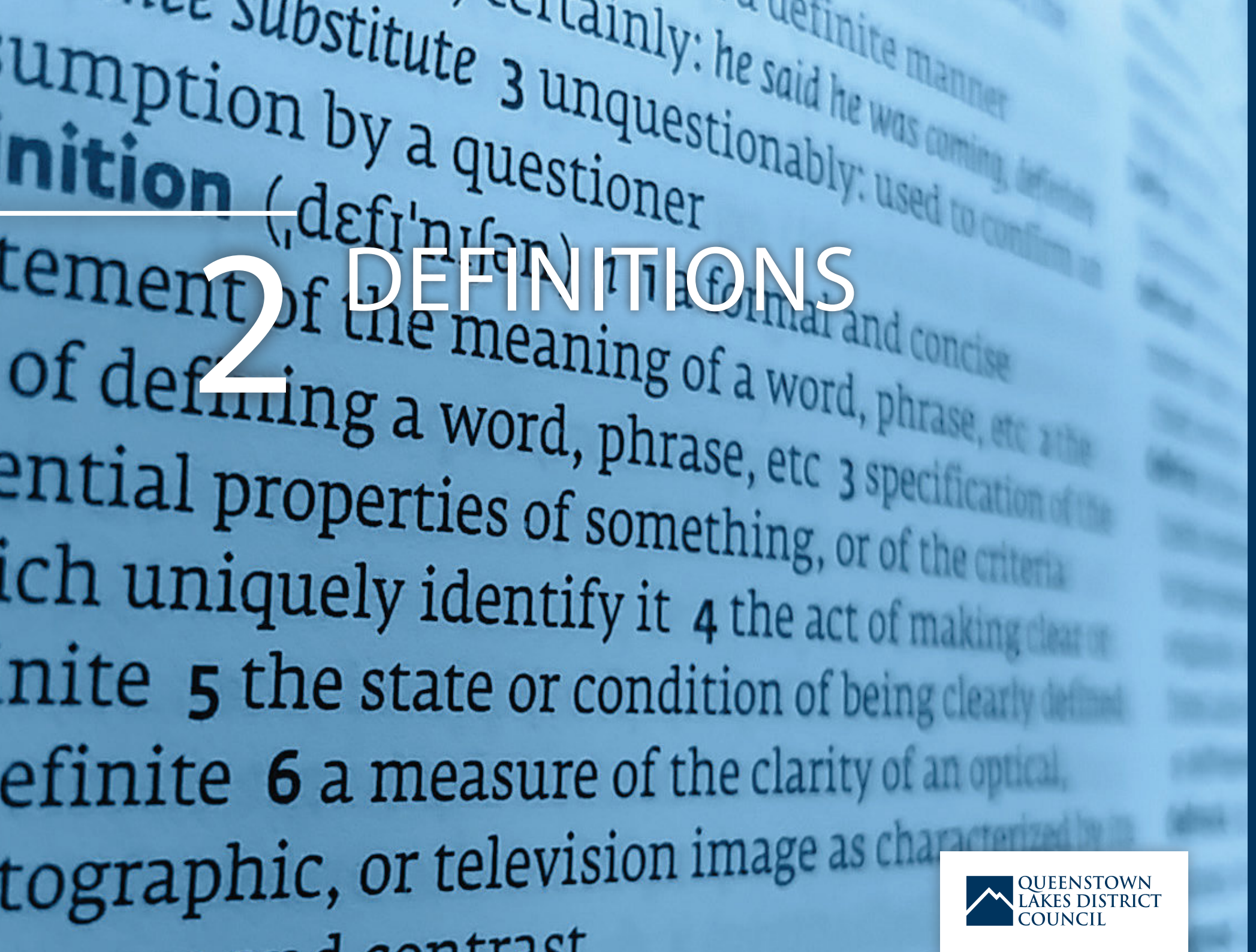
Appendix C - A copy of the relevant parts of the decision



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.

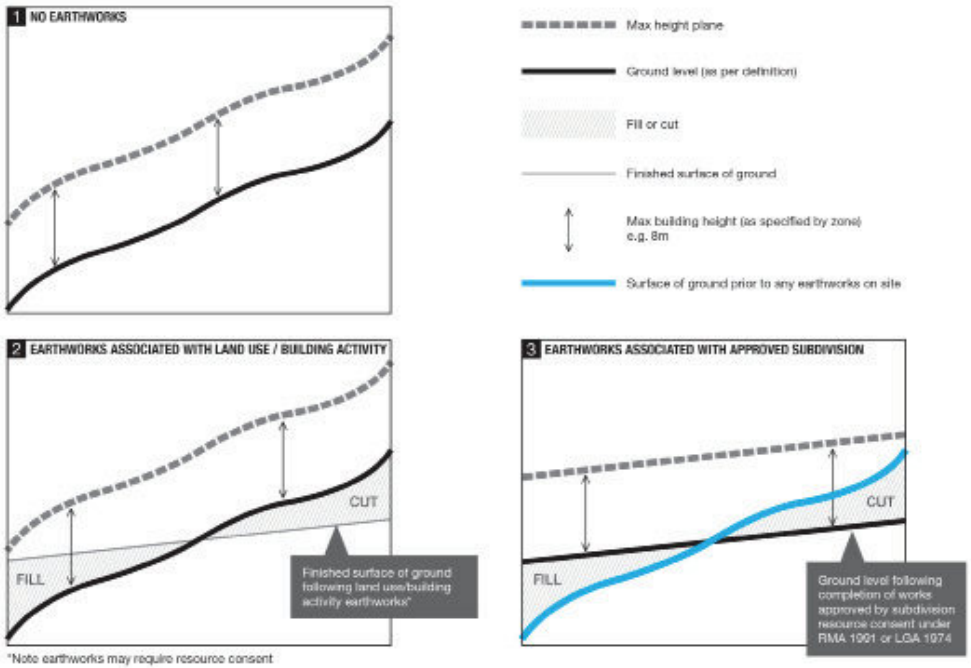
D Definitions

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.

