibid at [2.1c].
635 Ibid.
636 ibid at [10.2].
637 Ibid.
638 Ibid.
639 Ibid.
640 Ibid.
641 Ibid.

754. As to extending the TCEP to other areas in the QTC, Dr Chiles was clear that to do so would give rise to additional adverse effects.[642] Consequently, he did not support an extension of the TCEP. In respect of those submitters who sought deletion of the precinct, he responded that he considered the TCEP would serve a useful function that, based on his experience, would not be provided by assessing individual bars on a case by case basis as currently occurred under the ODP.[643]

755. Having particular regard to Dr Chiles' evidence, particularly the noise contours attached as Appendix C, we are satisfied that the effects on residential amenity as modelled of including Steamer Wharf and/or the Brazz precinct of bars and/or the whole of the QTC would be unacceptable in terms of noise effects.

756. Having carefully considered Dr Chiles' evidence, including his previous reports, we agree with Ms Jones that the location and extent of the proposed TCEP is the most appropriate response to the potential conflicts between bars and restaurants on one hand, and residential and visitor accommodation uses on the other, in and around the QTC. We have paid particular attention to the noise contours in Dr Chiles' evidence, comparing the three sets of noise contours in what he describes as his "*First 2014 letter*".[644] We conclude that the contours provide compelling evidence that the proposed location of the TCEP is appropriate.

757. In respect of expanding the TCEP to both sides of Searle Lane, we accept, based on Dr Chiles' evidence, that this may not result in a significant increase in the noise received within the residential zone. We do, however, agree that to expand the TCEP would exacerbate noise effects on Nomads Backpackers and cause sleep disturbance to a large number of people.

758. We have considered the solution of retrofitting this backpacker's facility with noise insulation, but we do not consider the benefits of expanding the TCEP outweigh imposing costs on the backpacker's operator. In any event, the Council cannot compel noise insulation. It follows that we do not recommend extending the TCEP to include Pog Mahones Irish pub, or extending the TCEP as requested by the Good Group, to all of the QTC excluding the TCTSZ.

759. Also we do not support extending the TCEP to include the Pig and Whistle and historic courthouse buildings nor extending the precinct more broadly around the village green to Stanley Street. Having close regard to Dr Chiles' contours in the "*Second 2014 Letter*" and comparing them with scenario 2 in the "*First 2014 Letter*", confirms that, to extend the TCEP in the manner submitters sought, would result in sound levels that would generally be unacceptable, particularly at the interface with the residential zone around Henry Street and Melbourne Street.

Appropriateness of Noise levels

760. As notified the Noise rules provide for noise levels at differing times of the day and night for activities located within the TCZ and the TCTZ. Exceptions to these noise limits were provided for in subsequent rules. Before turning to the exceptions, if noise levels were not complied with by an activity then the status of that activity would become non complying.

761. The exceptions were more permissive enabling higher sound from music, voices and from loudspeakers within any site in the TCEP.

642 Ibid at [2.1d].

643 Ibid.

644 Ibid at [1.10e].

762. Construction noise and outdoor public events pursuant to Chapter 36 were dealt with differently. As originally notified, the rules did not deal with or were unclear in terms of application to commercial motorised craft operating within the QTCWSZ.

763. Some submitters[645] wished to see the notified rules reduce allowable noise, and deletion of the exclusion of sound from the sources specified in notified Rules 12.5.11.1 to 12.5.11.4. Reasons for opposing the proposed noise rules included the contention that raising limits would increase adverse effects on residents and visitors staying in and around the QTC and amenity values generally.

764. Other submitters[646] requested the noise allowed within the TCEP apply throughout the QTC. Some expressed concern as to whether or not the increases would be sufficient to provide for night-time entertainment[647].

765. Those seeking noise reductions included Mr James Cavanagh[648] for Imperium Group[649]. He described the impact of existing noise on both The Spire and Eichardt Hotels. He noted both hotels prided themselves on the ability to give guests a luxurious stay without interruption or disturbance.[650] He detailed instances of a number of complaints from guests regarding noise, from sources such as taking kegs out and or moving outside furniture.

766. However, as Ms Jones pointed out, the noise limits in the PDP in that regard would be the same as the ODP so there would be no change.[651] Also, we observe that, while the PDP does propose more permissive noise limits as usefully described in the evidence of Dr Chiles, this would not promote people shouting or loud music with open doors and windows. Furthermore, sound from patrons on public streets is not directly controlled by either noise rules in the ODP or the PDP. However, we do not doubt either the accuracy or the genuineness of Mr Cavanagh's concerns, particularly in relation to enforcement of the noise rules.

767. In legal submissions for the Imperium Group, Ms Macdonald repeated Imperium's original submission that: [652]

a. there was no "justifiable resource management reason for providing separate and increased noise limits" for the TCEP;
b. making provision for higher noise limits in the TCEP would result in significant adverse effects on properties within the TCEP and in its vicinity;
c. there was no justification for those notified rules which would allow noise to spill over into areas outside the TCEP in a manner that would depart from standard noise provisions; and
d. insufficient consideration had been given to alternatives.

768. Essentially reverting to the status quo as per the ODP was sought.[653] Ms Macdonald submitted that the adverse effects generated by the higher noise levels were significant and that they

645 Submissions 151, 503, 506, 654, FS1063, FS1318, 302, FS1043, 474, 217.
646 Submissions 544, FS1134, 630, 250 (opposed by FS1043 and FS1313).
647 Submission 630
648 J Cavanagh, EiC at [3.1 to 3.13]
649 Submission 151
650 J Cavanagh, EiC at section 3.
651 V Jones, Reply Statement at [11.1].
652 Legal Submissions of Ms Macdonald at [1a].
653 Ibid at [21].

had not been adequately assessed or addressed in proposed Chapter 12, Dr Chiles' evidence or Ms Jones' Section 42A Report.

769. As much as Mr Cavanagh's evidence presented concerns, we do have to consider what both Dr Chiles and Ms Jones told us about the existing noise environment.

770. In particular, as Ms Jones recorded[654], in practice the rules would allow activity and noise levels of a very similar nature to what in fact has actually been able to occur regularly through non-complying resource consents over the years. We understood Dr Chiles to confirm the same point. Returning to the status quo would not appropriately deal with this circumstance. We think it more appropriate that the PDP recognise and provide for the current noise environment in a manner which both recognises that existing noise environment and provides appropriate levels of protection for noise sensitive activities. We are satisfied that the TCEP and the noise levels within the notified rules would achieve that difficult balance. We also agree with Dr Chiles that, given the current noise environment, there are very few practical alternatives available.[655]

771. Dr Chiles and Ms Jones pointed to the history of resource consent applications which sought to exceed the noise limits.[656] This demonstrated to us those ODP plan provisions did not adequately provide for or meet the community's demand for those activities in the QTC. As well, noise assessment and controls in relation to those resource consents could be costly, inefficient and potentially ineffective.

772. It seemed to us that Dr Chiles explicitly recognised the shortcomings in this consenting approach in supporting the PDP noise rules. As we note below, he also explicitly recognised the important shift in noise-related policies because that shift would recognise the effects of the current noise environment on residential amenity and visitor accommodation is largely unavoidable. This effect on residential amenity would be specifically recognised in recommended Policies 12.2.1.4 and 12.2.3.4.

773. We do accept that notified Rules 12.5.12 and 12.5.13 would not relate to the existing critical listening areas. However, those notified rules would at least address this circumstance for a new noise sensitive activity wishing to locate either within or nearby the TCEP. We see that as an improvement.

774. Also, in our view notified Rules 12.5.11.1 to 12.5.11.5 would give effect to recommended Policies 12.2.1.3, 12.2.1.4, 12.2.3.3 and 12.2.3.4. All of these policies seek to enable bar and restaurant activity in the QTC at the expense of compromised residential amenity in the QTC, while minimising effects on nearby residential zones.

775. In respect of notified Rule 12.5.11.5, Evan Jenkins[657] sought to have all outside loudspeakers banned on the basis that the noise from them could not be contained, they infected public space and disturbed customers of other establishments. The Queenstown Chamber of Commerce[658] sought confirmation that the noise limits in the PDP were consistent with other resort towns. Dr Chiles confirmed the noise limits in the PDP as notified were consistent with

654 V Jones, Section 42A Report at paragraph 12.57
655 Dr S Chiles, EiC at[2(1)a].
656 Ibid at [3.2], Section 42A Report of Ms Jones at [12.61].
657 Submission 474
658 Submission 774

other towns seeking to enable night entertainment.[659] He did note, however, that in the QTC outside of the TCEP, the PDP noise limits would remain relatively stringent for some restaurants and bars and would, in his opinion, still constrain activity at night.[660]

776. Peter Fleming[661] submitted that notified Rule 12.5.11 was unworkable. Dr Chiles disagreed. In his view, the rules were consistent with the approach of other towns and the noise limits are measured and assessed against relevant New Zealand Standards.[662]

777. Dr Chiles also responded that it would explicitly address several issues in making the application of the noise limits more practical, particularly in the light of experience with the ODP.[663] For example, the outdoor loudspeaker noise limit in notified Rule 12.5.11.4 would provide a simple practical control that could be readily verified by measurements on site at the same time as there being people in the vicinity. We were satisfied by Dr Chiles' evidence on this point.

778. Dr Chiles identified a drafting issue with notified Rule 12.5.11 in that it did not give effect to the structure of noise limits as originally intended.[664] The intention was for these rules not to apply within the TCTSZ so that a buffer was created between activities with more lenient noise limits and surrounding residential zones. Relying on several submissions[665], Ms Jones recommended amendments to give effect to the original intention of the rules. We agree and recommend those changes.

779. While on the point of amendments, Ms Jones pointed out that notified Rules 12.5.11.3 and 12.5.11.4 potentially conflicted with Rule 36.3.2.9 in Chapter 36 (Noise). She explained that those rules do not require noise from music or voices to meet residential noise levels on the boundary of that zone, yet reply Rule 36.3.2.9 provided otherwise.[666]

780. Ms Jones recommended amending the notified purpose within Chapter 36 at 36.1 and amending reply Rule 36.3.2.9 to deal with this potential conflict.[667] Some of the changes to Section 36.1 were promoted as non-substantive and we agree with both the amendment and the basis of that amendment.

781. Ms Jones identified the submissions[668] relied on to provide scope for her recommended changes to the notified Section 36.1 and also to Rule 36.3.2.9.[669] We agree with her changes and recommend to the Stream 5 Hearing Panel that those amendments be made. We have included those changes within our Appendix 8.

Noise from Commercial Motorised Craft

782. Real Journeys[670] sought that vessels carrying out navigational procedures be exempt from notified Rule 12.5.11, making such noise permitted. This submission identified for Ms Jones

659 Dr S Chiles, EiC at [4.1].
660 Ibid.
661 Submission 599
662 Dr S Chiles, EiC at [4.3].
663 Ibid at [4.4].
664 Ibid at [4.5].
665 Submissions 151,503, 506, 654, 302, 217
666 V Jones, Section 42A Report at [12.55].
667 Ibid.
668 Submissions 151, 503, 506, 654, 302, 474, 217.
669 V Jones, Section 42A Report at [12.52].
670 Submission 621

an inconsistency between the rules relating to vessels within the WSZ and Chapter 12.[671] Dr Chiles agreed.[672]

783. Ms Jones pointed out that Chapter 36 proposed a specific noise limit for commercial motorised craft on the lake.[673] It also proposed exempting craft from other zone noise limits, whereas such craft operating in the WSZ would be subject to the general QTC noise limits of Chapter 12.

784. Dr Chiles preferred the limits and methodology contained in Chapter 36 over those contained in Chapter 12.[674] Ms Jones recommended that notified Rule 12.5.11 be amended by adding a further provision exempting water and motor-related noise from commercial motorised craft within the QTZ WSZ from meeting the limits set out in Rules 12.5.11.1 and 12.5.11.2.[675] This would have the effect of such noise being subject to (reply version) Rule 36.5.14. Further Purpose 36.1 and Rule 36.3.2.9 would need minor amendment to clarify this point. We agree and so recommend to the Stream 5 Hearing Panel. The changes we recommend to Chapter 36 are set out in Appendix 8.

Our Recommendations

785. In our view the noise levels within the notified rules based on the expert evidence of Dr Chiles and the opinion of Ms Jones are appropriate as they largely reflect the existing noise environment. The notified rules support the zone purpose and policy framework.

786. We consider the TCEP is also appropriate and extension or modification to allow application of it to additional areas is not warrant

787. We also consider clarifying the appropriate noise rule that applies to commercial motorised craft operating within the QTCWS is appropriate.

788. Accordingly, we recommend Rule 12.5.10 (notified Rule 12.5.11) be as set out below, with our amendments shown as strikethough and underlined.

12.5.~~1~~10	**Noise**		NC
	10.1.2.1	*Sound* from activities in the Town Centre Zone and Town Centre Transition Sub-Zone (excluding sound from the sources specified in rules 12.5.11.3 to 12.5.11.5 below) shall not exceed the following noise limits at any point within **any other site in these zones**:* a. daytime (0800 to 2200 hrs) **60 dB $L_{Aeq(15\ min)}$** b. night-time (2200 to 0800 hrs) **50 dB $L_{Aeq(15\ min)}$**	

671 V Jones, Section 42A Report at [12.54].
672 Dr S Chiles, EiC at [8.3].
673 V Jones, Section 42A Report at [12.55].
674 Dr S Chiles, EiC at [8.3].
675 V Jones, Section 42A Report at [12.55].

		c. night-time (2200 to 0800 hrs) **75 dB L_{AFmax}** *measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008	
	10.1.2.2	*Sound from activities in the Town Centre Zone and Town Centre Transition Sub-Zone (excluding sound from the sources specified in rules 12.5.11.3 and 12.5.11.4 below) which is received in **another zone** shall comply with the noise limits set for the zone the sound is received in;* ~~.~~	
	10.1.2.3	*Within the Town Centre Zone ~~only~~ excluding the Town Centre Transition Sub-Zone,, sound* **from music** shall not exceed the following limits:* a. 60 dB LAeq(5 min) at any point within any other site in the Entertainment Precinct; and b. At any point within any other site outside the Entertainment Precinct. i. daytime (0800 to 0100 hrs) 55 **dB $L_{Aeq(5\ min)}$** ii. Late night (0100 to 0800 hrs) 50 dB LAeq(5 min) *measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008, and excluding any special audible characteristics and duration adjustments.	
	10.1.2.4	*Within the Town Centre Zone ~~only~~ excluding the Town Centre Transition Sub-Zone,, sound* **from voices** shall not exceed the following limits:* a. 65 dB LAeq(15 min) at any point within any other site in the Entertainment Precinct; and b. At any point within any other site outside the Entertainment Precinct. i. daytime (0800 to 0100 hrs) 60 **dB $L_{Aeq(15\ min)}$** ii. Late night (0100 to 0800 hrs) 50 dB LAeq(15 min) *measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008.	

	10.1.2.5 *Within the Town Centre Zone ~~only~~ <u>excluding the Town Centre Transition Sub-Zone</u>,, sound* **from any loudspeaker** outside a building shall not exceed **75 dB $L_{Aeq(5\ min)}$** measured at 0.6 metres from the loudspeaker.* * measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008, excluding any special audible characteristics and duration adjustments. Exemptions <u>from Rule 12.5.11:</u> The noise limits in 12.5.11.1 and 12.5.11.2 shall not apply to construction sound which shall be assessed in accordance and comply with NZS 6803:1999~~;~~. The noise limits in 12.5.11.1 to 12.5.11.5 shall not apply to outdoor public events pursuant to Chapter 35 of the District Plan~~;~~. <u>The noise limits in 12.5.11.1 and 12.5.11.2 shall not apply to motor/ water noise from commercial motorised craft within the Queenstown Town Centre Waterfront Sub-Zone which is, instead, subject to Rule 36.5.13.</u>	

7.18. Rule 12.5.12 Acoustic insulation, other than in the Entertainment Precinct and Rule 12.5.13 Acoustic insulation within the Entertainment Precinct.

789. Two submitters[676] supported the new provisions for insulation and mechanical ventilation. Other submitters,[677] primarily as a consequence of overarching relief, requested the deletion of notified Rule 12.5.13 which required insulation and ventilation in the TCEP. Other submitters[678], as a consequence of requesting that the TCEP be extended, requested that the rule be amended to apply to those additional areas.

790. Dr Chiles explained that these rules would require both mechanical ventilation/cooling and enhanced sound insulation of facades.[679] To meet the facade sound insulation requirements both inside and outside the TCEP, glazing would generally need to be a high performance secondary or triple glazed system with a large cavity of approximately 100 mm between panes of glass. He said that could be achieved by installing a second window inside the main window.[680]

791. Dr Chiles referred us to section 5 of the 2011 report that explained the need for the sound insulation to result in internal sound levels that should provide reasonable protection from

676 Submissions 217 and 774
677 Submissions 302 and 151
678 Submissions 714 and 774
679 Dr S Chiles, EiC at [9.1].
680 Ibid

sleep disturbance. He was clear in his view[681] that the acoustic treatment required by these rules was essential to give effect to notified Policies 12.2.1.3, 12.2.1.4, 12.2.3.3 and 12.2.3.4.

792. It was Dr Chiles' view that, even if the noise limits were not being increased within the PDP, it would still be appropriate to include an acoustic treatment requirement.[682] This reinforced for us the point about the already existing noisy environment.

793. Ms Jones recommended that it was essential that all new critical listening areas wishing to establish in the TCEP be required to be insulated to the standard required by these rules.[683] It was her understanding that the costs associated with achieving the necessary insulation would not be significant in the context of a new commercial building.

794. However, she acknowledged these rules could deter some owners from developing residential and visitor accommodation within this relatively small area and instead developing upper stories for office, light manufacturing secondary retail or some other use.[684]

795. Ms Jones did not see this as an adverse outcome. Rather, she considered this was simply internalising the environmental and economic cost of establishing residential development within the TCEP and as such would very likely result in efficient land use in the long-term.[685]

796. Also, Ms Jones noted that, for those where cost does not present a financial barrier to developing residential and visitor accommodation, then these provisions would enable the development in a manner that should not result in adverse effects on health and well-being.[686]

797. Finally, Ms Jones reminded us that removal of this requirement would not enable the achievement of notified Objective 12.2.3, as it would not result in a reasonable level of residential amenity for those seeking to reside in the TCEP.[687]

798. We accept the opinions and the reasons for them as advanced by both Dr Chiles and Ms Jones in relation to acoustic installation and ventilation and we recommend inclusion of those rules as we have set out below. We think the rules advanced are realistic given the existing noise environment. We also consider these rules are appropriate and are to be preferred having considered the alternatives promoted within submissions.

799. We show our recommended wording as underlined or strikethrough, including renumbering to Rule 12.5.11 and 12.5.12 (notified Rules 12.5.12 and 12.5.13) as follows:

~~12.5.12~~ 12.5.11	**Acoustic insulation, other than in the Entertainment Precinct** Where any new building is erected or a building is modified to accommodate a new activity:	RD~~*~~ Discretion is restricted to: a. the noise levels that will be received within the critical listening environments, with

681 Ibid at [9.2].
682 Ibid
683 V Jones, Section 42A Report at [12.67].
684 Ibid.
685 Ibid.
686 Ibid.
687 Ibid.

	12.5.1~~2~~1.1 A mechanical ventilation system shall be installed for all critical listening environments in accordance with Table 5 in Chapter 36; 12.5. 1~~2~~1.2 All elements of the façade of any critical listening environment shall have an airborne sound insulation of at least 40 dB R_w+C_{tr} determined in accordance with ISO 10140 and ISO 717-1. *~~Discretion is restricted to consideration of all of the following:~~ • ~~the noise levels that will be received within the critical listening environments, with consideration including the nature and scale of the residential or visitor accommodation activity;~~ • ~~the extent of insulation proposed; and~~ • ~~whether covenants exist or are being volunteered which limit noise emissions on adjacent sites such that such noise insulation will not be necessary.~~	consideration including the nature and scale of the residential or visitor accommodation activity; b. the extent of insulation proposed; and c. whether covenants exist or are being volunteered which limit noise emissions on adjacent sites such that such noise insulation will not be necessary.
~~12.5.13~~ 12.5.12	**Acoustic insulation within the Entertainment Precinct** Where any new building is erected or a building is modified to accommodate a new activity: 12.5. 1~~3~~2.1 A mechanical ventilation system shall be installed for all critical listening environments in accordance with Table 5 in Chapter 36;. 12.5. 1~~3~~2.2 All elements of the façade of any critical listening environment shall have an airborne sound insulation of at least 40 dB Rw+Ctr determined in accordance with ISO 10140 and ISO 717-1.	NC

7.19. Rule 12.5.14 Glare

800. This Rule, as notified, raised two issues. The first was in relation to limiting effects of glare on the night sky. The reporting officers had recommended deletion of the words "*and so as to limit the effects on the night sky*" because those words were uncertain and would make the standard *ultra vires*. However, they stated, simply excising the words in the phrase would make the standard *intra vires*.

801. During the hearing we asked Mr Winchester to consider whether there was scope within submissions to delete that phrase within any submissions received. In particular, the

submissions of Grant Bisset[688] and Ros and Dennis Hughes[689] (Hughes). Ms Scott, in the Legal Submission in Reply, submitted that those submissions did not provide scope to delete the phrase, but they did provide scope to make the zone provisions more measurable and specific.[690]

802. Mr Bisset's submission stated that the night sky was a valuable resource and the ability to clearly view it was an amenity value of the district. The submission also supported the provisions controlling the effects of lighting[691] and stated that "*a greater level of direction is required*" to achieve this.

803. Ms Scott explained that the Hughes similarly submitted that the PDP did not adequately recognise the significance of the night sky, and sought that it be given greater prominence and recognition in the PDP.[692]

804. We agree that a consistent approach in the Plan should be taken to this phrase.

805. It is apparent that we have two alternatives. Relying upon Ms Scott's analysis that submissions do provide scope to make the provisions more measurable and specific, we could amend the relevant words in Rule 12.5.13.1 to read "*directed downward … so as to limit effects on views of the night sky*". We think that wording is more certain.

806. The other alternative is to delete the words altogether. Doing so would conclusively address the problem but would leave a vacuum and the rule would not support Policy 12.2.3.6, which is directed at promoting lighting design that mitigates adverse effects on views of the night sky.

807. We prefer amending the wording because we think in this way the rule is made clearer and supports Policy 12.2.3.6. We have carried this recommendation through into our Appendix 1 and set it out below and we have applied this approach to this glare rule in all Stream 8 Chapters.

808. The other issue related to notified Rule 12.5.14.4. This related to reflectance and exterior materials. Several submitters[693] opposed this rule and sought that it be deleted. Considering this issue, Ms Jones was of the view that this notified rule was not the most appropriate way of achieving the objectives.[694] She noted that the QTC was a relatively shady part of the district and consequently glare was not a significant issue.[695] She also considered that there were no landscape values that needed to be considered and, in her view, allowing a range of colours and materials would add vibrancy and diversity to highly urbanised areas.[696]

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688 Submission 568.
689 Submission 340.
690 Legal Submissions in Reply of Ms Scott at [3.5].
691 in Chapters 6 (Landscape) and 21 (Rural Zone).
692 Legal Submissions in Reply of Ms Scott at [3.4].
693 Submissions 398 (opposed by FS1274), 606 (opposed by FS1063) 609 (opposed by FS1063), 614 (supported by FS1200), 616, 617.
694 V Jones, Section 42A Report at [13.36].
695 Ibid.
696 Ibid.

809. Also, in so far as it was necessary, Ms Jones considered Rule 12.4.6.1 provided the Council with control over colour where necessary.[697] In addition, the guidelines for the SCA considered reflective colours such as cream to be appropriate from a character perspective, which she said, could be in direct conflict with the rule. Finally, she was of the view that there were no objectives or policies that supported this particular glare rule.[698]

810. Ms Jones' recommendation was to remove Rule 12.5.14.4, but to retain the objectives, policies and guidelines as notified in respect of this matter.

811. For all of the reasons she advanced we recommend deletion of Rule 12.5.14.4 and recommend the Council accept the submissions seeking to delete Rule 12.5.14.4 and reject those further submissions in opposition.

812. Real Journeys Limited[699] requested that this rule be amended to include a standard limiting glare from the Queenstown Bay foreshore so as to avoid interference with the navigational safety of vessels. Ms Black produced evidence and photographs showing light spill over the Queenstown Bay foreshore area in calm water conditions. Ms Jones did not respond to this evidence in her reply.

813. In our view the evidence produced by Ms Black detailed an existing circumstance. It is not possible by amendment to the plan to remedy those existing navigation challenges. While Ms Black did promote additional wording[700], we do not think that wording is required because the rule as we are recommending it be amended, would require that lighting be directed away from public places. The Queenstown Bay foreshore area is a public place. In that way then, while not specifically addressing the safe operation and navigation of the TSS Earnslaw, the issue of light spill effecting the TSS Earnslaw, would be partially addressed in an indirect way. In any event, perhaps this issue is best dealt with in the transport chapter. We do not recommend any change and recommend rejection of Submission 621.

814. Our recommended wording of Rule 12.5.13 is as follows:

12.5. ~~14~~13	**Glare** 12.5.~~14~~13.1 All exterior lighting, other than footpath or pedestrian link amenity lighting, installed on sites or buildings within the zone shall be directed away from adjacent sites, roads and public places and downward so as to limit effects on views of the night sky. 12.5.~~14~~13.2 No activity in this zone shall result in a greater than 10 lux spill (horizontal or vertical) of light onto any property within the zone, measured at any point inside the boundary of any adjoining property. 12.5.~~14~~13.3 No activity shall result in a greater than 3 lux spill (horizontal or vertical) of light onto any adjoining	NC

697 Ibid at [13.37].

698 Ibid.

699 Submission 621

700 Suggested wording included in Submission #621 at p 14. "Light from any activity shall not be directed out over the water in Queenstown Bay in such a way that interferes with the safe operation and navigation of the "TSS Earnslaw"."

	property which is zoned High Density Residential measured at any point more than 2m inside the boundary of the adjoining property. ~~12.5.14.4 External building materials shall either:~~ ~~a. Be coated in colours which have a reflectance value of between 0 and 36%; or~~ ~~b. Consist of unpainted wood (including sealed or stained wood), unpainted stone, unpainted concrete, or copper;~~ ~~Except that:~~ ~~Architectural features, including doors and window frames, may be any colour; and roof colours shall have a reflectance value of between 0 and 20%.~~	

7.20. Rule 12.6 Rules - Non-Notification of Applications

815. This section provided for applications for controlled activities to proceed without any written consents and on a non-notified basis. It also provided for certain restricted discretionary activities to proceed on the same basis, and for certain restricted discretionary activities to require limited notification.

816. NZTA[701] requested that Rule 12.6.1 be amended to read:

"Applications for Controlled activities shall not require the written consent of other persons and shall be notified or limited-notified <u>except for 12.6.1.1 visitor accommodation adjacent to the State highway where the road controlling authority shall be deemed an affected party</u>"

817. Regarding the request that NZTA be notified of all visitor accommodation on state highways, Ms Jones was of the view that while it was inappropriate to deem NZTA an affected party in all instances, it was appropriate to remove from the non-notification clause, instances where visitor accommodation proposed access onto the state highway; thus enabling the Council to determine if NZTA was affected on a case by case basis, even in the absence of special circumstances.[702]

818. Ms Jones considered this was an appropriate exemption given the existing traffic congestion levels in the town centre, including on those portions of the state highway that are located within the zone and the traffic generation/disruption that can result from visitor accommodation.[703]

819. The only issue with this rule was that it contained a deeming provision that would exempt the road controlling authority from rules precluding notification or limited notification. We raised this issue through questions during the course of the hearing.

820. Ms Scott, in her Reply Submissions, agreed that section 77D does not allow a local authority to make a rule constraining, nor provide an exemption from, non-notification for particular parties.[704] However, she noted Ms Jones had recommended amending Rule 12.6.1.1 so that the exemption would be framed in terms of vehicle access and egress on to a state highway.

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701 Submission 719

702 V Jones, Section 42A Report at [18.5e].

703 Ibid.

704 Legal Submissions in Reply of Ms Scott at [3.10].

She submitted that this would be *intra vires* because it specified an activity rather than a party.[705] With the addition of the word vehicle, he said, this recommendation would be consistent with what was recommended in the Reply version of the rule.[706]

821. We agree and recommend the change to renumbered Rule 12.6.1.1 as we have set out below.

822. Foodstuffs[707] supported notified Rule 12.6.2, stating that removing the need to affected party approvals and notification for new buildings in the QTCZ would streamline decision-making process, minimise consenting risk and reduce processing costs/delays.

823. Christine Byrch[708] sought that Rule 12.6.2.2 be amended to reflect that a breach of the building coverage rule in relation to large developments in the TCTSZ, and comprehensive development of sites 1800m² or more, should be notified.

824. Kopuwai Investments Limited[709] sought that Rule 12.6.2 be amended to also list licenced premises and the sale and supply of alcohol within the Steamer Wharf entertainment precinct as being non-notified.

825. In response to those submissions, Ms Jones supported the non-notification clause for new buildings on the basis that it provided greater efficiencies and certainty in respect of timeframes and costs, and provided an appropriate counterbalance to the fact the activity status has changed from controlled in the ODP to restricted discretionary in the PDP.[710]

826. Further, Ms Jones stated that, as a consequence of changing the status of licenced premises after 11:00pm (6:00pm) to controlled, such applications would not be notified unless special circumstances existed, pursuant to Rule 12.6.1.[711]

827. Ms Jones concluded, and we agree, that it is inappropriate and unnecessary to have a rule stating that certain activities will always be publicly notified[712] (as requested in respect of developments that breach the building coverage rule or subject to limited notification).

828. In respect of whether a breach in building coverage should be non-notified by default, on the basis of efficiency and certainty and in order to be consistent with the approach taken for the Plan Change 50 area, Ms Jones was of the view that the clause regarding non-notification for such breaches should be retained.[713] We agree with her.

829. The final change we recommend is a clarification change by including the word height before Precinct 1 and Precinct 1A as it appears in standard 12.6.3.1.

830. Our recommended wording for rule 12.6 is:

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705 Ibid at [3.11].
706 Ibid at [3.11].
707 Submissions 650 and 673
708 Submission 243, opposed by FS1224
709 Submission 714
710 V Jones, Section 42A Report at [18.5a].
711 Ibid at [18.5b].
712 ibid at [18.5c].
713 Ibid at [18.5d].

"12.6.1 Applications for Controlled activities shall not require the written approval of other persons and shall not be notified or limited-notified, except:
12.6.1.1 Where visitor accommodation includes a proposal for vehicle access directly onto a State Highway.

12.6.2 The following Restricted Discretionary activities shall not require the written approval of other persons and shall not be notified or limited-notified:

12.6.2.1 Buildings.

12.6.2.2 Building coverage in the Town Centre Transition Sub-Zone and comprehensive developments.

12.6.2.3 Waste and recycling storage space.

12.6.3 The following Restricted Discretionary activities will not be publicly notified but notice will be served on those persons considered to be adversely affected if those persons have not given their written approval:

12.6.3.1 Discretionary building height in Height Precinct 1 and Height Precinct 1(A)."

7.21. Further Recommendations of the Panel

831. We have included this section in order to identify matters that we think warrant consideration but are out of scope.

832. Ms Jones considered possible amendments to provisions that would be desirable, either from an effectiveness and efficiency point of view or in order to achieve consistency between the QTCZ and other zones.

833. In particular, Ms Jones referred to Dr Chiles' view in the Residential hearing[714] that he did not support the use of no complaints covenants as a tool for managing noise issues as they did not, in his view, address the noise effects other than potentially providing some forewarning for people purchasing a property. While there were no submissions in relation to this matter, it was Ms Jones' preference, based on Dr Chiles' view, and in respect of her own experience with such covenants, that this matter of discretion within renumbered Rule 12.5.11.2 be removed. We agree.

834. We recommend the Council consider a variation to make such a change.

835. We recommend the Council review Rule 12.5.1 where the rule drafting confuses activities and standards in such a way as to make avoidance of the intent of the rule a probable outcome. We have explained this in detail above in Section 8.1 under the heading Minor Amendments.

7.22. Recommendation to Stream 10 Hearings Panel

836. There are three definitions recommended for inclusion in Chapter 2. These are:
a. Comprehensive development;
b. Landmark building;
c. Sense of place.

[714] 10 October 2016

837. These definitions and our reasoning for including them in the PDP are set out in Section 6 above. We have listed the recommended definitions in Appendix 8.

838. We recommend that the Stream 10 Hearings Panel:
   a. Include the recommended definitions as set out in Appendix 8 in Chapter 2 for the reasons we have provided in Section 6 above; and
   b. Recommend that the relevant submissions be accepted, accepted in part, or rejected as set out in Appendix 9.

7.23. Recommendation to Stream 5 Hearings Panel

839. As noted earlier, Ms Jones identified a conflict between Rules 12.5.11.3 and 12.5.11.4 and Rule 36.3.2.9. She explained that Rules 12.5.11.3 and 12.5.11.4 did not require noise from music or voices to meet residential noise levels on the boundary of that zone, yet reply Rule 36.3.2.9 stated that:

The noise standards in this chapter still apply to noise generated within the Town Centre zones but received in other zones.

840. In order to amend this inconsistency, Ms Jones recommended amending the notified purpose within Chapter 36 at 36.1 and amending reply Rule 36.3.2.9.[715] Some of the changes to purpose at 36.1 were promoted as non-substantive and we agree with both the amendment and the basis of that amendment.

841. Ms Jones identified the submissions[716] relied on to provide scope for her recommended changes to the notified Section 36.1 and also to Rule 36.3.2.9.[717] We agree with her changes and recommend to the Stream 5 Hearing Panel that those amendments be made. We have included those changes within our Appendix 8.

842. Consequently, with regard to the Zone Purpose in Section 36.1 and reply Rule 36.3.2.9 as discussed above, we recommend that the Stream 5 Hearings Panel
   a. Accept the recommended provisions as set out in Appendix 8 and
   b. The submissions be accepted, accepted in part, or rejected as set out in Appendix 9.

8. CONCLUSION

843. For the reasons advanced through this part of the report, we conclude that the recommended amendments support the zone purpose and enable the objectives of the chapter to be achieved and are more effective and efficient than the notified chapter and further changes sought by submitters that we recommend rejecting.

844. We consider that the amendments will improve the clarity and consistency of the Plan; contribute towards achieving the objectives of the District Plan and Strategic Direction goals in an effective and efficient manner and give effect to the purpose and principles of the RMA.

845. Consequently, we recommend that:
   a. Chapter 12 be adopted as set out in Appendix 1; and
   b. The submissions be accepted, accepted in part, or rejected as set out in Appendix 7.

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[715] Ibid.

[716] Submissions 151, 503, 506, 654, 302, 474, 217.

[717] V Jones, Section 42A Report at [12.52].

21 RURAL

QUEENSTOWN LAKES DISTRICT COUNCIL

21.1 Zone Purpose

There are four rural zones in the District. The Rural Zone is the most extensive of these. The Gibbston Valley is recognised as a special character area for viticulture production and the management of this area is provided for in Chapter 23: Gibbston Character Zone. Opportunities for rural living activities are provided for in the Rural-Residential and Rural Lifestyle Zones (Chapter 22).

The purpose of the Rural Zone is to enable farming activities and provide for appropriate other activities that rely on rural resources while protecting, maintaining and enhancing landscape values, ecosystem services, nature conservation values, the soil and water resource and rural amenity.

A wide range of productive activities occur in the Rural Zone and because the majority of the District's distinctive landscapes comprising open spaces, lakes and rivers with high visual quality and cultural value are located in the Rural Zone, there also exists a wide range of living, recreation, commercial and tourism activities and the desire for further opportunities for these activities.

Ski Area Sub-Zones are located within the Rural Zone. These Sub-Zones recognise the contribution tourism infrastructure makes to the economic and recreational values of the District. The purpose of the Ski Area Sub-Zones is to enable the continued development of Ski Areas as year round destinations for ski area, tourism and recreational activities within the identified Sub-Zones where the effects of the development are cumulatively minor.

In addition, the Rural Industrial Sub-Zone includes established industrial activities that are based on rural resources or support farming and rural productive activities.

A substantial proportion of the Outstanding Natural Landscapes of the district comprises private land managed in traditional pastoral farming systems. Rural land values tend to be driven by the high landscape and amenity values in the district. The long term sustainability of pastoral farming will depend upon farmers being able to achieve economic returns from utilising the natural and physical resources of their properties. For this reason, it is important to acknowledge the potential for a range of alternative uses of rural properties that utilise the qualities that make them so valuable.

The Rural Zone is divided into two areas. The first being the area for Outstanding Natural Landscapes and Outstanding Natural Features. The second area being the Rural Character Landscape. These areas give effect to Chapter 3 – Strategic Direction: Objectives 3.2.5.1 and 3.2.5.2, and the policies in Chapters 3 and 6 that implement those objectives.

21.2 Objectives and Policies

21.2.1 Objective - A range of land uses, including farming and established activities, are enabled while protecting, maintaining and enhancing landscape, ecosystem services, nature conservation and rural amenity values.

Policies

21.2.1.1 Enable farming activities while protecting, maintaining and enhancing the values of indigenous biodiversity, ecosystem services, recreational values, the landscape and surface of lakes and rivers and their margins.

21.2.1.2 Allow Farm Buildings associated with landholdings of 100 hectares or more in area while managing effects of the location, scale and colour of the buildings on landscape values.

21.2.1.3 Require buildings to be set back a minimum distance from internal boundaries and road boundaries in order to mitigate potential adverse effects on landscape character, visual amenity, outlook from neighbouring properties and to avoid adverse effects on established and anticipated activities.

21.2.1.4 Minimise the dust, visual, noise and odour effects of activities by requiring them to locate a greater distance from formed roads, neighbouring properties, waterbodies and zones that are likely to contain residential and commercial activity.

21.2.1.5 Have regard to the location and direction of lights so they do not cause glare to other properties, roads, public places or views of the night sky.

21.2.1.6 Avoid adverse cumulative impacts on ecosystem services and nature conservation values.

21.2.1.7 Have regard to the spiritual beliefs, cultural traditions and practices of Tangata whenua.

21.2.1.8 Have regard to fire risk from vegetation and the potential risk to people and buildings, when assessing subdivision and development in the Rural Zone.

21.2.1.9 Provide adequate firefighting water and fire service vehicle access to ensure an efficient and effective emergency response.

21.2.1.10 Commercial activities in the Rural Zone should have a genuine link with the rural land or water resource, farming, horticulture or viticulture activities, or recreation activities associated with resources located within the Rural Zone.

21.2.1.11 Provide for the establishment of commercial, retail and industrial activities only where these would protect, maintain or enhance rural character, amenity values and landscape values.

21.2.1.12 Encourage production forestry to be consistent with topography and vegetation patterns, to locate outside of the Outstanding Natural Features and Landscapes and outside of significant natural areas, and ensure production forestry does not degrade the landscape character or visual amenity values of the Rural Character Landscape.

21.2.1.13 Ensure forestry harvesting avoids adverse effects with regards to siltation and erosion and sites are rehabilitated to minimise runoff, erosion and effects on landscape values.

21.2.1.14 Limit exotic forestry to species that do not have potential to spread and naturalise.

21.2.1.15 Ensure traffic from new commercial activities does not diminish rural amenity or affect the safe and efficient operation of the roading and trail network, or access to public places.

21.2.1.16 Provide for a range of activities that support the vitality, use and enjoyment of the Queenstown Trail and Upper Clutha Tracks networks on the basis that landscape and rural amenity is protected, maintained or enhanced and established activities are not compromised.

21.2.2 Objective - The life supporting capacity of soils is sustained.

Policies

21.2.2.1 Allow for the establishment of a range of activities that utilise the soil resource in a sustainable manner.

21.2.2.2 Maintain the productive potential and soil resource of Rural Zoned land and encourage land management practices and activities that benefit soil and vegetation cover.

21.2.2.3 Protect the soil resource by controlling activities including earthworks, indigenous vegetation clearance and prohibit the planting and establishment of identified wilding exotic trees with the potential to spread and naturalise.

21.2.3 Objective - The life supporting capacity of water is safeguarded through the integrated management of the effects of activities.

21.2.3.1 In conjunction with the Otago Regional Council, regional plans and strategies:

a. encourage activities that use water efficiently, thereby conserving water quality and quantity;

b. discourage activities that adversely affect the potable quality and life supporting capacity of water and associated ecosystems.

21.2.4 Objective - Situations where sensitive activities conflict with existing and anticipated activities are managed to minimise conflict between incompatible land uses.

Policies

21.2.4.1 New activities must recognise that permitted and established activities in the Rural Zone may result in effects such as odour, noise, dust and traffic generation that are reasonably expected to occur and will be noticeable to residents and visitors in rural areas.

21.2.4.2 Control the location and type of non-farming activities in the Rural Zone, so as to minimise conflict between permitted and established activities and those that may not be compatible with such activities.

21.2.5 Objective - Mineral extraction opportunities are provided for on the basis the location, scale and effects would not degrade amenity, water, wetlands, landscape and indigenous biodiversity values.

Policies

21.2.5.1 Have regard to the importance and economic value of locally mined high-quality gravel, rock and other minerals including gold and tungsten.

21.2.5.2 Provide for prospecting and small scale mineral exploration and recreational gold mining as activities with limited environmental impact.

21.2.5.3 Ensure that during and following the conclusion of mineral extractive activities, sites are progressively rehabilitated in a planned and co-ordinated manner, to enable the establishment of a land use appropriate to the area.

21.2.5.4 Ensure potentially significant adverse effects of extractive activities (including mineral exploration) are avoided, or remedied particularly where those activities have potential to degrade landscape quality, character and visual amenity, indigenous biodiversity, lakes and rivers, potable water quality and the life supporting capacity of water.

21.2.5.5 Avoid or mitigate the potential for other land uses, including development of other resources above, or in close proximity to mineral deposits, to adversely affect the extraction of known mineral deposits.

21.2.5.6 Encourage use of environmental compensation as a means to address unavoidable residual adverse effects from mineral extraction.

21.2.6 Objective - The future growth, development and consolidation of Ski Areas Activities within identified Ski Area Sub-Zones, is provided for, while adverse effects on the environment are avoided, remedied or mitigated.

Policies

21.2.6.1 Identify Ski Area Sub-Zones and encourage Ski Area Activities and complementary tourism activities to locate and consolidate within the Sub-Zones.

21.2.6.2 Control the visual impact of roads, buildings and infrastructure associated with Ski Area Activities.

21.2.6.3 Provide for the continuation of existing vehicle testing facilities within the Waiorau Snow Farm Ski Area Sub-Zone on the basis that the landscape and indigenous biodiversity values are not further degraded.

21.2.6.4 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.

21.2.6.5 Provide for Ski Area Sub-Zone Accommodation activities within Ski Area Sub-Zones, which are complementary to outdoor recreation activities within the Ski Area Sub-Zone, that can realise landscape and conservation benefits and that avoid, remedy or mitigate adverse effects on the environment.

21.2.7 Objective - An area that excludes activities which are sensitive to aircraft noise, is retained within an airport's Outer Control Boundary, to act as a buffer between airports and Activities Sensitive to Aircraft Noise.

Policies

21.2.7.1 Prohibit all new activities sensitive to aircraft noise on Rural Zoned land within the Outer Control Boundary at Queenstown Airport and Wanaka Airport to avoid adverse effects arising from aircraft operations on future activities sensitive to aircraft noise.

21.2.7.2 Identify and maintain areas containing activities that are not sensitive to aircraft noise, within an airport's outer control boundary, to act as a buffer between the airport and activities sensitive to aircraft noise.

21.2.7.3 Retain open space within the outer control boundary of airports in order to provide a buffer, particularly for safety and noise purposes, between the airport and other activities.

21.2.7.4 Require as necessary mechanical ventilation for any alterations or additions to Critical Listening Environment within any existing buildings containing an Activity Sensitive to Aircraft Noise within the Queenstown Airport Outer Control Boundary and require sound insulation and mechanical ventilation for any alterations or additions to Critical Listening Environment within any existing buildings containing an Activity Sensitive to Aircraft Noise within the Queenstown Airport Air Noise Boundary.

21.2.8 Objective - Subdivision, use and development in areas that are unsuitable due to identified constraints not addressed by other provisions of this Plan, is avoided, or the effects of those constraints are remedied or mitigated.

Policies

21.2.8.1 Prevent subdivision and development within the building restriction areas identified on the District Plan maps, in particular:

a. in the Glenorchy area, protect the heritage value of the visually sensitive Bible Face landform from building and development and to maintain the rural backdrop that the Bible Face provides to the Glenorchy Township;

b. in Ferry Hill, within the building line restriction identified on the planning maps.

21.2.9 Objective - Provision for diversification of farming and other rural activities that protect landscape and natural resource values and maintains the character of rural landscapes.

	21.2.9.1	Encourage revenue producing activities that can support the long-term sustainability of the rural areas of the district and that maintain or enhance landscape values and rural amenity.
	21.2.9.2	Ensure that revenue producing activities utilise natural and physical resources (including existing buildings) in a way that maintains and enhances landscape quality, character, rural amenity, and natural resources
	21.2.9.3	Provide for the establishment of activities such as tourism, commercial recreation or visitor accommodation located within farms where these enable landscape values and indigenous biodiversity to be sustained in the longer term.

21.2.10 Objective – Commercial Recreation in the Rural Zone is of a nature and scale that is commensurate to the amenity values of the location.

Policies	21.2.10.1	The group size of commercial recreation activities will be managed so as to be consistent with the level of amenity anticipated in the surrounding environment.
	21.2.10.2	To manage the adverse effects of commercial recreation activities so as not to degrade rural quality or character or visual amenities and landscape values.
	21.2.10.3	To avoid, remedy or mitigate any adverse effects commercial activities may have on the range of recreational activities available in the District and the quality of the experience of the people partaking of these opportunities.
	21.2.10.4	To ensure the scale and location of buildings, noise and lighting associated with commercial recreation activities are consistent with the level of amenity existing and anticipated in the surrounding environment.

21.2.11 Objective - The location, scale and intensity of informal airports is managed to maintain amenity values while protecting informal airports from incompatible land uses.

Policies	21.2.11.1	Ensure informal airports are located, operated and managed so as to maintain the surrounding rural amenity.
	21.2.11.2	Protect rural amenity values, and amenity of other zones from the adverse effects that can arise from informal airports.
	21.2.11.3	Protect lawfully established and anticipated permitted informal airports from the establishment of incompatible activities in the immediate vicinity.

21.2.12 Objective - The natural character of lakes and rivers and their margins is protected, maintained or enhanced, while providing for appropriate activities on the surface of lakes and rivers, including recreation, commercial recreation and public transport.

Policies

21.2.12.1 Have regard to statutory obligations, wāhi Tūpuna and the spiritual beliefs, and cultural traditions of tangata whenua where activities are undertaken on the surface of lakes and rivers and their margins.

21.2.12.2 Enable people to have access to a wide range of recreational experiences on the lakes and rivers, based on the identified characteristics and environmental limits of the various parts of each lake and river.

21.2.12.3 Avoid or mitigate the adverse effects of frequent, large-scale or intrusive commercial activities such as those with high levels of noise, vibration, speed and wash, in particular motorised craft, in areas of high passive recreational use, significant nature conservation values and wildlife habitat.

21.2.12.4 Have regard to the whitewater values of the District's rivers and, in particular, the values of parts of the Kawarau, Nevis and Shotover Rivers as three of the few remaining major unmodified whitewater rivers in New Zealand, and to support measures to protect this characteristic of rivers.

21.2.12.5 Protect, maintain or enhance the natural character and nature conservation values of lakes, rivers and their margins from inappropriate activities with particular regard to nesting and spawning areas, the intrinsic value of ecosystem services and areas of indigenous fauna habitat and recreational values.

21.2.12.6 Recognise and provide for the maintenance and enhancement of public access to and enjoyment of the margins of the lakes and rivers.

21.2.12.7 Ensure that the location, design and use of structures and facilities are such that any adverse effects on visual qualities, safety and conflicts with recreational and other activities on the lakes and rivers are avoided, remedied or mitigated.

21.2.12.8 Encourage development and use of water based public ferry systems including necessary infrastructure and marinas, in a way that avoids adverse effects on the environment as far as possible, or where avoidance is not practicable, remedies and mitigates such adverse effects.

21.2.12.9 Take into account the potential adverse effects on nature conservation values from the boat wake of commercial boating activities, having specific regard to the intensity and nature of commercial jet boat activities and the potential for turbidity and erosion.

21.2.12.10 Ensure that the nature, scale and number of commercial boating operators and/or commercial boats on waterbodies do not exceed levels such that the safety of passengers and other users of the water body cannot be assured.

21.2.13 Objective - Rural industrial activities and infrastructure within the Rural Industrial Sub-Zones will support farming and rural productive activities, while protecting, maintaining and enhancing rural character, amenity and landscape values.

Policies

21.2.13.1 Provide for rural industrial activities and buildings within established nodes of industrial development while protecting, maintaining and enhancing landscape and amenity values.

21.2.13.2 Provide for limited retail and administrative activities within the Rural Industrial Sub-Zone on the basis it is directly associated with and ancillary to the Rural Industrial Activity on the site.

21.3 Other Provisions and Rules

21.3.1 District Wide

Attention is drawn to the following District Wide chapters.

1	Introduction	2	Definitions	3	Strategic Direction
4	Urban Development	5	Tangata Whenua	6	Landscapes and Rural Character
25	Earthworks	26	Historic Heritage	27	Subdivision
28	Natural Hazards	29	Transport	30	Energy and Utilities
31	Signs	32	Protected Trees	33	Indigenous Vegetation
34	Wilding Exotic Trees	35	Temporary Activities and Relocated Buildings	36	Noise
37	Designations		Planning Maps		

21.3.2 Interpreting and Applying the Rules

21.3.2.1 A permitted activity must comply with all the rules listed in the Activity and Standards tables, and any relevant district wide rules.

21.3.2.2 Where an activity does not comply with a Standard listed in the Standards tables, the activity status identified by the 'Non-Compliance Status' column shall apply. Where an activity breaches more than one Standard, the most restrictive status shall apply to the Activity.

21.3.2.3 For controlled and restricted discretionary activities, the Council shall restrict the exercise of its control or discretion to the matters listed in the rule.

21.3.2.4 Development and building activities are undertaken in accordance with the conditions of resource subdivision consent and may be subject to monitoring by the Council.

21.3.3.5 The existence of a farm building either permitted or approved by resource consent under Rule 21.4.2 or Table 5 – Standards for Farm Buildings shall not be considered the permitted baseline for residential or other non-farming activity development within the Rural Zone.

21.3.3.6 The Ski Area and Rural Industrial Sub-Zones, being Sub-Zones of the Rural Zone, require that all rules applicable to the Rural Zone apply unless stated to the contrary.

21.3.2.7 Building platforms identified on a site's computer freehold register shall have been registered as part of a resource consent approval by the Council.

21.3.2.8 The surface and bed of lakes and rivers are zoned Rural, unless otherwise stated.

21.3.2.9 Internal alterations to buildings including the replacement of joinery is permitted.

21.3.2.10 These abbreviations are used in the following tables. Any activity which is not permitted (P) or prohibited (PR) requires resource consent.

P	Permitted	C	Controlled	RD	Restricted Discretionary
D	Discretionary	NC	Non-Complying	PR	Prohibited

21.3.3 Advice Notes

21.3.3.1 Compliance with any of the following standards, in particular the permitted standards, does not absolve any commitment to the conditions of any relevant resource consent, consent notice or covenant registered on the computer freehold register of any property.

21.3.3.2 In addition to any rules for mining, the Otago Regional Plan: Water, also has rules related to suction dredge mining.

21.3.3.3 Applications for building consent for permitted activities shall include information to demonstrate compliance with the following standards, and any conditions of the applicable resource consent conditions.

21.4 Rules - Activities

All activities, including any listed permitted activities shall be subject to the rules and standards contained in Tables 1 to 15.

Table 1 – Activities Generally

Table 2 – Standards Applying Generally in the Zone

Table 3 – Standards for Farm Activities (additional to those in Table 2)

Table 4 – Standards for Structures and Buildings (other than Farm Buildings) (additional to those in Table 2)

Table 5 – Standards for Farm Buildings (additional to those in Table 2)

Table 6 – Standards for Commercial Activities (additional to those in Table 2)

Table 7– Standards for Informal Airports (additional to those in Table 2)

Table 8 – Standards for Mining and Extraction Activities (additional to those in Table 2)

Table 9 – Activities in the Ski Area Sub-Zone (additional to those listed in Table 1)

Table 10 - Activities in Rural Industrial Sub-Zone (additional to those listed in Table 1)

Table 11 – Standards for Rural Industrial Sub-Zone

Table 12– Activities on the Surface of Lakes and Rivers

Table 13 – Standards for Activities on the Surface of Lakes and Rivers

Table 14 – Closeburn Station Activities

Table 15 – Closeburn Station: Standards for Buildings and Structures

	Table 1 - Activities - Rural Zone	Activity Status
	Farming Activities	
21.4.1	Farming Activity that complies with the standards in Table 2 and Table 3.	P
21.4.2	Construction of or addition to farm buildings that comply with the standards in Table 5.	P
21.4.3	Factory Farming limited to factory farming of pigs or poultry that complies with the standards in Table 2 and Table 3.	P
21.4.4	Factory Farming animals other than pigs or poultry.	NC
	Residential Activities	
21.4.5	One residential unit, which includes a single residential flat for each residential unit and any other accessory buildings, within any building platform approved by resource consent.	P
21.4.6	The construction and exterior alteration of buildings located within a building platform approved by resource consent, or registered on the applicable computer freehold register, subject to compliance with the standards in Table 2 and Table 4.	P
21.4.7	The exterior alteration of any lawfully established building where there is not an approved building platform on the site, subject to compliance with the standards in Table 2 and Table 4.	P

	Table 1 - Activities - Rural Zone	Activity Status
21.4.8	Domestic Livestock.	P
21.4.9	The use of land or buildings for residential activity except as provided for in any other rule.	D
21.4.10	The identification of a building platform not less than 70m^2 and not greater than 1000m^2.	D
21.4.11	The construction of any building including the physical activity associated with buildings including roading, access, lighting, landscaping and earthworks, not provided for by any other rule.	D
	Commercial Activities	
21.4.12	Home Occupation that complies with the standards in Table 6.	P
21.4.13	Commercial recreational activities that comply with the standards in Table 6.	P
21.4.14	Roadside stalls that meet the standards in Table 6.	P
21.4.15		
21.4.16	Retail sales of farm and garden produce and wine grown, reared or produced on-site or handicrafts produced on the site and that comply with the standards in Table 6, not undertaken through a roadside stall under Rule 21.4.14. Control is reserved to: a. the location of the activity and buildings; b. vehicle crossing location, car parking; c. rural amenity and landscape character.	C
21.4.17	Commercial activities ancillary to and located on the same site as commercial recreational or recreational activities.	D
21.4.18	Cafes and restaurants located in a winery complex within a vineyard.	D
21.4.19	Visitor Accommodation outside of a Ski Area Sub-Zone.	D
21.4.20	Forestry Activities within the Rural Character Landscapes.	D
21.4.21	Retail Sales Retail sales where the access is onto a State Highway, with the exception of the activities provided for by Rule 21.4.14 or Rule 21.4.16.	NC
	Other Activities	
21.4.22	Recreation and/or Recreational Activity.	P
21.4.23	Informal Airports that comply with Table 7.	P

	Table 1 - Activities - Rural Zone	Activity Status
21.4.24	Passenger Lift Systems not located within a Ski Area Sub-Zone Discretion is restricted to: a. the impact on landscape values from any alignment, earthworks, design and surface treatment, including measures to mitigate landscape effects including visual quality and amenity values; b. the route alignment and the whether any system or access breaks the line and form of skylines, ridges, hills and prominent slopes; c. earthworks associated with construction of the Passenger Lift System; d. the materials used, colours, lighting and light reflectance; e. geotechnical matters; f. ecological values and any proposed ecological mitigation works.; g. balancing environmental considerations with operational requirements of Ski Area Activities; h. the positive effects arising from providing alternative non-vehicular access and linking Ski Area Sub-Zones to the roading network.	RD
21.4.25	Ski Area Activities not located within a Ski Area Sub-Zone, with the exception of: a. non-commercial skiing which is permitted as recreation activity under Rule 21.4.22; b. commercial heli skiing not located within a Ski Area Sub-Zone is a commercial recreation activity and Rule 21.4.13 applies; c. Passenger Lift Systems to which Rule 21.4.24 applies.	NC
21.4.26	Any building within a Building Restriction Area identified on the Planning Maps.	NC
	Activities within the Outer Control Boundary at Queenstown Airport and Wanaka Airport	
21.4.27	New Building Platforms and Activities Sensitive to Aircraft Noise within the Outer Control Boundary - Wanaka Airport On any site located within the Outer Control Boundary, any new activity sensitive to aircraft noise or new building platform to be used for an activity sensitive to aircraft noise (except an activity sensitive to aircraft noise located on a building platform approved before 20 October 2010).	PR
21.4.28	Activities Sensitive to Aircraft Noise within the Outer Control Boundary - Queenstown Airport On any site located within the Outer Control Boundary, which includes the Air Noise Boundary, as indicated on the District Plan Maps, any new Activity Sensitive to Aircraft Noise.	PR
	Mining Activities	
21.4.29	The following mining and extraction activities that comply with the standards in Table 8 are permitted: a. mineral prospecting; b. mining by means of hand-held, non-motorised equipment and suction dredging, where the total motive power of any dredge does not exceed 10 horsepower (7.5 kilowatt); and c. the mining of aggregate for farming activities provided the total volume does not exceed 1000m^3 in any one year.	P

	Table 1 - Activities - Rural Zone	Activity Status
21.4.30	Mineral exploration that does not involve more than $20m^3$ in volume in any one hectare Control is reserved to: a. the adverse effects on landscape, nature conservation values and water quality; b. ensuring rehabilitation of the site is completed that ensures: i. the long-term stability of the site; ii. that the landforms or vegetation on finished areas are visually integrated into the landscape; iii. water quality is maintained; iv. that the land is returned to its original productive capacity; c. that the land is rehabilitated to indigenous vegetation where the pre-existing land cover immediately prior to the exploration, comprised indigenous vegetation as determined utilising Section 33.3.3 of Chapter 33.	C
21.4.31	Any mining activity or mineral prospecting other than provided for in Rules 21.4.29 and 21.4.30.	D
	Industrial Activities outside the Rural Industrial Sub-Zone	
21.4.32	Industrial Activities directly associated with wineries and underground cellars within a vineyard.	D
21.4.33	Industrial Activities outside the Rural Industrial Sub-Zone other than those provided for by Rule 21.4.32.	NC
	Default Activity Status When Not Listed	
21.4.34	Any activity not otherwise provided for in Tables 1, 9, 10, 12 or 14.	NC

21.5 Rules - General Standards

Table 2	Table 2 - Standards Applying Generally in the Zone. The following standards apply to any of the activities described in Tables 1, 9, 10, 12 and 14 in addition to the specific standards in Tables 3- 8, 11, 13 and 15 unless otherwise stated.	Non- compliance Status
21.5.1	Setback from Internal Boundaries The setback of any building from internal boundaries shall be 15m. Except this rule shall not apply within the Rural Industrial Sub-Zone. Refer to Table 11.	RD Discretion is restricted to: a. rural amenity and landscape character; b. privacy, outlook and amenity from adjoining properties.
21.5.2	Setback from Roads The setback of any building from a road boundary shall be 20m, except, the minimum setback of any building from State Highway 6 between Lake Hayes and the Shotover River shall be 50m. The minimum setback of any building for other sections of State Highway 6 where the speed limit is 70 km/hr or greater shall be 40m.	RD Discretion is restricted to: a. rural Amenity and landscape character; b. open space; c. the adverse effects on the proposed activity from noise, glare and vibration from the established road.
21.5.3	Setback from Neighbours of Buildings Housing Animals The setback from internal boundaries for any building housing animals shall be 30m.	RD Discretion is restricted to: a. odour; b. noise; c. dust; d. vehicle movements.
21.5.4	Setback of buildings from Water bodies The minimum setback of any building from the bed of a wetland, river or lake shall be 20m.	RD Discretion is restricted to: a. indigenous biodiversity values; b. visual amenity values; c. landscape and natural character; d. open space; e. whether the waterbody is subject to flooding or natural hazards and any mitigation to manage the adverse effects of the location of the building.

Table 2	Table 2 - Standards Applying Generally in the Zone. The following standards apply to any of the activities described in Tables 1, 9, 10, 12 and 14 in addition to the specific standards in Tables 3- 8, 11, 13 and 15 unless otherwise stated.	Non- compliance Status
21.5.5	Airport Noise – Wanaka Airport Alterations or additions to existing buildings, or construction of a building on a building platform approved before 20 October 2010, that contain an Activity Sensitive to Aircraft Noise and are within the Outer Control Boundary, must be designed to achieve an internal design sound level of 40 dB Ldn, based on the 2036 noise contours, at the same time as meeting the ventilation requirements in Rule 36.6.2, Chapter 36. Compliance can either be demonstrated by submitting a certificate to Council from a person suitably qualified in acoustics stating that the proposed construction will achieve the internal design sound level, or by installation of mechanical ventilation to achieve the requirements in Rule 36.6.2, Chapter 36.	NC
21.5.6	Airport Noise – Alteration or Addition to Existing Buildings (excluding any alterations of additions to any non-critical listening environment) within the Queenstown Airport Noise Boundaries a. Within the Queenstown Airport Air Noise Boundary (ANB) - Alterations and additions to existing buildings containing an Activity Sensitive to Aircraft Noise must be designed to achieve an Indoor Design Sound Level of 40 dB Ldn, within any Critical Listening Environment, based on the 2037 Noise Contours. Compliance must be demonstrated by either adhering to the sound insulation requirements in Rule 36.6.1 of Chapter 36 and installation of mechanical ventilation to achieve the requirements in Rule 36.6.2 of Chapter 36, or by submitting a certificate to Council from a person suitably qualified in acoustics stating that the proposed construction will achieve the Indoor Design Sound Level with the windows open. b. Between the Queenstown Airport Outer Control Boundary and the ANB – Alterations and additions to existing buildings containing an Activity Sensitive to Aircraft Noise must be designed to achieve an Indoor Design Sound Level of 40 dB Ldn within any Critical Listening Environment, based on the 2037 Noise Contours. Compliance must be demonstrated by either installation of mechanical ventilation to achieve the requirements in Rule 36.6.2 of Chapter 36 or by submitting a certificate to Council from a person suitably qualified in acoustics stating that the proposed construction will achieve the Indoor Design Sound Level with the windows open. Standards (a) and (b) exclude any alterations or additions to any non-critical listening environment.	NC
21.5.7	Lighting and Glare 21.5.7.1 All fixed exterior lighting must be directed away from adjoining sites and roads; and 21.5.7.2 No activity on any site will result in greater than a 3.0 lux spill (horizontal and vertical) of light onto any other site measured at any point inside the boundary of the other site, provided that this rule shall not apply where it can be demonstrated that the design of adjacent buildings adequately mitigates such effects. 21.5.7.3 There must be no upward light spill.	NC

21.6 Rule - Standards for Farm Activities

	Table 3 – Standards for Farm Activities. The following standards apply to Farm Activities.	Non-Compliance Status
21.6.1	Dairy Farming (Milking Herds, Dry Grazing and Calf Rearing) All effluent holding tanks, effluent treatment and effluent storage ponds, must be located at least 300 metres from any formed road or adjoining property.	RD Discretion is restricted to: a. odour; b. visual prominence; c. landscape character; d. effects on surrounding properties.
21.6.2	Factory Farming (excluding the boarding of animals) Factory farming (excluding the boarding of animals) must be located at least 2 kilometres from a Residential, Rural Residential, Rural Lifestyle, Town Centre, Local Shopping Centre Zone, Millbrook Resort Zone, Waterfall Park Zone or Jacks Point Zone.	D
21.6.3	Factory Farming of Pigs 21.6.3.1 The number of housed pigs must not exceed 50 sows or 500 pigs of mixed ages; 21.6.3.2 Housed pigs must not be located closer than 500m from a property boundary; 21.6.3.4 The number of outdoor pigs must not exceed 100 pigs and their progeny up to weaner stage; 21.6.3.5 Outdoor sows must be ringed at all times; and/or 21.6.3.6 The stocking rate of outdoor pigs must not exceed 15 pigs per hectare, excluding progeny up to weaner stage.	NC
21.6.4	Factory farming of poultry 21.6.4.1 The number of birds must not exceed 10,000 birds. 21.6.4.2 Birds must be housed at least 300m from a site boundary.	NC

21.7 Rules - Standards for Buildings

	Table 4 – Standards for Structures and Buildings The following standards apply to structures and buildings, other than Farm Buildings.	Non-Compliance Status
21.7.1	Structures Any structure which is greater than 5 metres in length, and between 1 metre and 2 metres in height must be located a minimum distance of 10 metres from a road boundary, except for: 21.7.1.1 Post and rail, post and wire and post and mesh fences, including deer fences; 21.7.1.2 Any structure associated with farming activities as defined in this plan.	RD Discretion is restricted to: a. effects on landscape character, views and amenity, particularly from public roads; b. the materials used, including their colour, reflectivity and permeability; c. whether the structure will be consistent with traditional rural elements.
21.7.2	Buildings Any building, including any structure larger than 5m^2, that is new, relocated, altered, reclad or repainted, including containers intended to, or that remain on site for more than six months, and the alteration to any lawfully established building, are subject to the following: All exterior surfaces* must be coloured in the range of browns, greens or greys, including; 21.7.2.1 Pre-painted steel and all roofs must have a light reflectance value not greater than 20%; and 21.7.2.2 All other surface ** finishes except for schist, must have a light reflectance value of not greater than 30%. 21.7.2.3 In the case of alterations to an existing building not located within a building platform, it does not increase the ground floor area by more than 30% in any ten year period. Except this rule does not apply within the Ski Area Sub-Zones. * Excludes soffits, windows and skylights (but not glass balustrades). ** Includes cladding and built landscaping that cannot be measured by way of light reflectance value but is deemed by the Council to be suitably recessive and have the same effect as achieving a light reflectance value of 30%.	RD Discretion is restricted to: a. external appearance; b. visual prominence from both public places and private locations; c. landscape character; d. visual amenity.

	Table 4 – Standards for Structures and Buildings The following standards apply to structures and buildings, other than Farm Buildings.	Non-Compliance Status
21.7.3	Building size The ground floor area of any building must not exceed 500m^2. Except this rule does not apply to buildings specifically provided for within the Ski Area Sub-Zones.	RD Discretion is restricted to: a. external appearance; b. visual prominence from both public places and private locations; c. landscape character; d. visual amenity; e. privacy, outlook and amenity from adjoining properties.
21.7.4	Building Height The maximum height shall be 8m.	RD Discretion is restricted to: a. rural amenity and landscape character; b. privacy, outlook and amenity from adjoining properties; c. visual prominence from both public places and private locations.
21.7.5	Fire Fighting water and access All new buildings, where there is no reticulated water supply or any reticulated water supply is not sufficient for fire-fighting water supply, must make the following provision for fire-fighting: 21.7.5.1 A water supply of 45,000 litres and any necessary couplings. 21.7.5.2 A hardstand area adjacent to the firefighting water supply capable of supporting fire service vehicles. 21.7.5.3 Firefighting water connection point within 6m of the hardstand, and 90m of the dwelling. 21.7.5.4 Access from the property boundary to the firefighting water connection capable of accommodating and supporting fire service vehicles.	RD Discretion is restricted to: a. the extent to which SNZ PAS 4509: 2008 can be met including the adequacy of the water supply; b. the accessibility of the firefighting water connection point for fire service vehicles; c. whether and the extent to which the building is assessed as a low fire risk.

21.8 Rules - Standards for Farm Buildings

	Table 5 - Standards for Farm Buildings The following standards apply to Farm Buildings.	Non-compliance Status
21.8.1	Construction, Extension or Replacement of a Farm Building The construction, replacement or extension of a farm building is a permitted activity subject to the following standards: 21.8.1.1 The landholding the farm building is located within must be greater than 100ha; and 21.8.1.2 The density of all buildings on the landholding, inclusive of the proposed building(s) must not exceed one farm building per 50 hectares; and 21.8.1.3 The farm building must not be located within or on an Outstanding Natural Feature (ONF); and 21.8.1.4 If located within the Outstanding Natural Landscape (ONL) the farm building must not exceed 4 metres in height and the ground floor area must not exceed 100m^2; and 21.8.1.5 The farm building must not be located at an elevation exceeding 600 masl; and 21.8.1.6 If located within the Rural Character Landscape (RCL), the farm building must not exceed 5m in height and the ground floor area must not exceed 300m^2; and 21.8.1.7 Farm buildings must not protrude onto a skyline or above a terrace edge when viewed from adjoining sites, or formed roads within 2km of the location of the proposed building.	RD Discretion is restricted to: a. the extent to which the scale and location of the Farm Building is appropriate in terms of: i. rural amenity values; ii. landscape character; iii. privacy, outlook and rural amenity from adjoining properties; iv. visibility, including lighting.
21.8.2	Exterior colours of farm buildings 21.8.2.1 All exterior surfaces, except for schist, must be coloured in the range of browns, greens or greys (except soffits). 21.8.2.2 Pre-painted steel, and all roofs must have a reflectance value not greater than 20%. 21.8.2.3 Surface finishes, except for schist, must have a reflectance value of not greater than 30%.	RD Discretion is restricted to: a. external appearance; b. visual prominence from both public places and private locations; c. landscape character.; d. visual amenity.

	Table 5 - Standards for Farm Buildings The following standards apply to Farm Buildings.	Non-compliance Status
21.8.3	Building Height The height of any farm building must not exceed 10m.	RD Discretion is restricted to: a. rural amenity values; b. landscape character; c. privacy, outlook and amenity from adjoining properties.
21.8.4	Dairy Farming (Milking Herds, Dry Grazing and Calf Rearing) All milking sheds or buildings used to house, or feed milking stock must be located at least 300 metres from any adjoining property, lake, river or formed road.	D

21.9 Rules - Standards for Commercial Activities

	Table 6 - Standards for Commercial Activities	Non-compliance Status
21.9.1	Commercial recreational activities must be undertaken on land, outdoors and must not involve more than 12 persons in any one group.	D
21.9.2	Home Occupation 21.9.2.1 The maximum net floor area of home occupation activities must not exceed 150m^2. 21.9.2.2 Goods materials or equipment must not be stored outside a building. 21.9.2.3 All manufacturing, altering, repairing, dismantling or processing of any goods or articles must be carried out within a building.	RD Discretion is restricted to: a. the nature, scale and intensity of the activity in the context of the surrounding rural area; b. visual amenity from neighbouring properties and public places; c. noise, odour and dust; d. the extent to which the activity requires a rural location because of its link to any rural resource in the Rural Zone; e. access safety and transportation effects.

	Table 6 - Standards for Commercial Activities	Non-compliance Status
21.9.3	Roadside Stalls 21.9.3.1 The ground floor area of the roadside stall must not exceed 5m^2; 21.9.3.2 The height must not exceed 2m^2; 21.9.3.3 The minimum sight distance from the roadside stall access must be at least 200m; 21.9.3.4 The roadside stall must not be located on legal road reserve.	D
21.9.4	Retail Sales Buildings that have a gross floor area that is greater than 25m^2 to be used for retail sales identified in Table 1 must be setback from road boundaries by at least 30m.	RD Discretion is restricted to: a. landscape character and visual amenity; b. access safety and transportation effects; c. on-site parking.

21.10 Rules - Standards for Informal Airports

	Table 7 - Standards for Informal Airports	Non-compliance Status
21.10.1	Informal Airports Located on Public Conservation and Crown Pastoral Land Informal airports that comply with the following standards shall be permitted activities: 21.10.1.1 Informal airports located on Public Conservation Land where the operator of the aircraft is operating in accordance with a Concession issued pursuant to Section 17 of the Conservation Act 1987. 21.10.1.2 Informal airports located on Crown Pastoral Land where the operator of the aircraft is operating in accordance with a Recreation Permit issued pursuant to Section 66A of the Land Act 1948. 21.10.1.3 Informal airports for emergency landings, rescues, fire-fighting and activities ancillary to farming activities, or the Department of Conservation or its agents. 21.10.1.4 In relation to Rules 21.10.1.1 and 21.10.1.2, the informal airport shall be located a minimum distance of 500 metres from any other zone or the notional boundary of any residential unit or approved building platform not located on the same site.	D

	Table 7 - Standards for Informal Airports	Non-compliance Status
21.10.2	Informal Airports Located on other Rural Zoned Land Informal Airports that comply with the following standards shall be permitted activities: 21.10.2.1 Informal airports on any site that do not exceed a frequency of use of 2 flights* per day; 21.10.2.2 Informal airports for emergency landings, rescues, fire-fighting and activities ancillary to farming activities; 21.10.2.3 In relation to point Rule 21.10.2.1, the informal airport shall be located a minimum distance of 500 metres from any other zone or the notional boundary of any residential unit of building platform not located on the same site. * note for the purposes of this Rule a flight includes two aircraft movements i.e. an arrival and departure.	D

21.11 Rules - Standards for Mining

	Table 8 – Standards for Mining and Extraction Activities	non-compliance Status
21.11.1	21.11.1.1 The activity will not be undertaken on an Outstanding Natural Feature. 21.11.1.2 The activity will not be undertaken in the bed of a lake or river.	NC

21.12 Rules - Ski Area and Sub-Zone

	Table 9 - Activities in the Ski Area Sub-Zone Additional to those activities listed in Table 1.	Activity Status
21.12.1	Ski Area Activities	P
21.12.2	Construction, relocation, addition or alteration of a building Control is reserved to: a. location, external appearance and size, colour, visual dominance; b. associated earthworks, access and landscaping; c. provision of water supply, sewage treatment and disposal, electricity and communication services (where necessary); d. lighting.	C

	Table 9 - Activities in the Ski Area Sub-Zone Additional to those activities listed in Table 1.	Activity Status
21.12.3	Passenger Lift Systems Control is reserved to: a. the extent to which the passenger lift system breaks the line and form of the landscape with special regard to skylines, ridges, hills and prominent slopes; b. whether the materials and colour to be used are consistent with the rural landscape of which passenger lift system will form a part; c. the extent of any earthworks required to construct the passenger lift system, in terms of the limitations set out in Chapter 25 Earthworks; d. balancing environmental considerations with operational characteristics.	C
21.12.4	Night lighting Control is reserved to: a. hours of operation; b. duration and intensity; c. impact on surrounding properties.	C
21.12.5	Vehicle Testing In the Waiorau Snow Farm Ski Area Activity Sub-Zone; the construction of access ways and tracks associated with the testing of vehicles, their parts and accessories. Control is reserved to: a. gravel and silt run off; b. stormwater, erosion and siltation; c. the sprawl of tracks and the extent to which earthworks modify the landform; d. stability of over-steepened embankments.	C
21.12.6	Retail activities ancillary to Ski Area Activities Control is reserved to: a. location; b. hours of operation with regard to consistency with ski-area activities; c. amenity effects, including loss of remoteness or isolation; d. traffic congestion, access and safety; e. waste disposal; f. cumulative effects.	C

	Table 9 - Activities in the Ski Area Sub-Zone Additional to those activities listed in Table 1.	Activity Status
21.12.7	Ski Area Sub-Zone Accommodation Comprising a duration of stay of up to 6 months in any 12-month period and including worker accommodation. Discretion is restricted to: a. scale and intensity and whether these would have adverse effects on amenity, including loss of remoteness or isolation; b. location, including whether that because of the scale and intensity the visitor accommodation should be located near the base building area (if any); c. parking; d. provision of water supply, sewage treatment and disposal; e. cumulative effects; f. natural hazards.	RD
21.12.8	Earthworks, buildings and infrastructure within the No Building and Earthworks Line in the Remarkables Ski Area Sub-Zone	PR

21.13 Rules - Activities in Rural Industrial Sub-Zone

	Table 10 – Activities in Rural Industrial Sub-Zone Additional to those activities listed in Table 1.	Activity Status
21.13.1	Retail activities within the Rural Industrial Sub-Zone that involve the sale of goods produced, processed or manufactured on site or ancillary to Rural Industrial activities that comply with Table 11.	P
21.13.2	Administrative offices ancillary to and located on the same site as Rural Industrial activities being undertaken within the Rural Industrial Sub-Zone that comply with Table 11.	P
21.13.3	Rural Industrial Activities within a Rural Industrial Sub-Zone that comply with Table 11.	P
21.13.4	Buildings for Rural Industrial Activities within the Rural Industrial Sub-Zone that comply with Table 11.	P

21.14 Rules - Standards for Activities within Rural Industrial Sub-Zone

	Table 11 – Standards for activities within the Rural Industrial Sub Zone These Standards apply to activities listed in Table 1 and Table 10.	Non-Compliance Status
21.14.1	Buildings Any building, including any structure larger than 5m², that is new, relocated, altered, reclad or repainted, including containers intended to, or that remain on site for more than six months, and the alteration to any lawfully established building are subject to the following: All exterior surface must be coloured in the range of browns, greens or greys (except soffits), including; 21.15.1.1 Pre-painted steel and all roofs must have a reflectance value not greater than 20%; and, 21.15.1.2 All other surface finishes must have a reflectance value of not greater than 30%.	RD Discretion is restricted to: a. external appearance; b. visual prominence from both public places and private locations; c. landscape character.
21.14.2	Building size The ground floor area of any building must not exceed 500m².	RD Discretion is restricted to: a. external appearance; b. visual prominence from both public places and private locations; c. visual amenity; d. privacy, outlook and amenity from adjoining properties.
21.14.3	Building Height The height for of any industrial building must not exceed 10m.	RD Discretion is restricted to: a. rural amenity and landscape character; b. privacy, outlook and amenity from adjoining properties.

	Table 11 – Standards for activities within the Rural Industrial Sub Zone These Standards apply to activities listed in Table 1 and Table 10.	Non-Compliance Status
21.14.4	Setback from Sub-Zone Boundaries The minimum setback of any building within the Rural Industrial Sub-Zone shall be 10m from the Sub-Zone boundaries.	RD Discretion is restricted to: a. the requirement for landscaping to act as a buffer between the Rural Industrial Sub-Zone and neighbouring properties and whether there is adequate room for landscaping within the reduced setback; b. rural amenity and landscape character; c. Privacy, outlook and amenity from adjoining properties.
21.14.5	Retail Activities Retail activities including the display of items for sale must be undertaken within a building and must not exceed 10% of the building's total floor area.	NC

21.15 Rules - Activities on the Surface of Lakes and Rivers

	Table 12 - Activities on the Surface of Lakes and Rivers	Activity Status
21.15.1	Activities on the surface of lakes and river not otherwise controlled or restricted by rules in Table 14.	P
21.15.2	Motorised Recreational and Commercial Boating Activities The use of motorised craft for the purpose of emergency search and rescue, hydrological survey, public scientific research, resource management monitoring or water weed control, or for access to adjoining land for farming activities.	P

	Table 12 - Activities on the Surface of Lakes and Rivers	Activity Status
21.15.3	Motorised Recreational Boating Activities Hawea River, motorised recreational boating activities on no more than six (6) days in each year subject to the following conditions: a. at least four (4) days of such activity are to be in the months January to April, November and December; b. the Jet Boat Association of New Zealand ("JBANZ") (JBANZ or one of the Otago and Southland Branches as its delegate) administers the activity on each day; c. the prior written approval of Central Otago Whitewater Inc is obtained if that organisation is satisfied that none of its member user groups are organising activities on the relevant days; and d. JBANZ gives two (2) calendar months written notice to the Council's Harbour-Master of both the proposed dates and the proposed operating schedule; e. the Council's Harbour-Master satisfies himself that none of the regular kayaking, rafting or other whitewater (non-motorised) river user groups or institutions (not members of Central Otago Whitewater Inc) were intending to use the Hawea River on that day, and issues an approved operating schedule; f. JBANZ carries out, as its expense, public notification on two occasions 14 and 7 days before the proposed jet boating; g. public notification for the purposes of (f) means a public notice with double-size font heading in both the Otago Daily Times and the Southland Times, and written notices posted at the regular entry points to the Hawea River.	P
21.15.4	Jetboat Race Events Jetboat Race Events on the Clutha River, between the Lake Outlet boat ramp and the Albert Town road bridge not exceeding 6 race days in any calendar year. Control is reserved to: a. the date, time, duration and scale of the jetboat race event, including its proximity to other such events, such as to avoid or mitigate adverse effects on residential and recreational activities in the vicinity; b. the adequacy of public notice of the event; c. public safety.	C
21.15.5		

	Table 12 - Activities on the Surface of Lakes and Rivers	Activity Status
21.15.6	Jetties and Moorings in the Frankton Arm Jetties and moorings in the Frankton Arm, identified as the area located to the east of the Outstanding Natural Landscape line as shown on the District Plan Maps. Discretion is restricted to: a. whether they are dominant or obtrusive elements in the shore scape or lake view, particularly when viewed from any public place, including whether they are situated in natural bays and not headlands; b. whether the structure causes an impediment to craft manoeuvring and using shore waters. c. the degree to which the structure will diminish the recreational experience of people using public areas around the shoreline; d. the effects associated with congestion and clutter around the shoreline. Including whether the structure contributes to an adverse cumulative effect; e. whether the structure will be used by a number and range of people and craft, including the general public; f. the degree to which the structure would be compatible with landscape and amenity values, including colour, materials, design.	RD
21.15.7	Structures and Moorings Subject to Rule 21.15.8 any structure or mooring that passes across or through the surface of any lake or river or is attached to the bank of any lake and river, other than where fences cross lakes and rivers.	D
21.15.8	Structures and Moorings Any structures or mooring that passes across or through the surface of any lake or river or attached to the bank or any lake or river in those locations on the District Plan Maps where such structures or moorings are shown as being non-complying.	NC
21.15.9	Motorised and non-motorised Commercial Boating Activities Except where otherwise limited by a rule in Table 12. Note: Any person wishing to commence commercial boating activities could require a concession under the QLDC Navigation Safety Bylaw. There is an exclusive concession currently granted to a commercial boating operator on the Shotover River between Edith Cavell Bridge and Tucker Beach until 1 April 2009 with four rights of renewal of five years each.	D

	Table 12 - Activities on the Surface of Lakes and Rivers	Activity Status
21.15.10	Motorised Recreational and Commercial Boating Activities The use of motorised craft on the following lakes and rivers is prohibited except as provided for under Rules 21.15.2 or 21.15.3. 21.15.10.1 Hawea River. 21.15.10.2 Lake Hayes - Commercial boating activities only. 21.15.10.3 Any tributary of the Dart and Rees rivers (except the Beansburn and Rockburn tributaries of the Dart River) or upstream of Muddy Creek on the Rees River. 21.15.10.4 Young River or any tributary of the Young or Wilkin Rivers and any other tributaries of the Makarora River. 21.15.10.5 Dingle Burn and Timaru Creek. 21.15.10.6 The tributaries of the Hunter River. 21.15.10.7 Hunter River during the months of May to October inclusive. 21.15.10.8 Motatapu River. 21.15.10.9 Any tributary of the Matukituki River. 21.15.10.10 Clutha River - More than six jet boat race days per year as allowed by Rule 21.15.4.	PR

21.16 Rules - Standards for Surface of Lakes and Rivers

	Table 13 - Standards for Surface of Lakes and Rivers These Standards apply to the Activities listed in Table 12.	Non-Compliance Status
21.16.1	Boating craft used for Accommodation Boating craft on the surface of the lakes and rivers may be used for accommodation, providing that: 21.16.1.1 The craft must only be used for overnight recreational accommodation; and 21.16.1.2 The craft must not be used as part of any commercial activity; and 21.16.1.3 All effluent must be contained on board the craft and removed ensuring that no effluent is discharged into the lake or river.	NC

	Table 13 - Standards for Surface of Lakes and Rivers These Standards apply to the Activities listed in Table 12.	Non-Compliance Status
21.16.2	Jetties and Moorings in the Frankton Arm Jetties and moorings in the Frankton Arm, identified as the area located to the east of the Outstanding Natural Landscape line as shown on the District Plan Maps. No new jetty within the Frankton Arm identified as the area east of the Outstanding Natural Landscape Line shall: 21.16.2.1 Be closer than 200 metres to any existing jetty; 21.16.2.2 Exceed 20 metres in length; 21.16.2.3 Exceed four berths per jetty, of which at least one berth is available to the public at all times; 21.16.2.4 Be constructed further than 200 metres from a property in which at least one of the registered owners of the jetty resides.	NC
21.16.3	The following activities are subject to compliance with the following standards: 21.16.3.1 Kawarau River, Lower Shotover River downstream of Tucker Beach and Lake Wakatipu within Frankton Arm - Commercial motorised craft, other than public transport ferry activities, may only operate between the hours of 0800 to 2000. 21.16.3.2 Lake Wanaka, Lake Hawea and Lake Wakatipu - Commercial jetski operations must only be undertaken between the hours of 0800 to 2100 on Lakes Wanaka and Hawea and 0800 and 2000 on Lake Wakatipu. 21.16.3.3 Dart and Rees Rivers - Commercial motorised craft must only operate between the hours of 0800 to 1800, except that above the confluence with the Beansburn on the Dart River commercial motorised craft must only operate between the hours of 1000 to 1700. 21.16.3.4 Dart River – The total number of commercial motorised boating activities must not exceed 26 trips in any one day. No more than two commercial jet boat operators may operate upstream of the confluence of the Beansburn, other than for tramper and angler access only.	NC

21.17 Rules - Closeburn Station Activities

	Table 14 - Closeburn Station: Activities	Activity
21.17.1	The construction of a single residential unit and any accessory building(s) within lots 1 to 6, 8 to 21 DP 26634 located at Closeburn Station. Control is reserved to: a. external appearances and landscaping, with regard to conditions 2.2(a), (b), (e) and (f) of resource consent RM950829; b. associated earthworks, lighting, access and landscaping; c. provision of water supply, sewage treatment and disposal, electricity and telecommunications services.	C

21.18 Rules - Closeburn Station Standards

	Table 15 - Closeburn Station: Standards for Buildings and Structures	Non-compliance Status
21.18.1	Setback from Internal Boundaries 21.18.1.1 The minimum setback from internal boundaries for buildings within lots 1 to 6 and 8 to 21 DP 26634 at Closeburn Station shall be 2 metres. 21.18.1.2 There shall be no minimum setback from internal boundaries within lots 7 and 22 to 27 DP300573 at Closeburn Station.	D
21.18.2	Building Height 21.18.2.1 The maximum height of any building, other than accessory buildings, within Lots 1 and 6 and 8 to 21 DP 26634 at Closeburn Station shall be 7m. 21.18.2.2 The maximum height of any accessory building within Lots 1 to 6 and 8 to 21 DP 26634 at Closeburn Station shall be 5m. 21.18.2.4 The maximum height of any building within Lot 23 DP 300573 at Closeburn Station shall be 5.5m. 21.18.2.5 The maximum height of any building within Lot 24 DP 300573 at Closeburn Station shall be 5m.	NC

	Table 15 - Closeburn Station: Standards for Buildings and Structures	Non-compliance Status
21.18.3	Residential Density In the Rural Zone at Closeburn Station, there shall be no more than one residential unit per allotment (being lots 1-27 DP 26634); excluding the large rural lots (being lots 100 and 101 DP 26634) held in common ownership.	NC
21.18.4	Building Coverage In lots 1-27 at Closeburn Station, the maximum residential building coverage of all activities on any site shall be 35%.	NC

21.19

21.20 Rules Non-Notification of Applications

Any application for resource consent for the following matters shall not require the written approval of other persons and shall not be notified or limited-notified:

21.20.1 Controlled activity retail sales of farm and garden produce and handicrafts grown or produced on site (Rule 21.4.16), except where the access is onto a State highway.

21.20.2 Controlled activity mineral exploration (Rule 21.4.30).

21.20.3 Controlled activity buildings at Closeburn Station (Rule 21.17.1).

21.21 Assessment Matters (Landscape)

21.21.1 Outstanding Natural Features and Outstanding Natural Landscapes (ONF and ONL).

The assessment matters set out below are derived from Policies 3.3.30, 6.3.10 and 6.3.12 to 6.3.18 inclusive. Applications shall be considered with regard to the following assessment matters:

21.21.1.1 In applying the assessment matters, the Council will work from the presumption that in or on Outstanding Natural Features and Landscapes, the applicable activities are inappropriate in almost all locations and that successful applications will be exceptional cases where the landscape or feature can absorb the change and where the buildings and structures and associated roading and boundary changes are reasonably difficult to see from beyond the boundary of the site the subject of application.

21.21.1.2 Existing vegetation that:

a. was either planted after, or, self-seeded and less than 1 metre in height at 28 September 2002; and,

b. obstructs or substantially interferes with views of the proposed development from roads or other public places, shall not be considered:

i. as beneficial under any of the following assessment matters unless the Council considers the vegetation (or some of it) is appropriate for the location in the context of the proposed development; and

ii. as part of the permitted baseline.

21.21.1.3 Effects on landscape quality and character

In considering whether the proposed development will maintain or enhance the quality and character of Outstanding Natural Features and Landscapes, the Council shall be satisfied of the extent to which the proposed development will affect landscape quality and character, taking into account the following elements:

a. physical attributes:

i. geological, topographical, geographic elements in the context of whether these formative processes have a profound influence on landscape character;

ii. vegetation (exotic and indigenous);

iii. the presence of waterbodies including lakes, rivers, streams, wetlands.

b. visual attributes:

    i. legibility or expressiveness – how obviously the feature or landscape demonstrates its formative processes;

    ii. aesthetic values including memorability and naturalness;

    iii. transient values including values at certain times of the day or year;

    iv. human influence and management – settlements, land management patterns, buildings, roads.

c. Appreciation and cultural attributes:

    i. Whether the elements identified in (a) and (b) are shared and recognised;

    ii. Cultural and spiritual values for tangata whenua;

    iii. Historical and heritage associations.

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

d. In the context of (a) to (c) above, the degree to which the proposed development will affect the existing landscape quality and character, including whether the proposed development accords with or degrades landscape quality and character, and to what degree.

e. any proposed new boundaries will not give rise to artificial or unnatural lines (such as planting and fence lines) or otherwise degrade the landscape character.

21.21.1.4 Effects on visual amenity

In considering whether the potential visibility of the proposed development will maintain and enhance visual amenity, values the Council shall be satisfied that:

a. the extent to which the proposed development will not be visible or will be reasonably difficult to see when viewed from public roads and other public places. In the case of proposed development in the vicinity of unformed legal roads, the Council shall also consider present use and the practicalities and likelihood of potential use of unformed legal roads for vehicular and/or pedestrian, cycling, equestrian and other means of access;

b. the proposed development will not be visually prominent such that it detracts from public or private views of and within Outstanding Natural Features and Landscapes;

c. the proposal will be appropriately screened or hidden from view by elements that are in keeping with the character of the landscape;

d. the proposed development will not reduce the visual amenity values of the wider landscape (not just the immediate landscape);

e. structures will not be located where they will break the line and form of any ridges, hills and slopes;

f. any roads, access, lighting, earthworks and landscaping will not reduce the visual amenity of the landscape.

21.21.1.5 Design and density of Development

In considering the appropriateness of the design and density of the proposed development, whether and to what extent:

a. opportunity has been taken to aggregate built development to utilise common access ways including roads, pedestrian linkages, services and open space (i.e. open space held in one title whether jointly or otherwise);

b. there is merit in clustering the proposed building(s) or building platform(s) within areas that are least sensitive to change;

c. development, including access, is located within the parts of the site where it would be least visible from public and private locations;

d. development, including access, is located in the parts of the site where it has the least impact on landscape character.

21.21.1.6 Cumulative effects of subdivision and development on the landscape

Taking into account whether and to what extent existing, consented or permitted development (including unimplemented but existing resource consent or zoning) may already have degraded:

a. the landscape quality or character; or,

b. the visual amenity values of the landscape.

The Council shall be satisfied the proposed development, in combination with these factors will not further adversely affect the landscape quality, character, or visual amenity values.

21.21.2 Rural Character Landscape (RCL)

The assessment matters below have been derived from Policies 3.3.32, 6.3.10 and 6.3.19 to 6.3.29 inclusive. Applications shall be considered with regard to the following assessment matters because in the Rural Character Landscapes the applicable activities are unsuitable in many locations.

21.21.2.1 Existing vegetation that:

a. was either planted after, or, self seeded and less than 1 metre in height at 28 September 2002; and,

b. obstructs or substantially interferes with views of the proposed development from roads or other public places, shall not be considered:

i. as beneficial under any of the following assessment matters unless the Council considers the vegetation (or some of it) is appropriate for the location in the context of the proposed development; and

ii. as part of the permitted baseline.

21.21.2.2 Effects on landscape quality and character:

The following shall be taken into account:

a. where the site is adjacent to an Outstanding Natural Feature or Landscape, whether and the extent to which the proposed development will adversely affect the quality and character of the adjacent Outstanding Natural Feature or Landscape;

b. whether and the extent to which the scale and nature of the proposed development will degrade the quality and character of the surrounding Rural Character Landscape;

c. whether the design and any landscaping would be compatible with or would enhance the quality and character of the Rural Character Landscape.

21.21.2.3 Effects on visual amenity:

Whether the development will result in a loss of the visual amenity of the Rural Character Landscape, having regard to whether and the extent to which:

a. the visual prominence of the proposed development from any public places will reduce the visual amenity of the Rural Character Landscape. In the case of proposed development which is visible from unformed legal roads, regard shall be had to the frequency and intensity of the present use and, the practicalities and likelihood of potential use of these unformed legal roads as access;

b. the proposed development is likely to be visually prominent such that it detracts from private views;

c. any screening or other mitigation by any proposed method such as earthworks and/or new planting will detract from or obstruct views of the Rural Character Landscape from both public and private locations;

d. the proposed development is enclosed by any confining elements of topography and/or vegetation and the ability of these elements to reduce visibility from public and private locations;

e. any proposed roads, boundaries and associated planting, lighting, earthworks and landscaping will reduce visual amenity, with particular regard to elements which are inconsistent with the existing natural topography and patterns;

f. boundaries follow, wherever reasonably possible and practicable, the natural lines of the landscape or landscape units.

21.21.2.4 Design and density of development:

In considering the appropriateness of the design and density of the proposed development, whether and to what extent:

a. opportunity has been taken to aggregate built development to utilise common access ways including roads, pedestrian linkages, services and open space (i.e. open space held in one title whether jointly or otherwise);

b. there is merit in clustering the proposed building(s) or building platform(s) having regard to the overall density and intensity of the proposed development and whether this would exceed the ability of the landscape to absorb change;

c. development, including access, is located within the parts of the site where they will be least visible from public and private locations;

d. development, including access, is located in the parts of the site where they will have the least impact on landscape character.

21.21.2.5 Tangata Whenua, biodiversity and geological values:

a. whether and to what extent the proposed development will degrade Tangata Whenua values including Töpuni or nohoanga, indigenous biodiversity, geological or geomorphological values or features and, the positive effects any proposed or existing protection or regeneration of these values or features will have.

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

21.21.2.6 Cumulative effects of development on the landscape:

Taking into account whether and to what extent any existing, consented or permitted development (including unimplemented but existing resource consent or zoning) has degraded landscape quality, character, and visual amenity values. The Council shall be satisfied;

a. the proposed development will not further degrade landscape quality, character and visual amenity values, with particular regard to situations that would result in a loss of valued quality, character and openness due to the prevalence of residential or non-farming activity within the Rural Landscape.

b. where in the case resource consent may be granted to the proposed development but it represents a threshold to which the landscape could absorb any further development, whether any further cumulative adverse effects would be avoided by way of imposing a covenant, consent notice or other legal instrument that maintains open space.

21.21.3 Other factors and positive effects, applicable in all the landscape categories (ONF, ONL and RCL)

21.21.3.1 In the case of a proposed residential activity or specific development, whether a specific building design, rather than nominating a building platform, helps demonstrate whether the proposed development is appropriate.

21.21.3.2 Other than where the proposed development is a subdivision and/or residential activity, whether the proposed development, including any buildings and the activity itself, are consistent with rural activities or the rural resource and would maintain or enhance the quality and character of the landscape.

21.21.3.3 In considering whether there are any positive effects in relation to the proposed development, or remedying or mitigating the continuing adverse effects of past subdivision or development, the Council shall take the following matters into account:

a. whether the proposed subdivision or development provides an opportunity to protect the landscape from further development and may include open space covenants or esplanade reserves;

b. whether the proposed subdivision or development would enhance the character of the landscape, or protects and enhances indigenous biodiversity values, in particular the habitat of any threatened species, or land environment identified as chronically or acutely threatened on the Land Environments New Zealand (LENZ) threatened environment status;

c. any positive effects including environmental compensation, easements for public access such as walking, cycling or bridleways or access to lakes, rivers or conservation areas;

d. any opportunities to retire marginal farming land and revert it to indigenous vegetation;

e. where adverse effects cannot be avoided, mitigated or remedied, the merits of any compensation;

f. whether the proposed development assists in retaining the land use in low intensity farming where that activity maintains the valued landscape character.

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report 4A

Report and Recommendations of Independent Commissioners Regarding
Chapter 21, Chapter 22, Chapter 23, Chapter 33 and Chapter 34

Commissioners
Denis Nugent (Chair)
Brad Coombs
Mark St Clair

PART B: CHAPTER 21 – RURAL

2 PRELIMINARY

2.1 Over-arching Submissions and Structure of the Chapter

53. At a high level there were a number of submissions that addressed the approach and structure of Chapter 21. We deal with those submissions first.

2.2 Farming and other Activities relying on the Rural Resource

54. Submissions in relation to the structure of the chapter focussed on the inclusion of other activities that rely on the rural resource[110]. Addressing the Purpose of Chapter 21, Mr Brown in evidence considered that there was an over-emphasis on the importance of farming, noting that there was an inconsistency between Chapters 3 and 21 in this regard[111]. In addition, Mr Brown recommended changing the 'batting order' of the objectives and policies as set out in Chapter 21 to put other activities in the Rural Zone on an equal footing with that of farming[112].

55. Mr Barr in reply, supported a change to the purpose so that it would *"provide for **appropriate** other activities that rely on rural resources" (*our emphasis*)*, but noted that there was no hierarchy or preference in terms of the layout of the objectives and therefore he did not support the change in their order proposed by Mr Brown.[113]

56. This theme of a considered preference within the chapter of farming over non-farming activities and, more specifically a failure to provide for tourism, was also raised by a number of other submitters[114]. In evidence and presentations to us, Ms Black and Mr Farrell for RJL questioned the contribution of farming[115] to maintain the rural landscape and highlighted issues with the proposed objectives and policies making it difficult to obtain consent for tourism proposals[116].

57. Similarly, the submission from UCES[117] sought that the provisions of the ODP relating to subdivision and development in the rural area be rolled over to the PDP. The reasons expressed in the submission for this relief, were in summary because the PDP in its notified form:
    a. did not protect natural landscape values, in particular ONLs;
    b. was too permissive;
    c. was contrary to section 6 of the Act and does not have particular regard to section 7 matters; and
    d. was biased towards farming over other activities, resulting in a weakening of the protection of landscape values.

58. Mr Haworth addressed these matters in his presentation to us and considered, "Farming as a mechanism for protecting landscape values in these areas has been a spectacular failure."[118] He called evidence in support from Ms Lucas, a landscape architect, who critiqued the provisions in Chapter 6 of the PDP and, noting its deficiencies, considered that those

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110 E.g. Submissions 122, 343, 345, 375, 407, 430, 437, 456, 610, 613, 615, 806, FS 1229
111 J Brown, Evidence, Pages 3- 4, Para 2.3
112 J Brown, Evidence, Pages 5 - 6, Paras 2.8-2.9
113 C Barr, Reply, Page 2, Para 2.2
114 E.g. Submissions 607, 621, 806
115 F Black, Evidence, Page 3 - 5, Paras 3.8 – 3.16
116 F Black, Evidence, Page 5 , Para 3.17
117 Submission 145
118 J Haworth, Evidence, Page 5, Para 1

deficiencies had been carried through to Chapter 21. Ms Lucas noted that much of Rural Zone was not appropriate for farming and that the objectives and policies did not protected natural character[119].

59. In evidence on behalf of Federated Farmers[120], Mr Cooper noted the permitted activity status for farming, but considered that this came at a significant opportunity cost for farmers. That said, Mr Cooper, on balance, agreed that those costs needed to be assessed against the benefits of providing for farming as a permitted activity in the Rural Zone, including the impacts on landscape amenity.[121]

60. Mr Barr, in his Section 42A Report, accepted that farming had been singled out as a permitted land use, but he also considered that the framework of the PDP was suitable for managing the impacts of farming on natural and physical resources.[122] In relation to other activities that rely on the rural resource, Mr Barr in reply, considered that those activities were appropriately contemplated, given the importance of protecting the Rural Zone's landscape resource.[123] In reaching this conclusion, Mr Barr relied on the landscape evidence of Dr Read and the economic evidence of Mr Osborne presented as part of the Council's opening for this Hearing Stream.

61. Responding to these conflicting positions, we record that in Chapter 3 the Stream 1B Hearing Panel has already found that as an objective farming should be encouraged[124]and in Chapter 6, that policies should recognise farming and its contribution to the existing rural landscape[125]. Similarly, in relation to landscape, the Stream 1B Hearing Panel found that a suggested policy providing favourably for the visitor industry was too permissive[126] and instead recommended policy recognition for these types of activities on the basis they would protect, maintain or enhance the qualities of rural landscapes.[127]

62. Bearing this in mind, we concur that it is appropriate to provide for other activities that rely on the rural resource, but that such provision needs to be tempered by the equally important recognition of maintaining the qualities that the rural landscape provides. In reaching this conclusion, we found the presentation by Mr Hadley[128] useful in describing the known and predictable quality of the landscape under farming, while noting the reduced predictability resulting from other activities. In our view, tourism may not necessarily maintain the qualities that are important to maintenance of rural character (including openness, where it is an important characteristic) and amenity, and it is this latter point that needs to be addressed.

63. In order to achieve this we recommend:
    a. Amending the Purpose of the chapter to provide for 'appropriate other activities' that rely on rural resources;
    b. Objective 21.2.9 (as notified) be deleted and incorporated in Objective 21.2.1; and
    c. Policies under 21.2.9 (as notified) be added to policies under Objective 21.2.1.

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119 D Lucas, Evidence, Pages 5-11
120 Submission 600
121 D Cooper, Evidence, Paras 31-33
122 C Barr, Section 42A Report, Page 17, Para 8.16
123 C Barr, Reply, Page 9, Para 4.3
124 Recommendation Report 3, Section 2.3
125 Recommendation Report 3, Section 8.5
126 Recommendation Report 3, Section 3.19
127 Recommended Strategic Policy 3.3.20
128 J Hadley, Evidence, Pages 2 -3

2.3 Rural Zone to Provide for Rural Living

64. Mr Goldsmith, appearing as counsel for a number of submitters[129], put to us that Chapter 21 failed to provide for rural living, in particular in the Wakatipu Basin[130]. Mr J Brown[131] and Mr B Farrell[132] presented evidence in support of that position. Mr Brown recommended a new policy:

Recognise the existing rural living character of the Wakatipu Basin Rural Landscape, and the benefits which flow from rural living development in the Wakatipu Basin, and enable further rural living development where it is consistent with the landscape character and amenity values of the locality.[133]

65. Mr Barr, in his Reply Statement, considered that the policy framework for rural living was already provided for in Chapter 22 Rural Lifestyle and Rural Residential Zones. However, Mr Barr also opined, *"that there is merit associated with providing policies associated with rural living in the Rural Zone on the basis they do not duplicate or confuse the direction of the Landscape Chapter and assessment matters in part 21.7 that assist with implementing these policies."* [134] Mr Barr emphasised the need to avoid conflict with the Strategic Directions and Landscape Chapters and noted that he did not support singling out the Wakatipu Basin or consider that benefits that follow from rural development had been established in evidence.[135]

66. Mr Barr did recommend a policy that recognised rural living within the limits of a locality and its capacity to absorb change, but nothing further.[136] Mr Barr's recommendation for the policy was as follows;

"Ensure that rural living is located where rural character, amenity and landscape values can be managed to ensure that over domestication of the rural landscape is avoided."[137]

67. We consider that there are three aspects to this issue that need to be addressed. The first is, and we agree with Mr Barr in this regard, that the policy framework for rural living is already provided for in Chapter 22 Rural Lifestyle and Rural Residential Zones. That said we recommend that a description be added to the purpose of each of the Rural Chapters setting out how the chapters are linked.

68. The second aspect is that in its Recommendation Report, the Stream 1B Hearing Panel addressed the matter of rural living as follows:

"785. In summary, we recommend the following amendments to policies 3.2.5.4.1 and 3.2.5.4.2 (renumbered 3.3.22 and 3.3.24), together with addition of a new policy 3.3.23 as follows:

"Provide for rural living opportunities in areas identified on the District Plan maps as appropriate for Rural Residential and Rural Lifestyle development.

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129 Submissions 502, 1256, 430, 532, 530, 531, 535, 534, 751, 523, 537, 515,
130 W Goldsmith, Legal Submissions, Pages 3 - 4
131 J Brown, Evidence, Dated 21 April 2016
132 B Farrell, Evidence, Dated 21 April 2016
133 J Brown, Summary Statement to Primary Evidence, Pages 1 -2, Para 4
134 C Barr, Reply Statement, Page 19, para 6.8
135 C Barr, Reply Statement, Page 20, paras 6.10-6.11
136 C Barr, Reply Statement, Page 21, paras 6.14
137 C Barr, Reply Statement, Page 21, paras 6.15

Identify areas on the District Plan maps that are not within Outstanding Natural Landscapes or Outstanding Natural Features and that cannot absorb further change, and avoid residential development in those areas.

Ensure that cumulative effects of new subdivision and development for the purposes of rural living does not result in the alteration of the character of the rural environment to the point where the area is no longer rural in character."

759. We consider that the combination of these policies operating in conjunction with recommended policies 3.3.29-3.3.32, are the best way in the context of high-level policies to achieve objectives 3.2.1.8, 3.2.5.1 and 3.2.5.2, as those objectives relate to rural living developments."

69. We similarly adopt that position in recommending rural living be specifically addressed in Chapter 22.

70. Finally, with reference to the Wakatipu Basin, we record that the Council has, as noted above, already notified the Stage 2 Variations which contains specific rural living opportunities for the Wakatipu Basin.

71. Considering all these matters, we are not convinced that rural living requires specific recognition within the Rural Chapter. We agree with the reasoning of Mr Barr in relation to the potential conflict with the Strategic and Landscape chapters and that benefits that follow from rural development have not been established. We therefore recommend that the submissions seeking the inclusion of policies providing for and enabling rural living in the Rural Zone be rejected.

2.4 A Separate Water Chapter

72. Submissions from RJL[138] and Te Anau Developments[139] sought to "Extract provisions relating to the protection, use and development of the surface of lakes and rivers and their margins and insert them into specific chapter…". Mr Farrell addressed this matter in his evidence[140].

73. We note that the Stream 1B Hearing Panel has already considered this matter in Report 3 at Section 8.8, and agreed that there was insufficient emphasis on water issues in Chapter 6. This was addressed in that context by way of appropriate headings. That report noted Mr Farrell's summary of his position that he sought to focus attention on water as an issue, rather than seek substantive changes to the existing provisions.

74. Mr Barr, in reply, was of the view that water issues were adequately addressed in a specific objective with associated policies and the activities and associated with lakes and rivers are contained in one table[141]. We partly agree with each of Mr Farrell and Mr Barr.

75. In terms of the structure of the activities and standards tables, we recommend that tables deal with first the general activities in the Rural Zone and then second with location-specific activities such as those on the surface of lakes and rivers. In addition, we recommend a reordering and

138 Submission 621
139 Submission 607
140 B Farrell, Evidence, Pages 10-11
141 C Barr, Reply, Page 4

clarification of the activities and standards in relation to the surface of lakes and river table to better identify the activity status and relevant standards.

2.5 New Provisions – Wanaka Airport

76. QAC[142] sought the inclusion of new objectives and policies to recognise and provide for Wanaka Airport. The airport is zoned Rural and is subject to a Council designation but we were told that the designation does not serve the private operators with landside facilities at the airport. At the hearing, QAC explained the difficulties that this regime caused for the private operators.

77. Ms Sullivan, in evidence-in-chief, proposed provisions by way of amendments to the Rural Chapter, but following our questions of Mr Barr during Council's opening, provided supplementary evidence with a bespoke set of provisions for Wanaka as a subset of the Queenstown Airport Mixed Use Zone.

78. Having reached a preliminary conclusion that specific provisions for Wanaka Airport were appropriate, we requested that Council address this matter in reply. Mr Winchester, in reply for Council, advised that there was scope for a separate zone for the Wanaka Airport and that it could be completely separate or a component of the Queenstown Airport Mixed Use Zone in Chapter 17 of the PDP. Agreeing that further work on the particular provisions was required, we directed that the zone provisions for Wanaka Airport be transferred to Hearing Stream 7 Business Zones.

79. The Minute of the Chair, dated 16 June 2016, set out the directions detailed above. Those directions did not apply to the submissions of QAC seeking Runway End Protection Areas at Wanaka Airport. We deal with those submissions now.

80. QAC[143] sought two new policies to provide for Runway End Protection Areas (REPAs) at Wanaka Airport, worded as follows:

Policy 21.2.X.3 Retain a buffer around Wanaka Airport to provide for the runway end protection areas at the Airport to maintain and enhance the safety of the public and those using aircraft at Wanaka Airport.
Policy 21.2.X.1 Avoid activities which may generate effects that compromise the safety of the operation of aircraft arriving at or departing from Wanaka Airport.

81. The QAC submission also sought a new rule derived from these policies, being prohibited activity status for REPAs as follows:

Within the Runway End Protection Areas, as indicated on the District Plan Maps,

a. Buildings except those required for aviation purposes

b. Activities which generate or have the potential to generate any of the following effects:

i. mass assembly of people

ii. release of any substance which would impair visibility or otherwise interfere with the operation of aircraft including the creation of smoke, dust and steam

142 Submission 433
143 Submission 433

iii. storage of hazardous substances

iv. production of direct light beams or reflective glare which could interfere with the vision of a pilot

v. production of radio or electrical interference which could affect aircraft communications or navigational equipment

vi. attraction of birds

82. We think it is appropriate to deal with the requested new policies and new rule together, as the rule relies on the policies.

83. In opening legal submissions for Council, Mr Winchester raised jurisdictional concerns regarding the applicability of the rule as related to creation of smoke and dust; those are matters within the jurisdiction of ORC. Mr Winchester also raised a fairness issue for affected landowners arising from imposition of prohibited activity status by way of submission, noting that many permitted farming activities would be negated by the new rule. He submitted that insufficient evidence had been provided to justify the prohibited activity status[144].

84. Ms Wolt, in legal submissions for QAC[145], submitted in summary that there was no requirement under the Act for submitters to consult, that the further submission process was the opportunity for affected land owners to raise any concerns, and that they had not done so. Ms Wolt drew our attention to the fact that one potentially affected land owner had submissions on the PDP prepared by consultants and that those submissions did not raise any concerns. In conclusion, Ms Wolt submitted that the concerns about fairness were unwarranted.

85. At this point, we record that we had initial concerns about the figure (Figure 3.1) showing the extent of the REPA included in the QAC Submission[146] as that figure was not superimposed over the cadastral or planning maps to show the extent the suggested REPA extended onto private land. Rather, the figure illustrated the dimensions of the REPA from the runway. The summary of submissions referred to the Appendix, but even if Figure 3.1 had been reproduced, in our view, it would not have been apparent to the airport neighbours that the REPA covered their land. Against this background, the failure of airport neighbours to lodge further submissions on this matter does not, in our view, indicate their acquiescence.

86. In supplementary evidence for QAC, Ms O'Sullivan provided some details from the Airbiz Report dated March 2013 from which Figure 3.1 was derived[147]. Ms O'Sullivan also included a Plan prepared by AirBiz dated 17 May 2016, showing the spatial extent of the REPA on an aerial photograph with the cadastral boundaries also superimposed[148]. We also received a further memorandum from Ms Wolt dated 3 June 2016, with the relevant extracts from the AirBiz March 2013 report and which included additional Figures 3.2 and 3.3 showing the REPA superimposed on the cadastral map.

87. Given that it was only at that stage that the extent of the REPA in a spatial context was identified, we do not see how any adjoining land owner could know how this might affect them. We do

144 J Winchester, Opening legal Submissions, Page 11, Paras 4.21 – 4.22
145 R Wolt, Legal Submissions, Pages 22-24, Paras 111 - 122
146 Submission 433, Annexure 3
147 K O'Sullivan, Supplementary evidence, Pages 5 – 6, Paras 3.3 - 3.5
148 K O'Sullivan, Supplementary evidence, Appendix C

not consider QAC's submission to be valid for this reason. If the suggested prohibited activity rule fails for this reason, so must the accompanying policies that support it. Even if this were not the case, we agree with Mr Winchester's submission that QAC has supplied insufficient evidence to justify the relief that it seeks. The suggested prohibited activity rule is extraordinarily wide (on the face of it, the rule would preclude the neighbouring farmers from ploughing their land if they had not done so within the previous 12 months because of the potential for it to attract birds). To support it, we would have expected a comprehensive and detailed section 32 analysis to be provided. Ms O'Sullivan expressed the opinion that there was adequate justification in terms of section 32 of the Act for a prohibited activity rule[149]. Ms O'Sullivan, however, focused on the development of ASANs, which are controlled by other rules, rather than the incremental effect of the suggested new rule, and thus in our view, significantly understated the implications of the suggested rule for neighbouring land owners. We do not therefore accept her view that the rule has been adequately justified in terms of section 32.

88. For completeness we note that the establishment of ASANs in the Rural Zone, over which these REPA would apply, would, in the main, be prohibited activities (notified Rule 21.4.28). For the small area affected by the proposed REPA outside the OCB, ASANs would require a discretionary activity consent. Thus, the regulatory regime we are recommending would enable consideration of the type of reverse sensitivity effects raised by QAC.

89. Accordingly, we recommend that submission from QAC for two new policies and an associated rule for the REPA at Wanaka Airport be rejected.

3 SECTION 21.1 – ZONE PURPOSE

90. We have already addressed a number of the submissions regarding this part of Chapter 21 in Sections 3.2 and 3.3 above, as they applied to the wider planning framework for the Rural Zone Chapter. We also record that the Zone Purpose is explanatory in nature and does not contain any objectives, policies or regulatory provisions.

91. Submissions from QAC[150] and Transpower[151] sought that infrastructure in the Rural Zone needed specific recognition. Mr Barr addressed this matter in the Section 42A Report noting;

"Infrastructure and utilities are also contemplated in the Rural Zone and while not specifically identified in the Rural Zone policy framework they are sufficiently provided for in higher order provisions in the Strategic Direction Chapter and Landscape Chapter and the Energy and Utilities Chapter."[152]

92. Ms Craw, in evidence[153] for Transpower, agreed with that statement, provided that the Panel adopted changes to Chapter 3 Strategic Directions regarding recognition and provision of regionally significant infrastructure.

93. Ms O'Sullivan, in evidence for QAC, noted that Wanaka Airport was recognised in the ODP and suggested that it was appropriate to continue that recognition in the PDP. Her evidence was

149 K O'Sullivan, Supplementary evidence, Pages 7 - 8, Paras 3.8 – 3.10
150 Submission 433
151 Submission 805
152 C Barr, Section 42A Report, Chapter 21, Para 8.3
153 A Craw, Evidence, dated 21 April 2016, Paras 21-22

that it was also appropriate to incorporate PC35 provisions into the PDP in order to provide guidance to plan users.[154]

94. Forest & Bird[155] also sought the recognition of the loss of biodiversity on basin floors and NZTM[156] similarly sought recognition of mining. In evidence on behalf of NZTM, Mr Vivian was of the opinion that the combination of traditional rural activities, which include mining, are expected elements in a rural landscape and hence would not offend landscape character.[157]

95. In our view infrastructure and biodiversity are district wide issues that are appropriately addressed in the separate chapters, Energy and Utilities and Indigenous Vegetation and Biodiversity respectively, as well as at a higher level in the strategic chapters. Provision for Wanaka Airport has been deferred to the business hearings for the reasons set out above. We agree with Ms O'Sullivan's additional point regarding the desirability of assisting plan users as a general principle, but find that incorporating individual matters from the chapter into the Purpose section would be repetitive. We think that Mr Vivian's reasoning regarding the combination of traditional rural activities not offending rural landscape goes too far. Nonetheless, we note that mining is the subject of objectives and associated policies in this chapter. These matters do not need to be specified in the purpose statement of every chapter in which they occur. We therefore recommend that these submissions be rejected.

96. The changes we do recommend to this section are those that address the wider matters discussed in the previous section. We recommend that the opening paragraph read:

There are four rural zones in the District. The Rural Zone is the most extensive of these. The Gibbston Valley is recognised as a special character area for viticulture production and the management of this area is provided for in Chapter 23: Gibbston Character Zone. Opportunities for rural living activities are provided for in the Rural-Residential and Rural Lifestyle Zones (Chapter 22).

97. In the five paragraphs following, we recommend accepting the amendments recommended by Mr Barr[158]. Finally, we recommend deletion of the notified paragraph relating to the Gibbston Character Zone and the addition of the following paragraph to clarify how the landscape classifications are applied in the zone:

The Rural Zone is divided into two ~~overlay~~ areas. The first being the ~~overlay~~ area for Outstanding Natural Landscapes and Outstanding Natural Features. The second ~~overlay~~ area being the Rural Character Landscape. These ~~overlay~~ areas give effect to Chapter 3 – Strategic Direction: Objectives 3.2.5.1 and 3.2.5.2, and the policies in Chapters 3 and 6 that implement those objectives.

98. With those amendments, we recommend Section 21.1 be adopted as set out in Appendix 1.

4 SECTION 21.2 – OBJECTIVES AND POLICIES

4.1 Objective 21.2.1

99. Objective 21.2.1 as notified read as follows:

154 K O'Sullivan, Evidence, dated 22 April 2016, Page 9-10, Paras 4.8 – 4.13
155 Submission 706
156 Submission 519
157 C Vivian, Evidence, Page 11, Para 4.28
158 C Barr, Reply Statement, Appendix 1

"Enable farming, permitted and established activities while protecting, maintaining and enhancing landscape, ecosystem services, nature conservation and rural amenity values."

100. The submissions on this objective primarily sought inclusion of activities that relied on the rural resource[159], the addition of wording from the RMA such as "avoid, remedy or mitigate" or "from inappropriate use and development"[160] and removal of the word "protecting"[161]. Transpower sought the inclusion of 'regionally significant infrastructure'.

101. As noted in Section 2.1 above, the Council lodged amended objectives and policies, reflecting our request for outcome orientated objectives. The amended version of Objective 21.2.1 read as follows:

"A range of land uses including farming, permitted and established activities are enabled, while protecting, maintaining and enhancing landscape, ecosystem services, nature conservation and rural amenity values."

102. We record that this amended objective is broader than the objective as notified, by suggesting the range of enabled activities extends beyond farming and established activities, and circular by referring to permitted activities (which should only be permitted if giving effect to the objective). We have addressed the activities relying on the rural resource in Section 3.2 above. In addition, as we noted in Section 4, we consider infrastructure is more appropriately dealt with in Chapter 30 Energy and Utilities..

103. In his evidence for Darby Planning LP *et al*[162], which sought to remove the word *"protecting"*, Mr Ferguson was of the view that the Section 42A Report wording of Objective 21.2.1 was not sufficiently clear in, *"providing the balance between enabling appropriate rural based activities and recognising the important values in the rural environment."*[163] Mr Ferguson was also of the view that this balance needed to be continued into the associated policies. Similarly, in evidence tabled for X-Ray Trust, Ms Taylor was of the view that *"protecting"* was an inappropriately high management threshold and that it could prevent future development[164].

104. We do not agree. Consistent with the findings in the report on the Strategic Chapters, we consider that removal of the word *"protecting"* would have exactly the opposite result from that sought by Mr Ferguson and Ms Taylor by creating an imbalance in favour of other activities to the detriment of landscape values. This would be inconsistent with the Strategic Objectives 3.2.5.1 and 3.2.5.2 which seek to protect ONLs and ONFs from the adverse effects of subdivision, use and development, and maintain and enhance rural character and visual amenity values in Rural Character Landscapes.

105. We are satisfied that the objective as recommended by Mr Barr reflects both the range of landscapes in the Rural Zone, and, with minor amendment, the range of activities that are appropriate within some or all of those landscapes. The policies to implement this objective should appropriately apply the terms "protecting, maintaining and enhancing" so as to

159 Submissions 343, 345, 375, 407, 430, 437, 456, 513, 515, 522, 531, 537, 546, 608, 621, 624, 806

160 Submissions 513, 515, 522, 531, 537, 621, 624, 805

161 Submissions 356, 608 – we record that these submissions similarly sought the removal of the word protect from Policy 21.2.1.1

162 Submission 608

163 C Fergusson, EiC, dated 21 April 2016, Para 54

164 L Taylor, Evidence, Appendix A, Page 1

implement the higher order objectives and policies. Consequently, we recommend that the wording for Objective 21.2.1 be as follows:

A range of land uses, including farming and established activities, are enabled while protecting, maintaining and enhancing landscape, ecosystem services, nature conservation and rural amenity values.

106. In relation to wording from the RMA such as "avoid, remedy or mitigate" or "from inappropriate use and development", Mr Brown in his evidence for Chapter 21 reiterated the view he put forward at the Strategic Chapters hearings that the, *"RMA language should be the "default" language of the PDP and any non-RMA language should be used sparingly, …"*[165], in order to avoid uncertainty and potentially litigation.

107. The Stream 1B Hearings Panel addressed this matter in detail[166] and concluded that, *"we take the view that use of the language of the Act is not a panacea, and alternative wording should be used where the wording of the Act gives little or no guidance to decision makers as to how the PDP should be implemented."* We agree with that finding for the same reasons as are set out in Recommendation Report 3 and therefore recommend rejecting those submissions seeking inclusion of such wording in the objective.

4.2 Policy 21.2.1.1

108. Policy 21.2.1.1 as notified read as follows:

"Enable farming activities while protecting, maintaining and enhancing the values of indigenous biodiversity, ecosystem services, recreational values, the landscape and surface of lakes and rivers and their margins."

109. The majority of submissions on this policy sought, in the same manner as for Objective 21.2.1, to include reference to activities that variously rely on rural resources, as well as inclusion of addition of wording from the RMA such as *"avoid, remedy or mitigate"*[167], or softening of the policy through removal of the word *"protecting"*[168], or inserting the words *"significant"* before the words indigenous biodiversity[169], or amending the reference to landscape to *"outstanding natural landscape values"*[170].

110. In evidence for RJL *et al* Mr Farrell recommended that the policy be amended as follows:

"Enable a range of activities that rely on the rural resource while, maintaining and enhancing indigenous biodiversity, ecosystem services, recreational values, landscape character and the surface of lakes and rivers and their margins."[171]

111. Mr Barr did not recommend any additional amendments to this policy in his Section 42A Report or in reply. We have already addressed the majority of these matters in Section 3.2 above. The additional amendments recommended by Mr Farrell in our view do not align the policy so that

165 J Brown, Evidence , Page 2, Para 1.9
166 Recommendation Report 3, Section 1.9
167 Submissions 343, 345, 375, 456, 515, 522, 531
168 Submissions 356, 608
169 Submissions 701, 784
170 Submissions 621, 624
171 B Farrell, Evidence, Page 15, Para 48

it implements Objective 21.1.1, and are also inconsistent with the Hearing Panel's findings in regard to the Strategic Chapters.

112. We therefore recommend that Policy 21.2.1.1 remain as notified.

4.3 Policy 21.2.1.2

113. Policy 21.2.1.2 as notified read as follows:

> *"Provide for Farm Buildings associated with larger landholdings where the location, scale and colour of the buildings will not adversely affect landscape values."*

114. Submissions to this policy variously sought;
   a. To remove the reference to "large landholdings"[172];
   b. To delete reference to farm buildings and replace with reference to buildings that support rural and tourism based land uses[173];
   c. To change the policy to not "significantly adversely affect landscape values"[174];
   d. To roll-over provisions of the ODP so that farming activities are not permitted activities.[175]

115. The Section 42A Report recommended that the policy be amended as follows;

> *"Provide for Farm Buildings associated with larger landholdings over 100 hectares in area where the location, scale and colour of the buildings will not adversely affect landscape values."*

116. In his evidence, Mr Brown for Trojan Helmet *et al* considered that the policy should apply to all properties, not just larger holdings and that the purpose of what is proposed to be managed, the effect on landscape values, should be clearer[176]. Mr Farrell in evidence for RJL *et al* was of a similar view, considering that 100 hectares was too high a threshold for the provision of farm buildings and that a range of farm buildings should be provided for and were appropriate[177]. Mr Farrell did not support the amendment sought by RJL in relation to changing the policy to not "significantly adversely affect landscape values", but rather recommended that policy be narrowed to adverse effects on the district's significant landscape values. There was no direct evidence supporting the request to widen the reference to buildings that support rural and tourism based land uses. The argument of Mr Haworth for UCES, seeking that the provisions of the ODP be rolled over so that farming activities are not permitted activities have already been addressed in Section 3.2 above. However, later in the report we address the density of farm buildings in response to UCES's submission.

117. In the Section 42A Report, Mr Barr considered that provision for farm buildings of a modest size and height, subject to standards controlling colour, density and location, is an efficient management regime that would lower transition costs for modest size buildings without compromising the landscape[178]. In evidence for Federated Farmers[179], Mr Cooper emphasised the need to ensure that the associated costs were reasonable in terms of the policy

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172 Submission 356, 437, 621, 624
173 Submission 806
174 Submission 356, 621
175 Submission 145
176 J Brown, Evidence, Para 2.11 – 2.12
177 B Farrell, Evidence, Para 51
178 C Barr, Summary of S42A Report, Para 4, Page 2
179 D Cooper, Evidence, Paras 25-26

implementation. We note that while we heard from several farmers, none of them raised an issue with this policy.

118. In reply, Mr Barr did not agree with Mr Brown and Mr Farrell's view that the policy should apply to all properties. Mr Barr's opinion was that the policy needed to both recognise the permitted activity status for buildings on 100 hectares plus sites and require resource consents for buildings on smaller properties on the basis that their scale and location are appropriate[180].

119. Mr Barr also addressed in his Reply Statement, evidence presented by Mr P Bunn[181] and Ms D MacColl[182] as to the policy and rules relating to farm buildings[183]. On a review of these submissions, we note that the submissions do not seek amendments to the farm building policy and rules and consequently, we have not considered that part of the submitters' evidence any further.

120. We concur with Mr Barr and find that the policy will provide for efficient provision of genuine farm buildings without a reduction in landscape and rural amenity values. While a 100 hectare cut-off is necessarily somewhat arbitrary, it both characterises 'genuine' farming operations and identifies properties that are of a sufficiently large scale that they can absorb additional buildings meeting the specified standards. We agree, however, with Mr Brown that the purpose of the policy needs to be made clear, that being the management of the potential adverse effects on the landscape values.

121. We therefore recommend that Policy 21.2.1.2 be worded as follows:

"Allow Farm Buildings associated with landholdings of 100 hectares or more in area while managing the effects of the location, scale and colour of the buildings on landscape values."

4.4 Policies 21.2.1.3 – 21.2.1.8

122. Policies 21.2.3 to 21.2.8 as notified read as follows:

21.2.1.3 Require buildings to be set back a minimum distance from internal boundaries and road boundaries in order to mitigate potential adverse effects on landscape character, visual amenity, outlook from neighbouring properties and to avoid adverse effects on established and anticipated activities.

21.2.1.4 Minimise the dust, visual, noise and odour effects of activities by requiring facilities to locate a greater distance from formed roads, neighbouring properties, waterbodies and zones that are likely to contain residential and commercial activity.

21.2.1.5 Have regard to the location and direction of lights so they do not cause glare to other properties, roads, public places or the night sky.

21.2.1.6 Avoid adverse cumulative impacts on ecosystem services and nature conservation values.

21.2.1.7 Have regard to the spiritual beliefs, cultural traditions and practices of Tangata Whenua.

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180 C Barr, Reply, Page 17, Para 5.12

181 Submission 265

182 Submission 285 and 626

183 C Barr, Reply, Pages 15 - 16, Paras 5.7 – 5.9

21.2.1.8 Have regard to fire risk from vegetation and the potential risk to people and buildings, when assessing subdivision and development in the Rural Zone.

123. Submissions to these policies variously sought;

Policies

21.2.1.3 remove the reference to "avoid adverse effects on established and anticipated activities"[184] or retain the policy as notified[185];

21.2.1.4 remove reference to "requiring facilities to locate a greater distance from"[186], retain the policy[187] and delete the policy entirely[188];

21.2.1.5 retain the policy[189];

21.2.1.6 insert "mitigate, remedy or offset" after the word avoid[190], reword to address significant adverse impacts[191] or support as notified[192];

21.2.1.7 delete the policy[193] and amend the policy to address impacts on Manawhenua[194];

21.2.1.8 include provision for public transport[195].

124. Specific evidence presented to us by Mr MacColl supporting the NZTA submission which supported the retention of Policy 21.2.1.3[196]. In evidence tabled for X-Ray Trust, Ms Taylor considered that Policy 21.2.1.3 sought to manage aesthetic effects as well as reverse sensitivity and that Objective 21.2.4 and the associated policies sufficiently dealt with the management of reverse sensitivity effects. Hence it was her view that reference to that matter in Policy 21.2.3.1 was not required[197].

125. Mr Barr generally addressed these matters in the Section 42A Report[198] and again in his Reply Statement[199]. In the latter Mr Barr considered that the only amendment required to this suite of policies was to Policy 21.2.1.4 which he suggested be amended as follows:

184 Submissions 356, 806
185 Submissions 600, 719
186 Submissions 356, 437
187 Submission 600
188 Submission 806
189 Submission 600
190 Submissions 356, 437
191 Submissions 356, 600, 719
192 Submissions339, 706
193 Submission 806
194 Submission 810: Noting that this aspect of this submission was withdrawn by the representatives of the submitter when they appeared at the Stream1A Hearing. Refer to the discussion in Section 3.6 of Report 2. We have not referred to the point again in the balance of our report for that reason.
195 Submission 798
196 A MacColl, Evidence for NZTA, Page 5, Para 17
197 L Taylor, Evidence, Page 4, Para 5.4
198 Issue 1 – Farming Activity and non-farming activities.
199 Section 4

"Minimise the dust, visual, noise and odour effects of activities by requiring them to locate a greater distance from formed roads, neighbouring properties, waterbodies and zones that are likely to contain residential and commercial activity."

126. We agree with Mr Barr, that this rewording provides greater clarity as to the purpose of this policy. We have already addressed in our previous findings the use of RMA language such as *"avoid, remedy, mitigate"*. In relation to Ms Taylor's suggestion of deleting Policy 21.2.1.3, we consider that policy provides greater clarity as to the types of effects that it seeks to control. We received no evidence in relation to the other deletions and amendments sought in the submissions. We therefore recommend that Policies 21.2.1.3 and 2.2.1.5- 21.2.1.8 remain as notified and Policy 21.2.1.4 be amended as set out in the previous paragraph.

127. At this point we note that in Stream 1B Recommendation Report, the Hearing Panel did not recommend acceptance of the NZFSC submission seeking a specific objective for emergency services, but instead recommended that it be addressed in the detail of the PDP[200]. We address that matter now. In the first instance we note that Mr Barr, recommended a new policy to be inserted into Chapter 22 as follows:

22.2.1.8 Provide adequate firefighting water and fire service vehicle access to ensure an efficient and effective emergency response.[201]

128. Mr Barr considered this separate policy was required rather than amending Policy 22.2.1.7 which addressed separate matters and that the policy should sit under Objective 22.2.1 which addressed rural living opportunities[202].

129. Mr Barr did not consider that such a policy and any subsequent rules were required in Chapter 21 as there were no development rights for rural living provided within that Chapter[203]. In response to our questions, Mr Barr stated that his recommended rules relating to fire fighting and water supply in Chapter 22 could be applied to Chapters 21 and 23[204]. We agree and also consider an appropriate policy framework is necessary. This is particularly so in this zone with its limited range of permitted activities. We agree with Ms McLeod[205] that fire safety is an issue outside of the Rural-Residential and Rural Lifestyle Zones.

130. Accordingly, we recommend that a new policy be inserted, numbered 21.2.1.9, worded as follows:

Provide adequate firefighting water and fire service vehicle access to ensure an efficient and effective emergency response.

131. We address the specific rules for firefighting water and fire service vehicle access later in this report.

4.5 Objective 21.2.2

132. As notified, Objective 21.2.2 read as follows:

200 Recommendation Report 3, Section 2.3
201 C Barr, Chapter 22 Section 42A Report, Page 35, Para 16.13
202 C Barr, Chapter 22 Section 42A Report, Page 35, Para 16.9 – 16.14
203 C Barr, Section 42A Report, Pages 99 -100, Paras 20.1 – 20.5
204 C Barr, Reply – Chapter 22, Page 13, Para 13.1
205 Ms A McLeod, EIC, Page 13, Par 5.25

"Sustain the life supporting capacity of soils"

133. Submissions on the objective sought that it be retained or approved.[206] Mr Barr recommended amending the objective under the Council's memoranda on revising the objectives to be more outcome focused.[207] Mr Barr's recommended wording was as follows;

"The life supporting capacity of soils is sustained."

134. We agree with that wording and that the amendment is a minor change under Clause 16(2) of the First Schedule which does not alter the intent.

135. As such, we recommend that Objective 21.2.2 be reworded as Mr Barr recommended.

4.6 Policies 21.2.2.1 – 21.2.2.3

136. As notified policies 21.2.2.1 – 21.2.2.3 read as follows:

21.2.2.1 Allow for the establishment of a range of activities that utilise the soil resource in a sustainable manner.

21.2.2.2 Maintain the productive potential and soil resource of Rural Zoned land and encourage land management practices and activities that benefit soil and vegetation cover.

21.2.2.3 Protect the soil resource by controlling activities including earthworks, indigenous vegetation clearance and prohibit the planting and establishment of recognised wilding exotic trees with the potential to spread and naturalise.

137. Submissions to these policies variously sought the deletion[208] or retention[209] of particular policies, although in the main, the requests were to soften the intent of the policies through rewording so the that policies applied to "significant soils", [210] and Policy 21.2.2.3 be amended to *"Protect, enhance or maintain the soil resource …"*[211] or *"Protect, the soil resource by controlling earthworks, and appropriately managing the effects of … the planting and establishment of recognised wilding exotic trees with the potential to spread and naturalise."*.[212]

138. We heard no evidence in regard to these submission requests. Mr Barr recommended in the Section 42A Report that Policy 21.2.2.3 be amended as follows "…*and establishment of identified wilding exotic trees* …" for consistency with recommendations made to Chapter 34 on Wilding Exotic Trees.[213]

139. These policies are part of the permitted activity framework for the Chapter in relation to appropriateness of farming within the context of landscape values to be protected, maintained or enhanced. Removal of the policies or softening their wording would not provide the direction required to assist achievement of the objective. We accept, however, the need for the

206 Submissions 289, 325, 356
207 Council Memoranda dated 13 April 2016
208 Submission 806
209 Submissions 600, 806
210 Submissions 643, 693, 702
211 Submission 356
212 Submission 600
213 C Barr, Section 42A Report, Appendix 1

consequential amendment suggested by Mr Barr. We therefore recommend that the Policies 21.2.2.1 and 21.2.2.2 remain as notified and that 21.2.2.3 read as follows:

"Protect the soil resource by controlling activities including earthworks, indigenous vegetation clearance and prohibit the planting and establishment of identified wilding exotic trees with the potential to spread and naturalise."

4.7 Objective 21.2.3

140. As notified, Objective 21.2.3 read as follows:

"Safeguard the life supporting capacity of water through the integrated management of the effects of activities."

141. Submissions on the objective were generally supportive[214] with a specific request for inclusion of "*…capacity of water and water bodies through …".*[215] This submission was not directly addressed in the Section 42A Report or in evidence. We note that the definitions of water and water body in the RMA means that water bodies are included within 'water', and therefore consider that there is no advantage in expanding the objective.

142. Mr Barr recommended amending the objective under the Council's memoranda on revising the objectives to be more outcome focused.[216] The suggested rewording was:

"The life supporting capacity of water is safeguarded through the integrated management of the effects of activities."

143. We agree that this rewording captures the original intention in an appropriate outcome orientated manner and recommend that the objective be amended as such.

4.8 Policy 21.2.3.1

144. As notified, Policy 21.2.3.1 read as follows:

"In conjunction with the Otago Regional Council, regional plans and strategies:

a. Encourage activities that use water efficiently, thereby conserving water quality and quantity

b. Discourage activities that adversely affect the potable quality and life supporting capacity of water and associated ecosystems."

145. Submissions to this policy variously sought its deletion[217] or retention[218], its rewording so as to delete reference to "water quality and quantity" and/or reference to "potable quality, life-supporting capacity and ecosystems".[219]

146. There was no direct reference to these submissions in the Section 42A Report or in evidence.

147. Given that the objective under which this policy sits refers to safeguarding life-supporting capacity, then it seems to us incongruous to remove reference to *"water quality and quantity"*

214 Submissions 289, 356, 600
215 Submissions 339, 706
216 Council Memoranda dated 13 April 2016
217 Submission 590
218 Submission 339, 706, 755,
219 Submissions 600, 791, 794

or *"potable quality, life-supporting capacity and ecosystems"*, which are all relevant to achievement of that objective. We therefore, recommend that the policy as notified remains unchanged.

4.9 New Policy on Wetlands

148. The Forest & Bird[220] and E Atly[221] sought an additional policy to avoid the degradation of natural wetlands. The reasons set out in the submissions included that it is a national priority project to protect wetlands and that rules other than those related to vegetation clearance were needed.

149. We could not identify where this matter was addressed in the Section 42A Report. In evidence for the Forest & Bird, Ms Maturin advised that the Society would be satisfied if this matter was added to Policy 21.2.12.5.[222] We therefore address the point later in this report in the context of Policy 21.2.12.5.

4.10 Objective 21.2.4

150. As notified, Objective 21.2.4 read as follows:

Manage situations where sensitive activities conflict with existing and anticipated activities in the Rural Zone.

151. Submissions on this objective were generally in support of the wording as notified.[223] Transpower[224] sought that the Objective be amended to read as follows;

Avoid situations where sensitive activities conflict with existing and anticipated activities and regional significant infrastructure in the Rural Zone, protecting the activities and regionally significant infrastructure from adverse effects, including reverse sensitivity effects.

152. One other submission did not seek a specific change to the wording of the objective but wanted to "*encourage a movement away from annual scrub burning in the Wakatipu Basin*".[225] We heard no evidence on this particular matter as to the link between the objective and the issue identified. We are both unsure of the linkage between the request and the objective, and whether the issue is within the Council's jurisdiction. We therefore recommend that the submission be rejected.

153. Mr Barr recommended amending the objective under the Council's memoranda on revising the objectives to be more outcome focused.[226] His suggested rewording was:

Situations where sensitive activities conflict with existing and anticipated activities are managed.

154. In evidence for Transpower, Ms Craw[227]

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220 Submission 706
221 Submission 336
222 S Maturin, Evidence, Page 10, Para 62
223 Submissions 134, 433, 600, 719, 723, 730, 732, 734, 736, 738, 739, 760, 843
224 Submission 805
225 Submission 380
226 Council Memoranda dated 13 April 2016
227 A Craw, Evidence, Page 6, Para 30-33

a. Considered that Policy 3.2.8.1.1 in Council's reply addressed Policies 10 and 11 of the NPSET 2008 to safeguard the National Grid from incompatible development
b. Agreed with the Section 42A Report, that infrastructure did not need to be specifically identified within the objective
c. Considered that "avoid" provided stronger protection than "manage"
d. Suggested that if the Panel adopted Policy 3.2.8.1.1. (Council's reply version), then the wording in the previous paragraph would be appropriate.

155. In his evidence, Mr Brown [228] recommended the following wording for the objective;

Reverse sensitivity effects are managed.

156. This was on the basis that the reworded objective had the same intent, but was simpler. We agree that the intent might be the same (which, if correct, would also overcome potential jurisdictional hurdles given that the submission Mr Brown was addressing [229] sought amendments to the policies under this objective, rather than to the objective itself), but this also means that it does not solve the problem we see with the original objective – that it did not specify a clear outcome in respect of which any policies might be applied in order to achieve the objective. Transpower's suggested wording would solve that problem, but in our view, a position of avoiding all conflict is unrealistic and unachievable without significant restrictions on new development that we do not believe can be justified. As is discussed in greater detail in the report on the strategic chapters, the NPSET 2008 does not require that outcome (as regards reverse sensitivity effects on the National Grid).

157. In reply, Mr Barr further revised his view on the wording of the objective as follows;

Situations where sensitive activities conflict with existing and anticipated activities are managed to minimise conflict between incompatible land uses.

158. Mr Barr's reasons for the further amendments included clarification as to what was being managed and to what end result, and that use of the term 'reverse sensitivity' was not desirable as it applied to new activities coming to an existing nuisance.[230] We consider this wording is the most appropriate way to achieve the purpose of the Act given the alternatives offered.

159. We therefore recommend that Objective 2.4.1 be worded as follows;

"Situations where sensitive activities conflict with existing and anticipated activities are managed to minimise conflict between incompatible land uses."

4.11 Policies 21.2.4.1 – 21.2.4.2

160. As notified, policies 21.2.4.1 – 21.2.4.2 read as follows:

21.2.4.1 Recognise that permitted and established activities in the Rural Zone may result in effects such as odour, noise, dust and traffic generation that are reasonably expected to occur and will be noticeable to residents and visitors in rural areas.

228 J Brown, Evidence, Page 12, Para 2.17
229 Submission 806 (Queenstown Park Ltd)
230 C Barr, Reply, Appendix 2, Page 2

21.2.4.2 Control the location and type of non-farming activities in the Rural Zone, to minimise or avoid conflict with activities that may not be compatible with permitted or established activities.

161. Submissions to these policies variously sought their retention[231] or deletion[232]. Queenstown Park Limited[233] sought that the two policies be replaced with effects-based policies that would enable diversification and would be forward focused. However, the submission did not specify any particular wording. RJL and D & M Columb sought that Policy 21.2.4.2 be narrowed to apply to only new non-farming and tourism activities[234], while TML and Straterra sought that the policy be amended to *"manage"* rather than *"control"* the location and type of non-farming activities and to *"manage"* conflict with activities "*that may or may not be compatible with permitted or established activities*.[235]

162. In the Section 42A Report, Mr Barr suggested an amendment to Policy 21.4.2.1 as follows;

New activities must recognise that permitted and established activities in the Rural Zone may result in effects such as odour, noise, dust and traffic generation that are reasonably expected to occur and will be noticeable to residents and visitors in rural areas.[236]

163. We were unable to find any reasons detailed in the Section 42A Report for this recommended amendment or a submission that sought this specific wording. That said, we do find that it clarifies the intent of the policy (as notified, it leaves open who is expected to recognise the specified matters) and consider that as such, that it is within scope.

164. In his evidence on behalf of TML, Mr Vivian[237] recommended a refinement of the policy from that sought in TML's submission, such that it read:

To manage the location and type of non-farming activities in the Rural Zone, in order to minimise or avoid conflict with activities that may not be compatible with permitted or established activities.

165. In his evidence, Mr Farrell on behalf of RJL Ltd, expressed the view that Policy 21.2.4.2 as notified did not give satisfactory recognition to the benefits of tourism. He supported inserting specific reference to tourism activities and to limiting the policy to new activities. [238]

166. Mr Barr, did not provide any additional comment on these matters in reply.

167. There was no evidence presented as to why these policies should be deleted and in our view their deletion would not be the most appropriate way to achieve the objective.

168. While the amendments suggested by Mr Vivian provide some clarification of the intent and purpose of Policy 21.2.4.2, we find that this is already appropriately achieved with the current wording – we do not think there is a meaningful difference between management and control

231 Submissions 433, 600, 719, 723, 730, 732, 734, 736, 738, 739, 760, 843
232 Submissions 693, 702, 806,
233 Submission 806
234 Submissions 621, 624
235 Submissions 519, 598
236 C Barr, Section 42A Report, Appendix 1
237 C Vivian, EiC, paragraphs 4.30 – 4.37
238 B Farrell, Evidence, Page 16, Paras 52 - 54

in this context. In relation to the benefits of tourism, we find that the potential effects of such activities should not be at the expense of unnecessary adverse effects on existing lawfully established activities. We consider that a policy focus on minimising conflict strikes an appropriate balance between the two given the objective it seeks to achieve. However, we consider this can be better expressed.

169. In relation to the specific wording changes recommended by Mr Farrell, we do not think it necessary to identify tourism as a non-farming type activity, but we agree that, consistently with the suggested change to Policy 21.2.4.1, that the focus of Policy 21.2.4.2 should be on new non-farming activities.

170. Lastly, we consider that the policy could be simplified to delete reference to avoiding conflict as an alternative given that minimisation includes avoidance where avoidance is possible.

171. Hence we recommend that policies 21.2.4.1 and 21.2.4.2 be worded as follows;

21.2.4.1 New activities must recognise that permitted and established activities in the Rural Zone may result in effects such as odour, noise, dust and traffic generation that are reasonably expected to occur and will be noticeable to residents and visitors in rural areas.

21.2.4.2 Control the location and type of new non-farming activities in the Rural Zone, so as to minimise conflict between permitted and established activities and those that may not be compatible such activities.

4.12 Definitions Relevant to Mining Objective and Policies

172. Before addressing Objective 21.2.5 and associated policies, we consider it logical to address the definitions associated with mining activities in order that the meaning of the words within the objective and associated polices is clear.

173. NZTM[239] sought replacement of the PDP definitions for "mining activity" and "prospecting", and new definitions for "exploration", "mining" and "mine building" (this latter definition we address in Section 5.15 below).

174. Stage 2 Variations have proposed a new definition of mining activity. We have been advised that the submission and further submissions relating to that definition have been transferred to the Stage 2 Variations hearings. Thus we make no recommendation on those.

175. Mr Vivian in evidence for NZTM drew attention to the need also to include separate definitions of exploration and prospecting. In reply Mr Barr agreed with Mr Vivian.[240]

176. The wording for the new definition of "Exploration" sought by NZTM[241] was as follows;

Means any activity undertaken for the purpose of identifying mineral deposits or occurrences and evaluating the feasibility of mining particular deposits or occurrences of 1 or more minerals; and includes any drilling, dredging, or excavations (whether surface or subsurface) that are reasonably necessary to determine the nature and size of a mineral deposit or occurrence; and to explore has a corresponding meaning.

239 Submission 519

240 C Barr, Reply, Page 37, Para 13.2

241 Submission 519, opposed by FS1040 and FS1356

177. Mr Barr did not directly address this definition except as it related to the permitted activity rules, but he did recommend the inclusion of the new definition.[242] We address the matter of permitted activity status later in the decision. Mr Vivian in evidence for NZTM was of the view that the definition was necessary to show the difference between prospecting, mining and exploration and to align the definition with the CMA.[243]

178. We do not have any issue in principle with the suggested definition, but it needs to be recognised that as defined, mineral exploration has potentially significant adverse environmental effects. Our consideration of policy and rules below reflect that possibility.

179. The wording for the definition of "Prospecting" sought by NZTM[244] (showing the revisions from the notified definition) was as follows;

"Mineral Prospecting Means any activity undertaken for the purpose of identifying land likely to contain ~~exploitable~~ mineral deposits or occurrences; and includes the following activities:

a. Geological, geochemical, and geophysical surveys

b. The taking of samples by hand or hand held methods

c. Aerial surveys

d. Taking small samples by low impact mechanical methods."

180. Mr Barr and Mr Vivian agreed that inclusion of reference to *"low impact mechanical methods"* was not necessary given the context in which the term is used. We disagree. Reference to prospecting in policies and rules that we discuss below, proceeds on the basis that prospecting is a low impact activity. We think that it is important that reference to mechanical sampling in the definition should reflect that position. We are also concerned that the definition is inclusive of the activities listed as bullet points. The consequence could be that activities not contemplated occur under the guise of Mineral Prospecting. We doubt that there is scope to replace the word "includes" and recommend, via the Stream 10 Hearing Panel, that the Council consider a variation to amend this definition.

181. In considering these amendments, we conclude that they are appropriate in terms of consistency and the clarity of the application of these terms within the provisions of the Plan.

182. NZTM also requested a new definition be included in the PDP for *"mining"* as it is has a different range of effects compared to exploration and prospecting, and that it should align with the CMA. The wording sought by NZTM was as follows:

Mining

a. means to take, win or extract , by whatever means, -
   i. a mineral existing in its natural state in land, or
   ii. a chemical substance from a mineral existing in its natural state in land and
b. includes –
   i. the injection of petroleum into an underground gas storage facility but

242 C Barr, Section 42A Report, Page 108, Para 21.21

243 C Vivian, Evidence, Page 10, Para 4.21

244 Submission 519, opposed by FS1040 and FS1356

c. does not include prospecting or exploration for a mineral or chemical substance referred in in paragraph (a).

183. Mr Barr did not address this submission point directly in the Section 42A Report or in reply. Mr Vivian, again for NZTM, considered it important to include such a definition for reasons of consistency with the CMA, and that while all the aspects of the definition were not necessarily applicable to the District (he acknowledged gas storage as being in this category), it was not unusual to have definitions describing an industry/use as well as an activity in a District Plan.[245]

184. While we do not see any value in referring to underground gas storage facilities when there is no evidence of that being a potential activity undertaken in the district we think that there is value in having a separate definition of mining as otherwise suggested. Among other things, that assists distinction being drawn between mining, exploration and prospecting.

185. In conclusion, we recommend to the Stream 10 Hearing Panel that the definitions pertaining to mining read as follows;

Mining

Means to take, win or extract, by whatever means, -

a. a mineral existing in its natural state in land, or

b. a chemical substance from a mineral existing in its natural state in land

but does not include prospecting or exploration for a mineral or chemical substance.

Mineral Exploration

Means any activity undertaken for the purpose of identifying mineral deposits or occurrences and evaluating the feasibility of mining particular deposits or occurrences of 1 or more minerals; and includes any drilling, dredging, or excavations (whether surface or subsurface) that are reasonably necessary to determine the nature and size of a mineral deposit or occurrence; and to explore has a corresponding meaning.

Mineral Prospecting

Means any activity undertaken for the purpose of identifying land likely to contain mineral deposits or occurrences; and includes the following activities:

a. Geological, geochemical, and geophysical surveys

b. The taking of samples by hand or hand held methods

c. Aerial surveys

d. Taking small samples by low impact mechanical methods.

4.13 Objective 21.2.5

186. As notified Objective 21.2.5 read as follows:

[245] C Vivian, Evidence, Page 10, Para 4.17

"Recognise and provide for opportunities for mineral extraction providing location, scale and effects would not degrade amenity, water, landscape and indigenous biodiversity values."

187. Submissions on this objective variously sought the inclusion of "wetlands" as something not to be degraded[246], replacement of the words "*providing location, scale and effects would not degrade"* with "*while avoiding, remedying, or mitiga*ting"[247], narrowing the objective to refer to *"significant"* amenity, water, landscape and indigenous biodiversity values[248] or amendment so it should apply in circumstances where the degradation would be *"significant"*.[249]

188. The submission from the Forest & Bird[250] stated that wetlands should be included within the objective as it a national priority to protect them and Mr Barr agreed with that view.[251]

189. Apart from some minor amendments, Mr Barr was otherwise of the view the objective (and associated policies which we address below) were balanced so as to recognise the economic benefits of mining operations while ensuring the PDP provisions appropriately addressed the relevant s6 and s7 RMA matters.[252] Mr Barr's recommended amendments in the Council's memoranda on revising the objectives to be more outcome focused[253] also addressed the submission points. The suggested wording was:

Mineral extraction opportunities are provided for on the basis the location, scale and effects would not degrade amenity, water, wetlands, landscape and indigenous biodiversity values.

190. In evidence, Mr Vivian for NZTM considered that the objective as notified did not make sense and the wording sought by NZTM (seeking that it refer to significant values) was more effects based.[254]

191. We concur with Mr Barr that his reworded objective is both balanced and appropriate in achieving the purpose of the Act. Given that most mineral extraction opportunities are likely to occur within ONL's, a high standard of environmental protection is an appropriate outcome to aspire to. We also find that inclusion of wetlands is appropriate[255] and the amended version addresses the 'sense' issues raised by Mr Vivian. We have already addressed the insertion of RMA language "avoid, remedy, mitigate" in Section 5.1 above.

192. In conclusion, we recommend that the objective be worded as follows;

21.2.5 Mineral extraction opportunities are provided for on the basis the location, scale and effects would not degrade amenity, water, wetlands, landscape and indigenous biodiversity values.

4.14 Policies 21.2.5.1 – 21.2.5.4

193. As notified Policies 21.2.5.1 – 21.2.5.4 read as follows:

246 Submissions 339, 706
247 Submissions 519, 806
248 Submission 519
249 Submission 598
250 Submission 706
251 C Barr, Section 42A Report, Page 108, Para 21.21
252 Section 42A Report, Page 105, Para 21.4
253 Council Memoranda dated 13 April 2016
254 C Vivian, Evidence, Page 13, Paras 4.42- 4.43
255 C Barr, Section 42A Report, Appendix 4, Page 1

21.2.5.1 Recognise the importance and economic value of locally sourced high-quality gravel, rock and other minerals for road making and construction activities.

21.2.5.2 Recognise prospecting and small scale recreational gold mining as activities with limited environmental impact.

21.2.5.3 Ensure that during and following the conclusion of mineral extractive activities, sites are progressively rehabilitated in a planned and co-ordinated manner, to enable the establishment of a land use appropriate to the area.

21.2.5.4 Ensure potential adverse effects of large-scale extractive activities (including mineral exploration) are avoided or remedied, particularly where those activities have potential to degrade landscape quality, character and visual amenity, indigenous biodiversity, lakes and rivers, potable water quality and the life supporting capacity of water.

194. The submissions to these policies variously sought:

Policies

21.2.5.1 replace the word "sourced" with mined, broaden the policy by recognising that the contribution of minerals is wider than just road making and construction, and insert additional wording to further emphasise the economic and export contribution of minerals.[256]

21.2.5.2 insert the word *"exploration"* after *"prospecting"*[257]

21.2.5.3 replace the word *"Ensure"* with the word *"Encourage"*[258], and provide provisions so that rehabilitation does not cause ongoing adverse effects from discharges to air and water[259]

21.2.5.4 remove reference to *"large scale"* extractive activities[260], amend the policy to relate to mineral exploration *"where applicable"*, and following *"avoided or remedied"* add *"mitigated*".[261]

195. As noted above, Mr Barr considered the policies were balanced, recognising the economic benefits while ensuring the PDP provisions addressed the relevant section 6 and section 7 RMA matters.[262] Mr Barr considered that it was appropriate to broaden Policy 21.2.5.1 rather than restrict it to road making and construction activities.[263] Mr Vivian in evidence for NZTM agreed and suggested that the policy should also reflect minerals present in the district.[264] We concur with Mr Barr and Mr Vivian that these amendments better align the policy with the objective. Therefore we recommend Policy 21.2.5.1 read:

256 Submissions 519, 598
257 Submission 598
258 Submission 519
259 Submission 798
260 Submissions 339, 706
261 Submissions 519, 598
262 Section 42A Report, Page 105, Para 21.4
263 Section 42A Report, Page 105, Para 21.5 and Pages 1-2, Appendix 4
264 C Vivian, Evidence, Page 14, Para 4.48

Have regard to the importance and economic value of locally mined high-quality gravel, rock and other minerals including gold and tungsten.

196. Mr Barr agreed with the inclusion of *"exploration"* into Policy 21.2.5.2.[265] We were unable to find any specific reasons for this addition other than a comment that this was in response to the submission from Straterra.[266] Consideration of this issue needs to take into account our earlier discussion on the definition of "mineral exploration". While the evidence we heard indicated that exploration would typically have a low environmental impact and therefore might appropriately be referred to in this policy, the defined term would permit much more invasive activities. Accordingly while we agree that exploration should be referred to in this context, it needs to be qualified to ensure that is indeed an activity with limited environmental impact.

197. Therefore, we recommend Policy 21.2.5.2 be worded as follows;

Provide for prospecting and small scale mineral exploration and recreational gold mining as activities with limited environmental impact.

198. Mr Barr did not recommend any amendments to Policy 21.2.5.3. Mr Vivian did not agree with NZTM's submission seeking the replacement of the word *"Ensure"* with the word "*Encourage*". Mr Vivian's view was that *"encourage"* implied that rehabilitation was optional, whereas *"ensured*" implied it was not. We agree with Mr Vivian in this regard.

199. Mr Vivian also suggested that:

'…the word "progressively" is deleted and [sic] rehabilitation is already ensures [sic] in a "planned and coordinated manner".' [267]

200. On this point, we do not agree with Mr Vivian. A reference to planned and co-ordinated rehabilitation may mean that the rehabilitation is all planned to occur at the closure of a mine. That is not the same as progressive rehabilitation, and has potentially much greater and more long-lasting effects.

201. We did not receive any evidence on the ORC submission seeking the addition of provisions so that rehabilitation does not cause ongoing adverse effects from discharges to air and water. In any case, we think this is already addressed under Objective 21.2.3 and the associated policies as far the jurisdiction of a TLA extends to these matters under the Act.

202. Therefore, we recommend Policy 21.2.5.3 be adopted as notified.

203. In relation to Policy 21.2.5.4, Mr Barr took the view in the Section 42A Report that the widening of the policy (i.e. amending the policy so that it applied to all mining activities rather than just larger scale activities) would ensure that those activities would be appropriately managed, irrespective of the scale of the activity. In addition, Mr Barr considered that the inclusion of mitigation would provide an additional option to avoidance or remediation.[268] Mr Vivian agreed with Mr Barr as regards the inclusion of the word mitigation. However, Mr Vivian was also of the view that the policy as worded, without the qualification of "where applicable' for mineral

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265 Section 42A Report, Appendix 1, Page 21-3, Policy 21.2.5.2

266 Submission 5

267 C Vivian, Evidence, Page 18, Para 4.75

268 Section 42A Report, Page 2, Appendix 4

exploration would foreclose small scale mining activities and exploration activities that are permitted activities.[269]

204. On Mr Barr's point regarding the widening of the policy to apply to all activities regardless of scale, we find that this would be in direct contradiction to Policy 21.2.5.2 which recognises that some small-scale mining operations will have a limited environmental impact, that is to say, an impact which is not avoided or (implicitly) remedied.

205. We consider that rather than focussing on the scale of the extractive activity, the better approach is to focus on the scale of effects. If the policy refers to potentially significant effects, that is consistent with Policy 21.2.5.2 and an avoidance or remediation policy response is appropriate in that instance. The alternative suggested by Mr Barr (adding reference to mitigation) removes the direction provided by the policy and leaves the end result unsatisfactorily vague and uncertain when applied to mining and exploration operations with significant effects. We also do not consider that adding the words "*where applicable"* has the beneficial effect Mr Vivian suggests. Read in context, it merely means that the policy only applies to exploration where exploration is proposed – something that we would have thought was obvious anyway.

206. Accordingly, we recommend that Policy 21.2.5.4 be worded as follows;

Ensure potentially significant adverse effects of extractive activities (including mineral exploration) are avoided or remedied, particularly where those activities have potential to degrade landscape quality, character and visual amenity, indigenous biodiversity, lakes and rivers, potable water quality and the life supporting capacity of water.

4.15 New Mining Objectives and Policies

207. NZTM sought additional objectives and policies to recognise the importance of mining[270]. The wording of those requested additions was as follows;

Objective

Recognise that the Queenstown Lakes District contains mineral deposits that may be of considerable social and economic importance to the district and the nation generally, and that mining activity and associated land restoration can provide an opportunity to enhance the land resource, landscape, heritage and vegetation values.

Policies

a. *Provide for Mining Buildings where the location, scale and colour of the buildings will not adversely affect landscape values*

b. *Identify the location and extent of existing or pre-existing mineral resources in the region and encourage future mining activity to be carried out in these locations*

c. *Enable mining activity, including prospecting and exploration, where they are carried out in a manner which avoids, remedies or mitigates adverse effects on the environment*

d. *Encourage the use of off-setting or environmental compensation for mining activity by considering the extent to which adverse effects can be directly offset or otherwise compensated, and consequently reducing the significance of the adverse effects*

269 C Vivian, evidence, Pages 18-19, Paras 4.78-4.79

270 Submission 519, opposed by FS1040 and FS1356

e. Manage any waste heaps or long term stockpiles to ensure that they are compatible with the forms in the landscape

f. Encourage restoration to be finished to a contour sympathetic to the surrounding topography and revegetated with a cover appropriate for the site and setting

g. Recognise that the ability to extract mineral resources can be adversely affected by other land use, including development of other resources above or in close proximity to mineral deposits

h. Recognise that exploration, prospecting and small-scale recreational gold mining are activities with low environmental impact.

208. Mr Barr, in the Section 42A Report, set out his reasons for recommending rejection of these amendments[271]. As noted in Section 5.14 above, Mr Barr was of the view that the existing objectives and policies were balanced, recognising the economic benefits while ensuring the PDP provisions addressed the relevant section 6 and section 7 RMA matters.[272]

209. Mr Vivian, for NZTM, noted that Objective 21.2.5 addressed the adverse effects of mining but considered there was no objective to recognise the importance of mineral deposits in the District. He was of the view that that result was inconsistent with the RPS.[273] Mr Vivian recommended the rewording of the new objective sought by NZTM as follows:

Acknowledge the District contains mineral deposits that may be of considerable social and economic importance to the district and the nation generally.

210. We also heard evidence from Mr G Gray, a director of NZTM, as to the social and economic benefits of mining[274].

211. Having considered the evidence in regard to the suggested new objective, we find that the matters raised are already included in the first part of objective 21.2.5 ("*Mineral extraction opportunities are provided for …")* and that this gives effect to both the RPS and proposed RPS.[275] That said, Mr Barr and Mr Vivian considered that it was necessary to include a policy to recognise that the ability to extract mineral resources can be adversely affected by other land uses in order to achieve the objective, as well as to be consistent with the RPS.[276] We agree with Mr Barr and Mr Vivian for the reasons set out in their evidence that a new policy on this matter needs to be added. We consider that the proposed course of action might be addressed more simply and so we recommend a new policy numbered 21.2.5.5, to read as follows:

Avoid or mitigate the potential for other land uses, including development of other resources above, or in close proximity to mineral deposits, to adversely affect the extraction of known mineral deposits.

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271 C Barr, Section 42A Report, Pages 105-106, Paras 21.6 – 21-10

272 Section 42A Report, Page 105, Para 21.4

273 C Vivian, Evidence Page 15, Para 4.53

274 G Gary, Evidence, Page 6-9

275 proposed RPS, Objective 5.3, Policy 5.3.5

276 C Barr, Reply, Page 37, Para 13.3, Mr C Vivian, Evidence, Page 16, Para 4.58

212. Mr Barr and Mr Vivian agreed also that the policies sought by NZTM listed as (b) and (c) above were respectively inappropriate and unnecessary and already addressed under Objective 21.2.5. We agree. We also agree with Mr Vivian that policy (f) above (in relation to restoration) is already addressed under Policy 21.2.5.3 and is therefore unnecessary. Similarly, policy (h) above duplicates Policy 21.2.5.2 and is again unnecessary. We therefore recommend that those parts of the submission be rejected.

213. In the Section 42A Report, Mr Barr was of the view that a policy specifically on mining buildings (policy (a) above) was not appropriate and overstated the importance of mining buildings in the context of the resources that require management. Mr Barr went on to opine that the mining buildings should have the same controls as other non-farming buildings.[277] In addition to this policy, NZTM also sought the inclusion of a definition for mining building apparently to avoid the need to meet the height requirements applying to other buildings. Mr Barr also recommended that this submission be rejected. Mr Barr's explained his position as follows:

It is my preference that this request is rejected because mining is a discretionary activity, therefore creating a disjunction between removing standards for all buildings and mining buildings. In addition, the locational constraints emphasised by NZTM are likely to mean that these buildings are located in within the ONL or ONF. Therefore, I recommend that mining buildings are not provided any exemptions.[278]

214. Mr Vivian had a contrary view, that traditional rural activities including mining were expected elements of the rural landscape and did not offend landscape character. Mr Vivian went on;

This proposition is supported by the inclusion of Rule 21.4.30(d) which permits the mining of aggregate for farming activities provide [sic] the total volume does not exceed 1000 m^3 in any one year. As such, mining buildings necessary for the undertaking of mining activities do not have the same issues associated with them as other buildings, such as residential, visitor accommodation or commercial activities.[279]

215. We do not follow Mr Vivian's reasoning. Mr Vivian sought to leverage off the limited provision for aggregate extraction in the permitted activity rules, but provided no evidence as to the nature and extent of mining buildings that would accompany such an aggregate extraction operation (if any) compared to the range of buildings that might accompany a large scale mining operation. Nor is it apparent to us that the historic evidence of mining is necessarily representative of the structures that would be required for a new mine. Mr Gray gave evidence that an underground tungsten mining operation would have minimal above ground impact, but it was not clear to us that this would be the case for all mining operations, and if it were, that it would remove the need for special recognition of *"mining buildings"*.

216. We share the concerns of Mr Barr that NZTM's proposal could lead to large mining related buildings being potentially located in ONLs/ONFs and that it is more effective to manage the effects of mining buildings within the framework for mining activities as discretionary activities. Hence, we recommend that the request for a definition and policy on mining buildings be rejected.

217. In relation to the proposed policy (e) above (*Manage any waste heaps or long term stockpiles to ensure that they are compatible with the forms in the landscape*), Mr Vivian considered this

277 C Barr, Section 42A Report, Page 105, Para 21.6

278 C Barr, Section 42A Report, Page 108, Para 21.19

279 C Vivian, Evidence, Page 11, Para 4.24

an important policy to be included under Objective 21.2.5.[280] We consider that this does not take the matter very far. Mr Barr did not directly address this proposed policy. We think that this policy is unnecessary, as the issue of waste heaps and stockpiles and their form in the landscape is only an aspect of more general issues raised by the effects of mining on natural forms and landscapes that have already been addressed by the Stream 1B Hearing Panel in the context of Chapter 6.[281]

218. On the final matter of a new policy regarding environmental compensation (policy (d) above), Mr Vivian in evidence[282] and Mr Barr in reply, agreed that such a policy was appropriate, with Mr Barr noting that it required separation from the "biodiversity offsetting" policy in Chapter 33 so as to avoid confusion.[283] Mr Barr recommending the following wording for the new policy to be numbered 21.2.5.6;

Encourage environmental compensation where mineral extraction would have significant adverse effects.

219. We agree with Mr Barr and Mr Vivian in part. However, we think that compensation for significant adverse effects goes too far (among other things, it implies that mineral extraction may have significant adverse effects, which would not be consistent with Objective 21.2.5) and that it should be residual effects which cannot be avoided that are addressed by compensation. We also consider that it would assist if greater direction were provided as to why environmental compensation is being encouraged.

220. Accordingly, we recommend that Policy 21.2.5.6 be worded as follows:

Encourage use of environmental compensation as a means to address unavoidable residual adverse effects from mineral extraction.

4.16 Definitions Relevant to Ski Activity Objectives and Policies

221. As with the objective and policies relating to mining addressed above; we consider it logical to address the definitions associated with ski activities in order that the meaning of the words within the objective and associated polices is clear.

222. As notified the definition of Ski Area Activities read as follows;

Means the use of natural and physical resources for the purpose of providing for:

a. recreational activities either commercial or non-commercial

b. chairlifts, t-bars and rope tows to facilitate commercial recreational activities.

c. use of snow groomers, snowmobiles and 4WD vehicles for support or operational activities
d. activities ancillary to commercial recreational activities

e. in the Waiorau Snow Farm Ski Area Sub Zone vehicle and product testing activities, being activities designed to test the safety, efficiency and durability of vehicles, their parts and accessories.

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280 C Vivian, Evidence, Page 16, Para 4.67
281 Recommendation Report 3, Section 8.6
282 C Vivian, Evidence, Pages 16-17, Paras 4.62 – 4.66
283 C Barr, Reply, Page 37, Para 13.4

223. The submissions from Soho Ski Area Ltd and Blackmans Creek No.1 LP[284], and Treble Cone Investments Ltd[285] sought more clarity in the preamble, the expansion of the definition at "(b)" to include *"passenger lift or other systems"* and the addition of the following;

a. Visitor and residential accommodation associated with ski area activities
b. Commercial activities associated with ski area activities or recreation activities
c. Guest facilities including ticketing, offices, restaurants, cafes, ski hire and retailing associated with any commercial recreation activity
d. Ski area operations, including avalanche control and ski patrol
e. Installation and operation of snow making infrastructure, including reservoirs, pumps, snow makers and associated elements
f. The formation of trails and other terrain modification necessary to operate the ski area.
g. The provision of vehicle and passenger lift or other system access and parking
h. The provisions of servicing infrastructure, including water supply, wastewater disposal, telecommunications and electricity.

224. Similarly, the submission from Mt Cardrona Station Ltd[286] sought that "(b)" be replaced with the term *"passenger lift systems"* and that buildings ancillary to ski activities be included within the definition. The Mt Cardrona Station Ltd submission also sought a new definition for *"passenger lift systems"* as follows;

Means any mechanical system used to convey or transport passengers within or to a Ski Area Sub-Zone, including chairlifts, gondolas, T-bars and rope tows, and including all moving, fixed and ancillary components of such systems such as towers, pylons, cross arms, pulleys, cables, chairs, cabins, and structures to enable the embarking and disembarking of passengers.

225. Also in relation to the Ski Area Activities definition, the submission from CARL[287] sought that "earthworks and vegetation clearance" be added to the ancillary activities under "(d)" in the definition as notified.

226. Mr Barr considered that amendment to the definition of Ski Area Activities for the inclusion of passenger lift systems and the new definition for passenger lift systems sought by Mt Cardrona Station Ltd were appropriate in that they captured a broad range of transport systems as well as enabling reference to the definition in the rules without having to repeat the specific type of transport system.[288] Mr Brown's evidence for Mt Cardrona Station Ltd also supported the amendment noting that the provision of such systems would significantly reduce vehicle traffic to the ski area subzone facilities, as well as the land required for car parking.[289] We agree in part with Mr Barr and Mr Brown for the reasons set out in their evidence. However, we note that there are things other than passengers that are transported on lifts, such as goods and materials, that should also be encompassed with the definition. We recommend that the definition be worded to provide for *"other goods*" to avoid such a limitation.

227. In relation to the amendment to the preamble and the matters to be added to the definition sought by Soho Ski Area Ltd and Blackmans Creek No.1 LP, and Treble Cone Investments Ltd, in general Mr Barr was of the view that those matters were addressed in other parts of the PDP.

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284 Submission 610
285 Submission 613
286 Submission 407
287 Submission 615
288 C Barr, Section 42A Report, Page 57, Para 14.18
289 J Brown, Evidence, Page 22, Para 2.37

However, Mr Barr also accepted that some of the changes were valid.[290] Mr Ferguson[291], held a different view, particularly in relation to the inclusion of residential and visitor accommodation within the definition. Relying on Mr McCrostie's evidence[292], he stated that the *"Inclusion of visitor accommodation within this definition is one of the ways by which the finite capacity of the resource can be sustained while balancing the financial viability and the diversity of experience necessary to remain internationally competitive."*[293] We address the policy issues regarding provision for residential and visitor accommodation in Ski Area Sub Zones later in the report, but for the present, we find that the additions to the definition sought by Soho Ski Area Ltd and Blackmans Creek No.1 LP, and Treble Cone Investments Ltd, beyond those recommended by Mr Barr, would have implications for the range of effects encompassed within the term and hence we recommend that those further additions be rejected.

228. We record in particular that Mr Barr in reply, noted that the potential effects of inclusion of a range of buildings (e.g. ticketing offices, base or terminal buildings) were wider than the matters of discretion put forward by Mr Brown in his summary statement[294] and hence, in his view, the definition should not be expanded to include them. We agree. We also consider that to include such buildings would be inconsistent with the overall policy approach of the Rural Zone to buildings.

229. Mr Barr, also recommended rejection of the submission regarding the inclusion of earthworks and vegetation clearance sought by CARL as earthworks were not part of this District Plan Review and vegetation was addressed in Chapter 33: Indigenous Vegetation.[295] We heard no evidence in relation to this submission on the definition itself and hence do not recommend the change sought. However, we record that we address the policy issues regarding earthworks and vegetation clearance in relation to Ski Area Activities later in this report.

230. The submissions from Soho Ski Area Ltd and Blackmans Creek No.1 LP[296], and Treble Cone Investments Ltd[297] also sought amendment to the definition of *"building"* to clarify that facilities, services and infrastructure associated with ski lifts systems were excluded from the definition. This matter is related to the submission sought by Mt Cardrona Station Ltd[298] that buildings ancillary to ski activities be included within the definition of Ski Area Activities.

231. In relation to the definition of building, Mr Barr in his Section 42A Report, was of the view that this matter was more appropriately dealt with under the definitions hearing as the submission related to gondolas generally and not specifically to Ski Area Activities or Ski Sub Zones.[299] Mr Ferguson's understanding was that section 9 of the Building Act specifically excluded ski tows and stand-alone machinery, so therefore specifically excluding that equipment would add clarity without substantively altering the position.[300]

290 C Barr, Section 42A Report, Pages 61-62, Para 14.40
291 EiC for Soho Ski Area Ltd and Blackmans Creek No.1 LP, and Treble Cone Investments Ltd
292 EiC for Soho Ski Area Ltd and Blackmans Creek No.1 LP, and Treble Cone Investments Ltd
293 C Ferguson, Evidence, Page 26, Para 104
294 C Barr, Reply, Page 39, Paras 14.6 – 14.7
295 C Barr, Section 42A Report, Page 63, Paras 14.45 – 14.47
296 Submission 610
297 Submission 613
298 Submission 407
299 C Barr, Section 42A Report, Page 61, Paras 14.38
300 C Ferguson, Evidence, Page 28, Para 109

232. In this case, we concur with Mr Barr and find that the definition of building is a wider matter that should appropriately be considered in the definitions hearing. Our findings above with respect to the effect of including buildings within the definition of "passenger lift systems" and "ski area activities" have addressed the potential issues around base and terminal buildings.

233. In conclusion, we recommend to the Stream 10 Hearing Panel that the definitions pertaining to Ski Area Activities and Passenger Lift Systems read as follows;

Passenger Lift Systems
Means any mechanical system used to convey or transport passengers and other goods within or to a Ski Area Sub-Zone, including chairlifts, gondolas, T-bars and rope tows, and including all moving, fixed and ancillary components of such systems such as towers, pylons, cross arms, pulleys, cables, chairs, cabins, and structures to enable the embarking and disembarking of passengers. Excludes base and terminal buildings.

Ski Area Activities
Means the use of natural and physical resources for the purpose of establishing, operating and maintaining the following activities and structures:

a. recreational activities either commercial or non-commercial;

b. passenger lift systems;

c. use of snow groomers, snowmobiles and 4WD vehicles for support or operational activities;

d. activities ancillary to commercial recreational activities including, avalanche safety, ski patrol, formation of snow trails and terrain;

e. Installation and operation of snow making infrastructure including reservoirs, pumps and snow makers;

f. in the Waiorau Snow Farm Ski Area Sub-Zone vehicle and product testing activities, being activities designed to test the safety, efficiency and durability of vehicles, their parts and accessories.

4.17 Objective 21.2.6

234. As notified, Objective 21.2.6 read as follows:

"Encourage the future growth, development and consolidation of existing Ski Areas within identified Sub Zones, while avoiding, remedying or mitigating adverse effects on the environment."

235. The submissions on this objective variously sought that it be retained[301], the objective be revised to reflect that Council should not be encouraging growth in ski areas and should control lighting effects[302], that the objective be broadened to apply to not just existing ski areas and be amended to provide for integration with urban zones[303], and that it provide for better

301 Submissions 610, 613
302 Submission 243
303 Submission 407

sustainable management for the Remarkables Ski Area, provide for summer and winter activities and provide for sustainable gondola access and growth.[304]

236. In the Council's memorandum on revising the objectives to be more outcome focused[305], Mr Barr's recommended rewording was as follows:

The future growth, development and consolidation of Ski Area Activities is encouraged within identified Ski Area Sub Zones, while avoiding remedying or mitigating adverse effects on the environment.

237. Mr Barr did not support the submission from QPL in regard to the Remarkables Ski Area as the submission provided no justification.[306] In relation to the submission from Mt Cardrona Station Ltd seeking the inclusion of the connection to urban areas, Mr Barr did not support this, opining that it would create an, *"expectation that urban zones are expected to establish where they could easily integrate and connect to the Ski Area Sub Zones."*[307] Mr Barr also considered that the submission on the objective appeared to advance the rezoning sought by Mt Cardrona Station Ltd rather than applying broadly to all Ski Area Sub-Zones.

238. In evidence for various submitters, Mr Brown supported the objective (and related policies) because of the contribution of the ski industry to the district[308], but recommended that it be reworded as follows:

21.2.6 Objective
The future growth, development and consolidation of Ski Area Activities is encouraged within identified Ski Area Sub Zones, and where appropriate Ski Area Sub Zones are connected with other areas, including urban zones, while adverse effects on the environment are avoided, remedied or mitigated.

239. Mr Brown explained the reasons for his recommended changes as including,
    a. Replacement of "*Skiing*" with "*Ski Area*" so that the terminology is internally consistent and aligns with the definitions in PDP[309]
    b. There are opportunities for better connection between ski areas and urban zones via passenger lift systems and to reduce reliance on vehicle access and effects of vehicle use, and road construction and maintenance[310]

240. In reply Mr Barr, reiterated his concerns regarding the reference to urban areas.[311]

241. We find that an objective encouraging growth in ski areas is appropriate and we agree with Mr Brown that consolidation in existing ski areas is an efficient way to minimise adverse effects.[312] However, we consider that some clarification is required as to what form that *"encouragement"* takes. In addition, and in general, we also find that connections to ski areas for access purposes is also appropriate, but agree with Mr Barr that the specific reference to urban areas goes too

304 Submission 806
305 Council Memorandum dated 13 April 2016
306 C Barr, Section 42A Report, Page 54, Para 14.6
307 C Barr, Section 42A Report, Page 58, Para 14.22
308 J Brown, Evidence, Page 19, Para 2.30
309 J Brown, Evidence, Page 21, Para2.31 (a)
310 J Brown, Evidence, Page 21, Para2.31 (c) – 2.33
311 C Barr, Reply, Page 38, Para 14.2
312 J Brown, Evidence, Page 22, Para 2.30

far. However, we also find that it more appropriate to address access as a policy rather than as part of the objective.

242. We therefore recommend that Objective 21.2.6 be reworded as follows;

The future growth, development and consolidation of Ski Area Activities within identified Ski Area Sub-Zones, is provided for, while adverse effects on the environment are avoided, remedied or mitigated.

4.18 Policies 21.2.6.1 – 21.2.6.3

243. As notified, policies 21.2.6.1 – 21.2.6.3 read as follows:

21.2.6.1 Identify Ski Field Sub Zones and encourage Ski Area Activities to locate and consolidate within the sub zones.

21.2.6.2 Control the visual impact of roads, buildings and infrastructure associated with Ski Area Activities.

21.6.2.3 Provide for the continuation of existing vehicle testing facilities within the Waiorau Snow Farm Ski Area Sub Zone on the basis the landscape and indigenous biodiversity values are not further degraded.

244. The submissions to these policies variously sought:

Policies

21.2.6.1 Retain the policy[313] and widen the policy to encourage tourism activities[314].

21.2.6.2 Retain the policy[315], or amend to replace the word "*Control"* with *"Enable and mitigate*"[316] (We note that the submission from CARL[317] merely repeated the wording of the policy and provided no indication of support/opposition or relief sought).

21.2.6.3 amend the policy to "*encourage*" continuation and "*future development"* of existing vehicle testing "*only*" within the Waiorau Snow Farm[318]

245. Mr Barr did not directly refer to Policy 21.2.6.1 in his Section 42A Report. In general Mr Barr did not support the relief sought by CARL as it did not provide substantial benefit to the Cardrona Ski Area Sub-Zone, when compared to other zones.[319] Mr Farrell, the planner giving evidence for CARL, stated that the "*the resort lends itself to the provision of four season tourism activities such as mountain biking, tramping, sightseeing, and mountain adventure activities"*, and as such the policy should be amended to insert reference to *"tourism"*[320] .

313 Submissions 610, 613
314 Submission 615
315 Submission 610, 613
316 Submission 621
317 Submission 615
318 Submission 376
319 C Barr, Section 42A Report, Page 63, Para 14.44
320 B Farrell, Evidence, Page 17, Para 56

246. This notion of Ski Areas being year-round destinations rather than just ski season destinations, was also raised by CARL and by other submitters seeking the addition of new policies to provide for such activities. We address the detail of those submissions later in this report. However, for present purposes, we find that recognising ski areas as year-round destinations and that activities outside ski seasons contribute to the viability and consolidation of activities in those areas is a valid policy position that implements Objective 21.2.6. We consider, however, that some amendment is required to the relief supported by Mr Farrell as there are many tourism activities that are not suited to location in Ski Areas and it is not realistic to seek consolidation of all tourism activities within those areas.

247. In relation to the amendments sought to Policy 21.2.6.2, Mr Brown in evidence, sought that the word control be replaced with the word manage, for the reason that manage is more consistent with "*avoid, remedy or mitigate*" as set out in the objective and is more effective.[321] On the same matter, Mr Farrell, in his evidence for CARL, did not support the replacement of the word *"Control"*, with *"Enable and mitigate"*, agreeing with the reasons of Mr Barr in the Section 42A Report. [322] We were unable to find any direct reference in the Section 42A Report to Mr Barr's reasons for recommending that the wording of the policy remain as notified. We find that the policy as notified set out what was to be controlled, but did not indicate to what end or extent. We were not able to find any submissions that would provide scope for the inclusion of a greater degree of direction. The same situation would apply if the term manage (or for that matter, "*enable and mitigate")* was used and we do not regard the change in terminology suggested by Mr Brown as a material change that might be considered to more appropriately achieve the objective than the notified wording. We therefore recommend that the policy remain as notified.

248. In the Section 42A Report, Mr Barr did not address the submission from Southern Hemisphere Proving Grounds Limited in regard to Policy 21.2.6.3. The submission itself stated the reason for the relief sought was to align the policy more precisely with the objective. We did not receive any evidence in support of the submission. We find that the encouragement of future growth and development in the policy goes beyond the intent of the policy which is balanced by reference to there being no further degradation of landscape and biodiversity values and that the other changes sought do not materially alter its effect. We therefore recommend that the submission be rejected.

249. Hence we recommend the wording of Policies 21.2.6.1 – 21.2.6.3 as follows:

21.2.6.1 Identify Ski Area Sub-Zones and encourage Ski Area Activities and complementary tourism activities to locate and consolidate within the Sub-Zones.

21.2.6.2 Control the visual impact of roads, buildings and infrastructure associated with Ski Area Activities.

21.6.2.3 Provide for the continuation of existing vehicle testing facilities within the Waiorau Snow Farm Ski Area Sub-Zone on the basis that the landscape and indigenous biodiversity values are not further degraded.

321 J Brown, Evidence, Page 19, Para 2.31(b), Page 21, Para 2.34

322 B Farrell, Evidence, Page 17, Paras 57 - 58

4.19 New Ski Area Objectives and Policies

250. QPL[323] sought additional objectives and policies specific to the Remarkables Ski Area to follow Objective 21.2.6 and Policies 21.2.6.1 – 21.2.6.3. The wording of those requested additions was as follows;

Objective

Encourage the future growth and development of the Remarkables alpine recreation area and recognise the importance of providing sustainable gondola access to the alpine area while avoiding, remedying or mitigating adverse effects on the environment.

Policies

a. Recognise the importance of the Remarkables alpine recreation area to the economic wellbeing of the District, and support its growth and development.

b. Recognise the importance of providing efficient and sustainable gondola access to the Remarkables alpine recreation area while managing potential adverse effects on the landscape quality.

c. Support the construction and operation of a gondola that provides access between the Remarkables Park zone and the Remarkables alpine recreation area, recognising the benefits to the local, regional and national community.

251. Mr Barr considered that the new objective and policies applied to the extension of the Ski Area Sub-Zone at Remarkables Park and therefore should be deferred to the mapping hearings.[324] We heard no evidence or submissions to the contrary and hence have not reached a recommendation on those submissions. However, we do address the second new policy sought in a more general sense of 'gondola access' as it applies to Ski Area Sub-Zones below.

252. CARL[325] sought an additional policy as follows;

Provide for expansion of four season tourism and accommodation activities at the Cardrona Alpine Resort.

253. Mr Barr did not consider that requested policy provided any additional benefit to the Cardrona Ski Area Sub-Zone over that provided by the recommended amendments to the objectives and policies included in his Section 42A Report.[326] Having heard no evidence to the contrary (Mr Farrell did not address it in his evidence for CARL), we agree with Mr Barr and recommend that the submission be rejected.

254. Mt Cardrona Station Limited sought an additional policy to be worded as follows:

Provide for appropriate alternative (non-road) means of transport to Ski Area Sub Zones from nearby urban resort zones and facilities including by way of gondolas and associated structures and facilities.

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323 Submission 608

324 C Barr, Section 42A Report, Page 55, Para 14.9

325 Submission 615

326 C Barr, Section 42A Report, Page 63, Para 14.44

255. Related to the above request, Soho Ski Area Limited & Blackmans Creek No.1 LP[327] and Treble Cone Investments Limited[328] sought an additional policy as follows;

To recognise and provide for the functional dependency of ski area activities to transportation infrastructure, such as vehicle access and passenger lift based or other systems, linking on-mountain facilities to the District's road and transportation network.

256. Mr Barr, in the Section 42A Report, considered that there was merit in the policy generally, as sought in these submissions. We agree in part with the likely potential benefits set out in Mr Brown's evidence.[329] However, we agree also with the point made by Mr Barr when he clarified in reply that he did not support the link to urban zones sought by Mt Cardrona Station Limited[330]. We do not consider that the planning merit of recognising the value of non-road transport systems to ski areas depends on their inter-relationship with urban resort zones (or any other sort of urban zone for that matter).

257. Accordingly, we recommend the wording and numbering of an additional policy, as follows:

21.2.6.4 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.

258. Soho Ski Area Limited & Blackmans Creek No.1 LP[331] and Treble Cone Investments Limited[332] sought an additional policy as follows;

Enable commercial, visitor and residential accommodation activities within Ski Area Sub Zones, which are complementary to outdoor recreation activities, can realise landscape and conservation benefits and that avoid, remedy or mitigate adverse effects on the environment.

259. Mr Barr was generally supportive of visitor accommodation, but expressed concern as to impacts on amenity of residential activity and subdivision.[333] Mr McCrostie[334] set out details of the nature of visitor and worker accommodation sought, which included seasonal use of such accommodation.[335]

260. Mr Ferguson[336] opined that the short stay accommodation for Ski Areas did not sit well with the PDP definitions of residential activity or visitor accommodation due to the length of stay component,[337] but suggested that this could be corrected by amendment to the rules.[338] Mr Barr in reply concurred that a policy to guide visitor accommodation in Ski Area Sub-Zones would assist decision making as it is a distinct activity type from visitor accommodation in the

327 Submission 610
328 Submission 613
329 J Brown, Evidence, Page 20, Para 2.31 (c)
330 C Barr, Reply, Page 38, Para 14.2
331 Submission 610
332 Submission 613
333 C Barr, Section 42A Report, Page 59, Para 14.30
334 EiC for Soho Ski Area Limited & Blackmans Creek No.1 LP and Treble Cone Investments Limited
335 H McCrostie, Evidence Pages 5 – 7, Para 5.8 and Page 10, Para 6.7
336 EiC for Soho Ski Area Limited & Blackmans Creek No.1 LP and Treble Cone Investments Limited
337 C Ferguson, Evidence, Page 30 -33, Paras 117 - 125
338 C Ferguson, Evidence, Page 29, Pars 114 - 115

Rural Zone. He preferred the wording "*provided for on the basis*", with qualifiers, rather than "*enabled*" as the requested activity status was not permitted. [339]

261. We consider that an appropriate policy needs to be established first, and then for the rules to follow from that. We agree in part with Mr Ferguson and Mr Barr as to the need for the policy, but agree that an enabling approach goes too far given the potential for adverse environmental effects. We also consider that clarification by way of a definition for Ski Area accommodation for both visitors and workers, would assist development of a more effective and efficient policy. We put this question to Mr Ferguson, who in his written response provided the following suggested definition;

Ski Area Sub Zone Accommodation
Means the use of land or buildings within a Ski Area Sub Zone and associated with the operation of a Ski Area Activity for short-term living accommodation, including the payment of fees, for guests, staff, worker and custodial management accommodation where the length of stay is less than 6 months and includes:

a. hotels, motels, apartments, backpackers accommodation, hostels, lodges and chalets; and

b. centralised services or facilities such as food preparation, dining and sanitary facilities, conference, bar and recreational facilities if such facilities are associated with the visitor accommodation activity.[340]

262. Mr Barr in reply, considered that the generic visitor accommodation definition was adequate as sub clause c of that definition provides for specific zones to alter the applicability of the definition, in this case for Ski Area Sub-Zones. We find that both suggestions do not fully address the issue. As noted above the policy needs to be determined first and we also find that there would less confusion for plan users if a separate definition is provided. Having said that, we take on board Mr Barr's point that care needs to be taken with the drafting of rules (and policies for that matter) to ensure that accommodation provided for longer than 6 month stays does not fall into a regulatory 'hole' or create internal contradictions through references to visitor accommodation that is for longer than 6 months.

263. We are broadly comfortable with Mr Ferguson's suggested wording with the exception of two matters. First, we consider greater clarity is required around the extent of associated services or facilities. The second matter is that including the 6 month stay presents the issue of what would be 'the activity' if the length of stay was longer? To avoid this situation we think that the length of stay is more appropriately contained within the rule, rather than the definition.

264. We therefore recommend to the Stream 10 Hearing Panel that a new definition be included in Chapter 2 which reads as follows:

Ski Area Sub Zone Accommodation
Means the use of land or buildings for short-term living accommodation for visitor, guest, worker, and

a. Includes such accommodation as hotels, motels, guest houses, bunkhouses, lodges and the commercial letting of a residential unit: and

339 C Barr, Reply, Page 40 , Para 14.11
340 C Ferguson, Written Response To Commissioners Questions, 27 May 2016, Page 10, Para 6

b. May include some centralised services or facilities such as food preparation, dining and sanitary facilities, conference, bar and recreational facilities if such facilities are ancillary to the accommodation facilities: and

c. Is limited to visitors, guests or workers, visiting and or working in the respective Ski Area Sub Zone.

265. Taking all of the above into account, we recommend a new policy and numbering as follows;

21.2.6.5 Provide for Ski Area Sub Zone Accommodation activities within Ski Area Sub Zones, which are complementary to outdoor recreation activities within the Ski Area Sub Zone, that can realise landscape and conservation benefits and that avoid, remedy or mitigate adverse effects on the environment.

4.20 Objective 21.2.7

266. As notified Objective 21.2.7 read as follows:

Objective
Separate activities sensitive to aircraft noise from existing airports through:

a. The retention of an undeveloped open area; or

b. at Queenstown Airport an area for Airport related activities; or

c. where appropriate an area for activities not sensitive to aircraft noise

d. within an airport's Outer Control Boundary to act as a buffer between airports and other land use activities.

267. Two submissions supported this objective[341] and one submission from QAC sought that the objective be deleted and replaced with the following:

Retention of an area containing activities that are not sensitive to aircraft noise, within an airport's Outer Control Boundary, to act as a buffer between airports and Activities sensitive to Aircraft Noise.[342]

268. In the Council's memorandum on revising the objectives to be more outcome focused[343], Mr Barr's recommended rewording was as follows:

An area to contain activities that are not sensitive to aircraft noise is retained within an airport's Outer Control Boundary, to act as a buffer between airports and Activities Sensitive to Aircraft Noise.

269. Ms O'Sullivan in evidence for QAC, suggested "*further refinement to remove repetition and ensure the objective is more in in keeping with PC26 and PC35*"[344] and Mr Barr in reply agreed.[345] That wording being:

341 Submissions 271, 649
342 Submission 433
343 Council Memorandum dated 13 April 2016
344 K O'Sullivan, Evidence, Page 8, Para 4.5
345 C Barr, Reply, Page 24, Para 8.3

An area that excludes activities which are sensitive to aircraft noise, is retained within an airport's Outer Control Boundary, to act as a buffer between airports and Activities Sensitive to Aircraft Noise.

270. We accept the recommendation of Ms O'Sullivan and Mr Barr, and recommend that Objective 21.2.7 be worded as set out in the previous paragraph.

4.21 Policies 21.2.7.1 – 21.2.7.4

271. As notified Policy 21.2.7.1 read as follows:

> *21.2.7.1 Prohibit all new activity sensitive to aircraft noise on any Rural Zoned land within the Outer Control Boundary at Wanaka Airport and Queenstown Airport to avoid adverse effects arising from aircraft operations on future activities sensitive to aircraft noise.*

272. Submissions on this policy sought that it be retained[346], deleted[347], or reworded[348] as follows:

> *Prohibit any new [non-existing] activity sensitive to aircraft noise on any rural zoned land within the outer Control Boundaries of Queenstown airport and Wanaka airport, Glenorchy, Makarora area and all other existing informal airports including private airstrips with the QLDC, used for fixed wing aircraft.*

273. Mr Barr did not address this policy directly in the Section 42A Report apart from in Appendix 1, where Mr Barr recommended that the notified policy be retained. The only additional evidence we received was from was Ms O'Sullivan, supporting Mr Barr's recommendation.[349]

274. In relation to the submission by Mr Wright (Submission 385) suggesting rewording, we note that this would require mapping of an outer control boundary for all airports/ informal airports identified. We do not have the evidence before us to undertake that task (Mr Wright did not include that information with his submission and did not appear at the hearing). As a result, we do not know what areas the Outer Control Boundaries of airports other than Wanaka and Queenstown could encompass or the existing and potential future uses of those areas. Nor do we have any evidence of the extent of aircraft use of those other airports. Consequently, we have no means to assess the costs and benefits (either qualitatively of quantitatively) if the relief sought were granted as required by section 32.

275. We do not consider that deletion of the policy would be the most appropriate means to achieve the relevant objective either – it would largely deprive the Council of the means to achieve that outcome. Accordingly, we recommend the policy be retained as notified subject to minor amendments to make "activity" plural.

276. As notified, Policy 21.2.7.2 read as follows:

> *21.2.7.2 Identify and maintain areas containing activities that are not sensitive to aircraft noise, within an airport's outer control boundary, to act as a buffer between the airport and activities sensitive to aircraft noise.*

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346 Submission 443
347 Submission 806
348 Submission 385
349 K O'Sullivan, Evidence , Page 7, Para 4.3

277. The submission from QAC sought that this policy be deleted[350] as it was redundant in light of Policies 21.2.7.1 and 21.2.7.3.

278. Mr Barr did not address this policy directly in the Section 42A Report apart from in Appendix 1, where Mr Barr recommended that the policy be retained. The only additional evidence we received was from was Ms O'Sullivan supporting Mr Barr's recommendation.[351] We consider that Policy 21.2.7.2 serves a useful purpose, distinct from Policies 21.1.7.1 and 21.2.7.3, by providing for activities that are neither ASANs nor open space. Accordingly, we recommend the policy be retained as notified.

279. Policies 21.2.7.3 and 21.2.7.4 as notified read as follows:

21.2.7.3 Retain open space within the outer control boundary of airports in order to provide a buffer, particularly for safety and noise purposes, between the airport and other activities.

21.2.7.4 Require as necessary mechanical ventilation for any alterations or additions to Critical Listening Environment within any existing buildings containing an Activity Sensitive to Aircraft Noise within the Queenstown Airport Outer Control Boundary and require sound insulation and mechanical ventilation for any alterations or additions to Critical Listening Environment within any existing buildings containing an Activity Sensitive to Aircraft Noise within the Queenstown Airport Air Noise Boundary.

280. The submission from QAC sought that these policies be retained[352]. There were no submissions seeking amendments to these policies[353] Again Mr Barr and Ms O'Sullivan were in agreement that they should be retained as notified.

281. In conclusion, we recommend that Policies 21.2.7.1 – 21.2.7.4 be retained as notified.

4.22 Objective 21.2.8

282. As notified, Objective 21.2.8 read as follows:

Avoid subdivision and development in areas that are identified as being unsuitable for development.

283. Submissions on this objective ranged from support[354], seeking its deletion[355], to its amendment[356] as follows:

Avoid, remedy or mitigate subdivision and development in areas specified on planning maps identified as being unsuitable for development.

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350 Submission 806

351 K O'Sullivan, Evidence , Page 7, Para 4.3

352 Submission 806

353 Although there were further submissions opposing QAC's submissions, those further submissions do not provide jurisdiction to amend the policies – refer discussion of this point in the context of the Strategic Chapters – Report 3 at Section 1.7.

354 Submission 339, 380, 706

355 Submissions 356, 806

356 Submissions 636, 643, 688, 693, 702

284. In the Section 42A Report, Mr Barr described the intention of the objective as being to manage development (usually rural living or commercial developments) from constraints such as hazards, noxious land uses, or identified landscape or rural amenity reasons. He noted that the ODP contained a number of building line restrictions or similar constraints. Taking account of the submissions, he reached the view that the objective could be rephrased so as not to be so absolute and better framed[357]. Responding to the submission from X Ray Trust[358] that the purpose of the objective was unclear as to what was trying to be protected, Mr Barr's view was that the policies would better define the areas in question. Mr Barr recommended rewording as follows;

Subdivision, use and development is avoided, remedied or mitigated in areas that are unsuitable due to identified constraints for development.

285. In the Council's memorandum on revising the objectives to be more outcome focused[359], Mr Barr recommended further rewording as follows;

Subdivision, use and development in areas that are unsuitable due to identified constraints is avoided, remedied or mitigated.

286. Ms Taylor's evidence for X Ray Trust agreed with this suggested rewording[360]. We agree that the absolute nature of the objective as notified could be problematic in regard to development proposals in the rural area. We also consider that the overlap between this objectives and the objectives in other parts of the plan dealing with constraints such as natural hazards and landscape needs to be addressed. We do not think that limiting the objective to areas identified on the planning maps is appropriate. That would still include notations such as ONL lines, the significance of which is addressed in Chapters 3 and 6. We regard the purpose of this objective as being to provide for constraints not addressed in other parts of the plan and we think the objective needs to say that. In effect it is operating as a catch all and in that context an avoid remedy or mitigate position is appropriate to preserve flexibility. However, we consider that a minor wording change is necessary to clarify that it is the effects of the constraints that are remedied or mitigated.

287. In summary, therefore, we recommend that Objective 21.2.8 be reworded to read;

Subdivision, use and development in areas that are unsuitable due to identified constraints not addressed by other provisions of this Plan, is avoided, or the effects of those constraints are remedied or mitigated.

4.23 Policies 21.2.8.1 – 21.2.8.2

288. As notified Policy 21.2.8.1 read as follows:

Assess subdivision and development proposals against the applicable District Wide chapters, in particular, the objectives and policies of the Natural Hazards and Landscape chapters.

357 C Barr, Section 42A Report, Page 102, Para 20.13
358 Submission 356
359 Council Memorandum dated 13 April 2016
360 L Taylor, Evidence, Appendix A, Page 5

289. Submissions on this policy ranged from support[361]; its deletion as superfluous or repetitive[362], amendment to include "indigenous vegetation, wilding and exotic trees"[363], amendment to include the Historic Heritage Chapter[364] or amendment to remove the "in particular" references entirely[365].

290. In the Section 42A Report, Mr Barr accepted that proposals were required to be assessed anyway against the District Wide chapters, but considered that a separate policy was needed to provide direction for proposals where the suitability of land had not been predetermined.[366] Mr Barr recommended further amendment to the policy such that it read as follows;

To ensure that any subdivision, use and development is undertaken on land that is appropriate in terms of the anticipated use, having regard to potential constraints including hazards and landscape.

291. Mr Farrell, in evidence for various submitters agreed with Mr Barr's reasons and resulting amendment to the policy[367].

292. We agree that as notified this policy is unnecessary. Mr Barr's suggested amendment addresses that issue, but we are concerned that there is no submission we could identify that would provide jurisdiction to make the suggested amendment. In addition, the issue of overlap with more detailed provisions elsewhere in the plan would need to be addressed. We think that the best course is to delete this policy and leave the objective supported by the second much more detailed policy that we are about to discuss.

293. Accordingly, we recommend that Policy 21.2.8.1 be deleted.

294. As notified Policy 21.2.8.2 read as follows;

Prevent subdivision and development within the building restriction areas identified on the District Plan maps, in particular:

a. In the Glenorchy area, protect the heritage value of the visually sensitive Bible Face landform from building and development and to maintain the rural backdrop that the Bible Face provides to the Glenorchy Township

b. In Ferry Hill, within the building line restriction identified on the planning maps.

295. The only submission related to this policy was by QPL[368] which sought its deletion along with the relevant objective and associated policy. This matter was not addressed in the Section 42A Report or in evidence. It appears to us that QPL's objection is linked to its opposition to particular building line restrictions affecting its property. Removal of the policy would leave no policy support for the identified building line restrictions. As such, we recommend that they be retained. If there are objections (like QPL's) to particular restrictions, they should be addressed

361 Submission 335
362 Submissions 433, 806
363 Submissions 339, 706
364 Submission 810
365 Submissions 513, 515, 522, 531, 537
366 C Barr, Section 42A Report, Page 102, Para 20.14
367 B Farrell, Evidence, Page 17, Para 61
368 Submission 806

in the Plan Map hearings. As it is, the Stream 13 Hearing Panel is recommending deletion of the building restriction area affecting QPL's property.

296. In summary, we recommend that Policy 21.2.8.2, be renumbered 21.2.8.1 but otherwise be retained as notified. We do note, however, that this policy has been amended by the Stage 2 Variations by the deletion of clause b. Our recommendation, therefore, only relates to the introductory words and clause a.

4.24 Objective 21.2.9

297. As notified, Objective 21.2.9 read as follows;

Ensure commercial activities do not degrade landscape values, rural amenity, or impinge on farming activities.

298. Submissions on the objective ranged from support[369], its deletion[370], amendment to include nature conservation values[371] or Manawhenua values[372], amendment to soften the policy by replacing *"Ensure*" with "*Encourage*" and inserting *"significant"* before the word landscape[373], and also amendment to provide for a range of activities so as to make it effects based in accordance with the RMA and for consistency.[374]

299. In considering these submissions, first in the Section 42A Report, and then further in reply, Mr Barr's recommended wording for the objective was as follows:

A range of activities are undertaken that rely on a rural location on the basis they do not degrade landscape values, rural amenity, or impinge on permitted and established activities.

300. We have already addressed our reasoning for combining this Objective 21.2.9 into Objective 21.2.1 (see Section 3.2 above). However, one aspect not directly addressed in the Section 42A Report was the submission opposed to an objective and policy approach that seeks to avoid or limit commercial activities in the Rural Zone[375]. We received no evidence in support of the submission. The reason for opposition, as set out in the submission was that there was no section 32 evidence that quantified the costs and benefits of the policy approach. We refer back to the introductory report (Report 1) discussing the requirements of section 32. Consideration of costs and benefits is required at the second stage of the evaluation, as part of the examination under section 32(1)(b) as to whether the provisions are the most appropriate way to achieve the objectives. The test for objectives (under s32(1)(a)) is whether they are the most appropriate way to achieve the purpose of the Act. Accordingly, we consider the submission misdirected and we recommend that it be rejected. We note that the submission from Shotover Trust[376] also sought the deletion of Policies 21.2.9.1 and 21.2.9.2 for the same reasons. We return to that point below.

301. The combining of Objective 21.2.9 into Objective 21.2.1 is, we consider, the most appropriate way to achieve the purpose of Act. While it follows that the individual policies under Objective

369 Submissions 217, 600
370 Submissions 248, 621, 624
371 Submissions 339, 706
372 Submission 810
373 Submission 624
374 Submission 608
375 Submission 248
376 Submission 248

21.2.9 as notified also move to be relocated under the new objective 21.2.1, we address those individual policies 21.2.9.1 – 21.2.9.6 below.

4.25 Policy 21.2.9.1

302. Policy 21.2.9.1 as notified read as follows:

> *21.2.9.1 Commercial activities in the Rural Zone should have a genuine link with the rural land resource, farming, horticulture or viticulture activities, or recreation activities associated with resources located within the Rural Zone.*

303. A submission on this policy sought specific reference to tourism activities.[377]

304. In Mr Barr's view, tourism activities were encompassed within the policy as it referred to commercial activities. Mr Barr was also of the view that for clarity that 'water' should be added to matters to be manged as activities on the surface of water are deemed to be a use of land.[378]

305. Mr Brown in evidence for QPL, noted the equivalent of this policy in its suggested reordered policies required a genuine link to the rural area, and stated that, *"This was important in that activities that could otherwise happen in an urban area, without a need for locating rurally, are discouraged."*[379] Mr Brown did not recommend any amendment to the wording of the policy.

306. We agree with Mr Brown as to the importance of the policy and with Mr Barr in that the reference to commercial activities already encompasses tourism. The amendment suggested by Mr Barr as to the inclusion of the word water we find does provide clarity as to the applicability of the policy, and we think is within scope, even though there is no submission directly seeking that wording.

307. As regards Submission 248 (noted above) opposing this and the following policy on the basis that the Council has not quantified the costs and benefits, we note the discussion of the Hearing Panel on the Strategic Chapters[380] (Report 3 in relation to Chapters3-6). If the submitter seeks to convince us these policies should be amended or deleted, it was incumbent on it to produce its own assessment of costs and benefits to enable us to be satisfied that course was appropriate. As it is, we are left with Mr Barr's uncontradicted, but admittedly qualitative evaluation[381], supported by Mr Brown's evidence, as above. We recommend the submission be rejected.

308. We therefore recommend that Policy 21.2.9.1 be relocated to be Policy 21.1.1.10 and worded as follows:

> *Commercial activities in the Rural Zone should have a genuine link with the rural land or water resource, farming, horticulture or viticulture activities, or recreation activities associated with resources located within the Rural Zone.*

4.26 Policy 21.2.9.2

309. Policy 21.2.9.2 as notified read as follows;

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377 Submission 806

378 C Barr, Section 42A Report, Page 46, Paras 13.24-13.25 and Appendix 4 – S32AA evaluation

379 J Brown, Evidence, Page 9, Para 2.14(d)

380 Report 3, Section 1.6

381 C Barr, Section 42A Report, pages 79-83

21.2.9.2 Avoid the establishment of commercial, retail and industrial activities where they would degrade rural quality or character, amenity values and landscape values.

310. The submissions on this policy;
   a. Sought deletion of the policy[382]
   b. Sought avoidance of forestry activities and addition of nature conservation values as a matter that could be degraded[383]
   c. Sought rewording so as to remove the word avoid and replace with enabling a range of activities while avoiding, remedying or mitigating adverse effects in order to ensure the maintenance of rural quality or character, amenity values and landscape values[384]

311. Mr Barr's view was that the use of the term avoid was appropriate but he also considered that the policy could be more positively phased. Mr Barr was also of the view that *"avoid, remedy or mitigate"* was better replaced with *"protect, maintain and enhance"*. The latter was derived from the overall goal of achieving sustainable management and in Mr Barr's opinion, reference to maintenance and enhancement can be used to take account of the positive merits of a proposal.[385] Mr Barr's revised wording of the policy was as follows;

Provide for the establishment of commercial, retail and industrial activities only where these would protect, maintain or enhance rural character, amenity values and landscape values.

312. Mr Farrell in evidence for RJL, considered the addition of the word *"only"* to be inappropriate, as it would mean that protection, maintenance or enhancement was required for the establish of a commercial activity.[386] Mr Farrell also considered the policy could be improved by reference to the quality of the environment rather than *"character"'* and *"landscape values"*.

313. Mr Brown in evidence for QPL (in the context of his revised policy ordering of the notified Objectives and Policies for 21.2.9 and 21.2.10) considered that 'protect, maintain and enhance' would be too high a hurdle for even the simplest of applications, particularly if considered at the scale of a single site.[387] Mr Brown recommend revised wording of his equivalent policy (21.2.2.4 in his evidence) to 21.2.9.2, by addition of the words *"wherever practical"*.

314. We note that Policy 21.2.9.2 is worded similarly to Policy 21.2.1.1, but in this case applies to commercial activities. In keeping with our findings on Policy 21.2.1.1 and taking account of our recommended shifting of Policies 21.2.9.1 – 21.2.9.6 to sit under Objective 21.2.1, the amendments suggested by Mr Farrell and Mr Brown do not align the policy in implementing the associated objective and are also inconsistent with the Stream 1B Hearing Panel's findings in relation to the Strategic Chapters.

315. Accordingly, we recommend that Policy 21.2.9.2 be relocated to be Policy 21.2.1.11 and worded as follows:

Provide for the establishment of commercial, retail and industrial activities only where these would protect, maintain or enhance rural character, amenity values and landscape values.

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382 Submissions 621, 624
383 Submission 706
384 Submission 806
385 C Barr, Section 42A Report, Page 46 - 47, Paras 13.27 – 13.28
386 B Farrell, Evidence, Page 18, Para 68
387 J Brown, Evidence, Page 8 Para 2.14 (b) – (c)

316. We address the submission of Mr Atly and the Forest & Bird as to nature conservation values in consideration of Policy 21.2.9.3 where similar amendments were sought.

4.27 Policy 21.2.9.3

317. Policy 21.2.9.3 as notified read as follows;

> *21.2.9.3 Encourage forestry to be consistent with topography and vegetation patterns, to locate outside of the Outstanding Natural Features and Landscapes, and ensure forestry does not degrade the landscape character or visual amenity values of the Rural Landscape.*

318. Submissions on this policy sought to make it more directive, exclude forestry from significant natural areas and add nature conservation values to matters not to be degraded.[388]

319. Mr Barr did not support making the policy more directive through replacing 'Encourage' with the term 'Avoid', as this would imply prohibited activity status. Mr Barr also considered that the inclusion of significant natural areas was a useful cross reference to the rules restricting the planting of exotic species in SNAs. Finally on this policy, Mr Barr did not support the inclusion of nature conservation values as elements of the definition of nature conservation values are set out in the policy.[389] We heard no other evidence on this matter.

320. The Stream 1B Hearing Panel has recommended that the policy referring to forestry refer to "production forestry" to make it clear that the policy focus has no connection to indigenous vegetation or biodiversity provisions and to limit the breadth of the reference to timber harvesting (which might otherwise be seen as inconsistent with the policy focus on controlling wilding species)[390]. We recommend the same change to this policy for the same reasons, and for consistency.

321. We agree with and adopt the reasoning set out by Mr Barr and recommend that the policy be relocated to be Policy 21.2.1.12 and worded as follows:

> *Encourage production forestry to be consistent with topography and vegetation patterns, to locate outside of the Outstanding Natural Features and Landscapes and outside of significant natural areas, and ensure production forestry does not degrade the landscape character or visual amenity values of the Rural Character Landscape.*

4.28 Policy 21.2.9.4

322. There were no submissions on Policy 21.2.9.4 and thus we do not need to consider it further, other than relocate it to become Policy 21.1.1.13.

4.29 Policy 21.2.9.5

323. Policy 21.2.9.5 as notified read as follows:

> *21.2.9.5 Limit forestry to species that do not have potential to spread and naturalise.*

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388 Submissions 339, 706

389 C Barr, Section 42A Report, Page 47, Para 13.22

390 See the discussion regarding recommended Policy 6.3.6 in Report 3, Section 8.5

324. Submissions on this policy sought that it be deleted[391] or be amended to apply only to exotic forestry.[392]

325. These submissions were not directly addressed in the Section 42A Report, although an amendment to the policy to limit it to exotic species only was incorporated in the recommended revised Chapter in Appendix 1. Mr Brown in evidence for QLP adopted Mr Barr's recommended amendment.[393]

326. We agree that the policy is appropriately clarified by its specific reference to exotic forestry and recommend that it be relocated to be Policy 21.2.1.14 and worded as follows:

Limit exotic forestry to species that do not have potential to spread and naturalise.

4.30 Policy 21.2.9.6

327. Policy 21.2.9.6 as notified read as follows;

21.2.9.6 Ensure traffic from commercial activities does not diminish rural amenity or affect the safe and efficient operation of the roading and trail network, or access to public places.

328. Submissions on this policy variously sought that it be retained[394], that it be deleted[395], or that it be amended to apply to only new commercial activities.[396]

329. Mr Barr did not recommend an amendment to this policy in the Section 42A Report.

330. Mr Farrell in evidence for RJL and D & M Columb, was of the view that this policy was not necessary as traffic effects were already addressed in the transport chapter of the ODP; that the policy should apply to all activities not just commercial activities and should be amended from *"does not diminish"* to *"maintain"*. [397] Mr Brown, in evidence for QPL did not recommended any amendment to the policy.[398]

331. We disagree with Mr Farrell that the transport chapter of the ODP removes the necessity for the policy. The policy has wider applicability than just transport issues through its inclusion of reference to rural amenity. We also consider that the policy is efficient and effective in its specific reference to the traffic effect of commercial operations not diminishing amenity, as it is precisely this issue that makes the policy consistent with objective.

332. However, we agree with the suggestion in the RJL and Columb submissions that the focus of the policy should be on *"new"* commercial activities.

333. Accordingly, we recommend that the wording policy be amended to insert the word *"new"* before "*commercial*" but otherwise be retained as notified and relocated to become Policy 21.2.1.15.

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391 Submission 806
392 Submission 600
393 J Brown, Evidence, Page8, Para 2.13
394 Submission 719
395 Submissions 621, 624
396 Submission 806
397 B Farrell, Evidence, Page 19 , Para 72
398 J Brown, Evidence, Page8, Para 2.13

4.31 Objective 21.2.10

334. As notified, Objective 21.2.10 read as follows;

Recognise the potential for diversification of farms that utilises the natural or physical resources of farms and supports the sustainability of farming activities.

335. Submissions on this policy sought that it be retained[399], or sought various wording amendments so that the objective applied to wider range of rural activities than just farms[400].

336. In the Section 42A Report, Mr Barr set out his view that the objective and associated policies had been included for the purpose of providing for the ongoing viability of farming and maintaining rural character and not to apply to activities on rural land that were not farming.[401] Notwithstanding this, Mr Barr considered that there was merit in the submission of Trojan Helmet, seeking that the range of land uses to which the objective was applicable be broadened, so long as it supported sustainability for natural resources in a productive and efficiency use context, as well as protecting landscape and natural resource values. He also considered it to be more effects based.[402] Mr Barr recommended rewording of the objective as follows;

Diversification of farming and other rural activities that supports the sustainability natural and physical resources.

337. In the Council's memorandum on revising the objectives to be more outcome focused[403], Mr Barr recommended further rewording as follows;

The potential for diversification of farming and other rural activities that supports the sustainability of natural and physical resources.

338. Mr Brown in evidence for Trojan Helmet *et al*; suggested deleting Objective 21.2.10 (along with Objective 21.2.9 and the associated policies for both objectives). We have addressed this batting order and aggregation suggestion in Section 3.2 above. We think that this objective is sufficiently different to 21.2.9 in the matters it addresses to be retained as a discrete outcome separate from the amalgamation of Objectives 21.2.9 and 21.2.1 (as discussed above). However, we consider that Mr Barr's revised wording needs further amendment so that it captures his reasoning as set out above and is consistent with recommended Policy 3.2.1.8. The suggested reference to sustainability in our view leaves the potential range of outcomes too open and fails to ensure the protection of the range of values referred to in Policy 3.2.1.8. It also needs amendment so that it is more correctly framed as an objective, and is then the most appropriate way to achieve the purpose of the Act.

339. As a consequence of amalgamating Objective 21.2.9 (and its policies) into Objective 21.2.1, this objective (and its policies) have been renumbered in Appendix 1.

340. We therefore recommend Objective 21.2.10, renumbered as 21.2.9, be worded as follows:

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399 Submission 217,325, 335, 356, 598, 600, 660, 662, 791, 794

400 Submissions 343,345, 375, 407, 430, 437, 456, 636, 643, 693, 702, 806

401 C Barr, Section 42A Report, Page 49, Para 13.39

402 C Barr, Section 42A Report, Page 50, Para 13.42 – 13.43

403 Council Memorandum dated 13 April 2016

Provision for the diversification of farming and other rural activities that protect landscape and natural resource values and maintains the character of rural landscapes.

4.32 Policy 21.2.10.1

341. Policy 21.2.10.1 as notified read as follows;

Encourage revenue producing activities that can support the long term sustainability of farms in the district.

342. Submissions on this policy variously sought that it be retained[404], be amended to apply to 'rural areas' rather than just 'farms'[405], or be amended to the following wording;

Enable revenue producing activities, including complementary commercial recreation, residential, tourism, and visitor accommodation that diversifies and supports the long term sustainability of farms in the district, particularly where landowners take a comprehensive approach to maintaining and enhancing the natural and physical resources and amenity or other values of the rural area.[406]

343. For similar reasons to those expressed in relation to Objective 21.2.10 (see Section 5.31 above), Mr Barr concurred with the submitters that the policy should be amended to apply to rural areas, and not just farms.

344. The Section 42A Report did not directly address the submission of Darby Planning[407] to widen the policy. In evidence for Darby Planning, Mr Ferguson considered that the amended policy suggested in the submission recognised the importance of the commercial recreation, residential and tourism activities that flows from the Strategic Directions Chapters. He was of the opinion that this more 'comprehensive approach' could lead to more sustainable outcomes.[408]

345. We agree with Mr Barr that Policy 21.2.10.1 should be amended to apply to rural areas, and not just farms, for similar reasons as we have discussed in relation to Objective 21.2.10. Again, for similar reasons as in relation to Objective 21.2.10, the consequence of broadening the policy to apply to rural areas is that some test of environmental performance is then required. Mr Ferguson suggested a test of maintaining and enhancing specified aspects of the rural environment. We consider that this is a good starting point. However, we do not think that the itemisation of commercial recreation, residential and tourism activities is necessary or desirable in this policy. Accordingly, we recommend that the submission of Darby Planning LP be only accepted in part.

346. In summary, we consider the following wording to be the most efficient and effective method to achieve the objective, namely:

Encourage revenue producing activities that can support the long term sustainability of the rural areas of the district and that maintain or enhance landscape values and rural amenity.

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404 Submissions 598, 600

405 Submissions 343, 345, 375, 430, 437, 456

406 Submission 608

407 Submission 608

408 C Ferguson, Evidence, Page 73

4.33 Policy 21.2.10.2

347. Policy 21.2.10.2 as notified read as follows;

Ensure that revenue producing activities utilise natural and physical resources (including buildings) in a way that maintains and enhances landscape quality, character, rural amenity, and natural values.

348. Submissions on this policy ranged from support[409], amendment to include *"nature conservation values"*[410] or *'"manawhenua values"'*[411] as matters to be maintained or enhanced, amendment to specifically identify *"commercial recreation, residential, tourism, and visitor accommodation"* as revenue producing activities[412], amendment to *"maintain and / or enhance landscape values*" and *"and / or natural values"*[413], and finally amend to apply "generally" only to *"significant"* landscape values. [414]

349. In considering the submissions, for the overall reasons set out in relation to Objective 21.2.10, Mr Barr recommended that Policy 21.2.10.2 be reworded as follows;

Ensure that revenue producing activities utilise natural and physical resources (including buildings) in a way that maintains and enhances landscape quality, character, rural amenity, and natural resources.[415]

350. In evidence for RJL, Mr Farrell considered that the policy set a high bar for revenue producing activities that he considered other high order provisions in Plan were seeking to enable.[416] Mr Farrell recommended that the policy be reworded as follows;

Promote revenue producing activities that utilise natural and physical resources (including buildings) in a way that maintains and enhances the landscape quality of the environment.

351. In evidence for Darby Planning, Mr Ferguson considered that the amended policy sought by the submitter was, for similar reasons as for 21.2.10.2, a more effective and efficient means of achieving the objectives of the PDP.[417]

352. We have already addressed the submissions on the inclusion of reference to *"nature conservation values'* or *"manawhenua values"* as matters to be maintained or enhanced, and we reach a similar conclusion: that it is not necessary to include reference to these matters in every policy.

353. The recommended wording by Mr Farrell to *"promote"* rather than *"ensure"* we find goes beyond the scope of the original submission and we therefore recommend that that amendment be rejected. Consistent with our finding on Policy 21.2.10.1, we are not convinced by Mr Ferguson's view that the suggested wording in the Darby Planning LP submission is a more effective and efficient means of achieving the objective.

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409 Submissions 430, 598
410 Submissions 339, 706
411 Submission 810
412 Submission 608
413 Submission 356
414 Submissions 621, 624
415 C Barr, Section 42A Report, Page 51, Para 13.44
416 B Farrell, Evidence, Page 19, Para 76
417 C Ferguson, Evidence, Page 13, Para 58

354. We consider however, that Mr Barr's suggestion fails to provide for consumptive activities (like mining) that by definition do not maintain or enhance natural resources.

355. Finally we accept the point made in Submission 356 that where the policy refers to *"natural and physical resources"*, and *"maintain and enhance"*, these need to be put as alternatives. We also consider the policy should be clear that it is existing buildings that it refers to.

356. Accordingly, we recommend that Policy 21.2.10.2 (renumbered 21.1.9.2) be worded as follows;

Ensure that revenue producing activities utilise natural or physical resources (including existing buildings) in a way that maintains and enhances landscape quality, character, rural amenity, and natural resources.

4.34 Policy 21.2.10.3

357. Policy 21.2.10.3 as notified read as follows:

Recognise that the establishment of complementary activities such as commercial recreation or visitor accommodation located within farms may enable landscape values to be sustained in the longer term. Such positive effects should be taken into account in the assessment of any resource consent applications.

358. Submissions on this policy ranged from support[418]; amendment to include *"nature conservation values"* as matters to be sustained in the future[419]; amendment to specifically identify *"recreation"*, and/or *"tourism"* as complementary activities[420]; and amendment to substitute reference to people's wellbeing and sustainable management of the rural resource (instead of landscape values) as matters provided for by complementary activities, and to require consideration of such positive benefits in the assessment of resource consent applications.[421]

359. In the Section 42A Report, Mr Barr addressed the submissions on this policy in the general discussion on Objective 21.2.10 and Policies 21.2.10.1 and 21.2.10.2 we have noted above. As a result of that consideration, Mr Barr recommended that Policy 21.2.10.3 be reworded as follows;

Have regard to the establishment of activities such as tourism, commercial recreation or visitor accommodation located within farms where these enable landscape values and indigenous biodiversity to be sustained in the longer term.[422]

360. Mr Ferguson considered that the suggested changes did not go far enough. He did, however, identify that the Section 42A Report included some of the specific activities sought in the Darby Planning LP submission in this policy, but not in the preceding Policies 21.2.10.1 and 21.2.10.2.[423] Mr Farrell, in evidence for RJL *et al* supported the amendments in the Section 42A Report[424], but did not specify any reasons for reaching that conclusion.

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418 Submissions 430, 600
419 Submissions 339, 706
420 Submission 608, 621, 624
421 Submission 624
422 C Barr, Section 42A Report, Page 51, Para 13.44
423 C Ferguson, Evidence, Page 12, Paras 54 and 56
424 B Farrell, Evidence, Page 20, Para 80

361. When considered alongside the other policies under Objective 21.2.10, we agree that identification of tourism, commercial recreation and visitor accommodation located within farms is appropriate. We also think that reference to indigenous biodiversity rather than *"nature conservation values"* is appropriate as it avoids any confusion with the use of the defined term for the latter.

362. We do not, however, accept Mr Ferguson's rationale for seeking reference to residential activities. We do not regard expansion of permanent residential activities as being complementary to farming where it is not providing accommodation for on-site farm workers.

363. We do not consider the formula "have regard to" gives any direction as to how the policy will achieve the objective. Given that the objective is about how the provision of certain activities can have beneficial outcomes, we consider this policy would be better expressed as "providing for".

364. Accordingly, we recommend that Policy 21.2.10.3 (renumbered 21.2.9.3) be reworded as follows:

Provide for the establishment of activities such as tourism, commercial recreation or visitor accommodation located within farms where these enable landscape values and indigenous biodiversity to be sustained in the longer term.

4.35 Objective 21.2.11

365. As notified, Objective 21.2.11 read as follows;

Manage the location, scale and intensity of informal airports.

366. Submissions on this objective provided conditional support subject to other relief sought to policies and rules, including location and frequency controls[425], or sought amendments to provide for new informal airports and protect existing informal airports from incompatible land uses.[426] One submission also sought clarification in relation to its application to commercial ballooning in the district.[427]

367. In the Section 42A Report, Mr Barr expressed the view that the definition of aircraft included hot air balloons and therefore a site on which a balloon lands or launches from is an informal airport.[428]

368. Mr Barr did not recommend any amendments to the objective and associated policies for informal airports in the Section 42A Report. Rather, Mr Barr addressed details of the permitted activity standards governing setbacks, frequency of flights, standards for Department of Conservation operational activities and other matters.[429]

369. In the Council's memorandum on revising the objectives to be more outcome focused[430], Mr Barr recommended rewording of the objective as follows;

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425 Submissions 571, 723, 730, 732, 734, 736, 738, 739, 760, 843

426 Submission 607

427 Submission 217

428 C Barr, Section 42 Report, Page 76, Para 16.36

429 C Barr, Section 42 Report, Pages 69 - 78

430 Council Memoranda dated 13 April 2016

The location, scale and intensity of informal airports is managed.

370. Mr Dent, in evidence for Totally Tourism[431], considered that the objective was poorly worded and should be amended to indicate that informal airports are desired within the Rural Zone, but should be subject to their effects on amenity being managed.[432] Mr Dent recommended the objective be reworded as follows;

The operation of informal airports in the Rural Zone is enabled subject to the management of their location, scale and intensity.

371. Mr Farrell in evidence for Te Anau Developments[433], supported the submitter's request for new informal airports to be *"provided for"* in the objective protection of existing informal airports from incompatible land uses. Mr Farrell expressed the view that existing *"… informal airports face operational risks from potential reverse sensitivity effects associated with noise sensitive activities, which is an operational risk, and could result in unnecessary costs, to tourism operators."*[434]

372. In reply, Mr Barr, agreed and accepted the intent of Mr Dent's recommended amendment to the objective[435]. Mr Barr also agreed with Mr Farrell that a policy protecting existing informal airports from incompatible land uses was warranted, but not at expense of a policy that protects amenity from airports[436]. Mr Barr recommended alternative wording for the objective and set out a brief section 32AA analysis[437].

373. An objective that sets out that something is to be managed, but does not specify to what purpose or end result, does not take one very far. We agree with Mr Dent that it is the effects of informal airports that should be managed, but consider that his suggestion of 'enabling' goes too far. We found Mr Farrell's reasoning as to operational risks a little difficult to follow and the amended wording of the objective he supported unsatisfactory because it failed to address amenity effects. In conclusion, we prefer Mr Barr's reply version, which did address our concerns as to purpose, as being the most appropriate in terms of the alternatives available to us and in achieving the purposes of the Act.

374. Accordingly, we recommend that the wording of Objective 21.2.11 should be as follows:

The location, scale and intensity of informal airports is managed to maintain amenity values while protecting informal airports from incompatible land uses.

4.36 Policy 21.2.11.1

375. Policy 21.2.11.1 as notified read as follows:

Recognise that informal airports are an appropriate activity within the rural environment, provided the informal airport is located, operated and managed so as to minimise adverse effects on the surrounding rural amenity.

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431 Submission 571
432 S Dent, Evidence, Page 4, Paras 17 - 18
433 Submission 607
434 C Barr, Evidence, Page 24, Para 110
435 C Barr, Reply, Page 28, Para 9.19
436 C Barr, Reply, Page 27, Para 9.14
437 C Barr, Reply, Page 5, Appendix 2

376. Submissions on this policy ranged from conditional support subject to other relief sought to policies and rules including location and frequency controls[438]; or sought amendment to the words after '*managed'* to insert *'in accordance with CAA regulations'*[439]; amendment to replace '*minimise*' with '*avoid, remedy mitigate'* and limit to existing rural amenity values [440]; amendment to apply to existing informal airports and to protect them from surrounding rural amenity[441]; and finally amendment to include reference to flight path locations of fixed wing aircraft and their protection from surrounding rural amenity.[442]

377. As noted above, Mr Barr did not recommend any amendments to the policies for informal airports in the Section 42A Report.

378. Ms Macdonald, counsel for Skydive Queenstown Limited[443], suggested an amendment to the relief sought by the submitter, recognising that a function of a territorial authority was management of the effects of land use and that objectives, policies and rules could be prepared to that end. The amended relief was as follows:

Recognise that informal airports are an appropriate activity within the rural environment, provided the informal airport is located, operated and managed so as to minimise adverse effects on the surrounding rural amenity, and in accordance with Civil Aviation Act requirements.[444]

379. Mr Farrell's evidence for Te Anau Developments supporting the submitter's requested change was based on the same reasoning as we set out in relation to Objective 21.2.11 above.

380. Mr Dent in evidence for Totally Tourism considered that the policies (21.2.11.1 and 21.2.11.2) did not provide a credible course of action to implement the objective and set out recommended rewording.[445]

381. Mr Barr, in reply concurred with Mr Dent, and recommended similar changes to those proposed by Mr Dent.[446]

382. As noted in the reasons for the submission from Skydive Queenstown Limited, a territorial authority has no particular expertise in CAA matters. We therefore find that it is not effective and efficient for the policy to include requirements of CAA regulations that are for the CAA to administer.

383. On Mr Farrell's evidence in support of the relief sought by Te Anau Developments we reach a similar finding as for Objective 21.2.11 above. We also find that the protection of informal airports from incompatible uses could potentially be a separate policy and we address that matter in detail below. For present purposes, we find that that that issue should not be

438 Submissions 723, 730, 732, 734, 736, 738, 739, 760, 843
439 Submission 122
440 Submission 607
441 Submission 385
442 Submissions 285, 288
443 Submission 122
444 J Macdonald, Legal Submissions, Page 3, Para 5
445 S Dent, Evidence, Pages 4-5, Paras 19 - 20
446 C Barr, Reply, Page 29, 9.20

referenced in this policy. Similarly we think that the wording recommend by Mr Barr is effective and efficient in its alignment with the objective.

384. Accordingly we recommend that Policy 21.2.11.1 be reworded as follows;

Ensure informal airports are located, operated and managed so as to maintain the surrounding rural amenity.

4.37 Policy 21.2.11.2

385. Policy 21.2.11.2 as notified read as follows:

Protect rural amenity values, and amenity of other zones from the adverse effects that can arise from informal airports.

386. Submissions on this policy ranged from conditional support subject to other relief sought to policies and rules including location and frequency controls[447] or sought amendment to protect informal airports and flight path locations of fixed wing aircraft from surrounding rural amenity[448].

387. As we have already noted, Mr Barr did not recommend any amendments to the policies for informal airports in the Section 42A Report.

388. Similarly we addressed the evidence of Mr Farrell and Mr Dent, as well as Mr Barr's response in reply, under Policy 21.2.11.1 above. Again, we think that protection of informal airports should be addressed separately. Taking account of our recommended amendment to Policy 21.2.11.1, we find that a policy to address the adverse effects in non-rural zones from informal airports is required. Otherwise a policy gap would be remain.

389. Accordingly, we find that Policy 21.2.11.2 should remain as notified.

4.38 Additional Policy – Informal Airports

390. We observed above that there appeared to be a case to protect informal airports from incompatible activities. Considering the issues identified to us by a number of recreational pilots at the hearing and the evidence of Mr Dent, Mr Farrell and Mr Barr, we agree that a policy addressing that matter is appropriate in achieving the stated objective. Mr Barr, in reply, proposed the following wording of such an additional policy as follows;

21.2.11.3 Protect legally established and permitted informal airports from the establishment of incompatible activities.[449]

391. In reaching this view, Mr Barr did not recommend that the new policy flow through to a new rule to the same effect, given the administrative difficulties in identifying existing informal airport locations and noting that Objective 21.2.4 and associated policies already sought to protect permitted and legally established activities.[450] We tested the potential identification of informal airports with some of the recreational pilots at the hearings[451] and reached the conclusion that such a method would not be efficient. Mr Barr's proposed new policy refers to

447 Submissions 723, 730, 732, 734, 736, 738, 739, 760, 843

448 Submission 285, 288, 385, 607

449 C Barr, Reply, Appendix 1

450 C Barr, Reply, Pages 27-28, Paras 9.14 – 9.15

451 Mr Tapper and Mr Carlton

"legally established" informal airports. To our mind, consistent with the wording in the Act, we think that *"lawfully established"* is more correct.

392. We also consider that some qualification of reference to permitted informal airports is required. While Mr Barr is correct that Objective 21.2.4 and the related policies provide for permitted activities these are "anticipated" permitted activities. It would not be efficient to constrain land uses on the basis that they are incompatible with informal airports at all locations where the airports would meet the permitted activity standards. We also consider that it should only be the establishment incompatible activities in the immediate vicinity that the policy addresses.

393. We therefore recommend the inclusion of a new policy (21.2.11.3) worded as follows;

Protect lawfully established and anticipated permitted informal airports from the establishment of incompatible activities in the immediate vicinity.

4.39 New Objective and Policies – Informal Airports

394. Two submissions sought objectives and policies to *"enable the assessment of proposals that exceed the occasional /infrequent limitations"*[452]. The submission reasons identified that this relief was sought as the Plan is *"silent on how applications to exceed Standards 21.5.26.1 and 21.5.26.2 will be assessed and considered".*

395. We did not receive specific evidence on this matter. No specific wording of the objectives or policies were put before us. In the absence of evidence providing and/or justifying such objectives and policies, we recommend that these submissions be rejected.

4.40 Objective 21.2.12

396. Before addressing this specific objective, we note that we have already addressed the submissions seeking that the surface of water and it margins be placed in a separate chapter, in Section 3.4 above, concluding that rather than a separate zone, re-ordering of the rules would enable a clearer understanding of the provisions affecting the surface of waterbodies subset of the rural provisions. This objective and the policies to give effect to it, assist in clarifying which provisions affect waterbodies. In this part of the report we address the other submissions on this suite of objectives and policies.

397. As notified, Objective 21.2.12 read as follows:

Protect, maintain or enhance the surface of lakes and rivers and their margins.

398. Submissions on this objective variously sought that it be retained[453]; be amended to change the word "*Protect*"" to "*Preserve*"[454]; be amended to provide for appropriate recreational and commercial recreational activities[455]; be amended or deleted and replaced with an objective that provides for the benefits associated with a public transport system[456]; be amended to recognise the importance of water based transport[457]; be amended to delete "*protect, maintain and enhance*" and add after the word "*margins*" "*are safeguarded from inappropriate, use and*

452 Submissions 660, 662
453 Submission 356, 600, 758
454 Submission 339, 706
455 Submission 307
456 Submission 621
457 Submission 766

development"[458]; and finally be amended to delete "*protect, maintain and enhance*" and replace with "*avoid, remedy, mitigate*".[459]

399. In the Section 42A Report, Mr Barr considered that itemising the enabling opportunities within the objective would conflict with the "*protect, maintain and enhance"* wording.[460] However, Mr Barr also considered the use of the word "*preserve*" inappropriate and that the objectives and policies must contemplate change, which is the reason for managing the resource.[461] Mr Barr recommended that the submissions to the objective be rejected and no changes made.

400. In the Council's memorandum on revising the objectives to be more outcome focused[462], Mr Barr recommended rewording of the objective as follows;

The surface of lakes and rivers and their margins are protected, maintained or enhanced.

401. In evidence for RJL and Te Anau Developments, Mr Farrell's view was that the objective did not satisfactorily recognise how the surface of lakes and the margins could be used or developed in order to achieve sustainable management and that the qualifier *"from inappropriate use and development"* was required so that the objective accorded with section 6 of the Act[463].

402. Mr Brown in evidence for several submitters[464] recommended the objective be reworded as follows;

The surface of lakes and rivers and their margins are protected, maintained or enhanced while appropriate recreational, commercial recreational, and public transport activities that utilise those resources are recognised and provided for, and their effects managed.[465]

403. Mr Brown considered the change necessary to ensure this objective was appropriately balanced and provided a better context for the associated policies, as well as recognising lake and river-based public transport.[466]

404. In reply, Mr Barr agreed with Mr Brown that the objective should be broader and more specific as to the outcomes sought.[467] Mr Barr's recommended rewording of the objective was as follows;

The surface of lakes and rivers and their margins are protected, maintained or enhanced while providing for appropriate activities including recreational, commercial recreational, and public transport.

405. We agree with the witnesses that that it appropriate for the objective to be broadened. However, to our mind, the objective fails to capture the purpose for which the surface of lakes and rivers are being protected, maintained or enhanced. Turning to Mr Farrell's evidence in

458 Submission 621
459 Submissions766, 806
460 C Barr, Section 42A Report, Page 80, Para 17.9
461 C Barr, Section 42A Report, Page 80, Para 17.10
462 Council Memoranda dated 13 April 2016
463 B Farrell, Evidence, Page 20, Para 84
464 Submissions 307, 766, 806,
465 J Brown, Evidence, Page 14, Para 2.24
466 J Brown, Evidence, Page 15, Para 2.26 (a) and (b)
467 C Barr, Reply, Page 30, Para 10.1

relation to section 6 of the Act, that purpose relates to "*natural character*". Similarly, we find that the location where the "*appropriate activities"* occur also needs to be specified, namely, the "*surface of the lakes and rivers*". In addition, we are mindful of the Stream 1B Hearing Panel's recommendation that a policy in Chapter 6 provide for appropriate activities on the surface of water bodies[468] and the need for alignment.

406. Accordingly, we recommend that the objective be reworded as follows:

The natural character of lakes and rivers and their margins is protected, maintained or enhanced while providing for appropriate activities on the surface of the lakes and rivers, including recreation, commercial recreation, and public transport.

407. In summary, we consider that the revised objective is the most appropriate way to achieve the purpose of the Act in this context and having regard to the Strategic Direction objectives and policies in Chapters 3 and 6, and the alternatives available to us.

4.41 Policy 21.2.12.1

408. Policy 21.2.12.1 as notified read as follows;

Have regard to statutory obligations, the spiritual beliefs, cultural traditions and practices of Tangata Whenua where activities are undertaken on the surface of lakes and rivers and their margins.

409. There was one submission[469] from Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga (collectively Manawhenua)[470] seeking the following amendments to the policy;

Have regard to wahi tupuna, access requirements, statutory obligations, the spiritual beliefs, cultural traditions and practices of Manawhenua where activities are undertaken on the surface of lakes and rivers and their margins.

410. We note that the representatives of Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga (collectively Manawhenua) advised that the part of their submission seeking the change from the words Tangata Whenua to Manawhenua was no longer pursued when they appeared at the Stream 1A Hearing.

411. The parts of this submission left in play were not addressed in the Section 42A Report, and Appendix 1 of the Section 42A Report showed no recommended changes to the policy. We heard no evidence in regard to the policy and it was not addressed in Reply.

412. We note that the Stream 1A and 1B Hearing Panels have recommended objectives and policies in both Chapter 3[471] and Chapter 5[472] related to protection of wahi tupuna. We therefore find that it is appropriate that reference be made in this policy to wahi tupuna as a relevant issue, which will then link back to those provisions.

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468 Refer Recommended policy 6.3.33

469 We note that Queenstown Wharves GP Ltd, (Submission 766), withdrew its relief sought as to the deletion of all provisions referring to Tangata whenua.

470 Submission 810

471 Refer Recommended objective 3.2.7.1 and the related policies

472 Refer Recommended objective 5.4.5 and the related policies

413. The need or desirability of reference being made to *'access requirements'* is less clear and we do not recommend that change in the absence of evidence to support it.

414. In summary therefore, we recommend that Policy 21.2.12.1 be amended to read:

Have regard to statutory obligations, wahi tupuna, and the spiritual beliefs and cultural traditions of tangata whenua where activities are undertaken on the surface of lakes and rivers and their margins.

4.42 Policy 21.2.12.2

415. Policy 21.2.12.2 as notified read as follows:

Enable people to have access to a wide range of recreational experiences on the lakes and rivers, based on the identified characteristics and environmental limits of the various parts of each lake and river.

416. One submission sought that policy be retained[473]. Another submission sought that the policy be amended to delete the word 'identified' and add to the end of the policy "*specifically in or referred to by this plan*"[474]. A third submission did not recommend any specific wording but sought that the policy be amended to identify the anticipated high level of activity on the Kawarau River and also to recognise the Kawarau River as a strategic link for water based public transport.[475]

417. These submissions were not directly addressed in the Section 42A Report, and Appendix 1 to that report included no recommended changes to the policy.

418. Mr Brown, in evidence for QPL and Queenstown Wharves GP Limited, did not recommend any changes to the policy[476]. Mr Farrell in evidence for RJL *et al*, observed that the environmental limits referred to in the policy were not identified in the policy or elsewhere in the Plan, nor was it explained how they might be applied. In Mr Farrell's view, this would create uncertainty, and lead to unnecessary costs and frustration with plan administration.[477] Mr Farrell suggested this could be addressed by amending the policy so that it referred to the environmental limits identified in the plan.

419. This matter was not addressed in Council's reply and no amendments to the policy were recommended.

420. We note that the policy is to enable access to recreational experience on rivers. Some form of limit on an enabling policy is, in this case, appropriate, but we do not consider that those limits need specification in the plan. The limits may vary from environmental effects to safety issues and, as the policy states, will apply to various parts of each lake or river. For similar reasons, we do not agree that specific reference to the Kawarau River is required.

421. Accordingly, we recommend that the policy be retained as notified.

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473 Submission 766
474 Submission 621
475 Submission 806
476 J Brown, Evidence, Page 14, Para 2.24
477 B Farrell, Evidence, Page 21 Para 88

4.43 Policy 21.2.12.3

422. Policy 21.2.12.3 as notified read as follows;

Avoid or mitigate the adverse effects of frequent, large-scale or intrusive commercial activities such as those with high levels of noise, vibration, speed and wash, in particular motorised craft in areas of high passive recreational use, significant nature conservation values and wildlife habitat.

423. Two submissions sought that policy be retained[478]. Two submissions sought that the policy be variously amended to clarify that it did not apply to the Frankton Arm and the Kawarau River between Kawarau Falls and Chard Farm as those areas could provide for water based public transport[479]. One submission sought the amendment to the policy to provide for frequent use, large scale and potentially intrusive commercial activities along the Kawarau River and Frankton Arm.[480]

424. In the Section 42A Report, Mr Barr considered the inclusion of provision for large scale intrusive commercial activities would mean the policy would not meet section 5 of the Act. Rather, Mr Barr considered that the wider benefits of such proposals should be considered in the context of a specific proposal. Mr Barr noted that Queenstown Wharves GP Ltd[481] had sought similar amendments excluding the Frankton Arm and the Kawarau River between Kawarau Falls and Chard Farm from other policies (Policies 21.2.12.4 – 21.2.12.7 (and we note policies 21.2.12.9 and 21.2.12.10)). Mr Barr considered that the policies were appropriately balanced and as worded, could be applied across the entire district. Again, Mr Barr considered that the specific transport link proposals should be considered on the merits of the specific proposal.[482]

425. Mr Brown, in evidence for QPL and Queenstown Wharves GP Limited, did not recommend any changes to this policy[483], but he did recommend a specific new policy to be placed following 21.2.12.10 to recognise and provide for a water based public transport system on the Kawarau River and Frankton Arm[484]. Mr Farrell, in evidence for RJL *et al*[485], opined that it was not appropriate for the plan to always avoid or mitigate the adverse effects of frequent, large scale or intrusive commercial activities. Mr Farrell considered that the policy should be amended to recognise existing commercial activities.

426. We agree that the policy needs to be considered in the context of its district-wide application and find that provision for frequent use, large scale or intrusive commercial activities at particular locations would not align with the objective to the extent that provision would allow for materially more mechanised boat traffic than at present.

427. Consideration of activities affecting the natural character of the Kawarau River below the Control Gates Bridge also needs to take account of the Water Conservation (Kawarau) Order 1997 (WCO) given that the PDP cannot be inconsistent with it[486]. The WCO states that identified characteristics (including wild and scenic, and natural characteristics) are protected. While the

478 Submissions 243, 649
479 Submissions 766, 806
480 Submission 621
481 Submission 766
482 C Barr, Section 42A Report, Page 82, Para s17.13 – 17.15
483 J Brown, Evidence, Page 14, Para 2.24
484 J Brown, Evidence, Page 15, Para 2.24
485 B Farrell, Evidence, Page 22, Paras 92-96
486 Section 74(4) of the Act

WCO also recognises recreational jet-boating as an outstanding characteristic of the river, we find the breadth of the policy amendment sought would be inconsistent with the WCO.

428. It also needs to be recognised that the policy as notified focuses on areas of high passive recreational use, significant nature conservation values and wildlife habitat. It does not purport to apply to all waterways.

429. We agree generally with Mr Barr that the other policies under this objective are likewise appropriately balanced. We also find that the new policy suggested by Mr Brown would not align with the objective and to the extent that it would allow for significant new non-recreational mechanised use of the Kawarau River below the Control Gates, potentially inconsistent with the WCO.

430. We therefore recommend that the submissions that sought the exclusion of the Frankton Arm and the Kawarau River between Kawarau Falls and Chard Farm from the policies and the specific recommendation (of Mr Brown) to provide for water based transport be rejected. We do not consider those submissions further, apart from recording the policies where they apply below. That said, we return to the issue of water based public transport later, as part of our consideration of Policy 21.2.12.8.

431. We do think that the policy would be improved with some minor punctuation changes.

432. Accordingly, we recommend that policy 21.2.12.3 be renumbered and worded as follows:

Avoid or mitigate the adverse effects of frequent, large-scale or intrusive commercial activities such as those with high levels of noise, vibration, speed and wash, in particular motorised craft, in areas of high passive recreational use, significant nature conservation values and wildlife habitat.

4.44 Policy 21.2.12.4

433. Policy 21.2.12.4 as notified read as follows;

Recognise the whitewater values of the District's rivers and, in particular, the values of the Kawarau and Shotover Rivers as two of the few remaining major unmodified whitewater rivers in New Zealand, and to support measures to protect this characteristic of rivers.

434. Two submissions sought that the policy be amended to clarify that it did not apply to the Frankton Arm and the Kawarau River between Kawarau Falls and Chard Farm as those areas could provide for water based public transport[487]. Two submissions sought amendment to the policy to include 'wild and scenic' values and to add the Nevis to the identified rivers.[488]

435. Mr Barr, identified that this policy was included to recognise the WCO on the Kawarau River and part of the Shotover River. Mr Barr agreed with Forest & Bird that the amendment to the WCO in 2013 to include the Nevis River meant that it was appropriate to include reference to that river in the policy[489]. The Section 42A Report did not reference the relief sought regarding the inclusion of *"wild and scenic"* values.

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487 Submissions 766, 806

488 Submissions 339, 706

489 C Barr, Section 42A Report, Page 82 – 83, Para 17.16

436. Mr Brown in evidence for QPL and Queenstown Wharves GP Limited recommended amending the policy to only refer to 'parts' of the Kawarau River as not all of the river was whitewater[490]. Mr Barr, in reply, agreed with that amendment and also recommended a grammatical change to the beginning of the policy.[491]

437. We note that the Frankton Arm is not part of the Kawarau River. Thus the policy would not apply to that part of the lake in any event.

438. We agree that the reference in the policy should be to 'parts' of the Kawarau and Shotover Rivers reflecting the fact that only sections of the rivers are *'whitewater'*. While the WCO identifies other outstanding characteristics (than whitewater) and it is clear that both rivers have large sections that could aptly be described as *'scenic'*, it is the whitewater sections that qualify as *'wild'*. Accordingly, we do not see addition of *'wild **and** scenic'* as adding anything to the policy.

439. Accordingly, we recommend that the policy be reworded as follows:

Have regard to the whitewater values of the District's rivers and, in particular, the values of parts of the Kawarau, Nevis and Shotover Rivers as three of the few remaining major unmodified whitewater rivers in New Zealand, and to support measures to protect this characteristic of rivers.

4.45 Policy 21.2.12.5

440. Policy 21.2.12.5 as notified read as follows;

Protect, maintain or enhance the natural character and nature conservation values of lakes, rivers and their margins, with particular regard to places with nesting and spawning areas, the intrinsic value of ecosystem services and areas of indigenous fauna habitat and recreational values.

441. Two submissions sought that the policy be retained[492]. Two submissions sought that the policy be variously amended to clarify that it did not apply to the Frankton Arm and the Kawarau River between Kawarau Falls and Chard Farm as those areas could provide for water based public transport[493]. One submission sought the policy be amended as follows;

Protect, maintain or enhance the natural character and nature conservation values of lakes, rivers and their margins from inappropriate development, with particular regard to places with significant indigenous vegetation, nesting and spawning areas, the intrinsic values of ecosystems, and areas of significant indigenous fauna habitat and recreational values.[494]

442. We addressed the submissions seeking that the policy not apply to the Frankton Arm and the Kawarau River between Kawarau Falls and Chard Farm, above. Submissions on this policy were not directly addressed in the Section 42A Report and Appendix 1 of the Section 42A Report showed no recommended changes to the policy.

443. Mr Farrell in evidence for RJL *et al* supported retention of the policy as notified.

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490 J Brown, Evidence, Page 16, Para 2.26 (d)

491 C Barr, Reply, Appendix 1, Page 21-6, Policy 21.2.12.4, Para 10.1

492 Submissions 339, 706

493 Submissions 766, 806

494 Submission 621

444. At the hearing, Ms Maturin representing Forest & Bird, noted that Forest & Bird should have sought the inclusion of wetlands into this policy, and indicated that Forest & Bird would be satisfied if that intention was added to the policy.[495]

445. Ms Lucas in evidence for UCES, considered that the policy only sought to protect, maintain or enhance natural character, whereas section 6(a) of the Act required that it be preserved.[496]

446. Mr Brown, in evidence for QPL and Queenstown Wharves GP Limited, recommended amending the policy to delete the words *"… natural character …"*[497]. Mr Brown explained that that wording was more appropriate in Policy 21.2.12.7 as

> *"… Policy 21.2.12.5 deals with nature conservation values and focusses on ecological values, and I consider that the intention to "protect, maintain and enhance" these is necessary and desirable. However, a jetty, for example, is likely to have some impact on natural character, and it is likely to be difficult to construct a jetty in a way that protects, maintains or enhances natural character. In this context, "natural character" is more aligned with "visual qualities" rather than with ecological values, and I therefore consider that "natural character" is better located in Policy 21.2.12.7 which deals with the effects of the location, design and use of structures and facilities, and for which the duty is to avoid, remedy or mitigate the effects."*[498]

447. Mr Barr, in reply, recommended a change to replace "*Protect, maintain or enhance*" with *"Preserve"* at the beginning of the policy and to include the words "*from inappropriate activities"*, after the word "*margins*". Mr Barr set out a brief section 32AA evaluation noting that in his view the amendments would better align with section 6 of the Act.[499]

448. The difficulty with this policy is that it is addressing two different considerations – natural character and nature conservation values. As Mr Brown notes, the principal focus is on the latter. Certainly, most of the examples noted relate to nature conservation values. Section 6(a) requires us to recognise and provide for preservation of the natural character of lakes and rivers (and protect them from inappropriate subdivision, use and development). On the face of the matter, *'preservation'* would therefore be a more appropriate policy stance for natural character of lakes and rivers than protection, maintenance and enhancement[500].

449. It does not necessarily follow that the same is true for nature conservation values. This is a similar, but arguably a broader concept than areas of significant indigenous fauna, the *'protection'* of which is required by section 6(c), which would suggest that *'protection'* rather than *'preservation'* is required for nature conservation values.

450. Mr Brown's suggested solution of shifting natural character into Policy 27.2.12.7 faces two hurdles. The first is that an "*avoid or mitigate"* instruction[501] is too weak a policy response for a matter whose preservation is required to be recognised and provided for, as well as being out

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495 S Maturin, Evidence, Page 10, Para 62

496 D Lucas, Evidence Page 9, Para 38

497 J Brown, Evidence, Page 14, Para 2.24

498 J Brown, Evidence, Page 18, Para 2.26 (c)

499 C Barr, Reply, Appendix 2, Page 5

500 Although the WCO speaks in terms of protection of the identified outstanding characteristics of the Kawarau River, which include natural character and, of course, section 6(a) uses both terms.

501 Mr Brown incorrectly described it as imposing a duty to *"avoid, remedy or mitigate".*

of line with the objective. Secondly, Policy 21.2.12.17 deals with structures and facilities. The PDP also needs to address activities on the surface of lakes and rivers.

451. As already noted, we asked in-house counsel at the Council to provide us with legal advice as to whether there is a meaningful difference between *'preservation'* and *'protection'* and her advice, in summary, is that there is not.

452. This suggests to us that the simplest solution is to retain the notified formulation.

453. We agree, however, with Mr Brown that some qualification is necessary for examples such as those he identified, in order for some development in these areas to occur.

454. Given Mr Farrell's support for the policy as notified (giving evidence for RJL) we do not need to give further consideration to the other aspects of the relief in RJL's submission.

455. Lastly, we do not consider that the failure by Forest & Bird to seek relief in the terms it now regards as desirable can be addressed in the manner Ms Maturin suggests.

456. Accordingly, we recommend that Policy 21.2.12.5 be reworded as follows:

Protect, maintain and enhance the natural character and nature conservation values of lakes, rivers and their margins from inappropriate activities with particular regard to nesting and spawning areas, the intrinsic value of ecosystem services and areas of indigenous fauna habitat and recreational values.

4.46 Policy 21.2.12.6

457. Policy 21.2.12.6 as notified read as follows;

Recognise and provide for the maintenance and enhancement of public access to and enjoyment of the margins of the lakes and rivers.

458. Two submissions sought that the policy be amended to clarify that it did not apply to the Frankton Arm and the Kawarau River between Kawarau Falls and Chard Farm as those areas could provide for water based public transport[502]. One submission sought the policy be amended to include private investment/donation[503]. One submission sought that the policy be amended to include the words *"including jetty's [sic] and launching facilities"*[504] ;

459. We addressed the submissions seeking that the policy not apply to the Frankton Arm and the Kawarau River between Kawarau Falls and Chard Farm, above. Submissions on this policy were not directly addressed in the Section 42A Report and Appendix 1 of the Section 42A Report showed no recommended changes to the policy. We heard no evidence in support of Submissions 194 and 301. The reasons for the relief sought in the submissions related to funding of marina upgrades and the upgrades to specific jetties and boat ramps. We consider these issues are outside the jurisdiction of the Act and therefore recommend those submissions be rejected.

460. Accordingly, we recommend that Policy 21.2.12.6 remain as notified.

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502 Submissions 766, 806

503 Submission 194

504 Submission 301

4.47 Policy 21.2.12.7

461. Policy 21.2.12.7 as notified read as follows;

Ensure that the location, design and use of structures and facilities are such that any adverse effects on visual qualities, safety and conflicts with recreational and other activities on the lakes and rivers are avoided or mitigated.

462. Two submissions sought that the policy be amended to recognise the importance of the Frankton Arm and the Kawarau River as a public transport link[505]. Three submissions sought the policy be amended to insert the word *"remedied"* after the word *"avoid"*[506].

463. We address the submissions seeking that the policy recognise the Frankton Arm and the Kawarau River as important transport link, under Policy 21.2.12.8 below. We could not find these submissions directly addressed in the Section 42A Report. However, Appendix 1 of that report has a comment recommending that the word *"remedied"* be inserted as sought by TML.

464. Mr Vivian's evidence for TML[507] and Mr Brown's evidence for QPL and Queenstown Wharves Ltd[508] agreed with the Section 42A Report.

465. We agree. Although opportunities to remedy adverse effects may in practice be limited, the addition of the word *"remedied"* is appropriate within the context of the policy in being a legitimate method to address potential effects. We addressed the amendment suggested by Mr Brown, of the insertion of reference to natural character into this policy above.

466. Accordingly, we recommend that Policy 21.2.12.7 be reworded as follows:

Ensure that the location, design and use of structures and facilities are such that any adverse effects on visual qualities, safety and conflicts with recreational and other activities on the lakes and rivers are avoided, remedied or mitigated.

4.48 Policy 21.2.12.8

467. Policy 21.2.12.8 as notified read as follows;

Encourage the development and use of marinas in a way that avoids or, where necessary, remedies and mitigates adverse effects on the environment.

468. One submission sought that the words *"jetty and other structures"* be inserted following the word "marinas"[509] Two submissions sought that the policy be amended to replace the words *"marinas in a way that "* with *"a water based public transport system including necessary infrastructure, in a way that as far as possible*"[510]. One submission sought to amend the policy by replacing the word *"Encourage"* with *"Provide for"* and to delete the words *"where necessary"*.[511]

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505 Submissions 766, 806

506 Submission 519, 766, 806

507 C Vivian, Evidence, Page 19, Para 4.84

508 J Brown, Evidence, Page 4, Para 2.24 (by adopting the Section 42 A Report recommendation on the policy)

509 Submission 194

510 Submissions 766, 806

511 Submission 621

469. In the Section 42A Report, Mr Barr agreed that clarification of the policy would be improved by also referring to jetties and moorings. Mr Barr also considered that the term *"Encourage"* was more in line with the Strategic Direction of the Plan which was not to provide for such facilities, but rather when they are being considered, to encourage their appropriate location, design and scale. Mr Barr also agreed that the words *"where necessary"* did not add value to the policy and recommended they be deleted.[512] Mr Barr addressed the provision of public transport within the Frankton Arm and Kawarau River in a separate part of the Section 42A Report. However, this discussion was on the rules rather than the policy[513]. That said, in discussing the rules, Mr Barr acknowledged the potential positive contribution to transport a public ferry system could provide. Mr Barr considered *"ferry"* a more appropriate term than *"commercial boating"* which in his view may include cruises and adventure tourism[514]. Mr Barr did not, however, recommend the term *"ferry"* be included in the policy in his Section 42A Report.

470. In evidence for RJL, Mr Farrell supported the recommendation in the Section 42A Report[515].

471. Mr Brown, in evidence for QPL and Queenstown Wharves Ltd, supported the reference to lake and river public transport as an example of relieving road congestion and also facilitating access and enjoyment of rivers and their margins[516]. Mr Brown's recommended wording of the policy did not include the relief sought by QPL and Queenstown Wharves Ltd, to qualify the policy by adding the words, "*in a way that as far as possible".*

472. In reply, Mr Barr incorporated part of Mr Brown's recommended wording into the Appendix 1 of the Section 42A Report.[517] Mr Barr included the word *"ferry"* at this point to address the difference between water based public transport and other commercial boating we identified above.

473. The starting point for consideration of these issues is renumbered Policy 6.3.31 (Notified Policy 6.3.6.1) which seeks to control the location, intensity, and scale of buildings, jetties, moorings and infrastructure on the surface and margins of water bodies by ensuring these structures maintain or enhance landscape quality and character, and amenity values. We therefore have difficulty with Mr Barr's suggested addition of reference to jetties and moorings in this context without a requirement that landscape quality and character, and amenity values all be protected. Certainly we do not agree that that would be consistent with the Strategic Chapters. We do, however agree that provision for water-based public transport *"ferry systems"* and related infrastructure, is appropriate within the context of this policy and that it needs to be distinguished from other types of commercial boating.

474. We agree with Mr Barr's suggestion that the words *"where necessary"* are unnecessary but we consider that greater emphasis is required to note the need to avoid, remedy or mitigate adverse effects as much as possible and, therefore, we accept the submissions of QPL and Queenstown Wharves Ltd in this regard.

475. Accordingly, we recommend that Policy 21.2.12.8 be reworded as follows:

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512 C Barr, Section 42A Report, Page 83, Paras 17.18 – 17.19

513 C Barr, Section 42A Report, Page 85 - 88, Paras 17.29 – 17.42

514 C Barr, , Section 42A Report, Page 87 - 88, Paras 17.41 – 17.42

515 B Farrell, Evidence, Page 23,Para 101

516 J Brown, Evidence, Page 15, Para 2.26(b)

517 C Barr, Reply, Page 21-6, Appendix 1

Encourage development and use of water based public ferry systems including necessary infrastructure and marinas, in a way that avoids adverse effects on the environment as far as possible, or where avoidance is not practicable, remedies and mitigates such adverse effects.

4.49 Policy 21.2.12.9

476. Policy 21.2.12.9 as notified read as follows;

Take into account the potential adverse effects on nature conservation values from the boat wake of commercial boating activities, having specific regard to the intensity and nature of commercial jet boat activities and the potential for turbidity and erosion.

477. One submission sought that the policy be amended to apply only to jet boats and the removal of the words "*intensity and nature of commercial jet boat activities*"[518] and similarly, another submission sought that the policy be amended to enable the continued use of commercial jet boats while recognising that management techniques could be used to manage effects[519]. One other submission sought the amendment of the policy to recognise the importance of the Kawarau River as a water based public transport link.[520]

478. Mr Barr, in his Section 42A Report, considered that jet boats were already specified in the policy and that there was a need to address the potential impacts from any propeller driven craft in relation to turbidity and wash[521]. Mr Barr recommended that policy remain as notified.

479. Mr Farrell, in evidence for RJL *et al*, agreed with Mr Barr's recommendation[522] and Mr Brown, for QPL, did not recommend any amendments to the policy[523].

480. There being no evidence in support of the changes sought by the submitters, we adopt the reasoning of the witnesses and find that the amendments sought would not be the most appropriate way of achieving the objective.

481. Accordingly, we recommend that the submissions be rejected and that policy 21.2.12.9 remain as notified.

4.50 Policy 21.2.12.10

482. Policy 21.2.12.10 as notified read as follows:

Ensure that the nature, scale and number of commercial boating operators and/or commercial boats on waterbodies do not exceed levels where the safety of passengers and other users of the water body cannot be assured.

483. One submission sought that the policy be amended as follows;

Protect historical and well established commercial boating operations from incompatible activities and manage new commercial operations to ensure that the nature, scale and number of new commercial boating operators and/or commercial boats on waterbodies do not exceed levels where the safety of passengers and other users of the water body cannot be assured.[524]

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518 Submission 621
519 Submissions 806
520 Submission 806
521 C Barr, Section 42A Report, Page 84, Para 17.21
522 B Farrell, Evidence, Page 23, Para 103
523 J Brown, Evidence, Page 15, Para 2.24
524 Submission 621

484. One other submission sought that the policy be amended to enable the continued use of commercial jet boats while recognising that management techniques could be used to manage effect and that the policy be amended to recognise the importance of the Kawarau River as a water based public transport link.[525]

485. In the Section 42A Report, Mr Barr considered the relief sought by RJL to be neither necessary nor appropriate, because consideration of the effects of new activities on established activities was inherently required by the wording of the policy as notified. Mr Barr noted that all established activities would have consent anyway, so *'well established"* did not add anything to the policy. In addition, Mr Barr considered that the qualifiers in the policy were a guide as to incompatibility, so the introduction of the word *"incompatible"* was not appropriate in this context[526]. Mr Barr recommended that the policy remain as notified.

486. Mr Brown, for QPL, did not recommend any amendments to the policy[527]. Mr Farrell, in evidence for RJL, considered the policy did not satisfactorily recognise the benefits of historical and well established commercial boating operations which were important to the district's special qualities and overall sense of place[528]. Mr Farrell recommended we adopt the relief sought by RJL.

487. We disagree with Mr Farrell. This policy would come into play when resource consent applications were being considered. At that point, safety considerations need to be addressed both for entirely new proposals and for expansion of existing operations. It would not affect operations that were already consented (and established) unless the conditions on that consent were being reviewed. In those circumstances, it could well be appropriate to consider safety issues.

488. In summary, in relation to the amendments sought by RJL, we agree with and adopt the reasoning the reasoning of Mr Barr. We recommend that the submission by RLJ be rejected.

489. In reviewing this policy we have identified that it contains a double negative that could create ambiguities in interpreting it: the policy requires that *the nature, scale and number* (of activities) *do not exceed levels where … safety … cannot be assured*. We consider a minor, non-substantive amendment under Clause 16(2) of the First Schedule to replace "where" with "such that" will address this problem.

490. Accordingly, we recommend that Policy 21.2.12.10 be reworded as follows:

Ensure that the nature, scale and number of commercial boating operators and/or commercial boats on waterbodies do not exceed levels such that the safety of passengers and other users of the water body cannot be assured.

4.51 Objective 21.2.13

491. As notified, Objective 21.2.13 read as follows;

525 Submission 806

526 C Barr, Section 42A Report, Page 84, Para 17.23

527 J Brown, Evidence, Page 15, Para 2.24

528 B Farrell, Evidence, Page 23, Para 106

Enable rural industrial activities within the Rural Industrial Sub Zones, that support farming and rural productive activities, while protecting, maintaining and enhancing rural character, amenity and landscape values.

492. One submission supported the objective[529]. One submission sought clarification as to the location of the Rural Industrial Sub-Zones[530]. One submission sought that the objective be amended as follows:

Enable rural industrial activities and infrastructure within the Rural Industrial Sub Zones, that support farming and rural productive activities, while avoiding remedying or mitigating effects on rural character, amenity and landscape values.[531]

493. In the Section 42A Report, Mr Barr identified that the Rural Industrial Sub Zone was located in Luggate (Map 11a)[532]. In Appendix 2 to that report, Mr Barr recommended that the submission from Transpower be rejected, noting that the Rural Industrial Sub Zone was distinct from the Rural Zone and would lend itself to infrastructure due its character and visual amenity.

494. In the Council's memorandum on revising the objectives to be more outcome focused[533], Mr Barr recommended rewording of the objective as follows;

Rural industrial activities within the Rural Industrial Sub Zones will support farming and rural productive activities, while protecting, maintaining and enhancing rural character, amenity and landscape values.

495. Ms Craw, in evidence for Transpower, agreed with Mr Barr and noted that were no Transpower assets with the Rural Industrial Sub Zone[534].

496. We agree with Mr Barr's rewording of the objective as being more outcome orientated and find that it is the most appropriate way to achieve the purpose of the Act. We think that Mr Barr's reasoning supports the inclusion of the reference to infrastructure rather than the reverse. If the character and visual amenity (and the permitted activity rules) are consistent with infrastructure in this Sub Zone, the policy should provide for it.

497. Accordingly, we recommend that Objective 21.2.13 be reworded as follows;

Rural industrial activities and infrastructure within the Rural Industrial Sub-Zones will support farming and rural productive activities, while protecting, maintaining and enhancing rural character, amenity and landscape values.

4.52 Policies 21.2.13.1 – 21.2.13.2

498. We observe that there were no submissions on Policies 21.2.13.1 and 21.2.13.2. We therefore recommend they be renumbered but otherwise be retained as notified.

529 Submission 217
530 Submission 806
531 Submission 805
532 C Barr, Section 42A Report, Page 51, Para 13.48
533 Council Memoranda dated 13 April 2016
534 A Craw, Evidence, Page 5, Para 26

4.53 New Policy – Commercial Operations Close to Trails

499. A submission from Queenstown Trails Trust[535] sought a new policy to enable commercial operations, associated with and close to trail networks.

500. In the Section 42A Report, Mr Barr considered that a policy recognising the potential benefits of the trail was generally appropriate, but that the policy should not extend to creating new rules or amending existing rules for the trails or related commercial activities, as it was important that the effects of such activities should be considered on a case by case basis.[536] Mr Barr undertook a section 32AA of the Act evaluation as to the effectiveness and efficiency of the policy and recommended wording for a policy that supported activities complementary to the trails as follows:

Provide for a range of activities that support the vitality, use and enjoyment of the Queenstown Trail and Upper Clutha Tracks Trail network on the basis that landscape and rural amenity is protected, maintained or enhanced and established activities are not compromised.

501. In reply, Mr Barr recommended the removal of the word *"Trail"* after the words "Upper Clutha Tracks"[537] which we understand was to correct an error.

502. We agree with and adopt Mr Barr's reasoning as set out above. Noting our recommendation above to combine notified Objectives 21.2.1 and 21.2.9, we find the new policy is the most appropriate way in which to achieve our recommended revised Objective 21.2.1.

503. Accordingly, we recommend a new policy to be worded and numbered as follows;

21.2.1.16 Provide for a range of activities that support the vitality, use and enjoyment of the Queenstown Trail and Upper Clutha Tracks networks on the basis that landscape and rural amenity is protected, maintained or enhanced and established activities are not compromised.

4.54 New Objective and Policies – Commercial Recreation Activities

504. A submission from Skydive Queenstown Ltd[538] sought insertion of the following new objective and policies;

Objective
Recognise and provide opportunities for recreation, including commercial recreation and tourism activities.

Policy
Recognise the importance and economic value of recreation including commercial recreation and tourist activities.

Policy
Ensure that recreation including commercial recreation and tourist activities do not degrade rural quality or character or visual amenities and landscape values

535 Submission 671
536 C Barr, Section 42A Report, Pages 45-46, Paras 13.18 – 13.22
537 C Barr, Reply, Appendix 1, Page 21-5
538 Submission 122

505. In the Section 42A Report, Mr Barr addressed this request only in a general sense as part of an overall consideration of commercial activities in the Rural Zone[539], expressing the view that recreation, commercial recreation and tourism were adequately contemplated and managed. Mr Barr recommended that the submission be rejected.

506. The evidence of Mr Brown for Skydive Queenstown Ltd did not, as far as we could identify, directly address this relief sought.

507. In evidence for Totally Tourism Ltd[540] and Skyline Enterprises Ltd[541], Mr Dent noted the objectives and policies under 21.2.9 (as notified) did not refer to *"commercial recreation activity"* and he also noted that there was a separate definition for *"commercial recreation activity"* as compared to the definition *of "commercial activity".*[542] Mr Dent went on to recommend the following objective and policies to fill the identified policy gap as follows;

Objective
Commercial Recreation in the Rural Zone occurs at a scale that is commensurate to the amenity vales of the specified location.

Policy
The group size of commercial recreation activities will be managed so as to be consistent with the level of amenity anticipated in the surrounding environment.

Policy
To avoid, remedy or mitigate the adverse effects of commercial recreation activities on the natural character, peace and tranquillity of remote areas of the District.

Policy
To avoid, remedy or mitigate any adverse effects commercial recreation activities may have on the range of recreational activities available in the District and the quality of the experience of people partaking of these opportunities.

Policy
To ensure the scale and location of buildings, noise and lighting associated with commercial recreation activities are consistent with the level of amenity anticipated in the surrounding environment.

508. In summary, Mr Dent considered that such a suite of provisions was appropriate given the contribution of commercial recreation activities to the district, but accepted that it was important that those activities did not adversely affect amenity values by way of noise, overcrowding and use of remote areas.[543] Mr Dent also noted that he had derived the policies from the ODP Section 4.4- Open Space and Recreation.

509. In reply, Mr Barr supported the intent of the Mr Dent's recommendation, but noted legal submissions from Council on the Strategic Chapters that ODP Section 4.4- Open Space and Recreation was part of Stage 2 of the plan review and not part of this PDP under our consideration. Mr Barr recommended that the submitter resubmit under Stage 2, rather than

539 C Barr, Section 42A Report, Page 20, Para 8.32
540 Submission 571
541 Submission 574
542 S Dent, Evidence, Page 11, Paras 65 -66
543 S Dent, Evidence, Page 11-12, Paras 68 -73

have the provisions in two places. Mr Barr also noted the provisions sought by Mr Dent were not requested in the submission of Totally Tourism Ltd.[544]

510. We consider Mr Dent's suggested objective both narrows the relief sought in Skydive Queenstown's submission and tailors it to be specific to the Rural Zone, and is therefore properly the subject of this chapter (rather than necessarily needing to be dealt with in Stage 2 of the District Plan Review). As such, we consider it is within the scope provided by that submission, and generally appropriate, subject to some tightening to better meet the purpose of the Act.

511. The suggested policies likewise address relevant issues, but require amendment both to align with the objective and to fall within the scope provided by the Skydive Queenstown submission (i.e. ensure rural quality or character or visual amenities and landscape values are not degraded).

512. In addition, we find that the inclusion of these objectives and policies is consistent both with the Stream 1B Hearing Panel's findings on the Strategic Chapters, and with our findings on the inclusion of reference to activities that rely on rural resources. We also consider that given the importance of Commercial Recreation Activities to the district, that it is important that the matter be addressed now, rather than leaving it for consideration as part of a later stage of the District Plan review.

513. Accordingly, we recommend that a new objective and suite of policies to be worded and numbered as follows as follows;

2.2.10 Objective
Commercial Recreation in the Rural Zone is of a nature and scale that is commensurate to the amenity vales of the location.

Policies

21.2.10.1 The group size of commercial recreation activities will be managed so as to be consistent with the level of amenity anticipated in the surrounding environment.

21.2.10.2 To manage the adverse effects of commercial recreation activities so as not to degrade rural quality or character or visual amenities and landscape values.

21.2.10.3 To avoid, remedy or mitigate any adverse effects commercial recreation activities may have on the range of recreational activities available in the District and the quality of the experience of people partaking of these opportunities.

21.2.10.4 To ensure the scale and location of buildings, noise and lighting associated with commercial recreation activities are consistent with the level of amenity existing and anticipated in the surrounding environment.

4.55 New Objective and Policies – Community Activities and Facilities

514. One submission sought the inclusion of objectives, policies and rules for community activities and facilities in the Rural Zone[545]. Appendix 2 of the Section 42A Report recommended the submission be rejected on the basis that the existing provisions in the PDP were appropriate in this regard.

544 C Barr, Reply, Page 34, Para 12.1
545 Submission 524

515. Ms McMinn, in tabled evidence for the Ministry of Education, noted that while the Ministry relies on designations under the Act for the establishment of schools, it also relies on policy support to enable ongoing education and community activities. Ms McMinn advised that the Ministry had similarly submitted on the proposed RPS and that for consistency with the proposed RPS, provisions such as sought in the Ministry's submission should be included[546]. Ms McMinn did not identify where in the Proposed RPS this matter was addressed.

516. We could not identify a response to this matter in the Council's reply.

517. On review of the decisions version of the proposed RPS we could not identify provisions providing for the enablement of education and community activities. The designation powers of a requiring authority are very wide and we are not convinced that additional policy support would make them any less effective.

518. Accordingly, we recommend that the submission of the Ministry of Education be rejected.

4.56 New Objective and Policies - Lighting

519. One submission sought a new objective and policies in relation to the maintenance of the ability to view the night sky, avoid light pollution and to promote the use of LED lighting in new subdivisions and developments[547].

520. Specific wording of the objectives or policies were included in the submission. Mr Barr, in the Section 42A Report considered that Policy 21.2.1.5 and the landscape assessment matters 21.7.14(f) already addressed the matters raised[548]. We did not receive specific evidence in support of the requested objective and policies. We agree with Mr Barr and in the absence of evidence providing and/or justifying such objectives and policies, we recommend that this submission be rejected.

5 21.3 OTHER PROVISIONS AND RULES

521. We understand the purpose of notified Section 21.3 is to provide clarification as to the relationship between Chapter 21 and the balance of the PDP. Section 21.3.1 as notified outlined a number of district wide chapters of relevance to the application of Chapter 21.

522. There was one submission on Section 21.3.1[549], which sought that specific emphasis be given to Chapter 30 as it relates to any use, development or subdivision near the National Grid. Mr Barr recommended acceptance in part of submission but we could find no reasons set out in the report for reaching that recommendation[550]. Ms Craw, in evidence for Transpower, stated incorrectly that the officer's report had recommended declining the relief sought and she considered that the planning maps and existing provisions were sufficient to guide plan users to the rules under Chapter 30 regarding the National Grid[551]. We with agree with Ms Craw that sufficient guidance is already provided by way of the maps.

523. Accordingly, we recommend that the Transpower submission be rejected.

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546 J McMinn, Tabled Evidence, Page 4, Paras 17 - 19
547 Submissions 568
548 C Barr, Sub
549 Submission 805
550 C Barr, Section 42A Report, Appendix 2, Page 80
551 A Craw, Evidence, Page 6 -7, Paras 34 -36

524. Consistent with our approach in other chapters, we recommend the table in 21.3.1 only refer to PDP chapters, and that it distinguish between those notified in Stage 1 and those notified subsequently or yet to be notified (by showing the latter in italics). We recommend this change as a minor and non-substantive change under Clause 16(2) of the First Schedule.

525. Sections 21.3.2 and 21.3.3, as notified, contained a mixture of rules of interpretation and advice notes. We recommend these be re-arranged such that the rules be listed under Section 21.3.2 Interpreting and Applying the Rules, and the remainder under Section 21.3.3 Advice Notes.. The re-arrangement, incorporating the amendments discussed below, are included in Appendix 1.

526. There were no submissions on notified Section 21.3.2. We now address each of the submissions on notified section 21.3.3.

527. We questioned Mr Barr on the as notified Clarification 21.3.3.3 which used "site" to refer to the Certificate of Title, whereas the definition of site in the PDP is an area of land held in one Certificate of Title. Mr Barr agreed that this was an error. We recommend that this be corrected under Clause 16(2) of the First Schedule. Accordingly, we recommend 21.3.3.3. be renumbered 21.3.3.1 (we consider it an advice note) and be reworded as follows;

Compliance with any of the following standards, in particular the permitted standards, does not absolve any commitment to the conditions of any relevant resource consent, consent notice or covenant registered on the computer freehold register of any property.

528. As notified, 21.3.3.5 read as follows:

Applications for building consent for permitted activities shall include information to demonstrate compliance with the following standards, and any conditions of the applicable resource consent conditions.

529. One submission sought this be deleted. It argued that the requirement was ultra vires as the consents in question are under the Building Act[552]. Mr Barr recommended the submission be rejected, but we could find no reasons set out in the report for reaching that recommendation[553]. We received no other evidence in regard to this matter.

530. We consider this provision is no more than an advice note and of no regulatory effect. We have left the wording unaltered and renumbered it 21.3.3.3.. Accordingly, we recommend that the submission of QPL be rejected.

531. Clarification point 21.3.3.7 as notified read as follows;

The existence of a farm building either permitted or approved by resource consent under Table 4 – Farm Buildings shall not be considered the permitted baseline for residential or other non-farming activity development within the Rural Zone.

532. One submission sought this be retained[554], one that it be deleted[555] as the Environment Court had called it into question, and one submission sought that the reference to "*or other non-*

552 Submission 806
553 C Barr, Section 42A Report, Appendix 2, Page 80
554 Submission 45
555 Submission 806

farming" be removed[556]. Mr Barr recommended the submissions seeking deletion or amendment be rejected, but we could find no reasons set out in the report for reaching that recommendation[557]. We received no other evidence in regard to this matter.

533. Taking into account the specific policy provision made for farm buildings (Policy 21.2.1.2) as opposed to the regime applying to residential and other non-farming activities, we conclude there is justification in retaining this statement. We also conclude it is more in the nature of a rule explaining how the regulatory regime of the Chapter applies. Accordingly, we recommend that this clause retain the notified wording after altering the reference to "Table 4" to "Rule 21.4.2 and Table 5" and relocated so as to be provision 21.3.2.5.

534. As notified, clarification point 21.3.3.8 read as follows;

The Ski Area and Rural Industrial Sub Zones, being Sub Zones of the Rural Zone, require that all rules applicable to the Rural Zone apply unless stated to the contrary.

535. Two submissions sought that this clarification be amended to state that in the event of conflict between the Ski Area Sub Zone Rules in as notified Table 7 and the other rules in Chapter 21, the provisions in Table 7 would prevail[558].

536. These submissions were not directly addressed in the Section 42A Report. Mr Fergusson in evidence for Soho Ski Area Ltd and Treble Cone Investments Ltd, addressed this clarification point as part of a wider consideration of the difference between Ski Area Sub Zone Accommodation and Visitor Accommodation in the Rural Area[559]. We addressed this difference between the types of accommodation in Section 5.19 above, and recommended a separate definition for Ski Area Sub Zone Accommodation. We think that this addresses the potential issue raised in the submission and accordingly recommend that the submission be rejected.

537. We find this to be an implementation rule and have relocated to be provision 21.3.2.6.

538. Clarification point 21.3.3.9 related to the calculation of "ground floor area" in the Rural Zone. One submission sought either that the clarification point be deleted, relying on the definition of "ground floor area", or that the definition of "ground floor area" be amended so as to provide for the rural area[560]. Mr Barr recommended the submission be rejected[561] but we could find no reasons set out in the report for him reaching that recommendation. We received no direct evidence on this matter.

539. Although Submission 806 states that there is a definition of "Ground floor area" in Chapter 2, that definition, as notified, only applied to signs[562], not buildings.. We note that the definition of ground floor area included in Section 21.3.3 is also included in Chapters 22 and 23. In our view, rather than repeating this as an implementation rule, it should be included in Chapter 2 as a definition. Therefore, we recommend that Submission 806 is accepted to the extent that

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556 Submission 519

557 C Barr, Section 42A Report, Appendix 2, Page 80

558 Submissions 610, 613

559 C Fergusson, Evidence, Pages 34-35, Para 129 - 133

560 Submission 806

561 C Barr, Section 42A Report, Appendix 2, Page 81

562 We note that the notified definition does not appear to define a ground area in any event and is the subject of the Stage 2 Variations.

21.3.3.9 is deleted and the definition is included in Chapter 2[563]. We also recommend that the equivalent amendments are made in Chapters 22 and 23.

540. Clarification Point 21.3.3.11 set out the meaning of the abbreviations used in the Rule Tables in 21.4 of the PDP. It also notes that any activity that is not permitted or prohibited requires a resource consent.

541. One submission form QPL sought that the clarification point be amended to ensure that the rules are applied on an effects basis[564]. Mr Barr recommended the submission be rejected[565], but we could find no reasons set out in the report for him reaching that recommendation. We received no direct evidence on this matter.

542. On review of the submission itself, it sets out as the reason for the submission that *"the Council should not attempt to list all activities that may occur and should instead rely on the proposed standard to ensure that effects are appropriately managed."*

543. To our mind, this has more to do with the content of rules than clarification of the meaning of the abbreviations, or the effect of activities being permitted or prohibited for that matter. We recommend that the submission as it relates to 21.3.3.11 be rejected. As a result of our re-arrangement of the clauses in 21.3.2 and 21.3.3, this is renumbered 21.3.2.9.

544. In his Reply Statement, Mr Barr recommended inclusion of the following three matters for clarification purposes:

21.3.3.11 The surface of lakes and rivers are zoned Rural, unless otherwise stated.

21.3.3.12 In this chapter the meaning of bed shall be the same as in section 2 of the RMA.

21.1.1.13 Internal alterations to buildings including the replacement of joinery is permitted.

545. We consider the first of these is a useful inclusion to avoid any ambiguity. We do not see the second as helpful as it may imply that when considering provisions in other chapters, the meaning of bed given in section 2 of the Act does not apply. We would have thought the defined term from the Act would apply unless the context required otherwise. Although we are not sure the third is necessary, there is no reason not to include it. We recommend these be included as 21.3.2.8 and 21.3.2.9.

6 SECTION 21.4 – RULES – ACTIVITIES

6.1 Structure of Rules and Tables

546. In considering the rules and their layout in the tables, we found these difficult to follow. For example, in some cases activities and standards were combined under 'activities'. In these situations, we recommend that the activities and standards be separated and the tables be renumbered. We note that we have already addressed the table for the surface of lakes and rivers, activities and standards in Section 3.4 above. Another example is where the rules specify that activities are prohibited with exceptions detailing what is permitted, rather than setting out firstly what is permitted and secondly, if the activity is not permitted, what the appropriate activity status is.

563 As a recommendation to the Stream 10 Hearing Panel.

564 Submission 806

565 C Barr, Section 42A Report, Appendix 2, Page 81

547. Taking those matters into account, we recommend re-ordering the tables into the following sequence, which we consider more logical and easier for plan users to follow:

Table 1	Activities Generally
Table 2	Standards applying generally in zone
Table 3	Standards applying to Farm Activities (additional to those in Table 2)
Table 4	Standards for Structures and Buildings (other than Farm Buildings) (additional to those in Table 2)
Table 5	Standards for Farm Buildings (additional to those in Table 2)
Table 6	Standards for Commercial Activities (additional to those in Table 2)
Table 7	Standards for Informal Airports (additional to those in Table 2)
Table 8	Standards for Mining and Extraction Activities (additional to those in Table 2)
Table 9	Activities in the Ski Area Sub Zone additional to those listed in Table 1
Table 10	Activities in Rural Industrial Subzone additional to those listed in Table 1
Table 11	Standards for Rural Industrial Subzone
Table 12	Activities on the Surface of Lakes and Rivers
Table 13	Standards for Activities on the Surface of Lakes and Rivers
Table 14	Closeburn Station: Activities
Table 15	Closeburn Station: Standards for Buildings and Structures

548. We consider these to be minor correction matters that can addressed under Clause 16(2) and we make recommendations accordingly.

549. In addition, the terminology of the rules themselves needs amendment; using the term "shall" could be read as providing a degree of discretion that is not appropriate in a rule context. We recommend that the term "must" replace the term "shall" except where the context requires the use of "shall" or another term. Again, we consider these to be minor correction matters that can be addressed under Clause 16(2) and we make recommendations accordingly.

6.2 Table 1 (As Notified) - Rule 21.4.1 - Activity Default Status

550. Rule 21.4.1 as notified identified that activities not listed in the rule tables were *"Non-complying"*" Activities. A number of submissions[566] sought that activities not listed in the tables should be made permitted.

551. We did not receive any direct evidence in regard to this matter, although Mr Barr addressed it in his Section 42A Report[567]. We agree with Mr Barr that it is not apparent that the effects of all non-listed activities can be appropriately avoided, remedied or mitigated in the Rural Zone across the District, such that a permitted activity status is the most appropriate way in which to achieve the objectives of Chapter 21. We therefore recommend that the default activity status for activities not listed in the rule table remain non-complying. Consistent with our approach

566 Submissions 624, 636, 643, 688, 693

567 C Barr, Section 42A Report, Paras 8.9 – 8.10

of listing activities from the least restricted to the most restricted, we recommend this rule be located at the end of Table 1. We also recommend that it only refer to those tables that list activities (as opposed to standards applying to activities). To remove any possible ambiguity we recommend it read:

Any activity not otherwise provided for in Tables 1, 9, 10, 12 or 14.

6.3 Rule 21.4.2 – Farming Activity

552. The only submissions on this rule supported it[568]. With the re-arrangement of the tables of standards discussed above, a consequential change is required to this rule to refer to Table 3 as well as Table 2. Other than that change and renumbering to 21.4.1, we recommend the rule be adopted as notified.

6.4 Rule 21.4.3 – Farm Buildings

553. As notified, Rule 21.4.3 provided for the "Construction or addition to farm buildings that comply with the standards in Table 4" as permitted activities.

554. Three submissions sought that the rule be retained[569]. One submission sought to roll-over provisions of the ODP so that farming buildings not be permitted activities.[570] One submission supported permitted activity status for farm buildings, but sought that Council be firm where a landholder establishes farm buildings and then makes retrospective application for consent so that the buildings can be used for a non-farming purposes[571].

555. Mr Barr, in the Section 42A Report, recommended that the submission from UCES be rejected for the reasons set out in the Section 32 Report.[572] The Section 32 Report concluded that administrative efficiencies can be achieved while maintaining landscape protection, by requiring compliance with standards in conjunction with a permitted activity status for farm buildings.[573]

556. We have already addressed the permitted activity status for farming activities in Section 7.3 above. Similarly, we have also addressed farm buildings in Policy 21.2.1.2, as notified, above (Section 5.3) and recommended allowing farm buildings on landholdings over 100 ha subject to managing effects on landscape values.

557. Accordingly, we recommend that Rule 21.4.3 be renumbered 21.4.2 and refer to Table 5, but otherwise be retained as notified.

558. We think that the submission of M Holor[574] raises a genuine issue regarding the conversion of farm buildings to a non-farming use, such as a dwelling. We are aware of situations in the district where applicants seeking consent for such conversions rely on existing environment arguments in order to obtain consent. This is sometimes referred to as 'environmental creep'.

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568 Submissions 325, 384, 600 (supported by FS1209, opposed by FS1034), 608
569 Submissions 325, 348, 608
570 Submission 145
571 Submission 45
572 C Barr, Section 42A Report, Page 29, Para 10.4
573 C Barr, Section 42A Report, Appendix 3, Section 32 Evaluation Report, Landscape, Rural Zone and Gibbston Character Zone, Pages 18 - 19
574 Submission 45

559. As notified, Rule 21.3.3.7 stated that farm building were not to be considered the permitted baseline for residential or other non-farming activities. We have recommended retaining this as implementation provision 21.3.2.5. We do not consider Submission 45 provides scope for any additional provision.

6.5 Rule 21.4.4 – Factory Farming

560. There were no submission on this rule. However, this is an instance where a "standard" in Table 2 (as notified) classified certain types of factory farming non-complying (notified Rule 21.5.11). In addition, notified Rules 21.5.9 and 21.5.10 set standards for pig and poultry factory farming respectively. There were no submissions to Rules 21.5.9, 21.5.10 or 21.5.11.

561. We recommend, as a minor amendment under Clause 16(2), that Rule 21.4.4 be renumbered 21.4.3, amended to be restricted to pigs and poultry, and to refer to Table 2 and 3. In addition, we recommend in the same way that notified Rule 21.5.11 be relocated to 21.4.4. The two rules would read:

21.4.3	Factory Farming limited to factory farming of pigs or poultry that complies with the standards in Table 2 and Table 3.	P
21.4.4	Factory Farming animals other than pigs or poultry.	NC

6.6 Rule 21.4.5 – Use of Land or Building for Residential Activity

562. As notified, Rule 21.4.5 provided for the "the use of land or buildings for residential activity except as provided for in any other rule" as a discretionary activity.

563. One submission sought that this rule be retained[575] and one sought that it be deleted[576].

564. The Section 42A Report did not address these submissions directly. Rather, Mr Barr addressed residential activity and residential/non-farming buildings in a general sense[577], concluding that Rule 21.4.5 was appropriate as non-farming activities could have an impact on landscape[578]. Although not directed to the submissions on this rule, Mr Barr considered that discretionary activity status was more appropriate to that of non-complying.

565. Mr Barr's discussion addressed submissions made by UCES. The UCES position was based on the potential for proposed legislative amendments to make the residential activity application non-notified if they are discretionary activities. This matter was also canvassed extensively in the Stream 4 Hearing (Subdivision). We adopt the reasoning of the Stream 4 Hearing Panel[579] in recommending this submission be rejected.

566. We heard no evidence from QPL in support of its submission seeking deletion of the rule. In tabled evidence for Matukitiki Trust, Ms Taylor agreed with the recommendation in the Section 42A Report.[580]

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575 Submission 355

576 Submission 806

577 C Barr, Section 42A Report, Pages 32-37, Paras 11.1 – 11.28

578 C Barr, Section 42A Report, Pages 36 – 37, Para 11.25

579 Report 7, Section 1.7

580 L Taylor, Evidence, Appendix A, Page 6

567. We accept Mr Barr's recommendation, given the submissions before us and the evidence we heard. Thus, we recommend the rule be retained as notified but be relocated to be Rule 21.4.10.

6.7 Rule 21.4.6 – One Residential Unit per Building Platform

568. As notified, Rule 21.4.6 provided for "One residential unit within any building platform approved by resource consent" as a permitted activity.

569. Three submissions sought that this rule be retained[581], four submissions sought that it be deleted[582], one submission sought that the rule be replaced with the equivalent provisions of the ODP[583] which would have had the effect of deleting the rule, and one submission sought that the rule be amended to clarify that it only applies to the activity itself, as there are other rules (21.4.7 and 21.4.8) that relate to the actual buildings[584].

570. In the Section 42A Report, Mr Barr addressed some of these points directly, noting that it is generally contemplated that there is one residential unit per fee simple lot and that Rule 21.4.12 provides for one residential flat per residential unit. He was of the opinion that the proposed change to a permitted activity status from controlled in the ODP would significantly reduce the number of consents without compromising environmental outcomes.[585]

571. At this point we record that that a similar provision to notified Rule 21.4.6, is also contained in Chapter 22, Rural Residential & Rural Lifestyle (Rule 22.5.12.1) which also has a limit within the Rural Lifestyle Zone of one residential unit within each building platform. Therefore, we address the number of residential units and residential flats within a building platform for the Rural, and Rural Lifestyle zones at the same time.

572. As notified, Rule 22.5.12.1, (a standard) provided for "One residential unit located within each building platform". Non-compliance with the standard results in classification as a non-complying activity.

573. Four submissions sought that this rule be deleted[586] and seven submissions sought that it be amended to provide for two residential units per building platform[587].

574. In the Section 42A Report for Chapter 22, Mr Barr considered that two dwellings within one building platform would alter the density of the Rural Lifestyle zone in such a way as to affect the rural character of the zone and also create an ill-conceived perception "that subdivision is contemplated based on the argument that the effect of the residential unit is already established"[588].

575. Responding to the reasons provided in the submissions, Mr Barr also considered that the rule was not contrary to Objective 3.2.6.1 as notified, which sought to ensure a mix of housing opportunities. In Mr Barr's view, that objective has a district wide focus and does not require

581 Submissions 355, 384, 806
582 Submissions 331, 348, 411, 414
583 Submission 145
584 Submission 608
585 C Barr, Section 42A Report, Page 34, Paras 11.11 - 11.14
586 Submissions 331, 348, 411, 414
587 Submissions 497, 513, 515, 530, 532, 534, 535
588 C Barr, Section 42A Report – Chapter 22, Pages 11 – 12, Paras 8.8 – 9.9

provision for intensification in all zones. Rather, the intention is that intensification be promoted within urban boundaries, but not in other zones.[589]

576. Mr N Geddes, in evidence for NT McDonald Family Trust *et al*[590], was of the view that to require discretionary activity status for an additional residential unit under 21.4.6 while a residential flat was a permitted activity, was unnecessary and unbalanced, and not justified by a s32 analysis. In relation to Rule 22.5.1.2.1, Mr Geddes observed that there was no section 32 analysis supporting the rule and he disagreed with Mr Barr as to the perception that subdivision was contemplated. He noted that subdivision is managed as a discretionary activity under Chapter 27, and two units in one approved building platform would provide a wider range of opportunities[591].

577. Mr Goldsmith, in evidence for Arcadian Triangle, suggested that within the Rural Lifestyle Zone, amending the residential flat provision to a separate residential unit was a fairly minor variation but needed caveats, e.g. further subdivision prevented, to avoid abuse. Mr Goldsmith considered two residential units within a single 1000m^2 building platform would not create a perceptible difference to one residential unit and one residential flat, where the residential flat could be greater than 70m^2. Addressing the subdivision issue raised by Mr Barr, Mr Goldsmith suggested that to make it clear that subdivision was not allowed, the rule could make subdivision a prohibited activity.[592]

578. Mr Farrell, in evidence for Wakatipu Equities Ltd[593] and G W Stalker Family Trust[594] raised similar issues to that of Mr Geddes and Mr Goldsmith. He also expressed the view that the rule contradicted higher level provisions (Objective 3.2.6.1) and noted that two residential units within a building platform would be a more efficient and effective use of resources[595]. However, in his summary presentation to us, Mr Farrell advised that his evidence was particularly directed to issues in the Wakatipu Basin, rather than to the wider District.

579. In reply, Mr Barr noted that residential flat *"…sits within the definition of Residential Unit, therefore, if two Residential Units are allowed, there would be an expectation that a Residential Flat would be established with each Residential Unit. In addition, within a single building platform with two Residential Units there could be four separate living arrangements. From an effects based perspective this could be well beyond what was contemplated when the existing building platforms in the Rural General Zone were authorised."*[596]

580. Mr Barr also considered that in the Rural and Rural Lifestyle Zones, the size of a residential flat could be increased from 70m^2 to 150m^2 to address the concern raised by Mr Goldsmith that the 70m^2 size for a residential flat was arbitrary and related to an urban context. Mr Barr also considered that this solution would mean, among other things, that subdivision of residential flat from a residential unit should be a non-complying activity, and that the only amendment required is to the definition of residential flat which would therefore reduce the complexity

589 C Barr, Section 42A Report – Chapter 22, Page 12, Para 8.10
590 Submissions 411, 414
591 N Geddes, Evidence, Page 6, Paras 34 - 35
592 W Goldsmith , Evidence, Page 14, Paras 4.3 – 4.6 and Summary, Page 1, Para 2
593 Submission 515
594 Submission 535
595 B Farrell, Evidence , Page 36 Para 155
596 C Barr, Reply, Chapter 21, Page 18, Para 6.3

associated with controlling multiple residential units within a single building platform.[597] We note that Mr Barr provided a similar response in reply regarding Chapter 22.

581. Mr Barr's recommended amendment to the definition of residential flat was as follows;

"Means a residential activity that comprises a self-contained flat that is ancillary to a residential unit and meets all of the following criteria:

a. Has a total floor area not exceeding 70m2, and 150m² in the Rural Zone and Rural Lifestyle Zone, not including the floor area of any garage or carport;

b. contains no more than one kitchen facility;

c. is limited to one residential flat per residential unit; and

d. is situated on the same site and held in the same ownership as the residential unit, but may be leased to another party.

Notes:

a. A proposal that fails to meet any of the above criteria will be considered as a residential unit.
b. Development contributions and additional rates apply."

582. Mr Barr recommended that Rule 21.4.6 and 22.5.12 remain as notified.

583. Firstly, we note that as regards the application of this rule in the Wakatipu Basin, the notification of the Stage 2 Variations has overtaken this process. It has also involved, through the operation of Clause 16B of the First Schedule to the Act, transferring many of these submissions to be heard on the Stage 2 Variations.

584. While we agree with Mr Barr that the simplicity of the solution he recommended is desirable, we do note our unease about using a definition to set a standard for an activity[598]. In this instance, however, to remove the standard from the definition would require amendment to all zones in the PDP. We doubt there is scope in the submissions to allow the Council to make such a change. Subject to these concerns, Mr Barr's solution effectively addresses the issues around potential consequential subdivision effects from creating a density of dwellings within a building platform that would not be consistent with the objectives in the strategic chapters and in this chapter.

585. Accordingly, we recommend that aside from renumbering, Rules 21.4.6 and 22.5.12.1 remain as notified and that the definition of Residential Flat be worded as follows:

"Means a residential activity that comprises a self-contained flat that is ancillary to a residential unit and meets all of the following criteria:

a. the total floor area does not exceed:

i. 150m² in the Rural Zone and Rural Lifestyle Zone;

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[597] C Barr, Reply, Chapter 21, Pages 18 - 19, Para 6.5

[598] We note that the Stream 6 Hearing Panel raised the same concerns.

ii. 70m^2 *in any other zone;*

not including in either case the floor area of any garage or carport;

b. it contains no more than one kitchen facility;

c. is limited to one residential flat per residential unit; and

d. is situated on the same site and held in the same ownership as the residential unit, but may be leased to another party.

Notes:

a. A proposal that fails to meet any of the above criteria will be considered as a residential unit.

b. Development contributions and additional rates apply."

586. We return to the issue of density as it applies to other rules and the objectives in Chapter 22 later in this report.

6.8 Rules 21.4.7 & 21.4.8– Construction or Alteration of Buildings Within and Outside a Building Platform

587. As notified, Rule 21.4.7, provided for "*The construction and exterior alteration of buildings located within a building platform approved by resource consent, or registered on the applicable computer freehold register, subject to compliance with the standards in Table 3*." as a permitted activity.

588. As notified, Rule 21.4.8, provided for "The exterior alteration of any lawfully established building located outside of a building platform, subject to compliance with the standards in Table 3." as a permitted activity.

589. Two submissions sought that Rule 21.4.7 be retained[599] and one submission sought that the rule be replaced with the equivalent provisions of the ODP[600] which relate to Construction and Alteration of Residential Buildings located within an approved residential building platform or outside a residential building platform.

590. One submission sought that Rule 21.4.8 be retained[601], one submission sought that the activity status be changed to discretionary and one submission sought that the rule be replaced with the equivalent provisions of the ODP [602] which relate to Construction and Alteration of Residential Buildings located within an approved residential building platform or outside a residential building platform.

591. In the Section 42A Report, Mr Barr addressed these matters, noting that there was general support for the provisions, and that, as we noted above, he considered that permitted activity status would significantly reduce the number of consents without compromising environmental

599 Submissions 238, 608
600 Submission 145
601 Submission 608
602 Submission 145

outcomes.[603] Mr Barr also considered that Rule 21.4.8 was necessary to provide for minor alterations of buildings that were lawfully established prior to the ODP regime which established the requirement for a building platform.[604]

592. Mr Haworth, in evidence for UCES on these rules, expressed the view that permitted activity status would engender an "anything goes" attitude and there would be less scrutiny given to proposals, which often results in greater adverse effects[605]. Mr Haworth considered that the controlled activity status in the same form as in the ODP should be retained so that adverse effects on landscape were adequately controlled.[606]

593. There was no evidence from UCES as to why, after 15 years of experience of the ODP regime, that a controlled activity was a more appropriate approach than a permitted activity with appropriate standards. In particular, no section 32 evaluation was presented to us which would have supported an alternative and more regulated approach. UCES sought this relief for a number of rules in Chapter 21 and in each case, the same position applies. We do not consider it necessary to address the UCES submission further.

594. In response to our questions, Mr Barr, in reply, recommended an amendment to Rule 21.4.8 as notified, to clarify that the rule applied to situations where there was no building platform in place. Mr Barr's recommended wording was as follows;

"The exterior alteration of any lawfully established building located outside of a building platform where there is not an approved building platform in place, subject to compliance with the standards in Table 3."

595. We consider that Mr Barr's suggested rewording confuses rather than clarifies the position, because it refers both to a building outside a building platform and to there being no building platform; a situation which cannot in fact exist. The answer is to delete the words, "*located outside of a building platform*". However, we also envisage a situation where there is a building platform in place and an extension is proposed that would extend the existing dwelling beyond the building platform. The NZIA[607] submission sought to address that circumstance by seeking discretionary activity status. From our reading this is already addressed in Rule 21.4.10 (as notified) that applies to construction not provided for by the any other rule as a discretionary activity and therefore no additional amendment is required to address it.

596. We concur with Mr Barr as to the activity status, and accordingly recommend that Rules 21.4.7 be renumbered 21.4.6 and the wording and activity status remain unchanged other than referring to Tables 2 and 4 rather than Table 3. We further recommend that Rule 21.4.8 be renumbered 21.4.7, the activity status remain permitted and be worded as follows;

"The exterior alteration of any lawfully established building where there is no approved building platform on the site, subject to compliance with the standards in Table 2 and Table 4."

6.9 Rule 21.4.9 – Identification of Building Platform.

597. As notified, Rule 21.4.9, provided for "The identification of a building platform not less than 70m² and not greater than 1000m²." as a discretionary activity.

603 C Barr, Section 42A Report, Page 34, Para 11.13
604 C Barr, Section 42A Report, Page 34, Para 11.14
605 J Haworth, Evidence, Page 21, Para 152
606 J Haworth, Evidence, Page 21, Para 156
607 Submission 328

598. Three submissions sought that the rule be deleted[608].

599. Mr Barr, in the Section 42A Report, recorded the reasons for the requested deletion from two of the submitters as being that "*defaulting to a non-complying activity if outside these parameters is arbitrary because* 'if the effects of a rural building platform sized outside of this range can be shown to be appropriate, there is no reason it should not be considered on a discretionary basis'."[609]

600. Mr Barr, did not disagree with that reason but noted "*that it could create a potential for proposals to identify building platforms that are very large (while taking the risk of having the application declined) and this in itself would be arbitrary. Similarly, if the effects of a rural building platform are appropriate irrespective of the size it would more than likely accord with s104D of the RMA*." [610] In tabled evidence[611] for X-Ray Trust Limited, Ms Taylor agreed with Mr Barr's recommendation[612].

601. We agree with Mr Barr's reasoning. We recommend that these submissions are rejected and that Rule 21.4.9 be remain as worded, but be renumbered 21.4.10.

6.10 Rule 21.4.10 – Construction not provided for by any other rule.

602. As notified, Rule 21.4.10, provided for "The construction of any building including the physical activity associated with buildings including roading, access, lighting, landscaping and earthworks, not provided for by any other rule." as a discretionary activity.

603. Five submissions sought the provision be amended[613] as follows;

"The construction of any building including the physical activity associated with buildings not provided for by any other rule."

604. Mr Barr considered the need to separate farming activities from non-farming activities in the Section 42A Report and noted that roading, access, lighting, landscaping and earthworks associated with non-farming activities can all impact on landscape.[614]

605. While arguably, specific reference to the matters listed is unnecessary since all are 'associated' with construction (and ongoing use) of a building, we think it is helpful to provide clarification of the sort of activities covered, for the reason Mr Barr identifies. Accordingly, we recommend that 21.4.10 be renumbered 21.4.11 and that the wording and activity status remain as notified.

6.11 Rule 21.4.11 – Domestic Livestock

606. There were no submissions on this rule. We recommend it be adopted as notified but renumbered as 21.4.8.

608 Submissions 693, 702, 806
609 C Barr, Section 42A Report, Page 37, Para 11.26
610 C Barr, Section 42A Report, Page 37, Para 11.27
611 FS1349
612 L Taylor, Evidence, Appendix A, Page 8
613 Submissions 636, 643, 688, 693, 702
614 C Barr, Section 42A Report, Pages 36-37, Para 11.25

6.12 Rule 21.4.12 – Residential Flat; Rule 21.4.13 - Home Occupations

607. As notified, Rule 21.4.12, provided for "Residential Flat (activity only, the specific rules for the construction of any buildings apply)." as a permitted activity.

608. As notified, Rule 21.4.13, provided for "Home Occupation that complies with the standards in Table 5." as a permitted activity.

609. One submission sought that Rule 21.4.12 be retained[615]. One submission sought that Rules 21.4.12 and 21.4.13 be deleted[616]. The reason stated for this relief was that the submitter considered these consequential deletions were needed for clarity that any permitted activity not listed but meeting the associated standards is a permitted activity and as such negates the need for such rules.

610. Mr Barr did not address these submissions directly in the Section 42A Report and nor did we receive any direct evidence in support of the deletion of these particular rules.

611. We have already addressed this matter in Section 7.2 above, noting that it is not apparent that the effects of all non-listed activities can be appropriately avoided, remedied or mitigated in the Rural Zone across the District, such that a permitted activity status is the most appropriate way in which to achieve the objectives of Chapter 21. We note that in Stream 6, the council officers recommended that reference to "residential flat" be removed as it was part of a residential unit as defined. That Panel (differently constituted) concluded that, as the definition of "residential unit" included a residential flat, there was no need for a separate activity rule for residential flat, but it would assist plan users if the listing of residential unit identified that such activity included a residential flat and accessory buildings. For consistency, "residential flat" should be deleted from this chapter and recommended Rule 21.4.5 read:

One residential unit, including a single residential flat and any accessory buildings, within any building platform approved by resource consent.

612. We so recommend.

613. We recommend that Rule 21.4.13 be retained as notified and renumbered 21.4.12..

6.13 Rule 21.4.14 – Retail sales from farms

614. As notified, Rule 21.4.14, provided for, as a controlled activity:

"Retail sales of farm and garden produce and wine grown, reared or produced on-site or handicrafts produced on the site and that comply with the standards in Table 5.
Except roadside stalls that meet the following shall be a permitted activity:

a. *the ground floor area is less than 5m²*

b. *are not higher than 2.0m from ground level*

c. *the minimum sight distance from the stall/access shall be 200m*

d. *the minimum distance of the stall/access from an intersection shall be 100m and, the stall shall not be located on the legal road reserve.*

615 Submission 608
616 Submission 806

Control is reserved to all of the following:

- *The location of the activity and buildings*
- *Vehicle crossing location, car parking*
- *Rural amenity and landscape character..”*

as a controlled activity.

615. One submission sought that the rule be amended so as to provide for unrestricted retail[617] and one submission sought that it be amended to a permitted activity for the reason to encourage locally grown and made goods for a more sustainable future[618].

616. These submissions were not directly addressed in the Section 42A Report and nor did we receive any evidence directly in support of these submissions.

617. Given that lack of evidence we recommend that the submissions be rejected.

618. This rule, however, is an example of a situation as we identified in Section 7.5 above, where a permitted activity has been incorporated as an exception within a controlled activity rule. We recommend that the permitted activity be separated out as its own rule, and that the remainder of the rule be retained as notified.

619. Accordingly, we recommend that Rule 21.4.14 be renumbered as 21.4.16 and worded as follows;

Retail sales of farm and garden produce and wine grown, reared or produced on-site or handicrafts produced on the site and that comply with the standards in Table 6, not undertaken through a roadside stall under 21.4.14.

Control is reserved to:

a. the location of the activity and buildings

b. vehicle crossing location, car parking

c. rural amenity and landscape character..”

as a controlled activity.

620. In addition, we recommend a new permitted activity rule numbered 21.4.14 be inserted and worded as follows:

Roadside stalls that meet the standards in Table 6.

621. We further recommend that standards for roadside stalls be inserted into Table 6 worded as follows:

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617 Submission 806

618 Submission 238

21.9.3.1 *The ground floor area of the roadside stall must not exceed 5m²*

21.9.3.2 *The height must not exceed 2m²*

21.9.3.3 *The minimum sight distance from the roadside stall access must be at least 200m*

21.9.3.4 *The roadside stall must not be located on legal road reserve.*

6.14 Rule 21.4.15 – Commercial Activities ancillary to recreational activities

622. As notified, Rule 21.4.15 provided for:

"Commercial activities ancillary to and located on the same site as recreational activities." as discretionary activities.

623. One submission sought that the rule be deleted so as to provide for commercial and recreational activities on the same site[619].

624. This submission was not directly addressed in the Section 42A Report, other than implicitly, through a recommendation that it should be rejected as set out in Appendix 2[620].

625. Mr Brown in evidence for QPL, considered that the rule should be expanded to provide for *"commercial recreational activities"* as well as *"recreational activities"* so as to provide clarification between these two activities which have separate definitions.[621].

626. Mr Barr, in reply considered that the amendment recommended by Mr Brown went some way to meeting the request of the submitter[622] and recommended that the Rule 21.4.15 be amended as follows;

"Commercial activities ancillary to and located on the same site as commercial recreational or recreational activities."

627. We agree with Mr Brown that for the purposes of clarity, commercial recreational activities need to be incorporated into the rule. We heard no evidence in support of the rule being deleted.

628. Accordingly, we recommend that the activity status remain as discretionary, and that Rule 21.4.15 be renumbered as 21.4.17 and worded as follows;

"Commercial activities ancillary to and located on the same site as commercial recreational or recreational activities."

6.15 Rule 21.4.16 – Commercial Activities that comply with standards and Rule 21.5.21 Standards for Commercial Activities

629. As notified, Rule 21.4.16, provided for:

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619 Submission 806

620 C Barr, Section 42A Report, Appendix 2, Page 93

621 J Brown, Evidence, Page 14, Para 2.20 – 2.21

622 C Barr, Reply, Page 10. Para 4.8

"Commercial recreation activities that comply with the standards in Table 5."
as a permitted activity.

630. One submission sought that the rule be retained[623] and one submission sought that the rule be amended to include Heli-Skiing as a permitted activity[624].

631. Rule 21.5.21 (Table 5 Standards for Commercial Activities) needs to be read in conjunction with Rule 21.4.16. As notified it read as follows:

"Commercial recreation activity undertaken on land, outdoors and involving not more than 10 persons in any one group."

632. Non-compliance with this standard required consent as a discretionary activity.

633. Two submissions sought that Rule 21.5.21 be retained[625], three submissions sought the number of persons be increased to anywhere from 15 – 28[626] and one submission sought that number of persons in the group be reduced to 5[627].

634. The Section 42A Report did not address the issue of heli-skiing within the definition of commercial recreational activity.

635. Mr Dent in evidence for Totally Tourism, identified that heli-skiing fell with the definition of "commercial recreational activity". We agree. Mr Dent described a typical heli-skiing activity and referenced the informal airport rules that applied and that heli-skiing activities undertaken on crown pastoral and public conservation land already required Recreation Permits and concessions. To avoid the additional regulation involved in requiring resource consents which would be costly and inefficient Mr Dent recommended that Rule 21.4.6 be reworded as follows;

"Commercial recreation activities that comply with the standards in Table 5, and commercially guided heli-skiing."[628]

636. This would mean that commercially guided heli-skiing would be a permitted activity, but not be subject to the standards in Table 5. Having agreed with Mr Dent that heli-skiing activities fall within the definition of commercial recreational activity, we do not see how an exemption exempting commercially guided heli-skiing from the standard applied to any other commercial recreation activity for commercially guided heli-skiing can be justified. We address the issue of the numbers of person in a group below. We therefore recommend that the submission of Totally Tourism be rejected.

637. In relation to the permitted activity standard 21.5.21, Mr Barr expressed the opinion in the Section 42A Report that

"… that the limit of 10 people is balanced in that it provides for a group that is commensurate to the size of groups that could be contemplated for informal recreation activities. Ten persons

623 Submission 806
624 Submission 571
625 Submission 315
626 Submissions 122, 621, 624
627 Submission 489
628 S Dent, Evidence, Page 13, Para 83

is also efficient in that it would fit a min-van or a single helicopter, which I would consider as one group."[629]

638. Mr Brown in evidence for QPL supported the group size of 10 person, as it recognised the small scale, low impact outdoor commercial recreation activities that can be accommodated without the resulting adverse effects on the environment and hence no need to obtain resource consent, compared to large scale activities that do require scrutiny.[630]

639. Mr Vivian, in evidence for Bungy NZ Limited and Paul Henry Van Asch, was of the opinion that the threshold of 5 people in a group (in the ODP) worked well and changing it to 10 people *"… would significantly change how those commercial guided groups are perceived and interact with other users in public recreation areas*"[631]. Mr Vivian, also noted potential safety issues as from his experience of applying for resource consents for such activities, safety was a key issue in consideration of any such application.

640. Ms Black, in evidence for RJL, was of the view that the number of persons should align with that of other legislation such as the Land Transport Act 2005, which provides for small passenger vehicles that carry 12 or less people and Park Management plans that provide concession parties of up to 15.[632] Mr Farrell, in evidence for RJL, concurred with Ms Black as to the benefit of alignment between the documents and recommended that the rule be reworded as follows:

"Commercial recreation activity undertaken on land, outdoors and involving not more than ~~10~~ 15 persons in any one group (inclusive of guides)."[633]

641. In reply Mr Barr, recommended increasing the number of persons from 10 to 12 to align with the minivan size, for the reasons set out in Ms Black's evidence.[634]

642. Safety in regard to group size may be a factor, but we think that there is separate legislation to address such matters. The alignment between minivan size and other legislation as to the size of any group may be a practical consideration. However, we consider that the more important point is that there are no implications in terms of effects. We also recommend that in both Rules 21.4.16 and Rule 21.5.21, the defined term by used (i.e. commercial recreation**al** activity) for clarity.

643. Accordingly we recommend that apart from that minor clarification and renumbering, Rule 21.4.16 be renumbered 21.4.13 with the Table reference amended, but otherwise remain as notified, and that Rule 21.5.21 be renumbered and worded as follows:

Commercial recreational activities must be undertaken on land, outdoors and must not involve more than 12 persons in any one group.

6.16 Rule 21.4.17 – Cafes and Restaurants

644. There were no submissions on this rule. We recommend it be retained as notified and renumbered as 21.4.18.

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629 C Barr, Section 42A Report, Page 48, Para 13.35
630 J Brown, Evidence, Page 14, Para 2.19
631 C Vivian, Evidence, Pages 26 – 27, Para 5.7
632 F Black, Evidence, Pages 7 – 8, Para 3.24 – 3.25
633 B Farrell, Evidence, Page 27, Para 124
634 C Barr, Reply, Page 10, Para 4.8

6.17 Rule 21.4.18 – Ski Area Activities within a Ski Area Sub Zone

645. As notified, Rule 21.4.18, provided for:

"Ski Area Activities within the Ski Area Sub Zone."

as a permitted activity.

646. One submission sought that the rule be amended to add *"subject to compliance with the standards in Table 7"*[635], as Table 1 does not specify what standards apply for an activity to be permitted (Table 7 as notified being the standards for Ski Area Activities within the Ski Area Sub Zones). Two submissions sought that the rule be moved completely into Table 7[636]. One submission sought that the Rule be amended as follows;

"Ski Area Activities within the Ski Area Sub Zone and Tourism Activities within the Cardrona Alpine Resort (including Ski Area Activities)."[637].

647. Mr Barr, in the part of the Section 42A Report addressing the submission of Soho Ski Area Ltd, noted that Table 1 generally set out activities and the individual tables set out the standards for those activities.[638] Mr Barr identified issues with Table 7. However, we address those matters later in this report. In addressing submissions and evidence on Objective 21.2.6 and the associated policies above, we have already addressed the requested insertion of reference to tourism activities and the specific identification of the Cardrona Alpine Resort, concluding that recognition of tourism activities was appropriate but that the specific identification of the Cardrona Alpine Resort was not; so we do not repeat that here.

648. In Section 7.1 above, we set out our reasoning regarding the overall structural changes to the tables and activities. However, we did not address Ski Activities within Ski Area Sub-Zones in that section. We found the rules on this subject matter to be complicated and the matters listed as standards in Table 7 to actually be activities. In order to provide clarity, we recommend that a separate table be created and numbered to provide for *"Activities within the Ski Area Sub Zones".*

649. None of the submissions on Rule 21.4.18 sought a change to the activity status for the ski area activities and accordingly, we do not recommend any substantive change to the rule. The end result is therefore that we recommend that the submissions seeking that Rule 21.4.18 be amended to refer to the Table 7 standards , and that it be shifted into a new Table 9, both be accepted in part.

6.18 Rule 21.4.19 – Ski Area Activities not located within a Ski Area Sub Zone

650. As notified, Rule 21.4.19, provided for:

"Ski Area Activities not located within a Ski Area Sub Zone, with the exception of heli-skiing and non-commercial skiing."

as a non-complying activity.

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635 Submission 407

636 Submissions 610, 613

637 Submission 615

638 C Barr, Section 42A Report, Page 57, Para 14.19

651. One submission sought that the rule be deleted[639] and one submission sought that the rule be amended or replaced to change the activity status from non-complying to discretionary[640].

652. In the Section 42A Report, Mr Barr considered that purpose of the rule was to encourage Ski Area Activities to locate within the Ski Area Sub Zones, in part to reduce the adverse effects of such activities on ONLs.[641] We agree. The objectives and policies we addressed above reinforce that position.

653. Mr Barr also noted that his recommended introduction of a policy to provide for non-road transportation systems such as a passenger lift system, which would cross land that is not within a Ski Area Sub Zone, would be in potential conflict with the rule. Accordingly, Mr Barr recommended an exception for passenger lift systems.[642]

654. Mr Brown, in evidence for Mt Cardrona Station Ltd, agreed with Mr Barr's recommended amendment, but noted that there was no rule identifying the status of passenger lift systems. Mr Brown considered that the status should be controlled or restricted discretionary, subject to appropriate assessment matters.[643] In his summary presentation to us at the hearing, Mr Brown advised that having reflected on this matter further, he considered restricted discretionary activity status to be appropriate. He recommended a new rule as follows:

Passenger lift systems not located within a Ski Area Sub Zone.

Discretion is reserved to all of the following:

a. The route of the passenger lift system and the extent to which the passenger lift system breaks the line and form of the landscape with special regard to skylines, ridges, hills and prominent slopes

b. Whether the materials and colours to be used are consistent with the rural landscape of which the passenger lift system will form a part

c. Whether the geotechnical conditions are suitable for the passenger lift system and the extent to which they are relevant to the route.

d. Lighting

e. The ecological values of the land affected by structures and activities

f. Balancing environmental considerations with operational requirements

g. The positive effects arising from directly linking settlements with ski area sub zones and providing alternative non-vehicular access.[644]

639 Submission 806
640 Submission 615
641 C Barr, Section 42A Report, Page 64, Para 14.53
642 C Barr, Section 42A Report, Pages 64 - 65, Para 14.55
643 J Brown, Evidence, Page 25, Par 2.41
644 J Brown, Summary of Evidence, Pages 4-5, Para 17

655. In reply Mr Barr, noted that Mr Brown's recommended amendment would also be subject to the District Wide rules regarding earthworks and indigenous vegetation clearance and as such, Mr Barr considered the activity status and matters of discretion to be appropriate.[645]

656. Also in reply Mr Barr, while in accepting some of the changes suggested by Mr Brown, recommended that activity status for Ski Area Activities not located within a Ski Area Sub Zone remain as non-complying activities, with exceptions as follows;

Ski Area Activities not located within a Ski Area Sub Zone, with the exception of the following:

a. *Commercial heli skiing not located within a Ski Area Sub Zone is a commercial recreation activity Rule 21.4.16 applies*

b. *Passenger Lift Systems not located within a Ski Area Sub Zone shall be a restricted discretionary activity.*

Discretion is reserved to all of the following:

a. *The route of the passenger lift system and the extent to which the passenger lift system breaks the line and form of the landscapes with special regard to skylines, ridges, hills and prominent slopes*

b. *Whether the materials and colours to be used are consistent with the rural landscape of which the passenger lift system will form a part*

c. *Whether the geotechnical conditions are suitable for the passenger lift system and the extent to which they are relevant to the route*

d. *Lighting*

e. *The ecological values of the land affected by structures and activities*

f. *Balancing environmental considerations with operational requirements*

g. *The positive effects arising from directly linking settlements with ski area sub zones and providing alternative non-vehicular access.*[646]

657. Mr Barr provided justification for these changes by way of a brief section 32AA evaluation, noting the effectiveness of the provision with respect to cross zoning regulatory differences.

658. As we have addressed above, we consider that the Ski Area Activities not located within a Ski Area Sub Zone should be non-complying activities as this aligns with the objectives and policies. We think a description of the exceptions is appropriate, but that should not effectively include another rule with different activity status. Rather, if an exception is to have a different activity status, that should be set out as a separate rule.

659. We now turn to the activity status of a passenger lift system outside a Ski Area Sub Zone. As well as the evidence we heard, the Hearing Panel for Stream 11 (Ski Area Sub Zones) heard further evidence on this issue, with specific reference to particular ski areas. That Panel has

645 C Barr, Reply, Page 38 – 39, Para 14.3 – 14.5

646 C Barr, Reply, Appendix 1, Page 21-11

recommended to us, for the reasons set out in Report 15, that passenger lift systems outside of a Ski Area Sub Zone should be a restricted discretionary activity.

660. We accept and adopt the recommendations of the Stream 11 Panel for the reasons given in Report 15.

661. We recommend that Rule 21.4.19 therefore be reworded, and that a new rule numbered and worded as follows be inserted to address passenger lift systems located outside of Ski Area Sub-Zones. We also recommend that these rules be relocated to under the heading "Other Activities" in Table 1.

Table 1	Activities Rural Zone	Activity Status
21.4.25	Ski Area Activities not located within a Ski Area Sub-Zone, with the exception of the following: a. non-commercial skiing which is permitted as recreation activity under Rule 21.4.22; b. commercial heli-skiing not located within a Ski Area Sub-Zone, which is a commercial recreational activity to which Rule 21.4.13 applies; b. Passenger Lift Systems to which Rule 21.4.24 applies.	NC
21.4.24	Passenger Lift Systems not located within a Ski Area Sub-Zone Discretion is restricted to: a. The Impact on landscape values from any alignment, design and surface treatment, including measures to mitigate landscape effects including visual quality and amenity values. b. The route alignment and the whether any system or access breaks the line and form of skylines, ridges, hills and prominent slopes. c. Earthworks associated with construction of the Passenger Lift System. d. The materials used, colours, lighting and light reflectance. e. Geotechnical matters. f. Ecological values and any proposed ecological mitigation works. g. Balancing environmental considerations with operational requirements of Ski Area Activities. h. The positive effects arising from providing alternative non-vehicular access and linking Ski Area Sub-Zones to the roading network.	RD

6.19 Table 1 - Rule 21.4.20 – Visitor Accommodation

662. As notified, Rule 21.4.20, provided for:

"Visitor Accommodation."

as a discretionary activity.

663. One submission sought a less restrictive activity status[647] and one submission sought that visitor accommodation in rural areas be treated differently to that in urban areas due to their placing less demand on services[648].

664. In the Section 42A Report, Mr Barr considered that comparison of urban area provisions with rural area provision should be treated with caution as those urban provisions were not part of the Stage 1 review of the District Plan. Mr Barr also considered that nature and scale of the visitor accommodation activity and the potential selectivity of the location would be the main factors considered in relation to any proposal. He therefore recommended that the activity status remain discretionary.[649]

665. We heard no evidence in support of the submissions.

666. For the reasons set out in Mr Barr's Section 42A Report, we recommend that other than renumbering it, the rule remain as notified, subject to a consequential amendment arising from our consideration of visitor accommodation in Ski Area Sub Zones discussed below.

6.20 Table 1 - Rule 21.4.21 – Forestry Activities in Rural Landscapes

667. As notified, Rule 21.4.21, provided for:

"Forestry Activities in Rural Landscapes."

as a discretionary activity.

668. Two submissions sought that the activity status be amended to discretionary[650]. Mr Barr, in the Section 42A Report, identified that forestry activities were discretionary in the Rural Landscape areas (Rule 21.4.21) and non-complying in ONLs/ONFs (Rule 21.4.1).[651] We heard no evidence in support of the submissions. In reply, Mr Barr included some revised wording to clarify that it is the Rural Landscape Classification areas that the provision applies to.[652]

669. In the report on Chapter 6 (Report 3), the Hearing Panel recommended that the term used to describe non-outstanding rural landscapes be Rural Character Landscapes. That term should as a consequence be used in this context.

670. The submissions appear to be seeking to retain what was in the Plan as notified. We agree with Mr Barr and recommend that forestry activities remain discretionary in "Rural Character Landscapes".

6.21 Rule 21.4.22 – Retail Activities and Rule 21.4.23 – Administrative Offices

671. Both of these rules provide for activities within the Rural Industrial Sub-Zone. No submissions were received on these rules. We recommend they be retained as notified, but relocated into Table 10 which lists the activities specifically provided for in this Sub-Zone.

6.22 Rule 21.4.24 – Activities on the surface of lakes and rivers

672. As notified, Rule 21.4.24, provided for:

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647 Submission 806

648 Submission 320

649 C Barr, Section 42A Report, Page 103, Para 201.19

650 Submissions 339, 706

651 C Barr, Section 42 A Report, Page 43, Para 13.5

652 C Barr, Reply, Appendix 1, Page 21-11

"Activities on the surface of lakes and rivers that comply with Table 9."

as a permitted activity.

673. One submission generally supported this provision[653]. Other submissions that were assigned to this provision in Appendix 2 of the section 42A Report, actually sought specific amendments to Table 9 and we therefore deal with those requests later in this report.

674. We have already addressed requests for repositioning the provisions regarding the surface of water in Section 3.4 above, and concluding that reordering and clarification of the activities and standards in the surface of lakes and river table to better identify the activity status and standards was appropriate. Accordingly, we recommend that provision 21.2.24 be moved to Table 12 and renumbered, but that the activity status remain permitted, subject to the provisions within renumbered Table 13.

6.23 Rule 21.4.25 – Informal Airports

675. As notified, Rule 21.4.25, provided for:

"Informal airports that comply with Table 6."

as a permitted activity.

676. The submissions on this rule are linked to the Rules 21.5.25 and 21.5.26, being the standards applying to informal airports. It is appropriate to deal with those two rules at the same time as considering Rule 21.4.25.

677. As notified, the standards for informal airport Rules 21.5.25 and 21.5.26 (Table 6) read as follows;

	Table 6 - Standards for Informal Airports	**Non-Compliance**
21.5.25	**Informal Airports Located on Public Conservation and Crown Pastoral Land** Informal airports that comply with the following standards shall be permitted activities: 21.5.25.1 Informal airports located on Public Conservation Land where the operator of the aircraft is operating in accordance with a Concession issued pursuant to Section 17 of the Conservation Act 1987; 21.5.25.2 Informal airports located on Crown Pastoral Land where the operator of the aircraft is operating in accordance with a Recreation Permit issued pursuant to Section 66A of the Land Act 1948; 21.5.25.3 Informal airports for emergency landings, rescues, fire-fighting and activities ancillary to farming activities; 21.5.25.4 In relation to points (21.5.25.1) and (21.5.25.2), the informal airport shall be located a minimum	D

653 Submission 307

	Table 6 - Standards for Informal Airports	Non-Compliance
	distance of 500 metres from any formed legal road or the notional boundary of any residential unit or approved building platform not located on the same site.	
21.5.26	**Informal Airports Located on other Rural Zoned Land** Informal Airports that comply with the following standards shall be permitted activities: 21.5.26.1 Informal airports on any site that do not exceed a frequency of use of 3 flights* per week; 21.5.26.2 Informal airports for emergency landings, rescues, fire-fighting and activities ancillary to farming activities; 21.5.26.3 In relation to point (21.5.26.1), the informal airport shall be located a minimum distance of 500 metres from any formed legal road or the notional boundary of any residential unit of building platform not located on the same site. * note for the purposes of this Rule a flight includes two aircraft movements i.e. an arrival and departure.	D

678. There were eleven submissions that sought that Rule 21.4.25 be retained[654], and six submissions that sought it be deleted[655] for various reasons including seeking the retention of ODP rules.

679. For Rule 21.5.25, submissions variously ranged from:
   a. Retain as notified[656]
   b. Delete provision[657]
   c. Delete or amend (reduce) set back distances in 21.5.25.4
   d. Amend permitted activities list 21.5.25.3 to include operational requirements of Department of Conservation[658]

680. For Rule 21.5.26, submissions variously ranged from:
   a. Retain as notified[659]
   b. Delete provision[660]
   c. Delete or amend (increase) number of flights in 21.5.26.1[661]
   d. Delete or amend (reduce) set back distances in 21.5.26.3[662]
   e. Amend permitted activities list 21.5.26.2 to only to emergency and farming[663], or amend to include private fixed wing operations and flight currency requirements[664]

654 Submissions 563, 573, 608, 723, 730, 732, 734, 736, 738, 739, 760, 843
655 Submission 109, 143, 209, 213, 500, 833
656 Submissions 315, 571, 713
657 Submissions 105, 135, 162, 211, 500, 385
658 Submission 373
659 Submissions 571, 600
660 Submissions 93, 105, 162, 209,211, 385, 883
661 Submissions 122, 138, 221, 224, 265, 405, 423, 660, 662
662 Submissions 106, 137, 138, 174, 221, 265, 382, 405, 423, 660, 723, 730, 732, 734, 736, 738, 739, 760, 784, 843
663 Submission 9
664 Submission 373

f. Amend 21.5.26.1 to read as follows "Informal Airports where sound levels do not exceed limits prescribed in Rule 36.5.14".

681. In the Section 42A Report, Mr Barr recorded that the change from the system under the ODP where all informal airports required resource consents, to permitted activity status under the PDP was motivated in part by a desire to reduce the duplication of authorisations that were already required from the Department of Conservation or Commissioner of Lands and that details were set out in the Section 32 Report.[665] Mr Barr also recorded that noise standards were not part of this Chapter, but were rather considered under the Hearing Stream 5 (District Wide Provisions).[666]

682. Our understanding of the combined rules was assisted by the evidence of Dr Chiles. He explained the difficulty in comprehensively quantifying the noise effects from infrequently used airports. We understood that the two New Zealand Standards for airport noise (NZ6805 and NZS6807) required averaging of aircraft sound levels over periods of time that would not adequately represent noise effects from sporadic aircraft movements that are usually associated with informal airports.

683. Dr Chiles explained that the separation distance of 500m required by Rules 21.5.25.4 and 21.5.26.3 should result in compliance with a 50 DB L_{dn} criterion for common helicopter flights unless there were more than approximately 10 flights per day.[667] Dr Chiles was also satisfied that for fixed wing aircraft, at 500m to the side of the runway there would be compliance with 55 dB L_{dn} and 95 dB L_{AE} for up to 10 flights per day. However, he noted, compliance off the end of the runway may not be achieved until approximately 1 kilometre away.[668]

684. For those occasions where compliance with the noise criteria referred to above could not be achieved, Dr Chiles concluded that the relevant rules in Chapter 36 (recommended Rules 36.5.10 and 36.5.11) would apply. As we understood his evidence, the purpose of the informal airport rules in this zone are to provide a level of usage as a permitted activity that could be expected to comply with the rules in Chapter 36, but compliance would be expected nonetheless.

685. Mr Barr reviewed all the evidence provided in his Reply Statement and recommended amendments to the rules:
   a. providing for Department of Conservation operations on Conservation or Crown Pastoral Land;
   b. requiring 500m separation from zone boundaries, but not road boundaries; and
   c. providing for informal airports on land other than Conservation or Crown Pastoral Land to have up to 2 flights per day (instead of 3 per week).

686. We agree that the provision of some level of permitted informal activity in the Rural Zone is appropriate, as opposed to the ODP regime where all informal airports require consent. While we heard from submitters who considered more activity should be allowed as of right, and others who considered no activity should be allowed, we consider Mr Barr and Dr Chiles have proposed a regime that will facilitate the use of rural land by aircraft while protecting rural amenity values. Consequently, we recommend that Rule 21.4.25 be renumbered and amended

665 C Barr, Section 42A Report, Page 71, Paras 16.6 – 16.7
666 C Barr, Section 42A Report, Pages 70 – 71, Paras 16.3 – 16.4
667 Dr S Chiles, EiC, paragraph 5.1
668 ibid, paragraph 5.2

to refer to the standards in Table 7, and that Rules 21.5.25 and 21.5.26 be renumbered and revised to read:

	Table 7 - Standards for Informal Airports	**Non-Compliance**
21.10.1	**Informal Airports Located on Public Conservation and Crown Pastoral Land** Informal airports that comply with the following standards shall be permitted activities: 21.10.1.1 Informal airports located on Public Conservation Land where the operator of the aircraft is operating in accordance with a Concession issued pursuant to Section 17 of the Conservation Act 1987; 21.10.1.2 Informal airports located on Crown Pastoral Land where the operator of the aircraft is operating in accordance with a Recreation Permit issued pursuant to Section 66A of the Land Act 1948; 21.10.1.3 Informal airports for emergency landings, rescues, fire-fighting and activities ancillary to farming activities, or the Department of Conservation or its agents; 21.10.1.4 In relation to Rules 21.10.1.1 and 21.10.1.2, the informal airport shall be located a minimum distance of 500 metres from any other zone or the notional boundary of any residential unit or approved building platform not located on the same site.	D
21.10.2	**Informal Airports Located on other Rural Zoned Land** Informal Airports that comply with the following standards shall be permitted activities: 21.10.2.1 Informal airports on any site that do not exceed a frequency of use of 2 flights* per day; 21.10.2.2 Informal airports for emergency landings, rescues, fire-fighting and activities ancillary to farming activities; 21.10.2.3 In relation to rule 21.10.2.1, the informal airport shall be located a minimum distance of 500 metres from any other zone or the notional boundary of any residential unit of building platform not located on the same site. * note for the purposes of this Rule a flight includes two aircraft movements i.e. an arrival and departure.	D

6.24 Rule 21.4.26 – Building Line Restrictions

687. As notified, Rule 21.4.26, provided for:

"Any building within a Building Restriction Area identified on the Planning Maps."
as a noncomplying activity.

688. The only submission on this rule[669] related to a specific building restriction area adjoining and over the Shotover River delta. That submission was deferred to be heard in Hearing Stream 13. We recommend the rule be retained as notified.

6.25 Rule 21.4.27 – Recreational Activities

689. This rule provided for recreation and/or recreational activities to be permitted. There were no submissions on this rule. We recommend it be retained as notified but relocated and renumbered to be the first activity listed under the heading "Other Activities".

6.26 Rules 21.4.28 & 21.4.29 - Activities within the Outer Control Boundary at Queenstown and Wanaka Airports

690. As notified, Rule 21.4.28, provided for:

> *"New Building Platforms and Activities within the Outer Control Boundary - Wanaka Airport*
> *On any site located within the Outer Control Boundary, any new activity sensitive to aircraft noise or new building platform to be used for an activity sensitive to aircraft noise (except an activity sensitive to aircraft noise located on a building platform approved before 20 October 2010)."*
>
> as a prohibited activity.

691. Two submissions sought that the provision be retained[670]. One submission sought the that provision be deleted or be amended so that the approach applied to ASANs located within the Outer Control Boundary, whether in the Airport Mixed Use Zone or the Rural Zone[671], was consistent.

692. The Section 42A Report did not directly address the relief sought by QPL as it applied to this provision. As with his approach to Objective 21.2.7 and the associated policies, Mr Barr did not address this provision directly in the Section 42A Report apart from in Appendix 1, where Mr Barr recommended that the provision be retained[672]. The only additional evidence we received was from was Ms O'Sullivan. She explained that Plan Changes 26 and 35 to the ODP had set up regimes in the rural area surrounding Wanaka and Queenstown Airports respectively prohibiting the establishment of any new Activities Sensitive to Aircraft Noise (ASANs) within the OCB of either airport[673]. She supported Mr Barr's recommendation to continue this regime in the PDP.

693. We agree with Mr Barr and Ms O'Sullivan. These rules continue the existing resource management regime. We recommend that apart from renumbering, the provision remain worded as notified.

694. As notified, Rule 21.4.29, provided for:

> *"Activities within the Outer Control Boundary - Queenstown Airport*
> *On any site located within the Outer Control Boundary, which includes the Air Noise Boundary, as indicated on the District Plan Maps, any new Activity Sensitive to Aircraft Noise."*
> as a prohibited activity.

669 Submission 806, opposed by FS1340
670 Submissions 433, 649
671 Submission 806
672 C Barr, Section 42A Report, Appendix 1
673 K O'Sullivan, EiC, Section 2

695. Three submissions sought that the provision be retained[674]. Two submissions sought that the provision be deleted[675]. One submission sought the provision be amended to excluded tourism activities from being subject to the provision[676].

696. The Section 42A Report did not directly address the relief sought by Te Anau Developments Limited (607) as it applied to this provision. Mr Barr, as we noted above, did not address this provision directly in the Section 42A Report apart from in Appendix 1, where he recommended that the provision be retained[677]. Ms O'Sullivan, as discussed above, supported Mr Barr's recommendation.[678]

697. Mr Farrell, in evidence for Te Anau Developments Limited, considered that the provision prohibited visitor accommodation and community activities that could contribute to the benefits of tourism activities. He was of the view that there was a lack of policy and evidence to justify a prohibited classification of visitor accommodation and community activities.[679]

698. Mr Farrell went on to recommend that the rule or the definition of Activities Sensitive to Aircraft Noise be amended to:

> *"a. Exclude tourism activities (as sought by Real Journeys[680]); or*
>
> *b. Exclude visitor accommodation and community activities; or*
>
> *c. Alter the activity status could be amended [sic] so that tourism, visitor accommodation, and community activities are classified as discretionary activities."*[681]

699. From a review of the Te Anau Developments Limited submission, there does not appear to be a reference to an amendment to the definition of 'Activities Sensitive to Aircraft Noise'. Rather, it seeks to exclude "tourism activities" from the rule. As such, we think that Mr Farrell's recommended amendments to the definition are beyond scope, because the submission is specific to this rule and the exclusion he recommended would apply also to Wanaka Airport. In addition, it is not axiomatic that "tourism activities" includes visitor accommodation.

700. As to Mr Farrell's assertion that there is a lack of policy and evidence to justify the prohibited activity classification, we are aware that this provision was part of the PC 35 process which went through to thorough assessment in the Environment Court. While we are not bound to reach the same conclusion as the Environment Court, Mr Farrell did not in our view present any evidence other than claimed benefits from tourism to support his position. In particular, he did not address the extent to which those benefits would be reduced if the rule remained as notified, or the countervailing reverse sensitivity effects on the airport's operations if it were to

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674 Submission 271, 433, 649

675 Submissions 621, 658

676 Submission 607

677 C Barr, Section 42A Report, Appendix 1

678 K O'Sullivan, Evidence , Page 7, Para 4.3

679 B Farrell, Evidence, Page 25, Paras 112 - 115

680 On review of Submission 621 (submission point 81) RJL only sought that Rule 21.4.29 be deleted. The submission by Te Anau Developments Limited (607) sought the inclusion of "excluding tourism activities" within the rule.

681 B Farrell, Evidence, Page 26, Para 116

be amended as suggested so as to call into question the appropriateness of the Environment Court's conclusion.

701. Accordingly, we recommend that apart from renumbering, that provision 21.4.29 remain worded as notified, but renumbered.

6.27 Mining Activities - Rule 21.4.30 and 21.4.31

702. As notified, Rule 21.4.30 stated:

The following mining and extraction activities are permitted:

a. Mineral prospecting

b. Mining by means of hand-held, non-motorised equipment and suction dredging, where the total motive power of any dredge does not exceed 10 horsepower (7.5 kilowatt); and

c. The mining of aggregate for farming activities provided the total volume does not exceed 1000m³ in any one year

d. The activity will not be undertaken on an Outstanding Natural Feature.

703. The submissions on Rule 21.4.30 variously sought:
   a. to add 'exploration' to the list of activities and include motorised mining devices [682]
   b. to add reference to landscape and significant natural areas as areas where the activity cannot be undertaken[683]
   c. to delete the restriction under (d) requiring the activity not to be undertaken on Outstanding Natural Features.[684]
   d. to delete the requirement under (c) restricting the mining of aggregate of 1000m^3 in any one year to "*farming activities*"[685]
   e. amendments to ensure sensitive aquifers are not intercepted, and to address rehabilitation.[686]

704. It is also appropriate to consider Rule 21.4.31 at this time, as that rule as notified provided for 'exploration' as a controlled activity. As notified, 21.4.31 stated:

Mineral exploration that does not involve more than 20m³ in volume in any one hectare.

Control is reserved to all of the following:

- *The adverse effects on landscape, nature conservation values and water quality.*

Rehabilitation of the site is completed that ensures:

- *the long term stability of the site.*

682 Submission 519
683 Submission 339, 706
684 Submission 519
685 Submission 806
686 Submission 798

- *that the landforms or vegetation on finished areas are visually integrated into the landscape.*

- *water quality is maintained.*

- *that the land is returned to its original productive capacity.*

705. Two submissions[687] to this rule sought the addition of indigenous vegetation as an alternative state that a site should be rehabilitated to.

706. In the Section 42A Report[688], Mr Barr noted that the NZTM submission seeking to add mineral exploration to Rule 21.4.30, was silent on the deletion of "*mineral exploration*" as a controlled activity in Rule 21.4.31. Mr Barr went on to explain that in his view, that while he accepted the submitter's request to add a definition of mineral exploration, that activity should remain a controlled activity. Mr Vivian agreed with Mr Barr that while NZTM sought permitted activity for mineral exploration, it did not seek the deletion of Rule 21.4.31 and as such Mr Vivian saw no point in adding mineral exploration to Rule 21.4.30[689]. We agree and recommend that the request for mineral exploration as a permitted activity be rejected and that it remain a controlled activity.

707. We did not receive any evidence on the submission from Queenstown Park Ltd, seeking the expansion of the permitted activity status for mining aggregate (1000m^3 in any one year), for activities not restricted to farming. The Section 32 Report records that the activities in Rules 21.4.30 and 21.4.31 were retained from the ODP with minor modifications to give effect to Objectives and Policies 6.3.5, 21.3.5, 21.2.7 and 21.2.8 (as notified).[690] We do not find the analysis very helpful. On the face of the matter, if the activity is acceptable as a permitted activity for one purpose, it is difficult to understand why it should not be permitted if undertaken for a different purpose. However, in this case, the purpose of the aggregate extraction is linked to the scale of effects.

708. Extraction of 1000m³ of aggregate on a relatively small rural property in order that it might be utilised off-site has an obvious potential for adverse effects. Limiting use of aggregate to farming purposes serves a useful purpose in this regard as well as being consistent with policies seeking to enable farming activities.

709. We therefore recommend that the submission from Queenstown Park Limited be rejected.

710. Mr Barr, in the Section 42A Report, did not consider it necessary to add reference to landscape and significant natural areas as areas where the activity cannot be undertaken, given that standards regarding land disturbance and vegetation clearance are already provided for in in Chapter 33.[691] We heard no evidence in support of the submission. Relying on the evidence of Mr Barr, we recommend that the submission of Mr Atly and Forest & Bird New Zealand be rejected.

711. Mr Barr, in the Section 42A Report, agreed with the submission of Forest & Bird and Mr Atly that rehabilitation to 'indigenous vegetation' may be preferable to rehabilitating disturbed land

687 Submissions 339, 706
688 C Barr, Section 42A Report, Page 108, Para 21.21
689 C Vivian, Evidence, Page 25, Para 4.122
690 C Barr, Section 42A Report, Page 87
691 C Barr, Section 42A Report, Page 108-109, Para 21.23

to its original capacity in some circumstances[692]. We agree with Mr Barr that parameters should be included, so that where the land cover comprised indigenous vegetation coverage prior to exploration indigenous vegetation planted as part of rehabilitation must attain a certain standard. We also agree with Mr Barr that it would not be fair on persons responsible for rehabilitation to require indigenous vegetation rehabilitation if the indigenous vegetation didn't comprise a minimum coverage or the indigenous vegetation had been cleared previously for other land uses.

712. Accordingly, we recommend that that an additional bullet point to be added to the matters of control, under Rule 21.4.31, as follows;

Ensuring that the land is rehabilitated to indigenous vegetation where the pre-existing land cover immediately prior to the exploration, comprised indigenous vegetation as determined utilising Section 33.3.3 of Chapter 33.

713. We also consider the matter commencing "Rehabilitation of the site" should be amended by the inclusion of "ensuring" at the commencement to make it a matter of control.

714. Mr Vivian supported the deletion of Rule 21.4.30(d) on the basis that the scale of the activities set out in 21.4.30 (a) and (b) were small and usually confined to river valleys.[693] In addition, Mr Vivian noted that the activities in 21.4.30(c) were potentially of a larger scale and as they were permitted on an annual basis, there was the potential for adverse effects on landscape integrity over time. Mr Vivian concluded that 21.4.30(d) should be combined into Rule 21.4.30(c).

715. Having considered Mr Vivian's evidence in combination with the submissions lodged, we consider it appropriate to create a table containing standards which mining and exploration activities have to meet. In coming to this conclusion we note that notified rule 21.4.30(d) is expressed as a standard, rather than an activity.

716. Consequently, we recommend the insertion of Table 8 which reads:

	Table 8 – Standards for Mining and Extraction Activities		**Non-Compliance**
21.11.1	21.11.1.1	The activity will not be undertaken on an Outstanding Natural Feature.	NC
	21.22.1.2	The activity will not be undertaken in the bed of a lake or river.	

717. With that change, we agree with Mr Vivian's suggestion and recommend that Rules 21.4.30 and 21.4.31 read as follows:

Rule 21.4.29 - Permitted:
The following mining and extraction activities, that comply with the standards in Table 8 are permitted:

a. Mineral prospecting.

692 C Barr, Section 42A Report, Page 109, Para 21.24

693 C Vivian, Evidence, Page 25, Para 4.125

b. Mining by means of hand-held, non-motorised equipment and suction dredging, where the total motive power of any dredge does not exceed 10 horsepower (7.5 kilowatt); and

c. The mining of aggregate for farming activities provided the total volume does not exceed 1000m³ in any one year.

Rule 21.4.30 - Controlled

Mineral exploration that does not involve more than 20m³ in volume in any one hectare
Control is reserved to:

a. The adverse effects on landscape, nature conservation values and water quality.

b. Ensuring rehabilitation of the site is completed that ensures:

i. the long-term stability of the site.

ii. that the landforms or vegetation on finished areas are visually integrated into the landscape.

iii. water quality is maintained.

iv. that the land is returned to its original productive capacity.

c. That the land is rehabilitated to indigenous vegetation where the pre-existing land cover immediately prior to the exploration, comprised indigenous vegetation as determined utilising Section 33.3.3 of Chapter 33.

6.28 Rule 21.4.32 – Other Mining Activity

718. As notified, this rule provided that any mining activity not provided for in the previous two rules was a discretionary activity. There were no submissions on this rule. We recommend it be renumbered, but otherwise be retained as notified.

6.29 Rule 21.4.33 – Rural Industrial Activities

719. As notified, this rule listed the following as a permitted activity:

Rural Industrial Activities within a Rural Industrial Sub-Zone that comply with Table 8.

720. The only submission received on this rule was in support[694]. We recommend that this rule be moved to Table 10 – Activities in Rural Industrial Sub Zone, and with our recommended re-arrangement of the tables, we recommend that the rule refer to the standards in Table 11. Otherwise we recommend the rule be retained as notified.

6.30 Rule 21.4.34 – Buildings for Rural Industrial Activities

721. As notified, this rule provided that buildings for rural industrial activities, complying with Table 8, as a permitted activity. No submissions were received on this rule.

722. As with the previous rule, we recommend it be relocated to Table 10 and that it refer to Table 11. However, we also note an ambiguity in the wording of the rule. While, by its reference to Table 8, it is implicit that it only apply to buildings in the Rural Industrial Sub-Zone, we consider the rule would better implement the objectives and policies of the zone if it were explicitly limited to buildings in the Rural Industrial Sub Zone. We consider such a change to be non-substantive and can be made under Cl 16(2) of the First Schedule. On that basis we recommend the rule read:

Buildings for Rural Industrial Activities within the Rural Industrial Sub-Zone that comply with Table 11.

694 Submission 315

6.31 Rule 21.4.35 – Industrial Activities at a Vineyard

723. This rule, as notified, provided for industrial activities directly associated with wineries and underground cellars within a vineyard as a discretionary activity.

724. No submissions were received to this rule and we recommend it be renumbered and retained as notified. We also recommend that the heading in Table 1 directly above this rule be changed to read: "Industrial Activities outside the Rural Industrial Sub-Zone".

6.32 Rule 21.4.36 – Other Industrial activities

725. As notified this rule provided that other industrial activities in the Rural Zone were non-complying. Again, no submissions were received on this rule.

726. We consider there is an element of ambiguity in the rule, particularly with the removal of the Rural Industrial Sub-Zone activities and buildings to a separate table. We recommend this be corrected by rewording the rule to read:

Industrial Activities outside the Rural Industrial Sub-Zone other than those provided for in Rule 21.4.32.

727. We consider this to be a minor, non-substantive amendment that can be made under Clause 16(2).

7 TABLE 2 – GENERAL STANDARDS

7.1 Rule 21.5.1 – Setback from Internal Boundaries

728. As notified, this rule set a minimum setback of 15m of buildings from internal boundaries, with non-compliance requiring consent as a restricted discretionary activity.

729. No submissions were received on this rule and we recommend it be retained as notified with the matters of discretion listed alphanumerically rather than with bullet points.

7.2 Rule 21.5.2 – Setback from Roads

730. As notified Rule 21.5.2 stated:

Setback from Roads
The minimum setback of any building from a road boundary shall be 20m, except, the minimum of any building setback from State Highway 6 between Lake Hayes and Frankton shall be 50m. The minimum setback of any building for other sections of State Highway 6 where the speed limit is 70 km/hr or greater shall be 40m.

Discretion is restricted to all of the following:

a. Rural Amenity and landscape character

b. Open space

c. The adverse effects on the proposed activity from noise, glare and vibration from the established road.

Non-compliance Status – RD

731. One submission sought that the standard be adopted as proposed[695] and one submission sought that the standard be retained, but that additional wording be added (providing greater setbacks from State Highways for new dwellings) to address the potential reverse sensitivity effects from State Highway traffic noise on new residential dwellings.[696]

732. Mr Barr, in the Section 42A Report, considered that as the majority of resource consents in the Rural Zone were notified or would require consultation with NZTA if on a Limited Access Road, then in his view, the performance standards suggested by NZTA would be better implemented as conditions of consent, particularly if the specific parameters of noise attenuation standard were to change. Mr Barr therefore recommended that the relief sought be rejected.[697]

733. In evidence for NZTA, Mr MacColl, disagreed with Mr Barr's reasoning, noting that NZTA were often not deemed an affected party and without the proposed rule, District Plan users may assume, incorrectly, that any building outside the setback areas as notified, would be outside the noise effect area, when that may not be the case.[698] Mr MacColl further suggested that the rule amendments he supported were required in order that the rule be consistent with the objectives and policies of Chapter 3. In response to questions from the Chair, Mr MacColl advised that the NZTA guidelines for setbacks were the same, regardless of the volume of traffic. We sought a copy of the guideline from Mr MacColl, but did not receive it.

734. Mr Barr, in reply, recommended some minor wording amendment to clarify that the rule applied to the setback of buildings from the road, but not in relation to the 80m setback sought by NZTA.

735. Without evidence as to the traffic noise effects and noise levels depending on the volume of traffic and its speed, we are not convinced as to the appropriateness of a blanket 80 metre setback for new dwellings from State Highway 6 where the speed limit is 70 – 100 km/hr. The only change we recommend is that, for clarity the term "Frankton" be replaced with "Shotover River". We were concerned that using the term "Frankton" could lead to disputes as to where the restriction commenced/ended at that end. It was our understanding from questioning of Mr Barr and Mr MacColl, that it was intended to apply as far as the river.

736. Accordingly, we recommend that it be reworded as follows:

Setback from Roads
The minimum setback of any building from a road boundary shall be 20m, except, the minimum setback of any building from State Highway 6 between Lake Hayes and the Shotover River shall be 50m. The minimum setback of any building for other sections of State Highway 6 where the speed limit is 70 km/hr or greater shall be 40m.

Non-compliance Status – RD

Discretion is restricted to:

a. rural amenity and landscape character

b. open space

695 Submission 600
696 Submission 719
697 C Barr, Section 42A Report, Page 22, Para 9.6
698 A MacColl, EIC, Pages 5-6, Paras 20-21.

c. the adverse effects on the proposed activity from noise, glare and vibration from the established road.

7.3 Rule 21.5.3 – Setback from Neighbours of Buildings Housing Animals

737. As notified, this rule required a 30m setback of any building housing animals from internal boundaries, with a restricted discretionary activity consent required for non-compliance.

738. There were no submissions, and other than listing the matters of discretion alphanumerically, we recommend the rule be adopted as notified.

7.4 Rule 21.5.4 – Setback of buildings from Water bodies

739. As notified Rule 21.5.4 stated:

Setback of buildings from Water bodies
The minimum setback of any building from the bed of a wetland, river or lake shall be 20m.

Discretion is restricted to all of the following:

a. Indigenous biodiversity values

b. Visual amenity values

c. Landscape and natural character

d. Open space

e. Whether the waterbody is subject to flooding or natural hazards and any mitigation to manage the adverse effects of the location of the building

740. Four submissions sought that the standard be adopted as proposed[699]. One submission sought that the standard be amended so that the setback be 5m for streams less than 3m in width[700]. Another submission[701] sought to exclude buildings located on jetties where the purpose of the building is for public transport.

741. In the Section 42A Report, while Mr Barr recognised that the amenity values of a 3m wide stream may not be high, he considered that a 5m setback was too small.[702] We heard no evidence to the contrary. We agree in part with Mr Barr and note that there would be several other factors, such as natural hazards, that would support a 20m buffer. Accordingly, we recommend that the submission by D & M Columb be rejected.

742. As to the exclusion of buildings located on jetties where the purpose of the building is for public transport, Mr Barr noted that Rules 21.5.40 - 21.5.43 would trigger the need for consent anyway, and Mr Barr did not consider that Rule 21.5.4 generated unnecessary consents. Mr Barr was also of the view that it was the effects of any building that should trigger consent, not whether it was publicly or privately owned.[703]

699 Submissions 339, 384, 600, 706
700 Submission 624
701 Submission 806
702 C Barr, Section 42A Report, Page 23, Para 9.9
703 C Barr, Section 42A Report, Page 23, Para 9.10

743. We heard no evidence in support of that submission and concur with Mr Barr that the wording of rule should be retained as notified. Accordingly, we recommend that Rule 21.5.4 be retained as notified.

7.5 Rule 21.5.5 – Dairy Farming

744. As notified, Rule 21.5.5 required that effluent holding tanks, and effluent treatment and storage ponds be located 300m from any formed road or adjoining property with non-compliance a restricted discretionary activity.

745. Submissions on this provision variously sought:
   a. Its retention[704]
   b. Its deletion[705] (No reasons provided)
   c. The addition of "lake, river" to the list of "formed roads or adjoining property"[706]
   d. The addition of "sheep and beef farms" and "silage pits" to the list of "effluent holding tanks, effluent treatment and storage ponds"[707]
   e. Amendment to reduce the specified distance of 300m to a lesser distance[708]
   f. Amendment of the activity status for non-compliance to discretionary.[709]

746. In the Section 42A Report, Mr Barr considered that the addition of "sheep and beef farms" and "silage pits" would capture too wide a range of activities that are not as intensive as dairying and do not have the same degree adverse effects. As such, Mr Barr recommended that that submission be rejected.[710] As regards the inclusion "lake or river" to the list of "formed roads, rivers and property boundaries", Mr Barr considered lakes and rivers are not likely to be on the same site as a dairy farm. Hence in his view, the suggested qualifier to the boundary set back is appropriate.[711]

747. Mr Edgar, in his evidence for Longview Environmental Trust[712], provided examples where the failure to include lake or river, could result in effluent holding tanks, effluent treatment and storage ponds being within 15 metres of the margin of a lake or unformed road. Mr Edgar was also of the view that amendments were required for consistency with Policies 21.2.1.1 and 21.2.1.4. We note that Mr Edgar's evidence did not go as far as recommending reference to unformed as well as formed roads, presumably as this relief was not sought by Longview Environmental Trust. In reply, Mr Barr agreed with Mr Edgar as to the identification of public areas whose amenity values needed to be managed through the mechanism of setbacks[713]. We agree with Mr Edgar and Mr Barr that the setback should include lakes or rivers and that it is appropriate in achieving the objectives.

748. We heard no evidence in support of the submissions seeking to reduce the 300m separation distance. The submission itself identified that 300m would create infrastructural problems for

704 Submissions 335, 384, 600
705 Submission 400
706 Submission 659
707 Submission 642
708 Submissions 701, 784
709 Submission 659
710 C Barr, Section 42A Report, Page 24, Para 9.16
711 C Barr, Section 42A Report, Page 24, Para 9.17
712 S Edgar, EIC, Pages 3-4, Paras 7 - 13
713 C Barr, Reply, Page 14, Para 5.1 – 5.2

farmers.[714] We note that compliance with the 300m distance is for permitted activity status and that any non-compliance, for infrastructural reasons, are provided for as a restricted discretionary activity. Given the potential effects of the activity, and the lack of evidence as to an appropriate lesser distance, we consider the distance to be appropriate in terms of achieving the objectives. Accordingly, we recommend that the submission be rejected.

749. We were unable to identify evidence from Mr Barr or Mr Edgar relating to the submission by Longview Environmental Trust[715] seeking the amendment of the activity status for non-compliance from restricted discretionary to discretionary. The reason set out in the submission for the request is for consistency between Rules 21.5.5 and 21.5.6.[716] We consider that there is a difference between Rules 21.5.5 and 21.5.6 in that 21.5.5 applies to an activity and 21.5.6 applies to buildings. This difference is further reflected in there being separate tables for activities and buildings (including farm buildings). This separation does not imply that they should have the same activity status. Accordingly, we recommend that the Longview Environmental Trust submission be rejected.

750. In summary, we recommend that Rule 21.5.5 be relocated into Table 3 Standards for Farm Activities, renumbered as Rule 21.6.1, and worded as follows:

Dairy Farming (Milking Herds, Dry Grazing and Calf Rearing)
All effluent holding tanks, effluent treatment and effluent storage ponds, must be located at least 300 metres from any formed road, lake, river or adjoining property.

Non-compliance RD
Discretion is restricted to:

a. *Odour*

b. *Visual prominence*

c. *Landscape character*

d. *Effects on surrounding properties.*

7.6 Rule 21.5.6 – Dairy Farming

751. Rule 21.5.6, as notified, required milking sheds or buildings used to house or feed milking stock be located 300m from any formed road or adjoining property, with non-compliance as a discretionary activity.

752. Submissions on this provision variously sought:
   a. Its retention[717]
   b. The addition of "lake, river" to the list of "formed roads or adjoining property"[718]
   c. Amendment to reduce the specified distance of 300m to a lesser distance.[719]

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714 Submission 701, Page 2, Para 16
715 S Edgar, EIC, Pages 3-4, Paras 7 - 13
716 Submission 659, Page 2
717 Submissions 335, 384, 600
718 Submission 659
719 Submissions 701, 784

753. We have addressed the matter of the reduction of the 300m distance in Section 8.5 above and do not repeat that analysis here. We simply note our recommendation is that, for the same reasons, those submissions be rejected.

754. Mr Barr considered that the rule is appropriate in a context where farm buildings can be established as a permitted activity on land holdings greater than 100ha.[720]

755. As regards the addition of lakes and rivers, Mr Barr, again in the Section 42A Report, noted that farm buildings were already addressed under Rule 21.5.4 (as notified) which required a 20m setback from water bodies and therefore, in his view, the submission should be rejected.

756. Mr Edgar, in evidence, raised similar issues with this rule as with 21.5.5 discussed above. In reply, Mr Barr agreed as to the appropriateness of the inclusion of rivers and lakes. Following the same reasoning, we agree with Mr Edgar and Mr Barr that the setback of buildings from water bodies should include recognition of their amenity values. Accordingly, we recommend that Rule 21.5.6 be relocated into Table 5 Standards for Farm Buildings, be renumbered and worded as follows;

21.8.4	**Dairy Farming (Milking Herds, Dry Grazing and Calf Rearing)** All milking sheds or buildings used to house or feed milking stock must be located at least 300 metres from any adjoining property, lake, river or formed road.	D

7.7 Rule 21.5.7 – Dairy Farming

757. Rule 21.5.7, as notified, read as follows;

	Dairy Farming (Milking Herds, Dry Grazing and Calf Rearing) Stock shall be prohibited from standing in the bed of, or on the margin of a water body. For the purposes of this rule: a. Margin means land within 3.0 metres from the edge of the bed b. Water body has the same meaning as in the RMA, and also includes any drain or water race that goes to a lake or river.	PR

758. Submissions on this rule variously sought that it be retained[721], be deleted[722], be widened or clarified to include other livestock including "deer, beef"[723] or expressed concern regarding it overlapping Regional Plan rules[724].

759. In the Section 42A Report, Mr Barr considered that dairy farming was more intensive than traditional sheep and beef grazing with a greater potential to damage riparian margins and contaminate waterbodies. Mr Barr considered that the effects of stock in waterways was not only a water quality issue but also a biodiversity, landscape and amenity value issue, and that the proposed rule complemented the functions of the Otago Regional Council.[725]

720 C Barr, Section 42A Report, Page 24, Para 9.20
721 Submission 335, 384
722 Submission 600
723 Submission 117, 289, 339, 706, 755
724 Submission 798
725 C Barr, Section 42A Report, Pages 25 – 27, Paras 9.24 – 9.36

760. In evidence for Federated Farmers, Mr Cooper raised the issue of confusion for plan users between rules in the Regional Water Plan and Rule 21.5.7. He considered that this was not fully addressed in the Section 32 Report.[726] We agree.

761. To us, this is a clear duplication of rules that does not meet the requirements of section 32 as being the most effective and efficient way of meeting the objectives of the QLDC plan. Accordingly, we recommend that the submission of Federated Farmers be accepted and Rule 21.5.7, as notified, be deleted.

7.8 Rule 21.5.8 – Factory Farming

762. As notified, this rule stated in relation to factory farming (excluding the boarding of animals):

Factory farming within 2 kilometres of a Residential, Rural Residential, Rural Lifestyle, Township, Rural Visitor, Town Centre, Local Shopping Centre or Resort Zone.

763. Non-compliance required consent as a discretionary activity.

764. The only submissions on this rule supported its retention[727], however it has a number of problems. First, it lists zones which are not notified as part of stage 1 (or Stage 2) of the PDP, notably the Rural Visitor and Township. It also lists Resort Zones as if that is a zone or category, which it is not in the PDP.

765. The most significant problem with the rule, however, is that it appears the author has confused standard and activity status. Given that our recommended Rule 21.4.3 classifies factory farming of pigs or poultry as permitted activities, it appears to be inconsistent that such activities would be discretionary when they were located more than 2 kilometres from the listed zones, but permitted within 2 kilometres. We recommend this be corrected under Clause 16(2) of the First Schedule by wording this rule as:

Factory farming (excluding the boarding of animals) must be located at least 2 kilometres from a Residential, Rural Residential, Rural Lifestyle, Town Centre, Local Shopping Centre Zone, Millbrook Resort Zone, Waterfall Park Zone, or Jacks Point Zone.

766. We also recommend it be renumbered and relocated into Table 3.

7.9 Rule 21.5.9 – Factory Farming

767. This rule, as notified, set standards that factory farming of pigs were to comply with. Non-compliance required consent as a non-complying activity. No submissions were received to this rule and we recommend it be adopted as notified with a minor wording changes to make it clear it is a standard, and renumbered and relocated into Table 3.

7.10 Rule 21.5.10 – Factory Farming of Poultry

768. This rule, as notified, set standards that factory farming of poultry were to comply with. Non-compliance required consent as a non-complying activity. No submissions were received to this rule and we recommend it be adopted as notified with a minor wording changes to make it clear it is a standard, and renumbered and relocated into Table 3.

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726 D Cooper, EIC, Para 44

727 Submissions 335 and 384

7.11 Rule 21.5.11 – Factory Farming

769. As notified, this rule read:

> *Any **factory farming** activity other than factory farming of pigs or poultry.*

770. Non-compliance was listed as non-complying. Again there were no submissions on this rule.

771. It appears to us that this rule is intended as a catch-all activity status rule, rather than a standard. We recommend it be retained as notified, but relocated into Table 1 and numbered as Rule 21.4.4.

7.12 Rule 21.5.12 – Airport Noise – Wanaka Airport

772. As notified, this rule read:

> *Alterations or additions to existing buildings, or construction of a building on a building platform approved before 20 October 2010 within the Outer Control Boundary, shall be designed to achieve an internal design sound level of 40 dB Ldn, based on the 2036 noise contours, at the same time as meeting the ventilation requirements in Table 5, Chapter 36. Compliance can either be demonstrated by submitting a certificate to Council from a person suitably qualified in acoustics stating that the proposed construction will achieve the internal design sound level, or by installation of mechanical ventilation to achieve the requirements in Table 5, Chapter 36.*

773. Non-compliance required consent as a non-complying activity.

774. The only submission [728] on this rule sought that it be retained.. As a consequence of recommendations made by the Hearing Stream 5 Panel, Table 5 has been deleted from Chapter 36. The reference should be to Rule 36.6.2 in Chapter 36.

775. We also recommend a minor change to the wording so that the standard applies to buildings containing Activities Sensitive to Aircraft Noise, consistent with the following rule applying to Queenstown Airport. Thus, we recommend that the standard, renumbered as Rule 21.5.5, read:

> *Alterations or additions to existing buildings, or construction of a building on a building platform approved before 20 October 2010 that contain an Activity Sensitive to Aircraft Noise and are within the Outer Control Boundary, must be designed to achieve an internal design sound level of 40 dB L_{dn}, based on the 2036 noise contours, at the same time as meeting the ventilation requirements in Rule 36.6.2, Chapter 36. Compliance can either be demonstrated by submitting a certificate to Council from a person suitably qualified in acoustics stating that the proposed construction will achieve the internal design sound level, or by installation of mechanical ventilation to achieve the requirements in Rule 36.6.2, Chapter 36.*

7.13 Rule 21.5.13 – Airport Noise – Queenstown Airport

776. As notified, this rule contained similar provisions as Rule 21.5.12, albeit distinguishing between buildings within the Air Noise Boundary and those within the Outer Control Boundary. Again, there was only one submission[729] in respect of this rule, and that submission sought that the rule be retained.

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728 Submission 433, opposed by FS1030, FS1097 and FS1117

729 Submission 433, opposed by FS1097 and FS1117

777. Subject to amending the standard to refer to Rule 36.6.2 in place of Table 5 in Chapter 36 and other minor word changes, we recommend the rule be renumbered 21.5.6 and adopted as notified.

8 TABLE 3 – STANDARDS FOR STRUCTURES AND BUILDINGS

8.1 Rule 21.5.14 - Structures

778. Rule 21.5.14, as notified, read as follows;

21.5.14	**Structures** Any structure within 10 metres of a road boundary, which is greater than 5 metres in length, and between 1 metre and 2 metres in height, except for: 21.5.14.1 post and rail, post and wire and post and mesh fences, including deer fences; 21.5.14.2 any structure associated with farming activities as defined in this plan. Discretion is restricted to all of the following: a. Effects on landscape character, views and amenity, particularly from public roads b. The materials used, including their colour, reflectivity and permeability c. Whether the structure will be consistent with traditional rural elements.	RD

779. One submission sought that the rule be retained[730], two sought that "nature conservation values" be added the matters of discretion[731], one submission sought that 21.5.14.2 be amended without specifying such amendments[732], and another sought that 21.5.14.2 be amended to read *"any structure associated with farming activities as defined in this Plan. This includes any structures associated with irrigation including centre pivots and other irrigation infrastructure"*[733]. Lastly, two submissions sought that 21.5.14 be amended to be restricted to matters that are truly discretionary[734].

780. We also note that there were two submissions seeking the heading for Table 3 as notified be amended to specifically provide for irrigation structures and infrastructure.[735]

781. Mr Barr, in Appendix 2 of the Section 42A Report[736], considered that applying nature conservation values to the matters of discretion would be too broad as it would encapsulate ecosystems, hence removing the specificity of the restricted discretionary status and the reason for needing a consent. We heard no other evidence on this matter. We agree with Mr Barr that the relief sought would make the discretion to wide and therefore not be effective in

730 Submission 335, 384
731 Submissions 339, 706
732 Submission 701
733 Submissions 784
734 Submission 701, 784
735 Submissions 701, 784
736 C Barr, Section 42A Report, Appendix 2, Page 107

achieving the objective. Accordingly, we recommend that those submissions be rejected. We note that Mr Atly and Forest & Bird made requests for similar relief to Rules 21.5.15 – 21.5.17. We recommend that those submissions be rejected for the same reasons.

782. Mr Barr, in Appendix 2 of the Section 42A Report[737], considered that irrigators were not buildings, as per the QLDC Practice Note[738] and therefore did not require specific provisions. We heard no other evidence on this matter. We agree with Mr Barr that irrigators are not buildings and therefore the amendments sought are not required. Accordingly we recommend that those submissions be rejected. This similarly applies to the submissions requesting the change to the Table 3 Heading.

783. In the Section 42A Report, Mr Barr addressed a range of submissions that sought that the matters of discretion be tightened, and specifically the removal of reference to "rural amenity values' in the consent of Rule 21.5.18[739]. We address all the submissions on this matter at Rule 21.5.18.

784. In line with our recommendation in Section 7.1 regarding rule and table structure, we recommend that Rule 21.5.14 be relocated to Table 4, renumbered and worded as follows:

21.7.1	**Structures** Any structure which is greater than 5 metres in length, and between 1 metre and 2 metres in height must be located a minimum distance of 10 metres from a road boundary, except for: 21.5.14.1 post and rail, post and wire and post and mesh fences, including deer fences; 21.5.14.2 any structure associated with farming activities as defined in this plan.	RD Discretion is restricted to: a. Effects on landscape character, views and amenity, particularly from public roads b. The materials used, including their colour, reflectivity and permeability c. Whether the structure will be consistent with traditional rural elements.

8.2 Rule 21.5.15 - Buildings

785. Rule 21.5.15, as notified read as follows;

737 C Barr, Section 42A Report, Appendix 2, Page 107

738 QLDC – Practice Note 1/2014

739 Submission 600

21.5.15	**Buildings** Any building, including any structure larger than 5m², that is new, relocated, altered, reclad or repainted, including containers intended to, or that remain on site for more than six months, and the alteration to any lawfully established building are subject to the following: All exterior surfaces shall be coloured in the range of browns, greens or greys (except soffits), including; 21.5.15.1 Pre-painted steel and all roofs shall have a reflectance value not greater than 20%; and, 21.5.15.2 All other surface finishes shall have a reflectance value of not greater than 30%. 21.5.12.3 In the case of alterations to an existing building not located within a building platform, it does not increase the ground floor area by more than 30% in any ten year period. Discretion is restricted to all of the following: a. External appearance b. Visual prominence from both public places and private locations c. Landscape character d. Visual amenity.	RD

786. One submission sought that the rule be retained[740]; two sought that the reference to colour be removed[741]; one submission sought that 21.5.15.1 be deleted[742]; one submission sought that wording be amended for clarity and that the reflectance value not apply to locally sourced schist[743]; another submission sought amendments such that the area be increased to 10m² and that the reflectance value be increased to 36% for walls and roofs, and a number of finishes to be excluded[744]; two submissions sought that buildings within Ski Area Sub-Zones be excluded from these requirements[745]; one submission sought that 21.5.15.3 be less restrictive and amended to 30% in any 5 year period[746]; lastly, one submission sought the benefits of the buildings to rural sustainable land use be added as a matter of discretion.[747]

787. In the Section 42A Report, Mr Barr acknowledged that the permitted limits were conservative, but overall, considered that the provisions as notified would reduce the volume of consents that were required by the ODP[748], and that these issues had been fully canvassed in the Section 32 Report, which concluded that the ODP rules were inefficient.[749] Mr Barr also considered that for long established buildings and any non-compliance with the standards, the proposed rules allow case by case assessment.[750] We concur with Mr Barr that the shift from controlled activity under the ODP to permitted under the PDP, subject to the specified standards, is a more efficient approach to controlling the effects of building colour.

740 Submission 600
741 Submissions 368, 829
742 Submission 411
743 Submission 608
744 Submission 368
745 Submissions 610, 613
746 Submission 829
747 Submissions 624
748 C Barr, Section 42A Report, page 34, paragraph 11.13
749 C Barr. Section 42A Report, Pages 37 – 38, Paras 12.2, 12.5
750 C Barr. Section 42A Report, Page 38, Paras 12.3 – 12.5

788. Mr Barr did not consider that the exclusion of certain natural materials from the permitted activity standards to be appropriate, recording difficulties with interpretation and potential lack of certainty[751]. However, in an attempt to provide some ability for landowners to utilise natural materials as a permitted activity, Mr Barr recommended slightly revising wording of the standard[752].

789. We heard detailed evidence for Darby Planning from Ms Pflüger, a landscape Architect, and for QLDC from Dr Read, also a landscape architect, that schist has no LRV, and concerning the difference between dry stacked schist and bagged schist[753]. The latter was considered by Dr Read to be inappropriate due to its resemblance to concrete walls. Ms Pflüger, on the other hand, was of the view that bagged schist was sufficiently different to concrete walls as to be appropriate in the landscape context of the district. Mr Ferguson, in his evidence for Darby Planning, relying on the evidence of Ms Pflüger, considered that schist should be excluded from the identified surfaces with LRV.[754]

790. In his Reply Statement, Mr Barr maintained his opinion that a list of material should not be included in this rule, as "*over the life of the district plan there will almost certainly be other material that come onto the market and it would be ineffective and inefficient if these materials required a resource consent because they were not listed*."[755]

791. We agree in part with Mr Barr's recommended amendments:
   a. To exclude soffits, windows and skylights (but not glass balustrades) from the exterior surfaces that have colour and reflectivity controls; and
   b. To include a clarification in 21.5.15.2 (as notified) that it includes cladding and built landscaping that cannot be measured by way of light reflective value.

792. However, we disagree with his view that the inclusion of an exemption for schist from the light reflective control would somehow lead to inefficiencies due to other materials coming on the market. We agree with Ms Pflüger that incorporating schist into buildings is an appropriate response to the landscape in this district. We also consider that the term "luminous reflectance value" proposed by Mr Barr is more readily understood if phrased "light reflectance value".

793. Mr Barr in the Section 42A Report, agreed that Rule 21.5.15 need not apply to the Ski Area Sub Zones, because these matters were already provided for by the controlled activity status for the construction and alteration of buildings in those Sub-Zones[756]. Accordingly, we accept Mr Barr's recommendation to clarify that position in this rule and recommend that the submissions on this aspect be accepted. We note that the same submission issue applies to Rule 21.5.16[757] and we reach a similar recommendation. As a consequence, we do not address this matter further.

794. Accordingly, with other minor changes to the wording, we recommend that Rule 21.5.15 be relocated into Table 4, renumbered, and worded as follows:

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751 C Barr. Section 42A Report, Page 39, Paras 12.9 – 12.10
752 C Barr, Section 42A Report, page 39-40, paragraph 12.13
753 Y Pflüger, EIC, Pages 13 -14, Paras 7.3 – 7.5 and Dr M Read, EIC, Pages 8 – 9, Paras 5.2 – 5.6
754 C Fergusson, EIC, Page 14, Para 65
755 C Barr, Reply Statement, page 23, paragraph 7.4
756 C Barr, Section 42A Report, Page 41, Para 12.19
757 Submissions 610, 613

21.7.2	**Buildings** Any building, including any structure larger than 5m², that is new, relocated, altered, reclad or repainted, including containers intended to, or that remain on site for more than six months, and the alteration to any lawfully established building, are subject to the following: All exterior surfaces* must be coloured in the range of browns, greens or greys, including; 21.7.2.1 Pre-painted steel and all roofs must have a light reflectance value not greater than 20%; and, 21.7.2.2 All other surface** finishes, except for schist, must shall have a light reflectance value of not greater than 30%. 21.7.2.3 In the case of alterations to an existing building not located within a building platform, it does not increase the ground floor area by more than 30% in any ten year period. Except this rule does not apply within the Ski Area Sub-Zones. * Excludes soffits, windows and skylights (but not glass balustrades). ** Includes cladding and built landscaping that cannot be measured by way of light reflectance value but is deemed by the Council to be suitably recessive and have the same effect as achieving a light reflectance value of 30%.	RD Discretion is restricted to: a. external appearance; b. visual prominence from both public places and private locations; c. landscape character; d. visual amenity.

8.3 Rule 21.5.16 – Building Size

795. Rule 21.5.16, as notified read as follows;

21.5.16	**Building size** The maximum ground floor area of any building shall be 500m². Discretion is restricted to all of the following: a. External appearance b. Visual prominence from both public places and private locations c. Landscape character d. Visual amenity e. Privacy, outlook and amenity from adjoining properties.	RD

796. One submission sought that this rule be retained[758] and two submissions sought that the rule be deleted[759].

797. We note that at the hearing on 18 May 2016, Mr Vivian, appearing among others for Woodlot Properties, withdrew submission 501 relating to Rule 21.5.16.

798. The reasons contained in the remaining submission seeking deletion suggested that there were circumstances on large subdivided lots where larger houses could be appropriate and that restricting the size of the houses would have a less acceptable outcome. The submitters considered that each should be judged on its own merit and that restrictions on size were already in place via the defined building platform.

799. In the Section 42A Report, Mr Barr noted that the rule was part of the permitted activity regime for buildings in the Rural Zone and that the purpose of the limit was to provide for the assessment of buildings that may be of a scale that is likely to be prominent. Mr Barr noted that buildings of 1000m^2 were not common and that the rule provided discretion as to whether additional mitigation was required due to the scale of the building.[760]

800. We agree with Mr Barr. Completely building out a 1000m^2 building platform is not an appropriate way to achieve the objectives of the PDP and, in our view, the 500m^2 limit enables appropriately scaled buildings. Proposals involving larger floor plates can still be considered under the discretion for buildings greater than 500m^2.

801. Accordingly, we recommend that the submission seeking the deletion of the rule be rejected and the rule be relocated into Table 4, renumbered and amended to be worded as follows:

21.7.3	**Building size** The ground floor area of any building must not exceed 500m². Except this rule does not apply to buildings specifically provided for within the Ski Area Sub-Zones.	RD Discretion is restricted to: a. external appearance; b. visual prominence from both public places and private locations; c. landscape character; d. visual amenity; e. privacy, outlook and amenity from adjoining properties.

8.4 Rule 21.5.17 – Building Height

802. Rule 21.5.17, as notified limited the height of buildings to 8m. Two submissions sought that rule be amended, one to exclude the rule from applying to passenger lift systems[761] and one to exclude the rule from applying to mining buildings[762]. One submission sought that the rule be retained as notified[763].

758 Submission 600
759 Submission 368, 501
760 C Barr, Section 42A Report, Pages 40-41, Paras 12.15 – 12.18
761 Submission 407
762 Submission 519
763 Submission 600

803. As regards exclusion of passenger lift systems from the rule, we note that this is related to our discussion on the definition of passenger lifts systems in paragraphs 191 – 193 where we recommended that this matter should be addressed in the definitions hearing.

804. That said, in evidence for Mt Cardrona Station Ltd, Mr Brown considered that passenger lift systems should be excluded from the general standards applying to buildings and structures in the same way that farm buildings are exceptions[764], although he did not discuss any of the rules in Table 3 in detail.

805. The submission of NZTM (519) seeking exclusion of mining building from this rule was also framed in the general. Mr Vivian's evidence[765] addressed this submission, opining that mining buildings necessary for the undertaking of mining activities could be treated much the same way as farm buildings, as they would be expected in the landscape where mining occurs.

806. We noted above, in discussing the definition of Passenger Lift Systems, (Section 5.16) Mr Fergusson's understanding that ski tows and machinery were exempt from the definition of building in the Building Act. Other than that evidence, we were not provided with any reasons why passenger lift systems should be excluded from this rule. If Mr Fergusson's understanding is correct, then the pylons of passenger lift systems would not be subject to the rule in any event. In the absence of clear evidence justifying the exclusion of passenger lift systems from the effect of this rule we are not prepared to recommend such an exclusion.

807. Turning to the NZTM submission, we consider that mining building buildings are not in the same category as farm buildings. The policy direction of this zone is to enable farming as the main activity in the zone. The separate provisions for farm buildings recognise the need for such buildings so as to enable the farming activity. However, such buildings are constrained as to frequency in the landscape, location, size, colour and height. In addition, mining, other than for farming purposes, cannot occur without a resource consent. While Mr Vivian may be correct that one would expect buildings to be associated with a mine, without detailed evidence on what those buildings may entail and how any adverse effects of such buildings could be avoided, we are unable to conclude that some separate provision should be made for mining buildings.

808. Accordingly, we recommend that apart from relocation into Table 4, renumbering and minor wording changes, Rule 21.5.17 be retained as notified.

9 TABLE 4 – STANDARDS FOR FARM BUILDINGS

9.1 Rule 21.5.18 – Construction or Extension to Farm Buildings

809. Rule 21.5.18, as notified, set out the permitted activity standards for farm buildings (21.5.18.1 – 21.5.18.7) and provided matters of discretion for a restricted discretionary activity status when the standards were not complied with.

810. One submission opposed farm buildings being permitted activities and sought that provisions of the ODP be rolled over in their current form.[766] We have already addressed that matter in Section 7.4 above and have recommended that submission be rejected. In the Section 42A Report, however, Mr Barr relied on that submission and the evidence of Dr Read that a density of 1 farm building per 25 hectares (Rule 21.5.18.2 as notified) created the risk to the landscape from a proliferation of built form, as the basis for his recommendation that a density for farm

764 J Brown, EIC, Page 24, Paras 2.39 – 2.40

765 C Vivian, EiC, page 21, paragraphs 4.95-4.96

766 Submission 145

buildings of one per 50 hectares was more appropriate[767]. No other evidence was provided on this provision. We recommend that, subject to minor wording changes to make the rule clearer, Rule 12.5.18.2 be adopted as recommended by Mr Barr.

811. There were other submissions on specific aspects of 21.5.18 that we address now.

812. One submission sought that 21.5.18.3 be amended so that containers located on ONFs would be exempt from this rule[768]. Mr Barr did not address this matter directly in the Section 42A Report. Mr Vivian addressed this matter in evidence suggesting that provision for small farm buildings could be made[769], but gave no particular reasons as to how he reached that opinion. Given the policy direction of the PDP contained in Chapters 3 and 6, we consider to exempt containers from this rule would represent an implementation failure. We recommend that submission be rejected.

813. One submission sought that 21.5.18.4 be amended to provide for buildings up to 200m^2 and 5m in height.[770]

814. Mr Barr, in the Section 42A Report, relying on the evidence of Dr Read as to the importance of landscape, considered the proposed rule as notified provided the appropriate balance between providing for farm buildings and ensuring landscape values were maintained. Mr Barr also considered that the rule was not absolute and provided for proposals not meeting the permitted standards to be assessed for potential effects on landscape and visual amenity.

815. We heard no evidence in support of the submission. We agree with and adopt the reasons of Mr Barr. Accordingly, we recommended that the submission be rejected.

816. One submission sought that the permitted elevation for farm buildings be increased from 600 metres above sea level (masl) to 900 masl[771]. In the Section 42A Report, Mr Barr noted that this provision had been brought across from the ODP, acknowledged that there were some farms with areas over 600 masl, but considered that the 600 masl cut-off was appropriate because areas at the higher elevation were visually vulnerable.[772]

817. This is another area where we see that the permitted activity status for farming needs to be balanced against its potential adverse effects on landscape and visual amenity. We consider that the 600 masl cut-off is the most appropriate balance in terms of the rule achieving the objective. Accordingly, we recommend that the submission be rejected.

818. Two submissions opposed the open-ended nature of the matters of discretion that applied to this provision through the inclusion of reference to rural amenity values[773]. We note these submitters opposed other provisions in the standards of this chapter on a similar basis. Jeremy Bell Investment Limited (Submission 784) considered that the matters of discretion were so wide that they effectively made the provision a fully discretionary activity.

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767 C Barr, Section 42A Report, Page 31, Para 10.19
768 Submission 519
769 C Vivian, EIC, Page 21, Para 4.100
770 Submission 384
771 Submission 829
772 C Barr, Section 42A Report, Page 29, Para 10.10
773 Submission 600, 784

819. In the Section 42A Report, Mr Barr considered that the matters of discretion related to the effects on landscape and were consistent with the ODP in this regard. However, Mr Barr went on to compare the matters of control for farm buildings under the ODP with the matters of discretion under the PDP, concluding that the ODP matters of control nullified the controlled activity status. Mr Barr acknowledged that the "scale" and "location" were broad matters, but he remained of the view that they were relevant and should be retained.[774]

820. We heard no evidence in support of these submissions. We also note that the change in approach of the PDP, providing for farm buildings as permitted activities, is accompanied by objectives and policies to protect landscape values. We agree with Mr Barr where, in the Section 42A Report, he observes that the matters of discretion relate to landscape and not other matters such as vehicle access and trip generation, servicing, natural hazards or noise. While the matters of discretion are broad, they are in line with the relevant objectives and policies.

821. Nonetheless, we questioned Mr Barr as to relevance of "location" and "scale" as matters of discretion given that matters of discretion listed in this rule already provide for these matters.

822. In reply, Mr Barr noted the importance of "location" and "scale", observing that they were specifically identified in Policy 21.2.1.2 (as notified) but considered that *"… The matters of discretion would better suit the rural amenity, landscape character, privacy and lighting being considered in the context of the scale and location of the farm building."*[775] Mr Barr, went on to recommend rewording of the matters of discretion so that location and scale are considered in the context of the other assessment matters. We agree and recommend that the wording of the matters of discretion be modified accordingly. Otherwise, we recommend that the submissions of Federated Farmers and JBIL be rejected.

823. Another submission sought that wahi tupuna be added to matters of discretion where farm buildings affect ridgelines and slopes[776].

824. Mr Barr, in the Section 42A Report, considered that this matter was already addressed in Policy 21.2.1.7 and that as it pertained to ridgelines and slopes, it was already included in the matters of discretion[777]. We agree. Accordingly, we recommend that the submission be rejected.

825. Taking account of the amendments recommended above and our overall rewording of the provisions, we recommend that Rule 21.5.18 be located in Table 5, renumbered and worded as follows;

	Table 5- Standards for Farm Buildings The following standards apply to Farm Buildings.	**Non-compliance**
21.8.1	**Construction, Extension or Replacement of a Farm Building** The construction, replacement or extension of a farm building is a permitted activity, subject to the following standards: 21.8.1.1 The landholding the farm building is located within must be greater than 100ha; and	RD Discretion is restricted to: a. **The extent to which the scale and location of the Farm Building is appropriate in terms of:** i. **rural amenity values.** ii. **landscape character.**

774 C Barr, Section 42 A Report, Pages 3-32, Para 10.21 – 10.26
775 C Barr, Reply, Page 15, Para 5.5
776 Submission 810
777 C Barr, Section 42A Report, Page 32, Para 10.27 – 10.28

	Table 5- Standards for Farm Buildings The following standards apply to Farm Buildings.	**Non-compliance**
	21.8.1.2 The density of all buildings on the landholding, inclusive of the proposed building(s) must not exceed one farm building per 50 hectares; and 21.8.1.3 The farm building must not be located within or on an Outstanding Natural Feature (ONF); and 21.8.1.4 If located within the Outstanding Natural Landscape (ONL), the farm building must not exceed 4 metres in height and the ground floor area must not exceed 100m²; and 21.8.1.5 The farm building must not be located at an elevation exceeding 600 masl; and 21.8.1.6 If located within the Rural Character Landscape (RCL), the farm building must not exceed 5m in height and the ground floor area must not exceed 300m²; and 21.8.1.7 Farm buildings must not protrude onto a skyline or above a terrace edge when viewed from adjoining sites, or formed roads within 2km of the location of the proposed building.	iii. privacy, outlook and rural amenity from adjoining properties. iv. visibility, including lighting.

9.2 Rule 21.5.19 – Exterior colours of buildings

826. Rule 21.5.19, as notified, set out the permitted activity standards for exterior colours for farm buildings (21.5.19.1 – 21.5.19.3) and provided matters of discretion to support a restricted discretionary activity status where the standards were not complied with.

827. One submission sought that the rule be retained[778], one submission sought that wording be amended for clarity and that the reflectance value not apply to locally sourced schist[779], and one submission sought removal of visual amenity values from the matters of discretion[780].

828. The submission on this provision from Darby Planning[781] is the same as that made to 21.5.15 which we addressed above (Section 8.15). For the same reasons, we recommend that the submission on provision 21.5.19 be accepted in part.

829. The submission form Federated Farmers[782] seeking the removal of visual amenity values from the matters of discretion is the same as that made to 21.5.15 in regard to rural amenity values, which we addressed above (Section 8.15). For the same reasons, we recommend that the submission on provision 21.5.19 be rejected.