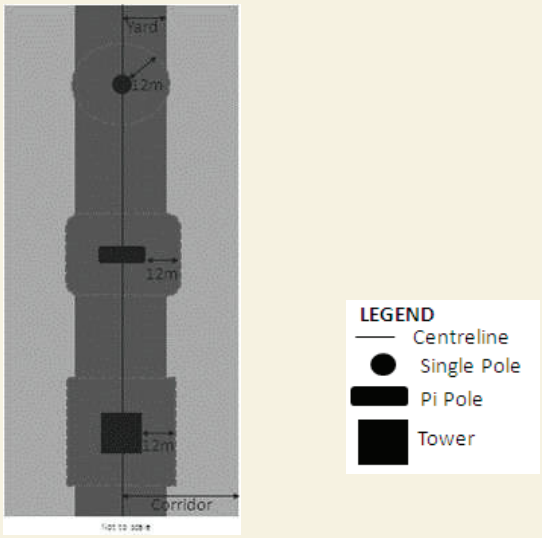
D Definitions

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

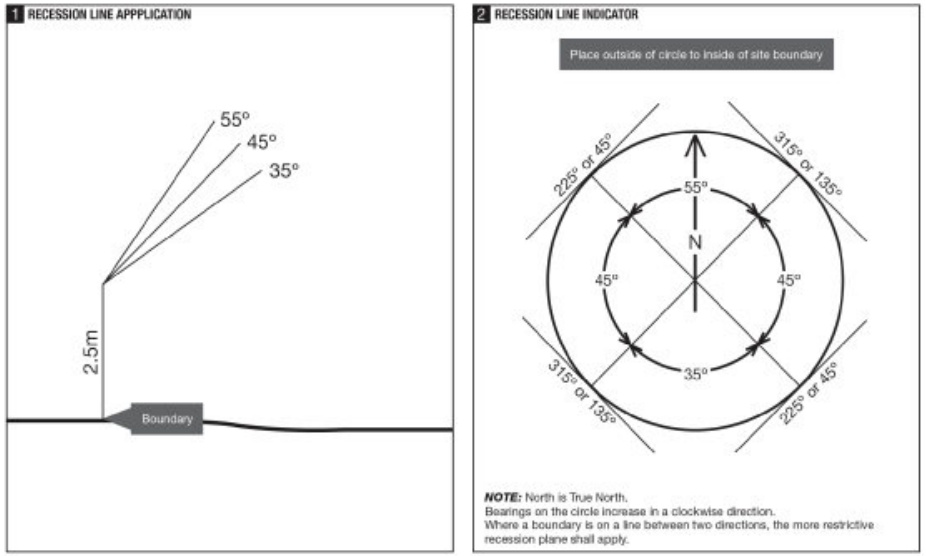
Outdoor Living Space	Means an area of open space to be provided for the exclusive use of the occupants of the residential unit to which the space is allocated.
Outdoor Recreation Activity	Means a recreation activity undertaken entirely outdoors with buildings limited to use for public shelter, toilet 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.

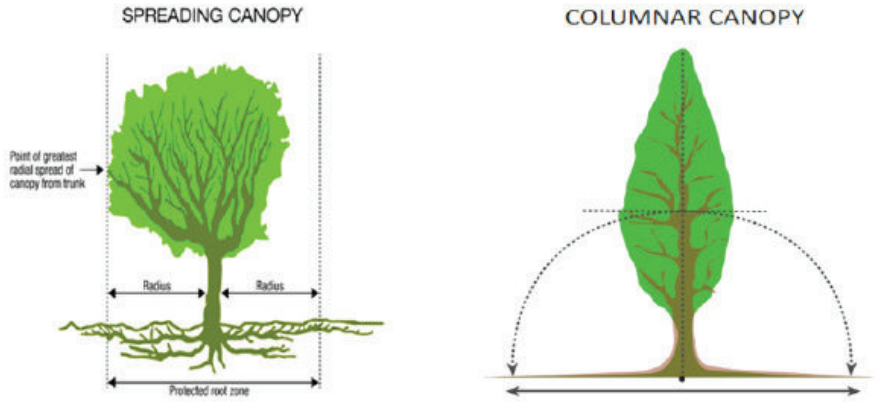
[16, 17] Greyed out text indicates the provision is subject to variation and is therefore is not part of the Hearing Panel's recommendations.

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.

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*

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;

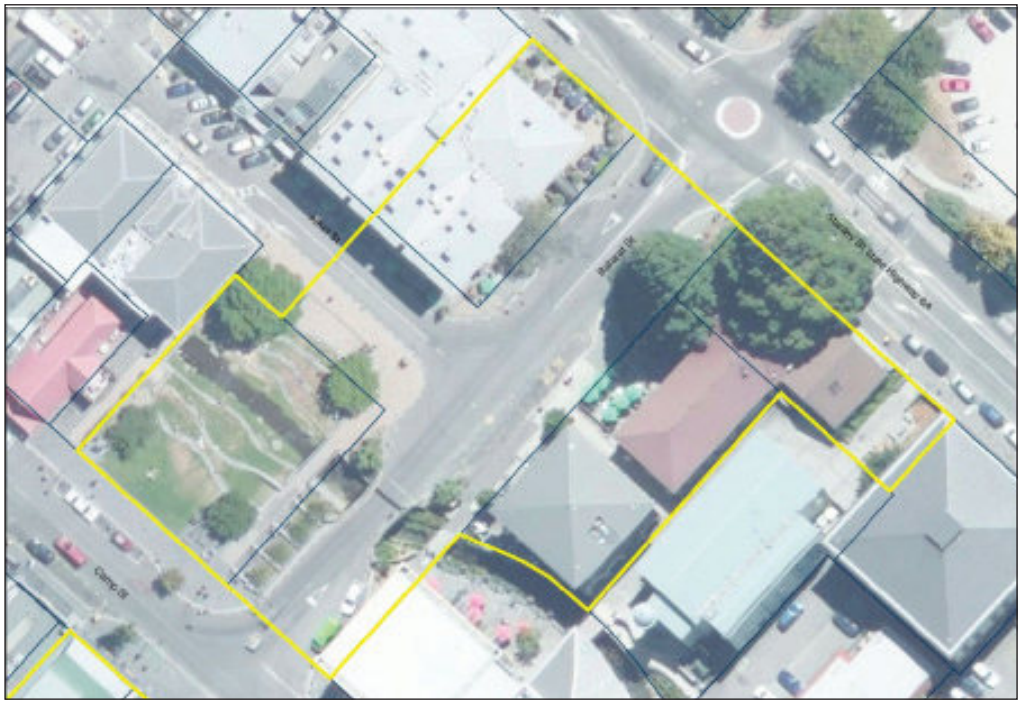
b. whether the building or structure is representative of a particular technique.

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.