778 Submission 325
779 Submission 608
780 Submission 600
781 Submission 608
782 Submission 600

830. Accordingly, we recommend that 21.5.19 be located in Table 5, renumbered and worded as follows;

21.8.2	Exterior colours of farm buildings: 21.8.2.1 All exterior surfaces, except for schist, must be coloured in the range of browns, greens or greys (except soffits). 21.8.2.2 Pre-painted steel, and all roofs must have a reflectance value not greater than 20%. 21.8.2.3 Surface finishes, except for schist, must have a reflectance value of not greater than 30%.	RD Discretion is restricted to: a. external appearance b. visual prominence from both public places and private locations c. landscape character d. visual amenity.

9.3 Rule 21.5.20 – Building Height

831. This standard set a maximum height of 10m for farm buildings. Two submissions[783] supported this provision. Other than some minor rewording to make the rule clearer, location in Table 5 and renumbering, we recommend it be adopted as notified.

10 TABLE 5 – STANDARDS FOR COMMERCIAL ACTIVITIES

10.1 Rule 21.5.21 – Commercial Recreational Activity

832. We have dealt with this standard in Section 7.15 above.

10.2 Rule 21.5.22 – Home Occupation

833. Rule 21.5.22, as notified set out the permitted activity standards for home occupations and provided for a restricted discretionary activity status for non-compliance with the standards.

834. One submission sought that the provision be retained[784] and one sought that it be amended to ensure that the rule was effects-based and clarified as to its relationship with rules controlling commercial and commercial recreational activities.[785]

835. In the Section 42A Report, Mr Barr considered that the rule did provide clear parameters and certainty.[786] We heard no other evidence on this provision. We agree with Mr Barr, that this rule is clear and note that it specifically applies to home occupations. Accordingly, we recommend that the submission seeking that the rule be amended, be rejected.

836. Accordingly, taking account of the amendments recommended above and our overall rewording of the provisions, we recommend that Rule 21.5.22 be located in Table 6, renumbered and worded as follows;

783 Submissions 325 and 600 (supported by FS1209, opposed by FS1034)
784 Submission 719
785 Submission 806
786 C Barr, Section 42A Report, Page 48, Par 13.36

21.9.2	**Home Occupation** 21.9.2.1 The maximum net floor area of home occupation activities must not exceed 150m²; 21.9.2.2 Goods materials or equipment must not be stored outside a building; 21.9.2.3 All manufacturing, altering, repairing, dismantling or processing of any goods or articles must be carried out within a building.	RD Discretion is restricted to: a. the nature, scale and intensity of the activity in the context of the surrounding rural area. b. visual amenity from neighbouring properties and public places. c. noise, odour and dust. d. the extent to which the activity requires a rural location because of its link to any rural resource in the Rural Zone. e. access safety and transportation effects.

10.3 Rule 21.5.23 – Retail Sales

837. This rule imposed a setback from road boundaries of 30m on buildings in excess of 25m^2 used for retail sales. No submissions were received on this standard. Other than some wording changes for clarification purposes, we recommend the rule be located in Table 6, renumbered and adopted as notified.

10.4 Rule 21.5.24 – Retail Sales

838. As notified, this rule read:

Retail sales where the access is onto a State Highway, with the exception of the activities listed in Table 1.

839. Non-compliance was listed as a non-complying activity.

840. The sole submission[787] on the rule sought its retention.

841. The problem with this rule is that it is not a standard. It appears to us that the intention of the rule is to make any retails sales other than those specifically listed in Table 1 (21.4.14 Roadside stalls and 21.4.15 sales of farm produce) a non-complying activity. That being the case, we recommend the rule be relocated in Table 1 as Rule 21.4.21 to read:

Retail sales where the access is onto a State Highway, with the exception of the activities provided for by Rule 21.4.14 or Rule 21.4.16.
Non-complying activity

11 TABLE 6 – STANDARDS FOR INFORMAL AIRPORTS

842. We have dealt with this in Section 7.23 above.

12 TABLE 7 – STANDARDS FOR SKI AREA ACTIVITIES WITHIN THE SKI AREA SUB ZONE

[787] Submission 719

12.1 Rule 21.5.27 – Construction, relocation, addition or alteration of a building

843. As notified, Rule 21.5.27 read:

21.5.27	Construction, relocation, addition or alteration of a building. Control is reserved to all of the following: a. Location, external appearance and size, colour, visual dominance b. Associated earthworks, access and landscaping c. Provision of water supply, sewage treatment and disposal, electricity and communication services (where necessary) d. Lighting.	C

844. One submission sought to add provisions relating to the exterior colour of all buildings[788]; and one submission sought that the table be renamed "Standards for Ski Area Activities within Ski Area Sub Zones and Tourism Activities within the Cardrona Alpine Resort" and that numerous changes be made to 21.5.27 including adding reference to earthworks infrastructure, snow grooming, lift and tow provisions and particular reference to the Cardrona Alpine Resort.[789]

845. The submission seeking specification of the exterior colour for building stated as the reason for the request that the matters listed are assessment matters not standards. Mr Barr, in the Section 42A Report, acknowledged the ambiguity of the table and recommended it be updated to correct this issue. Mr Brown, in evidence for Mt Cardrona Station Ltd, supported such an amendment[790] and Mr Barr, in reply provided further modification to the Table to clarify activity status[791]. We agree with Mr Brown and Mr Barr that clarification as to the difference between activity status and standards is required. However, we do not think that their recommended amendments fully address the issue.

846. Accordingly, and in line with our recommendation in Section 7.1 above, we recommend that the activities for Ski Area Sub Zones be included in one table (Table 9).

847. Mr Barr, in the Section 42A Report, questioned if the substantive changes sought by Cardrona Alpine Resort Ltd were to be addressed in the Stream 11 hearing due to the extensive nature of changes sought by the submission. For the avoidance of doubt, Mr Barr assessed the amendments to 21.5.27 in a comprehensive manner, concluding that the submission should be rejected[792]. We heard no evidence in support of the amendments to Rule 21.5.27 sought by Cardrona Alpine Resort Ltd. As such, we agree with Mr Barr, for the reasons set out in the Section 42A Report, and recommend that the submission be rejected.

848. Accordingly, we recommend that Rule 21.5.27 be located in Table 9 Activities within the Ski Area Sub Zones, renumbered and worded as follows:

21.11.2	Construction, relocation, addition or alteration of a building. Control is reserved to: a. location, external appearance and size, colour, visual dominance b. associated earthworks, access and landscaping c. provision of water supply, sewage treatment and disposal, electricity and communication services (where necessary)	C

788 Submission 407

789 Submission 615

790 J Brown, EIC, Page 24, Para 2.38

791 C Barr, Reply, Appendix 1, Page 21-21

792 C Barr, Section 42A Report, Pages 63 – 64, Paras 14.43 – 14.51

	d. lighting.	

12.2 Rule 21.5.28 – Ski tows and lifts

849. As notified, Rule 21.5.28 read as follows:

21.5.28	Ski tows and lifts. Control is reserved to all of the following: a. The extent to which the ski tow or lift or building breaks the line and form of the landscape with special regard to skylines, ridges, hills and prominent slopes b. Whether the materials and colour to be used are consistent with the rural landscape of which the tow or lift or building will form a part c. Balancing environmental considerations with operational characteristics.	C

850. One submission sought to replace ski tows and lift with passenger lift systems and add provisions relating to the exterior colour of all passenger lift systems[793]. We have already addressed the definition of passenger lift system in paragraphs Section 5.16 above, concluding that it is appropriate to use this term for all such systems, including gondolas, ski tows and lifts. In addition, the submission of Mt Cardrona Station Ltd regarding exterior colour has the same reasoning as we discussed in Section 13.1 above. We adopt that same reasoning here. After hearing more extensive evidence on passenger lift systems, the Stream 11 Panel has recommended the inclusion of an additional matter of control ((c) in the rule set out below). Accordingly, we recommend that Rule 21.5.28 be located in Table 9 as an activity rather an a standard, be renumbered and worded as follows:

21.11.3	Passenger Lift Systems. Control is reserved over: a. the extent to which the passenger lift system breaks the line and form of the landscape with special regard to skylines, ridges, hills and prominent slopes; b. whether the materials and colour to be used are consistent with the rural landscape of which the passenger lift system will form a part; c. the extent of any earthworks required to construct the passenger lift system, in terms of the limitations set out in Chapter 25 Earthworks; d. balancing environmental considerations with operational characteristics.	C

12.3 Rule 21.5.29 – Night Lighting

851. As notified, this rule made night lighting a controlled activity in the SASZ. There were no submissions on it. We recommend it be located in Table 9 as an activity rather than a standard, and adopted as notified subject to minor wording changes and renumbering.

12.4 Rule 21.5.30 – Vehicle Testing

852. As notified, this rule provided for vehicle testing facilities at the Waiorau Snow Farm SASZ as a controlled activity There were no submissions on it. We recommend it be located in Table 9 as

[793] Submission 407

an activity rather than a standard, and adopted as notified subject to minor wording changes and renumbering.

12.5 Rule 21.5.31 – Retail activities ancillary to Ski Area Activities

853. As notified, this rule provided for retail activities ancillary to ski area activities as a controlled activity in the SASZ. There were no submissions on it. We recommend it be located in Table 9 as an activity rather than a standard, and adopted as notified subject to minor wording changes and renumbering.

12.6 New Activity for Ski Area Sub Zone Accommodation within Ski Are Sub Zones

854. Two submissions sought to insert a new rule into Table 7 (as notified) to provide Residential and Visitor Accommodation[794].

855. In Section 5.19 above, we set out findings as regards a definition and policy for Ski Area Sub Zone Accommodation. We do not repeat that here. Rather, having established the policy framework, we address here the formulation of an appropriate rule. We understood that Mr Barr and Mr Ferguson[795] were in general agreement as to the substance of the proposed rule. However, in terms of matters that we have not previously addressed, they had differences of opinion in relation to the inclusion in the rule of reference to landscape and ecological values.

856. Mr Ferguson initially recommended inclusion in the matters of discretion of reference to the positive benefits for landscape and ecological values[796]. However, in response to our questions, he made further amendments removing the reference to positive benefits.[797] Mr Barr, in reply, considered that it did not seem appropriate to have landscape and ecological values apply to Ski Area Sub-Zone Accommodation facilities and not to other buildings in the Sub-Zone, which are addressed by the framework in Chapter 33 and which provided for the maintenance of biological diversity[798]. We agree with Mr Barr. The inclusion of reference to ecological matters would be a duplication of provisions requiring assessment. We note that the policy framework for Ski Area Sub-Zones precludes the landscape classification from applying in the Sub-Zone. This is not to say that landscape considerations are unimportant, but, in our view, those considerations should be applied consistently when considering all buildings and structures in the Sub-Zone.

857. In Section 5.19, we noted the need for the inclusion of the 6 month stay period as it applies to Ski Area Sub Zone Accommodation to be part of this rule. Mr Ferguson included this matter as a separate rule[799]. Mr Barr, in reply, recommended the 6 month period be included as part of a single rule and also considered that given that such activities were in an alpine environment, natural hazards should be included as a matter of discretion.

858. In considering all of the above, we recommend that new rule be included in Table 9 to provide for Ski Area Sub Zone Accommodation, numbered and worded as follows:

21.12.7	Ski Area Sub Zone Accommodation	RD

794 Submissions 610, 613
795 Expert Planning Witness for Submission Numbers 610 and 613
796 C Ferguson, EIC, Page 32-33, Para 125
797 C Ferguson, Response to Panel Questions, 27 May 2016, Pages 7 - 8
798 C Barr, Reply, Pages 40 – 41, Para 14.12
799 C Ferguson, Response to Panel Questions, 27 May 2016, Page 8

	Comprising a duration of stay of up to 6 months in any 12 month period and including worker accommodation. Discretion is restricted to: a. scale and intensity and whether these would have adverse effects on amenity, including loss of remoteness or isolation b. location, including whether that because of the scale and intensity the visitor accommodation should be located near the base building area (if any) c. parking d. provision of water supply, sewage treatment and disposal e. cumulative effects f. natural hazards	

12.7 New Rule – Ski Area Sub-Zone Activities

859. As a result of hearings in Stream 11, a new Rule 21.12.8 providing for a no build area in the Remarkables Ski Area Sub-Zone has been recommended by the Stream 11 Panel.

12.8 Standards for Ski Area Sub-Zones

860. As will be clear from above, we concluded that all the provisions listed in notified Table 7 were activities rather than standards. We had no evidence suggesting any specific standard be included for Ski Area Sub-Zone. Thus we recommend the table for such standards be deleted.

13 TABLE 8 – STANDARDS FOR ACTIVITIES WITHIN THE RURAL INDUSTRIAL SUB ZONE

13.1 Rule 21.5.32 – Buildings

861. As notified, Rule 21.5.32 read as follows;

21.5.32	**Buildings** Any building, including any structure larger than 5m2, that is new, relocated, altered, reclad or repainted, including containers intended to, or that remain on site for more than six months, and the alteration to any lawfully established building are subject to the following: All exterior surfaces shall be coloured in the range of browns, greens or greys (except soffits), including; 21.5.32.1 Pre-painted steel and all roofs shall have a reflectance value not greater than 20%; and, 21.5.32.2 All other surface finishes shall have a reflectance value of not greater than 30%. Discretion is restricted to all of the following: • External appearance • Visual prominence from both public places and private locations. • Landscape character • Visual amenity.	RD

862. One submission sought that the activity status be amended to fully discretionary or that the Rural Industrial Sub-Zone be removed from this Stage of the Review[800]. On reviewing the submission, we note that the concern expressed was that 'rural amenity' was not provided in the list of matters of discretion.

863. This submission was addressed by Mr Barr in the Section 42A Report, Appendix 2 where Mr Barr recorded that, *"The matters of discretion are considered to appropriately contemplate 'rural amenity'. The matters of discretion specify 'visual amenity'. Visual amenity would encompass rural amenity."*[801]

864. We heard no evidence in support of the submission. We agree with Mr Barr for the reasons set out in the Section 42A Report. Accordingly, we recommend that the submission be rejected and subject to minor word changes, the rule be adopted as notified as Rule 21.14.1 in Table 11..

13.2 Rule 21.5.33 – Building size

865. As notified this rule set a maximum ground floor of buildings in the Rural Industrial Sub-Zone at 500m^2, with non-compliance a restricted discretionary activity. No submissions were received on this rule.

866. Other than minor wording changes for clarity and renumbering, we recommend this rule be adopted as notified.

13.3 Rule 21.5.34 – Building height

867. As notified, this rule set the maximum building height at 10m in the Sub-Zone. No submissions were received on this rule.

868. Other than minor wording changes for clarity and renumbering, we recommend this rule be adopted as notified.

13.4 Rule 21.5.35 – Setback from Sub-Zone Boundaries

869. As notified, this rule set the setback from the Sub-Zone boundaries at 10m in the Sub-Zone. No submissions were received on this rule.

870. Other than minor wording changes for clarity and renumbering, we recommend this rule be adopted as notified.

13.5 Rule 21.5.36 – Retail Activities

871. As notified, this limited the location and area of space used for retail sales to being within a building, and not exceeding 10% of the building's total floor area. Non-compliance was set as a non-complying activity. No submissions were received on this rule.

872. Other than minor wording changes for clarity and renumbering, we recommend this rule be adopted as notified.

13.6 Rule 21.5.37 – Lighting and Glare

873. As notified, Rule 21.5.37 read as follows;

21.5.37	**Lighting and Glare**	NC

800 Submission 314

801 C Barr, Section 42A Report, Appendix 2, Page 127

	21.5.37.1	All fixed exterior lighting shall be directed away from adjoining sites and roads; and	
	21.5.37.2	No activity on any site shall result in greater than a 3.0 lux spill (horizontal and vertical) of light onto any other site measured at any point inside the boundary of the other site, provided that this rule shall not apply where it can be demonstrated that the design of adjacent buildings adequately mitigates such effects.	
	21.5.37.3	There shall be no upward light spill.	

874. One submission sought that this provision be relocated to Table 2 – General Standards[802]. At this point, we also note that there was one submission seeking shielding and filtration standards for outdoor lighting generally within the zone with any non-compliance to be classified as a fully discretionary activity[803].

875. Mr Barr considered that shifting the standard to Table 2 – General Standards was appropriate relying on the evidence of Dr Read, *"… that the absence of any lighting controls in the ONF/L is an oversight and is of the opinion that the lighting standards should apply District Wide"*[804]. We agree for the reason set out in Mr Barr's Section 42A Report and recommend that the submission be accepted in part. We also consider that this addresses the submission seeking new lighting standards and accordingly recommended that submission be accepted in part.

876. The submission of QLDC Corporate also sought the following additional wording be added to the standard, *'Lighting shall be directed away from adjacent roads and properties, so as to limit effects on the night sky'.*

877. We agree with Mr Barr that such a standard is too subjective in that the rule itself would limit effects on the night sky and that it would be too difficult to ascertain as a permitted standard. Accordingly, we recommended that that submission be rejected.

878. Consequently, we recommend this rule be located in Table 2 as Rule 21.5.7 with the only text change being the replacement in recommended Rule 21.5.7.3 of "shall" with "must".

14 TABLE 9 – ACTIVITIES AND STANDARDS FOR ACTIVITIES ON THE SURFACE OF LAKES AND RIVERS

879. This table, as notified, contained a mixture of activities and standards. We recommend it be divided into two tables: Table 12 containing the activities on the surface of lakes and rivers, and Table 13 containing the standards for those activities.

14.1 Rule 21.5.38 – Jetboat Race Events

880. As notified, Rule 21.5.38 read as follows:

802 Submission 383

803 Submission 568

804 C Barr, EIC, Page 101, Para 20.8

21.5.38	**Jetboat Race Events** Jetboat Race Events on the Clutha River, between the Lake Outlet boat ramp and the Albert Town road bridge not exceeding 6 race days in any calendar year. Control is reserved to all of the following: a. The date, time, duration and scale of the jetboat race event, including its proximity to other such events, such as to avoid or mitigate adverse effects on residential and recreational activities in the vicinity b. Adequate public notice is given of the holding of the event c. Reasonable levels of public safety are maintained.	C

881. One submission sought that the rule be deleted as it would limit recreational opportunities and activities on the Clutha River[805].

882. Mr Barr, in the Section 42A Report, noted that this rule was effectively brought over from the ODP with the same activity status. The only change was that the limitation of 6 races per year was specified in the rule, rather than in a note[806]. We heard no evidence in support of the submission and we do not consider a 6 race limit unreasonable. Accordingly, we recommend that the submission be rejected and that the only changes be to numbering and structuring, in line with our more general recommendations. Some minor changes to the matters of control are also recommended so they do not read as standards. It would therefore be located in Table 12 as an activity and worded as follows:

21.15.4	**Jetboat Race Events** Jetboat Race Events on the Clutha River, between the Lake Outlet boat ramp and the Albert Town road bridge not exceeding 6 race days in any calendar year. Control is reserved to: a. the date, time, duration and scale of the jetboat race event, including its proximity to other such events, such as to avoid or mitigate adverse effects on residential and recreational activities in the vicinity; b. the adequacy of public notice of the event; c. public safety.	C

14.2 Rule 21.5.39 - Commercial non-motorised boating activities and Rule 21.5.43 – Commercial boating activities

883. As notified, Rule 21.5.39 read as follows:

21.5.39	**Commercial non-motorised boating activities** Discretion is restricted to all of the following: a. Scale and intensity of the activity b. Amenity effects, including loss of privacy, remoteness or isolation c. Congestion and safety, including effects on other commercial operators and recreational users	RD

805 Submission 758

806 C Barr, Section 42A Report, Pages 88 – 89, Paras 17.43 – 17.48

	d. Waste disposal e. Cumulative effects f. Parking, access safety and transportation effects.	

884. One submission sought that the rule be retained[807], one sought that it be deleted[808], two submissions sought that the rule be amended to prohibit non-motorised commercial activities on Lake Hayes[809] and one submission sought that the rule be amended so that the matters of discretion included location[810]. We note that Queenstown Rafting Ltd lodged a number of further submissions opposing many of the submissions on this provision and also seeking that the activity status be made fully discretionary. We find this latter point is beyond the scope of the original submissions, and hence we not have considered that part of those further submissions.

885. Mr Barr, in the Section 42A Report, noted the safety concerns raised in the QRL submission[811], but considered that the provision as notified adequately addressed safety issues and that the restricted discretionary activity status was appropriate. Mr Barr also considered that the addition of 'location' as a matter of discretion was appropriate.[812] Mr Farrell, in evidence for RJL agreed with Mr Barr[813].

886. In evidence for QRL, Mr Boyd (Managing Director of QRL) suggested that restricted discretionary activity status would result in the Council not considering other river and lake users when assessing such applications. He also highlighted the potential impact of accidents on tourism activities.[814]

887. Mr Brown, in his evidence for Kawarau Jet Services Holdings Limited[815] considered safety and congestion an important factor that should considered for any application involving existing and new motorised and non-motorised boating activities[816].

888. In reply, Mr Barr considered that the inclusion of safety in the matters of assessment meant that restricted discretionary status did not unduly impinge on a thorough analysis and application of section 104 and section 5.[817]

889. Considering the evidence of the witnesses we heard, we had difficulty in reaching the conclusion that restricted discretionary activity status was appropriate for commercial non-motorised boating activities (Rule 21.5.39) alongside fully discretionary activity status for commercial motorised boating activities (Rule 21.4.43), particularly where motorised and non-motorised activities may occur on the same stretch of water. It appeared to us that the same activity status should apply to both motorised and non-motorised commercial boating activities.

890. We therefore consider Rule 21.5.43 at this point. As notified, this rule read as follows;

807 Submissions 45, 719
808 Submission 167
809 Submission 11, 684
810 Submission 621
811 Submission 167
812 C Barr, Section 42A Report, Page 84-85, Paras 17.25 – 17.28
813 B Farrell, EIC, Page 27, Paras 125 - 126
814 RV Boyd, EIC, Pages 3- 5, Paras 3.3 – 4.5
815 Submission 307
816 J Brown, EIC, Page 20, Para 2.28
817 C Barr, Reply, Page 30, Para 10.2

21.5.43	**Commercial boating activities** Motorised commercial boating activities. Note: Any person wishing to commence commercial boating activities could require a concession under the QLDC Navigation Safety Bylaw. There is an exclusive concession currently granted to a commercial boating operator on the Shotover River between Edith Cavell Bridge and Tucker Beach until 1 April 2009 with four rights of renewal of five years each.	D

891. One submission sought that the term "motorised commercial boating activities" be deleted from the rule[818] and one submission sought that the rule be amended to separately provide for commercial ferry operations for public transport between the Kawarau River, Frankton Arm, and Queenstown CBD as a controlled activity[819].

892. We were unable to find direct reference in the Section 42A Report to this rule or to the submission from QRL. Rather, the focus of the Section 42A Report remained on the commercial non-motorised boating activities as discussed above.

893. Reading Submission 167 as a whole, the combination of relief resulting from deleting rule 21.5.39 and deleting "*motorised commercial boating activities"* from Rule 21.5.43 would mean that all commercial boating activities (meaning both motorised and non-motorised operations) would become fully discretionary activities. For the reasons discussed above, we agree that it is appropriate that the same activity status apply to motorised and non-motorised boating activities. We have no jurisdiction to consider restricted discretionary status for motorised activities (other than for commercial ferry operations in the areas specified in Submission 806).

894. Accordingly, we recommend that Rule 21.5.39 and Rule 21.4.43 be combined and renumbered, with the following wording;

21.15.9	**Motorised and non-motorised Commercial Boating Activities** Except where otherwise limited by a rule in Table 12. Note: Any person wishing to commence commercial boating activities could require a concession under the QLDC Navigation Safety Bylaw. There is an exclusive concession currently granted to a commercial boating operator on the Shotover River between Edith Cavell Bridge and Tucker Beach until 1 April 2009 with four rights of renewal of five years each.	D

895. In relation to the submission of QPL seeking commercial ferry operations for public transport between the Kawarau River, Frankton Arm, and Queenstown CBD be subject to a separate rule as a controlled activity, this issue has also been raised by RJL. Both QPL and RJL sought related amendments to a number of provisions and we address those matters later in the report in Section 15.4.

818 Submission 167

819 Submission 806

14.3 Rule 21.5.40 – Jetties and Moorings in the Frankton Arm

896. As notified, this rule provided for jetties and moorings in the Frankton Arm as a restricted discretionary activity. No submissions were received on this rule.

897. Other than minor wording changes and renumbering, we recommend this be adopted as notified.

14.4 Rule 21.5.41 and Rule 21.5.42 – Structures and Moorings

898. As notified, Rules 21.5.41 and 21.5.42 read as follows;

21.5.41	**Structures and Moorings** Any structure or mooring that passes across or through the surface of any lake or river or is attached to the bank of any lake and river, other than where fences cross lakes and rivers.	D
21.5.42	**Structures and Moorings** Any structures or mooring that passes across or through the surface of any lake or river or attached to the bank or any lake or river in those locations on the District Plan Maps where such structures or moorings are shown as being non-complying.	NC

899. One submission sought that Rule 21.5.41 be amended to include pipelines for water takes that are permitted in a regional plan and gabion baskets or similar low impact erosion control structures installed for prevention of bank erosion[820].

900. Two submissions sought that Rule 21.5.42 be amended to provide for jetties and other structures for water based public transport on the Kawarau River and Frankton Arm, as a controlled activity[821].

901. In relation to the amendment sought by RJL regarding water take pipelines and erosion controls , we could not find reference to this submission point in the Section 42A Report. Mr Farrell, likewise did not address this matter in evidence for RJL. In reply, Mr Barr recommended amending 21.5.41 to clarify that post and wire fences were in this situation permitted activities, although he provided no discussion of this change or reference to a submission seeking it.

902. Having heard no evidence in support of the amendments for inclusion of water pipeline takes and erosion control devices, we recommend that that submission be rejected.

903. While there may have been an intention that post and wire fences crossing lakes and rivers were a permitted activity, Rule 21.5.41 as notified did not classify those activities in that way. What the rule did do is exclude fences crossing lakes and rivers from the discretionary activity category.. Given the application of (notified) Rule 21.4.1, those fences would therefore be non-complying activities. There is no scope for those activities to be reclassified as permitted. Therefore, we do not agree with Mr Barr's recommended amendment.

904. What we do recommend is a minor, non-substantive change to Rule 21.5.41 to make it clear that it is subject to Rule 21.5.42 (as notified).

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820 Submission 621

821 Submission 621, 806

905. Accordingly, we recommend that Rules 21.5.41 and 21.5.42 be renumbered and worded as follows:

21.15.7	**Structures and Moorings** Subject to Rule 21.15.8, any structure or mooring other than post and wire fences that passes across or through the surface of any lake or river or is attached to the bank of any lake and river.	D
21.15.8	**Structures and Moorings** Any structures or mooring that passes across or through the surface of any lake or river or attached to the bank or any lake or river in those locations on the District Plan Maps where such structures or moorings are shown as being non-complying.	NC

906. Returning to the submissions regarding jetties and other structures for water based public transport on the Kawarau River and Frankton Arm as a controlled activity, we have already addressed these matters at a policy level in Section 5.48 above, where we recommended separating public ferry systems from other commercial boating activities. We also recorded the need for jetties and moorings to be considered in the context of policies related to protection landscape quality and character, and amenity values.

907. Mr Barr, in the Section 42A Report, was opposed to controlled activity status for jetties and other structures and his recommendation was *"that the restricted discretionary activity status is appropriate, as is a discretionary, or non-complying activity status for other areas as identified in the provisions."*[822] Mr Farrell, in evidence for RJL, agreed with Mr Barr as to the restricted discretionary activity status for structures associated with water based public transport in the Frankton Arm[823].

908. We could not identify anywhere in the Section 42A Report or in his Reply Statement where Mr Barr included any recommendations so that the revised text of the PDP would provide for jetties and other structures as restricted discretionary activities. Even if we are wrong on that matter, we do not agree that that is the appropriate activity status. In our view, Policy 21.2.12.8 recommended above goes far enough towards encouraging public ferry systems and beyond that, the rules need to be balanced so that consideration is given to landscape quality and character, and amenity values, that are to be maintained and enhanced under Policies 6.3.29 and 6.3.30.

909. Accordingly, we recommend that the submissions seeking rule amendments to provide for jetties and other structures for water based public transport on the Kawarau River and Frankton Arm as a controlled activity be rejected.

14.5 Rule 21.5.44 – Recreational and commercial boating activities

910. As notified, Rule 21.5.44 read as follows:

21.5.44	**Recreational and commercial boating activities** The use of motorised craft on the following lakes and rivers is prohibited, except where the activities are for emergency search and rescue, hydrological survey, public scientific research,	PR

822 C Barr, Section 42A Report, Page 87, Para 17.36

823 B Farrell, EIC, Page 28, Para 129

	resource management monitoring or water weed control, or for access to adjoining land for farming activities. 21.5.44.1 Hawea River. 21.5.44.2 Commercial boating activities on Lake Hayes. 21.5.44.3 Any tributary of the Dart and Rees rivers (except the Rockburn tributary of the Dart River) or upstream of Muddy Creek on the Rees River. 21.5.44.4 Young River or any tributary of the Young or Wilkin Rivers and any other tributaries of the Makarora River. 21.5.44.5 Dingle Burn and Timaru Creek. 21.5.44.6 The tributaries of the Hunter River. 21.5.44.7 Hunter River during the months of May to October inclusive. 21.5.44.8 Motatapu River. 21.5.44.9 Any tributary of the Matukituki River. 21.5.44.10 Clutha River - More than six jet boat race days per year as allowed by Rule 21.5.38.	

911. Submissions to this rule variously sought that:
   a. 21.5.44 be retained[824]
   b. 21.5.44.1 be amended to provide for recreational jet sprint racing on the Hawea River[825]
   c. 21.5.44.3 be amended to provide for recreational and commercial boating activities on the Beansburn tributary of the Dart River[826]
   d. 21.5.44.7 amend rule to permitted activity status[827]
   e. 21.5.44.10 amend rule to permitted activity status[828].

912. Mr Barr, in the Section 42A Report, addressed the submission of Jet Boat NZ as regards jet sprint racing on the Hawea River, noting that the ODP did provide for such activities 6 days per year on an identified course on the river. However, Mr Barr set out in detail the reasons he considered that the activity status in the PDP should remain as prohibited, as follows;

"a. There is not any 'one approved jet sprint course' on the ODP planning maps. I accept this is not the fault of the submitter, however it illustrates that the rule has not been exercised.

a. The qualifiers in the exemption to the prohibited status are cumbersome and subject to third party approvals from a whitewater group and the Queenstown Harbour Master.

b. There is a jet sprint course constructed and in operation near the Wanaka Airport[53] for these activities that negate the need to manage risks to safety, amenity and nature conservation values as required in the qualifiers in Rule 5.3.3.5(a) through undertaking the activity on the Hawea River.

c. The jet sprint course near Wanaka Airport held a New Zealand Jet Sprint Championship event, however the resource consent was for a one-off event[54]. While these activities require a resource consent the physical works associated with constructing a jet sprint course are already done

824 Submission 688
825 Submission 758
826 Submission 716
827 Submission 758
828 Submission 758

d. The jet sprint course on the Hawea River has not been used for a long time and is disused. The Council's Albert Town Reserve Management Plan 2010[55] noted this and states that the jet sprint course was not compatible with the quiet values of the reserve and adjacent camping areas and, Central Otago Whitewater have expressed an interest in using the disused course for a pond to complement the kayak slalom site. [829]

53. http://www.jetsprint.co.nz/tracks/oxbow-aquatrack-wanaka/ Downloaded 28 February 2016.

54. RM130098 Oxbow Limited. To hold the fifth round of the New Zealand Jet Sprint Championship on the 30 March 2013 and undertake earthworks to construct the jet sprint course

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55. http://www.qldc.govt.nz//assets/OldImages/Files/Reserve_Management_Plans/Albert_Town_Recreation_Reserve_Mgmt_ Plan_2010.pdf"

913. Mr McSoriley, in evidence for JBNZ, considered that Mr Barr's interpretation of the rules in the ODP was incorrect and that the rules provided for both jet boating runs on the Hawea River itself, as well as jet sprint events on the identified course[830]. Mr McSoriley considered that there was no support for a blanket prohibition on the Hawea River and also set out the reasons for the limited utilisation of jet sprint course and factors that may have led to the PDP discouraging recreational jet boating[831].

914. In reply, Mr Barr considered that it was appropriate to have jet boating runs on the Hawea River as per the ODP Rule 5.3.3.5i (a) (2) despite the cumbersome nature of the provisions in the ODP and recommended amendments to that effect[832]. Having considered the witness's evidence, we agree.

915. We questioned Mr Barr, as to whether the jet sprint course was part of the river, or whether, because it was artificially constructed, it therefore fell under Council's jurisdiction as a land-based activity rather than a surface of water activity. We understood from Mr Barr's evidence in reply that he supported the second interpretation. It followed that any activity on the course would require consideration under the provisions governing noise, commercial recreation activities and temporary activities. Mr Barr provided a copy of a consent from 14 Dec 1999 for a one-off jet sprint event to be held on 3 Jan 2000.

916. We agree with Mr Barr that the jet sprint course is not part of the surface of a lake or river, but that this use should be addressed under other provisions in Plan. We also note that we did not receive any evidence that the activity was lawfully established. In our view, the activity would be most appropriately addressed as a temporary activity.

917. Accordingly we recommend that the submission of JBNZ seeking the reinstatement of the Jet Sprint Course be rejected and recreational jet boat runs on the Hawea be provided for subject to limitations as follows;

829 C Barr, Section 42A Report, Pages 90 – 91, Para 17.52
830 L McSoriley, EIC, Pages 2-3, Para 10 - 12
831 L McSoriley, EIC, Pages 4-5, Paras 14 - 24
832 C Barr, Reply, Page 31, Para 10.6

21.15.3	**Motorised Recreational Boating Activities** Hawea River, motorised recreational boating activities on no more than six (6) days in each year subject to the following conditions: a. at least four (4) days of such activity are to be in the months January to April, November and December b. The Jet Boat Association of New Zealand ("JBANZ") (JBANZ or one of the Otago and Southland Branches as its delegate) administers the activity on each day c. The prior written approval of Central Otago Whitewater Inc is obtained if that organisation is satisfied that none of its member user groups are organising activities on the relevant days; and d. JBANZ gives two (2) calendar months written notice to the Council's Harbour-Master of both the proposed dates and the proposed operating schedule e. The Council's Harbour-Master satisfies himself that none of the regular kayaking, rafting or other whitewater (non-motorised) river user groups or institutions (not members of Central Otago Whitewater Inc) were intending to use the Hawea River on that day, and issues an approved operating schedule f. JBANZ carries out, as its expense, public notification on two occasions 14 and 7 days before the proposed jet boating g. Public notification for the purposes of (f) means a public notice with double-size font heading in both the Otago Daily Times and the Southland Times, and written notices posted at the regular entry points to the Hawea River.	P

918. As regards the submission of Ngai Tahu Tourism Ltd seeking that Rule 21.5.44.3 be amended to provide for recreational and commercial boating activities on the Beansburn tributary of the Dart River, Mr Barr, in the Section 42A Report, considered that the submission did not contain any evaluation of safety effects, or how natural conservation values or amenity values of other recreational users would be impacted[833].

919. Mr Edmonds spoke to the submission of Ngai Tahu Tourism Ltd, noting that the jet boat trip includes a stop at toilet facilities up the Beansburn River for which Ngai Tahu Tourism have a concession and presented maps showing stopping points. Mr Barr, in reply, agreed with Mr Edmonds and included a recommended amendment as part of a section 32AA assessment to provide for the exception of Beansburn tributary of the Dart River[834].

920. We agree that an exception in this case is appropriate in addressing a practical aspect of the existing commercial boating operation. By excluding the Beansburn from the rule, the more general Rule 21.15.9 (as recommended) would apply making the activities described by Mr Edmonds a discretionary activity. Accordingly, we recommend that 21.5.44.3 be renumbered and worded as follows:

833 C Barr, Section 42A Report, Page 91, Para 17.55

834 C Barr, Reply, Appendix 2, Page 12, Rule 21.5.44.3

Any tributary of the Dart and Rees rivers (except the Beansburn and Rockburn tributaries of the Dart River) or upstream of Muddy Creek on the Rees River.

921. The submission of JBNZ sought to amend Rule 21.5.44.7, which prohibited recreational motorised craft on the Hunter River during the months of May to October, so that it would be permitted. Mr Barr in the Section 42A Report, noted that the submission stated that the rule would, *"'prohibit recreational opportunities in certain months which is a permitted activity under the Operative District Plan'".* Mr Barr recorded that the rule is in fact carried over from the ODP and he considered the rule appropriate in terms of navigation and safety considerations and environmental impacts.

922. We heard no evidence from JBNZ in support of the submission that would contradict Mr Barr's evidence. Therefore we recommend that the submission be rejected.

923. As regards the amendment sought by JBNZ to Rule 21.5.44.10 seeking permitted activity status for jet boating racing on the Clutha River (up to 6 race days a year), Mr Barr noted in the Section 42A Report that controlled activity status under Rule 21.5.38 is the same as in the ODP.[835] Mr Barr did not consider the reasons provided by JBNZ to be compelling enough to alter the existing situation.

924. As for our consideration of Rule 21.5.38, JBNZ did not present any evidence in support of the submission that would cause us to take a different view to Mr Barr. We therefore recommend that the submission be rejected.

925. Notwithstanding the recommended acceptance and rejection of submissions set out above, we consider this rule has some inherent difficulties. As we understand the intention of the rule, it is to make it a prohibited activity for motorised craft to use the listed rivers and Lake Hayes (limited to commercial motorised craft). However, the rule also implies that where motorised craft are used for emergency search and rescue, hydrological survey, public scientific research, resource management monitoring or water weed control, or for access to adjoining land for farming activities, then they can use those rivers and Lake Hayes, presumably as a permitted activity.

926. In our view, the PDP would be a more easily understood document if the permitted activities were specified as such, and the prohibited activity rule was drafted so that it did not apply to those activities. For those reasons, we recommend this rule be split into two rules as follows:

21.15.2	**Motorised Recreational and Commercial Boating Activities** The use of motorised craft for the purpose of emergency search and rescue, hydrological survey, public scientific research, resource management monitoring or water weed control, or for access to adjoining land for farming activities.	P
21.15.10	**Motorised Recreational and Commercial Boating Activities** The use of motorised craft on the following lakes and rivers is prohibited except as provided for under Rules 21.15.2 and 21.15.3. 21.15.10.1 Hawea River. 21.15.10.2 Lake Hayes - Commercial boating activities only.	PR

[835] C Barr, Section 42A Report, Page 89, Para 17.47

	21.15.10.3 Any tributary of the Dart and Rees Rivers (except the Beansburn and Rockburn tributaries of the Dart River) or upstream of Muddy Creek on the Rees River. 21.15.10.4 Young River or any tributary of the Young or Wilkin Rivers and any other tributaries of the Makarora River. 21.15.10.5 Dingle Burn and Timaru Creek. 21.15.10.6 The tributaries of the Hunter River. 21.15.10.7 Hunter River during the months of May to October inclusive. 21.15.10.8 Motatapu River. 21.15.10.9 Any tributary of the Matukituki River. 21.15.10.10 Clutha River - More than six jet boat race days per year as allowed by Rule 21.15.4	

14.6 Rule 21.5.45 – Boating Craft used for Accommodation

927. As notified, this rule provided standards applying to the use of craft for overnight accommodation. Non-compliance was a non-complying activity. No submissions were received to this rule.

928. In his Reply Statement, Mr Barr recommended changed wording so as to make it clear that the activity is allowed subject to the standards. In large part we agree with his recommended amendments. We consider such an amendment to be minor and available under Clause 16(2).

929. We recommend the rule be renumbered and adopted with the following wording:

21.16.1	**Boating craft used for Accommodation** Boating craft on the surface of the lakes and rivers may be used for accommodation, provided that: 21.16.1.1 The craft must only be used for overnight recreational accommodation; and 21.16.1.2 The craft must not be used as part of any commercial activity; and 21.16.1.3 All effluent must be contained on board the craft and removed, ensuring that no effluent is discharged into the lake or river.	NC

14.7 Rule 21.5.46 – Jetties in Frankton Arm

930. As notified, Rules 21.5.46 read as follows:

21.5.46	No new jetty within the Frankton Arm identified as the area east of the Outstanding Natural Landscape Line shall: 21.5.46.1 be closer than 200 metres to any existing jetty; 21.5.46.2 exceed 20 metres in length; 21.5.46.3 exceed four berths per jetty, of which at least one berth is available to the public at all times; 21.5.46.4 be constructed further than 200 metres from a property in which at least one of the registered owners of the jetty resides.	NC

931. One submission sought that the standard be amended to exclude jetties associated with water based public transport or amended to provide flexibility for the provision of such jetties[836]. Two other submissions similarly sought that the rule not apply to jetties for public transport linkage on the Kawarau River, the Frankton Arm and Queenstown CBD[837].

932. Submissions to this rule were not directly referenced in the Section 42A Report, Mr Barr noting in Appendix 2 that the matter was addressed under his consideration of Objective 21.2.12 (as notified)[838].

933. Mr Farrell, in evidence for RJL opined that the importance of water based public transport warranted discretionary activity status for associated jetties and structures rather than the non-complying activity status[839]. Mr Farrell did not provide any further reasons for reaching that opinion.

934. We have already addressed the issue of water based public transport infrastructure at a policy level in Section 5.48 above, where we recommended separating public ferry systems from other commercial boating activities and, in particular, recording the need for jetties and moorings to be considered within the context of landscape quality and character, and amenity values all being maintained and enhanced under Policies 6.3.29 and 6.3.30. For the same reasons, we recommend that these submissions be rejected.

935. Mr Barr, in reply did recommend clarification of the rule by inserting a reference to Outstanding Natural Landscape line as shown on the District Plan Maps[840]. We agree that this is a useful clarification. Accordingly, we recommend that Rule 21.5.46 be renumbered and the wording be as follows;

21.16.2	Jetties and Moorings in the Frankton Arm Jetties and moorings in the Frankton Arm, identified as the areas located to the east of the Outstanding Natural Landscape line as shown on District Plan Map No new jetty within the Frankton Arm identified as the area east of the Outstanding Natural Landscape Line shall: 21.16.2.1 Be closer than 200 metres to any existing jetty; 21.16.2.2 Exceed 20 metres in length; 21.16.2.3 Exceed four berths per jetty, of which at least one berth is available to the public at all times; 21.16.2.4 Be constructed further than 200 metres from a property in which at least one of the registered owners of the jetty resides.	NC

14.8 Rule 21.5.47 – Specific Standards

936. As notified, Rule 21.5.47 read as follows;

21.5.47	The following activities are subject to compliance with the following standards:	NC

836 Submission 621
837 Submissions 766, 806
838 C Barr, Section 42A Report, Appendix 2, Page 131
839 B Farrell, EIC, Page 29, Para 135
840 C Barr, Reply, Appendix 1, Page 21-27

	21.5.47.1	Kawarau River, Lower Shotover River downstream of Tucker Beach and Lake Wakatipu within Frankton Arm - Commercial motorised craft shall only operate between the hours of 0800 to 2000.	
	21.5.47.2	Lake Wanaka, Lake Hawea and Lake Wakatipu - Commercial jetski operations shall only be undertaken between the hours of 0800 to 2100 on lakes Wanaka and Hawea and 0800 and 2000 on Lake Wakatipu.	
	21.5.47.3	Dart and Rees Rivers - Commercial motorised craft shall only operate between the hours of 0800 to 1800, except that above the confluence with the Beansburn on the Dart River commercial motorised craft shall only operate between the hours of 1000 to 1700.	
	21.5.47	Dart River – The total number of commercial motorised boating activities shall not exceed 26 trips in any one day. No more than two commercial jet boat operators shall operate upstream of the confluence of the Beansburn, other than for tramper and angler access only.	

937. One submission sought that the rule be amended to clarify that it did not apply to commercial boating operations providing a public transport service[841]. Another submission sought that Rule 21.5.47.1 be amended so as not to provide a disincentive for public transport[842]. A third submission sought that rule 21.5.47.4 be amended to refer to 'one' instead of 'two' commercial jet boat operators[843].

938. Mr Barr, in the Section 42A Report, agreed that the hours of operation specified in Rule 21.5.47.1 could provide a disincentive for public transport and recommended amending the rule to exclude public transport ferries, rather than deleting the rule entirely.[844]

939. We have already addressed public transport ferry activities above. We agree with Mr Barr that the restriction on the hours of operation would be a disincentive that should be removed.

940. In speaking to the submission of Ngai Tahu Tourism Ltd[845] seeking an amendment to Rule 21.5.47.4, to refer to 'one' instead of 'two' commercial jet boat operators, Mr Edmonds explained that Ngai Tahu Tourism Ltd now owned all the jet boat operations on the Dart River.

941. We are concerned that, notwithstanding that Ngai Tahu Tourism Limited may be the only present operator on the Dart River, restricting the number of operators to one would amount to a restriction of trade competition. In the absence of evidence of resource management reasons as to why the standard should be further restricted, we do not recommend it be changed.

841 Submission 806
842 Submission 383
843 Submission 716
844 C Barr, Section 42A Report, Page 87, Para 17.39
845 Submission 716

942. Taking account of all of the above, we recommend that rule 21.5.47 be renumbered and worded as follows:

21.16.3	The following activities are subject to compliance with the following standards: 21.16.3.1 Kawarau River, Lower Shotover River downstream of Tucker Beach and Lake Wakatipu within Frankton Arm - Commercial motorised craft other than public transport ferry activities, may only operate between the hours of 0800 to 2000. 21.16.3.2 Lake Wanaka, Lake Hawea and Lake Wakatipu - Commercial jetski operations must only be undertaken between the hours of 0800 to 2100 on Lakes Wanaka and Hawea and 0800 and 2000 on Lake Wakatipu. 21.16.3.3 Dart and Rees Rivers - Commercial motorised craft must only operate between the hours of 0800 to 1800, except that above the confluence with the Beansburn on the Dart River commercial motorised craft must only operate between the hours of 1000 to 1700. 21.16.3.4 Dart River – The total number of commercial motorised boating activities must not exceed 26 trips in any one day. No more than two commercial jet boat operators may operate upstream of the confluence of the Beansburn, other than for tramper and angler access only.	NC

15 TABLE 10 – CLOSEBURN STATION

943. As notified, this table contained one activity rule and four standards applying solely to Closeburn Station. The only submission[846] on these supported the provisions.

944. We recommend these be split into two tables: Table 14: Closeburn Station – Activities; and Table 15: Closeburn Station – Standards. Other than that, renumbering and a minor grammatical correction to the height standards, we recommend the rules be adopted as notified.

16 NEW STANDARDS SOUGHT

945. The NZFS[847] sought inclusion of a standard requiring compliance with the NZFS Code of Practice SNZ PAS 4509:2003 in relation to water supply and access. We were not able to find any further submissions opposing the relief sought.

946. In the Section 42A Report, Mr Barr supported the request but raised concerns around the reliance on the Code of Practice, which is a document outside the PDP, for a permitted activity status. As there were no development rights attached to dwellings in the Rural Zone, Mr Barr

846 Submission 323
847 Submission 438

did not consider the rule necessary and recommended that the submission be rejected[848]. We note that in Section 5.4 above that we have already dealt with the policy matter of the provision of firefighting water supply and fire service vehicle access within this Chapter and the other rural chapters. We also note that Mr Barr, in the Section 42A Report on Chapter 22, recommended that the specifics of the Code of Practice be incorporated into the wording of a standard[849].

947. We heard evidence from Mr McIntosh, Area Manager Central/North Otago at the NZFS, as to the detail of the Code of Practice and the importance of water supply and access to property in the event of the NZFS attending emergency call outs[850]. We also heard evidence from Ms A McLeod, a planner appearing for NZFS. Ms McLeod had a different view to Mr Barr, considering that a standard should be included. Her reasons included greater certainty and clarity for plan users, consistency with the priority given to fire-fighting water supply in section 14(3) of the RMA and by being *"the most appropriate way to achieve the purpose of the RMA by enabling people and community to provide for their health, safety and well-being by managing a potential adverse effect of relatively low probability but high consequence."*[851]

948. In her evidence, Ms McLeod considered that reference to codes of practice were provided for by the Act and that interpreting the code into the provision as proposed by Mr Barr could lead to the PDP being more restrictive than the code itself[852]. We questioned the NZFS witnesses regarding the detail of the application of the code and proposed standard and activity status during the hearing and also sought additional information on specific questions relating to the treatment of multiple units, separation distances and the suggested 45,000 litre tank size. We received that information on 7 June 2016.

949. Taking into account all the evidence and information we were provided with, we think that reliance on the code of practice in not appropriate in terms of specifying the requirements and that those requirements should be set out in the Plan. We agree that the tank/s size should be 45,000litres and the activity status for non-compliance should be restricted discretionary. In line with our policy recommendation above, we also consider that these provisions be consistently applied across all the rural chapters.

950. Accordingly we recommend the NZFS submission be accepted in part and that the provisions be located in Table 4 (Standards for Structures and Buildings), numbered and worded as follows:

21.7.5	Fire Fighting water and access All new buildings, where there is no reticulated water supply or any reticulated water supply is not sufficient for fire-fighting water supply, must make the following provision for fire-fighting: 21.7.5.1 A water supply of 45,000 litres and any necessary couplings. 21.7.5.2 A hardstand area adjacent to the firefighting water supply	RD Discretion is restricted to: a. The extent to which SNZ PAS 4509: 2008 can be met including the adequacy of the water supply. b. The accessibility of the firefighting water connection point for fire service vehicles.

848 C Barr, Section 42A Report, Pages 99 -100, Paras 20.1 – 20.5
849 C Barr, Chapter 22 Section 42A Report, Page 34, Paras 16.6 – 16.8
850 D McIntosh, EIC, Pages 2 – 5, Paras 19 - 33
851 A McLeod, EIC, Pages 8-9, Para 5.10
852 A McLeod, EIC, Pages 9 – 11, Paras 5.13 – 5.18

		capable of supporting fire service vehicles.	c. Whether and the extent to which the building is assessed as a low fire risk.
	21.7.5.3	Firefighting water connection point within 6m of the hardstand, and 90m of the dwelling.	
	21.7.5.4	Access from the property boundary to the firefighting water connection capable of accommodating and supporting fire service vehicles.	

17 RULE 21.6 – NON-NOTIFICATION OF APPLICATIONS

951. As notified, Rule 21.6 read as follows;

> *21.6 Non-Notification of Applications*
>
> *Any application for resource consent for the following matters shall not require the written consent of other persons and shall not be notified or limited-notified:*
>
> *21.6.1 Controlled activity retail sales of farm and garden produce and handicrafts grown or produced on site (Rule 21.4.14), except where the access is onto a State highway.*
>
> *21.6.2 Controlled activity mineral exploration (Rule 21.4. 31).*
>
> *21.6.3 Controlled activity buildings at Closeburn Station (Rule 21.5.48).*

952. One submission sought that the rule be amended to include a provision that states consent to construct a building will proceed non-notified[853]. The reasons set out in the submission include that, "*Buildings within the rural zone can have limited impact upon the environment and the community. Often buildings are related to the activities that occur onsite. Given the limited impact that buildings have on the rural environment and communities it is appropriate that consent for any building proceed non-notified*."[854]

953. In the Section 42A Report, Mr Barr considered that it was important that all buildings had the potential to be processed on a notified or limited notified basis and recommended that the submission be rejected[855]. We heard no evidence in support of the submission.

954. We agree with Mr Barr that buildings should have the potential to be processed as notified or limited notified. Any decision as regards buildings in the Rural Zone is needs to be subject of a separate assessment as to effects and potentially affected parties. In appropriate cases, applications will proceed on a non-notified basis.

955. Accordingly, we recommend that submission be rejected and that apart from numbering, the provisions remain as notified.

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853 Submission 701

854 Submission 701, Page 3, Para 23

855 C Barr, Section 42A Report, Page 92, Para 18.4

18 SUMMARY OF CONCLUSIONS ON RULES

956. We have set out in in full in Appendix 1 the rules we recommend the Council adopt. For all the reasons set out above, we are satisfied that these rules are the most effective and efficient means of implementing the policies so as to achieve the objectives of Chapter 21, and those in the Strategic Directions chapters. Where we have recommended rules not be included, that is because, as our reasons above show, we do not consider them to be efficient or effective.

19 21.7 – ASSESSMENT MATTERS (LANDSCAPE)

19.1 21.7.1 Outstanding Natural Features and Outstanding Natural Landscapes

957. As notified Clauses 21.7.1 and 21.7.1.1 – 21.7.1.2 read as follows;

> *21.7.1 Outstanding Natural Features and Outstanding Natural Landscapes (ONF and ONL).*
>
> *These assessment matters shall be considered with regard to the following principles because, in or on Outstanding Natural Features and Landscapes, the applicable activities are inappropriate in almost all locations within the zone:*
>
> *21.7.1.1 The assessment matters are to be stringently applied to the effect that successful applications will be exceptional cases.*
>
> *21.7.1.2 Existing vegetation that:*
>
> *a. was either planted after, or, self-seeded and less than 1 metre in height at 28 September 2002; and,*
>
> *b. obstructs or substantially interferes with views of the proposed development from roads or other public places, shall not be considered:*
>
> *i. as beneficial under any of the following assessment matters unless the Council considers the vegetation (or some of it) is appropriate for the location in the context of the proposed development; and*
>
> *ii. as part of the permitted baseline.*

958. Submissions on these provisions sought that the introductory note be deleted entirely[856], or that the wording in the introductory note be variously amended to remove the wording *"the applicable activities are inappropriate in almost all locations within the zone:"*[857]; or to refer only to the Wakatipu Basin[858]; that the provision be amended to take into account the locational constraints of infrastructure[859]; that the assessment criteria be amended to accord with existing case law[860]; and that 21.7.1.1[861] and 21.7.1.2[862] be deleted.

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856 Submissions 179, 421
857 Submission 355, 608, 693, 702
858 Submission 519
859 Submission 433
860 Submission 806
861 Submissions 179, 191, 249, 355, 421, 598, 621, 624, 693, 702, 781
862 Submission 249

959. In the Section 42A Report, Mr Barr provided a table that set out in detail the comparison between the assessment criteria under the ODP and PDP[863] and recommended that 21.7.1 and 21.7.1.1 be amended in response to the submissions and should be worded as follows:

> *19.1.1.1 ~~21~~.7.1 Outstanding Natural Features and Outstanding Natural Landscapes (ONF and ONL).*
>
> *These assessment matters shall be considered with regard to the following principles because, in or on Outstanding Natural Features and Landscapes, the applicable activities are inappropriate in almost all locations within the Wakatipu Basin, and inappropriate in many locations throughout the District wide Outstanding Natural Landscapes:*
>
> *~~19.1.1.2~~ 21.7.1.1 ~~The assessment matters are to be stringently applied to the effect that successful applications will be exceptional cases.~~*

960. Mr Barr's reasoning supporting the amendments, was to clarify that the assessment criteria were not a 'test', and to remove the word exceptional which has connotations to section 104D of the RMA given it is discretionary activities that the assessment is generally applied to[864].

961. In evidence for Darby Planning, Mr Ferguson considered the wording of the assessment criteria as notified predetermined that activities were inappropriate in almost all locations, and that this was itself inappropriate and unnecessary[865].

962. Mr Vivian, in evidence for NZTM agreed with Mr Barr's recommendation as to referencing that activities are inappropriate in almost all locations within the Wakatipu Basin and noted the Environment Court decision from which the assessment criteria was derived (C180/99). However, Mr Vivian considered that the term Wakatipu Basin was not adequately defined and recommended additional wording for clarification purposes.[866]

963. Mr Haworth, in evidence for UCES on wider assessment criteria matters, referred to the assessment criteria as a 'test'[867]. We questioned Ms Lucas as to her tabled evidence for UCES as to what the meaning of 'test' was in the context of her evidence. Ms Lucas' response was that *"A "test", that is, in application of the assessment matter, "shall be satisfied" that".*

964. Mr Barr, in reply, made some changes to the recommended assessment criteria in light of the submissions and evidence noted above, but considered that some of the wording changes added little value or would potentially weaken the assessment required[868]. Also in reply, Mr Barr detailed his view that a test was appropriately located in the objective and policies and that assessment matters provide guidance in considering specified environment effects[869].

965. In the Section 42A Report, Mr Barr did not support the amendment sought by QAC for the inclusion of locational constraints within the assessment criteria on the basis that it was the

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863 C Barr, Section 42A Report, Page 110, Table 1, Issue 12: Landscape Assessment Matters: cross referencing with PDP Landscape Policy and ODP assessment matters

864 C Barr, Section 42A Report, Page 98, Para 19.21

865 C Ferguson, EIC, Page 15, Para 66

866 C Vivian, EIC, Page 22, Paras 4.102 – 4.106

867 J Haworth, EIC, Page12, Para 88

868 C Barr, Reply, Pages 31-32, Para 11.1

869 C Barr, Reply, Pages 32, Para 11.4

place of policies or higher order planning documents to direct consideration of any such constraints and amendments to the strategic directions chapter had been recommended[870].

966. In evidence for QAC, Ms O'Sullivan took a different view, considering *"that the Assessment Matters, as drafted, may inappropriately constrain the development, operation and upgrade of infrastructure and utilities that have a genuine operational and/or locational requirement to be located ONLs, ONFs or RCLs. I also consider the complex cross referencing between the Chapter 6 Landscapes, Chapter 21 Rural and Chapter 30 Energy and Utilities will give rise to inefficiencies and confusion in interpretation"*[871]. To address these issues Ms O'Sullivan recommended new assessment criteria, narrowing the assessment to regional significant infrastructure with the assessment criteria be worded as follows;

21.7.3.4 For the construction, operation and replacement of regionally significant infrastructure and for additions, alterations, and upgrades to regionally significant infrastructure, in addition to the assessment matters at 21.7.1, 21.7.2, 21.7.3.2 and 21.7.3.3, whether the proposed development:

a. Is required to provide for the health, safety or wellbeing of the community; and

b. Is subject to locational or functional requirements that necessitate a particular siting and reduce the ability of the development to avoid adverse effects; and

c. Avoids, remedies or mitigates adverse effects on surrounding environments to the extent practicable in accordance with Objective 30.2.7 and Policies 30.2.7.1 – 30.2.7.4 (as applicable).

967. We agree with Mr Barr that the assessment criteria are for landscape assessment and the policies are the place where consideration by decision-makers as to policy direction on locational constraints of infrastructure should be found. Earlier in this decision we addressed the inclusion of infrastructure into this chapter[872]. For the reasons we set out there, and because we doubt that Ms O'Sullivan's suggestion is within the scope of the QAC submission, we recommend that the submission of QAC be rejected.

968. The wording of the first paragraph of 21.7.1 along with 21.7.1.1 are derived from (notified) policy 6.3.1.3. The issue as to inappropriateness and stringency of application were also canvassed before the Hearing Stream 1B in hearing submissions on Policy 6.3.1.3.. We refer to and adopt the reasoning of that Panel[873]. That Panel has recommended that (revised) Policy 6.3.11 read:

Recognise that subdivision and development is inappropriate in almost all locations in Outstanding Natural Landscapes and on Outstanding Natural Features, meaning successful applications will be exceptional cases where the landscape or feature can absorb the change and where the buildings and structures and associated roading and boundary changes are reasonably difficult to see from beyond the boundary of the site the subject of application.

969. In considering all of the above, we agree in part with Mr Barr that the objectives and policies need to link through to the assessment criteria. However, to our minds, the recommendations

870 C Barr, Section 42A Report, Pages 97 – 98, Para 19.20
871 K O'Sullivan, EIC, Page5, Para 3.4
872 Section 5
873 Report 3, Recommendations on Chapters 3, 4 and 6, Section 10.6

to establish that connection do not go far enough. Accordingly, we recommend that there be direct reference to the policies from Chapters 3 and 6 included within the assessment criteria description. In addition, we agree with Mr Barr as the assessment criteria are not tests and accordingly recommend that the submission of UCES be rejected.

970. Given the recommended wording of Policy 6.3.11, we recommend that the introductory paragraph and 21.7.1.1 be reworded consistent with that policy.

971. We heard no evidence from Willowridge Developments Limited[874] in relation to its submission seeking the deletion of Rule 21.7.1.2. Mr Barr did not particularly discuss the submission, nor recommend any changes to the provision. We understand the provision has been taken directly from the ODP (Section 5.4.2.2(1)). Without any evidence as to why the provision should be deleted or changed, we recommend it remain unaltered.

972. Accordingly we recommend that the introductory part of 21.7.1 be numbered and worded as follows:

21.21 Assessment Matters (Landscapes)

21.21.1 Outstanding Natural Features and Outstanding Natural Landscapes (ONF and ONL).

The assessment matters set out below are derived from Policies 3.3.30, 6.3.10 and 6.3.12 to 6.3.18 inclusive Applications shall be considered with regard to the following assessment matters.

21.20.1.1 In applying the assessment matters, the Council will work from the presumption that in or on Outstanding Natural Features and Landscapes, the applicable activities are inappropriate in almost all locations and that successful applications will be exceptional cases where the landscape or feature can absorb the change and where the buildings and structures and associated roading and boundary changes are reasonably difficult to see from beyond the boundary of the site the subject of application.

21.20.1.2 Existing vegetation that:

a. was either planted after, or, self-seeded and less than 1 metre in height at 28 September 2002; and

b. obstructs or substantially interferes with views of the proposed development from roads or other public places, shall not be considered:

i. as beneficial under any of the following assessment matters unless the Council considers the vegetation (or some of it) is appropriate for the location in the context of the proposed development; and

ii. as part of the permitted baseline.

874 Submission 249

19.2 Assessment Matters 21.7.1.3 to 21.7.1.6 Inclusive

973. The only submission on these assessment matters supported 21.7.1.5[875]. We recommend those matters be adopted as notified, subject to renumbering.

19.3 Section 21.7.2 Rural Landscape Classification (RCL) and 21.7.2.1 – 21.7.2.2

974. As notified Rule 21.7.2 and 21.7.2.1 – 21.7.2.2 read as follows;

> *21.7.2 Rural Landscape Classification (RLC)*
> *These assessment matters shall be considered with regard to the following principles because in the Rural Landscapes the applicable activities are inappropriate in many locations:*
>
> *21.7.2.1 The assessment matters shall be stringently applied to the effect that successful applications are, on balance, consistent with the criteria.*
>
> *21.7.2.2 Existing vegetation that:*
>
> *a. was either planted after, or, self seeded and less than 1 metre in height at 28 September 2002; and,*
>
> *b. obstructs or substantially interferes with views of the proposed development from roads or other public places, shall not be considered:*
>
> *i. as beneficial under any of the following assessment matters unless the Council considers the vegetation (or some of it) is appropriate for the location in the context of the proposed development; and*
>
> *ii. as part of the permitted baseline.*

975. Submissions on these provisions variously sought that the introductory note be deleted entirely[876], that the wording in the introductory note be amended to remove the wording *"the applicable activities are inappropriate in almost all locations within the zone:"*[877], that the current assessment criteria in 21.7.2 be deleted and replaced with a set of assessment matters that better reflect and provide for the "Other Rural Landscape (ORL) category of landscapes[878], that 21.7.2 be amended to provide for cultural and historic values[879], and that 21.7.2.1[880] and 21.7.1.2[881] be deleted.

976. In the Section 42A Report, Mr Barr disagreed with the request for the inclusion of the ORL category of landscape criteria which the submitters were seeking to transfer from the ODP. Relying on Dr Read's evidence that the ORL has only been applied in two circumstances, Mr Barr considered that the ORL criteria were too lenient on development and would not maintain amenity values, quality of the environment or finite characteristics of natural physical

875 Submission 719
876 Submissions 179, 251, 781
877 Submission 608
878 Submission 345, 456
879 Submission 798
880 Submissions 179, 191, 421, 781
881 Submission 251

resources[882]. We agree for reasons set out in Mr Barr's Section 42A Report. We also note that it has already been determined by the Stream 1B Hearing Panel that there are only two landscape categories (ONL/ONR and RCL) and that is reflected in our recommendations on this Chapter. Accordingly, we recommend that Submissions 345 and 456 be rejected.

977. In the Section 42A Report, Mr Barr recommended that 21.7.2 and 21.7.2.1 be amended in response to the submissions and should be worded as follows:

21.7.2 Rural Landscape Classification (RLC)

These assessment matters shall be considered with regard to the following principles because in the Rural Landscapes the applicable activities are unsuitable in many locations:

~~*21.7.2.1 The assessment matters shall be stringently applied to the effect that successful applications are, on balance, consistent with the criteria.*~~

978. Mr Barr did not alter his opinion in his Reply Statement.

979. We note that before addressing the detail of this provision, a consequential change is required to refer to Rural Character Landscapes (RCL) consistent with the recommendations of the Stream 1B Hearing Panel. In addition, the reference in the introductory sentence to "Rural Landscapes" should be changed to "Rural Character Landscapes" so as to make it clear that these assessment criteria do not apply in ONLs or on ONFs.

980. As in the discussion on 21.7.1 above, we consider the introductory remarks should refer the relevant policies from Chapters 3 and 6. For those reasons, and taking into account Mr Barr's recommendations, we recommend that 21.7.2 and 21.7.2.1 be renumbered and worded as follows :

21.7.2 Rural Character Landscape (RCL)
The assessment matters below have been derived from Policies 3.3.32, 6.3.10 and 6.3.19 to 6.3.29 inclusive. Applications shall be considered with regard to the following assessment matters because in the Rural Character Landscapes the applicable activities are unsuitable in many locations:

~~21.7.2.1The assessment matters shall be stringently applied to the effect that successful applications are, on balance, consistent with the criteria.~~

19.4 Assessment Matters 21.7.2.2 and 21.7.2.3

981. There were no submissions on these assessment matters and, accordingly, we recommend they be adopted as notified subject to renumbering.

19.5 Assessment Matters 21.7.2.4, 21.2.2.5 and 21.7.2.7

982. As notified Rule 21.7.2.4, 21.7.2.5 and 21.7.2.7 read as follows;

21.7.2.4 Effects on visual amenity:

Whether the development will result in a loss of the visual amenity of the Rural Landscape, having regard to whether and the extent to which:

882 C Barr, Section 42A report, Page 98, Para 9.24

a. *the visual prominence of the proposed development from any public places will reduce the visual amenity of the Rural Landscape. In the case of proposed development which is visible from unformed legal roads, regard shall be had to the frequency and intensity of the present use and, the practicalities and likelihood of potential use of these unformed legal roads as access*

b. *the proposed development is likely to be visually prominent such that it detracts from private views*

c. *any screening or other mitigation by any proposed method such as earthworks and/or new planting will detract from or obstruct views of the Rural Landscape from both public and private locations*

d. *the proposed development is enclosed by any confining elements of topography and/or vegetation and the ability of these elements to reduce visibility from public and private locations*

e. *any proposed roads, boundaries and associated planting, lighting, earthworks and landscaping will reduce visual amenity, with particular regard to elements which are inconsistent with the existing natural topography and patterns*

f. *boundaries follow, wherever reasonably possible and practicable, the natural lines of the landscape or landscape units.*

21.7.2.5 Design and density of development:

In considering the appropriateness of the design and density of the proposed development, whether and to what extent:

a. *opportunity has been taken to aggregate built development to utilise common access ways including roads, pedestrian linkages, services and open space (i.e. open space held in one title whether jointly or otherwise)*

b. *there is merit in clustering the proposed building(s) or building platform(s) having regard to the overall density and intensity of the proposed development and whether this would exceed the ability of the landscape to absorb change*

c. *development, including access, is located within the parts of the site where they will be least visible from public and private locations*

d. *development, including access, is located in the parts of the site where they will have the least impact on landscape character.*

21.7.2.7 Cumulative effects of development on the landscape:
Taking into account whether and to what extent any existing, consented or permitted development (including unimplemented but existing resource consent or zoning) has degraded landscape quality, character, and visual amenity values. The Council shall be satisfied;

a. *the proposed development will not further degrade landscape quality, character and visual amenity values, with particular regard to situations that would result in a loss of valued quality, character and openness due to the prevalence of residential or non-farming activity within the Rural Landscape*

b. *where in the case resource consent may be granted to the proposed development but it represents a threshold to which the landscape could absorb any further development, whether any further cumulative adverse effects would be avoided by way of imposing a covenant, consent notice or other legal instrument that maintains open space.*

983. Submissions on these provisions variously sought that;
   a. 21.7.4.2 (b) be deleted[883]
   b. 21.7.2.5 (b) be incorporated into the ODP assessment matters[884]
   c. 21.7.2.5 (c) be deleted[885]
   d. 21.7.2.7 be deleted[886]

984. In the Section 42A Report, having addressed the majority of the submissions in relation to 21.7.2, Mr Barr did not specifically address these submissions, but recommended that the assessment matters be retained as notified[887].

985. Mr Brown and Mr Farrell, in evidence for the submitters, made recommendations to amend the assessment criteria in 21.7.2.4, 21.7.2.5 and 21.7.2.7. Mr Brown and Mr Farrell also made recommendations to amend other assessment criteria in 21.7.2[888]. In summary, Mr Brown and Mr Farrell recommended amendments to reflect RMA language, rephrase from negative to positive language, and remove repetition[889].

986. In reply, Mr Barr considered that the amendments to these provisions added little value or potentially weakened the assessment required[890] and hence remained of the view that the provisions as notified should be retained. We agree.

987. In addition, the amendments recommend by Mr Brown and Mr Farrell in some instances go beyond the relief sought. Accordingly, we recommend that the submissions be rejected.

988. We have already the UECS submission seeking the retaining of the ODP provisions. We do not repeat that here and recommend that submission on this provision be rejected.

19.6 Assessment Matter 21.7.2.6

989. There were no submissions in relation to this matter. We recommend it be adopted as notified, subject to renumbering.

883 Submissions 513, 515, 522, 531, 532, 534, 535, 537
884 Submission 145
885 Submission 513, 515, 522, 531, 532, 534, 535, 537
886 Submission 513, 515, 522, 531, 532, 534, 535, 537
887 C Barr, Section 42A Report, Page 99, Para 19.25
888 J Brown, EIC, Attachment B, Pages 35-37 and Mr B Farrell, EIC, Pages 30-32, Para 138
889 J Brown, EIC, Page 15, Para 2.22 and Mr B Farrell, EIC, Page29, Para 137
890 C Barr, Reply, Pages 31-32, Para 11.1

19.7 21.7.3 Other factors and positive effects, applicable in all the landscape categories (ONF, ONL and RLC)

990. One submission[891] supported this entire section. No submissions were lodged specifically in relation to 21.7.3.1. We therefore recommend that 21.7.3.1 be adopted as notified, subject to renumbering and amending the title to refer to Rural Character Landscapes.

19.8 Assessment Matter 21.7.3.2

991. As notified, 21.7.3.2 read as follows:

> *Other than where the proposed development is a subdivision and/or residential activity, whether the proposed development, including any buildings and the activity itself, are consistent with rural activities or the rural resource and would maintain or enhance the quality and character of the landscape.*

992. One submission sought that this provision be amended to enable utility structures in landscapes where there is a functional or technical requirement[892].

993. We addressed this matter in above in discussing the provisions sought by QAC in 21.7.1. We heard no evidence in relation to this submission. We recommend that the submission be rejected.

19.9 Assessment Matter 21.7.3.3

994. As notified, this criterion set out the matters to be taken into account in considering positive effects. Two submissions[893] sought the retention of this matter, and one[894] supported it subject to inclusion of an additional clause to enable the consideration of the positive effects of services provided by utilities.

995. We heard no evidence in support of the amendment sought by PowerNet Limited. We agree with Mr Barr's comments[895] made in relation to the QAC submission discussed above. Assessment criteria are a means of assessing applications against policies in the Plan. The amendment sought by the submitter should be located in the policies, particularly those in Chapter 6. Consequently, we recommend this submission be rejected, and 21.7.3.3 be adopted as notified, subject to renumbering.

20 SUMMARY REGARDING ASSESSMENT MATTERS

996. We have included our recommended set of assessment matters in Appendix 1. We are satisfied that application of these assessment matters on resource consent applications will implement the policies in the Strategic Direction Chapters and those of Chapter 21.

21 SUBMISSIONS ON DEFINITIONS NOT OTHERWISE DEALT WITH

997. Several submissions relating to definitions were set down to be heard that were relevant to this chapter that have not been dealt with in the discussion above. In each case we received no evidence in support of the submission therefore we do not recommend any changes to the relevant definitions, which were as follows:

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891 Submission 378, opposed by FS1049, FS1095 and FS1282

892 Submission 251, supported by FS1097 and FS1121

893 Submissions 355 and 806

894 Submission 251, supported by FS1097, opposed by FS1320

895 C Barr, Section 42A Report, page 97, paragraph 19.20

a. Factory farming[896];
b. Farming activity[897];
c. Farm building[898];
d. Forestry[899];
e. Holding[900];
f. Informal airport[901];
g. Rural industrial activity[902];
h. Rural selling place.[903]

896 Submission 805
897 Submissions 243 and 805
898 Submissions 600 and 805
899 Submission 600
900 Submission 600
901 Submissions 220, 296, 433 and 600
902 Submission 252
903 Submission 600

26 HISTORIC HERITAGE

QUEENSTOWN LAKES DISTRICT COUNCIL

26.1 Purpose

The purpose of this chapter is to promote the sustainable management of the District's historic heritage[1] features. These features are an important part of the amenity and character of our natural, physical and cultural heritage. Protecting these helps retain the District's character, history, and sense of place. This will be achieved by identifying and recognising heritage values, which can then be offered protection through the Plan.

This chapter contains objectives, policies and rules relating to:

a. the Inventory of protected Heritage Features, which includes all listed buildings, structures, and other features;

b. heritage Precincts;

c. sites of significance to Maori;

d. heritage Overlay Areas.

26.2 Identification and Protection

26.2.1 Categorisation and future listing

The District's most significant known heritage features are represented in the Inventory of Protected Heritage Features. Although they all have heritage value, they are categorised according to their relative level of importance which allows different levels of regulatory protection to be applied. For heritage features there are three categories: 1 to 3, with Category 1 being the most significant.

Queenstown Lakes District Council acknowledges that the Inventory represents an identification and categorisation of heritage features at the time this plan was reviewed and may subsequently change. Nominations for inclusions, removals or amendments to categories for individual features will be considered, but should contain sufficiently detailed and robust reports in line with assessments that the Council uses. Evidence that affected owners have been informed and consulted should be provided and:

a. for heritage precincts and Heritage Overlay Areas, a report from a qualified a conservation / landscape architect or a person with demonstrated experience as an adviser or manager on projects involving heritage precincts or areas, is recommended. These may include site specific reports from government bodies with a remit for heritage, such as Heritage New Zealand Pouhere Taonga and the Department of Conservation;

b. for sites of significance to Maori, a detailed assessment of the extent of the site and related values should be prepared by the appropriately mandated iwi;

c. for individual buildings and structures, a report from a suitably qualified conservation architect, using the Council's criteria, and for Category 1 features, a Conservation Plan. Any Conservation Plan shall be prepared in accordance with Heritage New Zealand's Best Practice Guidelines;

d. for sites that require the use of archaeological methods, a detailed assessment by a qualified and experienced archaeologist.

1. Sec 2A RMA

26.2.2 Description of listed Heritage Features Categories 1 – 3

Category 1	Category 1 Heritage Features warrant the highest level of protection as they are very significant nationally or regionally. Category 1 shall include all places of the highest historical or cultural heritage significance including, but not limited to, all features in Category 1 of the Heritage New Zealand 'New Zealand Heritage List/ Rarangi Kohero'.
Category 2	Category 2 Heritage Features warrant permanent protection because they are very significant to the District and/or locally.
Category 3	Category 3 Heritage Features are significant to the District and/or locally and their retention is warranted. The Council will be more flexible regarding significant alterations to heritage features in this Category. Category 3 shall include all other places of special historical or cultural value.

26.2.3 Evaluation

Development affecting historic heritage can be a complex matter because of the sensitivity of the values associated with them. The evaluation criteria contained in this section 26.6.1 of this chapter shall form the basis of any 'Assessment of Effects' on activities affecting heritage features. Early consultation on development proposals is recommended with heritage professionals, Heritage New Zealand and community heritage groups, before the design stage.

26.2.4 Archaeology Alert Layer

The HNZPTA 2014 makes it unlawful to destroy or modify the whole or part of an archaeological site without the prior authority of Heritage New Zealand. This is a separate statutory process to obtaining any resource consents required under this District Plan, but is an important step for applicants to consider when preparing a resource consent application which might affect an archaeological site. An archaeological site is defined in the HNZPTA 2014 and is also included in the list of definitions under Section 26.6.

Given the large number of archaeological sites within the District, they are not shown on the Planning Maps. However to assist prospective applicants, an alert layer is maintained by the Council which identifies particularly significant groups of sites or significant sites of unknown extent. This layer is for information purposes only, and users of the Plan are recommended to undertake early consultation with Heritage New Zealand.

This alert layer does not necessarily contain all archaeological sites but is intended to provide applicants with an easily accessible means of undertaking an initial check of the subject site. The alert layer will be updated as new information is made available to the Council. It does not form part of the District Plan Planning Maps.

26.3 Objectives and Policies

26.3.1 Objective - The District's historic heritage is recognised, protected, maintained and enhanced.

Policies

26.3.1.1 Ensure historic heritage features within the District that warrant protection are recognised in the Inventory of Protected Features in Section 26.8.

26.3.1.2 To enhance historic heritage through:

a. increasing the knowledge and understanding of heritage values;

b. providing for the enhancement of heritage values through works which increase the resilience of heritage features by way of repairs and upgrades to meet building and safety standards, subject to these works being undertaken in a manner which respects heritage values and where possible retains original heritage fabric or utilises the same or similar materials.

26.3.1.3 Protect historic heritage values while managing the adverse effects of land use, subdivision and development, including cumulative effects, taking into account the significance of the heritage feature, area or precinct.

26.3.1.4 Where activities are proposed within the setting or extent of place of a heritage feature, to protect the heritage significance of that feature by ensuring that:

a. the form, scale and proportion of the development, and the proposed materials, do not detract from the protected feature located within the setting or extent of place;

b. the location of development does not detract from the relationship that exists between the protected feature and the setting or extent of place, in terms of the values identified for that feature;

c. existing views of the protected feature from adjoining public places, or publicly accessible places within the setting or extent of place, are maintained as far as is practicable;

d. hazard mitigation activities and network utilities are located, designed, or screened to be as unobtrusive as possible.

26.3.1.5 Avoid the total demolition, or relocation beyond the site, of Category 1 heritage features.

26.3.1.6 Discourage the total demolition of Category 2 heritage features, or the partial demolition of Category 1 and Category 2 heritage features, unless evidence is provided which demonstrates that:

a. other reasonable alternatives have been shown to be impractical;

b. there is a significant risk to public safety or property if the feature or part of it is retained;

c. the heritage feature is unable to serve a productive use or its retention would impose an unreasonable financial burden on the building owner.

26.3.1.7 Promote the retention of Category 3 heritage features, or where the partial demolition of a Category 3 heritage feature is proposed, reduce adverse effects on its overall heritage values.

26.3.1.8 Discourage the relocation of Category 2 heritage features beyond the site, or within the site, unless evidence is provided which demonstrates that;

a. relocation is necessary to facilitate the ongoing use or protection of the heritage feature(s), or to ensure public safety;

b. measures are in place to minimise the risk of damage to the heritage feature;

c. the heritage values of the heritage feature(s) in its new location are not significantly diminished.

26.3.1.9 Where the relocation of Category 3 heritage features either beyond or within the site is proposed, to have regard to:

a. the ongoing use or protection of the heritage feature, or to ensure public safety;

b. measures to minimise the risk of damage to the heritage feature;

c. the heritage values of the heritage feature in its new location;

d. within a Heritage Precinct, the effects on the heritage integrity of that precinct including adjoining structures and the precinct as a whole.

26.3.2 Objective - The sustainable use of historic heritage features.

Policies

26.3.2.1 Encourage the ongoing economic use of heritage features, sites and areas by allowing adaptations and uses that are in accordance with best practice, and:

a. enhance heritage values in accordance with Policy 26.3.1.2;

b. do not result in adverse cumulative effects through successive alterations over time;

c. provide an economically viable use for the protected heritage feature, subject to any works being undertaken in a manner which respects its heritage values;

d. recognise the need for modification through works which increase the resilience of heritage buildings by way of repairs and upgrades to meet building and safety standards, subject to these works being undertaken in a manner which respects heritage values.

26.3.2.2 Encourage the maintenance of historic heritage features by allowing minor repairs and maintenance.

26.3.3 Objective - The diversity of historic heritage features, heritage precincts, heritage overlay areas and values associated with them, are recognised.

Policies

26.3.3.1 Identify the heritage values of heritage precincts, heritage features, sites of significance to Maori, and areas of heritage significance and in conjunction with Heritage New Zealand archaeological sites.

26.3.3.2 Ensure that in making decisions on development proposals, the effects on tangible and non-tangible values of sites of significance to Maori, are informed by those mandated to do so.

26.3.3.3 Recognise and protect the different layers of history within heritage (overlay) areas and the relationship between these layers, to retain their cultural meaning and values.

26.3.4 Objective - The historic heritage value of heritage features is enhanced where possible.

Policies

26.3.4.1 Encourage opportunities to enhance the understanding of historic heritage features, including through the need for interpretation.

26.3.4.2 Provide incentives for improved outcomes for heritage values through the relaxation of rules elsewhere in the District Plan where appropriate, on a case-by-case basis.

26.3.4.3 Recognise the value of long term commitments to the preservation of heritage values in the form of covenants and consent notices.

26.3.4.4 Enable ongoing improvements to heritage features including earthquake strengthening and other safety measures, in recognition that this will provide for their ongoing use and longevity.

26.3.4.5 Recognise the potential for ongoing small-scale mining activities consistent with the maintenance of heritage and landscape values within the Glenorchy heritage overlay area, subject to the protection of features identified in section 26.10.

26.4 Other Provisions and Rules

26.4.1 District Wide

Attention is drawn to the following District Wide chapters:

1. Introduction	2. Definitions	3. Strategic Direction
4. Urban Development	5. Tangata Whenua	6. Landscapes and Rural Character
27. Subdivision	28. Natural Hazards	32. Protected Trees
30. Energy and Utilities	31. Signs	35. Temporary Activities and Relocated Buildings
33. Indigenous Vegetation	34. Wilding Exotic Trees	36. Noise
37. Designations	Planning Maps	

26.4.2 Interpreting and Applying the Rules

26.4.2.1 The following tables describe activities, standards and subsequent level of activity for resource consent purposes.

26.4.2.2 Reference should be made to Chapter 27 with respect to rules regulating the subdivision of sites containing heritage features.

26.4.2.3 The following abbreviations are used in the tables.

Note: Where an application involves the exercise of matters of discretion by the Council, the activity category are identified by an asterisk *.

P Permitted	C Controlled	RD Restricted Discretionary
D Discretionary	NC Non-Complying	PR Prohibited

26.5 Rules - Activities

Table 1 General

Rule	Activity	All Heritage Features
26.5.1	Activities not specifically identified Any activity which breaches a standard but is not specifically identified under any of the levels of activities set out in the rules below.	D
26.5.2	Repairs and maintenance Minor repairs and maintenance on all protected heritage features and contributory and non-contributory buildings in heritage precincts. Note: Works that do not fall within the definition of minor repairs and maintenance are classed as alterations.	P

Table 2 Listed heritage features

Rule	Activity	Cat 1	Cat 2	Cat 3
26.5.3	Total demolition or relocation to another site *For Category 3 heritage features discretion is restricted to: a. the extent of the demolition proposed and the cumulative effects on the heritage feature; b. the effects on the heritage values and heritage significance, as evaluated in accordance with the criteria in section 26.6; c. where the protected heritage feature is located within a heritage precinct, the effects of the proposed activity on the key features of the heritage precinct as identified in section 26.7.	PR	NC	RD*

Rule	Activity	Cat 1	Cat 2	Cat 3
26.5.4	Partial demolition *For Category 3 heritage features discretion is restricted to: a. the extent of the demolition; b. the effects on heritage values and heritage significance, in accordance with the evaluation criteria in section 26.5; c. the effects on the heritage values and heritage significance of the feature, including the cumulative effects resulting from incremental demolition; d. where the heritage feature is located within a heritage precinct, the effects of the proposed activity on the key features of the heritage precinct as identified in section 26.6.	NC	NC	RD*
26.5.5	Relocation within the site The relocation of an existing heritage feature within the same site. *For Category 3 heritage features discretion is restricted to: a. the effects on the heritage values and heritage significance of the feature in accordance with the evaluation criteria in Section 26.6; b. the physical effects on the heritage fabric and the effects on the setting or extent of place of the feature; c. any evidence that relocation is necessary for operational reasons; d. where the heritage feature is located within a heritage precinct, the effects of the proposed activity on the key features of the heritage precinct as identified in section 26.7.	NC	NC	RD*
26.5.6	External alterations and additions *For Category 2 and 3 heritage features discretion is restricted to: a. the effects on the heritage values and heritage significance of the feature in accordance with the evaluation criteria in Section 26.6; b. where the heritage feature is located within a heritage precinct, the effects of the proposal on the key features of the heritage precinct as identified in Section 26.7.	D	RD*	RD*
26.5.7	Internal alterations Internal alterations affecting the heritage fabric of a building. * For Category 2 heritage features (buildings) discretion is restricted to: a. the extent of the alteration and the cumulative effects on the building; b. the effects on the heritage values and heritage significance of the feature in accordance with the evaluation criteria in Section 26.6. Note: For the avoidance of doubt, alterations such as the partial removal and replacement of decoration, windows, ceilings, floors or roofs that only affect the interior of the building are subject to this rule.	D	RD*	P

Rule	Activity	Cat 1	Cat 2	Cat 3
26.5.8	Development within setting or extent of place New buildings and structures, earthworks requiring consent under Chapter 25, car park areas exceeding 15m^2 within the view from a public road, and car park areas exceeding 40m2 located elsewhere. * For Category 2 and 3 heritage features, discretion is restricted to: a. Development within the setting, or within the extent of place where this is defined in the Inventory under Rule 26.8; b. The extent of the development and the cumulative effects on the heritage feature, and its setting or extent of place; c. The effects on the heritage values and heritage significance of the feature in accordance with the evaluation criteria in Section 26.6. Note: This rule does not apply to any use of buildings, structures and land other than the activities specified above.	D	RD*	RD*

Table 3 Heritage Precincts

Notes:

a. table 3 only relates to heritage features that are not listed in the Inventory (26.8). Buildings listed in the Inventory are subject to the rules in Tables 1 and 2 only.

b. the following chapters contain rules which apply to the construction of new buildings within heritage precincts:

   i. chapter 10: Arrowtown Residential Historic Management Zone;

   ii. chapter 12: Queenstown Town Centre Zone;

   iii. chapter 13: Arrowtown Town Centre Zone.

Rule	Activity	Contributory buildings other than those listed in 26.8	Non-contributory buildings
26.5.9	Total and partial demolition or relocation beyond the site	D	P
26.4.10	Relocation within a heritage precinct	D	D
26.4.11	Relocation from a heritage precinct	D	P

Rule	Activity	Contributory buildings other than those listed in 26.8	Non-contributory buildings
26.4.12	External alterations *Discretion is restricted to: a. the extent of the alterations and the cumulative effects on the heritage feature, and its setting or extent of place; b. the effects on other contributory and individually listed buildings and heritage features. The key features and values of the precinct as identified in the statement of significance and key features to be protected in section 26.7; c. the effects on the heritage values and heritage significance of any affected heritage feature in accordance with the evaluation criteria in section 26.5.	RD*	RD*
26.4.13	Internal alterations	P	P

Table 4 Sites of Significance to Maori

Rule	Activity Standard	All Sites
26.5.14	Development Any development on a site identified as a Site of Significance to Maori. Any application made in relation to this rule shall not be publicly notified, or limited notified other than to Tangata Whenua.	D

Table 5 Heritage Overlay Areas

Area	Activity Standard	All heritage areas
26.5.15	Notwithstanding Chapter 21, pertaining to the Rural Zone, the following additional rules apply within Heritage Overlay Areas as defined in Section 26.10: a. mining on a mining site where the volume of material excavated or subsequently stockpiled exceeds 500m^3 per mining site per annum (but excluding farm track access, fencing, firebreaks and public use tracks); b. a building ancillary to mining on a mining site, which has a building footprint greater than 10m^2 in area; (For the purposes of Rule 26.4.15(2), a 'building' means any building or structure that is new, relocated, altered, reclad or repainted, including containers intended to, or do, remain on site for more than six months, or an alteration to any lawfully established building) c. removal or destruction of any heritage feature referred to in the Statement of Significance or Key Features to be protected; d. forestry. Notes: a. where archaeological sites are referred to in the Statements of Significance or Key Features to be protected, reference should be made to the definition of archaeological sites in Chapter 2 – Definitions; b. if intending to destroy or modify, or cause to be destroyed or modified, an archaeological site, an Authority will be required from Heritage New Zealand pursuant to the HNZPTA 2014; c. reference should also be made to the rules in Chapter 21, which also apply within Heritage Overlay Areas.	D

26.4.16 Non- Notification

The provisions of the RMA apply in determining whether an application needs to be processed on a notified basis. Except as qualified under Table 4, no activities or non-compliances with the standards in this chapter have been identified for processing on a non-notified basis.

26.6 Evaluation Criteria

26.6.1 Evaluation criteria for categorizing and including features in the Inventory of Protected Heritage features

The following criteria are used to determine the listing and category of listed features, whether a feature should be included in the Inventory, and the category of such listed features; and

Heritage Assessments exist for many of the Protected Features and these provide a detailed assessment of the values of the feature and a conclusion of its overall significance. These assessments are available from the Council and should be used as the starting point for any evaluation. Where such an assessment does not exist, then your evaluation will need to be based on existing historical information, which can be obtained from various sources, including the Council's archaeological alert layer, Heritage New Zealand, the Council's resource consent files, and the Lakes District Museum.

1. Historic and Social Value

a. whether the feature reflects characteristics of national and/or local history;

b. with regard to local history, whether the feature represents important social and development patterns of its time, such as settlement history, farming, transport, trade, civic, cultural and social aspects;

c. whether the feature is significant in terms of a notable figure, event, phase or activity;

d. the degree of community association or public esteem for the feature;

e. whether the feature has the potential to provide knowledge and assist in public education with regard to Otago and New Zealand History;

f. cultural and spiritual value;

g. whether it is of special significance to Tangata Whenua;

h. contribution to the characteristics of a way of life, philosophy, religion or other belief which is held by a particular group or community.

2. Cultural and Spiritual Value

a. whether it is of special significance to Tangata Whenua;

b. contribution to the characteristics of a way of life, philosophy, religion or other belief which is held by a particular group or community.

2. Architectural Value

a. whether the building or structure has architectural or artistic value;

b. whether the feature represents a particular era or style of architecture or significant designer;

c. whether the style of the building or structure contributes to the general character of the area;

d. the degree to which the feature is intact.;

e. whether the building or structure has undergone any alteration, thereby changing the original design.

3. Townscape and Context Value

a. whether the feature plays a role in defining a space or street;

b. whether the feature provides visual interest and amenity;

c. degree of unity in terms of scale, form materials, textures and colour in relation to its setting and/or surrounding buildings.

4. Rarity and Representative Value

a. whether the feature is a unique or exceptional representative of its type either locally or nationally;

b. whether the feature represents a way of life, a technology, a style or a period of time;

c. whether the feature is regarded as a landmark or represents symbolic values;

d. whether the feature is valued as a rarity due to its type, style, distribution and quantity left in existence.

5. Technological Value

a. whether the building has technical value in respect of the structure, nature and use of materials and/or finish;

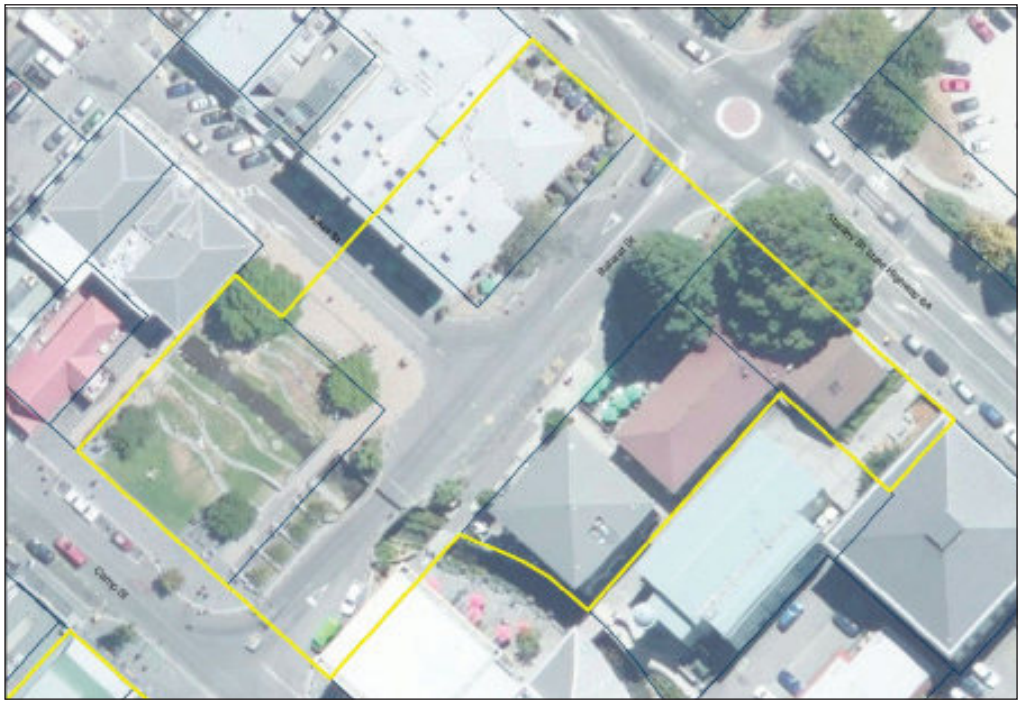
b. whether the building or structure is representative of a particular technique.

6. Archaeological Value

a. significance in terms of important physical evidence of human activities which through archaeological investigation could provide knowledge of the history of Otago and New Zealand.

26.7 Inventory of Protected Features - Precincts

26.7.1 Queenstown Courthouse Heritage Precinct



26.7.2 Statement of Significance

The Precinct represents the historically significant civic centre of Queenstown and contains a number of important heritage buildings, open spaces and structures. Their design and the nature of their stone construction convey their high status within the District. The buildings / structures are an architectural statement of permanency, stability and prosperity as the town evolved progressively from its early canvas tent and timber structures to a new generation of enduring public buildings. The buildings / structures generally remain intact and have a high degree of historical and architectural authenticity within the town. They are very distinctive and prominent features of the townscape in this part of Queenstown and define its provenance. Their scale, form and materials are characteristic of 19th century Queenstown and, together, they are considered to have high 'group' / contextual value in relation to each other. The Stone Bridge is also a rare example of its kind in the District.

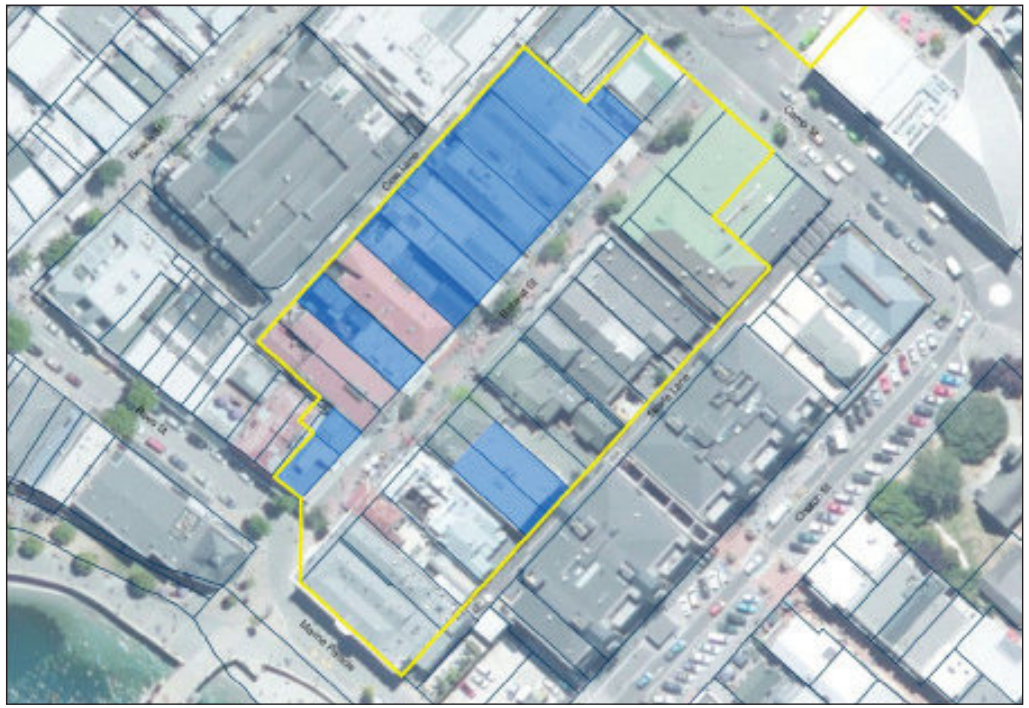
26.7.3 Key features to be protected

26.7.3.1 The individual principal historic buildings; their form, scale, materials and significance. Incremental loss must be avoided.

26.7.3.2 The 'group' value of the buildings within the Precinct and their setting within it, including the open spaces.

26.7.3.3 The townscape / landmark value of the Precinct, i.e., other buildings, development and signage within the Precinct or adjoining it should not adversely affect or diminish the significance of the Heritage Precinct.

26.7.4 Queenstown Mall Heritage Precinct



Blue shapes are the non-contributory buildings.

26.7.5 Statement of Significance

The Precinct represents the historically significant commercial centre of Queenstown and still embodies its early settlement pattern from when the town was set out in 1864. This is evident in the arrangement of the sections and the street layout within the precinct. The Precinct contains a wide variance of architectural styles and features of interest is centred on the Mall (Ballarat Street), which since the earliest days of Queenstown has been the principal thoroughfare from the lake through the town. The route of Ballarat Street running up to Hallenstein Street and the frontage of Eichardt's Hotel near the lake provide an historically iconic view of the town from the lake of outstanding townscape and contextual value. The Precinct is considered to have high archaeological value for the evidence that it could provide of the early settlement of Queenstown and its pre-1900 development.

26.7.6 Key features to be protected

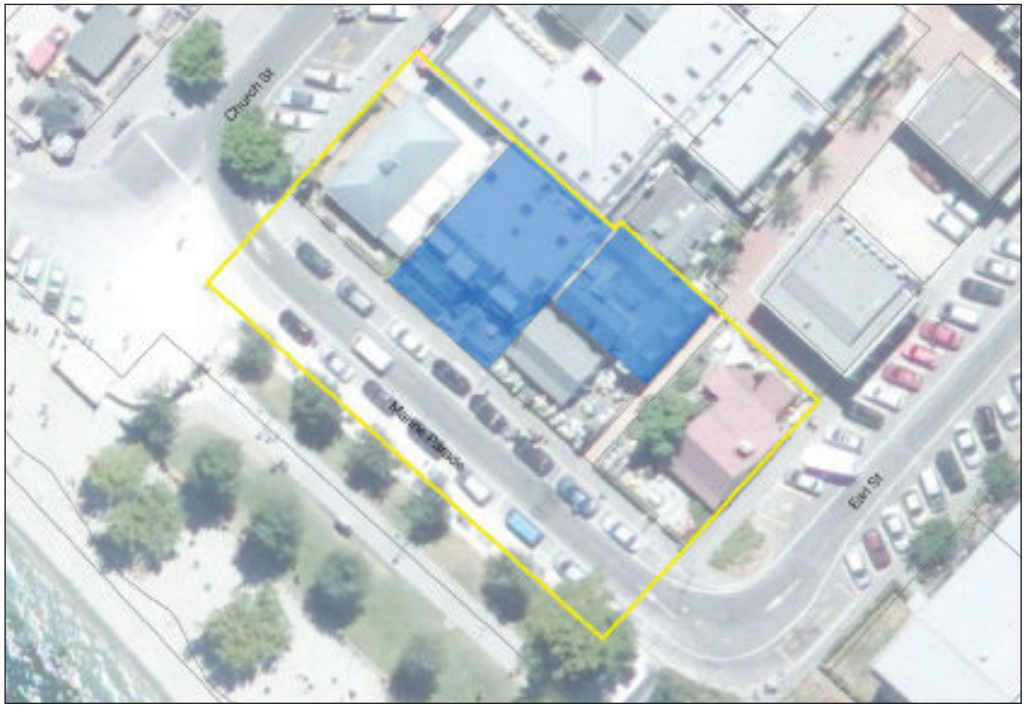
26.7.6.1 The group of reasonably intact 19th century commercial buildings / structures towards the lake end of the Mall and their setting within the Precinct.

26.7.6.2 The early settlement pattern of the town (the arrangement of the sections and the street layout within the Precinct). Incremental loss must be avoided.

26.7.6.3 The view of the Precinct from the lake – including the straight view up Ballarat Street to Hallenstein and vice-versa.

26.7.6.4 The archaeology of the Precinct.

26.7.7 Queenstown Marine Parade Heritage Precinct



Blue shapes are the non-contributory buildings.

26.7.8 Statement of significance

The combination of the heritage buildings, the environs of Marine Parade and the shoreline of Lake Wakatipu and the landscape beyond, result in the Heritage Precinct being of unique and exceptional townscape significance. The heritage buildings within the Precinct are representative of the evolution of the early settlement into a permanent and prosperous town. The Masonic Lodge and William's Cottage are thought to be amongst the oldest buildings in the town and create a Precinct of architectural 'gems', which signifies the social and tourist heritage of the town.

26.7.9 Key features to be protected

26.7.9.1 The individual principal historic buildings; their form scale, materials and significance. Incremental loss must be avoided.

26.7.9.2 The unique and exceptional townscape significance of the Precinct.

26.7.10 Arrowtown Town Centre Heritage Precinct

26.7.11 Statement of Significance

The precinct represents the commercial centre of the town and includes a nucleus of heritage buildings that have developed on the site of the 1864 relocated town centre. Buildings such as the former BNZ bank premises (associated with the renowned architect, R.A. Lawson) and Pritchard's Store date from the mid -1870s are symbolic of the development of the town during that economically stable period. The Postmaster's House and Post &Telegraph office have origins in the 20th century and are symbolic of the later progression of the town. The Precinct is held in high esteem by the local community and visitors alike and is a very popular tourist attraction. It contains heritage buildings / structures that are of high aesthetic and architectural significance within the District and wider region as authentic examples or representation of a goldfields' town dating from the 1860s and 1870s. It is considered to have high archaeological value for the evidence that it could provide of pre-1900 commercial Arrowtown dating to the early to mid – 1860s.

26.7.12 Key features to be protected

26.7.12.1 The unity of the Precinct in terms of scale, form, materials, textures and colours in relation to its mountain and river setting.

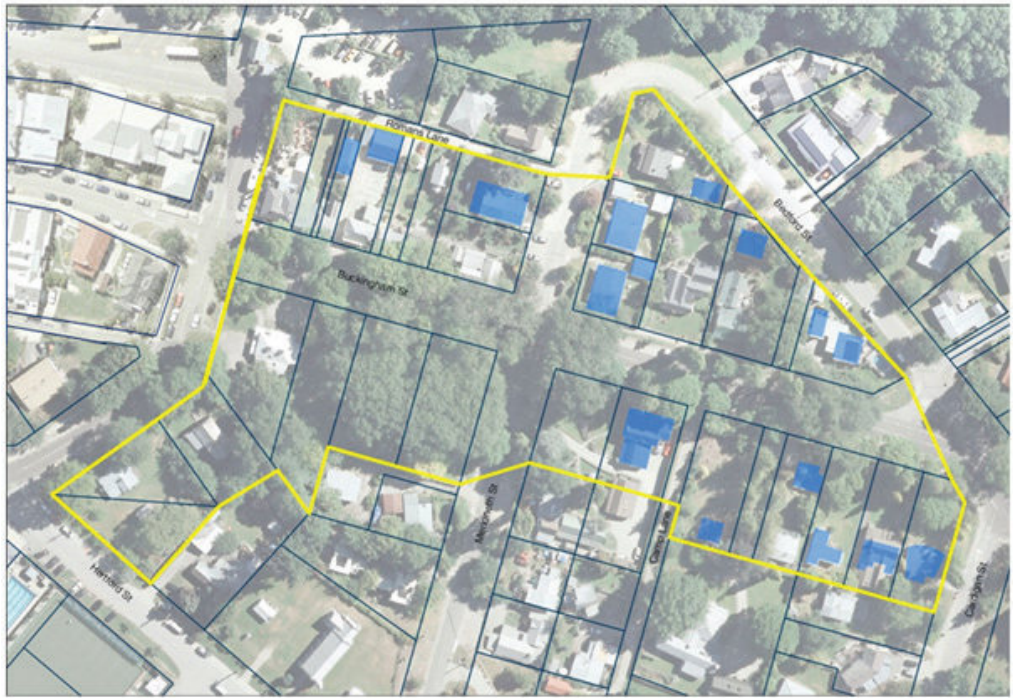
26.7.12.2 The 'group' value of the Precinct and its representative image of a traditional goldfields town.

26.7.12.3 The streetscape, and street and section patterns.

26.7.12.4 Views through the Precinct.

26.7.12.5 Archaeology.

26.7.13 Arrowtown Cottages Heritage Precinct



Blue shapes are the non-contributory buildings.

26.7.14 Statement of Significance

The Precinct represents the historically significant and authentic early years of the settlement and development of Arrowtown from, principally, a social perspective. It contains some of the town's most important buildings and features, including 1870s miners' cottages, the Masonic Lodge, the Green and the tree-lined avenue. The architectural and aesthetic quality of the precinct is derived from its plain, functional, small scale buildings, principally of timber and iron, which represent the typical form of accommodation in which miners and their families lived during the Central Otago Gold Rush years. The larger stone buildings demonstrate progress and permanence as the prosperity and confidence of the town grew. The tree-lined avenue and Green have great aesthetic appeal and provide the setting for the buildings within the precinct. The Precinct has very high townscape / contextual and rarity significance within the District.

26.7.15 Key Features to be protected

26.7.15.1 The individual principal historic buildings; their form, scale, materials and significance. Incremental loss must be avoided.

26.7.15.2 The 'group' value of the buildings within the precinct and their setting within it, including the open spaces.

26.7.15.3 The townscape / landmark value of the Precinct i.e., other buildings, development and signage within the Precinct or adjoining it should not adversely affect or diminish the significance of the heritage Precinct.

26.7.15.4 Archaeology.

26.8 Inventory of listed Heritage Features

Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
1	36	St Peter's Anglican Church Organ, St Peter's Church, corner Church and Camp Streets	Lot 1 DP 365052 (2910504403)		3
2	36	St Peter's Anglican Church Carved Eagle Lectern, St Peter's Church, corner Church and Camp Streets	Lot 1 DP 365052 (2910504403)		3
3	37 (a) 37 (b)	The paddle steamship Antrim's former engines and boiler within the winding house, Kelvin Peninsula. Slipway and Cradle, Kelvin Peninsula	Adjacent to Sections 25 and 26, Block I, Coneburn SD (on water's edge) (Adjacent to 2909954900)		2 3
4	26	Group of Stone Building remains, Whitechapel	Lot 2 DP 15996 Block VIII, Shotover SD (2907210100)		3
5	10	Skippers Road, including stone retaining walls, cuttings at Hell's Gate, Heaven's Gate, Bus Scratch Corner, road to Branches and geographical features Lighthouse Rock, Castle Peak and Long Gully but excluding that part of long Gully legally described as Sections 3, 4 and 5 SO Plan 24648	Road Reserve Commencing at Coronet Peak Road and ending at the end of Branches Road – Blocks II, XV, XVI Shotover SD and Block II Skippers SD.	1 / 7684	2
6	10	The Macetown Road and all road stone retaining walls. From Butler Park, Buckingham Street, Arrowtown through to Macetown Historic Reserve.	Road reserve adjacent to Part Section 2 Block XXV Town of Arrowtown and Run 23, 25, 26, 39 and Part Run 27 (Road Reserve adjacent to 2918233400, 2907214600, 2907212500, 2907214700, 2907300200)		3
7	9	The Hillocks, vicinity Dart Bridge	Part Sections 1 & 2, Block IV, Dart SD (2911130400, 2911130500)		3
8	25	Bible Face, Glenorchy. Vicinity Depot and Gravel Pit, Queenstown-Glenorchy Road, Glenorchy. Exact location shown by the building line restriction.	Part Section 2, Block XIX, Town of Glenorchy (2911120100)		3
9	13	Judge and Jury Rocks, rock features only, Vicinity Kawarau Gorge Bridge	Section 4, Block I, Kawarau SD (2907213800)		3
10	9	Peter Tomb's rock, near Diamond Lake	Section 43 Block II Dart SD (2911131800)		3
11	36	Horne Creek, running through Queenstown Town Centre	Runs from Lot 1 DP20875 Block V, Queenstown Village Green through Lot 1 and Lot 2 DP416867, Lot 2 DP 357929, Lot 2 DP 18459 Block XXXI, Road reserve and adjacent to Sections 2 & 3 Block LII adjacent to Sections 2 & 3 Block LII and ending adjacent to Section 1 Block LII. (2910631100, 2910500301, 2910500510, Adjacent to 2910500401, 2910500500 and 2910506500)		2
12	36	Hotop's Rise, Corner Earl and Camp Street	Road Reserve (Camp Street)		2

Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
13	35	Queenstown Gardens and Plantation Reserve Block, including the Queenstown Garden Gates, 52 Park Street	Section 7 Block LI Town of Queenstown (2910507200)		2
14	12	Copper mine tunnel, Moke Creek	Run 11 Glenorchy Mid Wakatipu (2907305900)		3
15	12	Re-direction tunnel, Moke Creek	Run 11 Glenorchy Mid Wakatipu (2907305900)		3
16	33	Boatshed, Slipway and original Old Ticket Office, Frankton Marina Recreation Reserve	Sections 59 & Part Section 39 Block XXI Shotover SD (2910331100)		2
17	35	Queenstown Cemetery, Brecon Street	Section 132 Block XX Shotover SD (2910614701)		2
18	35	Transit of Venus Site, 8 Melbourne Street, Queenstown	Section 15, Block XXXVI, Town of Queenstown (2910537500)		2
19	10	Cemetery, Skippers	Section 56, Block XI, Skippers Creek SD (2907301000)		3
20	36	Lake Level Plaque, Marine Parade (beside Jetty), Queenstown	Section 6 Block LI Town of Queenstown (2910506600)		3
21	36	Rees Tablet, Waterfront, Marine Parade, Queenstown	Section 6 Block LI Town of Queenstown (2910506600)		3
22	30	Robert Lee's Memorial Trough, Ladies Mile, SH 6	Road reserve adjacent to Lot 2, DP 12921, Shotover SD (Road Reserve Adjacent to 29071402001)		3
23	25	War Memorial, Mull Street, Glenorchy	Section 1560R, Block XII, Town of Glenorchy (Adjacent to 2911101100)		2
24	35	William Rees Memorial, Queenstown Gardens	Part Section 7 Block LI Town of Queenstown (2910507200)		3
25	34	Haki Te Karu Plaque, Queenstown Gardens	Part Section 7 Block LI Town of Queenstown (2910507200)		3
26	34	Scott Rock Memorial, Queenstown Gardens	Part Section 7 Block LI Town of Queenstown (2910507200)		3
27	36	War Memorial Gate, Marine Parade	Road Reserve and Section 6 Block LI Town of Queenstown (Marine Parade) (Road reserve and 2910506600)		2
28	33	1940 Centennial Gates, Queenstown Airport	Lot 2 DP 304345 (2910100106)		3
29	39	Thomas Arthur Monument, Beside Edith Cavell Bridge, Arthurs Point	Road Reserve Crown Land Block XIX Shotover SD (Road Reserve opposite 2910721001)		3
30	25	Centennial Gates, Entrance to Recreation Ground, Corner Mull and Oban Streets, Glenorchy.	Section 1 Block XX Town of Glenorchy (2911118700)		3
31	13	Steam Engine Beside Oxenbridge Tunnel, Arthurs Point	Part Section 148 Crown Land (Shotover River) Block XIX Shotover SD (2907303900)		2
33	12	Trig Station, Mount Nicholas Station	Block X, Part Run 630, Mid Wakatipu SD (2911136100)		3

Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
34	9	Invincible Mine, including the battery, and buddle sites, Vicinity Rees River	Legal description: Sections 1 and 2 Blk XII Earnslaw SD, SO 18563 (Invincible Mine Historic Reserve NZ Gazette 1979,p 570) Otago Land District. Heritage New Zealand Cat/No:2/5603 and 5604		3
35	39	Edith Cavell Bridge Arthur's Point	Bridge adjoining Crown Land Block XIX Shotover SD being the banks of the Shotover River (Road Reserve opposite 2910721001)	1 / 4371	1
36	36	Ballarat Street Bridge, Horne Creek Queenstown Town Centre	Adjacent to Lot 1, DP 20875, Block V and Lot 1 DP 20964, Block XXXI, Town of Queenstown (Road Reserve Adjacent to 2910631100 and 2910500300)	1 / 7097	1
38	36	Bridge over Horne Creek - 11 Camp Street	Lot 2 DP 357929 (2910500401)		2
39	36	Lychgate, St Peter's Anglican Church, Corner Camp and Church Street	Lot 1 DP 365052 (29105 04403)		3
40	33	Kawarau Falls Bridge, Frankton	Bridge adjoining Section 4 Block XVIII, Town of Frankton (Adjoining 2910121800)	1 / 7448	1
41	13	Kawarau Gorge Suspension Bridge, Vicinity Gibbston	Bridge adjoining Sections 63 and 64, Block I, Kawarau SD. (2907200700)	1 / 50	1
42	35	Stone Walled Race, 26 Hallenstein Street Queenstown	Section 12, Block XXXV, Town of Queenstown (2910532900)	2 / 5224	3
43	30	Fish Smoker, Lake Hayes	Lot 6 DP 353144 (2907126606)		2
44	35	Stone Walls, Queenstown Cemetery, Brecon Street.	Section 132 Block XX Shotover SD (2910614701)		3
45	10	Skippers Bridge, Shotover River	Adjacent to Shotover Riverbank, Crown Land and Section 148, Block XI, Skippers Creek SD (Bridge adjoining 2907301600)	1/ 7684	1
46	9	Scheelite Battery, Glenorchy (Mt Judah)	SECTION 7 SO 369025 (2911125502)		3
47	33	Frankton Cemetery Walls and Gates, Frankton-Ladies Mile Highway	Cemetery Reserve No 1 Frankton Town. On the boundary of Crown Land and Part section 5 Block XXI Shotover SD and Lot 1 DP 11353 (On the boundary of 2910340500, 2910340400 and 2910340600)		2
48	33	Old Frankton Racecourse Stand (Mount Cook Hangar), Lucas Place	Lot 2 DP 304345 (2910100106)		3
49	33	Brunswick Flour Mill, Turbine and Stone buildings by Kawarau Falls Bridge, 22 Bridge Street.	Sections 3 & 4 and Block I Town of Frankton and unformed road. (2910121000 and Road Reserve)		2
50	31	Stone Buildings, Tucker Beach Road	Lot 15 DP 351843 (2907146901)		3
51	25	Railway Shed and Track, Recreation Reserve Benmore Place, Glenorchy	Section 22 Block IV Glenorchy SD (2911124100)		3
52	25	Glenorchy Wharf, Vicinity of Recreation Reserve Benmore Place, Glenorchy	Lake Bed Adjacent to Section 22 Block Glenorchy SD (Adjacent to 2911124100)		3
53	25	Glenorchy Library Building, 15 Argyle Street, Glenorchy	Section 23 Block II Town of Glenorchy (2911113900)		3
54	9	Scheelite mine and associated ruins, sluicing area and compressor. And other shaft entrances, Paradise Trust	Section 39 Block II Dart SD (2911131900)		3

Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
55	10	Dam in Skippers Creek	Part Section 148 Block XI Skippers Creek SD (2907300400)		3
56	36	Hulbert House (Tutuila) 68 Ballarat Street Extent of Place: The land described as Sec 4 – 5, Part Sec 3 and Pt Sec 6 Blk XIX Town of Queenstown (CT OT 9B/637) Otago Land District. Refer to the map of the Extent of Place in Section 26.8.1	Sections 4 & 5, Part Sections 3 & 6 Block XX Town of Queenstown (2910615900)	2 / 2343	2
57	39	Dwelling, Complex Gorge Road (former Bordeaus store) 201 Arthur's Point Road Extent of Place: Refer to the map of the Extent of Place in Section 26.8.1	Lot 1, DP 16632, being part of Block XIX, Shotover SD (2907100900)	2 / 2238	2
58	35	Stone Building, 17 Brisbane Street, Queenstown Extent of Place: Refer to the map of the Extent of Place in Section 26.8.1	Lot 9 DP 9667 (2910514500)	2 / 5225	3
59	36	McNeill Cottage (Mullhollands Stone House), 14 Church Street	Sections 4, SO 14826, Block III, Town of Queenstown (2910505900)	2 / 2330	3
60	36	Frederick Daniels House, 47 Hallenstein Street, Queenstown	Lot 2 DP 20343, Block XLVI, Town of Queenstown (2910548000)	2 / 2333	2
61	35	Waldmann Cottage "Nil Desperandum", 2 York Street, Queenstown	Lot 4 DP 17970 Town of Queenstown (2910544200)		3
62	39	House and sleep out, Paddy Mathias Place, Arthurs Point Road, Arthurs Point	Section 123 Block XIX, Shotover SD (2910720700)		2
63	35	Cottage, 28 Park Street	Section 17 Block XXXVIII Town of Queenstown (2910512900)		2
64	36	Masonic Lodge Building, (Lake Lodge of Ophir), Corner Marine Parade/ Church Street (13 Marine Parade)	Section 6, SO 14826, Block III, Town of Queenstown (2910505800)	2 / 2338	1
65	35	Queenstown Bowling Club Pavilion, (excluding modern northern extension) located within the grounds of the Queenstown Gardens	Part Sections 4-5 & 7 Block LI Queenstown Town (2910507200)		2
66	36	Williams Cottage (Mulhollands Wooden House) 21 Marine Parade	Lot 2 DP 24375 Block III Town of Queenstown (2910505500)	2 / 2336	1
67	10	Pleasant Terrace Workings, Sainsbury's House and outbuilding, Skippers Mt Aurum Recreational Reserve. Extent of Place relating to the Pleasant Terrace Workings: Part of the land described as Sec 148 Blk XI Skippers Creek SD (NZ Gazette 1985, page 5386) and legal road (part of Skippers Road), Otago Land District on the sites associated with Pleasant Terrace Workings thereon. Refer to the map of the Extent of Place in section 26.9.1	Section 148 Block XI Skippers Creek SD, (2907300400)	1 / 5176	1
68	36	Glenarm Cottage, 50 Camp Street, Queenstown	Section 1 Block XII Town of Queenstown (2910634200)		2
69	30	Laurel Bank House, 47 Maxs Way, Lower Shotover, Queenstown	Lot 8 DP 325561 (2907464700)		3
70a	30	Threepwood Timber Villa, Lake Hayes	Lot 21 DP 378242 (2907123716)		2
70b	30	Threepwood Stone Woolshed	Lot 21 DP 378242 (2907123716)		3

Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
71	26	Stone Cottage (McAuley), Malaghans Road Extent of Place: legal description Refer to the map of the Extent of Place in section 26.8.1	Lot 1 DP 27269 Block XVI, Shotover SD (2907111100)		3
72	27	Hanan's House, McDonnell Road	Part Section 19, Block VII, Shotover SD (2907129300)		3
73	36	Thompson House (excluding additions made after 1900), 66 Hallenstein Street	Lot 1 DP 3401 Block XVI Queenstown (2910527300)		3
74	30	McMaster House, Morven Ferry Road	Lot 1 DP 23902 Block VIII Shotover SD (2907132400)		3
75	30	Loose Box (Mt Linton) House, SH 6/Lake Hayes	Lot 1 DP 9052 Shotover SD (2907126200)		2
76	26	Mill House, 549 Speargrass Flat Road (Mill Creek)	Lot 1 DP 12234 Block VII Shotover SD (2907113302)		3
77	26	Oast House, 557 Speargrass Flat Road (Mill Creek)	Lot 1 DP 18523 Block VII Shotover SD (2907113301)	2 / 2241	3
78	13	Stone Cottage (Rees), 148 Kingston Road, SH 6, original part only	Pt Section 40 BLK XII Coneburn SD (2909954703)		3
79	13	Tomanovitch Cottage, East of DOC Reserve, Gibbston Extent of Place: the land in Certificate of Title OT 15 B/296 including the Orchard associated with to manner which Cottage but excluding the adjacent modern dwelling	Section 40 Block V Kawarau SD (2907204302)	2 / 7595	2
80	26	Cottage Whitechapel, (Tomes) (Original Part Only)	Section 126, Block VIII Shotover SD (2907210500)		3
81	9	Arcadia, Paradise, Glenorchy (Original Part Only)	Sections 3 & 4 Lot 13 DP 25326 Block II Dart SD (2911132000)		3
82		Millbrook stables (remaining historic stone structure), and the blacksmiths building/ smoker Extent of Place: legal description Refer to the map of the Extent of Place in section 26.9.1	Lot 1 DP 27625, Otago Land District (2918530510A)		2
83	30	Shaw Cottage, Morven Ferry Road	Lot 2 DP 15559 (2907132100)		3
85	36	Boyne Building, The Mall, 11 Ballarat Street	Section 20 and 21, SO 14826, Block II, Town of Queenstown (2910503600)	2 / 5226	3
86	36	Colonial Bank, The Mall, 5 Ballarat Street	Section 17, SO 14826, Block II, Town of Queenstown (2910503400)		2
87	35	Gratuity Cottage, 9 Gorge Road Queenstown	Lot 1 DP 12476 (2910623700)		3
88	36	The Queenstown Athenaeum and Town Hall (Winnie Bagoes), The Mall, 7-9 Ballarat Street	Lot 1, DP 16597 (Previously Part Section 19), Block II, Town of Queenstown (2910503500)		3
89	35	House, 5 Brisbane Street	Lot 12 DP 9667 (2910514100)	2 / 2331	3
90	36	The Cow Restaurant, Cow Lane	Section 16, Block I, Town of Queenstown (2910651200)	2 / 5227	2

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91	13	Kinross Store and Buildings, Gibbston	Lot 1 DP 24857 Block V, Kawarau SD (2907203903)	2 / 7240	3
92	31	Ferry Hotel, Spence Road, Lower Shotover	Part Section 106 Block III Shotover SD (2907122201)		2
93	26	Butel's Flourmill (original foundations and stone wall), Off Butel Road, Millbrook Area Extent of Place: legal description Refer to the map of the Extent of Place in Section 26.8.1	Lot 1 DP 300042 (2918500103)	2 / 3206	2
94	13	Roaring Meg Power Station, SH6	Part Riverdale Reserve, Crown land adjacent to Kawarau River Block VI Kawarau SD (2907214500)		3
95	30	Ruins Maynes Hotel, SH6, Lake Hayes Corner	Lot 1 DP352501 (2907126902)		2
96	34	Queenstown Powerhouse, One Mile	Part Sections 110 Block XX Shotover SD (2910654000)		2
97	25	Former Glacier Hotel (Kinloch Lodge) Armadale Street, Kinloch	Section 4 Block XX Town of Kinloch (2911121600)		2
98	36	Dominican Convent (Of Our Lady of the Sacred Heart) Corner Beetham and Melbourne Street	Section 7 & 8 part Section 8 Block XXXIV Town of Queenstown SO 14831 (2910529300)		2
99	36	St Peter's Anglican Church, Corner Camp Street and 4 Church Street	Lot 1 DP 365052 (2910504403)	2 / 2341	3
100	36	St Peters Parish Hall, 5 Earl Street	Lot 3 DP 365052 (2910504404)	2 / 5404	3
101	36	St Peter's Parish Centre (former Vicarage), 1 Earl Street	Lot 2 DP 365052 (2910504404)	2 / 2342	3
102	36	St Joseph's Roman Catholic Church, 41 Melbourne Street	Sections 6 SO 14831, Block XXXIV, Town of Queenstown (2910529300)	2 / 2340	2
103	25	Church, 13 Argyle Street, Glenorchy	Section 22 Block II Town of Glenorchy (2911114000)		3
104	39	The old McChesney bridge abutment remains, located by the one-way bridge by Arthurs Point Hotel, Arthurs Point	Crown Land Block XIX Shotover SD (2907150900)		2
105	29	Stone Stable, located on the former Littles farm, Littles Road, Wakatipu Basin	Lot9 DP 301885 (2907108804)		3
106	36	Former Lakes County Council Building Corner Ballarat and Stanley Streets (original part only)	Lot 1, DP 21011 (previously Section 10 and 11), Block IV, Town of Queenstown (2910630600)	2 / 2337	1
107	36	Courthouse (Former Library and Reading Room and Justice Building), Ballarat Street	Lot 3, DP 20964 and Section 7 Block XXXI, Town of Queenstown (2910500508, 2910500100)	1 / 362 / 7655	1
108	36	Coronation Bath House, Marine Parade Extent of Place: Part of the land in Sec 6 Blk LI Town of Queenstown (CT46575), Otago Land District. Refer to the map of the Extent of Place in Section 26.8.1	Section 6, SO 20747 Block LI, Town of Queenstown (2910506600)	2 / 5223	3
109	25	Old School Building, 1771 Paradise Road	Section 30 Block II Dart SD (2911131900)		2
110	26	Ayrburn Homestead and Stone Farm Buildings	Lot 1 DP 18109 (house) and Part Lot 3 DP 5737 (Dennisons Farm) (2907113200, 2907116606)		2
111	30	Homestead and Stone Stables, Bendemeer Station	Lot 2 DP 366461 (2907127311)		2

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112	30	McQuilkin Cottage and Stables (Original Part Only), Bendemeer Bay, Lake Hayes	Lot 1 DP 15921 (2907136301)		3
113	13	Brodie Homestead and Farm Buildings (Glen Russell)	Lots 1 and 2, DP 22393 Block VIII Shotover SD (2907211501)		3
114	38	Closeburn Homestead Queenstown/Glenorchy Road, Closeburn	Lot 1 DP 22593 (2907317901)		3
115	13	Crown Lodge	Lot 1 DP 16512, Lot 1, DP 21358 Block VIII (2907212200)		3
116	13	Kawarau Station Woolshed, SH 6, Gibbston	Lot 20 DP 27121 (2907201600)		3
117	13	Stronsay Farm Buildings, Gibbston	Lot 8 DP 23706 (2907203702)		3
118	26	McEntyre Homestead, Lake Hayes/Arrowtown Road, (Original Part Only)	Lot 1 DP 20834 Block VII Shotover SD (29071 28600)		3
119	33	McBrides Farm Buildings: consisting of Original Smithy, Dairy, Barn and Woolshed, 64 Grant Road, Frankton Flats	Dairy and Woolshed: Lot 9 DP 22121 Block I Shotover SD, Smithy: Lot 11 DP 304345, Barn: Part Section 60, Block I Shotover SD (2910210500, 2910210103, 2910210001)		2
120	30	Bridesdale, Ladies Mile	Lot 3 DP 392823 (2907400508)		3
121	30	Douglas Vale, Ladies Mile	Lot 1 DP 337267 (2907401005)		3
122	30	Glenpanel, Ladies Mile On un-named road on hill above Ladies Mile	Lot 1 DP 20162 Part Section 83 Block III Shotover SD (2907123600)		3
123	26	Willowbrook Homestead, 760 Malaghans Road	Lot 1 DP 20331 Block VI Shotover SD (2907110800)		3
124	29	Ben Lomond Station Homestead, 101 Malaghans Road	Lot 2 DP 1800 Shotover SD (2907100700)		3
125	29	Cockburn Homestead, 18 Malaghans Road	Lot 1 DP 300530 (2907100502)		3
126	26	Muter Farm Homestead (Roger Monk), McDonnell Road	Part Section 88 Block VII Shotover SD (2918400400)		2
127	30	Stone Barn, 297 Morven Ferry Road	Lot 4 DP 300119 (2907132313)		3
128	30	Stables, Morven Ferry Road	Lot 2 DP 397 602 (2907132313)		3
129	13	Royalburn Station Homestead, off Crown Range Road (Original Part Only)	Lot 2 DP 304567 (2907212003)		3
130	10	Mount Aurum Homestead, Skippers, Mount Aurum Recreational Reserve	Sections 148, Block XI Skippers Creek SD Run 818 Blocks 2-4, 7, 8, 11. Poolnoon SD (2907300400)	2 / 5176	2

Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
131	29	Stables, Barn, Smithy, Stone Cottage, Wooden Cottage and Ruins, Thurlby Domain, Speargrass Flat Road Extent of Place: Part of the land described as Lot 1 DP 22310 (CT35296) and the land described as Lot 2 DP 22310 (CT OT 14C/392), Otago Land District. The Extent of Place encompasses two areas linked by a corridor of land along part of the driveway and the road fence line. Included within the Extent of Place are the wooden cottage, the corrugated iron farm shed, the stone cottage, and two stone stables buildings. These are connected to the ruins of the former homestead by 0.5 m strip of land that runs along the fence line facing Speargrass Flat Road and includes a section of driveway off Speargrass Flat Road, including the iron gates extending 1 m either side of the centreline. For clarity, the Extent of Place includes an area of 1 m around the ruins. Refer to the map of the Extent of Place in Section 26.8.1.	Lot 2 DP 22310 (2907119704)	1 / 2240	1
132	13	Seffers Town School House, Moke Creek	Part Block XI, Mid Wakatipu SD		2
133	36	Eureka House, 17 Ballarat Street, Queenstown	Sections 23 SO 14826, Block II Town of Queenstown (2910503800)		3
134	36	Forresters Lodge building, Ballarat Street (all external façade)	Lot 1, DP 21011 (previously Section 12), Block IV, Town of Queenstown (2910630600)	2 / 2332	2
135	36	Van Der Walde Building - facade The Mall, Ballarat Street (Skyline Arcade)	Lot 2, DP 19416 (previously Part Section 13) Block I, Town of Queenstown (2910651000)		2
136	36	Eichardts Hotel facade, Corner Ballarat Street (The Mall) & Marine Parade, Queenstown	Sections 15 and 16, Block II, Town of Queenstown (2910503201)	2 / 7439	2
137	36	Mountaineer Hotel facade, Corner Rees and Beach Street, Queenstown	Lot 2 DP 22252 Block VII, Town of Queenstown (2910645501)		2
138	36	Façade, 3 Rees Street, Queenstown	Part Section 19 and Section 20 Block I, Town of Queenstown (2910651500)		3
139	10	School House at Mt Aurum	Section 148 Block XI Skippers Creek (2907300400)	2/5176	3
140	10	Bullendale hydroelectric dynamo and mining site - including Eden Hut and Musters Hut . Extent of Place: Part of the land described as Sec 148 Blk Skippers Creek SD (Recreation Reserve, NZ Gazette 1985, p 5386) and Pt Legal Road (Bullendale Track), Otago Land District, and includes all remnants around the site belonging to the gold mining era and all objects associated with the mining and power generation operations and settlement at Bullendale within the extent of the registration boundary. Refer to the map of the Extent of Place in Section 26.8.1.	Section 148 Block XI Skippers Creek (2907300400)		1
144	10	Strohle's Hut	Part Run 27 Shotover, Skippers Creek and Soho SD's (2907300200)		3
145	10	Otago Hotel	Section 148 Block XI Skippers Creek (2907301600)		3
216	13	Chard Road	Road Reserve		2

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217	10	Macnicol Battery, Aurum Basin	Part Section 148 Block XI Skippers Creek Part Mt Aurum Recreation Reserve (2907300400)		2
218	10	Eureka Battery, Jennings Creek	Part Section 148 Block XI Skippers Creek Part Mt Aurum Recreation Reserve (2907300400)		3
219	10	Nugget Battery below Nugget Terrace	Part Section 148 Block XI Skippers Creek Part Mt Aurum Recreation Reserve (2907300400)		3
220	34	Rifle Butt, Lake Wakatipu foreshore	Lake Wakatipu (approx. 250m south-west from Fernhill Road Roundabout)		3
221	35	Beacon Tripod and Beacon	Part Section 109 Block XX Shotover SD and Lake Wakatipu (2910654000)		2
222	31	Old Shotover Bridge	Joins Crown Land Block II Shotover Survey District and Spence Road		3
223	13	Victoria Bridge Supports, Gibbston Highway	River and Road Reserve		3
224	13	Ryecroft House, 1800 Gibbston Highway	Lot 1 DP 9947 (2907200800)		3
225	13	Perriam's House, Gibbston Back Road	Lot 3 DP 23253 (2907202903)		3
226	9	Paradise House, (Miller House) Paradise Trust, 1771 Paradise Road	Section 30 Block II Dart SD (2911131900)	1/7766	2
227	25	Coll Street Cottage, Coll Street	Lot 1 DP 22743 (2911119101)		3
228	10	Curries Hut, Dynamo Creek	Part Section 148 Block XI Skippers Creek Part Mt Aurum Recreation Reserve (2907300400)		3
229	13	Post Office at Seffertown	Part Run 794 Mid Wakatipu, Shotover, Skippers Creek and Glenorchy SDs (2907303900)		2
230	13	Store at Seffertown	Part Run 794 Mid Wakatipu, Shotover, Skippers Creek and Glenorchy SDs (2907303900)		2
231	13	Library at Seffertown	Part Run 794 Mid Wakatipu, Shotover, Skippers Creek and Glenorchy SDs (2907303900)		2
232	13	Resta Stone Stables, Resta Road/Camp Hill	Glenroy Station		3
233	13	Wentworth Cookshop, 2125 Gibbston Highway	Lot 20 DP 27121 (2907201600)		3
234	13	Remnants of Gibbston Hotel, Dairy, Stables and out buildings. Rapid No. 8, Coal Pit Road	Lot 1 and Lot 3 DP 385701 (2907201802, 2907201803)		3
235	13	Gibbston school teachers house, 2214 Gibbston Highway	Part Section 11 Block V Kawarau SD (2907202000)		2
236	13	Rum Curries Hut, Rafters Road	Section 39 Block V Kawarau SD (2907204500)		1
237	12	Goods shed, Elfin Bay Station, beside wharf	Section 12 SO 12351 (2911135401)		3
238	9	E. Barnetts Hut - Wyuna Station Scheelite Mining Area	Section 14 SO 369025 (2911125502)		3
239	25	Kinloch jetty and wharf building	Sec 4, Blk XX Town of Kinloch (associated with Kinloch Lodge) (2911121600)		2
240	30	Marshall Cottage, Strains Road, Threepwood, Lake Hayes	Lot 2 DP 21614 (2907123753		3

Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
241	33	Kawarau Falls Dairy and Meat Store	Lot 4 DP 385775		2
242	30	Threepwood Stables	Lot 2 DP 21614		2
248	31	Hicks Cottage, Old School Road	Lot 101 DP325561		3
250	28	Millers Flat Church, Roman's Lane, Arrowtown	Part Section 3 Block x Town of Arrowtown (2918217100)		3
251	28	Former Methodist Church, 8 Berkshire Street, Arrowtown	Pt Secs 1&2 BLK VII Arrowtown (2918231100)		3
252	26	Shanahan's Cottage, Arrowtown Golf Course	Sec 3, Blk XXXII Tn of Arrowtown (2918400500)		3
253	26	Stone Cottage, 253 Centennial Avenue, Arrowtown (Limited curtilage)	Section 5 SO 445725 (2907130002)		2
301	28	King Edward VII Memorial Lamp, Corner Wiltshire Street and Berkshire Street, Arrowtown Extent of place: the immediate area around the King Edward VII Memorial Lamp. Refer to the map of the Extent of Place in section 26.8.1	Road reserve adjacent to Block VI, Town of Arrowtown	2 / 2107	3
302	28	Explosive Magazine, Malaghans Road, Arrowtown	Sections 9 Block XIX, Town of Arrowtown (2918235002C)	2 / 2108	3
303	28	World War I Field Gun, reserve, Corner Caernarvon and Durham Street	Part Section 5 Block XVIII Town of Arrowtown (2918234800)		2
304	10	Scholes Tunnel, Macetown Road	Run 26 Block XVIII Shotover SD Macetown Road (2907214600)		3
305	28	Cobbled Gutters, Berkshire Street, Arrowtown	Road Reserve	2 / 2086	2
308	28	World War I Memorial Reserve, Corner Caenarvon and Durham Street Arrowtown	Part Section 5, Block XVIII Town of Arrowtown (2918234800)	2 / 2124	2
309	26	William Fox Memorial, Coopers Terrace, Arrow River, Arrowtown	Run 26 Block XVIII Shotover SD (2907214600)		2
310	28	Stone Wall, Arrow Lane Arrowtown	Fronting Lots 1 and 2, DP9213 and Lot 1 DP17116 Block VI, Town of Arrowtown (2918228100, 2918228200)		3
311	28	Stone Wall, Recreation Reserve, Buckingham Street Arrowtown	Sections 1 and 2, Block XXV, Town of Arrowtown (2918233400, 2918232600)	2 / 2120	3
312	28	Ah Wak's Lavatory, 2 Buckingham Street Arrowtown	Lot 4 DP 18410 (2918232900)	2 / 2084	2
313	28	Cemetery Wall	Block II Section 10, 12, 13 Town of Arrowtown (2918234900)		3
314	28	Stone wall, old Arrowtown Primary School, Anglesea Street	Section 14 Block IV Town of Arrowtown (2918223202)		2
315	28	Cottage, 9 Anglesea Street Arrowtown	Section 7, Block V, Town of Arrowtown (2918220300)	2 / 3167	2
316	28	Cottage, 10 Anglesea Street Arrowtown	Lot 2 DP 342961 (2918223204)	2 / 2087	3
317	28	Cottage, 11 Anglesea Street Arrowtown	Lot 2, DP11488 (2918220400)	2 / 3166	2

Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
318	28	Cottage, 12 Anglesea Street Arrowtown	North Part Section 10/11, Block IV, Town of Arrowtown (2918223100)	2 / 2088	2
319	28	Cottage, 21 Anglesea Street Arrowtown	Part Section 6, Block II, Town of Arrowtown (2918219400)	2 / 2089	2
320	28	Cottage, 7 Bedford Street Arrowtown	Lot 1, DP 16248, Block XXIV, Town of Arrowtown (2918216300)	2 / 2091	2
321	28	Cottage, 3 Berkshire Street Arrowtown	Lot 1, DP 9213, Block VI, Town of Arrowtown (2918228100)	2 / 2122	2
322	28	Cottage, 18 Berkshire Street Arrowtown	Section 3, Block XIII, Town of Arrowtown (2918234400)	2 / 2090	2
323	28	Dudley's House Chinese Residence and Butlers House, 4 Buckingham Street Arrowtown	Lot 1, DP 8232, being part Block VII, Town of Arrowtown (2918233000)	2 / 2106	2
324	28	Ah Lum's Cottage, Arrowtown Chinese Settlement, Middlesex Street	Lot 3 DP18410 Block VIII Town of Arrowtown (2918232800)	1 / 4366	1
325	28	Cottage (O'Callaghan's) 16 Caernarvon Street Arrowtown	Section 3 Block XIV, Town of Arrowtown (2918224500)	2 / 2100	2
326	28	Old Fever Ward, 24 Caernarvon Street Arrowtown	Lot 2, DP 10960 (2918224100)	2 / 2101	3
327	28	Off Plumb Cottage, 38 Caernarvon Street Arrowtown	Lot 1, DP 12438 (2918222200)	2 / 2112	2
328	28	Cottage (Low) 15 Denbigh Street Arrowtown	Lot 1, DP 11234 (2918221200)	2 / 2102	2
329	28	McClintock's Cottage, 31 Merioneth Street Arrowtown	Sections 2 Block XX, Town of Arrowtown (2918211800)	2 / 2103	2
330	28	Masonic Lodge Building, 9 Wiltshire Street Arrowtown	Lot 1 DP19573, Block I, Town of Arrowtown (2918217800)	1 / 2110	2
331	28	Cottage, 11 Wiltshire Street Arrowtown	DP19573 Sections 6 & 7 Block I Town of Arrowtown (29182179000	2 / 3168	2
332	28	Cottage (former Vicarage) 34 Wiltshire Street Arrowtown	Section 20, Block VII, Town of Arrowtown (2918231500)	2 / 2105	2
333	28	Reidhaven, 5 Villiers Street Arrowtown	Part Section 10, Block VII, Town of Arrowtown (2918231900)	2 / 2116	2
334	28	Cottage, 8 Villiers Street Arrowtown	Part Sections 2 and 3, Block VIII, Town of Arrowtown (2918233200)	2 / 2104	2
335	28	Adam's Cottage, 61 Buckingham Street Arrowtown	Part Section 3, Block X Town of Arrowtown (2918217100)	2 / 2097	3
336	26	Scheib Cottage (Original Part Only) Arrow Junction	Section 118 Block VIII Shotover SD (2907130800)		3
337	26	Doctor's House, Centennial Avenue	Lot 1 DP 22726 Block XXXIII Town of Arrowtown (2918401200)		3
338	30	Fitzgibbon Cottage, Arrow Junction Road/Morven Ferry Road	Section 82, Block VIII Shotover SD (29071328000		3
339	28	Cottage, Corner Berkshire and Caernarvon Street, Arrowtown	Section 3 Block IV Town of Arrowtown (2918223500)		3

Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
340	28	Crowie's Cottage, 53 Buckingham Street Arrowtown	Part Section 1 Block X Town of Arrowtown (2918217500)	2 / 2093	2
341	27	Wilcox Cottage, Corner Devon and Cornwall Street, Arrowtown	Lot 1 DP 12431 (2918105200)		3
342	28	Luker's Cottage, Feehly Hill, Durham Street	Lot 4 DP 11307 (2918235503)		3
343	28	Forbes Cottage, original part only including chimney, 67 Buckingham Street Arrowtown	Section 2, Block XI Town of Arrowtown (2918215500)		3
344	28	McLaren Cottage, Corner Ford and Bedford Street Arrowtown	Lot 2 DP 9802 (2918203900)		3
345	28	Granny Jone's Cottage 59 Buckingham Street Arrowtown	Part Section 2 & 3 Block X Town of Arrowtown (2918217200)	2 / 2096	2
346	28	Gilmour's Cottage original parts only, 5 Hertford Street Arrowtown	Lot 2 DP 19573 (2918218000)		3
347	28	Meg Cottage corner Hertford and Merioneth Street Arrowtown	Section 5 Block XII Town of Arrowtown (2918212200)		3
348	27	Johnston Cottage 51 Devon Street Arrowtown.	Lot 2 DP 16516 (2918105900)		3
349	28	Brodie Cottage 32 Kent Street Arrowtown	Section 6 Block XV Town of Arrowtown (2918222600)		3
350	28	Preston Cottage 30 Kent Street Arrowtown	Section 5 Block XV Town of Arrowtown (2918222700)		3
351	28	Furneaux Smith House, 5 Caernarvon Street Arrowtown	Lot 7 DP 11302 Town of Arrowtown (2918234000)		3
352	27	Currie's Cottage, Manse Road Arrowtown	Lot 2 DP 300024 Town of Arrowtown (2918410800)		3
353	28	Murphy's House, 1 Merioneth Street Arrowtown	Lot 2 DP 25997 Block XI Town of Arrowtown (2918215800)		3
354	28	Cottage (Fitzpatrick) 27 Merioneth Street Arrowtown	Section 2 Block XX Town of Arrowtown (2918211800)		3
355	28	Policeman's House 70 Buckingham Street, Arrowtown	Lot 19 DP 9914 Block VI (2918214300)		3
356	28	Pittaway's Cottage, 69 Buckingham Street Arrowtown	Section 3 Block XI Town of Arrowtown (2918215600)	2 / 2099	3
357	28	Roman's Cottage 65 Buckingham Street, Arrowtown	Lot 1 DP 12521 (2918217000)	2 / 2098	2
358	28	Stevenson's Cottage 55 Buckingham Street, Arrowtown	Part Sections 1 & 2 Block X Town of Arrowtown (2918217400)	2 / 2094	2
359	28	Cottage, 28 Wiltshire Street Arrowtown	Part Section 1 Block VII Town of Arrowtown (2918231200)		2
360	28	Summers Cottage 16 Wiltshire Street, Arrowtown	Lot 1 DP 23743 Town of Arrowtown (2918227801)		2
361	28	Summers Cottage, 12 Stafford Street Arrowtown	Lot 2 DP 16665 Block XVI Town of Arrowtown (2918226200)		2
362	28	Postmaster's House, 54 Buckingham Street, Arrowtown	Lot 2 DP 21884 Block VI (2918228801)	2 / 2113	2
363	26	Walnut Cottage, 265 Arrowtown-Lake Hayes Road, original building only	Lot 1 DP 5746 (2907114002)		3
365	28	Reid's Stables, 40 Wiltshire Street, Arrowtown	Lot 9 DP 1923 (2918231800)	2 / 2115	2

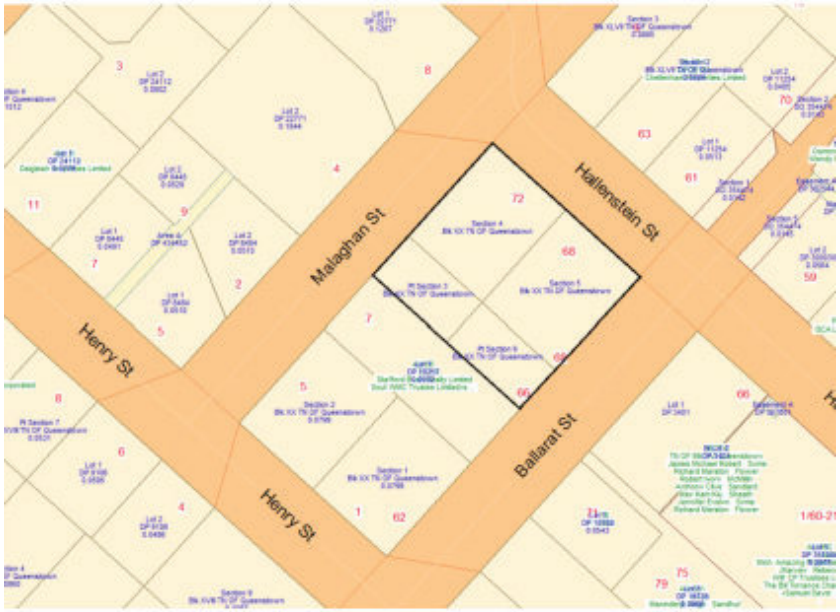
Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
366	27	Presbyterian Manse, 51 Manse Road Arrowtown	Lots 1 DP 342248 (2918410007)		2
367	28	St John's Church, 26 Berkshire Street Arrowtown	Section 1, Block XVIII, Town of Arrowtown (2918234700)	2 / 2119	2
368	28	St Paul's Anglican Church, 13-15 Berkshire Street, Arrowtown	Section 1 & 2, Block IV, Town of Arrowtown (2918223400)	2 / 2121	2
369	28	Anglican Vestry Building, 15 Berkshire Street, Arrowtown	Sections 1 & 2, Block IV, Town of Arrowtown (2918234700)	2 / 2123	3
370	28	St Patrick's Church (Roman Catholic) & Blessed Mary MacKillop Cottage 7 Hertford Street Arrowtown	2918218100	2 / 2117	2
372	28	Arrowtown Borough Council Buildings, 57 Buckingham Street Arrowtown	Lot 1 DP 26376 Block X, Town of Arrowtown (2918217300)	2 / 2095	1
373	28	Post Office, 52 Buckingham Street, Arrowtown	Lot 1 DP 21884 Block VI Arrowtown (2918228800)	2 / 2114	2
374	28	Jail and Reserve (0.0545ha), 8 Cardigan Street Arrowtown	Lot 7, DP 9914, being Part Section 15, Town of Arrowtown (2918213600)	1 / 350	1
375	27	Police Camp Building Butler Park, Arrowtown	Part Section 2 Block XXV Town of Arrowtown (2918233400)		2
378	28	Arrowtown General Store, 18-20 Buckingham Street, Arrowtown	Lot 1 DP 27544 (2918229800)	1 / 4370	2
379	28	Stable Block (The Stables Restaurant), 28 Buckingham Street, Arrowtown	Lot 1 DP 12884 (2918229600)	2 / 2118	2
380	28	Stone Cottage, 51 Buckingham Street Arrowtown	Part 1 Section 1, Block X, Town of Arrowtown (2918217600)	2 / 2092	2
381	28	B.N.Z Agency Building, 30 Buckingham Street, Arrowtown	Lot 2 DP 12884 (2918229500)	2 / 2085	2
382	28	Lakes District Museum (former Bank), 47 Buckingham Street, Arrowtown	Sections 1-3 Block IX Arrowtown (2918230900)	2 / 2111	2
385	10	Macetown Ruins and Reserve, Vicinity Macetown	Land on SO's 14538, 18539 and 18612. Section 1, Block XIV, Shotover SD, SO18612, Sections 1-6, Block I, Sections 104, Block II; Sections 1-10 Block III, Sections 1-6 Block V; Sections 1-6 Block VI; Sections 2 & 5 Block VII; Sections1-15 Block VIII; Sections 1-4 Block IX; Sections 1-10 Block X; sections 1-10 Block XI; Sections 1-9 Block XII; and Sections 1-9 Block XIII; Mining Reserve adjoining Block II,III,IV,IX,X & XII and adjacent to Block I & VIII and Crown Land adjoining Blocks V, VI,VII,VIII,IX & XIII and adjacent to Block 1; Town of Macetown. As in all document no's 489403 and 149467. SO Plan 14537; SO Plan 14538; SO Plan 18539 and 18612.		3

Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
387	10	Britannia Terrace, Macetown Road	Block XVIII Shotover SD, Lot 1 DP 12267; Lots 1 & 2 DP 12940; Lots 1-4 DP 15443; Sections 3-5 Block VI Town of Arrowtown;Lots 1 & 2 DP 21884, Sections 14-15 Block IX Town of Arrowtown; Lot I DP 27170, Lot 1 DP 21701; Town of Arrowtown and the legal road to which all these properties front, Sections 1-9 Block IX (2907214600, 2918229600, 2918229500, 2918229400, 2918229300, 2918229200, 2918229100, 2918229000, 2918228902, 2918228800, 2918228801, 2918230300, 2918230400, 2918230500, 2918230600, 2918230700, 2918230800, 2918230900		3
400	39	Stone seat, Kingston foreshore	Section 1 Block XX Kingston Town (2913106700)		3
401	39	Square stone culvert, under railway yards.	Road Reserve - Kent Street		3
402	39	Stone cairn, site of the launching of the Earnslaw	Road Reserve - Kent Street		3
403	39	Rock retaining wall, wharf approach, Kingston	Lake Wakatipu		3
404	39	Wharf, Kingston	Lake Wakatipu		3
405	39	Old School Building (current library), 48 Kent Street	Lot 1 Section 15 Block 1 Kingston (2913126700)		3
410	39	Ships Inn, 24 Cornwall Street	Section 16 Block X Town of Kingston (2913114300)		3
411	39	Kingston Flyer Railway, including: Railway turntable, water tank and crane. The railway line from Kingston to Fairlight (up to the QLDC District boundary) Kingston Railway Station. Water weir	Lots 1 & 6 DP 306647 Lot 2 Part Lot 1 DP 318661; Block I, V, XII Kingston SD; Sections 1-3, 5, 7-10, 12-15, 20, 23 & 24 Block VI Town of Kingston; Section 2, 4, 6-8, 10, 11, 25, Part Section 3, 5, 9 Section 1; SO7617; Section 1-3 SO10898 SO 10760; Run 593. Lot 2 Part Lot 1 DP 318661; Lot 1 DP 306648; Block I, V, XII Kingston SD; Sections 1-3, 5, 7-10, 12-15, 20, 23 & 24 Block VI Town of Kingston; Section 2, 4, 6-8, 10, 11, 25, Part Section 3, 5, 9 Section 1; SO7617; Section 1-3 SO10898 SO 10760; Run 593; Lot 9DP 306647; Lot 4DP 318631 Section 1 Block X Part Section 8 Block I Kingston SD Scenic Reserve Balance at 29280-43500 (2913104205 2913102800, 2913104205, 2913109901, 2913104206, 2913104209, 2913104210,2913101801,2913102800)		2
500	10	Old Butchery, Tuohy's Gully, Cardrona	Part Section 3 Block I Cardrona SD		2
506	20	Wilkin Memorial 2 Mclellan Place, Albert Town	Lot 23 DP 24481 Block IV Lower Wanaka SD (2908326330)		2
507	21	Soldiers Monument Chalmers Street Lookout QLDC Local Purpose Reserve Wanaka	Lot 1 DP 4961 Wanaka Memorial Reserve (2905309900)		2

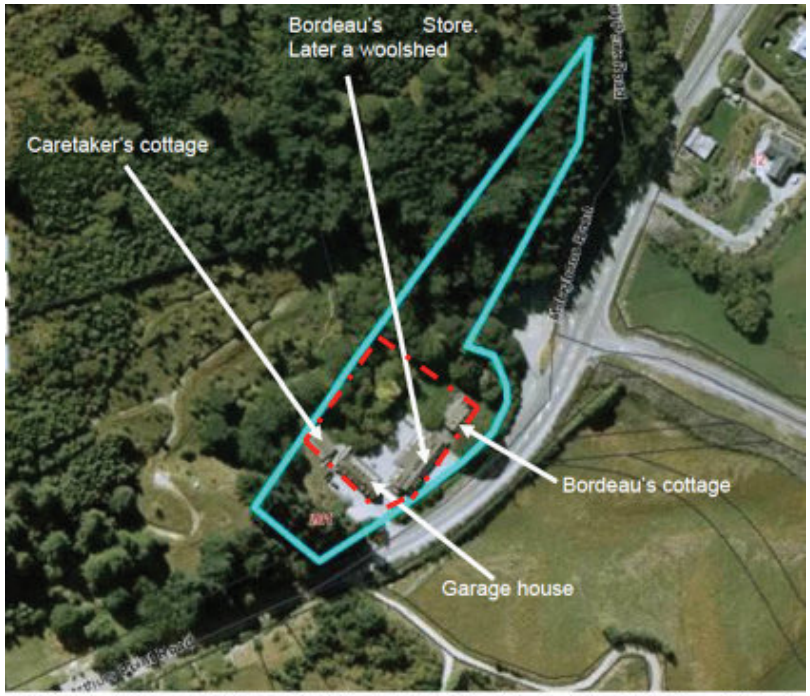
Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
508	24	Early Graves and Pioneer Memorial Albert Town Cemetery Reserve, Lake Hawea -Albert Town Road	Section 20, Block V Lower Wanaka SD (2908201200)		2
509	24	James Horn Plaque, Albert Town Bridge over the Clutha River (Albert Town side of the river, upstream side of the bridge), Albert Town, Lake Hawea Road	Road Reserve adjacent to Section 1 SO 24606 (Adjacent to 2908330323)		2
510	10	Studholme Nursery Plaque, Vicinity of the site of early Cardrona nursery, Cardrona Road, Cardrona Valley	Road Reserve adjacent to P254 part Run 505C Cardrona SD (Adjacent to 2906119900)		2
511	7	Scaife Plaque, Mount Roy	Part Section 1 SO 22998 (2906122801)		2
512	18	Stone Ruin (Landreth property) 342 Kane Road, Hawea Flat	Section 51 Block VII Lower Hawea SD (2908211300)		3
513	22	Homestead Foundation QLDC Recreation Reserve Norman Terrace to Mt Aspiring Road	Lot 1 DP 16152 Lower Wanaka SD (2905401400)		2
514	18	Cabaret Building Foundations, Ruby Island	Ruby Island Lower Wanaka SD (2906122700)		3
515	8	Luggate Red Bridge, Rural Luggate	Road and River Reserve		3
520	24	Old Stone Cottage 100-120 Alison Avenue Albert Town	Lot 39 DP 7458 Albert Town Extn No 3 (2908330500)		3
521	23	Glebe House, 133 Stone Street, original house only	Lot 2 DP 24047 (2905371000)		2
522	18	Halliday Homestead, 85 Halliday Road	Lot 2 DP 340274 (2906304710)		3
523	8	Drake Family Stone House, Hawea Back Road	Section 34 Block I Lower Hawea SD (2908207200)		3
524	11	Stone Cottage and Stables next to Luggate Hotel, 60 Main Road, Luggate	Lot 1 DP 15124 Block VI Tarras SD (2908300900)		2
525	18	Pearce Clay stone hut, 590 Mount Barker Road	Part Lot 1 DP 17508 Block I Lower Wanaka SD (2906109502)		3
526	18	Cob House and Stone Shed, 107 Maxwell Road	Lot 2 DP 23129 Block I Lower Wanaka SD (2906109500)		3
527	8	Old John Cottage – (F Urquhart Property) Corner Gladstone Road and Hawea Back Road, Hawea	Part Section 52 Block I, Lower Hawea SD (2908204500)		3
528	18	"Blairnhall" 115 Hawea Back Road (Private Dwelling)	Lot 1 DP 9204 Block V Lower Hawea SD (2908207800)		3
529	18	Sod Cottage, 25 Loach Road, Hawea Flat	Section 88 Block XII Lower Hawea SD (2908215500)		3
530	18	McClennan's Cottage, 64 McClennan Road Hawea Flat	Lot 2 DP 343710 (2908214101)		3
531	8	Cob Cottage, 324 Luggate-Tarras Road, Hawea Flat	Part Section 3 Block VII Tarras SD (2908211800)		2
532	8	McPherson House, Hawea-Albert Town Road			3
534	21	St Columba Anglican Church Corner MacDougall/Upton Street Wanaka	Section 4 & 5 Block XXI Wanaka Town (2905338100)	2 / 7465	3
535	18	Former St Patricks Catholic Church 65 Newcastle Road, Hawea Flat	Lot 1 DP 337991 (2908212605)		3
536	18	St Ninians Presbytarian Church, Kane Road, Hawea Flat	Part Section 11 Block V Lower Hawea SD (2908217800)		3

Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
538	21	Old Jail Buildings – timber cell and stone building 2 Dunmore Street Wanaka	Lot 3 DP 27690 (2905307103)		2
539	11	Luggate School Plaque Kingan Road Luggate	Part Section 5 Block VI Tarras SD (2908301200)		2
540	18	Old Post Office Building, Camp Hill Road, Hawea Flat	Part Section 11 Block V Lower Hawea SD - Hawea Flat (2908217500)		3
541	18	Hawea Flat School building, located on the north-eastern corner of the school site, corner of Camphill Road and Kane Road, Hawea Flat	Part Section 11 Block V Lower Hawea SD (2908217700)		3
542	24	Blacksmith Shop (Part of Templeton Garage) 21 Wicklow Terrace, Albert Town	Lot 1 DP 19201 Section 4 Block XI Albert Town (2908333300)		3
543	24	Cardrona Hotel Facade, Crown Range Road Cardrona	Part of Sections 4, 9-10 Block VII Cardrona Town (2906123800)	2 / 2239	1
544	11	Old Flour Mill 114 & 126 Main Road SH 6 Luggate	Part Section 1, Block VI, Tarras SD (2908309100)	2 / 3242	2
545	11	Hotel Stonework Facade, 60 Main Road/SH 6, Luggate	Lot 1 DP 15124 Block VI Tarras Surrey District (2908300900)		3
546	21	Wanaka Store Façade, 70 Ardmore Street	Lot 2 DP 17535 (2905202400)		2
549	18	Stone Homestead McCarthy Road Hawea Flat	Section 41 Block I, Lower Hawea SD (2908207300)		3
550	22	Woolshed Studholme Road, Wanaka	(2905373922)		3
552	24	Cardrona Hall and Church, Cardrona Valley Road	Section 10 Block I Cardrona SD (2906125700)		1

26.8.1 Maps showing and defining 'extent of place'

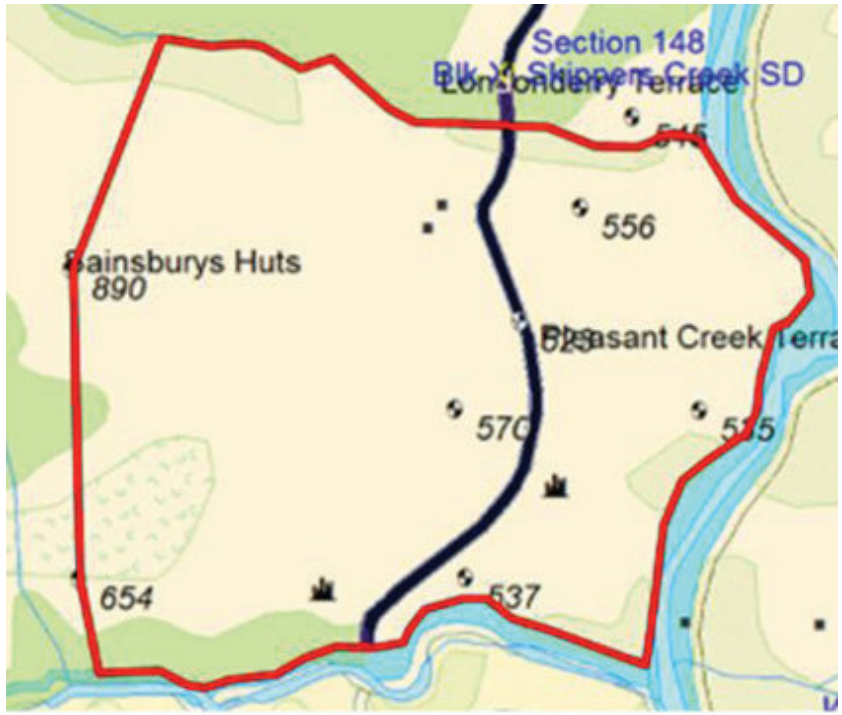


56 - Hulbert House - 68 Ballarat Street, Queenstown. The Extent of Place is shown by the black outline.

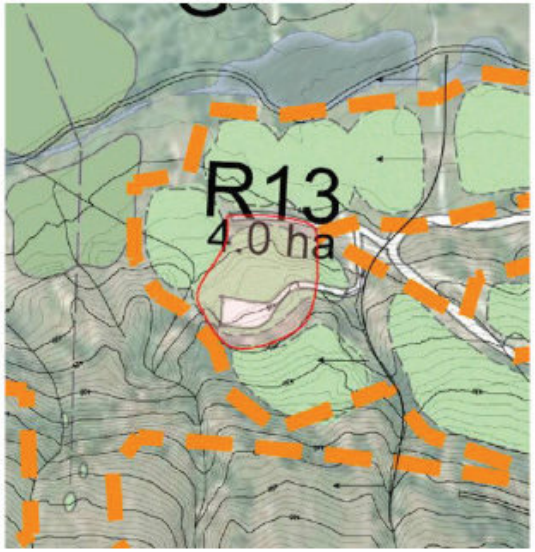


57 - Bordeau's Store - 201 Arthurs Point Road. The Extent of Place is indicated by the red dotted line. The Extent of Place includes only the land surrounding the original store and cottage.

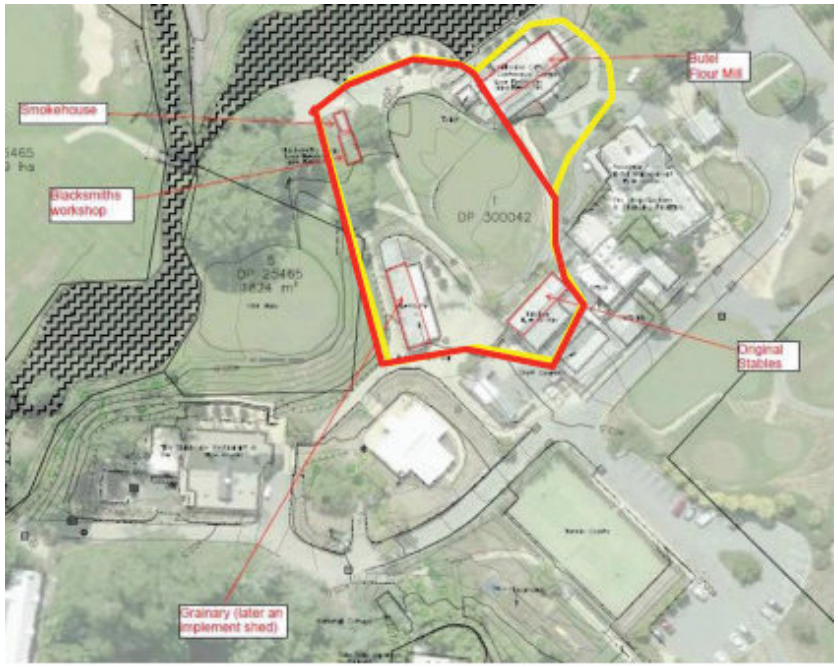
58 - Stone Building - 17 Brisbane Street, Queenstown. The Extent of Place is shown by the black outline.



67 - The Pleasant Terrace Workings - Sec 148 Blk XI Skippers Creek SD (NZ Gazette, 1985, p.5386) and legal road (part of Skippers Road), Otago Land District. The Extent of Place is shown by the red outline.



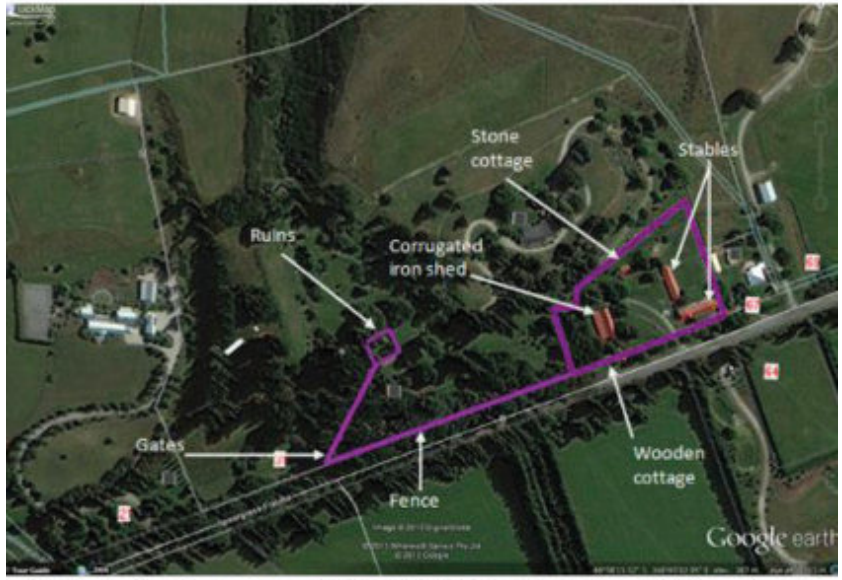
71 - Stone Cottage (McAuley) - Malaghans Road - Lot 1 DP 27269 Secs 29 57 Blk VI Shotover SD. The Extent of Place is shown by the red outline.



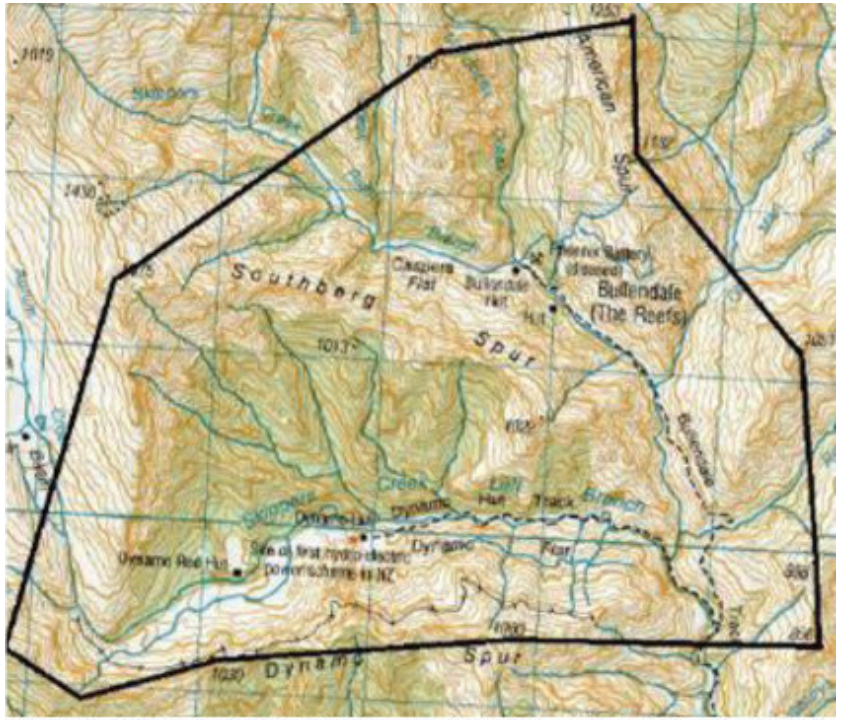
82 - Millbrook stables (remaining historic stone structure), the implement shed (remaining historic stone structure), and the blacksmith's building/ smoker - The Extent of Place is shown by the red outline.

93 - Butel's Flourmill (original foundations and stone wall), Off Butel Road, Millbrook Area - The Extent of Place is shown by the red outline.

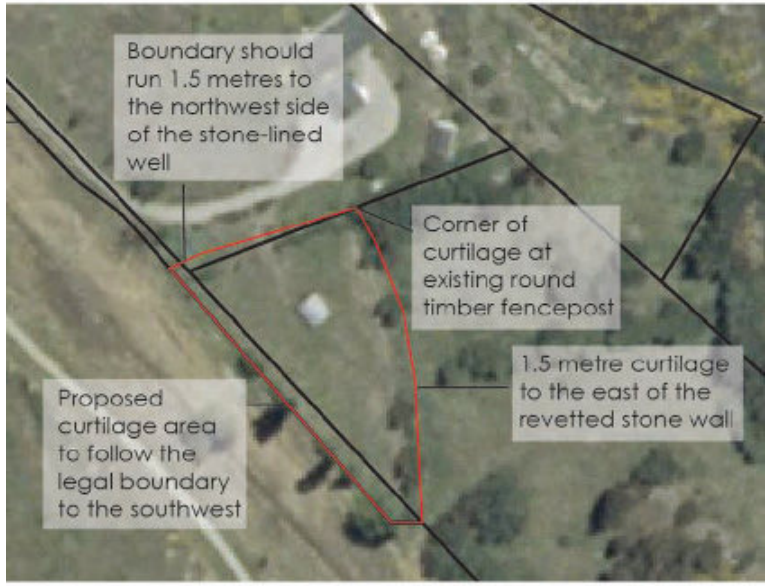
108 - Coronation Bath House, Marine Parade. The Extent of Place is indicated by the white circle.



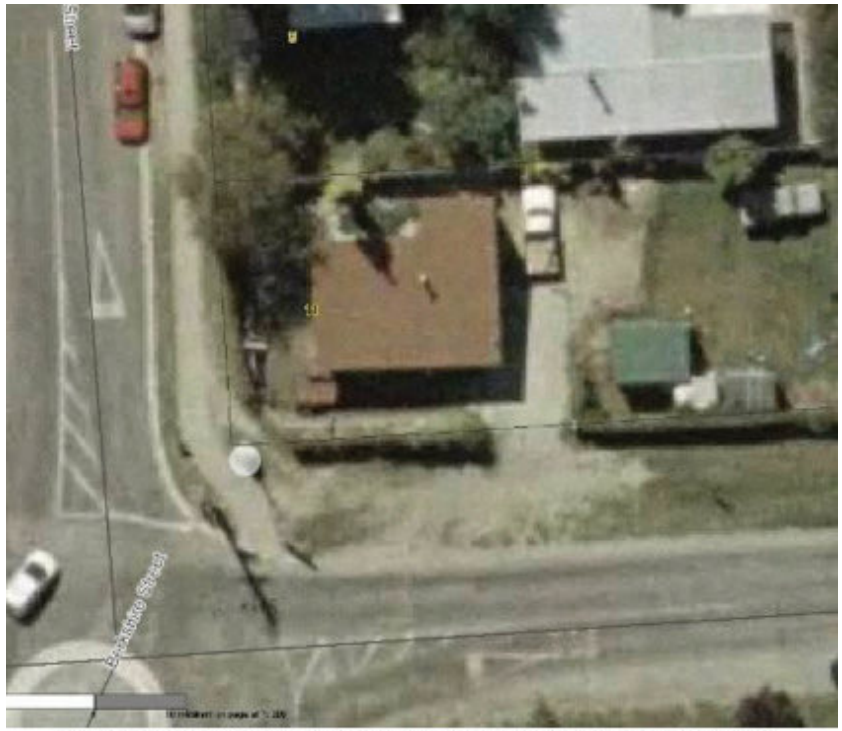
131 - Thurlby Domain - Speargrass Flat Road. The Extent of Place is shown by the purple outline.



140 - Bullendale - Section 148 Block XI Skippers Creek. The Extent of Place is shown by the black outline.



Ref 253 - 253 Centennial Ave, Arrowtown - Speargrass Flat Road. The Extent of Place is shown by the red outline.



301 - King Edward VII Memorial Lamp - Corner of Wiltshire Street and Berkshire Street, Arrowtown. The Extent of Place is indicated by the white circle.

333 - Reidhaven - 7 Villier's St, Arrowtown. The Extent of Place is shown by the yellow outline.

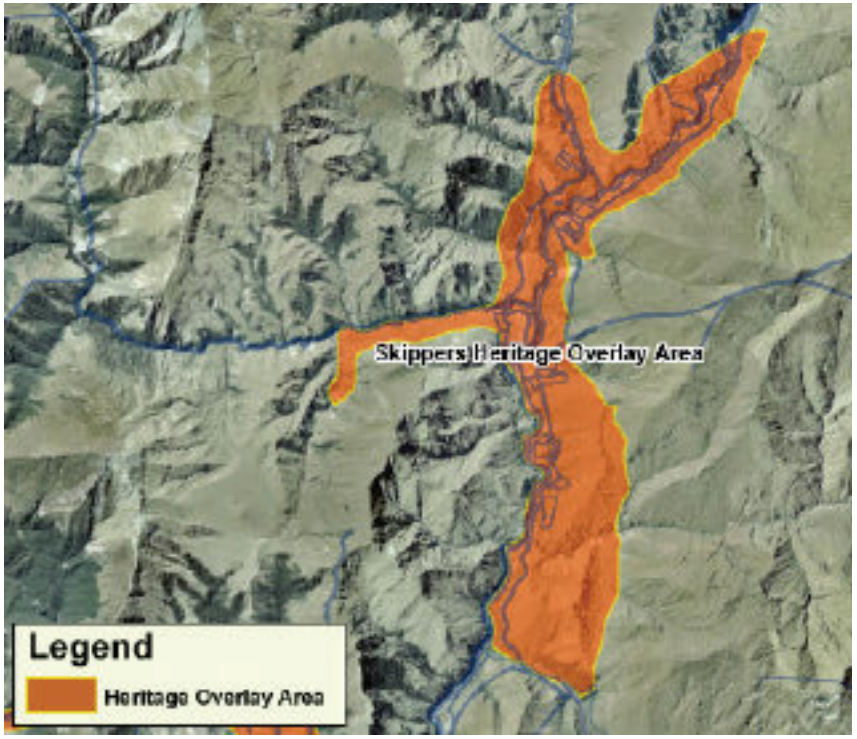
367 - St John's Church - 26 Berkshire Street Arrowtown. The Extent of Place is shown by the red outline.

379 - Stable Block (The Stables Restaurant) - 28 Buckingham Street, Arrowtown. The Extent of Place is shown by the black outline.

26.9 Sites of Significance to Maori

26.10 Heritage Overlay Areas

26.10.1 Skippers Heritage Overlay Area



26.10.2 Statement of Significance

The Skippers Heritage Overlay Area (SOA) represents some of the most historically and archaeologically significant 19th century gold mining sites in Otago and Southern New Zealand. Together, the diverse gold mining sites and features form a historically rich landscape that embodies the 1860s gold mining efforts and challenges of early miners, as well as later, more sophisticated mining technology that was needed to access the more difficult deposits of gold. In combination with the remote and stunning natural landscape of the Shotover River valley, the SHL offers a unique, largely intact, and publicly accessible historic gold mining experience for visitors to the Shotover River. Within the SOA, the precipitous later 19th century Skippers Road (1883 to 1890), the deserted Skipper's Township (1862) and the 1901 Skippers Suspension Bridge are all highly significant heritage sites that have been recognised by their Heritage New Zealand listings. In addition, over 130 archaeological sites within the SHL are entered on the New Zealand Archaeological Association Site Recording Scheme, demonstrating the outstanding heritage significance of the Skippers Heritage Overlay Area.

26.10.3 Key Features to be protected

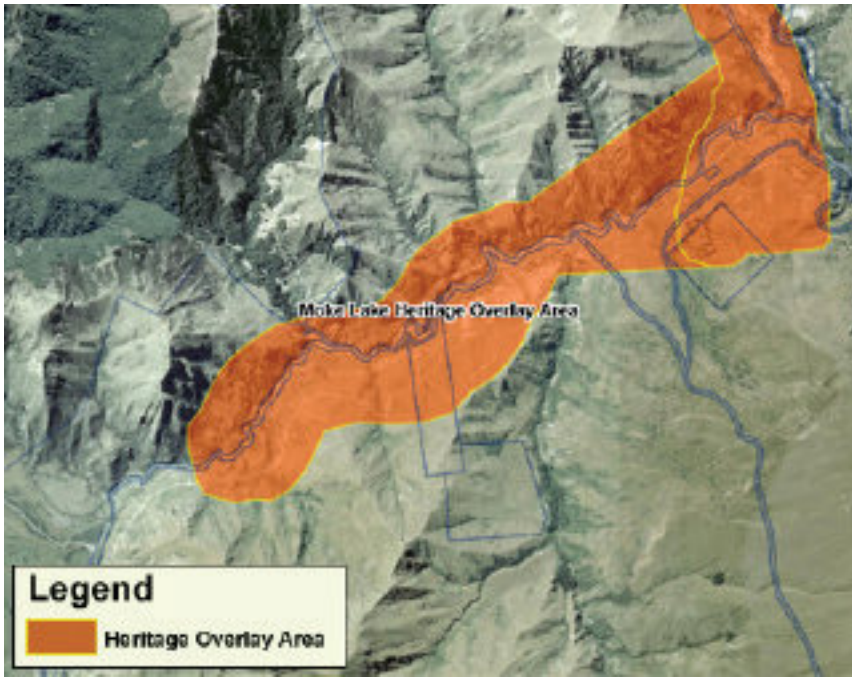
26.10.3.1 The Skippers Road and its historic revetments and construction features.

26.10.3.2 The Skippers suspension bridge and former township area.

26.10.3.3 All other known archaeological sites, including sluiced terraces.

26.10.3.4 Unobstructed views along the Skippers Canyon section of the Shotover River.

26.10.4 Moke Lake and Sefferton Heritage Overlay Area



26.10.5 Statement of Significance

The Sefferton and Moke Lake Heritage Overlay Areas ((SMLHOA) are significant for their concentrations of historic gold and copper mining remains, which include both mining infrastructure and settlement sites. The extensive and well preserved complex of features along Moonlight Creek and Moke Creek are an important part of the wider history of the Wakatipu gold rush, linking closely with the Shotover River, Arrow River and Macetown / Rich Burn goldfields. Sefferton / Moke Creek was the site, albeit short lived, of an early tented gold rush township that settled into a remote, mountain community that survived into the 1950's. Its remains provide tangible reminders of the many local stories that survive of the mining community and their hardships and life in the mountain goldfields of Otago.

26.10.6 Key Features to be protected

26.10.6.1 The former mining settlement remains at Moke Creek / Sefferton including the surviving cottages, huts, gardens and plantings.

26.10.6.2 The copper mining site along Moke Lake Road.

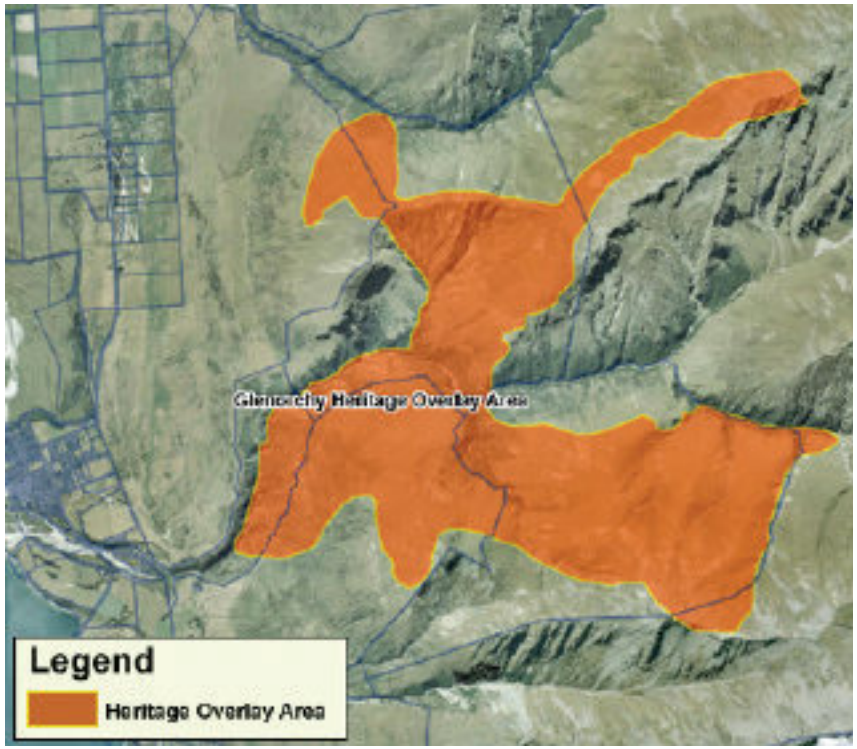
26.10.6.3 Moke Lake Road and the historic track to Butchers Hut along the true right bank of the Moonlight Creek.

26.10.6.4 The extensive stone and earthwork mining remains centred on Sheepyard Terrace and the Moonlight Creek.

26.10.6.5 The 8.8km water race leading from above Montgomery's Creek to the Sheepyard Terrace area and below.

26.10.6.6 All other known archaeological sites and listed historic places within the SMLHA.

26.10.7 Glenorchy Heritage Overlay Area



26.10.8 Summary of Significance

The Glenorchy Heritage Overlay Area (GHOA) is significant for its specific scheelite mining activities that extended from the 1880's until the 1980's, which have left a significant group of mine sites and infrastructure, along with a unique social history of the people who worked there. Collectively, these activities left behind a sequence of evidence that follows the mining cycle that began here in the 1880s and which may well recommence at some point in the future. The sites within this heritage overlay area represent the hard won and sometimes fruitless endeavours of a close knit community of miners that spanned a hundred years of mining at Glenorchy. The GHOA encompasses the majority of the key mine sites, tracks, a cableway and sections of water races that represented the primary scheelite producing area in New Zealand. The combination of private and state-owned mines is also a unique part of the GHOA's history in the ubiquitous and contemporary gold mining industry of the Wakatipu Basin. Overall, the scheelite mining history symbolised by the GHOA is a unique one of national heritage significance.

26.10.9 Key features to be protected

26.10.9.1 All mines, mining huts, the cableway and track ways within the GHL boundary (including the Black Peak Mine).

26.10.9.2 The mine sites along the Mount Judah Road.

26.10.9.3 All other known historic mining sites within the GHOA.

26.10.10 Macetown Heritage Overlay Area

26.10.11 Summary of significance

Although it covers a large area, the Macetown Heritage Overlay Area (MHOA) is significant for its concentration of historic gold mining sites, focussed on the deserted mining town of Macetown, which span from the earliest exploitation of gold in the Arrowtown area in 1862, through to the end of gold mining in the 1930's. Such a continuum of mining activity – first alluvial then hard-rock or quartz – has left a distinct and intelligible landscape with diverse features and stories linked by a series of mining tracks that still allow access to this remote and stunning countryside. The MHOA encompasses three key areas; the Rich Burn Valley, Macetown and the Arrow River valley, all three of which have distinctive characters and features that coalesce to form a broader mining heritage of regional significance. Among these, Macetown is highly significant, representing the surviving remains of a remote 19th century mining village to which stories are still attached and some history has been traced to its founders, occupants and demise. Situated within its larger mining heritage context, Macetown can be interpreted as part of a community of gold mining activity sites, which are a key part of the wider Otago gold mining story.

26.10.12 Key features to be protected

26.10.12.1 The (Department of Conservation) Macetown Historic Reserve area including the Macetown Road.

26.10.12.2 The Rich Burn mining remains (e.g., Anderson's Battery and the Homeward Bound Battery; the Sunrise Mine Office).

26.10.12.3 The historic mining tracks of Hayes Creek, Sawpit Gully and Advance Peak and similar tracks within the MHOA.

26.10.12.4 All other known archaeological sites and listed historic places within the MHA.

26.11 Heritage Orders

Ref No	Map Ref	Related Protected Features	Purpose	Heritage Protection Authority	Site and Legal Description
1	28	See 362 and 373	To protect and preserve the buildings known as the Postmaster's House and the Arrowtown Post Office and their associated buildings and their surrounding land (refer to site files for complete description of heritage order).	Queenstown Lakes District Council	52 and 54 Buckingham Street Lots 1 and 2, DP 21884, Block VI, Town of Arrowtown (Valuation reference 2918228800 and 2918228801)
2	36		To protect the building known as Archer cottage and the historic relationship created by buildings on Marine Parade, the space between these buildings and the relationship between these buildings and the public space onto which they front (refer to site files for complete description of heritage order).	Queenstown Lakes District Council	Lot 15 DP 302022

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report 5

Report and Recommendations of Independent Commissioners Regarding
Chapter 26 – Historic Heritage

Commissioners

Denis Nugent (Chair)

Calum MacLeod

Robert Nixon

CONTENTS

PART A: COMMON INTRODUCTORY MATTERS

1. PRELIMINARY MATTERS

1.1. Terminology in this Report

1. Throughout this report, we use the following abbreviations:

Act	Resource Management Act 1991 as it was prior to the enactment of the Resource Legislation Amendment Act 2017, unless otherwise stated
Clause 16(2)	Clause 16(2) of the First Schedule to the Act
Council	Queenstown Lakes District Council
DoC	The Department of Conservation
GHL	Glenorchy Heritage Landscape
HNZ	Heritage New Zealand – Te Pouhere Taonga
HNZPTA	Heritage New Zealand Pouhere Taonga Act 2014
NZTM	New Zealand Tungsten Mining
ODP	The Operative District Plan for the Queenstown Lakes District as at the date of this report
ONF	Outstanding Natural Feature(s)
ONL	Outstanding Natural Landscape(s)
PDP	Stage 1 of the Proposed District Plan for Queenstown Lakes District as publicly notified on 26 August 2015
Proposed RPS	The Proposed Regional Policy Statement for the Otago Region Decisions Version dated 1 October 2016
RMA	Resource Management Act 1991 as it was prior to the enactment of the Resource Legislation Amendment Act 2017, unless otherwise stated
RPS	The Operative Regional Policy Statement for the Otago Region dated October 1998
Stage 2 and variations	Stage 2 of the District Plan review, including variations, notified by the Council on 23 November 2017.

1.2. Topics Considered

2. The subject matter of this hearing was Chapter 26 of the PDP (Historic Heritage). We have divided this Report into three parts. The first sets out the introductory matters common to all of our recommendations. The second deals with submissions made on the introductory sections to Chapter 26, and submissions on the objectives, policies, and rules. The second sets out our recommendations on the submissions relating to the listing of particular properties as protected heritage features, heritage precincts, archaeological sites, heritage landscapes (heritage overlay areas) and general submissions.

1.3. Hearing Arrangements

3. Hearing of Chapter 26 was undertaken contemporaneously with the hearing of Chapter 32 (Protected Trees) and was heard by the same panel of hearing commissioners, although Chapter 32 is the subject of a separate report and set of recommendations[1].

4. The hearings on Chapter 26 were held on 27 – 28 July 2016 inclusive in Queenstown.

5. The parties heard from on Chapter 26 were:

Queenstown Lakes District Council

- Sarah Scott (Counsel)
- Victoria Jones
- Richard Knott

HNZPTA[2]

- Jonathan Howard
- Heather Bauchop
- Dr Andrew Schmidt
- Jane O'Deav

NZTM[3]

- Dr Hayden Cawte
- Gary Gray

Real Journeys Limited[4]

- Fiona Black
- Ben Farrell

Ngai Tahu Properties Limited[5]

- Tim Williams

Millbrook Country Club Inc[6]

- Dan Wells

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2 Submission 426

3 Submission 598, Further Submission 1287

4 Submission 621, Further Submission 1341

5 Submission 596

6 Submission 696

DJ and EJ Cassels, the Bulling Family, the Bennett Family, M Lynch[7]

- Maree Baker Galloway, Counsel

Mill House Trust[8]

- James Hadley

Other Submitters

- Jacqueline Gillies[9]
- Karl Barkley[10]
- Dianne Holloway[11]
- Anna- Marie Chin[12]

6. A summary of evidence was also tabled by David Cooper, Senior Policy Adviser, on behalf of Federated Farmers.

1.4. Procedural Steps and Issues

7. On 23 June 2016 a memorandum was issued following our site inspections of a number of heritage features listed in the PDP, which sought further information with respect to various listed features within heritage precincts. Specific clarification was sought with respect to Item 32, the Frankton Mill Site.

8. On 13 July 2016, the Chair issued a first Minute to the Council drawing attention to potential deficiencies whereby there was no apparent policy support for rules which categorise the demolition of Category 1 Heritage Features as a prohibited activity, or for the protection of archaeological sites.

9. On 22 July 2016, the Chair issued a second Minute seeking that the officers provide clarification as to whether some buildings listed as heritage features were also identified as contributory buildings in Heritage Precincts. This Minute also sought clarification as to the status of new buildings in Heritage Precincts.

10. Except where necessary, this report does not include reference to all individual submissions and submission points, as these are contained in the summary of submissions and our recommendations as to whether these be accepted, accepted in part, or rejected, as contained in Appendix 2 to these recommendations.

11. Finally, in our discussion of submissions, reference is made to the section within each chapter, or the objective/policy/rule numbers in the PDP as notified. Where text changes are proposed, reference is made to the section of the chapter or objective/policy/rule numbers

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7 Submission 503

8 Submission 1113

9 Submission 604. Ms Gillies clarified that she appeared in her own right and that the submission was lodged by her personally, not the firm Jackie Gillies Associates as listed in the Section 42A Report. We have updated the list of submissions in Appendix 2 to reflect this.

10 Submission 63

11 Submission 31

12 Submission 368

as amended by these recommendations. Reference should be made to Appendix 1, which sets out the text of Chapter 26 resulting from our recommendations.

1.5. Background to the Hearing

12. The evidence of Ms Jones focused primarily on the structure of the chapter, and the objectives, policies, and rules, while the evidence of Mr Knott primarily focused on the submissions relating to individual listed heritage features.

13. We note that, with the withdrawal of the area affected by Change 50 to the ODP from the PDP, matters relating to Heritage Feature 68 (Glenarm Cottage) were not dealt with through this hearing. This affected four submissions and a further submission[13], which Ms Jones recommended be rejected as being outside the scope of the hearing. Those submissions ceased to have any status once the Council resolved to withdraw this area from the PDP and we have not considered them.

14. Rules relating to the subdivision of sites containing heritage features were reallocated to the hearings for Chapter 27: Subdivision. The submissions relating to those rules have been heard by a differently constituted Hearing Panel and are dealt with in the report and recommendations of that Panel on Chapter 27[14].

15. Ms Jones explained that the Council had carried over a significant part of the heritage provisions currently contained in the ODP, particularly as they affected listings. The primary differences from the ODP were summarised as follows:
    a. the retention of three Categories of protected heritage features in the liberalisation of rules for Category 3 (notably internal alterations being made permitted), except for external alterations which are to be made restricted discretionary;
    b. an extension to some heritage precincts with a new distinction between 'contributory' and 'non-contributory' buildings within such precincts;
    c. the addition of a rule making 'development' a discretionary activity within heritage precincts;
    d. the introduction of a section on Sites of Significance to Maori, with a list of subject sites to be notified under a later stage of the District Plan review;
    e. the addition of rules in the PDP relating to a specific number of archaeological sites;
    f. the retention of four 'heritage landscapes' (to be renamed heritage overlay areas) carried over from the ODP, but now subject to rules as well as policies;

16. In terms of actual listings of heritage features, only eight additional sites were sought for listing by the Council through this review, these being 253 Centennial Avenue (Item 253); the Kawarau Falls Dairy and Meat Store (Item 241); Marshall Cottage (Item 240); Threepwood Stables (Item 242); Millers Flat Church, Arrowtown (Item 250); Former Methodist Church, Arrowtown (Item 151); Shanahan's Cottage, Arrowtown (Item 252); and Kinloch Jetty and Wharf Building (Item 239).

17. In addition, the Kingston Flyer engines and rolling stock (Item 408) was delisted and an archaeological site (714) relating to the old house site at Kingston was added.

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13 Submissions 516.5, 571.5, 604.46, 672.33 and FS1098.11

14 Report 7

18. Altogether 37 original submissions, and 21 further submissions comprising 286 points of submission, were lodged[15]. We do not discuss every submission point in this report. Rather, we focus on the issues raised. Appendix 2 contains our recommendations on the individual submission points.

19. The Section 42A Report recommended significant amendments and additions to the objectives and policies, relying on a submission by Ms J Gillies to provide scope to undertake these amendments. The scope of these amendments was not challenged at the hearing. We accept the general proposition that the recommended amendments were within scope.

1.6. Definitions

20. Definitions play a critical part in the interpretation of the rules in this chapter. Definitions, and recommended additions or alterations to definitions arise during our recommendations.

21. At the time of the Stream 3 hearings, the Council officers were recommending that definitions specific to this chapter be included in the chapter. Subsequently, the Council officers reporting on Chapter 2 Definitions, recommended that all definitions be located in that chapter, and that Hearing Panels which had heard submissions on definitions, make their recommendations to the Hearing Stream 10 Panel, so that Panel could reconcile any differences in recommendations and make the ultimate recommendation to the Council.

22. Consequently, in the report, where we make recommendations on definitions, those recommendations are to the Stream 10 Hearing Panel, and we have separated the definitions we recommend be included in Chapter 2 into Appendix 3.

2. STATUTORY CONSIDERATIONS

23. We have considered the submissions in relation to this chapter consistent with the approach outlined in the Hearing Panel's Introduction Report[16]. In this instance, there are no objectives or policies in the RPS directly relevant to our consideration.

24. The Proposed RPS, on the other hand, contains a specific objective and policies relevant to our consideration which we are required to have regard to[17]. Objective 5.2 and Policy 5.2.1 require the recognition of various elements that are characteristic of, or important to, Otago's historic heritage. Policy 5.2.2 requires the identification of historic heritage places and areas of regional and national significance using the attributes set out in Schedule 6 to the Proposed RPS. Policy 5.2.3 lists the ways historic places or areas are to be protected or enhanced. The Proposed RPS lists methods by which district plans can implement these policies. The approach taken in the PDP is consistent with these.

25. We have also approached our consideration on the basis that the contents of this Chapter need to give effect to, or be consistent with, the objectives[18] and policies[19] in recommended Chapter 3.

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15 Section 42A Report paragraph 8.1

16 Report 1, Section ?

17 Section 74(2)(a)(i) of the Act

18 Strategic Objective 3.2.3.1

19 Strategic Policy 3.3.16

26. Consistent with the approach outlined in Report 1 and the approach taken by the Hearings Panel (differently constituted) who heard submissions on Chapters 3, 4 and 6 of the PDP[20], our assessment in terms of section 32 and 32AA of the Act is incorporated into our discussion of the various provisions.