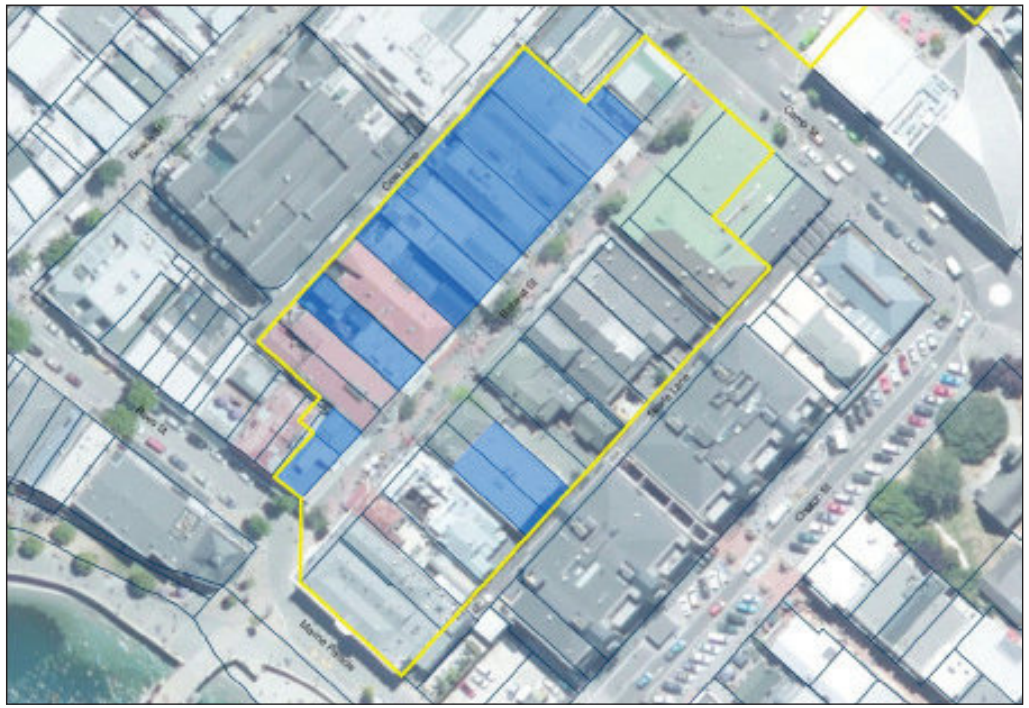
26.7.3 Key features to be protected

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

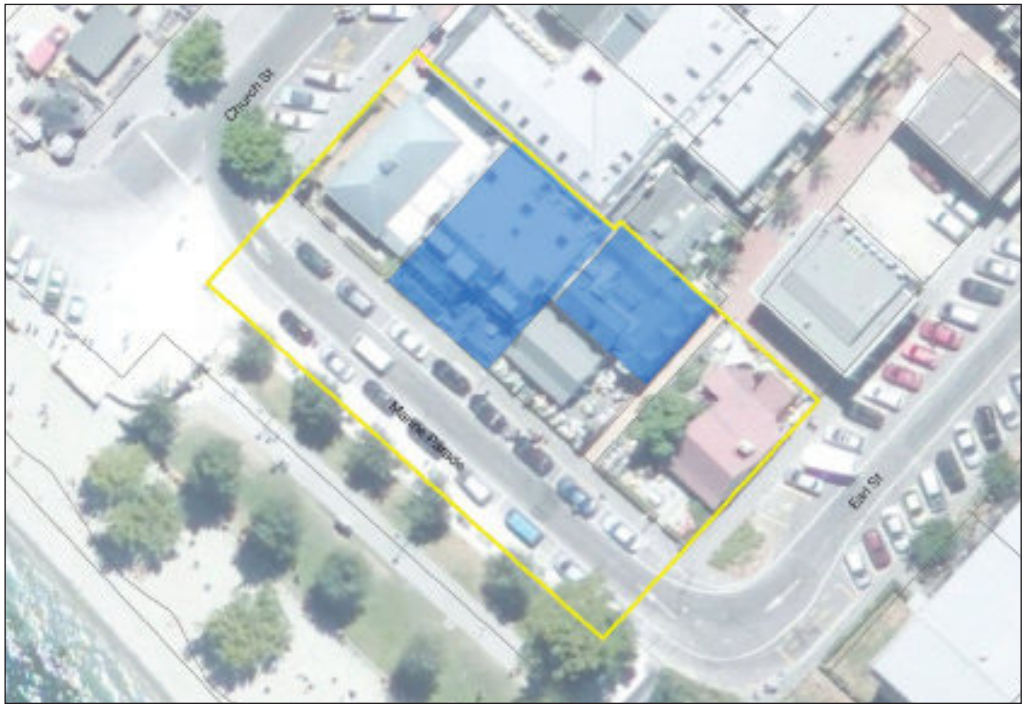
26.7.6.1 The group of reasonably intact 19th century commercial buildings / structures towards the lake end of the Mall and their setting within the Precinct.

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.

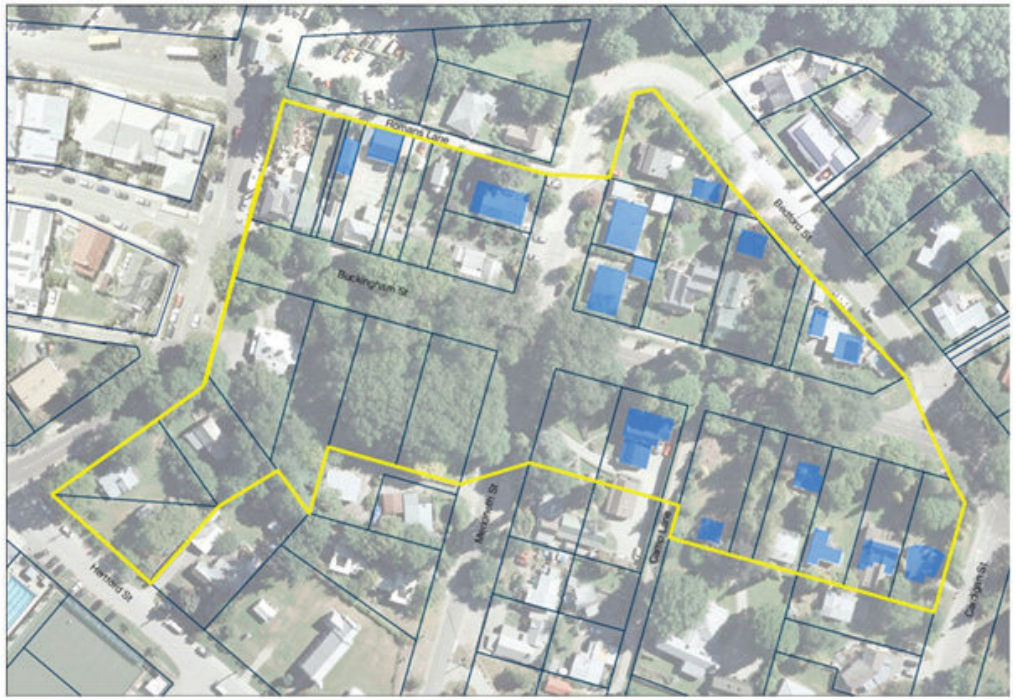
26.7.12.2 The 'group' value of the Precinct and its representative image of a traditional goldfields town.

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

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

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

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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

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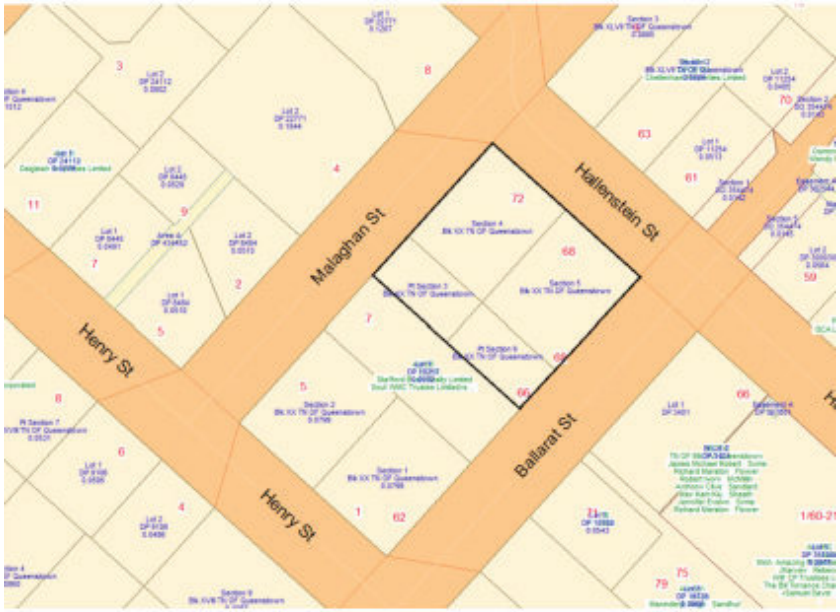
387	10	Britannia Terrace, Macetown Road	Block XVIII Shotover SD, Lot 1 DP 12267; Lots 1 & 2 DP 12940; Lots 1-4 DP 15443; Sections 3-5 Block VI Town of Arrowtown;Lots 1 & 2 DP 21884, Sections 14-15 Block IX Town of Arrowtown; Lot I DP 27170, Lot 1 DP 21701; Town of Arrowtown and the legal road to which 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