27. In undertaking its section 32 assessment prior to notification, the options considered by the Council included (1) status quo/no change – that is, retaining the provisions in the ODP; (2) retain and improve; and (3) comprehensive review with the third option being selected. While in many respects the exercise was undertaken thoroughly, we feel that it has been somewhat misdirected with respect to the requirements under Section 32. Chapter 26, while being clarified and 'streamlined', still contains some of the most stringent regulation possible in the form of prohibited activity status for the demolition or relocation of Category 1 heritage features; noncomplying activity status for demolition or relocation of Category 2 heritage features, and noncomplying activity status for partial demolition and relocation within a site.

28. While we appreciate that this was the activity status for some of these activities under the ODP, the fact that these may remain the same or be made more liberal in some respects under the PDP does not detract from the need to justify their activity status as part of the current full review of the district plan. For those being regulated, there is a fundamental difference between the implications of prohibited activity status, noncomplying activity status, discretionary activity status and even restricted discretionary activity status. These issues go to the heart of effectiveness and efficiency. This is not to say that more stringent activity status is inappropriate, but rather that it needs to be justified, which does not appear to have occurred on a comparative basis as part of the Council's analysis. There appears to be an implicit assumption that prohibited activity status and noncomplying activity status ensures the protection of a heritage feature – but while prohibited activity status would prevent an application being made, it may be ineffective by providing a financial disincentive in terms of ensuring ongoing maintenance or restoration. Not all owners of heritage buildings are 'developers' but ordinary private owners who may well not be in a financial position to afford consenting processes, let alone the works required to maintain or restore their buildings. A further important factor is that heritage rules have very specific application to individual landowners, in contrast to district plan rules having general application, such as bulk and location standards.

29. However some of the deficiencies in the notified version of Chapter 26 have been addressed by Ms Jones in her Section 42A Report, and as will be apparent as part of these recommendations, we have made a number of changes in response to her report and the submissions that have been made, to the extent that this is possible within the scope of submissions. We address changes made to the notified provisions in terms of section 32AA to the level of detail which is appropriate as part of each suite of provisions[21].

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20 Refer Report 3 on Chapters 3,4 and 6, paragraphs 29 - 39

21 Section 32AA (1) (d) (ii).

PART B: SUBMISSIONS ON THE INTRODUCTION, OBJECTIVES, POLICIES AND RULES

3. INTRODUCTORY PROVISIONS – SECTION 26.1 AND SECTION 26.2

30. Both sections are explanatory and descriptive in nature and do not contain any regulatory provisions in the form of objectives, policies, or rules. There were two submissions in support of Section 26.1 by Federated Farmers[22] and Ms J Gillies[23], and two further submissions, one each in opposition and support. Ms Jones recommended amending Section 26.1 by adding a description of the content of Chapter 26 (i.e. the objectives policies and rules applying to the Inventory of Protected Heritage Features, Heritage Precincts, Heritage Landscapes (now proposed to be termed 'Heritage Overlay Areas'), and Sites of significance to Maori. We recommend these two submissions in support be accepted.

31. At this early juncture, we advise that we have decided to rename 'heritage landscapes' as *'heritage overlay areas'*, for two reasons. Firstly, it reduces potential confusion between the terms 'outstanding natural landscapes' and 'heritage' as set out in sections 6(b) and 6(f) of the Act respectively, and emphasises the fact that the rules in such areas are an overlay over existing applicable rules in the Rural Zone. As it is a term that appears a number of times, and for the purposes of these recommendations, throughout the rest of these recommendations we will refer to these as *"heritage overlay areas".* We consider this to be an alteration to wording not altering meaning or effect[24]. We also recommend consequential changes to the Stream 10 Hearing Panel to give effect to this change.

32. The officer's report questioned the usefulness of Section 26.2, noting, however, that no submitter had sought that it be deleted. There were a number of submissions seeking that this (basically descriptive) section of the chapter be amended. A significant part of this section addresses situations where in future additional items might be added to the Inventory of Listed Heritage Features. In practice, such additional features could only be added in the future through a plan change procedure, or a future review of the District Plan.

33. Sections 26.2 and 26.2.1 as notified provided that nominations for future inclusions from members of the public would be welcomed, provided these were accompanied by the written consent of the affected owners, a report from an appropriately qualified and experienced conservation/landscape architect, a preference for site-specific reports from relevant government agencies such as HNZ or DoC, accompanied by a Conservation Plan.

34. HNZ[25] questioned the necessity for an owner's "consent" being required for a proposed listing, a position supported by the reporting officer. A further submission was received opposing the submission point made by HNZ. We note that consultation is provided for through what would be a necessary plan change procedure to list additional buildings. Nevertheless, we agree that requiring an owner's "consent" could imply a right of veto, which would not be appropriate if a building justified listing on the basis of its documented and assessed heritage values. However, we do consider it is necessary as a matter of principle to send a clear signal to users of the PDP, that if a heritage feature were proposed for listing,

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22 Submission 600

23 Submission 604

24 See Recommendation Report 1

25 Submission 426

the owner should at least be made aware of any proposed listing and its implications, and be consulted. It would be entirely unsatisfactory that an owner only became aware of a heritage listing after it had become operative, and without the opportunity (if they chose) to submit in opposition.

35. In this respect we endorse and commend HNZ for taking the initiative of advising in writing those property owners where HNZ was either seeking a new listing, or an upgrading of activity status to a higher category involving a greater degree of regulation[26]. Taking these matters into account, we concluded that the wording of Section 26.2.1 should be amended to require *"evidence that affected owners have been informed and consulted…"*

36. A second matter of concern raised by HNZ was a proposed 'requirement' that a Conservation Plan be included with any request for a new heritage feature to be listed. Ms Jones agreed, noting that it would impose a costly obligation on those seeking the listing and would act as a potential barrier and disincentive. The Otago Regional Council[27] opposed the requirement for the general public to prove the relevance of any features for inclusion, arguing that this was a matter for the Council. We agree with both of these submissions, recognising that if the Council were to act on a requested listing, it would be required to undertake a plan change procedure including a section 32 assessment. In some cases (but not always) a Conservation Plan would be prepared for the affected heritage feature in consultation with the landowner. The preparation of a Conservation Plan can be a very expensive undertaking and onerous for a property owner. Accordingly, we recommend the text of this section be amended to provide for *encouraging* the preparation of a Conservation Plan.

37. Ms Gillies sought that Section 26.2 provide 'definitions' of each of the heritage categories[28], which was supported both by Ms Jones and Mr Knott. We consider that, while this certainly had merit in terms of informing plan readers, it was more a case of providing a 'description' rather than a definition in a legal sense. In addition, we do not consider such descriptions should be incorporated under 'definitions' because the status of each heritage feature is already clearly established (with legal certainty) under the Inventory of heritage features. Accordingly we conclude it would be appropriate to incorporate a brief *description* of each category under a new Section 26.2.2, as this would also provide an explanatory introduction to the policies and rules on heritage features.

38. Ms Gillies also sought clarification of what the Council's 'criteria' actually were[29] for assessing buildings and structures – this being the term contained in Section 26.2.3 as notified. Ms Jones' Section 42A Report responded by proposing that a new set of heritage 'criteria' be added[30] as an entirely new section of the PDP based on commonly used matters listed under seven headings used to justify and ranking listings for heritage features. These included:
    a. Historic and Social Value
    b. Cultural and Spiritual Value
    c. Architectural Value
    d. Townscape and Context Value
    e. Rarity and Representative Value
    f. Technological Value

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26 Ibid, paragraphs 16.1 – 16.5

27 Submission 798, supported by FS1098, FS1341, FS1342

28 Submission 604

29 Submission 604

30 V Jones, Section 42A Report, paragraphs 20.9 and 20.10

g. Archaeological Value

39. We agree that this set of criteria, which we recommend be incorporated into renumbered Section 26.5 (Evaluation Criteria), is an appropriate, and indeed necessary, additional component enabling plan users to better understand the basis for listing heritage features. We recommend the inclusion of these evaluation criteria.

40. Finally, Real Journeys Limited[31] sought to delete wording stating that "…*a report from an appropriately qualified and experienced conservation/landscape architect*…." be part of any request for listing, or to more accurately define what this 'qualification' meant. We are satisfied with Ms Jones' proposal that this section be amended, to remove the subjective term "*appropriately*". Furthermore – and bearing in mind that this section is advisory in nature – the words "*is required*" should also be deleted. We recommend wording read "…… *a report from a qualified conservation/landscape architect or a person with demonstrated experience as an adviser or manager on projects involving heritage precincts or areas, is recommended*".

41. We reiterate that these provisions are not mandatory requirements which have the status of rules or policies, rather their role is to provide information and advice to plan users. Any further listings or extensions of heritage precincts or heritage overlay areas would be subject to separate plan change procedures including undertaking analysis under section 32 of the RMA, and procedural requirements for consultation and a formal notification and submission process. To address concerns raised by submissions, we recommend amending these provisions to remove 'mandatory' language, and in particular wording suggesting 'requirements'. We also recommend amendments to improve the clarity of the provisions. Our recommended wording is set out in Appendix 1

42. The numbering and identification of Sections 26.1 (Purpose) and 26.2 (Identification and Protection) remain unchanged as a result of the above recommendations.

4. 'INFORMATION REQUIREMENTS' (SECTION 26.3) AND 'OTHER RELEVANT PROVISIONS' (SECTION 26.4)

43. There were no submissions opposing either of these sections, although there were submissions in general support of their contents from Ms Gillies[32] and HNZ[33]. As notified, Section 26.3 simply provided very brief and generalised advice about the kind of information that should accompany applications, and had no statutory force. Section 26.3.1 drew attention to a new initiative added to the PDP, being the proposed 'Archaeological Alert Layer'.

44. The 'Archaeology Alert Layer' was described in the Section 42A Report as identifying archaeological sites within the Council's GIS system, accompanied by explicit reference to this in the PDP. It could be used to determine whether an authority to disturb or destroy an archaeological site would be required from HNZ, albeit that it was unlikely to ever provide a complete inventory across the district[34]. It drew submissions in support from Ms Gillies and HNZ. We agree that it would be a very useful tool for plan users, particularly if it assisted in

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31 Submission 621

32 Submission 604

33 Submission 426

34 Section 42A Report, paragraph 12.3

avoiding situations where applicants only became aware of the need for consent from HNZ at the time they obtained their resource consent.

45. We conclude that it would be more efficient to incorporate the contents of Section 26.3 into existing Section 26.2 and so recommend. Our recommended wording is set out in Appendix 1.

46. Real Journeys Limited[35] sought that the information in the archaeological alert layer be correct and easily updated, which we consider can be accepted in part, to the extent that any updating required is for the provision of information and would not in itself constitute a site being listed. Richard Hewitt's submission[36] related to sites of importance to Maori, which is to be dealt with under a later stage of the review. We recommend Mr Hewitt's submission be accepted in part to the extent that the matter will be addressed later through the addition of sites of significance to tangata whenua.

47. Section 26.4 is simply a cross-reference to other District Wide Rules which may apply in addition to the rules on Historic Heritage as part of an application made to the Council, and which is to be retained subject to the deletion of now superfluous cross references to the ODP.

48. Section 26.4 drew a single submission in support from Ms Gillies[37]. We recommend the submission is accepted in part. Ms Jones recommended this section be reformatted consistent with the equivalent provisions in other chapters[38], and that it be relocated to after the objectives and policies (again, consistent with other chapters)[39]. In terms of Section 32AA, we are satisfied that these changes are essentially matters of clarification and improved formatting, which do not require any further detailed analysis. We recommend they be made under Clause 16(2) as shown in Appendix 1.

49. As existing Sections 26.3 and 26.4 will be incorporated into other parts of Chapter 26, subsequent section 26.5 discussed below (Objectives and Policies), will be renumbered 26.3.

5. 26.5 - OBJECTIVES AND POLICIES

50. Section 26.5 as notified incorporated four objectives, each with associated policies. As each objective and its policies forms an associated 'group', we have considered submissions on each group jointly.

5.1 Objective 26.5.1 and Policies

51. Objective 26.5.1 and its accompanying policies as notified, read as follows:

<u>26.5.1 Objective</u>
To recognise and protect historic heritage features in the District from the adverse effects of land use, subdivision and development.

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35 Submission 621
36 Submission 711
37 Submission 604
38 V Jones, Section 42A Report
39 V Jones, Reply Statement

Policies

26.5.1.1 Ensure historic heritage features within the District that warrant protection are recognised in the Inventory of Protected Features.

26.5.1.2 Protect historic heritage features against adverse effects of land use and development, including cumulative effects, proportionate to their level of significance.

26.5.1.3 Require the mitigation of development affecting historic Heritage, where it cannot be reasonably avoided, to be proportionate to the level of significance of the feature.

52. A preliminary matter which requires consideration at this point, is that there is no explicit *policy* in the PDP to implement the prohibited activity status for Category 1 heritage features in the *rules*. This is an important point, as section 75(1)(c) requires that a district plan state *"……the rules (if any) to implement the policies*" (our emphasis). In the absence of a policy to this effect, the *vires* of the rule may well be called into question if challenged.

53. In our first Minute issued to the Council on 13 July 2016, we sought a response from Council Officers with respect to this issue. The officer's response dated 4 August 2016 states that:

"While I accept that all rules must implement the policy as set out in the Panels [sic] Minute, I note that, in this case, as the policy relates to a (notified) prohibited activity rule, its inclusion in the District Plan is not a substantive change. This is because the rule itself already prevents any resource consent applications in respect of this activity"[40].

54. We are not satisfied that simply having a rule which 'trumps' the ability to apply for resource consent, is sufficient to overcome the lack of a policy framework for a rule as draconian as prohibited activity status. However, related to this issue is the question of whether this potential problem could be resolved within the scope of submissions received, given that there were submissions on the rules which had sought that demolition be combined with the rules applicable to 'alterations' and having the same activity status. In other words, could a submission on the rules provide scope for adding or altering policies?

55. We considered this matter was of sufficient importance that legal advice was sought. We were also aware that the same issue had arisen in other Chapters in the PDP. In response to a Request for Legal Advice dated 4 August 2016, we received advice from Meredith Connell on 9 August 2016. This drew attention to the findings of the Environment Court[41] which clarified that there were three useful steps to be taken in asking whether a submission reasonably raises scope for relief, as follows:

a. *Does the submission clearly identify what issue was involved and some change sought to the proposed plan?*
b. *Can the local authority rely on the submission as sufficiently informative for the local authority to summarise it accurately and fairly in a non-misleading way?*
c. *Does the submission inform other persons of what the submitter is seeking?*

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40 V Jones, Supplementary Reply Evidence, paragraph 2.6

41 Campbell v Christchurch City Council [2002] NZRMA 332 (EC)

56. Ms Jones was additionally of the opinion that a submission point of Ms Gillies[42] provided scope to make amendments to the objectives and policies, and we have also come to the conclusion that additional scope is provided with the submissions of Millbrook Country Club and Upper Clutha Transport[43.] We discuss this issue in more detail with respect to the submissions on Policy 26.5.1.3 below, but we are satisfied that the 'tests' identified by the Environment Court were satisfied in this case, and that the submissions made on the policies and rules provide adequate scope to make the necessary amendments to the policies, so that they adequately reflect a spectrum of regulatory control in the rules ranging from prohibited activity status for the demolition of Category 1 heritage features, to noncomplying activity status for demolition of Category 2 and Category 3 heritage features. This includes a policy recognising that the demolition of Category 1 heritage features is a prohibited activity. It also recognises a similar hierarchy of partial demolition, alterations etc.

57. Five submissions[44] sought that the word "*inappropriate*" be added before "…….. *land use, subdivision and development*" in Objective 26.5.1. We note that section 6(f) of the RMA requires a territorial authority to recognise and provide for *"the protection of historic heritage from <u>inappropriate</u> subdivision, use, and development".*

58. The first difficulty with Objective 26.5.1 as notified, was that it virtually paraphrased section 6(f) of the RMA, an approach which provides little useful guidance to decision-makers or applicants. The reproduction of the words in section 6(f) promoted by the submitters, would result in the objective 'parroting' the provisions of the Act to an even greater extent, and as observed in other reports, 'bland' plan policy drafting of this nature has been the subject of criticism from the Environment Court[45].

59. As worded, the objective could be seen as fettering the Council's discretion, and narrowing the application of the legislation itself. Qualifying an objective in this way might be acceptable were it not for the fact that the balance of the policy wording simply referred generically to "historic heritage". If it were qualified (for example) by stating "*those listed elements of historic heritage which have the highest classification for protection*", the more confined wording of the objective could be justified. Quite apart from that, the rules framework for heritage features, while very stringent for Category 1 heritage features, is less so for Category 2 and to an even greater extent, Category 3. For this reason, the notified wording of the objective did not align well with the rules which implement the objective, because those rules were clearly based on a *hierarchy* of protection which was greater for some categories than others.

60. Ms Jones correctly observed that the wording of the objective was more in the nature of a policy, similar to Policy 26.5.1.2[46]. In other words, rather than reflecting what should be an outcome, it specifies an 'action' – that is, a means of implementation. Accordingly, we recommend that Objective 26.5.1 be re-drafted to specify an outcome, which the associated policies would achieve.

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42 Submission 604

43 Submissions 696and 726 respectively

44 Submissions 598, 635, 672, 688, 696

45 High Country Rosehip Orchards Ltd and Mackenzie Lifestyle Limited and Others v Mackenzie District Council, [2011] NZEnvC 387

46 V Jones, Section 42A Report, paragraph 19.4

61. NZTM and Straterra[47] submitted the selective adoption of additional wording so that the objective would read *"to recognise and protect, maintain and enhance historic heritage features ……."* Ms Jones considered this arguably duplicated Objective 26.5.4, but saw "no harm" in including it in Objective 26.5.1.[48] While adding the word "maintain" seemed entirely consistent with the protection of heritage, we sought from Ms Jones an explanation of what was meant by "enhance". A similar concern was raised by Ms Gillies, who stated in evidence that:

"Also, simply leaving the word "enhance" without qualification may produce unintended consequences, since this word can have different meaning to different people"[49].

62. She gave the example that an owner may replace a corrugated iron roof of a heritage building with a new Colorsteel roof, which although a form of physical 'enhancement', may detract from heritage values. In response to a question from us, her contention was that 'enhancement' meant improving the understanding and appreciation of the heritage values of a heritage item. By way of contrast, NZTM and Straterra sought to have this word included in the objective in the context of providing for ongoing mining activities in the Glenorchy Heritage Overlay Area. This was on the basis that mining in the distant and recent past, and potentially in the future, added to heritage values.

63. Enhancement may also include repairs, restoration, and earthquake strengthening. This arose in the submission of Real Journeys Limited[50] who argued that heritage structures and buildings may need to be modified or re-engineered as safety standards evolve. For this reason, we consider there is some force in this argument.

64. We agree with Ms Gillies that the word "enhance" is certainly open to wide interpretation, which appears to be well illustrated by the examples discussed above. The word "enhance" assumes considerable significance for the objectives and policies, because Ms Jones recommended that the word "enhance" be added not only to Objective 26.4.1, but also to Policy 26.4.1.2, new policies 26.4.1.6 and 26.4.1.7, added to Policy 26.4.2.1, and included in objective 26.4.4 and policy 26.4.4.1.

65. Ms Jones, in consultation with Mr Knott, claimed it would be difficult to define what is meant by "enhance", but saw no practical or interpretive difficulties with it being added across a number of the objectives and policies. However, we have come to the conclusion that it would be appropriate to add a definition of "enhance" specifically applicable to this chapter, based on the useful input received from submitters on this matter. With some qualifications, we think that the examples presented to us have some merit in the context of heritage protection, and would add value and clarification for applicants and the Council in considering applications affecting heritage features.

66. We have concluded that to provide clarification, and to avoid unwieldy wording and repetition, the concept of "enhance" is most appropriately addressed through its own new policy as set out below, which we recommend be included following existing renumbered Policy 26.3.1.1:

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47 Submissions 519 and 598

48 V Jones, Section 42A Report, paragraph 19.6

49 J Gillies, EiC, paragraph 5.2

50 Submission 621

"26.3.1.2 To enhance historic heritage through:

a. increasing the knowledge and understanding of heritage values;

b. providing for the enhancement of heritage values through works which increase the resilience of heritage features by way of repairs and upgrades to meet building and safety standards, subject to these works being undertaken in a manner which respects heritage values and where possible retains original heritage fabric, or utilises the same or similar materials".

67. This reworded policy emphasises both enhancing understanding of historic heritage as pointed out by Ms Gillies, and the same time recognises necessary changes to heritage features in order to meet other statutory and operational requirements as sought by Real Journeys. The addition of this new policy means subsequent policies will require renumbering. With respect to the relief sought by NZTM and Straterra, we consider this would best be addressed through a specific new policy relating to Heritage Overlay Areas, given the specialised character and narrow geographic focus of these locations. This new policy (26.3.4.5) is addressed detail later in Section 5.4 of this report.

68. Having regard to the content of the submissions on Objective 26.5.1, and the amended versions identified in the officer's report, we recommend the adoption of the following wording (now expressed as an outcome) for this objective:

"26.3.1 The District's historic heritage is recognised, protected, maintained, and enhanced".

69. This wording is more properly phrased as an objective rather than a policy, and rather than seeking protection 'from' land use' subdivision and development, emphasises the desired outcome for historic heritage in the District. Accordingly it does not need to be qualified by the term 'inappropriate'.

70. Policy 26.5.1.1 simply stated that the Council recognises heritage features worthy of protection by their listing under the Inventory of Protected Features. We note that in future additional heritage features may be added to this Inventory. There were no submissions opposing this Policy, and we recommend that it remain unchanged, renumbered as Policy 26.3.1.1.

71. Policies 26.5.1.2 and 26.5.1.3 were to some degree related: the first being to protect historic heritage against adverse effects of land use and development; and the second relating to the mitigation of development where it cannot be reasonably avoided. In both cases the wording of each policy qualified heritage protection with the phrase "….. *proportionate to their level of significance*".

72. Seven submissions and further submissions were lodged on Policy 26.5.1.2. Two of these[51] sought that reference to development be prefaced by the word "inappropriate". Another two sought that the historic heritage be 'maintained and enhanced' as well as protected.

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[51] Submissions 672) and 688

73. We have earlier discussed the issues around qualifying policies by adding the word "inappropriate" and our conclusions that the concepts of maintaining and enhancing historic heritage be incorporated into renumbered Objective 26.3.1. The wording of the policy also needs to be aligned with the structure of the rules in Chapter 26 which includes rules on the protection of heritage features, heritage precincts, and heritage areas. We also consider that subdivision should be included in recognition of the fact that although this is dealt with through the rules under Chapter 27, it is proper that reference be made back to the *policies* for heritage in Chapter 26. We recommend that Policy 26.5.1.2 as notified, follow after new Policy 26.3.1.2 and be renumbered and worded as follows:

> *"26.3.1.3* Protect *historic heritage values while managing the adverse effects of land use, subdivision and development, including cumulative effects, taking into account the significance of the heritage feature, area or precinct".*

74. Policy 26.5.1.3, as notified, attracted only two submissions, one of which was generally in support[52]. Straterra sought that reference to the words *"be proportionate to the level of significance of the feature"* be replaced by reference to the 'authorities' under the HNZPTA. This appeared to reflect the concerns of the submitter about potential duplication between the protection of archaeological sites under the HNZPTA, and the provisions of the PDP. However to a greater extent, the submission point reflected the strongly held views contained in the NZTM evidence to the hearing, in which it was contended that mining had a unique and ongoing relationship with heritage and that the PDP needed to allow for change, as well as interpretation of past mining activities[53].

75. HNZ[54] expressed concern about the effects of ongoing incremental change having the effect of eroding heritage values. We suspect that the basis of these submissions comes from different perspectives, one specific to an ongoing history of small-scale mining in a particular location (Glenorchy) while the other is addressing long held concerns about inappropriate modifications which have the effect of reducing heritage values of *buildings* over time (for example McNeill Cottage in Queenstown[55]). Accordingly, we need to exercise considerable caution about amending a policy having general application to heritage, in a manner which might have the unintended effect of encouraging ongoing inappropriate alterations and 'improvements', particularly to heritage buildings. For this reason, we believe issues about the ongoing evolution of mining heritage, would be better addressed through amendments to Objective 26.5.3 as notified, and associated policies.

76. Before moving on to address this policy further, we note that Ms Jones went on to recommend that a substantial additional policy framework be added to those under Objective 26.5.1. In fact, this included no less than five additional policies addressing the following six matters:
    a. works within heritage settings
    b. demolition and relocation beyond the site
    c. the concept of partial demolition
    d. relocation of protected features within a site
    e. additions and alterations to protected features
    f. activities within heritage precincts

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52 Submissions 635 and 598 (supported by FS1287)

53 G Gray, EiC, paragraphs 9.1 and 9.3

54 Submission 426

55 J Gillies, EiC, paragraphs 16.1 to 16.4

77. The substantial changes which she recommended included splitting demolition into two categories of 'total demolition' and 'partial demolition'; refining the policy framework according to the categories of protection (that is Categories 1 – 3); and providing a policy framework for relocation of heritage features beyond and within a site.

78. To provide scope for these amendments, Ms Jones relied on a number of separate submissions on the objectives and policies, such as that of Watertight Investments Limited[56], which argued that the protection of historic heritage did not necessarily mean that all land use subdivision and development was inappropriate. Further, that there was a need to provide for the adaptive reuse of heritage buildings. A number of submission points asked for Rule 26.6.3 to be deleted in its entirety[57]. Ms Jones reiterated her view that there was sufficient scope to enable the necessary changes in her Supplementary Reply Evidence received on 4 August 2016[58]. The Council has already recognised a need to distinguish between works affecting different categories of heritage features, as exemplified by the use of the words *"proportionate to the level of significance of the feature"* found in Policies 26.5.1.2 and 26.5.1.3. No concerns were expressed in principle at the hearing about the scope of the changes proposed by Ms Jones.

79. We note that the submitters had identified that the policy framework in the PDP as notified was somewhat indiscriminate in its application. The policies did not adequately recognise that the level of regulatory protection for heritage features, relocation, or for the type of works undertaken to heritage features, was based on a hierarchy of three categories under which heritage features were listed. The rules model in the PDP, based on these categories, very clearly expressed that the level of regulatory intervention would be much greater for Category 1 heritage features, than those for Category 2, and finally for Category 3. In recognition of this hierarchy, we consider that the word "avoid" is appropriate in circumstances where an activity is prohibited, but is not necessarily appropriate in circumstances where an activity is noncomplying or discretionary in status.

80. We consider there is merit in the submissions, and in the response to them by the reporting officer. For these reasons, there needs to be a more refined approach to the potential effects of works on *settings*, the issue of what constitutes *demolition* (dealt with later in terms of the rules), *relocation*, what is meant by "proportionate" in terms of the categorisation of heritage features, and the level of regulation appropriate for *total demolition, partial demolition, and alterations.*

81. Based on Ms Jones' recommendations, and incorporating matters raised in submissions, we recommend that the objective and policy framework associated with Objective 26.5.1 be expanded and amended as follows:

> *"26.3.1.4. Where activities are proposed within the setting or extent of place of a heritage feature, to protect the heritage significance of that feature by ensuring that:*
>
> *a. the form, scale and proportion of the development, and the proposed materials, do not detract from the protected feature located within the setting or extent of place;*

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56 Submissions 672, 519, 426, 604, 688, 696 and 725.

57 Submissions 672, 688, 696 and 726

58 Refer paragraphs 2.1 and 2.2

b. *the location of development does not detract from the relationship that exists between the protected feature and the setting or extent of place, in terms of the values identified for that feature;*

c. *existing views of the protected feature from adjoining public places, or publicly accessible places within the setting or extent of place, are maintained as far as is practicable*

d. *hazard mitigation activities and network utilities are located, designed, or screened to be as unobtrusive as possible.*

26.3.1.5. Avoid the total demolition, or relocation beyond the site, of Category 1 heritage features*.*

26.3.1.6. Discourage the total demolition of Category 2 heritage features, or the partial demolition of Category 1 and Category 2 heritage features, unless evidence is provided which demonstrates that:

a. *other reasonable alternatives have been shown to be impractical;*

b. *there is a significant risk to public safety or property if the feature or part of it is retained;*

c. *the heritage feature is unable to serve a productive use or its retention would impose an unreasonable financial burden on the building owner.*

26.3.1.7. Promote the retention of Category 3 heritage features, or where the partial demolition of Category 3 heritage features is proposed, reduce any adverse effects on its overall heritage values.

26.3.1.8. Discourage the relocation of Category 2 heritage features beyond the site, or within the site, unless evidence is provided which demonstrates that;

a. *relocation is necessary to facilitate the ongoing use or protection of the heritage feature, or to ensure public safety;*

b. *measures are in place to minimise the risk of damage to the heritage feature;*

c. *the heritage values of the heritage feature in its new location are not significantly diminished.*

26.3.1.9. Where the relocation of Category 3 heritage features either beyond or within the site is proposed, to have regard to;

a. *the ongoing use or protection of the heritage feature, or to ensure public safety;*

b. *measures to minimise the risk of damage to the heritage feature;*

c. the heritage values of the heritage feature in its new location.

d. within a Heritage Precinct, the effects on the heritage integrity of that precinct including adjoining structures and the precinct as a whole".

5.2 Objective 26.5.2 and Policies

Objective 26.5.2 and *policies*, as notified, stated as follows:

Objective
To provide for the sustainable use of historic heritage features

Policies

26.5.2.1 Encourage the ongoing economic use of heritage buildings and sites by allowing adaptations and uses that do not permanently adversely affect heritage values and are in accordance with best practice.

26.5.2.2 Encourage the maintenance of historic heritage features and allow minor repairs and maintenance to be achieved without the need for consents.

82. There were few submissions on Objective 26.5.2, and all were fully or generally in support. A further submission from Straterra in support of HNZ, while supporting the objective, also sought that the objective be qualified by reference to the HNZPTA[59]. However the amendment sought was beyond scope as it sought to extend the content of the original submission. In any event, we do not consider that reference to other legislation is appropriate in this objective.

83. As was the case with Objective 26.5.1, this particular objective as notified was expressed in the terminology of a policy rather than as an objective. Accordingly, we recommend the adoption of a more succinct version of the amended text proposed by Ms Jones, so that the objective would read as follows:

*"*Objective *26.3.2* The *sustainable use of historic heritage features".*

84. Four submissions[60] sought that the wording of Policy 26.5.2.1 be qualified by the words shown as underlined below:

"……. *by allowing adaptations and uses that ~~do not~~ avoid remedy or mitigate permanent~~ly~~ adverse~~ly~~ effects on heritage values……."*

85. The relief sought was consistent with earlier submissions on Objective 26.5.1 and some of its associated policies. One underlying theme with these submissions was that the policy was too indiscriminate and did not recognise different regulatory responses which go beyond simply 'avoidance'. However simply paraphrasing the provisions of section 5(2)(c), as discussed earlier in this assessment, is unhelpful to decision-makers.

86. HNZ[61] sought that the policy make provision for addressing adverse effects on heritage values "*including through incremental change*" (this appears to have been inadvertently sought as

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59 FS1015

60 Submissions 672, 688, 69. and 726 (supported by FS1097)

61 Submission 426

an amendment to 'Policy' 26.5.1). HNZ are concerned that ongoing changes to heritage buildings can amount to 'a death by a thousand cuts' whereby heritage values can be gradually eroded over time by the impact of small but successive unsympathetic alterations.

87. NZTM sought that the policy be amended by the words shown in underlining below:

"……. by allowing adaptations and uses that <u>either add to heritage values</u> or do not permanently adversely affect the heritage values……."

88. We consider that the submission has again raised what we consider a reasonable concern that the policies are too indiscriminate in their application, because they do not adequately recognise any hierarchy of protection as provided for in the rules as notified. We have already addressed this matter in our recommendation to add new Policies 26.3.1.4 – 26.3.1.9 above. In addition, Policy 26.5.2.1, as notified, is an 'incentive' policy which seeks to encourage the ongoing use of heritage features, rather than having the avoidance of adverse effects as its primary purpose. Accordingly, we do not see that it is necessary to change the policy in the manner suggested by the submission.

89. In considering the submissions on this particular policy, we are sympathetic to the submission by HNZ on "parent" Objective 26.5.2, which sought to address potentially adverse effects (on buildings) of ongoing incremental change. We consider that, while it is appropriate to encourage adaptive reuse of heritage features, this is a matter that needs to be addressed at a policy level. As noted previously, this concept is difficult to reconcile with the relief sought by NZTM, which derives from a very different base - the ongoing development of small-scale mining within heritage overlay areas. We consider that this matter is best addressed under Objective 26.5.4 as notified, and the submission made by NZTM thereon[62].

90. While we are conscious that the definition of "effects" in the RMA includes cumulative effects, we think it is useful to add explicit reference to cumulative effects at a policy level, given its particular significance to heritage.

91. Ms Jones noted that Real Journeys Limited[63] had lodged a submission recommending the addition of a new policy emphasising that the continued use of heritage structures and buildings may require them to be modified. This was not specific to any particular part of the objectives and policies section, but we agree that it would be appropriate to incorporate it as an amendment to Policy 26.5.2.1 (now Policy 26.3.2.1).

92. Having considered these submissions, and the amended versions put forward by Ms Jones, we recommend that the (renumbered) Policy 26.3.2.1 be reworded as set out below. We also consider this, at least in part, addresses the concern raised in the submission of Ms Gillies[64] in respect to what was meant by the words "*permanently affected*".

"26.3.2.1 Encourage the ongoing economic use of heritage features, sites and areas by allowing adaptations and uses that are in accordance with heritage best practice, and:

a. enhance heritage values in accordance with Policy 26.3.1.2;

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62 Submission 519

63 V Jones, Section 42A Report, paragraph 19.16 and Submission 421.

64 Submission 604

do not result in adverse cumulative effects through successive alterations over time;

b. provides an economically viable use for the heritage feature, subject to any works being undertaken in a manner which respects its heritage values;

c. recognises the need for modifications through works which increase the resilience of heritage buildings by way of repairs and upgrades to meet building and safety standards, subject to these works being undertaken in a manner which respects heritage values".

93. There were no submissions in opposition to Policy 26.5.2.2. However, Ms Jones recommended that the words *"……. to be achieved without the need for consents"* be deleted from the end of the policy wording. As the wording already states that minor repairs will be "allowed", this additional wording appears superfluous. Accordingly, we recommend that Policy 26.5.2.2 (renumbered Policy 26.3.2.2) read as follows:

"26.3.2.2 Encourage the maintenance of heritage features by allowing minor repairs and maintenance".

5.3 Objective 26.5.3 and Policies

Objective 26.5.3 and policies, as notified, read as follows:

Objective
To recognise the diversity of historic heritage features, landscapes and values associated with them.

Policies

26.5.3.1 Identify the heritage values of precincts, buildings, structures, sites, archaeological sites landscapes and sites of significance to Maori.

26.5.3.2 Ensure that decision making on development proposals, on the effects on tangible and non-tangible values of sites of significance to Maori, are informed by those mandated to do so.

26.5.3.3 Recognise and protect the different layers of history within heritage landscapes and the relationship between these layers to retain their cultural meaning and values.

26.5.3.4 Avoid duplication of consents with other statutory bodies on archaeological sites.

94. The objective was broadly supported by HNZ and Ms Gillies[65]. Other submissions that were lodged on this group related to concerns about duplication of consent requirements between the PDP and procedures under the HNZPTA.

95. As was the case with Objectives 26.5.1 and 26.5.2, Objective 26.5.3 was worded as a policy rather than an objective (outcome). For this reason, Ms Jones recommended that it be recast as an objective. We agree and recommend Objective 26.5.3 be reworded (and renumbered) to read as follows:

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[65] Submissions 426 (supported by FS1015) and 604

*"*26*.3.3* Objective *The diversity of historic heritage features, heritage precincts, heritage overlay areas, and values associated with them is recognised".*

96. There were no submissions on Policy 26.5.3.1, concerning identifying heritage values. However, the policy was poorly worded, and we recommend that the wording be amended to read:

"26.3.3.1 Identify the heritage values of heritage precincts, heritage features, sites of significance to Maori, and landscapes of heritage significance, and in conjunction with Heritage New Zealand, archaeological sites".

97. We consider this to be a non-substantive amendment clarifying the meaning of the policy able to be made under Clause 16(2).

98. A submission[66] was received on Policy 26.5.3.2, related to the value of sites of significance to tangata whenua. The submission by Ms Gillies stated that consultation with tangata whenua should be carried out and a full list and map prepared showing these sites. It is our understanding that such a process is currently underway, and a list of sites would be identified and notified as part of a later stage of the PDP review. We consider that only minor grammatical changes to the wording of the policy are necessary under Clause 16(2). Our recommended wording is in Appendix 1.

99. Policy 26.5.3.3 sought to address "*the different layers of history within heritage landscapes*" and was the subject of a submission from Real Journeys Limited[67], who sought that the policy be amended. However this amendment was not expanded upon at the hearing by either Ms Black or Mr Farrell, who instead concentrated on amendments sought to Policies 26.5.2.1 and 26.5.4.3 as notified.

100. We understood the concerns expressed by the submitter derived from issues related to the maintenance of the historic steamer '*TSS Earnslaw*' and its slipway at Kelvin Heights. The slipway has been substantially altered as a consequence of the need to replace old timbers with concrete – and that this illustrated the point that operational necessities meant that particular 'layers' of history would have to be given priority. However, Policy 26.5.3.3 is related to heritage *landscapes* (overlay areas), which is a different issue. We conclude that no changes are needed to the wording of Policy 26.3.3.3 as renumbered, except to note that the description of heritage landscapes is being changed to Heritage Overlay Areas.

101. HNZ, as part of their submission on Objective 26.5.3 and the policies as a whole, requested that the wording of Policy 26.5.3.4 be amended to avoid *unnecessary* duplication, an amendment that was supported by Ms Jones. Chapter 26 was notified with a requirement that a resource consent may be needed for the disturbance of some archaeological sites, notwithstanding parallel consents being required under the HNZPTA.

102. We consider this particular issue in detail in our assessment of submissions on the rules, to which reference should be made. Our conclusions on the rules are that, while in limited cases regulation through the PDP of activities on and around archaeological sites could be justified, we are not satisfied that the provisions contained within the PDP had been crafted or defined

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66 Submission 604, supported by FS1015

67 Submission 621

with sufficient certainty. Given our conclusions on the rules, it is not appropriate at this time to retain this policy in the PDP. Consistent with our findings on that matter, we recommend that Policy 26.5.3.4 as notified is deleted.

5.4 Objective 26.5.4 and Policies

Objective 26.5.4 and policies, as notified, stated as follows:

Objective
To enhance historic heritage features where possible.

Policies

26.5.4.1 *Encourage opportunities to enhance historic heritage features, including the need for the provision of interpretation and, by offering possible relaxations in rules elsewhere in the Plan, accommodate better planning outcomes for heritage on a case-by-case basis.*

26.5.4.2 *Recognise the value of long term commitments to the preservation of heritage values in the form of covenants and consent notices.*

26.5.4.3 *Accept that ongoing improvements to buildings, including earthquake strengthening and other safety measures, will assist in providing for their ongoing use and longevity.*

103. There were no submissions opposing Objective 26.5.4, and two submissions in support[68]. As was the case with all of the preceding objectives, Ms Jones recommended that it be amended to read as an objective, rather than a policy. Consistent with our other recommendations on this matter, we recommend that Objective 26.5.4 be amended and renumbered to read as follows:

"*26.3.4* *The historic heritage value of heritage features is enhanced where possible".*

104. There were no submissions on Policies 26.5.4.1 or 26.5.4.2. Ms Gillies[69] submitted on Policy 26.5.4.3 seeking that greater scope be provided for financial incentives and there be scope for reductions in the activity standards where this would act as an incentive for heritage retention.

105. The issue of incentives arose in Policy 26.5.4.1 as notified. Policy 26.5.4.3 on the other hand, focuses on physical improvements to heritage buildings such as earthquake strengthening and safety standards, as a means of providing for their ongoing use and longevity.

106. We are strongly of the view that the PDP is deficient in the extent to which it relies on regulation, rather than non-regulatory methods. We were informed during the hearing that the Council has a very modest budget of $25,000 per annum to assist with funding heritage projects. The submission by Ms Gillies provides limited scope to better address the matter of non-regulatory methods. In considering non-compliances relating to a resource consent application involving a heritage feature, the existence of a policy which provides a degree of incentive through the relaxation of other rules would be worthwhile, as *one* of a number of factors to be taken into account.

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68 Submission 426 and 524

69 Submission 604, supported by FS1098

107. Even though there were no submissions on Policy 26.5.4.1, this is the policy which to some extent would address the issue of incentives raised by Ms Gillies. We concur with the suggestions of Ms Jones that this policy could be split into two parts, the first relating to enhancing understanding of heritage features, and a separate *new policy* dealing with the distinct issue of incentives. We consider that the creation of a new policy specific to incentives gives effect to the submission by Ms Gillies and the further submission in support by HNZ.

108. Accordingly, we recommend that existing policy 26.5.4.1 be split into two policies reading (and renumbered) as follows:

> *"26.3.4.1 Encourage opportunities to enhance the understanding of historic heritage features, including through the need to provide for interpretation.*
>
> *26.3.4.2 Provide incentives for improved planning outcomes for heritage values through the relaxation of rules elsewhere in the District Plan, where appropriate, on a case-by-case basis".*

109. The 'splitting' of Policy 26.5.4.1 into two parts results in notified Policy 26.5.4.2 being renumbered as Policy 26.3.4.3. As there were no submissions on this policy, we recommend the wording be adopted unaltered.

110. Real Journeys Limited[70] sought an amendment to the wording of Policy 26.5.4.3 (as notified) so that improvements to buildings and structures would be 'enabled' rather than 'accepted', and that the policy refer to structures as well as buildings. This was in large part supported by Ms Jones. The Ministry of Education supported the policy as notified[71].

111. We accept that Real Journeys' amendments would improve the application of the policy, subject to the words 'heritage features'– which includes structures as well as buildings – being incorporated in the amended Policy 26.5.4.3, now renumbered 26.3.4.4 as a consequence of other amendments set out above. Accordingly, the following wording is recommended:

112. *"26.3.4.4 Enable ongoing improvements to heritage features, including earthquake strengthening and other safety measures, in recognition that this will provide for their ongoing use and longevity".*

113. Finally, NZTM[72] sought the addition of an entirely new policy reading as follows:

> *"Encourage and enable a continuation of the activity or activities that created the heritage landscape in a manner that avoids, remedies or mitigates adverse effects on significant heritage features, while also allowing for those features to be added to and complemented by modern day examples of the historic activity".*

114. What the submitter is actually referring to here, as made clear through their extensive evidence, is the ability to continue to undertake *mining* activities (in the Mount Judah area

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70 Submission 621

71 Submission 524

72 Submission 519, supported by FS1015, opposed by FS1356

near Glenorchy), based in large part on an argument that a continuation of small-scale mining (having created the heritage landscape in this area), is consistent with the maintenance of heritage values. While we see the justification for a discrete policy to deal with this matter, we do not see the need for obfuscation by omitting mention of the word 'mining'.

115. We have also discussed this point, as raised by the submitter, earlier with respect to Objective 26.5.1, and Policy 26.5.1.3 as notified. There we expressed concerns that an unqualified policy which allows for ongoing development as part of heritage generally, could in some cases (particularly in respect to buildings[73]) result in the gradual erosion of heritage values, a matter which was raised as a concern by HNZ[74]. While we appreciate this was probably not the *intention* of NZTM, the circumstances being addressed by the submitter were unique to the mining activities which have been undertaken in the Mount Judah area near Glenorchy.

116. For this reason, we are supportive of the addition of a policy as sought by the submitter, but one that is more narrowly confined to the potential for ongoing small-scale mining in heritage overlay areas, rather than one having application to heritage generally. We think it is important that any policy provision emphasise "small scale" mining, which is how any future mining activities were described by NZTM in their evidence[75]. This would comprise underground mining exploiting small 'stringer' type reefs typical of the area. Certainly large-scale or opencast mining (perhaps an extreme example being the Macraes Mine in East Otago) would be completely inconsistent both with the heritage character of these landscapes and their location within an ONL. We also note at this point that the only detailed evidence we heard was that relating to the Glenorchy Heritage Overlay Area, and accordingly we consider that any policy recognition should also be confined to that location, in the absence of evidence for other locations.

117. Ms Jones promoted an alternative wording, which, in broad terms, we consider would be appropriate with amendments. Accordingly, we recommend the addition of a new policy worded as follows:

"26.3.4.5 Recognise the potential for ongoing small-scale mining activities consistent with the maintenance of heritage and landscape values within the Glenorchy Heritage Overlay Area, subject to the protection of features identified in Section 26.10".

5.5 Section 32AA

118. Significant additions and refinements have been made to the objectives and policies as part of our recommendations. In terms of section 32AA, we are satisfied that renumbered Objectives 26.3.1 – 26.3.4 which have now been rephrased as *outcomes* rather than *actions*, will be the most appropriate way to achieve the purpose of the Act. We are also satisfied that their associated suite of policy provisions will better achieve these amended objectives as discussed in our assessment above. Most importantly, the amendments will provide a much better alignment between the objectives and policies on one hand, and the rules on the other. It will facilitate 'enhancement' of historic heritage in terms of both public knowledge and understanding, and recognition of the need to undertake repairs and upgrades (such as for seismic upgrades) to extend the resilience of historic heritage. It will better facilitate restoration through the activity category of 'partial demolition' where this enables extensive repairs and upgrading, and reduces the otherwise onerous regulatory

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73 Part C of this Report re-Mc'Neill's cottage

74 Submission 426.

75 G Gray, EiC, paragraphs 3.6 and 3.7

impact of categorising such works as 'demolition'. It better clarifies those circumstances whereby works within the setting of a heritage feature or where buildings are relocated, are considered to be appropriate. Furthermore it provides differentiation between on-site and off-site relocation on the basis that neither is desirable, but that the latter had significantly greater adverse effects through loss of heritage context.

119. The amendments also give greater recognition to non-regulatory options and make specific provision for heritage features associated with the unique history of mining in part of the alpine environment of the Glenorchy area. Although these changes provide a greater degree of liberalisation than the notified version of the PDP, we consider that they will be more effective and efficient by providing a relatively greater incentive to carry out necessary restoration, repairs and maintenance in better encouraging the ongoing use of heritage buildings.

6. RULES

6.1 Preliminary

120. There are a number of preliminary matters which are either common to the rules generally, or which we consider need to be addressed before dealing with the rules under each 'rule table' individually. As an initial matter, we note that in the rules as notified, provision is made that any activity which is not specifically identified, but breaches a standard requires consent as a discretionary activity. We note the absence of such a provision would mean that in terms of Section 9 of the Act, such an activity would be permitted. We support the incorporation of such a provision, but it should have the status of a rule rather than being merely information.

121. Mr Vivian's evidence[76] for NZTM sought to change to the wording of this provision by the deletion of the words shown in strikeout below:

"Any ~~activity that is not Permitted requires resource consent, and any~~ activity that is not specifically identified in a level of activity, but breaches a standard, requires resource consent as a Discretionary activity".

122. Mr Vivian's contention was that the words shown as strikeout were superfluous (essentially a statement of the obvious), a conclusion supported by Ms Jones. We accept that it should be amended as shown above. There is a further point that became apparent to us in respect to this clause; it is effectively a rule which affects activity status, and should form part of the rules. Accordingly, we recommend it be added as a new introductory rule renumbered 26.5.1 and titled "Activities not specifically identified", reading as follows:

26.5.1	**Activities not specifically identified** Any activity which breaches a standard but is not specifically identified under any of the levels of activities set out in the rules below.	D

123. This is consistent with rule drafting in other chapters of the PDP. We consider this to be a clarification rather than a substantive change. It also give effect, in part, to the relief sought by NZTM[77].

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76 C Vivian, EiC, paragraphs 4.67 to 4.71.

77 Submission 519, supported by FS1015, opposed by FS1356

6.2 Definitions

124. In a number of cases in the PDP as notified, terms used to clarify rules were incorporated into the body of the rule with the result that the rule effectively became a definition in itself, and/or the text became repetitive and lengthy. In some cases, definitions were set out in footnotes. As part of assessing the submissions on rules, we have concluded that as a formatting change, it was preferable to incorporate definitions in Chapter 2, albeit noting their specific applicability to this chapter. This was an approach which had already been initiated by Ms Jones as part of her response to submissions. The issues associated with the definitions are discussed in the context of each relevant rule, and the definitions we recommend are set out in Appendix 3 to this report. We recommend to the Stream 10 Hearing Panel that these be included in Chapter 2 for the reasons set out in the discussion of each of them throughout this report. The terms so defined are as follows:

a. Archaeological site
b. Contributory buildings
c. Extent of place
d. External alterations and additions
e. Heritage fabric
f. Heritage feature or features
g. Heritage significance
h. Historic Heritage
i. Internal alterations
j. Non-contributory buildings
k. Partial demolition
l. Relocation
m. Minor Repairs and maintenance
n. Setting
o. Total demolition

6.3 Interpreting and Applying the Rules

125. As notified, Rule 26.6 commenced with preliminary statements explaining the purpose of the following tables and the various categories of activity. Unlike other chapters in the PDP, it did not include a table setting out other District Wide chapters that could be relevant. Rather, there was a short list in Section 26.4 Other Relevant Provisions of potentially relevant chapters, but the explanatory statement identified that there could be more chapters relevant.

126. In her Section 42A Report, Ms Jones recommended that Section 26.4 be entitled Other Relevant Provisions and Rules, that it have a table format consistent with that adopted in other chapters, but that it remain as a provision prior to the objectives and policies. In the reply version, Ms Jones recommended moving this section to immediately precede the rules section.

127. We agree with Ms Jones that the identification of other District Wide Chapters should be incorporated in a manner consistent with elsewhere in the PDP. Consistent with other Hearing Panels, we also think it appropriate to label the provisions describing how the rule tables work as Interpreting and Applying the Rules. We have also added Section/Rule numbers to these provisions consistent with other chapters. This alters the numbering of the rules in the various tables.

6.4 Numbering

128. As a result of amendments made to the format of Chapter 26 as discussed in our recommendations, the rules in Tables 1 to 3 will be renumbered 26.5.1 – 26.5.15.

6.5 Evaluation Criteria

129. In our consideration of submissions on Chapter 26 in general, and Section 26.3.2 specifically, we recommend acceptance of a submission by Ms Gillies[78] to add a set of criteria which identify the basis for heritage listings.

130. We recommend a new Section 26.5 be added which contains these evaluation criteria. Also, the wording of the rules (where activities are restricted discretionary in status) will contain the following wording:

"The effects on the heritage values and heritage significance as evaluated in accordance with the evaluation criteria in Section 26.6".

6.6 Use of the term 'Heritage Features' in the 'Inventory'

131. Throughout the text of Chapter 26 in the rules, there is consistent reference to 'heritage features', which are those items listed in what is referred to in the text as 'the Inventory', which is contained in (to be renumbered) Section 26.8. This Inventory contains the details of all listed heritage features in the District.

132. However, it is apparent that reference to the term heritage features is not always consistent throughout the chapter, and sometimes refers to simply features, buildings, or structures. We note that the Inventory includes not only buildings, but also features and structures such as cemeteries, fences, plaques and bridges. We have accordingly sought to make consistent reference to 'heritage features' throughout the chapter as listed in the renumbered Inventory Section 26.7. Only where the context requires otherwise, will reference be made to structures and buildings. The term heritage features is included in the terms we recommend be defined - being all of those buildings features or other structures listed in the Inventory.

6.7 General Submissions on Rules

133. HNZ called for the adoption of Chapter 26 subject to the amendments sought by the submitter[79], and Ms Gillies expressed her support for the clear format of the rules[80]. We recommend acceptance of these submissions in part on the basis of their support for Chapter 26, subject to the necessary recommended amendments as discussed elsewhere in this section.

134. Three submitters sought the deletion of Table 5 relating to the rules applicable to archaeological sites[81]. This was a major issue with respect to the rules, but our consideration of this issue is addressed in detail under its consideration of submissions on Table 5 (refer Section 6.18 below). Based on our conclusions with respect to that matter, we recommend the submissions be accepted.

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78 Submission 604

79 Submission 426

80 Submission 604

81 Submission 621, 696 and 726

135. A submission by Anna-Marie Chin Architects and Phil Vautier[82] sought the deletion of Rule 26.6.7 (curtilage and settings). Our consideration of that matter is addressed with the other submissions on that rule in Section 6.14 below. Based on that consideration, we recommend that the submission be accepted in part to the extent that clarification is provided in terms of the meaning of setting and the introduction of the concept of 'extent of place'.

136. Ms Gillies[83] drew attention to an apparent error under "Note 2", which is a footnote to Rule 26.6.1 concerning minor repairs and maintenance, which should have referred to heritage precincts. As part of the re-drafting of rules relating to heritage, this footnote has now been deleted entirely, and consequently we recommend the submission be accepted in part.

137. Richard Hewitt requested that the Council should educate landowners and others about the importance of local history, and provide a joint education programme in conjunction with Kai Tahu Ki Otago[84]. This submission did not specify changes to the text of the PDP, but, rather, raised issues more closely related to the Council's administrative rather than resource management functions. We recommend it be accepted in part to the extent that the Council will be undertaking ongoing assessment and consultation associated with heritage features in the District in administering the District Plan.

138. The final matter summarised under the submissions relating to rules generally, concerned the listing and rules framework applicable to the TSS *Earnslaw*. This raised a quite significant issue, as the vessel is protected as a Category 1 heritage feature under the ODP. As part of the current review of its District Plan, the Council decided that the *Kingston Flyer* (but not the track on which it runs, and associated fixed infrastructure) should be de-listed on the basis that it was not a 'fixed' item, but moveable. This in turn raised a legitimate concern from Real Journeys Limited as owner of the TSS *Earnslaw*, as to whether it was legally possible to list the *Earnslaw* as well[85]. We deal with this issue under the submissions relating to individual listings and based on those conclusions, we recommend this submission point be accepted in part.

6.8 Table 1 – Rule 26.6.1 Repairs and Maintenance

139. This rule provided that repairs and maintenance were a permitted activity for all heritage features subject to these being 'defined' as activity standards in the body of the rule as follows:

Minor repairs and maintenance on all protected buildings and features, including contributory and non-contributory buildings in heritage precincts

This includes minor repair of building materials and includes replacement of minor components such as individual bricks, cut stone, timber sections, roofing and glazing. The replacement item should be of the original or closely matching material, colour, texture, form and design.

Works that do not meet these standards are classed as alterations.

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82 Submission 368

83 Submission 604

84 Submission 711

85 Submission 621

140. It became apparent to us that there was an inconsistency between the title of the rule, being "repairs and maintenance" and the rule itself, which uses the term "minor repairs and maintenance". However, it was noted that the wording went on to describe 'acceptable' repair and maintenance works as including 'minor' repair of building materials and replacement of 'minor' components.

141. Three submissions were received on this rule. Heritage New Zealand[86] sought that the rule be qualified in a more restrictive way by requiring that original materials be used for repairs and maintenance, except "if not achievable", while the Ministry of Education sought that it be liberalised by allowing different materials, form and design where this was "practicable or appropriate"[87]. The need to avoid material containing asbestos was cited as an example. Real Journeys requested that the rule also apply to "structures"[88].

142. We accept in principle that as part of good heritage practice, the replacement of decayed or damaged heritage fabric should utilise the same materials wherever possible. We acknowledge that this is not always possible, either because the material is simply no longer available, or in the case of asbestos is unsuitable (if not unacceptable) on health and safety grounds, notwithstanding that Ms Jones' report indicated that there were circumstances where this material was still accepted for use. In addition to that, we are well aware of the practical difficulties experienced by many district councils in defining acceptable permitted repairs and maintenance, and where these 'transition' into alterations.

143. We conclude these submissions should be accepted in part by amending the text accompanying the rule as follows, and incorporating a definition of minor repairs and maintenance into Chapter 2. This rule would then simply read:

26.5.2	**Repairs and maintenance** Minor repairs and maintenance on all protected heritage features and contributory and non-contributory buildings in heritage precincts. *Note: Works that do not fall within the definition of minor repairs and maintenance are classed as alterations.*	P

144. As noted in the previous section under general submissions, there is no need for the footnote to the rule, particularly as contributory and non-contributory buildings are already specifically referred to as the definitions.

145. We also recommend to the Stream 10 Hearing Panel that the following definition be included in Chapter 2 in place of the original wording within the activity standard. The content of this definition gives partial effect to the relief sought in the submissions of HNZ, the Ministry of Education, and Real Journeys.

Repairs and maintenance *means repair of building materials and includes replacement of minor components such as individual bricks, cut stone, timber sections, roofing and glazing. The replacement items shall be of the original or closely matching material, colour, texture,*

86 Submission 426

87 Submission 524

88 Submission 621

form and design, except that there shall be no replacement of any products containing asbestos, but a closely matching product may be used instead.

Repairs and maintenance works that do not fall within this definition will be assessed as alterations.

146. With respect to the concern raised by Real Journeys that structures be specifically referred to, no changes are considered necessary because the definition of 'heritage features' includes structures, as listed in the Inventory of heritage features.

6.9 Table 1 – Rule 26.6.2 Subdivision

147. Rule 26.6.2 as notified concerns the subdivision of sites containing a protected feature. This rule duplicates notified Rules 27.5.1.4, 27.5.1.5 and 27.2.1.6. The Council sought that this rule be removed from this chapter and contained in Chapter 27 Subdivision[89]. Ms jones agreed with that approach[90] and advised that other submissions on the rule had been deferred to Stream 4, which heard submissions on Chapter 27.

148. We agree this is the most appropriate way to deal with the duplication and recommend the rule be deleted.

6.10 Table 2 – Rule 26.6.3 Demolition

149. This rule provided that the demolition of any Category 1 heritage feature would be a prohibited activity, that of a Category 2 building a noncomplying activity, and that of Category 3 building a restricted discretionary activity.

150. Accompanying the rule were the following activity standards:

Works that result in damage, substantial removal from the site, destruction of any, or all, significant elements of the historic fabric or characteristics of a building or feature, involving (but not limited to) the removal or replacement of walls, windows, ceilings, floors, roofs and any associated additions.

Restricted Discretion is limited to:

The extent of the demolition and the cumulative effects on the building or feature.

151. Prohibited activity status represents the extreme end of the regulatory spectrum, and perhaps unsurprisingly there were some submissions with respect to its status. There are 14 Category 1 items listed in the ODP, with the officers recommending an additional six be added to this category as part of the review (with the listing of the *TSS Earnslaw* to be removed). Two submissions sought that the rule be deleted in its entirety[91], while two others sought that the rule either be deleted, or the wording of the PDP be unequivocal about what constituted "demolition" and that it should exclude major alterations[92].

152. We are of the view that the impact of this rule (apart from the categorisation of the heritage feature) is dependent on the number of features listed, particularly in Category 1; how

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89 Submission 383

90 V Jones, Section 42A Report, Section 14

91 Submissions 672 and 688

92 Submission 696 and 726

demolition was actually defined; and whether the demolition affected 'heritage fabric'. All of these matters arose through this rule and others as discussed below.

153. Ms Jones gave some detailed consideration to the implications of adopting prohibited activity status, albeit that it was a feature in the ODP, and (with the unusual exception of the listing of the *TSS Earnslaw*) this status had not been opposed by any of the affected property owners, noting that the Council or Crown agencies were the owners in a number of cases. From questioning it was understood that in these circumstances, the implications were understood by those affected - that is, there was no possibility of even applying for consent to demolish a Category 1 heritage feature. In weighing up this status, Ms Jones, although acknowledging some concerns about making the activity prohibited, said that *"a prohibited activity rule is highly effective in that it offers complete protection and indirectly encourages ongoing repair, maintenance, and alterations to retain its viability as it is well understood that demolition is not an option*"[93].

154. We entertain some doubts that this statement holds true, more particularly for private property. It can only "indirectly encourage" ongoing repair and maintenance if the affected owner is either willing or financially able to afford the necessary works – and assuming those works are not inadvertently captured by the demolition rule itself, or the very considerable costs associated with the consenting process. This can be particularly difficult if the listed feature is for example, a private home. Furthermore, an owner can alternatively decide not to undertake any repairs or maintenance at all, leading to demolition by neglect. The only regulatory option available to the Council in these circumstances is the issue of a heritage order under section 189A of the RMA. It is understood that this was ultimately what was required to secure the protection of a group of miner's cottages in Arrowtown.

155. Prohibited activity status can be very onerous, and can in some respects be seen as a form of designation without compensation. We nevertheless acknowledge that in the absence (with one exception) of any opposition to the continued listing of Category 1 heritage features being carried over from the ODP to the PDP, there was little scope to alter the status of any of these features. However, it was a factor that weighed heavily in our consideration of the listing of *additional* Category 1 buildings through this review process. We are cautious about any proposed additions to Category 1, particularly where additional research was required, and/or where affected parties had not been adequately consulted, or made aware of the statutory implications of having their properties within this category.

156. We do not support those submissions which sought that demolition be given the same activity status as alterations, either explicitly or by implication. In our view this would significantly degrade the heritage provisions of the PDP, and could arguably fail to give effect to Section 6(f) of the Act with respect to Category 1 heritage features at least. However these submissions, both in terms of their scope and nature of the relief sought, raised an important issue about how demolition can be differentiated from other categories of activities affecting heritage buildings, and the heritage categories themselves, particularly with respect to alterations. There is significant risk that the rule as notified, and its activity standards, could have the effect of capturing necessary and desirable works as "demolition".

157. This was recognised by Ms Jones, and we broadly agree with her analysis and proposed means of addressing this issue. She proposed that "demolition" be split into two categories of "total demolition" and "partial demolition". To address the inevitable concerns about how

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93 Section 42A Report, paragraph 13.9

this would be defined, she suggested a definition whereby total demolition would amount to demolition of historic fabric or characteristics equal to or exceeding 70% by volume or area whichever is greater; and that partial demolition would amount to demolition of historic fabric or characteristics exceeding 30% by volume or area whichever is greater, but less than 70%[94]. The principle of splitting total and partial demolition was also endorsed by Ms Gillies in her evidence[95], although she qualified this by saying that she was unable to comment as to the appropriateness of the 'percentages' at this time. We understand the basis of the Council's approach is a similar framework forming part of the Auckland Unitary Plan.

158. As part of her recommendations, Ms Jones also recommended that the relocation of a Category 1 building to another site remain a prohibited activity, and that relocation remain noncomplying *within* the same site. She also recommended (and we concur) that reference to "total demolition or destruction" be reduced to simply "demolition" as the additional wording is somewhat emotive and superfluous.

159. In consultation with Mr Knott, Ms Jones also concluded that it would be appropriate to provide a better description of the basis for categorising heritage features in the PDP. This is not a matter of a definition – the categorisation of heritage features is determined by the Inventory itself, which in turn follows an assessment process based on criteria for heritage listings. However from a descriptive perspective, this was seen as useful for plan readers and has been incorporated in the (non-statutory) Section 26.2.2.

160. Based on the above assessment, we recommend that:
    a. the activity of "demolition" be split into two categories of "total demolition" and "partial demolition".
    b. that these terms, rather than being incorporated into the rule itself as an activity standard, be removed from the rule and become definitions in Chapter 2.
    c. that prohibited activity status continue to apply to <u>total</u> demolition of Category 1 heritage features, and remain a noncomplying activity for Category 2 heritage features and a restricted discretionary activity for Category 3 heritage features.
    d. that partial demolition be categorised as a noncomplying activity for Category 1 and Category 2 heritage features and restricted discretionary activity for Category 3 heritage features.

161. We also recommend to the Stream 10 Panel that the terms total demolition and partial demolition be defined as set out in Appendix 3.

162. We also recommend minor changes to the matters of discretion to be applied to total or partial demolition or relocation to another site where this work related to a Category 3 heritage feature.

163. In her evidence to the hearing, Ms Gillies argued that demolition and relocation were different activities, and should be dealt with through separate rules. We can see some merit in her perspective from a philosophical point of view, and the matter is finely balanced. However, such an amendment would result in 'bulking up' the rules which have identical statutory application, whether it is the activity of relocation off the site, or the activity of total demolition. For this reason, we recommend no change to this aspect of the rules.

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94 ibid, pages 26 – 9 and 26 – 10.

95 J Gillies, EiC, paragraph 9.2

164. With the 'splitting' of demolition into two separate rules dealing with total and partial demolition, the new rules are renumbered as 26.5.3 and 26.5.4. we recommended the revised rules be worded as follows:

		Cat 1	Cat 2	Cat 3
26.5.3	**Total demolition or relocation to another site** *For Category 3 heritage features discretion is restricted to: a. The extent of the demolition proposed and the cumulative effects on the heritage feature; b. The effects on the heritage values and heritage significance, as evaluated in accordance with the criteria in section 26. 6. c. Where the protected heritage feature is located within a heritage precinct, the effects of the proposed activity on the key features of the heritage precinct as identified in section 26.7.	PR	NC	RD*
26.5.4	**Partial demolition** *For Category 3 heritage features discretion is restricted to: a. The extent of the demolition; b. The effects on heritage values and heritage significance, in accordance with the evaluation criteria in section 26.6; c. The effects on the heritage values and heritage significance of the feature, including the cumulative effects resulting from incremental demolition; d. Where the heritage feature is located within a heritage precinct, the effects of the proposed activity on the key features of the heritage precinct as identified in section 26.7.	NC	NC	RD*

6.11 Table 2 – Rule 26.6.4 Relocation

165. As notified, Rule 26.6.4 conferred prohibited activity status for any relocation of a Category 1 heritage feature, noncomplying for a Category 2 heritage feature, and restricted discretionary status for relocation of a Category 3 heritage feature. The activity standard stated that:

"Works that result in an existing building or feature being relocated within the same site.

Restricted Discretion is limited to:
The physical effects on the heritage fabric and the effects on the setting of the feature".

166. Three submissions were received on this rule[96]. Ms Gillies supported the rule, particularly noting that an equivalent rule was absent in the ODP. However, Ms Gillies also sought that the relocation of Category 3 building should be changed from restricted discretionary to non-complying in status.

167. Watertight Investments sought that the rule be deleted as being overly restrictive and unnecessary, while Real Journeys Limited sought that the rule be amended to ensure that on-site relocation be provided for as a restricted discretionary activity, with discretion extending not only to the effects on heritage value but consideration of potential benefits of relocation.

168. It is now commonplace for relocation of heritage buildings to be regulated in district plans. We accept that the heritage values associated with a particular feature will have a close association with both the site on which it is located and the wider environment. While the relocation of a building may result in it being physically 'saved', its relocation is a less than optimum outcome, as its physical and historic context would be lost. This is particularly the case with Category 1 buildings and features, although in reality the prospect of any of the small number of such protected items being relocated is extremely small.

169. We agree with Real Journeys' contention that there may be circumstances where relocation is appropriate, but only as a last resort for Category 2 buildings (with noncomplying activity status). Although not common, relocation off–site may be the only remaining alternative to demolition in a small number of cases, particularly where operational requirements may make this necessary, or the setting and surrounds of the building have been severely compromised by development, or would compromise the continued retention of a building on its original site. We expect such circumstances to be rare. However in these circumstances then relocation on–site would be preferred to relocation off–site, and we consider it is appropriate that the rules framework differentiates in favour of the former.

170. Accordingly, we support the amendment proposed by Ms Jones that relocation be split into relocation off–site and relocation on–site. We consider that the activity status for the relocation of heritage features off–site is appropriately balanced as originally notified, on the basis that it has greater adverse effects on heritage values than relocation on–site. Where a heritage feature is relocated on-site, the feature would still maintain a clear physical relationship to its original location. We do not support the submission point of Ms Gillies that the relocation of a Category 3 building should be non-complying, because it would not be appropriate to have a different activity category for demolition on one hand, and off–site relocation of Category 3 buildings on the other.

171. Ms Jones recommended that, in addition to creating a new and separate rule for relocation on-site, the activity categories remain the same except for Category 1 heritage features, where relocation would become a noncomplying activity rather than a prohibited activity. We consider this would achieve an appropriate regulatory balance, bearing in mind that any relocation (even within a site) would still have potentially adverse effects compared to retaining a building *in situ.*

172. It was drawn to our attention however, that as notified, the PDP required that the relocation of buildings within a *heritage precinct* be a discretionary activity[97]. There was potential for

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[96] Submissions 604, 621 and 672

[97] Rules 26.6.10 and 26.6.11.

confusion, because the relocation of a heritage feature generally within a site is only a restricted discretionary activity. However, as we discuss later when discussing the rules in Table 3, such confusion can be avoided by making the rules explicit that Table 3 does not apply to heritage features listed in the Inventory in Section 26.8. However, we recommend a consequential amendment to add an additional assessment matter under the activity standards for restricted discretionary activities. This is not an additional or new rule, but ensure that where a heritage feature is within a heritage precinct, the effects of relocation on the heritage precinct are taken into account. This assessment matter has been included in Rules 26.5.3 and 26.5.4 recommended above, and in Rule 26.5.5 which relates to relocation within a site.

173. The submission from Real Journeys sought that account be taken of circumstances in which the relocation of a heritage feature may be necessary for operational reasons[98]. Specifically, the submitter was concerned that the heritage listed steam boiler from the *Antrim* used to provide power for slipping the *TSS Earnslaw*, may need to be replaced by more modern machinery at some point. This would necessitate the *Antrim* engine being moved to a different point on the site – we understand that the submitter would not be contemplating its total removal elsewhere or scrapping.

174. Having visited the facility in question, we consider that there is some justification for adding an assessment matter for a restricted discretionary activity (note our subsequent findings on the Category listing of this heritage feature in our assessment of individual listings later in these recommendations). This would be only an assessment matter and not a rule in itself, and its inclusion was appropriate subject to it being narrowly focused. We recommend adding a clause to Rule 26.5.5 reading:

"c. Any evidence that relocation is necessary for operational reasons".

175. We recommend that relocation off the site be included in Rule 26.6.3 (as above) and that relocation within a site be controlled by Rule 26.5.5 as set out below:

		Cat 1	Cat 2	Cat 3
26.5.5	**Relocation within the site** The relocation of an existing heritage feature within the same site. * For Category 3 heritage features discretion is restricted to: a. The effects on the heritage values and heritage significance of the feature in accordance with the evaluation criteria in section 26.6; b. The physical effects on the heritage fabric and the effects on the setting or extent of place of the feature. c. Any evidence that relocation is necessary for operational reasons. d. Where the heritage feature is located within a heritage precinct, the effects of the proposed activity on the key features of the heritage precinct as identified in section 26.7.	NC	NC	RD*

98 B Farrell, EiC, paragraph 27

6.12 Table 2 – Rule 26.6.5 External alterations

176. Rule 26.6.5 as notified provided for external alterations to a Category 1 heritage feature to be a fully discretionary activity, and a restricted discretionary activity for Categories 2 and 3. The rule read:

"Works affecting the fabric or characteristics of buildings and features. Additions to buildings such as signs, lighting and street furniture are also included.

Restricted Discretion is limited to:
The extent of the alteration and the cumulative effects on the building or feature".

177. The rule as notified included reference to 'additions' under the activity standard, and we consider it is appropriate that the rule be clarified to refer to external alterations *and additions*, although an addition to the exterior of the building may be taken to include an alteration to that exterior.

178. Five submissions were received on Rule 26.6.5. That from Ms Gillies[99] again referred to the need for criteria to be specified, which has been discussed previously with criteria incorporated into a new Section 26.5 'Evaluation Criteria'.

179. Watertight Investments[100], along with Justin Crane and Kirsty McTaggart[101], sought that demolition and relocation be combined with external alterations and have the same activity status. These submissions would effectively result in a substantial liberalisation of the rules framework for both demolition and relocation, particularly for Category 1 and Category 2 heritage features. We have considered submissions specific to demolition above, and our recommendation is to accept Ms Jones' proposal to split demolition into two categories of total and partial demolition. The latter category provides greater flexibility for major works without these being captured under the otherwise stringent controls attached to full demolition, and we recommend provisions for relocation within the site are also liberalised. We note that there have been no submissions (with the partial exception of the listing of the *TSS Earnslaw*) which have challenged any Category 1 listings.

180. Furthermore, we consider that the degree of liberalisation sought by these two submissions would seriously weaken heritage protection for the most important heritage features in the District. However, the recommended creation of the category of 'partial demolition' does provide some relief for these submitters.

181. These two submissions, and those of Millbrook Country Club and Upper Clutha Transport[102] also sought that the wording of this rule specify that it applied to "….. *buildings listed in Table 26.9*". We addressed this matter earlier in Section 6.1 above. Our conclusions were to adopt a definition of 'Heritage features', and to define these as including any items listed in the Inventory under renumbered Section 26.8. This includes buildings, as well as other miscellaneous heritage items and structures such as bridges, roads, statues etc. We consider that the definition of 'Heritage features' effectively addresses the concerns raised in these submission points.

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99 Submission 604, supported by FS1098

100 Submission 672

101 Submission 688

102 Submissions 696 and 726 respectively

182. The final issue raised by this group of four submitters was their concern with the following words under the activity standard:

"Works affecting the fabric or characteristics of buildings and features. Additions to buildings such as signs, lighting and street furniture are also included".

183. A difficulty arises as to what these somewhat subjective words mean, and potentially inconsistent administration of the rules. An entirely objective definition of what constitutes "alterations" is almost certainly unobtainable, but to grant the relief sought by the submitters would result in an even greater level of ambiguity.

184. Nevertheless, there is clearly a need to address the matters raised in in these submission points, to reduce the potential for ambiguity (eliminating it being probably impossible). Our recommendations on the Chapter as a whole, and through the inclusion of definitions in Chapter 2, has approached the issue of clarifying the status of work affecting heritage features in the following way:
    a. Introducing and defining an activity of *partial demolition;*
    b. Introducing and defining an activity of *alterations and additions;*
    c. Including a definition of *repairs and maintenance*;
    d. Providing a definition of '*heritage fabric*'
    e. Incorporating most of the contents under the activity standards into the definitions described above.

185. Effectively, these definitions mean that any works which do not fall under the activities of partial demolition or repairs and maintenance, will fall to be considered as alterations. We consider this clarification utilising the definitions below address the matters raised.

186. We recommend the Stream 10 Panel include the following definition of 'external alterations and additions' in Chapter 2:

*"**External alterations and Additions** means undertaking works affecting the heritage fabric of heritage features, but excludes repairs and maintenance, and partial demolition. External additions include signs and lighting."*

187. We recommend the following definition of 'heritage fabric', based largely on Ms Jones' response to submissions:

*"**Heritage fabric** means any physical aspect of a heritage feature which contributes to its heritage values as assessed with the criteria contained in Section 26.6. Where a heritage assessment is available on the Council's records this will provide a good indication of what constitutes the heritage fabric of that heritage feature. Where such an assessment is not available, heritage fabric may include but is not limited to:*

a. Original and later material and detailing which forms part of, or is attached to, the interior or exterior of a heritage feature;

b. The patina of age resulting from the weathering and wear of construction material over time;

c. *Fixtures and fittings that form part of the design or significance of a heritage feature but excludes inbuilt museum and art work exhibitions and displays, and movable items not attached to a building, unless specifically listed".*

d. *Heritage features which may require analysis by archaeological means, which may also include features dating from after 1900.*

188. In the course of the hearing, Ms Gillies expressed some concern about 'defining' heritage fabric, on the basis that providing examples would have the result that applicants would potentially exclude any elements of heritage that are not included under those 'examples'. We believe that this concern, while understandable, has been at least partly addressed by prefacing the examples with the words "not limited to".

189. In consequence, we recommend the new renumbered rule for external alterations and additions be worded as follows:

		Cat 1	Cat 2	Cat 3
26.5.6	**External alterations and additions** *For Category 2 and 3 heritage features discretion is restricted to: a. The effects on the heritage values and heritage significance of the feature in accordance with the evaluation criteria in Section 26.6; b. Where the heritage feature is located within a heritage precinct, the effects of the proposal on the key features of the heritage precinct as identified in Section 26.7.	D	RD*	RD*

6.13 Table 2 – Rule 26.6.6 Internal Alterations

190. This rule as notified provided that internal alterations to a Category 1 heritage feature be a discretionary activity, to a Category 2 a restricted discretionary activity, and a permitted activity for Category 3. The rule read:

Internal Alterations
Works affecting the historic fabric or characteristics of a building including (but not limited to) the partial removal and replacement of decoration, windows, ceilings, floors or roofs that only affect the interior of the building or object.

Restricted Discretion is limited to:
The extent of the development and the cumulative effects on the building or feature, and its setting.

191. Five submissions were received on this rule, these being from HNZ, Watertight Investments, Justin Crane and Kirsty McTaggart, Millbrook Country Club, and Upper Clutha Transport[103]. These submissions raised identical concerns to those on notified Rule 26.6.5 above - focusing on the 'grey areas' between demolition and alterations and repairs.

[103] Submissions points 426, 627, 688, 696 and 726 respectively

192. The rule as notified, again incorporated a 'definition' under the activity standard, which we consider is more appropriately reworded and placed in Chapter 2. The proposed definition is derived from the activity standard in the existing rule, and we recommend to the Stream 10 Hearing Panel that it read as follows:

***"Internal alterations** means undertaking works affecting the internal heritage fabric of heritage features, but excludes repairs and maintenance. Internal alterations includes the partial removal and replacement of decoration, windows, ceilings, floors or roofs that only affect the interior of the building".*

193. Meanwhile the rule related to internal alterations would become a new renumbered rule 26.5.7. We recommend this rule be worded as follows:

		Cat 1	Cat 2	Cat 3
26.5.7	**Internal alterations** Internal alterations affecting the heritage fabric of a building * For Category 2 heritage features (buildings) discretion is restricted to: a. The extent of the alteration and the cumulative effects on the building; ~~or feature~~. b. The effects on the heritage values and heritage significance of the feature in accordance with the evaluation criteria in Section 26.6. c. Note: For the avoidance of doubt, alterations such as the partial removal and replacement of decoration, windows, ceilings, floors or roofs that only affect the interior of the building are subject to this rule.	D	RD*	P

6.14 Table 2 – Rule 26.6.7 Development within the curtilage or setting

194. This rule as notified provided that development within the curtilage or setting be a discretionary activity for Category 1 heritage features, and a restricted discretionary activity for Category 2 and Category 3 features.

The activity standard under the rule read as follows:

"Works including earthworks, signage, lighting, street furniture, new buildings and structures.

Restricted Discretion is limited to:
The extent of the development and the cumulative effects on the building or feature and its setting".

195. Eight submissions were received on this rule. Ms Jones advised that the ODP was ambiguous as to whether heritage protection extended to the surrounds ('setting') of listed heritage items. We are aware that the protection of settings is common in district plans. As notified, the rule was accompanied by a footnote defining setting as follows:

"Setting means the area around and/or adjacent to a place of cultural heritage value that is integral to its function, meaning, and relationships. Setting includes the structures, outbuildings, features, gardens, curtilage, airspace, and access ways forming the spatial

context of the place or used in association with the place. Setting also includes cultural landscapes, townscapes, and streetscapes; perspectives, views, and views to and from a place; and relationships with other places which contribute to the cultural heritage value of the place. Setting may extend beyond the area defined by legal title and may include a buffer zone necessary for the long-term protection of the cultural heritage value of the place. ICOMOS New Zealand Charter 2010".

196. Ms Gillies supported the new rule relating to 'setting', and sought that the word 'curtilage' be deleted from the heading of the rule[104]. On this preliminary matter, we agree with the conclusion of Ms Jones that the word 'curtilage' added little to the application of the rule, and that the word 'setting' was well established term in heritage circles. Accordingly, we recommend the word 'curtilage' be removed as requested.

197. Seven submitters (Real Journeys Limited, Watertight Investments Ltd, Justin Crane and Kirsty McTaggart, Millbrook Country Club Ltd, Upper Clutha Transport, Anna Marie Chin Architects and Paul Vautier, and the Ministry of Education) sought that the rule be deleted[105]. As less preferred alternative, Real Journeys sought that the rule exclude development associated with the use of the protected feature, while Millbrook Country Club suggested the rule be amended to only apply to development within a 30m radius of a heritage feature.

198. Ms Jones came to the conclusion that the rule was too broad and subjective to trigger the activity status of a prospective activity[106]. We consider that in determining the need to protect a setting, and determining its extent, the following factors are relevant:
    a. whether the surrounds of a heritage dwelling for example (setting) includes features integral to its original design and history, such as ornamental gardens;
    b. whether development within a setting would have an incongruous appearance with respect to the listed heritage feature within that setting;
    c. whether development within the setting would result in public views of the heritage feature itself being lost;
    d. whether the scale of development within the setting would diminish the significance of the heritage feature;
    e. whether the setting contains unsympathetic or more modern development which does not justify protection;
    f. whether the setting is so extensive in scale that it impinges on the otherwise permitted development rights on the affected property itself;
    g. whether the site containing the heritage feature is so large that including it within the setting would have an onerous effect on the affected property owner
    h. the extent to which the protection of the setting would impinge on otherwise permitted development on adjoining properties.

199. This is a form of heritage regulation which can have one of the largest perceived and real impacts on private property rights. In addition to this – and even more challenging – is how to define the setting in such a way as to find an appropriate balance between protecting those parts of the site that have a strong association with the listed heritage feature thereon, and otherwise permitted development aspirations. We note that sites may also contain protected trees, which are dealt with separately under recommendations on Chapter 32.

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104 Submission 604

105 Submissions 621, 627, 688, 696,726 and 524 respectively

106 Section 42A Report, paragraph 10.5

200. We are satisfied that the definition of 'setting' as contained in the footnote to Rule 26.6.7 as notified, even allowing for the difficulty of defining the term 'setting', is too expansive and lacks reasonable certainty. The inclusion of a statement that the setting may extend beyond a title boundary for example, raises the real spectre that an adjoining landowner could find themselves subject to the rule without their knowledge, let alone with any consultation or the opportunity challenge the rule. We agree with Ms Jones on this point. As notified, the footnote defining setting means that it could have very broad and largely undefined application.

201. In her evidence for HNZ, Ms O'Dea made the observation that protecting heritage settings is appropriate, and said *"in my view, the extent of the heritage settings must be balanced with the practicalities of reasonable use of property. In this regard control on any new development must be focused on effects on the principle heritage item. I believe it would be of benefit to undertake further work to identify additional extents of place in the future and that this would provide even greater certainty. However at this time I consider that the proposed provisions as put forward in the RRC(sic) strike an appropriate balance between the protecting the surroundings of significant historic Heritage, with ensuring reasonable limitations on how far settings might extend; and strong policy guidance through 26.5.1.4 which will also aid interpretation"*[107].

202. We broadly agree with these sentiments, which were reflected in the amendments proposed by Ms Jones, who also recommended the adoption of the concept of 'extent of place', whereby settings, particularly on complex sites containing buildings, or on large sites, were physically defined in plan form and incorporated into the PDP. Fifteen such sites, to be termed 'extent of place', were identified, defined and recommended to be incorporated into renumbered Section 26.8.1, immediately following the Inventory of Listed Heritage Features under Section 26.8. We note that a very similar approach has been adopted in the Christchurch Replacement District Plan[108].

203. We are of the view that 'extent of place' needs to be defined and recommend to the Stream 10 Panel that the following definition be included in Chapter 2:

*"**Extent of Place** means the area around and/or adjacent to a heritage feature listed in the Inventory under Section 26.8 and which is contained in the same legal title as a heritage feature listed on the Inventory, the extent of which is identified in Section 26.8.1."*

204. Ms Jones also recommended that for the other sites falling under the definition of a 'setting', an improved definition be provided for "works" which would require consent within the setting. A setting would otherwise be confined to land within the legal title of the property concerned.

205. While the suggested amendment by Millbrook Country Club[109] to define a setting as being within a 30m radius of a heritage feature was a constructive contribution towards providing greater certainty, we have concluded that there would be circumstances where this would be either too much or too little, and heritage features may require setback distances which would vary depending on surrounding features. Where a setting potentially includes all of

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107 J O'Dea, EiC, paragraph 9.3

108 Christchurch Replacement District Plan, Chapter 9, Appendix 9.3.6.4

109 Submission 696

the land within a certificate of title, we consider that an alternative approach is to define instead the kind of development that might require consent in these circumstances.

206. Ms Gillies sought that Rule 26.6.7 be amended by requesting that the heritage value of the setting be identified on a case-by-case basis and that it be stated that "works affecting the historic setting of the site should be avoided"[110]. We are not sympathetic to this suggested approach because of the high degree of uncertainty which would be added to a potentially subjective rule, and also note that the words quoted were too subjective to form the legal basis of a rule or definition. In this particular case, we prefer the approach suggested by HNZ's witnesses and Ms Jones.

207. We have considered as to how the vexed term 'setting' could be defined, particularly as the majority of settings are not identified by a plan showing the extent of place. We recommend to the Stream 10 the adoption of a more confined definition as follows:

*"**Setting** means the area around and/or adjacent to a heritage feature listed under the Inventory in Section 26.8 and defined under 26.8.1, which is integral to its function, meaning and relationships, and which is contained in the same legal title as the heritage feature listed on the Inventory".*

208. This still has a significant element of subjectivity which illustrates the difficulties of defining the meaning of setting. However the wording used above, and particularly the word "integral" implies that in some cases the setting will not include all of the certificate of title. We consider there would be significant benefits in extending the concept of 'extent of place' more widely to other sites thus providing greater certainty, however this is beyond the scope of the current hearing.

209. Ms Jones also proposed that where "development" takes place within either a setting or and extent of place, that the nature of the "development" requiring consent be specified. Ms Jones recommended that a definition of "development" be included in Chapter 26 to provide greater specificity as to what this rule was attempting to control111. While we agree with the degree of specificity defined by Ms Jones, we are of the view that the definition was in fact a rule restricting activities and that it would be more appropriate if the rule itself specified what activities it restricts. The proposed definition also contained an explanatory exclusion. We consider that can appropriately be inserted as an Advice Note at the end of the rule.

210. Based on consideration of the foregoing, we recommend this rule, renumbered 26.5.8, read as follows:

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110 Submission 604

111 Section 42A Report, paragraph 10.7

		Cat 1	Cat 2	Cat 3
26.5.8	**Development within the setting or extent of place** New buildings and structures, earthworks requiring consent under Chapter 25, car park areas exceeding 15m^2 within the view from a public road, and car park areas exceeding 40m^2 located elsewhere. * For Category 2 and 3 heritage features, discretion is restricted to: a. Development within the setting, or within the extent of place where this is defined in the Inventory under Rule 26.8; b. The extent of the development and the cumulative effects on the ~~building or~~ heritage feature, and its setting or extent of place; c. The effects on the heritage values and heritage significance of the feature in accordance with the evaluation criteria in section 26.6. Note: This rule does not apply to any use of buildings, structures and land other than the activities specified above.	D	RD*	RD*

6.15 Tables 1 and 2 – Section 32AA

211. In undertaking our assessment of Chapter 26 as notified, we were not satisfied that some important aspects of the rules in Chapter 26 as notified were consistent with sections 32 and 32AA(2) of the Act, notably in terms of subsection 32(1)(b), as being the most appropriate way to achieve the objectives, or being efficient and effective. To address these deficiencies, we have concluded it is necessary to make a number of amendments in response to submissions.

212. Firstly, we recommend (to the Stream 10 Hearing Panel) the incorporation of definitions in Chapter 2 which are critical to providing certainty in terms of the application of the terms used in the rules themselves. Uncertainty would be inefficient as it would impose additional administration and compliance costs on both the Council and applicants.

213. Secondly, the rules and their assessment matters also required clarification and expansion to expedite the processing of future resource consents. As notified, the rules would have the effect of capturing relocation within a site, and potentially significant restoration works, under the category of 'demolition' with prohibited activity status. In turn, this would have the effect of acting as a disincentive towards the protection of historic heritage. We have significant reservations about prohibited activity status, as while it is effective in preventing *applications* to demolish buildings, it is also inflexible, arguably undermines the provisions of section 189A of the Act, and is inefficient in terms of encouraging building maintenance and restoration. However, there is no scope within submissions to address this matter further, except in part through the amendments creating the category of 'partial demolition'.

214. A further significant improvement in terms of the efficiency of the rules is our support for Ms Jones' recommendation to provide a definition of the 'extent of place' which provides certainty for both Council and landowners by defining the area which has affected by the

setting of a heritage feature, particularly on large or complex sites. We are satisfied that the amendments to the rules in Chapter 26 that we are recommending will result in improved effectiveness – and particularly improved efficiency – in the administration of the PDP and achieving the objective of protecting historic heritage in the District.

6.16 Table 3 – Heritage Precincts: Rules 26.6.8 – 26.6.15

215. As a result of amendments made to the format of Chapter 26 as discussed in the Panel's recommendations, the rules in Table 3 will be renumbered 26.5.9 – 26.5.13.

216. Some background to our recommendations relating to Heritage Precincts is necessary, as it is apparent there is some scope for confusion in the way that the rules have been drafted, a matter raised through submissions and pointed out by Ms Jones[112].

217. There are five heritage precincts comprising the following:
    a. Queenstown Courthouse
    b. Queenstown Mall
    c. Queenstown Marine Parade
    d. Arrowtown Town Centre
    e. Arrowtown Cottages

218. We understand the basis of these precincts is that they contain important heritage features (buildings), or a collection of significant heritage features, including other buildings which, although not worthy of individual listing, still contribute to the heritage significance of the precinct and are described in the rules as "contributory buildings". There are also buildings in three of the precincts which make no individual contribution to the heritage values of the precinct, described in the rules as "non-contributory buildings". The PDP seeks to regulate external alterations or removal of such buildings, given there may be circumstances where this would have a potentially adverse effect on adjoining contributory buildings and listed heritage features, or to the precinct as a whole.

219. The five heritage precincts are shown in plan form in the Inventory of Heritage Precincts, under Section 26.8 of the PDP as notified. Non-contributory buildings are identified in blue on these plans. Each plan of the heritage precincts is accompanied by a 'Statement of Significance'. As contributory and non-contributory buildings are defined in plan form, there is no uncertainty as to which buildings fall under either of these categories. Ms Jones suggested, in response to submissions, that definitions be incorporated for these terms, initially for non-contributory buildings. We agree and recommend to the Stream 10 Panel that definitions of both contributory and non-contributory buildings be included in Chapter 2.

220. We note that there are no non-contributory buildings in the Queenstown Courthouse and Arrowtown Town Centre precincts. Within the precincts there is a significant overlap between the rules under Chapter 26 heritage, and rules which apply within the particular zone concerned and other chapters. For example, the rules relating to a *new* building which might replace a non-contributory building in the in the Arrowtown Cottages Precinct are not subject to rules under Chapter 26. New buildings within a heritage precinct are instead only subject to rules under Chapter 10 (Arrowtown Residential Historic Management Zone), Chapter 14 (Arrowtown Town Centre Zone) and Chapter 12 (Queenstown Town Centre Zone).

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112 Section 42A Report, paragraph 15.10

221. HNZ sought the adoption of Rule 26.6.11 (relocation of non-contributory buildings) and sought that Rule 26.8 be reviewed by providing further detail[113]. Although broadly supportive of the provisions for heritage precincts, Ms Gillies expressed concern about their detailed implementation[114]. As part of her response, Ms Jones noted that:

"However, the format of the chapter is such that if an applicant wishes to, say, alter a building in a precinct then consent will be required under Tables 1, 2 and 3. This is not sufficiently clear and it is confused by some of the rules in Table 3 explicitly excluding individually listed items and other rules not stating this exclusion. It is evident from the submissions that it is unclear how the respective rules work together".[115]

222. Table 1 addresses 'General' introductory rules, Table 2 concerns 'Buildings, Structures, and Features' and Table 3 concerns Heritage Precincts.

223. From considering the submissions (particularly that of Ms Gillies) and Ms Jones' report, it was apparent that were a number of difficulties apparent with Table 3 as notified:
    a. It was unclear whether the rules for listed heritage features contained in the Inventory and within a heritage precinct, were applied in *addition* to those rules within the precinct or whether the rules within a precinct (which in some cases were more liberal) took precedence;
    b. The text of the rules relating to contributory and non-contributory buildings were conflated with each other and difficult to interpret;
    c. While the maps of the precincts were helpful, they did not show heritage features within the precinct that were also listed in the Inventory. Category 3 heritage features within a heritage precinct were subject to more liberal rules than unlisted contributory buildings, which appeared inconsistent;
    d. Important linkages to relevant zone rules within the heritage precinct were not made clear; and finally,
    e. The format of the rules in Table 3 (heritage precincts) were repetitive and inconsistent with those in Table 2.

224. This uncertainty resulted in us issuing a Minute seeking clarification as to the correct position. In response to the Minute, Ms Jones expressed the view that it was not necessary to add a rule into Chapter 26 to regulate new buildings within heritage precincts – at least in part, because this would duplicate the rules framework elsewhere in the PDP. We agree with this view, but believe it would be appropriate to add a cross reference at the beginning of Table 3 to inform plan readers of the need to consult rules in other chapters of the PDP which are relevant to new buildings within Heritage Precincts.

225. We are of the view that Table 3 (Rules 26.6.8 – 26.6.15 as notified) was in need of re-drafting and streamlining, particularly with relation to its format. These changes primarily involve clarifying the position of buildings that are not listed in the Inventory as protected heritage features; creating an additional activity status column for works affecting non-contributory buildings; and informing plan readers by way of a cross-reference to key rules in other chapters. Readers of these recommendations are also strongly encouraged to refer to the recommended definitions, contained in Appendix 3, which are also relevant to Table 3.

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113 Submission 426

114 Submission 604

115 Section 42A Report, paragraph 15.10

226. We recommend Table 3 be redrafted as described below. There is no change to the activity status of any of the specified activities.
    a. An introductory note to Table 3 advising plan readers of the zone rules which apply to the construction of new buildings in Heritage Precincts contained within the Arrowtown Residential Historic Management, Arrowtown Town Centre, and Queenstown Town Centre Zones.
    b. A note at the start of Table 3 making it clear that protected heritage features listed in the Inventory are not subject to the rules in Table 3;
    c. A redraft of old Rule 26.6.8 (demolition) as a new Rule 26.5.9 covering total and partial demolition and relocation beyond the site. We recommend notified Rule 26.6.9 (demolition or removal of non-contributory buildings and features) be deleted.
    d. Notified Rules 26.6.10 and 26.6.11 relating to relocation of contributory buildings and non-contributory buildings are replaced with new Rules 26.50.10 and 26.5.11 relating to relocation within a heritage precinct and from a heritage precinct respectively.
    e. Notified Rules 26.6.12 and 26.6.13 relating to external and internal alterations, are replaced with new Rules 26.5.12 and 26.5.13.
    f. Notified Rule 26.6.15 (development) is recommended to be deleted as unnecessary.
    g. Separate activity status columns are now provided for contributory and non-contributory buildings.

227. We recommend the revised rules read as follows:

Table 3 Heritage Precincts

Notes:

a. Table 3 only relates to heritage features that are not listed in the Inventory (26.8). Buildings listed in the Inventory are subject to the rules in Tables 1 and 2 only.

b. The following chapters contain rules which apply to the construction of new buildings within heritage precincts:

    i Chapter 10: Arrowtown Residential Historic Management Zone
    ii Chapter 12: Queenstown Town Centre Zone
    iii Chapter 13: Arrowtown Town Centre Zone

		Contributory buildings other than those listed in 26.8	Non-contributory buildings
26.5.9	**Total and partial demolition or relocation beyond the site**	D	P
26.5.10	**Relocation within a heritage precinct**	D	D
26.5.11	**Relocation from a heritage precinct** .	D	P
26.5.12	**External alterations** Discretion is restricted to: a. The extent of the alterations and the cumulative effects on the heritage feature, and its setting or extent of place; b. The effects on other contributory and individually listed buildings and heritage features. c. The key features and values of the precinct as identified in the statement of significance, and key features to be protected in section 26.7. d. The effects on the heritage values and heritage significance of any affected heritage feature in accordance with the evaluation criteria in section 26.6.	RD	RD
26.5.13	**Internal alterations**	P	P

6.17 Table 4 – Rule 26.16 Sites of Significance to Maori

228. The only submission on this rule was from Ms Gillies[116], simply seeking that consultation with Tangata Whenua be carried out, and a map and the list of sites be prepared. This information was not contained within the PDP as notified, and we understand it is to form part of a later stage of the PDP review. That being the case, we recommend the submission be allowed in part.

229. We note that this rule contains the term "development". It is unclear whether the meaning this word was meant to have is the same as the word defined in Chapter 2, noting that that definition is limited to the purpose of determining financial contributions, or the same meaning as has been given to "development within setting or extent of place" as used in recommended Rule 26.5.8. We recommend this be addressed when the additional matters are included in this rule.

230. We also note that as notified the rule contained the following provision:
Any application made in relation to this rule shall not be publicly notified, or limited notified other than to Tangata Whenua.

231. During the course of hearings the various Hearing Streams, the Council, in legal submissions, have raised the issue of using a notification rule to identify a particular potentially affected

[116] Submission point 426 .30

person. This was not addressed in Hearing Stream 3, but we raise the query as to whether this provision falls foul of the same *vires* issue. Again, we see that as a matter for the Council to address when including the additional material in relation to this rule into the PDP.

6.18 Table 5 – Archaeological sites – Rules 26.6.17 – 26.6.20

232. Four submitters lodged submissions with respect to Table 5, three of which sought its complete deletion on the basis that any disturbance or destruction of such sites were covered by separate statutory procedures under the HNZPTA[117]; that these rules added an unnecessary additional layer of regulation; were subjective in terms of determining activity status; and were not effective or efficient. Ms Gillies sought that all the rules under Table 5 relating to such sites be defined and reworded[118].

233. The proposed rules relating to archaeological sites were one of the more contentious issues which arose through the submissions on Chapter 26, and accordingly our assessment addresses this matter in some detail.

234. The case for the Council was that it was appropriate – indeed necessary – for rules to be incorporated into the PDP to address the protection of specified heritage sites. We hasten to add at this point that the notified list of archaeological sites *subject to district plan rules* did not include *all* archaeological sites in the District. A list of 15 archaelogical sites was contained within section 26.10 as notified.

Ms Jones, for the Council, and witnesses from HNZ, advanced the case that rules were also needed under the PDP on the basis that:

a. there are specific effects that HNZ cannot consider under the HNZPTA 2014; and
b. there was no scope for public participation under the HNZPTA procedures.

235. By way of background, we note that an archaeological site is defined under Section 6 of the HNZPTA as follows:

> *"archaeological site means, subject to section 42 (3), –*
>
> *a. any place in New Zealand, including any building or structure (or part of a building or structure), that*
>
> *b. was associated with human activity that occurred before 1900 or is the site of the wreck of any vessel where the wreck occurred before 1900; and*
>
> *c. provides or may provide, through investigation by archaeological methods, evidence relating to the history of New Zealand; and*
>
> *d. includes a site for which a declaration is made under section 43 (1)".*

236. Section 42 of the HNZPTA provides that no person may modify or destroy, or cause to be modified or destroyed, the whole or any part of an archaeological site if that person knows or ought reasonably to have suspected that the site is as archaeological site. Section 49 of the Act provides that in determining an application to modify or destroy an archaeological site under section 44, HNZ must (relevantly) have regard to the matters set out in section

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117 Submissions 672, 688, 696

118 Submission 604

59(1)(a), which in turn the Environment Court must have regard when determining an appeal. This states:

"*In determining an appeal made under section 58, the Environment Court*

a. must, in respect of a decision made on an application made under section 44, have regard to any matter it considers appropriate, including –

b. the historical and cultural heritage value of the archaeological site and any other factors justifying the protection of the site.

c. the purpose and principles of this Act:

d. the extent to which protection of the archaeological site prevents or restricts the existing or reasonable future use of the site for any lawful purpose:

e. the interests of any person directly affected by the decision of Heritage New Zealand Pouhere Taonga:

f. a statutory acknowledgement that relates to the archaeological site or sites concerned:

g. the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, wahi topuna, wahi tapu, and other taonga, and

h. may confirm or reverse the decision appealed against or modify the decision in the manner that the Environment Court thinks fit".

237. In his evidence for HNZ, Dr Matthew Schmidt, supported by Ms O'Dea, stated that:

"*Considering the effects of an activity on a site, in making a determination on an application to HNZPT to modify or destroy a site, HNZPT is limited to considering the effects on the archaeological site under strict criteria (see section 59 of the HNZPTA 201). However under a district plan, the effects on a listed site may take a wider berth such as the visual intrusion of a structure on a site or the impaired view of a site by adjoining landowners due to a development, and the Council can make it a condition in a Resource Consent that a site must be avoided due to its high significance to local history, hence directly managing the <u>offsite impacts</u> on this resource"*[119]. (Our emphasis)

238. Ms Jones drew our attention to an Environment Court case which she contended supported the notion that the protection available under the HNZPTA was not adequate in some cases to ensure the protection of heritage sites[120]. This case involved the proposed establishment of an oil drilling well in the Waitara Valley in North Taranaki. In that case the Court stated:

"We consider that it is abundantly clear from these provisions that the sections of the Act under consideration are directed at the protection of archaeological sites themselves and not wider areas beyond them. It is correct that the matters identified in section 59(1)(a) of the Act which might be considered when determining an application under section 44 are very

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119 Dr M Schmidt, EiC, paragraph 17, and Mary O'Dea, EiC, paragraph 13.2

120 Greymouth Petroleum Ltd v Heritage New Zealand Pouhere Taonga [2016] NZEnv 11

wide in scope but they are clearly matters which must apply to the archaeological site in respect of which the application has been made.[121]"

239. The Court went on to say that HNZ regulates physical interference by modification or destruction of archaeological sites under the HNZPTA, while local authorities regulate land use including any other form of interference with archaeological sites[122].

240. We are satisfied that in law, a district council may seek to regulate land use in and around archaeological sites, subject of course to the necessary tests under section 32 of the RMA, including consideration of whether district plan rules may duplicate fully or in part, the role of HNZ under the HNZPTA. The concerns of the Court in this case (among other things) was not so much with 'what' was being controlled, but rather the *extent* to which control could be exercised over other activities beyond the archaeological site itself. Our concern with the proposed rules in Chapter 26 relating to archaeological sites are not whether they are lawful or not, but the manner in which they have been promulgated.

241. HNZ sought that five additional sites be added to the PDP, to bring the total to 20, which was accepted by Ms Jones as appropriate. Included among these was an old gold mining site, the Sew Hoys Big Beach claim which perhaps illustrates the issues associated with complex archaeological sites. Sites like this are characterised by linked features made up of a series of archaeological 'sites'. In circumstances such as this, the establishment of new and inappropriately sited structures which are beyond (but close to) a single archaeological 'site', may obstruct the view of the heritage item or detract from its heritage values. In principle, we accepted that this was a legitimate concern that needed to be addressed. Another point, emphasised by Dr Schmidt, was that under the HNZPTA, while archaeological values associated with the total demolition of heritage buildings could be considered, this was not necessarily the case with *partial demolition*[123].

242. Other than by way of a few examples such as this, we heard little evidence as to why the particular sites had been listed in the PDP as requiring the additional protection of a rule in the district plan.

243. The Rules under Table 5 proposed a four level hierarchy of control. At the point of *least* control, this provides that modification, damage or destruction of an archaeological site would be a *permitted activity* subject to:

"Any alterations to an archaeological site (scheduled or not) included within the provisions of an authority to modify, damage or destroy under the HNZPTA 2014, provided there are no other effects on heritage" (our emphasis). Where there were *minor other effects* on heritage, modification, damage or destruction would be a *restricted discretionary activity* subject to:

"The extent of the development on any heritage feature that is not covered under the archaeological authority"[124].

244. Where there were *more than minor other effects* on heritage, the modification, damage, or destruction would be fully discretionary, and where an application (to HNZ) breached the

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121 ibid, paragraph 38.

122 Ibid, paragraph 42

123 Dr M Schmidt, EiC, paragraph 20, and HNZTPA, section 42(3).

124 Chapter 26, (notified version) Rule 26.6.18

HNZPTA, it would be a *prohibited activity*. In the case of the latter, such a provision at least potentially overrides the HNZPTA, to the extent that even if HNZ gave consent to disturbing an archaeological site, this was still be prohibited under the PDP.

245. Ms Jones recommended significant changes, a number of them to provide consistency between the format applied to heritage features and those applying to archaeological sites. This included adding rules relating to the 'relocation' of archaeological sites which had the potential to even further complicate matters. Under the regime suggested in her report, destruction, partial or full demolition of an archaeological site would be a discretionary activity; relocation would be a discretionary activity, and modification or alteration a restricted discretionary activity. The prohibited activity category in breach of the HNZPTA would be deleted. Discretion would be restricted to *"the effect of the alteration or modification on the heritage values of the site".*

246. We note that, as notified, there were ***no*** policies in the PDP specifically addressing the issue of regulating modification, damage or destruction of an archaeological site.

247. We are aware that many of the archaeological sites described were on public land, and in all probability, were not likely to be threatened by inappropriate works in their vicinity. However the physical extent of an archaeological site might be indeterminate under the PDP rules, and otherwise potentially affect permitted development on a property (or even an adjoining property or properties), to a substantial extent. We note that such effects are required to be taken into account by HNZ in decisions that it makes under section 59(1)(a)(iii) of the HNZPTA, but there is no indication that district plan rules would be subject to the same discipline. We are concerned about potential implications of the proposed rules, and even the extent to which such controls would be *intra vires*, noting that affected parties might be unaware of its implications for otherwise permitted property rights.

248. In terms of submitters' concerns about the duplication of consent processes, Ms Jones defended the need for the rules by suggesting they be qualified by adding the word "unnecessary" before duplication. The wording of the Council's discretion under Rule 26.6.18 as notified and 26.6.24 in Ms Jones' Reply Statement did not appear to differ in content from what HNZ has to consider under section 59 of the HNZPTA, and would appear to still amount to duplication.

249. We are prepared to accept in principle, that in a small number of cases, an archaeological site (and more especially an aggregation of such sites) may justify additional regulation under the PDP. The relevant factors we consider should apply in the circumstances are:
    a. specifically identifying what activities in the environment surrounding an archaeological site may have an adverse effect upon it – e.g. the erection of structures, earthworks, planting etc, as opposed to effects on the heritage of the archaeological site itself which is properly the responsibility of HNZ.
    b. an assessment of the extent to which such adverse effects can be controlled by other rules, for example where the site is within an outstanding natural landscape (ONL) or a heritage overlay area;
    c. specific definition in plan form of the area wherein additional regulatory measures apply adjacent to archaeological sites – the plans accompanying an 'extent of place' as proposed for heritage features could be a good model.

250. In this way affected parties would have a clear indication of how and where their property rights could be affected.

251. A further factor emphasised by both Ms Jones and HNZ was the observation that there was no right for public participation through the procedures under the HNZPTA. However no indication was given to us as to why public participation is in fact either necessary or desirable, particularly given the applicants in those cases would be faced not only with two consent processes, but also the additional costs and delays flowing from public or limited notification which could well be very expensive and onerous. In this respect, we also note that potential for wider public involvement is not intended by the Council as part of the future identification of sites of significance to Tangata Whenua. Notwithstanding that such sites are subject to special recognition in terms of both Part 2 of the RMA, and the HNZPTA, notification is planned to be limited to recognised representatives of iwi where written consent has not been obtained, not for the general public[125].

252. Ms Gillies' submission expressed concern about the clarity of Table 5, and sought that it be re-drafted. We consider there is substance in the submitter's concerns as we have discussed above, but are of the view that the extent of re-drafting necessary is such that the necessary amendments go beyond the scope of what is appropriate without re-notification. The submitter also sought that a definition of 'archaeological site' be included in the PDP. We consider that it would be appropriate for users of the PDP to have such a definition incorporated into the document, in accordance with the definition provided in the HNZPTA. Accordingly we consider that this submission should be accepted in part.

253. As a final matter, we are of the view that for the convenience of plan users, the definition of heritage under the HNZPTA should be also included in Chapter 2. We recommend to the Stream 10 panel that both of those definitions be included in Chapter 2.

254. In conclusion, we are satisfied that, in limited circumstances, the incorporation of rules in the PDP to regulate activities in the environs of archaeological sites could be justified, but we are not persuaded that the proposed rules framework as notified is fit for purpose. We would not preclude the addition of carefully crafted and targeted provisions for this purpose in the PDP in the future as being appropriate.

255. However, in the meantime, we recommend the submissions in opposition to listing archaeological sites are accepted, and the provisions in Table 5 be deleted.

256. As will be apparent from the foregoing discussion, in terms of our obligations under Section 32AA we were not persuaded that the rules relating to archaeological sites (at least in their notified form) satisfied the tests under that section. They were at least potentially inefficient in that they would have imprecise and adverse regulatory effects on property rights. Further, we consider there would be associated costs resulting from their imprecise physical extent, and the lack of clarity around the actual effects that were sought to be regulated.

6.19 Table 6 – Heritage landscapes, Rule 26.6.21

257. The concept of 'Heritage landscapes' was introduced into the ODP pursuant to Plan Change 30, and has been carried over into the PDP. For the reasons noted earlier in Section 3, we recommend that this term be replaced with the new term 'Heritage Overlay Area', and we use this term in discussing the rules. There are four such areas identified: Skippers, Moke Lake and Sefferton, Macetown, and Glenorchy. The physical boundaries of each of these areas is defined in plan form under Section 26.12 of Chapter 26 as notified, and each is

[125] Rule 26.6.16 as notified

accompanied by a 'Statement of Significance' and a short list of the 'Key Features to be protected'. In this respect, the format is very similar to that of Heritage precincts. A significant difference in terms of the PDP is that unlike the ODP, it now contains *rules* as well as policies.

258. These areas are historically associated with mining endeavours, although that at Glenorchy is unique in that its primary association is with scheelite mining, which has continued intermittently until quite recent times. In terms of its location and history, its development has been quite distinct from the historic gold mining activities contained within the other three Heritage Overlay Areas.

259. Notified Rule 26.6.21 applied to Heritage Overlay Areas, and, as notified, classified the following activities within these areas as discretionary activities:

"Development in heritage landscapes

Earthworks over 200m³ (but excluding farm track access, fencing, firebreaks and public use tracks)

Buildings over 5 m² in footprint

Subdivision

Forestry

Removal or destruction of any heritage feature that contributes to the values of the heritage landscape and is referred to in the statement of significance".

260. The primary submitter we heard on the subject of heritage overlay areas was NZTM[126], specifically focused on the Glenorchy Heritage Overlay Area (GHOA), although their submission sought relief over Heritage Overlay Areas as a whole. Federated Farmers[127] and Ms Gillies[128] supported the provisions on heritage overlay areas. We have addressed the issue of the policy framework for Heritage Overlay Areas earlier.

261. Some brief background is important to our consideration of this issue. NZTM have a prospecting permit covering the great majority of the GHOA[129], an extensive area on the mountain slopes to the east of Glenorchy. Dr Cawte, an archaeologist, who has an expert knowledge of this area, explained that levels of scheelite extraction have ranged between 'small scale' and 'industrial scale' activities, in response to prevailing market prices for tungsten. He said that 17 sites where mining activity has been undertaken have been identified on "Archsite"[130], of which all but one date from post 1900. He said they could therefore not be regarded as archaeological sites but could be regarded as 'historic features' under the RMA[131]. His key point was that the protection of heritage mining sites needed to be more specific as to what was being protected, and in his view there was an element of 'feature bias' involved in the Council's approach which seemed to favour mine entrances over

126 Submission 519, supported by FS1015, opposed by FS1356

127 Submission 600, supported by FS1209, opposed by FS1034

128 Submission 604

129 G Gray, EiC, paragraph 4.7

130 Dr H Cawte, EiC, paragraph 4.8

131 ibid, paragraph 4.11

other forms of mining heritage, which included discarded tailings and machinery, water races, etc. His view was that underground mining features were not a high priority for protection.

262. The key features to be protected in the GHOA (Section 26.12.9 as notified) are as follows:

> *"26.12.9. All mines, mining huts, the cableway and track ways within the [GHOA] boundary (including the Black Peak mine)*
>
> *26.12.9.2 The mine sites along the Mount Judah Road*
>
> *26.12.9.3 All other known archaeological sites and historic places within the [GHOA]"*

263. Ms Baker–Galloway presented legal submissions on behalf of NZTM and set out for us the legal background to the development of the concept of 'heritage landscapes' through case law. She pointed out that mining is not an activity that can be considered in terms of alternative sites, because it is confined to the location of the mineral resource itself, and will often occur in areas where mining has occurred in the past. One issue that she raised (and which became particularly apparent when we were considering the overlap between Chapter 21 (Rural) and Chapter 26, was the potential confusion between section 6(b) landscape matters and Section 6(f) heritage matters and the risk of 'double counting'[132]. We are concerned at the potential for confusion between the physically overlapping areas identified as 'Heritage Landscape' and 'Outstanding Natural Landscape', which applied to all of the Heritage Landscapes identified in the PDP. As discussed in Section 3 above, this persuaded us of the necessity to alter the description of the Heritage Landscapes to read 'Heritage Overlay Areas', which equally well captures the concept of heritage mining sites dispersed over a wide area, as is typically the case with historic mining activities in this district.

264. At this point, we draw attention to submissions made by both NZTM and Strattera (and associated further submissions) with reference to the four Heritage Overlay Areas identified in the PDP, and specifically the 'Key features to be protected' clauses associated with these heritage overlay areas[133]. These submissions are dealt with later in these recommendations. Except to provide context, the following discussion is confined to the *rules* which apply within the GHOA and heritage overlay areas.

265. Dr Cawte's evidence emphasised the key thrust of the submitter's case when he stated that:

> *"Heritage is not a static quality that is already been produced but is an evolving and dynamic quality that responds to the community. In heritage management and protection a desirable situation is one in which the original, or long-term occupier maintains a connection to the site. This situation has implications when considering the ongoing viability and management of heritage sites, features and structures. Thus when it comes to modifying that site, impact is balanced with the benefits of maintaining that connection*"[134].

266. It was the case for NZTM that ongoing mining should be provided for as this would maintain or even enhance the heritage values of the GHOA. We were made aware that NZTM was also

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132 M Baker Galloway, Legal Submissions, paragraph 8.1

133 Submissions 598 and 519

134 Dr H Cawte, EiC, paragraph 6.6

a submitter on Chapter 21 (Rural), which came as no surprise given the degree of overlap between Chapter 21 and its rural rules, and Chapter 26 in terms of rules relating to heritage.

267. Obviously relevant to the NZTM submission was the nature of mining activities that could be anticipated in the GHOA in the future. Mr Gray said he expected mining to be underground using modern tools, and that mine entrances would typically range between 3x3m and 5x5m in size[135]. Associated with this would be a mining building typically up to 10m² in floor area which would be essential for safety and efficiency.

268. Mr Vivian, NZTM's consultant planner, was unwell and unfortunately unable to attend the hearing. His written evidence was that the GHOA was an unnecessary overlay to the rural rules, on the basis that there was already a comprehensive set of rural rules in Chapter 21. However, he conceded that the scope of their submission did not allow for them to be deleted[136].

269. Before discussing the rules that apply to the land identified as Heritage Overlay Areas under Chapter 21, it is necessary to consider how the provisions in the various chapters of the PDP inter-relate. As we discussed in the early part of this report, Chapter 26 is the primary means by which the Council recognises and provides for the following relevant matter of national importance:

f The protection of historic heritage from inappropriate subdivision, use, and development.[137]

270. On the other hand, the provisions contained in Chapter 21 have the broader focus of achieving the functions of the Council[138] within the area zoned Rural. This includes, importantly in respect of the areas identified as Heritage Overlay Areas, the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development[139]. In our view, the answer to Mr Vivian's criticism of the Heritage Overlay Area provisions is to ensure that any rules relate solely to the purpose of protecting historic heritage from inappropriate use and development (subdivision being dealt with under Chapter 27).

271. The Chapter 21 rules applicable to mining, as notified, included the following:

21.5.14	Structures
21.5.15	Buildings
21.5.17	Height
21.5.30 - 32	Mining Activities

272. Although 'earthworks' were defined in Chapter 2 as notified, no objectives, policies or rules relating to earthworks were notified in Stage 1 of the PDP. Since the hearing, Stage 2 and variations have been notified. This included Chapter 25 Earthworks. This provides that mining is exempt from the earthworks rules (Notified Rule 25.3.4.5), and that the maximum volume of earthworks allowed as a permitted activity in a "Heritage Landscape Overlay Area"

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135 G Gray, EiC, paragraph 8.1

136 C Vivian, EiC, paragraph 4.24.

137 Section 6(f)

138 As set out in section 31

139 Section 6(b)

is 10m^3 (Notified Rule 25.5.2). To exceed that amount is restricted discretionary activity (notified Rule 25.4.2) with the matters of discretion set out in Rule 25.7.

273. Turning our recommended Chapter 21 provisions[140], under Rule 21.4.30 these allow for mineral 'exploration' up to 20m³ per hectare as a controlled activity. Any other mining activity, or mineral prospecting that does meet the limited standards for a permitted activity[141], is a full discretionary activity[142].

274. Under Rule 21.4.12, buildings outside of a residential building platform are a discretionary activity. A structure less than 5m^2 in area and less than 2m in height is excluded from the definition of building[143]. Under Rule 21.7.2, buildings over 5m² are subject to standards relating to reflectivity.

275. The submitter has sought that earthworks be provided for up to 2000m³ (but not qualified by area or timeframe); that a building of up to 10m² in floor area be permitted; and that the Statement of Significance be confined to addressing the removal or destruction of heritage features referred to in the Statement of Significance.

276. We have already accepted earlier in our recommendations on the objectives and policies that the potential for ongoing mining activities should be provided for. The rules are a more difficult problem to address. Ms Jones has recommended mining activities be excluded from the control of earthworks in the standards for Heritage Overlay Areas. No party has specifically sought this through their submissions, but it is – in part – a 'default' position because mining appears to have been captured by the classification of the activity of earthworks in notified Rule 26.6.21, but exempted from the earthworks rules in Chapter 25. However, the effect of Rule 26.6.21 is to require resource consent for mining beyond a threshold of *200m³*.

277. We concur with the submitter and Ms Jones that the activity status for removal or destruction of any heritage feature should be specifically confined to those referred to in the Statement of Significance, or Key Features to be protected, with a cross-reference advising plan users that an authority may be required to destroy or modify any sites identified as archaeological sites under the HNZPTA. In saying this, we are aware that within the GHOA the great majority of (known) sites *postdate* 1900, and are not, therefore, archaeological sites as defined.

278. We accept Mr Vivian's contention that, particularly in an exposed alpine environment like this, some form of building however minimalist, would be essential for practical and safety reasons. However, allowing for an increase in size under the Heritage Overlay Area provisions would not alter the requirement for a consent under the Chapter 21 rules.

279. We acknowledge that mining of the scheelite resource is part of the cultural and historic character of Glenorchy, and could potentially at least make a modest contribution to local tourism, under the possible scenario described by Mr Gray[144]. The further scope for developing this, however, is beyond the scope of the current hearings.

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140 See Recommendation Report 4A

141 Rule 21.4.29

142 Rule 21.4.31

143 Chapter 2

144 G Gray, EiC, paragraph 8.7

280. Ms Jones suggested amendments to provide for ongoing mining in the GHOA both at a policy level and in the Statement of Significance. She also sought that the rules (relevant to mining) be amended to require consent as a full discretionary activity for:
   a. earthworks over 200m^3 excluding mining activities;
   b. (all) buildings;
   c. specifying that the removal or destruction of any heritage feature be linked to the 'Statement of Significance' or the 'Key Features to be protected' rather than those which "contribute to the values of the heritage landscape"; and –
   d. a cross-reference to the definition of an archaeological site, and to the need to obtain consent from HNZ to disturb an archaeological site; and potentially the need for a resource consent for those sites listed under Table 5 (archaeological sites), discussed in the preceding section. Discussion relating to the statements of significance and key features to be protected is included in Part 2 of these recommendations.

281. As discussed earlier in our recommendations, we accept that further mining of the type (underground) and scale previously carried out in the GHOA would be appropriate in that Heritage Overlay Area. We would qualify this by our agreement with Ms Jones that the right balance is achieved through 'enabling' rather than 'encouraging'[145]. The evidence we heard is that future mining would be similar to that in the past – that is underground, given the physical nature of the subsurface reefs containing scheelite. If we confine our consideration of the effects of mining within a Heritage Overlay Area to those matters which the HOA is concerned – namely effects on historic heritage, then we need to focus on the effects on the surface heritage features remaining from previous mining endeavours. Other potential adverse effects of new mining activity, such as the storage of large items of equipment, poorly sited or coloured/reflective structures, road construction, exposed surface earthworks or tailings dumps, are dealt with under Chapter 21.

282. Having regard to the scope available to us, the need for reasonable consistency with the recommendations of the Hearing Panel (differently constituted) on Chapter 21, we conclude that, in terms of the heritage aspects covered by the Heritage Overlay Area provisions, the following rules should apply:
   a. for the purposes of mining (including the deposition of excavated mine waste) the volume able to be extracted as of right be limited to 500m³ per mining site/per annum provided the earthworks do not involve the removal or destruction of any heritage feature referred to in the Statement of Significance or key Features to be Protected.. This is greater than the very modest level of 200m³ proposed by the reporting officer, but less than the 2,000m³ sought by the submitter. Without much more detailed information – and even then – it is difficult to arrive at a fully objective threshold level of determining what an appropriate scale of mining should be. We have selected 500m³ as being a reasonable threshold volume on an annual basis for an individual mine site, bearing in mind the heritage values of the receiving environment and noting that other provisions in the PDP would require a consent in any event. Beyond this volume threshold a resource consent as a discretionary activity is required;
   b. that a building ancillary to mining activity on a mining site within a Heritage Overlay Area be allowed up to a maximum floor area of 10m², as sought by the submitter. Rule 21.7.2 would require any building exceeding 5m^2 to meet certain standards as to colour and reflectivity;

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145 Section 42A Report, paragraph 16.14

c. that "development in heritage landscapes" and "subdivision" be deleted from Rule 26.6.21[146]; and
d. that the words "contributes to the values of the heritage landscape and" be deleted from the last activity listed in Rule 26.6.21 and the addition of the words "or Key Features to be Protected"[147].

283. We are satisfied that these amendments, although not particularly elegant, fall within the scope of submissions on what is contained in the PDP as notified. If scope was available, we would recommend that the activities listed in recommended Rule 26.5.15 require consent as a restricted discretionary activity, with discretion limited to the effects on the heritage values of the relevant HOA as expressed in the Statement of Significance and Key Features to be Protected, the location of buildings, and the location of any depositing of earthworks or mining tailings.

284. As part of our assessment, we were not convinced that the rules framework within Heritage Overlay Areas as notified in Chapter 26 sat comfortably with Section 32AA(2) - particularly in terms of the unclear relationship between the rules in Chapters 21 and 26, both of which impinge on potential mining activities. This is a consequence of the degree of duplication and overlap between these provisions, and calls into question the effectiveness and efficiency of the rules. Within the scope available to us, we have attempted to provide a greater degree of precision to the application of rules relating to volume of excavation undertaken, and the scale of buildings associated with mining activity, which we consider would better achieve the objectives and policies, particularly with respect to recommended new Policy 26.3.4.5.

285. As a result, we recommend that the rule applying to Heritage Overlay Areas be as follows:

146 As recommended by Ms Jones in her Reply Statement

147 As recommended by Ms Jones in her Reply Statement

26.5.15	Notwithstanding Chapter 21, pertaining to the Rural Zone, the following additional rules apply within Heritage Overlay Areas as defined in Section 26.10: 1. Mining on a mining site where the volume of material excavated or subsequently stockpiled exceeds 500m³ per mining site per annum (but excluding farm track access, fencing, firebreaks and public use tracks). 2. A building ancillary to mining on a mining site, which has a building footprint greater than 10m² in area; For the purposes of Rule 26.4.15.2, a 'building' means any building or structure that is new, relocated, altered, reclad or repainted, including containers intended to, or do, remain on site for more than six months, or an alteration to any lawfully established building. 3. Removal or destruction of any heritage feature referred to in the Statement of Significance or Key Features to be protected. 4. Forestry *Notes:* *i. Where archaeological sites are referred to in the Statements of Significance or Key Features to be protected, reference should be made to the definition of archaeological sites in Chapter 2 – Definitions.* *ii. If intending to destroy or modify, or cause to be destroyed or modified, an archaeological site, an Authority will be required from Heritage New Zealand pursuant to the HNZPTA 2014.* iii. *Reference should also be made to the rules in Chapter 21, which also apply within Heritage Overlay Areas.*	D

6.20 Sections 26.7 and 26.8

286. J Gillies supported Section 26.7 relating to notification. As this was the only submission relating to notification, we recommend that it be accepted, although we recommend the provision be renumbered 26.5.16.

287. J Gillies also supported Section 26.8 relating to Heritage Precincts. We recommend that this submission point be accepted in part in recognition of the retention of these precincts subject to some amendments and renumbering as 26.7.

PART C: SUBMISSIONS ON LISTINGS OF HERITAGE FEATURES PRECINCTS AND HERITAGE OVERLAY AREAS

7. INTRODUCTION

288. Heritage features were listed in Section 26.9 [as notified] of the PDP. It becomes renumbered as Section 26.8 as a consequence of our recommendations. Each listing is contained in columns in order of:
   a. a Reference Number (Ref. No) which identifies the feature in Councils records;
   b. reference to the map on which the heritage feature is identified;
   c. a description of the feature;
   d. a legal description and valuation reference;
   e. the HNZ category listing (where applicable);
   f. the proposed category listing under the PDP (Category 1, 2, or 3).

289. There were only a relatively small number of submissions opposing the listing of heritage features in the PDP, even where submissions had sought an 'upgrade' to the category in which the heritage feature was listed. Promoting a heritage feature into a higher category (e.g., from Category 3 to Category 2) has the effect of increasing the level of regulatory control. Requests for entirely new listings will have the effect of imposing controls over demolition, partial demolition, relocation or alterations which apply in addition to other rules relating to any subsequent site development.

290. Only a relatively modest amount of information was provided to us in support of new or changed listings, which in the case of the submitters was mainly from HNZ and Ms Gillies. The primary source of information available to us was the statement of evidence of Mr Richard Knott on behalf of the Council, accompanying Ms Jones' Section 42A Report. In the course of his report, Mr Knott made reference to heritage assessments carried out by, or on behalf of, a number of parties, all of which are acknowledged with footnotes in his evidence, as well is HNZ Registration Reports supporting the categorisation of various features under the HNZ's own system of categorisation. The categorisation of buildings by HNZ does not in itself confer any protection; this can only be achieved through a district plan.

291. In addressing the submissions, we note that, in a number of cases, requests for the listing of individual features, or amendments to their classification, were summarised together under one submission point, examples being submissions by IPENZ (201); HNZ (426) and Ms Gillies (604). Some of the submissions have been summarised as including multiple listings under the same submission point, or where some further submissions relate to an individual heritage feature where there are multiple features under the same submission point. This has complicated matters in terms of whether one particular submission point is granted in full or in part. We will refer to the overall submission numbers to avoid confusion.

7.1 Out of Scope Submissions

292. We note at this stage that several submissions were lodged in relation to heritage features or proposed heritage features that were within the area of central Queenstown subject to Plan Change 50, which was withdrawn from the PDP by the Council on 23 October 2015. The relevant submissions were: part of 604[148] related to the Queenstown Campground Cabins

148 J Gillies

and HNZ further submission in support[149]; 604[150] concerning Glenarm Cottage; 672.[151] concerning Glenarm Cottage; 516[152] and 517[153] seeking withdrawal of Chapter 26 provisions relating to the PC50 area.

293. As that area no longer forms part of the PDP the submissions are no longer *on* the Plan, and are therefore out of scope. We consider them no further.

7.2 Consent Status

294. Critical to many of the submissions is the consent status of works affecting heritage features, which we have considered in Part 1 of these recommendations on Chapter 26. To provide context for our recommendations with respect to listings, set out in the Table below is the status of works applicable to Categories 1, 2, or 3 in accordance with our recommendations contained in Part B.

PR = Prohibited activity
NC = Non-Complying activity
D = Discretionary activity
RD = Restricted Discretionary activity
P = Permitted activity

	Cat 1	Cat 2	Cat 3
Total demolition or relocation to another site	PR	NC	NC
Partial demolition or relocation within a site	NC	NC	RD
External alterations and additions	D	RD	RD
Internal alterations	D	RD	P
Development within a setting or extent of place	D	RD	RD

7.3 Request for Reinstating ODP listing – Kingston Flyer

295. Karl Barkley, Kingston Community Association, Geraint Bermingham and Janet McDonald[154] have sought that the Kingston Flyer be reinstated on the list of protected heritage features. Mr Barkley and Ms McDonald each gave evidence opposing the removal of the train itself from the heritage listing.

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149 Further Submission 1098
150 J Gillies
151 Watertight Investments
152 McFarlane Investments
153 J Thompson
154 Submissions 63, 31, 822 and 118 respectively

296. Under the PDP, Item 411, the Kingston Flyer *Railway* (between Kingston and the Southland District boundary) including the turntable, water tank, water weir and crane are still listed.

297. Ms Jones' report expressed the view that under the RMA, the protection of historic heritage does not include *mobile* heritage items – whether these be cars, ships, or trains for example[155]. The definition of historic heritage under Section 2 of the RMA includes "*natural and physical resources*" including *"historic sites, structures, places, and areas*". Natural and physical resources are defined to include "*land, water, air, soil, minerals, and energy, all forms of plants and animals and all structures"*. "*Structure"* is defined as meaning any *"building, equipment, device, or other facility made by people and which is fixed to land, and includes any raft".*

298. There can be no doubt that historic transportation equipment has heritage values – be it the Kingston Flyer locomotives and carriages, the locomotives and carriages on other preserved railways, historic vessels like the *TSS Earnslaw* and the steam tug *Lyttelton*, vintage aircraft, trams on the Christchurch Tramway, and collections of vintage vehicles. However, we were not persuaded that there was a *legal* basis for listing such items, including the Kingston Flyer, and we note that it became apparent that the same conundrum applied to the listing of the historic *TSS Earnslaw*, as discussed later in these recommendations. We note that the Council accepted that the listing of mobile items was *ultra vires*[156]. This may be a deficiency in the applicable legislation, particularly given that if the train is removed, the heritage value of the listed track and its future survival, becomes problematic. However, that is beyond the scope of what we can consider.

299. Apart from that, it is understood that there was some pressure for delisting the item to enable its possible relocation elsewhere, although we do not consider that to be relevant to our consideration of the submissions. Mr Barkley presented evidence on options for resuscitating the train service, and the need for financial support from the Council, but these are matters that are completely beyond the jurisdiction of these hearings. Although it may appear ironic, should the train itself be relocated elsewhere, any works affecting the fixed railway infrastructure between Kingston and the district boundary – including demolition – would still require a resource consent.

300. The railway itself clearly has heritage significance, having been present in Kingston since 1878. In its more recent iteration, the Kingston Flyer operated between Lumsden and Kingston between 1971 and 1979, and subsequently between Fairlight and Kingston since 1982, albeit punctuated by periods of inactivity associated with the financial difficulties of its successive owners. The operation has been up for sale for several years and its current condition can be best described as derelict and a form of demolition by neglect. In this context, the resentment and strong views held by the submitters, which include adverse effects on the village of Kingston itself, can be seen as understandable.

301. However we remain satisfied that there is no legal basis for listing mobile heritage items, notwithstanding the fact that it has heritage significance. There are also potentially significant practical issues with listing this item, particularly if the locomotives and rolling stock require heavy maintenance, such as the removal of a locomotive boiler off-site for

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155 V Jones, Section 42A Report, paragraph 21.10

156 S Scott, Legal Submissions for the Council, paragraph 3.1

overhaul. Such works could well necessitate a resource consent in order to be undertaken. We recommend that these submission points be rejected.

302. Before leaving this subject, we note there was one additional submission lodged by the Waimea Plains Railway Trust[157]. Although a little unclear, it appeared that the submission was supporting the retention of the railway infrastructure at Kingston, although the submission was not making reference specifically to Chapter 26 as notified. The content of the submission was not addressed in the body of Ms Jones' report. However, Appendix 2 to that report recommended that it be accepted in part. We adopt that position and recommend this submission be accepted in part.

7.4 Listing of the TSS Earnslaw (Item 37)

303. Ms Gillies[158] and IPENZ[159] addressed the issue of the listing of this historic steamship and its berth on the northern side of Queenstown Bay. Ms Gillies submitted that the listing of item 37 was clearly intended to apply to the *ship*, not the berth – a position supported by Mr Knott. However, the submission by IPENZ specifically made reference to listing the ships *berth*. Real Journeys were opposed to any increased protection for items associated with this operation generally. Specifically, they challenged the *vires* of listing mobile items such as the *TSS Earnslaw,* although they went to considerable pains to emphasise that the protection of the character of this vessel was a matter of paramount importance to the company.

304. We note that the item has Category 1 listing and is described in the Inventory as:

"*TSS Earnslaw, berthing located at Steamer Wharf, Beach Street".*
The site is given as being "*adjacent to Section 76 Block XX Shotover SD*".

305. We are aware that the modern 'Steamer Wharf' development replaced the original modest 'railway station' building previously adjacent to the wharf. The use of the word "berthing" would suggest that the wharf itself is intended to be listed, although we heard no evidence to clarify this point. Both Mr Knott and Ms Gillies were clear that the listing only related to the ship itself.

306. In similar vein to the discussion above on the *Kingston Flyer*, a parallel issue arises in terms of the listing of the *TSS Earnslaw*, which is also a 'mobile item' whose 'setting' could be taken to include the entire lake, or certainly a large part of it, which the ship traverses from time to time. This issue was discussed in terms of the listing of the Kingston Flyer above we made reference to legal advice received on this matter.

307. For these reasons, we are satisfied that the listing of the Earnslaw as a protected heritage feature is *ultra vires*, a position accepted by the Council itself. Although no submission has specifically sought that it be removed from the inventory, given that its listing is not legally valid, we recommend that it be removed without further formality. We consider it is necessary to reiterate at this point that we have absolutely no doubt that the *Earnslaw* and the *Kingston Flyer* have very high heritage significance, and probably higher than most of the items otherwise listed for protection in the PDP. Our recommendations with respect to these features are simply made on the basis of the application of the law.

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157 Submission 101

158 Submission 604

159 Submission 201, opposed FS1341

7.5 Request for Area of Special Character (Hobart and Park Streets)

308. DJ and EJ Cassels, the Bulling family, the Bennett Family, M Lynch[160] and the Friends of the Wakatipu Gardens and Reserves Inc[161] sought that an 'area of special character' be extended over the area south of the Wakatipu Gardens bounded by Hobart and Park Streets/Frankton Road as having townscape and landmark value, being part of an older residential area of Queenstown. Further submissions in opposition contended that the area was suitable for medium or high density residential development, an outcome which could be frustrated by the relief sought through the submissions.

309. Ms Baker–Galloway presented legal submissions on behalf of the submitters, and described the area as having "*low storey heights, smaller masses and naturally offset footprints and boundaries*", and a built character which "*reflects a lengthy development heritage that has almost vanished in Queenstown*"[162]. She emphasised that the submitters were primarily concerned with the scale and built character of this environment, rather than the protection of heritage per se. She added that in terms of resourcing, the submitters were faced with the difficulty of having to attend two or more hearing streams to present a coherent case.

310. Ms Baker-Galloway explained that the concept of a special character area, perhaps in the form of an overlay of additional controls, was distinguishable from the heritage precincts provided for elsewhere in the PDP.

311. During the course of our site visit, we inspected the subject area and noted that there is a quite eclectic mixture of old and modern dwellings, ranging from low to medium density and scale. From the perspective of *heritage character*, we concluded that there is insufficient heritage 'intactness' to justify its recognition as a heritage precinct, or as some other form of special character area based on historic heritage. It would appear the concerns of the submitters would be more appropriately addressed with respect to standards relating to density and height, which are contained in Chapter 8 (Medium Density Residential) of the PDP. These submissions, to the extent they relate to Chapter 26, are recommended to be rejected.

7.6 Queenstown Court House Historic Heritage Precinct

312. Ngai Tahu Property Ltd and Ngai Tahu Justice Holdings Ltd[163] opposed the incorporation of the modern Pig'n'Whistle building within part of the Precinct. The Precinct incorporates a small number of buildings and a public open space including the former Courthouse near the corner of Stanley and Ballarat Streets.

313. It was common ground between Ms Jones and the submitters that the Pig'n'Whistle building was a modern building, albeit with a design element of heritage appearance, and that it should be excluded from the Precinct. This conclusion was also supported by Mr Knott for the Council. There was however a residual issue concerning where the redrawn boundary of the Precinct should be placed, with Mr Williams, representing Ngai Tahu, expressing the necessity for it to not include the north-eastern facade of the Pig'n'Whistle building[164]. We

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160 Submission 503, supported by FS1063, opposed by FS1315

161 Submission 506, supported by FS1063, opposed by FS1260, FS1315

162 M Baker–Galloway, Legal Submissions, paragraph 2.1 (b).

163 Submission 596

164 T Williams, EiC, paragraph 8

concur with his suggestion that the boundary be drawn 1m off this facade. We recommend that this submission be accepted and the maps be amended accordingly.

8. SUBMISSIONS SEEKING THE ADDITION OF FURTHER HERITAGE FEATURES INTO THE PDP

8.1 Mining and Archaeological Sites

314. HNZ[165] sought the listing of Wong Gongs Terrace Historic Area, the Reko's Point Chinese gold mining area and the Roaring Meg Bridge abutment to the list of *archaeological sites* under Section 26.10 of the PDP as notified. IPENZ[166] also requested that Wong Gongs Terrace Historic Area (HNZ number 7549) be listed, but as a protected heritage item.

315. IPENZ[167] and HNZ[168] have also sought that Sew Hoy's Big Beach Claim be added to the list of archaeological sites that the Council has sought be subject to plan rules under the PDP. Ms Jones, supported by Mr Knott, recommended that Sew Hoy's Big Beach Claim Historic Area be listed as an *archaeological feature*.

316. We note that these *archaeological sites* sought for listing by HNZ are separate to those proposed to be recorded under protected *heritage features* under Section 26.7.

317. The effect of submissions made, particularly by HNZ, was to seek the inclusion of a further five archaeological sites under the *plan rules* to make a total of 20, which included these sites. We note however that IPENZ was simply seeking that these items be listed as heritage features rather than archaeological sites. The reporting officer recommended that Wong Gongs Terrace be added to the list of *archaeological sites* (Item 10), along with Reko's Point (Item 715) and the Roaring Meg Bridge abutments (Item 716).

318. In Part B of these recommendations, concerning Section 26.6 [as notified] of the PDP, we discussed in some detail the Council's proposal to incorporate 15 archaeological sites into the Plan – accompanied by their own rules – which would apply in parallel to those for archaeological sites under the HNZPTA. In that assessment, we made it clear that we were not averse in principle to (selectively) having parallel rules in the district plan relating to heritage sites, especially where there were a number of linked archaeological sites over a wider area. However we have significant reservations about doing so where these areas were not defined in such a way as to provide certainty for the affected landowners.

319. We were not satisfied that the provisions in the PDP as notified clearly identified and clarified the scope of the assessment matters that would apply to the consideration of resource consent applications affecting archaeological sites, or the physical extent of the area over which such restrictions might apply. We were of the view that the necessary changes to make such provisions workable were beyond the scope of what could be given effect to through submissions.

320. We also understand that a number of these features fall within heritage overlay areas which have layer of rules which apply under Chapter 26 in addition to the rules in Chapter 21. We heard no evidence with respect to the sites themselves.

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165 Submission 426

166 Submission 201

167 Submission 201

168 Submission 426

321. We agree that, in principle, the nature of most of these heritage items are such that they are better listed for inclusion as archaeological 'sites' than as protected heritage features. However we remain of the view that until matters relating to the rules framework and the physical identification of such sites are clarified, the uncertainties associated with these provisions is such that the submission points should be rejected. We reiterate that if at some future point these deficiencies were rectified, it is considered that their inclusion within the PDP might be appropriate.

322. This does not signal that these features are unworthy of listing, but that they need to be better defined if incorporated under archaeological sites. We therefore recommend that these submission points be rejected.

323. IPENZ[169] and HNZ[170] have also sought that the Pleasant Terrace Workings be listed (this is discussed below under Item 67 Sainsbury's House, to which the site is related).

8.2 Millbrook Stables and Blacksmiths Shop

324. Ms Gillies[171] sought that these items be added as protected heritage features in the Inventory in Section 26.7.

325. The situation with heritage features on the large Millbrook Golf Resort development is relatively complex. There are two listed items which were notified with the PDP within Millbrook – these are (a) Item 71 Stone Cottage, (McAuley) Malaghans Road; and (b) Item 93 (Butels Flour Mill, original foundations and stone wall, off Butels Road, Millbrook area). The former is a relatively isolated building towards the western end of the Millbrook complex. However, towards the centre of the golf resort is a range of commercial buildings centred around a small 'village green'. These include a group of heritage structures including the former Butel Flour Mill (now a conference centre) having a Category 2 listing; the original stone stables (now used as a kitchen); a former granary (later used as an implement shed and now the 'Hole in One' Bar); and a smokehouse/blacksmiths workshop. Of this group, only the Butel Flour Mill building was included in the PDP (as notified) as a protected heritage feature.

326. The submission of Ms Gillies[172] said:

"Millbrook Stables and Blacksmith Shop – assessment completed – but is this included in the schedule?"

327. The wording of this submission is far from satisfactory in terms of its clarity, but on a generous interpretation of the 'relief sought', we have concluded that the additional listing of these two features is being sought. Millbrook Country Club Inc. did not further submit in opposition to Ms Gillies on this particular submission point, although as part of their wider submission on Chapter 26, their consultant planner (Mr Dan Wells) presented some maps to the Hearing which were at least helpful in showing the location of the subject buildings.

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169 Submission 201

170 Submission 426

171 Submission 604

172 ibid, page 7

328. Mr Knott stated he had visited the buildings and relying on a 2013 assessment prepared by Ms Gillies, concluded that the buildings had high historic/social value, townscape/contextual value, rarity and representative value, technological value and archaeological value. On this basis he considered they should be included under Category 2[173].

329. Another dimension relevant to this particular submission is the wider submission by Millbrook Country Club as part of a group of four submitters who are seeking similar relief with respect to the objectives policies and rules. One of these submissions relates to development within 'settings' and the submitter had sought that 'setting' be defined as only applying to development within a 30m radius of a listed heritage feature[174]. The Millbrook Country Club made the suggestion on the basis that they were concerned that 'setting' was poorly defined. Specifically, a property owner would not know what part of his land would be affected by development in the vicinity of a heritage building.

330. Matters relating to settings were discussed earlier in Part B of our report. Ms Jones had recommended, and we accepted, that on larger or complex sites it was appropriate to physically define in plan form the 'extent of place' as an alternative to simply referring to the 'setting'. In this case, in response to Ms Gillies submission, the Council supported the inclusion of the Millbrook Stables and the Blacksmith's Shop as Category 2 heritage features in addition to the already listed former Butels Flour Mill, and a plan defining the 'extent of place' for all of these features. Those heritage features where the settings are defined by way of a plan showing the 'extent of place' are contained in Section 26.8.1 as amended by our recommendations.

331. Having visited the site, we have arrived at two primary conclusions. We accept that on the merits, the former Millbrook Stables and Blacksmiths Shop/smokehouse are worthy of listing, but note that they had been subject to significant modifications and that it would be appropriate at this stage to apply a classification of Category 3 rather than Category 2. These items are recommended to be added as a new Item 82 to the Inventory in Section 26.8 reading as follows:

"Millbrook Stables (remaining historic stone structure), and the Blacksmiths building/smoker".

332. We have excluded the former granary / implement shed because its listing was not sought through the submission by Ms Gillies, and hence there is no jurisdiction to include it in the Inventory.

333. In terms of the identification of the 'extent of place' for the three listed heritage buildings, we have concluded that given their close proximity and relationship to each other, that the Council's proposed 'overlapping' extent of places defined under Sections 26.8.1.14 (Millbrook Stables and Blacksmiths Shop/Smokehouse) and 26.8.1.15 (Butels Flour Mill) is appropriate in this case. We also concurred that the inclusion of the green space between these buildings, and the inclusion of the unlisted former granary/implement shed within *the extent of space* is appropriate, given that all of these structures provide a sense of enclosure for the green space.

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173 R Knott, EiC, paragraphs 6.9 – 6.11.

174 Submission 6969

334. The extent of place for Item 71 (McAuley Stone Cottage, Malaghans Road) has also been defined by the Council to limit the extent of its setting within the western part of the large Millbrook property, and we consider that to be appropriate.

335. Given that our recommendation is that these buildings be incorporated as Category 3 items, we recommend this particular request is accepted. The heritage feature is recommended to be listed under new Item 82 in the Inventory of protected heritage features.

8.3 Gratuity Cottage, 9 Gorge Road, Queenstown

336. Ms Gillies[175] sought that the cottage be listed as a Category 3 protected Heritage Feature, while HNZ[176] have sought that it be listed as a Category 2 feature in the PDP. They note that it is already listed as a Category 2 item under the HNZ register.

337. HNZ concluded that the cottage has high historic and social value, rarity and representative value, and archaeological value. Ms Gillies considers it to be one of the few early timber cottages remaining in Queenstown, utilising early timber framing, with mostly intact original fabric, and demonstrating the early social history of Queenstown with respect to its very modest size, comprising only two rooms plus a kitchen.

338. Mr Knott stated that he understood the building was not added to the PDP schedule as the owner was not agreeable to the building being included. We are aware that HNZ did write to the owner (letter to Kwang Soon Kim dated 9 November 2015) advising that they were seeking the listing of the building and setting out the implications of doing so. It would appear that the owners were aware of the listing, but did not lodge any submissions or further submissions. Earlier in Part A of our report, we expressed the view that it was essential that owners were aware of proposed listings, but that if a heritage feature demonstrated the necessary heritage qualities, that this should not preclude listing, even without the owner's consent.

339. We consider that given the rarity of this cottage, reflected in its listing under the HNZ register, that on balance there is a compelling case for the listing of Gratuity Cottage. Its listing was also supported by Mr Knott and confirmed in the amended Inventory in Ms Jones' Section 42A Report. Accordingly, the submissions are recommended to be accepted. Given Ms Gillies observation that further research with respect to this feature is necessary, we recommend that it be classified under Category 3 rather than Category 2 as sought by HNZ, and as Item 87 in the Inventory of protected heritage features.

8.4 13 and 15 Stanley Street, Queenstown

340. Ms Gillies[177] sought that 13 and 15 Stanley Street Queenstown, be listed as a Category 3 protected heritage feature. Three Beaches Limited[178] opposed the listing. There was no report from Mr Knott on this particular building.

341. Ms Gillies submission stated that:

> *"13, 15 Stanley Street Queenstown. Rarity – one of the very few early timber villas remaining in Queenstown, People – home and surgery of Dr Anderson for more than 40 years".*

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175 Submission 604

176 Submission 426

177 Submission 604

178 FS1244.3

342. In terms of the listings she generally, she noted that:

"Gratuity Cottage and 15 Stanley Street represent the increasing rarity of 19th century cottages and houses from the original town of Queenstown. Since 1988, there have been approximately 16 houses and cottages were lost or demolished from this limited area, and there are now only approximately eight remaining"[179].

343. The further submitter did not appear at the hearing. However their further submission, prepared by a planning consultant, stated that:

"*Based on the state of the cottage, the submitter considers that the structure is beyond reasonable economic repair. Initial investigations to date have indicated that the cottage has significant structural and weatherproofing issues, the foundations are unstable, and large components of the woodwork have rotted. Further, the cottage has been altered and added to over the years. In the submitters view, an almost complete (and expensive) rebuild would be required in order to preserve the cottage*"[180].

344. The further submission also noted that the street address is 11 Stanley Street. We note that the further submitter's company owns all of the western half of the street block bounded by Sydney, Stanley, and Melbourne Streets, including this property. It is readily apparent from our visit to the property that the eventual redevelopment of this large portion of land is highly likely. Consequently the 'threat' to it described by Ms Gillies is very real.

345. Overall however, we do not think that on balance the case for the protection of this building is as strong as that for Gratuity Cottage. The building has not been listed by HNZ, nor has that organisation supported its listing through a further submission, although they have done so for other requested listings by Ms Gillies. In response to submissions, Ms Jones' report did not propose that this item be listed. There is little information available about the building itself, apart from the statements made by *Three Beaches* as to its condition.

346. Given this, we recommend that this particular request be rejected.

8.5 32 Park Street, Queenstown

347. Ms Gillies[181] sought that 32 Park Street Queenstown, be listed as a Category 3 protected Heritage Feature. There were no further submissions either in support or opposition, and there was no report from Mr Knott on this request. The Council did not recommend that this feature be listed. HNZ were not a party, and we have no knowledge of whether the property owner is aware of the request for listing.

348. The submission point states:

"Architectural – elegant example of Edwardian style and generously proportioned house".

349. We observed the dwelling from the street. There was little information available to us at the hearing to provide confidence that this dwelling should be added to the list of protected heritage features. While this is another example where further investigation may justify

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179 Refer Submission 604, p 7

180 Refer FS1244.3, part 4.

181 Submission 604

listing at a later stage, we are reluctant to add features on the basis of establishing a 'holding pattern', particularly when the owner may not be aware of the proposed listing or its implications. We recommend that this particular request be rejected.

8.6 Queenstown Garden Gates

350. Ms Gillies[182] sought that the Queenstown Garden Gates be listed as a Category 2 protected Heritage Feature. There were no further submissions, and again no report from Mr Knott. The submission stated:

"Identity, Public Esteem, Commemorative – Architectural – Example of early 20th-century concrete design including main uprights, small gate post & sign".

351. In this case, the listing was sought over a feature which we understand falls within the ownership and administration of the Council. There was no information passed to us as to the Council's reaction to this feature being listed, but our understanding is that they were aware of the matter. It is also noted that the Queenstown Gardens are already included in the Inventory of protected heritage features as Item 13 in the PDP, so the gates may arguably be protected already.

352. In a number of respects, the case for this proposed listing also exhibits the limitations associated with the previous requested listings, such as 13/15 Stanley Street and 32 Park Street. However we are persuaded in this case that given the simplicity of the feature (i.e. we do not have to speculate as to the degree of intactness or interior features) that its listing can on balance be justified. On this basis, we recommend that this particular request be accepted and that the Garden Gates be explicitly added to the description of the protected elements of the Queenstown Gardens already listed under Item 13. The listing would then read:

"Queenstown Gardens and Plantation Reserve Block, <u>including the Queenstown Garden Gates,</u> 52 Park Street".

8.7 Butchery, Tuohys Gully (Item 500)

353. Ms Gillies[183] sought that this item be added as a listed heritage feature. However this request may have been made in error, as this feature is already listed as Item 500 under the Inventory of protected heritage features in the PDP. We recommend that this particular request be accepted on the basis that the relief sought has been given effect to.

8.8 Recreational Skiing Infrastructure/Arrowtown Irrigation Scheme

354. IPENZ[184] sought the protection of infrastructure associated with the history of recreational skiing in the district and infrastructure associated with the Arrowtown Irrigation Scheme. We acknowledge that IPENZ do a great deal of work in promoting the recognition of historic heritage, particularly in the form of built infrastructure and transport. However, in this case we have no information relating to the specific type of infrastructure or its location, or whether any consultation has been undertaken with the potentially affected ski-field operators. The process whereby organisations or members of the public can seek for future listings of heritage features are set out in (renumbered) section 26.2.1 of Chapter 26.

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182 Submission 604

183 Submission 604

184 Submission 201

355. Similarly, we are not aware of any assessment which has been undertaken by the Council or any other party with respect to the Arrowtown Irrigation Scheme. Given the lack of information available at this stage, we recommend that this submission be rejected.

9. SUBMISSIONS SEEKING RECLASSIFICATION OF EXISTING HERITAGE FEATURES

9.1 Antrim Engines Slipway and Cradle, Kelvin Peninsula (Item 3)

356. Real Journeys Limited[185] sought that the slipway and cradle be reclassified as Category 3 instead of Category 2. IPENZ[186] sought clarification that the slipway, the winch house and the *Antrim* engine and boiler be included within the listing.

357. The slipway is located near the end of the Kelvin Heights Peninsula facing onto the Frankton Arm of Lake Wakatipu. At the head of the inclined slipway is a shed containing the boiler of the former historic lake steamship *Antrim* which is used for the purpose of providing power for the slipping of the *TSS Earnslaw* for its bi-annual survey and maintenance. Rails are laid in the slipway to facilitate this process. At the time of the Hearing Panel's site visit, the upgrading of the slipway (in the form of replacing most of the original timber cradle with a concrete cradle) appeared to be completed, although other site works were still underway. We note that the upper part of the cradle had been retained in timber.

358. Ms Fiona Black explained that that for reasons of safety and reliability, it was important to provide for regular maintenance of the Earnslaw. She stated that:

"Real Journeys cannot support such works triggering a resource consent process because resource consent processes create unnecessary and undue delays, which would give rise to additional cost to the company. Each day the TSS Earnslaw is out of service, the higher the cost to Real Journeys and to the Queenstown economy; and the higher the risk to our reputation by not being able to provide visitors with the experience they are seeking"[187].

359. She added that the alternative of using *Fiordland* class vessels was not as appealing to the company's clients. It was this background which she argued was critical to our consideration of the slipway and the use of the *Antrim's* boiler to provide the necessary power for slipping the vessel. She maintained that it was inappropriate to consider either the *Earnslaw* or the slipway itself in the same way as 'static buildings' and that the planning regime under the PDP was aligned towards the latter. She stressed that the Company was well aware of the heritage significance of the vessel, and were contemplating preparing a Conservation Plan. In her view, specialised engineering expertise for example, would be more relevant to this operation than the input of a heritage architect.

360. Mr B. Farrell, in his planning evidence for Real Journeys, sought that the slipway and cradle be reclassified as Category 3 or a hybrid "3A", and the *Antrim* engine retain its Category 2 listing.

361. Mr Knott noted that a resource consent had been required for the work required for the slipway and this was eventually granted. The section of the upper slipway which has remained with its original timber construction was to be retained as a condition of consent, and this upper section of the slipway is not in fact required for slipping the vessel.

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185 Submission 621

186 Submission 201

187 F Black, EiC, paragraph 3.7

362. We can readily appreciate the potential operational difficulties facing Real Journeys, although the recent (consented) works undertaken on the slipway may well mean that the potential problems outlined by Ms Black are now resolved for the foreseeable future. We consider there is some weight in the submitters contention that the unique operational issues associated with the *TSS Earnslaw* and its maintenance have not been adequately acknowledged as part of the Council's overall heritage assessment. We understand that the situation may eventually arise when the *Antrim* boiler may require replacement if its condition so dictates. However in this case, the submitter has not sought that the Category 2 listing of this heritage feature be changed.

363. Turning to the issue of the slipway itself, it is now apparent that given that the majority of the structure has been replaced (with the exception of the rails), in heritage terms it has inevitably suffered some loss in its values. For this reason, we do not accept Mr Knott's advice in this instance, and recommend that the submission point of Real Journeys be accepted and a Category 3 classification applied.

364. We (and Mr Knott) also agree with the content of the IPENZ submission that the description of the heritage features associated with the slipway need to be better defined. We recommend that this particular request be accepted in part having regard to the amendment made above.

9.2 Transit of Venus Site, 8 Melbourne Street, Queenstown (Item 18)

365. Ms Gillies[188] sought that this site be reclassified from Category 2 to Category 3 on the basis that it is similar in character and heritage values to the Lake Level Plaque (Item 20) and Rees Tablet (Item 21), which are both in Category 3. We observed that the site of this small commemorative feature is within a small pocket of open space adjacent to a large building. Mr Knott considered that it had no distinguishing features which would justify a higher categorisation than the other two items cited by Ms Gillies, or that it was (in relative terms) 'very significant' to the District[189]. We recommend that this submission be accepted.

9.3 Frankton Mill Site (Item 32)

366. Ms Gillies[190] sought that this site, which is located on a small island in the Kawarau River below the lake outlet and the Frankton Bridge, be deleted from the inventory of protected heritage features. This is on the basis that the site would be more appropriately classified as an archaeological site, as no built features remain and the effect of any potential works would more appropriately be addressed through procedures under the HNZPTA. The site is not directly affected by the construction of the new Frankton Bridge, and it would appear most unlikely that it would be disturbed in the future. We concur with the submitter, supported by Ms Jones, that the site can be deleted from the Inventory of listed heritage features and so recommend.

9.4 Kawarau Falls Bridge (Item 40)

367. HNZ[191] sought that the bridge be upgraded from Category 2 to Category 1. IPENZ[192] supported the listing. We note that HNZ advised both the NZ Transport Agency and the

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188 Submission 604

189 R Knott, EiC, paragraph 5.15

190 Submission 604

191 Submission 426

192 Submission 201

Council advising of its intention to seek the upgrading to Category 1 by way of letter dated 10 November 2015.

368. The bridge was originally built as a dam, as part of a failed alluvial gold mining operation. It now has been replaced as a single lane bridge by a new two lane bridge slightly downstream. We understand there is no intention to remove this bridge.

369. Mr Knott drew attention to assessments that had been undertaken of the bridge which indicated that it had high historical/social value, architectural value, landscape/townscape, rarity/ representative, and technological value, and concurred with the submitter that it would properly be included within Category 1. Accordingly, we recommend that these particular requests be accepted.

9.5 Stone Water Race, 26 Hallenstein Street, Queenstown (Item 42)

370. IPENZ[193] sought that this Category 3 item be upgraded to Category 2 in reflection of its classification under the HNZ registration system. HNZ[194] supported this submission and offered to provide further information to assist with the classification of this feature. From our visit to the site, we note that this is a remaining remnant of a water race system developed for drainage purposes in the early years of Queenstown.

371. We note that an archaeological authority would be required to disturb the site, quite apart from its listing as a protected heritage feature in the PDP. IPENZ contend that it is similar in significance to the cobbled stone gutters in Arrowtown. No further information was supplied by IPENZ to the hearing, and Mr Knott was not convinced that this feature needed an upgrade in its classification under the PDP.

372. We concur with Mr Knott's view, and do not recommend any change in classification.

9.6 Skippers Bridge (Item 45)

373. HNZ[195] sought that this structure be upgraded from Category 2 to Category 1, and advised the Council (as owner of the bridge) of its intention to seek this relief by way of a letter dated 10 November 2015. No further submissions were received. Its listing has also been supported by IPENZ[196]. Its reclassification from Category 2 to Category 1 was supported by Mr Knott. We accept Mr Knott's evidence and recommend the upgrade.

9.7 Frankton Cemetery Walls and Gates (Item 47)

374. Ms Gillies[197] submitted that the stone cemetery walls for the Frankton Cemetery on Ladies Mile should be downgraded from Category 2 to Category 3, which is the same category applied to the Queenstown Cemetery (Item 44). From our site visit, it was apparent that old stone walls and gates remain intact, albeit with some memorial plaques having been erected in very recent times on the walls themselves. The cemetery itself has an atmosphere of being an oasis of history in the context of the highly commercialised environment to the west, and the heavily trafficked main highway in front.

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193 Submission 201

194 FS1098

195 Submission 426

196 Submission 201

197 Submission 604

375. Mr Knott noted that a key basis of the submission was the need for consistency within the PDP of plan listings, which would provide some support for the 'downgrading' of the cemetery to Category 3. With respect to this issue he said:

"*Whilst I see merit in the JGAA recommendation that the Frankton Cemetery Walls and Gates be moved to Category 3 to ensure consistency with the Queenstown Capstone Cemetery Walls there has been no evidence submitted to substantiate this. Unless evidence is submitted I am not able to support the suggested amendment and must rely upon the assumption that the original assessments identified different values for each of these items and they were consequently classified accordingly"*[198].

376. No additional evidence was provided, and having visited the cemetery, we concur with Mr Knott's view, and accordingly recommend that there be no change in classification.

9.8 Hulbert House (Item 56)

377. Ms Gillies[199] and HNZ[200] have sought that this building at 68 Ballarat Street Queenstown, have its classification changed from Category 3 to Category 2. We had the opportunity to inspect both the exterior and interior of this former large dwelling which has now been extensively restored by its owner for luxury accommodation.

378. HNZ wrote to the owners of the building (New Zealand Trust Corporation Limited) on 9 November 2015 advising them of their intention to seek an upgrading in the classification from Category 3 to Category 2 under the PDP. No further submission was received.

379. Mr Knott's report notes that this is one of decreasing number of early Queenstown houses, and:

"It's setting and location are impressive and it remains a prominent landmark. Architecturally, it is a fine example and the interior is also significant because of its high degree of intactness"[201].

380. Having also visited the site and part of the interior of the building, we are satisfied that it is appropriate that this building be promoted to Category 2 in the Inventory of protected heritage features, and recommend the category be changed.

9.9 Stone Building, 17 Brisbane Street (Item 58)

381. Ms Gillies[202] submitted that this small stone building be re-categorised from Category 2 to Category 3. Mr Knott's very brief report on this feature simply noted that he cannot support the request as no substantive evidence was submitted. However, from our view of the building from the street (it is located on the street frontage itself), it was apparent that there had been some external, and certainly significant internal, changes to the building which was effectively part of the 'front yard' of the adjoining dwelling on the site. In some respects the nature and extent of these alterations were similar to those applying to McNeill Cottage as described below.

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198 R Knott, EiC, paragraph 5.42

199 Submission 604

200 Submission 426

201 R Knott, EiC, paragraph 5.48

202 Submission 604, opposed by FS1098

382. As part of her consideration of the setting of heritage buildings, and the submissions made thereon, Ms Jones proposed that for some protected heritage features, it would be preferable to identify their setting in plan form – described as 'extent of place' and discussed earlier in these recommendations. In this case, we agree that identifying the very confined 'extent of place' (under Section 26.8.1) on this property is entirely appropriate, given the mix of buildings thereon, none of which have recognised heritage significance except the small stone building itself.

383. We are conscious of the relative paucity of information with respect to this building. However, it is readily apparent that in this particular case, the building had experienced significant modification and 'modernisation' to meet the residential needs of the property owner, and we consider that, on balance, it is appropriate to recommend that the building be reclassified under Category 3.

9.10 McNeill Cottage (Item 59)

384. Ms Gillies[203] submitted that this building should also be re-categorised from Category 2 to Category 3. This building is located in the Queenstown commercial area and is used as a bar and restaurant. In her evidence to the Hearings Panel, Ms Gillies noted that as recently as 1990, the cottage was largely intact. Since that time she advised that the following alterations had taken place:

a. the rear of the building was demolished and a new larger addition constructed onto the back, filling the entire site behind the stone part of the cottage;
b. the two front sash windows were removed and the openings converted into French doors;
c. the internal passage walls were removed;
d. the plaster was removed from the stone walls of the remaining internal space.

385. She stated that:

"…… the cottage is a prime example of incremental loss of heritage value by repeated but relatively minor modifications over a number of years",

and:
"*the result is that now all that remains of McNeill's original fabric is a stone shell, with timber roof and floor structures, its roof and timber floorboards"*[204].

386. We concur with Ms Gillies' assessment that this is an example of modifications which reduce the intactness of a heritage buildings 'character', albeit that it is an example of a practical end use.

387. Mr Knott noted that while he only had a limited look at the building, he conceded that it appeared significantly altered, but considered further information was required before it was reclassified, a similar conclusion to that arrived at by HNZ. Notwithstanding this, we prefer the opinion of Ms Gillies. It was quite clear to us after viewing the building from the street and having heard her evidence, that the building's original heritage values had been significantly compromised, and that a Category 3 listing would be more appropriate. Accordingly, we recommend the building be reclassified as Category 3.

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203 Submission 604, opposed by FS1098

204 J Gillies, EiC, paragraphs 16.1 – 16.4

9.11 28 Park Street, Queenstown (Item 63)

388. Ms Gillies[205] sought that this building be upgraded from Category 3 to Category 2 on the basis of its high heritage significance, and the unmodified character of the original cottage. By way of background, Mr Knott noted that he had seen a heritage assessment of the cottage carried out for the Council in 2005 and an AEE produced by Ms Gillies in February 2016 with respect to various alterations that the current owner wished to undertake, which included an assessment of the heritage significance of the building.

389. From the street, we noted that the cottage retained much of its original character, and that the work undertaken on the site (which appears to be a work in progress) reflected an understanding by the owner of the need to respect the heritage values of the cottage. Mr Knott noted that:

"Having read the assessments and reports, I agree with their conclusions and consider the building to be very significant to the District. I therefore suggest that the building should be reclassified as Category 2"[206].

390. We concur with his conclusions and recommend that the heritage feature be reclassified as Category 2.

9.12 Queenstown Bowling Club (Item 65)

391. Ms Gillies[207] sought that this building be reclassified from Category 2 to Category 3. Mr Knott noted that a heritage assessment was prepared for the Council in 2005 for this building and stated that he was:

".....not aware of any significant alterations having been made to the building since this assessment was carried out and therefore consider that the conclusions still stand and the building is very significant to the District".

392. On this basis he opposed any change in its Category 2 status in the PDP.

393. In her submission, Ms Gillies noted that with respect to the listing of heritage features generally, that there was:

"no indication of the extent of which of the feature to be protected is given, especially where buildings have had extensive additions[208]*".*

394. She contended that in situations where protection should only apply to the historic part of the building and not a recent addition, it would be helpful to state this at the beginning of the schedule (Inventory) or added individually as required. This building seemed to be a good example of the scenario she had outlined. In the course of our site inspection of this particular building, it became readily apparent that it comprised two attached sections, the historic southern portion, and a northern portion which appeared to comprise entirely modern materials.

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205 Submission 604

206 R Knott, EiC, paragraph 5.66

207 Submission 604

208 Submission 604

395. Mr Knott made no comment on this, and took the view that based on a heritage assessment undertaken for the Council in 2005, there was no justification for changing the protection category for the building.

396. We came to the view that the heritage significance of this building was such as to justify continued Category 2 listing, but not including the newer addition on the northern end. Such 'partial' listings exist elsewhere, Tomes Cottage (Item 80) being an example, where a more modern extension is not included in the listing. Accordingly, we recommend that the listing remain unchanged with respect to category, but that the description of the building specifically exclude the later northern extension.

9.13 Pleasant Terrace Workings and Sainsburys House: Mount Aurum (Item 67)

397. IPENZ[209] sought that the Pleasant Terrace workings (Identified under the HNZ register as item 5175) be listed as a heritage feature under the PDP. HNZ[210] have also asked that these workings be added to the existing listing along with the outbuilding associated with Sainsbury's House, and that the combined complex be upgraded from Category 3 to Category 1. HNZ also sought a minor correction to the description of the HNZ category listing. DoC[211] have supported the HNZ submission.

398. HNZ, in letters dated 13 November 2015, contacted the private and public owners of land encompassed by the Pleasant Terrace Workings (JT and LK Eden) and the Department of Conservation (Mr Newey) advising them of their request to have these features listed. No further submissions were received from the Edens. Mr Knott expressed agreement with HNZ and IPENZ that the Pleasant Terrace Workings have high historic and social value, and should be added to the Inventory in the PDP as a Category 1 item.

399. We also note that in her report, Ms Jones introduced the concept of a defined 'extent of place', and one of the sites she proposed related to Item 67. We endorse this approach, and the features subject to the submission are identified in plan form under Section 26.8.1. We observe at this point that we consider this may be a useful model for other sites, including those containing archaeological features where additional protection under the PDP might be justified in the future.

400. We recommend that the Pleasant Terrace workings be added to the listing under Item 67 in the Inventory of Listed Heritage Features, and that these features be upgraded to Category 1.

9.14 Threepwood, Lake Hayes (Items 70, 240 and 242)

401. Ms Gillies[212] submitted on two of the three listings applying to the four heritage features (buildings) located on this property. Justin Crane and Kirsty McTaggart[213] sought that the legal description for the location of Threepwood Stables (Item 242) be changed to Lot 22 DP 378242. Ms Jones' response to this matter was that the existing legal description of Lot 2 DP 21614 was correct. There was no further communication from the submitter on this

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209 Submission 201

210 Submission 426

211 FS1080

212 Submission 604

213 Submission 688

specific matter, and in the absence of further information, we recommend that the existing legal description be retained.

402. Turning to the substantive issue, the listings notified in the PDP were as follows:

Item 70 Threepwood and Stone Buildings, Lake Hayes (Category 2).
Item 240 Marshall Cottage (Category 3)
Item 242 Threepwood Stables (Category 2)[214].

403. Ms Gillies sought that Item 70 be split into two separate entries, comprising the Threepwood timber villa (Category 2) and the Threepwood Stone Woolshed (Category 3).

404. Ms Gillies also sought that Threepwood Stables be promoted from Category 2 to Category 1.

405. Justin Crane and Kirsty MacTaggart supported[215] the request for separate heritage listings for the Threepwood Homestead as Category 2 and the woolshed as Category 3, but opposed the upgrade of the Threepwood Stables building from Category 2 to Category 1. These further submitters advised that they are the owners of the property, and did not think that the stables building justified a higher listing.

406. Mr Knott also supported the splitting of Item 70 into two separate listings (to become 70a and 70b), and as it appeared to us from the site visit, this amendment would also assist in reducing some of the potential confusion over the listing and description of buildings on the Threepwood property.

407. In terms of the stable building, Mr Knott stated that:

"I viewed this building on 1 April 2016 and note whilst there has been some modification to the building and little maintenance, it continues to maintain many original features such as the remaining stalls which contribute to its historic, social and architectural values"[216].

408. We concur with this assessment, based on our visit to the site, as the building is largely in original condition. We also noted that the building is in a rather parlous state having deteriorated significantly as a result of lack of maintenance. As stated earlier in our recommendations, we think there is a significant test to be applied when buildings are upgraded to Category 1 as the resulting prohibited activity status is potentially very onerous for the affected owners. Furthermore, it does not ensure that a building is restored or even remains, as it may simply be left to deteriorate even further and fall into ruin. We are not suggesting the owners have this intention, but we have no information on this matter.

409. As stated earlier in our recommendations (refer Part A of our report) we do not consider that the listing of a building should require the owner's express consent, and we note that in this case while splitting the listing of Item 70 is accepted by the owners, an upgrading to Category 1 is not. However, we are concerned that there needs to be consultation between the Council and the property owners and a Conservation Plan prepared to secure the future of this building before an upgrade to Category 1 is further contemplated.

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214 V Jones, Section 42A Report, paragraph 5.87

215 FS1350

216 R Knott, EiC, paragraph 5.92

410. For these reasons, we recommend the splitting of Item 70 into two: Item 70a being the Villa (Category 2); and Item 70b being the Woolshed (Category 3). We do not recommend any change to Item 242.

9.15 Mill House, 549 Speargrass Flat Road (Item 76)

411. HNZ[217] and IPENZ[218] have requested that this item be upgraded from Category 3 to Category 2. This has been opposed in a further submission by Mill House Trust[219] .This is an example of one of the relatively few listings which has been opposed, but it is also apparent there is a degree of confusion, and issues of scope, which complicate the situation.

412. Mr James Hadley, a Trustee of the Mill House Trust which owns the property, presented written evidence to the hearing. He began by pointing out that while HNZ has listed the adjoining Wakatipu Flour Mill, this does not include Mill House. As pointed out by Mr Hadley, this error was acknowledged by HNZ (and confirmed by Mr Knott) and HNZ withdrew their submission with respect to this item[220].

413. Unfortunately, this does not fully address the issues associated with this listing, which has a Category 3 listing under the ODP as well as the PDP. Mr Hadley drew attention to a statement made by Mr Knott in his report where he said that:

"It therefore appears that the Trustees of Mill House Trust are correct and that HNZ have included this property in their submission in error, and also that QLDC have incorrectly made reference to it being on the HNZ list in error in both the ODP and the PDP"[221].

414. Mr Hadley then went on to say:

"So it is established by fact that not only has HNZ made an error in their submission, but that QLDC's own expert has confirmed that the Mill House was incorrectly listed in error as a heritage item in the Operative District Plan"[222].

415. However this assertion is not entirely correct, because district plan heritage listings may be made separately and addition to those made by HNZ, and all that the Council has conceded is that its reference to HNZ having listed Mill House was in error – not that the *Council's* listing was in error. Rather, this is an issue of whether the Council's listing is justified or not. Mr Knott came to the view that its listing *was* justified, albeit as under the 'lowest' Category 3 classification.

416. However this then leads us to the issue of scope. Mr Hadley was concerned that Mr Knott's conclusions were based on an assessment prepared for the Wakatipu Heritage Trust, and that he:

"……has principally relied upon a report prepared by an unqualified party who has clearly entered the Trust property illegally and without authority"

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217 Submission 426

218 Submission 201

219 FS1113

220 J O'Dea, EiC, paragraph 16.1

221 R Knott, EiC, paragraph 5.102

222 J Hadley, EiC, paragraph 9

and a;

"view from the road"[223].

417. The submission states that the building has been substantially modified, and claims that its inclusion in the Council's list of protected buildings has inconvenienced and disadvantaged the owners. Mr Hadley contended that the listing should be removed forthwith.

418. While we shared some of the concerns of the submitter, we are faced with the difficulty that whatever the merits of the listing, there is no original submission seeking the delisting of the site from the PDP. Furthermore, with the withdrawal of the HNZ submission, Mr Hadley's further submission fell away.

419. Given this combination of factors, we consider the appropriate – indeed only - course of action is to retain the notified classification of Category 3. Under this category, demolition is a noncomplying activity, external alterations are a restricted discretionary activity and internal alterations are a permitted activity. We are satisfied that there was insufficient evidence to justify its upgrading to Category 2. On this basis, we recommend that the request of IPENZ be rejected.

9.16 Oast House, 557 Speargrass Flat Road (Item 77)

420. HNZ[224] requested that this heritage feature be upgraded from Category 3 to Category 2. A letter advising the owner (I. and C. Wilkins) of their intent to seek an upgrade to a higher category of protection was forwarded on 9 November 2015. There was some confusion associated with the heritage linkages with adjoining Mill House (Item 76 above), and we note that Ms Bauchop's evidence stated that:

"Item 77 is included on the New Zealand Heritage List as the Wakatipu Flour Mill Complex (Former) (List Entry number 2241). This list entry includes the Flour Mill, but not the former Millers House on the west side of Wakatipu Creek"[225].

421. It goes on to say that she supports a PDP Category 2 listing for the "Wakatipu Flour Mill". (Heritage New Zealand submission referred to the Mill House in error).

422. There were a number of factors which were of concern to us in this case. The assessment undertaken of this property on behalf of the Wakatipu Heritage Trust in December 2013 (which also included Mill House) concluded that the Oast House had a 'high' rating under *all* eight categories. In comparing this assessment with the HNZ registration report for the wider Wakatipu Flour Mill complex prepared in 2012, Mr Knott said:

"…… *I do not consider that the two sit comfortably against each other. I consider that the assessment scores the building consistently more generously than I would expect from having read the registration report and for my brief viewing of the building"*[226].

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223 J Hadley, EiC, paragraphs 10 and 11

224 Submission 426

225 H Bauchop, EiC, paragraph 8.6

226 R Knott, EiC, paragraph 5.113

423. He considered on balance that the building had 'moderate' value against all criteria and justified a Category 2 classification.

424. We also observed the building from the road and spoke briefly to the occupier. It also appeared that some modifications had recently been undertaken to the building and that further modifications were underway. We felt uneasy about what appeared to be the uncertainties and lack of clarity with respect to the available information on both Item 76 (adjoining Mill House) and Item 77 (Oast House). Given this situation, we felt it was premature to change the classification of this heritage feature from Category 3 to Category 2. For this reason, we recommend that the building retain a classification of Category 3.

9.17 Tomanovitch Cottage, Gibbston (Item 79)

425. HNZ[227] also requested that this item be upgraded from Category 3 to Category 2.

426. We were only able to view the site from a distance because of what we understood to be potential access complications. However Mr Knott advised that he had visited the site and noted that the building was currently used for storage. He said that although the building was vulnerable to deterioration, the owners had placed a waterproof sheet over the roof to protect the structure from the weather. He agreed with the assessment of HNZ that surviving mud brick buildings such as this were quite rare, and that it was worthy of a Category 2 listing.

427. We note that the owner's representative (KL Buxton of Canterbury Legal Services Ltd) was written to by HNZ on 9 November 2015 to advise them of the intention to raise the heritage category. On the information available to us, and on balance, it is recommended that this building be reclassified as Category 2 and that the HNZ request be accepted.

9.18 Tomes Cottage, Whitechapel Road (Item 80)

428. Ms Gillies[228] requested that this building be upgraded from a Category 3 to a Category 2 heritage feature, on the basis that it is a rare remaining example of a mud brick cottage from the gold mining era. This building has a relatively modern extension to the rear which does not form part of the listing.

429. Mr Knott observed that this was another example where this submitter sought to achieve a greater degree of consistency throughout the PDP. He considered the extension did not significantly detract from the originality of the cottage, and that it was recognisable as being of mud brick construction[229]. He noted that the submission did not reference a conservation plan or archaeological assessment.

430. This example raises the issue (Arcadia being another example) where a higher category of listing, having significant implications for the property owner, is being proposed. We are also conscious that this property is used as a private dwelling and we had no information as to whether there had been discussions with the property owner/tenant including the possible preparation of a conservation plan. This does not preclude a higher listing in the future, but at this point such action is premature. For this reason, we agree with Mr Knott's conclusion that a change in its category should not occur at the present time, and we conclude that pending appropriate consultation and until further work was done, this heritage feature should retain a Category 3 listing.

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227 Submission 426

228 Submission 604

229 R Knott, EiC, paragraphs 5.122 and 5.123

9.19 'Arcadia', Glenorchy Area (Item 81)

431. Ms Gillies[230] sought that this building be upgraded from Category 2 to Category 1. We note however, that it is currently listed under both the ODP and the PDP as only Category 3. The submission described the building as:

"a rare and unmodified grand house of considerable historical and architectural significance. There are no others of its calibre in the District".

432. She added that compared to Item 63 (cottage 28 Park Street) or Item 56 (Hulbert House) its significance was much greater. The submission point also said that further research was required.

433. Apart from noting the submitter's apparent error with respect to the building's current categorisation, Mr Knott concluded that based on an assessment carried out for the Wakatipu Heritage Trust in 2013, the building had moderate to high heritage value and was very significant to the District[231]. In contrast to Ms Gillies, he considered the building should be upgraded to Category 2, which in his opinion sat comfortably with his recommendations with respect to 28 Park Street and Hulbert House.

434. We visited the property in less than ideal conditions. Nevertheless, we acknowledge that it is indeed a 'grand house' which is highly visible and surrounded by a spectacular natural environment. We also agree that its current Category 3 listing is unsustainable given the evidence available to us of its heritage character, particularly its historic value and setting. We also had the opportunity to speak to its owner while on the site. We understand that this large building has been maintained as best it can be, given the very limited resources available to do so. This is a private dwelling which is not open to the public.

435. We agree with the observation of Ms Gillies that further research is required, and we also consider that there needs to be consultation with the owner and the development of a Conservation Plan. We prefer the opinion of Mr Knott that given the values of this building, and considering its relative status to other buildings in Category 2, it's upgrading from Category 3 to Category 2 is appropriate if not necessary. However to go a step further and to upgrade the building from Category 3 to Category 1, as sought by the submitter, is considered by us to be a step too far at this stage, pending further investigation and consultation.

436. In terms of the regulatory impact of the building being reclassified under Category 2, total demolition of the building would remain a noncomplying activity, partial demolition would move from being a restricted discretionary activity to a noncomplying activity, external alterations would remain a restricted discretionary activity, and internal alterations would change from being a permitted activity to a restricted discretionary activity. This would be the status of these activities based on the amendments to the heritage rules recommended by us in Part B of this report.

437. Having regard to the aforementioned matters, we recommend that the building is upgraded from Category 3 to Category 2.

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230 Submission 604

231 R Knott, EiC, paragraphs 5.127 and 5.128

9.20 Kinross Store and Buildings (Item 91)

438. HNZ[232] have requested that these buildings in the Gibbston Valley be upgraded from Category 3 to Category 2. The owner's agent was advised in writing by HNZ of the submission in a letter dated 9 November 2015. Ms Gillies[233] sought that the description to be amended to refer to 'Kinross *Stone* buildings', not *store,* and to add the small timber framed miner's cottage on the site, to the description.

439. Again, the evidence available to us was quite limited. Ms Bauchop for HNZ said that given the limited information available to HNZ, she supported Mr Knott's recommendation that the building retain its Category 3 classification[234].

440. While viewing the site, we noted the existence of the small timber building referred to in the HNZ submission, and agreed that this should be listed as part of the protected items on the property, along with all buildings under Category 3. The submission of Ms Gillies to correct the description and to specifically include the small miner's cottage was recommended to be accepted in the Section 42A Report. We recommend that the name be corrected, the timber building be included, but that it remain in Category 3.

9.21 Former Glacier Hotel, Kinloch (Item 97)

441. Ms Gillies[235] sought clarification of whether this building (still currently used for accommodation) was listed under Category 2 or Category 3. In terms of this apparent anomaly, Mr Knott advised that:

"This item is included in the ODP as a Category 3 item. I have been advised by Council officers that in early Microsoft Word version of the PDP text showed the category as' ~~3~~ 2' (i.e. 3 struck through and replaced by 2)".

442. Mr Knott made reference to an assessment carried out for the Council in 2005 which rated the building as having high architectural, cultural/traditional, historical/social, landscape/townscape, and rarity/representative value[236]. On that basis, he concluded it was extremely significant to the District and should be identified under a *Category 1* listing.

443. However, this relief is beyond the Council's jurisdiction, as no submission has sought that the building have a Category 1 listing. We recommend the submission of Ms Gillies be accepted on the basis that the building be classified under Category 2, which appeared to be the actual intention of the Council. We acknowledge that the building scores highly on many of the criteria for listing, but further work, consultation and notification would be required to upgrade its listing beyond Category 2.

9.22 St Peters Parish Centre (former vicarage) Earl Street, Queenstown (Item 101)

444. Ms Gillies[237] sought that the building be upgraded from Category 3 to Category 2.

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232 Submission 426

233 Submission 604

234 H Bauchop, EiC, paragraph 8.7

235 Submission 604

236 R Knott, EiC, paragraph 5.139

237 Submission 604, supported by FS1098

445. Mr Knott recommended that the building retain its Category 3 listing. However based on additional information provided to the hearing by Ms Gillies, and a limited amount from HNZ, we consider there is at least an arguable case to upgrade the listing of this building. Ms Gillies noted that with respect to this 1869 building:

"*The building has been altered and extended throughout its life, but remains remarkably intact. Only the final modifications in 1978 to create the current Parish Rooms and separate flat have impacted on the original fabric to any great extent".*

446. She added that significant heritage fabric in the form of all wall, floor and roof structure, external wall claddings, part of the timber shingle roof under the corrugated iron, doors, windows and internal linings remained intact[238]. In Ms Jones' reply statement, an upgrading to Category 2 was also supported. For these reasons, we recommend this item be upgraded to Category 2.

9.23 Queenstown Courthouse (Item 107)

447. Ms Gillies[239] sought that this be listed as Category 2 instead of Category 1, on the basis that the interior is now much modified.

448. No additional information was provided by Ms Gillies. Mr Knott referred to a Conservation Maintenance Report prepared in 2007, and having viewed the building, remained of the view that notwithstanding alterations, it still had high historic and social value, architectural value, and townscape and context value[240]. On this basis, he opposed downgrading its status to Category 2.

449. We did not have any evidence before us that clearly justified a reduction in the classification of this building to Category 2, and accordingly we recommend that it retain its Category 1 listing.

9.24 Ayrburn Homestead and Stone Farm Buildings (Item 110)

450. Ms Gillies[241] sought that the combined listing of the four features on the site be replaced by individual listings, ranging between Category 1 for the stone cart shed to Category 3 for the stone dairy building. The site also includes a stone stables/woolshed and the historic Ayrburn Homestead. However, at the hearing Ms Gillies withdrew her submission and indicated she was satisfied that the Category 2 classification should still continue to apply to this group of buildings as a whole[242]. Consequently, as the submission has been withdrawn, we make no recommendation.

9.25 Thurlby Domain, Speargrass Flat Road (Item 131)

451. Ms Gillies[243] sought that this group of heritage features, collectively classified as Category 2 under the PDP, be upgraded to Category 1.

452. This site contains an outstanding group of heritage features in a treed rural environment, including stables, barn, smithy, stone cottage, wooden cottage and ruins.

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238 J Gillies, EiC, paragraphs 15.4 and 15.5

239 Submission 604, supported by FS1226, opposed by FS1098

240 R Knott, EiC, paragraphs 5.148 and 5.149

241 Submission 604

242 J Gillies, EiC, paragraph 19.2

243 Submission 604

453. We visited the site and were able to inspect the interior of a number of buildings, such as the stables and smithy, each of which exhibited a high degree of intactness. Mr Knott advised that this group of buildings is now classified as Category 1 on the HNZ list of heritage features. An upgrading of its status under the PDP has not been sought by HNZ, although in evidence (but not by way of further submission) this was supported by Ms Bauchop for HNZ.

454. Mr Knott noted that HNZ Registration Report of November 2014 concluded that the place has high aesthetic, architectural, cultural, historical and social significance[244]. He concluded that this group of heritage features were 'extremely significant' and should be included under Category 1.

455. We briefly met the owner of the property in the course of our site visit, and our understanding was that they had a clear appreciation of the heritage values of the various structures on Thurlby Domain. We were in little doubt that this collection of buildings was of outstanding significance, and recommend that they be reclassified to Category 1.

9.26 Bullendale Township (Item 140)

456. IPENZ[245] queried the naming associated with this listing and sought that the Bullendale hydroelectric dynamo and mining site be classified as Category 1, on the basis of its outstanding national significance. HNZ[246] sought that Item 140 (Bullendale Township) Item 701 (dynamo) and Item 702 (all settlement and gold mining relics) be combined into a single listing and classified as Category 1 under the PDP. HNZ advised the two affected property owners in writing (the Department of Conservation, and Mr and Mrs J and L Eden of Arrowtown) on 13 November 2015 of their submission. DoC[247] supported the HNZ submission on the grounds that it is important that heritage features be accurately described in the PDP.

457. IPENZ consider the site to be of outstanding national significance as being where the first use of hydro-electricity was pioneered for industrial purposes in 1886. Much of the original system, including major parts of the original dynamos and electric motor, elevate this to an internationally significant industrial and engineering heritage site. These conclusions were endorsed by Mr Knott[248].

458. Mr Knott disagreed however, that the three separately listed items should be combined under a single listing. This conclusion is based on his contention that Items 701 and 702 relate to archaeological sites, which in turn is based on the proposals notified with the PDP whereby rules in the plan would apply to 15 specified archaeological sites.

459. We explained our reservations earlier about having parallel district plan rules applying to archaeological sites – unless these sites were specifically defined in plan form, and the extent of council discretion clearly specified. We were not satisfied that this point has yet been reached. However, Ms Jones' reply statement proposed that these important sites be defined within an 'Extent of Place' to accompany the listing of Item 140 in the Inventory of

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244 R Knott, EiC, paragraph 5.161

245 Submission 201

246 Submission 426

247 FS1080

248 R Knott, EiC, paragraphs 5.165 and 5.169

protected heritage features. We are satisfied that this is an appropriate response which provides both certainty and the necessary level of protection.

460. We concur with the views of IPENZ and Mr Knott as to the outstanding heritage significance of these features. We accept the views of IPENZ and HNZ that Items 140, 701 and 702 should be listed as a single *heritage feature* under Item 140 and recommend they be described in the Inventory under Section 26.8 as follows:

"Bullendale hydro-electric dynamo and mining site including Eden Hut and Musters Hut.

Extent of Place: Part of the land described as Section 148 Block XI Skippers Creek SD (Recreation Reserve, New Zealand Gazette 1985, page 5386) and Part Legal Road (Bullendale Track), Otago land District, and includes all remnants around the site belonging to the era of gold mining, and all objects associated with the mining and power generation operations and settlement at Bullendale within the extent of registration boundary.

Refer to the map of 'Extent of Place' in Section 26.8.1".

461. We also recommend that site be given a classification of Category 1.

9.27 Former Methodist Church, Berkshire Street, Arrowtown (Item 251)

462. Anna–Marie Chin Architects and Phil Vautier[249] requested that this heritage feature be deleted from the list of heritage features in the Inventory. The PDP has classified this building under Category 3.

463. The submitter appeared at the hearing, and contended that as a result of the extensive modifications undertaken over the years, it was inappropriate to list the building, albeit that they were sensitive to its original heritage. The building is currently used for the submitters' architectural practice. We were advised that heritage advice was taken from Ms Jackie Gillies at the time that the most recent alterations were made. We viewed the building from the street, and noted that the exterior still possesses some of the character of the original church, although it was understood that the interior had been significantly modified. The effect of the listing under Category 3 is that demolition is a noncomplying activity; under our recommendations, 'partial demolition' would be a restricted discretionary activity as would external alterations. Internal alterations would be a permitted activity.

464. We are of the view that while this building has been modified to the point where the justification for its listing was becoming marginal, it did possess enough remaining external character to justify listing under Category 3, bearing in mind the implications of the more liberal rules regime for this category of protected heritage features. Accordingly, it is recommended that this submission be rejected.

9.28 Stone Cottage, Centennial Avenue, Arrowtown (Item 253)

465. Ms Gillies[250] sought that having regard to an assessment carried out in 2015, this building should be classified as Category 2. This submission may have been lodged in error, because this is the category under which this building has in fact been listed in the PDP. We recommend the submission is accepted on the basis that the category sought in the submission already applies to the heritage feature concerned.

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[249] Submission 368.6

[250] Submission 604

9.29 IPENZ – Support for Listing of Specified Heritage Items

466. IPENZ[251] in addition to those parts of its submission already discussed, supported the listing of the Kawarau Falls Dam (Item 40), Kawarau Gorge Suspension Bridge (Item 41), the Lower Shotover Bridge (Item 45), the One Mile Creek Hydroelectric Station (Item 96) and the Skippers Canyon Suspension Bridge (Item 45). (We assume that the reference to the Lower Shotover Bridge is in fact a reference to Item 222).

467. We recommend that these submissions of IPENZ be accepted.

10. SUBMISSIONS ON HERITAGE OVERLAY AREAS

468. As noted in Part A of our recommendations, we are recommending that the term 'Heritage Landscapes' be replaced with 'Heritage Overlay Areas' to reduce potential confusion, particularly with the use and meaning of the term 'landscape' in section 6 of the Act. We will use that term in this section. Submissions relating to the *policies and rules* in Heritage Overlay Areas, specifically by New Zealand Tungsten Mining Ltd (NZTM) with respect to Glenorchy, have been addressed earlier in this report under Part B. In this part of our recommendations, we have turned our attention to submissions relating to the 'Statements of significance' and the 'Key features to be protected' with respect to these areas.

469. Under Section 26.12 of the PDP as notified, there are four heritage overlay areas. These were as follows:

Skippers Heritage	[Overlay Area] (26.12.1 – 3)
Moke Lake and Sefferton Heritage	[Overlay Area] (26.12.4 – 6)
Glenorchy Heritage	[Overlay Area] (26.12.7 – 9)
Macetown Heritage	[Overlay Area] (26.12.10 – 12)

470. Each of the four heritage overlay areas is accompanied by: (1) a map defining the area covered by the overlay area; (2) a Statement of Significance; and (3) a list of the 'Key features to be protected'.

471. Straterra[252] expressed support for the Skippers Heritage Overlay Area provisions, the Moke Lake and Sefferton Heritage Overlay Area provisions, the Glenorchy Heritage Overlay Area (GHOA) provisions and the Macetown Heritage Overlay Area provisions, in each instance, subject to an amendment to the 'Key features to be protected'.

472. NZTM[253] sought amendments to the wording of the 'Statement of Significance' for the GHOA (26.12.7 as notified). NZTM[254] also sought amendments to the 'Key features to be protected' in the GHOA (26.12.9 as notified).

473. With respect to the Skippers Heritage Overlay Area, the first three 'Key Features to be protected' include the Skippers Road and the Skippers Suspension Bridge and former township area, and under notified 26.12.3.3:

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251 Submission 201

252 Submission 598, supported by FS1287

253 Submission 519, supported by FS1015, opposed by FS1356

254 Submission 519, supported by FS1015, opposed by FS1080, FS1356

"All other known archaeological sites, including sluiced terraces".

474. The same wording is also used under 26.12.6.6 (Moke Lake and Sefferton), 26.12.9.3 (Glenorchy) and 26.12.12.4 (Macetown).

475. Straterra has sought that the words be changed to:

"Representative examples of other ~~All other~~ known archaeological sites, including sluiced terraces"

– for all four heritage overlay areas.

476. The basis of their submission is that present-day mining is mostly carried out where it was undertaken in the past, and future mining should be enabled subject to obtaining authorities under the HNZPTA.

477. We note that the 'Key features to be protected' clauses accompanying each identified Heritage Overlay Area do not have the status of an objective, policy or rule. They would be an 'other matter' to be taken into account where a resource consent applications are considered (section 104(1)(c) of the Act). Apart from that, we have reservations about adopting uncertain terminology such as 'representative examples', or with the concept of enabling destruction of sites which were worthy of protection, but were excluded from a list of 'representative examples'.

478. The Council has however sought to identify under Section 26.10 of the PDP as notified, a list of 15 archaeological sites where parallel planning rules would apply *in addition* to any consents required under the HNZPTA. These matters were discussed in some detail in our consideration of archaeological sites in Part B of this report. There we concluded that land subject to any parallel plan rules which apply to *an aggregation of archaeological sites* should be defined in a manner that enables a landowner or member of the public to identify how they might be affected and the actual area defined. This is the issue which we consider is critically important, subject of course to such areas being justified on their merits.

479. As part of our recommendations on the text of Chapter 26, we recommend rejecting the listing of archaeological sites and the regulation of activities associated with them under the PDP, until such time that the land affected by these activities has been physically identified. Secondly, we have concluded that any effects on archaeological sites (separately and beyond those matters that would be considered under the HNZPTA processes), have to be clearly specified in the PDP. At this point in time, such provisions have not been sufficiently developed.

480. Given those recommendations, there would be no specific rules *in the PDP* protecting archaeological sites. This addresses at least in part, the concerns expressed by Straterra. Our recommendation does not preclude the possibility in the future of more clearly expressed rules provisions applying to a small number of areas where there is aggregation of archaeological sites.

481. Unfortunately, we did not hear evidence from Straterra, and the evidence of NZTM was more specifically focused on the Glenorchy area. Our recommendations in Part B to reject the listing of archaeological sites (at least in its present form) goes some way to meeting the concerns of the submitter.

482. NZTM[255] sought that the 'Statement of significance' for the GHOA be amended to recognise not only the history of mining, but that it is a cycle which is likely to be ongoing in the future:

"The Glenorchy Heritage Landscape (GHL) is significant for its specific scheelite mining activities that ~~extended from the 1880s until the 1980s which have left a significant group of mine sites and infrastructure, along with a~~ have produced a sequence of mining evidence that follows the mining cycle which began here in the 1880s and will continue to exist into the future. These activities have produced a complex of sites along with a unique social history of the people who worked there".

483. It also sought that future mining be enabled with the addition of the following sentence:

"It is recognised in this area that the GHL retains potential for exploration and mining, and it is appropriate to enable mining in such cases".