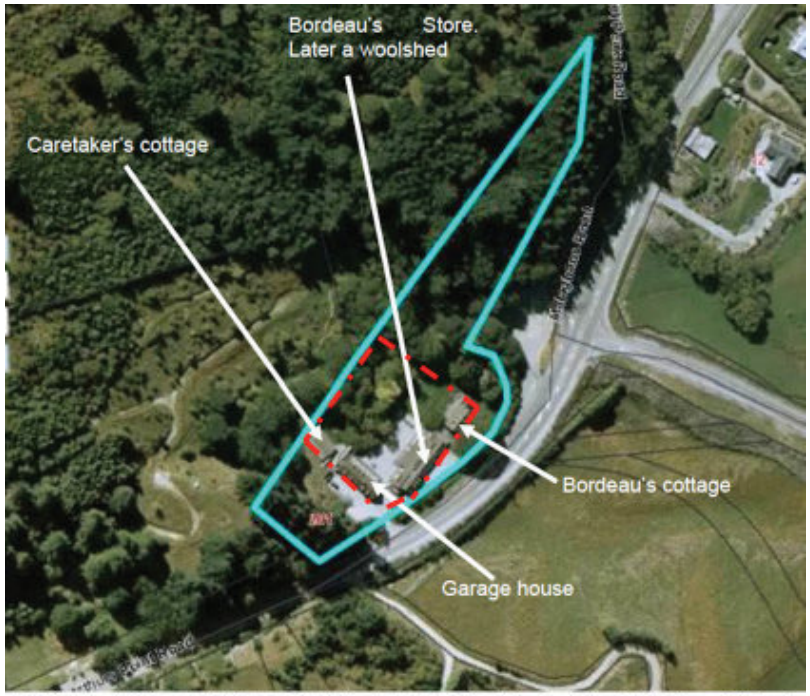
Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
508	24	Early Graves and Pioneer Memorial Albert Town Cemetery Reserve, Lake Hawea -Albert Town Road	Section 20, Block V Lower Wanaka SD (2908201200)		2
509	24	James Horn Plaque, Albert Town Bridge over the Clutha 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'

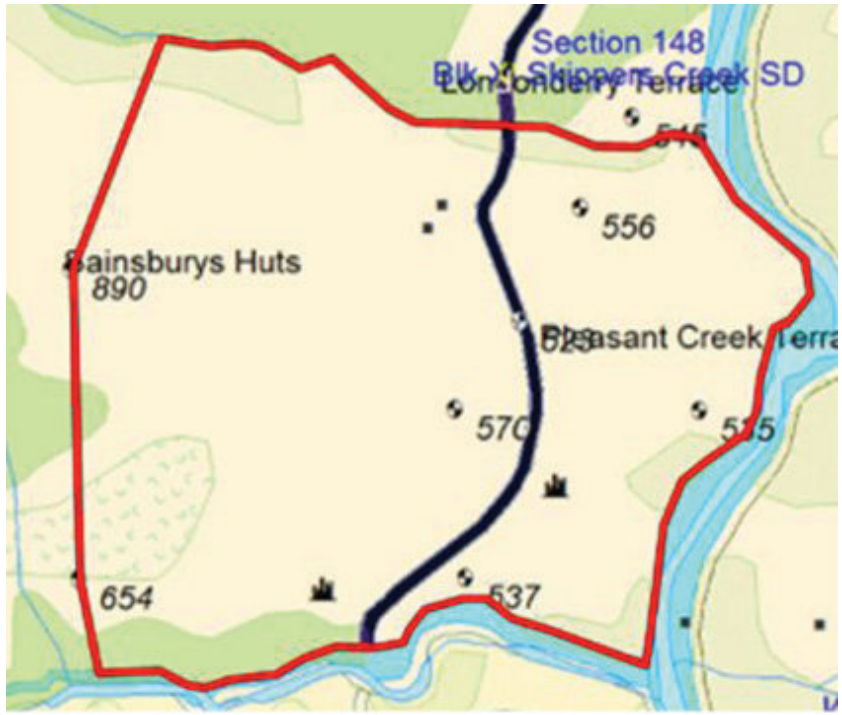


56 - Hulbert House - 68 Ballarat Street, Queenstown. The Extent of Place is shown by the black outline.

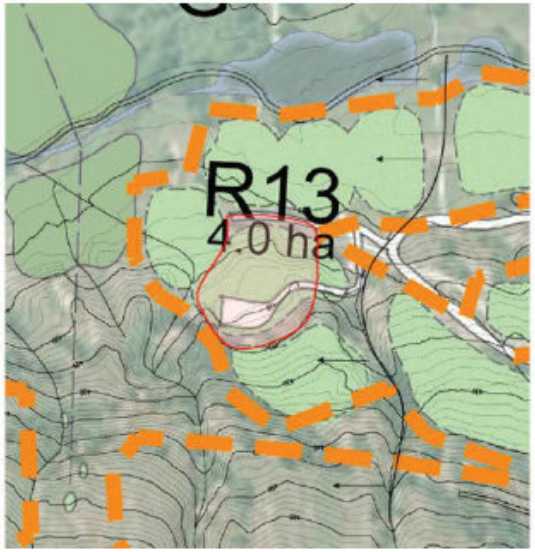


57 - Bordeau's Store - 201 Arthurs Point Road. The Extent of Place is indicated by the red dotted line. The Extent of Place includes only the land surrounding the original store and cottage.

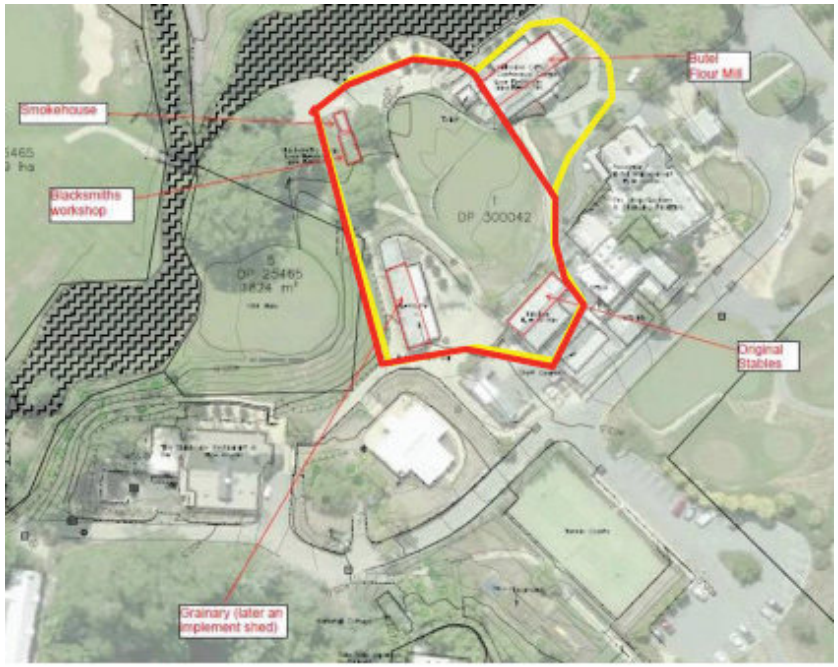
58 - Stone Building - 17 Brisbane Street, Queenstown. The Extent of Place is shown by the black outline.



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.



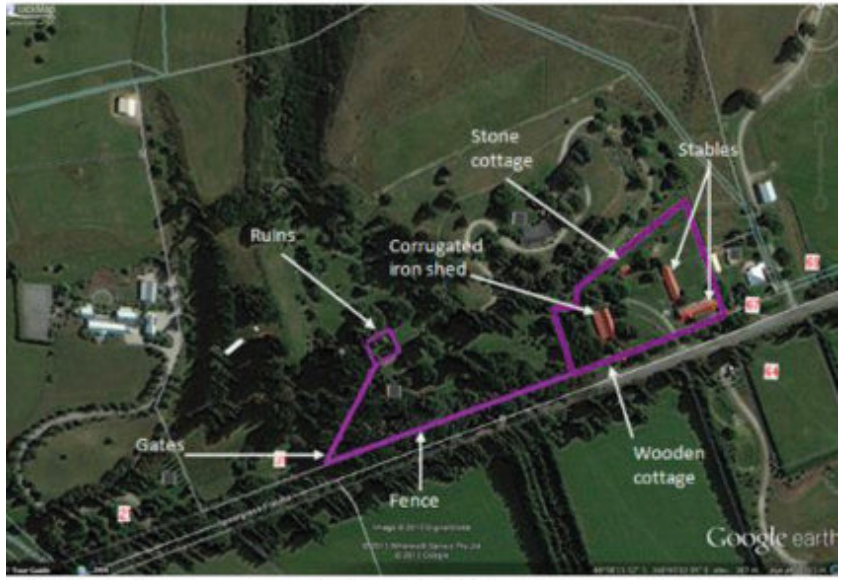
71 - Stone Cottage (McAuley) - Malaghans Road - Lot 1 DP 27269 Secs 29 57 Blk VI Shotover SD. The Extent of Place is shown by the red outline.