NZTM[256] sought that the 'Key features to be protected' be amended as follows:

"26.12.9.1 Significant heritage mining entrances, mining huts, the cableway and track ways within the GHL boundary ~~(including the Black Peak mine)~~

~~26.12.9.2 the mine sites entrances along the Mount Judah Road.~~

~~26.12.9.3 all other known archaeological sites and historic places within the GHL."~~

484. We note that the GHOA, with its ongoing (albeit interrupted) history of scheelite mining, has a unique quality relative to the other three heritage landscapes, and that much of this heritage occurred after 1900. It was also a subject upon which we heard significant amount of evidence, unlike the other three heritage landscapes.

485. Turning to the 'Summary of significance' and 'Key features to be protected' set out in Section 26.12.9 of the PDP as notified (renumbered 26.10.8 in our recommendations), we concur with both the submitter and Ms Jones that the 'Summary of significance' be amended to acknowledge that the mining cycle that began in the area may recommence at some point in the future. Secondly, the list of key features should be amended to remove reference to all other "known archaeological sites", and that the text simply refer to all other known historic mining sites within the GHOA. We consider such amendments to be appropriate given that the majority of the sites postdate 1900, and while contributing to the story of the areas heritage, would not necessarily qualify as archaeological sites. We do not consider that the reference to sites on Mount Judah Road under notified 26.12.9.2, need be retained, as this was already addressed under notified 26.12.9.1.

11. CORRECTIONS TO DESCRIPTIONS IN THE INVENTORY OF LISTED HERITAGE FEATURES (RENUMBERED SECTION 26.7)

486. Ms Gillies[257] sought that the following listings be corrected and updated, or redundant or inaccurate entries removed. There were no further submissions opposing or supporting

255 Submission 519

256 Submission 519

257 Submission 604

these submission points, and Ms Jones' report recommended that these be accepted, a conclusion we also recommend:

Item 49	Brunswick Flour Mill site
Item 84	172 Arthurs Point
Item 85	11 Ballarat Street
Item 89	House, 5 Brisbane Street
Item 109	Glenorchy Old School building
Item 115	Crown Lodge
Item 133	Eureka House
Item 226	Paradise House
Item 227	Cottage, Coll Street Glenorchy.

487. Ms Gillies also requested that the description of Item 100, St Peters Parish Hall in Queenstown, be amended along with Map 36. Ms Jones recommended that the submission point be accepted in part with respect to simply making reference to its location in Earl Street. No further evidence was made to this submission point during the hearing. We accept Ms Jones' proposal and so recommend.

488. HNZ[258] sought that the following listings be corrected, updated, or inaccurate entries removed. There were no further submissions on these submission points, and Ms Jones recommended that these be accepted, as do we:

Items 34, 703 and 704	Invincible Mine and Buddle sites
Item 131	Thurlby
Item 139	Mount Aurum Schoolhouse
Item 543	Cardrona Hotel facade

and the Sefferton and Moke Lake Heritage Overlay Area boundary.

489. QLDC[259] sought to correct an omission in the PDP by adding a legal description identifying the site of Item 532 (MacPherson House), accompanied by an appropriate symbol on the planning map. We recommend that submission be accepted.

12. GENERAL SUBMISSIONS – HISTORIC HERITAGE

490. Richard Hewitt[260] requested consultation and collaboration with Tangata Whenua/ Kai Tahu Ki Otago (KTKO) so that a full list of sites be compiled and mapped either on Map 40 and/ or as part of the archaeological alert layer. Mr Hewitt supplied a copy of the Tairoa map of 1879/80 in his submissions as a starting point for such mapping, specifically requesting the listing of Manuwhaia (the neck) and the Matikituki cultivated area, and made suggestions for collaboration between these parties and the Council in the future. Christopher Horan[261] sought an acknowledgement of Maori occupation and appropriate signage about the history of this occupation, citing the example of known sites on the western side of Lake Hawea.

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258 Submission 426

259 Submission 383, supported by FS1098

260 Submission 711, supported by FS1285

261 Submission 153

491. Ms Jones[262] noted that the PDP as notified included Objective 26.5.3 and policies which recognise the need to identify Sites of Significance to Maori; a rule which will apply to such sites (renumbered Rule 26.5.14); and clarification that such sites are yet to be identified (renumbered Section 26.9). She advised that Ngai Tahu (through KTKO and Te Ao Marama Incorporated) has agreed to provide cultural mapping of sites to the Council by September 2016, with the intention that this would be included in Stage 2 of the PDP. While we note that this material was not included in Stage 2 and variations, when such material is included by way of the First Schedule submission process, the submitter and others will have the opportunity to take further part in the process.

492. HNZ[263] sought that references in Chapter 26, and in the PDP as a whole, (particularly sections 26.9 (26.8 as renumbered) and 26.10 be renumbered to change references to the *HNZ heritage categories* from Category I and Category II, to Category 1 and Category 2. Section 26.8 contains the Inventory of listed heritage features, while 26.10 as notified related to archaeological sites. We have recommended the deletion of the section on archaeological sites. We recommend that Section 26.8 be amended as requested.

493. HNZ[264] requested that the column under Section 26.10 as notified (archaeological sites) be amended by changing the reference to 'NZHPT' to read 'HNZ'. While we accept this amendment in principle, our recommendation to delete Section 26.10 means that this amendment becomes irrelevant, and accordingly we recommend it be rejected.

494. HNZ[265] requested an amendment to the legal description of Item 705 (archaeological site) concerning the sawmill settlements at Turners Creek, Kinloch. While we accept this amendment in principle, our recommendation to delete Section 26.10 means that the amendment sought through this submission point becomes irrelevant, and accordingly we recommend it be rejected.

495. IPENZ[266] sought more detail in the Heritage Overlay Area listings, such as listing all the features that are included as contributing to landscape heritage values, and adding map references. We did not hear from the submitter at the hearing, and Ms Jones assumed that IPENZ was proposing that the 'Statement of Significance' and/ or the 'Key Features to be Protected' sections include all the listed heritage features contained in the Inventory.

496. We agree with Ms Jones that the relief sought would raise the difficulty that individually listed features within the 'Statement of Significance' and/ or the 'Key Features to be Protected' sections would be subject to *both* the rules relevant to the Heritage Overlay Areas as well as the rules relating to individually listed heritage features. This raises not only the spectre of confusion between two layers of rules, but potentially activities having a different activity status. Such complication does not appear to be justified by any potential benefits, and we recommend that the submission be rejected.

497. Michael Farrier[267] sought a requirement be added to the plan requiring a maintenance regime for heritage items. Although touched on only briefly in his submission, it is assumed that this

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262 V Jones, Section 42A Report, paragraphs 17.1 – 17.5

263 Submission 426

264 Submission 426

265 Submission 426, supported by FS1080

266 Submission 201

267 Submission 752

be a statutory obligation to maintain heritage features in such a way that they do not fall into disrepair. Although we agree strongly with the sentiments expressed, we doubt whether it is legally possible under the RMA to compel a property owner to maintain a property, whether it is a heritage feature or otherwise. All it can regulate is full or partial demolition, relocation, and alterations. Even if such a rule were legally possible, it would be void for uncertainty as to what an adequate standard of maintenance would constitute. It is recommended that this submission be rejected.

498. Queenstown Park Limited[268] owned a large alpine pastoral property on the true right of the Kawarau River, which is subject to an extensive submission seeking rezoning and other changes to the PDP. These are dealt with through hearings on other chapters. There are no heritage features listed on this property, an outcome which the submitter supports and seeks to have confirmed. There is no recommendation proposing listing of any heritage feature on the property, so we recommend that the submission be accepted.

499. J Gillies[269] sought that where protected features are scheduled for protection, that the protection apply to the historic part of the building and not recent additions. We appreciate that this can be difficult with respect to buildings which have undergone alterations and additions over a long period of time, and determining what constitutes a "recent addition" can be challenging. This is often best achieved through the incorporation of a site/building plan defining that part of a building complex which is "historic" as an appendix in the District Plan, to remove the kind of ambiguity which can arise when trying to 'describe' the historic component.

500. This is in fact the approach that we have taken with the Queenstown Bowling Club where this very scenario has arisen. We agree with the submitter that for some heritage features, a partial listing would be appropriate, but with few exceptions this exercise does not appear to have been undertaken as part of the review of the district plan.

13. SUBMISSIONS IN SUPPORT – HISTORIC HERITAGE

501. A number of submissions supported the Chapter as notified subject to the amendments also sought in their submission, or supported particular listings. In Appendix 2 we set out our recommendations for each of these consistent with our overall recommendations for the chapter.

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268 Submission 806

269 Submission 604

PART D: OVERALL RECOMMENDATION

502. For the reasons we have set out above, we recommend to the Council that:
   a. Chapter 26, in the form set out in Appendix 1, be adopted; and
   b. The relevant submissions and further submissions be accepted, accepted in part or rejected as set out in Appendix 2.

503. We also recommend to the Stream 10 Hearing Panel that the definitions listed in Appendix 3 be included in Chapter 2 for the reasons set out above.

For the Hearing Panel

Denis Nugent, Chair
Date: 31 March 2018

Appendix 1: Chapter 26 as Recommended

26 HISTORIC HERITAGE

QUEENSTOWN LAKES DISTRICT COUNCIL

26.1 Purpose

The purpose of this chapter is to promote the sustainable management of the District's historic heritage[1] features. These features are an important part of the amenity and character of our natural, physical and cultural heritage. Protecting these helps retain the District's character, history, and sense of place. This will be achieved by identifying and recognising heritage values, which can then be offered protection through the Plan.

This chapter contains objectives, policies and rules relating to:

a. the Inventory of protected Heritage Features, which includes all listed buildings, structures, and other features;

b. heritage Precincts;

c. sites of significance to Maori;

d. heritage Overlay Areas.

26.2 Identification and Protection

26.2.1 Categorisation and future listing

The District's most significant known heritage features are represented in the Inventory of Protected Heritage Features. Although they all have heritage value, they are categorised according to their relative level of importance which allows different levels of regulatory protection to be applied. For heritage features there are three categories: 1 to 3, with Category 1 being the most significant.

Queenstown Lakes District Council acknowledges that the Inventory represents an identification and categorisation of heritage features at the time this plan was reviewed and may subsequently change. Nominations for inclusions, removals or amendments to categories for individual features will be considered, but should contain sufficiently detailed and robust reports in line with assessments that the Council uses. Evidence that affected owners have been informed and consulted should be provided and:

a. for heritage precincts and Heritage Overlay Areas, a report from a qualified a conservation / landscape architect or a person with demonstrated experience as an adviser or manager on projects involving heritage precincts or areas, is recommended. These may include site specific reports from government bodies with a remit for heritage, such as Heritage New Zealand Pouhere Taonga and the Department of Conservation;

b. for sites of significance to Maori, a detailed assessment of the extent of the site and related values should be prepared by the appropriately mandated iwi;

c. for individual buildings and structures, a report from a suitably qualified conservation architect, using the Council's criteria, and for Category 1 features, a Conservation Plan. Any Conservation Plan shall be prepared in accordance with Heritage New Zealand's Best Practice Guidelines;

d. for sites that require the use of archaeological methods, a detailed assessment by a qualified and experienced archaeologist.

1. Sec 2A RMA

26.2.2 Description of listed Heritage Features Categories 1 – 3

Category 1	Category 1 Heritage Features warrant the highest level of protection as they are very significant nationally or regionally. Category 1 shall include all places of the highest historical or cultural heritage significance including, but not limited to, all features in Category 1 of the Heritage New Zealand *'New Zealand Heritage List/ Rarangi Kohero'*.
Category 2	Category 2 Heritage Features warrant permanent protection because they are very significant to the District and/or locally.
Category 3	Category 3 Heritage Features are significant to the District and/or locally and their retention is warranted. The Council will be more flexible regarding significant alterations to heritage features in this Category. Category 3 shall include all other places of special historical or cultural value.

26.2.3 Evaluation

Development affecting historic heritage can be a complex matter because of the sensitivity of the values associated with them. The evaluation criteria contained in this section 26.6.1 of this chapter shall form the basis of any 'Assessment of Effects' on activities affecting heritage features. Early consultation on development proposals is recommended with heritage professionals, Heritage New Zealand and community heritage groups, before the design stage.

26.2.4 Archaeology Alert Layer

The HNZPTA 2014 makes it unlawful to destroy or modify the whole or part of an archaeological site without the prior authority of Heritage New Zealand. This is a separate statutory process to obtaining any resource consents required under this District Plan, but is an important step for applicants to consider when preparing a resource consent application which might affect an archaeological site. An archaeological site is defined in the HNZPTA 2014 and is also included in the list of definitions under Section 26.6.

Given the large number of archaeological sites within the District, they are not shown on the Planning Maps. However to assist prospective applicants, an alert layer is maintained by the Council which identifies particularly significant groups of sites or significant sites of unknown extent. This layer is for information purposes only, and users of the Plan are recommended to undertake early consultation with Heritage New Zealand.

This alert layer does not necessarily contain all archaeological sites but is intended to provide applicants with an easily accessible means of undertaking an initial check of the subject site. The alert layer will be updated as new information is made available to the Council. It does not form part of the District Plan Planning Maps.

26.3 Objectives and Policies

26.3.1 Objective - The District's historic heritage is recognised, protected, maintained and enhanced.

Policies

26.3.1.1 Ensure historic heritage features within the District that warrant protection are recognised in the Inventory of Protected Features in Section 26.8.

26.3.1.2 To enhance historic heritage through:

a. increasing the knowledge and understanding of heritage values;

b. providing for the enhancement of heritage values through works which increase the resilience of heritage features by way of repairs and upgrades to meet building and safety standards, subject to these works being undertaken in a manner which respects heritage values and where possible retains original heritage fabric or utilises the same or similar materials.

26.3.1.3 Protect historic heritage values while managing the adverse effects of land use, subdivision and development, including cumulative effects, taking into account the significance of the heritage feature, area or precinct.

26.3.1.4 Where activities are proposed within the setting or extent of place of a heritage feature, to protect the heritage significance of that feature by ensuring that:

a. the form, scale and proportion of the development, and the proposed materials, do not detract from the protected feature located within the setting or extent of place;

b. the location of development does not detract from the relationship that exists between the protected feature and the setting or extent of place, in terms of the values identified for that feature;

c. existing views of the protected feature from adjoining public places, or publicly accessible places within the setting or extent of place, are maintained as far as is practicable;

d. hazard mitigation activities and network utilities are located, designed, or screened to be as unobtrusive as possible.

26.3.1.5 Avoid the total demolition, or relocation beyond the site, of Category 1 heritage features.

26.3.1.6 Discourage the total demolition of Category 2 heritage features, or the partial demolition of Category 1 and Category 2 heritage features, unless evidence is provided which demonstrates that:

a. other reasonable alternatives have been shown to be impractical;

b. there is a significant risk to public safety or property if the feature or part of it is retained;

c. the heritage feature is unable to serve a productive use or its retention would impose an unreasonable financial burden on the building owner.

26.3.1.7 Promote the retention of Category 3 heritage features, or where the partial demolition of a Category 3 heritage feature is proposed, reduce adverse effects on its overall heritage values.

26.3.1.8 Discourage the relocation of Category 2 heritage features beyond the site, or within the site, unless evidence is provided which demonstrates that;

a. relocation is necessary to facilitate the ongoing use or protection of the heritage feature(s), or to ensure public safety;

b. measures are in place to minimise the risk of damage to the heritage feature;

c. the heritage values of the heritage feature(s) in its new location are not significantly diminished.

26.3.1.9 Where the relocation of Category 3 heritage features either beyond or within the site is proposed, to have regard to:

a. the ongoing use or protection of the heritage feature, or to ensure public safety;

b. measures to minimise the risk of damage to the heritage feature;

c. the heritage values of the heritage feature in its new location;

d. within a Heritage Precinct, the effects on the heritage integrity of that precinct including adjoining structures and the precinct as a whole.

26.3.2 Objective - The sustainable use of historic heritage features.

Policies

26.3.2.1 Encourage the ongoing economic use of heritage features, sites and areas by allowing adaptations and uses that are in accordance with best practice, and:

a. enhance heritage values in accordance with Policy 26.3.1.2;

b. do not result in adverse cumulative effects through successive alterations over time;

c. provide an economically viable use for the protected heritage feature, subject to any works being undertaken in a manner which respects its heritage values;

d. recognise the need for modification through works which increase the resilience of heritage buildings by way of repairs and upgrades to meet building and safety standards, subject to these works being undertaken in a manner which respects heritage values.

26.3.2.2 Encourage the maintenance of historic heritage features by allowing minor repairs and maintenance.

26.3.3 Objective - The diversity of historic heritage features, heritage precincts, heritage overlay areas and values associated with them, are recognised.

Policies

26.3.3.1 Identify the heritage values of heritage precincts, heritage features, sites of significance to Maori, and areas of heritage significance and in conjunction with Heritage New Zealand archaeological sites.

26.3.3.2 Ensure that in making decisions on development proposals, the effects on tangible and non-tangible values of sites of significance to Maori, are informed by those mandated to do so.

26.3.3.3 Recognise and protect the different layers of history within heritage (overlay) areas and the relationship between these layers, to retain their cultural meaning and values.

26.3.4 Objective - The historic heritage value of heritage features is enhanced where possible.

Policies

26.3.4.1 Encourage opportunities to enhance the understanding of historic heritage features, including through the need for interpretation.

26.3.4.2 Provide incentives for improved outcomes for heritage values through the relaxation of rules elsewhere in the District Plan where appropriate, on a case-by-case basis.

26.3.4.3 Recognise the value of long term commitments to the preservation of heritage values in the form of covenants and consent notices.

26.3.4.4 Enable ongoing improvements to heritage features including earthquake strengthening and other safety measures, in recognition that this will provide for their ongoing use and longevity.

26.3.4.5 Recognise the potential for ongoing small-scale mining activities consistent with the maintenance of heritage and landscape values within the Glenorchy heritage overlay area, subject to the protection of features identified in section 26.10.

26.4 Other Provisions and Rules

26.4.1 District Wide

Attention is drawn to the following District Wide chapters:

1. Introduction	2. Definitions	3. Strategic Direction
4. Urban Development	5. Tangata Whenua	6. Landscapes and Rural Character
27. Subdivision	28. Natural Hazards	32. Protected Trees
30. Energy and Utilities	*31. Signs*	35. Temporary Activities and Relocated Buildings
33. Indigenous Vegetation	34. Wilding Exotic Trees	36. Noise
37. Designations	Planning Maps	

26.4.2 Interpreting and Applying the Rules

26.4.2.1 The following tables describe activities, standards and subsequent level of activity for resource consent purposes.

26.4.2.2 Reference should be made to Chapter 27 with respect to rules regulating the subdivision of sites containing heritage features.

26.4.2.3 The following abbreviations are used in the tables.

Note: Where an application involves the exercise of matters of discretion by the Council, the activity category are identified by an asterisk *.

P Permitted	C Controlled	RD Restricted Discretionary
D Discretionary	NC Non-Complying	PR Prohibited

26.5 Rules - Activities

Table 1 General

Rule	Activity	All Heritage Features
26.5.1	**Activities not specifically identified** Any activity which breaches a standard but is not specifically identified under any of the levels of activities set out in the rules below.	D
26.5.2	**Repairs and maintenance** Minor repairs and maintenance on all protected heritage features and contributory and non-contributory buildings in heritage precincts. Note: Works that do not fall within the definition of minor repairs and maintenance are classed as alterations.	P

Table 2 Listed heritage features

Rule	Activity	Cat 1	Cat 2	Cat 3
26.5.3	**Total demolition or relocation to another site** *For Category 3 heritage features discretion is restricted to: a. the extent of the demolition proposed and the cumulative effects on the heritage feature; b. the effects on the heritage values and heritage significance, as evaluated in accordance with the criteria in section 26.6; c. where the protected heritage feature is located within a heritage precinct, the effects of the proposed activity on the key features of the heritage precinct as identified in section 26.7.	PR	NC	RD*

Rule	Activity	Cat 1	Cat 2	Cat 3
26.5.4	**Partial demolition** *For Category 3 heritage features discretion is restricted to: a. the extent of the demolition; b. the effects on heritage values and heritage significance, in accordance with the evaluation criteria in section 26.5; c. the effects on the heritage values and heritage significance of the feature, including the cumulative effects resulting from incremental demolition; d. where the heritage feature is located within a heritage precinct, the effects of the proposed activity on the key features of the heritage precinct as identified in section 26.6.	NC	NC	RD*
26.5.5	**Relocation within the site** The relocation of an existing heritage feature within the same site. *For Category 3 heritage features discretion is restricted to: a. the effects on the heritage values and heritage significance of the feature in accordance with the evaluation criteria in Section 26.6; b. the physical effects on the heritage fabric and the effects on the setting or extent of place of the feature; c. any evidence that relocation is necessary for operational reasons; d. where the heritage feature is located within a heritage precinct, the effects of the proposed activity on the key features of the heritage precinct as identified in section 26.7.	NC	NC	RD*
26.5.6	**External alterations and additions** *For Category 2 and 3 heritage features discretion is restricted to: a. the effects on the heritage values and heritage significance of the feature in accordance with the evaluation criteria in Section 26.6; b. where the heritage feature is located within a heritage precinct, the effects of the proposal on the key features of the heritage precinct as identified in Section 26.7.	D	RD*	RD*
26.5.7	**Internal alterations** Internal alterations affecting the heritage fabric of a building. * For Category 2 heritage features (buildings) discretion is restricted to: a. the extent of the alteration and the cumulative effects on the building; b. the effects on the heritage values and heritage significance of the feature in accordance with the evaluation criteria in Section 26.6. Note: For the avoidance of doubt, alterations such as the partial removal and replacement of decoration, windows, ceilings, floors or roofs that only affect the interior of the building are subject to this rule.	D	RD*	P

Rule	Activity	Cat 1	Cat 2	Cat 3
26.5.8	**Development within setting or extent of place** New buildings and structures, earthworks requiring consent under Chapter 25, car park areas exceeding 15m^2 within the view from a public road, and car park areas exceeding 40m2 located elsewhere. * For Category 2 and 3 heritage features, discretion is restricted to: a. Development within the setting, or within the extent of place where this is defined in the Inventory under Rule 26.8; b. The extent of the development and the cumulative effects on the heritage feature, and its setting or extent of place; c. The effects on the heritage values and heritage significance of the feature in accordance with the evaluation criteria in Section 26.6. Note: This rule does not apply to any use of buildings, structures and land other than the activities specified above.	D	RD*	RD*

Table 3 Heritage Precincts

Notes:

a. table 3 only relates to heritage features that are not listed in the Inventory (26.8). Buildings listed in the Inventory are subject to the rules in Tables 1 and 2 only.

b. the following chapters contain rules which apply to the construction of new buildings within heritage precincts:

   i. chapter 10: Arrowtown Residential Historic Management Zone;

   ii. chapter 12: Queenstown Town Centre Zone;

   iii. chapter 13: Arrowtown Town Centre Zone.

Rule	Activity	Contributory buildings other than those listed in 26.8	Non-contributory buildings
26.5.9	**Total and partial demolition or relocation beyond the site**	D	P
26.4.10	**Relocation within a heritage precinct**	D	D
26.4.11	**Relocation from a heritage precinct**	D	P

Rule	Activity	Contributory buildings other than those listed in 26.8	Non-contributory buildings
26.4.12	**External alterations** *Discretion is restricted to: a. the extent of the alterations and the cumulative effects on the heritage feature, and its setting or extent of place; b. the effects on other contributory and individually listed buildings and heritage features. The key features and values of the precinct as identified in the statement of significance and key features to be protected in section 26.7; c. the effects on the heritage values and heritage significance of any affected heritage feature in accordance with the evaluation criteria in section 26.5.	RD*	RD*
26.4.13	**Internal alterations**	P	P

Table 4 Sites of Significance to Maori

Rule	Activity Standard	All Sites
26.5.14	**Development** Any development on a site identified as a Site of Significance to Maori. Any application made in relation to this rule shall not be publicly notified, or limited notified other than to Tangata Whenua.	D

Table 5 Heritage Overlay Areas

Area	Activity Standard	All heritage areas
26.5.15	Notwithstanding Chapter 21, pertaining to the Rural Zone, the following additional rules apply within Heritage Overlay Areas as defined in Section 26.10: a. mining on a mining site where the volume of material excavated or subsequently stockpiled exceeds 500m^3 per mining site per annum (but excluding farm track access, fencing, firebreaks and public use tracks); b. a building ancillary to mining on a mining site, which has a building footprint greater than 10m^2 in area; (For the purposes of Rule 26.4.15(2), a 'building' means any building or structure that is new, relocated, altered, reclad or repainted, including containers intended to, or do, remain on site for more than six months, or an alteration to any lawfully established building) c. removal or destruction of any heritage feature referred to in the Statement of Significance or Key Features to be protected; d. forestry. Notes: a. where archaeological sites are referred to in the Statements of Significance or Key Features to be protected, reference should be made to the definition of archaeological sites in Chapter 2 – Definitions; b. if intending to destroy or modify, or cause to be destroyed or modified, an archaeological site, an Authority will be required from Heritage New Zealand pursuant to the HNZPTA 2014; c. reference should also be made to the rules in Chapter 21, which also apply within Heritage Overlay Areas.	D

26.4.16 Non- Notification

The provisions of the RMA apply in determining whether an application needs to be processed on a notified basis. Except as qualified under Table 4, no activities or non-compliances with the standards in this chapter have been identified for processing on a non-notified basis.

26.6 Evaluation Criteria

26.6.1 Evaluation criteria for categorizing and including features in the Inventory of Protected Heritage features

The following criteria are used to determine the listing and category of listed features, whether a feature should be included in the Inventory, and the category of such listed features; and

Heritage Assessments exist for many of the Protected Features and these provide a detailed assessment of the values of the feature and a conclusion of its overall significance. These assessments are available from the Council and should be used as the starting point for any evaluation. Where such an assessment does not exist, then your evaluation will need to be based on existing historical information, which can be obtained from various sources, including the Council's archaeological alert layer, Heritage New Zealand, the Council's resource consent files, and the Lakes District Museum.

1. Historic and Social Value

a. whether the feature reflects characteristics of national and/or local history;

b. with regard to local history, whether the feature represents important social and development patterns of its time, such as settlement history, farming, transport, trade, civic, cultural and social aspects;

c. whether the feature is significant in terms of a notable figure, event, phase or activity;

d. the degree of community association or public esteem for the feature;

e. whether the feature has the potential to provide knowledge and assist in public education with regard to Otago and New Zealand History;

f. cultural and spiritual value;

g. whether it is of special significance to Tangata Whenua;

h. contribution to the characteristics of a way of life, philosophy, religion or other belief which is held by a particular group or community.

2. Cultural and Spiritual Value

a. whether it is of special significance to Tangata Whenua;

b. contribution to the characteristics of a way of life, philosophy, religion or other belief which is held by a particular group or community.

2. Architectural Value

a. whether the building or structure has architectural or artistic value;

b. whether the feature represents a particular era or style of architecture or significant designer;

c. whether the style of the building or structure contributes to the general character of the area;

d. the degree to which the feature is intact.;

e. whether the building or structure has undergone any alteration, thereby changing the original design.

3. Townscape and Context Value

a. whether the feature plays a role in defining a space or street;

b. whether the feature provides visual interest and amenity;

c. degree of unity in terms of scale, form materials, textures and colour in relation to its setting and/or surrounding buildings.

4. Rarity and Representative Value

a. whether the feature is a unique or exceptional representative of its type either locally or nationally;

b. whether the feature represents a way of life, a technology, a style or a period of time;

c. whether the feature is regarded as a landmark or represents symbolic values;

d. whether the feature is valued as a rarity due to its type, style, distribution and quantity left in existence.

5. Technological Value

a. whether the building has technical value in respect of the structure, nature and use of materials and/or finish;

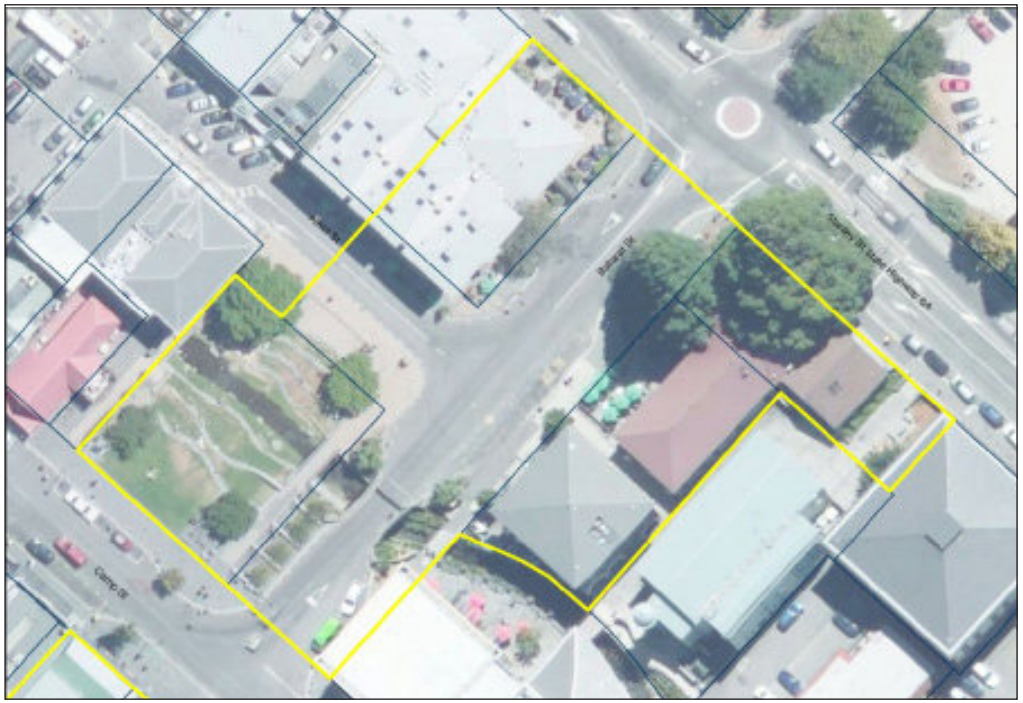
b. whether the building or structure is representative of a particular technique.

6. Archaeological Value

a. significance in terms of important physical evidence of human activities which through archaeological investigation could provide knowledge of the history of Otago and New Zealand.

26.7 Inventory of Protected Features - Precincts

26.7.1 Queenstown Courthouse Heritage Precinct



26.7.2 Statement of Significance

The Precinct represents the historically significant civic centre of Queenstown and contains a number of important heritage buildings, open spaces and structures. Their design and the nature of their stone construction convey their high status within the District. The buildings / structures are an architectural statement of permanency, stability and prosperity as the town evolved progressively from its early canvas tent and timber structures to a new generation of enduring public buildings. The buildings / structures generally remain intact and have a high degree of historical and architectural authenticity within the town. They are very distinctive and prominent features of the townscape in this part of Queenstown and define its provenance. Their scale, form and materials are characteristic of 19th century Queenstown and, together, they are considered to have high 'group' / contextual value in relation to each other. The Stone Bridge is also a rare example of its kind in the District.

26.7.3 Key features to be protected

26.7.3.1 The individual principal historic buildings; their form, scale, materials and significance. Incremental loss must be avoided.

26.7.3.2 The 'group' value of the buildings within the Precinct and their setting within it, including the open spaces.

26.7.3.3 The townscape / landmark value of the Precinct, i.e., other buildings, development and signage within the Precinct or adjoining it should not adversely affect or diminish the significance of the Heritage Precinct.

26.7.4 Queenstown Mall Heritage Precinct

Blue shapes are the non-contributory buildings.

26.7.5 Statement of Significance

The Precinct represents the historically significant commercial centre of Queenstown and still embodies its early settlement pattern from when the town was set out in 1864. This is evident in the arrangement of the sections and the street layout within the precinct. The Precinct contains a wide variance of architectural styles and features of interest is centred on the Mall (Ballarat Street), which since the earliest days of Queenstown has been the principal thoroughfare from the lake through the town. The route of Ballarat Street running up to Hallenstein Street and the frontage of Eichardt's Hotel near the lake provide an historically iconic view of the town from the lake of outstanding townscape and contextual value. The Precinct is considered to have high archaeological value for the evidence that it could provide of the early settlement of Queenstown and its pre-1900 development.

26.7.6 Key features to be protected

26.7.6.1 The group of reasonably intact 19th century commercial buildings / structures towards the lake end of the Mall and their setting within the Precinct.

26.7.6.2 The early settlement pattern of the town (the arrangement of the sections and the street layout within the Precinct). Incremental loss must be avoided.

26.7.6.3 The view of the Precinct from the lake – including the straight view up Ballarat Street to Hallenstein and vice-versa.

26.7.6.4 The archaeology of the Precinct.

26.7.7 Queenstown Marine Parade Heritage Precinct

Blue shapes are the non-contributory buildings.

26.7.8 Statement of significance

The combination of the heritage buildings, the environs of Marine Parade and the shoreline of Lake Wakatipu and the landscape beyond, result in the Heritage Precinct being of unique and exceptional townscape significance. The heritage buildings within the Precinct are representative of the evolution of the early settlement into a permanent and prosperous town. The Masonic Lodge and William's Cottage are thought to be amongst the oldest buildings in the town and create a Precinct of architectural 'gems', which signifies the social and tourist heritage of the town.

26.7.9 Key features to be protected

26.7.9.1 The individual principal historic buildings; their form scale, materials and significance. Incremental loss must be avoided.

26.7.9.2 The unique and exceptional townscape significance of the Precinct.

26.7.10 Arrowtown Town Centre Heritage Precinct

26.7.11 Statement of Significance

The precinct represents the commercial centre of the town and includes a nucleus of heritage buildings that have developed on the site of the 1864 relocated town centre. Buildings such as the former BNZ bank premises (associated with the renowned architect, R.A. Lawson) and Pritchard's Store date from the mid -1870s are symbolic of the development of the town during that economically stable period. The Postmaster's House and Post &Telegraph office have origins in the 20th century and are symbolic of the later progression of the town. The Precinct is held in high esteem by the local community and visitors alike and is a very popular tourist attraction. It contains heritage buildings / structures that are of high aesthetic and architectural significance within the District and wider region as authentic examples or representation of a goldfields' town dating from the 1860s and 1870s. It is considered to have high archaeological value for the evidence that it could provide of pre-1900 commercial Arrowtown dating to the early to mid – 1860s.

26.7.12 Key features to be protected

26.7.12.1 The unity of the Precinct in terms of scale, form, materials, textures and colours in relation to its mountain and river setting.

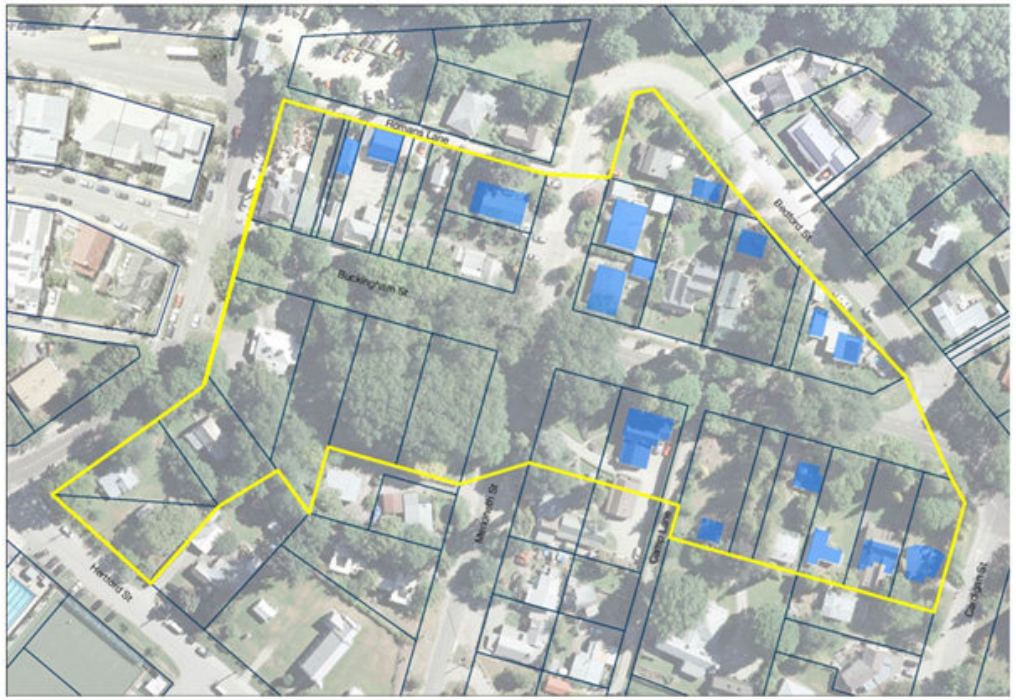
26.7.12.2 The 'group' value of the Precinct and its representative image of a traditional goldfields town.

26.7.12.3 The streetscape, and street and section patterns.

26.7.12.4 Views through the Precinct.

26.7.12.5 Archaeology.

26.7.13 Arrowtown Cottages Heritage Precinct



Blue shapes are the non-contributory buildings.

26.7.14 Statement of Significance

The Precinct represents the historically significant and authentic early years of the settlement and development of Arrowtown from, principally, a social perspective. It contains some of the town's most important buildings and features, including 1870s miners' cottages, the Masonic Lodge, the Green and the tree-lined avenue. The architectural and aesthetic quality of the precinct is derived from its plain, functional, small scale buildings, principally of timber and iron, which represent the typical form of accommodation in which miners and their families lived during the Central Otago Gold Rush years. The larger stone buildings demonstrate progress and permanence as the prosperity and confidence of the town grew. The tree-lined avenue and Green have great aesthetic appeal and provide the setting for the buildings within the precinct. The Precinct has very high townscape / contextual and rarity significance within the District.

26.7.15 Key Features to be protected

26.7.15.1 The individual principal historic buildings; their form, scale, materials and significance. Incremental loss must be avoided.

26.7.15.2 The 'group' value of the buildings within the precinct and their setting within it, including the open spaces.

26.7.15.3 The townscape / landmark value of the Precinct i.e., other buildings, development and signage within the Precinct or adjoining it should not adversely affect or diminish the significance of the heritage Precinct.

26.7.15.4 Archaeology.

26.8 Inventory of listed Heritage Features

Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
1	36	St Peter's Anglican Church Organ, St Peter's Church, corner Church and Camp Streets	Lot 1 DP 365052 (2910504403)		3
2	36	St Peter's Anglican Church Carved Eagle Lectern, St Peter's Church, corner Church and Camp Streets	Lot 1 DP 365052 (2910504403)		3
3	37 (a) 37 (b)	The paddle steamship Antrim's former engines and boiler within the winding house, Kelvin Peninsula. Slipway and Cradle, Kelvin Peninsula	Adjacent to Sections 25 and 26, Block I, Coneburn SD (on water's edge) (Adjacent to 2909954900)		2 3
4	26	Group of Stone Building remains, Whitechapel	Lot 2 DP 15996 Block VIII, Shotover SD (2907210100)		3
5	10	Skippers Road, including stone retaining walls, cuttings at Hell's Gate, Heaven's Gate, Bus Scratch Corner, road to Branches and geographical features Lighthouse Rock, Castle Peak and Long Gully but excluding that part of long Gully legally described as Sections 3, 4 and 5 SO Plan 24648	Road Reserve Commencing at Coronet Peak Road and ending at the end of Branches Road – Blocks II, XV, XVI Shotover SD and Block II Skippers SD.	1 / 7684	2
6	10	The Macetown Road and all road stone retaining walls. From Butler Park, Buckingham Street, Arrowtown through to Macetown Historic Reserve.	Road reserve adjacent to Part Section 2 Block XXV Town of Arrowtown and Run 23, 25, 26, 39 and Part Run 27 (Road Reserve adjacent to 2918233400, 2907214600, 2907212500, 2907214700, 2907300200)		3
7	9	The Hillocks, vicinity Dart Bridge	Part Sections 1 & 2, Block IV, Dart SD (2911130400, 2911130500)		3
8	25	Bible Face, Glenorchy. Vicinity Depot and Gravel Pit, Queenstown-Glenorchy Road, Glenorchy. Exact location shown by the building line restriction.	Part Section 2, Block XIX, Town of Glenorchy (2911120100)		3
9	13	Judge and Jury Rocks, rock features only, Vicinity Kawarau Gorge Bridge	Section 4, Block I, Kawarau SD (2907213800)		3
10	9	Peter Tomb's rock, near Diamond Lake	Section 43 Block II Dart SD (2911131800)		3
11	36	Horne Creek, running through Queenstown Town Centre	Runs from Lot 1 DP20875 Block V, Queenstown Village Green through Lot 1 and Lot 2 DP416867, Lot 2 DP 357929, Lot 2 DP 18459 Block XXXI, Road reserve and adjacent to Sections 2 & 3 Block LII adjacent to Sections 2 & 3 Block LII and ending adjacent to Section 1 Block LII. (2910631100, 2910500301, 2910500510, Adjacent to 2910500401, 2910500500 and 2910506500)		2
12	36	Hotop's Rise, Corner Earl and Camp Street	Road Reserve (Camp Street)		2

Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
13	35	Queenstown Gardens and Plantation Reserve Block, including the Queenstown Garden Gates, 52 Park Street	Section 7 Block LI Town of Queenstown (2910507200)		2
14	12	Copper mine tunnel, Moke Creek	Run 11 Glenorchy Mid Wakatipu (2907305900)		3
15	12	Re-direction tunnel, Moke Creek	Run 11 Glenorchy Mid Wakatipu (2907305900)		3
16	33	Boatshed, Slipway and original Old Ticket Office, Frankton Marina Recreation Reserve	Sections 59 & Part Section 39 Block XXI Shotover SD (2910331100)		2
17	35	Queenstown Cemetery, Brecon Street	Section 132 Block XX Shotover SD (2910614701)		2
18	35	Transit of Venus Site, 8 Melbourne Street, Queenstown	Section 15, Block XXXVI, Town of Queenstown (2910537500)		2
19	10	Cemetery, Skippers	Section 56, Block XI, Skippers Creek SD (2907301000)		3
20	36	Lake Level Plaque, Marine Parade (beside Jetty), Queenstown	Section 6 Block LI Town of Queenstown (2910506600)		3
21	36	Rees Tablet, Waterfront, Marine Parade, Queenstown	Section 6 Block LI Town of Queenstown (2910506600)		3
22	30	Robert Lee's Memorial Trough, Ladies Mile, SH 6	Road reserve adjacent to Lot 2, DP 12921, Shotover SD (Road Reserve Adjacent to 29071402001)		3
23	25	War Memorial, Mull Street, Glenorchy	Section 1560R, Block XII, Town of Glenorchy (Adjacent to 2911101100)		2
24	35	William Rees Memorial, Queenstown Gardens	Part Section 7 Block LI Town of Queenstown (2910507200)		3
25	34	Haki Te Karu Plaque, Queenstown Gardens	Part Section 7 Block LI Town of Queenstown (2910507200)		3
26	34	Scott Rock Memorial, Queenstown Gardens	Part Section 7 Block LI Town of Queenstown (2910507200)		3
27	36	War Memorial Gate, Marine Parade	Road Reserve and Section 6 Block LI Town of Queenstown (Marine Parade) (Road reserve and 2910506600)		2
28	33	1940 Centennial Gates, Queenstown Airport	Lot 2 DP 304345 (2910100106)		3
29	39	Thomas Arthur Monument, Beside Edith Cavell Bridge, Arthurs Point	Road Reserve Crown Land Block XIX Shotover SD (Road Reserve opposite 2910721001)		3
30	25	Centennial Gates, Entrance to Recreation Ground, Corner Mull and Oban Streets, Glenorchy.	Section 1 Block XX Town of Glenorchy (2911118700)		3
31	13	Steam Engine Beside Oxenbridge Tunnel, Arthurs Point	Part Section 148 Crown Land (Shotover River) Block XIX Shotover SD (2907303900)		2
33	12	Trig Station, Mount Nicholas Station	Block X, Part Run 630, Mid Wakatipu SD (2911136100)		3

Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
34	9	Invincible Mine, including the battery, and buddle sites, Vicinity Rees River	Legal description: Sections 1 and 2 Blk XII Earnslaw SD, SO 18563 (Invincible Mine Historic Reserve NZ Gazette 1979,p 570) Otago Land District. Heritage New Zealand Cat/No:2/5603 and 5604		3
35	39	Edith Cavell Bridge Arthur's Point	Bridge adjoining Crown Land Block XIX Shotover SD being the banks of the Shotover River (Road Reserve opposite 2910721001)	1 / 4371	1
36	36	Ballarat Street Bridge, Horne Creek Queenstown Town Centre	Adjacent to Lot 1, DP 20875, Block V and Lot 1 DP 20964, Block XXXI, Town of Queenstown (Road Reserve Adjacent to 2910631100 and 2910500300)	1 / 7097	1
38	36	Bridge over Horne Creek - 11 Camp Street	Lot 2 DP 357929 (2910500401)		2
39	36	Lychgate, St Peter's Anglican Church, Corner Camp and Church Street	Lot 1 DP 365052 (29105 04403)		3
40	33	Kawarau Falls Bridge, Frankton	Bridge adjoining Section 4 Block XVIII, Town of Frankton (Adjoining 2910121800)	1 / 7448	1
41	13	Kawarau Gorge Suspension Bridge, Vicinity Gibbston	Bridge adjoining Sections 63 and 64, Block I, Kawarau SD. (2907200700)	1 / 50	1
42	35	Stone Walled Race, 26 Hallenstein Street Queenstown	Section 12, Block XXXV, Town of Queenstown (2910532900)	2 / 5224	3
43	30	Fish Smoker, Lake Hayes	Lot 6 DP 353144 (2907126606)		2
44	35	Stone Walls, Queenstown Cemetery, Brecon Street.	Section 132 Block XX Shotover SD (2910614701)		3
45	10	Skippers Bridge, Shotover River	Adjacent to Shotover Riverbank, Crown Land and Section 148, Block XI, Skippers Creek SD (Bridge adjoining 2907301600)	1/ 7684	1
46	9	Scheelite Battery, Glenorchy (Mt Judah)	SECTION 7 SO 369025 (2911125502)		3
47	33	Frankton Cemetery Walls and Gates, Frankton-Ladies Mile Highway	Cemetery Reserve No 1 Frankton Town. On the boundary of Crown Land and Part section 5 Block XXI Shotover SD and Lot 1 DP 11353 (On the boundary of 2910340500, 2910340400 and 2910340600)		2
48	33	Old Frankton Racecourse Stand (Mount Cook Hangar), Lucas Place	Lot 2 DP 304345 (2910100106)		3
49	33	Brunswick Flour Mill, Turbine and Stone buildings by Kawarau Falls Bridge, 22 Bridge Street.	Sections 3 & 4 and Block I Town of Frankton and unformed road. (2910121000 and Road Reserve)		2
50	31	Stone Buildings, Tucker Beach Road	Lot 15 DP 351843 (2907146901)		3
51	25	Railway Shed and Track, Recreation Reserve Benmore Place, Glenorchy	Section 22 Block IV Glenorchy SD (2911124100)		3
52	25	Glenorchy Wharf, Vicinity of Recreation Reserve Benmore Place, Glenorchy	Lake Bed Adjacent to Section 22 Block Glenorchy SD (Adjacent to 2911124100)		3
53	25	Glenorchy Library Building, 15 Argyle Street, Glenorchy	Section 23 Block II Town of Glenorchy (2911113900)		3
54	9	Scheelite mine and associated ruins, sluicing area and compressor. And other shaft entrances, Paradise Trust	Section 39 Block II Dart SD (2911131900)		3

Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
55	10	Dam in Skippers Creek	Part Section 148 Block XI Skippers Creek SD (2907300400)		3
56	36	Hulbert House (Tutuila) 68 Ballarat Street Extent of Place: The land described as Sec 4 – 5, Part Sec 3 and Pt Sec 6 Blk XIX Town of Queenstown (CT OT 9B/637) Otago Land District. Refer to the map of the Extent of Place in **Section 26.8.1**	Sections 4 & 5, Part Sections 3 & 6 Block XX Town of Queenstown (2910615900)	2 / 2343	2
57	39	Dwelling, Complex Gorge Road (former Bordeaus store) 201 Arthur's Point Road Extent of Place: Refer to the map of the Extent of Place in **Section 26.8.1**	Lot 1, DP 16632, being part of Block XIX, Shotover SD (2907100900)	2 / 2238	2
58	35	Stone Building, 17 Brisbane Street, Queenstown Extent of Place: Refer to the map of the Extent of Place in **Section 26.8.1**	Lot 9 DP 9667 (2910514500)	2 / 5225	3
59	36	McNeill Cottage (Mullhollands Stone House), 14 Church Street	Sections 4, SO 14826, Block III, Town of Queenstown (2910505900)	2 / 2330	3
60	36	Frederick Daniels House, 47 Hallenstein Street, Queenstown	Lot 2 DP 20343, Block XLVI, Town of Queenstown (2910548000)	2 / 2333	2
61	35	Waldmann Cottage "Nil Desperandum", 2 York Street, Queenstown	Lot 4 DP 17970 Town of Queenstown (2910544200)		3
62	39	House and sleep out, Paddy Mathias Place, Arthurs Point Road, Arthurs Point	Section 123 Block XIX, Shotover SD (2910720700)		2
63	35	Cottage, 28 Park Street	Section 17 Block XXXVIII Town of Queenstown (2910512900)		2
64	36	Masonic Lodge Building, (Lake Lodge of Ophir), Corner Marine Parade/ Church Street (13 Marine Parade)	Section 6, SO 14826, Block III, Town of Queenstown (2910505800)	2 / 2338	1
65	35	Queenstown Bowling Club Pavilion, **(excluding modern northern extension)** located within the grounds of the Queenstown Gardens	Part Sections 4-5 & 7 Block LI Queenstown Town (2910507200)		2
66	36	Williams Cottage (Mulhollands Wooden House) 21 Marine Parade	Lot 2 DP 24375 Block III Town of Queenstown (2910505500)	2 / 2336	1
67	10	Pleasant Terrace Workings, Sainsbury's House and outbuilding, Skippers Mt Aurum Recreational Reserve. Extent of Place relating to the Pleasant Terrace Workings: Part of the land described as Sec 148 Blk XI Skippers Creek SD (NZ Gazette 1985, page 5386) and legal road (part of Skippers Road), Otago Land District on the sites associated with Pleasant Terrace Workings thereon. Refer to the map of the Extent of Place in section 26.9.1	Section 148 Block XI Skippers Creek SD, (2907300400)	1 / 5176	1
68	36	Glenarm Cottage, 50 Camp Street, Queenstown	Section 1 Block XII Town of Queenstown (2910634200)		2
69	30	Laurel Bank House, 47 Maxs Way, Lower Shotover, Queenstown	Lot 8 DP 325561 (2907464700)		3
70a	30	Threepwood Timber Villa, Lake Hayes	Lot 21 DP 378242 (2907123716)		2
70b	30	Threepwood Stone Woolshed	Lot 21 DP 378242 (2907123716)		3

Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
71	26	Stone Cottage (McAuley), Malaghans Road Extent of Place: legal description Refer to the map of the Extent of Place in section 26.8.1	Lot 1 DP 27269 Block XVI, Shotover SD (2907111100)		3
72	27	Hanan's House, McDonnell Road	Part Section 19, Block VII, Shotover SD (2907129300)		3
73	36	Thompson House (excluding additions made after 1900), 66 Hallenstein Street	Lot 1 DP 3401 Block XVI Queenstown (2910527300)		3
74	30	McMaster House, Morven Ferry Road	Lot 1 DP 23902 Block VIII Shotover SD (2907132400)		3
75	30	Loose Box (Mt Linton) House, SH 6/Lake Hayes	Lot 1 DP 9052 Shotover SD (2907126200)		2
76	26	Mill House, 549 Speargrass Flat Road (Mill Creek)	Lot 1 DP 12234 Block VII Shotover SD (2907113302)		3
77	26	Oast House, 557 Speargrass Flat Road (Mill Creek)	Lot 1 DP 18523 Block VII Shotover SD (2907113301)	2 / 2241	3
78	13	Stone Cottage (Rees), 148 Kingston Road, SH 6, original part only	Pt Section 40 BLK XII Coneburn SD (2909954703)		3
79	13	Tomanovitch Cottage, East of DOC Reserve, Gibbston Extent of Place: the land in Certificate of Title OT 15 B/296 including the Orchard associated with to manner which Cottage but excluding the adjacent modern dwelling	Section 40 Block V Kawarau SD (2907204302)	2 / 7595	2
80	26	Cottage Whitechapel, (Tomes) (Original Part Only)	Section 126, Block VIII Shotover SD (2907210500)		3
81	9	Arcadia, Paradise, Glenorchy (Original Part Only)	Sections 3 & 4 Lot 13 DP 25326 Block II Dart SD (2911132000)		3
82		Millbrook stables (remaining historic stone structure), and the blacksmiths building/ smoker Extent of Place: legal description Refer to the map of the Extent of Place in section 26.9.1	Lot 1 DP 27625, Otago Land District (2918530510A)		2
83	30	Shaw Cottage, Morven Ferry Road	Lot 2 DP 15559 (2907132100)		3
85	36	Boyne Building, The Mall, 11 Ballarat Street	Section 20 and 21, SO 14826, Block II, Town of Queenstown (2910503600)	2 / 5226	3
86	36	Colonial Bank, The Mall, 5 Ballarat Street	Section 17, SO 14826, Block II, Town of Queenstown (2910503400)		2
87	35	Gratuity Cottage, 9 Gorge Road Queenstown	Lot 1 DP 12476 (2910623700)		3
88	36	The Queenstown Athenaeum and Town Hall (Winnie Bagoes), The Mall, 7-9 Ballarat Street	Lot 1, DP 16597 (Previously Part Section 19), Block II, Town of Queenstown (2910503500)		3
89	35	House, 5 Brisbane Street	Lot 12 DP 9667 (2910514100)	2 / 2331	3
90	36	The Cow Restaurant, Cow Lane	Section 16, Block I, Town of Queenstown (2910651200)	2 / 5227	2

Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
91	13	Kinross Store and Buildings, Gibbston	Lot 1 DP 24857 Block V, Kawarau SD (2907203903)	2 / 7240	3
92	31	Ferry Hotel, Spence Road, Lower Shotover	Part Section 106 Block III Shotover SD (2907122201)		2
93	26	Butel's Flourmill (original foundations and stone wall), Off Butel Road, Millbrook Area Extent of Place: legal description Refer to the map of the Extent of Place in **Section 26.8.1**	Lot 1 DP 300042 (2918500103)	2 / 3206	2
94	13	Roaring Meg Power Station, SH6	Part Riverdale Reserve, Crown land adjacent to Kawarau River Block VI Kawarau SD (2907214500)		3
95	30	Ruins Maynes Hotel, SH6, Lake Hayes Corner	Lot 1 DP352501 (2907126902)		2
96	34	Queenstown Powerhouse, One Mile	Part Sections 110 Block XX Shotover SD (2910654000)		2
97	25	Former Glacier Hotel (Kinloch Lodge) Armadale Street, Kinloch	Section 4 Block XX Town of Kinloch (2911121600)		2
98	36	Dominican Convent (Of Our Lady of the Sacred Heart) Corner Beetham and Melbourne Street	Section 7 & 8 part Section 8 Block XXXIV Town of Queenstown SO 14831 (2910529300)		2
99	36	St Peter's Anglican Church, Corner Camp Street and 4 Church Street	Lot 1 DP 365052 (2910504403)	2 / 2341	3
100	36	St Peters Parish Hall, 5 Earl Street	Lot 3 DP 365052 (2910504404)	2 / 5404	3
101	36	St Peter's Parish Centre (former Vicarage), 1 Earl Street	Lot 2 DP 365052 (2910504404)	2 / 2342	3
102	36	St Joseph's Roman Catholic Church, 41 Melbourne Street	Sections 6 SO 14831, Block XXXIV, Town of Queenstown (2910529300)	2 / 2340	2
103	25	Church, 13 Argyle Street, Glenorchy	Section 22 Block II Town of Glenorchy (2911114000)		3
104	39	The old McChesney bridge abutment remains, located by the one-way bridge by Arthurs Point Hotel, Arthurs Point	Crown Land Block XIX Shotover SD (2907150900)		2
105	29	Stone Stable, located on the former Littles farm, Littles Road, Wakatipu Basin	Lot9 DP 301885 (2907108804)		3
106	36	Former Lakes County Council Building Corner Ballarat and Stanley Streets (original part only)	Lot 1, DP 21011 (previously Section 10 and 11), Block IV, Town of Queenstown (2910630600)	2 / 2337	1
107	36	Courthouse (Former Library and Reading Room and Justice Building), Ballarat Street	Lot 3, DP 20964 and Section 7 Block XXXI, Town of Queenstown (2910500508, 2910500100)	1 / 362 / 7655	1
108	36	Coronation Bath House, Marine Parade Extent of Place: Part of the land in Sec 6 Blk LI Town of Queenstown (CT46575), Otago Land District. Refer to the map of the Extent of Place in **Section 26.8.1**	Section 6, SO 20747 Block LI, Town of Queenstown (2910506600)	2 / 5223	3
109	25	Old School Building, 1771 Paradise Road	Section 30 Block II Dart SD (2911131900)		2
110	26	Ayrburn Homestead and Stone Farm Buildings	Lot 1 DP 18109 (house) and Part Lot 3 DP 5737 (Dennisons Farm) (2907113200, 2907116606)		2
111	30	Homestead and Stone Stables, Bendemeer Station	Lot 2 DP 366461 (2907127311)		2

Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
112	30	McQuilkin Cottage and Stables (Original Part Only), Bendemeer Bay, Lake Hayes	Lot 1 DP 15921 (2907136301)		3
113	13	Brodie Homestead and Farm Buildings (Glen Russell)	Lots 1 and 2, DP 22393 Block VIII Shotover SD (2907211501)		3
114	38	Closeburn Homestead Queenstown/Glenorchy Road, Closeburn	Lot 1 DP 22593 (2907317901)		3
115	13	Crown Lodge	Lot 1 DP 16512, Lot 1, DP 21358 Block VIII (2907212200)		3
116	13	Kawarau Station Woolshed, SH 6, Gibbston	Lot 20 DP 27121 (2907201600)		3
117	13	Stronsay Farm Buildings, Gibbston	Lot 8 DP 23706 (2907203702)		3
118	26	McEntyre Homestead, Lake Hayes/Arrowtown Road, (Original Part Only)	Lot 1 DP 20834 Block VII Shotover SD (29071 28600)		3
119	33	McBrides Farm Buildings: consisting of Original Smithy, Dairy, Barn and Woolshed, 64 Grant Road, Frankton Flats	Dairy and Woolshed: Lot 9 DP 22121 Block I Shotover SD, Smithy: Lot 11 DP 304345, Barn: Part Section 60, Block I Shotover SD (2910210500, 2910210103, 2910210001)		2
120	30	Bridesdale, Ladies Mile	Lot 3 DP 392823 (2907400508)		3
121	30	Douglas Vale, Ladies Mile	Lot 1 DP 337267 (2907401005)		3
122	30	Glenpanel, Ladies Mile On un-named road on hill above Ladies Mile	Lot 1 DP 20162 Part Section 83 Block III Shotover SD (2907123600)		3
123	26	Willowbrook Homestead, 760 Malaghans Road	Lot 1 DP 20331 Block VI Shotover SD (2907110800)		3
124	29	Ben Lomond Station Homestead, 101 Malaghans Road	Lot 2 DP 1800 Shotover SD (2907100700)		3
125	29	Cockburn Homestead, 18 Malaghans Road	Lot 1 DP 300530 (2907100502)		3
126	26	Muter Farm Homestead (Roger Monk), McDonnell Road	Part Section 88 Block VII Shotover SD (2918400400)		2
127	30	Stone Barn, 297 Morven Ferry Road	Lot 4 DP 300119 (2907132313)		3
128	30	Stables, Morven Ferry Road	Lot 2 DP 397 602 (2907132313)		3
129	13	Royalburn Station Homestead, off Crown Range Road (Original Part Only)	Lot 2 DP 304567 (2907212003)		3
130	10	Mount Aurum Homestead, Skippers, Mount Aurum Recreational Reserve	Sections 148, Block XI Skippers Creek SD Run 818 Blocks 2-4, 7, 8, 11. Poolnoon SD (2907300400)	2 / 5176	2

Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
131	29	Stables, Barn, Smithy, Stone Cottage, Wooden Cottage and Ruins, Thurlby Domain, Speargrass Flat Road Extent of Place: Part of the land described as Lot 1 DP 22310 (CT35296) and the land described as Lot 2 DP 22310 (CT OT 14C/392), Otago Land District. The Extent of Place encompasses two areas linked by a corridor of land along part of the driveway and the road fence line. Included within the Extent of Place are the wooden cottage, the corrugated iron farm shed, the stone cottage, and two stone stables buildings. These are connected to the ruins of the former homestead by 0.5 m strip of land that runs along the fence line facing Speargrass Flat Road and includes a section of driveway off Speargrass Flat Road, including the iron gates extending 1 m either side of the centreline. For clarity, the Extent of Place includes an area of 1 m around the ruins. Refer to the map of the Extent of Place in **Section 26.8.1**.	Lot 2 DP 22310 (2907119704)	1 / 2240	1
132	13	Seffers Town School House, Moke Creek	Part Block XI, Mid Wakatipu SD		2
133	36	Eureka House, 17 Ballarat Street, Queenstown	Sections 23 SO 14826, Block II Town of Queenstown (2910503800)		3
134	36	Forresters Lodge building, Ballarat Street (all external façade)	Lot 1, DP 21011 (previously Section 12), Block IV, Town of Queenstown (2910630600)	2 / 2332	2
135	36	Van Der Walde Building - facade The Mall, Ballarat Street (Skyline Arcade)	Lot 2, DP 19416 (previously Part Section 13) Block I, Town of Queenstown (2910651000)		2
136	36	Eichardts Hotel facade, Corner Ballarat Street (The Mall) & Marine Parade, Queenstown	Sections 15 and 16, Block II, Town of Queenstown (2910503201)	2 / 7439	2
137	36	Mountaineer Hotel facade, Corner Rees and Beach Street, Queenstown	Lot 2 DP 22252 Block VII, Town of Queenstown (2910645501)		2
138	36	Façade, 3 Rees Street, Queenstown	Part Section 19 and Section 20 Block I, Town of Queenstown (2910651500)		3
139	10	School House at Mt Aurum	Section 148 Block XI Skippers Creek (2907300400)	2/5176	3
140	10	Bullendale hydroelectric dynamo and mining site - including Eden Hut and Musters Hut . Extent of Place: Part of the land described as Sec 148 Blk Skippers Creek SD (Recreation Reserve,NZ Gazette 1985,p 5386) and Pt Legal Road (Bullendale Track), Otago Land District, and includes all remnants around the site belonging to the gold mining era and all objects associated with the mining and power generation operations and settlement at Bullendale within the extent of the registration boundary. Refer to the map of the Extent of Place in **Section 26.8.1.**	Section 148 Block XI Skippers Creek (2907300400)		1
144	10	Strohle's Hut	Part Run 27 Shotover, Skippers Creek and Soho SD's (2907300200)		3
145	10	Otago Hotel	Section 148 Block XI Skippers Creek (2907301600)		3
216	13	Chard Road	Road Reserve		2

Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
217	10	Macnicol Battery, Aurum Basin	Part Section 148 Block XI Skippers Creek Part Mt Aurum Recreation Reserve (2907300400)		2
218	10	Eureka Battery, Jennings Creek	Part Section 148 Block XI Skippers Creek Part Mt Aurum Recreation Reserve (2907300400)		3
219	10	Nugget Battery below Nugget Terrace	Part Section 148 Block XI Skippers Creek Part Mt Aurum Recreation Reserve (2907300400)		3
220	34	Rifle Butt, Lake Wakatipu foreshore	Lake Wakatipu (approx. 250m south-west from Fernhill Road Roundabout)		3
221	35	Beacon Tripod and Beacon	Part Section 109 Block XX Shotover SD and Lake Wakatipu (2910654000)		2
222	31	Old Shotover Bridge	Joins Crown Land Block II Shotover Survey District and Spence Road		3
223	13	Victoria Bridge Supports, Gibbston Highway	River and Road Reserve		3
224	13	Ryecroft House, 1800 Gibbston Highway	Lot 1 DP 9947 (2907200800)		3
225	13	Perriam's House, Gibbston Back Road	Lot 3 DP 23253 (2907202903)		3
226	9	Paradise House, (Miller House) Paradise Trust, 1771 Paradise Road	Section 30 Block II Dart SD (2911131900)	1/7766	2
227	25	Coll Street Cottage, Coll Street	Lot 1 DP 22743 (2911119101)		3
228	10	Curries Hut, Dynamo Creek	Part Section 148 Block XI Skippers Creek Part Mt Aurum Recreation Reserve (2907300400)		3
229	13	Post Office at Seffertown	Part Run 794 Mid Wakatipu, Shotover, Skippers Creek and Glenorchy SDs (2907303900)		2
230	13	Store at Seffertown	Part Run 794 Mid Wakatipu, Shotover, Skippers Creek and Glenorchy SDs (2907303900)		2
231	13	Library at Seffertown	Part Run 794 Mid Wakatipu, Shotover, Skippers Creek and Glenorchy SDs (2907303900)		2
232	13	Resta Stone Stables, Resta Road/Camp Hill	Glenroy Station		3
233	13	Wentworth Cookshop, 2125 Gibbston Highway	Lot 20 DP 27121 (2907201600)		3
234	13	Remnants of Gibbston Hotel, Dairy, Stables and out buildings. Rapid No. 8, Coal Pit Road	Lot 1 and Lot 3 DP 385701 (2907201802, 2907201803)		3
235	13	Gibbston school teachers house, 2214 Gibbston Highway	Part Section 11 Block V Kawarau SD (2907202000)		2
236	13	Rum Curries Hut, Rafters Road	Section 39 Block V Kawarau SD (2907204500)		1
237	12	Goods shed, Elfin Bay Station, beside wharf	Section 12 SO 12351 (2911135401)		3
238	9	E. Barnetts Hut - Wyuna Station Scheelite Mining Area	Section 14 SO 369025 (2911125502)		3
239	25	Kinloch jetty and wharf building	Sec 4, Blk XX Town of Kinloch (associated with Kinloch Lodge) (2911121600)		2
240	30	Marshall Cottage, Strains Road, Threepwood, Lake Hayes	Lot 2 DP 21614 (2907123753		3

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241	33	Kawarau Falls Dairy and Meat Store	Lot 4 DP 385775		2
242	30	Threepwood Stables	Lot 2 DP 21614		2
248	31	Hicks Cottage, Old School Road	Lot 101 DP325561		3
250	28	Millers Flat Church, Roman's Lane, Arrowtown	Part Section 3 Block x Town of Arrowtown (2918217100)		3
251	28	Former Methodist Church, 8 Berkshire Street, Arrowtown	Pt Secs 1&2 BLK VII Arrowtown (2918231100)		3
252	26	Shanahan's Cottage, Arrowtown Golf Course	Sec 3, Blk XXXII Tn of Arrowtown (2918400500)		3
253	26	Stone Cottage, 253 Centennial Avenue, Arrowtown (Limited curtilage)	Section 5 SO 445725 (2907130002)		2
301	28	King Edward VII Memorial Lamp, Corner Wiltshire Street and Berkshire Street, Arrowtown Extent of place: the immediate area around the King Edward VII Memorial Lamp. Refer to the map of the Extent of Place in section 26.8.1	Road reserve adjacent to Block VI, Town of Arrowtown	2 / 2107	3
302	28	Explosive Magazine, Malaghans Road, Arrowtow	Sections 9 Block XIX, Town of Arrowtown (2918235002C)	2 / 2108	3
303	28	World War I Field Gun, reserve, Corner Caernarvon and Durham Street	Part Section 5 Block XVIII Town of Arrowtown (2918234800)		2
304	10	Scholes Tunnel, Macetown Road	Run 26 Block XVIII Shotover SD Macetown Road (2907214600)		3
305	28	Cobbled Gutters, Berkshire Street, Arrowtown	Road Reserve	2 / 2086	2
308	28	World War I Memorial Reserve, Corner Caenarvon and Durham Street Arrowtown	Part Section 5, Block XVIII Town of Arrowtown (2918234800)	2 / 2124	2
309	26	William Fox Memorial, Coopers Terrace, Arrow River, Arrowtown	Run 26 Block XVIII Shotover SD (2907214600)		2
310	28	Stone Wall, Arrow Lane Arrowtown	Fronting Lots 1 and 2, DP9213 and Lot 1 DP17116 Block VI, Town of Arrowtown (2918228100, 2918228200)		3
311	28	Stone Wall, Recreation Reserve, Buckingham Street Arrowtown	Sections 1 and 2, Block XXV, Town of Arrowtown (2918233400, 2918232600)	2 / 2120	3
312	28	Ah Wak's Lavatory, 2 Buckingham Street Arrowtown	Lot 4 DP 18410 (2918232900)	2 / 2084	2
313	28	Cemetery Wall	Block II Section 10, 12, 13 Town of Arrowtown (2918234900)		3
314	28	Stone wall, old Arrowtown Primary School, Anglesea Street	Section 14 Block IV Town of Arrowtown (2918223202)		2
315	28	Cottage, 9 Anglesea Street Arrowtown	Section 7, Block V, Town of Arrowtown (2918220300)	2 / 3167	2
316	28	Cottage, 10 Anglesea Street Arrowtown	Lot 2 DP 342961 (2918223204)	2 / 2087	3
317	28	Cottage, 11 Anglesea Street Arrowtown	Lot 2, DP11488 (2918220400)	2 / 3166	2

Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
318	28	Cottage, 12 Anglesea Street Arrowtown	North Part Section 10/11, Block IV, Town of Arrowtown (2918223100)	2 / 2088	2
319	28	Cottage, 21 Anglesea Street Arrowtown	Part Section 6, Block II, Town of Arrowtown (2918219400)	2 / 2089	2
320	28	Cottage, 7 Bedford Street Arrowtown	Lot 1, DP 16248, Block XXIV, Town of Arrowtown (2918216300)	2 / 2091	2
321	28	Cottage, 3 Berkshire Street Arrowtown	Lot 1, DP 9213, Block VI, Town of Arrowtown (2918228100)	2 / 2122	2
322	28	Cottage, 18 Berkshire Street Arrowtown	Section 3, Block XIII, Town of Arrowtown (2918234400)	2 / 2090	2
323	28	Dudley's House Chinese Residence and Butlers House, 4 Buckingham Street Arrowtown	Lot 1, DP 8232, being part Block VII, Town of Arrowtown (2918233000)	2 / 2106	2
324	28	Ah Lum's Cottage, Arrowtown Chinese Settlement, Middlesex Street	Lot 3 DP18410 Block VIII Town of Arrowtown (2918232800)	1 / 4366	1
325	28	Cottage (O'Callaghan's) 16 Caernarvon Street Arrowtown	Section 3 Block XIV, Town of Arrowtown (2918224500)	2 / 2100	2
326	28	Old Fever Ward, 24 Caernarvon Street Arrowtown	Lot 2, DP 10960 (2918224100)	2 / 2101	3
327	28	Off Plumb Cottage, 38 Caernarvon Street Arrowtown	Lot 1, DP 12438 (2918222200)	2 / 2112	2
328	28	Cottage (Low) 15 Denbigh Street Arrowtown	Lot 1, DP 11234 (2918221200)	2 / 2102	2
329	28	McClintock's Cottage, 31 Merioneth Street Arrowtown	Sections 2 Block XX, Town of Arrowtown (2918211800)	2 / 2103	2
330	28	Masonic Lodge Building, 9 Wiltshire Street Arrowtown	Lot 1 DP19573, Block I, Town of Arrowtown (2918217800)	1 / 2110	2
331	28	Cottage, 11 Wiltshire Street Arrowtown	DP19573 Sections 6 & 7 Block I Town of Arrowtown (29182179000	2 / 3168	2
332	28	Cottage (former Vicarage) 34 Wiltshire Street Arrowtown	Section 20, Block VII, Town of Arrowtown (2918231500)	2 / 2105	2
333	28	Reidhaven, 5 Villiers Street Arrowtown	Part Section 10, Block VII, Town of Arrowtown (2918231900)	2 / 2116	2
334	28	Cottage, 8 Villiers Street Arrowtown	Part Sections 2 and 3, Block VIII, Town of Arrowtown (2918233200)	2 / 2104	2
335	28	Adam's Cottage, 61 Buckingham Street Arrowtown	Part Section 3, Block X Town of Arrowtown (2918217100)	2 / 2097	3
336	26	Scheib Cottage (Original Part Only) Arrow Junction	Section 118 Block VIII Shotover SD (2907130800)		3
337	26	Doctor's House, Centennial Avenue	Lot 1 DP 22726 Block XXXIII Town of Arrowtown (2918401200)		3
338	30	Fitzgibbon Cottage, Arrow Junction Road/Morven Ferry Road	Section 82, Block VIII Shotover SD (29071328000		3
339	28	Cottage, Corner Berkshire and Caernarvon Street, Arrowtown	Section 3 Block IV Town of Arrowtown (2918223500)		3

Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
340	28	Crowie's Cottage, 53 Buckingham Street Arrowtown	Part Section 1 Block X Town of Arrowtown (2918217500)	2 / 2093	2
341	27	Wilcox Cottage, Corner Devon and Cornwall Street, Arrowtown	Lot 1 DP 12431 (2918105200)		3
342	28	Luker's Cottage, Feehly Hill, Durham Street	Lot 4 DP 11307 (2918235503)		3
343	28	Forbes Cottage, original part only including chimney, 67 Buckingham Street Arrowtown	Section 2, Block XI Town of Arrowtown (2918215500)		3
344	28	McLaren Cottage, Corner Ford and Bedford Street Arrowtown	Lot 2 DP 9802 (2918203900)		3
345	28	Granny Jone's Cottage 59 Buckingham Street Arrowtown	Part Section 2 & 3 Block X Town of Arrowtown (2918217200)	2 / 2096	2
346	28	Gilmour's Cottage original parts only, 5 Hertford Street Arrowtown	Lot 2 DP 19573 (2918218000)		3
347	28	Meg Cottage corner Hertford and Merioneth Street Arrowtown	Section 5 Block XII Town of Arrowtown (2918212200)		3
348	27	Johnston Cottage 51 Devon Street Arrowtown.	Lot 2 DP 16516 (2918105900)		3
349	28	Brodie Cottage 32 Kent Street Arrowtown	Section 6 Block XV Town of Arrowtown (2918222600)		3
350	28	Preston Cottage 30 Kent Street Arrowtown	Section 5 Block XV Town of Arrowtown (2918222700)		3
351	28	Furneaux Smith House, 5 Caernarvon Street Arrowtown	Lot 7 DP 11302 Town of Arrowtown (2918234000)		3
352	27	Currie's Cottage, Manse Road Arrowtown	Lot 2 DP 300024 Town of Arrowtown (2918410800)		3
353	28	Murphy's House, 1 Merioneth Street Arrowtown	Lot 2 DP 25997 Block XI Town of Arrowtown (2918215800)		3
354	28	Cottage (Fitzpatrick) 27 Merioneth Street Arrowtown	Section 2 Block XX Town of Arrowtown (2918211800)		3
355	28	Policeman's House 70 Buckingham Street, Arrowtown	Lot 19 DP 9914 Block VI (2918214300)		3
356	28	Pittaway's Cottage, 69 Buckingham Street Arrowtown	Section 3 Block XI Town of Arrowtown (2918215600)	2 / 2099	3
357	28	Roman's Cottage 65 Buckingham Street, Arrowtown	Lot 1 DP 12521 (2918217000)	2 / 2098	2
358	28	Stevenson's Cottage 55 Buckingham Street, Arrowtown	Part Sections 1 & 2 Block X Town of Arrowtown (2918217400)	2 / 2094	2
359	28	Cottage, 28 Wiltshire Street Arrowtown	Part Section 1 Block VII Town of Arrowtown (2918231200)		2
360	28	Summers Cottage 16 Wiltshire Street, Arrowtown	Lot 1 DP 23743 Town of Arrowtown (2918227801)		2
361	28	Summers Cottage, 12 Stafford Street Arrowtown	Lot 2 DP 16665 Block XVI Town of Arrowtown (2918226200)		2
362	28	Postmaster's House, 54 Buckingham Street, Arrowtown	Lot 2 DP 21884 Block VI (2918228801)	2 / 2113	2
363	26	Walnut Cottage, 265 Arrowtown-Lake Hayes Road, original building only	Lot 1 DP 5746 (2907114002)		3
365	28	Reid's Stables, 40 Wiltshire Street, Arrowtown	Lot 9 DP 1923 (2918231800)	2 / 2115	2

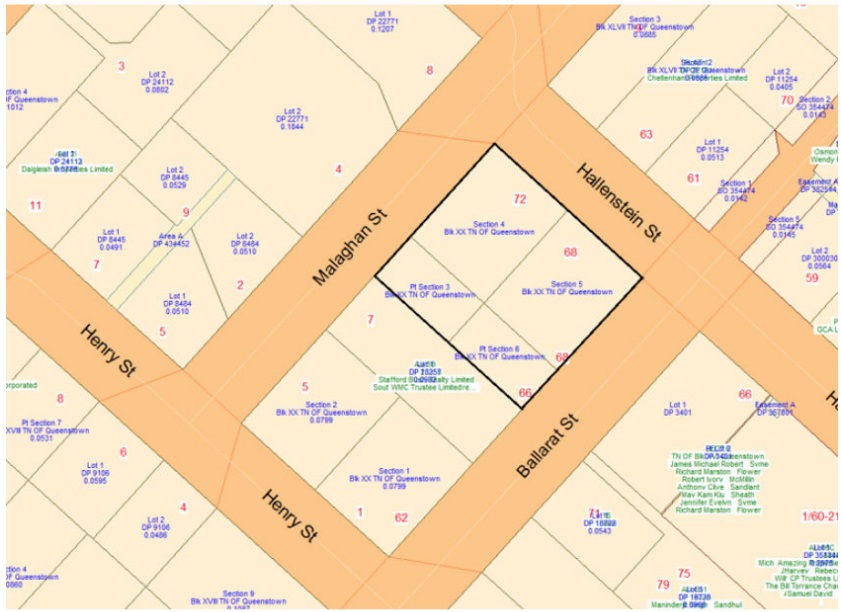
Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
366	27	Presbyterian Manse, 51 Manse Road Arrowtown	Lots 1 DP 342248 (2918410007)		2
367	28	St John's Church, 26 Berkshire Street Arrowtown	Section 1, Block XVIII, Town of Arrowtown (2918234700)	2 / 2119	2
368	28	St Paul's Anglican Church, 13-15 Berkshire Street, Arrowtown	Section 1 & 2, Block IV, Town of Arrowtown (2918223400)	2 / 2121	2
369	28	Anglican Vestry Building, 15 Berkshire Street, Arrowtown	Sections 1 & 2, Block IV, Town of Arrowtown (2918234700)	2 / 2123	3
370	28	St Patrick's Church (Roman Catholic) & Blessed Mary MacKillop Cottage 7 Hertford Street Arrowtown	2918218100	2 / 2117	2
372	28	Arrowtown Borough Council Buildings, 57 Buckingham Street Arrowtown	Lot 1 DP 26376 Block X, Town of Arrowtown (2918217300)	2 / 2095	1
373	28	Post Office, 52 Buckingham Street, Arrowtown	Lot 1 DP 21884 Block VI Arrowtown (2918228800)	2 / 2114	2
374	28	Jail and Reserve (0.0545ha), 8 Cardigan Street Arrowtown	Lot 7, DP 9914, being Part Section 15, Town of Arrowtown (2918213600)	1 / 350	1
375	27	Police Camp Building Butler Park, Arrowtown	Part Section 2 Block XXV Town of Arrowtown (2918233400)		2
378	28	Arrowtown General Store, 18-20 Buckingham Street, Arrowtown	Lot 1 DP 27544 (2918229800)	1 / 4370	2
379	28	Stable Block (The Stables Restaurant), 28 Buckingham Street, Arrowtown	Lot 1 DP 12884 (2918229600)	2 / 2118	2
380	28	Stone Cottage, 51 Buckingham Street Arrowtown	Part 1 Section 1, Block X, Town of Arrowtown (2918217600)	2 / 2092	2
381	28	B.N.Z Agency Building, 30 Buckingham Street, Arrowtown	Lot 2 DP 12884 (2918229500)	2 / 2085	2
382	28	Lakes District Museum (former Bank), 47 Buckingham Street, Arrowtown	Sections 1-3 Block IX Arrowtown (2918230900)	2 / 2111	2
385	10	Macetown Ruins and Reserve, Vicinity Macetown	Land on SO's 14538, 18539 and 18612. Section 1, Block XIV, Shotover SD, SO18612, Sections 1-6, Block I, Sections 104, Block II; Sections 1-10 Block III, Sections 1-6 Block V; Sections 1-6 Block VI; Sections 2 & 5 Block VII; Sections1-15 Block VIII; Sections 1-4 Block IX; Sections 1-10 Block X; sections 1-10 Block XI; Sections 1-9 Block XII; and Sections 1-9 Block XIII; Mining Reserve adjoining Block II,III,IV,IX,X & XII and adjacent to Block I & VIII and Crown Land adjoining Blocks V, VI,VII,VIII,IX & XIII and adjacent to Block 1; Town of Macetown. As in all document no's 489403 and 149467. SO Plan 14537; SO Plan 14538; SO Plan 18539 and 18612.		3

Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
387	10	Britannia Terrace, Macetown Road	Block XVIII Shotover SD, Lot 1 DP 12267; Lots 1 & 2 DP 12940; Lots 1-4 DP 15443; Sections 3-5 Block VI Town of Arrowtown;Lots 1 & 2 DP 21884, Sections 14-15 Block IX Town of Arrowtown; Lot I DP 27170, Lot 1 DP 21701; Town of Arrowtown and the legal road to which all these properties front, Sections 1-9 Block IX (2907214600, 2918229600, 2918229500, 2918229400, 2918229300, 2918229200, 2918229100, 2918229000, 2918228902, 2918228800, 2918228801, 2918230300, 2918230400, 2918230500, 2918230600, 2918230700, 2918230800, 2918230900		3
400	39	Stone seat, Kingston foreshore	Section 1 Block XX Kingston Town (2913106700)		3
401	39	Square stone culvert, under railway yards.	Road Reserve - Kent Street		3
402	39	Stone cairn, site of the launching of the Earnslaw	Road Reserve - Kent Street		3
403	39	Rock retaining wall, wharf approach, Kingston	Lake Wakatipu		3
404	39	Wharf, Kingston	Lake Wakatipu		3
405	39	Old School Building (current library), 48 Kent Street	Lot 1 Section 15 Block 1 Kingston (2913126700)		3
410	39	Ships Inn, 24 Cornwall Street	Section 16 Block X Town of Kingston (2913114300)		3
411	39	Kingston Flyer Railway, including: Railway turntable, water tank and crane. The railway line from Kingston to Fairlight (up to the QLDC District boundary) Kingston Railway Station. Water weir	Lots 1 & 6 DP 306647 Lot 2 Part Lot 1 DP 318661; Block I, V, XII Kingston SD; Sections 1-3, 5, 7-10, 12-15, 20, 23 & 24 Block VI Town of Kingston; Section 2, 4, 6-8, 10, 11, 25, Part Section 3, 5, 9 Section 1; SO7617; Section 1-3 SO10898 SO 10760; Run 593. Lot 2 Part Lot 1 DP 318661; Lot 1 DP 306648; Block I, V, XII Kingston SD; Sections 1-3, 5, 7-10, 12-15, 20, 23 & 24 Block VI Town of Kingston; Section 2, 4, 6-8, 10, 11, 25, Part Section 3, 5, 9 Section 1; SO7617; Section 1-3 SO10898 SO 10760; Run 593; Lot 9DP 306647; Lot 4DP 318631 Section 1 Block X Part Section 8 Block I Kingston SD Scenic Reserve Balance at 29280-43500 (2913104205 2913102800, 2913104205, 2913109901, 2913104206, 2913104209, 2913104210,2913101801,2913102800)		2
500	10	Old Butchery, Tuohy's Gully, Cardrona	Part Section 3 Block I Cardrona SD		2
506	20	Wilkin Memorial 2 Mclellan Place, Albert Town	Lot 23 DP 24481 Block IV Lower Wanaka SD (2908326330)		2
507	21	Soldiers Monument Chalmers Street Lookout QLDC Local Purpose Reserve Wanaka	Lot 1 DP 4961 Wanaka Memorial Reserve (2905309900)		2

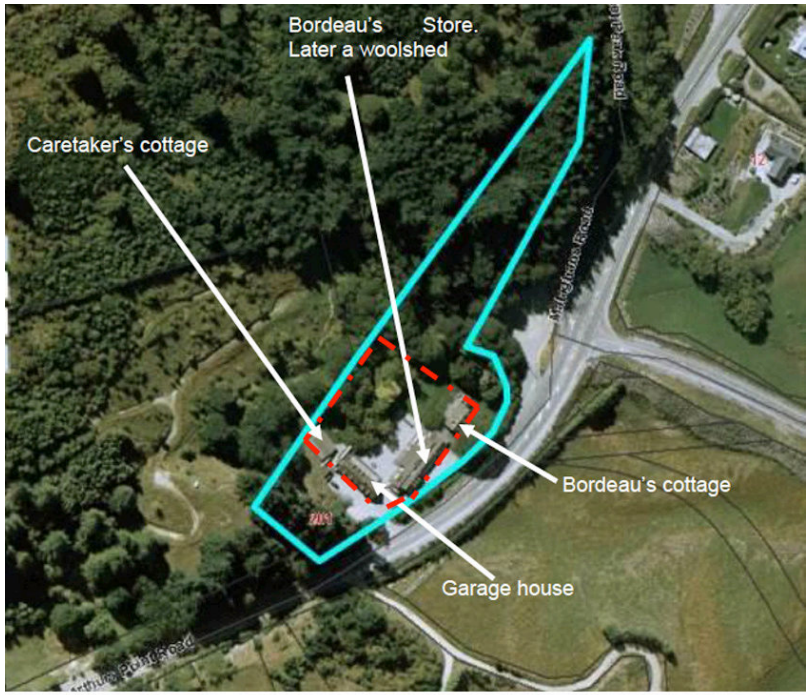
Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
508	24	Early Graves and Pioneer Memorial Albert Town Cemetery Reserve, Lake Hawea -Albert Town Road	Section 20, Block V Lower Wanaka SD (2908201200)		2
509	24	James Horn Plaque, Albert Town Bridge over the Clutha River (Albert Town side of the river, upstream side of the bridge), Albert Town, Lake Hawea Road	Road Reserve adjacent to Section 1 SO 24606 (Adjacent to 2908330323)		2
510	10	Studholme Nursery Plaque, Vicinity of the site of early Cardrona nursery, Cardrona Road, Cardrona Valley	Road Reserve adjacent to P254 part Run 505C Cardrona SD (Adjacent to 2906119900)		2
511	7	Scaife Plaque, Mount Roy	Part Section 1 SO 22998 (2906122801)		2
512	18	Stone Ruin (Landreth property) 342 Kane Road, Hawea Flat	Section 51 Block VII Lower Hawea SD (2908211300)		3
513	22	Homestead Foundation QLDC Recreation Reserve Norman Terrace to Mt Aspiring Road	Lot 1 DP 16152 Lower Wanaka SD (2905401400)		2
514	18	Cabaret Building Foundations, Ruby Island	Ruby Island Lower Wanaka SD (2906122700)		3
515	8	Luggate Red Bridge, Rural Luggate	Road and River Reserve		3
520	24	Old Stone Cottage 100-120 Alison Avenue Albert Town	Lot 39 DP 7458 Albert Town Extn No 3 (2908330500)		3
521	23	Glebe House, 133 Stone Street, original house only	Lot 2 DP 24047 (2905371000)		2
522	18	Halliday Homestead, 85 Halliday Road	Lot 2 DP 340274 (2906304710)		3
523	8	Drake Family Stone House, Hawea Back Road	Section 34 Block I Lower Hawea SD (2908207200)		3
524	11	Stone Cottage and Stables next to Luggate Hotel, 60 Main Road, Luggate	Lot 1 DP 15124 Block VI Tarras SD (2908300900)		2
525	18	Pearce Clay stone hut, 590 Mount Barker Road	Part Lot 1 DP 17508 Block I Lower Wanaka SD (2906109502)		3
526	18	Cob House and Stone Shed, 107 Maxwell Road	Lot 2 DP 23129 Block I Lower Wanaka SD (2906109500)		3
527	8	Old John Cottage – (F Urquhart Property) Corner Gladstone Road and Hawea Back Road, Hawea	Part Section 52 Block I, Lower Hawea SD (2908204500)		3
528	18	"Blairnhall" 115 Hawea Back Road (Private Dwelling)	Lot 1 DP 9204 Block V Lower Hawea SD (2908207800)		3
529	18	Sod Cottage, 25 Loach Road, Hawea Flat	Section 88 Block XII Lower Hawea SD (2908215500)		3
530	18	McClennan's Cottage, 64 McClennan Road Hawea Flat	Lot 2 DP 343710 (2908214101)		3
531	8	Cob Cottage, 324 Luggate-Tarras Road, Hawea Flat	Part Section 3 Block VII Tarras SD (2908211800)		2
532	8	McPherson House, Hawea-Albert Town Road			3
534	21	St Columba Anglican Church Corner MacDougall/Upton Street Wanaka	Section 4 & 5 Block XXI Wanaka Town (2905338100)	2 / 7465	3
535	18	Former St Patricks Catholic Church 65 Newcastle Road, Hawea Flat	Lot 1 DP 337991 (2908212605)		3
536	18	St Ninians Presbytarian Church, Kane Road, Hawea Flat	Part Section 11 Block V Lower Hawea SD (2908217800)		3

Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
538	21	Old Jail Buildings – timber cell and stone building 2 Dunmore Street Wanaka	Lot 3 DP 27690 (2905307103)		2
539	11	Luggate School Plaque Kingan Road Luggate	Part Section 5 Block VI Tarras SD (2908301200)		2
540	18	Old Post Office Building, Camp Hill Road, Hawea Flat	Part Section 11 Block V Lower Hawea SD - Hawea Flat (2908217500)		3
541	18	Hawea Flat School building, located on the north-eastern corner of the school site, corner of Camphill Road and Kane Road, Hawea Flat	Part Section 11 Block V Lower Hawea SD (2908217700)		3
542	24	Blacksmith Shop (Part of Templeton Garage) 21 Wicklow Terrace, Albert Town	Lot 1 DP 19201 Section 4 Block XI Albert Town (2908333300)		3
543	24	Cardrona Hotel Facade, Crown Range Road Cardrona	Part of Sections 4, 9-10 Block VII Cardrona Town (2906123800)	2 / 2239	1
544	11	Old Flour Mill 114 & 126 Main Road SH 6 Luggate	Part Section 1, Block VI, Tarras SD (2908309100)	2 / 3242	2
545	11	Hotel Stonework Facade, 60 Main Road/SH 6, Luggate	Lot 1 DP 15124 Block VI Tarras Surrey District (2908300900)		3
546	21	Wanaka Store Façade, 70 Ardmore Street	Lot 2 DP 17535 (2905202400)		2
549	18	Stone Homestead McCarthy Road Hawea Flat	Section 41 Block I, Lower Hawea SD (2908207300)		3
550	22	Woolshed Studholme Road, Wanaka	(2905373922)		3
552	24	Cardrona Hall and Church, Cardrona Valley Road	Section 10 Block I Cardrona SD (2906125700)		1

26.8.1 Maps showing and defining ‘extent of place’

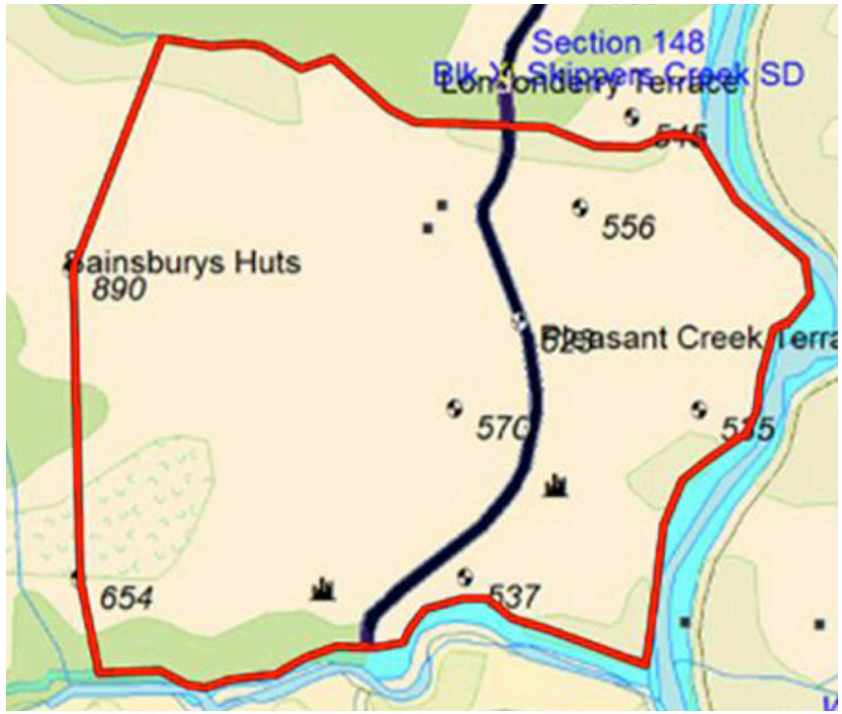


56 - Hulbert House - 68 Ballarat Street, Queenstown. The Extent of Place is shown by the black outline.

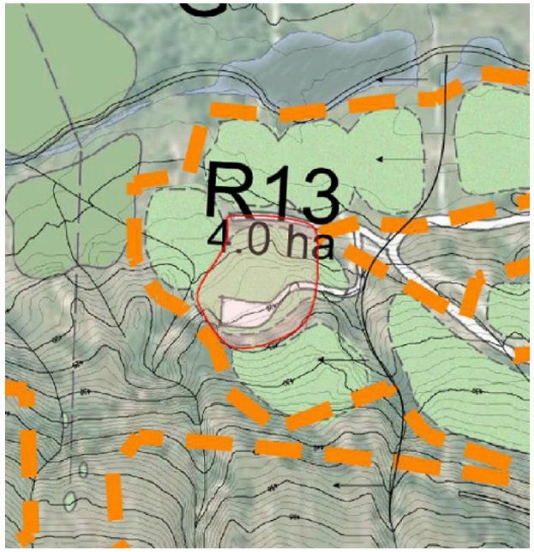


57 - Bordeau's Store - 201 Arthurs Point Road. The Extent of Place is indicated by the red dotted line. The Extent of Place includes only the land surrounding the original store and cottage.

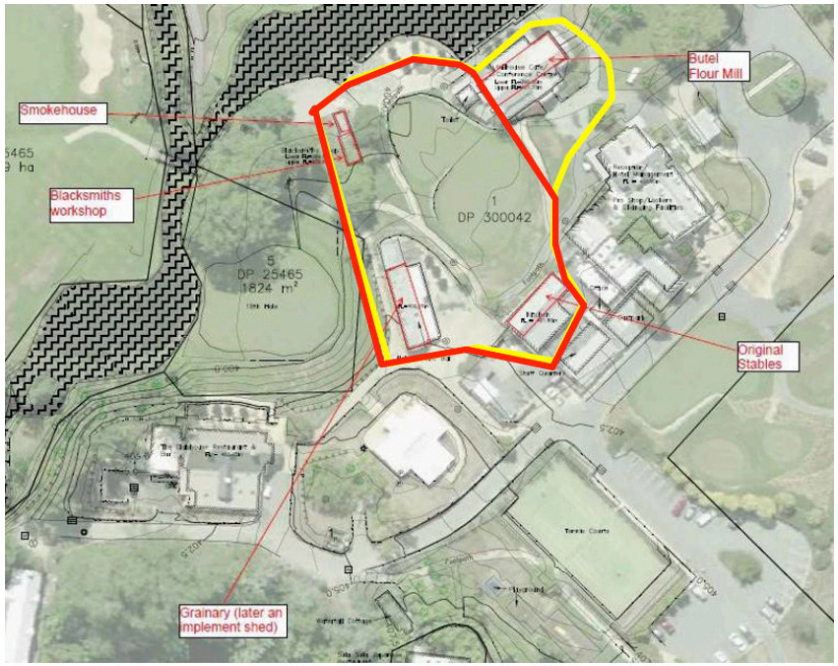
58 - Stone Building - 17 Brisbane Street, Queenstown. The Extent of Place is shown by the black outline.



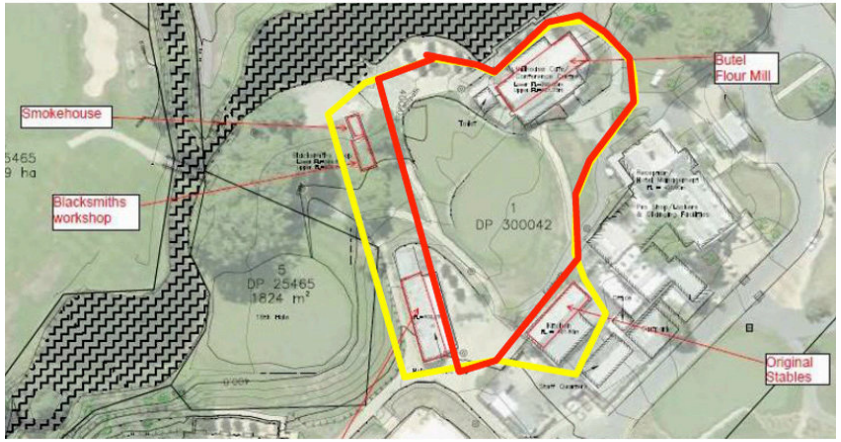
67 - The Pleasant Terrace Workings - Sec 148 Blk XI Skippers Creek SD (NZ Gazette, 1985, p.5386) and legal road (part of Skippers Road), Otago Land District. The Extent of Place is shown by the red outline.



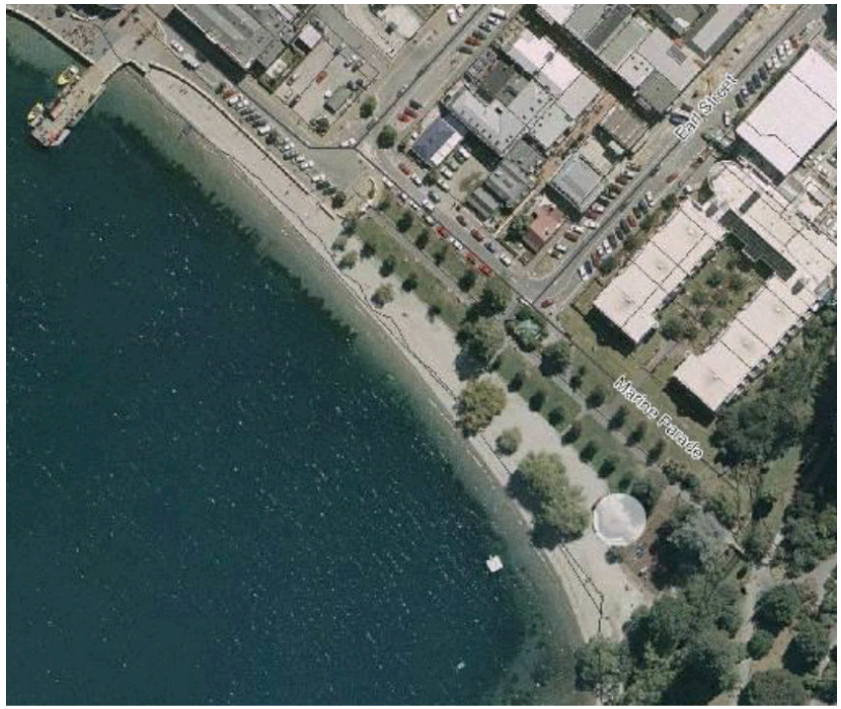
71 - Stone Cottage (McAuley) - Malaghans Road - Lot 1 DP 27269 Secs 29 57 Blk VI Shotover SD. The Extent of Place is shown by the red outline.



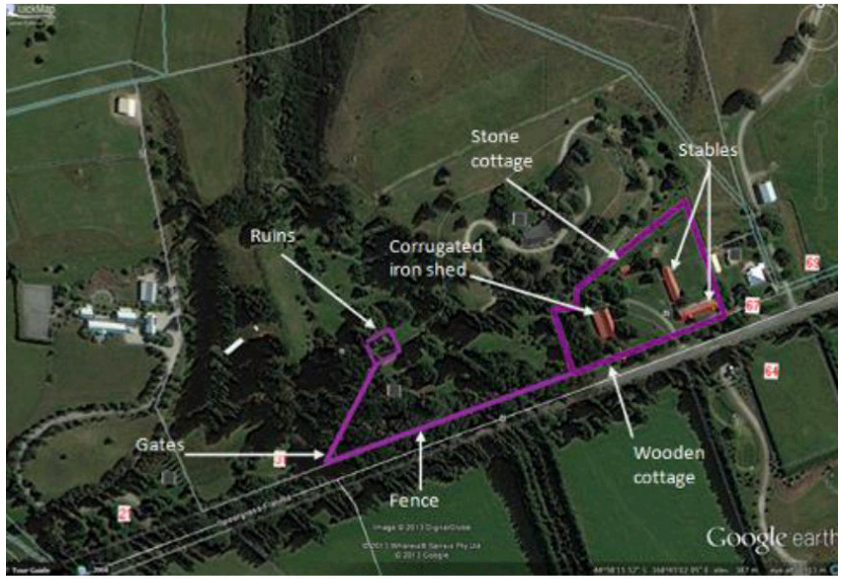
82 - Millbrook stables (remaining historic stone structure), the implement shed (remaining historic stone structure), and the blacksmith's building/ smoker - The Extent of Place is shown by the red outline.



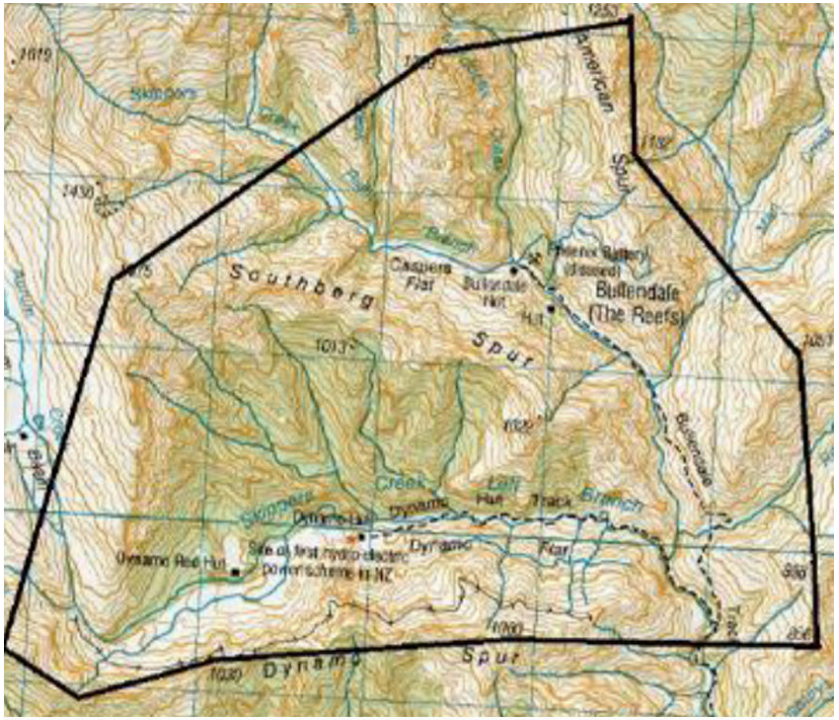
93 - Butel's Flourmill (original foundations and stone wall), Off Butel Road, Millbrook Area - The Extent of Place is shown by the red outline.



108 - Coronation Bath House, Marine Parade. The Extent of Place is indicated by the white circle.

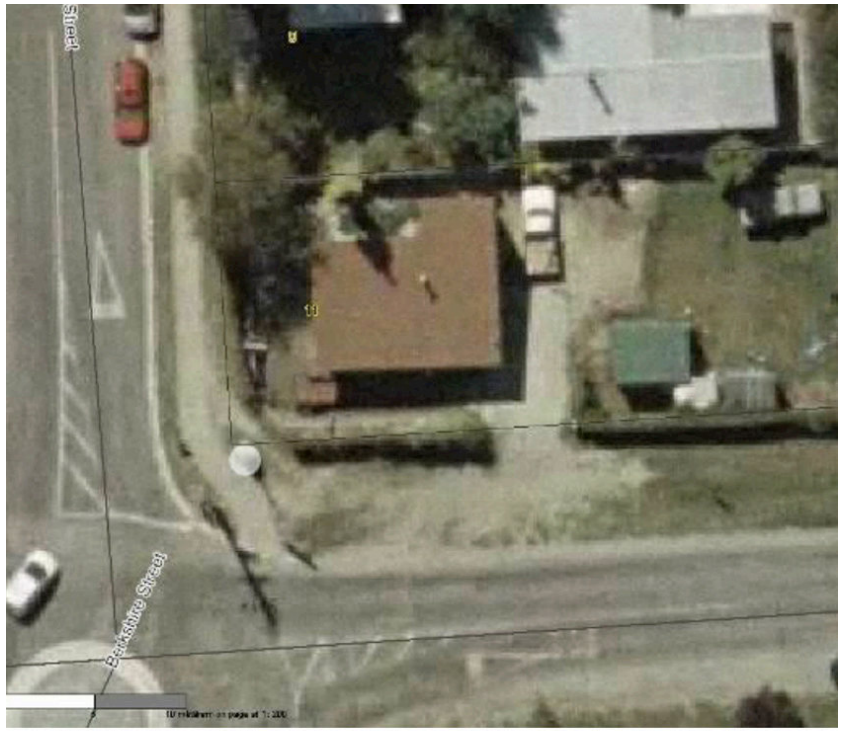


131 - Thurlby Domain - Speargrass Flat Road. The Extent of Place is shown by the purple outline.



140 - Bullendale - Section 148 Block XI Skippers Creek. The Extent of Place is shown by the black outline.

Ref 253 - 253 Centennial Ave, Arrowtown - Speargrass Flat Road. The Extent of Place is shown by the red outline.



301 - King Edward VII Memorial Lamp - Corner of Wiltshire Street and Berkshire Street, Arrowtown. The Extent of Place is indicated by the white circle.

333 - Reidhaven - 7 Villier's St, Arrowtown. The Extent of Place is shown by the yellow outline.

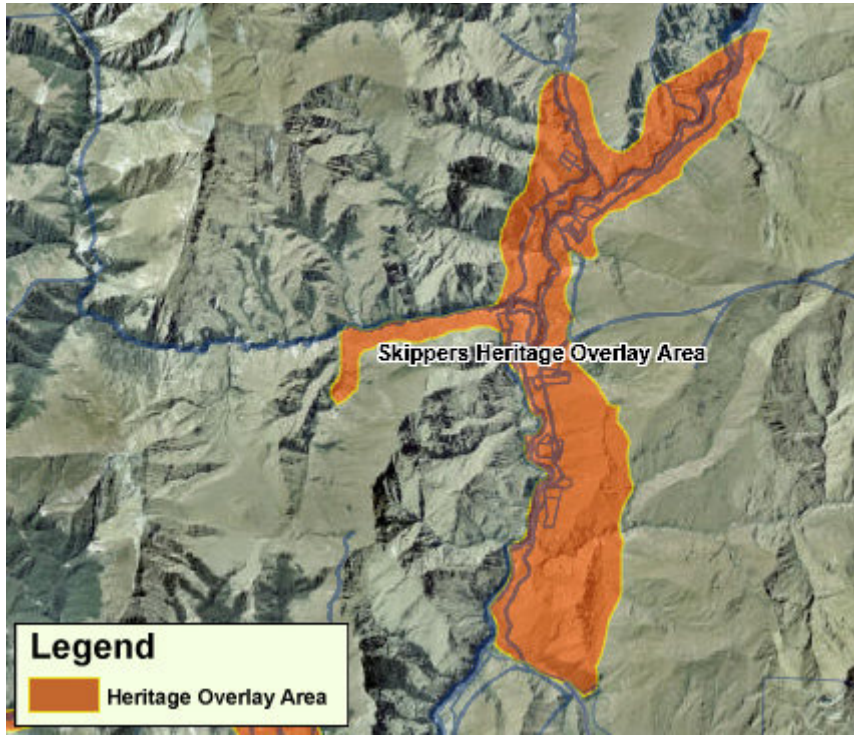
367 - St John's Church - 26 Berkshire Street Arrowtown. The Extent of Place is shown by the red outline.

379 - Stable Block (The Stables Restaurant) - 28 Buckingham Street, Arrowtown. The Extent of Place is shown by the black outline.

26.9 Sites of Significance to Maori

26.10 Heritage Overlay Areas

26.10.1 Skippers Heritage Overlay Area



26.10.2 Statement of Significance

The Skippers Heritage Overlay Area (SOA) represents some of the most historically and archaeologically significant 19th century gold mining sites in Otago and Southern New Zealand. Together, the diverse gold mining sites and features form a historically rich landscape that embodies the 1860s gold mining efforts and challenges of early miners, as well as later, more sophisticated mining technology that was needed to access the more difficult deposits of gold. In combination with the remote and stunning natural landscape of the Shotover River valley, the SHL offers a unique, largely intact, and publicly accessible historic gold mining experience for visitors to the Shotover River. Within the SOA, the precipitous later 19th century Skippers Road (1883 to 1890), the deserted Skipper's Township (1862) and the 1901 Skippers Suspension Bridge are all highly significant heritage sites that have been recognised by their Heritage New Zealand listings. In addition, over 130 archaeological sites within the SHL are entered on the New Zealand Archaeological Association Site Recording Scheme, demonstrating the outstanding heritage significance of the Skippers Heritage Overlay Area.

26.10.3 Key Features to be protected

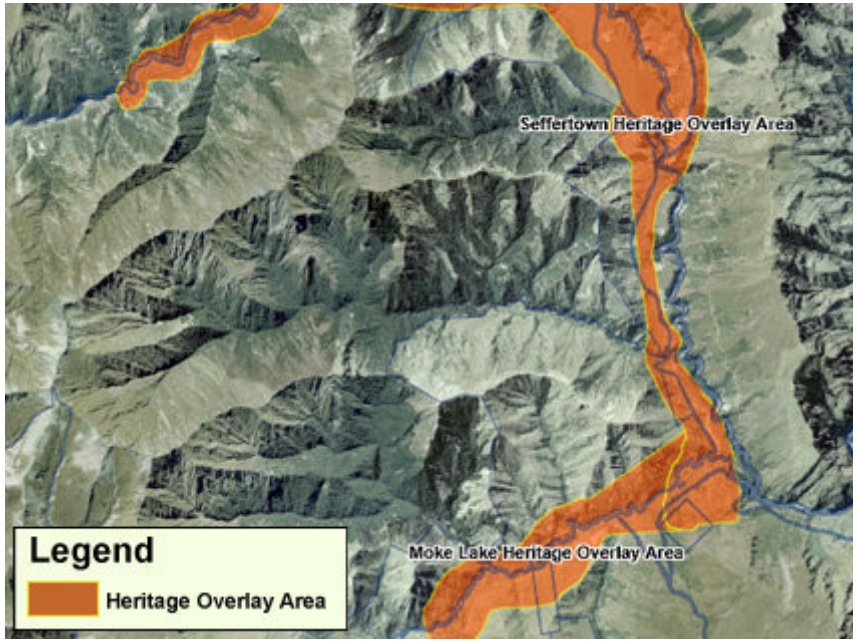
26.10.3.1 The Skippers Road and its historic revetments and construction features.

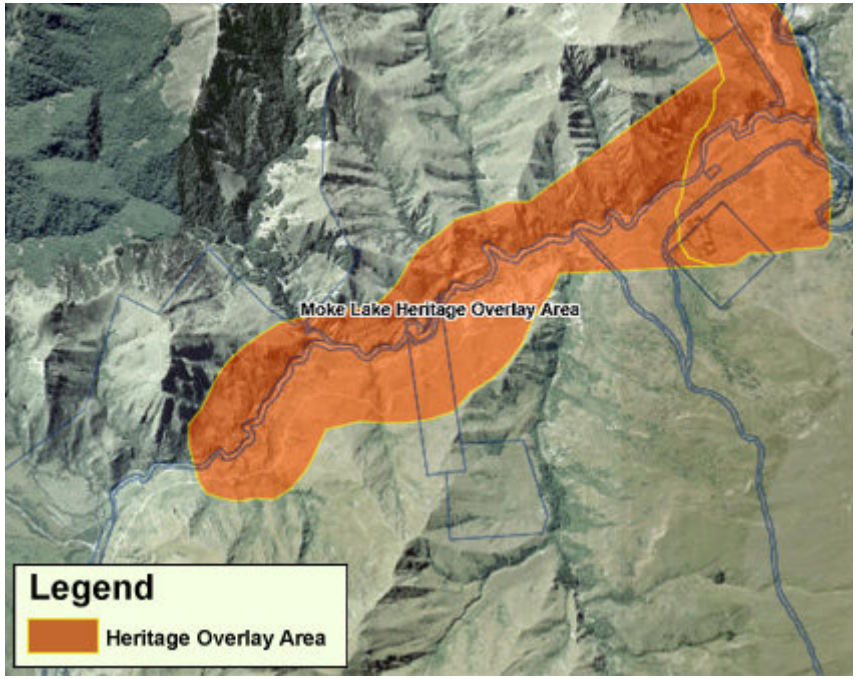
26.10.3.2 The Skippers suspension bridge and former township area.

26.10.3.3 All other known archaeological sites, including sluiced terraces.

26.10.3.4 Unobstructed views along the Skippers Canyon section of the Shotover River.

26.10.4 Moke Lake and Sefferton Heritage Overlay Area





26.10.5 Statement of Significance

The Sefferton and Moke Lake Heritage Overlay Areas ((SMLHOA) are significant for their concentrations of historic gold and copper mining remains, which include both mining infrastructure and settlement sites. The extensive and well preserved complex of features along Moonlight Creek and Moke Creek are an important part of the wider history of the Wakatipu gold rush, linking closely with the Shotover River, Arrow River and Macetown / Rich Burn goldfields. Sefferton / Moke Creek was the site, albeit short lived, of an early tented gold rush township that settled into a remote, mountain community that survived into the 1950's. Its remains provide tangible reminders of the many local stories that survive of the mining community and their hardships and life in the mountain goldfields of Otago.

26.10.6 Key Features to be protected

26.10.6.1 The former mining settlement remains at Moke Creek / Sefferton including the surviving cottages, huts, gardens and plantings.

26.10.6.2 The copper mining site along Moke Lake Road.

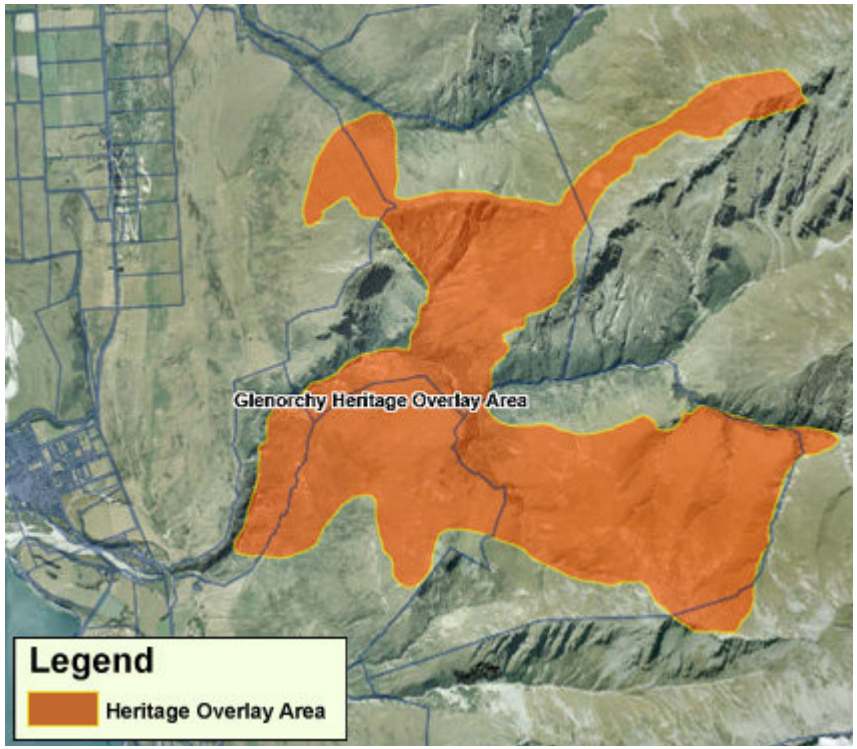
26.10.6.3 Moke Lake Road and the historic track to Butchers Hut along the true right bank of the Moonlight Creek.

26.10.6.4 The extensive stone and earthwork mining remains centred on Sheepyard Terrace and the Moonlight Creek.

26.10.6.5 The 8.8km water race leading from above Montgomery's Creek to the Sheepyard Terrace area and below.

26.10.6.6 All other known archaeological sites and listed historic places within the SMLHA.

26.10.7 Glenorchy Heritage Overlay Area



26.10.8 Summary of Significance

The Glenorchy Heritage Overlay Area (GHOA) is significant for its specific scheelite mining activities that extended from the 1880's until the 1980's, which have left a significant group of mine sites and infrastructure, along with a unique social history of the people who worked there. Collectively, these activities left behind a sequence of evidence that follows the mining cycle that began here in the 1880s and which may well recommence at some point in the future. The sites within this heritage overlay area represent the hard won and sometimes fruitless endeavours of a close knit community of miners that spanned a hundred years of mining at Glenorchy. The GHOA encompasses the majority of the key mine sites, tracks, a cableway and sections of water races that represented the primary scheelite producing area in New Zealand. The combination of private and state-owned mines is also a unique part of the GHOA's history in the ubiquitous and contemporary gold mining industry of the Wakatipu Basin. Overall, the scheelite mining history symbolised by the GHOA is a unique one of national heritage significance.

26.10.9 Key features to be protected

26.10.9.1 All mines, mining huts, the cableway and track ways within the GHL boundary (including the Black Peak Mine).

26.10.9.2 The mine sites along the Mount Judah Road.

26.10.9.3 All other known historic mining sites within the GHOA.

26.10.10 Macetown Heritage Overlay Area

26.10.11 Summary of significance

Although it covers a large area, the Macetown Heritage Overlay Area (MHOA) is significant for its concentration of historic gold mining sites, focussed on the deserted mining town of Macetown, which span from the earliest exploitation of gold in the Arrowtown area in 1862, through to the end of gold mining in the 1930's. Such a continuum of mining activity – first alluvial then hard-rock or quartz – has left a distinct and intelligible landscape with diverse features and stories linked by a series of mining tracks that still allow access to this remote and stunning countryside. The MHOA encompasses three key areas; the Rich Burn Valley, Macetown and the Arrow River valley, all three of which have distinctive characters and features that coalesce to form a broader mining heritage of regional significance. Among these, Macetown is highly significant, representing the surviving remains of a remote 19th century mining village to which stories are still attached and some history has been traced to its founders, occupants and demise. Situated within its larger mining heritage context, Macetown can be interpreted as part of a community of gold mining activity sites, which are a key part of the wider Otago gold mining story.

26.10.12 Key features to be protected

26.10.12.1 The (Department of Conservation) Macetown Historic Reserve area including the Macetown Road.

26.10.12.2 The Rich Burn mining remains (e.g., Anderson's Battery and the Homeward Bound Battery; the Sunrise Mine Office).

26.10.12.3 The historic mining tracks of Hayes Creek, Sawpit Gully and Advance Peak and similar tracks within the MHOA.

26.10.12.4 All other known archaeological sites and listed historic places within the MHA.

26.11 Heritage Orders

Ref No	Map Ref	Related Protected Features	Purpose	Heritage Protection Authority	Site and Legal Description
1	28	See 362 and 373	To protect and preserve the buildings known as the Postmaster's House and the Arrowtown Post Office and their associated buildings and their surrounding land (refer to site files for complete description of heritage order).	Queenstown Lakes District Council	52 and 54 Buckingham Street Lots 1 and 2, DP 21884, Block VI, Town of Arrowtown (Valuation reference 2918228800 and 2918228801)
2	36		To protect the building known as Archer cottage and the historic relationship created by buildings on Marine Parade, the space between these buildings and the relationship between these buildings and the public space onto which they front (refer to site files for complete description of heritage order).	Queenstown Lakes District Council	Lot 15 DP 302022

Appendix 2: Recommendations on Submissions and Further Submissions

Part A: Submissions

Submission Number	Submitter	Commissioners' Recommendation	Report Reference
19.12	Kain Fround	Accept in Part	13
31.1	Kingston Community Association	Reject	7.3
63.1	Karl Barkley	Reject	7.3
72.4	Kelvin Peninsula Community Association	Accept	13
101.1	Waimea Plains Railway Trust	Accept in Part	7.3
118.1	Janet Macdonald	Reject	7.3
153.2	Christopher Horan	Accept in Part	12
187.6	Nicholas Kiddle	Accept in Part	13
201.1	IPENZ	Accept in Part	10
201.2	IPENZ	Accept in Part	9.4
201.3	IPENZ	Accept in Part	8.1
201.4	IPENZ	Accept in Part	13
201.5	IPENZ	Reject	8.8
201.6	IPENZ	Accept in Part	9.1
368.5	Anna-Marie Chin Architects and Phil Vautier	Accept in Part	6.7
368.6	Anna-Marie Chin Architects and Phil Vautier	Reject	9.27
373.14	Department of Conservation	Accept in Part	13
383.45	Queenstown Lakes District Council	Accept	6.9
383.46	Queenstown Lakes District Council	Accept	11
426.10	Heritage New Zealand	Accept in Part	6
426.1	Heritage New Zealand	Accept in Part	12
426.11	Heritage New Zealand	Accept	6.8
426.12	Heritage New Zealand	Accept in Part	6.8
426.13	Heritage New Zealand	Accept in Part	10
426.14	Heritage New Zealand	Accept in Part	6.14
426.15	Heritage New Zealand	Accept in Part	6.13
426.16	Heritage New Zealand	Accept in Part	6.16
426.17	Heritage New Zealand	Accept in Part	6.16
426.20	Heritage New Zealand	Accept	11
426.2	Heritage New Zealand	Accept	12
426.21	Heritage New Zealand	Accept	8.1
426.22	Heritage New Zealand	Accept	8.1
426.23	Heritage New Zealand	Accept	9.25
426.24	Heritage New Zealand	Accept	11
426.25	Heritage New Zealand	Accept in Part	9.26
426.26	Heritage New Zealand	Accept	11

Submission Number	Submitter	Commissioners' Recommendation	Report Reference
426.27	Heritage New Zealand	Accept	12
426.28	Heritage New Zealand	Accept in Part	8.3
426.29	Heritage New Zealand	Accept	8.1
426.3	Heritage New Zealand	Accept in Part	13
426.30	Heritage New Zealand	Accept	12
426.31	Heritage New Zealand	Accept	12
426.32	Heritage New Zealand	Accept	12
426.33	Heritage New Zealand	Accept in Part	1.5
426.34	Heritage New Zealand	Accept in Part	9.4
426.35	Heritage New Zealand	Accept	10
426.4	Heritage New Zealand	Accept in Part	3
426.5	Heritage New Zealand	Accept in Part	4
426.6	Heritage New Zealand	Accept in Part	5.1
426.7	Heritage New Zealand	Accept in Part	5.2
426.8	Heritage New Zealand	Accept in Part	5.3
426.9	Heritage New Zealand	Accept in Part	5.4
503.1	DJ and EJ Cassells, The Bulling Family, The Bennett Family, M Lynch	Reject	7.5
506.1	Friends of the Wakatiou Gardens and Reserves Incorporated	Reject	7.5
516.5	MacFarlane Investments	Reject	7.2
517.5	John Thompson	Reject	7.2
519.53	New Zealand Tungsten Mining Limited	Accept in Part	5.1
519.54	New Zealand Tungsten Mining Limited	Accept in Part	5.1
519.55	New Zealand Tungsten Mining Limited	Accept in Part	5.4
519.56	New Zealand Tungsten Mining Limited	Accept in Part	5.2
519.57	New Zealand Tungsten Mining Limited	Accept in Part	10
519.58	New Zealand Tungsten Mining Limited	Accept	6.16
519.59	New Zealand Tungsten Mining Limited	Accept in Part	6.19
519.60	New Zealand Tungsten Mining Limited	Accept in Part	10
524.38	Ministry of Education	Accept in Part	5.4
524.39	Ministry of Education	Accept in Part	5.4
524.40	Ministry of Education	Accept in Part	6.8
524.41	Ministry of Education	Accept in Part	6.14
596.3	Ngai Tahu Property Limited & Ngai Tahu Justice Holdings Limited	Accept	7.6

Submission Number	Submitter	Commissioners' Recommendation	Report Reference
598.48	Straterra	Accept in Part	5.1
598.49	Straterra	Accept in Part	5.1
598.50	Straterra	Accept in Part	5.1
598.51	Straterra	Reject	10
598.52	Straterra	Reject	10
598.53	Straterra	Reject	10
598.54	Straterra	Reject	10
600.100	Federated Farmers of New Zealand	Accept in Part	5.2
600.101	Federated Farmers of New Zealand	Accept in Part	6.19
600.99	Federated Farmers of New Zealand	Accept in Part	3
604.10	Jackie Gillies	Accept in Part	5.1
604.11	Jackie Gillies	Accept in Part	5.2
604.12	Jackie Gillies	Accept in Part	5.3
604.13	Jackie Gillies	Accept in Part	5.3
604.15	Jackie Gillies	Accept in Part	5.2
604.16	Jackie Gillies	Accept in Part	5.4
604.17	Jackie Gillies	Accept in Part	6
604.18	Jackie Gillies	Accept in Part	6
604.19	Jackie Gillies	Accept	6.11
604.20	Jackie Gillies	Reject	6.11
604.21	Jackie Gillies	Accept in Part	6.12
604.22	Jackie Gillies	Accept in Part	6.14
604.23	Jackie Gillies	Accept	6.14
604.24	Jackie Gillies	Reject	6.14
604.25	Jackie Gillies	Accept in Part	6.14
604.26	Jackie Gillies	Accept in Part	6.16
604.27	Jackie Gillies	Accept in Part	6.16
604.28	Jackie Gillies	Reject	6.16
604.29	Jackie Gillies	Accept in Part	6.16
604.3	Jackie Gillies	Accept in Part	3
604.30	Jackie Gillies	Reject	6.18
604.31	Jackie Gillies	Reject	6.18
604.32	Jackie Gillies	Accept in Part	6.19
604.33	Jackie Gillies	Accept	6.20
604.34	Jackie Gillies	Accept in Part	6.20
604.35	Jackie Gillies	Accept in part	12
604.36	Jackie Gillies	Accept	9.2
604.37	Jackie Gillies	Accept	9.3
604.38	Jackie Gillies	Accept	7.4
604.39	Jackie Gillies	Reject	9.7
604.4	Jackie Gillies	Accept	3
604.40	Jackie Gillies	Accept	11
604.41	Jackie Gillies	Accept	9.8
604.42	Jackie Gillies	Reject	9.9

Submission Number	Submitter	Commissioners' Recommendation	Report Reference
604.43	Jackie Gillies	Reject	9.10
604.44	Jackie Gillies	Accept	9.11
604.45	Jackie Gillies	Reject	9.12
604.46	Jackie Gillies	Reject	1.5
604.47	Jackie Gillies	Accept	9.14
604.48	Jackie Gillies	Reject	9.18
604.49	Jackie Gillies	Accept in Part	9.19
604.5	Jackie Gillies	Accept	3
604.50	Jackie Gillies	Accept	11
604.51	Jackie Gillies	Accept	11
604.52	Jackie Gillies	Accept	General
604.53	Jackie Gillies	Accept	11
604.54	Jackie Gillies	Reject	9.20
604.55	Jackie Gillies	Accept in Part	9.21
604.56	Jackie Gillies	Accept in Part	11
604.58	Jackie Gillies	Reject	9.22
604.59	Jackie Gillies	Reject	9.23
604.6	Jackie Gillies	Accept in Part	4
604.60	Jackie Gillies	Accept	11
604.61	Jackie Gillies	Reject	9.24
604.62	Jackie Gillies	Accept	11
604.63	Jackie Gillies	Accept	9.25
604.64	Jackie Gillies	Accept	11
604.65	Jackie Gillies	Accept	11
604.66	Jackie Gillies	Accept	1
604.67	Jackie Gillies	Accept	9.14
604.68	Jackie Gillies	Accept	9.28
604.69	Jackie Gillies	Accept in Part	8.7
604.70	Jackie Gillies	Accept in Part	3, 4
604.7	Jackie Gillies	Accept	4
604.8	Jackie Gillies	Accept in Part	4
604.9	Jackie Gillies	Accept in Part	4
621.100	Real Journeys Limited	Accept in Part	6.8
621.101	Real Journeys Limited	Accept in Part	6
621.102	Real Journeys Limited	Accept	6.11
621.103	Real Journeys Limited	Accept in Part	6.14
621.104	Real Journeys Limited	Accept	6.18
621.105	Real Journeys Limited	Reject	9.1
621.93	Real Journeys Limited	Accept in Part	3
621.94	Real Journeys Limited	Accept in Part	3
621.95	Real Journeys Limited	Accept in Part	3
621.96	Real Journeys Limited	Accept in Part	4
621.97	Real Journeys Limited	Accept	5
621.98	Real Journeys Limited	Accept in Part	5.3

Submission Number	Submitter	Commissioners' Recommendation	Report Reference
621.99	Real Journeys Limited	Accept in Part	5.4
635.33	Aurora Energy Limited	Accept in Part	5.1
635.34	Aurora Energy Limited	Accept in Part	5.1
672.20	Watertight Investments Ltd	Accept in Part	5.1
672.21	Watertight Investments Ltd	Accept in Part	5.1
672.22	Watertight Investments Ltd	Accept in Part	5.2
672.24	Watertight Investments Ltd	Accept in Part	6.10
672.25	Watertight Investments Ltd	Accept in Part	6.11
672.26	Watertight Investments Ltd	Accept in Part	6.12
672.27	Watertight Investments Ltd	Accept in Part	6.13
672.28	Watertight Investments Ltd	Accept in Part	6.14
672.29	Watertight Investments Ltd	Accept in Part	6.18
672.30	Watertight Investments Ltd	Accept in Part	6.18
672.31	Watertight Investments Ltd	Accept in Part	6.18
672.32	Watertight Investments Ltd	Accept in Part	6.18
672.33	Watertight Investments Ltd	Reject	7.1
672.34	Watertight Investments Ltd	Accept in Part	General
688.16	Justin Crane and Kirsty Mactaggart	Accept in Part	5.1
688.17	Justin Crane and Kirsty Mactaggart	Accept in Part	5.1
688.18	Justin Crane and Kirsty Mactaggart	Accept in Part	5.2
688.20	Justin Crane and Kirsty Mactaggart	Accept in Part	6.10
688.21	Justin Crane and Kirsty Mactaggart	Accept in Part	6.12
688.22	Justin Crane and Kirsty Mactaggart	Accept in Part	6.13
688.23	Justin Crane and Kirsty Mactaggart	Accept in Part	6.14
688.24	Justin Crane and Kirsty Mactaggart	Accept in Part	6.18
688.25	Justin Crane and Kirsty Mactaggart	Accept in Part	6.18
688.26	Justin Crane and Kirsty Mactaggart	Accept in Part	6.18
688.27	Justin Crane and Kirsty Mactaggart	Accept in Part	6.18
688.28	Justin Crane and Kirsty Mactaggart	Reject	9.14
696.24	Millbrook Country Club Ltd	Accept in Part	5.1
696.25	Millbrook Country Club Ltd	Accept in Part	5.2
696.26	Millbrook Country Club Ltd	Accept in Part	6.10
696.27	Millbrook Country Club Ltd	Accept in Part	6.12
696.28	Millbrook Country Club Ltd	Accept in Part	6.13
696.29	Millbrook Country Club Ltd	Accept in Part	6.14
696.30	Millbrook Country Club Ltd	Accept in Part	6.18
696.31	Millbrook Country Club Ltd	Accept in Part	6.18
696.32	Millbrook Country Club Ltd	Accept in Part	6.18
696.33	Millbrook Country Club Ltd	Accept in Part	6.18
696.34	Millbrook Country Club Ltd	Accept	6.18
711.10	Richard Lawrie Hewitt	Accept in Part	4
711.5	Richard Lawrie Hewitt	Accept in Part	12
711.6	Richard Lawrie Hewitt	Accept in Part	6.7
711.8	Richard Lawrie Hewitt	Accept in Part	12

Submission Number	Submitter	Commissioners' Recommendation	Report Reference
711.9	Richard Lawrie Hewitt	Accept in Part	12
726.3	Upper Clutha Transport	Accept in Part	5.1
726.4	Upper Clutha Transport	Accept in Part	5.2
726.5	Upper Clutha Transport	Accept in Part	6.10
726.6	Upper Clutha Transport	Accept in Part	6.12
726.7	Upper Clutha Transport	Accept in Part	6.13
726.8	Upper Clutha Transport	Accept in Part	6.14
726.9	Upper Clutha Transport	Accept in Part	6.18
752.14	Michael Farrier	Reject	12
798.10	Otago Regional Council	Accept in Part	3
798.11	Otago Regional Council	Accept	3
806.163	Queenstown Park Limited	Accept	General
822.1	Geraint Bermingham	Reject	7.3

Part B: Further Submissions

Further Submission Number	Original Submission	Further Submitter	Commissioners' Recommendation	Report Reference
FS1015.34	426.7	Straterra	Accept in Part	5.2
FS1015.35	426.8	Straterra	Accept in Part	5.3
FS1015.89	519.53	Straterra	Accept in Part	5.1
FS1015.90	519.54	Straterra	Accept in Part	5.1
FS1015.91	519.55	Straterra	Accept in Part	5.4
FS1015.92	519.56	Straterra	Accept in Part	5.2
FS1015.93	519.57	Straterra	Accept in Part	10
FS1015.94	519.58	Straterra	Accept	6.16
FS1015.95	519.59	Straterra	Accept in Part	6.19
FS1015.96	519.60	Straterra	Accept in Part	10
FS1034.100	600.100	Upper Clutha Environmental Society (Inc.)	Reject	5.2
FS1034.101	600.101	Upper Clutha Environmental Society (Inc.)	Reject	6.19
FS1034.99	600.99	Upper Clutha Environmental Society (Inc.)	Reject	3
FS1063.10	506.1	Peter Fleming and Others	Reject	7.5
FS1063.4	503.1	Peter Fleming and Others	Reject	7.5
FS1080.10	426.25	Director General of Conservation	Accept	9.26

Further Submission Number	Original Submission	Further Submitter	Commissioners' Recommendation	Report Reference
FS1080.11	426.27	Director General of Conservation	Accept	12
FS1080.12	426.31	Director General of Conservation	Accept	12
FS1080.13	519.60	Director General of Conservation	Accept in Part	10
FS1080.8	426.20	Director General of Conservation	Accept	11
FS1080.9	426.21	Director General of Conservation	Accept	8.1
FS1097.699	726.3	Queenstown Park Limited	Accept in Part	5.1
FS1097.700	726.4	Queenstown Park Limited	Accept in Part	5.2
FS1098.1	201.6	Heritage New Zealand Pouhere Taonga	Accept in Part	9.1
FS1098.10	604.59	Heritage New Zealand Pouhere Taonga	Accept	9.23
FS1098.11	604.69	Heritage New Zealand Pouhere Taonga	Reject	7.1
FS1098.12	798.11	Heritage New Zealand Pouhere Taonga	Accept	3
FS1098.2	383.46	Heritage New Zealand Pouhere Taonga	Accept	11
FS1098.5	604.16	Heritage New Zealand Pouhere Taonga	Accept in Part	5.4
FS1098.6	604.21	Heritage New Zealand Pouhere Taonga	Accept in Part	6.12
FS1098.7	604.42	Heritage New Zealand Pouhere Taonga	Accept	9.9
FS1098.8	604.43	Heritage New Zealand Pouhere Taonga	Accept	9.10
FS1098.9	604.58	Heritage New Zealand Pouhere Taonga	Reject	9.22
FS1113.1	426.34	Mill House Trust	Reject	9.15
FS1117.236	604.13	Remarkables Park Limited	Accept in Part	5.3
FS1209.100	600.100	Richard Burdon	Accept in Part	5.2
FS1209.101	600.101	Richard Burdon	Accept in Part	6.19
FS1209.99	600.99	Richard Burdon	Accept in Part	3
FS1226.161	604.59	Ngai Tahu Property Limited & Ngai Tahu Justice Holdings Limited	Reject	9.23
FS1244.3	604.69	Three Beaches Limited	Accept	8.4
FS1244.4	426.4	Three Beaches Limited	Reject	3
FS1260.22	506.1	Dato Tan Chin Nam	Accept in Part	7.5
FS1285.8	711.9	Nic Blennerhassett	Accept in Part	12

Further Submission Number	Original Submission	Further Submitter	Commissioners' Recommendation	Report Reference
FS1287.76	598.48	New Zealand Tungsten Mining Limited	Accept in Part	5.1
FS1287.77	598.49	New Zealand Tungsten Mining Limited	Accept in Part	5.1
FS1287.78	598.50	New Zealand Tungsten Mining Limited	Accept in Part	5.1
FS1287.79	598.51	New Zealand Tungsten Mining Limited	Reject	10
FS1287.80	598.52	New Zealand Tungsten Mining Limited	Reject	10
FS1287.81	598.53	New Zealand Tungsten Mining Limited	Reject	10
FS1287.82	598.54	New Zealand Tungsten Mining Limited	Reject	10
FS1315.1	503.1	Greenwood Group Ltd	Accept	7.5
FS1315.4	506.1	Greenwood Group Ltd	Accept	7.5
FS1341.24	798.11	Real Journeys Limited	Accept	3
FS1341.34	201.2	Real Journeys Limited	Accept in Part	9.4
FS1342.15	798.11	Te Anau Developments Limited	Accept	3
FS1350.1	604.47	Justine and Kirsty Crane and Mactaggart	Reject	9.14
FS1350.2	604.47	Justine and Kirsty Crane and Mactaggart	Accept	9.14
FS1352.17	72.4	Kawarau Village Holdings Limited	Accept	13
FS1356.53	519.53	Cabo Limited	Reject	5.1
FS1356.54	519.54	Cabo Limited	Reject	5.1
FS1356.55	519.55	Cabo Limited	Reject	5.4
FS1356.56	519.56	Cabo Limited	Reject	5.2
FS1356.57	519.57	Cabo Limited	Reject	10
FS1356.58	519.58	Cabo Limited	Reject	6.16
FS1356.59	519.59	Cabo Limited	Reject	6.19
FS1356.60	519.60	Cabo Limited	Reject	10

Appendix 3: Definitions recommended to Stream 10 Panel for inclusion in Chapter 2

Archaeological Site	Means, subject to section 42(3) of the Heritage New Zealand Pouhere Taonga Act 2014: a. any place in New Zealand, including any building or structure (or part of a building or structure), that – i. was associated with human activity that occurred before 1900 or is the site of the wreck of any vessel where the wreck occurred before 1900; and ii. provides or may provide, through investigation by archaeological methods, evidence relating to the history of New Zealand; and b. includes a site for which a declaration is made under section 43(1) of the Heritage New Zealand Pouhere Taonga Act 2014.
Contributory Buildings **(For the purpose of Chapter 26 only)**	Means buildings within a heritage precinct that contribute to the significance of a heritage precinct some of which may be listed for individual protection in the Inventory under Rule 26.8. They may contain elements of heritage fabric, architecture or positioning that adds value to the heritage precinct. They have been identified within a heritage precinct because any future development of the site containing a contributory building may impact on the heritage values of heritage features, or the heritage precinct itself. Contributory buildings are identified on the plans under Section 26.7 'Heritage Precincts'. (Refer also to the definition of Non-Contributory Buildings)
Extent of Place **(For the purpose of Chapter 26 only)**	Means the area around and/or adjacent to a heritage feature listed in the Inventory under Section 26.8 and which is contained in the same legal title as a heritage feature listed in the Inventory, the extent of which is identified in Section 26.8.1. (refer also to the definition of Setting).
External Alterations and Additions **(For the purpose of Chapter 26 only)**	Means undertaking works affecting the external heritage fabric of heritage features, but excludes repairs and maintenance, and partial demolition. External additions includes signs and lighting.
Heritage Fabric **(For the purpose of Chapter 26 only)**	Means any physical aspect of a heritage feature which contributes to its heritage values as assessed with the criteria contained in section 26.5. Where a heritage assessment is available on the Council's records this will provide a good indication of what constitutes the heritage fabric of that heritage feature. Where such an assessment is not available, heritage fabric may include, but is not limited to: a. original and later material and detailing which forms part of, or is attached to, the interior or exterior of a heritage feature; b. the patina of age resulting from the weathering and wear of construction material over time; c. fixtures and fittings that form part of the design or significance of a heritage feature but excludes inbuilt museum and art work exhibitions

	and displays, and movable items not attached to a building, unless specifically listed. d. heritage features which may require analysis by archaeological means, which may also include features dating from after 1900.
Heritage Feature or Features **(For the purpose of Chapter 26 only)**	Means the collective terms used to describe all heritage features listed in the Inventory of Heritage Features under Section 26.8.
Heritage Significance **(For the purpose of Chapter 26 only)**	Means the significance of a heritage feature (identified in this Chapter as Category 1, 2, or 3) as evaluated in accordance with the criteria listed in section 26.5. A reduction in heritage significance means where a proposed activity would have adverse effects which would reduce the category that has been attributed to that heritage feature.
Historic Heritage	Means those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities: a. archaeological: b. architectural: c. cultural: d. historic: e. scientific: f. technological; and And includes: a. historic sites, structures, places, and areas; and b. archaeological sites; and c. sites of significance to Maori, including wahi tapu; and d. surroundings associated with natural and physical resources. e. heritage features (including where relevant their settings or extent of place), heritage areas, heritage precincts, and sites of significance to Maori.
Internal Alterations **(For the purpose of Chapter 26 only)**	Means undertaking works affecting the internal heritage fabric of heritage features, but excludes repairs and maintenance. Internal alterations includes the partial removal and replacement of decoration, windows, ceilings, floors or roofs that only affect the interior of the building.
Non-Contributory Buildings **(For the purpose of Chapter 26 only)**	Means buildings within a heritage precinct that have no identified heritage significance or fabric and have not been listed for individual protection in the Inventory under Rule 26.8. They have been identified within a heritage precinct because any future development of a site containing a non-contributory building may impact on the heritage values of heritage features

	or contributory buildings within the heritage precinct. Non-– Contributory Buildings are identified on the plans under Section 26.7 'Heritage Precincts'.
Partial Demolition **(For the purpose of Chapter 26 only)**	Means the demolition of the heritage fabric of a heritage feature exceeding 30% but less than 70% by volume or area whichever is the greater. Volume is measured from the outermost surface of the heritage feature (including any surfaces below ground) and the area is measured by the footprint of the heritage feature. Partial demolition shall be determined as the cumulative or incremental demolition of the heritage fabric as from the date that the decision [specify] on Chapter 26 of the District Plan is publicly notified.
Relocation **(For the purpose of Chapter 26 only)**	Means the relocation of heritage protected features, including protected buildings, both within, or and beyond the site. The definition of Relocation (Buildings) in Chapter 2 (which means the removal of a building from any site to another site) shall not apply to chapter 26.
Minor Repairs and Maintenance **(For the purpose of Chapter 26 only)**	Means repair of building materials and includes replacement of minor components such as individual bricks, cut stone, timber sections, roofing and glazing. The replacement items shall be of the original or closely matching material, colour, texture, form and design, except that there shall be no replacement of any products containing asbestos, but a closely matching product may be used instead. Repairs and maintenance works that do not fall within this definition will be assessed as alterations.
Setting **(For the purpose of Chapter 26 only)**	Means the area around and/or adjacent to a heritage feature listed under the Inventory in Section 26.8 and defined under 26.8.1, which is integral to its function, meaning, and relationships, and which is contained in the same legal title as the heritage feature listed on the Inventory. (refer also to the definition of 'Extent of Place').
Total Demolition **(For the purposes of Chapter 26 only)**	Means the demolition of the heritage fabric of a heritage feature equal to or exceeding 70% by volume or area whichever is greater. Volume is measured from the outermost surface of the heritage feature (including any surfaces below ground) and the area is measured by the footprint of the heritage feature.

27 SUBDIVISION & DEVELOPMENT

QUEENSTOWN LAKES DISTRICT COUNCIL

27.1 Purpose

Subdivision and the resultant development enables the creation of new housing and land use opportunities, and is a key driver of the District's economy. The council will support subdivision that is well designed, is located in the appropriate locations anticipated by the District Plan with the appropriate capacity for servicing and integrated transportation.

All subdivision requires resource consent unless specified as a permitted activity. It is recognised that subdivisions will have a variable nature and scale with different issues to address. Good subdivision design, servicing and the appropriate management of natural hazards are underpinned by a shared objective to create healthy, attractive and safe places.

Good subdivision can help to create neighbourhoods and places that people want to live or work within, and should also result in more environmentally responsive development that reduces car use, encourages walking and cycling, and maximises access to sunlight.

Good subdivision design will be encouraged by the use of the QLDC Subdivision Design Guidelines 2015. The QLDC Subdivision Design Guidelines includes subdivision and urban design principles and outcomes that give effect to the objectives and policies of the Subdivision and Strategic Directions Chapters, in both designing and assessing subdivision proposals in urban areas. Proposals at odds with this document are not likely to be consistent with the policies of the Subdivision and Strategic Directions chapters, and therefore, may not achieve the purpose of the Act. Some aspects of the Subdivision Design Guidelines may be relevant to rural subdivisions.

The QLDC Land Development and Subdivision Code of Practice provides assistance in the design of subdivision and development infrastructure in the District and should also be considered by subdivision applicants.

The Council uses its Development Contributions Policy set out in its 10 Year Plan to fix the contributions payable by subdividers for infrastructure upgrades. That policy operates in parallel with the provisions of this chapter and should also be referred to by subdivision consent applicants.

The subdivision chapter is the primary method to ensure that the District's neighbourhoods are quality environments that take into account the character of local places and communities.

27.2 Objectives and Policies - District Wide

27.2.1 Objective - Subdivision that will enable quality environments to ensure the District is a desirable place to live, visit, work and play.

Policies

27.2.1.1 Require subdivision infrastructure to be constructed and designed so that it is fit for purpose, while recognising opportunities for innovative design.

27.2.1.2 Enable urban subdivision that is consistent with the QLDC Subdivision Design Guidelines 2015, recognising that good subdivision design responds to the neighbourhood context and the opportunities and constraints of the application site.

27.2.1.3 Require that allotments are a suitable size and shape, and are able to be serviced and developed for the anticipated land use under the applicable zone provisions.

27.2.1.4 Discourage non-compliance with minimum allotment sizes. However, where minimum allotment sizes are not achieved in urban areas, consideration will be given to whether any adverse effects are mitigated or compensated by providing:

a. desirable urban design outcomes;

b. greater efficiency in the development and use of the land resource;

c. affordable or community housing.

27.2.1.5 Recognise that there is an expectation by future landowners that the key effects of and resources required by anticipated land uses will have been resolved through the subdivision approval process.

27.2.1.6 Ensure the requirements of other relevant agencies are fully integrated into the subdivision development process.

27.2.1.7 Recognise there will be certain subdivision activities, such as boundary adjustments, that will not require the provision of services.

27.2.2 Objective - Subdivision design achieves benefits for the subdivider, future residents and the community.

Policies

27.2.2.1 Ensure subdivision design provides a high level of amenity for future residents by aligning roads and allotments to maximise sunlight access.

27.2.2.2 Ensure subdivision design maximises the opportunity for buildings in urban areas to front the road.

27.2.2.3 Locate open spaces and reserves in appropriate locations having regard to topography, accessibility, use and ease of maintenance, while ensuring these areas are a practicable size for their intended use.

27.2.2.4 Urban subdivision shall seek to provide for good and integrated connections and accessibility to:

a. existing and planned areas of employment;

b. community facilities;

c. services;

d. trails;

e. public transport; and

f. existing and planned adjoining neighbourhoods, both within and adjoining the subdivision area.

27.2.2.5 Urban subdivision design will integrate neighbourhoods by creating and utilising connections that are easy and safe to use for pedestrians and cyclists and that reduce vehicle dependence within the subdivision.

27.2.2.6 Encourage innovative subdivision design that responds to the local context, climate, landforms and opportunities for views or shelter.

27.2.2.7 Promote informal surveillance for safety in urban areas through overlooking of open spaces and transport corridors from adjacent sites and dwellings and by effective lighting.

27.2.2.8 Manage subdivision within the National Grid Corridor or near to electricity distribution lines to facilitate good amenity and urban design outcomes, while minimising potential adverse effects (including reverse sensitivity effects) on the National Grid and avoiding, remedying or mitigating potential adverse effects (including reverse sensitivity effects) on electricity distribution lines.

27.2.3 Objective - The potential of small scale and infill subdivision in urban areas is recognised and provided for while acknowledging their design limitations.

Policies

27.2.3.1 Accept that small scale subdivision in urban areas, (for example subdivision involving the creation of fewer than four allotments), and infill subdivision where the subdivision involves established buildings, might have limited opportunities to give effect to policies 27.2.2.4, 27.2.2.5 and 27.2.2.7.

27.2.3.2 While acknowledging potential limitations, encourage small scale and infill subdivision in urban areas to:

a. ensure lots are shaped and sized to allow adequate sunlight to living and outdoor spaces, and provide adequate on-site amenity and privacy;

b. where possible, locate lots so that they over-look and front road and open spaces;

c. avoid the creation of multiple rear sites, except where avoidance is not practicable;

d. where buildings are constructed with the intent of a future subdivision, encourage site and development design to maintain, create and enhance positive visual coherence of the development with the surrounding neighbourhood;

e. identify and create opportunities for connections to services and facilities in the neighbourhood.

27.2.4 Objective - Natural features, indigenous biodiversity and heritage values are identified, incorporated and enhanced within subdivision design.

Policies

27.2.4.1 Incorporate existing and planned waterways and vegetation into the design of subdivision, transport corridors and open spaces where that will maintain or enhance biodiversity, riparian and amenity values.

27.2.4.2 Ensure that subdivision and changes to the use of land that result from subdivision do not reduce the values of heritage features and other protected items scheduled or identified in the District Plan.

27.2.4.3 Encourage subdivision design to protect and incorporate archaeological sites or cultural features, recognising these features can contribute to and create a sense of place. Where applicable, have regard to Maori culture and traditions in relation to ancestral lands, water, sites, wāhi tapu and other taonga.

27.2.4.4 Encourage initiatives to protect and enhance landscape, vegetation and indigenous biodiversity by having regard to:

a. whether any landscape features or vegetation are of a sufficient value that they should be retained and the proposed means of protection;

b. where a reserve is to be set aside to provide protection to vegetation and landscape features, whether the value of the land so reserved should be off-set against the development contribution to be paid for open space and recreation purposes.

27.2.5 Objective - Infrastructure and services are provided to new subdivisions and developments.

Transport, Access and Roads

Policies

27.2.5.1 Integrate subdivision roading with the existing road networks in a safe and efficient manner that reflects expected traffic levels and the provision for safe and convenient walking and cycling.

For the purposes of this policy, reference to 'expected traffic levels' refers to those traffic levels anticipated as a result of the zoning of the area in the District Plan.

27.2.5.2 Ensure safe and efficient pedestrian, cycle and vehicular access is provided to all lots created by subdivision and to all developments.

27.2.5.3 Provide linkages to public transport networks, and to trail, walking and cycling networks, where useful linkages can be developed.

27.2.5.4 Ensure the physical and visual effects of subdivision and roading are minimised by utilising existing topographical features.

27.2.5.5 Ensure appropriate design and amenity associated with roading, vehicle access ways, trails and trail connections, walkways and cycle ways are provided for within subdivisions by having regard to:

a. the location, alignment, gradients and pattern of roading, vehicle parking, service lanes, access to lots, trails, walkways and cycle ways, and their safety and efficiency;

b. the number, location, provision and gradients of access ways and crossings from roads to lots for vehicles, cycles and pedestrians, and their safety and efficiency;

c. the standard of construction and formation of roads, private access ways, vehicle crossings, service lanes, walkways, cycle ways and trails;

d. the provision and vesting of corner splays or rounding at road intersections;

e. the provision for and standard of street lighting, having particular regard to siting and location, the provision for public safety and the avoidance of upward light spill adversely affecting views of the night sky;

f. the provision of appropriate tree planting within roads;

g. any requirements for widening, formation or upgrading of existing roads;

h. any provisions relating to access for future subdivision on adjoining land;

i. the provision and location of public transport routes and bus shelters.

Water supply, stormwater, wastewater

27.2.5.6 All new lots shall be provided with connections to a reticulated water supply, stormwater disposal and/or sewage treatment and disposal system, where such systems are available or should be provided for.

Water

27.2.5.7 Ensure water supplies are of a sufficient capacity, including fire fighting requirements, and of a potable standard, for the anticipated land uses on each lot or development.

27.2.5.8 Encourage the efficient and sustainable use of potable water by acknowledging that the Council's reticulated potable water supply may be restricted to provide primarily for households' living and sanitation needs and that water supply for activities such as irrigation and gardening may be expected to be obtained from other sources.

27.2.5.9 Encourage initiatives to reduce water demand and water use, such as roof rain water capture and use and greywater recycling.

27.2.5.10 Ensure appropriate water supply, design and installation by having regard to:

a. the availability, quantity, quality and security of the supply of water to the lots being created;

b. water supplies for fire fighting purposes;

c. the standard of water supply systems installed in subdivisions, and the adequacy of existing supply systems outside the subdivision;

d. any initiatives proposed to reduce water demand and water use.

Stormwater

27.2.5.11 Ensure appropriate stormwater design and management by having regard to:

a. any viable alternative designs for stormwater management that minimise run-off and recognises stormwater as a resource through re-use in open space and landscape areas;

b. the capacity of existing and proposed stormwater systems;

c. the method, design and construction of the stormwater collection, reticulation and disposal systems, including connections to public reticulated stormwater systems;

d. the location, scale and construction of stormwater infrastructure;

e. the effectiveness of any methods proposed for the collection, reticulation and disposal of stormwater run-off, including opportunities to maintain and enhance water quality through the control of water-borne contaminants, litter and sediments, and the control of peak flow.

27.2.5.12 Encourage subdivision design that includes the joint use of stormwater and flood management networks with open spaces and pedestrian/cycling transport corridors and recreational opportunities where these opportunities arise and will maintain the natural character and ecological values of wetlands and waterways.

Wastewater

27.2.5.13 Treat and dispose of sewage in a manner that:

a. maintain public health;

b. avoids adverse effects on the environment in the first instance; and

c. where adverse effects on the environment cannot be reasonably avoided, mitigates those effects to the extent practicable.

27.2.5.14 Ensure appropriate sewage treatment and disposal by having regard to:

a. the method of sewage treatment and disposal;

b. the capacity of, and impacts on, the existing reticulated sewage treatment and disposal system;

c. the location, capacity, construction and environmental effects of the proposed sewage treatment and disposal system.

27.2.5.15 Ensure that the design and provision of any necessary infrastructure at the time of subdivision takes into account the requirements of future development on land in the vicinity.

Energy Supply and Telecommunications

27.2.5.16 Ensure adequate provision is made for the supply and installation of reticulated energy, including street lighting, and communication facilities for the anticipated land uses while:

a. providing flexibility to cater for advances in telecommunication and computer media technology, particularly in remote locations;

b. ensure the method of reticulation is appropriate for the visual amenity and landscape values of the area by generally requiring services are underground, and in the context of rural environments where this may not be practicable, infrastructure is sited in a manner that minimises visual effects on the receiving environment;

c. generally require connections to electricity supply and telecommunications systems to the boundary of the net area of the lot, other than lots for access, roads, utilities and reserves.

Easements

27.2.5.17 Ensure that services, shared access and public access is identified and managed by the appropriate easement provisions.

27.2.5.18 Ensure that easements are of an appropriate size, location and length for the intended use of both the land and easement.

27.2.6 Objective - Esplanades created where opportunities arise.

Policies

27.2.6.1 Create esplanade reserves or strips where they would provide nature conservation, natural character, natural hazard mitigation, infrastructural or recreational benefits. In particular, Council will encourage esplanades where they:

a. are important for public access or recreation, would link with existing or planned trails, walkways or cycleways, or would create an opportunity for public access;

b. have high actual or potential value with regard to the maintenance of indigenous biodiversity;

c. comprise significant indigenous vegetation or significant habitats of indigenous fauna;

d. are considered to comprise an integral part of an outstanding natural feature or outstanding natural landscape;

e. would benefit from protection, in order to safeguard the life supporting capacity of the adjacent lake and river;

f. would not put an inappropriate burden on Council, in terms of future maintenance costs or issues relating to natural hazards affecting the land.

27.2.6.2 Use opportunities through the subdivision process to improve the level of protection for the natural character and nature conservation values of lakes and rivers, as provided for in Section 230 of the Act.

27.2.7 Objective - Boundary adjustments, cross-lease and unit title subdivision are provided for.

Policies

27.2.7.1 Enable cross-lease and unit title subdivision of existing units in urban areas without the need to obtain resource consent where there is no potential for adverse effects associated with the change in boundary location.

27.2.7.2 Ensure boundary adjustment, cross-lease and unit title subdivisions are appropriate with regard to:

a. the location of the proposed boundaries;

b. in rural areas, the location of boundaries with regard to approved residential building platforms, existing buildings, and vegetation patterns and existing or proposed accesses;

c. boundary treatment;

d. the location and terms of existing or proposed easements or other arrangements for access and services.

27.3 Location-specific objectives and policies

In addition to the district wide objectives and policies in Part 27.2, the following objectives and policies relate to subdivision in specific locations.

Peninsula Bay

27.3.1 Objective - Ensure effective public access is provided throughout the Peninsula Bay land.

Policies

27.3.1.1 Ensure that before any subdivision or development occurs within the Peninsula Bay Lower Density Suburban Residential Zone, a subdivision consent has been approved confirming easements for the purposes of public access through the Open Space Zone.

27.3.1.2 Within the Peninsula Bay site, to ensure that public access is established through the vesting of reserves and establishment of easements prior to any further subdivision.

27.3.1.3 Ensure that easements for the purposes of public access are of an appropriate size, location and length to provide a high quality, recreational resource, with excellent linkages, and opportunities for different community groups.

Kirimoko

27.3.2 Objective - A liveable urban environment that achieves best practice in urban design; the protection and incorporation of landscape and environmental features into the design of the area; and high quality built form.

Policies

27.3.2.1 Protect the landscape quality and visual amenity of the Kirimoko Block and preserve sightlines to local natural landforms.

27.3.2.2 Protect the natural topography of the Kirimoko Block and incorporate existing environmental features into the design of the site.

27.3.2.3 Ensure that urban development of the site is restricted to lower areas and areas of concealed topography, such as gullies and that visually sensitive areas such as the spurs are left undeveloped.

27.3.2.4 Ensure the provision of open space and community facilities that are suitable for the whole community and that are located in safe and accessible areas.

27.3.2.5 Develop an interconnected network of streets, footpaths, walkways and open space linkages that facilitate a safe, attractive and pleasant walking, cycling and driving environment.

27.3.2.6 Provide for road and walkway linkages to neighbouring developments.

27.3.2.7 Ensure that all roads are designed and located to minimise the need for extensive cut and fill and to protect the natural topographical layout and features of the site.

27.3.2.8 Minimise disturbance of existing native plant remnants and enhance areas of native vegetation by providing linkages to other open space areas and to areas of ecological value.

27.3.2.9 Design for stormwater management that minimises run-off and recognises stormwater as a resource through re-use in open space and landscape areas.

27.3.2.10 Require the roading network within the Kirimoko Block to be planted with appropriate trees to create a green living environment appropriate to the areas.

Large Lot Residential A Zone between Studholme Road and Meadowstone Drive.

27.3.3 Objective - Landscape and amenity values of the zone's low density character and transition with rural areas be recognised and protected.

Policies

27.3.3.1 Have regard to the impact of development on landscape values of the neighbouring rural areas and features of these areas, with regard to minimising the prominence of housing on ridgelines overlooking the Wanaka township.

27.3.3.2 Subdivision and development within land located on the northern side of Studholme Road shall have regard to the adverse effects of development and associated earthworks on slopes, ridges and skylines.

Bob's Cove Rural Residential Zone (excluding sub-zone)

27.3.4 Objective - The special character of the Bob's Cove Rural Residential Zone is recognised and provided for.

Policies

27.3.4.1 In order to maintain the rural character of the zone, any required street lighting shall be low in height from the ground, of reduced lux spill and directed downwards to avoid adverse effects on views of the night sky.

Ferry Hill Rural Residential Sub-Zone

27.7.6 Objective - Maintain and enhance visual amenity values and landscape character within and around the Ferry Hill Rural Residential Sub-Zone.

Policies

27.7.6.1 At the time of considering a subdivision application, the following matters shall be had particular regard to:

a. The subdivision design has had regard to minimising the number of accesses to roads;

b. the location and design of on-site vehicular access avoids or mitigates adverse effects on the landscape and visual amenity values by following the natural form of the land to minimise earthworks, providing common driveways and by ensuring that appropriate landscape treatment is an integral component when constructing such access;

c. the extent to which plantings with a predominance of indigenous species enhances the naturalness of the escarpment within Lots 18 and 19 as shown on the Concept Development Plan for the Ferry Hill Rural Residential sub-zone;

d. The extent to which the species, location, density, and maturity of the planting is such that residential development in the Ferry Hill Rural Residential sub-zone will be successfully screened from views obtained when travelling along Tucker Beach Road[1].

Wyuna Station Rural Lifestyle Zone

27.3.5 Objective - Provision for a deferred rural lifestyle zone on the terrace to the east of, and immediately adjoining, the Glenorchy Township.

Policies

27.3.5.1 Prohibit or defer development of the zone until such a time that:

a. the zone can be serviced by a reticulated wastewater disposal scheme within the property that services both the township and proposed zone. This may include the provision of land within the zone for such purpose; or

b. the zone can be serviced by a reticulated wastewater disposal scheme located outside of the zone that has capacity to service both the township and proposed zone; or

c. the zone can be serviced by an on-site (individual or communal) wastewater disposal scheme no sooner than two years from the zone becoming operative on the condition that should a reticulated scheme referred to above become available and have capacity within the next three years then all lots within the zone shall be required to connect to that reticulated scheme.

27.3.6 Objective - Subject to Objective 27.3.5, rural living development is enabled in a way that maintains the visual amenity values that are experienced from the Glenorchy Township, Oban Street and the Glenorchy-Paradise Road.

Policies

27.3.6.1 The subdivision design, identification of building platforms and associated mitigation measures shall ensure that built form and associated activities within the zone are reasonably inconspicuous when viewed from Glenorchy Township, Oban Street or the Glenorchy-Paradise Road. Measures to achieve this include:

a. prohibiting development over the sensitive areas of the zone via building restriction areas;

b. appropriately locating buildings within the zone, including restrictions on future building bulk;

c. using excavation of the eastern part of the terrace to form appropriate building platforms;

d. using naturalistic mounding of the western part of the terrace to assist visual screening of development;

[1]. Greyed out text indicates the provision is subject to variation and is therefore not part of the Hearing Panel's recommendations.

e. using native vegetation to assist visual screening of development;

f. the maximum height of buildings shall be 4.5m above ground level prior to any subdivision development.

27.3.6.2 Maintain and enhance the indigenous vegetation and ecosystems within the building restriction areas of the zone and to suitably and comprehensively maintain these areas into the future. As a minimum, this shall include:

a. methods to remove or kill existing wilding exotic trees and weed species from the lower banks of the zone area and to conduct this eradication annually;

b. methods to exclude and/or suitably manage pests within the zone in order to foster growth of indigenous vegetation within the zone, on an ongoing basis;

c. a programme or list of maintenance work to be carried out on a year to year basis on order to bring about the goals set out above.

Jacks Point Zone

27.3.7 Objective - Subdivision occurs consistent with the Jacks Point Structure Plan.

Policies

27.3.7.1 Ensure that subdivision and development achieves the objectives and policies located within Chapter 41.

27.3.7.2 Within the R(HD) Activity Areas, subdivision design shall provide for the following matters:

a. the development and suitability of public transport routes, pedestrian and cycle trail connections within and beyond the Activity Area;

b. mitigation measures to ensure that no building will be highly visible from State Highway 6 or Lake Wakatipu;

c. road and street designs;

d. the location and suitability of proposed open spaces;

e. commitments to remove wilding trees.

27.3.7.3 Within the R(HD-SH) Activity Areas, minimise the visual effects of subdivision and future development on landscape and amenity values as viewed from State Highway 6.

27.3.7.4 Within the R(HD) Activity Area, in the consideration of the creation of sites sized less than 550m^2, particular regard shall be given to the following matters and whether they should be given effect to by imposing appropriate legal mechanism of controls over:

a. building setbacks from boundaries;

b. location and heights of garages and other accessory buildings;

c. height limitations for parts of buildings, including recession plane requirements;

d. window locations;

e. building coverage;

f. roadside fence heights.

27.3.7.5 Within the OS Activity Areas shown on the Jacks Point Zone Structure Plan, implement measures to provide for the establishment and management of open space, including native vegetation.

27.3.7.6 Within the R(HD) A - E Activity Areas, ensure cul-de-sacs are straight (+/- 15 degrees).

27.3.7.7 In the Hanley Downs areas where subdivision of land within any Residential Activity Area results in allotments less than 550m2 in area:

a. such sites are to be configured:

i. with good street frontage;

ii. to enable sunlight to existing and future residential units;

iii. to achieve an appropriate level of privacy between homes;

b. parking, access and landscaping are to be configured in a manner which:

i. minimises the dominance of driveways at the street edge;

ii. provides for efficient use of the land;

iii. maximises pedestrian and vehicular safety; and.

iv. addresses nuisance effects such as from vehicle lights.

c. subdivision design should ensure:

i. public and private spaces are clearly demarcated, and ownership and management arrangements are proposed to appropriately manage spaces in common ownership.

d. consideration is to be given as to whether design parameters are required to be secured through an appropriate legal mechanism. These are height, building mass, window sizes and locations, building setbacks, fence heights, locations and transparency, building materials and landscaping.

Waterfall Park

27.3.8 Objective – Subdivision that provides for a range of visitor, residential and recreational facilities, sympathetic to the natural setting and has regard to location specific opportunities and constraints identified within the Waterfall Park Structure Plan.

Policies **27.3.8.1** Enable subdivision which provides for appropriate, integrated and orderly development in accordance with the Waterfall Park Structure Plan located within Section 27.13.

Millbrook

27.3.9 Objective – Subdivision that provides for resort development while having particular regard to landscape, heritage, ecological, water and air quality values.

Policies **27.3.9.1** Enable subdivision which provides for appropriate, integrated and orderly development in accordance with the Millbrook Structure Plan located within Section 27.13.

Coneburn Industrial

27.3.10 Objective - Subdivision that creates opportunities for industrial activities and Service activities to occur.

Policies **27.3.10.1** Enable subdivision which provides for a combination of lot sizes and low building coverage to ensure that this area is retained for yard based industrial and service activities as well as smaller scale industrial and service activities.

27.1.10.2 Require the establishment, restoration and ongoing maintenance of the open space areas (shown on the Coneburn Structure Plan located in Section 27.13) to:

a. visually screen development using the planting of native species;

b. retain existing native garden species unless they are wilding;

c. give effect to the Ecological Management Plan required by Rule 44.4.12 so its implementation occurs at the rate of development within the Zone.

27.10.4.3 Ensure subdivision works and earthworks results in future industrial and service development (buildings) being difficult to see from State Highway 6.

27.10.4.4 At the time of subdivision ensure that there is adequate provision for road access, onsite parking (staff and visitors) and loading and manoeuvring for all types of vehicle so as to cater for the intended use of the site.

27.10.4.5 Ensure subdivision creates lots and sites that are capable of accommodating development that meets the relevant zone standards for the Coneburn Industrial Zone.

27.10.4.6 Ensure that shared infrastructure (water, wastewater and stormwater) is provided, managed, and maintained if development cannot connect to Council services.

27.10.4.7 Require safe accesses to be provided from the State Highway into the Zone at the rate the Zone is developed.

West Meadows Drive

27.3.11 Objective - The integration of road connections between West Meadows Drive and Meadowstone Drive.

Policies

27.3.11.1 Enable subdivision at the western end of West Meadows Drive which has a roading layout that is consistent with the West Meadows Drive Structure Plan.

27.3.11.2 Enable variances to the West Meadows Drive Structure Plan on the basis that the roading layout results in the western end of West Meadows Drive being extended to connect with the roading network and results in West Meadows Drive becoming a through-road.

Frankton North

27.3.12 Objective - Subdivision of the Medium Density Residential and Business Mixed Use Zones on the north side of State Highway 6 between Hansen Road and Quail Rise enables development integrated into the adjacent urban areas while minimising traffic impacts on the State Highway.

Policies

27.3.12.1 Limit the roading access to Frankton North to Hansen Road, Ferry Hill Drive or the Hawthorne Drive/SH6 roundabout.

27.3.12.2 Ensure subdivision and development enables access to the roading network from all sites in the Frankton North Medium Density Residential and Business Mixed Use Zones and is of a form that accounts for long-term traffic demands without the need for subsequent retrofitting or upgrade.

27.3.12.3 Ensure subdivision and development in the Frankton North Medium Density Residential and Business Mixed Use Zones provides, or has access to, a safe and legible walking and cycling environment adjacent to and across the State Highway linking to other pedestrian and cycling networks.

27.4 Other Provisions and Rules

27.4.1 District Wide

The rules of the zone the proposed subdivision is located within are applicable. Attention is drawn to the following District Wide chapters.

1	Introduction	2	Definitions	3	Strategic Direction
4	Urban Development	5	Tangata Whenua	6	Landscapes and Rural Character
25	*Earthworks*	26	Historic Heritage	28	Natural Hazards
29	*Transport*	30	Energy and Utilities	*31*	*Signs*
32	Protected Trees	33	Indigenous Vegetation	34	Wilding Exotic Trees
35	Temporary Activities and Relocated Buildings	36	Noise	37	Designations
	Planning Maps				

27.4.2 Earthworks associated with subdivision

27.4.2.1 Earthworks undertaken for the development of land associated with any subdivision shall not require a separate resource consent under the rules of the District Wide Earthworks Chapter, but shall be considered against the matters of control or discretion of the District Wide Earthworks Chapter as part of any subdivision activity[2].

27.4.3 Natural Hazards

27.4.3.1 The Natural Hazards Chapter of the District Plan sets a policy framework to address land uses and natural hazards throughout the District. All subdivision is able to be assessed against a natural hazard through the provisions of section 106 of the RMA. In addition, in some locations natural hazards have been identified and specific provisions apply.

[2]. Greyed out text indicates the provision is subject to variation and is therefore not part of the Hearing Panel's recommendations.

27.5 Rules - Subdivision

27.5.1 All subdivision requires resource consent unless specified as a permitted activity. The abbreviations set out below are used in the following tables. Any activity which is not permitted (P) or prohibited. (PR) requires resource consent.

P	Permitted	C	Controlled	RD	Restricted Discretionary
D	Discretionary	NC	Non-Complying	PR	Prohibited

Where an activity falls within more than one rule, unless stated otherwise, its status shall be determined by the most restrictive rule.

	Boundary Adjustments	Activity Status
27.5.2	**An adjustment to existing cross-lease or unit title due to:** a. an alteration to the size of the lot by alterations to the building outline; b. the conversion from cross-lease to unit title; or c. the addition or relocation of an accessory building; providing the activity complies with all other provisions of the District Plan or has obtained a land use consent. Advice Note: In order to undertake such a subdivision a certificate of compliance (s139 of the Act) will need to be obtained (see s223(1)(b)).	P

	Boundary Adjustments	Activity Status
27.5.3	For boundary adjustment subdivision activities where there are two or more existing lots which each have separate Certificates of Title, new lots may be created by subdivision for the purpose of an adjustment of the boundaries between the existing lots, provided: a. in the case of the Rural, Gibbston Character and Rural Lifestyle Zones the building platform is retained in its approved location; b. no additional or relocated residential building platform is identified and approved as part of a boundary adjustment within Rural, Gibbston Character and Rural Lifestyle Zones; c. no additional separately saleable lots are created; d. the areas of the resultant lots either comply with the minimum lot size requirement for the zone (where applicable) or where any lot does not comply with an applicable minimum lot size requirement for the zone, the extent of such non-compliance is not increased; and e. lots must be immediately adjoining each other. Control is reserved to: a. the location of the proposed boundaries; b. boundary treatment; c. easements for existing and proposed access and services.	C
27.5.4	For boundary adjustments that either: a. involve any site that contains a heritage or any other protected item identified on the District Plan maps; or b. are within the urban growth boundary of Arrowtown; where there are two or more existing lots which each have separate Certificates of Title, new lots may be created by subdivision for the purpose of an adjustment of the boundaries between the existing lots, provided: a. no additional separately saleable lots are created; b. the areas of the resultant lots comply with the minimum lot size requirement for the zone; c. lots must be immediately adjoining each other; Discretion is restricted to: a. the impact on the heritage values of the protected item; b. the maintenance of the historic character of the Arrowtown Residential Historic Management Zone; c. the location of the proposed boundaries; d. boundary treatment; e. easements for access and services.	RD

	Unit Title or Leasehold Subdivision	Activity Status
27.5.5	Where land use consent is approved for a multi unit commercial or residential development, including visitor accommodation development, and a unit title or leasehold (including cross lease) subdivision is subsequently undertaken in accordance with the approved land use consent, provided: a. all buildings must be in accordance with an approved land use resource consent; b. all areas to be set aside for the exclusive use of each building or unit must be shown on the survey plan, in addition to any areas to be used for common access or parking or other such purpose; c. all service connections and on-site infrastructure must be located within the boundary of the site they serve or have access provided by an appropriate legal mechanism. Control is reserved to: a. the effect of the site design, size, shape, gradient and location, including existing buildings, manoeuvring areas and outdoor living spaces; b. the effects of and on infrastructure provision. This rule does not apply a subdivision of land creating a separate fee simple title. The intent is that it applies to subdivision of a lot containing an approved land use consent, in order to create titles in accordance with that consent.	C

	Subdivision Activities - District Wide	Activity Status
27.5.6	Any subdivision that does not fall within any rule in this section 27.5.	D

	Subdivision Activities - District Wide	Activity Status
27.5.7	All urban subdivision activities, unless otherwise provided for, within the following zones: 1. Lower Density Suburban Residential Zone; 2. Medium Density Residential Zone; 3. High Density Residential Zone; 4. Town Centre Zones; 5. Arrowtown Residential Historic Management Zone; 6. Large Lot Residential Zone; 7. Local Shopping Centre; 8. Business Mixed Use Zone; 9. Airport Zone - Queenstown. Discretion is restricted to: a. subdivision design and any consequential effects on the layout of lots and on lot sizes and dimensions; b. Internal roading design and provision, relating to access to and service easements for future subdivision on adjoining land, and any consequential effects on the layout of lots, and on lot sizes and dimensions; c. property access and roading; d. esplanade provision; e. the adequacy of on site measures to address the risk of natural and other hazards on land within the subdivision; f. fire fighting water supply; g. water supply; h. stormwater design and disposal; i. sewage treatment and disposal; j. energy supply and telecommunications, including adverse effects on energy supply and telecommunication networks; k. open space and recreation; l. ecological and natural values; m. historic heritage; n. easements. For the avoidance of doubt, where a site is governed by a Structure Plan, that is included in the District Plan, subdivision activities shall be assessed in accordance with Rule 27.7.1.	RD

	Subdivision Activities - District Wide	Activity Status
27.5.8	All subdivision activities, unless otherwise provided for, in the District's Rural Residential and Rural Lifestyle Zones Discretion is restricted to: a. in the Rural Lifestyle Zone, the location and size of building platforms and in respect of any buildings within those building platforms: i. external appearance; ii. visibility from public places; iii. landscape character; and iv. visual amenity. b. subdivision design and any consequential effects on the layout of lots and on lot sizes and dimensions; c. internal roading design and provision, relating to access and service easements for future subdivision on adjoining land, and any consequential effects on the layout of lots and on lot sizes and dimensions; d. property access and roading; e. esplanade provision; f. the adequacy of on site measures to address the risk of natural and other hazards on land within the subdivision; g. fire fighting water supply; h. water supply; i. stormwater disposal; j. sewage treatment and disposal; k. energy supply and telecommunications including adverse effects on energy supply and telecommunication networks; l. open space and recreation; m. ecological and natural values; n. historic heritage; o. easements.	RD
27.5.9		
27.5.10	Subdivision of land in any zone within the National Grid Corridor except where any allotment identifies a building platform to be located within the National Grid Yard. Discretion is restricted to: a. impacts on the operation, maintenance, upgrade and development of the National Grid; b. the ability of future development to comply with NZECP34:2001; c. the location, design and use of any proposed building platform as it relates to the National Grid transmission line.	RD
27.5.11	All subdivision activities in the Rural and Gibbston Character Zones and Airport Zone - Wanaka, unless otherwise provided for.	D

	Subdivision Activities - District Wide	Activity Status
27.5.12	The subdivision of land containing a heritage or any other protected item scheduled in the District Plan. This rule does not apply to boundary adjustments under Rule 27.5.4.	D
27.5.13	The subdivision of land identified on the planning maps as a Heritage Area.	D
27.5.14	The subdivision of a site containing a known archaeological site.	D
27.5.15	Subdivision that would alter, or create a new boundary within a Significant Natural Area scheduled in the District Plan.	D
27.5.16	A Unit Titles Act subdivision lodged concurrently with an application for building consent, or land use consent.	D
27.5.17	Within the Jacks Point Zone, subdivision that does not comply with the minimum lot areas specified in Part 27.6 and the zone and location specific rules in Part 27.7, excluding: a. in the R(HD) activity area, where the creation of lots less than 380m^2 shall be assessed under Rule 27.7.5.2 (as a restricted discretionary activity).	D
27.5.18	Within the Coneburn Industrial Zone Activity Area 2a, subdivision which does not comply with the minimum lot areas specified in Part 27.6.	D
27.5.19	Subdivision that does not comply with the minimum lot areas specified in Part 27.6 with the exception of the Jacks Point Zone which is assessed pursuant to Rule 27.5.17 and Coneburn Industrial Zone Activity Area 2a which is assessed pursuant to Rule 27.5.18.	NC
27.5.20	A subdivision under the Unit Titles Act not falling within Rules 27.5.5 or 27.5.16 where the building is not completed (meaning the applicable code of compliance certificate has not been issued), or building consent or land use consent has not been granted for the buildings.	NC
27.5.21	The further subdivision of an allotment that if undertaken as part of a previous subdivision would have caused that previous subdivision to exceed the minimum average density requirements for subdivision in the Rural Lifestyle Zone or the Rural Residential Zone.	NC
27.5.22	The subdivision of land resulting in the division of a building platform.	NC
27.5.23	The subdivision of a residential flat from a residential unit.	NC
27.5.24	Any subdivision of land in any zone within the National Grid Corridor, which does not comply with Rule 27.5.10.	NC
27.5.25	Subdivision that does not comply with the standards related to servicing and infrastructure under Rule 27.7.15.	NC

27.6 Rules - Standards for Minimum Lot Areas

27.6.1 No lots to be created by subdivision, including balance lots, shall have a net site area or where specified, an average net site area less than the minimum specified.

Zone		Minimum Lot Area
Town Centres		No minimum
Local Shopping Centre		No minimum
Business Mixed Use		200m²
Airport		No minimum
Coneburn Industrial	Activity Area 1a	3000m²
	Activity Area 2a	1000m²
Residential	High Density	450m²
	Medium Density	250m²
	Lower Density Suburban	450m² Within the Queenstown Airport Air Noise Boundary and Outer Control Boundary: 600m²
	Arrowtown Residential Historic Management	800m²
	Large Lot Residential A	2000m²
	Large Lot Residential B	4000m²
Rural	Rural Gibbston Character	No minimum
Rural Lifestyle	Rural Lifestyle	One hectare providing the average lot size is not less than 2 hectares. For the purpose of calculating any average, any allotment greater than 4 hectares, including the balance, is deemed to be 4 hectares.
	Rural Lifestyle Deferred A and B[3]	No minimum, but each of the two parts of the zone identified on the planning map shall contain no more than two allotments.
	Rural Lifestyle Buffer[4]	The land in this zone shall be held in a single allotment.
Rural Residential	Rural Residential	4000m²
	Rural Residential Bob's Cove sub-zone	No minimum, providing the total lots to be created, inclusive of the entire area within the zone shall have an average of 4000m².
	Rural Residential Ferry Hill Subzone[5]	4000m² with no more than 17 lots created for residential activity.

[3, 4, 5] Greyed out text indicates the provision is subject to variation and is therefore not part of the Hearing Panel's recommendations.

Zone		Minimum Lot Area
	Rural Residential Camp Hill	4000m^2 with no more than 36 lots created for residential activity
Jacks Point	Residential Activity Areas	380m^2 In addition, subdivision shall comply with the average density requirements set out in Rule 41.5.8.
Millbrook		No minimum
Waterfall Park		No minimum

Advice Note:

Non-compliance with the minimum lot areas specified above means that a subdivision will fall under one of Rules 27.5.17-19, depending on its location.

27.6.2 Lots created for access, utilities, roads and reserves shall have no minimum size.

27.7 Zone - Location Specific Rules

	Zone and Location Specific Rules	Activity Status
27.7.1	Subdivision consistent with a Structure Plan that is included in the District Plan. Control is reserved to: a. subdivision design and any consequential effects on the layout of lots and on lot sizes and dimensions; b. internal roading design and provision, and any consequential effects on the layout of lots, and on lot sizes and dimensions; c. property access and roading; d. esplanade provision; e. the adequacy of on site measures to address the risk of natural and other hazards on land within the subdivision; f. fire fighting water supply; g. water supply; h. stormwater design and disposal; i. sewage treatment and disposal; j. energy supply and telecommunications, including adverse effects on energy supply and telecommunication networks; k. open space and recreation; and l. ecological and natural values; m. historic heritage; n. easements; o. any additional matters relevant to achievement of the objectives and policies in part 27.3 of this Chapter.	C
27.7.2	**Kirimoko** **27.7.2.1** In addition to those matters of control listed under Rule 27.7.1 when assessing any subdivision consistent with the principal roading layout depicted in the Kirimoko Structure Plan shown in part 27.13, the following shall be additional matters of control: a. roading layout; b. the provision and location of walkways and the green network; c. the protection of native species as identified on the structure plan as green network.	C

	Zone and Location Specific Rules	Activity Status
	27.7.2.2 Any subdivision that does not comply with the principal roading layout and reserve net-work depicted in the Kirimoko Structure Plan included in Part 27.13 (including the creation of additional roads, and/or the creation of access ways for more than 2 properties).	NC
	27.7.2.3 Any subdivision of land zoned Rural proposed to create a lot entirely within the Rural Zone, to be held in a separate certificate of title.	NC
	27.7.2.4 Any subdivision of land described as Lots 3 to 7 and Lot 9 DP300734, and Lot 1 DP 304817 (and any title derived therefrom) that creates more than one lot that has included in its legal boundary land zoned Rural.	NC
27.7.3	**Bob's Cove Rural Residential Sub-Zone** **27.7.3.1** Activities that do not meet the following standards: a. boundary planting – Rural Residential sub-zone at Bobs Cove: i. within the Rural Residential sub-zone at Bobs Cove, where the 15 metre building Restriction Area adjoins a development area, it shall be planted in indigenous tree and shrub species common to the area, at a density of one plant per square metre; and ii. where a building is proposed within 50 metres of the Glenorchy-Queenstown Road, such indigenous planting shall be established to a height of 2 metres and shall have survived for at least 18 months prior to any residential buildings being erected. b. development areas and undomesticated areas within the Rural Residential sub-zone at Bob's Cove: i. within the Rural Residential sub-zone at Bob's Cove, at least 75% of the zone shall be set aside as undomesticated area, and shown on the Subdivision Plan as such, and given effect to by consent notice registered against the title of the lots created, to the benefit of all lot holders and the Council; ii. at least 50% of the 'undomesticated area' shall be retained, established, and maintained in indigenous vegetation with a closed canopy such that this area has total indigenous litter cover. This rule shall be given effect to by consent notice registered against the title of the lot created, to the benefit of the lot holder and the Council; iii. the remainder of the area shall be deemed to be the 'development area' and shall be shown on the Subdivision Plan as such, and given effect to by consent notice registered against the title of the lots created, to the benefit of all holders and the Council; iv. the landscaping and maintenance of the undomesticated area shall be detailed in a landscaping plan that is provided as part of any subdivision application. This Landscaping Plan shall identify the proposed species and shall provide details of the proposed maintenance programme to ensure a survival rate of at least 90% within the first 5 years; and v. this area shall be established and maintained in indigenous vegetation by the subdividing owner and subsequent owners of any individual allotment on a continuing basis. Such areas shall be shown on the Subdivision Plan and given effect to by consent notice registered against the title of the lots; vi. any lot created that adjoins the boundary with the Queenstown-Glenorchy Road shall include a 15 metre wide building restriction area, and such building restriction area shall be given effect to by consent notice registered against the title of the lot created, to the benefit of the lot holder and the Council.	NC

	Zone and Location Specific Rules	Activity Status
27.7.4	**Ladies Mile** **27.7.4.1** Subdivision of land situated south of State Highway 6 ("Ladies Mile") and southwest of Lake Hayes that is zoned Lower Density Suburban Residential or Rural Residential as shown on the Planning Maps and that does not meet the following standards: a. the landscaping of roads and public places is an important aspect of property access and subdivision design. No subdivision consent shall be granted without consideration of appropriate landscaping of roads and public places shown on the plan of subdivision. b. no separate residential lot shall be created unless provision is made for pedestrian access from that lot to public open spaces and recreation areas within the land subject to the application for subdivision consent and to public open spaces and rural areas ad-joining the land subject to the application for subdivision consent.	NC
27.7.5	**Jacks Point** **27.7.5.1** Subdivision Activity failing to comply with the Jacks Point Structure Plan located within Section 27.13. For the purposes of interpreting this rule, the following shall apply: a. a variance of up to 120m from the location and alignment shown on the Structure Plan of the Primary Road, and their intersection with State Highway 6, shall be acceptable; b. Public Access Routes and Secondary Roads may be otherwise located and follow different alignments provided that any such alignment enables a similar journey; c. subdivision shall facilitate a road connection at each Key Road Connection shown on the Structure Plan to enable vehicular access to roads which connect with the Primary Roads, provided that a variance of up to 50m from the location of the connection shown on the Structure Plan shall be acceptable; d. Open Spaces are shown indicatively, with their exact location and parameters to be established through the subdivision process.	D

	Zone and Location Specific Rules	Activity Status
	27.7.5.2 Subdivision failing to comply with the 380m2 minimum lot size for subdivision within the Hanley Downs part of the Jacks Point Zone. Discretion is restricted to: a. subdivision design and any consequential effects on the layout of lots and on lot sizes and dimensions; b. internal roading design and provision, and any consequential effects on the layout of lots, and on lot sizes and dimensions; c. property access and roading; d. esplanade provision; e. the adequacy of on site measures to address the risk of natural and other hazards on land within the subdivision; f. fire fighting water supply; g. water supply; h. stormwater design and disposal; i. sewage treatment and disposal; j. energy supply and telecommunications, including adverse effects on energy supply and telecommunication networks; k. open space and recreation; and l. ecological and natural values; m. historic heritage; n. easements; o. location and height of buildings, or parts of buildings, including windows; p. configuration of parking, access and landscaping.	RD
	27.7.5.3 Subdivision within the OSR-North Activity Area of the Jacks Point Zone that does not, prior to application for subdivision consent being made: a. provide to the Council noise modelling data that identifies the 55dB Ldn noise contour measured, predicted and assessed in accordance with NZS 6805:1992 Airport Noise Management and Land Use Planning and NZS 6801:2008 Acoustics – Measurement of Environmental Sound, by a person suitably qualified in acoustics, based on any consented operations from the airstrip on Lot 8 DP443832; and b. register a consent notice on any title the subject of subdivision that includes land that is located between the 55 dB Ldn contour and the airstrip preventing any ASAN from locating on that land.	NC
27.7.6	**Millbrook Resort Zone** **27.7.6.1** Any subdivision of the Millbrook Resort Zone that is inconsistent with the Millbrook Resort Zone Structure Plan contained in Section 27.13.	D

	Zone and Location Specific Rules	Activity Status
27.7.7	**Coneburn Industrial**	
	27.7.7.1 Subdivision not in general accordance with the Coneburn Industrial Structure Plan located in Section 27.13. For the purposes of this rule: a. any fixed connections (road intersections) shown on the Structure Plan may be moved no more than 20 metres; b. any fixed roads shown on the Structure Plan may be moved no more than 50 metres in any direction; c. the boundaries of any fixed open spaces shown on the Structure Plan may be moved up to 5 metres.	NC
	27.7.7.2 Subdivision failing to comply with any of the following: a. consent must have been granted under Rule 44.4.10 for landscaping of the Open Space Area shown on the Structure Plan in accordance with an Ecological Management Plan prior to lodgement of the subdivision application; b. subdivision of more than 10%, in area, of the Activity Areas shown on the Structure Plan shall not occur unless the work required under the Ecological Management Plan consented under Rule 44.4.10 has been completed on not less than 25% of the Open Space Area shown on the Structure Plan; c. subdivision of more than 25%, in area, of the Activity Areas shown on the Structure Plan shall not occur unless the work required under the Ecological Management Plan consented under Rule 44.4.10 has been completed on not less than 50% of the Open Space Area shown on the Structure Plan; d. subdivision of more than 50%, in area, of the Activity Areas shown on the Structure Plan shall not occur unless the work required under the Ecological Management Plan consented under Rule 44.4.10 has been completed on not less than 100% of the Open Space Area shown on the Structure Plan.	NC
	27.7.7.3 Subdivision whereby prior to the issue of a s224(c) certification under the Act for any subdivision of any land within the zone: a. prior to the Northern Access Point being constructed as a Priority T Intersection (Austroads Guide to Road Design (Part 4A)) and being available for public use every subdivision of any land within the zone must contain a condition requiring that the Northern Access Point be constructed as a Priority T Intersection (Austroads Guide to Road Design (Part 4A)) and be available for public use prior to issue of a s.224(c) certificate; b. any subdivision of land within the Activity Areas 1a and 2a which, by itself or in combination with prior subdivisions of land within the zone, involves subdivision of more than 25% of the land area of Activity Areas 1a and 2a must include a condition requiring the construction of the Southern Access Point as a Priority T intersection (Austroads Guide to Road Design (Part 4A)) and that it be available for public use prior to issue of a s.224(c) certificate, unless the Southern Access Point has been constructed and is available for public use at the time the consent is granted.	NC

	Zone and Location Specific Rules	Activity Status
27.7.8	**West Meadows Drive** **27.7.8.1** Subdivision of lots zoned Lower Density Suburban Residential at the western end of West Meadows Drive identified in Section 27.13.6 which is consistent with the West Meadows Drive Structure Plan in Section 27.13. Control is reserved to: a. the matters of control listed under Rule 27.7.1; and b. roading layout.	C
	27.7.8.2 Subdivision of lots zoned Lower Density Suburban Residential at the western end of West Meadows Drive identified in Section 27.13.6 that is inconsistent with the West Meadows Drive Structure Plan in Section 27.13.	D
27.7.9	**Frankton North** **27.7.9.1** All subdivision activity in the Business Mixed Use Zone and Medium Density Residential Zone located north of State Highway 6 between Hansen Road and Ferry Hill Drive that complies with the following standards in addition to the requirements of Rule 27.5.7: a. access to the wider roading network shall only be via one or more of: i. Hansen Road; ii. Ferry Hill Drive; and/or iii. Hawthorne Drive/State Highway 6 roundabout. b. no subdivision shall be designed so as to preclude an adjacent site complying with clause a. Discretion is restricted to: a. safe and effective functioning of the State Highway network; b. integration with other access points through the zones to link up to Hansen Road, Ferry Hill Drive or the Hawthorne Drive/State Highway 6 roundabout; c. integration with pedestrian and cycling networks, including those across the State Highway.	RD
	27.7.9.2 Any subdivision activity in the Business Mixed Use Zone and Medium Density Residential Zone located north of State Highway 6 between Hansen Road and Ferry Hill Drive that does not comply with Rule 27.7.9.1.	NC

Ferry Hill Rural Residential sub-zone

27.8.6.1 Notwithstanding any other rules, any subdivision of the Ferry Hill Rural Residential sub-zone shall be in accordance with the subdivision design as identified in the Concept Development Plan for the Ferry Hill Rural Residential sub-zone.

27.8.6.2 Lots 18 and 19 as shown on the Concept Development Plan for the Ferry Hill Rural Residential sub-zone shall be retained for Landscape Amenity Purposes and shall be held in undivided shares by the owners of Lots 1-8 and Lots 11-15 as shown on the Concept Development Plan.

27.8.6.3 Any application for subdivision consent shall:

a. provide for the creation of the landscape allotments(s) referred to in rule 27.8.6.2 above;

b. be accompanied by details of the legal entity responsible for the future maintenance and administration of the allotments referred to in rule 27.8.6.2 above;

c. be accompanied by a Landscape Plan that shows the species, number, and location of all plantings to be established, and shall include details of the proposed timeframes for all such plantings and a maintenance programme. The landscape Plan shall ensure:

i. that the escarpment within Lots 18 and 19 as shown on the Concept Development Plan for the Ferry Hill Rural Residential sub-zone is planted with a predominance of indigenous species in a manner that enhances naturalness; and

ii. that residential development is subject to screening along Tucker Beach Road.

27.8.6.4 Plantings at the foot of, on, and above the escarpment within Lots 18 and 19 as shown on the Concept Development Plan for the Ferry Hill Rural Residential sub-zone shall include indigenous trees, shrubs, and tussock grasses.

27.8.6.5 Plantings elsewhere may include maple as well as indigenous species.

27.8.6.6 The on-going maintenance of plantings established in terms of rule 27.8.6.3 above shall be subject to a condition of resource consent, and given effect to by way of consent notice that is to be registered on the title and deemed to be a covenant pursuant to section 221(4) of the Act.

27.8.6.7 Any subdivision shall be subject to a condition of resource consent that no buildings shall be located outside the building platforms shown on the Concept Development Plan for the Ferry Hill Rural Residential sub-zone. The condition shall be subject to a consent notice that is registered on the title and deemed to be a covenant pursuant to section 221(4) of the Act.

27.8.6.8 Any subdivision of Lots 1 and 2DP 26910 shall be subject to a condition of resource consent that no residential units shall be located and no subdivision shall occur on those parts of Lots 1 and 2 DP 26910 zoned Rural General and identified on the planning maps as a building restriction area. The condition shall be subject to a consent notice that is to be registered and deemed to be a covenant pursuant to section 221(4) of the Act[6].

[6] Greyed out text indicates the provision is subject to variation and is therefore not part of the Hearing Panel's recommendations.