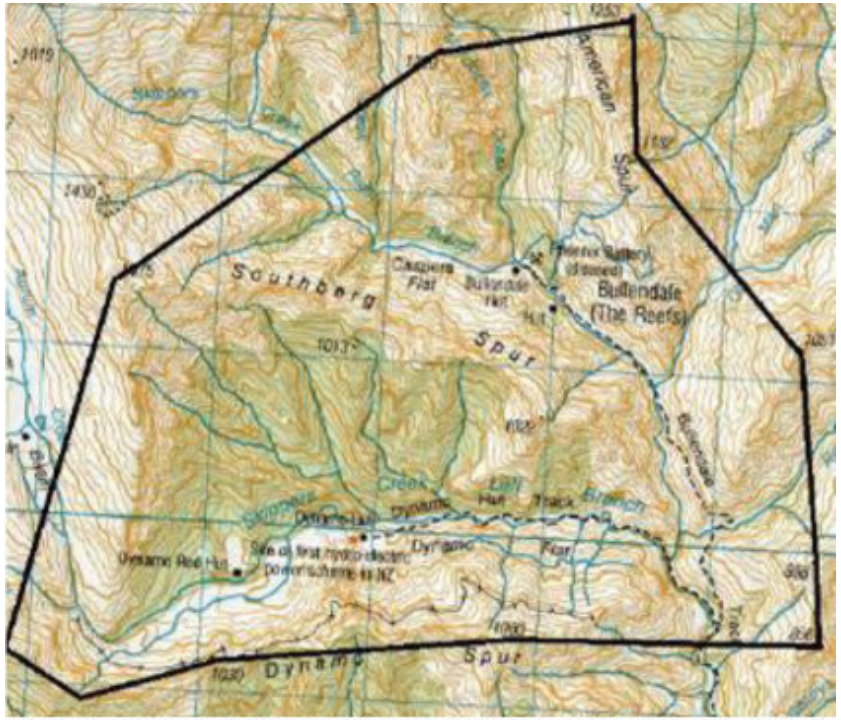
82 - Millbrook stables (remaining historic stone structure), the implement shed (remaining historic stone structure), and the blacksmith's building/ smoker - The Extent of Place is shown by the red outline.

93 - Butel's Flourmill (original foundations and stone wall), Off Butel Road, Millbrook Area - The Extent of Place is shown by the red outline.

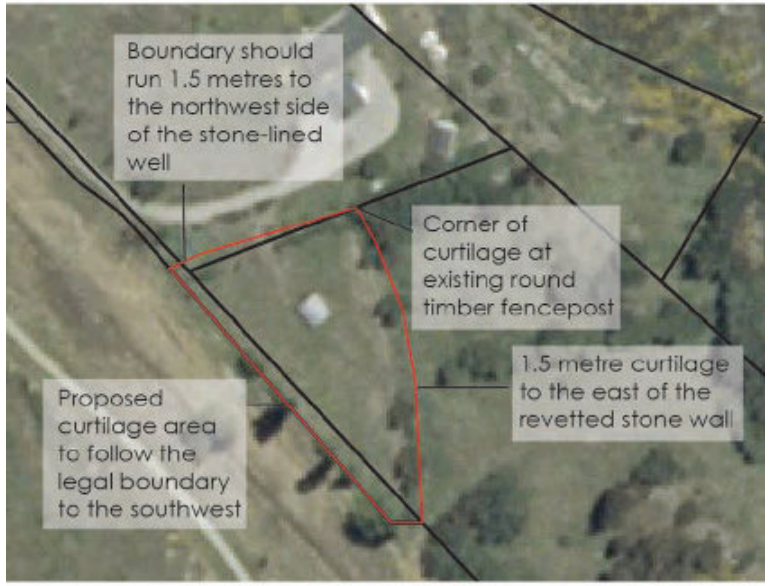
108 - Coronation Bath House, Marine Parade. The Extent of Place is indicated by the white circle.



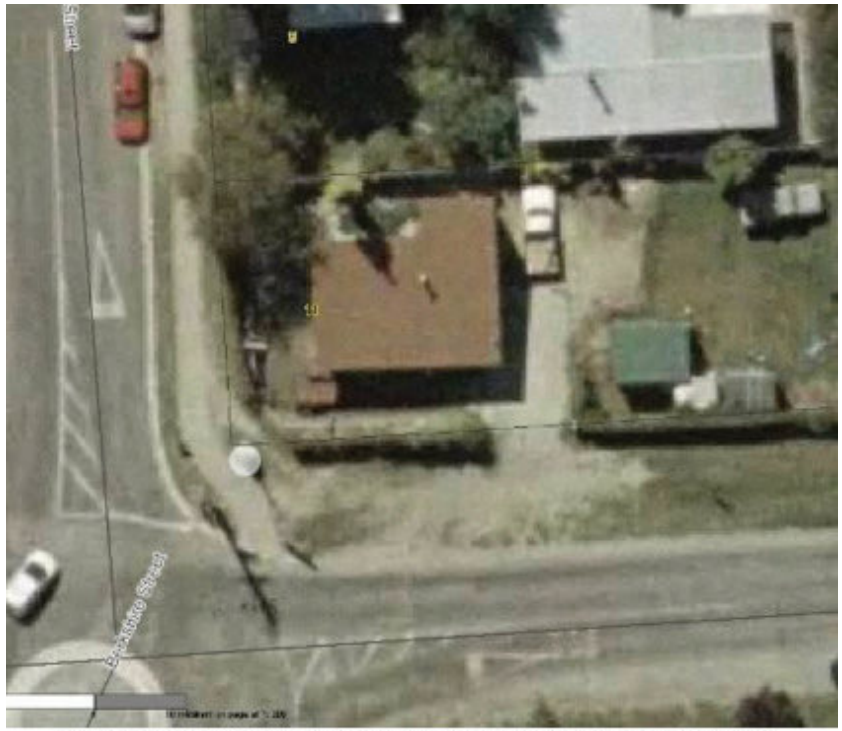
131 - Thurlby Domain - Speargrass Flat Road. The Extent of Place is shown by the purple outline.



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.

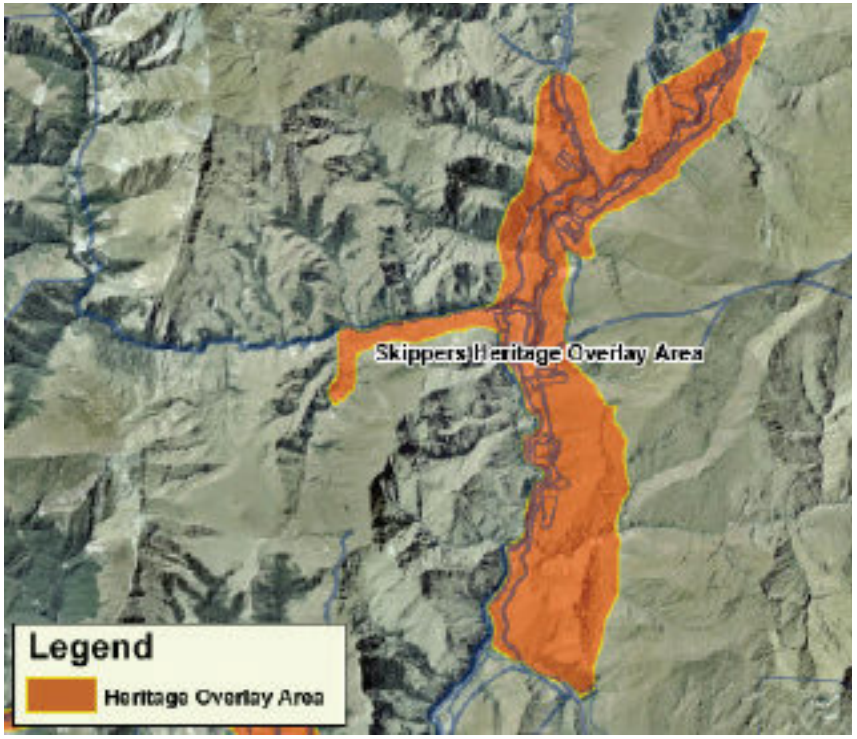
367 - St John's Church - 26 Berkshire Street Arrowtown. The Extent of Place is shown by the red outline.