27.7.10 In the following zones, every allotment created for the purposes of containing residential activity shall identify one building platform of not less than 70m² in area and not greater than 1000m² in area.

a. Rural Zone;

b. Gibbston Character Zone;

c. Rural Lifestyle Zone;

27.7.11 The dimensions of lots in the following zones, other than for access, utilities, reserves or roads, shall be able to accommodate a square of the following dimensions:

Zone		Minimum Dimensions (m = Metres)
Residential	Medium Density	12m x 12m
	Large Lot	30m x 30m
	All others	15m x 15m
Rural Residential	Rural Residential (inclusive of sub-zones)	30m x 30m

27.7.12 Subdivision applications not complying with either Rule 27.7.10 or Rule 27.7.11 shall be non-complying activities.

27.7.13 Subdivision associated with infill development

The specified minimum allotment size in Rule 27.6.1, and minimum dimensions in Rule 27.11 shall not apply in the High Density Residential Zone, Medium Density Residential Zone and Lower Density Suburban Residential Zone where each allotment to be created, and the original allotment, all contain at least one established residential unit (established meaning a Building Code of Compliance Certificate has been issued or alternatively where a Building Code of Compliance Certificate has not been issued, construction shall be completed to not less than the installation of the roof).

27.7.14 Subdivision associated with residential development on sites less than 450m² in the Lower Density Suburban Residential Zone

27.7.14.1 In the Lower Density Suburban Residential Zone, the specified minimum allotment size in Rule 27.6.1 shall not apply in cases where the residential units are not established, providing;

a. a certificate of compliance is issued for a residential unit(s); or

b. a resource consent has been granted for a residential unit(s).

In addition to any other relevant matters pursuant to s221 of the Act, the consent holder shall register on the Computer Freehold Register of the applicable allotments:

a. that the construction of any residential unit shall be undertaken in accordance with the applicable certificate of compliance or resource consent (applies to the additional undeveloped lot to be created);

b. the maximum building height shall be 5.5m (applies to the additional undeveloped lot to be created).

c. there shall be not more than one residential unit per lot (applies to all lots).

27.7.14.2 Rule 27.7.14.1 shall not apply to the Lower Density Suburban Residential Zone within the Queenstown Airport Air Noise Boundary and Outer Control Boundary as shown on the planning maps.

27.7.15 Standards related to servicing and infrastructure

Water

27.7.15.1 Subject to Rule 27.15.3, all lots, other than lots for access, roads, utilities and reserves except where irrigation is required, shall be provided with a connection to a reticulated water supply laid to the boundary of the net area of the lot, as follows:

To a Council or community owned and operated reticulated water supply:

a. all Residential, Business, Town Centre, Local Shopping Centre Zones, and Airport Zone - Queenstown;

b. Rural Residential Zones at Wanaka, Lake Hawea, Albert Town, Luggate and Lake Hayes;

c. Millbrook Resort Zone and Waterfall Park Zone.

27.7.15.2 Where any reticulation for any of the above water supplies crosses private land, it shall be accessible by way of easement to the nearest point of supply.

27.7.15.3 Where no communal owned and operated water supply exists, all lots other than lots for access, roads, utilities and reserves, shall be provided with a potable water supply of at least 1000 litres per day per lot.

Telecommunications/Electricity

27.7.15.4 Electricity reticulation must be provided to all allotments in new subdivisions (other than lots for access, roads, utilities and reserves).

27.7.15.5 Telecommunication services must be available to all allotments in new subdivisions in the Rural Zone, Gibbston Character Zone and Rural Lifestyle Zone (other than lots for access, roads, utilities and reserves).

27.7.15.6 Telecommunication reticulation must be provided to all allotments in new subdivisions in zones other than the Rural Zone, Gibbston Character Zone and Rural Lifestyle Zone (other than lots for access, roads, utilities and reserves).

27.8 Rules - Esplanade Reserve Exemptions

27.8.1 Esplanade reserves or strips shall not be required where a proposed subdivision arises solely due to land being acquired or a lot being created for a road designation, utility or reserve or in the case of activities authorised by Rule 27.5.2.

27.9 Assessment Matters for Resource Consents

27.9.1 Boundary Adjustments

In considering whether or not to impose conditions in respect to boundary adjustments under Rule 27.5.3 and in considering whether or not to grant consent or impose conditions in respect to boundary adjustments under 27.5.4, the Council shall have regard to, but not be limited by, the following assessment criteria:

27.9.1.1 Assessment Matters in relation to Rule 27.5.3 (Boundary Adjustments)

a. whether the location of the proposed boundaries is appropriate, including in relation to their relationship to approved residential building platforms, existing buildings and vegetation patterns and existing or proposed accesses;

b. whether the site design, size, shape, gradient and location, including existing buildings, manoeuvring areas and outdoor living spaces:

   i. is able to accommodate development in accordance with the relevant district-wide and zone rules; and

   ii. the potential effects on the safety of pedestrians and cyclists and other users of the space or access;

c. whether any landscape features or vegetation, including mature forest, on the site are of a sufficient amenity value that they should be retained and if so, the proposed means for their protection;

d. the extent to which Policies 27.2.1.7, 27.2.3.2, 27.2.5.10, 27.2.5.11, 27.2.5.14 and 27.2.7.2 are achieved.

27.9.1.2 Assessment Matters in relation to Rule 27.5.4 (Boundary Adjustments involving Heritage Items and within Arrowtown's urban growth boundary)

a. whether the location of the proposed boundaries is appropriate, including in relation to their relationship to existing buildings and vegetation patterns and existing or proposed accesses;

b. whether the site design, size, shape, gradient and location, including existing buildings, manoeuvring areas and outdoor living spaces:

    i. is able to accommodate development in accordance with the relevant district-wide and zone rules; and

    ii. the potential effects on the safety of pedestrians and cyclists and other users of the space or access;

c. whether any landscape features or vegetation, including mature trees, on the site are of a sufficient amenity value that they should be retained and, if so, the proposed means for their protection;

d. the effect of subdivision on any places of heritage value including existing buildings, archaeological sites and any areas of cultural significance.

e. where lots are being amalgamated within the Medium Density Residential Zone and Lower Density Suburban Residential Zone, the extent to which future development will affect the historic character of the Arrowtown Residential Historic Management Zone;

f. the extent to which Policies 27.2.1.7, 27.2.3.2, 27.2.4.2, 27.2.4.4, 27.2.5.10, 27.2.5.11, 27.2.5.14 and 27.2.7.2 are achieved.

27.9.2 Controlled Unit Title and Leasehold Subdivision Activities

In considering whether or not to impose conditions in respect to unit title or leasehold subdivision under Rule 27.5.5, the Council shall have regard to, but not be limited by, the following assessment criteria:

27.9.2.1 Assessment Matters in relation to Rule 27.5.5 (Unit Title or Leasehold Subdivision)

a. whether all buildings comply with an approved resource consent;

b. whether the location of the proposed boundaries is appropriate, including in relation to their relationship to existing buildings and existing or proposed accesses;

c. whether the site design, size, shape, gradient and location, including existing buildings, manoeuvring areas and outdoor living spaces:

    i. is able to accommodate development in accordance with the relevant district-wide and zone rules; and

    ii. the potential effects the safety of pedestrians and cyclists and other users of the space or access;

d. the effects of and on infrastructure provision;

e. The extent to which Policies 27.2.1.7, 27.2.3.1, 27.2.3.2, 27.2.5.10, 27.2.5.11 and 27.2.5.14 are achieved.

27.9.3 Restricted Discretionary Activity Subdivision Activities

In considering whether or not to grant consent or impose conditions under Rules 27.5.7 and 27.5.8, the Council shall have regard to, but not be limited by, the following assessment criteria:

27.9.3.1 Assessment Matters in relation to Rule 27.5.7 (Urban Subdivision Activities)

a. whether lot sizes and dimensions are appropriate in respect of widening, formation or upgrading of existing and proposed roads and any provisions required for access for future subdivision on adjoining land;

b. consistency with the principles and outcomes of the QLDC Subdivision Design Guidelines;

c. whether any landscape features or vegetation, including mature forest, on the site are of a sufficient amenity value that they should be retained and the proposed means for their protection;

d. the effect of subdivision on any places of heritage value including existing buildings, archaeological sites and any areas of cultural significance;

e. whether the location, alignment, gradients and pattern of roading, service lanes, pedestrian accessways and cycle ways is appropriate, including as regards their safety and efficiency;

f. the extent to which the provision for open space and recreation is consistent with the objectives and policies of the District Plan relating to the provision, diversity and environmental effects of open spaces and recreational facilities;

g. whether the purposes for the creation of esplanade reserves or strips set out in section 229 of the Act are achieved;

h. whether services are to be provided in accordance with Council's Code of Practice for Subdivision

i. whether effects on electricity and telecommunication networks are appropriately managed;

j. whether appropriate easements are provided for existing and proposed access and services.

k. the extent to which Policies 27.2.1.1, 27.2.1.2, 27.2.1.3, 27.2.3.2, 27.2.4.4, 27.2.5.5, 27.2.5.6, 27.2.5.10, 27.2.5.11, 27.2.5.14, 27.2.5.16 and 27.2.6.1 are achieved.

27.9.3.2 Assessment Matters in relation to Rule 27.5.8 (Rural Residential and Rural Lifestyle Subdivision Activities)

a. the extent to which the design maintains and enhances rural living character, landscape values and visual amenity;

b. the extent to which the location and size of building platforms could adversely affect adjoining non residential land uses;

c. whether and what controls are required on buildings within building platforms to manage their external appearance or visibility from public places, or their effects on landscape character and visual amenity;

d. the extent to which lots have been orientated to optimise solar gain for buildings and developments;

e. whether lot sizes and dimensions are appropriate in respect of widening, formation or upgrading of existing and proposed roads and any provision required for access for future subdivision on adjoining land.

f. whether any landscape features or vegetation, including mature forest, on the site are of a sufficient amenity value that they should be retained and the proposed means for their protection;

g. the effect of subdivision on any places of heritage value including existing buildings, archaeological sites and any areas of cultural significance;

h. whether the location, alignment, gradients and pattern of roading, service lanes, pedestrian accessways and cycle ways is appropriate, including as regards their safety and efficiency;

i. the extent to which the provision for open space and recreation is consistent with the objectives and policies of the District Plan relating to the provision, diversity and environmental effects of open spaces and recreational facilities;

j. whether the purposes for the creation of esplanade reserves or strips set out in section 229 of the Act are achieved;

k. whether services are to be provided in accordance with Council's Code of Practice for Subdivision;

l. whether effects on electricity and telecommunication networks are appropriately managed;

m. whether appropriate easements are provided for existing and proposed access and services;

n. where no reticulated water supply is available, whether sufficient water supply and access to water supplies for firefighting purposes in accordance with the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008 is provided.

o. the extent to which Policies 27.2.1.2, 27.2.4.4, 27.2.5.4, 27.2.5.5, 27.2.5.10, 27.2.5.11, 27.2.5.14, 27.2.5.16 and 27.2.6.1 are achieved.

27.9.5 Restricted Discretionary Activity - Subdivision Activities within National Grid Corridor

In considering whether or not to grant consent or impose conditions in respect to subdivision activities under Rules 27.5.10, the Council shall have regard to, but not be limited by, the following assessment criteria:

27.9.5.1 Assessment Matters in relation to Rule 27.5.10. (National Grid Corridor)

a. whether the allotments are intended to be used for residential or commercial activity;

b. the need to identify a building platform to ensure future buildings are located outside the National Grid Yard;

c. the ability of future development to comply with NZECP34:2001;

d. potential effects of the location and planting of vegetation on the National Grid;

e. whether the operation, maintenance and upgrade of the National Grid is restricted;

f. the extent to which Policy 27.2.2.8 is achieved.

27.9.6 Controlled Subdivision Activities – Structure Plan

In considering whether or not to impose conditions in respect to subdivision activities undertaken in accordance with a structure plan under Rules 27.7.1 and 27.7.2.1, the Council shall have regard to, but not be limited by, the following assessment criteria:

27.9.6.1 Assessment Matters in relation to Rule 27.7.1

a. consistency with the relevant location specific objectives and policies in part 27.3;

b. the extent and effect of any minor inconsistency or variation from the relevant structure plan.

29.9.6.2 Assessment Matters in relation to Rule 27.7.2.1 (Kirimoko)

a. the assessment criteria identified under Rule 27.7.1;

b. the appropriateness of any earthworks required to create any road, vehicle accesses, of building platforms or modify the natural landform;

c. the appropriateness of the design of the subdivision including lot configuration and roading patterns and design (including footpaths and walkways);

d. whether provision is made for creation and planting of road reserves

e. whether walkways and the green network are provided and located as illustrated on the Structure Plan for the Kirimoko Block in part 27.13;

f. whether native species are protected as identified on the Structure Plan as green network;

g. The extent to which Policies 27.3.2.1 to 27.3.2.10 are achieved.

27.9.7 Restricted Discretionary Activity-Subdivision Activities within the Jacks Point Zone

In considering whether or not to grant consent or impose conditions in respect to subdivision activities under Rule 27.7.5.2, the Council shall have regard to, but not be limited by, the following assessment criteria:

27.9.7.1 Assessment Matters in relation to Rule 27.7.5.2 (Jacks Point)

a. the assessment criteria identified under Rule 27.7.1 as it applies to the Jacks Point Zone;

b. the visibility of future development from State Highway 6 and Lake Wakatipu;

c. the appropriateness of the number, location and design of access points;

d. the extent to which nature conservation values are maintained or enhanced;

e. the adequacy of provision for creation of open space and infrastructure;

f. the extent to which Policy 27.3.7.1 is achieved;

g. the extent to which sites are configured:

i. with good street frontage;

ii. to enable sunlight to existing and future residential units;

iii. to achieve an appropriate level of privacy between homes.

h. the extent to which parking, access and landscaping are configured in a manner which:

i. minimises the dominance of driveways at the street edge;

ii. provides for efficient use of the land;

iii. maximises pedestrian and vehicular safety;

iv. addresses nuisance effects such as from vehicle lights.

i. the extent to which subdivision design satisfies:

i. public and private spaces are clearly demarcated, and ownership and management arrangements are proposed to appropriately manage spaces in common ownership.

j. whether design parameters are required to be secured through an appropriate legal mechanism. These are height, building mass, window sizes and locations, building setbacks, fence heights, locations and transparency, building materials and landscaping.

27.9.8 Controlled Activity-Subdivision Activities on West Meadows Drive

In considering whether or not to impose conditions in respect to subdivision activities under Rule 2**7.7.8.1,** the Council shall have regard to, but not be limited by, the following assessment criteria:

27.9.8.1 Assessment Matters in relation to Rule 27.7.8.1

a. the assessment criteria identified under Rule 27.7.1 as they apply to the West Meadows Drive area.

b. the extent to which the roading layout integrates with the operation of West Meadows Drive as a through-road.

27.10 Rules - Non-Notification of Applications

Applications for all controlled and restricted discretionary activities shall not require the written approval of other persons and shall not be notified or limited notified except:

a. where the site adjoins or has access onto a State Highway;

b. where the Council is required to undertake statutory consultation with iwi;

c. where the application falls within the ambit of Rule 27.5.4;

d. where the application falls within the ambit of Rule 27.5.10 and the written approval of Transpower New Zealand Limited has not been obtained to the application.

27.11 Advice Notes

27.11.1 State Highways

27.11.1.1 Attention is drawn to the need to obtain a Section 93 notice from the New Zealand Transport Agency for all subdivisions with access onto state highways that are declared Limited Access Roads (LAR). Refer to the Designations Chapter of the District Plan for sections of state highways that are LAR as at August 2015. Where a subdivision will change the use, intensity or location of the access onto the state highway, subdividers should consult with the New Zealand Transport Agency.

27.11.2 Esplanades

27.11.2.1 The opportunities for the creation of esplanades are outlined in objective and policies 27.2.7. Unless otherwise stated, section 230 of the Act applies to the standards and process for creation of esplanade reserves and strips.

27.11.3 New Zealand Electrical Code of Practice for Electrical Safe Distances

27.11.3.1 Compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances ("NZECP34:2001") is mandatory under the Electricity Act 1992. All activities regulated by NZECP34, including any activities that are otherwise permitted by the District Plan must comply with this legislation.

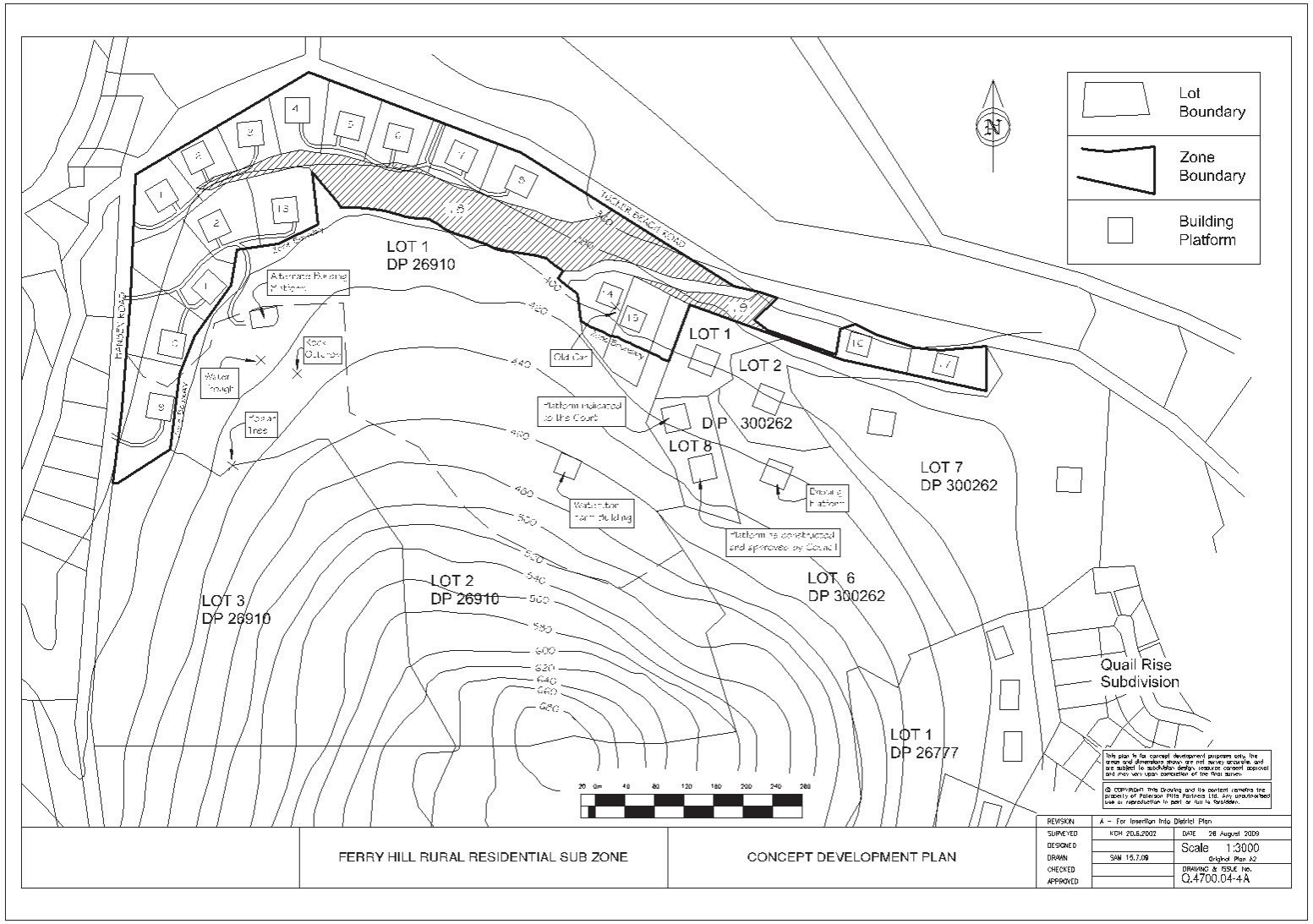
27.12 Financial Contributions

The Local Government Act 2002 provides the Council with an avenue to recover growth related capital expenditure from subdivision and development through development contributions. The Council forms a development contribution policy as part of its 10 Year Plan and actively imposes development contributions via this process.

The Council acknowledges that Millbrook Country Club has already paid financial contributions for water and sewerage for demand up to a peak of 5000 people. The 5000 people is made up of hotel guests, day staff, visitors and residents. Should demand exceed this then further development contributions will be levied under the Local Government Act 2002.

27.13 Structure Plans

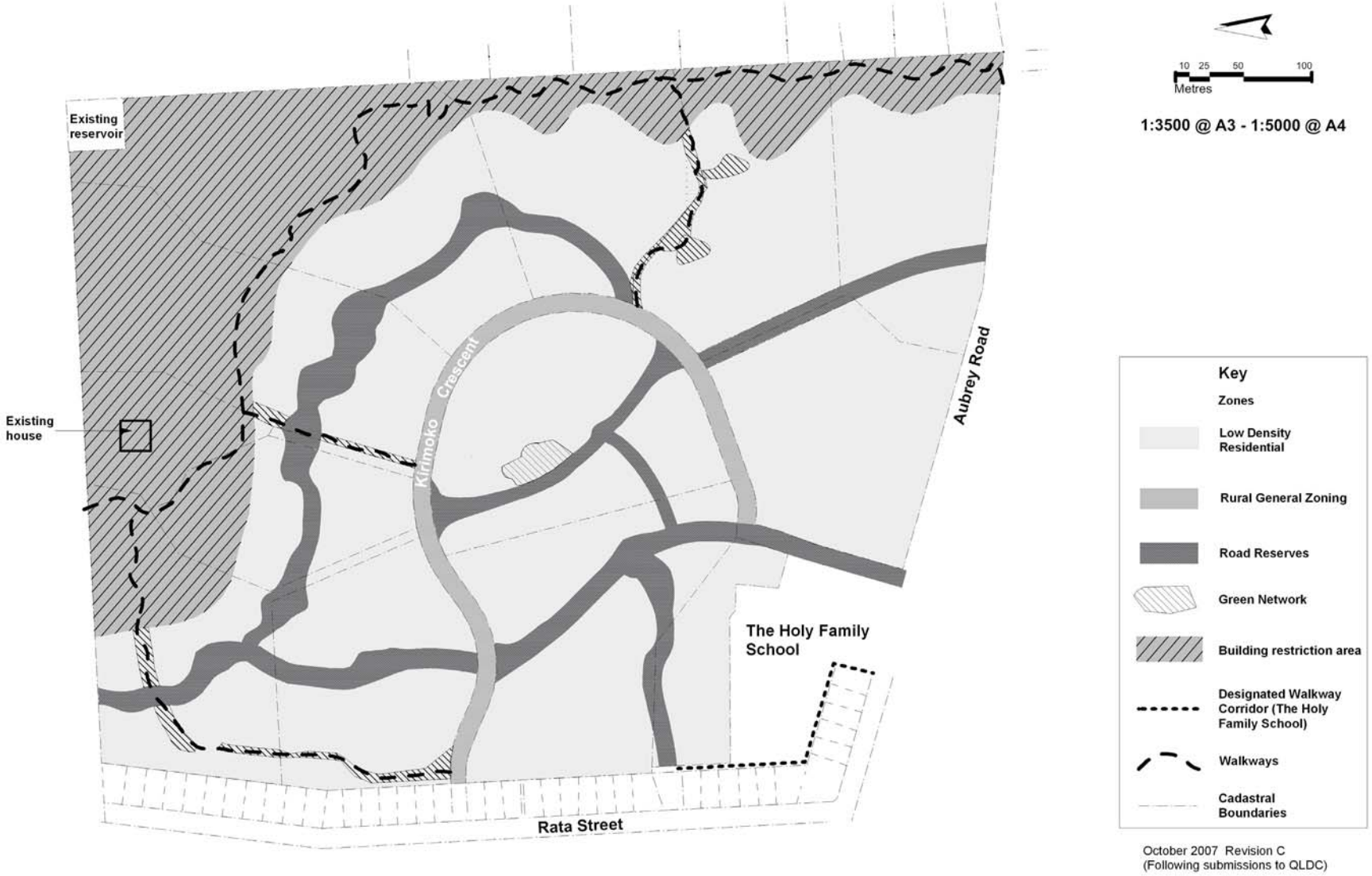
Ferry Hill Rural Residential Subzone[6]



[6] Greyed out text indicates the provision is subject to variation and is therefore is not part of the Hearing Panel's recommendations.

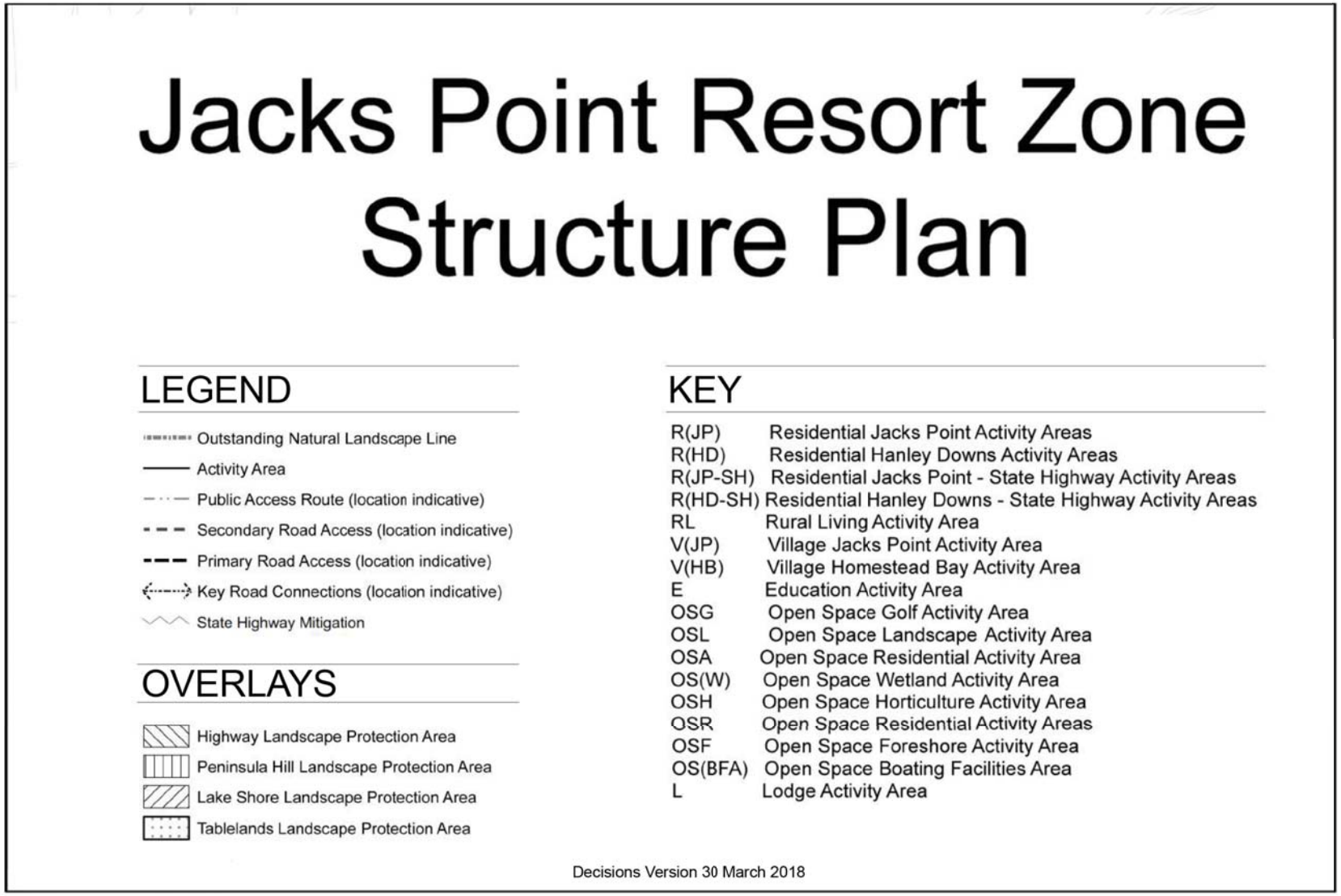
27.13.1 Kirimoko Structure Plan

Kirimoko Block - Wanaka - Structure Plan

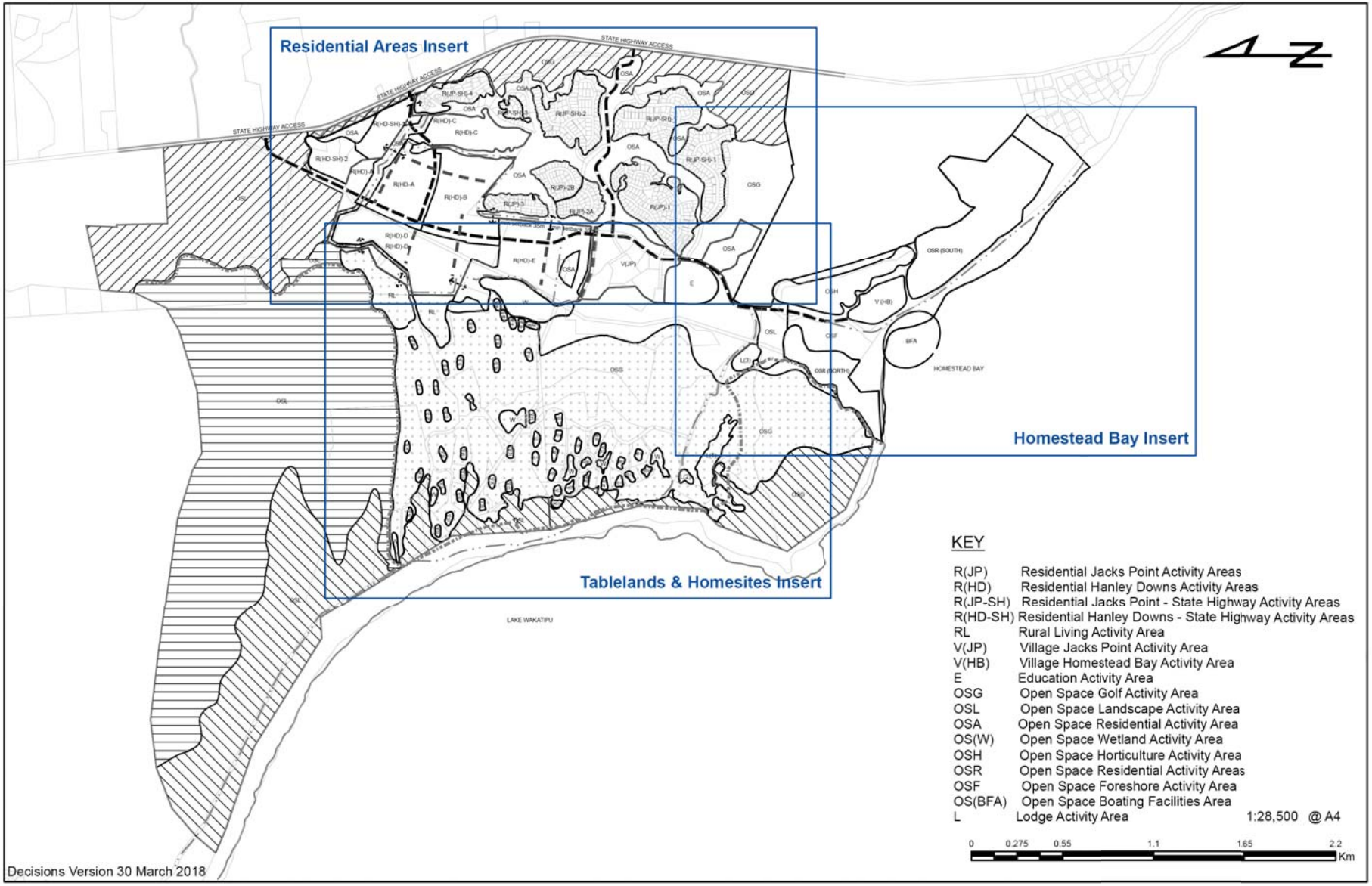


October 2007 Revision C
(Following submissions to QLDC)

27.13.2 Jacks Point Structure Plan

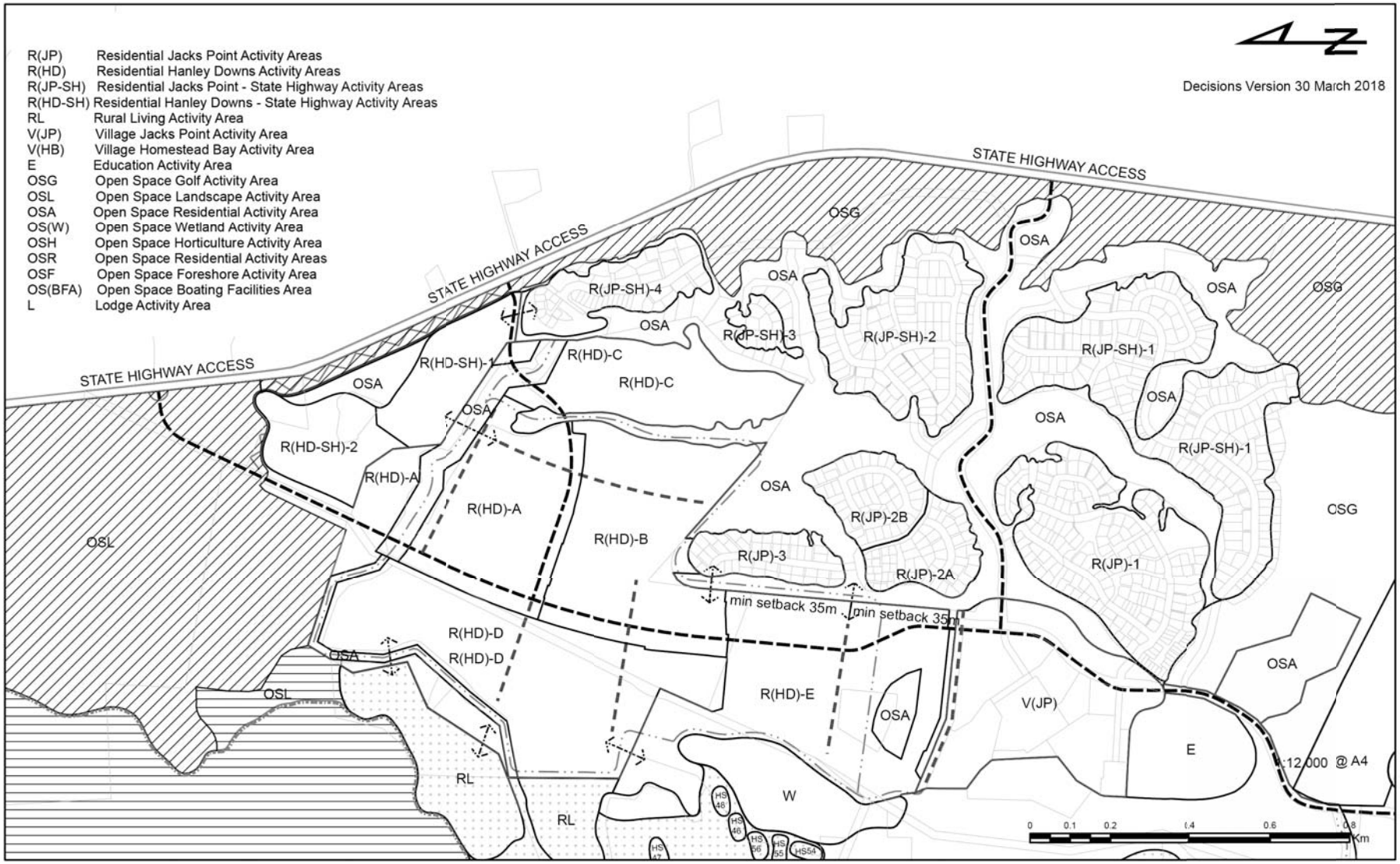


Jacks Point Resort Zone Structure Plan



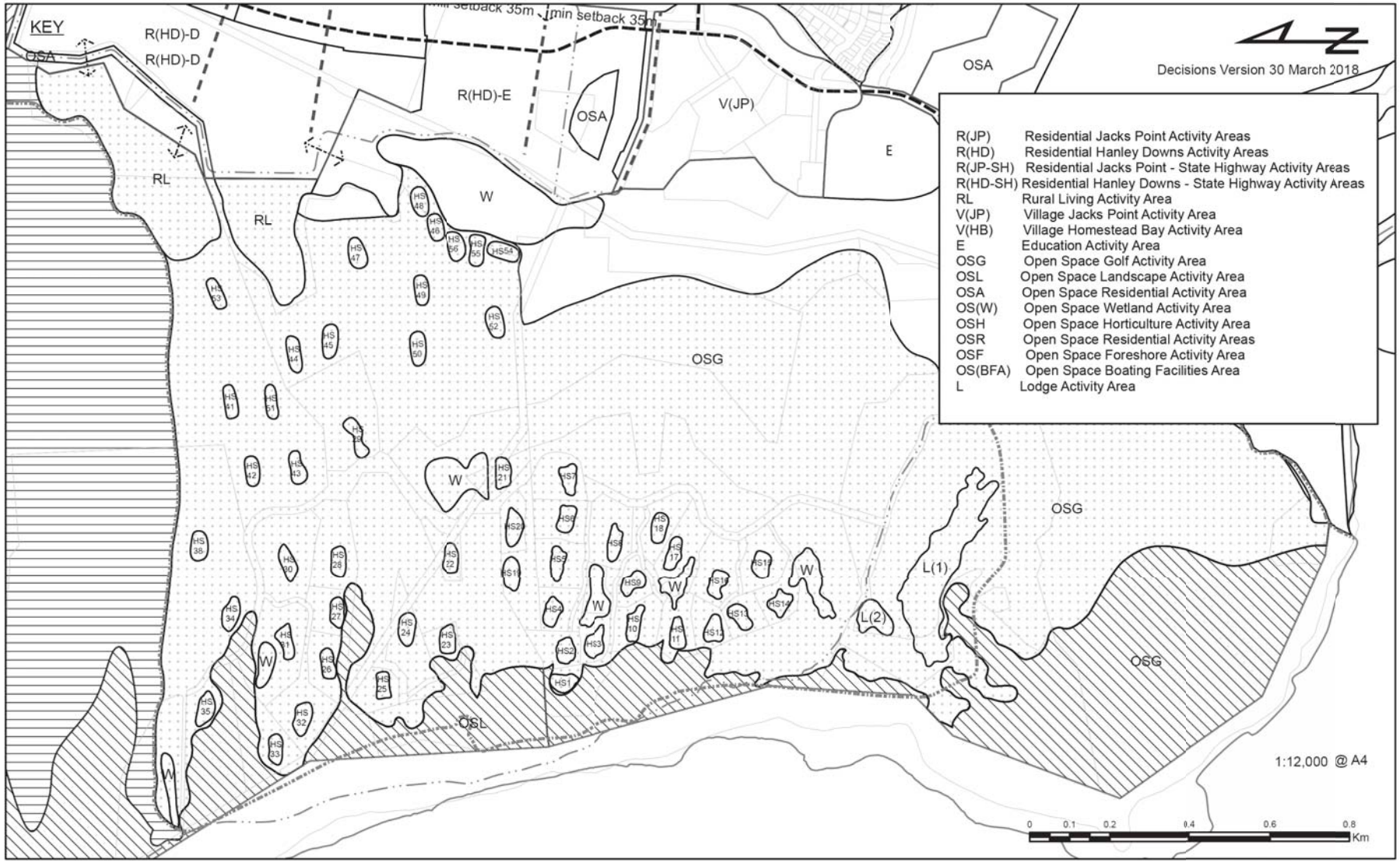
Jacks Point Resort Zone Structure Plan

Residential Areas Insert



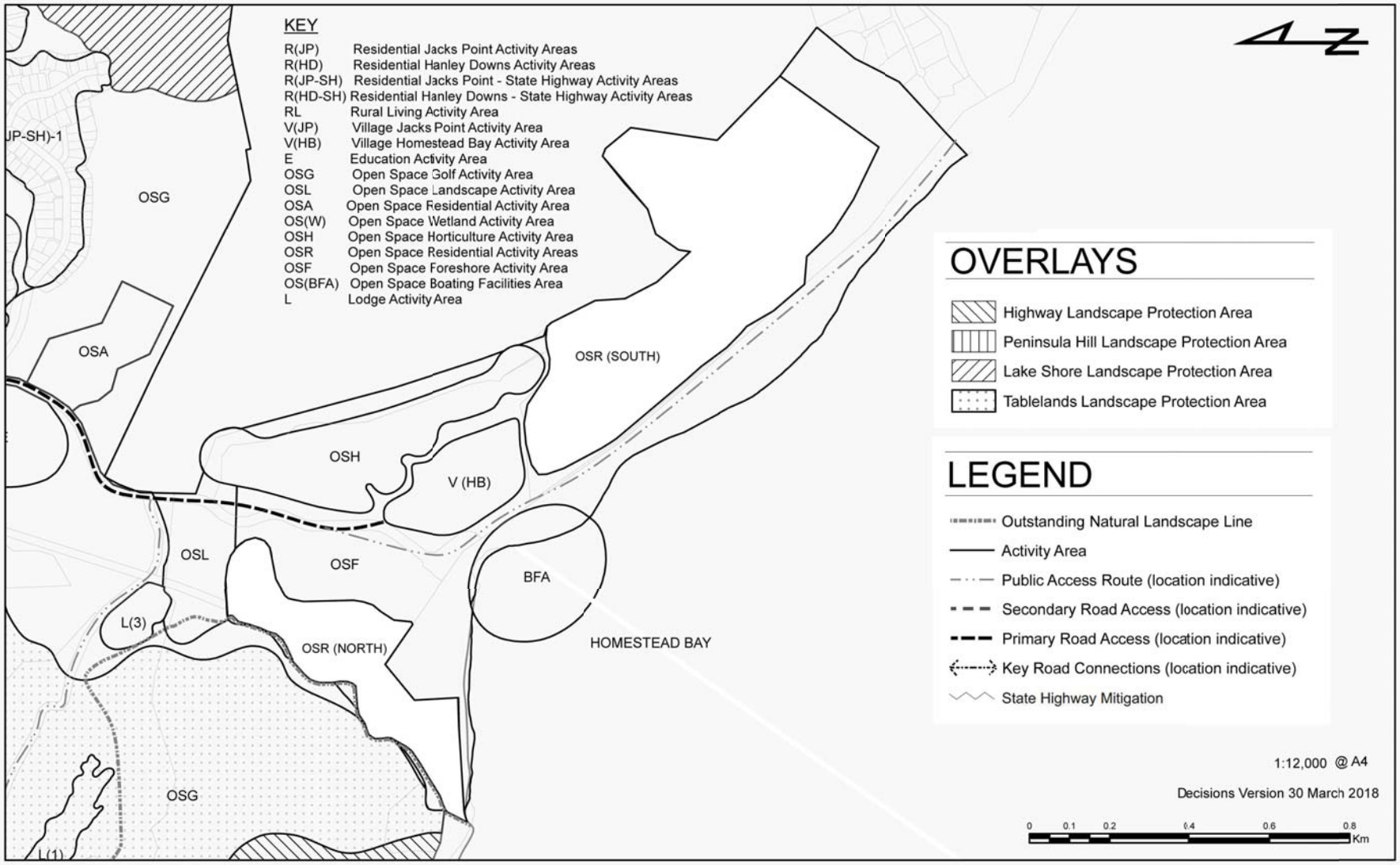
Jacks Point Resort Zone Structure Plan

Tablelands & Homesites Insert

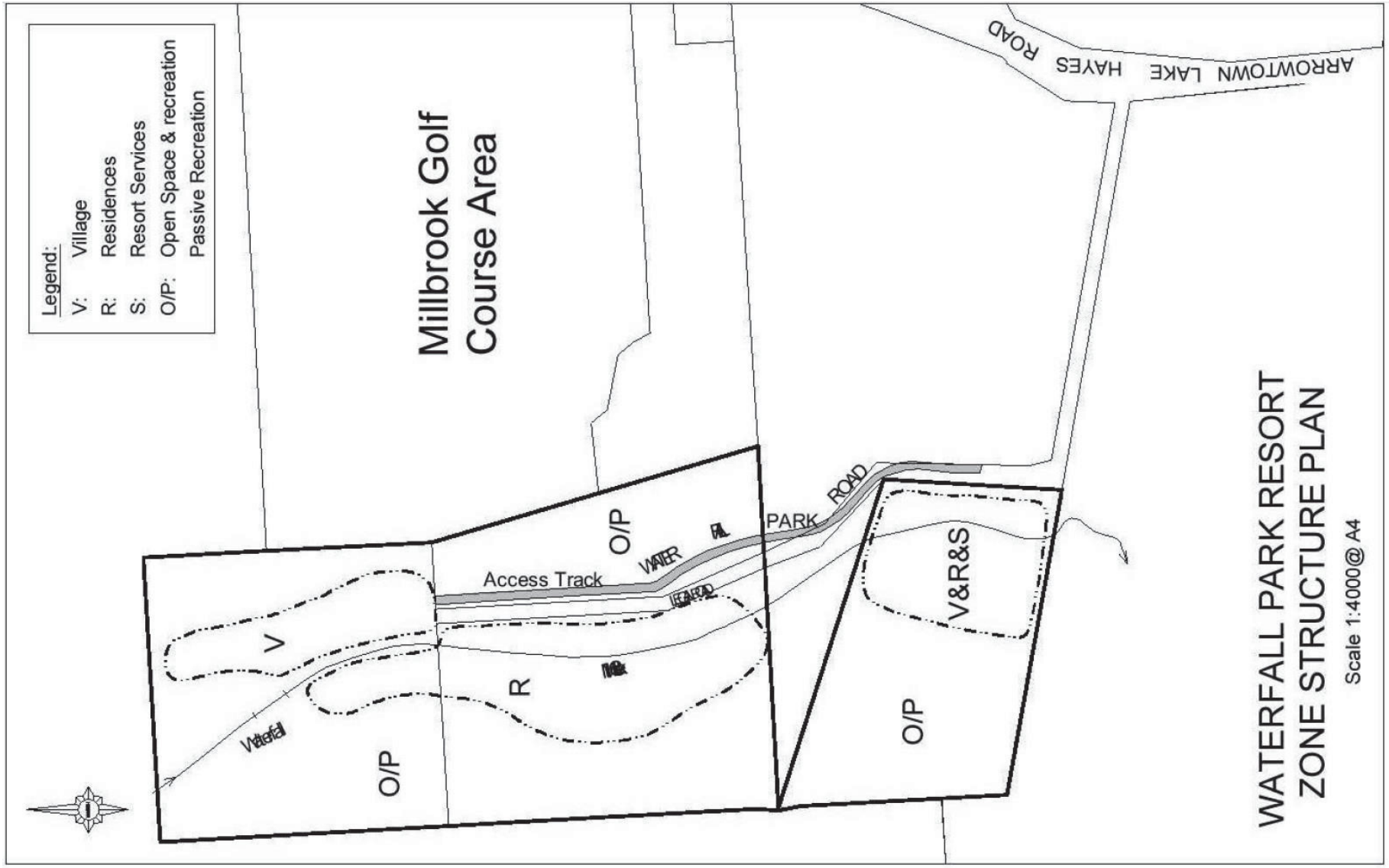


Jacks Point Resort Zone Structure Plan

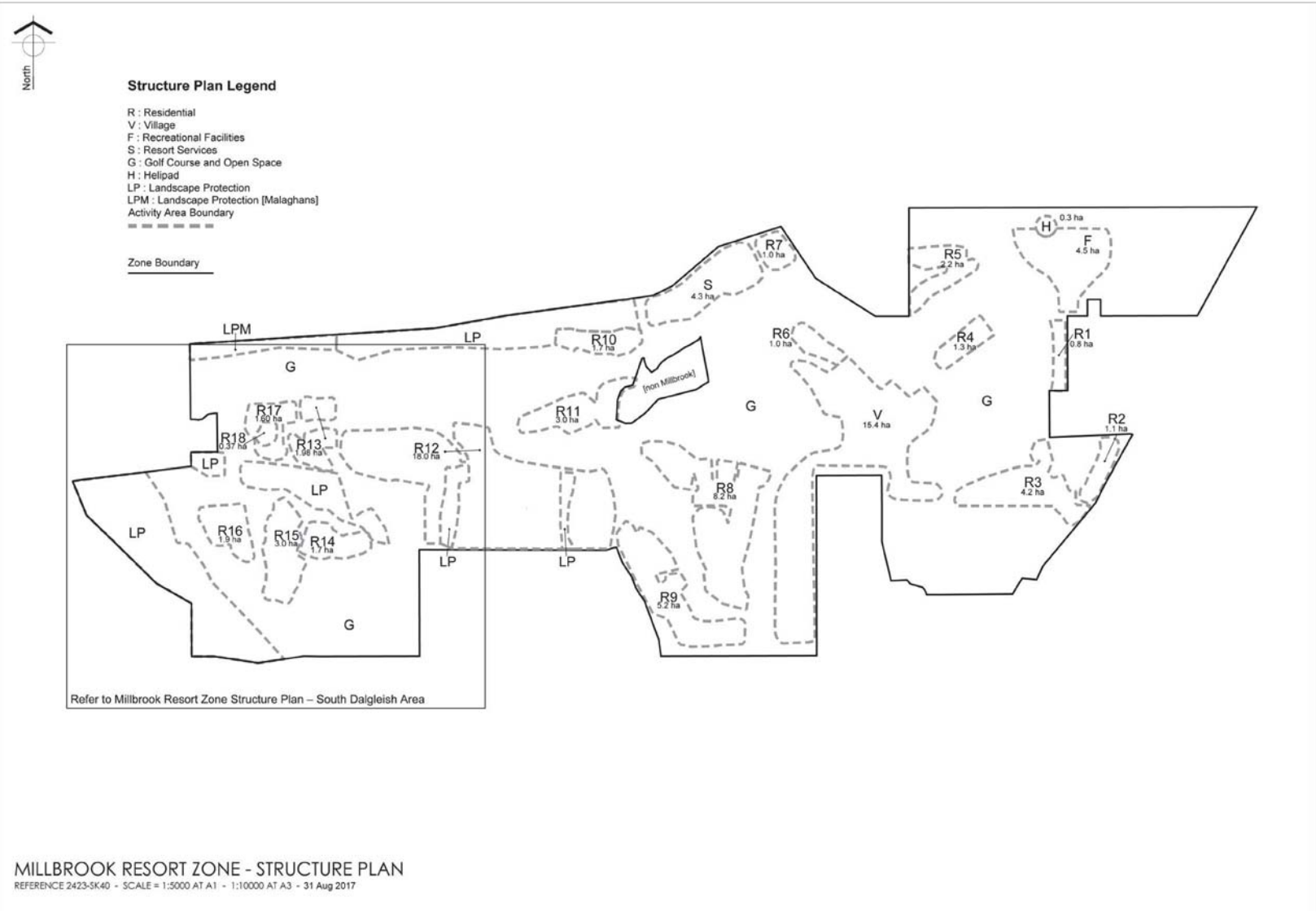
Homestead Bay Insert

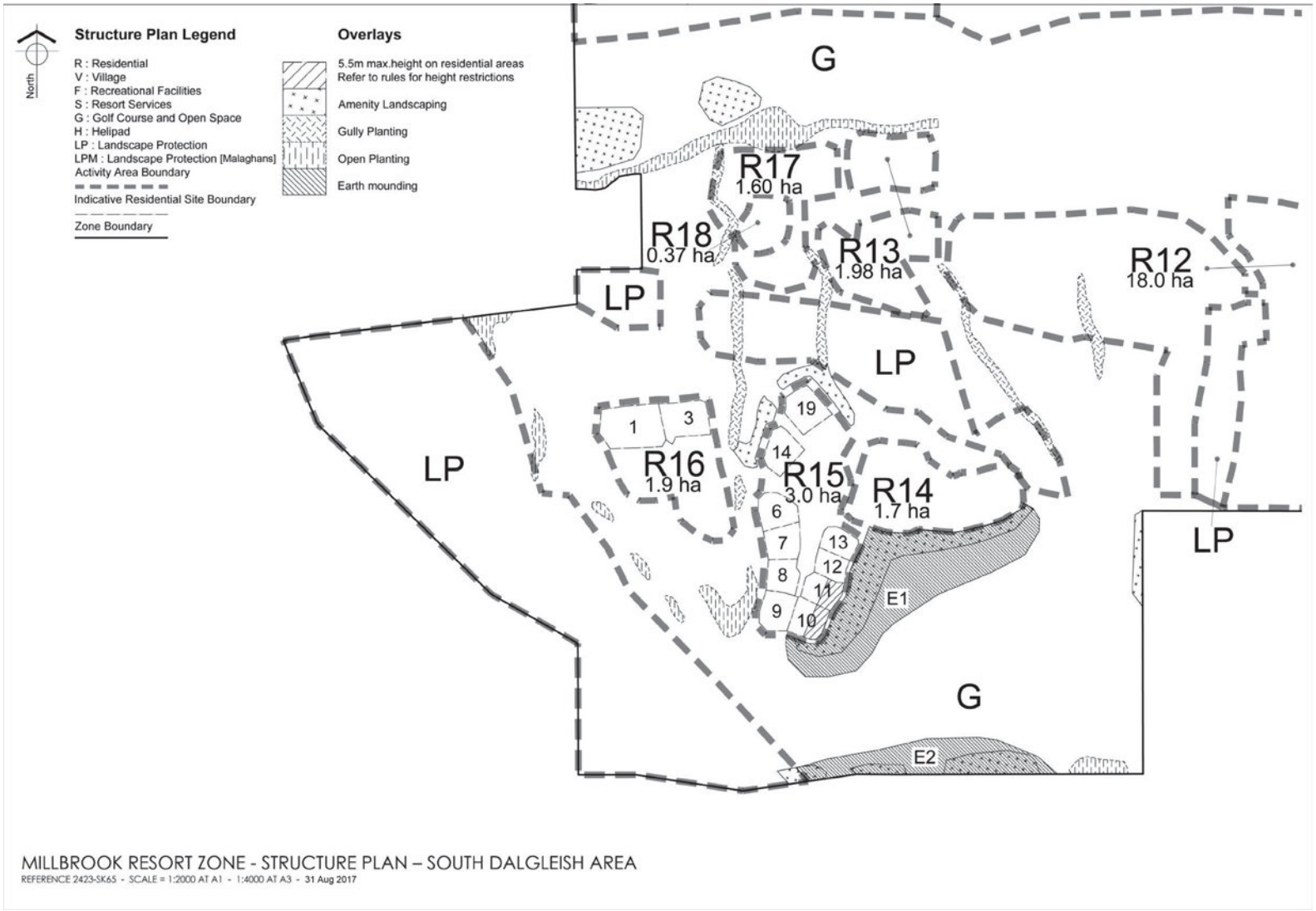


27.13.3 Waterfall Park Structure Plan

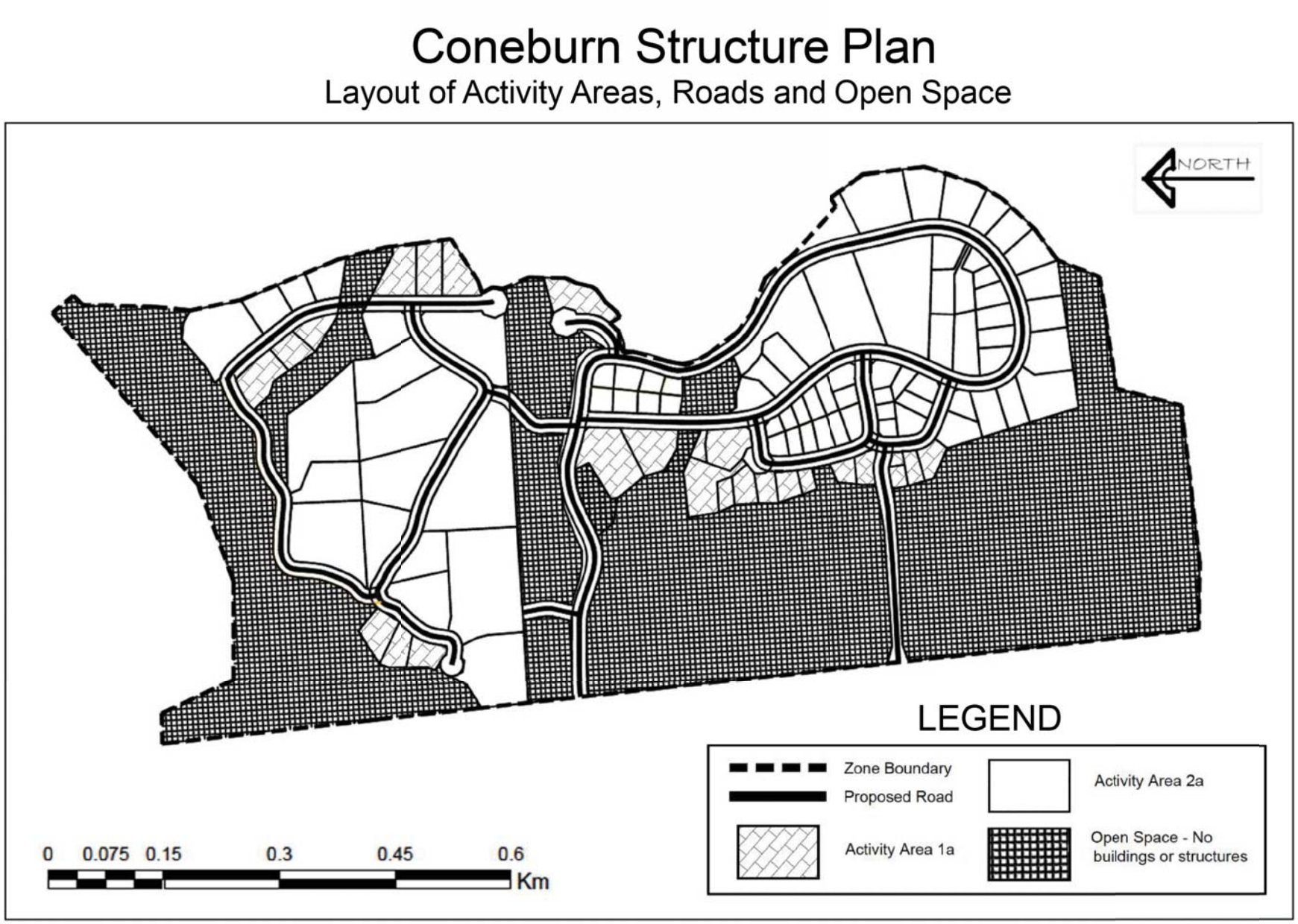


27.13.4 Millbrook Structure Plan



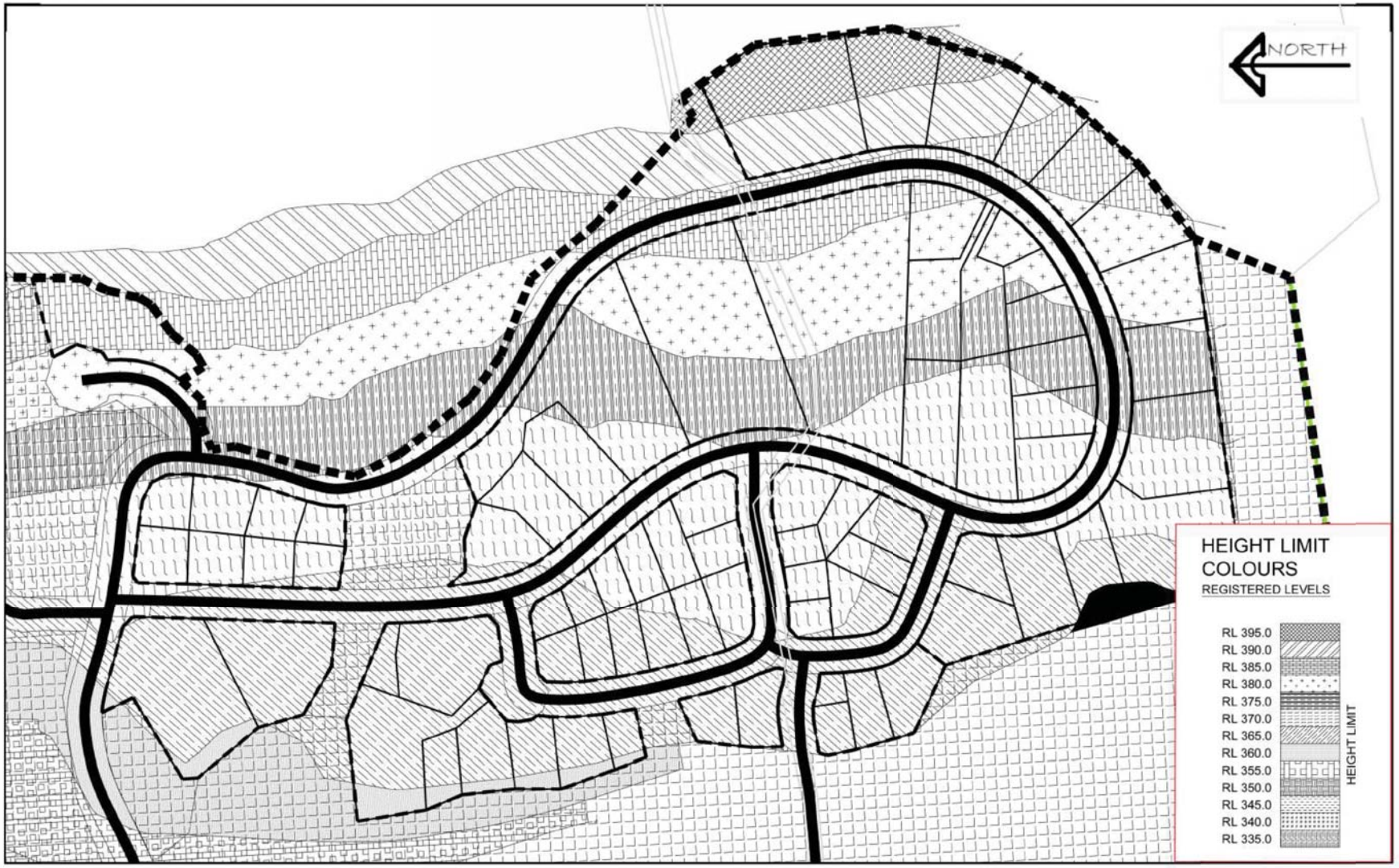

North
Structure Plan Legend
R : Residential
V : Village
F : Recreational Facilities
S : Resort Services
G : Golf Course and Open Space
H : Helipad
LP : Landscape Protection
LPM : Landscape Protection [Malaghans]
Activity Area Boundary
Indicative Residential Site Boundary
Zone Boundary
Overlays
5.5m max.height on residential areas
Refer to rules for height restrictions
Amenity Landscaping
Gully Planting
Open Planting
Earth mounding
G
R17
1.60 ha
R18
0.37 ha
R13
1.98 ha
R12
18.0 ha
LP
LP
LP
LP
1
3
19
14
R16
1.9 ha
R15
3.0 ha
R14
1.7 ha
6
7
8
9
10
11
12
13
E1
G
E2
MILLBROOK RESORT ZONE - STRUCTURE PLAN – SOUTH DALGLEISH AREA
REFERENCE 2423-SK65 - SCALE = 1:2000 AT A1 - 1:4000 AT A3 - 31 Aug 2017

27.13.5 Coneburn Industrial Structure Plan



Coneburn Structure Plan

Building Height Limits: Part 1

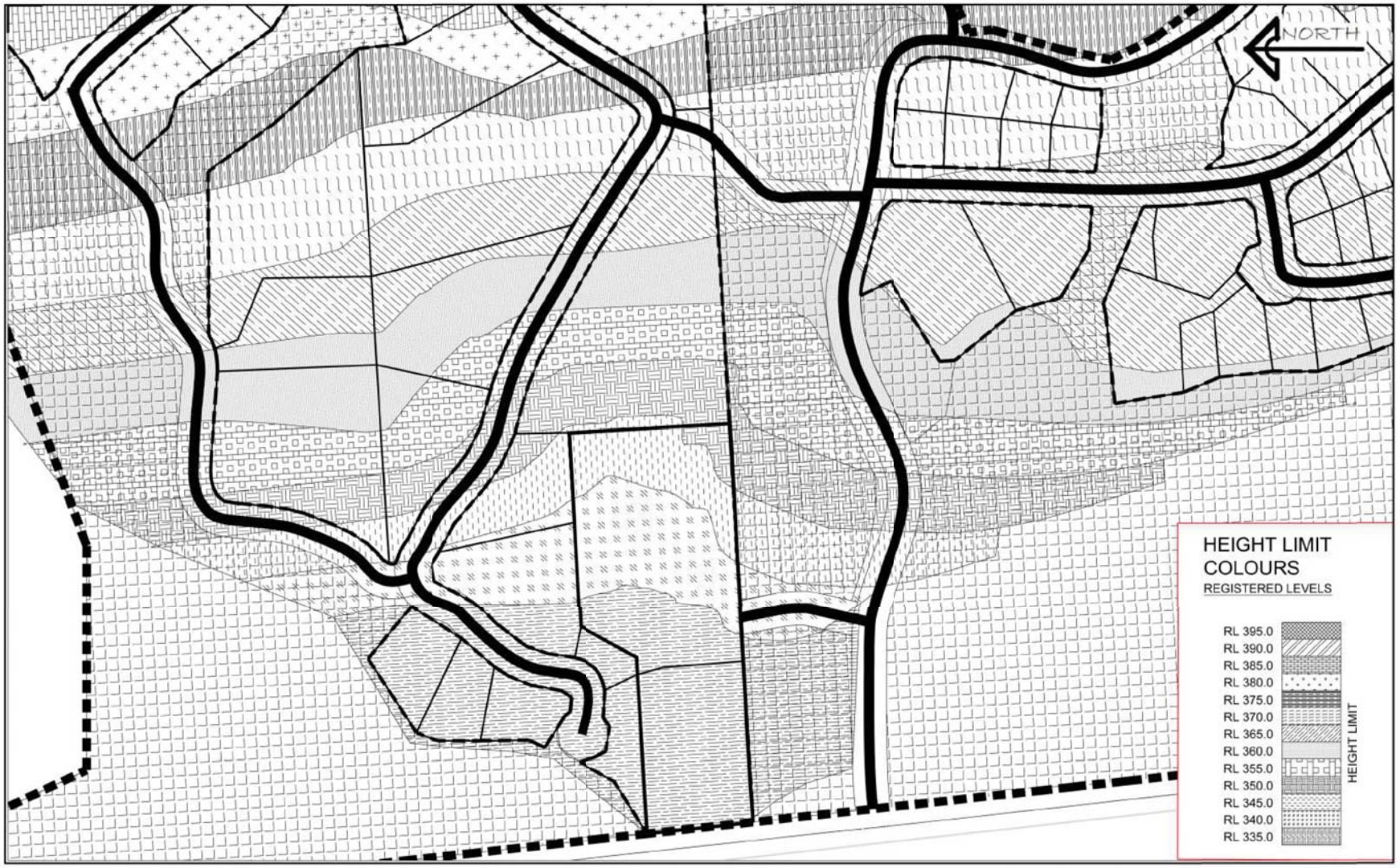


Coneburn Structure Plan

Building Height Limits: Part 2

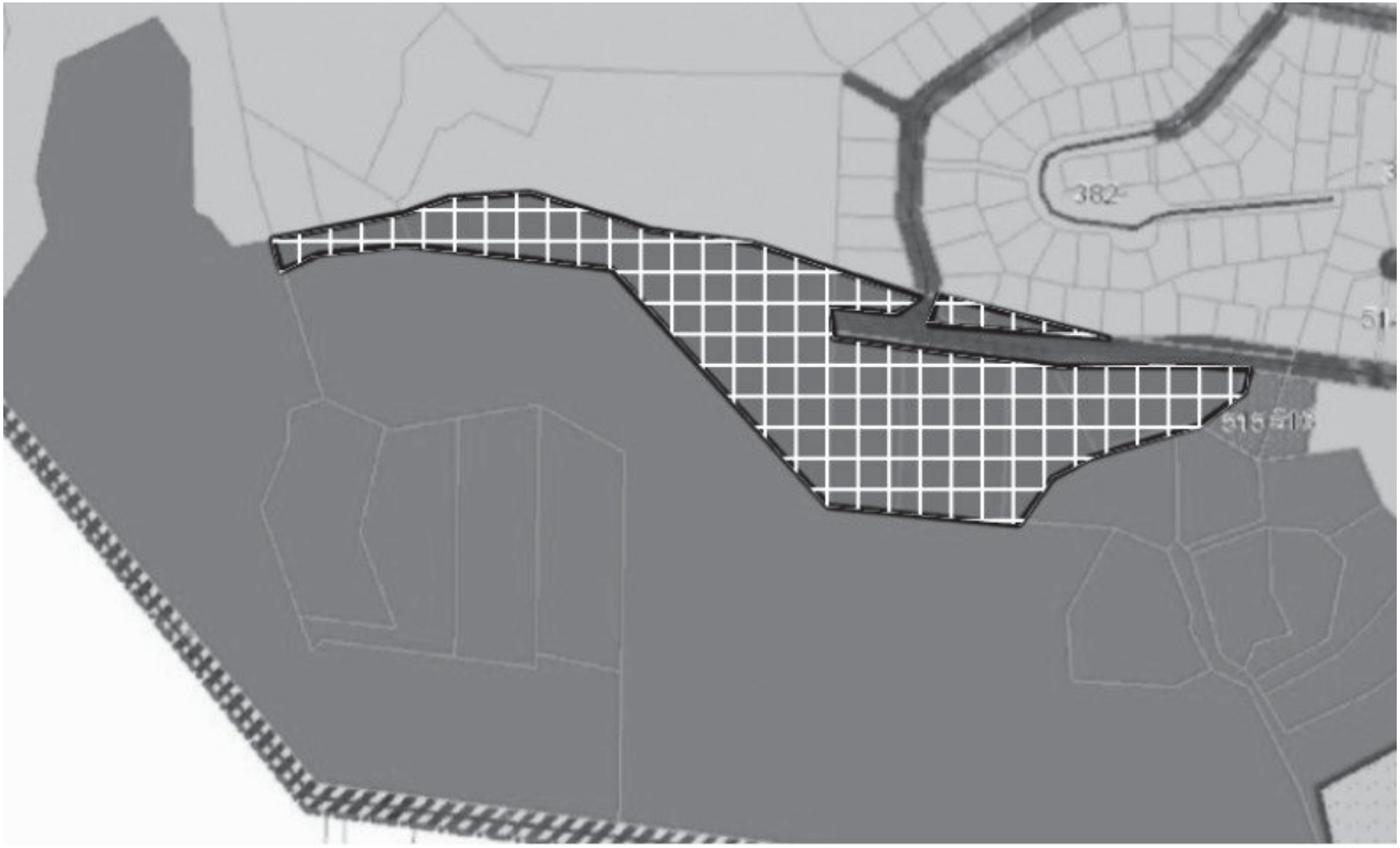
Coneburn Structure Plan

Building Height Limits: Part 3

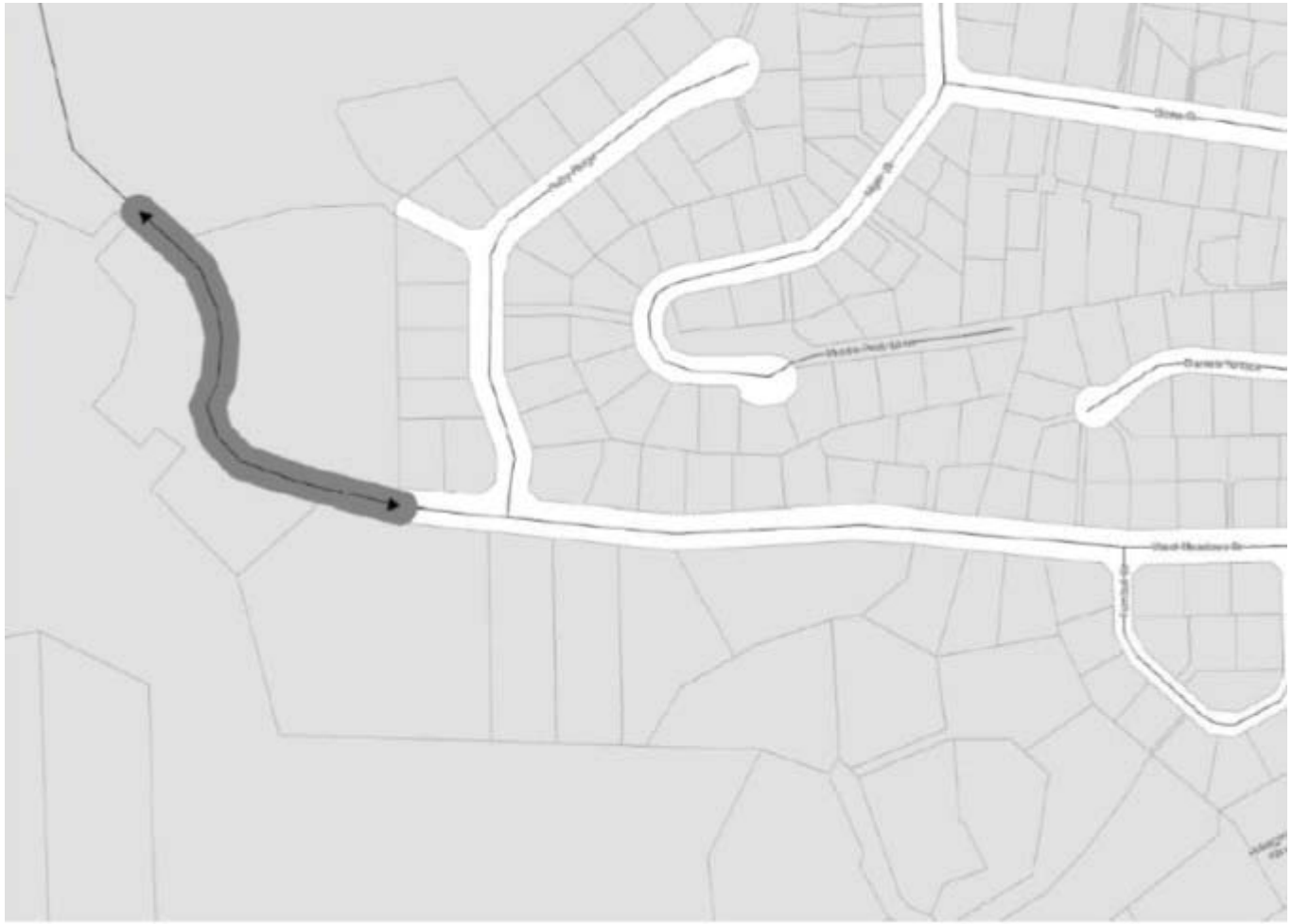


27.13.6 West Meadows Drive Structure Plan

Area of Lower Density Suburban Residential zoned land the subject of the West Meadows Structure Plan



West Meadows Drive Structure Plan



QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report 7

Report and Recommendations of Independent Commissioners
Regarding Chapter 27 – (Subdivision and Development)

Commissioners
Denis Nugent (Chair)
Trevor Robinson
Scott Stevens

TABLE OF CONTENTS

1. PRELIMINARY MATTERS

1.1 Terminology in this Report

1. Throughout this report, we use the following abbreviations:

Act	Resource Management Act 1991 as it was prior to the enactment of the Resource Legislation Amendment Act 2017
Clause 16(2)	Clause 16(2) of the First Schedule to the Act
Council	Queenstown Lakes District Council
NPSET 2008	National Policy Statement for Electricity Transmission 2008
ODP	the Operative District Plan for the Queenstown Lakes District as at the date of this report
ONF	Outstanding Natural Feature(s)
ONL	Outstanding Natural Landscape(s)
PDP	Stage 1 of the Proposed District Plan for Queenstown Lakes District as publicly notified on 26 August 2015
Proposed RPS	the Proposed Regional Policy Statement for the Otago Region as modified by decisions on submissions and dated 1 October 2016
Proposed RPS (notified)	the Proposed Regional Policy Statement for the Otago Region dated 23 May 2015
QAC	Queenstown Airport Corporation
RPS	the Operative Regional Policy Statement for the Otago Region dated October 1998
UCES	Upper Clutha Environmental Society
Stage 2 Variations	the variations, including changes to the existing text of the PDP, notified by the Council on 23 November 2017

1.2 Topics Considered

2. The subject matter of this hearing was Chapter 27 of the PDP (Hearing Stream 4).

3. Chapter 27 sets out objectives, policies, rules and other provisions related to subdivision and development.

4. As notified, it was set out under the following major headings:
   a. 27.1 – Purpose;
   b. 27.2 – Objectives and Policies;
   c. 27.3 – Other Provisions and Rules;

d. 27.4 – Rules – Subdivision;
e. 27.5 – Rules – Standards for Subdivision Activities;
f. 27.6 – Rules – Exemptions;
g. 27.7 – Location – Specific Objectives, Policies and Provisions;
h. 27.8 – Rules – Location Specific Standards;
i. 27.9 – Rules – Non-Notification of Applications;
j. 27.10 – Rules – General Provisions;
k. 27.11 – Rules – Natural Hazards;
l. 27.12 – Financial Contributions.

1.3 Hearing Arrangements

5. Hearing of Stream 4 took place over five days. The Hearing Panel sat in Queenstown on 25-26 July and 1-2 August 2016 inclusive and in Wanaka on 17 August 2016.

6. The parties we heard on Stream 4 were:

Council:
- Sarah Scott (Counsel)
- Garth Falconer
- David Wallace
- Nigel Bryce

Millbrook Country Club Limited[1] and **RCL Queenstown Pty Limited**[2]**:**
- Daniel Wells

Roland and Keri Lemaire-Sicre[3]**:**
- Keri Lemaire-Sicre

G W Stalker Family Trust, Mike Henry, Mark Tylden, Wayne French, Dave Finlin, Sam Strain[4]**, Ashford Trust**[5]**, Bill and Jan Walker Family Trust**[6]**, Byron Ballan**[7]**, Crosshill Farms Limited**[8]**, Robert and Elvena Heywood**[9]**, Roger and Carol Wilkinson**[10]**, Slopehill Joint Venture**[11]**, Wakatipu Equities Limited**[12]**, Ayrburn Farm Estate Limited**[13]**, FS Mee Developments Limited**[14]**:**
- Warwick Goldsmith (Counsel)
- Alexander Reid

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1 Submission 696
2 Submission 632/Further Submission 1296
3 Further Submission 1068
4 Submissions 534 and 535
5 Further Submission 1256
6 Submission 532/Further Submissions 1259 and 1267
7 Submission 530
8 Submission 531
9 Submission 523/Further Submission 1273
10 Further Submission 1292
11 Submission 537/Further Submission 1295
12 Submission 515/Further Submission 1298
13 Submission 430
14 Submission 525

- Jeff Brown (also on behalf of Hogan Gully Farming Limited[15], Dalefield Trustee Limited[16], Otago Foundation Trust Board[17], and Trojan Helmet Limited[18]):
- Ben Farrell

New Zealand Transport Agency[19]:
- Tony MacColl

Darby Planning LP[20], Soho Ski Area Limited[21], Treble Cone Investments Limited[22], Lake Hayes Limited[23], Lake Hayes Cellar Limited[24], Mt Christina Limited[25], Jacks Point Residential No.2 Limited, Jacks Point Village Holdings Limited, Jacks Point Developments Limited, Jacks Point Land Limited, Jacks Point Land No.2 Limited, Jacks Point Management Limited, Henley Downs Land Holdings Limited, Henley Downs Farms Holdings Limited, Coneburn Preserve Holdings Limited, Willow Pond Farm Limited[26], Glendhu Bay Trustees Limited[27], Hansen Family Partnership[28]:
- Maree Baker-Galloway (Counsel)
- Chris Ferguson
- Hamish McCrostie (17 August only)

NZ Fire Service Commission[29] and **Transpower New Zealand Limited[30]:**
- Ainsley McLeod
- Daniel Hamilton (Transpower only)

Queenstown Park Limited[31] and **Remarkables Park Limited[32]:**
- John Young (Counsel)

UCES[33]:
- Julian Haworth

Federated Farmers of New Zealand[34]:
- Kim Riley
- Phil Hunt

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15 Submission 456
16 Submission 350
17 Submission 406
18 Further Submission 1157
19 Submission 719
20 Submission 608
21 Submission 610
22 Submission 613
23 Submission 763
24 Submission 767
25 Submission 764
26 Submission 762
27 Submission 583
28 Submission 751
29 Submission 438/Further Submission 1125
30 Submission 805/Further Submission 1301
31 Submission 806/Further Submission 1097
32 Submission 807/Further Submission 1117
33 Submission 145/Further Submission 1034
34 Submission 600/Further Submission 1132

Ros and Dennis Hughes[35]:

- Ros Hughes
- Dennis Hughes

QAC[36]:

- Rebecca Wolt and Ms Needham (Counsel)
- Kirsty O'Sullivan

Patterson Pitts Partners (Wanaka) Limited[37]

- Duncan White
- Mike Botting

Aurora Energy Limited[38]:

- Bridget Irving (Counsel)
- Nick Wyatt

7. Evidence was also pre-circulated by Ulrich Glasner (for Council), Joanne Dowd (for Aurora Energy Limited[39]), Carey Vivian (for Cabo Limited[40], Jim Veint[41], Skipp Williamson[42], David Broomfield[43], Scott Conway[44], Richard Hanson[45], Brent Herdson and Joanne Phelan[46]), and Nick Geddes (for Clark Fortune McDonald & Associates Limited[47]).

8. Mr Glasner was unable to attend the hearing and his evidence was adopted by David Wallace who appeared in his stead at the hearing.

9. Ms Dowd was unable to travel to the hearing due to an unfortunate accident. In lieu of her attendance, we provided written questions for Ms Dowd, to which she responded in a Supplementary Statement of Evidence dated 5 August 2016.

10. Messrs Vivian and Geddes were excused attendance at the hearing.

11. Mr Jonathan Howard also provided a statement on behalf of Heritage New Zealand Pouhere Taonga[48] and requested that it be tabled.

1.4 Procedural Steps and Issues

12. The hearing of Stream 4 proceeded based on the general pre-hearing directions made in the memoranda summarised in Report 1.

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35 Submission 340
36 Submission 433/Further Submission 1340
37 Submission 453
38 Submission 635/Further Submission 1121
39 Submission 635/Further Submission 1121
40 Submission 481
41 Submission 480
42 Submission 499
43 Submission 500
44 Submission 467
45 Submission 473
46 Submission 485
47 Submission 414
48 Submission 426

13. Other procedural directions made by the Chair in relation to this hearing were:
    a. Consequent on the Hearing Panel's Memorandum dated 1 July 2016 requesting that Council undertake a planning study of the Wakatipu Basin (Noted in Report 1), a Minute was issued directing that if the Council agreed to the Hearing Panel's request[49], submissions relating to the minimum lot sizes for the Rural Lifestyle Zone would be deferred to be heard in conjunction with hearing the results of the planning study and granting leave for any submitter in relation to the minimum lot size in the Rural Lifestyle Zone to apply to be heard within Hearing Stream 4 if they considered that their submission was concerned with the zone provisions as they apply throughout the District[50];
    b. Granting leave for Mr Farrell's evidence to be lodged on or before 4pm on 20 July 2016;
    c. Granting leave for Ms Dowd's evidence to be lodged on or before noon on 3 August 2016, waiving late notice of Aurora Energy Ltd.'s wish to be heard and directing that Ms Dowd supply written answers to any questions we might have of Ms Dowd on or before noon on 16 August 2016;
    d. During the course of the hearing of submissions and evidence on behalf of Darby Planning LP and others, the submitters were given leave to provide additional material on issues that had arisen during the course of their presentation. Supplementary legal submissions and a supplementary brief of evidence of Mr Ferguson were provided. Ms Baker-Galloway, Mr Ferguson and Mr Hamish McCrostie appeared on 17 August to address the matters covered in this supplementary material.
    e. Directing that submissions on Chapter 27 specific to Jacks Point Resort Zone would not be deferred;
    f. Admitting a memorandum dated 18 August 2016 on behalf of UCES into the hearing record;
    g. Extending time for Council to file its written reply to noon on 26 August 2016.

1.5 Stage 2 Variations

14. On 23 November 2017, Council publicly notified the Stage 2 Variations. Relevantly to the preparation of this report, the Stage 2 Variations included changes to a number of provisions in Chapter 27.

15. Clause 16B(1) of the First Schedule to the Act provides that submissions on any provision the subject of variation are automatically carried over to hearing of the variation.

16. Accordingly, the provisions of Chapter 27 the subject of the Stage 2 Variations have been reproduced as notified, but 'greyed out' in the revised version of Chapter 27 attached as Appendix 1 to this report, in order to indicate that those provisions did not fall within our jurisdiction

1.6 Statutory Considerations

17. The Hearing Panel's Report 1 contains a general discussion of the statutory framework within which submissions and further submissions on the PDP have to be considered, including matters that have to be taken into account, and the weight to be given to those matters. We have had regard to that report when approaching our consideration of submissions and further submissions on Chapter 27.

18. Some of the matters identified in Report 1 are either irrelevant or have only limited relevance to the objectives, policies and other provisions of Chapter 27. The National Policy Statement

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49 The Hearing Panel was advised by Memorandum dated 8 July 2016 from counsel for the Council that the Council would undertake the study requested

50 In the event, no such application was received

for Renewable Electricity Generation 2011 and the National Policy Statement for Freshwater Management 2014 are in this category. The NPSET 2008 and the NPSUDC 2016, however, are of direct relevance to some provisions of Chapter 27. The NPSUDC 2016 was gazetted after the hearing of submissions and further submissions concluded and the Chair sought written input from the Council as to whether the Council considered the provisions of the PDP that had already been the subject of hearings gave effect to the NPSUDC 2016. Counsel for the Council's 3 March 2017 memorandum concluded that the provisions of the PDP gave effect to the majority of the objectives and policies of the NPSUDC 2016, and that updated outputs from the Council's dwelling capacity model to be presented at the mapping hearings would contribute to the material demonstrating compliance with Policy PA1 of the document. We note specifically counsel for the Council's characterisation of the provisions of the NPSUDC 2016 as 'high level' or 'direction setting' rather than as providing detailed requirements. The Chair provided the opportunity for any submitter with a contrary view to express it but no further feedback was obtained. We discuss in some detail later in this report the provisions necessary to give effect to the NPSET and NPSUDC.

19. In his Section 42A Report, Mr Bryce drew our attention to particular provisions of the RPS. He noted in particular Objectives 5.4.1-5.4.4 that he described as promoting sustainable management of Otago's land resource by:

"Objective 5.4.1
To promote sustainable management of Otago's land resource, in order:

a. *To maintain and enhance the primary production capacity and life-supporting capacity of land resources; and*

b. *To meet the present and reasonably foreseeable needs of Otago's people and communities;*

Objective 5.4.2
To avoid, remedy or mitigate degradation of Otago's natural physical resources resulting from activities utilising the land resource;

Objective 5.4.3
To protect Otago's outstanding natural features and landscapes from inappropriate subdivision, use and development."

20. He also noted Objective 9.3.3 and 9.4.3 (Built environment) and the related policies as being relevant as seeking "*to avoid, remedy or mitigate the adverse effects of Otago's built environment on Otago's natural and physical resources, and promote the sustainable management of infrastructure."*

21. Mr Bryce also drew to our attention a number of provisions of the Proposed RPS (notified). By the time we came to consider our report, decisions had been made by Otago Regional Council on this document which superseded the provisions referred to us by Mr Bryce. We have accordingly had regard to the Proposed RPS provisions dated 1 October 2016.

22. We note, in particular, the following objectives of the Proposed RPS:

Objective 1.1
Recognise and provide for the integrated management of natural and physical resources to support the wellbeing of people and communities in Otago.

Objective 2.1
The principles of Te Tiriti o Waitangi are taken into account in resource management processes and decisions.

Objective 2.2
Kai Tahu values, interests and customary resources are recognised and provided for.

Objective 3.1
The values of Otago's natural resources are recognised, maintained and enhanced.

Objective 3.2
Otago's significant and highly-valued natural resources are identified, and protected or enhanced.

Objective 4.1
Risk that natural hazards poised to Otago communities are minimised.

Objective 4.2
Otago's communities are prepared for and able to adapt to the effects of climate change.

Objective 4.3
Infrastructure is managed and developed in a sustainable way.

Objective 4.4
Energy supplies to Otago's communities are secure and sustainable.

Objective 4.5
Urban growth and development is well designed, reflects local character and integrates effectively with adjoining urban and rural environments.

Objective 5.1
Public access to areas of value to the community is maintained or enhanced.

Objective 5.2
Historic heritage resources are recognised and contribute to the region's character and sense of identity.

Objective 5.3
Sufficient land is managed and protected for economic production.

Objective 5.4
Adverse effects of using and enjoying Otago's natural and physical resources are minimised.

23. For each of the above objectives, there are specified policies that also need to be taken into account. Some of the policies of the Proposed RPS are particularly relevant to subdivision and development. We note at this point:

    a. Policy 1.1.2 Economic wellbeing:
    Provide for the economic wellbeing of Otago's people and communities by enabling the use and development of natural and physical resources only if the adverse effects of those

activities on the environment can be managed to give effect to the objectives and policies of the Regional Policy Statement;

b. Policy 2.1.2 Treaty principles:

Ensure that local authorities exercise their functions and powers, by:…
g) Ensuring that District and Regional Plans:
i. Give effect to the Nga Tahu Claims Settlement Act 1998;
ii. Recognise and provide for statutory acknowledgement areas in Schedule 2;
Iii Provide for other areas in Otago that are recognised as significant to Kai Tahu….;

c. Policy 2.2.2 Recognising sites of cultural significance:

"Recognise and provide for wahi tupuna, as described in Schedule 1C by all of the following:
a. Avoiding significant adverse effects on those values which contribute to wahi tupuna being significant;
b. Avoiding, remedying, or mitigating other adverse effects on wahi tupuna;
c. Managing those landscapes and sites in a culturally appropriate manner."

d. Policy 3.1.7 Soil values:

"Manage soils to achieve all of the following:….

f) Maintain or enhance soil resources for primary production……"

e. Policy 3.2.18 Managing significant soil:

"Protect areas of significant soil, by all of the following:….
c) Recognising that urban expansion on significant soils may be appropriate due to location and proximity to existing urban development and infrastructure…."

f. Policy 4.1.5 Natural hazard risk:

"Manage natural hazard risk to people and communities, with particular regard to all of the following:
a. The risk posed, considering the likelihood and consequences of natural hazard events;
b. The *implications of residual risk, including the risk remaining after implementing or undertaking risk reduction and hazard mitigation measures;*
c. The community's tolerance of that risk, now and in the future, including the community's ability and willingness to prepare for and adapt to that risk, and to respond to an event;
d. The changing nature of tolerance to risk;
e. Sensitivity of activities to risk;

g. Policy 4.3.2 Nationally and regionally significant infrastructure:

"Recognise the national and regional significance of all of the following infrastructure:

a. *Renewable electricity generation activities, where they supply the National Electricity Grid and local distribution network;*
b. *Electricity transmission infrastructure;*
c. *Telecommunication and radiocommunication facilities;*
d. *Roads classified as being of national or regional importance;*
e. *Ports and airports and associated navigation infrastructure;*
f. *Defence facilities;*
g. *Structures for transport by rail."*

h. Policy 4.3.4 Protecting nationally and regionally significant infrastructure:

"Protect the infrastructure of national or regional significance, by all the following:
a. *Restricting the establishment of activities that may result in reverse sensitivity effects;*
b. *Avoiding significant adverse effects on the functional needs of such infrastructure;*
c. *Avoiding, remedying or mitigating other adverse effects on the functional needs of such infrastructure;*
d. *Protecting infrastructure corridors from sensitive activities, now and for the future."*

i. Policy 4.4.5 Electricity distribution infrastructure:

"Protect electricity distribution infrastructure, by all the following:
a. *Recognise the functional needs of electricity distribution activities;*
b. *Restricting the establishment of activities that may result in reverse sensitivity effects;*
c. *Avoiding, remedying or mitigating adverse effects from other activities on the functional needs of that infrastructure;*
d. *Protecting existing distribution corridors for infrastructure needs, now and for the future;*

j. Policy 4.5.1 Managing for urban growth and development

"Manage urban growth and development in a strategic and co-ordinated way, by all of the following…..
c. *Identifying future growth areas and managing subdivision, use and development of rural land outside these areas to achieve all of the following:*
    i. *Minimise adverse effects on rural activities and significant soils;*
    ii. *Minimise competing demands for natural resources;*
    iii. *Maintain or enhance significant biological diversity, landscape or natural character values;*
    iv. *Maintain important cultural historic heritage values;*
    v. *Avoid land with significant risk from natural hazards;….*
e. *Ensuring efficient use of land…*
g. *Giving effect to the principles of good urban design in Schedule 5;*
h. *Restricting the location of activities that may result in reverse sensitivity effects on existing activities."*

k. Policy 4.5.3 Urban design:

"Encourage the use of Schedule 5 good urban design principles in the subdivision and development of urban areas."

l. Policy 4.5.4: Low impact design:

*"*Encourage *the use of low impact design techniques in subdivision and development to reduce demand on stormwater, water and wastewater infrastructure and reduce potential adverse environmental effects."*

m. Policy 4.5.5: Warmer buildings:

"Encourage the design of subdivision and development to reduce the adverse effects of the region's colder climate, and higher demand and costs for energy, including maximising the passive solar gain."

n. Policy 5.3.1: Rural activities:

"Manage activities in rural areas, to support the region's economy in communities, by all of the following:

a. Minimising the loss of significant soils;
b. Restricting the establishment of activities in rural areas that may lead to reverse sensitivity effects;
c. Minimising the subdivision of productive rural land to smaller lots that may result in rural residential activities;
d. Providing for other activities that have a functional need to locate in rural areas, including tourism and recreational activities that are of a nature and scale compatible with rural activities."

24. The Proposed RPS is a substantial document. Noting the above policies does not mean that the other policies in the Proposed RPS are irrelevant. We have taken all objectives and policies of the Proposed RPS into account and discuss them further, when relevant to specific provisions.

25. Mr Bryce reminded us of the existence of the Iwi Management Plans noted in Report 1. He did not, however, draw our attention to any particular provision of any of those Plans as being relevant to the matters covered in Chapter 27 and no representatives of the Iwi appeared at the hearing.

26. Consideration of submissions and further submissions on Chapter 27 has also necessarily taken account of the Hearing Panel's recommendations in Reports 2 and 3 as to appropriate amendments to the Strategic Chapters of the PDP (that is to say Chapters 3, 4, 5 and 6. We note in particular the following provisions:

Objective 3.2.2.1:
"Urban Development occurs in a logical manner so as to:

a. promote a compact, well designed and integrated urban form;
b. build on historical urban settlement patterns;
c. achieve a built environment that provides desirable, healthy and safe places to work and play;
d. minimise the natural hazard risk taking into account the predicted effects of climate change;
e. protect the District's rural landscapes from sporadic and sprawling development;
f. ensure a mix of housing opportunities including access to housing that is more affordable for residents to live in;
g. contain a high quality network of open spaces and community facilities; and

h. be integrated with existing, and planned future, infrastructure."

Policy 3.3.24
"Ensure that cumulative effects of new subdivision and development for the purposes of rural living does not result in the alteration of the character of the rural environment to the point where the area is no longer rural in character."

Policy 3.3.26
"That subdivision and/or development be designed in accordance with best practice land use management so as to avoid or minimise adverse effects on the water quality of lakes, rivers and wetlands in the District."

27. The tests posed in section 32 form a key part of our review of the objectives, policies, rules and other provisions of Chapter 27 of the PDP. We refer to and adopt the discussion of section 32 in the Hearing Panel's Report 3. In particular, for the same reasons as are set out in Report 3, we have incorporated our evaluation of changes to the notified Chapter 27 into the report that follows rather than provide a separate evaluation meeting the requirements of section 32AA.

28. We note that the material provided to us by the Council did not include a quantitative analysis of costs and benefits either of the notified Chapter 27, or of the subsequent changes Mr Bryce proposed to us. We queried counsel for the Council on this aspect when she opened the hearing and were told that Council did not have the information to undertake such an analysis. None of the submitters who appeared before us provided us with quantitative evidence of costs and benefits of the amendments they proposed either. When we discussed with Ms Baker-Galloway whether her clients would be able to provide us with such evidence, she advised that any information they could provide would necessarily be limited to their own sites and therefore too confined to be useful.

29. We have accordingly approached the application of section 32(2) on the basis that a quantitative evaluation of costs and benefits of the different alternatives put to us is not practicable.

1.7 Scope Issue – Activity Status of Residential Subdivision and Development within ONLs and ONFs

30. The submissions and evidence of Mr Julian Haworth at the hearing on behalf of UCES sought that residential subdivision and/or development within ONLs and ONFs should be ascribed non-complying activity status. We discussed with Mr Haworth during his appearance whether we had jurisdiction to entertain his request given the terms on which the submission filed by UCES on the PDP had been framed. Mr Haworth's subsequent Memorandum of 18 August drew our attention to the potential relevance of a further submission made by UCES (on a submission by Darby Planning LP) to this issue.

31. In the legal submissions in reply on behalf of the Council, it was submitted that there was no scope for us to consider the UCES request in this regard.

32. Mr Haworth requested that we make a decision specifically on this point. In summary, we have concluded that counsel for the Council is correct and we have no jurisdiction to entertain Mr Haworth's request on behalf of UCES. Our reasons follow.

33. The legal submissions on behalf of counsel for the Council in reply summarised the legal principles relevant to determining the scope of our inquiry[51].

34. In summary, a two stage inquiry is required:
    a. What do submissions on the PDP provisions seek? and
    b. Is what submissions on the PDP seek itself within the scope of the inquiry – put colloquially, are they "*on"* the PDP?

35. The second point arises in relation to proposed plans that are limited by subject matter or by geography. Here, there is no doubt that Chapter 27 provides rules that govern residential subdivision within ONLs and ONFs as defined by other provisions in the PDP and so, subject to possible issues arising from the interpretation of the High Court decision in *Palmerston North City Council v Motor Machinists Limited*[52]*,* the UCES request would not fail a jurisdictional inquiry on that ground.

36. The larger issue turns on what it is that are sought by submissions. In determining this question, the cases establish a series of interpretative principles summarised by counsel for the Council as follows:

    a. *The paramount test is whether or not amendments [sought to a Proposed Plan] are ones which are raised by and within the ambit of what is fairly and reasonably raised in submissions on the PDP. This would usually be a question of degree to be judged by the terms of the PDP and the content of submissions*[53]*.*

    b. *Another way of considering the issue is whether the amendment can be said to be a "foreseeable consequence" of the relief sought in a submission; the scope to change a Plan is not limited by the words of the submission*[54]*;*

    c. *Ultimately, it is a question of procedural fairness, and procedural fairness extends to the public as well as to the submitter*[55]*."*

37. Thus far, we agree that counsel for the Council's submissions accurately summarised the relevant legal principles. Those submissions, however, go on to discuss whether a submitter may rely on the relief sought by another submitter, on whose submission they have not made a further submission, in order to provide scope for their request. The Hearing Panel has previously received submissions on this point in both the Stream 1 and Stream 2 hearings from counsel for the Council. Counsel's Stream 4 reply submissions cross referenced the legal submissions in reply in the Stream 2 hearing and submitted that:

    "To the extent that a submitter has not sought relief in their submission and/or has not made a further submission on specific relief, it is submitted that the submitter could not advance relief."

38. This is contrary to the position previously put to the Hearing Panel by counsel for the Council. Those previous submissions said that while a submitter cannot derive standing to appeal decisions on a Proposed Plan by virtue of the submissions of a third party that they have not

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51 Refer Council Reply legal submissions at 13.2-13.4

52 [2014] NZRMA 519

53 *Countdown Properties (Northland) Limited v Dunedin City Council* [1994] NZRMA 145, and 166

54 *Westfield (NZ) Ltd v Hamilton City Council* [2004] NZRMA 556, and 574-575

55 Ibid*,* at 574

lodged a further submission on, if a submitter advances submissions and/or evidence before the Hearing Panel in relation to relief sought by a second submitter, the Hearing Panel can properly consider those submissions/evidence. This is based on the fact that the Hearing Panel's jurisdiction to make recommendations is circumscribed by the limits of all of the submissions that have been made on the Proposed Plan. In a subsequent hearing (on Stream 10), counsel for the Council confirmed that her position was correctly stated in the Stream 1 and 2 hearings.

39. It follows that if any submission, properly construed, would permit us to alter the status of residential subdivision and development within ONLs and ONFs to non-complying, we should consider Mr Haworth's submissions and evidence on that point, although we accept that if jurisdiction to consider the point depends on a submission other than that of UCES, and on which UCES made no further submission, that might go to the weight we ascribe to Mr Haworth's submissions and evidence (a related submission made by counsel for the Council).

40. As the Hearing Panel noted in its Report 3, we do not need to consider whether, if we conclude some third party's submission provides jurisdiction, UCES will have jurisdiction to appeal our decision on the point, that being a matter properly for the Environment Court, if and when the issue arises.

41. Focussing then on the provisions of the notified PDP as the starting point, the activity status of subdivisions was governed by Rules 27.4.1-27.4.3 inclusive.

42. Rule 27.4.1. was a catchall rule providing that all subdivision activities are discretionary activities, except otherwise as stated.

43. Rule 27.4.2 specified a number of subdivision activities that were non-complying activities. Residential subdivision within ONLs and ONFs may have been deemed to be non-complying under one of the subparts of Rule 27.4.2 (e.g. because it involved the subdivision of a building platform), but not generally so.

44. Rule 27.4.3 provided that subdivision undertaken in accordance with a structure plan or spatial layout plan identified in the District Plan had restricted discretionary activity status. The structure plans and special layout plans identified in the District Plan are of limited areas in the District. Clearly, they do not cover all of the ONLs and ONFs as mapped in the notified PDP.

45. It follows that as notified, residential subdivisions within ONLs and ONFs would usually fall within the default classification provided by Rule 27.4.1 and be considered as discretionary activities.

46. UCES did not make a submission seeking amendment to any of Rules 27.4.1-27.4.3 inclusive. The submission that Mr Haworth referred us to focusses on the section 32 reports supporting the PDP. Paraphrasing the reasons for the UCES submission in this regard, they noted:
    a. The section 32 reports do not refer to non-complying status in relation to residential subdivision and development;
    b. A March 2015 draft of the PDP proposed to make residential subdivision and development non-complying within ONLs and ONFs;
    c. A 2009 monitoring report referred to non-complying status within ONLs and ONFs as an option;
    d. Failure to discuss the issue is a critical flaw in the section 32 analysis.

47. The relief sought by UCES in relation to this submission was worded as follows:

"The Society, seeks that the S.32 Landscape Evaluation Report be re-written containing discussion of the costs and benefits associated with the option of residential subdivision and development becoming non-complying versus the option of it being discretionary, as required by S.32 of the Act and especially S.32(2).

The S.32 Landscape Evaluation Report, once rewritten, should then be publicly notified.
The Society seeks that the 40 working day submission period should apply to the rural part of the Proposed District Plan from the date of renotification of the rewritten S.32 Landscape Evaluation Report."

48. In the summary of submissions publicly notified by the Council, the UCES submission was listed as a submission on Rule 27.4.1. The summary of submission read:

"Expresses concern regarding the Discretionary Activity status within Outstanding Natural Landscapes and Outstanding Natural Features; and the change from a proposed non-complying activity status which was indicated in the March 2015 Draft District Plan. The Society seeks that the s32 Landscape Evaluation Report be re-written containing discussion of the costs and benefits associated with the option of residential subdivision and development becoming non-complying versus discretionary. The s.32 Landscape Evaluation Report should then be publicly notified with a 40 working day submission period."

49. Against this background, counsel for the Council submitted that amendment to the activity status of subdivision in the manner sought by UCES was not a reasonably foreseeable consequence of the UCES submissions and relief. In particular, it was argued that other submitters could not have identified that non-complying status was a likely or even possible consequence of the relief and, as such, could be prejudiced by the outcome now sought by UCES.

50. Counsel did not, however, explain how her submission could be reconciled against the fact that there were two further submissions[56] that state the further submitters' opposition to the UCES position that subdivision in ONLs and ONFs be non-complying. We note also that a third further submission[57] opposed the relief described within the summary of submissions, while stating that this was not part of the package of relief sought in UCES's submission.

51. We think that the last further submission (from Darby Planning LP) made a valid point. The summary of submissions recorded a position being taken in the UCES submission that, at best, is implicit. The further submitters similarly seem to have read between the lines in the summary of submissions, inferring where the argument might go, rather than reading what the submission actually said. It should not be necessary for interested parties to guess where a submission might be taken. While submissions are not to be read literally or legalistically, the substance of what is sought should be reasonably clear.

52. Stepping back and looking at the submission, we think it was misconceived from the outset. While a submission may attack the way in which a section 32 evaluation has been carried out, as we observed to Mr Howarth at the hearing, this is only a means to an end. The reason for attacking the section 32 evaluation is to form the basis of a challenge to the objective, policy, rule or other method supposedly supported by the section 32 evaluation. The link between

[56] Further Submissions 1029 and 1097
[57] Further Submission 1313

the two is illustrated by section 32A of the Act which states that a challenge to a plan provision on the basis that the section 32 evaluation is flawed may only be made in a submission **on the Plan**[58]. The section 32 analysis is not part of the PDP.

53. The solution to a flawed section 32 evaluation is to reassess the Plan provision sought to be changed, not to renotify the section 32 evaluation and to give the general public another opportunity to make submissions on the Plan.

54. Counsel for the Council also pointed out that the UCES submission referred only to the potential that on such renotification, submissions would be invited on the rural provisions of the Plan. While technically correct, we do not think that that is decisive.

55. The point that we are more concerned about is that on a fair and reasonable reading of the UCES submission (and indeed the summary of that submission), the public would have thought that at worst there would be another opportunity to make submissions before the activity status of residential submissions in ONLs and ONFs was changed to be more restrictive.

56. Given the advice we have received on the extent of the District currently mapped as ONL or ONF (nearly 97%), the relief now sought by UCES is a highly significant change. There is in our view considerable potential that interested parties would not have been as assiduous in reading 'between the lines' of the UCES submission as the further submitters referred to above and would be prejudiced by our embarking on a consideration of the merits of non-complying status applying to subdivision and development for residential purposes within ONLs and ONFs.

57. We have considered Mr Howarth's alternative point, made in his 18 August memorandum, which relies on a UCES further submission on Darby Planning LP's submission in relation to Rule 27.4.1.

58. The Darby Planning submission sought that Rule 27.4.1 be amended so that the default status for subdivisions is a controlled status unless otherwise stated. The submission suggested a number of areas of control as consequential changes to the proposed change of status.

59. The UCES further submission stated in relation to aspects of the Darby Planning submission related to subdivision and development:

"The Society opposes the entire submission in paragraphs 23-29, and in particular the request that rural subdivisions and development become a controlled activity. The Society seeks that this part of the submission is entirely disallowed."

60. The further submission went on, however, to note the potential significance of proposed legislative changes which, if adopted, would have the result that discretionary activity subdivisions would not be publicly notified[59], and stated:

"The Society is changing its position from that in its Primary Submission and it now seeks that all rural zone subdivision and development becomes non-complying."

61. The first thing to note is that UCES viewed this as a change from its primary submission. Clearly, the Society did not regard its submission as already raising this relief.

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58 See clause 6 of the First Schedule to the Act. Emphasis added.

59 The provision in question was Clause 125 of the Resource Legislation Amendment Bill 2015

62. Addressing the ability of a further submission to provide a jurisdictional basis for the relief sought, a further submission is not an appropriate vehicle to advise of substantive changes of position. This point is considered in greater detail in the Hearing Panel's Report 3, but in summary, clause 8(2) of the First Schedule to the Act states that a further submission must be limited to a matter in support of or in opposition to the relevant submission.

63. Clearly this particular further submission was in opposition to the relevant submission. It sought that the relevant submission be disallowed. If the Darby Planning LP submission was disallowed, the end result would be that Rule 27.4.1 would remain as notified, that is to say that unless otherwise stated, subdivision activities in ONLs and ONFs would be discretionary activities. A further submission cannot found jurisdiction in the manner that Mr Haworth sought.

64. We have considered, given the discussion above, whether any other submissions might provide jurisdiction for the relief now sought by UCES. There were a very large number of submissions seeking that Rule 27.4.1 be amended. The vast majority of those submissions sought, like Darby Planning LP, that the default status for subdivisions in the District be controlled activity status. Clearly those submissions do not provide jurisdiction for the relief UCES sought. They sought to move the rule in the opposite direction to that which UCES sought.

65. There are a number of more general submissions that sought that the entire Chapter 27 of the PDP be deleted and replaced with Chapter 15 of the ODP[60]. Under Chapter 15 of the ODP, the only non-complying subdivision activities are those falling within Rule 15.2.3.4. That rule related to a series of specific situations and does not support the UCES relief either.

66. Having reviewed all of the submissions on these Rules, none that we can identify provide jurisdictional support for the relief now sought by UCES.

67. We have therefore concluded that the altered relief now sought by UCES is outside the scope of any submission and cannot be considered further as the basis for any recommendation we might make on the final form of Chapter 27.

68. Before leaving the point, we should observe that had we identified any jurisdictional basis for Mr Haworth's submissions, there is considerable merit in the point he sought to make.

69. The Hearing Panel's Report 3 canvassed the material relevant to the strategic objectives and policies governing activities within and affecting ONLs and ONFs and concluded that the appropriate response would provide a high level of protection to those landscapes and features.

70. Against that background, discretionary activity status for subdivision and development associated with new residential activities being established in ONL's and ONFs appears somewhat incongruous. The Environment Court identified in relation to the ODP that discretionary activity status was an issue and sought to make it clear that that status had been applied in that context to activities in ONLs and ONFs because those activities are

60 E.g. Submissions 497, 512, 513, 515, 520, 522, 523, 525, 527, 529, 530, 531, 532, 534, 535, 536, 537, 608

inappropriate in almost all locations within the zone[61]. As the Court noted[62], it was necessary to displace the inferences that would otherwise follow from discretionary activity status. The Court also observed that if it had not been able to make clear that discretionary activity status was being used in that manner, non-complying status would have been appropriate.

71. In our view, it would be more consistent with the policy framework we have recommended, and arguably more transparent, if subdivision and development for the purposes of residential activities in ONLs and ONFs was a non-complying activity. Had we had jurisdiction, we would likely have recommended non-complying status for residential subdivision and development in ONLs and ONFs for this reason.

72. Mr Haworth drew our attention to another reason why, in our view, Council should consider this issue further.

73. At the time of our hearing, Parliament had before it the Resource Legislation Amendment Bill 2015. Among the amendments proposed was a change to the notification provisions that, as Mr Haworth observed, would mean that other than in special circumstances applications for subdivision consents would not be publicly notified unless they were non-complying activities. Mr Haworth expressed concern that this result would apply to residential development within the ONLs and ONFs. As noted above, this foreshadowed legislative change prompted a change in position from UCES.

74. The Resource Legislation Amendment Bill was enacted[63] in April 2017. As we read them, the notification provisions would have the same effect as those of the Bill that Mr Haworth drew to our attention.

75. We infer that this legislative change reflects the usual implications to be drawn from discretionary activity status discussed by the Environment Court in its 2001 decision, rather than the special meaning in the ODP, which has effectively been rolled over into the PDP.

76. We do not regard it as satisfactory that other than in exceptional circumstances, residential subdivision and development in ONLs and ONFs is considered on a non-notified basis given the national interest[64]in their protection and the intent underlying discretionary activity status in this situation. We recommend that Council initiate a variation to the PDP to alter the rule status of this activity to non-complying.

1.8 General Matters

77. There are a number of general submissions that we should consider at the outset. The first are the submissions that sought that Chapter 27 be deleted and replaced with Chapter 15 of the ODP. We have already noted the submissions in question in the context of our discussion of the UCES scope issue.

78. The equivalent rule to rule 27.4.1 in the ODP is Rule 15.2.8.1 which provides that the default status for subdivision is controlled activity status. This was at the heart of the huge bulk of submissions that we have considered on Chapter 27 and, indeed, much of the evidence and submissions we heard; namely that the default status under the ODP should not be changed.

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61 ODP 1.5.3(iii)(iii)

62 Lakes District Landowners Society Inc v QLDC C75/2001 at [43-46]

63 As the Resource Legislation Amendment Act 2017

64 Section 6, of course, identifies it as being a matter of national interest

79. The broad relief sought in a number of submissions (that Chapter 27 revert to Chapter 15 of the ODP) necessarily includes the narrower point (as to the default status of subdivision activities). We will consider the broad point first, and address the narrower point in the next section.

80. The other set of general submissions that we should address at the outset are those that sought that the structure of the Chapter 27 be amended so it is consistent with other zones, including using tables, and ensuring that all objectives and policies are located at the beginning of the section[65].

81. Other general submissions worthy of note are submissions 693 and 702, which suggested that the objectives and policies in Chapter 27 be reordered to make it clear which are solely applicable to urban areas, and submission 696, which sought that that the number of objectives and policies in Chapter 27 be reduced.

82. Submission 817 sought that objectives D1 and D4 of the National Policy Statement for Freshwater Management 2014 be implemented in Chapter 27.

83. Lastly Submission115 sought general but more substantive relief – related to provision for cycleways and pathways, and reserves.

84. Looking first at the question as to whether Chapter 27 should simply be deleted and Chapter 15 of the ODP substituted, the evidential foundation for this submission is contained in the evidence of Messrs Brown, Ferguson and Farrell. Mr Goldsmith summarised their evidence as being that the "ODP CA [standing for Controlled Activity] regime is not complex and works well."

85. That might be contrasted with the view set out in the section 32 report underpinning Chapter 27 which stated[66] that the ODP subdivision chapter is complicated and unwieldy. Mr Bryce, who gave planning evidence for the Council, noted the section 32 analysis, but focused his evidence more on the substance of the ODP Chapter 15 provisions that we will come to shortly.

86. Mr Goldsmith likewise sought to distinguish between the format of Chapter 15 and the substance. He accepted that the format of Chapter 15 could be improved and described[67] that aspect of the matter as follows:

> *"Format refers to the structure of the existing ODP Chapter 15 which follows the 'sieve' structure of the rest of the ODP. The 'sieve' structure is the approach which does not detail activity status in the likes of a Table, but requires activity status to be determined by reviewing a considerable number of plan provisions to see which layer of the multi-layered 'sieve' (each layer containing different size holes) catches the activity in question. This is a somewhat complex and counter-intuitive approach. It is acknowledged that the alternative PDP approach, classifying activities by reference to Tables, is clearer, more easily understood, and preferable. That is not challenged."*

87. As against that somewhat negative viewpoint, Mr Goldsmith suggested to us[68] that one of the virtues of the ODP Chapter 15 is that "*it is easy to find and apply the relevant Chapter 15*

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65 See Submissions 632, 636, 643, 688, 693, and 702. Submission 632 was the subject of a number of further submissions, but they do not appear to relate to this aspect of the submission.

66 Section 32 Evaluation at page 8

67 Legal submissions for GW Stalker Family Trust and others at page 3.

68 Ibid at page 4

objectives and policies. It is rarely necessary to have recourse outside Chapter 15 to the land use Residential, RR and RL Zones." At least in that regard, the broader structure of the PDP needs to be acknowledged. Unlike the ODP, the PDP seeks to provide strategic direction in its early chapters which guides the implementation of more detailed chapters of the PDP like Chapter 27. In Report 3, the Hearing Panel for that Stream recommended that submissions seeking that the strategic chapters be deleted and the PDP revert to the ODP approach be rejected.

88. The corollary of that recommendation is that Chapter 27 cannot operate as a code entirely separated from the balance of the PDP. Broader strategic objectives and policies need to be taken into account.

89. Further, if the subdivision chapter were to revert to the format of Chapter 15, that would be out of step with the chapters of the PDP governing specific zones which take a similar approach to Chapter 27 (indeed, some general submissions noted already seek that the format of Chapter 27 be moved even more closely into line with those other chapters).

90. Lastly, when considering the merits of the way in which Chapter 15 is constructed, we note that the final form of Chapter 15 was the subject of extensive negotiations as part of the resolution of the Environment Court appeals on the ODP. The Court confirmed the final form of Chapter 15 in a consent order, but commented[69]:

"The amendments to Section 15 have been the subject of a somewhat circuitous process of assessment, reassessment and finally confirmation by the parties. Having considered the amended Section 15 now confirmed by the parties, I find that it achieves the aim of consistency with Section 5 of the plan in substance, even if its form still appears somewhat incongruous and unwieldy when compared with the rest of the Plan."

91. This is hardly a ringing endorsement, such as would prompt us to reconsider the wisdom of a different format to the PDP approach that the parties we heard from appeared to accept is clearer and more easily understood, as well as being more consistent with the way the balance of the PDP is structured.

92. In summary, we recommend that the general submissions that sought Chapter 15 of the ODP be substituted for Chapter 27 be rejected. We emphasise that that is not the same thing as rejecting the submissions that sought incorporation of key elements of the existing ODP approach (in particular the controlled activity status for subdivisions generally). As Mr Goldsmith aptly put it, this is an issue of substance that needs to be distinguished from the format of the provisions.

93. Turning to the general submissions already noted, which sought that the structure of Chapter 27 be amended so that it has all objectives and policies together and utilises tables, those submissions were a response to the notified Chapter 27 which exhibited the following features:
    a. It separated general objectives and policies (in section 27.2) from location-specific objectives and policies (in section 27.7);
    b. Consequential on that division, the standards for subdivision activities were separated in a similar manner, with general standards in section 27.5 and location-specific standards in section 27.8;
    c. The general standards in section 27.5 are a mixture of text and tabulated standards.

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69 *Wakatipu Environmental Society Inc & Others v Queenstown Lakes District Council* C89/2005 at [8]

94. In each of these respects, Chapter 27 is out of step with the detailed chapters in the balance of the PDP and Mr Bryce recommended that it be reformatted, as suggested by the submitters.

95. While consistency in formatting of the PDP is desirable, we also consider that the altered format suggested by Mr Bryce is both more logical and easier to follow. Accordingly, we agree with Mr Bryce and recommend that those submissions be accepted.

96. One consequence of such a significant reorganisation of the chapter is that it becomes difficult to track substantive changes sought in submissions, because of course, the submissions relate to the numbering in the notified chapter. In our discussion of submissions following, we will refer principally to the provision number in the submission (which in turn reflects the notified chapter), but provide in brackets the number of the comparable provision in our reformatted and revised version attached in Appendix 1.

97. The remaining general submissions noted above can be addressed more briefly.

98. As regards the submissions that sought that objectives and policies be reordered and labelled to make it clear which are solely applicable to urban areas, we formed the view during the course of the hearing that there is an undesirable degree of uncertainty as to when particular policies related just to the urban environment, given that this appeared to be the intention. We asked Mr Bryce to consider the merits of separating the district-wide objectives and policies into urban and rural sections[70]. Section 3 of Mr Bryce's reply evidence canvassed the point. Mr Bryce's opinion was that while there was some merit in a separation of objectives and policies into rural and urban sections, a number of the objectives and policies apply to both, making such separation problematic. We accept Mr Bryce's point, that a complete separation is not feasible, but we think that much more clarity is required for those objectives and policies that do not apply to both rural and urban environments, as to what it is that they do apply to.

99. In summary, therefore, we recommend acceptance in part of the general submissions we have noted. We do not think a further reordering is required or desirable, but we accept that a number of the objectives and policies need to be amended to remove the ambiguity that currently exists. We will discuss the exact amendments we propose as we work through the provisions of Chapter 27.

100. While we accept the desirability of keeping the number of objectives and policies to a minimum, the Millbrook submission seeking that the number be reduced is framed too generally to be of assistance. RCL Queenstown Pty Ltd[71] provided more targeted relief, listing the objectives and policies it thought should be deleted. However, Mr Wells, who gave evidence for both Millbrook and RCL, expressed broad satisfaction with the amendments Mr Bryce had recommended. While he expressed the views that further refinement might be made, he did not advance that point further, discussing specific provisions. It follows that while we have kept an eye on the potential for further culling of the objectives and policies beyond Mr Bryce's recommendations, so to minimise duplication, we have no evidential basis on which we could recommend a substantial reduction in the number of objectives and policies in Chapter 27.

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70 Following the precedent set by the Independent Hearing Panel on the Proposed Auckland Unitary Plan

71 Submission 632

101. As regards Submission 817, the submission is non-specific as to what changes might appropriately be made to Chapter 27 and the submitter did not provide us with any evidence that would assist further. Mr Bryce recommended an amendment to Policy 27.2.5.12 to provide greater linkage between subdivision management and water quality in part to address this submission. We accept that suggested change. Having reviewed the point afresh, we have not identified any other respects in which the Chapter would be amended to properly give effect to the provisions of the National Policy Statement identified by the submitter.

102. Lastly, addressing Submission 115 Mr Bryce recommended its rejection. We concur. Provision for cycleways, pathways and reserves is a point of detail to be assessed on a case by case basis under the framework of the objectives and policies of Chapter 27.

2. DEFAULT ACTIVITY STATUS

2.1 Controlled Activity?

103. A logical analysis of the submissions on Chapter 27 would start with the objectives, move to the policies, and then consider the rules to implement those policies. In this case, however, the default activity status for subdivisions dominated the submissions and was almost the sole issue in contention at the hearing. Accordingly, although it may appear counter-intuitive, we have decided to address this issue first.

104. As already noted, Rule 27.4.1 of the notified subdivision chapter provided that all subdivision activities would be discretionary activities, except as otherwise stated.

105. Although Rules 27.4.2 and 27.4.3 provided for non-complying and restricted discretionary activities respectively, these rules addressed a series of specific situations that, with one exception, were likely to be a small subset of subdivision applications. The exception was the provision in Rule 27.4.2 that subdivision not complying with the standards in sections 27.5 and 27.8 should be non-complying (other than in the Jacks Point Zone).

106. It follows that on the basis of the PDP as notified, the overwhelming majority of subdivisions that met the Chapter 27 standards would be considered as discretionary activities. One submitter supported the notified provisions[72]. Two other submissions[73] supported discretionary activity status for subdivision in the low density residential zone. A very large number of submitters opposed Rule 27.4.1[74]. Most of those submitters sought that the default activity status be 'controlled'. Many submitters either proffered consequential changes such as suggested matters to which Council's control might be limited or sought consequential changes both to the rule and to the objectives and policies of Chapter 27 more generally.

107. Many submissions sought controlled activity status on a more targeted basis. Submission 591 sought controlled activity status for all subdivisions in the urban zones. Other submitters[75] sought controlled activity status in one or more of the urban zones. Another group of submissions focussed on the rural zones seeking that subdivision in the Rural Residential

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72 Refer Submission 21

73 Submissions 406 and 427: Opposed in FS1262

74 The tabulated summary of the submissions and further submissions either on Rules 27.4.1-3 generally or specifically on Rule 27.4.1 occupied some 25 pages of Appendix 2 to Mr Bryce's Section 42A Report.

75 E.g. Submissions 249, 336, 395,399, 485, 488: Supported in FS1029, FS1061 and FS1270

and/or Rural Lifestyle zones be controlled[76]. A number of submitters[77] nominated the Rural Zone as an exception to a general controlled activity position, suggesting subdivisions in that zone should remain as discretionary activities. Some submissions focussed on the special zones seeking that subdivision in the Millbrook[78] or Jacks Point[79] Zone should be controlled activities. Oher variations were a submission that sought that subdivision within a proposed new subdivision at Coneburn be controlled[80] and a submission that sought that subdivisions for infill housing (one lot only) in all zones be controlled[81]. A group of infrastructure providers[82] sought that subdivision for utilities be a controlled activity.

108. Some submitters were less definitive in the relief sought. Submission 748 sought either controlled or restricted discretionary activity status for complying subdivisions. Submission 277 suggested an even more nuanced position with subdivision of land in the 'Rural General Zone' being discretionary and a mix of controlled and restricted discretionary activity subdivision rules *"for rural living areas and residential zones"*.

109. Some submissions sought more confined relief in the alternative. Submission 610 for instance sought a new rule providing that subdivision within the Ski Area Sub-Zones should be controlled if its primary relief (controlled activity status for all subdivisions except as otherwise stated) was rejected[83].

110. Many submitters did not consider the relevance of standards/conditions to activity status. Read literally, they would have the effect that all subdivisions, irrespective of subdivision design, would be controlled activities to which consent could not be refused. Many others referred to the need to comply with subdivision standards either explicitly (e.g. referring to minimum lot size requirements) or more generally. Many submitters also recognised the need for consequential amendments if the default activity status changed, in particular to the objectives and policies.

111. We have approached this issue as one of principle, considering first what the default activity status for subdivisions should be across all zones before considering (later in this report) whether particular zones (or sub-zones), or alternatively, particular types of subdivisions, need to be recognised as having characteristics warranting either more or less restrictive subdivision activity status as the case may be. Because of the breadth of the submissions on this point, a virtually infinite number of permutations would be within jurisdiction between the notified position (default discretionary status subject to specified exceptions) and all subdivisions being 'controlled' without any standards or other requirements. To keep our report within reasonable bounds, we have restricted our consideration of alternative options to those

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76 Submissions 219,283, 345, 350, 360, 396, 401, 402, 403, 415, 416, 430, 467, 476, 500, 820: Supported in FS1097, FS1164 and FS1206; Opposed in FS1034, FS1050, FS1082, FS1084, FS1086, FS1087, FS1089, FS1099, FS1199, FS1133 and FS1146

77 Submissions 336, 497, 512, 513, 515, 520, 522, 523, 525, 527, 529, 530, 531, 532, 534, 535, 537, 608: Supported in FS1029, FS1125, FS1164, FS1259, FS1260, FS1267, FS1286, FS1322 and FS1331; Opposed in FS1034, FS1068, FS1071, FS1092, FS1097, FS1117 and FS1120

78 Submissions 234, 346, 541: Opposed in FS1266

79 Submission 567

80 Submission 361 – although the reasons for this submission appear to link it to a parallel submission on notified rule 27.5.2.1 because it refers to a house already being established, prior to subdivision- Supported in FS1118 and FS1229; Opposed in FS1296

81 Submission 169

82 Submissions 179, 191, 421 and 781: Supported in FS1121

83 Supported in FS1125

specifically the subject of submissions or which were canvassed during the course of the hearing.

112. The rationale for default discretionary status was set out in the Section 32 Evaluation accompanying the notified PDP. The key points made in the Section 32 Evaluation were that, in the view of the authors, the ODP contains insufficient emphasis on good subdivision and development design, that the ODP subdivision chapter is ineffective in encouraging good subdivision design, and that discretionary activity status would help focus on the importance of good quality subdivision design[84].

113. Mr Bryce reviewed the arguments as to the appropriate default subdivision status in his

114. Section 42A Report, concluding that the section 32 analysis had not demonstrated that a discretionary activity regime was necessarily the best mechanism to respond to subdivision in all zones. Specifically, Mr Bryce recorded his opinion that subdivisions in the Rural Residential and Rural Lifestyle Zones, and within the District's urban areas do not require the broad assessment that would follow from discretionary activity status[85].

115. Equally, however, Mr Bryce was of the opinion that a default controlled activity rule, as sought by a large number of submitters, would be not be particularly effective in responding to subdivision development within the District[86].

116. Mr Bryce saw subdivision and development within areas the subject of structure plans or spatial layout plans as being in a category of their own, justifying controlled activity status. Likewise, he recommended a controlled activity rule covering boundary adjustments. At the other end of the range, Mr Bryce recommended that subdivision and development within the Rural Zone should be a discretionary activity because of the range of potential issues in those areas. The recommendation in his Section 42A Report was, however, that the default activity status for both urban subdivision and development, and subdivision and development within the Rural Residential and Rural Lifestyle Zones, should be Restricted Discretionary (but with separate rules for each to recognise the differences between them)[87]. Consequent on his recommendation, Mr Bryce suggested revised rule provisions specifying the areas within which discretion was retained, based on the areas of control sought in submissions seeking controlled activity status.

117. The argument presented for submitters at the hearing, principally by Mr Goldsmith and Ms Baker-Galloway, supported by expert planning evidence, rested on a number of related considerations, including:
    a. The ODP regime based on a default controlled activity status had worked reasonably well.
    b. The ODP regime provided certainty for developers. By contrast, the PDP regime created significant uncertainty.
    c. While restricted discretionary activity status was an improvement on full discretionary status, the ambit of the matters for discretion was such that it was not materially different to a full discretionary activity status. In particular, retention of discretion over subdivision lot sizes was of particular concern because lot sizes ultimately determined the economic return from an investment in a subdivision.

84 Refer section 32 evaluation at pages 10 and 33
85 Section 42 Report at 10.28
86 Section 42 Report at 10.30
87 Noting that Mr Bryce recommended other targeted Restricted Discretionary rules

d. The Council's reliance on urban design assessments was flawed. To the extent that analysis indicated poor urban design, that was for reasons that had little or nothing to do with the subdivision activity rule status.
e. Further, to the extent that issues of poor urban design in the past had been identified, those issues could be addressed within a controlled activity framework.
f. The concern expressed by Mr Wallace in his evidence for Council regarding the need to retain control over road widths could be addressed under section 106 of the Act.
g. The statistics presented by Mr Bryce as to the percentage of subdivision applications in fact considered as 'controlled' under the ODP were misleading.

118. Other views that we received included evidence on behalf of two leading survey consultancies in the District. Mr Geddes on behalf of Clark Fortune McDonald and Co indicated that the recommendations of Mr Bryce's Section 42A Report largely resolved that submitter's concerns. Mr Duncan White, giving evidence for Patterson Pitts likewise supported a restricted discretionary activity rule.

119. Mr Vivian, giving evidence on behalf of a number of submitters, also generally supported Mr Bryce's recommendations. We note, in particular, Mr Vivian's observation that while it is easy to critique urban design of historic subdivisions, it is a lot harder to ascertain if those subdivisions could have been improved had a different class of rule been applied to them at the time they were consented. Notwithstanding that qualification, Mr Vivian saw merit in a restricted discretionary activity regime, certainly for urban subdivisions, although he recommended some alterations to the proposed matters for discretion in a restricted discretionary activity rule applying to Rural Residential and Rural Lifestyle subdivisions.

120. We did not hear evidence from infrastructure providers seeking to support controlled activity status specifically for utilities.

121. At the opening of the hearing, counsel for the Council advised that Mr Bryce had reflected on the evidence which had been pre-circulated and had formed the view that discretion over lot sizes, averages and dimensions should be deleted from his proposed restricted discretionary activity rule.

122. Mr Goldsmith frankly acknowledged that if this revised recommendation were accepted, then he would accept a restricted discretionary activity rule on behalf of his clients. Ms Baker-Galloway, however, maintained an objection in principle to the restricted discretionary activity rule proposed on behalf of the submitters she represented.

123. As the hearing proceeded, the matters in dispute were progressively narrowed. We would like to express our thanks, in particular, to Mr Bryce for his readiness to consider ways in which his recommendations might be refined to meet the concerns of submitters, while still achieving the policy objectives that underpinned the notified subdivision provisions.

124. Stepping back from the issues in contention, the evidence of Mr Falconer suggests to us that, for whatever reason, the ODP provisions have not been successful in driving high quality urban design. In Mr Falconer's words, while there is some variability between subdivision, generally they are very mediocre. He thought it was particularly concerning that there were no very good examples of urban design. Against the background where, as Mr Brown noted in his evidence, the PDP has a much greater urban design flavour, especially when coupled with the strategic direction provided in Chapters 3 and 4, this suggests to us a need for something to change.

125. While there is an issue (as counsel argued) whether previous mediocre urban design is the product of subdivision activity status, we have considerable difficulty with the argument put to us by both Mr Goldsmith and Ms Baker-Galloway that good design might be enforced within a controlled activity framework. Ms Baker-Galloway cited case law to us suggesting that conditions on subdivisions might produce different lot sizes and subdivisions that look different from what is proposed[88]. However, when we discussed the point with Ms Baker-Galloway, she agreed that the ambit of valid conditions is ultimately an issue of degree, which will determine whether particular issues are able to be controlled by a condition.

126. Accordingly, while counsel are correct, and the case law gives the consent authority considerable latitude to impose conditions on a resource consent application, so long as the conditions do not effectively prevent the activity taking place[89], in our view, the efficacy of those powers depends on the quality of what it is that one starts with. If the starting product is a reasonable quality design, then there will probably be scope to improve that design through discussion between the applicant and Council staff, and imposition of conditions as required to 'tweak' the design. By contrast, if the starting point is a poor quality subdivision design from a consent applicant who refuses to proffer a significantly changed (and improved) design, then in our view, it is neither practically nor legally possible for the Council to redesign a subdivision application by condition.

127. The clearest example of a need for discretion over subdivision design where the Council might need to require potentially significant changes to an applicant's design appeared to be in the width and location of internal roading networks. Mr Wallace summarised his evidence, when we discussed it with him, as being that there is no single formula to identify suitable roadworks based solely on the size of the subdivision.

128. As regards the specific issue of road widths and access issues, both Mr Goldsmith and Ms Baker-Galloway argued that this could be addressed under section 106(1)(c). That provision provides the Council with jurisdiction to refuse a subdivision consent application irrespective of the activity status of the subdivision in circumstances, among other things, where "*sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision".* Ms Baker-Galloway however could not point us to a case which has held that section 106 extends as far as road widths, as opposed to the existence of a practicable legal access.

129. She also accepted that section 106 would not answer a point that we discussed both with a number of the planning witnesses and with counsel who appeared before us that arises when the most efficient (in some cases the only practicable) access to adjacent subdividable land is via the road network of the subdivision. This situation has arisen in the past in the District[90].

130. Ultimately, though, we see the potential application of section 106 as something of a red herring. If section 106 confers the power to refuse a subdivision consent application, there is no practical difference if the District Plan similarly provides a discretion to refuse the consent on the same grounds, and good reason why it should do so – so applicants are more aware of that possibility. As Mr Goldsmith frankly acknowledged, the concern on the part of submitters

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88 She relied in particular on *Dudin v Whangarei District Council* A022/07 and *Mygind v Thames-Coromandel District Council* [2010] NZ EnvC 34

89 Refer *Aqua King Limited v Marlborough District Council* (1998) 4ELRNZ 385 at [23]

90 In Subdivision Consent RM130588 (Larchmont)

is that that position is not 'leveraged' to carve out a greater ambit for subdivision consents to be rejected than section 106 would provide.

131. Mr Goldsmith called valuation evidence from Mr Alexander Reid to support his submission that an excessively wide discretion (certainly the full discretionary status in the notified PDP provisions) would have a chilling effect on the economics of subdivision in the District by reason of the inability to obtain land valuations on which banks and other financiers might rely.

132. Mr Reid's evidence was helpful because he confirmed that uncertainty in consent outcomes is ultimately an issue of degree. If there is some, but not great, uncertainty, then valuers (and banks) will accept that.

133. We discussed with Mr Reid specifically the statistics that Mr Bryce had provided to us which suggested that under the ODP, approximately half the applications for subdivision consent in residential zones, and the Rural Residential Zone (and substantially more than half of the applications in the Rural Lifestyle Zone and deferred Rural Lifestyle Zone) were actually considered on the basis that they were either discretionary or non-complying. Mr Reid's evidence was that he had never regarded there being a great risk of subdivision not occurring in those zones and thus it had not been an issue to value the land[91].

134. We discussed with Mr Jeff Brown and Mr Chris Ferguson whether the difference between controlled activity status and restricted discretionary activity status would have cost implications for applicants. Mr Brown's view was that costs would generally not vary, provided the points of control and discretion were the same. Mr Ferguson pointed out the potential, if the ability to decline under a restricted discretionary rule were used to force an outcome, for transaction costs to increase. He also identified the potential for a different outcome to have cost implications.

135. We had difficulty reconciling Mr Ferguson's reasoning with the legal submissions we heard from both Mr Goldsmith and Ms Baker-Galloway that the same outcomes could be achieved under a controlled activity regime as with a restricted discretionary activity regime, unless the outcome Mr Ferguson was referring to was that consent applications would be declined.

136. Perhaps more importantly, Mr Ferguson agreed that the time and cost for compiling a high quality application would likely not vary greatly either way.

137. Taking these matters into consideration, we have formed the following views.

138. First, we agree with Mr Bryce's recommendation that the full discretionary default subdivision rule in the notified Chapter 27 is not the most appropriate way in which to achieve the objectives of the PDP or (to the extent that those objectives might envisage that status) the most appropriate way to achieve the purpose of the Act. For zones in which development is envisaged, with the scale of development the subject of minimum standards, the increase in uncertainty for subdivision applicants is, in our view, not justified by the potential environmental issues that a subdivision that complies with those minimum standards might raise.

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91 A view supported by the updated information provided in Mr Bryce's reply indicating that in the 6 years between 2009 and 2015 one subdivision consent application only had been declined after the exercise of the right of appeal, where applicable.

139. We also regard full discretionary status as being inconsistent with the strategic direction contained in Part Two of the Plan which seeks to enable urban development within defined Urban Growth Boundaries (recommended Policy 3.3.14) and to recognise the Rural Lifestyle and Rural Residential Zones as the appropriate planning mechanism to provide for new Rural Lifestyle and Rural Residential developments (recommended Policy 6.3.0).

140. Secondly, we agree with Mr Bryce's recommendation that there are a number of exceptions to that general position, where retention of full discretionary activity status is justified, most obviously in the Rural and Gibbston Character Zones[92]. Those zones have no minimum lot sizes and rely on the exercise of a broad discretion to ensure that subdivision and development is consistent with the objectives and policies applying to those areas. Submitters advanced the case at the hearing that the Ski Area Sub-Zones needed to be considered separately from the balance of the Rural Zone, having characteristics justifying controlled activity status for subdivisions. We will discuss that point separately. We also discuss the other exceptions later in this report.

141. Thirdly, we agree with Mr Bryce's recommendation that while controlled activity status may be appropriate in some specific situations, the most appropriate way to achieve the objectives of the PDP is to provide that the default activity status for subdivisions in both Urban Zones and the Rural Residential and Rural Lifestyle Zones should be restricted discretionary activity. We did not hear evidence justifying a different approach to Rural Residential and Rural Lifestyle Zones compared to urban residential zones, or indeed to distinguishing between different residential zones. The evidence we heard, as summarised above, is that the relative costs (between restricted discretionary and controlled activity status) are only likely to be material in the case of poor quality applications. In our view, the need for Council to be able to demand high quality outcomes, and to not have to accept poor applications, are key reasons for restricted discretionary activity status.

142. We do not regard utilities as one of the situations where controlled activity status would be appropriate. While subdivisions will on occasion solely relate to utilities, provision for utilities is an essential component of all subdivisions and in our view, the discretion to refuse consent (where applicable) needs to extend to the utility component. The important point (as Submission 179 notes as justification for controlled activity status) is that subdivisions for utilities are not subject to the minimum lot sizes specified for other subdivisions and this is achieved in our recommended Rules 27.6.2 and 27.7.11.

143. Fourthly, particular attention needs to be paid to limiting the matters in respect of which discretion is reserved to minimise the uncertainty for subdivision consent applicants, while providing the framework to best ensure good quality subdivision design outcomes.

144. As already noted, Mr Bryce recommended two restricted discretionary activity rules in his reply evidence to replace Rule 27.4.1 as notified. The first (now numbered 27.5.7 in our recommended version of Chapter 27) was recommended to read as follows:

> *"All urban subdivision activities, unless otherwise stated, within the following zones:*
>
> 1. *Low Density Residential Zones;*
> 2. *Medium Density Residential Zones;*

[92] Noting our previous finding that in those parts of the Rural Zone classified as ONL or ONF, residential subdivision and development might appropriately be classified as a non-complying activity and recommending Council consider initiating a variation to achieve that result.

3. *High Density Residential Zones;*
4. *Town Centre Zones;*
5. *Arrowtown Residential Historic Management Zone;*
6. *Large Lot Residential Zones;*
7. *Local Shopping Centres;*
8. *Business Mixed Use Zones;*
9. *Queenstown Airport Mixed Use Zone.*

Discretion is restricted to the following:

- *Lot sizes and dimensions in respect of internal roading design and provision, relating to access and service easements for future subdivision on adjoining land;*
- *Subdivision design and layout of lots;*
- *Property access and roading;*
- *Esplanade provision;*
- *On site measures to address the risk of natural and other hazards on land within the subdivision;*
- *Fire fighting water supply;*
- *Water supply;*
- *Stormwater design and disposal;*
- *Sewage treatment and disposal;*
- *Energy supply and telecommunications;*
- *Open space and recreation; and*
- *Ecological and natural values;*
- *Historic heritage;*
- *Easements; and*
- *Bird strike and navigational safety.*

For the avoidance of doubt, where a site is governed by a Structure Plan, spatial layout plan or concept development plan that is identified in the District Plan, subdivision activity should be assessed in accordance with Rule 27.7.1."

145. The second rule recommended by Mr Bryce in his reply (now numbered 27.5.8) would read as follows:

"All subdivision activities in the District's Rural Residential and Rural Lifestyle Zones."

Discretion is restricted to all of the following:

- *In the Rural Lifestyle Zone the location of building platforms;*
- *Lot sizes and dimensions in respect of internal roading design and provision,*
- *relating to access and service easements for future subdivision on adjoining land;*
- *Subdivision design and lot layout;*
- *Property access and roading;*
- *Esplanade provision;*
- *On site measures to address the risk of natural and other hazards on land within the subdivision;*
- *Fire fighting water supply;*
- *Water supply;*
- *Stormwater disposal;*
- *Sewage treatment and disposal;*
- *Energy supply and telecommunications;*

- *Open space and recreation;*
- *Ecological and natural values;*
- *Historic heritage;*
- *Easements; and*
- *Bird strike and navigational safety."*

146. These two suggested rules are virtually identical – the only difference in the matters to which discretion is reserved is recognition of the need to consider the location of building platforms in the Rural Lifestyle Zone – but like Mr Bryce, we think there is value in separating the rules related to subdivision in Urban Zones from those applying in the Rural Residential and Rural Lifestyle Zones, if only for clarity of coverage to lay readers of the Plan.

147. Looking first at the proposed urban subdivision rule, we recommend a minor change to the introductory wording to refer to activities otherwise "*provided for"* rather than otherwise "*stated*". The latter suggests a more explicit reference than may always be the case.

148. Consequential changes are also required arising from recommended changes to the names of different zones in other reports to the Lower Density Suburban Residential Zone and the Airport Zone – Queenstown respectively.

149. In terms of the matters in respect of which discretion is restricted, as Mr Bryce indicated, the list of matters is largely drawn from the submissions that suggested matters for control, in the context of a proposed controlled activity rule. As Mr Goldsmith acknowledged to us at the hearing, most of these are a standard list of matters that have to be considered on any subdivision application.

150. We therefore propose to discuss on an exceptions basis, the matters where Mr Bryce proposed amended wording, inserted additional considerations, or the one point that he proposed be deleted from the rule.

151. As above, much of the discussion at the hearing focussed on the first proposed matter of discretion. Having initially (at the opening of the Council case) formed the view that this matter might be entirely deleted, Mr Bryce came around to the view that limited provision for a discretion over lot sizes and dimensions was appropriate, to address the specific issue discussed during the course of the hearing of the need for access to adjoining subdivisable land.

152. We think that the debate at the hearing got a little side-tracked by the concerns of submitters about the ambit of any discretion over lot sizes. While important, the principal consideration justifying reservation of discretion is the need to promote quality subdivision design. We propose that should be the first matter listed.

153. As above, Mr Bryce's suggested matter of discretion is "*subdivision design and layout of lots"*. We regard the layout of lots as an aspect of subdivision design rather than a discrete issue in its own right. If the subdivision design changes, for whatever reason, the layout of lots, and indeed lot sizes (in m^2) and dimensions (i.e. shape) will change correspondingly. Mr Goldsmith had no problem with that in principle. The concern he was expressing was of an explicit and separate discretion over lot sizes.

154. To put that beyond doubt, we think it would be helpful to reframe this first and primary matter of discretion as follows:

"subdivision design and any consequential effects on the layout of lots, and on lot sizes and dimensions."

155. Like Mr Bryce, we consider that the potential need to require access to adjoining subdivisable land is a discrete issue that needs specific discretion to enable it to be properly considered. Mr Bryce's suggested drafting focussing on lot sizes and dimensions, whereas, to us, this is the consequence of a discretion over internal roading design and provision. As well as being more logical, putting it that way round assists in meeting the concerns expressed for submitters. We also think it would also be helpful if the same consequential flow-on effect on lot layouts were identified as with subdivision design.

156. In summary, we recommend that the relevant point of discretion be amended to read:

"internal roading design and provision relating to access to and service easements for future subdivision on adjoining land, and any consequential effects on the layout of lots, and on lot sizes and dimensions."

157. The submissions we received focussed only on property access. Like Mr Bryce, we think that the focus might more explicitly be on roading as the primary means of property access.

158. The submissions likewise focussed solely on "natural hazards". We agree with Mr Bryce's recommendation that in the context of restricted discretionary activity, the ambit of potential action required should be stated more clearly – it is about onsite measures to address the risk of both natural and other hazards on land within the subdivision rather than, for instance, attempts to address natural hazards at source. It is both unreasonable and impracticable to contemplate a subdivision applicant having responsibility, for instance, for mitigating the causes of flooding that is the result of natural processes occurring offsite.

159. In our view, it also needs to be made clear that it is not just a choice of what on-site measures are taken to mitigate natural hazard risk. In some cases, precisely because it is beyond the control of any subdivision applicant to control natural hazards at source, all available mitigation steps would still be insufficient to enable subdivision and development of the scale and in the manner proposed to proceed. We therefore recommend that the point of discretion should refer to "*the adequacy*" of on-site measures to address natural hazard risk.

160. The submissions we received suggested "*stormwater disposal"* as a matter of control. We agree with Mr Bryce's recommendation that discretion needs to be retained over the design of stormwater management, not just its disposal.

161. Mr Bryce recommended two new matters of discretion, being "*ecological and natural values"* and "*historic heritage"*. Given the identification of those values and the objectives and policies of the Plan (not to mention the provisions of the Proposed RPS quoted above that sit behind them, they are obvious additions.

162. Lastly, Mr Bryce recommended addition of "*bird strike and navigational safety".*

163. This addition reflected submissions we heard from QAC seeking recognition of the potential for the development associated with subdivision to cause a potential safety issue at Queenstown Airport (principally) due to bird strike. QAC both made legal submissions and called planning evidence on the need for PDP provisions to discourage activities attracting birds that might give rise to a bird strike risk.

164. We had some difficulty with QAC's case in this regard. Ms Kirsty O'Sullivan, giving expert planning evidence for QAC, advised us that the essential issue was with stormwater ponds that might form part of a subdivision design attracting birds that roost in the Shotover Delta.

165. At the hearing, we sought to explore with QAC's representatives the extent to which bird strike is already an issue given the location of the municipal wastewater facilities in close proximity to the eastern end of the runway, on the opposite side of the runway to Shotover Delta. The initial advice we received from Ms O'Sullivan was that bird strike was not an issue at present because QAC knows about current flight paths. Subsequently, however, after we sought input on where subdivision-related development might pose a risk of bird strike, we were advised that most reported bird strikes had been on the airfield, but that there have been reports of near misses further afield. We were also advised that the highest recorded bird strike was at 30,000 feet and that it was difficult to define the relevant area in a spatial sense.

166. We found this unhelpful to say the least. QAC were seeking examination of potential bird strike issues as a discrete matter of discretion on all urban subdivisions, so as to enable a case by case assessment. My Bryce also recommended that this be a matter of discretion in both urban areas and in the Rural Lifestyle and Rural Residential Zones.

167. The only way in which a subdivision consent applicant could address that issue would be by obtaining expert ornithological evidence as to the potential impact of the proposed subdivision and development on the existing pattern of bird flights and expert aviation evidence on the potential risk to aircraft within the District where they might intersect with the predicted flight-paths of birds. The collective costs involved, given that this would need to be considered on every subdivision application in urban areas and in the Rural Lifestyle and Rural Residential Zone if Mr Bryce's recommendation were accepted, might well be substantial, but we were not provided with any quantification of those costs[93].

168. While any threat to aircraft safety is of course a matter for considerable concern, we regard it as incumbent on QAC to provide us with expert evidence that would enable us to evaluate whether the risks that subdivision and development might pose to aircraft movements justified the imposition of those costs. At the very least, we would have expected QAC to produce expert evidence on where birds currently roost, the current flight-paths of birds to and from those roosting areas, and the nature and scale of future subdivision and development sufficient to materially alter those flight-paths in a manner with the potential to create a risk to aircraft. Demonstrably, Ms O'Sullivan was not equipped to provide evidence on these matters. And to be fair to her, she did not suggest she could do so other than at a very general level.

169. We inquired of QAC whether it had taken a position on the recently reviewed earthworks provisions of the ODP, given our understanding that birds are attracted by newly excavated earthworks. We were advised that QAC had made submissions on those provisions, but those submissions were not accepted and QAC did not pursue the matter.

170. Had QAC provided us with the evidential basis to do so, we might well have recommended a focus on effects on bird strike and navigational safety within some defined distance from the

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93 Mr Bryce identified that the addition of new matters of discretion would add costs in the s32AA evaluation attached to his reply evidence, but did not comment on the potential quantum of such costs. Ms O'Sullivan did not comment on the cost implications for applicants of the relief she supported.

flight paths into and out of Queenstown Airport, recognising a potentially greater risk in such areas (QAC told us existing spray irrigation at the end of the runway at Wanaka had not created an issue at Wanaka Airport and provided no information as to the position at the smaller facilities). As it was, QAC did not provide us with an adequate evidential foundation either for the planning relief sought, or for some more targeted response.

171. In summary, we do not agree with Mr Bryce's recommendation that the default rules contain a recognition of potential bird strike risk as a separate area of discretion.

172. Submissions seeking a controlled activity rule suggested that "*the nature, scale, and* adequacy *of environmental protection measures associated with earthworks"* be an additional matter of control. Mr Bryce did not recommend that earthworks be a matter for discretion. Rather, his recommendation was that a cross reference be inserted to provisions of the earthworks chapter of the ODP. We think there are good reasons to treat earthworks as a separate issue under the rules. We will revert to that point when we address Mr Bryce's recommendations in that regard.

173. We do, however, consider that there is a case for an additional matter of discretion based on the submissions and evidence we heard for Aurora Energy Ltd[94]. We explore the issues raised in much greater detail in the context of the policies related to subdivision and development affecting electricity distribution lines[95]. Mr Bryce recommended a new rule governing subdivision and development in close proximity to 'sub-transmission' lines. We discuss that recommendation later in this report also. In summary, we do not regard it as either necessary or efficient to have a standalone rule, but we do consider it necessary to preserve a discretion on subdivision applications that might be exercised in accordance with recommended Policy 27.2.2.8.

174. Having identified the desirability of an additional point of discretion, we then considered whether it should be limited to effects on electricity distribution lines. Mr Bryce's draft rule considers "*Energy supply and telecommunications"* together. While the rationale for that discretion is (we think) related to the adequacy of the infrastructural arrangements, the same logic would apply to reverse sensitivity effects on telecommunication networks as on energy networks – both are essential local infrastructure.

175. Accordingly, we recommend that the relevant matter of discretion be amended to read:

"energy supply and telecommunications, including adverse effects on energy supply and telecommunication networks."

176. The suggested rule is stated to apply within the Low Density Residential Zone and the Queenstown Airport Mixed Use Zone. The Stream 6 Hearing Panel has recommended that the name of the Low Density Residential Zone be changed to the Lower Density Suburban Residential Zone. The Stream 8 Panel has recommended the Queenstown Airport Mixed Use Zone, as the term is used in Chapter 27, be changed to the Airport Zone - Queenstown. We therefore recommend use of those titles for those zones here, and elsewhere in Chapter 27 where they are referred to.

177. Lastly, we recommend that the language introducing the matters of discretion be tightened in this and the other Restricted Discretionary rules in Chapter 27 and that the specified matters

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94 Submission 71

95 Refer the discussion of our recommended Policy 27.2.2.8

be individually identified using an alphanumeric list for ease of subsequent reference. Again, this is a recommended general change. We also recommend that generally listing of sub-parts of policies or rules by identified by alphanumeric lists.

178. Turning to the parallel rule (now numbered 27.5.8), providing for subdivision in the Rural Residential and Rural Lifestyle Zones, the opening words, describing the ambit of the rule, need to provide for the operation of other rules in the rule package in the same way as Mr Bryce's recommended urban subdivision rule; that is to say, it needs the words "*unless otherwise provided for"* inserted into it.

179. As above, the only additional point of discretion Mr Bryce recommended in this rule was reference to building platforms in the Rural Lifestyle Zone. At the hearing, we discussed with both Mr Bryce and Mr Jeff Brown whether the size of building platforms might be an issue. Currently the zone standards for the Rural, Gibbston and Rural Lifestyle Zones[96] require identification of one building platform between 70m² in area and 1000m² in area per lot where allotments are created for the purposes of containing residential activity.

180. Mr Brown confirmed that in principle, both the location and size of building platforms are the issue in the Rural Lifestyle Zone, but he could not recall any consent holder trying to fill out building platforms to the full 1000m². Mr Goldsmith drew our attention to the fact that this issue was canvassed in the hearings on the rural chapters (the Stream 2 hearing). In that hearing, Mr Paddy Baxter, an expert landscape architect, suggested to the Hearing Panel that design controls might be appropriate for larger sized houses.

181. Relevant design controls in this context are those contributing to the visibility and external appearance of buildings constructed within approved building platforms since it is these matters that affect the ability of the landscape to absorb new or altered buildings.

182. We also note that Rule 22.4.2 provides that where a building is constructed or altered outside an approved building platform in the Rural Lifestyle Zone the Council retains discretion over external appearance, visibility from public places, landscape character and visual amenity. Logically, these matters should be equally relevant to the decision whether to approve building platforms (within which buildings might be constructed or altered as permitted activities).

183. Accordingly, we recommend that the relevant point of discretion be expanded to read:

"in the Rural Lifestyle Zone, the location and size of building platforms and in respect of any buildings within those building platforms:

a. external appearance;

b. visibility from public places;

c. landscape character; and

d. visual amenity.

184. In all other respects, the same conclusions about the matters in respect of which discretion is reserved follow as for subdivision in the urban zones.

[96] Rule 27.5.1.1 of the notified Chapter and 27.7.12.1 of our recommended revised Chapter

185. As already noted, a number of submissions identified the need for the objectives and policies of Chapter 27 to be amended to reflect any changes to the default rules related to subdivision. Accordingly, it is appropriate that we move now to address first the introductory statement of the purpose of Chapter 27 (in Section 27.1) and then the objectives and policies, before returning to the package of rules.

3. PURPOSE

3.1 Section 27.1 - Purpose

186. Section 27.1, as its title suggests, is designed to set out the purpose of Chapter 27. Submissions on it sought variously:
   a. Addition of reference to the protection of areas and features of significance and to passive solar design of dwellings[97];
   b. Deletion of reference to subdivision being discretionary, to be replaced with a statement that subdivision in zoned areas is controlled[98];
   c. Deletion of reference to logic[99];
   d. Deletion of reference to the Land Development and Subdivision Code of Practice and Subdivision Design Guidelines[100];
   e. Clarification that Chapter 27 does not apply to the Remarkables Park Zone and the proposed Queenstown Park Special Zone[101];
   f. Drawing attention to the relationship between subdivision and land use, softening the description of the relationship between subdivision and desirable community outcomes, deletion of specific reference to management of natural hazards and insertion of identification of the role of subdivision in provision of services[102].

187. Mr Bryce recommended the following changes to the notified version of Section 27.1:
   a. Consequential on his recommendation that the default status of subdivisions be restricted discretionary activity, the reference to all subdivision requiring resource consent as a discretionary activity should be amended;
   b. Deletion of reference to subdivision design being underpinned by logic;
   c. Separation of reference to the Subdivision Design Guidelines from the Land Development and Subdivision Code of Practice, recognising the focus of the Subdivision Design Guidelines on urban design and pitching the role of the Code of Practice as providing a best practice guideline;
   d. Deletion of reference to provisions in other chapters governing assessment of subdivision;
   e. Insertion of reference to the Council's development contributions policy.

188. We do not consider that the opening words of Section 27.1 need to place greater emphasis on the inter-relationship between subdivision and land use. In our view, the opening paragraph already draws that connection.

189. The reference in Section 27.1 to all subdivision requiring resource consent as a discretionary activity was problematic even on the basis of the notified Chapter 27, given that Rule 27.4.2

97 Submission 117
98 Submissions 288, 442, 806: Supported in FS1097
99 Submission 383
100 Submissions 567 and 806
101 Submission 806
102 Submission 806

provided for non-complying activities and Rule 27.4.3 provided for restricted discretionary activities. We have already addressed the appropriate default rule activity status, recommending that it be restricted discretionary. It follows that the existing text of Section 27.1 requires amendment. We agree with Mr Bryce's suggestion that the statement should read that "*all subdivision requires resource consent unless specified as a permitted activity".*

190. We also agree with Mr Bryce's recommendation that reference to logic in the second paragraph might appropriately be deleted. Without amplification as to what a logical subdivision design might involve, such as is contained in proposed Objective 3.2.2.1, this is likely to be unhelpful.

191. We do not, however, consider that the entire sentence in which that reference is made need be deleted. Given the overlap with recommended Objective 3.2.2.1, stating that good subdivision design is underpinned by an objective of creating healthy, attractive and safe places is a suitable comment. We do agree, however, that some qualification of the reference to management of natural hazards is required since as currently framed, the text provides no indication of how natural hazards should be managed. The Proposed RPS contains a comprehensive suite of provisions around natural hazard management. In the context of a general introduction to the subdivision and development section, it would be difficult to capture all of the nuances of the Proposed RPS position. We recommend therefore that the introduction talk about "*appropriate"* management of natural hazards.

192. We agree with the suggestion in Submission 806 that the opening words to paragraph 3 should state that good subdivision "*can help to create"* desirable outcomes. It is unduly ambitious to think that good subdivision will necessarily achieve these matters on its own.

193. We do not consider that reference to passive solar design of dwellings is required given the existing reference in the third paragraph to maximising access to sunlight. Similarly, in relation to the relief sought in Submission 117, reference to protection of areas and features of significance is an unnecessary level of detail. These matters are covered more appropriately in the objectives and policies following.

194. As regards the degree to which the Subdivision Design Guidelines and the Land Development and Subdivision Code of Practice are referenced, this matter overlaps with how they are addressed in the balance of the chapter.

195. Counsel for the Council noted that both of these documents had been incorporated by reference under Part 3 of Schedule 1 of the Act. As counsel noted, the advantage of incorporating documents by reference in this way is that they can then be referenced in the PDP without needing to be annexed to it. As counsel also pointed out, however, the downside of such referencing is that the document cannot thereafter be changed without the reference to it also being changed through the mechanism of a Plan Change.

196. Mr Wallace produced a copy of the current Code of Practice for us. It is both a lengthy and highly detailed document and Mr Wallace highlighted the fact that it is a "*live, ever evolving document"* and that he anticipated that it would be amended and readopted by Council before the close of 2016. Nor would this be the only amendment. In his words, "*there will be an ongoing process of updating the Code of Practice to ensure evolving best practice is captured in the document"*[103].

[103] D Wallace, Evidence at 4.2

197. Against this background, the recommendation of Mr Bryce was that specific reference to the Code of Practice should be removed from the relevant policy (27.2.1.1).

198. This recommendation produced a degree of puzzlement from the representatives of submitters who appeared before us, given that the Code of Practice is referred to in the ODP generically and, as far as the submitters could ascertain, this has never been seen as posing a legal issue in the past notwithstanding that the Code of Practice has been updated from time to time.

199. Mr Goldsmith did not seek to contradict counsel for the Council's submissions. Rather his approach was to query why reference to the Code of Practice is a problem now if it has never previously been a problem. Ms Baker-Galloway noted that in the litigation on the Horizons One-Plan, the High Court had no difficulty with a generic reference to the OVERSEER nutrient model in the One-Plan, notwithstanding that new versions of the model would be produced[104].

200. As we understand the argument for the Council, it is the additional step of incorporating the Code of Practice by reference that has created the legal issue.

201. The High Court decision referred to us quoted a section of the Environment Court's decision on the One-Plan querying whether a model like OVERSEER is written material within the meaning of clause 30 of the First Schedule (so as to be able to be incorporated by reference). It appears to us also that the High Court's decision turned on the fact that the One-Plan did not require use of OVERSEER. Rather it was mentioned as one means by which the Plan's provisions might be complied with.

202. We do not, therefore, regard the High Court's decision as supporting an explicit policy reference to the Code of Practice as something that is required to be complied with (as notified Policy 27.2.1.1 currently does), given the Council's intention that the Code of Practice will change.

203. Mr Duncan White gave evidence for Paterson Pitts noting that submitter's concern with the notified provisions given the lack of external input into the content of the Code of Practice. We agree that this is problematic, even if the legal concerns expressed by counsel for the Council could be overcome.

204. Mr Goldsmith drew our attention to a possible concern that removing reference to the Code of Practice, when in practice the Council will rely on the current version of the document. In his submission, this might mislead readers of the PDP who are not as a result aware that there is a large and very detailed document sitting outside the PDP which has, in Mr Goldsmith's words, "*a very significant influence on the subdivision design consent process".*

205. Ultimately though, Mr Goldsmith expressed himself as being ambivalent as to where the Code of Practice is referenced as long as it is referenced somewhere in the PDP. He took the pragmatic view that any rules and policies referring to the adequacy or appropriateness of infrastructure and service provision would then enable the Code of Practice to be referenced during the processing of a subdivision application.

206. We discussed the concern Mr Goldsmith had identified with counsel for the Council who agreed that the Code of Practice might appropriately be referred to in the introductory sections, provided it has not been incorporated by reference. We think that is the best solution, but it faces the problem that, of course, the Council has already resolved to

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104 Discussed in *Horticulture New Zealand v Manawatu-Wanganui Regional Council* [2013] NZHC 2492 at [106]-[115]

incorporate the Code of Practice (2015) version by reference. We recommend that Council resolve that that document should cease to be incorporated by reference.

207. Assuming the Council does so resolve, we further recommend that the existence of a Code of Practice be highlighted in Section 27.1, but in a separate paragraph to the discussion of the Subdivision Design Guidelines that we will come to shortly. Mr Bryce drafted a sentence to insert on the end of the fourth paragraph of section 27.1 reading:

"The purpose of the QLDC Land Development and Subdivision Code of Practice is to provide a best practice guideline for subdivision and development infrastructure in the District."

208. Mr Bryce's suggestion did not capture what we had in mind because it assumed an understanding of what the Code of Practice was and failed to convey the critical point, which is that subdivision applicants need to consult the document.

209. Accordingly, we recommend that a new paragraph be inserted following the existing paragraph 4 reading:

"The QLDC Land Development and Subdivision Code of Practice provides assistance in the design of subdivision and development infrastructure in the District and should also be considered by subdivision applicants."

210. Consequential deletions of reference to the Code of Practice in the existing text of the fourth paragraph will be required.

211. The Subdivision Design Guidelines did not attract the same concern regarding the need for ongoing change. While Mr Goldsmith critiqued the Subdivision Guidelines, the thrust of his point seemed to be that they were a little trite and overlapped with the existing policies. As against that view, Mr Falconer gave evidence for the Council indicating his view that the Design Guidelines are well founded, helpful and provide a concise checklist for the layout and broad scale design of subdivisions[105]. To the extent that Mr Dan Wells critiqued the illustrated design contained in the Subdivision Design Guidelines, Mr Falconer described those criticisms to us as matters of detail, not raising major issues.

212. Mr Falconer did, however, accept that the Subdivision Design Guidelines would benefit from being extended in scope.

213. Given Mr Falconer's undoubted expertise and experience in the field of subdivision and urban design, we accept his opinion as to the value of the Subdivision Design Guidelines, and are satisfied that Section 27.1 should acknowledge their role. The only amendments we recommend to the text suggested by Mr Bryce are to make it a little clearer that the Guidelines are principally focused on development in urban areas, but that some aspects may be relevant to rural subdivisions.

214. We do not think it is helpful to state on a piecemeal basis that Chapter 27 does not apply to the Remarkables Park Zone and the requested Queenstown Park Special Zone as Queenstown Park Limited proposes. We discussed with counsel from the Council how Chapter 27, once finalised, will interrelate with the ODP subdivision provisions that will continue to apply in a number of zones (including the Remarkables Park Zone, which forms part of the ODP). We will discuss this issue in greater detail in our consideration of the notified Section 27.3. For the same reason, however, we agree with Mr Bryce's recommendation that what was the first part

[105] G Falconer, Evidence at paragraph 2.1

of the fifth paragraph of Section 27.1 should delete reference to provisions for assessment of subdivisions outside Chapter 27.

215. Lastly, Mr Bryce recommended that a paragraph be inserted on the end of Section 27.1 as a consequential change resulting from his recommendation that reference to the Development Contributions Policy be deleted from Policy 27.2.5.11 (same numbering in notified version), reading:

"Infrastructure upgrades necessary to support subdivision in future development are to be undertaken and paid for by subdividers and developers in accordance with the Council's 10 Year Plan Development Contribution Policy."

216. The difficulty we have with the suggested addition to Section 27.1 is that it assumes an understanding of the role of the Development Contributions Policy and records the current policy set under the Local Government Act, which may change during the lifetime of the PDP.

217. Accordingly, we recommend that Mr Bryce's suggestion not be accepted, but rather that a new paragraph 6 be inserted in section 27.1 reading as follows:

"The Council uses its Development Contributions Policy set out in its 10 Year Plan to fix the contributions payable by subdividers for infrastructure upgrades. That policy operates in parallel with the provisions of this chapter and should be referred to by subdivision consent applicants."

218. We have discussed each of the amendments we have recommended to Section 27.1 above. The end result, accepting the suggested changes, is that the introductory section of Chapter 27 related to its purpose would read as follows:

"Subdivision and the resultant development enables the creation of new housing and land use opportunities, and is a key driver of the District's economy. The council will support subdivision that is well designed, is located in the appropriate locations anticipated by the District Plan with the appropriate capacity for servicing and integrated transportation.

All subdivision requires resource consent unless specified as a permitted activity. It is recognised that subdivisions will have a variable nature and scale with different issues to address. Good subdivision design, servicing and the appropriate management of natural hazards are underpinned by a shared objective to create healthy, attractive and safe places.

Good subdivision can help to create neighbourhoods and places that people want to live or work within, and should also result in more environmentally responsive development that reduces car use, encourages walking and cycling, and maximises access to sunlight.
Good subdivision design will be encouraged by the use of the QLDC Subdivision Design Guidelines 2015. The Subdivision Design Guidelines includes subdivision and urban design principles and outcomes that give effect to the objectives and policies of the Subdivision and Strategic Directions Chapters, in both designing and assessing subdivision proposals in urban areas. Proposals at odds with this document are not likely to be consistent with the policies of the Subdivision and Strategic Directions chapters, and therefore, may not achieve the purpose of the RMA. Some aspects of the Subdivision Design Guidelines may be relevant to rural subdivisions.

The QLDC Land Development and Subdivision Code of Practice provides assistance in the design of subdivision and development infrastructure in the District and should also be considered by subdivision applicants.

The Council uses its Development Contributions Policy set out in its 10 Year Plan to fix the contributions payable by subdividers for infrastructure upgrades. That policy operates in parallel with the provisions of this chapter and should be referred to by subdivision consent applicants.

The subdivision chapter is the primary method to ensure that the District's neighbourhoods are quality environments that take into account the character of local places and communities."

219. We are satisfied that as amended, this introductory statement is the most appropriate way to achieve the objectives of Chapter 27 that we are about to discuss, given the alternatives open to us.

4. SECTION 27.2 – OBJECTIVES AND POLICIES

4.1 General

220. We have already discussed the general submissions seeking that the objectives and policies more clearly identify where they are limited in scope either to urban or rural environments. The only other general submission that we need to discuss at the outset of our consideration of the objectives and policies in Chapter 27 is that of Transpower New Zealand Limited[106] that sought a new objective related to reverse sensitivity effects on the national grid.

221. Mr Bryce recommended that the suggested objective not be inserted into Chapter 27, on the basis that Transpower's relief would more appropriately be addressed by a new policy seeking to achieve existing Objective 27.2.2.

222. The relief sought by Transpower was in fact framed as a course of action (i.e. as a policy) rather than as an environmental outcome (i.e. as an objective) and Ms Ainsley McLeod, giving planning evidence for Transpower, accepted that this was the appropriate way for Transpower's concern to be addressed. We concur.

223. Before considering the first objective and the policies related to it, we should note that the existing objectives and policies were supported by a number of submitters, either as is, or generally, but subject to specific points of concern[107].

4.2 Objective 27.2.1 and Policies Following

224. Turning to Objective 27.2.1, as notified, it read:

"Subdivision will create quality environments that ensure the District is a desirable place to live, visit, work and play."

225. Submissions seeking changes to Objective 27.2.1 sought variously:

106 Submission 805: Supported in FS1121 and FS1211

107 See submissions 453, 586, 775 and 803: Supported in FS1117

a. Reference be made to "*high"* quality environments[108];
b. Rewording to read:

   "The formative role of subdivision creating quality environments is recognised through attention to design and servicing needs."[109]
c. Soften the wording so it states that subdivision will "*help to"* create quality environments[110].

226. By his reply evidence, Mr Bryce had come to the view that the objective might appropriately be amended in line with the thinking underlying the third of the submissions only – substituting "*enable"* for *"create".*

227. We largely agree. We do not think it is necessary to add a second adjective. Referring to quality environments already conveys the message that Submission 238 sought.

228. We consider that the more comprehensive amendment sought in Submission 632 would obscure rather than clarify the outcome sought in this objective. Accordingly, we do not recommend that that be accepted.

229. As we have noted in our discussion of Section 27.1, however, the PDP needs to be realistic as to what subdivision can deliver in terms of desirable outcomes. Ultimately, it is one of a number of contributing factors that create quality environments. Accordingly, we agree with Mr Bryce's suggested amendment and recommend the objective be retained with only a minor grammatical change, as follows:

"Subdivision that will enable quality environments to ensure the District is a desirable place to live, visit, work and play."

230. Given the range of alternatives open to us, we consider that this objective aligns well with recommended Objective 3.2.2.1 and is accordingly the most appropriate way in which to achieve the purpose of the Act in this context.

231. Policy 27.2.1.1 as notified read:

"Require subdivision to be consistent with the QLDC Land Development and Subdivision Code of Practice, while recognising opportunities for innovative design."

232. A number of submissions on it sought its deletion[111]. Some of these submissions focussed on the fact that the Code of Practice can be changed without consultation[112]. A number of other submissions focussed on the interrelationship between this and other policies, and the default discretionary rule status[113].

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108 Submission 238: Opposed in FS1107, FS1157, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248 and FS1249

109 Submission 632: Supported in FS1097; Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

110 Submission 806

111 Submissions 248, 453, 567, 632 and 806: Supported in FS1097; Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

112 See in particular Submission 453: Supported in FS1097

113 E.g. Submissions 248 and 567: Supported in FS1097 and FS1117

233. Mr Bryce recommended that reference to the Code of Practice be deleted, largely for the reasons discussed above in the context of Section 27.1, and that the policy require subdivision infrastructure (the subject of the Code of Practice) be designed so as to be fit for purpose.

234. We concur. It is not efficient to have a policy that refers to a document that is likely to be superseded a number of times during the life of the PDP. That will only necessitate a series of future plan changes.

235. The addition we have recommended that Section 27.1 address the sole substantive concern expressed to us, that readers of the PDP might not appreciate the role of the Code of Practice.

236. Accordingly, we recommend that Mr Bryce's suggested amendments to Policy 27.2.1.1 be accepted, subject only to minor grammatical changes, so that it would read:

"Require subdivision infrastructure to be constructed and designed so that it is fit for purpose, while recognising opportunities for innovative design."

237. Policy 27.2.1.2 as notified read:

"*Support subdivision that is consistent with the QLDC Subdivision Design Guidelines, recognising that good subdivision design responds to the neighbourhood context and the opportunities and constraints of the application site."*

238. This policy attracted opposition from the same submitters and for largely the same reasons as are summarised above in relation to Policy 27.2.1.1.

239. Mr Bryce distinguished this policy from the previous one on the basis that it was unlikely that the subdivision guidelines would need to be updated as regularly as the Code of Practice. Based on the evidence of Mr Falconer summarised earlier, we agree that the Subdivision Design Guidelines play a valuable role that should be recognised in the policies of Chapter 27. The concern expressed in Submission 453 is addressed by the fact that, having been incorporated by reference, the Subdivision Design Guidelines can effectively only now be changed by means of a publicly notified Plan Change.

240. Mr Bryce recommended in his reply evidence two amendments to the notified policy: the first to clarify what "*support"* means in this context and the second to be clear that the document referenced is the 2015 version of the Subdivision Design Guidelines. We agree with those amendments. The only further amendments we would recommend are a minor grammatical change and insertion of reference to urban subdivision, to make it clear, as sought by the general submissions already noted, that this is one of the policies that is specific to urban subdivision.

241. Accordingly, we recommend that Policy 27.2.1.2 read as follows:

"*Enable urban subdivision that is consistent with the QLDC Subdivision Design Guidelines 2015, recognising that good subdivision design responds to the neighbourhood context and the opportunities and constraints of the application site."*

242. Policy 27.2.1.3 as notified read:

"Require that allotments are a suitable size and shape, and are able to be serviced and developed to the anticipated land use of the applicable zone."

243. Two submissions sought changes to this policy, one to delete reference to development and to make consequential changes[114] and the other to delete the opening words "*require that"*[115].

244. Mr Bryce did not recommend any change to this policy. We agree with his reasoning. The ability to develop an allotment for the anticipated land use will be one of the key factors that determines whether an allotment is a suitable size and shape. Deleting the opening words would mean that the policy ceases to be a course of action and would rather state an outcome (i.e. objective). We recommend only minor grammatical changes, so that the policy would read:

"Require that allotments are a suitable size and shape, and are able to be serviced and developed for the anticipated land use under the applicable zone provisions."

245. Notified policy 27.2.1.4 reads:

"*Where minimum allotment sizes are not proposed, the extent any adverse effects are mitigated or compensated by achieving:*

a. *Desirable urban design outcomes;*

b. *Greater efficiency in development and use of the land resource;*

c. *Affordable or community housing."*

246. One submission sought it be deleted[116]. Another submission queried whether the word "proposed*"* should be replaced with *"achieved"*[117]. A third submission[118] suggested that the opening words should read, "*where small lot sizes are proposed, the extent….".*

247. Mr Bryce agreed with the submitters seeking amendments that the policy is unclear and requires clarification. What it is actually seeking to address, as Submission 453 surmised, is the position where the minimum allotment sizes are not achieved. We agree with Mr Bryce that the initial point that needs to be made is that failure to comply with minimum allotment sizes is not a desirable state of affairs. In some circumstances in the urban environment (and we think it needs to be made clear that it is the urban environment), that may nevertheless be acceptable based on the criteria identified in the policy.

248. In summary, we recommend acceptance of Mr Bryce's suggested amended policy wording with one addition (to focus the second part of the policy on urban environments) and minor reformatting changes. It would therefore read as follows:

"Discourage non-compliance with minimum allotment sizes. However, where minimum allotment sizes are not achieved in urban areas, consideration will be given to whether any adverse effects are mitigated or compensated by providing:

a. desirable urban design outcomes.

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114 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

115 Submission 806

116 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

117 Submission 453

118 Submission 806

b. greater efficiency in the development and use of the land resource.

c. affordable or community housing."

249. Policy 27.2.1.5 as notified, read:

"The Council recognises that there is an expectation by future landowners that the effects and resources required of anticipated land uses will have been resolved through the subdivision approval process."

250. Submission 453 sought a minor grammatical change so that the policy would refer to effects and resources required "*by"* anticipated land uses. Submissions 632[119] and 806 sought deletion of this policy. The latter submission suggested that it was not framed as a policy.

251. Mr Bryce recommended that the minor grammatical change sought by Submission 453 be accepted but otherwise that the policy remain unamended.

252. For our part, we think that Submission 806 made a valid point. The policy needs to start with a verb to express a course of action.

253. We also have a concern that subdivision consent processes will not necessarily resolve all effects of anticipated land uses. That is what land use consent applications are for.

254. To state more clearly what course of action the policy envisages being undertaken, it should start with the words "*recognise that"*. That might be considered to rather beg the question as to how that recognition might be implemented. We think the answer to that rhetorical question is that it will be implemented through the subdivision approval process considering these matters. The end result we have in mind sits between the outcome sought by submitters and the status quo.

255. In summary, therefore, we recommend that Policy 27.2.1.5 be amended to read:

"Recognise that there is an expectation by future landowners that the key effects of and resources required by anticipated land uses will have been resolved through the subdivision approval process."

256. Policy 27.2.1.6, as notified, read:

"Ensure the requirements of other relevant agencies are fully integrated into the subdivision development process."

257. The only submission seeking change to this policy sought its deletion[120]. Mr Bryce acknowledged that it might be argued that this policy is not necessary to give effect to the notified Objective 27.2.1, but considered that it was still helpful in guiding PDP users. We concur and note that Mr Wells, who gave evidence for submitter 632, did not provide any reasons why this particular policy should be deleted.

258. Accordingly, we recommend that Policy 27.2.1.6 be retained without amendment.

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119 Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

120 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

259. Policy 27.2.1.7, as notified, read:

"Recognise there will be certain subdivision activities, such as boundary adjustments, that are undertaken only for ownership purposes and will not require the provision of services."

260. The sole submission seeking a change to this policy[121] sought that it be amended to ensure that boundary adjustments are not subject to the discretionary activity rule [i.e. notified Rule 27.4.1] and are exempt from the policies relating to provision of services.

261. Mr Bryce did not recommend any change to this policy specifically in response to the concern expressed in Submission 806. Mr Bryce drew our attention to his separate discussion of rules related to boundary adjustments, but in summary, took the view that the policy already states that some subdivision activities and in particular boundary adjustments, will not require the provision of services. We agree. The only amendment we recommend is one suggested by Mr Bryce in his reply evidence, following a discussion we had with him, that reference to "*ownership purposes"* should be deleted. We are not at all sure what that means and we think that there might be a number of purposes that would justify a boundary adjustment. We do not regard that as a substantive change since the motivation of the applicant is not material to the course of action the policy identifies.

262. Accordingly, we recommend that Policy 27.2.1.7 be amended to read:

"Recognise there will be certain subdivision activities, such as boundary adjustments, that will not require the provision of services."

263. Mr Bryce recommended two new policies for this objective, the first relating to subdivision of a residential flat from a residential unit, and the second relating to subdivision of land resulting in division of a residential building platform. As Mr Bryce explained in his reply evidence, these suggested new policies (27.2.1.8 and 27.2.1.9) arose from a discussion we had with him regarding the apparent lack of any policy support for non-complying activity rules governing these activities. Mr Bryce confirmed our concern that there is something of a policy vacuum as regards these activities and, as such, non-complying rule status is somewhat illusory – if there are no directly applicable objectives and policies, it is difficult to imagine that an application would ever not pass through the second statutory gateway in section 104D(1)(b). Put simply, if there are no objectives and policies that the application could be contrary to, the conclusion would inevitably be that the statutory precondition is satisfied. This is an unsatisfactory position in the structuring of Chapter 27 which ought to be filled and we agree with Mr Bryce that the corollary of a non-complying activity is a policy indicating that generally, these activities should be avoided.

264. However, the fact that there is a policy vacuum is not a sufficient justification for new policies to be inserted into the chapter, certainly where they would have a substantive effect on the implementation of the PDP's provisions, in the absence of a submission seeking that relief.

265. In this case, there does not appear to be any submission seeking policies along the lines suggested by Mr Bryce and there is only one submission on the relevant rules[122] related to Rule 27.4.2(d) as notified (Rule 27.5.19 in our revised chapter). That submission, however, sought only that the rule be clarified. While we have approached the issue on the basis that a

121 Submission 806

122 Submission 453

submission on a rule could provide a jurisdictional basis for consequential changes to objectives and policies if such changes can be said to be fairly and reasonably raised in the submission[123], the submission in this case was associated with more general relief seeking that subdivisions around existing buildings should be controlled activities. We do not consider that the submission gives any jurisdiction for firming up on the non-complying status of the activity through a supporting policy.

266. Accordingly, we have concluded that while worthwhile, we do not have jurisdiction to accept Mr Bryce's recommendations in this regard.

267. For these reasons, the Chair recommended to the Council that policies be introduced by way of variation to address this policy gap in his Minute dated 22 May 2017.Having reviewed the policies recommended as above, we have concluded that they are the most appropriate way to achieve Objective 27.2.1, given the alternatives open to us, and the jurisdictional limitations we have discussed.

4.3 Objective 27.2.2 and Policies Following

268. Objective 27.2.2. as notified read:

"Subdivision design achieves benefits for the subdivider, future residents and the community."

269. One submitter[124] sought that this objective be deleted. The evidence presented by the submitter did not seek to support this submission with detailed reasons. Given that the only other submissions on the objective sought its retention, we agree with Mr Bryce's recommendation that it should remain as notified. As Mr Bryce recorded[125], the objective gives effect to the Proposed RPS (see in particular Objective 4.5) and the strategic direction of the PDP (see in particular recommended Objective 3.2.2.1). We therefore conclude that Objective 27.2.2 in its notified form is the most appropriate way to achieve the purpose of the Act in this context.

270. Policy 27.2.2.1, as notified read:

"Ensure subdivision design provides a high level of amenity for future residents by aligning roads and allotments to maximise sunlight access."

271. The only submission seeking to change this policy [126] sought that it be reworded to read:

"Encourage roads and allotments to align in a manner that maximises sunlight access."

272. Mr Bryce did not recommend that the suggested amendment be made. As he observed, it would weaken the outcome sought. That does not necessarily mean that it is not the most appropriate way to achieve the objective, but in this case, the evidence the submitter called did not support the relief sought. Indeed, Mr Wells pronounced himself broadly satisfied with the amendments Mr Bryce had recommended, and his reasons for his recommendations.

273. Accordingly, we likewise recommend no change to the suggested policy.

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123 Refer the Legal advice received by the Hearing Panel from Meredith Connell dated 9 August 2016

124 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

125 Updated Section 42A Report at 18.48

126 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277 and FS1283 and FS1316

274. Policy 27.2.2 as notified, read:

"Ensure subdivision design maximises the opportunity for buildings to front the road."

275. There were no submissions on this policy and Mr Bryce recommended that it remain as notified.

276. For our part, we think amendment is required in line with the general submissions already noted, to make it clear that this policy applies to urban subdivisions, but otherwise agree that no change to it is required.

277. Accordingly, we recommend that the policy be amended to read:

"Ensure subdivision design maximises the opportunity for buildings in urban areas to front the road."

278. Policy 27.2.2.3 as notified read:

"Open spaces and reserves are located in appropriate locations having regard to topography, accessibility, use and ease of maintenance, and are a practicable size for their intended use."

279. Submission 632[127] sought that this policy be reworded to be more direct, starting with the verb "*locate"*.

280. The Council's corporate submission[128] sought that reference to "*use"* and "*practicable* size*"* be deleted from the policy.

281. Mr Bryce supported the relief sought by Submission 632 in substance, while suggesting a grammatical change to better express the intent, having regard to the altered wording. Mr Bryce did not support the Council's submission on the basis that size is relevant to future use.

282. We agree with Mr Bryce's recommendation for the reasons that he set out in his evidence[129]. The stance advocated in the Council's submission might in our view also be considered inconsistent with Policy 27.2.1.3. Accordingly, we recommend that Policy 27.2.2.3 be reworded to read:

"*Locate open spaces and reserves having regard to topography, accessibility, use and ease of maintenance, while ensuring these areas are a practicable size for their intended use."*

283. Policy 27.2.2.4 as notified read:

"Subdivision will have good and integrated connections and accessibility to existing and planned areas of employment, community facilities, services, trails, public transport in adjoining neighbourhoods."

284. Submission 524 sought that reference to community activities be inserted into this policy. Submission 632[130] sought a more comprehensive amendment so that the policy would read:

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127 Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

128 Submission 809

129 Updated Section 42A Report at 18.50 and 18.52

130 Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

"Design subdivisions to achieve connectivity between employment locations, community facilities, services, recreation facilities and adjoining neighbourhoods."

285. Mr Bryce recommended acceptance of the suggestion in Submission 524 and rejection of the more comprehensive amendment sought in Submission 632 on the basis that the latter would weaken the outcomes sought in the policy. He did accept, however, that the policy needed to be expressed as a course of action rather than as an outcome, which we considered was a positive feature of that submission.

286. Mr Bryce also recommended expansion of the reference to adjoining neighbourhoods to make it clear that the neighbourhoods in question might be planned neighbourhoods, and that they might be either within the subdivision area or adjoining it. Having initially recommended that reference to trail connections be inserted[131], after discussion with us at the hearing, Mr Bryce came around to the view that this was unnecessary given the initial reference to connections at the start of the policy. We agree with his position on both points, and with the reformatting Mr Bryce suggested, to have a numbered list of the matters being connected (subject in the latter case to some minor reformatting to standardise the style of the sub-policies with the balance of the Chapters).

287. We therefore largely accept Mr Bryce's recommendations. It follows that we do not consider additional changes are required to address submissions 625 and 671[132]. We also do not agree that reference needs to be made to community activities rather than community facilities. The point being made in Submission 524 is that the current definition of "*community facilities"* is anomalous and needs to be corrected, among other things to include educational facilities. We agree with the underlying point (which has already been discussed in the Hearing Panel's Report 3). There are two ways in which the issue can be addressed. The definition of "*community facilities"* could be revised and expanded. Alternatively, and more simply, the existing definition could simply be deleted. We prefer the latter approach. The existing definition serves no purpose (there is no community facility subzone in the PDP) and in its ordinary natural meaning, community facilities would include recreational facilities, which would address another point made in Submission 632. Accordingly, we recommend to the Hearing Panel on Stream 10 that the definition of "*community facilities"* be deleted.

288. Lastly, this is another policy that is specific to the urban environment, and this also needs to be made clear.

289. In summary, therefore, we recommend that Policy 27.2.2.4 be reworded to read:

"Urban subdivision *shall seek to provide for good and integrated connections and accessibility to:*

a. *existing and planned areas of employment;*
b. *community facilities;*
c. *services;*
d. *trails;*
e. *public transport; and*
f. *existing and planned neighbourhoods both within and adjoining the subdivision area."*

131 Mr Bryce thought that this would address the relief sought in submissions 625 and 671 (seeking recognition in a policy for the need for trails as part of the subdivision process)

132 We therefore recommended acceptance of Further Submission 1347

290. Policy 27.2.2.5 as notified read:

"Subdivision design will provide for safe walking and cycling connections that reduce vehicle dependence within the subdivision."

291. The only submission seeking to amend this policy was Submission 632[133], which sought that it be reworded to read:

"Encourage walking and cycling and discourage vehicle dependence through safe connections between and within neighbourhoods."

292. We think that consideration of this policy needs to occur in tandem with consideration of the following Policy (27.2.2.6) which read as notified:

"Subdivision design will integrate neighbourhoods by creating and utilising connections that are easy and safe to use for pedestrians and cyclists."

293. Submission 632 sought that that policy be deleted[134]. When we discussed these two policies with Mr Bryce, he agreed with our initial view that there is a significant degree of duplication between them. Mr Bryce recommended that they be combined into one policy in his reply evidence. We concur.

294. To that extent, we agree also with the thinking underlying Submission 632.

295. We agree, however, with Mr Bryce that the wording proposed in Submission 632 would soften the policy too much, and thus would not be the most appropriate way to achieve the objective.

296. We therefore agree with Mr Bryce's suggested rewording save that this is another urban focussed policy. We therefore recommend an amendment to make that clear.

297. In summary, we recommend that policies 27.2.2.5 and 27.2.2.6 be combined as new Policy 27.2.2.5 reading as follows:

"Urban subdivision design will integrate neighbourhoods by creating and utilising connections that are easy and safe to use for pedestrians and cyclists, and that reduce vehicle dependence within the subdivision."

298. Policy 27.2.2.7 as notified read:

"Encourage innovative subdivision design that responds to the local context, climate, land forms and opportunities for views or shelter."

299. The only submission seeking to amend this policy[135] sought deletion of the word "*innovative*".

300. Mr Bryce did not recommend that that submission be accepted, and the submitter did not pursue the point when they appeared at the hearing. When we discussed the matter with Mr Bryce, he agreed that reference to innovative design was not necessary in the policy, but he felt that innovation was something to be encouraged. We agree and, accordingly, we

133 Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

134 Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

135 Submission 453

recommend that the policy remain without change (other than by being renumbered 27.2.2.6).

301. Policy 27.2.2.8 as notified, read:

"Encourage informal surveillance of streets and the public realm for safety by requiring that the minority of allotments within a subdivision are fronting, or have primary access to, cul-de-sacs and private lanes."

302. Submission 632[136] sought that this policy be deleted. Mr Bryce did not recommend any amendment to it.

303. In our view, this policy needs to be considered in tandem with the following policy (27.2.2.9) which as notified, read:

"Encourage informal surveillance for safety by ensuring open spaces and transport corridors are visible and overlooked by adjacent sites and dwellings."

304. Submission 632 was again the only submission seeking substantive change to Policy 27.2.2.9, so that it would read:

"Promote safety through overlooking of open spaces and transport corridors from adjacent sites and dwellings and effective lighting."

305. Mr Bryce supported this relief in part. The exception was that he thought that retaining specific reference to '*informal surveillance"* provided greater clarity.

306. Stepping back from these policies, we think there is substantial duplication between them. Streets in the public realm are open spaces (as well as being transport corridors). We agree with Mr Bryce that the concept of information surveillance is a helpful one. However, we also think that there is a case for informal surveillance of cul-de-sacs and private lanes on safety grounds.

307. Lastly, this is another policy that is specific to urban areas and this should be made clear.

308. In summary, therefore, we recommend acceptance of Submission 632 by deletion of notified Policy 27.2.2.8 and acceptance in part of that submitter's relief in relation to the following policy, so that the end result is one policy, renumbered 27.2.2.7, reading:

> *"Promote informal surveillance for safety in urban areas through overlooking of open spaces and transport corridors from adjacent sites and dwellings and by effective lighting."*

309. In his Section 42A Report, Mr Bryce recommended inclusion of another policy addressing subdivision near electricity transmission corridors with reference to amenity and urban design outcomes and to minimising potential reverse sensitivity effects.

310. Mr Bryce's recommendation reflected his consideration of a submission by Transpower New Zealand Limited[137] seeking a new objective of reverse sensitivity effects on the National Grid.

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136 Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

137 Submission 805: Supported in FS1211

As already discussed, Mr Bryce recommended that this matter be addressed through a new policy supporting objective 27.2.2. Also as above, we agreed with that recommendation.

311. Ms McLeod gave evidence for Transpower supporting, in principle, Mr Bryce's recommendation, but seeking amendments to the language that he had suggested. Specifically, Ms McLeod suggested that the policy be specific to the National Grid (she opposed, in particular, an amendment to expand it to cover the Aurora Line Network), broadening it to talk about potential direct effects on the National Grid, not just reverse sensitivity effects, and lastly amending it to require avoidance of such effects, rather than their minimisation. She was of the opinion that these amendments were necessary to better give effect to the NPSET 2008.

312. We also need to consider, in this context, the relief sought by Aurora Energy Limited[138], which was addressed in the submissions of Ms Irving and the evidence of Ms Dowd. Aurora had already sought, in the Stream 1B hearing, recognition of what it described as critical electricity lines (66kV 33kV and 11Kv sub-transmission and distribution lines of strategic importance to its line network, and to its customers). Aurora sought a new policy that would read:

"Avoid, remedy or mitigate reverse sensitivity effects on infrastructure."

313. In his reply evidence, Mr Bryce agreed with the amendments suggested by Ms McLeod in her evidence and recommended that the policy be expanded to cater for sub-transmission lines, as sought by Aurora. Mr Bryce drew on recommendations which Mr Barr had made to the Hearing Panel considering Chapter 30 (Stream 5) of the PDP suggesting that the Aurora's sub-transmission lines needed to be specifically recognised through an amended policy and rule framework.

314. In its Report 3, the Hearing Panel recommended that the primary focus at a strategic level should be on regionally significant infrastructure. Further, that identification of what is regionally significant should primarily be a matter for the Regional Council. The Hearing Panel noted in this regard that the Proposed RPS deliberately excludes electricity transmission infrastructure that does not form part of the National Grid when identifying infrastructure that is regionally significant.

315. As Ms Irving put to us, however, the fact that the Regional Council has not chosen to class Aurora's line network (or components thereof) as being regionally significant, does not mean that the PDP should not provide for it at a more detailed level. Ms Irving also drew to our attention provisions of the Proposed RPS making provision for electricity distribution infrastructure. We note in particular Policy 4.4.5 of the Proposed RPS which states:

"Protect electricity distribution infrastructure, by all of the following:

a. Recognising the functional needs of electricity distribution activities;

b. Restricting the establishment of activities that may result in reverse sensitivity effects;

c. Avoiding, remedying or mitigating adverse effects from other activities on the functional needs of that infrastructure;

d. Protecting existing distribution corridors for infrastructure needs, now and for the future."

[138] Submission 635: Supported in FS1211

316. Mr Bryce's recommendation in his reply evidence was that the appropriate policy to pick up on these issues should read:

"Manage subdivision within or near to electricity transmission corridors and electricity sub-transmission lines to facilitate good amenity and urban design outcomes, while avoiding potential adverse effects (including reverse sensitivity effects) on the National Grid and electricity sub-transmission lines."

317. We have a number of difficulties with that suggested policy wording. First, focussing on the National Grid and on what is required to implement the NPSET 2008, policy 10 of that document requires that "*decision-makers must to the extent reasonably possible manage activities to avoid reverse sensitivity effects on the electricity transmission network and to ensure that operation, maintenance, upgrading, and development of the electricity transmission network is not compromised."*

318. As noted in the report of the Hearing Panel considering Chapter 4[139] inclusion of the qualifier "*to the extent reasonably possible"* means that this is not the same thing as requiring that all adverse effects be avoided, given the guidance we have from the Supreme Court in *King Salmon* as to what the latter means. The Hearing Panel's conclusion was that it was both consistent with the NPSET 2008 and appropriate that reverse sensitivity effects on regionally significant infrastructure be minimised. We take the same view in this context.

319. We do agree though with Ms McLeod and Mr Bryce that the focus should not solely be on reverse sensitivity effects. Certainly, with the National Grid, direct effects need to be managed so as to avoid compromising the operation, maintenance, upgrading and development of the National Grid "*to the extent reasonably possible"*.

320. Turning to the Aurora Network, while the Regional Council has confirmed that it is not regionally or nationally significant, it is clearly important to the health and wellbeing of the District's people and communities.

321. Neither the Proposed RPS nor Aurora's own submission would, however, support a policy of avoiding reverse sensitivity effects on the Aurora line network.

322. As above, the Proposed RPS talks in terms of avoiding, remedying or mitigating adverse effects from other activities "*on the functional needs"* of electricity distribution infrastructure. Aurora's submission, as above, seeks that reverse sensitivity effects be avoided, remedied or mitigated.

323. The other point to note is that the Proposed RPS addresses the requirements of electricity distribution infrastructure which it defines as "*lines and associated equipment used for the conveyance of electricity on lines other than lines that are part of the National Grid."*

324. In other words, it makes no distinction between different elements of line networks like those of Aurora. Accordingly, we take the view that introducing some subset of the Aurora Network (e.g. sub-transmission lines) is likely only to promote confusion, especially given that Aurora's own submission does not seek a higher level of protection from reverse sensitivity effects than the Proposed RPS would require for the entire distribution network. We note also that the Hearing Panel considering Chapter 30 (Report 8) has recommended that Aurora's submissions

139 Report 3 at [937]

(and the Staff Recommendation) that sub-transmission lines be recognised in separate objectives, policies and rules in that chapter not be accepted.

325. We also think that the reference to electricity transmission corridors needs to be clarified. Policy 11 of the NPSET 2008 requires identification of buffer corridors around elements of the National Grid and Ms McLeod agreed that the appropriate reference in the rules would be to the National Grid Corridor. We consider that this policy should likewise refer to the National Grid Corridor. Also, having defined a buffer corridor, the focus should be on activities within that corridor. It is only other electricity lines, where a corridor has not been defined, where nearby subdivision might be an issue.

326. In summary, we recommend that a new policy be inserted as 27.2.2.8 reading:

"Manage subdivision within the National Grid Corridor or near to electricity distribution lines to facilitate good amenity and urban design outcomes, while minimising potential adverse effects (including reverse sensitivity effects) on the National Grid and avoiding, remedying or mitigating adverse effects (including reverse sensitivity effects) on electricity distribution lines."

327. Submission 632[140] sought a new policy in this section related to heritage values. Mr Bryce's view was that that matters the policy would address were already adequately covered in existing policies. We concur – see in particular the policies related to Objective 27.2.4 that we will discuss shortly.

328. The other submission seeking a new policy in this part of the Chapter we should discuss at this time is that of Queenstown Airport Corporation[141] seeking a new policy that would discourage activities "*that encourage the congregation of birds within aircraft flight paths."*

329. This is of course linked to the point we discussed in the context of the default subdivision rules, as to whether the potential bird strike should be a matter of discretion reserved for consideration.

330. While, as already noted, Mr Bryce recommended that provision should be made in the rules as sought by QAC, he did not reconsider the recommendation in his Section 42A Report that this was not an appropriate matter for a new policy.

331. For our part, the same reasoning that prompted us to reject the QAC submission in the context of a specific discretion of the rules leads us to the view that it should not be provided for in a policy either. Put simply, QAC did not provide us with the evidential foundation for a policy and having decided that it is not appropriate to leave it as a discretion within the rules, it would be inconsistent to insert a policy to the same effect.

332. Accordingly, we recommend that the QAC submission be rejected.

333. Having reviewed the policies discussed above and the alternatives open to us, we record our view that policies 27.2.1-27.2.8 recommended above are the most appropriate way in which to achieve Objective 27.2.2.

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140 Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

141 Submission 433: Opposed in FS1097 and FS1117

4.4 Objective 27.2.3 and Policies Following

334. Objective 27.2.3 as notified read as follows:

"Recognise the potential of small scale and infill subdivision while acknowledging that the opportunities to undertake comprehensive design are limited."

335. Submissions seeking to *amend* this objective sought either to soften the last phrase (to say that opportunities may be limited *"in some circumstances"*)[142] or to convert it into a policy with slightly amended wording[143].

336. Mr Bryce considered that the notified objective does indeed read like a policy. Rather than converting it to a policy, however, as sought by Submission 632, he recommended amendments to reframe it as an outcome. Mr Bryce's suggested rewording also addressed the point taken in Submission 208. While the Hearing Panel has had difficulty in other contexts with the language now recommended by Mr Bryce (recognise and provide for)[144], the following policies flesh out how small-scale and infill subdivision might be recognised and provided for and thus, in this context, we regard it as acceptable. We do think that the focus of the objective is on the potential of small scale and infill subdivision in urban areas and that this should be made clear. Small scale subdivision in rural areas raises different, and not necessarily positive, issues. Otherwise, we recommend that Mr Bryce's wording be accepted with only minor grammatical changes, with the result that the objective would read:

"The potential of small scale and infill subdivision in urban areas is recognised and provided for while acknowledging their design limitations."

337. For the reasons set out above, and given the jurisdictional limitations on our choosing any alternative rewording, we consider that this objective is the most appropriate way to achieve the purpose of the Act as it relates to small scale and infill subdivision.

338. Policy 27.3.2.1, as notified, read as follows:

"Acknowledge that small scale subdivision, (for example subdivision involving the creation of fewer than four allotments) and infill subdivision where the subdivision involves established buildings, might have limited opportunities to give effect to policies 27.2.2.4, 27.2.2.6 and 27.2.2.8."

339. There were no submissions seeking amendment to this policy and Mr Bryce recommended that the sole submission supporting it[145] be accepted on the basis that the policy provided clear guidance and was effective in guiding plan users as the intent of the objective. He therefore recommended that the policy be retained as notified, other than to revise the numbering of the policy cross references to reflect other recommendations.

340. We agree in substance with that position. As with the objective, we think that the policy is focussing on small scale subdivision in urban areas (that is the focus of the cross-referenced

142 Submission 208

143 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

144 Refer Report 3 at Section 1.9

145 Submission 691

policies). It should make that clear. The only other amendment we suggest is to clarity what "*acknowledgement"* means in this context. Logically, it must mean that the design limitations are accepted.

341. Accordingly, we recommend that the policy be slightly amended from Mr Bryce's recommendation to read:

"Accept that small scale subdivision in urban areas, (for example subdivision involving the creation of fewer than four allotments), and infill subdivision where the subdivision involves established buildings, might have limited opportunities to give effect to policies 27.2.2.4, 27.2.2.5 and 27.2.2.7."

342. Policy 27.2.3.2 as notified read:

"While acknowledging potential limitations, encourage small scale and infill subdivision to:

- *Ensure lots are shaped and sized to allow adequate sunlight to living in outdoor spaces, and provide adequate on-site amenity and privacy;*
- *Where possible, locate lots so that they over-look and front road and open spaces;*
- *Where possible, avoid the creation of multiple rear sitesWhere buildings are constructed with the intent of a future subdivision, encourage site and development design to maintain, create and enhance positive visual coherence of the development with the surrounding neighbourhood;*
- *Identify and create opportunities for connections to services and facilities in the neighbourhood."*

343. The only submissions seeking amendment of this policy sought variously *qualification* of the third bullet point to insert a practicability test[146] or its deletion[147].

344. Mr Bryce recommended that the substance of Submission 453 be accepted. He preferred, however, to delete all reference to *possibilities*. Mr Bryce also recommended reformatting so that, rather than setting subparagraphs as bullet points, numbered sub policies be used.

345. The evidence advanced by Submitter 632 did not support the relief sought on this policy and we thus have no evidential basis to consider its deletion.

346. We agree with Mr Bryce's preference that the policy not speak in terms of what is possible, but rather in terms of what is practicable. We also agree that alphanumeric listing sub-policies, will assist future reference to them, subject to minor reformatting for consistency. As with the objective, however, the application of the policy should be related to urban subdivision.

347. Accordingly, we recommend that Policy 27.2.3.2 be reworded as follows:

"While acknowledging potential limitations, encourage small scale and infill subdivision in urban areas to:

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146 Submission 453

147 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

a. *ensure lots are shaped and sized to allow adequate sunlight to living areas and outdoor spaces, and provide adequate on-site amenity and privacy;*
b. *where possible, locate lots so that they over-look and front road and open spaces;*
c. *avoid the creation of multiple rear sites, except where avoidance is not practicable;*
d. *where buildings are constructed with the intent of a future subdivision, encourage site and development design to maintain, create and enhance positive visual coherence of the development with the surrounding neighbourhood;*
e. *identify and create opportunities for connections to services and facilities in the neighbourhood."*

348. Having considered the alternatives open to us, we have concluded that Policies 27.2.3.1 and 27.2.3.2 as amended above, are the most appropriate way in which to achieve Objective 27.2.3.

4.5 Objective 27.2.4 and Policies Following

349. Objective 27.2.4 as notified read:
"Identify, incorporate and enhance natural features and heritage".

350. A number of submissions supported this objective[148]. One submission sought its deletion[149]. Another submission[150] sought that the objective be reworded to read:

"Identify and where possible incorporate and enhance natural features and heritage values within subdivision design."

351. Mr Bryce recommended rejection of the submission seeking deletion of this objective, pointing to strategic objectives seeking to protect heritage values[151]. Mr Bryce, however, thought elements of the relief sought in Submission 806 should be accepted – to refer to heritage values and to reference subdivision design – and that the term "*natural features"* be clarified so as to remove the potential that it might be seen as restricted to ONFs. Mr Bryce noted in this regard that the policies seeking to achieve this objective focussed, among other things, on biodiversity values. Mr Bryce also recommended that the objective be restructured to be expressed as an outcome rather than a course of action.

352. Mr Bryce did not specifically discuss the request in Submission 806 that the objective be qualified by a reference to what is possible. We do not consider that the outcome sought needs to be softened in the manner suggested. While it is obviously correct that subdivision design cannot enhance, for instance, natural features in all cases, it does not mean that that should not be the aspiration of the PDP. It is for the policies to provide a more nuanced course of action.

353. Accordingly, we agree with Mr Bryce's recommendations with the result that Objective 27.2.4 would be revised to read:

"Natural features, indigenous biodiversity and heritage values are identified, incorporated and enhanced within subdivision design."

148 Submissions 117, 339, 426 and 706: Opposed in FS1162
149 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316
150 Submission 806
151 Refer recommended Objective 3.2.3.2

354. We consider that this objective is the most appropriate way to achieve the purpose of the Act in this context having regard to the strategic objectives we have recommended in Chapter 3 and the alternatives available to us.

355. Policy 27.2.4.1 as notified read:

"Enhance biodiversity, riparian and amenity values by incorporating existing and planned waterways and vegetation into the design of subdivision, transport corridors and open spaces."

356. Submissions seeking substantive amendment to this policy included a request that it commence "*where possible and practical enhance…."*[152], seeking that the words "*and protecting"* be added[153], and seeking its amendment to read:

"Incorporate existing and planned waterways and vegetation into the design of subdivision, transport corridors and open spaces, as a means of mitigating effects and where possible enhancing biodiversity, riparian and amenity values."[154]

357. Mr Bryce did not recommend acceptance of a policy seeking to soften the focus on enhancement of relevant values. Addressing Submission 453 specifically, he felt that the relief sought would weaken the intent of the policy which, in his view, responded to the outcomes of the strategic directions in Chapter 3 and was consistent with sections 6(a) and 7(c) of the Act.

358. By the same token, however, Mr Bryce did not recommend acceptance of Submission 809 since that would be going further than the notified objective that the policy seeks to achieve.

359. While we understand and agree with Mr Bryce's reasoning, in principle, we do not consider that he has addressed the fundamental issue posed by Submissions 453 and 806, namely that it will not always be possible to achieve enhancement of biodiversity, riparian and amenity values through subdivision design. Removal of existing vegetation may also, in some cases, be desirable as a means to enhance biodiversity values given that that term will encompass everything from pristine indigenous bush to wilding pines and gorse. Similarly, if an existing waterway is low in natural values, its incorporation into subdivision design may not be desirable.

360. The qualifications suggested in Submissions 806 (*"where possible"*) and 453 ("*where possible and* practical*")* go too far, however, and, as Mr Bryce notes, would weaken the intent of the policy.

361. To address these points, we recommend that the policy be revised to read:

"Incorporate existing and planned waterways and vegetation into the design of subdivision, transport *corridors and open spaces where that will maintain or enhance biodiversity, riparian and amenity values."*

362. Policy 27.2.4.2 as notified, read:

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152 Submission 453

153 Submission 809: Opposed in FS1097

154 Submission 806

"Ensure that *subdivision and changes to the use of land that results from subdivision do not reduce the values of heritage items and protected features scheduled or identified in the District Plan*."

363. Submissions on this policy either supported it[155] or sought its deletion[156].

364. Mr Bryce noted the direct connection between the policy and the notified objective and accordingly recommended that the policy remain in its existing form.

365. We agree that the policy responds directly to the objective and should be retained. Consequent on the Hearing Panel's recommendations in relation to management of heritage values[157] we recommend minor changes to be consistent with the recommended form of Chapter 26, as follows:

"Ensure that subdivision and changes to the use of land that result from subdivision do not reduce the values of heritage features and other protected items scheduled or identified in the District Plan."

366. Policy 27.2.4.3 as notified read:
"The Council *will support subdivision design that includes the joint use of stormwater and flood* management *networks with open spaces and pedestrian/cycling transport corridors and recreational* opportunities *where these opportunities arise."*

367. Submissions on this policy ranged between support for it in its current form[158], its deletion[159], its amendment to address situations where joint use may not be appropriate because of resulting adverse effects on the environment[160], and amendment to remove the focus on the Council's actions, substituting "*encourage"* at the front of the policy[161].

368. Mr Bryce supported the policy direction of this policy, but recommended that it be relocated to fall under Objective 27.2.5. Given that that objective relates to infrastructure and services, including stormwater and flood management, we agree. We will return to the point in that context. Accordingly, we accept Mr Bryce's recommendation and recommend that the policy should be deleted from section 27.2.4.

369. Policy 27.2.4.4 as notified read:

"Encourage the protection of heritage and archaeological sites, and avoid the unacceptable loss of archaeological sites."

370. Submissions on this policy either sought its deletion[162] or clarification of what "*unacceptable loss"* means[163].

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155 Submissions 339, 706: Opposed in FS1162
156 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316
157 See Section 6.5 of Report 4
158 Submissions 339 and 706: Opposed in FS1162
159 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316
160 Submission 117 – noting that the Summary of Submissions did not correctly record the relief sought in this submission.
161 Submission 806
162 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316
163 Submission 806

371. Mr Bryce recommended that this policy be retained in his Section 42A Report while agreeing with Submission 806 that the term "*unacceptable loss"* was not easily defined. Mr Bryce drew attention, in particular, to the strength of the intention underlying the policy. When we discussed the point with him, he accepted that the term is problematic, but frankly acknowledged that he was having difficulty identifying an alternative form of words that was suitable. When he returned to the point in reply, Mr Bryce drew on the Council staff reply on Chapter 26 suggesting that the term "*unacceptable"* should be deleted and the policy amended to focus on avoidance in the first instance, and to mitigation proportionate to the level of significance of the feature where avoidance cannot reasonably be amended.

372. Mr Bryce also suggested that the opening words of the policy should be "*provide for"* rather than "*encourage"* on the basis that this would better align with the provisions of the Act.

373. While Mr Bryce's suggested amendment to this policy does indeed provide the clarification which Submission 806 sought, we have a degree of unease regarding the extent to which this policy will have moved if we accept Mr Bryce's recommendation on that relatively slender jurisdictional base. We note that Submission 806 suggested (in the reasons for the relief sought) that regard should be had to the relative significance of the archaeological site when determining what loss is unacceptable, but Mr Bryce suggests moving that concept some distance. We are also concerned about the proposed amendment to the start of the policy which would make it more restrictive without any submission having sought that end result.

374. Standing back from these concerns, we note that there is significant duplication between this policy and the notified Policies 27.2.4.2 (addressing retention of the values of heritage features) and 27.2.4.6 (regarding protection of archaeological sites). We have come to the view that rather than attempt to massage an unsatisfactory policy with limited assistance from submissions suggesting viable alternatives, the better course is to delete this policy and rely on the other policies just noted to address heritage and archaeological aspects of the relevant objective. We therefore recommend that notified Policy 27.2.4.4 be deleted (i.e. that Submission 632 be accepted).

375. Policy 27.2.4.5 as notified read:

"Ensure opportunity for the input of the applicable agencies where the subdivision and resulting development could modify or destroy any archaeological sites."

376. The only submissions on this policy[164] sought its deletion.

377. Mr Bryce recommended that those submissions be accepted on the basis that the policy simply duplicates a process already entrenched in the Act and in other legislation. In particular, in his view, the Act would replicate the statutory requirements under the Heritage New Zealand Pouhere Taonga Act 2014.

378. We agree with Mr Bryce's reasoning. As he notes, the proposed rules of Chapter 27 provide for consideration whether Heritage New Zealand is an affected party in any given case. Heritage New Zealand exercises control over modification or destruction of archaeological sites under its own Act and we do not think it is necessary to provide for its involvement in a policy of this kind. We also note that Heritage New Zealand was not among the further submitters opposing deletion of this policy.

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[164] Submissions 632 and 806: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

379. We therefore recommend deletion of notified Policy 27.2.4.5.

380. Policy 27.2.4.6 as notified, read:

"Encourage subdivision design to protect and incorporate archaeological sites or cultural features, recognising these features can contribute to and create a sense of place. Where applicable, have regard to Maori culture and traditions in relation to ancestral lands, water, sites, wahi tapu and other taonga."

381. One submission sought deletion of this policy[165]. Another submission sought its amendment to refer to protection of archaeological sites or cultural features where possible[166].

382. Mr Bryce did not recommend acceptance of either submission. In his view, the notified policy is effective in implementing the outcomes of the relevant objective. As regards the amendments sought in Submission 806, Mr Bryce suggested to us that they did not adequately respond to sections 6(e) and 6(f) of the Act.

383. We agree with Mr Bryce's reasoning, while noting that he might also have drawn support for his position from the Proposed RPS. Given our recommendation, as above, that notified Policy 27.2.4.4 be deleted, it is important that the provision for protection of archaeological sites and cultural features in Policy 27.2.4.6 be retained. Indeed, were there jurisdiction to consider it, the provisions noted by Mr Bryce, along with the Proposed RPS, would have justified, if anything, a more directive policy stance. As regards the specific concern expressed in Submission 806 that provision for cultural features is problematic if they are not clearly identified, we understand this will be addressed in a subsequent stage of the District Plan review process.

384. Accordingly, we recommend that notified Policy 27.2.4.6 be retained unamended, other than to renumber it 27.2.4.3.

385. Notified Policy 27.2.4.7 read:

"Encourage initiatives to protect and enhance landscape, vegetation and indigenous biodiversity by having regard to:

a. *Whether any landscape features or vegetation are of a sufficient value that they should be retained and the proposed means of protection;*

b. *Where a reserve is to be set aside to provide protection to vegetation and landscape features, whether the value of the land so reserved should be off-set against the development contribution to be paid for open space and recreation purposes."*

386. Submissions seeking change to this policy sought amendment to the wording of the second bullet point to make offsetting more certain[167], amendment to the second bullet point to

165 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316
166 Submission 806
167 Submission 453

express it in a slightly different way[168] and extension of the policy to encourage initiatives for provision of public access to natural features and heritage[169].

387. Mr Bryce did not support any of the suggested changes on the basis that none of them would make the notified policy any more effective.

388. We agree with that recommendation. The development contribution is imposed under the Local Government Act. Accordingly, it would be inappropriate for a policy in the PDP to purport to constrain how it should operate. Like Mr Bryce, we are unconvinced that the wording amendments suggested in Submission 809 improve the policy. Lastly, submitter 806 provided no evidence that would provide us with a basis for accepting the extent of the proposed extension to the policy.

389. In summary, we therefore recommend that notified Policy 27.2.4.7 be retained unamended other than to renumber it 27.2.4.4 and to convert the bullet points of the notified version to alphanumeric sub-paragraphs, together with minor reformatting.

390. Lastly under Objective 27.2.4, the Council's corporate submission[170] sought inclusion of a new policy to support the objective that would read:

"Ensure that new subdivision and developments recognise, incorporate and where appropriate, enhance existing established protected vegetation and where practicable ensure that this activity does not adversely impact on protected vegetation."

391. The suggested new policy is opposed on the basis that it is unnecessary.

392. In his Section 42A Report, Mr Bryce recommended acceptance of an amended version of the suggested new policy deleting the final clause commencing "*and where practicable".* In Mr Bryce's view, such a policy would better give effect to what was the notified section 3.2.4 goal (and is now recommended Objective 3.2.4).

393. When we discussed the point with him, we expressed some concern that the policy lacked guidance as to the criteria for determining appropriateness. Mr Bryce agreed that this was a gap in the proposed wording. In his reply evidence, Mr Bryce recommended deleting the term "*where appropriate",* substituting a reference to "*suitable measures to enhance existing established protected indigenous vegetation"* and inserting further guidance as to what suitable measures might include – such things as protective fencing, destocking, removal of existing wilding species and invasive weeds or active ecological restoration.

394. Mr Bryce's suggested addition to the policy rather tended to miss the point we were making, namely that the policy needed to identify when it would be appropriate to require enhancement measures.

395. Mr Bryce's suggested addition also takes the policy a significant distance further than the relief proposed in Submission 809.

396. Stepping back from the detail, Mr Bryce did not explain to us why, if indigenous vegetation was already protected, it was necessary to ensure its enhancement in this context. It seems

168 Submission 809

169 Submission 806

170 Submission 809: Opposed in FS1097

to us that these matters are better addressed in the policies establishing the protection of indigenous vegetation.

397. In summary, we do not agree that this policy, or some amendment thereof is the most appropriate way in which to achieve Objective 27.2.4. Accordingly, we do not recommend its inclusion.

398. Having reviewed the four policies we have recommended as above, we consider that collectively, having regard to the alternatives open to us, they represent the most appropriate way to achieve Objective 27.2.4.

4.6 Objective 27.2.5 and Policies Following

399. Notified Objective 27.2.5 read:

"Require infrastructure and services are provided to lots and developments in anticipation of the likely effects of land use activities on those lots and within overall developments."

400. A number of submissions supported this objective. Submissions seeking substantive change to it included those seeking its deletion[171], a request to delete reference to likely effects[172] and a request to make that deletion combined with a statement that subdivision development not adversely affect the National Grid[173].

401. Mr Bryce's consideration of this objective started with the observation (that we agree with) that although supposedly an objective, it does not read like an outcome statement.

402. In addition, given the range of policies specified in this section of Chapter 27, we do not consider that reference to likely effects of land use activities accurately captures the intention underlying this provision (as evidenced by the policies seeking to achieve it).

403. It follows that, like Mr Bryce, we largely accept the relief sought in Submission 635.

404. While we accept the need to ensure that subdivision and development that might potentially affect the National Grid needs to be managed in accordance with the NPSET 2008, this objective (or the policies under it[174]) does not seem to be the correct vehicle for that management given that it focusses on infrastructure and services to lots and developments rather than the effects of subdivision and development. We note that Ms McLeod, giving evidence on behalf of Transpower New Zealand Ltd, agreed with Mr Bryce's recommendation that the amendments sought in Submission 805 not be accepted.

405. Lastly, given that provision of infrastructure and services to new lots is a key aspect of the management of subdivision and development, it would clearly not be appropriate or consistent with the purpose of the Act to delete this objective.

406. Ideally the objective would give some guidance as to the nature and extent of infrastructure and services provided to new subdivisions and developments, but the requirements of subdivisions are so many and varied in this regard that a concise summary of the desired outcome is a challenge. Mr Bryce did not recommend that we go down that path and none of

171 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

172 Submission 635: Opposed in FS1097

173 Submission 805

174 Addressing the relief sought in Submissions 635 and 805, supported in FS1211 in this regard

the submissions seeking amendment to the objective provided any suggestions that we could adopt or adapt.

407. In summary, therefore, we accept Mr Bryce's recommendation that Objective 27.2.5 should be amended to state simply:

"Infrastructure and services are provided to new subdivisions and developments."

408. For the reasons set out above, given the alternatives open to us, we consider this objective the most appropriate way to achieve the purpose of the Act in this context.

409. The first group of five policies under Objective 27.2.5 relate to transport, access and roads.

410. Policy 27.2.5.1 as notified read:

"Integrate subdivision roading with the existing road networks in an efficient manner that reflects expected traffic levels and the provision for safe and convenient walking and cycling."

411. Submissions on it variously sought its retention[175], and an amendment to refer to both safe and efficient integration of roading[176].

412. We note also Submission 798[177], requesting that in considering subdivisions and development, provisions require the inclusion of links and connections to public transport and infrastructure, not just walking and cycling linkages.

413. Mr Bryce recommended acceptance of the wording amendments sought in Submission 805. He noted that the relief sought in Submission 798 is provided for within Policy 27.2.5.3. Lastly, Mr Bryce recommended an amendment to refer to potential traffic levels rather than expected traffic levels – to reflect the fact that the Code of Practice states that development design "*shall ensure connectivity to properties and roads that have been developed, or that have the potential to be developed in the future."*

414. This recommendation prompted us to discuss with Mr Wallace how potential traffic levels might be ascertained. Mr Wallace's response was that, in his mind, it was linked to the PDP zoning, which sets out what is anticipated by the PDP.

415. In his reply evidence, Mr Bryce picked up on Mr Wallace's evidence and suggested a clarification be inserted to this effect.

416. We agree with Mr Bryce's recommendation that Submission 719 should be accepted and that Submission 798 is appropriately addressed in another policy. We do not think, however, that the suggested amendment substituting '*potential'* for '*expected'* is necessary, particularly if it implies a substantive change to the policy unsupported by a submission seeking that relief. Given Mr Wallace's clarification (which we think is helpful), the traffic levels of relevance are those that are expected into the future, having regard to the zoning of the area. We think a slight amendment is required of the suggested clarification because the PDP zoning does not itself anticipate or provide for traffic levels. Traffic levels are the result of the zone provisions being implemented. We regard this as a minor non-substantive change.

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175 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

176 Submission 719

177 Supported in FS1097

417. In summary, therefore, we recommend that Policy 27.2.5.1 be amended to read:

"Integrate subdivision roading with the existing road networks in a safe and efficient manner that reflects expected traffic levels and the provision for safe and convenient walking and cycling.

For the purposes of this policy, reference to 'expected traffic levels' refers to those traffic levels anticipated as a result of the zoning of the area in the District Plan."

418. Notified Policy 27.2.5.2 read:

"Ensure safe and efficient pedestrian, cycle and vehicular access is provided to all lots created by subdivision and to all developments."

419. The only substantive change sought to this policy[178] would specify that access is along roads and delete reference to developments.

420. Mr Bryce did not recommend acceptance of the suggested changes because he did not believe that they made the policy more effective.

421. We agree. Safe and efficient pedestrian and cycle access to lots might not necessarily be along roads and the evidence for Submitter 632 did not explain to us why reference to developments should be deleted.

422. Accordingly, we recommend retention of Policy 27.2.5.2 unamended.

423. Policy 27.2.5.3 as notified read:

"Provide trail, walking, cycle and public transport linkages, where useful linkages can be developed."

424. The only submission seeking a material change to this policy was Submission 632, seeking its deletion[179]. Once again, the submitter did not seek to support this position in evidence. Mr Bryce did not recommend acceptance of that submission, but he did suggest that Submission 798 noted above might appropriately be addressed by a reordering of this policy to shift reference to public transport to the front of the policy. We agree with Mr Bryce's view that with some minor grammatical amendments, the suggested revisions make the policy clearer. Accordingly, we recommend that Policy 27.2.5.3 be revised to read:

"Provide linkages to public transport networks, and to trail, walking and cycling networks, where useful linkages can be developed."

425. Policy 27.2.5.4 as notified read:

"The design of subdivision and roading networks to recognise topographical features to ensure the physical and visual effects of subdivision and roading are minimised."

[178] Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

[179] Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

426. The policy is the subject of two substantive submissions. The first[180] opposed the policy as being too open to differing interpretations. The second[181] suggested that it be revised to read:

"Encourage the design of subdivision and roading networks to recognise and accommodate pre-existing topographical features where this will not compromise design outcomes and the efficient use of land."

427. Mr Bryce recommended revision of the policy to the format suggested in Submission 632, but did not accept the substantive shift from ensuring to encouraging, or the deletion of reference to minimising effects.

428. We agree with Mr Bryce's recommendation with only a minor grammatical change. Given the policy already focuses on minimising effects, in our view, it provides sufficient flexibility for subdividers.

429. In summary, therefore, we recommend that Policy 27.2.5.4 be revised to read:

"Ensure the physical and visual effects of subdivision and roading are minimised by utilising existing topographical features."

430. Policy 27.2.5.5 as notified read:

"Ensure appropriate design and amenity associated with roading, vehicle accessways, trails, walkways and cycle ways within subdivisions by having regard to:

a. *Location, alignment, gradients and pattern of roading, vehicle parking, service lanes, access to lots, trails, walkways and cycle ways, and their safety and efficiency;*
b. *The number, location, provision and gradients accessways and crossings from roads to lots for vehicles, cycles and pedestrians, and their safety and efficiency;*
c. *The standard of construction and formation of roads, private accessways, vehicle crossings, service lanes, walkways, cycle ways and trails;*
d. *The provision and vesting of corner splays or rounding at road intersections;*
e. *The provision for and standard of street lighting, having particular regard to the avoidance of upward light spill;*
f. *The provision of appropriate tree planting within roads;*
g. *Any requirements for widening, formation or upgrading of existing roads;*
h. *Any provisions relating to access for future subdivision on adjoining land;*
i. *The provision of public transport routes and bus shelters."*

431. Submissions on this policy seeking changes to it sought variously:
   a. Consideration be given in subdivision design to other species[182];
   b. Amendment to require old and replacement lighting to be downward facing using energy efficient lightbulbs[183];
   c. Amendment of the final bullet point to add a cross reference to Council transport strategies[184];

180 Submission 453
181 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316
182 Submission 117
183 Submission 289
184 Submission 453

d. Deletion of the policy[185];
e. Addition of reference to links and connections to public transport services and infrastructure[186].

432. Mr Bryce did not recommend additional reference to Council transport strategies, noting that the transport section of the PDP will be reviewed as part of a subsequent stage of the District Plan review process. He was also of the view that the amendment recommended to the notified Policy 27.2.5.3 would address the Otago Regional Council's submission noted above[187]. He did, however, recommend an amendment to the final bullet point to reference linkages to public transport routes to address this submission.

433. As regards Submission 289, Mr Bryce was of the view that the outcome sought by the submitter is both impractical and would constitute a significant policy shift that would in turn require significantly more detailed Section 32 evaluation before adoption. Mr Bryce did, however, recommend that reference be added to siting and location of lighting and to the night sky.

434. Mr Bryce also drew our attention to a new policy sought in Submission 632, overlapping with and effectively amending the fifth bullet point in Policy 27.2.5.5, so that it would refer to the inter-relationship between lighting and public safety and substitute the word '*reduce'* for *'avoidance'*. Mr Bryce recommended acceptance of the former but not the latter.

435. Mr Bryce did not specifically address the relief sought in Submission 117. For our part, we think that Objective 27.2.4 and the recommended revisions to the policies supporting that objective already address the substance of the submission.

436. We largely agree with Mr Bryce's recommendations regarding the balance of submissions on the policy. So far as provision for lighting is concerned, Mr and Mrs Hughes appeared at the hearing to address their submissions on steps required to protect the District's night sky. Most of their evidence and submissions in fact related to Chapters 3 and 6 and will be considered by the Hearing Panel in that context. They supported the existing lighting provisions in Chapter 27.

437. We agree with Mr Bryce's view that more analysis would be required of costs and benefits before Submission 289 could be accepted in its entirety. We agree, however, that with minor grammatical amendments, reference to siting and location, and to public safety are desirable improvements to this sub-policy.

438. Like Mr Bryce, we do not accept the suggestion in Submission 632 that the focus should be on reduction of upward light spill. Rather, we recommend that the policy should be more effects-based. In Report 3, the Hearing Panel has recommended that provisions related to the night sky focus on views of the night sky[188]. We recommend a similar focus in this context.

439. We do not accept Mr Bryce's suggestion as to how Submission 798 might be incorporated into the ninth bullet point. The submission sought inclusion of links and connections to public transport services and infrastructure as a matter for consideration in relation to subdivision and development, not just walking and cycling linkages. For most subdivisions, it is the location

185 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316
186 Submission 798
187 Ibid
188 Report 3 at Section 8.5

of public transport routes which will determine the ability to link/connect to public transport. We recommend that that be the focus of amendment to the ninth bullet point.

440. Mr Bryce also recommended that reference be made to trail connections to address Submissions 625 and 671 that we have already discussed, and that the words "*are provided for"* are inserted to provide clarity as to how having regard to the listed matters will ensure the outcomes desired. We agree with Mr Bryce's recommendation in this regard, and with his suggested formatting change to convert the bullet points to a numbered list. We also recommend minor reformatting for consistency.

441. Focusing on the areas of substantive change to the policy, we therefore recommend that it read:

*"*Ensure *appropriate design and amenity associated with roading, vehicle accessways, trails and trail connections, walkways and cycle ways within subdivisions are provided for by having regard to:…*

e. the provision for and standard of street lighting, having particular regard to siting and location, the provision for public safety, and the avoidance of upward light spill adversely affecting views of the night sky…

i. the provision and location of public transport routes and bus shelters"

442. Before leaving access issues, we should note Submission 275 that sought a policy providing for reduced access widths in the High Density Residential Zone. Mr Bryce did not specifically address this submission and the submitter did not provide evidence to support its submission, which appeared counter-intuitive to us. Be that as it may, we do not have an evidential basis to recommend acceptance of the relief sought.

443. The next group of policies in this section of the chapter relate to water supply, stormwater and wastewater (referred to as the 'three waters' in Mr Wallace's evidence). The format of the policies is that Policy 27.2.5.6 deals with the three waters collectively. Then follow discrete policies on each of "water", "stormwater" and "wastewater".

444. Policy 27.2.5.6 as notified read:

445. *"All new lots shall be provided with connections to a reticulated water supply, stormwater disposal and/*or *sewage treatment and disposal system, where such systems are available or should be provided for."*

446. This submission is supported in one submission[189]. A second submission[190] queried the position if systems aren't available, asking whose responsibility it is to provide those systems in that situation.

447. Mr Bryce did not recommend any change to this policy. We agree with this recommendation. The answer to the question posed in Submission 117 is that the more specific policies following address the point.

448. Submission 632 sought a new policy on a related point – providing that when connected to Council infrastructure, capacity in the system should be ensured or necessary upgrades

189 Submission 438

190 Submission 117

reasonably expected to occur. Mr Bryce did not discuss it specifically, and the submitter's evidence did not address it. It seems to us, however, that the capacity of the Council's infrastructure is considered at an earlier point than subdivision. In general, land should not be zoned for development if infrastructure capacity is not available (or likely to be available) to service it. Accordingly, we do not consider the suggested policy is necessary, particularly in the absence of evidence setting out its costs and benefits.

449. Accordingly, we recommend that Policy 27.2.5.6 be retained unamended.

450. Addressing the policies specifically related to water, the first policy is 27.2.5.7 which, as notified, read:

"Ensure water supplies are of a sufficient capacity, including firefighting requirements, and of a potable standard, for the anticipated land uses on each lot or development."

451. The only submissions on this policy[191] sought its retention. Mr Bryce did not recommend any change to the policy and we agree with that recommendation.

452. Accordingly, we recommend that Policy 27.2.5.7 be retained unamended.

453. Policy 27.2.5.8 as notified, read:

"Encourage the efficient and sustainable use of potable water by acknowledging that the Council's reticulated potable water supply may be restricted to provide primarily for households' living and sanitation needs and that water supply for activities such as irrigation and gardening may be expected to be obtained from other sources."

454. Submission 117 agreed with this policy but suggested that the rules of the PDP needed to be consistent with it ensuring, for instance, that height requirements on water collection tanks not effectively prohibit collection of rainwater.

455. Submission 289[192] also supported the policy but suggested that existing houses could be encouraged to install water tanks.

456. Submission 632[193] sought the deletion of the policy.

457. Mr Bryce did not recommend any change to the policy. We agree. The point made in Submission 117 is relevant, but needs to be considered in the context of the rules of the PDP.

458. The relief sought in Submission 289 is beyond the scope of provisions addressing subdivision and development.

459. Lastly, Submission 632 was not supported by the evidence we heard on behalf of the submitter and we have no basis on which to recommend deletion of the policy.

460. Accordingly, we recommend that Policy 27.2.5.8 be retained unamended.

461. Policy 27.2.5.9 as notified, read:

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191 Submissions 438 and 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

192 Supported in FS1125

193 Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

*"*Encourage *initiatives to reduce water demand and water use, such as roof rain water capture and use and greywater recycling."*

462. Submissions on it opposed the policy on the basis variously that the issue is better addressed as part of the building process rather than through controls on subdivision[194], sought to introduce a practicality qualification[195] and sought that a similar provision be applied to existing houses[196].

463. Mr Bryce did not recommend acceptance of either Submission 453 or Submission 632. Mr Bryce noted in particular that in some circumstances, particularly where subdivisions are undertaken at locations not connected to a reticulated water supply, it would be appropriate to address water conservation at the subdivision stage. He also observed that the policy seeks to encourage the outcome rather than require it. We agree with Mr Bryce. The policy enables consideration of water conservation. If it is premature or impractical in a particular case, the policy accommodates that. As with the submission made on the previous policy, the relief sought in Submission 289 does not relate to subdivision and development.

464. Accordingly, we recommend that Policy 27.2.5.9 be retained unamended.

465. Policy 27.2.5.10 as notified read:

"Ensure appropriate water supply, design and installation by having regard to:

a. The availability, quantity, quality and security of the supply of water to the lots being created;
b. Water supplies for firefighting purposes;
c. The standard of water supply systems installed in subdivisions, and the adequacy of existing supply systems outside the subdivision;
d. Any initiatives proposed to reduce water demand and water use."

466. Submissions on this policy consisted of a submission from New Zealand Fire Service seeking that it specifically refer to the Fire Service Code of Practice for the definition of what adequate water supplies for firefighting purposes might require[197] and a request that it be deleted[198].

467. Submission 632 was not supported by evidence when the submitter appeared before us and given the obvious relevance of the matters addressed in the policy to subdivision and development, we need say no more about it.

468. New Zealand Fire Service, however, did appear to support its submission. Ms McLeod gave evidence explaining why, in her view, it was appropriate to reference the relevant New Zealand Standard[199] (referred to in turn in the Fire Service Code of Practice).

194 Submission 453
195 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316
196 Submission 289
197 Submission 438: FS1097 queried the need for the suggested reference
198 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316
199 SNZ PAS 4509:2008

469. Ms McLeod drew attention to the desirability of referencing the standard to eliminate any possible confusion that might arise as a result of an existing agreement between the Council and the Fire Service Commission providing for alternatives not covered by SNZ PAS 4509:2008.

470. In his reply evidence, Mr Bryce remained of the view that this was not necessary, but noted that he had recommended that SNZ PAS 4509:2008 be integrated into the assessment matters supporting the redrafted rule.

471. We agree with Mr Bryce's recommendation on this point. We consider that it is better that the policy remain broadly expressed. SNZ PAS 4509:2008 is referenced in the Land Development and Subdivision Code of Practice. We have already discussed the desirability of generalising reference to that document and we think the same logic applies to the Standard the Fire Service seeks to include. The concerns expressed by the Fire Service are in our view adequately addressed by the more detailed provisions, including the recommended assessment matter that Mr Bryce drew our attention to.

472. In summary, we recommend retention of Policy 27.2.5.10 unamended, save only for reformatting the bullet pointed matters as a numbered list and decapitalising the first word in each part.

473. Policy 27.2.5.11, as notified, read:

"Ensure that the provision of any necessary additional infrastructure for water supply, stormwater disposal and/or sewage treatment and disposal and the upgrading of existing infrastructure is undertaken and paid for subdividers and developers in accordance with the Council's 10 Year Plan Development Contributions Policy."

474. Submissions addressing this policy included Submission 117 which stated, somewhat enigmatically, that the policy "*needs long-term foresight".* We are unsure what that means, and the submitter did not appear at the hearing to provide clarification.

475. Other submissions opposed the policy. One submitter stated that the costs it covers should be covered by development contributions[200]. Submission 632[201] simply sought its deletion.

476. Mr Bryce's initial response to Submission 453[202] was to accept that referencing the Development Contribution Policy within Policy 27.5.2.11 is not necessarily required, but he considered that the guidance the policy provided assisted with implementation of the PDP. Mr Bryce suggested, however, that specific reference to the Development Contribution Policy be deleted in his reply evidence.

477. We do not think that assists. If anything, it exacerbates the issue identified in Submission 453 as the implication of Policy 27.2.5.11, as amended, would be that this policy would operate separately from the Development Contribution Policy. From Mr Bryce's evidence, we do not understand that to be the intention.

478. We have already addressed the Development Contribution Policy in the context of Section 27.1. For the reasons set out in our discussion of the purpose of Chapter 27, we think that

200 Submission 453: Supported in FS1117

201 Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

202 Section 42A Report at 18.140

greater clarity is required that development contributions are fixed in parallel with PDP, and independently of it. Accordingly, we recommend that Policy 27.2.5.11 be deleted.

479. Turning to stormwater arrangements, notified Policy 27.2.5.12 read:

"Ensure appropriate stormwater design and management by having regard to:

a. *Recognise and encourage viable alternative design for stormwater management that minimises run-off and recognises stormwater as a resource through re-use in open space and landscape areas;*
b. *The capacity of existing and proposed stormwater systems;*
c. *The method, design and construction of the stormwater collection, reticulation and disposal systems, including connections to public reticulated stormwater systems;*
d. *The location, scale and construction of stormwater infrastructure;*
e. *The effectiveness of any methods proposed for the collection, reticulation and disposal of stormwater run-off, including the control of water-borne contaminants, litter and sediments, and the control of peak flow."*

480. Submission 117 sought inclusion of provision in the policy to manage organic contaminants and heavy metals to mitigate adverse effects on water bodies. The submission also advocates expert design including a "*treatment train"* approach.

481. Submission 289 supported the policy but sought that stormwater collection from roads in particular be designated so that it does not run into lakes and rivers.

482. Submission 453 sought that the policy be qualified by the words "*where possible and practical"*.

483. Mr Bryce did not recommend acceptance of Submission 453 on this point. In his view, the policy already provides for a broad range of stormwater design options.

484. Mr Bryce likewise did not recommend acceptance of Submission 289. In Mr Bryce's view, the engineering evidence of the Council indicated that the relief sought was not practicable. Mr Bryce, however, noted that the fifth bullet point already addressed the substance of much of the relief the submitter sought through controlling water-borne contaminants, litter and sediments. In relation to that fifth bullet point, Mr Bryce also drew our attention to the relief sought in Submission 632[203] in the form of a new policy seeking that stormwater be managed "*to provide for public safety and where opportunities exist to maintain and enhance water quality".* Mr Bryce recommended that elements of this suggested policy be incorporated into the fifth bullet point of policy 27.2.5.12 and thereby also address what is now recommended Objective 3.2.4.4.

485. In addition, Mr Bryce recommended an amendment to the first bullet point to correct a grammatical issue with the way the introduction of the policy moves into the specific matter covered by that bullet point.

486. As with other policies, Mr Bryce recommended that the bullet point matters be converted to a numbered list.

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[203] Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

487. We largely agree with Mr Bryce's recommendations on this policy, including his suggested reformatting in line with changes to previously policies. We think though that a further grammatical tweak is required to the first bullet point so it scans properly.

488. As regards to the fifth bullet point, we consider that with the amendments recommended by Mr Bryce, it goes part way to meeting the relief sought in Submission 117. That submitter did not appear to explain or support her submission and we do not think that we have an evidential basis to push this policy further towards treatment of stormwater in the absence of a proper quantification of costs and benefits, as required by section 32 of the Act.

489. In summary, therefore, and focussing on areas of suggested amendment, we recommend that the notified Policy 27.2.5.12 be renumbered 27.2.5.11 and amended to read:

"Ensure appropriate stormwater design and management by having regard to:

a. any viable alternative designs for stormwater management that minimise run-off and recognise stormwater as a resource through re-use in open space and landscape areas;…

.

e. the effectiveness of any methods proposed for the collection, reticulation and disposal of stormwater run-off, including opportunities to maintain and enhance water quality through the control of water-borne contaminants, litter and sediments, and the control of peak flow."

490. Mr Bryce recommended insertion of a revised form of Policy 27.2.4.3 at this point. We have already discussed the form of the notified policy and the submissions on it[204].

491. Mr Bryce did not recommend acceptance of the submissions on Policy 27.2.4.3 although we note that his Section 42A Report addressed a different submission to that in fact made in Submission 117 on this point (due presumably to an error in the summary of submissions).

492. Mr Bryce did recommend an addition to the policy to qualify it by reference to the acceptability of maintenance and operation requirements to Council if assets are to be vested.

493. The suggested addition itself raised questions in our mind that we discussed with Mr Wallace – seeking to ascertain what tests the Council would in fact employ to determine acceptability. As a result, Mr Bryce recommended a lengthy clarification be added to the policy as to the meaning of that term.

494. The end result, were Mr Bryce's recommendations to be accepted, would shift the policy a significant distance from where it started. Nor do we think that the additions suggested by Mr Bryce respond to the submissions on Policy 27.2.4.3.

495. Going back to those submissions, we agree with the suggestion in Submission 806 that the focus of the policy should not be on what the Council will or will not do. The focus should be on subdivision design, rather than the Council's actions.

496. We also think that Submitter 117 had a point when she observed that joint use may not always be desirable, on environmental grounds (i.e. a different point to the one Mr Bryce seeks to add). We do not think it would be helpful to add a generalised reference to appropriateness, but an effects-based test would address the point the submitter was making.

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[204] Refer paragraph 359-361 above

497. While we understand that Mr Bryce's suggestions reflect a concern on the part of Council that this provision might be utilised by subdividers to try and off-load residual waste land onto Council, we do not consider that the policy would commit Council to accept vesting of such land where it is not fit for purpose or would impose unreasonable costs on the Council. However, if this is a concern, we recommend that it be addressed by a variation. We do not consider that the submissions on the policy provide a proper basis for the amendments Mr Bryce recommends.

498. Responding to those submissions, we recommend that the relocated Policy 27.2.4.3 be renumbered 27.2.5.12 and amended to read:

"Encourage subdivision design that includes the joint use of stormwater and flood management networks with open spaces and pedestrian/cycling transport corridors and recreational opportunities where these opportunities arise and will maintain the natural character and ecological values of wetlands and waterways."

499. Turning to wastewater policies, notified policy 27.2.5.13 read:

"Treating *and disposing of sewage is provided for in a manner that is consistent with maintaining public health and avoids or mitigates adverse effects on the environment."*

500. The only submission on the policy[205] sought amendments obviously designed to make the policy more succinct without altering its meaning. Mr Bryce recommended that the submission be accepted.

501. When we discussed this particular policy with Mr Bryce at the hearing, he agreed with a concern we expressed that an open-ended reference to avoiding or mitigating adverse effects might provide insufficient guidance to ensure adverse effects are minimised. Accordingly, Mr Bryce suggested in his reply evidence that the policy might explicitly state that adverse effects should be avoided in the first instance and, where this is not reasonably possible, minimised "*to an extent that is proportionate to the level of significance of the effects".*

502. While we consider Mr Bryce's suggested additions would improve the policy, given the limited ambit for amendment provided by Submission 632, we think that clarification of what the existing reference to avoiding or mitigating adverse effects should be taken to mean should more closely reflect the caselaw[206].

503. In summary, we recommend that notified Policy 27.2.5.13 be renumbered 27.2.5.14 and revised to read:

"Treat and dispose of sewage in a manner that:
a. maintains public health;
b. avoids adverse effects on the environment in the first instance; and
c. where effects on the environment cannot be reasonably avoided, mitigates those adverse effects to the extent practicable."

504. If the Council determines that greater certainty is required as to the level of mitigation provided under this policy, we recommend that it explore a variation to the PDP.

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205 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

206 Refer for instance *Winstone Aggregates Ltd v Papakura District Council* A049/2002

505. Notified Policy 27.2.5.14 read:

"Ensure appropriate sewage treatment and disposal by having regard to:
- *The method of sewage treatment and disposal;*
- *The capacity of, and impacts on, the existing reticulated sewage treatment and disposal system;*
- *The location, capacity, construction and environmental effects of the proposed sewage treatment and disposal system."*

506. The only submission on this policy[207] sought its deletion. The submitter did not support this aspect of its submission in the evidence we heard (rather the contrary in fact) and Mr Bryce did not recommend any substantive change to the policy, much less its deletion. We agree.

507. Accordingly, we recommend that notified Policy 27.2.5.14 be renumbered 27.2.5.15 and reformatted to contain a list of numbered sub points starting in each case without a capital letter, but otherwise retained unamended.

508. Notified Policy 27.2.5.15 read:

"Ensure that the design and provision of any necessary infrastructure at the time of subdivision takes into account the requirements of future development on land in the vicinity."

509. The only submission on this policy[208] sought an addition to state that such upgrades would be credited against development contributions.

510. Mr Bryce recommended the submission be rejected. We agree. Given that development contributions are assessed under the Council's Development Contribution Policy promulgated under the Local Government Act, it is inappropriate that a policy in the PDP should seek to constrain how that development contribution policy is implemented. While we understand the concern developers might have that they might be required to "over spec" the infrastructure they install for the benefit of third parties, the policy is framed in a way that prompts consideration of future needs, rather than directing any particular outcome, thereby enabling negotiation of appropriate financial arrangements between the parties.

511. Accordingly, we recommend that notified Policy 27.2.5.15 be retained unamended, other than by renumbering it 27.2.5.16.

512. The following policy, 27.2.5.16 in the notified Chapter 27, related to energy supply and telecommunications. As notified, it read:

"To ensure adequate provision is made for the supply and installation of reticulated energy, including street lighting, and communication facilities for the anticipated land uses while:
- *Providing flexibility to cater for advances in telecommunication and computer media technology, particularly in remote locations;*
- *Ensure the method of reticulation is appropriate for the visual amenity values of the area by generally requiring services are underground;*
- *Have regard to the design, location and direction of lighting to avoid upward light spill, recognising the night sky is an element that contributes to the District's sense of place;*

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207 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

208 Submission 453

- *Generally require connections to electricity supply and telecommunication systems to the boundary of the net area of the lot, other than lots for access, roads, utilities and reserves."*

513. This policy was supported by the telecommunication submitters. Substantive amendments were sought in Submission 635[209] which sought to qualify the reference to underground reticulation, so it would apply "*where technically and operationally feasible".* Submission 632[210] sought deletion of reference to underground reticulation and street lighting, along with amendments to generalise the reference to technology, soften the reference to amenity values, and shift the third bullet point into a separate policy. We have already discussed the last point, in the context of recommended Policy 27.2.5.5.

514. When we discussed this policy with Mr Bryce, he accepted that typically, telecommunication and electricity line services would not be undergrounded in rural environments and thus the second bullet point needed reconsideration. He also agreed with our suggestion that the range of relevant issues in deciding whether services should be undergrounded should extend to include landscape values.

These considerations prompted Mr Bryce to recommend that the second bullet point be amended to read:

"Ensure the method of reticulation is appropriate for the visual amenity and landscape values of the area by generally requiring services are underground and in the context of rural environments where this may not be practicable, infrastructure is sited in a manner that does not adversely impact upon visual amenity and landscape values of the receiving environment."

515. We discussed also with Mr Bryce the application of the fourth bullet point in rural environments where a residential building platform has been identified. Mr Bryce's advice was that typically in such cases, infrastructure connections would be to the building platform where there is one.

516. Mr Bryce also recommended specific reference be made in the fourth bullet point to services being supplied to residential building platforms.

517. Addressing these matters in turn, we agree that reference should be made to landscape values. We do not consider this a material change because the operative requirement (that reticulation is generally underground) is not altered, other than in the manner we are about to discuss.

518. We think that Mr Bryce is correct, and that some qualification of that position is required to recognise the impracticality of undergrounding telecommunication and electricity line services throughout the rural environment. Similarly, while we agree that there needs to be a limit on acceptance of over-ground utilities in the rural environment, we consider a policy of effectively no adverse impacts on visual amenity and landscape values would be too onerous given the generally high (if not outstanding) landscape values of almost the entire District. We recommend, therefore, a policy of minimising visual effects on the receiving environment.

519. As regards Mr Bryce's suggestion (responding constructively to the point we had raised) that the fourth bullet point extend the obligation to provide services from lot boundaries to residential building platforms (where they exist), upon reflection, we have determined that

209 Aurora Energy Limited

210 Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

this would impose an obligation that the submissions on this policy would not justify. We remain of the view that this is a desirable amendment to Chapter 27 and thus we recommend that the Council institute a variation of Chapter 27 to insert Mr Bryce's recommended addition to the fourth bullet point reading:

"Where the subdivision provides for a residential building platform, the proposed connections to electricity supply and telecommunications systems shall be established to the residential building platform."

520. Accordingly, aside from numbering the bulleted sub-points of Policy 27.2.5.16 and starting each without a capital letter, renumbering it 27.2.5.17 and commencing the policy with the word "Ensure", the only amendments we recommend are to shift the third bullet point into Policy 27.2.5.5, amended as outlined above, and to amend the second sub-point so that it would read:

"ensure the method of reticulation is appropriate for the visual amenity and landscape values of the area by generally requiring services are underground and in the context of rural environments where this may not be practicable, infrastructure is sited in a manner that minimises adverse visual effects on the receiving environment."

521. The final two policies in this section of the PDP relate to easements. The first, notified Policy 27.2.5.17, read:

"Ensure that services, shared access and public access is identified and managed by the appropriate easement provisions."

522. The second, notified Policy 27.2.5.18, read:

"Ensure that easements are of an appropriate size, location and length for the intended use."

523. One submission[211] sought that both policies be deleted. Another submission[212] sought that they be retained. Mr Bryce recommended their retention because they give effect to the direction of notified Objective 27.2.5 by ensuring easements are provided and are of an appropriate size, location and length.

524. We agree with Mr Bryce's recommendation. We also agree with his suggestion (responding to a question we had) that the second policy might be amended to clarify its effect by adding "*of both* the *land and easement"* on the end. We do not regard that as a substantive change.

525. Accordingly, we recommend that notified Policies 27.2.5.17 and 27.2.5.18 be amended as above and renumbered to align with recommended changes above, but otherwise retained.

526. Having considered all of the policies recommended (27.2.5.1-18 inclusive), we consider that collectively they are the most appropriate way to achieve Objective 27.2.5 given the alternatives available to us.

4.7 Objective 27.2.6 and Policies Following

527. Objective 27.2.6 as notified, read:

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211 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

212 Submission 635

"Cost of services to be met by subdividers."

528. It needs to be read together with the two supporting policies, the first of which (27.2.6.1) read:

"Require subdividers and developers to meet the costs of the provision of new services or the extension or upgrading of existing services (including head works), that are attributable to the effects of the subdivision or development, including where applicable:

- *Roading, walkways and cycling trails;*
- *Water supply;*
- *Sewage collection, treatment and disposal;*
- *Stormwater collection, treatment and disposal;*
- *Trade waste disposal;*
- *Provision of energy;*
- *Provision of telecommunications and computer media;*
- *Provision of reserves and reserve improvements."*

529. The second policy (27.2.6.2) read:

"Contributions will be in accordance with the Council's 10 Year Plan Development Contributions Policy."

530. Submission 632[213] sought that the objective and both policies be deleted. Submission 285 sought to qualify the objective so that the obligation on developers and subdividers would only arise when existing services were up to standard. Submission 600[214] supported the objective. Submission 719 supported both the objective and the first policy. Submission 632 sought in the alternative to amend Policy 27.2.6.2 to emphasise that development contributions were managed through the Local Government Act.

531. Mr Bryce recommended amendments to the policies to shift reference to the Development Contribution Policy into the start of Policy 27.2.6.1, delete the existing Policy 27.2.6.2 but otherwise to retain the objective and first policy.

532. His reasoning was that these provisions assist in making PDP users aware of the need for development contributions and that upgrading of existing infrastructure is a consequence of subdivision development activity.

533. We disagree. The Development Contribution Policy operates under the Local Government Act in parallel with the PDP. As we have discussed in the context of other policies referring to development contributions, retaining provisions purporting to direct when and how development contributions will be collected blurs that distinction and creates the possibility that those provisions might be read as creating an independent right to levy financial contributions.

534. Mr Bryce's explanation of the utility of the existing Objective 27.2.6 and the related policies suggested to us that their sole function is to operate as advice notes rather than objectives and policies.

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213 Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

214 Supported in FS1209; Opposed in FS1034

535. Given our recommendation that Section 27.1 be amended to cross reference the Development Contribution Policy and emphasise the need for subdivision applicants to be aware of it, and the existence of a separate provision (notified section 27.12) providing further clarification of the position, we consider that this objective and the related policies serve no useful purpose. We recommend that they be deleted.

4.8 Objective 27.2.7 and Policies Following

536. Notified objection 27.2.7 read:

"*Create esplanades where opportunities arise.*"

537. One submission sought its deletion[215]. Two submissions[216] supported the objective.

538. Mr Bryce did not support the deletion of the objective. In his view, it provided guidance on a relevant matter identified in sections 229 and 230 of the Act as to the purpose and meaning of Esplanade Reserves and Strips.

539. We agree in principle with Mr Bryce, but consider that the objective needs to be reframed. Starting with a verb, it expresses a course of action rather than an outcome. Accordingly, we recommend that the objective be renumbered 27.2.6 and amended to read:

"Esplanades created where opportunities arise."

540. We do not regard this as a substantive change. We consider the amended objective to be the most appropriate way to achieve the purpose of the Act as it relates to provision of esplanade reserves and strips.

541. Policy 27.2.7.1 as notified read:

"Create esplanades reserves or strips where opportunities exist, particularly where the subdivision is of large-scale or has an impact on the District's landscape. In particular, Council will encourage esplanades where they:

- *are important for public access or recreation, would link with existing or planned trails, walkways or cycles ways, or would create an opportunity for public access; have high actual or potential value with regard to the maintenance of indigenous biodiversity;*
- *comprise significant indigenous vegetation or significant habitats of indigenous fauna;*
- *are considered to comprise an integral part of an outstanding natural feature or landscape;*
- *would benefit from protection, in order to safeguard the life supporting capacity of the adjacent lake and river;*
- *would not put an inappropriate burden on the Council, in terms of future maintenance costs or issues related to natural hazards affecting the land."*

542. The only submission seeking substantive change to this policy[217] sought that it be significantly shortened to read:

"Create esplanades reserves or strips where they would provide nature conservation, natural character, natural hazard mitigation, infrastructural or recreational benefits.'

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215 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

216 Submissions 373 and 378: Opposed in FS1049, FS1095 and FS1347

217 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

543. Mr Bryce recommended to us that Submission 632 be accepted in part – he thought that the amendments proposed made the broad policy clearer, but recommended that the six sub-points be retained as providing greater guidance.

544. We agree with Mr Bryce's recommendation. We think that the sub-points in the notified policy contained important signposts as to when esplanade reserves or strips should be a priority, or alternatively where, notwithstanding other benefits, there is good reason that they not be created. We therefore recommend that Policy 27.2.7.1 be renumbered 27.2.6.1, but otherwise largely be revised as recommended by Mr Bryce. The only additional amendments we propose are minor grammatical changes. The revised policy would therefore read:

"Create esplanade reserves or strips where they would provide nature conservation, natural character, natural hazard mitigation, infrastructural or recreational benefits. In particular, Council will encourage esplanades where they:

a. are important for public access or recreation, would link with existing or planned trails, walkways or cycles ways, or would create an opportunity for public access;
b. have high actual or potential value with regard to the maintenance of indigenous biodiversity;
c. comprise significant *indigenous vegetation or significant habitats and indigenous fauna;*
d. are considered to comprise an integral part of an outstanding natural feature or outstanding natural landscape;
e. would benefit from protection, in order to safeguard the life supporting capacity of the adjacent lake or river;
f. would not put an inappropriate burden on the Council, in terms of future maintenance costs or issues related to natural hazards affecting the land."

545. When we discussed esplanade reserves and strips with Mr Bryce, we identified that there appeared to be a gap in the policy coverage providing guidance as to the circumstances where an esplanade reserve or strip would otherwise be required under section 230 of the Act and a waiver is sought either to reduce the width of an esplanade reserve or to avoid the requirement to create an esplanade reserve or strip at all. Mr Bryce accepted that this was an apparent vacuum in the policies and undertook to cover the point in reply.

546. In his reply evidence, Mr Bryce suggested a new policy which would address these matters worded as follows:

"Avoid reducing the width of esplanade reserves or strips, or the waiving of the requirement to provide an esplanade reserve or strip, except where the following apply:

a. Safe public access and recreational use is already possible and can be maintained for the future;
b. It can be demonstrated that a full width esplanade reserve or strip is not required to maintain the natural functioning of adjoining rivers or lakes;
c. A reduced width in certain locations can be offset by an increase in width and other locations or areas, which would result in a positive public benefit in terms of access and recreation."

547. We have no issues with the form of the suggested new policy. We think it would be a desirable change to the notified Chapter 27 that would fill an evident policy gap.

548. However, we cannot identify any submission which would provide jurisdiction for making this change. In the Chair's 22 May 2017 Minute, this was identified as a point that would merit the

Council addressing by way of variation. The Chair's Minute also suggested that such a variation may also usefully provide guidance as to when the Council would prefer an esplanade strip as opposed to an esplanade reserve and identify the considerations that would come into play if a large lot were the subject of a subdivision.

549. Notified Policy 27.2.7.2 read:

"To use opportunities through the subdivision process to improve the level of protection for the natural character and nature conservation values of lakes and rivers, as provided for in section 230 of the Resource Management Act 1991."

550. The sole submission on this policy seeking change to it was that of submitter 632 proposing its deletion[218].

551. Mr Bryce did not recommend acceptance of that submission. His opinion was that the policy responded to matters raised under section 229-230 of the Act and therefore should be retained.

552. Given that the evidence for submitter 632 did not support the submission on this point, we have no basis to disagree with Mr Bryce. Accordingly, we recommend that notified Policy 27.2.7.2 be renumbered 27.2.6.2, but otherwise retained unamended, save only for minor grammatical changes (to delete the word "To" at the start of the policy and to refer to protection "*of*" the natural character and nature conservation values of lakes and rivers) and the substitute reference to "the Act".

553. Considering our recommended policies 27.2.6.1 and 27.2.6.2 collectively, we consider that these policies are the most appropriate means to achieve our recommended Objective 27.2.6 given the alternatives available to us.

4.9 Objective 27.2.8 and Policies Following

554. Notified Objective 27.2.8 read:

"Facilitate boundary adjustments, cross-lease and unit title subdivision, and where appropriate, provide exemptions from the requirement of esplanade reserves."

555. Submissions on this objective variously supported in its current form[219] sought that the reference to exemptions for esplanade reserves be deleted[220], sought recognition that boundary adjustments do not create a demand for services and should be treated as controlled activities[221], and sought the deletion of the objective[222].

556. Mr Bryce recommended acceptance of Submission 383 on the basis that the objective as notified reads more like a policy than an outcome statement. As such, in his view, it needed to be recast focussing on the outcome, which is provision for boundary adjustments, cross leases and unit title subdivisions. We agree with that approach.

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218 Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

219 Submission 370

220 Submission 383

221 Submission 806

222 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

557. We do not support deletion of the objective which would then provide no policy support for a more favourable rule framework than might otherwise be the case. As will be seen in due course, we support recognising the characteristics of boundary adjustments, cross leases and unit titles as either creating few or no environmental impacts (or demand for services – as Submission 806 identified) or as facilitating urban development within urban areas, and thereby assisting achievement of the strategic objectives of the Plan. For the same reason, we agree with Mr Bryce's proposed rejection of Submission 632 on this point.

558. In summary, therefore, we recommend that notified Objective 27.2.8 be renumbered 27.2.7 and revised to read:

"Boundary adjustments, cross-lease and unit title subdivisions are provided for."

559. We consider that this objective is the most appropriate way to achieve the purpose of the Act in this context, given the alternatives available to us.

560. Policy 27.2.8.1 as notified read:

"Enable minor cross-lease and unit title subdivision of existing units without the need to obtain resource consent where there is no potential for adverse effects associated with a change in boundary location."

561. The only submission specifically on this policy[223] sought its retention.

562. Mr Bryce, however, recommended an additional sentence be added to the policy noting that the intention is not to enable subdivision of approved residential building platforms in Rural and Rural Lifestyle Zones by this means. We support that clarification as an aspect of the general point discussed earlier regarding the need to be clear when policies apply only in urban environments. This is an example of an urban-focused policy. However, we think the point could be made rather more succinctly.

563. We also recommend a minor amendment to the notified version of Policy 27.2.8.1 to delete the word '*minor'*. We think that is unnecessary given the policy requirement that there be no potential for adverse effects.

564. In summary, therefore, we recommend that Policy 27.2.8.1 be renumbered 27.2.7.1 and revised to read:

"Enable cross-lease and unit title subdivision of existing units in urban areas without the need to obtain resource consent where there is no potential for adverse effects associated with the change in boundary location."

565. Policy 27.2.8.2 as notified, read:

"Ensure boundary adjustment, cross-lease and unit title subdivisions are appropriate with regard to:

a. *The location of the proposed boundary;*
b. *In rural areas, the location of boundaries with regard to approved residential building platforms, existing buildings, and vegetation patterns and existing or proposed accesses;*
c. *Boundary treatment;*

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223 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

d. *Easements for access and services."*

566. The only submission that sought amendment to this policy[224] focused on the fourth bullet point, seeking that it be altered to read:

"The location of existing or proposed accesses and easements for access and services."

567. Mr Bryce recommended acceptance of that submission on the basis that the second bullet point already refers to existing or proposed accesses and amendment to the fourth bullet point would provide more effective linkage between the two.

568. While we agree there is merit in referring to both existing and proposed accesses in the fourth bullet point (because the second bullet point is limited to rural areas), we think the point might be made more simply. We also think it would be a mistake to limit consideration just to the location. Unlike fee simple titles, easements depend for their efficacy on the extent of the rights created by the easement. The existing wording would already cover that and so, if it is expanded to specifically include reference to location, we consider that specific reference to the terms of any easements (or other arrangements for that matter) is also required.

569. In summary, we recommend that the policy be renumbered 27.2.7.2, the list converted to numbered sub-points with the first word in lower case (consistent with our recommendations regarding the formatting of other policies) and the fourth sub-point be amended to read: *"the location and terms of existing or proposed easements or other arrangements for access and services."*

570. Mr Bryce also suggested addition of a further policy under this heading relating to unit title, strata title or cross lease subdivisions of existing approved buildings with land use consents permitting multi-unit commercial or residential development including visitor accommodation development.

571. This suggested new policy was discussed in Mr Bryce's reply evidence[225]. This is a point we queried Mr Bryce about when he appeared at the hearing. As Mr Bryce noted, putting aside '*minor*' cross-lease and unit title subdivisions addressed in (now) Policy 27.2.7.1, only renumbered Policy 27.2.7.2 provides any specific reference to unit title subdivision and even then, the policy is weighted towards boundary adjustments. While we agree with Mr Bryce's view that unit title and cross-lease subdivisions are an important method for enabling the further intensification of urban areas provided for in the Plan's strategic objectives, we do not think that there is jurisdiction to recommend addressing this shortcoming through a new policy. Certainly, we have not identified a submission which would provide such jurisdiction and Mr Bryce's reply evidence suggests that there is no submission seeking a stand-alone policy of this kind.

572. This is another area where the Chair suggested in his 22 May 2017 Minute that a variation is warranted to correct a shortcoming in the notified PDP provisions.

573. During the course of the hearing, we discussed with the Council's representatives the absence of a policy framework for Structure Plans. This was discussed in Mr Bryce's reply evidence at section 9. Mr Bryce considered specifically the desirability of greater certainty as to what a structure plan is and what a structure plan must include in order to receive the benefit of

224 Submission 719

225 At paragraph 2.5

controlled subdivision activity status (as sought in the legal submissions of Ms Baker-Galloway).

574. Mr Bryce's evidence was that no submissions specifically sought introduction of a policy framework and definition to support the application of structure plans. Accordingly, while he supported the idea that policies might provide for structure plans, his conclusion was that there was no scope to do so in the current process.

575. We agree with that conclusion[226]. Accordingly, this also was included in the Chair's 22 May 2017 Minute, so that the detailed provisions of Chapter 27 that depend on the existence of structure plans might sit within an appropriate policy framework.

576. We consider the recommended policies as above are collectively the most appropriate way to achieve recommended objective 27.2.7, given the alternatives available to us.

577. Before leaving our discussion of the district-wide objectives and policies, we should note submission 238[227] that sought a new objective be inserted: *"Discourage subdivision adjacent to Urban Growth Boundaries"*.

578. Mr Bryce recommended rejection of the submission on the basis that the underlying point is already suitably addressed in Chapters 3 and 4. We agree. Given the coverage at a higher level, we see no value in an additional objective overlapping, but not identical to the provisions recommended in Chapters 3 and 4, particularly given that it would be unsupported by any policy in Chapter 27.

5. SECTION 27.7 - LOCATION–SPECIFIC OBJECTIVES AND POLICIES

5.1 General

579. We have already noted the general submissions seeking reconfiguration of Chapter 27, among other things, to shift the location-specific objectives and policies forward in Chapter 27 so that they follow the general objectives and policies. As above, we agree with Mr Bryce's recommendation that this reconfiguration would assist the clarity of the chapter and bring into line with other chapters of the PDP.

580. As Mr Bryce noted[228], what was section 27.7 contained location-specific objectives, policies "*and* provisions". The provisions in question either explicitly set out matters of discretion or identified relevant matters to be taken into account examples are notified Sections 27.7.3, 27.7.6.1, 27.7.7.7.4, 27.7.14.2, 27.7.18.1 and 27.7.20. We agree with Mr Bryce's observation that it is difficult to determine whether these are policies or rules, and like him, we consider that they are generally better shifted into a new table of location-specific provisions as part of the reconfiguration responding to the submissions on the point, in order to remove any uncertainty as to their purpose and status. We recommend revision of Chapter 27 accordingly.

581. Looking generally at the location-specific objectives and policies that remain, having shifted the text (including the section heading and introductory words that precede notified Objective 27.7.1) into a new Section 27.3, we consider that some further reformatting would assist the clarity of the PDP for the reader. Accordingly, rather than the subject matter being stated

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226 While noting that later in this report, we recommend a limited definition of Structure Plans to remove the need to refer in each case to the entire range of documents serving the same purpose.

227 Opposed in FS1107, FS1157, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248 and FS1249

228 Section 48A Report at 22.6

within the body of the objective, we recommend that in each case this be a heading that precedes the relevant objective and policies. Our recommended revised Chapter 27 shows this change, which we do not regard as substantive in nature.

5.2 Objectives 27.7.1 and 27.7.2, and Policies Following those objectives

582. Turning to the text of the objectives and policies, many were not the subject of submission and there is no aspect that we need to consider further. We propose, therefore, to address the location-specific objectives and policies on an exceptions basis.

583. Accordingly, the first provision that we need to mention is notified Objective 27.7.1 (renumbered 27.3.1) which relates to Peninsula Bay. Although Mr Bryce did not recommend any substantive amendments to it[229], we consider that some rewording is required to more clearly express it as an outcome, that is to say as an objective.

584. Accordingly, we recommend that the word "*ensure*" be deleted with the result that the objective would read:

"Effective public access is provided throughout the Peninsula Bay land."

585. We do not regard this as a substantive change. For the same reason, we recommend that notified Objective 27.7.2 (renumbered 27.3.2) related to Kirimoko be reworded to read:

"A liveable urban environment is created that achieves best practice in urban design; the protection and incorporation of landscape and environmental features into the design of the area; and high quality built form."

586. In his Section 42A Report, Mr Bryce discussed a submission[230] from the Council Parks Team seeking that notified Policy 27.7.2.8 (now 27.3.2.8) be revised so that rather than seeking minimisation of disturbance to existing native plant remnants, disturbance be avoided.

587. Mr Bryce recommended rejection of this submission on the basis that it is not necessary to appropriately give effect to the relevant objective and may not be achievable in all instances.

588. We heard no evidence from any other representative of Council that would provide a basis on which we might disagree with Mr Bryce. Accordingly, we recommend rejection of Submission 809 in this respect.

589. Policy 27.7.2.3 (renumbered 27.3.2.3), as notified, read:

"Ensure that urban development of the site is restricted to lower areas and areas of concealed topography, such as gullies (all zoned Low Density Residential) and that visually sensitive areas such as the spurs are left undeveloped (building line restriction area)."

590. The words in brackets are both unnecessary and out of place. The provision of a favourable zoning, or building line restrictions, as the case may be, are matters for the rules which implement the policy. We recommend that in each case, the words in brackets are deleted.

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229 Mr Bryce did, however, recommend deletion of a cross reference to an ODP objective in the notified version of Section 27.7.1, referring to concerns about its validity. While we agree with that concern, the issue has been overtaken by the Stage 2 Variations.

230 Submission 809

The end result does not alter the meaning of the policy and therefore we regard it as a minor change within the scope of Clause 16(2).

5.3 Objective 27.7.4 and Policies Following

591. Notified Objective 27.7.4 (renumbered now 27.3.3) read as follows:

"Objective – Large Lot Residential Zone between Studholme Road and Meadowstone Drive – ensure protection of landscape and amenity values in recognition of the zone's low density character and transition with rural areas."

592. Mr Bryce recommended that this be reconfigured so that it is expressed as an outcome rather than a course of action. We agree both with the need to revise the objective and with the revised wording Mr Bryce suggests. Taking account of the insertion of a heading to identify the subject-matter of the objective, amended to reflect the recommendation of the Stream 6 Hearing Panel that the Large Lot Residential Zone be split into "A" and "B" zones, we recommend that this objective be reframed as:

"Landscape and amenity values of the zone's low density character and transition with rural areas be recognised and protected."

593. Submissions[231] sought that the word "*ridgelines"* in notified Policy 27.7.4.1 (now Policy 27.3.3.1) be substituted by the words "*skyline ridges".* Mr Bryce did not recommend acceptance of that submission and we agree. The submitters did not appear to support their submission and it is not apparent to us that the amended wording would result in a policy which more appropriately gives effect to the relevant objective.

594. Notified Policy 27.7.4.2. (renumbered 27.3.3.2)) read:

"Subdivision and development within land identified as 'Urban Landscape Protection' by the 'Wanaka Structure Plan 2007' shall have regard to the adverse effects of development and associated earthquakes on slopes, ridges and skylines."

595. We discussed with Mr Bryce the appropriateness of a cross reference to the Wanaka Structure Plan given the reasoning of the Council's position with respect to the Land Development and Subdivision Code of Practice. Like the Code of Practice, the Wanaka Structure Plan sits outside the PDP. It is also not a Structure Plan in the sense referred to in other PDP provisions in that it does not guide the development of specific areas. Rather, as Mr Bryce put it, it is an expression of the strategic intent of Council which has legal effect because its provisions are incorporated into the PDP.

596. Mr Bryce addressed the point in his reply evidence[232] and suggested that the best course was to delete reference to the Structure Plan and to describe the area concerned.

597. Mr Bryce also noted that there is a submission specifically seeking deletion of the relevant policy and the '*Urban Landscape Protection Line'* referred to in it[233].

598. Mr Bryce recommended that further specific policy direction for this area be considered as part of the residential hearing stream.

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231 Submissions 65 and 74

232 N Bryce, Reply Statement at 2.23-2.26

233 Submission 335

599. The Hearing Panel on the Residential Zone Stream (Stream 6) has not recommended any consequential changes to this policy and we agree with Mr Bryce's recommendations as to how it might be amended.

600. It follows that we recommend that what is now Policy 27.3.3.2 be reworded as:

"Subdivision and development within land located on the north side of Studholme Road shall have regard to the adverse effects of development and associated earthworks on slopes, ridges and skylines."

5.4 Objective 27.7.5 and Policies Following

601. Notified Objective 27.7.5 read:

"Objective – Bobs Cove Rural Residential Zone (excluding sub-zone) – Recognise the special character of the Bob's Cove Rural Residential Zone."

602. Mr Bryce recommended a grammatical change so that this objective also reads as an outcome statement. While we would prefer an outcome statement that was somewhat clearer as to the nature of the outcome being sought, in the absence of any submission on the point, we do not consider a more substantive amendment is possible. Accordingly, we agree with Mr Bryce's suggestion, with the result that we recommend that the objective (renumbered as 27.3.4) be reworded as:

"The special character of the Bob's Cove Rural Residential Zone is recognised and provided for."

603. Notified Policy 27.7.5.1 (renumbered 27.3.4.1) read:

"Have regard to the need to provide for street lighting in the proposed subdivision. If street lighting is required in the proposed subdivision to satisfy the Council standards, then in order to maintain the rural character of the zone, the street lighting shall be low in height from the ground, of reduced lux spill and directed downwards to avoid adverse effects on the night sky."

604. Mr Bryce identified that this policy contained a level of duplication that could be resolved without altering the policy meaning.

605. We agree with the desirability of expressing this policy more succinctly. However, we consider Mr Bryce's revision inadvertently altered the meaning by omitting reference to "*required*" street lighting. That would imply that street lighting is required at all locations. We recommend a further revision of the wording to address that point. The only additional amendment we recommend is consequential on changes to other PDP provisions, recognising that the night sky is not affected by light on the ground. What is affected are views of the night sky. Accordingly, we recommend that what is now Policy 27.3.4.1 would read:

"In order to maintain the rural character of the Zone, any required street lighting shall be low in height from the ground, of reduced lux spill and directed downwards to avoid adverse effects on views of the night sky."

5.5 Objective 27.7.6 and Policies Following

606. Notified Objective 27.7.6 related to the Ferry Hill Rural Residential Sub-Zone. Both the objective and Policy 27.7.6.1 following it are proposed to be deleted (and replaced) in the Stage 2 Variations, so we need say no more about it.

5.6 Objective 27.7.7 and Policies Following

607. Notified Objective 27.7.7 and its associated policies related solely to the Makarora Rural Lifestyle Zone. As the Hearing Panel hearing the mapping submissions in the Upper Clutha (Stream 12) has recommended all the land which was proposed to be zoned Rural lifestyle at Makarora be zoned Rural[234], this objective and these policies can be deleted as a consequential amendment. Thus, we recommend their deletion.

5.7 Objective 27.7.8 and Policies Following

608. Notified Objective 27.7.8 (renumbered 27.3.5) relates to the Wyuna Station Rural Lifestyle Zone. Mr Bryce did not recommend any change to this policy, but consistent with other amendments he has recommended to objectives, we consider that some grammatical reformatting is required to express it more clearly as an outcome.

609. Accordingly, we recommend that this objective be revised to read:

"Provision for a deferred Rural Lifestyle Zone on the terrace to the east of, and immediately adjoining, the Glenorchy Township."

5.8 Objective 27.7.9 and Policies Following

610. Notified Objective 27.7.9 is also related to the Wyuna Station Rural Lifestyle Zone. Mr Bryce recommended that this objective be reworded to be expressed more as an outcome. Consistent to our approach in relation to other objectives, we agree with Mr Bryce both in this regard and in relation to his correction of a cross reference to what is now objective 27.3.5[235].

611. The only additional change required is a minor punctuation tweak. Accordingly, we recommend that what is now Objective 27.3.8, be reworded to read:

"Subject to Objective 27.3.5, rural living development is enabled in a way that maintains the visual amenity values that are experienced from the Glenorchy Township, Oban Street and the Glenorchy-Paradise Road"."

5.9 Objectives 27.7.10-13 Inclusive

612. Notified Objectives 27.7.10-13 inclusive were not actually objectives at all. In each case they were labelled "*Objective – Industrial B Zone"*. Under the label "*policies*" for each, there is no policy either, just a note that this was reserved for Stage 2 of the PDP review. In effect, these are merely placeholders that in our view serve no useful purpose. Mr Bryce initially recommended their deletion, but following a discussion we had with him, querying whether any submission had sought that relief, resiled on that view. We too have reflected on the position, and have concluded that while no submission sought that outcome, it nevertheless open to us to recommend that the '*objective'* and '*policies'* in each case be deleted. Precisely because these provisions do not say anything, we do not regard this as a substantive change.

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234 Refer Report 16.17

235 Accepting in this regard submission 481

5.10 Objective 27.7.14 and Policies Following

613. Notified Objective 27.7.14 (renumbered Objective 27.3.7) read:

> *"Objective - Jacks Point Zone – Subdivision shall have regard to identified location-specific opportunities and constraints."*

614. Mr Bryce recommended that this objective be revised to read:

> *"Objective – Jacks Point Zone – Subdivision shall have regard to identified location specific opportunities and constraints identified within the Jacks Point Structure Plan located within Chapter 41."*

615. Mr Bryce did not explain the rationale for this change in his evidence proper. In his section 32 evaluation, he expressed the view that it was an administrative modification to cross refer the Structure Plan located in Chapter 41 that would result in efficiencies in PDP implementation.

616. Given that the first policy under this objective cross referred the objectives and policies in Chapter 41 that make extensive reference to the Jacks Point Structure Plan, we do not consider it a material change to clarify that the opportunities and constraints referred to are those identified within the Structure Plan, as indeed Mr Bryce advised was the intent.

617. We consider that the desired outcome could be expressed more succinctly as:

> *"Subdivision occurs consistent with the Jacks Point Structure Plan."*

618. As notified, Objective 27.7.14 was supported by 8 policies. Mr Bryce recommended the first notified policy be retained, the second (27.7.14.2) be transferred to the Rule governing compliant subdivision within the Jacks Point Zone (now 27.7.1) and the remaining six to the section he drafted (discussed below) providing assessment criteria.

619. We agree with those recommendations in the first two respects. However, the rule to which the suggested assessment criteria relate applied to non-compliance with standards for conservation areas within the Jacks Point Zone and the former policies apply to activity areas, not including those conservation areas. We consider the best approach is to retain them as policies supporting Objective 27.3.7, amended as required so that they read as policies. We regard the changes in wording and formatting required as minor changes within Clause 16(2) of the First Schedule.

620. Addressing the submissions on these policies, Submission 762[236] sought a new heading for Policy 27.7.14.2 recognising that it provided matters of discretion. This has effectively been granted through Mr Bryce's suggested reorganisation of provisions.

621. Submission 632[237] sought that Policy 27.7.14.5 related to subdivisions below 380m² on the Hanley Downs portion of the zone. While we accept the need for the relevant rule (now 27.7.5.2) to provide for smaller sections in that area, we consider that the policy guidance should start at a higher point.

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236 Opposed in FS1217, FS1219, FS1252, FS1277, FS1283, and FS1316

237 Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

622. Submission 632[238] also sought deletion of both Policies 27.7.14.7 and 27.7.14.8 related to cul-de-sacs and configuration of sites, parking, access and landscaping. Mr Bryce did not recommend deletion of these provisions. Mr Wells, giving evidence for the submitter, identified the first as having merit, but suggested it could be dealt with under more general provisions. He did not appear to address the latter submission specifically. Given that position, we prefer to be clearer as to the desired approach, and recommend retention of these provisions, but amended as above.

623. Mr Bryce recommended inclusion of two new policies in this section reading:

"Enable subdivision which provides for appropriate, integrated and orderly development in accordance with the Jacks Point Structure Plan located within Chapter 41.

The extent to which the subdivision achieves the matters of control listed under Rule 27.7.4 and as they relate to the Jacks Point Structure Plan located within Chapter 41."

624. We think the first suggested policy is unnecessary because the objectives and policies located within Chapter 41, and cross referred in renumbered Policy 27.3.7.1, already enable subdivision in accordance with the Structure Plan.

625. The second suggested policy is framed as an assessment criterion rather than a policy.

626. Accordingly, we do not recommend inclusion of either of the two new policies that Mr Bryce suggested.

5.11 Objective 27.7.17 and Policies Following

627. Notified Objective 27.7.17[239] related to Waterfall Park. There were no submissions specifically on this objective[240] and Mr Bryce did not recommend any change to it.

628. We consider that minor grammatical changes would better identify the outcome sought by this objective and that, for the same reasons as apply in relation to the Jacks Point objective just noted, it would be desirable to cross reference the Waterfall Park Structure Plan.

629. Accordingly, we recommend that Objective 27.7.17 be renumbered 27.3.8 and reworded to read:

"Subdivision that provides for a range of visitor, residential and recreational facilities, sympathetic to the natural setting and has regard to location specific opportunities and constraints identified within the Waterfall Park Structure Plan."

630. Mr Bryce recommended no change to notified policy 27.7.17.1 other than consequential renumbering. The policy refers to the Waterfall Park Structure Plan as being located within Chapter 42. As we will discuss later in this report in greater detail, we consider that all of the Structure Plans relevant to the subdivision rules and policies should be located in Chapter 27. Accordingly, we recommend that that cross reference be amended accordingly.

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238 Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

239 There were no Objectives 27.7.15 and 27.7.16

240 Other than seeking that it be shifted to accompany the other objectives and policies in Chapter 27 (Submission 696)

631. Mr Bryce recommended a new policy under this objective framed in a similar manner to the second policy he suggested for the Jacks Point Zone. For the same reasons as above, we do not recommend inclusion of a policy that is framed as an assessment criterion.

5.12 Objective 27.7.19 and Policies Following

632. Notified Objective 27.7.19 related to the Millbrook Special Zone. There were no submissions on the wording of this objective[241] and Mr Bryce did not recommend any change to it other than renumbering it to reflect his suggested reorganisation of the chapter. For our part, aside from renumbering it 27.3.9 to reflect our recommendations as above, we recommend a minor grammatical change to more clearly express the objective as an outcome, so that it be worded:

"Subdivision that provides for resort development while having particular regard to landscape, heritage, ecological, water and air quality values."

633. Notified Policy 27.7.19.1 is framed in a similar manner to the parallel policy related to Waterfall Park. Mr Bryce did not recommend any change to it (other than consequential renumbering). For the same reasons as above, we recommend that the renumbered Policy 27.3.9.1 should cross reference the Millbrook Structure Plan located within Chapter 27.

634. As for Jacks Point and Waterfall Park, Mr Bryce recommended a new policy be inserted related to the extent to which the subdivision achieves the matters of control listed in the relevant rule. For the same reasons as above, we do not recommend inclusion of such a policy.

635. As a result of the recommendations of the Stream 13 Hearing Panel[242], an objective and some seven policies are included to address subdivision activities within a new (Coneburn Industrial) zone. These have been inserted in a new Section 27.3.10.

636. Similarly, two new objectives and related policies have been inserted as 27.3.11 and 27.3.12 governing subdivision in the West Meadows Drive area of Wanaka and the Frankton North area, consequent on the recommendations of the Stream 12 and 13 Hearing Panels[243] respectively.

5.13 Conclusion on Location and Zone-Specific Objectives and Policies

637. Looking overall at the location-specific objectives and policies, we have a concern that many of these provisions have been rolled over from the ODP with no apparent thought having been given to whether they remain appropriate. Many of the policies, in particular, relate to actions apparently taken in the past or referenced to such past actions. Renumbered Policy 27.3.1.1 refers, for instance, to actions being taken before any subdivision or development occurs within the Peninsula Bay Lower Density Suburban Residential Zone. Our understanding is that development of the Zone has already proceeded. We wonder whether that policy is effectively 'spent'. Similarly, Policy 27.3.7.1 seeks prohibition or deferral of development of the Wyuna Station Rural Lifestyle Zone until such time as one of three servicing options is undertaken. Mr Bryce confirmed to us that the intention is not that, by restating the existing policy, there should be an opportunity to move to a different wastewater disposal option, as appears to be the effect of restating the policy in the same form as appears in the ODP.

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241 Although it appears Submission 696 may have been misdirected, referring variously to Objective 27.7.17, Policy 27.7.17.1 and Section 27.7.18.1, that all relate to Waterfall Park.

242 Refer Report 17-8 Part F

243 Refer Reports 16.2 at Section 2.11 and Report 17-6 Parts A, B and C

638. Given the paucity of submissions on this part of Chapter 27, it was beyond the scope of our inquiry to address these matters. However, we recommend that the Council undertake a complete review of the location-specific objectives and policies to determine whether they are necessary and appropriate having regard to development that may already have occurred within the respective zones. To the extent that the outcome of such a review is a finding that one or more of the objectives and/or policies needs to be amended or deleted, we recommend that this be part of a variation to the PDP.

639. We record, however, that we have considered each of the recommended objectives in this section of Chapter 27 and that, with the amendments and deletions recommended, the resulting objectives are the most appropriate way in which to achieve the purpose of the Act, given the alternatives available to us.

640. We further record that we have considered the policies in this section and again, having regard to the alternatives available to us, we consider that, in each case, the policies supporting the location-specific objectives recommended, are the most appropriate means to achieve those objectives.

6. SECTION 27.3 - OTHER PROVISIONS AND RULES

6.1 27.3.1 – District Wide Provisions

641. The purpose of notified Section 27.3 was evidently to provide clarification as to the relationship between Chapter 27 and the balance of the PDP, and to describe the inter-relationship of Chapter 27 with the ODP. Section 27.3.1 as notified outlined a number of district wide chapters of relevance to the application of Chapter 27.

642. The only submission on Section 27.3.1[244] sought that specific emphasis be given to Chapter 30 as it relates to subdivision use and development near the National Grid. Mr Bryce did not recommend acceptance of that submission on the basis that issues related to the National Grid were more properly identified in the substantive provisions of Chapter 27 and because drawing out Chapter 30 would give it too much emphasis when all the district-wide chapters need to be considered. We agree with Mr Bryce's analysis on both counts. Mr Bryce recommended only minor cosmetic changes to Section 27.3.1.

643. For our part, we thought that the distinction drawn between provisions within Stage 1 of the PDP and ODP provisions (or "Operative" provisions as Mr Bryce suggested) in Section 27.3.1 was unhelpful given that following resolution of any appeals on the PDP, its provisions will form part of the ODP. In addition, the chapter heading of Chapter 6 listed in the table following needs to be amended to reflect recommendations of the Hearing Panel hearing submissions on that chapter. Lastly, chapter headings affected by the Stage 2 Variations need to be noted in italics pending decisions as part of that process.

644. As a consequence, we recommend deletion of the second sentence of notified Section 27.3.1 (now renumbered 27.4.1), deletion of reference to provisions being in the ODP in the table following, and amendment of the reference to Chapter 6 (so that it is entitled *"Landscapes and Rural Character"*).

244 Submission 805

6.2 27.3.2 – Earthworks Associated with Subdivision

645. Notified Section 27.3.2 contained 'clarification' as to the status of earthworks associated with subdivision activities. The intention appeared to be that earthworks form part of the consideration of subdivision applications, but be considered in terms of matters of control and discretions contained in the District Wide Earthworks Chapter.

646. We identified this as raising a number of difficult issues. Fortunately perhaps, our need to grapple with those issues has been overtaken by the Stage 2 Variations which have proposed an amendment to 27.3.2. We need therefore address it no further.

6.3 27.3.3 – Zones Exempt from PDP and Subdivision Chapter

647. Section 27.3.3 of the notified PDP listed a number of zones under the heading:

*"*Zones *exempt from the Proposed District Plan and subdivision chapter."*

648. The first list (in notified Section 27.3.3.1) listed certain zones[245] which did not form part of the PDP Stage 1 and in respect of which the Subdivision Chapter does not apply. The second list (in notified Section 27.3.3.2) referred to the three special zones the subject of Chapters 41-43 of the PDP and stated that they were the exception and that the balance of the special zones within Chapter 12 of the ODP were excluded from the operation of the Subdivision Chapter.

649. In its Report 2, the Hearing Panel discussed the lack of clarity generally, if not confusion, as to the matters covered by the PDP, of which these provisions are but one example. The Hearing Panel suggested to counsel for the Council that rather than have provisions buried in the Subdivision Chapter explaining what matters were within the purview of the PDP and what matters were not was not helpful and that it would assist the reader if such clarification were provided in the opening sections of the PDP. The answer the Hearing Panel received from the Council's representatives was that the Council preferred not to make a statement as to what matters were covered by the PDP in the introductory sections of the PDP, because that would only get overtaken by subsequent plan changes, necessitating that the explanation would itself need to be changed. The advice we had from counsel was that Council preferred to provide such clarification by means of explanations on the Council website.

650. The same logic would suggest that Section 27.3.3 should be deleted, because it raises the same issues as a clarification in the introductory sections would have done.

651. We had other issues with this part of the Chapter. We do not think it is helpful to refer to the PDP: Stage 1 given that at the completion of this process, the final form of the PDP will then form part of the ODP. While we note the advice received subsequently[246] that Council's intention is that the provisions of the PDP, once operative, will be held in a separate volume of the District Plan applying to most but not all of the District, it will still not be correct to describe that volume as the "Proposed District Plan".

652. For the same reason, we do not think it is helpful to refer to Chapter 12 of the ODP given that, upon the PDP becoming operative, Chapter 12 will contain provisions related to Queenstown Town Centre, and not the special zones intended to be referred to by notified Section 27.3.3.2.

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245 Frankton Flats A, Frankton Flats B, Remarkables Park, Mount Cardrona Station, Three Parks, Kingston Village Special Zone, Open Space Zone

246 Counsel for the Council's Memorandum dated 23 November 2016

653. Mr Bryce sought to resolve at least some of these issues by suggesting deletion of reference to the PDP Stage 1 in notified Section 27.3.3.1, but created new issues by suggesting insertion of a reference to Chapter 15 of the ODP.

654. Subsequently the provisions have been overtaken in part (as regards reference to the Open Space Zone) by the Stage 2 Variations.

655. The only submissions on this part of Chapter 27 sought variously an amendment to the heading[247] and insertion of a reference to a proposed new zone in notified provision 27.3.3.2[248]. This is not a promising basis for clarification of the complex position we have described above.

656. Our concerns in relation to this section were effectively overtaken by the advice we received[249] that Council had determined that the appropriate way to resolve the difficulties in determining what plan provisions apply to what land is to insert clarification by way of plan variation under clause 16A. The Council's resolution of 25 May 2017 (discussed in Report 1) withdrawing a number of the zones listed in notified 27.3.3.1 from the PDP is an additional consideration.

657. Against that background, we recommend that Section 27.3.3 be deleted from Chapter 27 in effect, so Council can start, in effect, with a 'blank slate'. We regard this as a minor non substantive change because, to the extent section 27.3.3 records that Chapter 27 does not apply to zones not part of the PDP, it does no more than state the position as we believe it to be in any event. We discuss this further in Section 8.1 below.

6.4 Section 27.11 – Natural Hazards

658. Section 27.11 discussed the role of the Natural Hazards Chapter of the District Plan. Because renumbered Section 27.4 operates as a 'catchall' of other relevant provisions in the PDP, we consider Section 27.11 should form part of the provisions referenced in Section 27.4. There was only one submission on Section 27.11[250], which sought that it reference section 106 of the Act. We are a little unclear as to the point of the submission given that Section 27.11 already does reference section 106.

659. Be that as it may, we recommend that notified Section 27.11 is shifted into a subsection of renumbered Section 27.4 (as 27.4.3), but otherwise be left unamended.

6.5 Conclusion

660. We have considered the provisions recommended for renumbered Section 27.4 as a whole. We consider that collectively, they are the most appropriate means to achieve the objectives of the PDP as they relate to subdivision and development, given the alternatives available to us in this context.

247 Submission 580
248 Submission 806
249 In counsel for the Council's 23 November 2016 Memorandum
250 Submission 806

7. SECTION 27.4 - RULES – SUBDIVISION

7.1 Introduction

661. Before commencing a review of the submissions on the rules of Chapter 27 as notified, we note that Mr Bryce suggested that consequent on reformatting of the rules he had suggested, there needed to be an initial introductory statement regarding the rules. We agree both with the need for explanation and the suggested text. Our recommended revised Chapter 27 shows the new text as Section 27.5.1.

662. We also consider that it is desirable to provide for the situation that might potentially arise when an activity falls within more than one rule. In such cases, unless stated otherwise in the rules, activity status should be determined by the most restrictive rule, and so we recommend the following be added:

"Where an activity falls within more than one rule unless stated otherwise, its status shall be determined by the most restrictive rule."

7.2 Boundary Adjustments

663. The next rule requiring consideration is notified Rule 27.6.1.1. This is a permitted activity rule for certain boundary adjustments. The only submissions that sought amendment to the notified rule were from the survey companies[251] seeking variously acknowledgement of the requirement for a Certificate of Compliance under section 223 of the Act and a minor grammatical change to improve the English.

664. Mr Bryce recommended acceptance of the former point and suggested also a clarification of the reference in the notified rule to a resource consent (to identify what type of resource consent is required). We accept both recommendations in substance, but we think both the wording and the formatting suggested by Mr Bryce needs a little massaging. Specifically, the cross reference should be to a *'land use consent'* so as to pick up on the language of section 87(a) of the Act and the formatting needs to make it clear that this rule relates to one activity that might arise in a number of different situations. The cross reference to section 223 needs to be framed more clearly as an advice note drawing attention to the fact that this is a collateral obligation. Lastly, we recommend that the minor grammatical change suggested in Submission 370 be accepted.

665. The end result is that we recommend that renumbered **Permitted Activity** Rule 27.5.2 be framed as follows:

"An adjustment to an existing cross-lease or unit title due to:

a. an alteration to the size of the lot by alterations to the building outline;
b. the conversion from cross-lease to unit title: or
c. the addition or relocation of an accessory building;

providing the activity complies with all other provisions of the District Plan or has obtained a land use consent.

Advice Note
In order to undertake such a subdivision, a Certificate of Compliance (s139 of the Act) will need to be obtained (see s223(1)(b))."

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[251] Submissions 370 and 453

666. In his Section 42A Report, Mr Bryce noted a number of submissions[252] seeking provision for boundary adjustments not falling within notified Rule 27.6.1.1 as a controlled activity. Mr Bryce noted that under the notified Plan, such boundary adjustments would fall within the default discretionary rule already discussed. In Mr Bryce's view, boundary adjustments are an important and frequently utilised mechanism (he cited a statistic provided in the section 32 evaluation to the effect that of 677 subdivisions advanced between 2009 and 2015, 125 were boundary adjustments). Accordingly, Mr Bryce recommended inclusion of a new controlled activity rule for boundary adjustments. Mr Bryce felt, however, that boundary adjustments within the Arrowtown urban limits, and on sites containing heritage or other protected or scheduled items should be dealt with under a different rule with a greater level of discretion – he recommended a new restricted discretionary activity rule for such boundary adjustments.

667. We agree with Mr Bryce that there is a case for a less regulated approach to boundary adjustments than in the notified plan, that most boundary adjustments can appropriately be considered as controlled activities (subject to suitable conditions) and that a greater level of discretion is required for sites with identified sensitivity, or more generally in Arrowtown (but still short of full discretionary status).

668. Focussing on the new controlled activity rule, Mr Bryce largely recommended acceptance of the proposed matters of control suggested in the submissions subject to some drafting changes to express them more clearly. We discussed with Mr Bryce whether there needed to be an additional precondition requiring that lots be immediately adjoining each other to avoid the rule being used in situations that while technically able to be described as boundary adjustments, create additional issues. Mr Bryce agreed that that was a desirable additional precondition. We also consider that the situations proposed Rule 27.5.3 addresses might be expanded on to cover the situation where the existing lots already do not comply with the specified minimum lot areas. Subject to that point, we recommend inclusion of a new **Controlled Activity** rule numbered 27.5.3, with only minor additional rephrasing and reformatting from that suggested by Mr Bryce, reading as follows:

> *"For boundary adjustment subdivision activities where there are two or more existing lots which each have separate Certificates of Title, new lots may be created by subdivision for the purpose of an adjustment of the boundaries between the existing lots, provided:*
>
> *a. in the case of Rural, Gibbston Character and Rural Lifestyle Zones, any approved building platform is retained in its approved location;*
>
> *b. no additional or relocated residential building platform is identified and approved as part of a boundary adjustment within the Rural, Gibbston Character and Rural Lifestyle Zones;*
>
> *c. no additional separately saleable lots are created;*
>
> *d. the areas of the resultant lots either comply with the minimum lot size requirement for the zone (where applicable) or where any lot does not comply with an applicable minimum lot size requirement for the zone, the extent of such non-compliance is not increased; and*
>
> *e. lots must be immediately adjoining each other.*

[252] Submissions 532, 534, 535, 762, 763, 767, 806: Supported in FS1097, FS1157, FS1259, FS1267 and FS1322; Opposed in FS1068, FS1071, FS1217, FS1219, FS1252, FS1277, FS1283 and FS1316

Control is reserved to:

a. the location of the proposed boundaries;

b. boundary treatment;

c. easements for existing and proposed access and services."

669. Similarly, we largely accept Mr Bryce's recommendation of a new restricted discretionary activity rule. Amendment is, however, required to adjust the language recommended by Mr Bryce, to make it clear that this is indeed a restricted discretionary rule – reference to reservation of control is therefore not appropriate. The only additional changes we consider necessary are to separate the two situations where the rules apply (for clarity), to emphasise that the focus should be on heritage or other protected items identified on the PDP maps, to provide certainty, insertion of the same precondition regards boundary adjustments involving sites that are not adjacent as in Rule 27.5.3, and minor grammatical and formatting changes.

670. Accordingly, we recommend inclusion of a new **Restricted Discretionary Activity** rule numbered 27.5.4, worded as follows:

"For boundary adjustments that either:

a. involve any site that contains a heritage or other protected item identified on the District Plan maps; or

b. any boundary adjustment within the Urban Growth Boundary, of Arrowtown

where there are two or more existing lots which each have separate Certificates of Title, new lots may be created by subdivision for the purpose of an adjustment of the boundaries between the existing lots, provided:

- *a. no additional separately saleable lots are created;*
- *b. the areas of the resultant lots comply with the minimum lot size requirement of the zone;*
- *c. lots must be immediately adjoining each other.*

Discretion is restricted to:

a. the impact on the heritage values of the protected item;

b. the maintenance of the historic character of the Arrowtown Residential Historical Management Zone;

c. the location of the proposed boundaries;

d. boundary treatment;

e. easements for access and services."

671. Establishing rules governing boundary adjustments with conditions on their application requires consideration of the position should those conditions not be met. For boundary adjustments within the urban zones covered by the PDP, non-complying boundary adjustments will fall within the new default rule (25.5.7) discussed earlier, and will therefore be considered as restricted discretionary activities. While this is the same status as activities within Rule 25.5.4, there are a much more extensive list of matters over which discretion is reserved and so we do not view this as inappropriate. Likewise, non-complying boundary adjustment within the Rural Residential and Rural Lifestyle Zones will fall within the new Rule 25.5.8. Lastly, non-complying boundary adjustments within the Rural and Gibbston Character Zones will be considered as discretionary activities under Rule 27.5.11, reflecting the greater potential sensitivity of land in those zones.

7.3 Unit Title or Leasehold Subdivision

672. Mr Bryce also recommended a new controlled activity rule to cater for "*unit title, strata title or cross lease subdivision of a multi-unit commercial or residential* development *the subject of a land use consent".* This recommendation was in conjunction with Mr Bryce's suggestion of a new policy to follow renumbered 27.2.7.2 providing for such subdivisions. We have already concluded that there is no jurisdiction for us to recommend a new policy to this effect[253] and recommended a variation to address the issue. We do not, however, think that there are any jurisdictional impediments to inserting a rule to this effect given the numerous submissions seeking that all subdivision activities be controlled activities.

673. There are, however, some aspects of Mr Bryce's suggested rule that we consider require amendment. First, we do not consider that separate reference need be made to strata titles given that this has no clear meaning in terms of the PDP and, as a matter of property law, there is no meaningful distinction between a stratum title and a unit title[254].

674. Secondly, although Mr Bryce focussed on cross-leased subdivisions, we consider that the precise nature of the leasehold interest in question should not influence the status which is appropriate for such subdivisions.

675. Thirdly, Mr Bryce suggested that the Council reserve control over the effects of infrastructure provision. For the reasons discussed above in relation to the Aurora line network, we consider that the reservation of control needs to include effects "*on"* infrastructure provision as well as "*of"* infrastructure provision.

676. As previously, the rule should refer to an approved "*land use consent*". We have amended the description of the matters of control for consistency also.

677. Mr Bryce's recommended rule included a reference to fee simple subdivisions. We consider that the wording could be clarified as to what is meant by that, and to state more clearly what it is intended to apply to.

678. Lastly, Mr Bryce suggested a reference to lots containing an approved land use consent. A lot does not contain consents. Resource consents sit alongside property rights, which is why a land use consent is described as running with the land. We therefore recommend that the reference be to lots *"the subject of"* an approved land use consent.

679. In summary, therefore, we recommend inclusion of a new **Controlled Activity** rule numbered 27.5.5 reading as follows:

"Where a land use consent is approved for a multi-unit commercial or residential development, including visitor accommodation development, and a unit title or leasehold (including cross lease) subdivision is subsequently undertaken in accordance with the approved land use consent, provided:

a. all buildings must be in accordance with an approved land use consent;

b. all areas to be set aside for the exclusive use of each building or unit must be shown on the survey plan, in addition to any areas to be used for common access or parking or any other such purpose;

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253 Refer paragraph 562 above

254 A stratum estate is an estate (in fee simple or leasehold) created under the Unit Titles Act 2010 – see Principles of Real Property Law, Hinde et at, 2nd edition 3.004C

c. all service connections and on-site infrastructure must be located within the boundary of the site they serve or have access provided by an appropriate legal mechanism.

Control is reserved to:

a. the effect of the site design, size, shape, gradient and location, including existing buildings, manoeuvring areas and outdoor living spaces;
b. the effects of and on infrastructure provision.

This rule does not apply to a subdivision of land creating a separate fee-simple title.

The intent is that it applies to subdivision of a lot the subject of an approved land use consent in order to create titles in accordance with that consent."

7.4 District Wide Subdivision Rules

680. Putting aside recommended Rule 25.5.6, that we will come to shortly, the next two rules in our recommended section 27.5 are Rules 27.5.7 and 27.5.8 discussed earlier[255].

681. Mr Bryce drew our attention in his Section 42A Report to a submission by Transpower New Zealand Ltd[256] seeking a new rule in the Utilities Chapter (Chapter 30) that would make subdivision of land within a defined distance either side of national grid lines a restricted discretionary activity, subject to a condition/standard requiring that all allotments identify a building platform for the principal building and any dwelling to be located outside the corridor. The submission further sought a default non-complying activity rule, to operate in conjunction with the restricted discretionary activity rule.

682. Mr Bryce recommended that this submission be considered in the context of Chapter 27 and we agree with that suggestion. We also note the relevance of the policy we have recommended above as 27.2.2.8, which in turn reflects the provisions of the Proposed RPS provisions related to regionally significant infrastructure and the NPSET 2008.

683. We agree with Mr Bryce that a rule framework is required to support these policy provisions and that the need to protect the operation of the national grid means that there must be provision for applications to be declined if required. That means in practice that the rules should at least be restricted discretionary in nature.

684. In relation to the framing of the rule, by Mr Bryce's reply, he had largely agreed with the suggestions made by Ms McLeod in relation to his initial draft attached to the Section 42A Report. For our part, we think that, aside from minor wording and formatting changes for consistency, two amendments are required to Mr Bryce's draft rule. The first is that Mr Bryce's draft refers to the "*National Grid Subdivision Corridor"*. We asked Ms McLeod about this and she saw no reason not to call the area in question just "*National Grid Corridor"*. This would have the practical advantage of enabling utilisation of the existing definition, which Transpower did not seek to substantively change.

685. The second amendment is to the specified condition/standard Transpower sought and Mr Bryce agreed that the condition/standard should have, with the result that the rule would apply "*where all allotments identify a building platform for the principal building and any dwelling to be* located *outside of the National Grid Yard".* This would mean that a subdivision in the vicinity of the National Grid lines not involving construction of any building or dwelling,

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255 See the discussion at paragraphs 99-176 above

256 Submission 805: Opposed in FS1132

such as the creation of a reserve or a subdivision for utility purposes, would become a non-complying activity. We therefore recommend that the provision be turned around so it expresses the position on an exceptions basis.

686. Accordingly, we recommend inclusion of a new **Restricted Discretionary** rule numbered 27.5.10[257], worded as follows:

"Subdivision of land in any zone within the National Grid Corridor except where any allotment identifies a building platform to be located within the National Grid Yard.

Discretion is restricted to:

a. *impacts on the operation, maintenance, upgrade and development of the National Grid;*
b. *the ability of future development to comply with NZECP34:2001;*
c. *the location, design and use of any proposed building platform as it relates to the National Grid transmission line."*

687. The corollary of this rule is a further non-complying activity rule for subdivisions that do not comply with the standard. We accept Mr Bryce's recommendation as to its wording save that the cross reference should be to the National Grid Corridor and a consequential renumbering.

688. As a result, we recommend inclusion of a new **Non-Complying** activity rule numbered 27.5.24 worded:

"Any subdivision of land within the National Grid Corridor, which does not comply with Rule 27.5.10."

689. Mr Bryce's recommended set of rules next had a new restricted discretionary activity rule for subdivision of land within a defined distance from electricity sub-transmission lines, responding to the submissions of Aurora Energy Limited[258].

690. We have already addressed the point more generally, by recommending inclusion of a discretion over adverse effects on energy supply and telecommunication networks in the context of recommended Rules 27.5.7 and 27.5.8 and control over effects on infrastructure in Rule 27.5.5. Against this background, we do not regard a rule specifically applying to electricity sub-transmission lines as being required.

691. The next rule recommended by Mr Bryce is a discretionary activity rule governing subdivision activities in the Rural and Gibbston Character Zones. The need for this rule is a consequence of shifting from a discretionary default rule (as per notified rule 27.4.1). We have already addressed the need to treat subdivisions in the Rural and Gibbston Character Zones differently to subdivisions in other zones and so we do not need to go back over that ground (except in relation to the Ski Area Sub-Zones, which we will discuss shortly). Mr Bryce also recommended that an exception be made for subdivisions undertaken in accordance with Rule 27.5.5.

692. The evidence we heard from the representatives of some of the ski companies[259] was that in the existing ski areas, there might well be leasehold subdivisions of accommodation facilities. While it is difficult to contemplate a situation where multi-unit commercial residential developments would occur in the Rural Zone outside the ski areas, we think that the same

257 Leaving 27.5.9 available for a new rule proposed in the Stage 2 Variations.

258 Submission 635: Opposed in part in FS1301

259 Submissions 610 and 613

logic would apply to such subdivisions: provided the subdivision occurs in conjunction with an approved land use consent, it might properly be considered as a controlled activity.

693. Subdivisions under Rule 27.5.5 are not, however, the only potential exception to full discretionary activity status in the Rural and Gibbston Character Zones. Rules 27.5.2-4 also might apply. We therefore consider the exception needs to be more generic – "*unless otherwise provided for".* That formulation would also enable non-complying boundary adjustments in these zones to be addressed under Rule 27.5.11, in the manner we discussed above[260].

694. Turning to the broader submission made on behalf of submitters 610 and 613 that subdivision within the Ski Area Sub-Zones should be a controlled activity rather than discretionary, as for the balance of the Rural Zone, this was the subject of extensive legal submissions and planning evidence.

695. The argument for the Ski Company submitters, building on the case they advanced in the Stream 2 hearing related to the relevant provisions of Chapter 21, is that the PDP identifies the Ski Area Sub-Zones as an important area for growth and development by reason of their contribution to the District's economy and provides an enabling policy and rule framework. It was argued that the Ski Area Sub-Zones are quite different to the balance of Rural Zoned land and that their different purpose justifies a different subdivision status. Specific attention was given to the extent of modification which, in counsel's submission, justified the exclusion from the stringent policies applicable to ONLs and ONFs. The submitters also emphasised the importance of subdivision as a means to optimise ski area operations and to enable their continued prosperity. It appears from the evidence we heard that a major strategic initiative planned by the submitters is creation of ski villages with accommodation on the mountain. Subdivision is required, so we were told, to facilitate this although, as noted above, probably by way of lease rather than freehold subdivision.

696. While the Ski Area Sub-Zones are atypical in the context of the Rural Zone as a whole, we think it also needs to be recognised (as noted in the Hearing Panel's Report 3) that exclusion of the Ski Area Sub-Zones from the ONL classification process is something of an anomaly. They are clearly not sufficiently large to be landscapes in their own right and they have been developed (so far) in a manner which does not appear to have caused the broader landscapes within which they sit to cease to have the qualities justifying a classification as an ONL. We also think it needs to be borne in mind that minimum lot sizes are a key constraint in the Residential, Rural Residential and Rural Lifestyle Zones justifying a less restrictive rule regime for subdivision and development in those zones. The absence of a minimum lot size in the Rural Zone both enables flexibility in design and requires a greater level of discretion to be retained.

697. At the hearing, we explored with the representatives of the submitters whether subdivision on a more favourable basis might be limited to discrete parts of the Ski Area Sub-Zones (specifically, the ski bases). The thought that we had in mind was that in those parts of the Sub-Zone, there is an existing level of development and incremental subdivision and development within a defined area around the ski base facilities might be able to be provided for on a less restrictive basis.

698. However, when the submitters reappeared on 17 August accompanied by Mr McCrostie, he advised that while they were not looking to undertake subdivision and development across the entire ski area (that would of course defeat the whole purpose of a ski facility) there were

260 See paragraph 658 above

pods across the field where visitor accommodation, food and beverage operations and the like might be located, so it was not as simple as identifying a single discrete area within each Sub-Zone.

699. We discussed with the representatives of the submitters whether this conundrum might be addressed by a structure plan type approach and when they reappeared on 17 August, Mr Ferguson had clearly given considerable thought to this suggestion. He tabled suggested revised rules based on the subdivision being undertaken in accordance with a Landscape and Ecological Management Plan for the Sub-Zone, that additional feature justifying controlled activity status. It occurred to us that such an arrangement might raise issues of the kind that were addressed in the litigation on the Proposed Auckland Unitary Plan surrounding the use of framework plans[261]. Counsel for the submitters, Ms Baker-Galloway responded that the concept is one where an activity is consented, and an application contains the Landscape and Ecological Management Plan. Unlike the proposal considered by the Environment Court, it was not proposed that they be sequential.

700. We have discussed the Auckland Framework Plan cases in more detail in our Report 1. For present purposes, it is sufficient to say that while the approach advanced by Ms Baker-Galloway and Mr Ferguson might solve the legal hurdles identified in the framework plan cases (we assume that might be the case for the moment), it presents a more fundamental problem that is discussed in Report 1. If the Landscape and Ecological Management Plan is only approved as a condition of consent, it is not possible to identify in advance that the end result will be sufficiently acceptable that consent should be granted – that is to say, whether sufficient control is retained by controlled activity status. Mr Bryce came to the same view in his reply evidence. His opinion was that the approach advanced by Mr Ferguson "*falls short of a true structure plan response and therefore I question whether it offers the same level of certainty provided by the structure plan approach"*[262]. Mr Bryce also drew our attention to the jurisdictional issues created by the way in which the submitters' original submissions had been framed, limiting the scope of parallel amendments proposed to Chapter 21 to visitor accommodation.

701. We have concluded that Mr Bryce is correct, and the proposal proffered by Mr Ferguson on behalf of the submitters does not provide us with sufficient comfort to recommend controlled activity status. We consider that the solution for the ski companies is to pursue the course adopted in a number of other developments and proffer a true structure plan for the Ski Area Sub-Zones that might be incorporated in the PDP through a variation to it, with subdivision thereafter considered as a controlled activity under Rule 27.7.1.

702. In the absence of a Structure Plan within the District Plan, we think that any subdivision and development in the Ski Area Sub-Zones not falling within Rule 27.5.5 should remain discretionary.

703. In our assessment of costs and benefits of the competing alternatives we have had regard to Mr Bryce's view, as set out in his reply evidence[263], that Rule 27.5.5 is a more effective way of addressing the concern advanced on behalf of the submitters than the relief they suggest.

704. Lastly Mr Bryce's recommended rule had a typographical error in that it referred to the *"Rural General"* zone that needs to be corrected.

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261 *Re Application for Declarations by Auckland Council* [2016] NZEnvC 056 and [2016] NZEnvC 65

262 N Bryce, Reply Statement at 2.11

263 N Bryce, Reply Statement at 2.14

705. In summary, we recommend inclusion of a new discretionary activity rule numbered 27.5.11 worded:

"All subdivision activities in the Rural and Gibbston Character Zones and Airport Zone - Wanaka, unless otherwise provided for."

706. Mr Bryce also recommended as separate discretionary activity rules, the subdivision of land containing heritage or other protected items, archaeological sites, heritage landscapes and significant natural areas. Previously these rules had been located, somewhat anomalously, within the section (27.5) that set out the standards for subdivision activities. Accordingly, we accept Mr Bryce's suggestion. The only recommended changes to his suggested rules are consequential on the recommendations of the Hearing Panel in relation to how heritage and archaeological items are treated, and a cross-referencing correction – Mr Bryce suggested boundary adjustments under Rule 27.5.2 be exempted, but we consider that it should refer to Restricted Discretionary Rule 27.5.4. Otherwise Rules 27.5.4 and 27.5.12 would overlap.

707. Accordingly, we recommend inclusion of four discretionary activity rules numbered 27.5.12-15 respectively reading:

"*The subdivision of land containing a heritage or other protected item scheduled in the District Plan. This rule does not apply to boundary adjustments under Rule 27.5.4.*

The subdivision of land identified on the planning maps as a Heritage Overlay Area.

The subdivision of a site containing a known archaeological site.

Subdivision that would alter, or create a new boundary within a Significant Natural Area scheduled in the District Plan."

708. Notified Rule 27.4.2(e) provided as a non-complying activity, where a subdivision occurs under the Unit Titles Act and the building in question is not completed. This needs to be read together with notified Rule 27.4.2(f) which indicated (notwithstanding that it sits under a heading stating that the specified rules are non-complying activities) that where a unit title subdivision is lodged concurrently with an application for building consent or land use consent, it should be considered as a discretionary activity.

709. Submission 166 sought that both Rules 27.4.2(e) and (f) should be deleted. The submission argued that they operate as a barrier to staged developments and that other statutory provisions protect the Council in relation to the issue of unit titles.

710. Mr Bryce did not support that relief. While we agree in substance with Mr Bryce, we do think that greater clarity could be provided as to the inter-relationship between the two rules (and indeed Rule 27.5.5).

711. Logically, the second, less restrictive rule should be stated first. Mr Bryce suggested only minor wording amendments. Aside from amending Mr Bryce's reference to a "land use resource consent" to refer to the correct statutory term (*'land use consent'*), we agree with Mr Bryce's recommendations. The revised **Discretionary Activity** rule (numbered 27.5.16) would therefore read:

"A Unit Titles Act subdivision lodged concurrently with an application for building consent, or land use consent."

712. Turning to the second rule, we recommend that notified Rule 27.4.2(e) be renumbered 27.5.20 and revised to read:

"A subdivision under the Unit Titles Act not falling within Rules 27.5.5 or 27.5.16 where the building is not completed (meaning the applicable Code of Compliance Certificate has not been issued), or building consent or land use consent has not been granted for the buildings."

713. The next rule we need to discuss relates to subdivision within the Jacks Point Zone. As notified, Rule 27.4.2(a) provided that subdivision within the Jacks Point Zone that did not comply with the Chapter 27 standards should be a discretionary activity. Mr Wells gave evidence on this point[264] seeking recognition of the particular situation created within the Hanley Downs part of the Jacks Point Zone, where more intensive development (more intensive that is than the standard of 380m² provided for in notified Section 27.5.1) is planned. He sought restricted discretionary activity status for that area. In Mr Bryce's reply evidence, he recommended acceptance of Mr Wells' suggestion. We concur. Mr Bryce recommended a site specific restricted discretionary activity rule related to subdivision within another part of the Jacks Point Zone (a Farm Preserve activity area). However, that activity area has been deleted from the revised Jacks Point Structure Plan and the accompanying recommended Chapter 41 provisions, and so the rule is no longer required. We also suggest consequential changes to reflect our recommendations as to the heading and content of subsequent sections and to standardise the numbering with the other rules.

714. In summary, therefore, we recommend the **Discretionary** activity rule providing for non-compliance with the Jacks Point standards should be numbered 27.5.17 and read:

"Within the Jacks Point Zone, subdivision that does not comply with the minimum lot areas specified in Part 27.6 and the zone and location specific rules in Part 27.7, excluding:

a. *In the R(HD) Activity Area, where the creation of lots less than 380m² shall be assessed* under *Rule 27.7.5.2 (as a restricted discretionary activity)."*

715. Mr Bryce recommended that the balance of what was notified Rule 27.4.2(a) be the subject of a separate non-complying activity rule and be amended to cross reference the Jacks Point rule just discussed. We agree both with that reformatting and recommend the rule be as suggested by Mr Bryce, subject only to correcting the cross-reference numbering and consequential changes reflecting recommended changes to section headings.

716. The recommended **Non-Complying** rule (numbered 27.5.19 to accommodate an additional discretionary activity rule we will discuss shortly) therefore reads:

"Subdivision that does not comply with the minimum lot areas specified in Part 27.6 with the exception of the Jacks Point Zone which is assessed pursuant to Rule 27.5.17."

717. The final discretionary activity rule in this part of Chapter 27 is consequential on to a new zone recommended by the Stream 13 Hearing Panel for the Coneburn Industrial area. Amended to reflect the revised terminology we have recommended, it reads:

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[264] In relation to Submission 632: Supported in FS1097; Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

"*Within the Coneburn Industrial Zone Activity Area 2a, subdivision which does not comply with the minimum lot areas specified in Part 27.6."*

718. The next rule we need to consider is notified Rule 27.4.2(b) which identified as a non-complying activity the further subdivision of an allotment previously used to calculate a minimum average density in the Rural Lifestyle Zone or Rural Residential Zone.

719. Submission 350 sought deletion of this particular rule. The submission provides reasonably detailed reasons for the relief sought. It is argued that the rule has been carried over from legacy plans and is not based on achieving the objectives of the PDP or on achieving good environmental outcomes. The rule is described as a technicality which should not apply because the parent lot has been subdivided before. The reference point should be whether the objectives of the Rural Lifestyle and Rural Residential Zones are met. It is also supported on efficiency grounds. These various points might have carried more weight had Mr Jeff Brown, who gave evidence for this submitter, addressed them in his evidence.

720. Having said that, we consider that there is a problem with the way the rule is worded. The concern the rule seeks to address (we infer) is one of "*environmental creep"* if subdividers are permitted to obtain consents on one basis and then make further application, leveraging off the initial consent to obtain a better outcome.

721. Accordingly, where a subdivision has been approved with the maximum number of lots meeting the average density requirements in the relevant zone, the applicant should be discouraged from *"*having *another bite of the cherry"*. The test in the rule, however *("used to calculate the minimum average densities for subdivision"*) has wider application. In any subdivision in the Rural Lifestyle Zone, for instance, the average density will be calculated and compared to the average required (not less than 2 hectares). If the calculated average density is greater than 2 hectares, there may be room for a further subdivision in future with the average of the original subdivision remaining above 2 hectares. On the face of the matter, such a further subdivision would be a non-complying activity in terms of notified Rule 27.4.2(b). We do not consider that should be the case.

722. Another submission on this rule[265] sought deletion of reference to the Rural Residential Zone. The submission argues that minimum average densities are not relevant to the Rural Residential Zone.

723. The submission is not quite correct. While minimum average densities are not provided for in the Rural Residential Zone generally, either under the ODP or under the PDP, they are provided for in the Bob's Cove Sub-Zone. On this rather slender basis (and because specification of this as a non-complying activity in the balance of the Rural Residential Zone will impose no costs on subdividers if they have not had to meet an average density requirement), we recommend retention of reference in the rule (now numbered 27.5.21) to the Rural Residential Zone.

724. Reverting to the substantive issue we have identified with the reformatted rule Mr Bryce recommended, we consider it would be addressed if the Rule were worded as follows:

"The further subdivision of one or more allotments that if undertaken as part of a previous subdivision would have caused that previous subdivision to exceed the minimum average density requirements for subdivision in the Rural Lifestyle Zone or the Rural Residential Zone."

265 Submission 166

725. Notified Rule 27.4.2(c) provided that the subdivision of the building platform was a non-complying activity. Mr Bryce recommended a slight change of wording to meet the concern expressed in Submission 166 that the notified rule wording lacked clarity. We agree with Mr Bryce's suggestion and recommend retention of notified **Non-Complying** Rule 27.4.2(c), renumbered 27.5.22 and amended to read:

"The subdivision of land resulting in the division of a building platform."

726. Notified Rule 27.4.2(d) provided that the subdivision of a residential flat from the residential unit it is ancillary to was a non-complying activity except where this is permitted in the Low Density Residential Zone. Submission 453 suggested that this rule was unclear and needed clarification.

727. Mr Bryce discussed the point in his Section 42A Report and suggested that it could be made clearer. We agree with his reasoning and accordingly we recommend that notified **Non-Complying** Rule 27.4.2(d) be renumbered 27.5.23 and amended to read:

"The subdivision of a residential flat from a residential unit."

728. Mr Bryce recommended inclusion of a new non-complying activity rule consequential on his reorganisation of the chapter. The specific issue is that standards related to servicing and infrastructure were formerly located in Section 27.5.4, but have been shifted to Part 27.7. Non-compliance with the standards in Section 27.5 was a non-complying activity under notified Rule 27.4.2. The effect of Mr Bryce's recommended new rule is to retain that position unchanged. We agree with that recommendation, subject only to amending the terminology to reflect our recommendations as to the heading of Section 27.7. Accordingly, we likewise recommend a new **Non-Complying** rule numbered 27.5.25 reading:

"Subdivision that does not comply with the requirements related to servicing and infrastructure in Rule 27.7.13."

729. Finally, under this general heading, and out of abundant caution, we recommend a new rule to catch any subdivision not otherwise addressed by any of the rules we have recommended. While we have not identified any subdivision activity that is not in fact covered by the rules, either in Section 27.5 or 27.7. we think it is prudent to have a default rule. Discretionary status for such a rule will maintain the status quo under notified Rule 27.4.1 and, to that extent, we recommend that that rule be retained. As with Rule 27.4.1, a catchall rule should come first in the group of rules.

730. Accordingly, we recommend that **Discretionary** Rule 27.4.1 be renumbered 27.5.6 and revised to read:

"Any subdivision that does not fall within any rule in Part 27.5 or Part 27.7."

731. Considering the rules we have recommended in our revised section 27.5, we believe that collectively they are the most appropriate way to achieve the Chapter 27 objectives and to implement the policies under those objectives.

8. SECTION 27.5 - RULES –STANDARDS FOR SUBDIVISION ACTIVITIES

8.1 Rule 27.5.1 – Minimum Lot Sizes

732. A large number of submissions were made on notified Section 27.5.1 (renumbered 27.6.1), which set out the minimum lot area in specified zones. Most of these submissions were transferred for consideration in the relevant zone hearings given the obvious linkages between minimum densities and the outcomes sought to be achieved in each zone. This was not possible in relation to the parts of Rule 27.5.1 (as notified) specifying minimum densities in the Rural, Rural Lifestyle, Rural Residential and Gibbston Character Zone because, by the time that decision was made, the hearings of submissions on those zone provisions had already occurred. Submissions related to densities in the Rural Lifestyle Zone were, however, deferred as a result of the Council's decision to undertake a structure planning process in the Wakatipu Basin[266].

733. The Chair's direction provoked a degree of confusion on the part of submitters. Mr Ben Farrell gave evidence, and Mr Goldsmith made submissions for a group of submitter parties on the minimum average lot size in the Rural Lifestyle Zone in case that particular aspect had not been deferred along with the minimum lot size.

734. The minimum average density applied in the Rural Lifestyle Zone is inextricably connected to the minimum lot size. As we observed to Mr Goldsmith, it is necessary to know what the minimum lot size is before considering the minimum average, because the minimum average must necessarily be greater than the minimum if it is to serve any purpose. Accordingly, we think there is no value of entering into a discussion of the minimum average lot size separate from the minimum lot size and have proceeded on the basis that both should be deferred until the results of the Wakatipu Basin Structure Plan process are able to be considered.

735. The Stage 2 Variations now proposes rezoning of the Wakatipu Basin, with the result that there is no Rural Lifestyle Zoned land in that area. Accordingly, any consideration of minimum densities (and minimum average densities) within Rural Lifestyle Zoned land in the Wakatipu Basin will only need to be considered as a consequence of the decisions on the Stage 2 Variations altering that position.

736. As above[267], no submitter sought to be heard in relation to Rural Lifestyle Zone Minimum lot density requirements outside the Wakatipu Basin, and we thus have no evidence to contradict the Council position that the notified minimum densities are appropriate in the balance of the District.

737. Notified Rule 27.5.1 stated minimum lot areas for a number of zones that we had understood (based on advice from counsel for the Council) would be the subject of a subsequent stage of the District Plan review process – specifically the Township, Industrial A and B, Riverside and Hydro Generation Zone.

738. In his Section 42A Report, Mr Bryce recommended that those references be deleted. When we discussed the point with him, however, he could not identify for us any submission seeking that relief and in the legal submissions in reply for the Council, it was submitted that there was no jurisdiction to do so. The fact that some provisions of the PDP purport to apply to land not

266 Refer the Chair's procedural direction of 4 July 2016 discussed earlier

267 Refer Section 1.4 above

forming part of Stage 1 of the PDP review is problematic, to say the least. The key issues were canvassed in the Chair's Minute to the Council dated 12 June 2017[268] albeit in the context of notations on the planning maps.

739. The point of particular concern to us is whether members of the public would have thought to go past advice that Stage 2 zones were not part of the PDP process, looking for standards for those zones buried in Chapter 27. The fact that it appears the sole submission on the minimum lot standards in section 27.5.1 for the Stage 2 zones is by the Council itself tends to reinforce that concern. It is also somewhat ironic that the staff recommendation is that the Council's own submission be rejected as being out of scope as not being within Stage 1 of the PDP.

740. In a subsequent hearing, relating to Chapters 30, 35 and 36 (Stream 5), the Council submitted that it would be appropriate to transfer provisions purporting to set noise limits for zones not within Stage 1 of the PDP to Stage 2. The Stream 5 Hearing Panel noted a number of reasons why it did not agree with that course of action. It concluded that reference to non-Stage 1 zones in the relevant rule was in error and that those references could and should be deleted under Clause 16(2)[269]. We have come to the same conclusion. In summary, if the zones are not part of Stage 1, they remain part of the ODP, and nothing in the PDP can change the provisions of the ODP. Their removal is not a substantive change to the PDP.

741. As a result, a relatively small number of submissions on notified Rule 27.5.1 require consideration at this point.

742. Following the order in which submissions are discussed in the Section 42A Report, the first zone Mr Bryce discussed was the Rural Residential Zone. He noted a submission[270] seeking reinstatement of the ODP provisions governing any Rural Residential land at the north of Lake Hayes, which would require an 8000m² lot average. Mr Bryce recommended acceptance of that submission, but the land in question is proposed to be rezoned as part of the Stage 2 Variations. The submission will need to be reconsidered in that process.

743. The second zone discussed by Mr Bryce was the Rural Zone (mislabelled Rural General in the Section 42A Report). Mr Bryce noted two submissions[271] seeking a minimum lot size be specified for subdivisions within the Rural Zone and the Gibbston Character Zone and a minimum allotment size of 5 acres (2 hectares) in the Rural Zone respectively.

744. Mr Bryce recommended rejection of both submissions, referring to the reasoning of the section 32 evaluation to the effect that the absence of a minimum lot size prevents any '*development right*' arising in these zones and emphasising the desirability of maintaining the existing approach, based on landscape considerations.

745. We note that Mr MacColl did not seek to support NZTA's submission on this point and submitter 38 did not appear at the hearing to provide us with evidence that would cause us to reconsider the approach in the Section 32 Report supported by Mr Bryce.

746. Accordingly, we agree with Mr Bryce's recommendation that these submissions should be rejected.

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268 Minute Concerning Annotations on Maps 12 June 2017

269 Report 8 at Section 18.1

270 Submission 26

271 Submissions 719 and 38: Supported in FS1109; Opposed in FS1097 and FS1155

747. The next zone Mr Bryce discussed was the Jacks Point Zone. He noted Submission 762[272] seeking that the final specified '*minimum lot area*' should be referenced to "*all other activity areas"*.

748. Mr Bryce recommended this amendment be made in aid of efficient and effective plan administration.

749. The Stream 9 Hearing Panel has, however, identified broader issues with these provisions. Specifically, neither FP area will exist following revision of the Jacks Point Structure Plan, and the cross reference to Rule 41.5.8 should apply to subdivision in Residential Activity Areas, rather than 'other' areas. Our recommended table shows these amendments.

750. Mr Bryce also noted[273] two submissions[274] seeking amendment to the activity table in notified Rule 27.5.1 so that LDRZ land within the Queenstown Airport Outer Control Noise Boundary should have a minimum lot area of 600m². Mr Bryce recommended that these submissions be accepted in order to maintain the status quo established by ODP Plan Change 35 and thereby protect the operation of an item of regionally significant infrastructure. We note specifically the emphasis given by the Proposed RPS in that regard.

751. We agree with Mr Bryce's recommendation with the result that in that part of the table related to the renamed Lower Density Suburban Residential Zone, additional text is inserted as follows:

"Within the Queenstown Airport Air Noise Boundary and Outer Control Boundary: 600m²."

752. We note that the Hearing Panel hearing submissions on the residential zones (Stream 6) has recommended[275] that the Large Lot Residential Zone be separated into two zones (Large Lot Residential Zone A and B respectively) and that the minimum densities in these zones be 2000m² and 4000m² respectively. We recommend consequential amendment of Rule 27.6.1 accordingly. Insertion of the Coneburn Industrial Zone and special provisions for the Rural Residential Zone at Camp Hill, as recommended by the Stream 13 Hearing Panel, has likewise created a need for consequential amendments to insert minimum lot sizes for those areas. The Stream 13 Panel has also recommended deletion of the Queenstown Heights Sub-Zone, and so minimum lot sizes are no longer required for that area.

753. Finally, a consequence of the Stream 8 Hearing Panel rezoning Wanaka Airport from Rural to Airport Zone and the recommendation of that Panel that the subdivision provisions applying to the Airport Zone at Wanaka mirror those applying to the Rural Zone[276], is that the reference to "Airport Mixed Use" needs to be changed to "Airport Zone". We have not had any recommendations for other changes to the minimum lot areas in other zones from Hearing Panels considering those matters.

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272 Opposed in FS1217, FS1219, FS1252, FS1277, FS1283 and FS1316

273 Section 42A Report at 16.1

274 Submissions 271 and 433: Opposed in FS1097 and FS1117

275 Refer Report 9A at Section 16.1

276 Refer Report 11 at Section 61.1

754. Lastly, we record that the Stage 2 Variations have proposed deletion of some line items in renumbered section 27.6 (and addition of others). Our recommended Chapter 27 greys out the existing provisions proposed to be changed.

755. More generally, the format of (now) Rule 27.6.1 was the subject of criticism[277]. It was suggested that it be redrafted to be clearer. We agree with Mr Bryce's view that the table of minimum lot sizes is clear (or in reality, as clear as it is possible to be, given the need for district-wide provisions in this area). However, we recommend both a minor change to the description of average net site area in the opening words of the rule, and an Advice note referring the reader to the rules governing non-compliance with the minimum site areas to assist readability.

756. Notified Section 27.5.1 had 7 sub-rules followed by two further rules governing subdivision associated with infill development and subdivision associated with residential development on small sites in the (now) Lower Density Suburban Residential Zone. As part of the reorganisation of the chapter recommended by Mr Bryce, these provisions have been shifted either into our renumbered Section 27.5 or into the zone and location specific rules in renumbered Section 27.7. We agree that with one exception, they are more appropriately grouped with these other provisions and we will consider them in that context. The exception is notified Rule 27.5.1.3 which related to minimum size requirements (for access lots, utilities, roads and reserves) and which more properly should remain with renumbered 27.6.1.

757. This provision was the subject of a submission[278] that sought that it also state that lots created for the specified purposes shall not be required to identify a building platform. Mr Bryce recommended rejection of this submission on the basis that the requirement for a building platform (refer renumbered Rule 27.7.8) stated that it relates to allotments created for the purposes of containing residential activity. As Mr Bryce observed, the suggested addition is therefore unnecessary and we likewise recommend rejection of the submission.

758. The end result is, however, that a renumbered Section 27.6 is limited to minimum lot area standards and we recommend that the heading of the section be amended to reflect that, and therefore to read:

"Rules – Standards for Minimum Lot Areas."

759. We record that having considered the alternatives open to us on the few matters the subject of submission in renumbered 27.6.1, we believe that the recommended provisions represent the most appropriate way to achieve the Chapter 27 objectives, and the most appropriate way to implement the policies relevant to those objectives.

8.2 Zone and Location Specific Rules

760. In his Section 42A Report, Mr Bryce noted three submissions[279] that sought that subdivision undertaken in accordance with a Structure Plan or Spatial Layout Plan identified in the PDP be a controlled activity. Notified Rule 27.4.3 provided that it is was restricted discretionary activity. Mr Bryce supported controlled activity status on the basis that a Structure Plan/Spatial Layout Plan provides a level of certainty to both proponents and decision-makers

[277] Submission 631

[278] Submission 635

[279] Submissions 456, 632 and 696: Supported in FS1097; Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

as to what is expected in terms of subdivision design, and the fact that the Structure Plan/Spatial Layout Plan has been identified through a Plan Change process means that opportunities, constraints and effects of the future subdivision and land use activities have already been identified.

761. We agree that where a Structure Plan or similar document has been incorporated in the PDP there are good grounds for taking a less restricted regulatory approach to subdivision that is consistent with the Structure Plan.

762. Mr Bryce suggested a number of matters of control to accompany a new controlled activity rule in his Section 42A Report, that were further refined in his reply evidence. We have no issue in principle with the matters of control other than that the language should largely, parallel that discussed in Section 2.1, but we consider that the initial description of the activity recommended by Mr Bryce needs amendment in three respects. First, Mr Bryce suggested that the cross reference to a Structure Plan should test whether subdivision is undertaken "*in accordance with"* the document. We consider that requiring consistency with the document would be a better test given that Mr Bryce proposes that in each of the following rules dealing with areas that are currently the subject of a Structure Plan or like document, consistency with the document is a suggested matter of control.

763. Secondly, the suggested rule refers to Structure Plans, Spatial Layout Plans and Concept Development Plans, reflecting the range of different documents that are already identified and included in the District Plan. We think it would be more efficient if the term "*Structure Plan"* were defined to include documents that fulfil a similar function. Ideally, a new definition would also outline the minimum requirements for a 'Structure Plan' to be included in the PDP, but as discussed earlier, the policy gap in this regard will need to be filled by a variation.

764. Thirdly, we consider that it is not sufficient that a Structure Plan is "*identified"* in the PDP. We believe it should be "*included"* within the PDP so the key aspects of subdivision design are apparent to the readers of the Plan, and there can be no doubt as to whether the requirements for controlled activity status are met. As discussed shortly, there is also a technical problem with the approach in the notified PDP because Structure Plans do not meet the tests for incorporation by reference in Clause 30 of the First Schedule.

765. In summary, therefore, we recommend inclusion of a new controlled activity rule numbered 27.7.1, to replace notified Rule 27.4.3 that reads as follows:

"Subdivision consistent with a Structure Plan that is included in the District Plan.
Control is restricted to:

a. *subdivision design, and any consequential effects on the layout of lots and on lot sizes and dimensions*
b. *internal roading design and provision, and any consequential effects on the layout of lots, and on lot sizes and dimensions;*
c. *property access and roading;*
d. *esplanade provision;*
e. *the adequacy of on site measures to address the risk of natural and other hazards on land within the subdivision;*
f. *fire fighting water supply;*
g. *water supply;*
h. *stormwater design and disposal;*
i. *sewage treatment and disposal;*

j. energy supply and telecommunications, including adverse effects on energy supply and telecommunication networks;
k. open space and recreation;
l. ecological and natural values;
m. historic heritage;
n. easements;
o. any additional matters relevant to achievement of the objectives and policies in part 27.3 of this Chapter.

766. Associated with this Rule we recommend to the Stream 10 Hearing Panel that a new definition be inserted in Section 2 of the PDP worded as follows:

"Structure Plan means a plan included in the District Plan, and includes Spatial Development Plans, Concept Development Plans and other similarly titled documents."

767. Notified Section 27.7.3 is headed "*Kirimoko Structure Plan – Matters of Discretion for Restricted Discretionary Activities".*

768. Submission 656 sought enlargement of the discretion provided over earthworks and greater specification of aspects of subdivision design the subject of discretion.

769. Initially, Mr Bryce recommended acceptance of the submission[280].

770. By his reply evidence, Mr Bryce had come to the view that the specific matters of control needing to be considered in relation to the Kirimoko could be substantially reduced. Mr Bryce did not discuss in his reply evidence his reasons for coming to this conclusion, but we infer that some of the matters were considered redundant in the light of other recommended PDP provisions (particularly the matters of assessment Mr Bryce recommended be introduced as part of his reply evidence).

771. We agree with that and we think that Mr Bryce's recommended rule might be further pruned to remove duplication. In particular, given our recommendation that consistency with a structure plan should be a precondition to Rule 27.7.1, it is not necessary to refer to such consistency as an additional matter of control in this rule. Similarly, given that subdivision design is a matter of control under Rule 27.7.1, further reference to it is not required in this rule.

772. We also consider that some amendment of the language is required to reflect the fact that the rule is specifying matters of control rather than (as was the case for notified Section 27.7.3) matters of discretion, to which particular regard had to be had.

773. In summary, therefore, we recommend that section 27.7.3 be renumbered 27.7.2 and revised to read:

"In addition to those matters of control under Rule 27.7.1, any subdivision of the land shown on the Kirimoko Structure Plan included in Part 27.13, the following shall be additional matters of control:
a. *roading layout;*
b. *the provision and location of walkways in the green network;*
c. *the protection of native species as identified on the Structure Plan as green network."*

280 Section 42A Report at 22.12

774. Because this section of the PDP contains other provisions related to Kirimoko, we think it would be clearer if all of those provisions were collected under a single heading. We have therefore numbered the rule above 27.7.2.1 under the heading "27.7.2 – Kirimoko". We will discuss the balance of provisions under that heading shortly.

775. Rule 27.7.3.1 in Mr Bryce's revision of Chapter 27 (relocated from notified Policy 27.7.6.1) related to the Ferry Hill area. The Stage 2 Variations propose deletion of these provisions and so we need say no more about them

776. Mr Bryce recommended that the next provision in his reformatted section 27.7 relate to the Jacks Point Zone. By his reply evidence, Mr Bryce had recommended that the sole additional matter of control that needed to be referenced, consequential on other provisions he had recommended, was consistency with the Jacks Point Zone Structure Plan. For the reasons discussed above in relation to the Kirimoko area, it is not necessary to provide another rule solely for that purpose we do not therefore recommend inclusion of the rule suggested by Mr Bryce.

777. The next two rules Mr Bryce suggested in this part of the revised Chapter 27 related to the Peninsula Bay area and were derived from notified Section 27.8.2.1. As notified, that provision read:

"No subdivision or development shall take place within the Low Density Residential Zone at Peninsula Bay unless it is consistent with an Outline Development Master Plan that has been lodged with and approved by the Council."

778. The sole primary submission on Section 27.8.2.1 supported its continued inclusion[281]. While two further submissions[282] opposed that submission, given the permissible ambit of further submissions discussed in the Hearing Panel's Report 3, these further submissions do not take the matter further.

779. This rule needs to be read together with heading of Section 27.8 and Section 27.8.1 that preceded it.

780. The heading of Section 27.8 as notified was:

"Rules – Location Specific Standards."

781. Section 27.8.1 contained a general provision stating that activities not meeting the standards specified in Section 27.8 should be non-complying activities, unless otherwise specified.

782. Mr Bryce recommended that consequential on his recommended revision of the format of Chapter 27, Section 27.8.2.1 should be converted to two rules, one a controlled activity rule (for subdivision or development consistent with the Outline Development Master Plan) and the second, a non-complying rule (for development which is inconsistent with the Outline Development Master Plan).

783. Unlike the rules that we have been discussing however, the Outline Development Master Plan for Peninsula Bay is not contained in the PDP.

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281 Submission 378

282 FS1049 and FS1095

784. Nor is it even clear whether this is an existing document or one that might be "*approved"* by the Council in future. The way that notified Section 27.8.2.1 is framed, however, suggests that even if an Outline Development Master Plan has already been approved, there might yet be a successor. Be that as it may, the reference in the notified PDP to this Outline Development Master Plan, and the suggestion that the activity status of future subdivision and development should be dependent on whether there is such a plan (and whether the subdivision or development in question is consistent with it), raises questions as to whether this is permissible in the light of the Environment Court decisions on declarations sought in relation to the use of framework plans in the context of the Proposed Auckland Unitary Plan[283] discussed in our Report 1.

785. Given the conclusions reached by the Hearing Panel in Report 1, this then requires us to determine what we can and should do with Section 27.8.2.1 of the notified PDP given that the only submission on it specifically seeks its retention.

786. Section 27.8.2.1 is framed in directive terms rather than as a standard in the ordinary sense of that term. From that point of view, it does not sit easily within the notified section 27.8.

787. Nor is it altogether clear to us what the rule status is intended to be for subdivision or development that is consistent with an approved Outline Development Master Plan. Mr Bryce has treated the Peninsula Bay "*Outline Development Master Plan"* as a Structure Plan, which might suggest that under the notified PDP, it fell within Rule 27.4.3. If that were the case, it would be a restricted discretionary activity with discretion restricted to matters specified in Part 27.7. Rule 27.4.3 referred, however, to a structure plan or spatial layout plan, which does not suggest an intention that the rule apply to all plans that might be considered to fall within a generic reference to structure plans. In addition, the only matters specified in Part 27.7 related to Peninsula Bay refer to provision of public access and are not framed as matters of discretion, so it would not seem to have been intended that Rule 27.4.3 would apply to the Peninsula Bay area on that ground also.

788. The end result therefore, is that we consider that under the notified PDP, subdivisions would fall within the default discretionary activity rule if consistent with an approved Outline Development Master Plan, and if not, then as non-complying activities.

789. Given our conclusion that subdivisions in most zones might appropriately be dealt with as restricted discretionary activities, we consider that the best outcome in the light of the Environment Court's guidance in the Auckland framework plan cases is that Section 27.8.2.1 be deleted as a consequential amendment to our acceptance (in part) of submissions seeking that all subdivision activities be controlled activities, and Mr Bryce's recommendation of two rules to be inserted in substitution in revised section 27.7 not be accepted. That will leave subdivision in the Peninsula Bay area as a restricted discretionary activity under our recommended Rule 27.5.7. If, in the future, the Council and/or the Peninsula Bay JV wish that further subdivision be considered as a controlled activity, then the Outline Development Master Plan applying to that area will need to be incorporated in the PDP by way of variation or plan change. Because, however, the end result is beneficial to the submitter, compared to the relief sought, we have classified the submission as 'Accepted in Part'.

790. The next provision recommended by Mr Bryce related to the Kirimoko area. The provisions Mr Bryce recommended are derived from notified Section 27.8.3.

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283 *Re Application for declarations by Auckland Council* [2016] NZ EnvC 056 and [2016] NZ EnvC 65

791. Those provisions were the subject of a specific submission[284] that sought inclusion of an additional standard related to post development stormwater runoff (that would require that during a 1 in 100year event stormwater runoff is no greater than the pre-development situation).

792. Mr Bryce recommended rejection of that submission on the basis of the Council's engineering evidence (initially Mr Glasner, but adopted by Mr Wallace) that the Council's Code of Practice requires that post development stormwater runoff be no greater than pre-development runoff up to and including in a 1 in 20-year event. Mr Wallace's evidence was that designing stormwater runoff management systems for a 1 in 100 year event would create a significant level of over-design which would in turn add significantly to the Council's maintenance costs.

793. The submitter in question did not appear to support its submission with evidence that would contradict that provided by Council. On this basis, we agree with Mr Bryce's recommendation.

794. Mr Bryce therefore suggested only grammatical changes to frame the notified provisions more clearly as standards or conditions, failure to comply with which would properly cause the activity to default to non-complying status.

795. We agree with the suggested changes. The only additional change we recommend is to correct a typographical error (referring to the Rural General Zone), to amend the cross reference to the Structure Plan to be consistent with the language of 27.7.2.1 and (as discussed above) to relocate the rule to follow Rule 27.7.2.1. Accordingly, we recommend inclusion of new **Non-Complying** Rules 27.7.2.2-4 text, reading:
"Any subdivision that does not comply with the principal roading layout and reserve network depicted in the Kirimoko Structure Plan included in Part 27.13 including the creation of additional roads, and/or the creation of accessways for more than 2 properties.

Any subdivision of land zoned Rural proposed to create a block entirely within the Rural Zone to be held in a separate Certificate of Title;

Any subdivision of land described as Lots 3 to 7 and Lot 9 DP300734, and Lot 1 DP304817 (and any title derived therefrom) that creates more than one lot that has been included in its legal boundary land zoned Rural."

796. The next rule recommended by Mr Bryce related to the Bob's Cove Rural Residential Sub-Zone and was derived from notified Sections 27.8.5.1 and 27.8.5.2. Those provisions were not the subject of specific submission by any party and Mr Bryce recommended that they be reproduced unchanged save for the formatting necessary to express them more clearly as standards/conditions. We agree, and our recommended revised Chapter 27 includes Mr Bryce's provisions in a new Rule 27.7.3.

797. The next rule recommended by Mr Bryce related to the Ferry Hill Rural Residential Sub-Zone and was derived from notified Sections 27.8.6.1-8 inclusive. These provisions are proposed to be deleted in the Stage 2 Variations and so we need not consider them further.

798. The next rule recommended by Mr Bryce related to Ladies Mile and derived from notified Section 27.8.7.1. There were no specific submissions seeking change to these provisions and

284 Submission 656

Mr Bryce recommended that they be amended only to express them more clearly as standards or conditions, failure to comply with which might prompt a shift to non-complying status.

799. We agree, and our revised Chapter 27 shows these provisions as recommended Rule 27.7.4.

800. The next rule recommended by Mr Bryce related to Jacks Point and derived from notified Sections 27.8.9.1 and 27.8.9.2.

801. These provisions were the subject of two submissions. The first[285] sought minor changes to 27.8.9.2 by way of clarification rather than substantive change. Mr Bryce recommended acceptance in part with the suggestions made by the submitter, that were in practice subsumed within the reformatting that Mr Bryce recommended.

802. The second submission[286] sought that Rule 27.8.9.2 make provision, where discretion was restricted to traffic and access, to also include the ability to provide and support public transport services, infrastructure, and connections. Mr Bryce recommended rejection of this submission on the basis that as the rule in question relates to the Jacks Point Zone conservation lots, within the identified Farm Preservation Activity Area, the matters sought to be referenced by the submitter were not applicable.

803. Mr Bryce recommended retention of the existing provisions with consequential amendments reflecting the reformatting exercise he had undertaken in response to more general submissions discussed earlier.

804. Mr Bryce also recommended specific recognition of the Hanley Downs part of Jacks Point, accepting in this regard, Mr Wells evidence discussed earlier in the context of recommended Rule 27.5.17.

805. We largely agree with Mr Bryce's recommendations. Notified rule 27.8.9.2 is, however, no longer required following deletion of the FP1 Activity Area from the Jacks Point Structure Plan. It should be deleted as a consequential change. In addition, as well as consequential renumbering and reformatting, we recommend expanding the matters of discretion so that they are consistent with our recommendations in relation to Rule 27.7.1, and address the matters made relevant by recommended Policies 27.3.7.4 and 27.3.7.7. We also suggest amending the text to refer to the Jacks Point Structure Plan as being contained in Part 27.13 and insert a new Rule 27.7.5.3, reflecting a recommendation we have received from the Stream 13 Hearing Panel[287].

806. Mr Bryce next recommended a rule to govern subdivision within the Millbrook Resort Zone that is inconsistent with the Millbrook Resort Zone Structure Plan, reflecting his observation that there does not appear to be any rule governing non-compliance with that Structure Plan. Mr Bryce recommended that subdivision in this case be a discretionary activity. Given that operation of notified Rule 27.4.1 would have had that effect in any event, this is not a substantive change. We agree with Mr Bryce that it is helpful, however, to be specific in this case. Accordingly, we recommend inclusion of a new Rule 27.7.6 along the lines suggested by Mr Bryce. The only amendments we would suggest would be that the rule cross reference the Millbrook Resort Zone Structure Plan as located in Chapter 27 and correction of a minor typographical error.

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285 Submission 762: Opposed in FS1217, FS1219, FS1252, FS1277, FS1283 and FS1316

286 Submission 798

287 Refer Report 17-8Part I

807. We should note that we recommend inclusion of three additional site/zone specific rules under this heading, the first two related to the Coneburn Industrial Zone and the Frankton North area and numbered 27.7.7 and 27.7.9 respectively, consequential on the recommendations of the Stream 13 Hearing Panel, and the last related to the West Meadows Drive area and numbered 27.7.8, reflecting recommendations from the Stream 12 Hearing Panel.

808. Lastly, and more generally, we note that many of the site-specific standards in this part of Chapter 27 do not fit easily into the structure we recommend on Mr Bryce's advice. We suspect they may be legacy provisions rolled over from the ODP. Renumbered Rule 27.7.4.1 a. for instance, was notified as a standard governing subdivision on Ladies Mile. It does not read as a standard and it would be difficult to apply as such. There were no submissions on it, and hence Mr Bryce (understandably) did not focus on it. Even if there had been a submission giving us some scope to amend (or delete) it, we were unsure what role it was intended to have. We recommend that the Council review the provisions in this section to identify any that are past there 'use-by' date, or that need reframing to meet their intended purpose.

8.3 Building Platform and Lot Dimensions

809. Mr Bryce next recommended inclusion of rules relocated from notified Rule 27.5.1.1 (related to building platforms) and 27.5.1.2 (related to site dimensions).

810. Addressing first notified Rule 27.5.1.1, this was the subject of one submission[288] seeking that the maximum dimensions of a building platform in the Rural Lifestyle Zone be specified to be 600m² (rather than 1000m²) as at present. Mr Bryce recommended rejection of that submission on the basis that flexibility as to building platform size is often required.

811. In our discussion of the restricted discretionary activity rule we have proposed for subdivision within the Rural Lifestyle Zone (27.5.8), we have recommended retention of a discretion over the size of building platforms. We regard that as a more appropriate solution than arbitrarily reducing the maximum building platform size in the Rural Lifestyle Zone, particularly given that the submitter did not appear to provide us with evidence that would have given us confidence that a reduced maximum building platform size would be appropriate in every instance.

812. Accordingly, we agree with Mr Bryce's recommendation that notified Rule 27.5.1.1 might be retained unamended, save only for relocating it in Section 27.7, and numbering it 27.7.10.

813. Turning to notified Rule 27.5.1.2, the only submissions on this provision[289] supported retention of particular aspects of the rule.

814. Mr Bryce recommended, however, deletion of specific reference to the Township Zone on the basis that it was not part of Stage 1 of the PDP. For the reasons discussed earlier, in relation to revised section 27.6, we agree that this is the appropriate outcome. The only other amendment to notified provision 27.5.1.2 recommended Is to insert the word *"lots"* rather than *"sites"* for clarity and to renumber it 27.7.11.

815. Before going on the next rule Mr Bryce recommended, we need to address the position if either of renumbered rules 27.7.8 and 27.7.9 are not complied with. Under the notified plan, this fell within Rule 27.4.2 as a non-complying activity.

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288 Submission 367: Opposed in FS1150 and FS1325

289 Submission 208, 596, 775, 803

816. We have not identified any submission seeking to change that position. We therefore recommend a new Rule 27.7.12 be inserted as follows:

"Subdivision applications not complying with either Rule 27.7.10 or Rule 27.7.11 shall be non-complying activities."

8.4 Infill subdivision

817. The next rule Mr Bryce discussed related to subdivision associated with infill development which he recommended be relocated from notified Rule 27.5.2.

818. This rule was the subject of a number of submissions. Several submissions[290] sought that the definition of an established residential unit should turn on whether construction has reached the point of roof installation rather than whether a Building Code of Compliance certificate has been issued.

819. In addition, Submission 275 sought to amend 27.5.2 so that in the High Density Residential Zone the minimum lot size need not apply to any lots being created which contain a residential unit, provided that any vacant lots also being created do meet the minimum lot size. Lastly, Submissions 208 and 433[291] sought deletion of the rule.

820. In his Section 42A Report, Mr Bryce acknowledged that the submitters opposing recognition of a Building Code of Compliance Certificate as the sole determinant of whether a residential unit has been established had a point, given that the concept of Building Code of Compliance Certificates dates only from 1992, and therefore a large number of "*established"* residential units will not have such a certificate. He recommended that the rule be made more explicit that completion of construction to not less than the installation of the roof be an alternative to issue of a Building Code of Compliance Certificate as a means to define an established residential unit for the purposes of this rule. We agree with his recommendation in that regard.

821. Mr Bryce did not explicitly discuss Submission 275 in his Section 42A Report and the submitter did not appear to elaborate on the submission.

822. Reading the submission in context, it appears to us that the submission on this point is associated with a broader request for relief related to (and reducing) the minimum lot areas for the High Density Residential Zone[292]. We think that that is the appropriate context for consideration of the merits of the submission rather than broadening the ambit of this particular rule, which essentially sought to recognise the reality of existing lawful residential developments and provide that title boundaries might be brought into line with those developments.

823. The breadth of Submission 169 is also difficult to address in this context – particularly in the absence of any evidence from the submitter that might satisfy us that the effects of infill development can be addressed by conditions in all locations (and identifying appropriate areas of control).

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290 Submissions 166, 169, 389 and 391

291 Opposed in FS1097 and FS1117

292 Submission 169 also appears to be linked to more wide-ranging relief, seeking controlled activity status for a single infill unit subdivision in any zone.

824. Deletion of the rule sought in Submission 433 was also part of broader relief; in this case, which sought to carry over the provisions of ODP Plan Change 35 into the PDP and thereby protect the ongoing operations of Queenstown Airport. As we will discuss shortly, Mr Bryce recommended an amendment to the following rule to address the submission. When the representatives of the QAC appeared before us, Ms O'Sullivan giving planning evidence for the submitter, supported that relief and did not provide evidence suggesting why it should be broadened to this particular rule. This accorded with our understanding of QAC's position which sought to avoid intensification of residential activities within the defined Airport noise boundaries. Given that this particular rule relies on dwellings already having been established, aligning the title position with the existing pattern of development would appear to have no effect on the airport's operations.

825. The reasons for Submission 208 indicated that the concern of that submitter was for maintenance of amenity in the High Density Residential Zone. Mr Bryce did not discuss the submission specifically and the submitter did not provide evidence to support its submission. In the absence of an evidential basis for the submission, we do not recommend deletion of this provision.

826. In summary, therefore, we accept Mr Bryce's recommended rule which is numbered 27.7.13 in our revised Chapter 27, save only for correction of internal cross reference numbering and amending the reference to the former Low Density Residential Zone.

827. The revised rule we recommended is therefore worded:

"The specified minimum allotment size in Rule 27.6.1, and minimum dimensions in Rule 27.7.9 shall not apply in the High Density Residential Zone, Medium Density Residential Zone and Lower Density Suburban Residential Zone where each allotment to be created, and the original allotment, all contain at least one established residential unit (established meaning a Building Code of Compliance Certificate has been issued or alternatively where a Building Code of Compliance Certificate has not been issued, construction shall be completed to not less than the installation of the roof)."

828. The next rule Mr Bryce discussed was derived from notified Rule 27.5.3.1 and related to circumstances where the minimum allotment size in the (now) Lower Density Suburban Residential Zone does not apply.

829. Submissions on it sought variously clarification of the interrelationship with Rule 27.5.2[293] (now 27.7.11), deletion and a more enabling approach generally[294], deletion[295], and revision to make the rule "*more practical"*[296].

830. Mr Bryce did not discuss the apparent overlap between Rules 27.5.2 and 27.5.3 (to the extent both applied to the Lower Density Suburban Residential Zone). We think there is a logic to the distinction between the rules given that Rule 27.5.2 applied in the three specified zones and addressed the situation where residential units actually exist, whereas Rule 27.5.3 was limited to the (now) Lower Density Suburban Residential Zone and addressed the situation where residential units were consented but not constructed.

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293 Submission 169

294 Submission 166

295 Submission 433: Opposed in FS1097 and FS1117

296 Submission 453

831. We do not recommend acceptance of Submission 166. The submitter did not appear to amplify their submission and we consider that we have addressed the more general issues it poses elsewhere in this report.

832. The request for deletion by Submission 433 was addressed by Mr Bryce's recommendation that the rule not apply within the Airport noise boundaries defined in the Plan.

833. We agree with that approach although we consider it needs to be clearer that any reference to the Air Noise Boundary and Outer Control Boundary should be as defined in the planning maps.

834. Lastly, Mr Duncan White gave evidence in support the submissions of Patterson Pitts Partners (Wanaka) Limited[297]. He explained that the reference to more practical provisions related to the changes to the land transfer system (including the establishment of electronic titles for land) and the interrelationship of section 221 registrations with certification under section 224(c). For our part, we were grateful for the assistance provided by Mr White and his colleague Mr Botting on these matters. Mr Bryce recommended acceptance of the suggestions in the submission and we concur. Mr White raised other issues of the practical application of this rule. In particular, he queried whether it was appropriate for District Plan requirements like the maximum building height and the limitation of one residential unit per lot to be locked in by consent notices. He also noted the potential issues posed by changes of design requiring a cancellation or variation of the consent notice with consequent costs on the landowner. Lastly, Mr White queried the position if a consent or certificate of compliance has lapsed. Mr Bryce did not recommend additional changes to address these issues. In his reply evidence[298], he expressed his view that any additional costs associated with the need to vary a consent notice were outweighed by the benefits derived from investment certainty.

835. Many of the points about which Mr White expressed concern are in landowners' own hands to address. Certificates of compliance and land use consents might be granted for generic designs. How specifically or how widely an application for either is framed is a matter for a landowner. Similarly, if a landowner has a certificate of compliance or land use consent that is in danger of lapsing, they can apply to extend the lapse period under section 125 of the Act.

836. While Mr White had a point regarding the desirability of using consent notices only to bind the subdivider to planning requirements that require compliance on an ongoing basis, these particular requirements (building height and number of lots) are key to the effects of residential development on an ongoing basis. We therefore agree with Mr Bryce's recommendation in this regard.

837. The only additional amendments we recommend are a minor grammatical change (to refer to '*the'* residential unit(s), consistent with the first part of the rule) amendment of the zone name consequential on the Stream 6 Hearing Panel's Report, a clarification of the type of resource consent required, and some internal renumbering and reformatting for consistency.

838. In summary, therefore, we recommend that notified Rule 27.5.3 be renumbered 27.7.14 and amended to read:

"Subdivision associated with residential development on sites less than 450m² in the Lower Density Suburban Residential Zone.

297 Submission 453

298 N Bryce, Reply Statement at 10.4

27.7.14.1 In the Lower Density Suburban Residential Zone, the specified minimum allotment size in Rule 27.6.1 shall not apply in cases where the residential units are not established, providing:

a. *a certificate of compliance is issued for the residential unit(s) or,*
b. *a land use consent has been granted for the residential unit(s).*

In addition to any other relevant matters, pursuant to s221 of the Act, the consent holder shall register on the Computer Freehold Register of the applicable allotments:

a. that the construction of any residential unit shall be undertaken in accordance with the applicable certificate of compliance or land use consent (applies to the additional undeveloped lot to be created);
b. the maximum building height shall be 5.5m (applies to the additional undeveloped lot to be created);
c. there shall be not more than one residential unit per lot (applies to all lots).

27.7.14.2 Rule 27.7.14.1 shall not apply to the Lower Density Suburban Residential Zone within the Queenstown Airport Air Noise Boundary and Outer Control Boundary as shown on the planning maps."

8.5 Servicing and Infrastructure Requirements

839. The next rule Mr Bryce discussed are a series of provisions contained in notified Section 27.5.4 which was entitled "*Standards relating to servicing and infrastructure",* but which are in fact limited to water supplies. These provisions were the subject of submissions from the telecommunication companies[299] seeking insertion of a new standard regarding telecommunication reticulation and, in one case, electricity connections. Putting those matters aside for the moment, the only submissions on the existing provisions related to water supply supported them[300], although Submission 166 did seek clarification as to the Council's intention regarding what capacity potable water supply should be available to lots where no communal owned and operated water supply exists. The submission observed that the rule appeared to be at variance from current Council standards.

840. Mr Wallace provided the answer to that question: the current Council Code of Practice requires provision for 2100 litres per day, which covers both potable and irrigation water supply, and is designed for a reticulated system. Mr Wallace advised that where a reticulated system is not available, the minimum requirement is 1000 litres per day (as per the notified rule) with the subdivider needing to identify what supply will be available for irrigation separately.

841. Mr Bryce however recommended that provisions in the notified Rule 27.5.4.1 referring to zones not covered by Stage 1 of the PDP process be deleted. For the reasons already discussed, we concur and recommend those references be deleted pursuant to Clause 16(2). In the case of the reference to the Corner Shopping Centre Zone, this should be corrected to the Local Shopping Centre Zone on the same basis, as should the reference to the Airport Mixed Use Zone be changed to Airport Zone - Queenstown.

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299 Submissions 179, 191, 421 and 781: Supported in FS1132; Opposed in FS1097, FS1117 and FS1164

300 Submissions 453, 586, 775 and 803

842. Apart from a minor grammatical change in the opening words of what was notified Rule 27.5.4.1, and some internal renumbering for consistency, the only substantive amendments we recommend are to make the first rule (providing that all lots must be connected to a reticulated water supply) subject to the third rule (which provides the position where no reticulated water supply exists) and to correct the references to the Millbrook Resort and Waterfall Park Zones.

843. In summary, therefore, we recommend that notified Rules 27.5.4.1-3 be renumbered 27.7.15.1-3 and amended to read:

> *"27.7.15.1 Subject to Rule 27.7.15.3, all lots, other than lots for access, roads, utilities and reserves except where irrigation is required, must be provided with a connection to a reticulated water supply laid to the boundary of the net area of the lot, as follows:*
>
> *To a Council or community owned and operated reticulated water supply:*
> *a. Residential, Business, Town Centre, Local Shopping Centre Zones and Airport Zone - Queenstown;*
> *b. Rural-Residential Zones at Wanaka, Lake Hawea, Albert Town, Luggate and Lake Hayes;*
> *c. Millbrook Resort Zone and Waterfall Park Zone.*
>
> *27.7.15.2 Where any reticulation for any of the above water supplies crosses private land, it should be accessible by way of easement to the nearest point of supply.*
>
> *27.7.15.3 Where no communal owned and operated water supply exists, all lots other than lots for access, roads, utilities and reserves, shall be provided with a potable water supply of at least 1000 litres per day per lot."*

844. Turning to infrastructure services other than water supplies, Mr Bryce drew our attention in his Section 42A Report to the interrelationship with renumbered Policy 27.2.5 which indicates an intention to generally require connections to electricity supply and telecommunication systems at the boundary of lots. He recommended a new standard related to provision of telecommunication reticulation to allotments in new subdivisions.

845. We discussed with Mr Bryce whether the suggested standard was consistent with the policy emphasis in recommended Policy 27.2.5.16 on providing flexibility to cater for advances in telecommunication and computer media technology. Mr Bryce's view was that it was broadly consistent. Mr Bryce also agreed with our suggestion that it was desirable to include an equivalent rule/requirement related to electricity.

846. The submissions from telecommunications companies sought to introduce an emphasis on telecommunication reticulation meeting the requirements of the network provider. We also note further submissions on this point seeking to emphasise the commercial nature of the arrangements between landowners and telecommunication service providers and the potential, given changing technology, for self-sufficiency[301].

847. In some ways, electricity supply is rather easier to address than telecommunications. Unless a property is '*off-grid',* there must be an electricity line to the boundary, and in our view, this should be a subdivision standard.

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[301] Further submissions 1097, 1132, 1117 and 1164

848. With telecommunication technology increasingly offering connection options not involving hard wiring, this is somewhat more problematic. We are also wary of recommending rules that enable the telecommunication companies to leverage the position for their commercial advantage.

849. We have come to the view that while subdivision standards might legitimately provide for hard-wired telecommunication reticulation in urban environments and Rural Residential zoned land, in Rural Lifestyle, Gibbston Character and Rural zoned areas, greater flexibility is required.

850. In summary, we recommend amendments to the new rule suggested by Mr Bryce to split it into three under a new heading "*Telecommunications/Electricity",* numbered 27.7.15.4-6, and worded as follows:

"Electricity reticulation must be provided to all allotments in new subdivisions (other than lots for access, roads, utilities and reserves).

Telecommunication services must be available to all allotments in new subdivisions in the Rural Zone, Gibbston Character Zone and Rural Lifestyle Zone (other than lots for access, roads, utilities and reserves).

Telecommunication reticulation must be provided to all allotments in new subdivisions in zones other than the Rural Zone, Gibbston Character Zone and Rural Lifestyle Zone (other than lots for access, roads, utilities and reserves)."

851. Before leaving revised Section 27.7, we should address the heading for the whole section. Mr Bryce recommended that it be headed "*Rules – Zone and Location Specific Standards".* Many of the provisions in this section are not 'standards' in the ordinary sense of the word. We recommend that the heading be amended to "Zone and Location Specific Rules".

8.6 Exemptions

852. In Mr Bryce's recommended revised Chapter 27, the next section (numbered 27.8) was entitled "Rules – *Exemptions"* which was then amplified with a statement (numbered 27.8.1):

"The following activities are permitted and shall not require resource consent."

853. This initial statement was derived from notified Section 27.6.1. Consequent on Mr Bryce's recommendation (that we support) that Rule 27.6.1.1 be transferred into the rule table in Section 27.5, the only remaining provision from what was Section 27.6 related to the provision of esplanade reserves or strips.

854. The only submissions on Rule 27.6.1.2 supported the rule in its current form[302], but Submission 453 queried whether the rule should have its own heading.

855. While Mr Bryce did not feel the need to amend what was 26.6.1, we consider that the submission made a valid point. Notified Rule 27.6.1.2 did not describe a permitted activity not requiring a resource consent. What it did was identify exemptions from the requirement to provide an esplanade reserve or strip, and the heading of the rule should say that. The more

[302] See Submissions 453, 635 and 719

general heading might also usefully be clarified given that the section now identifies only one exemption.

856. Secondly, the language of notified Rule 27.6.1.2 was quite convoluted. Paraphrasing section 230(3) of the Act, it stated that unless provided otherwise in a rule of a District Plan, where any allotment of less than 4 hectares is created by a subdivision, an esplanade reserve is normally required to be set aside. The purpose of Rule 27.6.1.2 was clearly to make such provision and we consider that that might be stated much more clearly than it is at present. In addition, the cross reference to activities under former Rule 27.6.1.1 needs to be changed to refer to activities provided for in renumbered Rule 27.5.2.

857. In summary, therefore, we recommend that revised section 27.8 of the PDP be worded as follows:

"27.8 Rules – Esplanade Reserve Exemption

27.8.1 Esplanade reserves or strips shall not be required where a proposed subdivision arises solely due to the land being acquired or a lot being created for a road designation, utility or reserve, or in the case of activities authorised by Rule 27.5.2."

858. In Mr Bryce's revised recommended Chapter 27, two other provisions were suggested to be inserted within section 27.8 worded as follows:

"27.8.2 Industrial B Zone;
a. Reserved for Stage 2 of the District Plan review.

27.8.3 Riverside Stage 6 – Albert Town:
a. Reserved for Stage 2 of the District Plan review."

859. We suspect that these provisions were left in Mr Bryce's recommended Chapter 27 in error. Clearly they do not fit the suggested heading to Section 27.8 (Rules – Exemptions).

860. Nor do they actually say anything. At most they are placeholders. As such, we do not recommend they be included.

8.7 Assessment Criteria

861. The following section (27.9 in Mr Bryce's suggested revised Chapter 27) is a new section entitled "*Assessment Matters for Resource Consents"*.

862. The background to this particular part of the subdivision chapter was discussed in section 5 of Mr Bryce's reply evidence. As Mr Bryce noted, one of the legal submissions made by Mr Goldsmith[303] was to query whether Chapter 27 as notified created legal issues as a result of the extensive use of objectives and policies as the basis for assessment of subdivision applications, as opposed to using assessment criteria (as is the case under the ODP). Mr Bryce's reply evidence also recorded that Mr Goldsmith highlighted concerns that a number of the "*matters of discretion"* were framed in fact as assessment criteria.

863. We discussed with Mr Goldsmith the potential to employ the structure used within the Proposed Auckland Unitary Plan, which included assessment matters for controlled activity

[303] On behalf of GW Stalker Family Trust and Others (Submissions 430, 515, 523, 525, 530, 531, 535 and 537, FS1256)

and restricted discretionary activity rules within both urban and rural subdivision chapters as a means to supplement the objectives and policies. Mr Goldsmith thought that we might use the wording of that Plan, subject to confirming scope.

864. We asked Mr Bryce to consider these matters and to advise us whether, in his opinion, the understanding and implementation of Chapter 27 would be improved with insertion of appropriate assessment criteria. His conclusion was that this would be the case and he provided us with draft provisions which we might consider recommending. Given the time pressures Mr Bryce was under, this was a significant undertaking, and we express our thanks for his work on this aspect of his reply evidence, which we have found of particular assistance.

865. Mr Bryce noted that the suggested assessment criteria responded to requests in submissions both for clear guidance for Council planning officers processing applications[304] and to the large number of submissions seeking inclusion of the provisions of the ODP Chapter 15 in whole or in part that we have already discussed[305].

866. We also consider that inclusion of assessment criteria is consequential on our recommendation to accept Mr Bryce's recommendation and provide a more permissive rule regime for subdivisions than in the notified PDP (responding in that regard to the very large number of submissions seeking that outcome).

867. As Mr Bryce recorded, his recommended assessment criteria did not seek to reintroduce significant volumes of assessment matters reflective of those within the ODP, but rather sought to achieve an appropriate balance between effective guidance to plan users and administrators, while still seeking to ensure that the PDP is streamlined[306].

868. Mr Bryce also recommended adoption of an approach advanced within the Proposed Auckland Unitary Plan whereby relevant policies are cross referenced within the assessment matters. We agree with Mr Bryce that this approach is advantageous, because it provides an effective link between the policies and supporting methods.

869. Lastly, we note that inclusion of assessment criteria properly so called has enabled Mr Bryce to remove an unsatisfactory feature of the notified Chapter 27 commented on by Mr Goldsmith: *"assessment criteria"* which are mislabelled as matters of discretion or like provisions.

870. We do not intend to review all of the assessment criteria recommended by Mr Bryce in detail, but rather to identify where, in our view, Mr Bryce's recommendations need to be amended and/or supplemented.

871. The first point that we would note is that we consider it necessary to revise the headings Mr Bryce had suggested in order that the new Section 27.9 might have its own numbering system, albeit cross referenced to the rules to which each set of assessment criteria relate.

872. The second general set of amendments that we recommend is to amend the assessment criteria where necessary, to express each point more clearly as a question or issue to which Council staff should direct themselves.

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304 Submission 370

305 Mr Goldsmith also directed us to those submissions as providing a jurisdictional basis for adopting the same approach as the Proposed Auckland Unitary Plan.

306 N Bryce Reply Statement at 5.8

873. In our renumbered Sections 27.9.3.1 and 27.9.3.2 (related to revised Rules 27.5.7 and 27.5.8 respectively) we have added assessment criteria as a consequential change reflecting the additional changes we have recommended to those rules to insert a discretion related to reverse sensitivity effects on infrastructure.

874. Similarly, we recommend amendment to delete assessment criteria recommended by Mr Bryce related to activities affecting electricity sub-transmission lines, reflecting our recommendation as above, that this not be the subject of a separate rule. We have made other more minor amendments to Mr Bryce's recommended assessment criteria to cross reference our recommended revisions to the policies and rules.

875. We consider that Mr Bryce's recommended assessment criteria for the Jacks Point Zone need amendment to reflect deletion of the rule related to subdivisions in the FP-1 area. As discussed in section 5.10 above, we recommend that most of the 'assessment criteria' recommended by Mr Bryce be returned to what is now section 27.3.7.

876. We also recommend use of the defined term "*Structure Plan"* that we have suggested to the Stream 10 Hearing Panel rather than seeking to describe all of the various plans of similar ilk.

877. Where we have recommended deletion of location-specific rules as above (or where they have been deleted by the Stage 2 Variations), we have not included assessment criteria Mr Bryce has suggested related to those rules.

878. Lastly, we have inserted a new set of assessment criteria recommended by the Stream 12 Hearing Panel in relation to the new Controlled Activity rule discussed above, applying to the West Meadows Drive area.

879. The end result, however, is that recommended Section 27.9 contains a set of assessment criteria that in our view will assist implementation of the objectives and policies and is the best way to implement those policies.

8.8 Notification

880. Turning to notification issues, this was dealt with in notified Section 27.9. As a result of the reorganisation of the Chapter, the parallel provisions are in Section 27.10 of our recommended version of the Chapter.

881. Relevant submissions included:
   a. A request that all subdivisions in the Lake Hawea area be notified[307];
   b. Deletion of provision creating potential for notification where an application site adjoins a state highway[308];
   c. Insertion of a requirement for restricted discretionary and discretionary subdivisions in the (now) Lower Density Suburban Residential Zone to be supported with affected party approval before they are considered on a non-notified basis[309];
   d. Addition of the Ski Area Sub-Zone as an additional category of non-notified applications[310];

307 Submission 272
308 Submission 275
309 Submission 427 and 406: Opposed in FS1261
310 Submissions 613 and 610

e. Addition of subdivision of sites within the Queenstown or Wanaka Airport air noise boundaries within the category of applications that are potentially notified[311];
f. Provision for notification where there is a need to assess natural hazard risk[312].

882. Mr Bryce recommended that consequent on his recommended amendments to the rules, the scope of applications that are directed not to be notified or limited–notified should be revised and limited to controlled activity boundary adjustments and to controlled and restricted discretionary activities, but that otherwise, the submissions on this part of the Chapter should be rejected.

883. Addressing the specific points of submission, Mr Bryce recommended rejection of Submission 272 on the basis that in cases to which renumbered Section 27.10.1 did not apply, notification would be addressed on a case by case basis[313]. We agree with Mr Bryce's recommendation. While, as the submission notes, public notification provides a public consultation process, the presumption in favour of notification has been removed from the Act and we have seen no evidence that would suggest that the costs of notification in every case, irrespective of the nature and scale of any environmental effects, is matched by the benefits of doing so.

884. As regards Submission 275, Mr Bryce recommended rejection of the submission, noting that it perpetuated an existing provision under the ODP and had the effect only of ensuring notification would be assessed on a case by case basis where sites adjoin or have access to a state highway. We agree with Mr Bryce's reasoning. Given the policy provisions related to reverse sensitivity effects on regionally significant infrastructure, we consider it is appropriate that notification decisions be assessed on their merits in this instance. However, the way in which these provisions have been reframed means that we categorise the submission as 'Accepted in Part'.

885. Mr Bryce recommended rejection of submissions 427 and 406 regarding subdivisions in the Low Density Residential Zone. In his view, a case by case assessment for subdivision applications not falling within the general provisions of renumbered Rule 27.10.1 was appropriate. We note also that Mr Bryce's recommended revisions to this section would have the result of accepting the submissions in part because discretionary applications within the (now) Lower Density Suburban Residential Zone would not fall within the general no notification rule. The submitters in this case did not appear to provide evidence as to why the renamed Lower Density Suburban Residential Zone should be treated differently to the balance of zones in the Plan, or to provide us with evidence as to the balance of costs and benefits were their relief to be accepted. In these circumstances, we agree with Mr Bryce's recommendation and recommend that the submissions be rejected.

886. Mr Bryce discussed the submissions seeking an exemption for subdivisions within the Ski Area Sub-Zones in somewhat greater detail in his Section 42A Report[314]. In his view, there is the potential for subdivision within the Ski Area Sub-Zones to create arbitrary lines within sensitive landscape settings and accordingly, a need for the effects of subdivision in the Sub-Zone to be considered on a case by case basis.

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311 Submission 433: Opposed in FS1097 and FS1117

312 Submission 798

313 While this has changed since the hearing (with effect from 18 October 2017) with enactment of the Resource Legislation Amendment Act 2017, the transition provisions (refer section 12 of Schedule 12 of the Act) direct that the PDP First Schedule process must be completed as if the 2017 Amendment Act had not been enacted.

314 Section 42A Report at 23.4

887. Mr Ferguson gave planning evidence on behalf of the submitters. He noted that Mr Bryce's position appeared to be related to the issues surrounding the status of a subdivision within the Ski Area Sub-Zones. As already noted, Mr Ferguson gave evidence supporting controlled activity status for such subdivisions which, if accepted, would have had the effect of bringing such subdivisions within the ambit of the non-notification rule.

888. Mr Ferguson did not explore the position should we recommend (as we have done) that discretionary status for subdivisions within the Sub-Zone be retained.

889. We agree that there is a linkage between these matters. The same considerations that have prompted us to recommend rejection of the broader submissions on the status of subdivisions within Ski Area Sub-Zones suggest to us that notification decisions should be assessed on a case by case basis rather than being predetermined through operation of a non-notification rule.

890. In summary, we agree with Mr Bryce's recommendation and we recommend rejection of these submissions.

891. Mr Bryce also recommended rejection of the submission by Queenstown Airport Corporation seeking an exception for activities within the defined noise boundaries around Queenstown and Wanaka Airports.

892. In his opinion, the amendments to the PDP recommended to address potential reverse sensitivity effects on the Airport meant that those issues were already appropriately addressed. Mr Bryce noted in this regard that subdivisions in the vicinity of Wanaka Airport would in most circumstances be a discretionary activity anyway and accordingly could be notified on that basis. He invited QAC to respond to this matter at the hearing[315]. When QAC appeared before us, its Counsel advised that Ms O'Sullivan (the submitter's planning adviser) agreed that the relief sought was unnecessary and that the submitter no longer pursued the submission. Accordingly, we need take that particular point no further.

893. As regards the submission of Otago Regional Council[316], this poses a practical difficulty given that (as discussed in greater detail in Report 14) virtually every property in the District is subject to some level of natural hazard. We therefore have difficulty understanding how the submission could be granted other than by requiring notification of every application the Council receives. This would have obvious cost implications. ORC did not appear to suggest how its submission could practically be addressed and provided no section 32AA analysis upon which we could rely. Accordingly, we recommend the Regional Council's submission be rejected.

894. Considering the detail of Mr Bryce's recommendations, we consider that his recommended Rule 27.10.1 requires further amendment to be clear that boundary adjustments falling within Rule 27.5.4 fall outside the non-notification rule (presumably the reason why he suggested that specific reference be made to controlled activity boundary adjustments).

895. In addition, we do not think it is necessary to make specific reference in 27.10.2 to archaeological sites or listed heritage items, or to discretionary activities within the Jacks Point Zone. Consequent on Mr Bryce's recommended focus of the non-notification rule on

315 Refer Section 42A Report at 23.5.

316 Submission 798

controlled and restricted discretionary activities, those activities automatically fall outside the rule in any event.

896. We also think that the reference to the National Grid Line might be simplified, just to cross reference Rule 27.5.10.

897. Lastly, the existing reference to the Makarora Rural Lifestyle Zone can be deleted, consequent on the Stream 12 Hearing Panel's recommendation to rezone that land Rural.

898. More generally, while improved by Mr Bryce, we found the drafting of these provisions to be quite convoluted, with an initial rule, followed by two separate sets of exceptions. We think it can be simplified further.

899. In summary, we recommend that notified Section 27.9 be renumbered 27.10 and amended to read:

"Applications for all controlled and restricted discretionary activities shall not require the written approval of other persons and shall not be notified or limited notified except:

a. where the site adjoins or has access onto a State Highway;
b. where the Council is required to undertake statutory consultation with iwi;
c. where the application falls within the ambit of Rule 27.5.4;
d. where the application falls within the ambit of Rule 27.5.10 and the written approval of Transpower New Zealand Limited has not been obtained to the application.

8.9 Section 27.10 – Rules – General Provisions

900. Notified Section 27.10 was entitled "*Rules – General Provisions"*. The first such provision related to subdivisions with access onto State Highways. NZTA[317] made some technical suggestions as to how this rule should be framed that Mr Bryce recommended be accepted. We concur. The only additional amendment that we would recommend relates to the cross reference to the Designations Chapter. We consider that this should, for clarity, record that the designations chapter notes sections of State Highways that are limited access roads as at the date of notification of the PDP (August 2015).

901. The second general provision relates to "*esplanades".* The only submission on it[318] suggested correction of an internal cross reference. Mr Bryce recommended that that submission be accepted.

902. For our part, in addition to that correction, we think that both the heading and text of this rule would more correctly refer to esplanade reserves and strips rather than "*esplanades"*. We regard this as a minor matter falling within Clause 16(2).

903. Thirdly, consequent on the concern expressed to us by representatives of Aurora Energy Limited that the general public are not familiar with the legal obligations arising under the New Zealand Electrical Code of Practice for electrical safe distances, we consider it would be helpful if the existence of this Code of Practice were noted at this location.

904. Lastly, we consider that the heading of this section is incorrect. Mr Bryce agreed that they are not rules and suggested that the title might better be "G*eneral Provisions"*. For our part, we consider that "A*dvice Notes"* better captures the character of the provisions in question given

317 Submission 719
318 Submission 809

that they are in the nature of advice and are not intended to have independent regulatory effect.

905. In summary, therefore, we recommend that notified Section 27.10 be renumbered 27.11 and amended to read:

"Advice Notes

27.11.1 State Highways
Attention is drawn to the need to obtain a Section 93 notice from New Zealand Transport Agency for subdivisions with access onto State Highways that are declared Limited Access Roads (LAR). Refer to the Designations Chapter of the District Plan for sections of State Highways that are LAR as at August 2015. Where a designation will change the use, intensity or location of the access on the State Highway, subdividers should consult with the New Zealand Transport Agency.

27.11.2 Esplanade Reserves and Strips
The opportunities for the creation of esplanade reserves or strips are outlined in the objective and policies in Section 27.2.6. Unless otherwise stated, section 230 of the Act applies to the standards and process for creation of esplanade reserves and strips.

27.11.3 New Zealand Electrical Code of Practice for Electrical Safe Distances
Compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP34:2001) is mandatory under the Electricity Act 1992. All activities regulated by NZECP34:2001 including any activities that are otherwise permitted by the District Plan must comply with this legislation."

8.10 Section 27.12 – Financial Contributions

906. Notified Section 27.12 related to financial contributions. The only submissions on it supported the existing provisions, although Submission 166 queried the title. Mr Bryce did not recommend any change to it other than to alter the heading to read:

"Development and Financial Contributions"

907. We agree with that suggestion.

8.11 Section 27.13 – Structure Plans

908. Notified Section 27.13 contained the Ferry Hill Rural Residential Subzone Concept Development Plan and the Kirimoko Block Structure Plan. The only submissions on it supported the existing provisions. The Stage 2 Variations propose deletion of the Ferry Hill document. For our part, for the reasons discussed earlier, we consider that a copy of the other "*Structure Plans"* contained in the PDP and referenced in the objectives, policies and rules of Chapter 27 should be contained here. Accordingly, we recommend that the Structure Plans for the Jacks Point, Waterfall Park, Millbrook Resort, Coneburn Industrial Zones and West Meadows Drive (the latter two consequential on recommendations from the Stream 13 and Stream 12 Hearing Panels respectively) be inserted in this section of the Chapter.

909. We also recommend the section be labelled "Structure Plans".

8.12 Conclusions on Rules

910. Having considered all of the rules and other provisions of the PDP discussed above, we are of the belief that individually and collectively, the rules and other provisions recommended are the most appropriate provisions to implement the policies of Chapter 27 and thereby achieve the objectives both of Chapter 27 and, to the extent they are relevant, the objectives of the strategic chapters of the PDP.

9. SUMMARY OF RECOMMENDATIONS TO OTHER HEARING STREAMS

911. We also record that during the course of our deliberations, we determined that it would assist implementation of Chapter 27 if the definitions in Chapter 2 were amended in two respects:

a. Deletion of the existing definition of "*community facilities"* (refer Section 4.3 above)

b. Inclusion of a new definition of the term "Structure Plan" as follows:

"Structure Plan means a plan included in the District Plan, and includes Spatial Development Plans, Concept Development Plans and other similarly titled documents." (refer the discussion at Section 8.7 above).

912. These are matters for the Hearing Panel considering submissions on the definitions (Stream 10) to consider.

10. SUMMARY OF RECOMMENDATIONS

913. As already noted, we have attached our recommended version of Chapter 27 as a clean document in Appendix 1.

914. Appendix 2 contains our recommendations in respect of submissions in tabular form.

915. In addition, in the course of this Report, we have made a number of other recommendations for consideration of the Council. These are detailed in Appendix 3.

For the Hearing Panel

Denis Nugent, Chair
Dated: 4 April 2018

28 NATURAL HAZARDS

QUEENSTOWN LAKES DISTRICT COUNCIL

28.1 Purpose

The purpose of this chapter is to provide a policy framework to address natural hazards throughout the District. The District is recognised as being subject to multiple hazards and as such, a key issue is ensuring that when development is proposed on land potentially subject to natural hazards, the risk is managed or mitigated to tolerable levels. In instances where the risk is intolerable[1], natural hazards will be required to be avoided. Council has a responsibility to address the developed parts of the District that are subject to natural hazard risk through a combination of mitigation measures and education, to lessen the impacts of natural hazards.

There are no rules in this chapter. It is intended to provide policy guidance on natural hazards that is factored into the consideration of land use and subdivision applications made under the rules in other chapters.

28.2 Natural Hazard Identification

Natural Hazards that exist in the District include:

- Flooding and inundation
- Erosion and deposition (including landslip and rockfall)
- Land instability
- Earthquakes and liquefaction
- Avalanche
- Alluvion[2], avulsion[3]
- Subsidence
- Tsunami / seiche[4]
- Fire

The District is located in an inland mountainous environment and as such can also be exposed to climatic extremes in terms of temperature, rain and heavy snowfall. This is likely to increase as a result of climate change.

Council holds information in a natural hazards database which has been accumulated over a long period of time by both the Council and the Otago Regional Council. The database is continually being updated and refined as new information is gathered. Given the ongoing updates occurring, with the exception of flooding information, which has historically been mapped, Council has decided not to map natural hazards as part of the District Plan. This decision has been made due to the fact the maps may quickly become out of date as new information becomes available. Council will rely upon the hazards database in the consideration of resource consents and building consents.

1. The concept of risk 'tolerability' is derived from the Otago Regional Council's Regional Policy Statement, which provides additional guidance as to the management of natural hazards.
2. Increase in the size of a piece of land due to deposits by a river.
3. Abandonment of a river channel and the formation of a new channel.
4. Oscillation of water due to earthquake shaking

The database is readily available to the public through the Council website and at Council Offices.

Additional to the Resource Management Act, Council has obligations to address hazards under other legislation such as the Building Act 2004, the Civil Defence and Emergency Management Act 2002 and the Local Government Act 2002. In particular the provisions of the Building Act provide Council with the ability to refuse to issue a building consent in certain circumstances where a property is subject to natural hazards. As such, Council uses the provisions in the District Plan as just one tool to address natural hazard risk.

28.3 Objectives and Policies

28.3.1 Objective - The risk to people and the built environment posed by natural hazards is managed to a level tolerable to the community.

Policies

28.3.1.1 Ensure assets or infrastructure are constructed and located so as to avoid or mitigate:

a. the potential for natural hazard risk to human life to be exacerbated; and

b. the potential risk of damage to property and infrastructural networks from natural hazards to the extent practicable, including consideration of the locational, technical and operational requirements of regionally significant infrastructure.

28.3.1.2 Restrict the establishment of activities which significantly increase natural hazard risk, including where they will have an intolerable impact upon the community and built environment.

28.3.1.3 Recognise that some areas that are already developed are now known to be subject to natural hazard risk and minimise such risk as far as practicable while acknowledging that the community may be prepared to tolerate a level of risk.

28.3.1.4 Enable Otago Regional Council and the Council exercising their statutory powers to undertake permanent physical works for the purposes of natural hazard mitigation while recognising the need to mitigate potential adverse effects that may result from those works.

28.3.2 Objective - Development on land subject to natural hazards only occurs where the risks to the community and the built environment are appropriately managed.

Policies

28.3.2.1 Avoid significantly increasing natural hazard risk.

28.3.2.2 Not preclude subdivision and development of land subject to natural hazards where the proposed activity does not:

a. accelerate or worsen the natural hazard risk to an intolerable level;

b. expose vulnerable activities to intolerable natural hazard risk;

c. create an intolerable risk to human life;

d. increase the natural hazard risk to other properties to an intolerable level;

e. require additional works and costs including remedial works, that would be borne by the public.

28.3.2.3 Ensure all proposals to subdivide or develop land that is subject to natural hazard risk provide an assessment that meets the following information requirements, ensuring that the level of detail of the assessment is commensurate with the level of natural hazard risk:

a. the likelihood of the natural hazard event occurring over no less than a 100 year period;

b. the type and scale of the natural hazard and the effects of a natural hazard on the subject land;

c. the effects of climate change on the frequency and scale of the natural hazard;

d. the vulnerability of the activity in relation to the natural hazard;

e. the potential for the activity to exacerbate the natural hazard risk both within and beyond the subject land;

f. the potential for any structures on the subject land to be relocated;

g. the location, design and construction of buildings and structures to mitigate the effects of natural hazards, such as the raising of floor levels;

h. management techniques that avoid or manage natural hazard risk to a tolerable level, including with respect to ingress and egress of both residents and emergency services during a natural hazard event.

Advice Note:

Council's natural hazards database identifies land that is affected by, or potentially affected by, natural hazards. The database contains natural hazard information that has been developed at different scales and this should be taken into account when assessing potential natural hazard risk. It is highly likely that for those hazards that have been identified at a 'district wide' level, further detailed analysis will be required.

28.3.2.4 Where practicable, promote the use of natural features, buffers and appropriate risk management approaches in preference to hard engineering solutions in mitigating natural hazard risk.

28.3.3 Objective - The community's awareness and understanding of the natural hazard risk in the District is continually enhanced.

Policies

28.3.3.1 Continually develop and refine a natural hazards database in conjunction with the Otago Regional Council.

28.3.3.2 When considering resource consent applications or plan changes, the Council will have regard to the natural hazards database.

28.3.3.3 Ensure the community has access to the most up-to-date natural hazard information available.

28.3.3.4 Increase the community awareness of the potential risk of natural hazards, and the necessary emergency responses to natural hazard events.

28.3.3.5 Monitor natural hazard trends and changes in risk and consider action should natural hazard risk become intolerable.

28.4 Other Relevant Provisions

28.4.1 District Wide Rules

Attention is drawn to the following District Wide chapters.

1	Introduction	2	Definitions	3	Strategic Direction
4	Urban Development	5	Tangata Whenua	6	Landscapes and Rural Character
25	Earthworks	26	Historic Heritage	27	Subdivision
29	Transport	30	Energy and Utilities	31	Signs
32	Protected Trees	33	Indigenous Vegetation	34	Wilding Exotic Trees
35	Temporary Activities and Relocated Buildings	36	Noise	37	Designations
Planning Maps					

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report 14

Report and Recommendations of Independent Commissioners Regarding Whole of Plan, Chapter 2 (Definitions) and Chapter 28 (Natural Hazards)

Commissioners

Denis Nugent (Chair)

Trevor Robinson

PART D: NATURAL HAZARDS:

9. PRELIMINARY MATTERS

9.1. Background:

449. Both the Operative RPS and the Proposed RPS have a particular focus on management of natural hazards. Given the role of both documents in the decision-making process[203], we need to discuss the direction provided by those documents in some detail.

450. In her Section 42A Report Ms Bowbyes drew our attention to four objectives of the Operative RPS as follows:

11.4.1 To recognise and understand the significant natural hazards that threaten Otago communities and features.

11.4.2 To avoid or mitigate the adverse effects of natural hazards within Otago to acceptable levels.

11.4.3 To effectively and efficiently respond to natural hazards occurring within Otago.

11.4.4 To avoid, remedy or mitigate the adverse effects of hazard mitigation measures on natural and physical resources."

451. Supporting these objectives, Ms Bowbyes drew our attention to the following policies:

"11.5.1 To recognise and provide for Kai Tahu values in natural hazard planning and mitigation.

11.5.2 To take action necessary to avoid or mitigate the unacceptable adverse effect of natural hazards and the responses to natural hazards on:
(a) Human life; and
(b) Infrastructure and property; and
(c) Otago's natural environment; and
(d) Otago's heritage sites.