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

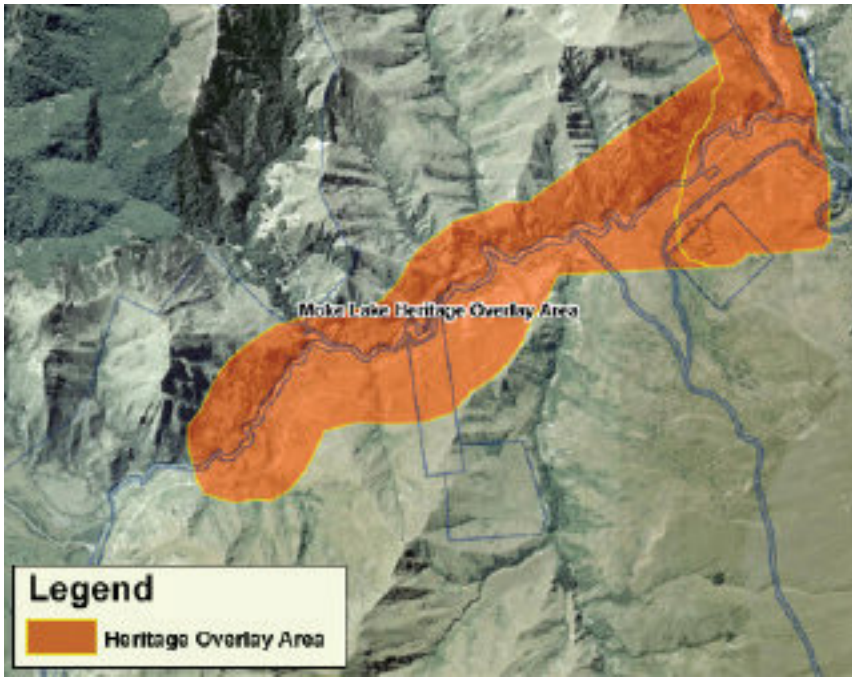
26.10.3.1 The Skippers Road and its historic revetments and construction features.

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.

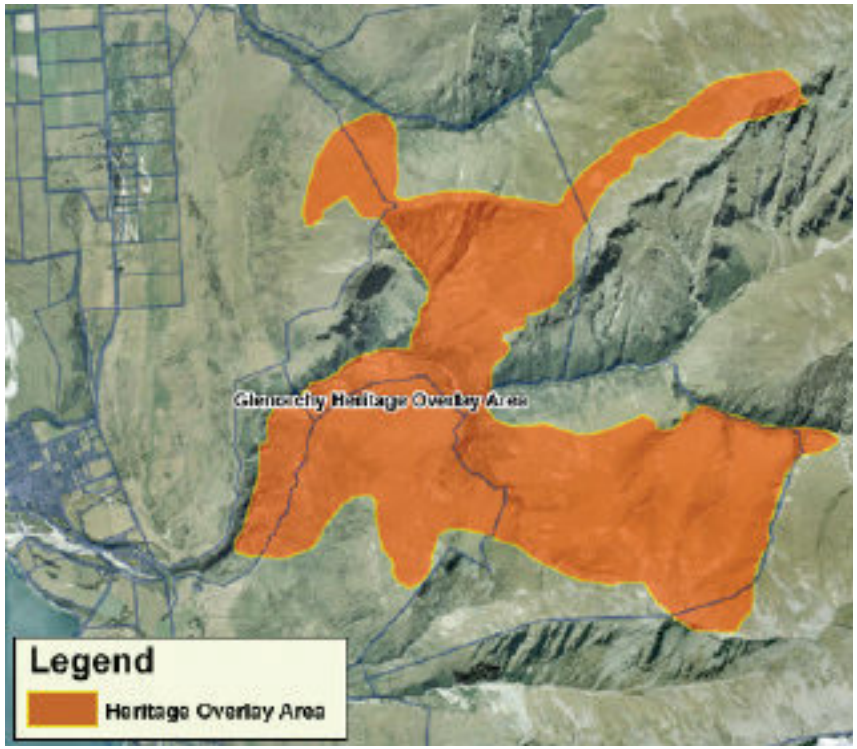
26.10.6.3 Moke Lake Road and the historic track to Butchers Hut along the true right bank of the Moonlight Creek.

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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1 Report 6

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;

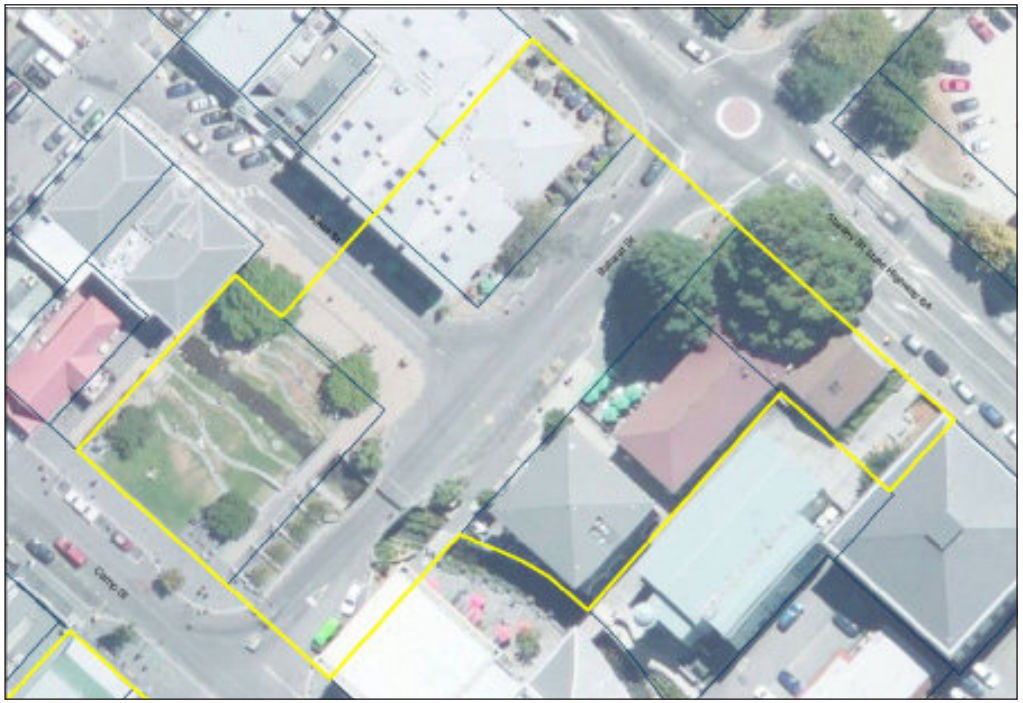
b. whether the building or structure is representative of a particular technique.

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.

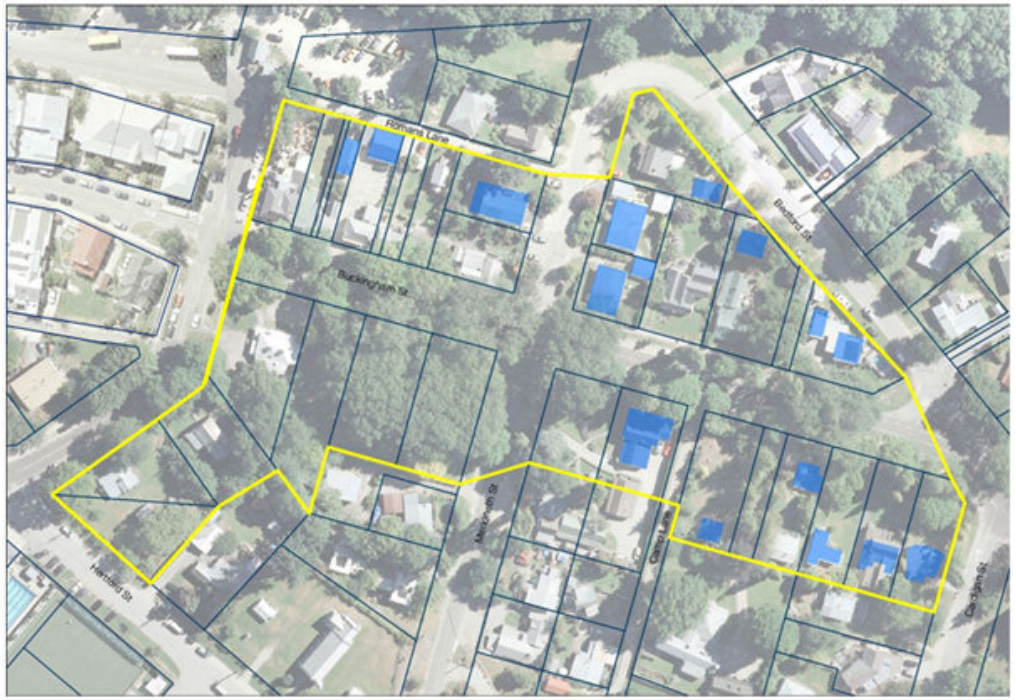
26.7.12.2 The 'group' value of the Precinct and its representative image of a traditional goldfields town.

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

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, 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

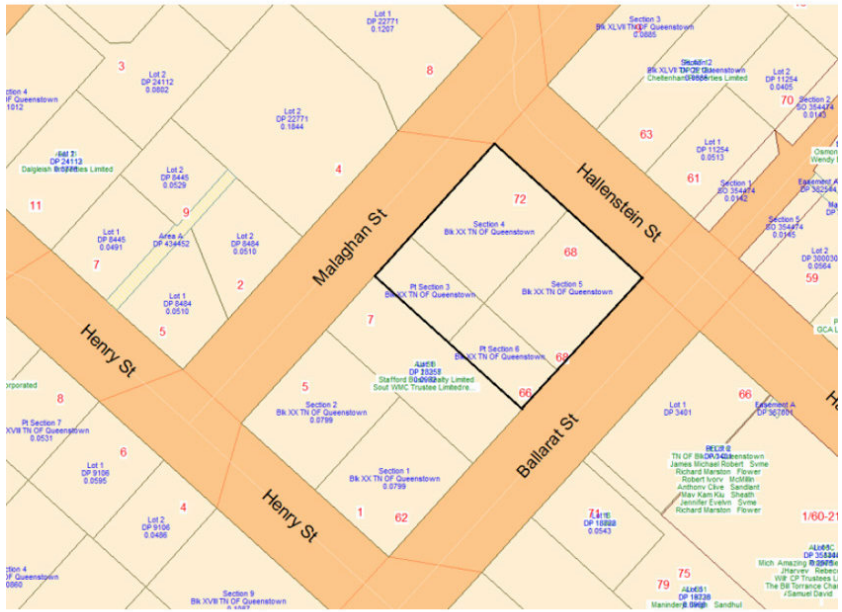
Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
366	27	Presbyterian Manse, 51 Manse Road Arrowtown	Lots 1 DP 342248 (2918410007)		2
367	28	St John's Church, 26 Berkshire Street Arrowtown	Section 1, Block XVIII, Town of Arrowtown (2918234700)	2 / 2119	2
368	28	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

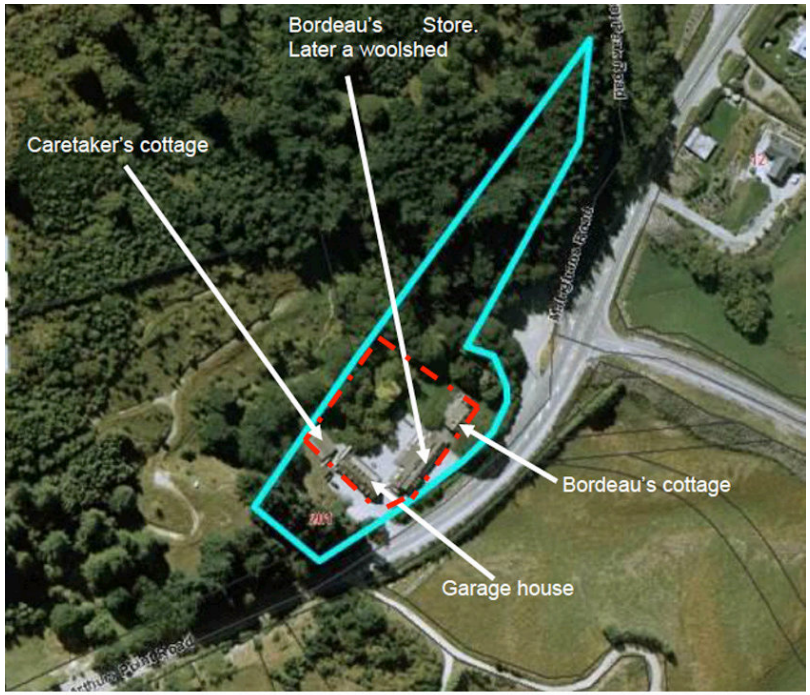
Ref No	Map Ref	Description	Legal Description (Valuation Reference)	HNZ Cat / No.	QLDC Cat
508	24	Early Graves and Pioneer Memorial Albert Town Cemetery Reserve, Lake Hawea -Albert Town Road	Section 20, Block V Lower Wanaka SD (2908201200)		2
509	24	James Horn Plaque, Albert Town Bridge over the Clutha 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’

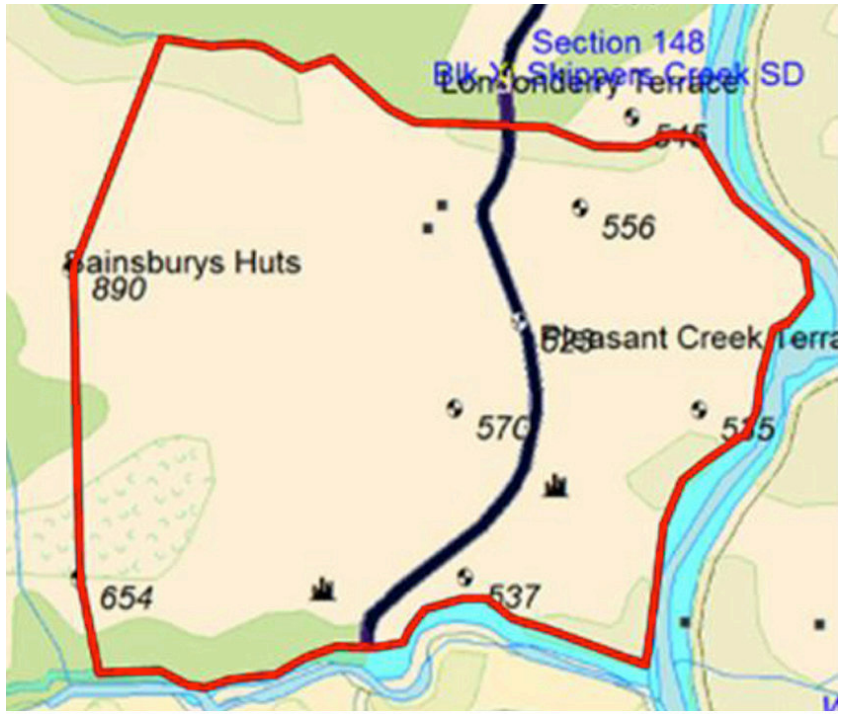


56 - Hulbert House - 68 Ballarat Street, Queenstown. The Extent of Place is shown by the black outline.