11.5.3 To restrict development on sites or areas restricted as being prone to significant hazards, unless adequate mitigation can be provided.

11.5.4 To avoid or mitigate the adverse effects of natural hazards within Otago through:
(a) Analysing Otago's natural hazards and identifying their location and potential risk; and
(b) Promoting and encouraging means to avoid or mitigate natural hazards; and
(c) Identifying and providing structures or services to avoid or mitigate the natural hazard; and
(d) Promoting and encouraging the use of natural processes where practicable to avoid or mitigate the natural hazard.

11.5.5 To provide a response, recovery and restoration capability to natural hazard events through:
(a) Providing civil defence capabilities;

[203] Refer Sections 75(3)(c) and 64(2)(a) of the Act respectively

(b) *Establishing procedures and responsibility to ensure quick responses to any natural hazard event; and*
(c) *Identifying agency responsibilities for assisting recovery during and after events; and*
(d) *Developing recovery measures incorporated into civil defence plans.*

11.5.6 To establish the level of natural hazard risk that threatened communities are willing to accept, through a consultative process.

11.5.7 To encourage and where practicable support community-based responses to natural hazard situations."

452. The Proposed RPS provides even more detailed guidance than did its predecessor. Ms Bowbyes drew our attention to Objective 4.1 which reads:
"Risk that natural hazards pose to Otago's communities are minimised."

453. This objective is supported by no fewer than 13 policies that we need to have regard to:

"Policy 4.1.1 Identifying natural hazards
Identify natural hazards that may adversely affect Otago's communities, including hazards of low likelihood and high consequence by considering all of the following:
a) Hazard type and characteristics;
b) Multiple and cascading hazards;
c) Cumulative effects, including from multiple hazards with different risks;
d) Effects of climate change;
e) Using the best available information for calculating likelihood;
f) Exacerbating factors.

Policy 4.1.2 Natural hazard likelihood
Using the best available information, assess the likelihood of natural hazard events occurring, over no less than 100 years.

Policy 4.1.3 Natural hazard consequence
Assess the consequences of natural hazard events, by considering all of the following:
a) The nature of activities in the area;
b) Individual and community vulnerability;
c) Impacts on individual and community health and safety;
d) Impacts on social, cultural and economic well being;
e) Impacts on infrastructure and property, including access and services;
f) Risk reduction and hazard mitigation measures;
g) Lifeline utilities, essential and emergency services, and their co-dependence;
h) Implications for civil defence agencies and emergency services;
i) Cumulative effects;
j) Factors that may exacerbate a hazard event.

Policy 4.1.4 Assessing activities for natural hazard risk:
Assess activities for natural hazard risk to people in communities, by considering all the following:

a) *The natural hazard risk identified, including residual risk;*
b) *Any measures to avoid, remedy or mitigate those risks, including relocation and recovery methods;*
c) *The longterm viability and affordability of those measures;*
d) *Flow on effects of the risk to other activities, individuals and communities;*
e) *The availability of and ability to provide, lifeline utilities, and essential and emergency services, during 'and' after a natural hazard event.*

Policy 4.1.5 Natural hazard risk

Manage natural hazard risk to people and communities, with particular regard to all of the following:

a) *The risk posed, considering the likelihood and consequences of natural hazard events;*
b) *The implications of residual risk, including the risk remaining after implementing or undertaking risk reduction and hazard mitigation measures;*
c) *The community's tolerance of that risk, now and in the future, including the community's ability and willingness to prepare for and adapt to that risk, and respond to an event;*
d) *The changing nature of tolerance to risk;*
e) *Sensitivity of activities to risk.*

Policy 4.1.6 Avoiding increased natural hazard risk

Manage natural hazard risk to people and communities by both:

a) *Avoiding activities that significantly increase risk including displacement of risk off-site; and*
b) *Avoiding activities that increase risk in areas potentially affected by coastal hazards over at least the next 100 years.*

Policy 4.1.7 Reducing existing natural hazard risk

Reduce existing natural hazard risk to people and communities, including by all of the following:

a) *Encouraging activities that:*
    i. *Reduce risk; or*
    ii. *Reduce community vulnerability;*
b) *Discourage activities that:*
    i. *Increase risk; or*
    ii. *Increase community vulnerability;*
c) *Considering the use of exit strategies for areas of significant risk to people and communities;*
d) *Encouraging design that facilitates:*
    i. *Recovery from natural hazard events;*
    ii. *Relocation to areas of lower risk;*
e) *Relocating lifeline utilities, and facilities for essential and emergency service, to areas of reduced risk, where appropriate and practicable;*
f) *Enabling development, upgrade, maintenance and operation of lifeline utilities and facilities for essential and emergency services;*
g) *Reassessing natural hazard risk to people and communities, and community tolerance of that risk, following significant natural hazard events.*

Policy 4.1.8 *Precautionary approach to natural hazard risk*

Where natural hazard risk to people and communities is uncertain or unknown, but potentially significant or irreversible, apply a precautionary approach to identifying, assessing and managing that risk.

Policy 4.1.9 *Protection features and systems that provide hazard mitigation*

Avoid, remedy or mitigate adverse effects on natural or modified features and systems, which contribute to mitigating the effects of both natural hazards and climate change.

Policy 4.1.10 *Mitigating natural hazards*

Give preference to risk management approaches that reduce the need of hard protection structures or similar engineering interventions, and provide for hard protection structures only when all of the following apply:

a) *Those measures are essential to reduce risk to a level the community is able to tolerate;*
b) *There are no reasonable alternatives;*
c) *It would not result in an increase in risk to people and communities, including displacement of risk off-site;*
d) *The adverse effects can be adequately managed;*
e) *The mitigation is viable in the reasonably foreseeable long term.*

Policy 4.1.11 *Hard protection structures*

Enable the location of hard protection structures and similar engineering interventions on public land only when either or both the following apply:

a) There is significant public or environmental benefit in doing so;
b) The work relates to the functioning ability of a lifeline utility, or a facility for essential or emergency services.

Policy 4.1.12 *Lifeline utilities and facilities for essential or emergency services*

Locate and design the lifeline utilities and facilities for essential or emergency services to:

a) Maintain their ability to function to the fullest extent possible, during and after natural hazard events; and
b) Take into account their operational co-dependence with other lifeline utilities and essential services to ensure their effective operation.

Policy 4.1.13 *Hazard mitigation measures, lifeline utilities, and essential and emergency services*

Protect the functional and operational requirements of hazard mitigation measures, lifeline utilities, and essential or emergency services, including by all of the following:

a) Restricting the establishment of those activities that may result in reverse sensitivity effects;
b) Avoiding significant adverse effects on those measures, utilities or services;
c) Avoiding, remedying or mitigating other adverse effects on those measures, utilities or services;
d) Maintaining access to those measures, utilities or services for maintenance and operational purposes;

Managing other activities in a way that does not restrict the ability of those mitigation measures, utilities or services to continue functioning."

454. *Ms Bowbyes also drew our attention to Policy 4.5.1 of the Proposed RPS, that, relevantly reads:*
"Policy 4.5.1 Managing for urban growth and development

Managing urban growth and development in a strategic and co-ordinated way, by all of the following…:

c) Identifying future growth areas and managing the subdivision, use and development of rural land outside these areas to achieve all of the following:….

v) Avoid land with significant risk from natural hazards."

455. The evidence of Mr Henderson for Otago Regional Council (adopting the pre-circulated Brief of Evidence of Mr Warren Hanley) was that the Proposed RPS had been developed against a background where, to use his words, "*the national importance placed on managing natural hazard risk has increased substantially since Otago's first RPS became operative".* Discussing the point with Mr Henderson, he confirmed our impression that it is not a matter of the natural hazard risk having changed materially, but rather one of the perception of that risk having been heightened as a result of very visible hazard events such as the Christchurch and Kaikoura earthquakes. As Mr Henderson observed, in general, hazards have always existed.

456. Be that as it may, the Proposed RPS gives a much greater degree of direction, as well as a much more explicit focus on natural hazard risk. Classically, risk is the combination of the likelihood of an event coming to pass, and its consequence(s)[204]. The operative RPS, by contrast, appears to focus solely on the consequences of natural hazards.

457. Ms Bowbyes noted in her Section 42A Report[205] that the Proposed RPS advocates for a "*more definitive and cautious approach"* with regard to natural hazard risk than that proposed in the notified PDP provisions on natural hazards.

458. Ms Bowbyes, however, noted that as at the date of hearing, the Proposed RPS was the subject of numerous appeals to the Environment Court with almost all of the provisions quoted above the subject of challenge. Ms Bowbyes drew our attention specifically to appeals focussing on the extent to which an avoidance policy is pursued in the Proposed RPS. However, when we discussed the nature and scope of the appeals on the Proposed RPS with counsel for the Council, Ms Scott confirmed our own impression (having reviewed the various notices of appeal that had been filed), that the direction the appeals seek to take the Proposed RPS provisions on natural hazards is not uniform. In particular, while the effect of the appeals Ms Bowbyes drew to our attention might be to reduce the restriction on future development posed by these provisions, if successful, other appeals might push the Proposed RPS provisions in the opposite direction. That is to say, to a more restrictive position. That suggests, among other things, that while remaining true to our statutory obligation to take the Proposed RPS into account, we also need to be alive to the potential for it to change in ways that cannot currently be predicted.

459. Having emphasised the differences between the Operative RPS and the Proposed RPS, it is also appropriate to note the areas of commonality. Specifically, both acknowledge the relevance

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204 See Orica Mining Services New Zealand Limited v Franklin District Council W032/2009 at [18]

205 At paragraph 5.20

of community opinion, although the language used is different. The Operative RPS speaks in terms of acceptability, whereas the Proposed RPS focuses on tolerability. We asked counsel for the Council whether these were the same thing in a natural hazard context. Her initial response was that the ordinary and natural meanings of the two terms are different. If correct, that would pose somewhat of a conundrum for us. As a matter of law, we are bound to give effect to the Operative RPS and while that does not mean that the PDP must use identical language to the Operative RPS, if there were indeed a meaningful difference between the terminology of the two documents, we would necessarily have to adopt the approach of the Operative RPS.

460. For ourselves, we are not at all sure that counsel's initial response (that there is a difference in the ordinary dictionary meaning) is correct and, having reflected on it, she agreed that if the relevant policies of the Operative RPS substituted "*tolerable"* for "*acceptable"* and "*intolerable"* for "*unacceptable"* in each case, the meaning would not change.

461. That was also the view of Mr Henderson, giving evidence for Otago Regional Council. He thought that they were similar concepts, but supported use of the language in the Proposed RPS because tolerability was now the term used in the planning literature.

462. We accept that there is no material difference between the terminology, and take the view that it is preferable to align the wording of the PDP with the Proposed RPS given that that represents Otago Regional Council's current thinking.

463. We also discussed with Mr Henderson an apparent contradiction in his evidence which stated at one point[206] that tolerance for risk might vary from community to community, depending on the nature of the risk profile and the resources of the community to manage it, and at another,[207] that he would be concerned if the PDP suggested different criteria for natural hazard risk management might be employed in Queenstown Lakes District to that in the balance of the Otago Region.

464. Mr Henderson sought to reconcile the two positions by stating a general desire that hazard response be "*relatively consistent"* within a range. However, he accepted that where a district has few options to meet development demand, that might drive choices that other districts with a greater range of options might not take. More specifically, Mr Henderson agreed that if Queenstown Lakes District has high demand for development and few choices as to how to accommodate that demand (manifestly an accurate statement of the position) the District's community might make choices as to what natural hazards have to be tolerated, and those choices might be different to another district with lower levels of development demand and greater options as to how demand might be accommodated.

465. We have approached our consideration of submissions and further submissions on Chapter 28 on that basis.

466. We will return to both the Operative RPS and the Proposed RPS provisions in the context of our more detailed discussion of the objectives and policies of Chapter 28 that follows. The last point of general background, however, that we need to note relates to the potential relevance of iwi management plans to our consideration of submissions and further submissions on Chapter 28. As Report 1 notes, any relevant planning document recognised by an iwi authority and lodged with the Council must be taken into account under Section 74(2A) of the Act.

206 Paragraph 22

207 Paragraph 24

467. In her reply evidence, Ms Bowbyes drew our attention to provisions in two such iwi management plans. Specifically, in "*The Cry of the People, Te Tangi Tauira: Ngai Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008,* Policy 12 of Section 3.1.1. supports development and improvement of contingency measures to recognise increased natural hazard risk, among other things, as a result of unpredictable weather patterns. Ms Bowbyes drew to our attention the link between this policy and the provisions of Chapter 28 relating to flood hazards and recommended changes she had suggested regarding the impacts of climate change.

468. Ms Bowbyes also drew our attention to section 3.5.7 of this Plan emphasising the relevance of natural hazards to determination of the appropriateness of subdivision at particular locations.

469. Secondly, Ms Bowbyes drew our attention general policy 54 in section 5.3.4 of *Kai Tahu ki Otago* Natural *Resource Management Plan 2005* which has a similar emphasis on aligning land uses to the type of land and climatic conditions.

470. Policy 43 of that document further seeks to discourage activities on riverbanks that have the potential to cause or increase bank erosion. More generally, Policy 10 promotes sustainable land use within the Clutha/Mata-au Catchment, which encompasses the entire district.

471. Ms Bowbyes was of the view that Chapter 28 already accounts for these various provisions in its objectives and policies. We agree with that view, although obviously, any suggested amendments need to be weighed with these provisions in mind, along with the other higher order documents and considerations that have to be factored in.

472. In addition to the matters that are relevant to the decision-making process external to the PDP, our consideration of submissions and further submissions also needs to take account of the recommendations of the Stream 1B Hearing Panel that considered the extent of strategic direction provided in Chapters 3 and 4 relevant to natural hazards.

473. We note in particular, that that Hearing Panel's recommendation that renumbered Objective 3.2.1 promotes as an outcome that urban development among other things, "*minimise[s] the natural hazard risk, taking into account the predicted effects of climate change"*.

474. We also note recommended Policy 4.2.2.2 which links allocation of land within urban growth boundaries to "*any risk of natural hazards, taking into account the effects of climate change"*.

475. Our ability to respond appropriately to both the legislative directions of the Act and to the direction provided in Chapters 3 and 4 is dependent, of course, on the notified provisions of Chapter 28, and the scope provided for amendment of those provisions by the submissions lodged in accordance with the provisions of the First Schedule. It is therefore, to those detailed provisions that we now turn.

9.2. Natural Hazard Provisions – General Submissions:

476. Ms Bowbyes drew our attention to five submission points regarding the treatment of particular hazards in the PDP[208]. The first of these submissions is that of J & E Russell and ML Stiassny[209] which sought the inclusion of new provisions acknowledging the presence of the Cardrona Gravel Aquifer, including a rule framework for earthworks and residential

[208] Refer Section 42A Report at Section 10

[209] Submission 42: Opposed by FS1300

development on land potentially affected by the aquifer. Ms Bowbyes confirmed in a discussion with us that the concern the submission is targeting is one of flood hazards.

477. Ms Bowbyes analysed the provisions of the earthworks chapter of the ODP, introduced by way of Plan Change 49. Her view was that those provisions are appropriate to address the matters raised in the submission and that no amendments are necessary to Chapter 28. We agree. To the extent the submitters may have a different view, they will be free to pursue the issue further when the earthworks provisions of the PDP are considered as part of the Stage 2 Variation hearing process. The submitter did not appear before us to take the matter further.

478. The second submission Ms Bowbyes drew to our attention is that of the Glenorchy Community Association Committee[210] which sought that Otago Regional Council and the Council update the natural hazards database with flooding information on the Bible Stream and remove any flood classification that is incorrect. Ms Bowbyes noted that the natural hazards database is held outside the PDP. We agree that it follows that this submission does not relate to the provisions of the PDP and the submission is accordingly not within the scope of the District Plan review.

479. Next, Ms Bowbyes drew our attention to three submissions relating to fire risk: those of Otago Rural Fire Authority[211] (two submissions) and of Leigh Overton[212].

480. As regards the first Otago Rural Fire Authority submission, this relates to a request that the PDP permit residents to remove flammable vegetation within the "*priority zones"* identified in a specified homeowners manual to address the high fire danger associated with living in areas such as Mount Iron and the Queenstown Red Zone. Ms Bowbyes clarified that the Red Zone relates to parts of the district where fires and fireworks are strictly prohibited.

481. Ms Bowbyes advised us[213] that the possible changes to provisions in the Rural Chapters balancing the need for vegetation retention versus managing fire risk were considered in the context of Hearing Stream 2. Insofar as the flammable vegetation in question is indigenous in nature, these issues overlap with the matters the Stream 2 Hearing Panel has considered in relation to Chapter 33. We believe that the issue is one more properly dealt with in that context. We do not regard it is appropriate that Chapter 28 address it further.

482. The second Rural Fire Authority submission and the submission of Mr Overton, however, are a different category. Both seek greater recognition for identification and mitigation of vegetation fire risk in the planning process. Mr Overton appeared in support of his submission and we think there is merit in some of the points he made. We will return to it in the context of the detailed provisions of Chapter 28.

483. Ms Bowbyes also drew our attention to some 33 submission points from a number of submitters[214] all expressed in identical terms, and seeking:

"Reconsider the extensive number of hazard related policies, remove unnecessary tautology and ensure they are focussed on significant hazards only."

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210 Submission 564

211 Submission 849

212 Submission 465::Supported by FS1125

213 Section 42A Report at 10.17

214 Refer Submissions 632, 633, 636, 643, 672, 688, 693, 694, 696, 700, 702 and 724: Supported by FS1097; Opposed by FS1139, FS1191, FS1219, FS1252, FS1275, FS1277, FS1283, FS1316 and FS1319

484. The reasons provided in support of these submissions focus on the extent to which the Council's hazard database identifies natural hazard risk, and the inefficiency of requiring all resource consents to assess natural hazard risk, irrespective of the nature and scale of that risk. A focus on significant natural hazard risk is suggested as being more practicable

485. Ms Bowbyes discusses the significantly enlarged treatment of natural hazard issues in Chapter 28 compared to the comparable ODP provisions, concluding that the notified suite of policies is both necessary and appropriate. We agree with that assessment. The considerations that have prompted the significantly enlarged treatment of natural hazards in the Proposed RPS apply equally to the PDP. It is also significant that none of the submitters in question appeared to support the generalised criticisms of the Chapter 28 provisions.

486. Considering the third point, Ms Bowbyes drew our attention to the absence of any mapping or classification of the significance of risk that would enable provisions focussing on significant natural hazard risks only to be implemented.

487. It is also material that neither the Operative nor the Proposed RPS focus solely on significant natural hazards and while there is a need to ensure that any requirements to assess natural hazard risk are proportionate to the level of risk, Ms Bowbyes has recommended specific provisions to address that concern.

488. Accordingly, we recommend rejection of these submissions at the very general level at which they are pitched. We will return to the requirements to assess natural hazard risk as part of our more detailed commentary on submissions on the objectives and policies that follows.

10. CHAPTER 28: PROVISION SPECIFIC SUBMISSIONS:

10.1. Section 28.1: Purpose:

489. The sole submission on Section 28.1 was that of Transpower New Zealand Limited[215] seeking that where the existing text refers to "*tolerable"* levels and "*intolerable"* risk, that be substituted with "*acceptable"* and "*unacceptable"* respectively. As Ms Bowbyes noted in her Section 42A Report[216], the reasons given for this submission did not explain the relief sought. Those reasons focus on provision for mitigation of risk, which the suggested amendments would not provide.

490. As discussed earlier, we do not regard the difference in terminology to be material and given that the Proposed RPS focuses on tolerability and intolerability, we believe it preferable to align the PDP with that terminology. In summary, therefore, we recommend that this submission not be accepted.

491. We have, however, identified a minor amendment that might usefully be made to Section 28.1, to aid the reader. This is to explain the role of the chapter given that it has no rules – namely to provide policy guidance on natural hazards that might be considered in the implementation of the rules in other chapters. Appendix 2 shows the suggested amendment. We consider this falls within clause 16(2).

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215 Submission 805

216 At 12.2 and 12.3

10.2. Section 28.2 Natural Hazard Identification:

492. There are two submissions on this section of Chapter 28. The first, that of Otago Regional Council[217], supported the approach flagged in this section of the Council holding information in a natural hazard's database, outside the District Plan. No amendment was sought.

493. The one amendment sought to the section arises from the Council's Corporate submission[218] that sought a reference to a likely increase in climate extremes as a result of climate change. Ms Bowbyes recommends acceptance of that submission, albeit slightly reworded, and we agree. The recommended provisions already noted related to natural hazards in both Chapters 3 and 4 acknowledge the relevance of climate change to natural hazard management. In addition, Policy 4.2.2 of the Proposed RPS draws attention to the need to take into account the effects of climate change so as to ensure people in communities are able to adapt to or mitigate its effects.

494. Accordingly, we recommend that the Council's corporate submission be accepted and a new sentence be inserted on the end of the second paragraph of this section as shown in Appendix 2 to this Report.

495. We also recommend that in the list of natural hazards, subsidence be listed separately from alluvion and avulsion with which it has little or nothing in common, other than that they are all ground movements. We consider this a minor change within Clause 16(2).

496. Section 28.2 is also worthy of note by reason of the fact that fire is specifically listed as a relevant natural hazard. We will return to that when we discuss Mr Overton's submission further.

10.3. Objective 28.3.1:

497. There are three objectives in this section of Chapter 28. The first, Objective 28.3.1 read as notified:

"The effects of natural hazards on the community and the built environment are minimised to tolerable levels."

498. In her Section 42A Report, Ms Bowbyes drew our attention to two submissions specifically on this objective. Both sought to amend the reference to minimisation. Thus, QAC[219] sought that rather than natural hazard effects being minimised to tolerable levels, that they are

"*appropriately managed"*.

499. The Oil Companies[220] suggested retention of a reference to tolerable levels but sought amendment to the objective to state that natural hazard effects "*are avoided, remedied or mitigated".*

500. The more general submission of Otago Regional Council[221] seeking that provisions of the Proposed RPS are reflected in this chapter by provision for avoiding natural hazard risk,

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217 Submission 798
218 Submission 383
219 Submission 433: Supported by FS1097 and FS1117
220 Submission 768
221 Submission 798: Opposed by FS1182

reducing natural hazard risk and applying a precautionary approach to natural hazard risk also needs to be noted.

501. The stated rationale for the Oil Companies' submission was that 'minimise' means to reduce to the smallest level (of effect) possible, when the intention is to address effects to tolerable levels, which may or may not be the same thing. Ms Bowbyes records that the QAC submission did not provide any specific rationale for removing the term "*minimise"* other than a general statement that the notified provisions are too vague and require greater clarity and certainty. QAC did, however, comment in its submission regarding a focus on tolerance, suggesting that it is difficult to quantify and depends on the circumstances.

502. Ms Bowbyes recommended in response to those submissions that the objective be amended to refer to natural hazard risk rather than effects (for consistency within the chapter and with the Proposed RPS) and that rather than minimising risk, it "*is avoided or managed to a tolerable level*".

503. For our part, we think that the Oil Companies' submission has a point. Minimisation of risk is an outcome in itself and adding reference to what is or is not tolerable blurs the picture, because they are not necessarily the same thing. A tolerable level of risk may be somewhat greater than the minimum level of risk. Similarly, the minimum achievable level of risk may still be intolerable.

504. We found the stated rationale for the QAC submission somewhat ironic, because substituting reference to appropriate management without any indication as to what that might involve would, in our view, reduce certainty and clarity rather than improve it.

505. We did have some concerns, however, how in practice an objective focussing on tolerable levels would be applied. Among other things, tolerable to whom?

506. Because the concept of tolerability originates from the Proposed RPS, we sought to discuss these matters with Mr Henderson. His evidence was that reference to tolerability related to the community's view, as expressed primarily through the zoning of particular land. He acknowledged that there are issues about the reliability of any assessment of community tolerance obtained through the resource consent process given that the ability to make submission is not a reliable guide to community opinion, and neither Council staff nor Commissioners hearing and determining applications could purport as a matter of fact to represent the views of the community at large.

507. Ms Bowbyes also addressed this point in her reply evidence. Her view was that the person tasked with issuing a consent under delegated authority is representing the community's views in the Council's capacity as a decision-maker under the RMA. While as a matter of constitutional law, that may be the case, it does not solve the problem to us of how an individual decision-maker can satisfy themselves as to what is or is not tolerated by the community. Ms Bowbyes posed the example of flooding risk in the Queenstown town centre as well known and tolerated risk. We don't disagree about that specific risk. The lurking concern we have is with the application of the objectives and policies focussing on tolerability in less well known and obvious cases. We wonder, for instance, whether some risks are tolerated, because they are not known and/or well understood[222]

[222] Compare the risks of building on liquefaction prone land in eastern Christchurch prior to 2010.

508. Ultimately, we think the best answer was the one that Mr Henderson gave us, that tolerability has to be determined in the zoning applied to land, which will necessarily occur through a public process in which the community has the opportunity to participate.

509. Given Mr Henderson's evidence, however, we think it is important to be clear that the tolerability referred to in this objective relates to what is tolerable to the community, as opposed to what individual landowners might tolerate (particularly where those landowners are effectively making choices for their successors in title). To that extent, we accept QAC's submission. An amendment to that effect would mean, however, two references in the same objective to the "*community"*. To improve the English without changing the meaning, we suggest the first reference be to "*people".*

510. We agree with Ms Bowbyes that management of natural hazards does not lend itself to remediation as an option (as the Oil Companies suggest). While, as Ms Bowbyes identified, Section 31 of the Act includes the avoidance or mitigation of natural hazards as a council function we also think that inserting reference to avoidance or mitigation in this context raises similar issues to those raised by the Oil Companies. If the natural hazard risk is tolerable, neither avoidance nor mitigation may be required.

511. We consider the answer to that concern is to substitute "*managed"* for "*minimised"*. Certainty is provided by continued reference to what is tolerable. We think that that can be sharpened further by referring to what is tolerable to the community.

512. We agree, however, that the reference point should be natural hazard "risk" given the consistent approach of the Proposed RPS. We consider that the Otago Regional Council's submission noted above provides jurisdiction for an amendment to that effect. Ms Bowbyes considered that Policy 28.3.2.3 already gave effect to the emphasis in the Proposed RPS on the precautionary principle, because it put the onus on the applicant to produce an adequate assessment of hazard risk. We agree and note that the evidence for the Regional Council did not advance the point as an outstanding issue.

513. In summary, therefore, we recommend that the objective be amended to read:

"The risk to people and the built environment posed by natural hazards is managed to a level tolerable to the community".

514. We consider that of the alternatives available to us, this formulation most appropriately achieves the purpose of the Act.

10.4. Policy 28.3.1.1

515. As notified, this read:

28.3.1.1 Policy
Ensure assets or infrastructure are constructed and located so as to avoid or mitigate the potential risk of damage to human life, property, infrastructure networks and other parts of the environment.

516. Ms Bowbyes drew our attention to four submissions on this policy:
a. QAC[223] sought specific reference to the adverse effects of natural hazards;

[223] Submission 433: Supported by FS1097; Opposed by FS1117

b. NZTA[224] sought insertion of a practicability qualification on the operation of the policy;
c. Transpower New Zealand Limited[225] sought an enlarged practicability qualification that also acknowledges the requirements of regionally significant infrastructure;
d. Queenstown Park Limited[226] sought either deletion of reference to "*other parts of the environment"* or better definition of what parts were being referred to.

517. Ms Bowbyes did not recommend acceptance of the QAC submission. We agree with that position. While the submission is understandable given the form in which Objective 28.3.1 was notified, our recommended amendment to that objective would mean that amending the policy to refer to the effects of natural hazards would now be out of step with it.

518. We discussed with Ms Bowbyes, however, whether there needed to be some reference to natural hazards in the policy, given the context. Otherwise the policy might be read more widely than intended. In her reply evidence, she agreed that it would be desirable to be clear that it is natural hazard risk that is being referred to. We concur. To that extent therefore, we accept QAC's submission.

519. Ms Bowbyes accepted a point made by Mr Tim Williams on behalf of Queenstown Park Limited that reference in the notified policy to "*damage"* to human life was somewhat inapt, prompting a need to reconfigure the form of the policy to separate out risks to human life from other risks.

520. However, we think that some tweaking of the language is required to make it clear that the focus is on construction and location of assets and infrastructure to avoid exacerbating natural hazard risk to human life. The reality is that natural hazards pose an existing risk to human life and the focus needs to be on management of activities that increase that risk[227].

521. Ms Bowbyes recommended also acceptance of the relief sought by Transpower (and consequently the more limited relief of NZTA). In her view, the importance of regionally significant infrastructure meant that recognition of the limitations it operates under was appropriate. We agree. While it is probably not strictly necessary to make specific reference to the locational, technical and operational requirements of regionally significant infrastructure if a general practicability qualification is inserted (those requirements are on one view just examples of why it may not be practicable to avoid or mitigate a potential hazard risk), the role of regionally significant infrastructure means that it is worth being clear that that is the policy intent

522. However, we have some issues with framing that recognition in terms of an acknowledgement, because of the lack of clarity as to what that means. We think that it would be more clearly expressed if it referred to consideration of those requirements.

523. Ms Bowbyes also recommended acceptance of the Queenstown Park Limited submission on the basis that the generalised reference to "*other parts"* of the environment lacks definition and creates uncertainty. We agree with that position also.

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224 Submission 719: Supported by FS1097, FS1341 and FS1342
225 Submission 805
226 Submission 806
227 Compare Policy 4.1.6 of the Proposed RPS

524. In summary, we largely accept Ms Bowbyes' recommendations with amendments to address the points made above. The end result is, therefore, that we recommend that Policy 28.3.1.1 be amended to read:

"Ensure assets or infrastructure are constructed and located so as to avoid or mitigate:

a. The potential for natural hazard risk to human life to be exacerbated; and

b. The potential risk of damage to property and infrastructure networks from natural hazards to the extent practicable, including consideration of the locational, technical and operational requirements of regionally significant infrastructure."

10.5. Policy 28.3.1.2

525. As notified, this read:

28.3.1.2 Policy

Restrict the establishment of activities which have the potential to increase natural hazard risk, or may have an impact on the community and built environment.

526. Ms Bowbyes drew our attention to five submissions on this policy, as follows:

a. Real Journeys Limited[228], Cook Adam Trustees Limited, C&M Burgess[229], and Bobs Cove Developments Limited[230] who all sought qualification of the level of risk (to refer to "*significant natural hazard risk"*) and linking of the second part of the policy so that it relates to the first part, rather than establishes a separate and discrete restriction;

b. The Oil Companies[231] sought deletion of reference to potential risks (so the policy would refer to actual increases in risk) and insertion of reference to tolerability as a criterion for both natural hazard risk increases and impacts on the community.

527. Queenstown Park Limited[232] sought qualification of a second half of the policy so it relates to "adverse *and significant"* impacts.

528. Addressing the first submission point, Ms Bowbyes noted that the approach of the Proposed RPS at Policy 4.1.6 is to focus on significant increases in natural hazard risk and, accordingly, she recommended qualification of the policy in the manner sought. That suggestion also addresses the first part of the Oil Companies' submission, although we do not consider the deletion of reference to potential increases in natural hazard risk to be material given that, as discussed above, natural hazard risk inherently incorporates concepts of probability/likelihood within it.

529. Ms Bowbyes also recommended acceptance of the second part of the relief sought by the Oil Companies by inserting an intolerability criterion for impacts on the community and the built environment, on the basis that this would increase alignment with the Proposed RPS. We agree with both points. We also note that the wording suggested by the Oil Companies would create the linkage between the two aspects of the policy that the submissions of Real Journeys and others sought.

530. We think that this is preferable to the relief sought by Queenstown Park Limited, which sought to limit the extent of the restriction the second half of the policy creates. We note that

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228 Submission 621

229 Submission 669

230 Submission 712

231 Submission 768: Supported by FS1287

232 Submission 806

although Queenstown Park Limited appeared before us, the evidence of Mr Tim Williams did not address this policy or take issue with the relief recommended by Ms Bowbyes.

531. Accordingly, we recommend that Policy 28.3.1.2 be amended to read:

"Restrict the establishment of activities which significantly increase natural hazard risk, including where they will have an intolerable impact upon the community and built environment."

10.6. Policy 28.3.1.3:

532. As notified, this policy read:

"Recognise that some areas that are already developed are now known to be at risk from natural hazards and minimise such risk as far as possible while acknowledging that landowners may be prepared to accept a level of risk."

533. The only submission seeking a material change to this policy was that of the Oil Companies[233] who sought that reference be inserted to "*the effects"* of natural hazards and substitution of a practicability test for what is "*possible"*.

534. Ms Bowbyes supported the suggested amendment to refer to practicable minimisation of risk to avoid any unintended implication that risk has to be reduced to the point where it is negligible. We agree with her reasoning in that regard.

535. Ms Bowbyes recommended that rather than refer to the effects of natural hazards, as the Oil Companies sought, the initial reference to risk be redrafted. We agree that her suggested rewording is an improvement, as well as being consistent with the recommended objective.

536. Responding to the evidence of Mr Henderson for Otago Regional Council, Ms Bowbyes also recommended that the policy should refer to what the community is prepared to accept, rather than what landowners are prepared to accept. This is consistent with the discussion we had with Mr Henderson, referred to above. We agree with Mr Henderson's essential point, that it is inappropriate to rely on an existing landowner's readiness to accept natural hazard risks on behalf of their successors in title. We note that while Otago Regional Council did not seek amendment of this Policy specifically, it did state a clear position that it is not appropriate to have new development occurring where natural hazard risks are intolerable to the community. We therefore regard the suggested amendment as being within scope but, consistent with the general desire to promote alignment of language with the Proposed RPS, we recommend that that policy talk in terms of what the community will tolerate, rather than what it will accept.

537. In summary, therefore, we recommend that Policy 28.3.1.3 be revised to read:

"Recognise that some areas that are already developed are now known to be subject to natural hazard risk and minimise such risk as far as practicable while acknowledging that the community may be prepared to tolerate a level of risk."

10.7. Policy 28.3.1.4,

538. As notified, this policy read:

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[233] Submission 768: Supported by FS1287

"Allow Public Bodies exercising their statutory powers to carry out natural hazard mitigation activities."

539. The only submission on this policy was from Queenstown Park Limited[234], which sought that reference to "*Public Bodies"* be limited to the Regional and District Council and that the Policy be qualified to acknowledge the need to mitigate potential adverse effects resulting from hazard protection works. Ms Bowbyes recommended acceptance of both aspects of the submission. In her view, referring specifically to the Regional and District Council provided greater clarity and certainty, and that it was appropriate to acknowledge adverse effects that might result from hazard protection works. She also recommended replacing the word "*allow"* with "*enable"*, as more accurately articulating the role of the District Plan. She considered that to be a minor non-substantive change (and therefore within Clause 16(2)).

540. We were somewhat puzzled by the intent of this policy. At one level, if a public body is exercising a statutory power to undertake natural hazard mitigation activities, particularly in an emergency situation, the provisions of the District Plan are largely academic.

541. We also wondered about the restriction of the ambit of the policy, from initially referring to public bodies, to referring only to the Regional and District Council. We disagree with Ms Bowbyes' comment[235] that the ambit of the term "*public body"* is unclear and we were concerned that organisations like the Fire Service Commission and the Director of Civil Defence Emergency Management have important roles in managing civil defence emergencies that ought to be acknowledged.

542. Having reflected on our queries, Ms Bowbyes advised in her reply evidence[236] that the intent of the Policy is to address planned mitigation works undertaken by the Regional and District Councils that require a resource consent, rather than emergency mitigation works. This was helpful, because if the focus is on planned hazard mitigation works, there is then a ready case for limiting the parties who may be involved to just the Regional and District Council (as Queenstown Park Ltd suggests). Amending the policy, as Ms Bowbyes suggests, to 'enabling' the Councils to undertake activities also reinforces the point that this is in the context of resource consent applications for such works. However, Ms Bowbyes continued to recommend reference to "natural hazard mitigation activities" which would capture both emergency and unplanned works. We think the policy intent, as explained to us, needs to be expressed more clearly.

543. We also think that rather than a generalised reference to "*the Regional and District Council",* Otago Regional Council should be referred to in full (there being no other relevant Regional Council) and the defined term for the District Council be used.

544. In summary, therefore, we agree with Ms Bowbyes' suggestions and recommend that policy 28.3.1.4 be amended to read:

"Enable Otago Regional Council and the Council exercising their statutory powers to undertake permanent physical works for the purposes of natural hazard mitigation while recognising the need to mitigate potential adverse effects that may result from those works."

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234 Submission 806

235 Section 42A Report at 12.36

236 At 7.1

545. We note that the only submission on Policy 28.3.1.5 was from the Oil Companies[237], seeking that it be retained without further modification. However, it is evident to us that this policy is now entirely subsumed within Policy 28.3.1.3 as we have recommended it be amended. We therefore recommend it be deleted as a minor non-substantive change.

546. Having reviewed the policies in Section 28.3.1 collectively, we consider that with the amendments set out above and given the alternatives open to us, the resulting policies are the most appropriate means to achieve Objective 28.3.1.

10.8. Objective 28.3.2

547. Turning to Objective 28.3.2, as notified, it read:
"Development on land subject to natural hazards only occurs where the risks to the community and the built environment are avoided or appropriately managed or mitigated."

548. Ms Bowbyes drew our attention to four submissions on this objective. The first three (Real Journeys Limited[238], Cook Adam Trustees Limited, C&M Burgess[239] and Bobs Cove Developments Limited[240]) all sought that the objective refer to "*a significant natural hazard"* and that it provide that risks are "*satisfactorily avoided"*.

549. Queenstown Park Limited[241] sought that the objective be replaced with Objective 4.8.3 of the ODP which reads:
"*Avoid or mitigate loss of life, damage to assets or infrastructure, or disruption to the community of the District, from natural hazards."*

550. Ms Bowbyes considered Objective 28.3.2 an improvement on the ODP objective that Queenstown Park Limited's submission sought to substitute, partly because of the former's focus on natural hazard risk and partly because of the lack of clarity as to what the term "*disruption"* meant in the context of the ODP objective. We agree and note that when Queenstown Park Limited appeared before us, its planning witness, Mr Tim Williams, generally supported the existing wording of the objective.

551. Ms Bowbyes likewise did not support qualification of the reference to natural hazards, so that the objective would refer only to development on land the subject of a significant natural hazard. She pointed to the lack of evidential support for the submission and the lack of clarity as to what significant natural hazards encompass. She also suggested that limiting the objective to significant natural hazards would leave both the objective and underlying policies silent on the treatment of proposals subject to lower levels of natural hazard risk. We agree with these points. While there is merit in the observation in Submissions 669 and 712 that large areas in the District[242] are subject to some recorded natural hazard risk, the objective is framed sufficiently broadly to avoid overly restrictive policies applying to areas of low hazard risk.

552. Ms Bowbyes did recommend an amendment to delete the "*or mitigated"* from the end of the objective, accepting in this regard Mr Tim Williams evidence that *"management"* would

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237 Submission 768
238 Submission 621
239 Submission 669
240 Submission 712
241 Submission 806
242 It may be, given the proximity of the Alpine Fault, as well as other localised earthquake faults, that the whole District would fall within that general description

necessarily include mitigation. While we agree the notified wording is clumsy, this suggested amendment prompted us to discuss with Mr Williams whether "*avoidance"* of hazard risk would similarly be an aspect of risk management. Mr Williams had reservations about the extent of overlap. In his view, reference to management of risk had implications of enabling the activity in question and he also thought that tolerability had to be considered. Having said that, he agreed that so long as the word "*appropriate"* was retained, that would enable those considerations to be bought to the fore.

553. Ms Bowbyes agreed with Mr Williams suggestions in her reply evidence. She expressed the opinion that "*avoidance is absolute whereas management provides flexibility for a range of options to be considered, including mitigation"*.

554. We do not disagree. Indeed, it is precisely because of the absolute nature of an avoidance objective that the suggestion that it be qualified to refer to risks being "*satisfactorily avoided"* is something of a contradiction in terms to us.

555. Stepping back, precisely because the initial reference to natural hazards has such wide application, the outcome sought similarly needs to be flexible. In addition, while we think that Mr Williams may well be right that talking about managing an activity implies that it may occur, the focus of the objective is on the management of risks and we think that the objective should be expressed more simply to say that, leaving it to the policies to flesh out what appropriate management entails. This provides less direction as to the outcome sought than we would normally regard as desirable, but the breadth of the subject matter (and the ambit of the submissions on it) leaves us with little alternative in our view.

556. In summary, we consider that the most appropriate objective to achieve the purpose of the Act in this context given the alternatives open to us, is:

"Development on land subject to natural hazards only occurs where the risks to the community and the built environment are appropriately managed."

10.9. Policy 28.3.2.1:

557. As notified, Policy 28.3.2.1 stated:

28.3.2.1 Policy
Seek to avoid intolerable natural hazard risk, acknowledging that this will not always be practicable in developed urban areas."

558. This policy was the subject of three submissions:
   a. QAC[243] sought that it should be expressed more simply: *"Avoid significant natural hazard risk, acknowledging that this will not always be practicable in developed urban areas."*
   b. The Oil Companies[244] sought that reference be to intolerable effects from natural hazards and that the acknowledgement apply to all developed areas, not just urban areas.
   c. Otago Regional Council[245] opposed the policy insofar as it left open the possibility for development in areas of intolerable hazard risk.

243 Submission 433: Supported by FS1097 and FS1117
244 Submission 768: Supported by FS1287
245 Submission 798

559. In her Section 42A Report, Ms Bowbyes drew attention to Proposed RPS Policies 4.1.6 and 4.5.1 quoted above, that seek variously avoidance of activities that significantly increase risk and avoidance of development on land with a significant natural hazard risk. In her view, these provisions supported QACs submission that reference should be to significant natural hazard risk, rather than intolerable risk. We agree that it is desirable for this policy to flesh out what might be considered an intolerable risk rather than leaving that for future decisionmakers to determine, with limited ability to ascertain the community's views. She also expressed the view that there was merit in the Oil Companies' argument that the focus should not just be on urban areas.

560. The evidence for Otago Regional Council suggested that the Policy was trying to be "*all things to all situations"* and that the focus should be on significant increases in risk. Mr Henderson suggested that if that were accepted, the acknowledgement in the second half of the policy might then be deleted. Mr Henderson's evidence reflected the general submission for Otago Regional Council already noted that new development should not occur where natural hazard risks are intolerable for the community, even if managed or mitigated.

561. Ms Bowbyes recommended acceptance of Mr Henderson's position.

562. We agree that this is a practicable way forward. The Oil Companies[246] make the valid point that major natural hazards (like an earthquake along the Alpine fault) cannot be prevented at source. Similarly, to the extent that there is already a significant natural hazard risk in developed areas, that risk might be mitigated, but it is difficult to imagine how it can be avoided, whereas clearly choices are able to be made when new development is proposed in areas of significant natural hazard risk.

563. In summary, while the end result overlaps with recommended Policy 28.3.1.2, we recommend that Policy 28.3.2.1 be amended to the form suggested by Ms Bowbyes:
'Avoid significantly increasing natural hazard risk."

10.10. Policy 28.3.2.2

564. As notified this policy read:
Allow subdivision and development of land subject to natural hazards where the proposed activity does not:
- *Accelerate or worsen the natural hazard and/or its potential impacts;*
- *Expose vulnerable activities to intolerable natural hazard risk;*
- *Create an unacceptable risk to human life;*
- *Increase the natural hazard risk to other properties;*
- *Require additional works and costs that would be borne by the community.*

565. Ms Bowbyes drew our attention to the following submissions on this policy:
a. The Oil Companies[247] sought that the first word of the policy be "*enable"*, that the first bullet point refer to risks associated with the natural hazard and/or its potential impacts, the second bullet point refer to the consequences from natural hazards rather than natural hazard risk and that the fourth bullet point refer to an unacceptable level of natural hazard risk;

246 Refer the tabled evidence of Mr Laurenson
247 Submission 768: Supported by FS1287

b. Real Journey's Limited[248], Cook Adam Trustees Limited, C&M Burgess[249] and Bobs Cove Developments Limited[250] sought that the initial reference be to land subject to "*significant"* natural hazards, the word "*it"* be substituted for "*the proposed activity"*, the first bullet point refer to natural hazard risk and delete reference to potential impacts, the fourth bullet point be deleted, and the fifth bullet point refer to the "*public"* rather than the "*community"*.
c. Queenstown Park Limited[251] sought that the first bullet point refer to acceleration of hazards and impacts "*to an unacceptable level"* and the fourth bullet point refer to increases in natural hazard risk "*to an intolerable level"*.

566. In her Section 42A Report, Ms Bowbyes agreed with many of these suggestions. She did not, however, accept that reference should be made to significant natural hazards in the opening line of the policy, for the reasons discussed above[252]. Similarly, she did not agree with the suggestion that the fourth bullet point, related to increasing risk to other properties be deleted, referring us to Proposed RPS Policies 4.1.6 and 4.1.10(c) that focus on displacement of risk off-site. We agree with her reasoning on both points. We note, in particular, that focussing the policy on significant natural hazards would leave a policy gap where land is subject to non-significant natural hazards, which is the very situation it needs to address.

567. As regards Ms Bowbyes' recommendations that the balance of the submissions be accepted (subject to rewording the addition to the fourth bullet to refer to "*intolerable*" levels, for consistency with the Proposed RPS), we had a concern about this policy adopting an overtly enabling focus because it is necessarily limited in scope to natural hazard issues. There may be many other non-hazard related issues that mean that an enabling approach is not appropriate.

568. In her reply evidence Ms Bowbyes expressed the view, having reflected on the point, that an enabling policy in this context would not prevail over more restrictive policies in other chapters addressing those other issues. While we agree that that would be the sensible outcome, we are reluctant to leave the point open for an enthusiastic applicant to test. In any event, Ms Bowbyes agreed that an enabling focus in Policy 28.3.2.2 would leave gap between that and policy 28.3.2.1. She therefore recommended that it would be preferable to commence the policy "*not preclude…",* as we had suggested to her.

569. We are therefore happy to adopt her reasoning. Accordingly, we recommend that Policy 28.3.2.2 be amended to read:

28.3.2.2. *"Not preclude subdivision and development of land subject to natural hazards where the proposed activity does not:*
a. Accelerate or worsen the natural hazard risk to an intolerable level;
b. Expose vulnerable activities to intolerable natural hazard risk;
c. Create an intolerable risk to human life;
d. Increase the natural hazard risk to other properties to an intolerable level;
e. *Require additional works and costs, including remedial works, that would be borne by the public."*

248 Submission 621: Supported by FS1097
249 Submission 669
250 Submission 712
251 Submission 806
252 Refer Sections 10.5 and 10.9 above

10.11. Policy 28.3.2.3

570. As notified, this policy read:

"Ensure all proposals to subdivide or develop land that is subject to natural hazards provide an assessment covering:

- *The time, frequency and scale of the natural hazards;*
- *The type of activity being undertaken and its vulnerability to natural hazards;*
- *The effects of a natural hazard event on the subject land;*
- *The potential for the activity to exacerbate natural hazard risk both in and off the subject land;*
- *The potential for any structures on the subject land to be relocated;*
- *The design and construction of buildings and structures to mitigate the effects of natural hazards, such as the raising of floor levels;*
- *Site layout and management to avoid the adverse effects of natural hazards, including access and egress during a hazard event."*

571. Ms Bowbyes noted the following specific submissions:

a. Queenstown Park Limited[253] sought an amendment to recognise that the level of assessment should be commensurate with the level of potential risk.

b. The Oil Companies[254] sought that the last bullet point be amended to provide for management and mitigation (rather than avoidance) and a criterion referring to a tolerable level of risk. This submission also sought a minor grammatical change;

c. Real Journeys Limited[255], Cook Adam Trustees Limited, C&M Burgess[256] and Bob's Cove Developments Limited[257] suggested a range of amendments, which would result in the Policy reading as follows:

"Ensure new subdivision or land development at threat from a significant natural hazard risk (identified on the District Plan Maps) is assessed in terms of:

a. The type, frequency and scale of the natural hazard and the effects of a natural hazard event on the subject land;

b. The vulnerability of the activity in relation to the natural hazard;

c. The potential for the activity to exacerbate the natural hazard risk;

d. The location, design and construction of buildings and structures to mitigate the effects of natural hazards;

e. Management techniques that avoid or minimise the adverse effects of natural hazards."

d. Otago Regional Council[258] sought amendment to recognise that development in hazard areas had ongoing management costs that should not be met by the community;

572. Ms Bowbyes agreed with the suggestion of the Oil Companies that the policy provide for a varying standard of assessment. We agree that if, as we accept, the net should be spread wider than significant natural hazards, the extent of the assessment needs to be flexible to ensure that the costs and benefits of the requirement are properly aligned.

573. It follows that like Ms Bowbyes, we do not accept the submissions of Real Journeys Ltd and others seeking that the only natural hazards assessed are those significant natural hazards noted on the planning maps.

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253 Submission 806

254 Submission768: Supported by FS1287

255 Submission 621

256 Submission 669

257 Submission 712

258 Submission 798

574. Quite apart from the considerations already discussed regarding similar requests in relation to other policies, if accepted, that would gut the policy of any effect unless and until the planning maps had been varied to identify such hazards.

575. We also agree with Ms Bowbyes that effects beyond the subject site need to be addressed, consistent with the focus of the Proposed RPS on displacement of hazard risk off-site and that the previous policy (28.3.2.2.) already addresses the Regional Council's point.

576. Ms Bowbyes recommended we accept most of the balance of submitters' suggestions. We agree that they improve the clarity and expression of the policy.

577. Ms Bowbyes also recommended additional bullet points inserted to refer to a 100 year time horizon, consistent with the Proposed RPS (thereby responding to the more general submission of Otago Regional Council) and to the effects of climate change, to make it clear that natural hazard assessment is prospective and should not just rely on historical hazard data. We agree with both suggestions. While, as Ms Bowbyes noted in discussions with us, the existing reference to frequency and scale of natural hazards should pick up changes in hazard risk over time resulting from climate change (and for that reason, this is not a substantive change), this is a case where in our view, it is wise to explicitly acknowledge the likelihood that climatic extremes will increase with climate change (as sought in the Council's Corporate submission[259], albeit in another context).

578. Lastly, in relation to this policy, we should note the evidence of Mr Overton in relation to management of fire risk. Mr Overton advised us that there are areas of the district that are subject to fire risk and that are inaccessible to emergency services. We agree that this is a concern that requires assessment in future. Accordingly, we recommend amendment to the final bullet point to refer to ingress and egress of both residents and emergency services.

579. Given the breadth of Policy 28.3.2.3, however, and the fact that (unlike the ODP) the PDP clearly classifies fire as a natural hazard, we do not consider that fire risk needs more explicit reference either in this policy or elsewhere[260].

580. We do note, however, Ms Bowbyes' advice in her reply evidence that Council's Natural Hazard Database does not currently record areas of known vegetation fire risk, and that it needs to do so. We agree, and draw the point to Council's attention for action if it deems appropriate.

581. In summary, we recommend that Policy 28.3.2.3 be amended to read:

"Ensure all proposals to subdivide or develop land that is subject to natural hazard risk provide an assessment that meets the following information requirements, ensuring that the level of detail of the assessment is commensurate with the level of natural hazard risk:

a. The likelihood of the natural hazard event occurring over no less than a 100 year period;
b. The type and scale of the natural hazard and the effects of a natural hazard on the subject land;
c. The effects of climate change on the frequency and scale of the natural hazard;
d. The vulnerability of the activity in relation to the natural hazard;
e. The potential for the activity to exacerbate the natural hazard risk both within and beyond the subject land;
f. The potential for any structures on the subject land to be relocated;

259 Submission 383

260 Refer the submissions of Mr Overton and of Otago Rural Fire Authority discussed at Section 9.2 above

g. *The location, design and construction of buildings and structures to mitigate the effects of natural hazards, such as the raising of floor levels.*
h. *Management techniques that avoid or manage natural hazard risk to a tolerable level, including with respect of ingress and egress of both residents and emergency services during a natural hazard event."*

10.12. Policy 28.3.2.4:

582. As notified, this policy read:

28.3.2.4 Policy
"Promote the use of natural features, buffers and appropriate risk management approaches in preference to hard engineering solutions in mitigating natural hazard risk."

583. Ms Bowbyes noted the submission of the Oil Companies[261] on this point, seeking deletion of this policy. The submitters suggest that the policy might have unintended consequences for mitigation measures that are widely employed across the District and which, in the submitters view, should be supported. Ms Bowbyes did not support deletion of the policy. As she observed in her Section 42A Report[262] the policy promotes alternatives to hard engineering solutions. It does not require them. She suggested a minor amendment to make that clearer, so that the policy would commence "*where practicable, promote…."*. We note Mr Laurenson's support for that suggested change in his tabled statement for the submitters.

584. The evidence of Mr Henderson for Otago Regional Council was that this policy is not consistent with Proposed RPS Policy 4.1.10, which is much more directive regarding the circumstances in which hard protection structures might be provided for. Ms Bowbyes could not, however, find any scope to recommend this change, which would (as she observed) have the opposite effect to the relief sought by the only submitters on the policy. We asked Mr Henderson whether he could point to any submission either by Otago Regional Council, or any other party, that would support greater alignment with the Proposed RPS in this regard and he could not.

585. We consider, therefore, that Ms Bowbyes is correct, and there is no jurisdiction to move this aspect of Chapter 28 into line with the Proposed RPS. In the event that Policy 4.1.10 of the Proposed RPS remains substantively in the same form as at present, the Council would necessarily have to consider a variation to the Plan to incorporate and thereby implement the Proposed RPS, once operative.

586. In the interim, we agree with Ms Bowbyes recommended amendment, accepting the Oil Companies' submission in part. Appendix 2 reflects that change.

10.13. Policy 28.3.2.5:

587. As notified, this policy read:

"Recognise that some infrastructure will need to be located on land subject to natural hazard risk."

588. The only submissions on this policy sought its retention. However, the notified policy has been overtaken by the amendments we have recommended to Policy 28.3.1.1, which provide more explicit recognition of the impracticality of avoiding location of all activities on land subject to natural hazard risk, particularly regionally significant infrastructure. Accordingly, we

261 Submission 768
262 At 12.65

recommend that Policy 28.3.2.5 be deleted, as a consequential change, to avoid any confusion as between the role of the two policies.

589. Having reviewed the policies in Section 28.3.2 collectively, taking account of the alternatives open to us and the policies recommended in Section 28.3.1, we consider that those policies are the most appropriate means to achieve Objective 28.3.2.

10.14. Objective 28.3.3. and Policies supporting it

590. Objective 28.3.3. was not the subject of any submission seeking it be changed, and Ms Bowbyes did not recommend any amendment to it. We need consider it no further. She did, however, recommend an amendment to Policy 28.3.3.1. As notified, that policy read:

> *28.3.3.1 Policy*
> *Continually develop and refine a natural hazards database in conjunction with the Otago Regional Council, (as a basis for Council decisions on resource consent applications or plan changes and for the assessment of building consents).*

591. The Oil Companies'[263] sought deletion of this policy on the basis that the ongoing changes to the natural hazards database will have statutory effect and, consequentially, should be undertaken by way of Plan Change.

592. The Oil Companies also suggested that the database should not itself be a basis for decision, but should rather be a consideration of the decision-making process.

593. Ms Bowbyes agreed with the last point. As she noted, the role of the database is to provide an initial flag for the presence of a natural hazard which is then the subject of assessment under Policy 28.3.2.3. She therefore thought it was more appropriate to refer to the database as a consideration in the decision-making process.

594. We agree, and consider that such an amendment also better reflects the role of the database sitting outside the District Plan. Further, Ms Bowbyes advised us in her reply evidence that there is no process currently in place that provides a formal avenue for the public to influence the information uploaded to the database. She also noted that the information requirements of notified Section 28.5 highlighted that the database contains information that has been developed at different scales and advises Plan users that further detailed analysis may be required. Again, this supports a much less formal role for the database in the decision making process.

595. Having said that, we think it is valuable that the Council can signal that the database is the subject of continual development and refinement, that being a course of action within its control.

596. We note, however, that there are actually two elements to this policy. The first relates to the Council's actions developing and refining the database. The second point relates to how the database will be used by Council. We think it would be clearer if these two elements were separated into two policies. We also consider that reference to the assessment of building consents should be deleted. This occurs under separate legislation (the Building Act 2004) and the PDP should not purport to constrain how the powers conferred by that legislation will be

263 Submission 768

exercised. Given the Oil Companies sought deletion of the policy, deletion of this aspect is clearly within scope.

597. We therefore recommend that Policy 28.3.3.1 be separated into two policies and amended to read:

"Continually develop and refine a natural hazards database in conjunction with the Otago Regional Council.

When considering resource consent applications or plan changes, the Council will have regard to the natural hazards database."

598. Ms Bowbyes recommended minor non-substantive changes to the balance of the policies supporting Objective 28.3.3 including substitution of "*intolerable"* for "*unacceptable"* in Policy 28.3.3.4. We support the suggested amendments, the content of which are set out in our Appendix 2.

599. Having reviewed the policies in Section 28.3.3. collectively, we consider that given the alternatives open to us, they are the most appropriate policies to achieve the relevant objective.

10.15. Section 28.4 – Other Relevant Provisions:

600. This is a standard provision that is reproduced throughout the PDP. The Hearing Panels considering earlier chapters have recommended amendments to it to more correctly reflect the content of the PDP and the fact that once the First Schedule process is concluded, it will form part of the ODP. We recommend like amendments for the same reasons. The fact that some chapters have been inserted by the Stage 2 Variations is reflected in those chapters being in italics. Appendix 2 sets out the suggested changes.

10.16. Section 28.5 – Information Requirements:

601. As notified, this section purported to state a requirement for an assessment of natural hazard effects as part of development proposals. We discussed with Ms Bowbyes whether it was consistent with Policy 28.3.2.3. She addressed this point in Section 8 of her reply evidence. In summary, Ms Bowbyes concluded that a consequential amendment was required to Section 28.5 to make it clearer that the database is not a trigger for the need to provide a natural hazards assessment. She referred us to the Oil Companies' submission[264] as providing scope for the recommended change.

602. We agree with Ms Bowbyes assessment. Accordingly, we recommend that the text read as follows:

"The Councils natural hazards database identifies land that is affected by, or potentially affected by, natural hazards. The database contains natural hazard information that has been developed at different scales and this should be taken into account when assessing the potential natural hazard risk. It is highly likely that for those hazards that have been identified at a 'district wide' level, further detailed analysis will be required."

603. As amended, this is no longer true to label (it is no longer a statement of information requirements). We consider it now assists that reader in understanding the inter-relationship of the database with the operation of Policy 28.3.2.3. As such, we recommend that the

[264] Submission 768

amended text be shifted in order that it sits as an Advice Note to that policy. We regard this as a non-substantive formatting change.

11. SUMMARY OF RECOMMENDATIONS:

604. Appendix 2 to this report sets out our recommended amendments to Chapter 28.

605. In addition to those amendments, we note Policy 28.3.2.4 is not currently consistent with Proposed RPS Policy 4.1.10. We have no jurisdiction to recommend a substantive amendment that would align the two. Accordingly, we recommend that should Policy 4.1.10 be finalised as part of appeals on the Proposed RPS in a form that continues to be inconsistent with Policy 28.3.2.4, Council promulgate a variation to align the two.

606. We also draw Council's attention to the desirability of updating its hazards database to include areas of known vegetation fire risk[265].

607. Lastly, Appendix 3 sets out a summary of our recommendations in relation to submissions on Chapter 28.

For the Hearing Panel

Denis Nugent, Chair
Dated: 31 March 2018

[265] Discussed at Section 10.11 above

35 TEMPORARY ACTIVITIES & RELOCATED BUILDINGS

QUEENSTOWN LAKES DISTRICT COUNCIL

35.1 Purpose

The purpose of the Temporary Activity provisions is to enable temporary events, filming, construction activities, military training, temporary utilities and temporary storage to be undertaken, subject to controls intended to minimise adverse effects. The provisions recognise that temporary activities, events and filming are important to the economic, social, and cultural vitality of the District, and are therefore encouraged.

The Relocated Building provisions primarily seek to ensure that the reinstatement of such buildings is compatible with the surrounding environment and amenity. The requirements of this chapter enable matters to be considered in addition to any specific controls for buildings and structures in the Zone Chapters and other relevant District Wide Chapters.

35.2 Objectives and Policies

35.2.1 Objective – Temporary Events and Filming are encouraged and are undertaken in a manner that ensures the activity is managed to minimise adverse effects.

Policies

35.2.1.1 Recognise and encourage the contribution that temporary events and filming make to the social, economic and cultural wellbeing of the District's people and communities.

35.2.1.2 Permit small and medium-scale events during daytime hours, subject to controls on event duration, frequency and hours of operation.

35.2.1.3 Recognise that purpose-built event facilities are designed to cater for temporary activities.

35.2.1.4 Recognise that for public spaces, temporary events are anticipated as part of the civic life of the District.

35.2.1.5 Require adequate infrastructure, waste minimisation, traffic management, emergency management, security, and sanitation facilities to be available to cater for anticipated attendants at large-scale temporary events and filming.

35.2.1.6 Ensure temporary activities do not place an undue restriction on public access.

35.2.1.7 Recognise that noise is an anticipated component of temporary events and filming, while protecting residential amenity from undue noise during night-time hours.

35.2.1.8 Enable the operation of informal airports in association with temporary community events and filming, subject to minimising adverse effects on adjacent properties.

35.2.1.9 Require all structures associated with temporary events and filming to be removed at the completion of the activity, and any damage in public spaces to be remediated.

35.2.2 Objective – Temporary activities necessary to complete building and construction work are provided for.

Policies	35.2.2.1	Ensure temporary activities related to building and construction work are carried out with minimal disturbance to adjoining properties and on visual amenity values.
	35.2.2.2	Provide for small-scale retail activity to serve the needs of building and construction workers.
	35.2.2.3	Require temporary activities related to building and construction to be removed from the site following the completion of construction, and any damage in public spaces to be remediated.

35.2.3 Objective – Temporary Military Training Activities are provided for.

Policy	35.2.3.1	Enable temporary military training to be undertaken within the District.

35.2.4 Objective – Temporary Utilities needed for other temporary activities or for emergencies are provided for.

Policy	35.2.4.1	Enable short-term use of temporary utilities needed for other temporary activities or for emergency purposes.

35.2.5 Objective – Temporary Storage is provided for.

Policies	35.2.5.1	Permit temporary storage related to farming activity.
	35.2.5.2	Ensure temporary storage not required for farming purposes is of short duration and size to protect the visual amenity values of the area in which it is located.

35.2.6 Objective – Relocated buildings maintain amenity and minimise the adverse effects of relocation and reinstatement works.

	35.2.6.1	Provide for relocated buildings where adverse effects associated with the relocation and reinstatement are managed to provide a quality external appearance, and are compatible with the amenity of the surrounding area.

35.3 Other Provisions and Rules

35.3.1 District Wide

Attention is drawn to the following District Wide chapters.

1	Introduction	2	Definitions	3	Strategic Direction
4	Urban Development	5	Tangata Whenua	6	Landscapes and Rural Character
25	Earthworks	26	Historic Heritage	27	Subdivision
28	Natural Hazards	29	Transport	30	Energy and Utilities
31	Signs	32	Protected Trees	33	Indigenous Vegetation
34	Wilding Exotic Trees	36	Noise	37	Designations
Planning Maps					

35.3.2 Interpreting and Applying the Rules

35.3.2.1 A permitted activity must comply with all the rules listed in the Activity and Standards tables, and any relevant district wide rules.

35.3.2.2 Where an activity does not comply with a Standard listed in the Standards table, the activity status identified by the Non-Compliance Status column applies. Where an activity breaches more than one Standard, the most restrictive status applies to the Activity.

35.3.2.3 The Rules of this Chapter relating to Temporary Activities take precedence over any other provision of the District Plan, with the exception of:

a. 26 Historic Heritage;

b. 31 Signs.

35.3.2.4 Notwithstanding 35.3.2.3, the Rules of this Chapter relating to Temporary Activities specify when the rules in Chapter 36 (Noise) do not apply.

35.3.2.5 For a Relocated Building, the provisions in this Chapter apply in addition to any relevant provision of any other Chapter.

Advice Notes

Relocated Buildings: Newly pre-fabricated buildings (delivered to a site for erection on that site) are excluded from the definition of Relocated Building, and are not subject to the rules of this chapter.

Temporary Events: The following activities associated with Temporary Events are not regulated by the District Plan:

a. Food and Beverage;

b. Sale of Alcohol.

Obstacle limitation surfaces at Queenstown or Wanaka Airport:

Any person wishing to undertake an activity that will penetrate the designated Airport Approach and Land Use Controls obstacle limitation surfaces at Queenstown or Wanaka Airport must first obtain the written approval of the relevant requiring authority, in accordance with section 176 of the Resource Management Act 1991.

35.3.2.5 The following abbreviations are used within this Chapter.

P	Permitted	C	Controlled	RD	Restricted Discretionary
D	Discretionary	NC	Non-Complying	PR	Prohibited

35.4 Rules - Activities

	Temporary Activities and Relocated Buildings	Activity Status
35.4.1	Temporary Events held on public conservation land, including the use of the land as an informal airport, which holds a valid concession for the temporary event. For the purpose of this rule the relevant noise standards of the Zone do not apply.	P
35.4.2	Temporary Events held within a permanent, purpose-built, hotel complex, conference centre, or civic building.	P
35.4.3	Temporary Events held on Council-owned public recreation land, provided that: a. Noise Events do not occur during hours in which the night-time noise limits of the relevant Zone(s) are in effect, except for New Year's Eve. For the purpose of this rule the relevant noise standards of the Zone do not apply.	P
35.4.4	Any other Temporary Events, provided that: a. the number of persons (including staff) participating does not exceed 500 persons at any one time; b. the duration of the temporary event does not exceed 3 consecutive calendar days (excluding set up and pack down); c. the event does not operate outside of the hours of 0800 to 2000. Set up and pack down outside of these hours is permitted; d. no site shall be used for any temporary event more than 7 times in any calendar year; e. all structures and equipment are removed from the site within 3 working days of the completion of the event; f. for the purpose of this rule the relevant noise standards of the Zone do not apply.	P

	Temporary Activities and Relocated Buildings	Activity Status
35.4.5	Temporary Events Informal airports for rotary wing aircraft flights in association with the use of a site for temporary events that are open to the general public provided that: a. the informal airport is only used during the hours of 0800 – 2000; b. no site shall be used for an informal airport for more than 7 days in any calendar year; c. no site shall be used for an informal airport more than one day in any calendar month; d. the aircraft operator has notified the Council's Planning Department concerning the use of the informal airport. For the purpose of this Rule the relevant noise standards of the Zone do not apply.	P
35.4.6	Temporary Filming Held on public conservation land, including the use of the land as an informal airport, which holds a valid concession for the temporary filming activity.	P
35.4.7	Temporary Filming, including the use of the land as an informal airport as part of that filming activity, provided that: a. the number of persons participating in the temporary filming does not exceed 200 persons at any one time within the Rural Zone, 100 persons in the Rural Lifestyle and Rural Residential Zones, and 50 persons in any other zone; b. within the Rural Zone, any temporary filming activity on a site, or in a location within a site, is limited to a total of 30 days, in any calendar year; c. in any other Zone, any temporary filming activity is limited to a total of 30 days (in any calendar year) with the maximum duration of film shooting not exceeding a total of 7 days in any calendar year; d. all building and structures are removed from the site upon completion of filming, and any damage incurred in public places is remediated; e. the use of land as an informal airport as part of filming activity is restricted to the Rural Zone. For the purpose of this Rule: The relevant noise standards of the Zone do not apply to temporary filming and the associated use of the site as an informal airport. However Council will use its power under the Resource Management Act 1991 to control unreasonable and excessive noise.	P
35.4.8	Temporary Construction-Related Activities Any temporary building (including a Relocated Building), scaffolding, crane, safety fences, and other similar structures and activities that are: a. ancillary to a building or construction project and located on the same site; b. are limited to the duration of an active construction project; c. are removed from the site upon completion of the active construction project.	P
35.4.9	Temporary Construction-Related Activities Any temporary food/beverage retail activity, for the direct purpose of serving workers of an active building or construction project.	P
35.4.10	Temporary Military Training Temporary Buildings and Temporary Activities related to temporary military training carried out pursuant to the Defence Act 1990, provided any such activity or building does not remain on the site for longer than the duration of the project.	P

	Temporary Activities and Relocated Buildings	Activity Status
35.4.11	Temporary Utilities Any temporary utilities that: a. are required to provide an emergency service; or b. are related to, and required in respect of, a permitted temporary activity specified in this chapter of the District Plan.	P
35.4.12	Temporary Storage Any temporary storage or stacking of goods or materials, other than for farming purposes, that does not remain on the site for longer than 3 months and does not exceed 50m^2 in gross floor area. Note: Any temporary storage which fails to meet this permitted activity rule is subject to the rules of the relevant Zone.	P
35.4.13	Relocated Building Control is reserved to: a. the reinstatement works required to the exterior of the building and the timeframe to execute such works; b. the timeframe for placing the building on permanent foundations and the closing in of those foundations; c. the nature of other works necessary to the relocated building to ensure the building is compatible with the amenity values of the area. This rule does not apply to buildings for Temporary Construction-Related Activities, as addressed in Rules below.	C
35.4.14	Any temporary activity or relocated building not otherwise listed as a permitted or controlled activity in this table.	D

35.5 Rules - Standards

	Standards for Activities	Non- compliance Status
35.5.1	Glare All fixed exterior lighting must be directed away from adjacent sites and roads.	RD Discretion is restricted to: a. the effect of lighting on the amenity of adjoining properties.
35.5.2	Waste Management All temporary events with more than 500 participants at any one time, and temporary filming with more than 200 participants, must undertake the event in accordance with the Council's Zero Waste Events Guide, including the submission of a completed 'Zero Waste Event Form'.	RD Discretion is restricted to: a. the ability to minimise and manage waste from the event.

<table>
<tr><th></th><th>Standards for Activities</th><th>Non- compliance Status</th></tr>
<tr><td>35.5.3</td><td>Sanitation

All temporary events with an anticipated attendance of up to 500 must provide a minimum number of toilet facilities in accordance with the below table, or have ready access to the same number of publicly-accessible toilets within a 150m walk from the event.

<table>
<tr><th>People Attending</th><th colspan="7">Duration of Event (hours)</th></tr>
<tr><td></td><td>1-2</td><td>3</td><td>4</td><td>5</td><td>6</td><td>7</td><td>8+</td></tr>
<tr><td>1-50</td><td>1</td><td>1</td><td>1</td><td>2</td><td>2</td><td>2</td><td>2</td></tr>
<tr><td>51-100</td><td>2</td><td>2</td><td>2</td><td>2</td><td>3</td><td>3</td><td>3</td></tr>
<tr><td>101-250</td><td>3</td><td>3</td><td>3</td><td>3</td><td>4</td><td>4</td><td>6</td></tr>
<tr><td>251-500</td><td>4</td><td>4</td><td>4</td><td>6</td><td>6</td><td>6</td><td>8</td></tr>
</table>

Advice Note

Weather conditions, the amount of food and beverages consumed, and the availability of alcohol can increase toilet usage by 30% - 40%.</td><td>RD

Discretion is restricted to:

a. the ability to provide adequate sanitation facilities for the event.</td></tr>
</table>

35.6 Rules - Non-Notification of Applications

35.6.1 Any application for resource consent for the following matters do not require the written approval of other persons and not be notified or limited-notified:

35.6.1.1 Temporary filming.

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report 8

Report and Recommendations of Independent Commissioners Regarding
Chapter 30, Chapter 35 and Chapter 36

Commissioners
Denis Nugent (Chair)
Calum MacLeod
Mark St Clair

PART C: CHAPTER 35 - TEMPORARY ACTIVITIES AND RELOCATED BUILDINGS

7. PRELIMINARY

7.1. General Submissions

395. Two submissions[299] supported the Chapter generally. No reasons were given by either submitter. As we recommend changes to various provisions in the chapter, we recommend these submissions be accepted in part.

396. Millbrook Country Club Ltd[300] supported the temporary activity provisions in the Chapter and considered the use of permitted activity standards was particularly efficient. Sean and Jane McLeod[301] also supported the temporary activity rules, but provided no explanation. They also generally supported the objectives and policies for temporary activities. Again, as we do recommend changes to these provisions, we recommend these submissions be accepted in part.

7.2. 35.1 – Purpose

397. There were no submissions specifically on this section, other than the general submissions discussed above. One consequential amendment is required as a result of recommendations on submissions on relocated buildings, but we will discuss that when dealing with those submissions.

398. On reviewing the section we have identified potential ambiguities in the first paragraph which need clarification. The first sentence sets out the purpose of the temporary activity provisions as being to enable a number of activities. The list commences with "temporary events", then lists three activities which are by their nature temporary: filming; construction activities and military training. However, it then lists "utilities" and "storage".

399. As we understand it, having considered the objectives, policies and rules in the Chapter, the intention is that provision is made for temporary utilities and temporary storage. We consider the purpose statement should be clarified by inserting temporary before each of "utilities" and "storage" so as to avoid any misunderstanding as to the effect of this chapter. We consider such an amendment to be a minor change of no substantive effect under Clause 16(2).

8. 35.2 OBJECTIVES AND POLICIES

8.1. Objective 35.2.1 and Policies

400. As notified these read:

Objective ***Temporary Events and Filming are encouraged and are undertaken in a manner that ensures the activity is managed to minimise adverse effects.***

35.2.1.1 *Recognise and encourage the contribution that temporary events and filming make to the social, economic and cultural wellbeing of the District's people and communities.*

35.2.1.2 *Permit small and medium-scale events during daytime hours, subject to controls on event duration, frequency and hours of operation.*

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299 Submissions 19 and 21

300 Submission 696

301 Submission 391, supported by FS1211

35.2.1.3 Recognise that purpose-built event facilities are designed to cater for temporary activities.

35.2.1.4 Recognise that for public spaces, temporary events are anticipated as part of the civic life of the District.

35.2.1.5 Require adequate infrastructure, waste minimisation, traffic management, emergency management, security, and sanitation facilities to be available to cater for anticipated attendants at large-scale temporary events and filming.

35.2.1.6 Ensure temporary activities do not place an undue restriction on public access.

35.2.1.7 Recognise that noise is an anticipated component of temporary events and filming, while protecting residential amenity from undue noise during night-time hours.

35.2.1.8 Enable the operation of informal airports in association with temporary community events and filming, subject to minimising adverse effects on adjacent properties.

35.2.1.9 Require all structures associated with temporary events and filming to be removed at the completion of the activity, and any damage in public spaces to be remediated.

401. The submissions on this objective and related policies were as follows:
   a. Support/retain Objective 35.2.1[302];
   b. Retain Policy 35.2.1.1[303];
   c. Amend Policy 35.2.1.2 by including "weddings" and "temporary functions" and deleting the daytime hours limitation[304];
   d. Retain Policy 35.2.1.5[305];
   e. Amend Policy 35.2.1.7 so it is aimed at protecting residential activities in residential zones rather than residential amenities[306];
   f. Retain Policy 35.2.1.8[307];
   g. Include a new policy concerning airspace around Queenstown and Wanaka airports[308].

402. Ms Banks explained that the inclusion of weddings and temporary functions in Policy 35.2.1.2 was unnecessary as they fell within the definition of temporary activities[309]. She also explained that Policy 35.2.1.2, as notified, was designed to support the rule framework that specifies circumstances in which temporary activities can be exempt from noise limits. In her opinion, to delete the daytime hours limitation would undermine that framework and potentially make all temporary activities subject to noise rules of the zone they were located in[310]. She did not support those changes. Ms Black appeared in support of Submissions 607, 615 and 621 but

302 Submissions 197 and 433 (opposed by FS1097, FS1117)
303 Submission 433, opposed by FS1097, FS1117
304 Submissions 607, 615 (supported by FS1105, FS1137) and 621
305 Submission 719
306 Submissions 607, 615 (supported by FS1105, FS1137) and 621
307 Submission 719
308 Submission 433, supported by FS1077, opposed by FS1097, FS1117
309 Kimberley Banks, Section 42A Report, paragraph 11.20
310 ibid, paragraph 11.21

did not discuss any of the amendments sought by those submissions to Policy 35.2.1.2 or to Policy 35.2.1.7.

403. Turning to the issue of the airspace around Queenstown and Wanaka airports, as well as seeking a new policy, the submission also sought the inclusion of a new rule requiring restricted discretionary activity consent for temporary activities to breach the airports' obstacle limitation surfaces ("OLSs"). We deal with the policy and the rule as one issue.

404. Ms Banks questioned the need for specific restrictions in this chapter relating to the OLSs around the two airports when designations were in place to protect those OLSs[311]. Ms O'Sullivan, appearing in support of Submission 433, generally agreed with Ms Banks' conclusion, but suggested that an advice note could be included in the Chapter to advise those contemplating undertaking temporary activities that breaching the OLSs at Queenstown and Wanaka airports would require consent of the relevant requiring authority.

405. In her Reply Statement, Ms Banks accepted the suggestion of an advice note in Section 35.3.2 and helpfully suggested that showing the OLSs for Queenstown airport on the Planning Maps would also assist users. She included a draft version of the maps showing the various surfaces.

406. We agree that it is helpful to include information where plan users are likely to see it, but we consider the mapping solution proposed by Ms Banks would lead to the maps being too cluttered with information to be helpful. The inclusion of a note in this Chapter would be more practical. We recommend to the Council that the additional policy and rule sought not be accepted, but that the following advice note be included in Section 35.3.2:

Obstacle limitation surfaces at Queenstown or Wanaka Airport:
*Any **person** wishing to undertake an activity that will penetrate the designated Airport Approach and Land Use Controls obstacle limitation surfaces at Queenstown or Wanaka Airport must first obtain the written approval of the relevant requiring authority, in accordance with section 176 of the Resource Management Act 1991.*

407. In the absence of any evidence in respect of the other submissions seeking changes to these policies, we recommend that Objective 35.2.1 and associated policies be adopted as notified.

8.2. Objective 35.2.2 and Policies

408. As notified, these read:

Objective ***Temporary activities necessary to complete building and construction***

35.2.2.1 *Ensure temporary activities related to building and construction work are carried out with minimal disturbance to adjoining properties and on visual amenity values.*

35.2.2.2 *Provide for small-scale retail activity to serve the needs of building and construction workers.*

35.2.2.3 *Require temporary activities related to building and construction to be removed from the site following the completion of construction, and any damage in public spaces to be remediated.*

311 ibid, Section 9

409. The only submission[312] on these provisions supported the retention of the objective. We recommend that submission be accepted and Objective 35.2.2 and associated policies be adopted as notified.

8.3. Objective 35.2.3 and Policy 35.2.3.1

410. As notified, these read:

Objective ***Temporary Military Training is provided for to meet the needs of the New Zealand Defence Force.***

35.2.3.1 *Enable temporary military training to be undertaken within the District.*

411. The only submissions[313] on these supported the provisions. Ms Banks recommended an amendment to the objective so as to make it outcome focussed. We agree that her recommended objective is phrased as an objective and the changes are no more than minor grammatical changes. We recommend those changes be made in accordance with Clause 16(2) such that Objective 35.2.3 reads:

Objective ***Temporary Military Training Activities are provided for.***

412. We recommend that Policy 35.2.3.1 be adopted as notified.

8.4. Objective 35.2.4 and Policy 35.2.4.1

413. As notified, these read:

Objective ***Temporary Utilities needed for other temporary activities or for*** *emergencies* ***are provided for.***

35.2.4.1 *Enable short-term use of temporary utilities needed for other temporary activities or for emergency purposes.*

414. The only submissions on these supported them and sought their retention[314]. We recommend they be adopted as notified.

8.5. Objective 35.2.5 and Policies

415. As notified these read:

Objective ***Temporary Storage is provided for in rural areas.***

35.2.5.1 *Permit temporary storage related to farming activity.*

35.2.5.2 *Ensure temporary storage not required for farming purposes is of short duration and size to protect the visual amenity values of the area in which it is located.*

416. Submissions on these sought:

a. Support Objective 35.2.5[315];
b. Amend Objective 35.2.5 to include visitor and resort zones[316];
c. Support Policy 35.2.5.1[317];

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312 Submission 197
313 Submissions 197 (supported by FS1211) and 1365
314 Submissions 635 (supported by FS1211) and 1365
315 Submission 197
316 Submissions 607, 615 (supported by FS1105, FS1137) and 621
317 Submission 600, supported by FS1209, opposed by FS1034

d. Amend Policy 35.2.5.1 to permit storage for exploration and prospecting[318];
e. Amend Policy 35.2.5.1 to permit storage for transport, tourism and visitor accommodation activities[319];
f. Amend Policy 35.2.5.2 to include reference to transport, tourism and visitor accommodation activities[320].

417. Ms Banks discussed the submissions by the Real Journeys group[321] and concluded that the objective was too limiting in that it restricted temporary storage to rural areas. She did not consider any change was needed to the policies. Ms Black supported the amendment to the objective.

418. We heard no evidence in respect of the amendment sought by NZ Tungsten Mining Limited[322].

419. We agree with Ms Banks' recommended amendment to the objective. When the policies are viewed in the context of the rule to implement them (Rule 35.4.16) it is apparent that the rule and policies in combination apply in all zones. We are also of the view that there is no need to amend the policies in the manner suggested by the Real Journeys group. The policies provide a distinction that means that there is to be no limitation on storage for farming purposes, but limitations on storage for other purposes.

420. It is useful to consider Rule 35.4.16 at this time. As notified this rule provided for the following as a permitted activity:
Any temporary storage or stacking of goods or materials, other than for farming purposes, that does not remain on the site for longer than 3 months and does not exceed 50m² in gross floor area.

Note: Any temporary storage which fails to meet this permitted activity rule is subject to the rules of the relevant Zone.

421. Three submissions on this rule sought that the note also exclude the Rural Visitor Zone Walter Peak and the Cardrona Ski Activity Area[323]. Ms Banks considered that the purpose of this Chapter was to provide for temporary activities throughout the district, not include or exempt certain zones[324].

422. We agree with Ms Banks that the provisions should be designed for general application. Matters specific to a zone should be included in the provisions of that zone. We also note that to accept the submitters' relief would mean they could not rely on it for temporary storage in the locations specified. We doubt that was the submitters' intention.

423. We do have some concerns with the construction of this rule. It is clear that it provides for non-farming activities to have temporary storage of goods subject to the time and area limitations in the rule. That clearly implements Policy 35.2.5.2. What the rule does not do is implement temporary storage related to farming, and it appears that, by application of Rules

318 Submission 519, supported by FS1015, opposed by FS1356
319 Submissions 607, 615 (supported by FS1105, FS1137) and 621
320 Submissions 607, 615 (supported by FS1105, FS1137) and 621
321 Submissions 607, 615 and 621
322 Submission 519
323 Submissions 607, 615 (supported by FS1105, FS1137) and 621
324 Kimberley Banks, Section 42A Report, paragraph 11.30

35.4.1, such activity is actually a discretionary activity. That represents a failure to implement Policy 35.2.5.1.

424. We also are concerned about the use of an advice note to effectively state the non-compliance status of an activity failing to meet a standard. In our view this rule needs to be reviewed and rewritten to implement the relevant policies and to clearly state as a rule at what point specific zone rules apply. There is no scope in the submissions that enable us to recommend any changes to correct these problems. We recommend the Council consider a variation to remedy them.

425. Returning to Objective 35.2.5, we recommend it read:
Objective ***Temporary Storage is provided for.***

426. We recommend the policies be adopted as notified.

8.6. Relocated Buildings

427. It is sensible to consider the objectives, policies and rules for relocated buildings in a single discussion. House Movers[325] lodged a broad submission seeking the replacement of provisions relating to relocated buildings, focused on reducing the complexity of obtaining consents for relocated buildings in the District. Mr Leece and Ms Koblenia[326], on the contrary, sought that the objective and rules be focussed on minimising the effects on residential amenity values from relocated buildings being located in the District.

428. As notified, the objective (35.2.6) and policies relevant to this topic read:

Objective ***Relocated buildings are located and designed to maintain amenity and provides a positive contribution to the environment.***

35.2.6.1 *Relocated buildings provide a quality external appearance, and are compatible with the amenity of the surrounding environment.*

35.2.6.2 *Provision of wastewater, stormwater and water infrastructure minimises adverse effects.*

429. As notified, the rules provided for two tiers of relocated buildings in residential zones:
a. The following were provided for as permitted activities:
    i. a new build relocated residential unit that has been purpose built for relocation
    ii. a shipping container
    iii. an accessory building under 30m^2 in gross floor area that is not a shipping container
    iv. the repositioning of an existing lawfully established residential unit, residential flat or accessory building within its own site.
b. The relocation of any building that had previously been designed, built and used for residential purposes (but not purpose built for relocation) was a controlled activity with the matters of control reserved to:
    i. the reinstatement works that are to be completed to the exterior of the building
    ii. the timeframe for placing the building on permanent foundations and the closing in of those foundations

325 Submission 496, opposed by FS1340
326 Submission 126

iii. the nature of other works to be undertaken to ensure the building is compatible with the amenity values of the area

iv. Where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: an assessment by a suitably qualified person is provided that addresses the nature and degree of risk the hazard(s) pose to people and property, whether the proposal will alter the risk to any site, and the extent to which such risk can be avoided or sufficiently mitigated.

430. In a rural zone, all relocated buildings and shipping containers, to a maximum of one per site, were a controlled activity with the matters of control as for the residential controlled activity.

431. In addition to the broad submissions noted above:
   a. One submission supported Objective 35.2.6[327];
   b. One submissions supported Rule 35.4.4[328]; and
   c. One submissions sought the rewrite of Rule 35.4.2 and the deletion of Rules 35.4.3 and 35.4.4[329];
   d. One submissions sought the deletion of the term "shipping containers" from Rule 35.4.4[330].

432. The relief sought by Submission 383 was that all relocated buildings, other than a shipping container or an accessory building smaller than 36m^2, would be controlled activities in all zones.

433. Ms Banks discussed these provisions at some length in her Section 42A Report[331]. It was her conclusion at that point that:
   a. Relocated buildings should be treated the same across all zones;
   b. Controlled activity consent should be required for all relocated buildings;
   c. Shipping containers should be removed from these rules and treated as buildings (as per the definition of "building");
   d. The definition of "relocated building" exclude pre-fabricated buildings delivered dismantled to a site;
   e. The concern of QAC[332] that relocated buildings be appropriately insulated was covered by the requirement that the provisions of the relevant zone apply in addition to the relocation provisions.

434. At the hearing, Mr Ryan presented submissions on behalf of House Movers, and Mr Scobie tabled a brief of evidence. Mr Ryan's submissions were, in essence, that relocated buildings should be provided for as permitted activities subject to a number of performance standards, relying on the Environment Court's decision[333] in Central Otago District regarding rules for relocated dwellings. In that decision, the Environment Court concluded that, in the absence of identifiable differences in effects, relocated buildings should not be treated differently to *in situ* built housing.

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327 Submission 197

328 Submission 600, supported by FS1209, opposed by FS1034

329 Submission 383

330 Submission 519, supported by FS1015, opposed by FS1356

331 Pages 10 -24

332 FS1340

333 New Zealand Heavy Haulage Association Inc v Central Otago District Council, C45/2004

435. The performance standards Mr Ryan submitted should apply to the a permitted activity for relocated buildings were[334]:

a. *Any relocated building intended for use as a dwelling (excluding previously used garages and accessory buildings) must have been previously designed, built and used as a dwelling.*
b. *A building pre-inspection report prepared by a licenced building practitioner shall accompany the application for a building consent for the destination site. That report is to identify all reinstatement works that are to be completed to the exterior of the buildings.*
c. *The building shall be located on permanent foundations approved by building consent, no later than 2 months of the building being moved to the site.*
d. *All other reinstatement work required by the building inspection report and the building consent to reinstate the exterior of any relocated dwelling shall be completed within 12 months of the building being delivered to the site. Without limiting (b) (above) reinstatement work is to include connections to all infrastructure services and closing in and ventilation of the foundations.*
e. *The proposed owner of the relocated building must certify to the Council that the reinstatement work will be completed within the 12 month period.*

436. It was Mr Ryan's submission that the standards were enforceable, had the advantage of being known in advance, and had lower transaction fees than a consent application. Of particular concern of the House Movers was the QLDC submission[335] seeking the imposition of financial bonds. Mr Ryan did agree that relocated buildings should comply with the applicable zone standards, including noise insulation where required. He thus accepted the point raised by QAC.

437. Mr Scobie's evidence described the house moving process and provided us with an example "Building Pre-Inspection Report for Relocation". Mr Scobie also attached to his evidence a map showing the activity status for relocated building for each district in the country.

438. In her Reply Statement, Ms Banks maintained her opinion that relocated buildings should be a controlled activity. She had undertaken a review of consents for relocated buildings since 2014. These numbered 30, and were generally subject to fairly standard conditions. These usually required reinstatement within a 6-month timeframe. She was not satisfied that the pre-inspection report proposed by Mr Ryan would be an effective way of managing the defined issues the controlled activity rule is designed to address. She also was concerned that enforcement of standards for a permitted activity would require a high level of monitoring.

439. We have given this issue considerable thought. As the district has a high cost of housing, we do not want to discourage activities which may facilitate the provision of more affordable homes. However, we can see that the regime promoted by House Movers may have consequences for the Council that may not occur in other districts. We agree with Ms Banks that permitted activities should not require monitoring or processing effort to ensure that standards are complied with. While we recognise that the PDP contains a number of standards for permitted activities, when one is dealing with buildings, those generally relate to the location of the building on the site, and in some instances exterior finishes. Those matters are readily dealt with off building permit plans. However, the performance standards proposed by House Movers would require the Council to undertake monitoring for up to 12 months to

334 Adapted from the C45/2004
335 Submission 383

ensure the reinstatement work had been carried out, at the Council's cost, with no ability to recoup that cost.

440. We also note that the controlled activity process gives the applicant the opportunity to propose or request conditions that may be more appropriate to their circumstances than the fixed performance regime would do. Under that regime, to vary any of the standards would require a full discretionary activity consent. We note at this point that House Movers' submission did suggest that failure to meet the permitted activity standards should require a non-notified controlled activity consent. This was not covered in Mr Ryan's submissions and we conclude he chose not to pursue that part of the submission. We cannot see how a failure to meet performance standards can be satisfactorily managed by the Council through a consent process which requires the grant of consent and application of conditions limited to pre-stated matters, which would most likely restate the performance standards.

441. Ms Banks recommended that Objective 35.2.6 be rephrased as

Relocated buildings maintain amenity and minimise the adverse effects of relocation and reinstatement works.

442. We consider that captures succinctly the purpose of the Council's involvement in the process of relocation. We did not understand Mr Ryan to suggest that relocated buildings should not achieve that outcome. We understood his submission to be that the outcome could be achieved by the performance standards he proposed

443. We consider the controlled activity rule as proposed by Ms Banks in her Reply Version provides the appropriate balance between the need for certainty by the applicant along with minimal transaction costs, and the ability of the Council to adequately manage the resources of the District, both in terms of achieving the objectives the PDP sets out, and in fulfilling its monitoring role. We consider it the most effective and efficient means of achieving the reworded objective.

444. Having concluded that the controlled activity regime is the most appropriate means of managing relocated buildings, we agree with Ms Banks' recommended wording for Policy 35.2.6.1 and her redrafted Rule 35.4.2. We recommend the Council adopt the wording of Objective 35.2.6 as set out above, and the wording of Policy 35.2.6.1 as set out below. We recommend that Policy 35.2.6.2 be deleted as unnecessary.

35.2.6.1 *Provide for relocated buildings where adverse effects associated with the relocation and reinstatement are managed to provide a quality external appearance, and are compatible with the amenity of the surrounding area.*

445. We recommend that Relocated Buildings be listed in Rule 35.4.2 as controlled activities, with control reserved to:

a. *The reinstatement works required to the exterior of the building and the timeline to execute such works;*
b. *The timeframe for placing the building on permanent foundations and the closing in of those foundations;*
c. *The nature of other works necessary to the relocated building to ensure the building is compatible with the amenity values of the area.*

446. Consistent with our general approach of listing permitted activities first, we recommend this rule be renumbered to 35.4.13. We have set out the provisions in full in Appendix 2.

8.7. Summary

447. We have set out in Appendix 2 the recommended objectives and policies. In summary, we regard the combination of objectives recommended as being the most appropriate way to achieve the purpose of the Act in this context, while giving effect to, and taking into account, the relevant higher order documents, the Strategic Direction Chapters and the alternatives open to us. The suggested new policies are, in our view, the most appropriate way to achieve those objectives.

8.8. 35.3 – Other Provisions and Rules

448. There were three submissions on this section:
   a. Delete 35.3.2.4 as it duplicates Rule 35.4.2[336];
   b. Provide that any activity that is a permitted activity under this Chapter is not required to comply with the applicable zone rules[337];
   c. Clarify that other District Wide Rules do not apply to temporary activities[338];

449. Ms Banks considered these three submissions and concluded that:
   a. It was more helpful to have all the clarifications in one place;
   b. The notified wording of 35.3.2.3 made it clear that temporary activities did not need consents under zone rules; and
   c. That it would be useful to include a further clarification confirming that the Chapter 36 Noise provisions applied in circumstances specified by the temporary activity rules[339].

450. In her Reply Statement Ms Banks additionally suggested further advice notes:
   a. Advising that the pre-fabricated buildings delivered dismantled to a site were not considered relocated buildings;
   b. Advising that food and beverages, and the sale of alcohol, were not regulated by the temporary event rules;
   c. The advice note regarding the OLSs discussed above.

451. Our amendments to this section are minor points of clarification consistent with the overall approach taken in other chapters. We agree with Ms Banks' response to the submissions and the addition of advice notes. We have changed Ms Banks' note regarding relocated buildings to make it clear that a newly built house constructed off-site and moved on to a site does not fall within the definition of relocated building. Her definition's reference to "dismantled" seemed to imply that pre-fabricated buildings needed to be dismantled again and re-fabricated on-site. We are sure that was not the intention.

452. Our other clarification, as with other chapters, is to identify that 35.3.2.1 through to 35.2.3.5 are rules for explanatory purposes, as opposed to the advice notes that follow the rules.

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336 Submission 383
337 Submission 837, supported by FS1211, FS1342
338 Submission 1365
339 Kimberley Banks, Section 42A Report, Section 15

9. 35.4 – RULES - ACTIVITIES

9.1. Rule 35.4.1

453. This rule, as notified, set as a discretionary activity:

> *Any other Activity not listed in this table.*

454. There were no submissions directly on this rule, although as noted in the discussion on relocated buildings above, House Movers did seek a different provision in respect of relocated buildings not complying with the standards proposed by that submitter.

455. In response to our questioning during the hearing, Ms Banks carefully considered the relationship of this rule and the non-compliance status of standards in Section 35.5 in some detail in her Reply Statement[340]. As a consequence of that analysis, she concluded plan users would be assisted by some modifications to this rule to make it clear that it was where an activity was a temporary activity or relocated building that did not satisfy the requirements of the table in Rule 35.4 that this rule took effect. She considered this a clarification that did not make any substantive regulatory changes.

456. We agree with Ms Banks that some amendment to this rule is helpful. We agree with her that the amendments are for clarification purposes and come within Clause 16(2). We have modified her wording a little to make the intent clearer. We recommend the rule be reworded as follows:

> *Any Temporary Activity or Relocated Building not otherwise listed as a permitted or controlled activity in this table.*

457. We recommend that rule remain a discretionary activity. Consistent with our overall approach listing the rules with permitted activities first, followed by the more restrictive categories, we recommend this rule be the final rule in the table rather than the first, and consequently renumbered as 35.4.14.

9.2. Rules 35.4.2 to 35.4.4

458. These have been dealt with in our discussion of relocated buildings in section 8.6 above.

9.3. Rule 35.4.5 – Temporary Events

459. As notified, this rule made it a permitted activity for temporary events to occur on public conservation land subject to a valid concession for the event being held. The rule specified that the relevant noise standards for the zone did not apply.

460. The only submission on this rule supported its retention[341], and there were no recommended amendments from Ms Banks. We recommend a minor grammatical change in relation to the application of noise standards such that it states "do not apply" in place of "shall not apply". We consider this to be a minor change with no change in regulatory effect which can be made under Clause 16(2). Other than that change, we recommend the rule be adopted as notified and renumbered 35.4.1.

9.4. Rule 35.4.6 – Temporary Events

461. As notified this rule provided as a permitted activity for temporary events held with permanent, purpose built, hotel complexes, conference centres or civic buildings.

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340 Kimberley Banks, Reply Statement, Section 3

341 Submission 373

462. There were no submissions on this rule and we recommend it be adopted as notified, but renumbered as 35.4.2.

9.5. Rule 35.4.7 – Temporary Events

463. As notified this rule provided for, as a permitted activity, temporary events held on Council-owned public recreation land. The activity did not need to comply with the zone noise rules, however "noise events" were not to occur during hours when the night-time noise rules of the relevant zone were in effect, other than on New Year's Eve.

464. "Noise event" is defined in Chapter 2 as
Noise Event Means an event, or any particular part of an event, whereby amplified sound, music, vocals or similar noise is emitted by the activity, but excludes people noise.
Where amplified noise ceases during a particular event, the event is not longer considered a noise event.

465. There were no submissions in respect of this rule or the definition of noise event. Ms Banks recommended that the exclusion of the activity from zone noise standards be amended to refer to noise limits to ensure consistency throughout the Plan. We are unsure why she has recommended this alteration be made to this rule, but not to the previous rule, nor the following three rules.

466. We recommend the term remain "standard". We do, however, consider the phrase needs to be changed to read "do not apply" consistent with our recommendation on rule 35.4.5.

467. Other than that amendment, which can be made under Clause 16(2), we recommend Rule 35.4.7 be adopted as notified, subject to being renumbered as 35.4.3.

468. We have Identified that the definition of Noise Event contains a typographical error in the second sentence, where the statement "the event is not longer" should read "the event is no longer". We recommend to the Stream 10 Hearing Panel that this be corrected as a minor amendment using Clause 16(2).

9.6. Rule 35.4.8 – Other Temporary Events

469. As notified, this rule provided, as a permitted activity, for other temporary events subject to the following restrictions:

a. The number of persons (including staff) participating does not exceed 500 persons at any one time
b. The duration of the temporary event does not exceed 3 consecutive calendar days (excluding set up and pack down)
c. The event does not operate outside of the hours of 0800 to 2000. Set up and pack down outside of these hours is permitted
d. No site shall be used for any temporary event more than 12 times in any calendar 12 month period
e. All structures and equipment are removed from the site within 3 working days of the completion of the event
f. *For the purpose of this rule the relevant noise standards of the Zone shall not apply.*

470. Submissions on this rule sought the following:

i. Retain the rule[342];

[342] Submissions 438 and 719

ii. Amend the noise exemption[343]
iii. Extend the permitted hours of the activity[344];
iv. Exclude activities carried out in the Cardrona Ski Activity Area or Walter Peak Rural Visitor Zone[345];
v. Amend the fourth bullet point to limit activity to 7 times per year[346];
vi. Amend fourth bullet point to increase frequency permitted to 24 times per year[347].

471. Ms Banks discussed these in her Section 42A Report. The only amendment she recommended was that the frequency of temporary events be reduced to 7 times per calendar year as requested by QLDC.

472. We agree with Ms Banks that the relief sought by the Real Journeys group[348], that the Cardrona ski area and the Walter Peak Station Rural Visitor Zone be excluded from the rule, could lead to an excessive level of activity at either location relying on that activity being a temporary event. Ms Black, appearing for Real Journeys Ltd and Te Anau Developments Ltd, limited her discussion of this rule to the second bullet point. She contended that the 3 day limit, including set up and pack down was too short, pointing to activities such as the Queenstown Winter Festival or the Winter Games. We note that neither of these examples relates to the Walter Peak Rural Visitor Zone.

473. In our view, the Real Journeys group have misconstrued the purpose of this rule. It is to provide for truly temporary events locating in places where the temporary events are not the everyday activity for the site. Hence the list of limitations applying. As a permitted activity, we would not expect this rule to provide for every event an organisation may wish to hold. We consider that in circumstances where events do not meet the criteria listed in this rule, and they do not comply with the zone rules, it is appropriate for a consent to be required so that potential adverse effects on the environment can be appropriately managed. Finally on this issue, we note that the Walter Peak Rural Visitor Zone is an ODP zone and this Chapter does not apply to that zone.

474. Mr Buckham's submission[349] sought to limit the period that temporary activities were exempt from the zone noise standards to 0800 hours to 2000 hours, and require compliance with the noise standards outside of those hours, while extending the permitted evening hours (third bullet point) from 8pm to 12:30am. He also sought to increase the frequency permitted to 24 per calendar year.

475. Dealing with frequency first, we note Ms Banks' comments that as notified, the rule could allow 6 days or more (including set up and pack down) per month and be beyond the scope of a temporary event[350]. We agree that if a single site is being used for events at that frequency and for that duration, it is not temporary. To double that, as Mr Buckham seeks, could lead to half the working days each month being dedicated to such events.

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343 Submission 837, supported by FS1342, opposed by FS1127
344 ibid
345 Submissions 607, 615 (supported by FS1105, FS1137), 621
346 Submission 383
347 Submission 837, supported by FS1342, opposed by FS1127
348 Submissions 607, 615 and 621
349 Submission 837
350 Kimberley Banks, Section 42A Report, Section 13, p.37

476. We accept Ms Banks' recommendation that 7 times per calendar year is a reasonable level of temporary activity as a permitted activity.

477. We did not have the benefit of hearing from Mr Buckham, but perceive that his aim concerning the hours and noise limit amendments was to allow such activities to occur longer subject to compliance with noise standards. That was the rationale stated in the further submission by Te Anau Developments Ltd[351], although that was stated as applying to events going later than 10pm. Ms Black did not elaborate on this issue.

478. In the absence of any evidence in support of these changes justifying the need for them, or the adequacy of the proposed rules to ensure adverse effects do not spill over onto adjoining land, we see no reason to change them.

479. As a consequence, the only amendments we recommend to this rule are:
   a. Amend the fourth bullet point to limit occurrence to no more than 7 times per calendar year;
   b. Consistent with our amendments to other rules, amend the final bullet point to say "do not apply" (under Clause 16(2));
   c. Change bullet points to an alphanumeric list; and
   d. Renumber the rule to 35.4.4.

480. The two relevant bullet points are recommended to read:
   d. no site shall be used for any temporary event more than 7 times in any calendar year;
   f. for the purpose of this rule the relevant noise standards of the Zone do not apply.

9.7. Rule 35.4.9 – Temporary Events – Informal Airports

481. Although titled "Temporary Events" this rule actually provides for informal airports for rotary wing aircraft flights in association with the use of the site for temporary public events as a permitted activity. The activity is subject to the following criteria:

- *The informal airport is only used during the hours of 0800 – 2000*
- *No site shall be used for an informal airport for more than 7 days in any calendar year*
- *No site shall be used for an informal airport more than one day in any calendar month*
- *The aircraft operator has notified the Council's Planning Department concerning the use of the informal airport.*
- *The temporary community event must be open to the general public to attend (whether ticketed or not).*

For the purpose of this Rule:
The relevant noise standards of the Zone shall not apply.

482. There was on one submission on this rule[352]. This sought that the activity be extended to all temporary events, be allowed to operate for 20 days per year, with no limit per month. No evidence was received in support of this submission.

483. In the absence of evidence, we are not prepared to extend this aspect of temporary events in the manner suggested by the submitter. We are satisfied that the Council has achieved a satisfactory balance with the combination of restrictions included in the rule.

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351 FS1342

352 Submission 837, opposed by FS1127

484. Ms Banks did suggest some minor wording changes for clarification purposes. She suggested replacing "temporary public events" with "temporary events that are open to the general public" in the description of the activity. While we agree that clarifies the nature of the event, it brings into question whether the last bullet point is necessary if that change is made.

485. Ms Banks also recommended inserting "a total of" before "7 days" in the second bullet point. She considered this necessary to clarify that it was not intended that the days be consecutive[353]. We do not consider this change is necessary in this rule.

486. The only changes we recommend to this rule are minor grammatical and clarification changes relying on Clause 16(2). We recommend the rule, renumbered 34.5.5, read:
Informal airports for rotary wing aircraft flights in association with the use of a site for temporary public events that are open to the general public provided that:
a. The informal airport is only used during the hours of 0800 – 2000;
b. No site shall be used for an informal airport for more than 7 days in any calendar year;
c. No site shall be used for an informal airport more than one day in any calendar month;
d. The aircraft operator has notified the Council's Planning Department concerning the use of the informal airport.

For the purpose of this Rule the relevant noise standards of the Zone do not apply.

9.8. Rule 35.4.10 – Temporary Filming

487. As notified, this rule provided for temporary filming activities on public conservation land, including use as an informal airport, as a permitted activity provided a valid concession was held for the temporary filming.

488. This rule was supported by the Director-General, Department of Conservation[354]. Although a further submission in opposition to this submission was listed in the Schedule of Submissions[355], that was directed to an unrelated matter.

489. We recommend the rule be adopted as notified subject to renumbering as 35.4.6.

9.9. Rule 35.4.11 – Temporary Filming

490. This rule provided, as a permitted activity, for temporary filming on land other than conservation land, including using land as an informal airport as part of the filming activity, subject to the following limitations:

- *The number of persons participating in the temporary filming does not exceed 200 persons at any one time within the Rural Zone, 100 persons in the Rural Lifestyle and Rural Residential Zones, and 50 persons in any other zone*
- *Within the Rural Zone, any temporary filming activity does not occur on a site, or in a location within a site, for a period longer than 30 days, in any 12 month period.*
- *In any other Zone, any temporary filming activity does not occur on a site for a period longer than 30 days (in any 12 month period) with the maximum duration of film shooting not exceeding 7 days in any 12 month period.*
- *All building and structures are removed from the site upon completion of filming, and any damage incurred in public places is remediated.*

353 Kimberley Banks, Reply Statement, paragraph 7.3
354 Submission 373
355 Section 42A Report, Appendix 2

- *The use of land as an informal airport as part of filming activity is restricted to the Rural Zone.*

For the purpose of this Rule:
The relevant noise standards of the Zone shall not apply to temporary filming and the associated use of the site as an informal airport. However Council will use its power under the Resource Management Act 1991 to control unreasonable and excessive noise.

491. There were no submissions on this rule and Ms Banks initially made no recommendations to change it. However, following our questions as to the meaning of the second and third bullet points, Ms Banks recommended the wording of those clauses be amended to clarify that there is no requirement that days be consecutive[356]. We agree with her recommended wording and agree that it a minor change that falls within the ambit of Clause 16(2). Subject to those changes, changing "shall" to "do" in the last clause, changing the bullet points to an alphanumeric list, and renumbering the rule as 35.4.7, we recommend the rule be adopted as notified. The full text is set out in Appendix 2.

9.10. Rule 35.4.12 – Temporary Construction-Related Activities

492. This rule provided for temporary construction-related activities, such as buildings, scaffolding and cranes, ancillary to a construction project as permitted activities.

493. The only submissions on this rule were from the Real Journeys group[357]. Their submissions sought that
   a. The rule also provide for construction of vessel survey undertaken in relation to the TSS Earnslaw and other associated structures; and
   b. Associated with construction of buildings, structure and infrastructure at Cardrona ski area and Walter Peak Rural Visitor Zone.

494. We are unsure of the rationale of the submitters given that the rule provides for temporary construction works as a permitted activity. Ms Black did not deal with this matter when she provided evidence.

495. In the absence of evidence we would only be speculating as to the intention of the submitters. We recommend the submissions be rejected and the rule be adopted as notified, subject to changing the bullet points to an alphanumeric list and renumbering as 35.4.8.

9.11. Rule 35.4.13 – Temporary Construction-Related Activities

496. This rule provided for, as a permitted activity, the provision of temporary food/beverage retail activities for the direct purpose of serving workers of an active building or construction site.

497. Again the only submitters were the Real Journeys group[358]. The submissions sought the inclusion of the words so that the activity was "for the direct purpose of serving people at temporary events and functions or workers of an active building or construction project".

498. As with the previous rule, no evidence was led by the submitter on this rule. We consider the submitters have misconceived the purpose of the rule and appear to be attempting to alter it to create a totally different activity.

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356 Kimberley Banks, Reply Statement, paragraph 7.3

357 Submissions 607, 615 (supported by FS1105, FS1137) and 621

358 Submissions 607, 615 (supported by FS1105, FS1137) and 621

499. We recommend the submissions be rejected and the rule be adopted as notified, subject to renumbering as 35.4.9.

9.12. Rule 35.4.14 – Temporary Military Training

500. This rule provided for temporary military training as a permitted activity. The sole submission sought the retention of the rule[359].

501. We agree and recommend the rule be adopted as notified, subject to being renumbered 35.4.10.

9.13. Rule 35.4.15 – Temporary Utilities

502. This rule provided for temporary utilities as a permitted activity. The sole submission sought the retention of the rule[360].

503. We agree and recommend the rule be adopted as notified, subject to changing the bullet points to an alphanumeric list and the rule being renumbered 35.4.11.

9.14. Rule 35.4.16 – Temporary Storage

504. We have dealt with this in Section 8.5 above. We recommend that it be adopted as notified subject to being renumbered 35.4.12.

9.15. Additional Rules Sought

505. The Real Journeys group[361] sought the inclusion of two new activity rules:
   a. To permit temporary activities (including storage) carried out within the Cardrona ski area and the Walter Peak Rural Visitor Zone; and
   b. Provide a new Temporary food/beverage retail activity rule to permit the serving of people at temporary events and functions.

506. Ms Banks, in her Section 42A Report spent considerable time dealing with the various submissions by the Real Journeys group, including these two additional provisions[362]. In contrast, Real Journeys group presented nothing to us at the hearing on these submissions. As we have noted above, Ms Black's evidence was limited to supporting Ms Banks' recommended change to Objective 35.2.5 and one clause of Rule 35.4.6. The lack of evidence has not assisted us in understanding what the submitters are either concerned about, or what they seek that is different from what the PDP provides.

507. In our view, the simple answer is that the temporary activity provisions as we are recommending them will apply in the Cardrona ski area. As the Walter Peak Rural Visitor Zone was not notified in Stage 1, these provisions will not immediately have effect on that land as it is not included in the PDP at present (nor, should we say, would any rule we could recommend specifically apply to that zone). At a subsequent stage, when the Walter Peak area is given a zoning in the PDP, then the temporary activity rules will apply there also. Thus, in one location what is sought in (a) is unnecessary, and in the other, it cannot be provided at present in any event.

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359 Submission 1365

360 Submission 635

361 Submissions 607, 615 (supported by FS1105, FS1137) and 621

362 Kimberley Banks, Section 42A Report, Section 11

508. As to (b), we do not understand why there needs to be an additional rule specifying that people can serve food and beverages at temporary events such as weddings. In our view, such serving is part of the event.

509. We recommend both of these submission points be rejected in all three submissions.

510. QPL[363] sought that a consistent management approach be provided for all temporary events, whether on conservation land or private land. While a new rule was not explicitly sought, this seems the appropriate location to deal with this issue. As we understand it, where a temporary activity, whether an event or filming, is to be held on conservation land, a valid concession must be obtained. It seems appropriate to us that the applicants for such concessions need not apply additionally to the Council for a resource consent to have the same or similar matters dealt with.

511. Mr Young's submissions on this matter seems to imply that private land owners should be granted the same rights as the Council or Department of Conservation in hosting temporary events. Mr Young did not discuss the effect the Reserves Act or Conservation Act would have on applications to the Council or Department for temporary events on private land. Unfortunately, he did not attend the hearing so we were unable to discuss this matter with him, or how he his client saw that temporary events on private land were disadvantaged. Mr Fitzpatrick did not raise this matter when he appeared.

512. Ms Banks dealt with this matter in her Reply Statement[364]. She set out the process applicants for temporary events on Council reserve land must go through. It was her opinion, that the provisions in the PDP relating to temporary events on private land were more enabling than in the ODP, and that no further changes were required in response to this submission.

513. We agree with her assessment and recommend that this submission be rejected.

10. 35.5 – RULES – STANDARDS

10.1. Rule 35.5.1

514. As notified this rule set a requirement for shipping containers used as relocated buildings to have signage removed and to be painted where used on a site for more than 2 months. Non-compliance required consent as a non-complying activity.

515. The only submissions[365] on this standard sought that the two months be changed to three months.

516. Ms Banks set out in the Section 42A Report why she considered shipping containers should not be considered different from any other building and noted that the definition of building in the PDP includes the use of shipping containers as buildings in certain circumstances[366]. She recommended this rule be deleted (along with other provisions relating to shipping containers) and that they be managed by the relevant zone rules. She identified that the House Movers submission provided scope for this deletion.

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363 Submission 806

364 Kimberley Banks, Reply Statement, Section 8

365 Submissions 607, 615 (supported by FS1105, FS1137) and 621

366 Kimberley Banks, Section 42A Report, paragraphs 7.40 to 7.50

517. We agree with Ms Banks' assessment of the issue. The rule appears anomalous when a controlled activity consent is required for any relocated building, and the matters of control include the external appearance. We recommend that the standard be deleted, accepting in part the submissions by the Real Journeys group.

10.2. Rule 35.5.2

518. This standard requires that all fixed exterior lighting be directed away from adjacent sites and roads. Failure to comply requires consent as a restricted discretionary activity with the Council's discretion limited to the effect of lighting on the amenity of adjoining properties.

519. The only submissions[367] on this standard sought that it not apply to "glare from lighting used for health and safety purposes". The submitters also suggested the inclusion of an additional rule stating that the glare from such lighting was a permitted activity.

520. Ms Banks did not discuss this in her Section 42A Report, but did recommend deleting "fixed exterior" from the rule based on Submission 607 and FS1097.

521. We are unsure what this standard is designed to regulate. The Section 32 Assessment suggests it is related to temporary activities[368] but one would not expect temporary activities to have fixed exterior lighting. Rather, one would expect temporary lighting.

522. We do not agree with Ms Banks' recommendation as that appears to do the opposite to what the submitters sought, by widening the effect of the standard to apply to all lighting. We doubt that there is scope for such a change.

523. The submitters presented no evidence or comment on this provision. We are hesitant to provide a blanket exemption for a category of lighting that is for "health and safety purposes" as that could include all lighting at a temporary event.

524. The only amendment we recommend is a minor grammatical change relying on Clause 16(2) to change "shall" to "must". In our view, the imperative of "must" is more appropriate language in a standard.

525. We recommend the rule be adopted as notified, subject the minor amendment described above and renumbering it as 35.5.1, but that the Council re-examine what the purpose of the standard is, and in the light of the results of that consideration, whether it is necessary or appropriately framed.

10.3. Rules 35.5.3 and 35.5.4

526. These rules provide standards for, respectively, waste management and sanitation. There were no submissions on these standards. Again we recommend the term "shall" be changed to "must", but otherwise recommend they be adopted as notified and renumbered 35.5.2 and 3.5.5.3 respectively.

11. RULES – NON-NOTIFICATION

527. This provision exempts temporary filming from requiring the written consent of other persons and from limited or public notification.

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367 Submissions 607 (supported by FS1097), 615 (supported by FS1105, FS1137) and 621

368 page 40

528. The only submission on this was by QAC[369] in relation to the issue of temporary activities piercing the OLSs. We have dealt with the issue above in Section 8.1 and concluded an advice note was the appropriate solution to the issue and that deals with QAC's submission on this provision as well.

529. We recommend the provision be adopted as notified.

11.1. Summary of Conclusions on Rules

530. We have set out in Appendix 2 the rules we recommend the Council adopt. For all the reasons set out above, we are satisfied that the rules are the most effective and efficient means of implementing the policies so as to achieve the objectives of Chapter 35, and those in the Strategic Directions chapters. Where we have recommended rules not be included, that is because, as our reasons above show, we do not consider them to be efficient or effective.

12. CHANGES SOUGHT TO DEFINITIONS

12.1. Introduction

531. Submitters on this Chapter also lodged submissions on a number of notified definitions and also sought the inclusion of several new definitions. In accordance with the Hearing Panel's directions in its Second Procedural Minute dated 5 February 2016, we heard evidence on these definitions and have considered them in the context of the rules which apply them. However, to ensure a consistent outcome of consideration of definitions, given the same definition may be relevant to a number of hearing streams, our recommendations in this part of the report are to the Hearing Stream 10 Panel, who have overall responsibility for recommending the final form of the definitions to the Council. As the recommendations in this section are not directly to the Council, we have listed the wording we are recommending for these definitions in Appendix 5.

532. We have already dealt with the definition of "Noise Event", which was not subject to any submissions. We will not repeat that discussion here.

12.2. Relocated Buildings

533. As notified, Chapter 2 contained the following definitions relevant to relocated buildings:

Relocated/Relocatable Building *means a building which is removed and re-erected on another site, but excludes new buildings that are purpose built for relocation.*

Relocatable *Means not constructed for permanent location on any particular site and readily capable of removal to another site.*

Relocation *In relation to a building, means the removal and resiting of any building from any site to another site.*

534. House Movers[370] sought the PDP include the following definitions, which the submitter stated was consistent with the industry's usage:

Relocated Building *means any previously used building which is transported in whole or in parts and re-located from its original site to its destination site; but excludes any pre-fabricated building which is delivered dismantled to a site for erection on that site.*

Removal of a Building *means the shifting of a building off a site.*[1 SEP]

369 Submission 433, opposed by FS1097, FS1117

370 Submission 496

Relocation of a Building *means the placement of a relocated building on its destination site.*

Re-siting of a Building *means shifting a building within a site.*

535. Ms Banks discussed these proposed definitions and considered adoption of them in part would assist in alleviating interpretation difficulties that have arisen under the ODP using the definitions as notified[371]. Mr Ryan[372] did not take any issue with Ms Banks' modified definitions at the hearing.

536. We largely agree with Ms Banks' opinion on the value of amending these definitions. We do also recommend some further minor changes to the definition of Relocated Building. We consider the exclusion of pre-fabricated buildings needs to be clarified such that it applies to newly created prefabricated buildings, and that the requirement they be dismantled for transport be removed While "dismantled" may mean a small degree of dismantling, we would not want such a term to be construed as requiring a prefabricated building be deconstructed for transport then re-fabricated on site. That would amount to placing such buildings in the same category as prefabricated roof trusses. We consider the definition is less open to perverse interpretations if the exclusion reads "any newly prefabricated building which is delivered to a site for erection on that site".

537. We do not agree with Ms Banks that it unnecessary to replace the notified definition of "Relocation". Given the recommended new definition of "Re-siting", the use of that term within the definition of "Relocation" will create further ambiguity and confusion. We consider that deleting "and resiting" from that definition removes that potential problem.

538. As a result, we recommend to the Stream 10 Panel that the definitions of "Relocated Building" and "Relocation" be amended as set out below, and that new definitions of "Removal" and "Re-siting" be included in Chapter 2 in the form set out below.

Relocated/Relocatable Building *means a building which is removed and re-erected on another site, but excludes any newly prefabricated building which is delivered to a site for erection on that site. This definition excludes Removal and Re-siting*

Relocation *In relation to a building, means the removal of any building from any site to another site.*

Removal of a Building *means the shifting of a building off a site.*

Re-siting of a Building *means shifting a building within a site.*

12.3. Temporary Activities

539. The notified definition reads:
Temporary Activities Means the use of land, buildings, vehicles and structures for activities of short duration and are outside the usual use of a site, that include the following:
- Temporary events

371 Kimberley Banks, Section 42A Report, paragraphs 16.1 to 16.7

372 Submissions of Counsel for House Movers, dated 14 September 2016

- Temporary filming
- Temporary activities *related to building and construction*
- Temporary military *training*
- Temporary storage
- Temporary *utilities*
- Temporary *use of a site as an airport for certain community events*
- *A* temporary *activity does not include the extension of an activity authorised by a resource* consent *where in contravention to any conditions of the resource consent.*

540. Submissions on this definition sought:
   a. Improve the wording[373];
   b. Include airshows[374];
   c. Include "temporary exploration and prospecting"[375];
   d. Retain[376].

541. Related to this definition, submissions also sought the inclusion of definitions of:
   a. Temporary Military Training Activity[377]; and
   b. Temporary Storage[378].

542. Ms Banks agreed that the wording of the definition of "Temporary Activities" could be improved and recommended modification of the last bullet point and deletion of the final paragraph[379]. She also considered that the QAC request to include airshows should be provided for in the relevant zone, rather than in this definition[380].

543. In response to our questioning at the hearing, Ms Banks undertook a further evaluation of the definition, including examining how the activity has been defined in other districts in New Zealand and Australia[381]. She concluded that the definition should not attempt to define the duration of temporary activities, rather that should be left to the rules. She did, however, conclude that further improvements could be made to the wording.

544. Before turning to Ms Banks' recommended wording, we ned to deal with the submission seeking the inclusion of "temporary exploration and prospecting" in the definition. We heard no evidence regarding this from either Ms Banks, the submitter or the further submitters.

545. New Zealand Tungsten Mining Ltd also sought the inclusion of definitions of "exploration" and "prospecting". Reviewing those as requested, we do see that those activities are implicitly temporary. We make no recommendation on those requests by the submitter, but are

373 Submission 243
374 Submission 433
375 Submission 519, supported by FS1015, opposed by FS1356
376 Submission 635
377 Submission 1365
378 Submissions 607, 615 (supported by FS1105, FS1137) and 621
379 Kimberley Banks, Section 42A Report, paragraph 16.10
380 ibid, paragraph 16.11
381 Kimberley Banks, Reply Statement, Section 2

satisfied that there is no value in amending the definition of "temporary activities" to refer to them. We recommend to the Stream 10 Panel that submission be refused.

546. The amended definition of "temporary activities" recommended by Ms Banks read:
Temporary Activities *Means the use of land, buildings, vehicles and structures for the following listed activities of short duration, limited frequency, and outside the regular day-to-day use of a site:*
a. Temporary events
b. Temporary *filming*
c. Temporary *activities related to building and construction*
d. Temporary *military training*
e. Temporary *storage*
f. Temporary *utilities*
g. Temporary *use of a site as an informal airport*

547. In large part we agree with Ms Banks that this wording is clearer as to what falls within the range of temporary activities. Our one concern is the amendment in respect of informal airports. As we read the rules in Section 35.4, the intention for informal airports is that they are allowed as a temporary activity when they are a component of a temporary event (Rule 35.4.5 as amended). Ms Banks' amendment appears to widen that scope to include any temporary use of a site as an informal airport. We do not consider that change would have been contemplated by someone reading the submissions on this definition, so do not consider there is scope for such a broad amendment. We also doubt that it is a desirable outcome, but have no evidence one way or the other.

548. As a consequence, we agree with Ms Banks' amendment save for the last bullet point, which we recommend should read:
549. *Temporary use of a site as an informal airport as a part of a temporary event*

550. We agree with Ms Banks that Ms Byrch's submission[382] provides scope for this amendment. We recommend to the Stream 10 Panel that the definition of "temporary activities" be amended in accordance with Ms Banks' recommendation subject to our revision to the final bullet point. We also recommend the Panel consider whether the use of alphanumeric lists should replace bulleted lists.

551. Associated with this definition is the request for a definition of "Temporary Military Training Activity"[383]. Ms Banks[384] noted that notified Objective 35.2.3 stated that temporary military training is provided for (and our revised Objective 35.2.3 does not alter that outcome) and that the definition of "Temporary Activities" includes "temporary military training", but nowhere is that defined. She agreed with the submitter that a new definition be included which read:
Temporary Military Training Activity (TMTA*) means a temporary military activity undertaken for defence purposes. The term 'defence purpose' is as described in the Defence Act 1990*

552. We agree, for the same reasons, that the new definition should be included. However, we consider the wording can be improved by removing repetition and improving grammar. We also note that the Defence Act 1990 does not explicitly describe 'defence purposes'. Taking

382 Submission 243
383 Submission 1365
384 Kimberley Banks, Section 42A Report, paragraphs 16.8 and 16.9

account of this, we recommend to the Stream 10 Panel that a new definition of Temporary Military Training Activity be included in the Plan and that it read:

Temporary Military Training Activity (TMTA) *means a temporary military activity undertaken for defence purposes. Defence purposes are those in accordance with the Defence Act 1990.*

553. The Real Journeys group[385] sought that a new definition of "temporary storage" be included in Chapter 2. The submissions did not provide a proposed wording and Ms Black did not provide any explanation in her evidence. We are satisfied that Rule 35.4.12 (revised number) adequately explains what temporary storage is. We recommend to the Stream 10 Panel that these submissions be rejected.

12.4. Temporary Events

554. There were no submissions on this definition, but Ms Banks recommended the addition of an advice note to clarify that the sale of alcohol, and food and beverage hygiene standards and regulations, were not regulated by the PDP[386]. She recommended the addition of the following note:

Note - The following activities associated with Temporary Events are not regulated by the PDP:

a. Food and Beverage

b. Sale of Alcohol

555. We accept that is a helpful clarification and consider it is an amendment that can be made relying on Clause 16(2). We recommend to the Stream 10 Panel that this note be added to the definition of "Temporary Events".

12.5. Definition of Building

556. In response to our questions at the hearing, Ms Banks undertook a careful consideration of the relationship of shipping containers to the definition of building[387]. Her final conclusion was that an additional exemption should be included in the definition of "Building" as follows:

- *Shipping containers temporarily located on a site for less than 2 months*

557. We are not in a position to know whether there is scope for such a change and do no more than bring the matter to the attention of the Stream 10 Panel for its consideration.

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385 Submissions 607, 615 (supported by FS1105, FS1137) and 621

386 Kimberley Banks, Reply Statement, paragraph 8.9

387 ibid, Section 10

36 NOISE

QUEENSTOWN LAKES DISTRICT COUNCIL

36.1 Purpose

The purpose of this chapter is to manage the effects of noise in the District. Noise is part of the environment. While almost all activities give rise to some degree of noise, noise can cause adverse effects on amenity values and the health and wellbeing of people and communities. Adverse effects may arise where the location, character, frequency, duration, or timing of noise is inconsistent or incompatible with anticipated or reasonable noise levels.

The Resource Management Act 1991 (RMA) requires every occupier of land and every person carrying out an activity to adopt the best practicable option to ensure noise does not exceed a reasonable level. The RMA also defines noise to include vibration. "Reasonable" noise levels are determined by the standard of amenity and ambient noise level of the receiving environment and the Council provides direction on this through the prescription of noise limits for each Zone. Noise is also managed by the Council through the use of relevant New Zealand Standards for noise. Land use and development activities, including activities on the surface of lakes and rivers, should be managed in a manner that avoids, remedies or mitigates the adverse effects of noise to a reasonable level.

In most situations, activities should consider the control of noise at the source and the mitigation of adverse effects of noise on the receiving environment. However, the onus on the reduction of effects of noise should not always fall on the noise generating activity. In some cases it may be appropriate for the noise receiver to avoid or mitigate the effects from an existing noise generating activity, particularly where the noise receiver is a noise sensitive activity.

Overflying aircraft have the potential to adversely affect amenity values. The Council controls noise emissions from airports, including take-offs and landings, via provisions in this District Plan, and Designation conditions. However, this is different from controlling noise from aircraft that are in flight. The RMA which empowers territorial authorities to regulate activities on land and water affecting amenity values, does not enable the authorities to control noise from overflying aircraft. Noise from overflying aircraft is controlled under section 29B of the Civil Aviation Act 1990.

With the exception of ventilation requirements for the Queenstown and Wanaka town centres contained in Rule 36.7, and noise from water and motor-related noise from commercial motorised craft within the Queenstown Town Centre Waterfront Sub-Zone (which is subject to Rule 36.5.13) noise received within town centres is not addressed in this chapter, but rather in the Queenstown, Wanaka and Arrowtown Town Centre Zone chapters. This is due to the town centre-specific complexities of noise in those zones, and its fundamental nature as an issue that inter-relates with all other issues in those zones. Noise generated in the town centres but received outside of the town centres is managed under this chapter, except that noise from music, voice and loudspeakers in the Wanaka and Queenstown Town Centres (excluding the Queenstown Town Centre Transition Sub-Zone), need not meet the noise limits set by this chapter.

36.2 Objectives and Policies

36.2.1 Objective - The adverse effects of noise emissions are controlled to a reasonable level to manage the potential for conflict arising from adverse noise effects between land use activities.

Policies

36.2.1.1 Avoid, remedy or mitigate adverse effects of unreasonable noise from land use and development.

36.2.1.2 Avoid, remedy or mitigate adverse noise reverse sensitivity effects.

36.3 Other Provisions

36.3.1 District Wide

Attention is drawn to the following District Wide Chapters.

1 Introduction	2 Definitions	3 Strategic Direction
4 Urban Development	5 Tangata Whenua	6 Landscapes and Rural Character
25 Earthworks	26 Historic Heritage	27 Subdivision
28 Natural Hazards	29 Transport	30 Energy and Utilities
31 Signs	32 Protected Trees	33 Indigenous Vegetation
34 Wilding Exotic Trees	35 Temporary Activities and Relocated Buildings	37 Designations
Planning Maps		

36.3.2 Interpreting and Applying the Rules

36.3.2.1 Any activity that is not Permitted requires resource consent. Any activity that does not specify an activity status for non-compliance but breaches a standard, requires resource consent as a Non-complying activity.

36.3.2.2 Sound levels shall be measured and assessed in accordance with NZS 6801:2008 Acoustics - Measurement of Environmental Sound and NZS 6802:2008 Acoustics - Environmental Noise, except where another Standard has been referenced in these rules, in which case that Standard should apply.

36.3.2.3 Any activities which are Permitted, Controlled or Restricted Discretionary in any section of the District Plan must comply with the noise standards in Tables 2, 3, 4 and 5 below, where that standard is relevant to that activity.

36.3.2.4 In addition to the above, the noise from the activities listed in Table 1 shall be Permitted activities in all zones (unless otherwise stated). For the avoidance of doubt, the activities in Table 1 are exempt from complying with the noise standards set out in Table 2.

36.3.2.5 Notwithstanding compliance with Rules 36.5.13 (Helicopters) and 36.5.14 (Fixed Wing Aircraft) in Table 3, informal airports shall also be subject to the rules in the chapters relating to the zones in which the activity is located.

36.3.2.6 Sound from non-residential activities, visitor accommodation activities and sound from stationary electrical and mechanical equipment must not exceed the noise limits in Table 2 in each of the zones in which sound from an activity is received. The noise limits in Table 2 do not apply to assessment locations within the same site as the activity.

36.3.2.7 The noise limits contained in Table 2 do not apply to sound from aircraft operations at Queenstown Airport or Wanaka Airport.

36.3.2.8 Noise standards for noise received in the Queenstown, Wanaka and Arrowtown Town Centre, Local Shopping and Business Mixed Use zones are not included in this chapter. Please refer to Chapters 12, 13,14, 15 and 16. The noise standards in this chapter still apply for noise generated within these zones but received in other zones, except that noise from music, voices, and loud speakers in the Wanaka and Queenstown Town Centres (excluding the Queenstown Town Centre Transition Sub-Zone) need not meet the noise limits set by this chapter.

36.3.2.9 The standards in Table 3 are specific to the activities listed in each row and are exempt from complying with the noise standards set out in Table 2.

32.3.2.10 The following abbreviations are used in the tables:

P	Permitted	C	Controlled	RD	Restricted Discretionary
D	Discretionary	NC	Non-Complying	PR	Prohibited

36.4 Rules - Activities

Table 1 - Permitted Activities

Rule Number	Permitted Activities	Activity Status
36.4.1	Sound from vehicles on public roads or trains on railway lines (including at railway yards, railway sidings or stations).	P
36.4.2	Any warning device that is activated in the event of intrusion, danger, an emergency or for safety purposes, provided that vehicle reversing alarms are a broadband directional type.	P
36.4.3	Sound arising from fire stations (including rural fire stations), fire service appliance sirens and call-out sirens for volunteer brigades.	P
36.4.4	Sound from temporary military training activities.	P
36.4.5	In the Rural Zone and the Gibbston Character Zone, sound from farming and forestry activities, and bird scaring devices, other than sound from stationary motors and stationary equipment.	P
36.4.6	Sound from telecommunications cabinets in road reserve.	P
36.4.7	Sound from emergency and backup electrical generators: a. operating for emergency purposes or; b. operating for testing and maintenance for less than 60 minutes each month during a weekday between 0900 and 1700. For the purpose of this rule backup generators are generators only used when there are unscheduled outages of the network (other than routine testing or maintenance provided for in (b) above).	P

36.5 Rules - Standards

Table 2 - General Standards

Rule Number	General Standards				Non-compliance Status
	Activity or sound source	Assessment location	Time	Noise Limits	
36.5.1	Rural Zone (Note: refer 36.5.14 for noise received in the Rural Zone from the Airport Zone - Queenstown). Gibbston Character Zone Airport Zone - Wanaka	Any point within the notional boundary of a residential unit.	0800h to 2000h	50 dB $L_{Aeq(15\ min)}$	NC
			2000h to 0800h	40 dB $L_{Aeq(15\ min)}$ 75 dB L_{AFmax}	NC
36.5.2	Low, Medium, and High Density and Large Lot Residential Zones (Note: refer 36.5.14 for noise received in the Residential Zones from the Airport Zone - Queenstown). Arrowtown Residential Historic Management Zone Rural Residential Zone Rural Lifestyle Zone Waterfall Park Zone Millbrook Resort Zone - Residential Activity Areas only Jacks Point Zone- Residential Activity Areas only	Any point within any site.	0800h to 2000h	50 dB $L_{Aeq(15\ min)}$	NC
			2000h to 0800h	40 dB $L_{Aeq(15\ min)}$ 75 dB L_{AFmax}	NC
36.5.3	Airport Zone - Queenstown	At any point within the zone.	Any time	No limit	P
36.5.4	Jacks Point Zone - Village Activity Area only	Any point within any site.	0800h to 2200h	60 dB $L_{Aeq(15\ min)}$	NC
			2200h to 0800h	50 dB $L_{Aeq(15\ min)}$ 75 dB L_{AFmax}	NC

Table 3 - Specific Standards

Rule Number	Specific Standards				Non-compliance Status
	Activity or sound source	Assessment location	Time	Noise Limits	
36.5.5	Certain Telecommunications Activities in Road Reserve The Resource Management (National Environmental Standards for Telecommunications Facilities "NESTF") Regulations 2008 provide for noise from telecommunications equipment cabinets located in the road reserve as a permitted activity, subject to the specified noise limits. The noise from the cabinet must be measured in accordance with NZS 6801: 2008 Acoustics – Measurement of environmental sound, the measurement must be adjusted in accordance with NZS 6801: 2008 Acoustics – Measurement of environmental sound to a free field incident sound level, and the adjusted measurement must be assessed in accordance with NZS 6802: 2008 Acoustics – Environmental noise.	36.5.5.1 Where a cabinet located in a road reserve in an area in which allows residential activities, the noise from the cabinet must be measured and assessed at 1 of the following points: a. if the side of a building containing a habitable room is within 4 m of the closest boundary of the road reserve, the noise must be measured: i. at a point 1 m from the side of the building; or ii. at a point in the plane of the side of the building; b. in any other case, the noise must be measured at a point that is: i. at least 3 m from the cabinet; and ii. within the legal boundary of land next to the part of the road reserve where the cabinet is located.	0700h to 2200h	50 dB $L_{Aeq(5\ min}$	Refer NESTF
			2200h to 0700h	40 dB $L_{Aeq(5\ min)}$	
			2200h to 0700h	65 dB L_{AFmax}	
		36.5.5.2 Where a cabinet is located in a road reserve in an area in which does not allow residential activities, the noise from the cabinet must be measured and assessed at 1 of the following points: a. if the side of a building containing a habitable room is within 4 m of the closest boundary of the road reserve, the noise must be measured: i. at a point 1 m from the side of the building; or ii. at a point in the plane of the side of the building; b. in any other case, the noise must be measured at a point that is: i. at least 3 m from the cabinet; and ii. within the legal boundary of land next to the part of the road reserve where the cabinet is located.	Any time	60 dB $L_{Aeq(5\ min)}$	
			2200h to 0700h	65 dB L_{AFmax}	

Rule Number	Specific Standards				Non-compliance Status
	Activity or sound source	Assessment location	Time	Noise Limits	
36.5.6	Wind Turbines Wind farm sound must be measured and assessed in accordance with NZS 6808:2010 Acoustics - Wind Farm Noise	At any point within the notional boundary of any residential unit.	Any time	40 dB $L_{A90(10\ min)}$ or the background sound level $L_{A90(10\ min)}$ plus 5 dB, whichever is higher	NC
36.5.7	Audible Bird Scaring Devices The operation of audible devices (including gas guns, audible avian distress alarms and firearms for the purpose of bird scaring, and excluding noise arising from fire stations). In relation to gas guns, audible avian distress alarms and firearms no more than 15 audible events shall occur per device in any 60 minute period. Each audible event shall not exceed three sound emissions from any single device within a 1 minute period and no such events are permitted during the period between sunset and sunrise the following day. The number of devices shall not exceed one device per 4 hectares of land in any single land holding, except that in the case of a single land holding less than 4 hectares in area, one device shall be permitted.	36.5.7.1 At any point within a Residential Zone or the notional boundary of any residential unit, other than on the property in which the device is located.	Hours of daylight but not earlier than 0600h	65 dB L_{AE} shall apply to any one event	NC
		36.5.7.2 In any public place.	At any time	90 dB L_{AE} is received from any one noise event	
36.5.8	Frost fans Sound from frost fans.	At any point within the notional boundary of any residential unit, other than residential units on the same site as the activity.	At any time	55 dB $L_{Aeg\ (15\ min)}$	NC

Rule Number	Specific Standards				Non-compliance Status
	Activity or sound source	Assessment location	Time	Noise Limits	
36.5.9	Vibration Vibration from any activity shall not exceed the guideline values given in DIN 4150-3:1999 Effects of vibration on structures at any buildings on any other site.	On any structures or buildings on any other site.	Refer to relevant standard	Refer to relevant standard	NC
36.5.10	Helicopters Sound from any helicopter landing area must be measured and assessed in accordance with NZ 6807:1994 Noise Management and Land Use Planning for Helicopter Landing Areas. Sound from helicopter landing areas must comply with the limits of acceptability set out in Table 1 of NZS 6807. In assessing noise from helicopters using NZS 6807: 1994 any individual helicopter flight movement, including continuous idling occurring between an arrival and departure, shall be measured and assessed so that the sound energy that is actually received from that movement is conveyed in the Sound Exposure Level (SEL) for the movement when calculated in accordance with NZS 6801: 2008. For the avoidance of doubt this rule does not apply to Queenstown Airport and Wanaka Airport. Advice Note: See additional rules in Rural Zone Chapter at 21.10.1 and 21.10.2.	At any point within the notional boundary of any residential unit, other than residential units on the same site as the activity. *Note: The applicable noise limit in this rule and in rule 36.5.11 below for informal airports/landing strips used by a combination of both fixed wing and helicopters shall be determined by an appropriately qualified acoustic engineer on the basis of the dominant aircraft type to be used.	At all times	50 dB L_{dn}	NC
36.5.11	Fixed Wing Aircraft Sound from airports/landing strips for fixed wing aircraft must be measured and assessed in accordance with NZS 6805:1992 Airport Noise Management and Land Use Planning. For the avoidance of doubt this rule does not apply to Queenstown and Wanaka Airports. Advice Note: See additional rules in Rural Zone Chapter at 21.10.1 and 21.10.2.	At any point within the notional boundary of any residential unit and at any point within a residential site other than residential units on the same site as the activity. *Note: The applicable noise limit in this rule and in rule 36.5.10 above for informal airports/landing strips used by a combination of both fixed wing and helicopters shall be determined by an appropriately qualified acoustic engineer on the basis of the dominant aircraft type to be used.	At all times	55 dB L_{dn}	NC

Rule Number	Specific Standards				Non-compliance Status
	Activity or sound source	Assessment location	Time	Noise Limits	
36.5.12	Construction Noise Construction sound must be measured and assessed in accordance with NZS 6803:1999 Acoustics - Construction Noise. Construction sound must comply with the recommended upper limits in Tables 2 and 3 of NZS 6803. Construction sound must be managed in accordance with NZS 6803.	At any point within any other site.	Refer to relevant standard	Refer to relevant standard	D
36.5.13	Commercial Motorised Craft Sound from motorised craft must be measured and assessed in accordance with ISO 2922:2000 and ISO 14509-1:2008.	25 metres from the craft.	0800 to 2000h 2000h to 0800h	77 dB L_{ASmax} 67 dB L_{ASmax}	NC
36.5.14	Sound from the Airport Zone - Queenstown received in the Residential Zones, and the Rural Zone, excluding sound from aircraft operations that are subject to the Queenstown Airport Designation No.2.	At any point within the Residential Zone and at any point within the notional boundary in the Rural Zone.	0700h to 2200h 2200h to 0700h	55 dB $_{Aeq(15\ min)}$ 45 dB $_{Aeq(15\ min)}$ 70 dB $_{AFmax}$	RD Discretion is restricted to the extent of effects of noise generated on adjoining zones.

36.6 Airport Noise

36.6.1 Sound Insulation Requirements for the Queenstown and Wanaka Airport - Acceptable Construction Materials (Table 4).

The following table sets out the construction materials required to achieve appropriate sound insulation within the airport Air Noise Boundary (ANB) as shown on the planning maps.

Table 4

Building Element	Minimum Construction	
External Walls	Exterior Lining	Brick or concrete block or concrete, or 20mm timber or 6mm fibre cement
	Insulation	Not required for acoustical purposes
	Frame	One layer of 9mm gypsum or plasterboard (or an equivalent combination of exterior and interior wall mass)
Windows/Glazed Doors	Double-glazing with 4 mm thick panes separated by a cavity at least 12 mm wide	
Pitched Roof	Cladding	0.5mm profiled steel or masonry tiles or 6mm corrugated fibre cement
	Insulation	100mm thermal insulation blanket/batts
	Ceiling	1 layer 9mm gypsum or plaster board
Skillion Roof	Cladding	0.5mm profiled steel or 6mm fibre cement
	Sarking	None Required
	Insulation	100mm thermal insulation blanket/batts
	Ceiling	1 layer 1mm gypsum or plasterboard
External Door	Solid core door (min 24kg/m2) with weather seals	

Note: The specified construction materials in this table are the minimum required to meet the Indoor Design Sound Level. Alternatives with greater mass or larger thicknesses of insulation will be acceptable. Any additional construction requirements to meet other applicable standards not covered by this rule (e.g. fire, Building Code etc.) would also need to be implemented.

36.6.2 Ventilation Requirements for the Queenstown and Wanaka Airport

The following applies to the ventilation requirements within the airport Outer Control Boundary (OCB) and Air Noise Boundary (ANB).

Critical Listening Environments must have a ventilation and cooling system(s) designed, constructed and maintained to achieve the following:

a. an outdoor air ventilation system. The ventilation rate must be able to be controlled by the occupant in increments as follows:

   i. a low air flow setting that provides air at a rate of between 0.35 and 0.5 air changes per hour. The sound of the system on this setting must not exceed 30dB LAeg(30s) when measured 2m away from any grille or diffuser;

   ii. a high air flow setting that provides at least 5 air changes per hour. The sound of the system on this setting must not exceed 35 dB LAeg(30s) when measured 2m away from any grille or diffuser.

b. the system must provide, either by outdoor air alone, combined outdoor air and heating/cooling system or by direct room heating / cooling:

   i. cooling that is controllable by the occupant and can maintain the temperature within the Critical Listening Environment at no greater than 25°C; and

   ii. heating that is controllable by the occupant and can maintain the temperature within the Critical Listening Environment at no less than 18°C ;and

   iii. the sound of the system when in heating or cooling mode must not exceed 35 dB $L_{Aeg(30s)}$ when measured 2m away from any grille or diffuser.

c. a relief air path must be provided to ensure the pressure difference between the Critical Listening Environments and outside is never greater than 30Pa;

d. if cooling is provided by a heat pump then the requirements of (a)(ii) and (c) do not apply.

Note: Where there is an existing ventilation, heating and/or cooling system, and/or relief air path within a Critical Listening Environment that meets the criteria stated in the rule, the existing system may be utilised to demonstrate compliance with the rule.

36.7 Ventilation Requirements for other Zones (Table 5)

The following table (Table 5) sets out the ventilation requirements in the Wanaka and Queenstown Town Centre Zones, the Local Shopping Centre Zone and the Business Mixed Use Zone.

Table 5

Room Type	Outdoor Air Ventilation Rate (Air Changes Room Type per Hour, ac/hr)	
	Low Setting	High Setting
Bedrooms	1-2 ac/hr	Min. 5 ac/hr
Other Critical Listening Environments	1-2 ac/hr	Min. 15 ac/hr
Noise from ventilation systems shall not exceed 35 dB $L_{Aeq(1\ min)}$, on High Setting and 30 dB $L_{Aeq(1\ min)}$, on Low Setting. Noise levels shall be measured at a distance of to 2 m from any diffuser.		
Each system must be able to be individually switched on and off and when on, be controlled across the range of ventilation rates by the occupant with a minimum of 3 stages.		
Each system providing the low setting flow rates is to be provided with a heating system which, at any time required by the occupant, is able to provide the incoming air with an 18 °C heat rise when the airflow is set to the low setting. Each heating system is to have a minimum of 3 equal heating stages.		
If air conditioning is provided to any space then the high setting ventilation requirement for that space is not required.		

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report 8

Report and Recommendations of Independent Commissioners Regarding
Chapter 30, Chapter 35 and Chapter 36

Commissioners
Denis Nugent (Chair)
Calum MacLeod
Mark St Clair

PART D: CHAPTER 36 - NOISE

13. PRELIMINARY

13.1. Stage 2 Variations

558. On 23 November 2016 the Council notified Stage 2 of the PDP and variations. That proposed the inclusion of new rules in this chapter providing noise controls for the Wakatipu Basin Zone and the Open Space and Recreation Zones.

559. We have left space for these rules in locations we consider appropriate for the respective rules. The rules do not form part of our recommendations and we discuss them no further.

13.2. General Submissions

560. Two submissions[388] generally supported this Chapter. As we recommend changes to this Chapter, we recommend those submissions be accepted in part.

561. Submission 115 stated that the landscape values of the District can be spoilt by noise from motor boats and lawnmowers. The submitter sought that the Plan institute a quiet day each week. Ms Evans considered that the PDP provisions set appropriate standards for the receipt of noise in a way that managed amenity standards[389]. We agree with Ms Evans' opinion. We also consider it would be both impractical and inconsistent with the general expectations of the people of the District to impose a noise ban on a weekly basis. We recommend this submission be rejected.

562. Submission 159 was concerned with noise from late night parties and sought increased monitoring. We agree with Ms Evans' analysis that the noise standards provide a basis for monitoring and enforcement[390]. The PDP cannot do any more than that. We recommend this submission be rejected.

13.3. 36.1 –Purpose

563. There were four submissions in relation to this section. These sought:
   a. the retention of the section unaltered[391];
   b. the retention of the third paragraph[392];
   c. amendment to exclude application of this chapter to the Town Centre Zone[393]; and
   d. amend to apply appropriate and consistent terminology[394].

564. Ms Evans agreed with the wording changes sought by the Southern District Health Board[395] for the reasons given in the submission[396]. She did not agree that the Chapter did not relate to the Town Centre Zones, noting that rules in Chapter 36 imposed restrictions on noise generated in that zone and received in residential zones, as well as imposing ventilation requirements in the Queenstown and Wanaka Town Centre zones. As a result, she recommended a series of minor word changes to the purpose statement in her Section 42A

388 Submissions 19 and 21
389 Ruth Evans, Section 42A Report, page 28
390 ibid, page 28
391 Submission 433, supported by FS1211, opposed by FS1097 and FS1117
392 Submission 1365
393 Submission 714
394 Submission 649
395 Submission 649
396 Ruth Evans, Section 42A Report, page 11

Report. The only substantive change she recommended in her Reply Statement was to amend the reference to the Civil Aviation Act to refer to the correct section.

565. We agree with Ms Evans (and the Southern District Health Board) that the amendments she has proposed to this section improve clarity and understanding of the purpose of the chapter. We also agree with her that the amendments she has proposed that are outside of the scope of the submissions lodged are minor with no substantive effect, or improve grammar, and therefore can be made under Clause 16(2).

566. The Stream 8 Hearing Panel has recommended to us[397] a further amendment to clarify that certain forms of noise (from music, voices and loudspeakers) generated in the Queenstown and Wanaka Town Centres are not managed under this Chapter. We recommend that change be made for the reasons given by the Stream 8 Panel.

567. We recommend the Section 36.1 be adopted as worded in Appendix 3 to this report, and the submissions be accepted in part.

14. 36.2 – OBJECTIVES AND POLICIES

14.1. Objective 36.2.1 and Policies

568. As notified, these read:

Objective ***Control the adverse effects of noise emissions to a reasonable level and manage the potential for conflict arising from adverse noise effects between land use activities.***

36.2.1.1 *Manage subdivision, land use and development activities in a manner that avoids, remedies or mitigates the adverse effects of unreasonable noise.*

36.2.1.2 *Avoid, remedy or mitigate adverse noise reverse sensitivity effects.*

569. The submissions on these sought:
   a. Retain all as notified[398];
   b. Retain the objective[399];
   c. Retain Policy 2[400];
   d. Amend Policy 2 to discourage noise sensitive activities establishing in the vicinity of consented or existing noise generating activities.[401]

570. In her Section 42A Report, Ms Evans recommended minor changes to the objective to make it more outcome focussed. Following our questioning at the hearing, she recommended further changes to the objective and Policy 1 in her Reply Statement.

397 Report 11, Section 8.11

398 Submissions 197, 649 (supported by FS1211) and 1365

399 Submissions 717 (supported by FS1211 and FS1270, opposed by FS1029), 719 and 847 (supported by FS1207)

400 Submission 719

401 Submissions 717 (supported by FS1211 and FS1270, opposed by FS1029) and 847 (supported by FS1207)

571. Ms Evans considered the submissions seeking amendments to Policy 2 and concluded that the policy did not need to be altered as it does not distinguish between new or established noise sensitive activities leading to reverse sensitivity effects[402].

572. The only evidence we heard on these provisions was from Mr MacColl[403] who supported Policy 2 as notified and agreed with Ms Evans' conclusions in respect of that policy.

573. We do not think Policy 2 provides any guidance as to how to achieve the objective, but we consider the wording proposed by Submitters 717 and 847 does not particularly assist. Without evidence we are not inclined to amend this policy.

574. We consider the word changes recommended by Ms Evans to the objective and Policy 1 improve their clarity without altering the meaning. We agree that those changes are minor non-substantive amendments that the Council can make under Clause 16(2).

575. We note that Policy 1 fails to provide any guidance as to how to it is to achieve the objective, in the same manner as Policy 2.

576. We recommend that the Council amend the objectives and policies under Clause 16(2) so that they read:

Objective ***The adverse effects of noise emissions are controlled to a reasonable level to manage the potential for conflict arising from adverse noise effects between land use activities.***

36.2.1.1 *Avoid, remedy or mitigate adverse effects of unreasonable noise from land use and development.*

36.2.1.2 *Avoid, remedy or mitigate adverse noise reverse sensitivity effects.*

577. We also recommend that the Council review the two policies with a view to providing clearer guidance as to how the objective is to be achieved. We do not consider that parroting s.5(2)(c) of the Act assists.

15. 36.3 – OTHER PROVISIONS

15.1. 36.3.1 – District Wide

578. There were no submissions on this section. The only changes we recommend to it are to make it consistent with the same section in other chapters. We consider this to be a minor amendment that can be made under Clause 16(2).

579. We recommend the Council amend this section as shown in Appendix 3 as a minor, non-substantive amendment under Clause 16(2).

15.2. 36.3.2 – Clarification

580. As notified this section contained 10 clauses, the first two of which, consistent with other chapters, described when a consent was required and the abbreviations used in the tables. The following eight clauses read:

36.3.2.3 *Sound levels shall be measured and assessed in accordance with NZS 6801:2008 Acoustics - Measurement of Environmental Sound and NZS 6802:2008 Acoustics -*

402 Ruth Evans, Section 42A Report, page 12

403 Anthony MacColl, EiC, page 7

Environmental Noise, except where another Standard has been referenced in these rules, in which case that Standard should apply.

36.3.2.4 Any activities which are Permitted, Controlled or Restricted Discretionary in any section of the District Plan must comply with the noise standards in Tables 2, 3, 4 and 5 below, where that standard is relevant to that activity.

36.3.2.5 In addition to the above, the noise from the following activities listed in Table 1 shall be Permitted activities in all zones (unless otherwise stated). For the avoidance of doubt, the activities in Table 1 are exempt from complying with the noise standards set out in Table 2.

36.3.2.6 Notwithstanding compliance with Rules 36.5.13 (Helicopters) and 36.5.14 (Fixed Wing Aircraft) in Table 3, informal airports shall be subject to the rules in the applicable zones.

36.3.2.7 Sound from non-residential activities, visitor accommodation activities and sound from stationary electrical and mechanical equipment must not exceed the noise limits in Table 2 in each of the zones in which sound from an activity is received. The noise limits in Table 2 do not apply to assessment locations within the same site as the activity.

36.3.2.8 The noise limits contained in Table 2 do not apply to sound from aircraft operations at Queenstown Airport.

36.3.2.9 Noise standards for Town Centre, Local Corner Shopping and Business Mixed Use zones are not included in this chapter. Please refer to Chapters 12, 13,14, 15 and 16.

36.3.2.10 The standards in Table 3 are specific to the activities listed in each row and are exempt from complying with the noise standards set out in Table 2.

581. Submissions on this section sought the following:
   a. Support the provisions[404];
   b. Amend 36.3.2.7 so as to exclude the temporary operation of emergency and backup generators from the noise limits[405];
   c. Include reference to Wanaka Airport in 36.3.2.8[406];
   d. Include an additional clarification stating that activities in the Rural Zone established at the time of the Review will be administered for noise purposes in accordance with the rules at the time the activity was established or consented[407].

582. Ms Evans agreed that reference to Wanaka Airport should be included in 36.3.2.8. Ms Evans also noted that the noise of aircraft at that airport, as for Queenstown Airport, is controlled by the designation[408]. We agree with that conclusion.

404 Submissions 649 (supported by FS1211) and 1365
405 Submission 635
406 Submission 433, opposed by FS1097 and FS1117
407 Submissions 717 (supported by FS1270, opposed by FS1029) and 847 (supported by FS1270).
408 Ruth Evans, Section 42A Report, page 13

583. Ms Evans considered that the additional clarification sought (item (d)) was unnecessary as provision was made in the Act to protect lawfully established existing uses[409]. We agree with her assessment. We heard no evidence from the submitters so our understanding of their reasoning is that contained in the submission. That reasoning is clearly focussed on restating existing use provisions from the Act in the PDP. We cannot understand why, if such provisions were to be included, they should be limited to the Rural Zone. We recommend those submissions be rejected.

584. The submission by Aurora concerning the temporary operation of emergency and backup generators included a proposal to include such operations in Table 1 as a permitted activity. It is appropriate to consider both parts of the submission together.

585. Dr Chiles assessed this submission[410]. It was his opinion that, in terms of emergency generators, people are prepared to tolerate the noise of them because it is an emergency, and by definition, temporary. He also noted that where emergency generators are fixed installations they need to be tested regularly. He recommended that emergency generators be provided for as a permitted activity in Table 1, along with an allowance for testing. He considered that amendment to 36.3.2.7 was unnecessary as 36.3.2.5 already identified that the activities in Table 1 were exempt from compliance with Table 2 standards. Ms Evans adopted Dr Chiles evidence and recommended changes to Table 1 consistent with his opinion.

586. Ms Dowd, appearing for Aurora, supported this proposed rule[411].

587. In response to our questioning, Ms Evans further refined the rule in Table 1 in her Reply Statement so as to clarify the circumstances when it applied to backup generation[412].

588. We accept the advice of Dr Chiles for the reasons he set out and recommend that a new permitted activity be included in Table 1, modified as proposed by Ms Evans in her Reply Statement subject to replacing "grid" with "network" so that the wording is consistent with that used in Chapter 30. We agree that it is unnecessary to make provision in 36.3.2.7 for an activity that listed in Table 1.

589. Ms Evans recommended some minor changes to 36.3.2.9 to properly identify the zones it applied to, and to note that activities in those zones were still required to meet the noise standards for noise received in other zones. The Stream 8 Panel has further recommended that this provision be amended to make it clear that noise from music, voices and loud speakers in the Wanaka and Queenstown Town Centre Zones (excluding the Queenstown town Centre Transition Sub-Zone) need not meet the noise standards set in this chapter.[413]

590. Ms Evans also recommended minor changes to 36.3.2.1 to clarify the meaning and remove unnecessary words.

591. We agree that those amendments are helpful in providing clarity to the meaning of the relevant provision. We consider them to be minor changes that can be made under Clause 16(2). We recommend the amendments recommended by the Stream 8 Panel be adopted for the reasons that Panel has given.

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409 ibid, page 12

410 Dr Stephen Chiles, EiC, pages 9-10

411 Joanne Dowd, EiC, page 6

412 Ruth Evans, Reply Statement, paragraph 2.4

413 Report 11, Section 8.11

592. We also recommend moving 36.3.2.2 to the end of the list so it more clearly relates to the tables that follow. As a consequence it becomes renumbered as 36.3.2.10 and clauses 3 to 10 are consequentially renumbered.

593. The Stream 13 Hearing Panel has recommended an amendment to notified 36.3.2.6 under Clause 16(2) to clarify the relationship of Rules 36.5.13 and 36.5.14 and the rules in the relevant zone chapters. We adopt their recommendation and include the amendment to recommended Rule 36.3.2.5 in Appendix 3.

594. For those reasons we recommend that Section 36.3.2 be titled "Rules – Explanation" and that clauses 1, 8 (renumbered as 7) and 9 (renumbered as 8) be amended to read as follows:

36.3.2.1 *Any activity that is not Permitted requires resource consent. Any activity that does not specify an activity status for non-compliance, but breaches a standard, requires resource consent as a Non-complying activity.*

36.3.2.7 *The noise limits contained in Table 2 do not apply to sound from aircraft operations at Queenstown Airport or Wanaka Airport.*

36.3.2.8 *Noise standards for noise received in the Queenstown, Wanaka and Arrowtown Town Centre, Local Shopping and Business Mixed Use zones are not included in this chapter. Please refer to Chapters 12, 13, 14, 15 and 16. The noise standards in this chapter still apply for noise generated within these zones but received in other zones, except that noise from music, voices, and loud speakers in the Wanaka and Queenstown Town Centres (excluding the Queenstown Town Centre Transition Sub-Zone) need not meet the noise limits set by this chapter.*

595. We also recommend, as discussed above, that a new permitted activity be inserted in Rule 36.4 Table 1 to read as follows:

Sound from emergency and backup generators:

a. Operating for emergency purposes; or
b. Operating for testing and maintenance for less than 60 minutes each month during a
c. weekday between 0900 and 1700.

For the purpose of this rule, backup generators are generators only used when there are unscheduled outages of the network (other than routine testing or maintenance provided for in (b) above).

16. 36.4 – RULES – ACTIVITIES

16.1. Table 1

596. As notified, this rule listed the following as permitted activities (exempt from the standards in Table 2):

36.4.1 *Sound from vehicles on public roads or trains on railway lines (including at railway yards, railway sidings or stations).*

36.4.2 *Any warning device that is activated in the event of intrusion, danger, an emergency or for safety purposes, provided that vehicle reversing alarms are a broadband directional type.*

36.4.3 Sound arising from fire stations (including rural fire stations), fire service appliance sirens and call-out sirens for volunteer brigades.

36.4.4 Sound from temporary military training activities.

36.4.5 In the Rural Zone and the Gibbston Character Zone, sound from farming and forestry activities, and bird scaring devices, other than sound from stationary motors and stationary equipment.

36.4.6 Sound from aircraft movements within designated airports.

36.4.7 Sound from telecommunications cabinets in road reserve.

597. Apart from the Aurora submission dealt with in the previous section, the submissions on this rule sought:
   a. Retain the rules[414];
   b. Retain Rule 36.4.3[415];
   c. Retain Rule 36.4.4[416];
   d. Delete Rule 36.4.6[417];
   e. Add new rule exempting noise from vessels[418].

598. Ms Evans agreed that Rule 36.4.6 could be deleted as such aircraft noise was covered by the designations, and deleting it was consistent with the amended 36.3.2.7 above[419]. We agree with that analysis and recommend the submission be accepted and Rule 36.4.6 be deleted.

599. Dr Chiles provided detailed evidence on the noise effects of motorised craft[420]. We heard no contrary expert noise evidence on this issue. It was Dr Chiles' opinion that sound from motorised craft has the potential to cause significant adverse noise effects in terms of degradation of amenity and disturbance. Consequently, he did not consider it appropriate to provide a blanket permitted activity status for noise from motorised craft.

600. We accept Dr Chiles assessment and recommend the submissions seeking the inclusion of this rule be rejected.

601. In summary, therefore, we recommend that Rule 36.4.6 be deleted, Rule 36.4.7 be renumbered 36.4.6, and, as we recommended above, a new Rule 36.4.7 be inserted for emergency and backup electrical generators. For clarity purposes, we recommend the Table be titled "Permitted Activities". The revised Table 1 is set out in Appendix 3.

17. 36.5 – RULES – STANDARDS

17.1. Table 2 : General Standards

602. As notified, this table set out the noise standards that applied to all activities, other than those specifically exempted, when measured in the receiving environment. Non-compliance with the set standards were non-complying, except in two cases as discussed below.

414 Submissions 649 (supported by FS1211) and 719
415 Submissions 438 and 708
416 Submission 1365
417 Submission 433, opposed by FS1097 and FS1117
418 Submissions 607 (supported by FS1097) and 621
419 Ruth Evans, Section 42A Report, page 14
420 Dr Stephen Chiles, EiC, section 7

603. Ms Evans identified an error in the labelling of the table as notified[421]. The second column heading as notified was "Activity or sound source". Ms Evans advised that it should have been headed "Zones sound is received in" and she recommended it be so amended as a minor Clause 16(2) amendment. As the various standards do not make sense if the notified heading is applied, we agree with Ms Evans that it should be corrected. We do not consider such a change to be anything other than minor as any person reading the standards would immediately see that the column did not list activities or sound sources (except for Rule 36.5.2 which we discuss below). We recommend this change be made as a correction under Clause 16(2).

604. As noted, Rule 36.5.2 applied different standards in the residential zones and the Rural Zone for sound generated in the Queenstown Airport Mixed Use Zone. Rule 36.5.2 had the effect of allowing more noise to be generated within the Queenstown Airport Mixed Use Zone than could be generated by any other activity, where the noise was received in a residential zone or the Rural Zone. Non-compliance with this more generous standard required consent as a restricted discretionary activity.

605. The second situation where non-compliance was not specified as "Non-complying" was Rule 36.5.5, which set no limit for noise received in the Queenstown Airport Mixed Use Zone. Although the non-compliance column stated "permitted", logically it was not possible to not comply with that standard.

606. The other matter in respect of this table we need to point out at the outset is that it included standards for a large number of zones which were not in Stage 1 of the Review, but are, rather, zones in the ODP. We note in this respect that a submission by Real Journeys Limited seeking to change the standard applying to the Rural Visitor Zone was identified by the reporting officer as being "out of scope"[422]. We also note that by resolution of the Council the geographic areas of several of these have been withdrawn from the PDP[423]. As of the date of that resolution those zones (or parts of zones) have been removed from this rule.

607. We also note that, as notified, Rule 27.3.3.1 explicitly stated that the zones listed were not part of the PDP: Stage 1, and Rule 27.3.3.2 explicitly stated that all the Special Zones in Chapter 12 of the ODP other than Jacks Point, Waterfall Park and Millbrook, were excluded from the PDP subdivision chapter.

608. Ms Scott addressed this matter in her Reply Submissions. It was her submission that the provisions of Chapter 36 were, at notification, intended to apply district-wide, even to zones not included in Stage 1. She submitted that we could take a "*flexible and* pragmatic *approach as to whether submissions are "on" Stage 2 matters, when they relate to types of activities addressed through one of the district-wide chapters*"[424].

609. We have previously advised the Council that we have serious concerns with the approach it has taken regarding the suggestion that provisions in the PDP:Stage 1 apply to land which does

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421 Ruth Evans, Section 42A Report, Paragraph 8.24

422 Ruth Evans, Section 42A Report, Appendix 2, page 7

423 Resolution of the Council dated 25 May 2017 to withdraw the geographic areas of the following ODP zones from the PDP: Frankton Flats B, Remarkables Park, Shotover Country Estate, Northlake Special, Ballantyne Road Industrial and Residential (Change 46), Queenstown Town Centre extension (Change 50), Peninsula Bay North (Change 51), Mount Cardrona Station

424 Council Reply Submissions, paragraph 2.4

not have a Stage 1 zoning[425]. In this chapter, what have been listed in the rules are, in addition to the Stage 1 zones, ODP zones. Ms Scott submitted that it would be appropriate for us to direct that those provisions be transferred to Stage 2[426].

610. There is no information before us to suggest that any of these zones (in the terms used in these rules) will become part of the PDP. While the geographic areas those ODP zones apply to may become part of the PDP in due course, it is not axiomatic that those areas will have the same ODP zones applied.

611. We also note that the only submission[427] on these rules referring to the zones listed in Ms Scott's submissions sought the deletion of "Industrial Zones" on the basis that those zones were not in Stage 1 and should not, therefore, be included in the rule at this stage. This raises the question for us as to whether the public understood that the Council was expecting the submission period in 2015 to be the one time a submission could be lodged in respect of noise received in any of these zones. We also have a concern that, if we were simply to direct that they be transferred to Stage 2, that would not automatically confer any submission rights in respect of these rules at Stage 2. Such submission rights will only be conferred if the Stage 2 process involves a change to the PDP to include such areas or zones.

612. We note at this point that the Stream 13 Hearing Panel is recommending the inclusion of the Coneburn Industrial Zone in the PDP. No noise limits were proposed within this zone, but the policies proposed included:

To minimise the adverse effects of noise, glare, dust and pollution.[428]

613. It may be that the submitter assumed that the provisions in Chapter 36 would apply, both within and outside the zone. On the face of it, the inclusion of the Coneburn Industrial Zone within the PDP would support the retention of notified Rule 36.5.7 as it applies to Industrial Zones. However, when the rule is examined, it only sets limits within Activity Areas 2, 2a, 3, 4, 5, 6, 7 and 8. It is unclear what this specification relates to, but it is clear that the rule as notified would not apply in the Coneburn Industrial Zone even if Rule 36.5.7 remained in the District Plan.. We do note that activities in the Coneburn Industrial Zone, while not needing to meet noise limits within the zone, would still need to meet the standards for noise received in the adjoining Rural Zone, or the nearby Jacks Point Zone.

614. Given the above, including the position the Council took in the reply, we have come to the conclusion that listing of the following zones in Rule 36.5 is an error:
   a. Township Zones;
   b. Rural Visitor Zones;
   c. Quail Rise Special Zone;
   d. Meadow Park Special Zone;
   e. Ballantyne Road Special Zone;
   f. Penrith Park Special Zone;
   g. Bendemeer Special Zone;
   h. Kingston Village Special Zone;
   i. Industrial Zones.

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425 Minute Concerning Annotations on Maps, dated 12 June 2017

426 Council Reply Submissions, paragraph 4.1

427 Submission 746

428 Proposed Policy 18.2.1.5 in Revised Chapter 18 provided with Joint Witness Statement on 15 September 2017

615. Consequently, we recommend all references to those zones be deleted from Rule 36.5 to correct this error. In terms of item (i) Industrial Zones, we recommend accepting Submission 746. The remainder we consider can be deleted as errors requiring correction with no substantive effect under Clause 16(2). We also consider that without deleting these references, the Council may inadvertently deprive persons with land in geographic area covered by those zones the opportunity to submit on the noise rules which would affect them when those geographic areas are brought into the PDP.

616. We consider the proper course for the Council to follow in the future is, when a variation or plan change is initiated to include an additional geographic area in the PDP, where applicable, references to the zones applied can be included in these rules as appropriate. Obviously, if that land has a PDP zone applied, such a change would not be necessary.

617. Two submissions generally supported the entire rule[429]. We recommend those submissions be accepted in part.

618. There were no submissions on Rule 36.5.1 which sets the standards for noise received in the Rural and Gibbston Character Zones. We recommend this rule be adopted as notified.

619. There were no submissions on Rule 36.5.4, other than that by Real Journeys Limited[430] which the Council identified as being out of scope. With our recommended amendments to this rule to correct the error of including references to ODP zones, the area that submission related to is no longer affected by the rule. We recommend that Rule 36.5.4 be adopted in the revised form shown in Appendix 3. We note that recommendations we make below will further amend this rule.

620. Following the Council's withdrawal of the geographic areas covered by the Shotover Country Special Zone and Mount Cardrona Special Zone, Rule 36.5.6 only applied to the Ballantyne Road Special Zone. Our recommendation that the error of including that zone in this rule be corrected by its deletion, would have the effect of deleting this rule, but Ms Evans has recommended the inclusion of other provisions within it. We will deal with that matter below.

17.2. Rule 36.5.2

621. Rule 36.5.2, which as we explained above, allowed a higher level of noise to emanate from the Queenstown Airport than from other activities, was subject to one submission[431] which sought that this rule be deleted and replaced with notified Rule 17.5.6. We note that the only substantive difference between those rules was that the night-time L_{max} was 5dB lower under Rule 17.5.6.

622. We were concerned these two rules were inconsistent with the general approach to managing noise in the District and there appeared to be no policy support for such a difference. Dr Chiles considered these limits to be inconsistent also, and it was his opinion that the inconsistencies undermine the level of amenity provided in surrounding locations by district wide noise limits[432].

429 Submissions 52 and 649
430 Submission 621
431 Submission 433, opposed by FS1097 and FS1117
432 Dr Stephen Chiles, EiC, paragraph 8.3

623. Mr Day did not address this inconsistency in his evidence. When questioned by the Panel, he answered that the residential areas around the airport are generally exposed to higher noise levels anyway.

624. Ms Evans, in her Reply Statement, noted that the noise limits were the same as in the ODP in respect of the Residential Zones, but have been extended to the Rural Zone also in the PDP. She recommended moving the standard to Table 3, which relates to specific noise sources, with a minor alteration to the wording to clarify the activities affected by the rule.

625. We agree with Dr Chiles that a separate and less onerous noise standard for Queenstown Airport is both inconsistent with the standards generally applied and undermines the amenity values the PDP is generally protecting in close-by residential areas. We also can find no basis for this differentiation in the objectives and policies of the PDP. However, with no submissions seeking the complete deletion of the standard, we cannot recommend its deletion. If there were a submission that sought such relief we would have recommended that submission be accepted. As it is, we largely agree with Ms Evans' proposed rule subject to two changes:
   a. clarification that it does not apply to sound from aircraft operations that are subject to Designation 2; and
   b. Changing the night-time L_{AFmax} to 70dB as it was notified in Rule 17.5.6.

626. For the reasons set out, we recommend to the Stream 8 Hearing Panel that Rule 17.5.6 (as notified) be deleted, and recommend to the Council that Rule 36.5.2 be moved to become Rule 36.5.15 with the wording as set out in Appendix 3. We add that we cannot confirm that this rule meets the statutory tests of s.32AA.

17.3. Rule 36.5.3

627. This rule applies standards for noise received in the residential parts of the Jacks Point and Millbrook Resort Zones. We note that the former zone was incorrectly named in the rule, being termed a resort zone. We recommend that the zone name be changed by deleting "Resort" from "Jacks Point Resort Zone" so it has the zone name applied in the PDP. We consider this to be a minor correction under Clause 16(2).

628. Two submissions were received seeking:
   a. Include the Village Activity Area in the assessment locations[433]; and
   b. Exclude the Village and EIC Activity Areas from column 2, and create a new rule making it a restricted discretionary activity for sounds from the Village and EIC Activity Areas to exceed the limits[434].

629. We note that since hearing Stream 5, submitters on the Jacks Point Zone have sought the removal of the EIC Activity Area from that zone, and the Hearing Stream 9 Panel is recommending that change be accepted. Thus, we will not address that Activity Area further.

630. Ms Evans attempted to reconcile these two seemingly opposing submissions[435]. Dr Chiles was concerned that imposing the residential noise standards on the Village Activity Area would hinder the development of activities such as cafes with patrons sitting outside[436]. Ms Evans recommendation was to move both the Millbrook and Jacks Point provisions from Rule 36.5.3 to 36.5.4 on the basis that the standards would be the same for residential areas, and to

433 Submission 632, opposed by FS1219, FS1252, FS1275, FS1277, FS1283, FS1316
434 Submission 762, opposed by FS1316
435 Ruth Evans, Section 42A Report, paragraphs 8.28 to 8.31 inclusive
436 Dr Stephen Chiles, EiC, Section 9

include the Jacks Point Zone Village Activity Area in Rule 36.5.6 which provides for higher levels of received noise.

631. Mr Ferguson supported these changes but raised two matters:
   a. Clarification of how the noise standards are applied between the stipulated assessment locations and the zone or activity areas within it is received; and
   b. The status of any breach of the noise standards[437].

632. Mr Ferguson's first point was that the heading to Column 2 (as amended) referred to receiving zones, whereas in Jacks Point Zone at least, it was only within part of the zone that it applied. We consider this can be dealt with by amending the additional words after each zone to say "Residential (or Village) Activity Areas only" to make it clear it is only part of the zone within which the relevant rule controls the receipt of noise.

633. We have considered Mr Ferguson's opinion that non-compliance with the rules applicable to the Village Activity Area should require consent as a restricted discretionary activity. In our view the point of noise standards is to establish a bottom line for amenity values which should not be breached. The standards themselves, and the forms of measurement, provide for the rare or momentary exceedance of any fixed level. If an activity is proposing to create a level of noise that will always or regularly exceed the standard, then we consider it appropriate for the Council, on a resource consent application, to be able to firstly consider whether that activity meets the thresholds of s.104D, and if so, to undertake a full evaluation of the proposal under s.104. We agree with Ms Evans' evaluation of this matter in her Reply Statement.

634. In summary, we recommend that Rule 36.5.3 be deleted and the following be inserted in Column 2 of Rule 36.5.4 (consequently renumbered 36.5.2):

Millbrook Resort Zone – Residential Activity Areas only
Jacks Point Zone – Residential Activity Areas only

635. We additionally recommend that the following be inserted in Column 2 of Rule 36.5.6 (now renumbered 36.5.4):
Jacks Point Zone – Village Activity Area only

17.4. Rule 36.5.5

636. The only submission on this rule sought its retention[438]. As noted above, and agreed by Ms Evans[439], there is no possibility of not complying with this rule, so the appropriate thing is to leave the Non-compliance Status Column blank. With that change, we recommend the rule be adopted.

17.5. Table 3

637. This table sets standards for noise from specified activities, including identifying any applicable special considerations. One submitter[440] supported all of the rules in this table subject to amendments to Rule 36.5.11 which we deal with below. There were no other submissions on Rules 36.5.8, 36.5.9, 36.5.10, 36.5.12 and 36.5.17.

638. The only other submission[441] on Rule 36.5.15 sought that it be retained.

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437 Christopher Ferguson, EiC, page 5
438 Submission 433, opposed by FS1097, FS1117
439 Ruth Evans, Reply Statement, Appendix 1
440 Submission 649
441 Submission 580

639. Ms Evans recommended that Rule 36.5.17 be transferred to Chapter 41 as a rule applying to Jacks Point Zone. We agree with that recommendation and refer that rule to the Stream 9 Hearing Panel.

640. Subject to renumbering and altering the reference in Rule 36.5.8 to the NESTF 2016, we recommend that Rules 36.5.8, 36.5.9, 36.5.10, 36.5.12 and 36.5.15 be adopted as notified.

17.6. Rule 36.5.11

641. This rule controls noise from frost fans. The sole submission[442] sought that the L_{AFmax} limit failed to account for increased annoyance where there are special audible characteristics present. It sought that the limit be changed to 55 dB $L_{Aeq(15\ min)}$.

642. Dr Chiles[443] agreed that the 85 dB L_{AFmax} would not adequately control noise effects. He considered that proposed in the submission to be adequate, although significantly more lenient than the general night-time noise limit of 40 dB $L_{Aeq(15\ min)}$. Ms Evans accepted Dr Chiles advice and recommended amending this rule as requested.

643. On the basis of that evidence we recommend that Rule 36.5.11 (renumbered as 36.5.8) be amended to set a noise limit of 55 dB $L_{Aeq(15\ min)}$.

17.7. Rule 36.5.13

644. This rule set the standard for noise from helicopters. Three submitters[444] supported this rule. Other submissions sought:
   a. Delete the rule[445];
   b. Measure L_{max} rather than L_{dn}[446];
   c. Delete the L_{dn} measurement[447];
   d. Make non-compliance a discretionary activity[448].

645. In addition, one submission sought the introduction of a separate rule for helicopters landing near the top of Skyline Access Road[449].

646. It was Dr Chiles' evidence[450] that the adverse effects of helicopters are related to both the sound level of individual helicopter movements, and also the frequency of movements. He noted that while there were some limitations with the use of an L_{dn} noise limit, it would control both factors. On the other hand, while a L_{AFmax} noise level would control the sound level, it would not control the number of movements. He also noted that there can be difficulty in obtaining reliable assessments of helicopter noise using the L_{AFmax} limit.

647. Dr Chiles also explained why he considered the L_{dn} control for helicopter noise in this rule, coupled with the additional controls on movement numbers in the Rural Zone, sets an appropriate noise limit to manage adverse noise effects. While he agreed that there was

442 Submission 649
443 EiC, Section 12
444 Submissions 143 (opposed by FS1093), 433 (opposed by FS1097, FS1117) and 571
445 Submission 475, opposed by FS1245
446 Submissions 607, 626, 660, 713
447 Submission 243, opposed by FS1224, FS1245
448 Submission 607
449 Submission 574, opposed by FS1063
450 EiC, Section 13

justification for applying the noise limits recommended for commercial areas by NZS6807 to commercial areas in the PDP, as sought in Submission 574, he considered that limit not to be appropriate in the area specified in that submission. He advised us that a recent Environment Court decision[451] found that the commercial area noise limit from NZ6807 was not appropriate in that location. He advised that in considering that application, the Court found that a helicopter noise limit of 60 dB L_{dn} in conjunction with a limit of four helicopter flights a day to be appropriate. He was unaware of justification to insert specific and different noise limits for this location into the PDP.

648. Mr Dent appeared in support of Submission 574. It was his opinion that NZ6807 was the appropriate standard for measuring helicopter noise. He explained that the ODP rules effectively have no applicable noise rules for helicopters. Turning to the specific issue of the Skyline helicopter pad, he considered there was value in making provision for a helicopter pad to locate in the vicinity of Bobs Peak with a noise limit of 60 dB L_{dn} (less than the 65 dB L_{dn} sought in the submission).

649. In response to this evidence, Ms Evans proffered the opinion that if the Council were to include specific controls for a specific consented activity, the PDP would be littered with such special provisions. She also advised that the Environment Court only granted consent for 5 years, to enable review, whereas if it became a rule in the PDP then it would not be subject to review until the PDP were reviewed, and would, potentially, be there for the life of the activity[452].

650. There are three issues for us to deal with in regard to this rule:
   a. Whether helicopter noise limits be set using NZS6807 or in the same manner as other noise is generally controlled in the District;
   b. The activity status of a resource consent for non-compliance; and
   c. Whether special provision should be made for helicopter landing at Skyline.

651. All the expert evidence we heard advised us that NZS6807 is the appropriate standard to use of the assessment and control of helicopter noise. As that standard is specifically designed to deal with helicopter noise, that is unsurprising. Mr Dent assisted us by setting out a number of local consent hearings where the hearing commissioners had agreed with expert noise evidence that concluded the ODP noise rules were ineffective, or unable to control, helicopter noise. We accept all that evidence and conclude that Rule 36.5.13 as notified is fundamentally sound. We also agree with Ms Evans' recommendation that the Advice Note should specify Queenstown and Wanaka Airports.

652. Our views on the non-compliance status of any breach of this rule is consistent with those we gave above in respect of Rule 36.5.3 above. As it was, we heard no evidence on this from the submitter.

653. The Stream 10 Hearing Panel has recommended that the final clause in the notified definition of noise in Chapter be inserted in this rule. We agree that is a more appropriate location and is a non-substantive change under Clause 16(2).

654. For those reasons we recommend that Rule 36.5.13 (renumbered 36.5.10) be adopted as notified, with the addition of the phrase from Chapter 2 and a minor amendment to the advice note.

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451 ZJV (NZ) Limited v Queenstown Lakes District Council & Skyline Enterprises Limited [2015] NZEnvC 205

452 Ruth Evans, Reply Statement, Section 9

655. We also note that, in addition to this rule, other rules in the Rural Zone relating to informal airports restrict the frequency of flights and impose setback requirements in certain situations. The combination of those rules should go some way to address the concerns of those submitters who sought the deletion or modification of this rule.

656. Turning to the Skyline issue, we agree with Ms Evans that turning a resource consent into district plan rules, when that consent is subject to a time limitation because of the potential adverse effects, is fraught with issues. We consider it would be poor resource management practice to create such a rule as it would restrict the Council's ability to adjust the terms of the activity if monitoring disclosed adverse environmental effects beyond those foreseen. In our view, if Skyline wishes to choose a better site for helicopter landing, and it requires a resource consent, then they should follow that process. We recommend that submission be rejected.

17.8. Rule 36.5.14

657. This rule sets noise limits for fixed wing aircraft using NZS6805 as the means of measuring and assessing aircraft noise. One submission[453] sought the retention of this rule, while two submissions[454] sought its replacement with an L_{max} limit and changing the non-compliance status to discretionary.

658. Again this issue is whether a standard specifically designed to measure and assess aircraft noise (NZS6805) should be used as the basis for setting the limits in this rule, or the general provisions used elsewhere in the District. We heard no evidence in support of the submissions seeking to amend this rule and see no reason to for there to be a different approach to setting noise limits for fixed wing aircraft from that used for setting noise limits for helicopters.

659. We recommend that Rule 36.5.14 (renumbered 36.5.11) be adopted as notified, and the advice note be amended to specify Queenstown and Wanaka Airports.

17.9. Rule 36.5.16 and Rule 36.8

660. Rule 36.5.16 set a noise limit of 77 dB L_{ASmax} for commercial motorised craft operating on the surface of lakes and rivers. Rule 36.8 set out the methods of measurement and assessment of such noise.

661. One submission[455] sought the retention of Rule 36.8. Other submissions sought:
   a. Lower the limit in Rule 36.5.16 and include live commentary on vessel as well[456];
   b. Exempt low or moderate speed passenger service vessels from 36.8[457];
   c. Set the limit for jet boats competing in jet boat race events at 92 dB L_{ASmax}[458].

662. We note in respect of item (b) above, the same submitter sought that such vessels be permitted activities in Table 1. We have deal with that matter above and recommended rejecting that submission.

663. Dr Chiles discussed the issues that have arisen with administering the noise rules relating to motorised craft under the ODP. He recommended that deletion of the testing methodology

453 Submission 433, supported by FS1345 and opposed by FS1097, FS1117
454 Submissions 607 and 621
455 Submission 649
456 Submission 243, opposed by FS1224, FS1245
457 Submission 621
458 Submission 758

in Rule 36.8 would partly address concerns raised in Submission 621. Ms Evans recommended a consolidation of Rules 36.5.16 and 36.8 which would include deletion of the testing methods.

664. Dr Chiles advised us that the level of 77 dB L_{ASmax} had operated successfully under the ODP. He considered that if it were reduced, it would restrict the ability of many vessels to operate on the surface of lakes and rivers in the District. He also considered it was not practicable to assess the sound of on-board commentary using the methods for assessing motorised craft. He considered the general noise standards (Rule 36.5.1 for instance) should apply to such noise.

665. It was Dr Chiles' opinion that the noise from jet boat racing should be assessed on a case by case basis via the resource consent process.

666. As alluded to above, Ms Evans recommended a consolidation of Rules 36.5.16 and 36.8. In doing this she incorporated Rule 36.8.1.2 into Rule 36.5.16. As notified, there was a potential conflict between these two rules, and, at minimum, an ambiguity. Rule 36.5.16 set a single noise limit, and in the "Time" Column stated "Refer 36.8". Rule 36.8.1.2 stated:
The measured sound pressure level shall not exceed a maximum A weighted level:
- *77 dB LASmax for vessels to be operated between the hours of 0800 and 2000;*
- *67 dB LASmax for vessels to be operated between the hours of 2000 and 0800.*

667. In consolidating the rules, Ms Evans pulled the night-time level into Rule 36.5.16. We need to consider whether a plan user would have expected the night-time limits to apply given the notified version of Rule 36.5.16. As Ms Black's evidence, on behalf of Real Journeys Ltd, was concerned in part with the ability of her company's vessels to operate between 0700 and 0800, and 2000 and 2100, in accordance with the lower levels, we can be satisfied that submitters understood those lower limits to apply.

668. While Ms Black's evidence was mainly focussed on the permitted activity status sought, as discussed in an earlier section above, she did explain the nature of Real Journeys' vessel operations. We understood Dr Chiles' evidence to be that the PDP noise rules for vessels represented no change from those in the ODP for commercial vessels. There was nothing in Ms Black's evidence to suggest that meeting the ODP noise limits had been an issue for her company. For those reasons, we see no justification in altering the limits in Rule 36.5.16.

669. Mr McKenzie presented a statement on behalf of Jet Boating New Zealand Inc in respect of the request for a separate noise limit for jet boats taking part in jet boat race events. He attached to his evidence a noise report from 2005 for applications for a number of international jet boat races.

670. The fundamental difficulty this submitter has is that Rules 36.5.16 and 36.8 only relate to commercial vessels. We do not understand jet boats involved in jet boat races to fall into that category. In the absence of any other noise rules controlling vessels, non-commercial boating fall to be considered under the provisions of Table 2. Dr Chiles expressed the opinion that the same noise limits should apply to all motorised craft[459]. We agree and recommend that the Council initiate a variation to apply the noise limits in Rule 36.5.16 to all motorised craft. Jet Boating New Zealand Inc would have the opportunity to lodge a submission on such a variation if it considered it did not adequately provide for its members' activities.

459 Dr Stephen Chiles, EiC, paragraph 7.1

671. In summary, for the reasons set out above, we agree with the revised version of Rule 36.5.16 (renumbered 36.5.14) recommended by Ms Evans and recommend the Council adopt that version of the rule as set out in Appendix 3, and we recommend the deletion of Rule 36.8.

17.10. Rule 36.6

672. This rule contained provisions designed to protect nearby residents from the effects of airport noise. Rule 36.6.1 related specifically to a zone which was not part of PDP: Stage 1 – the Rural Visitor Zone. Rule 36.6.2 (Table 4) set the acceptable construction methods to meet the sound insulation requirements within the Air Noise Boundary of the Queenstown Airport. Rule 36.6.3 (Table 5) set out the ventilation requirements within the Outer Control Boundary and Air Noise Boundary of Queenstown and Wanaka Airports.

673. One submission supported the rules in full[460], one supported Table 4 with a minor correction and replacement of Table 5[461], one sought amendments to address modern building solutions[462], and another sought that provision be made for requiring air conditioning[463]. Another submission[464] was listed as being relevant to this rule, but on reading the submission we concluded it only related to the provision for informal airports in the rural chapters. We have taken no account of that submission and leave it to the Stream 2 Hearing Panel to deal with.

674. We consider Rule 36.6.1 creates the same issues as those we discussed above in relation to ODP zone names being listed in Rules 36.5.4, 36.5.6 and 36.5.7. In our view, for the purposes of the PDP, the Rural Visitor Zone does not exist. Thus, this rule is of no practical effect. We also note that this rule has not been mentioned in the Section 32 Report for Noise. In fact, that report does not mention the Rural Visitor Zone at all. We can only conclude that the inclusion of this rule is a mistake that should be corrected. For those reasons, we recommend Rule 36.6.1 be deleted as an error under Clause 16(2).

675. Dr Chiles provided useful evidence on the construction and ventilation requirements[465]. It was his advice that the glazing requirement in Table 4 be changed to double glazing with 4mm thick panes separated by a cavity at least 12mm wide. He also confirmed that ceiling plasterboard should be 9 mm, as sought in Submission 433.

676. In terms of ventilation, Dr Chiles advised that he had sought advice (for another client) on how ventilation rules could meet the aim of providing sufficient thermal comfort for occupants, so they have a free choice to leave windows closed if required to reduce adverse external sound. Based on that review, he recommended a specification that would replace Rule 36.6.3 (and also 36.7 which we deal with below). In his opinion, such a specification would give effect to Submission 80, but would only adopt the specification put forward in Submission 433 in part. Ms Evans redrafted Rule 36.6.3 based on Dr Chiles advice.

677. The only submitter heard from in respect of this rule was QAC. By the time of the hearing the only matters at issue related to Rule 36.6.3 – Table 5. These issues can be further narrowed to be, in essence:

a. The appropriate standard for low rate ventilation;

460 Submission 649
461 Submission 433, opposed by FS1097, FS1117
462 Submission 383, opposed by FS1340
463 Submission 80, opposed by FS1077
464 Submission 310, opposed by FS1245
465 Dr Stephen Chiles, EiC, Section 14

b. How many air changes per hour occurred at high setting on the ventilation system;
c. The need for passive relief venting; and
d. The measuring point for assessing the noise level of the ventilation system.

678. Mr Roberts provided expert ventilation evidence. He described the difficulties faced in implementing the ventilation system required by the notified rules. He also identified that some of the requirements, particularly that requiring 15 air changes per hour, were unnecessary in the Queenstown climate. His recommendation was that Table 5 should be amended so as to:

a. Reduce the high setting air changes so that there is no difference between Bedrooms and other Critical Listening Environments, for the purposes of rationalising the type, physical size and quantity of separate ventilation systems required to comply, and that those ventilation systems can readily achieve the difference between high and low setting air flow rates;
b. Provide the ability to use more modern and efficient plant, including heat pump air conditioning units; and
c. Simplify the system design in order that it can be readily designed to comply by local contractors.[466]

679. In respect of the differences between the Council provisions and QAC provisions, he noted:
a. The ventilation rates should not be linked to provisions of the NZ Building Code as those provisions are designed for different purposes;
b. While 6 air changes per hour proposed by the Council is very similar to the 5 air changes per hour he recommended, the extra change per hour would require an additional fan or complex air flow control system, with costs disproportionate to benefit;
c. High air change setting and cooling via heat pump cooling system could be provided as alternates;
d. The omission of a heating requirement from the Council proposal is possibly an error;
e. To ensure that combustion appliances can operate safely under the high air change requirement, additional passive relief venting is required;
f. There should be no need to duplicate heating, ventilation or cooling systems where they are already present and satisfy the requirements of the rule[467].

680. Ms O'Sullivan attached a draft rule that, in her opinion, achieved the matters raised by Mr Roberts[468].

681. The other outstanding matter was the point at which to measure the noise of the cooling system. The rule stated that noise levels were to be measure at a distance of 1 m to 2 m from any diffuser. Dr Chiles recommended that it be set at 1 m to remove ambiguity, while it was Mr Day's evidence that this should be set at 2 m.

682. Ms Wolt submitted that there was no scope to set the measuring point at 1 m, while there was scope to set it at 2 m. In her Reply Statement, Ms Evans accepted that there may not be scope to set it at 1 m and recommended that it be set at 2 m, noting that it was likely that most persons measuring such noise would use the most lenient point.[469]

466 Scott Roberts, EiC, paragraph 17
467 ibid, paragraphs 28 - 38
468 Kirsty O'Sullivan, EiC, Appendix D
469 Ruth Evans, Reply Statement, paragraph 8.4

683. The evidence from the noise experts did not suggest that there was a difference between the ventilation rule options put to us in terms of protecting residents from aircraft noise. Given that lack of difference, we prefer the expert advice of Mr Roberts and accept that the rule drafted by Ms O'Sullivan, subject to minor amendments, is the most appropriate to include in the PDP. As amended, this rule explicitly provides for cooling as sought in Submission 80.

684. For those reasons, we recommend that Rule 36.6.3 (renumber 36.6.2) be adopted in the form shown in Appendix 3.

17.11. Rule 36.7

685. This rule provides ventilation requirements for critical listening environments in the Wanaka and Queenstown Town Centre Zones, the Local Shopping Zones and the Business Mixed Use Zone. There were no submissions on this rule and the Council, therefore, has no scope to change it other than by variation. It was Dr Chiles' evidence that it did need changing, even if only to correct the low setting from 1-2 ac/hr to 0.5 ac/hr. We recommend the Council obtain expert ventilation advice on appropriate standards for these zones and implement a variation to implement that advice if required.

17.12. Consequential Amendments Recommended by Other Hearing Streams

686. In addition to the amendments recommended by the Stream 8 Panel in relation to Section 36.1 and Rule 36.3.2.8 discussed above, that Panel has also recommended consequential amendments to recommended Rules 36.5.1, 36.5.3, 36.5.4 and 36.5.14.

687. The amendment to Rule 36.5.1 is consequential on the recommended rezoning of Wanaka Airport from Rural to Airport Zone. We agree that listing the Airport Zone – Wanaka in this rule will continue the notified noise regime for the land and therefore it can be made as a non-substantive change under Clause 16(2).

688. The remaining amendments are consequential on changing the name of the Airport Mixed Use Zone to Airport Zone. Again such changes are non-substantive changes under Clause 16(2).

689. We recommend those amendments, as shown in Appendix 3, are adopted.

17.13. Summary of Conclusions on Rules

690. We have set out in Appendix 3 the rules we recommend the Council adopt. For all the reasons set out above, we are satisfied that the rules are the most effective and efficient means of implementing the policies so as to achieve the objectives of Chapter 36, and those in the Strategic Directions chapters. Where we have recommended rules not be included, that is because, as our reasons above show, we do not consider them to be efficient or effective.

18. CHANGES SOUGHT TO DEFINITIONS

18.1. Introduction

691. Submitters on this Chapter also lodged submissions on a number of notified definitions and also sought the inclusion of several new definitions. In accordance with the Hearing Panel's directions in its Second Procedural Minute dated 5 February 2016, we heard evidence on these definitions and have considered them in the context of the rules which apply them. However, to ensure a consistent outcome of consideration of definitions, given the same definition may be relevant to a number of hearing streams, our recommendations in this part of the report are to the Hearing Stream 10 Panel, who have overall responsibility for recommending the final form of the definitions to the Council. As the recommendations in this section are not

directly to the Council, we have listed the wording we are recommending for these definitions in Appendix 5.

18.2. Noise

692. One submission[470] sought that L_{dn} be deleted from the definition of noise. The submission suggests that it is only there to allow helicopters and no special provision should be made for noise from helicopters.

693. In discussing Rule 36.5.13 above we noted that expert noise evidence advised that the L_{dn} method is the best for measuring noise from helicopters. We recommend to the Stream 10 Hearing Panel that this submission be rejected.

18.3. Notional Boundary

694. The Southern District Health Board[471] recommended that "façade" in this definition be replaced by "any side" on the basis that in rural areas, where notional boundaries are used for noise measurement, it is all sides of the building that are important. Using the term façade may imply that it is only that facing the road which is relevant.

695. We agree with that logic and recommend to the Stream 10 Hearing Panel that the definition of notional boundary be amended to read:
Notional boundary *means a line 20 m from any side of any residential unit or the legal boundary whichever is closer to the residential unit.*

470 Submission 243, opposed by FS1340
471 Submission 649