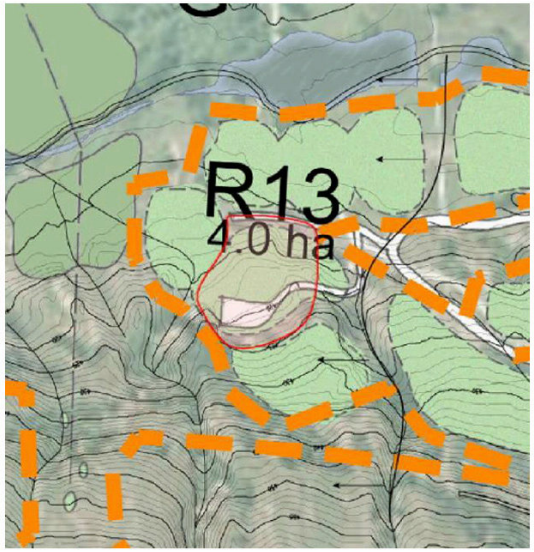


57 - Bordeau's Store - 201 Arthurs Point Road. The Extent of Place is indicated by the red dotted line. The Extent of Place includes only the land surrounding the original store and cottage.

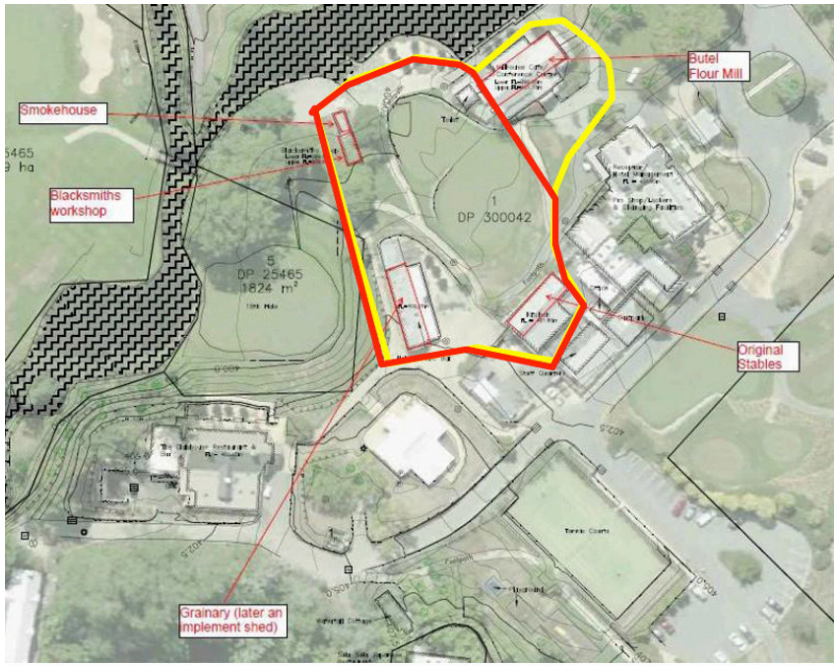
58 - Stone Building - 17 Brisbane Street, Queenstown. The Extent of Place is shown by the black outline.



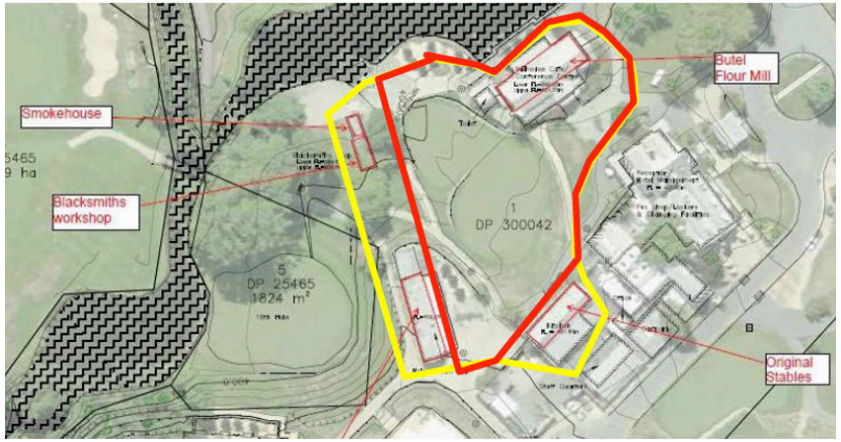
67 - The Pleasant Terrace Workings - Sec 148 Blk XI Skippers Creek SD (NZ Gazette, 1985, p.5386) and legal road (part of Skippers Road), Otago Land District. The Extent of Place is shown by the red outline.



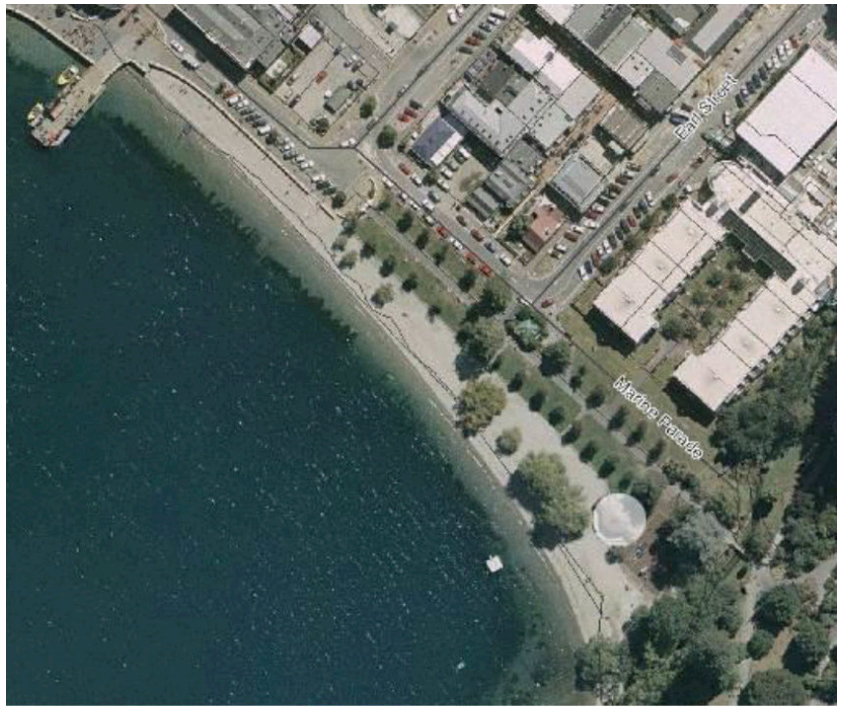
71 - Stone Cottage (McAuley) - Malaghans Road - Lot 1 DP 27269 Secs 29 57 Blk VI Shotover SD. The Extent of Place is shown by the red outline.



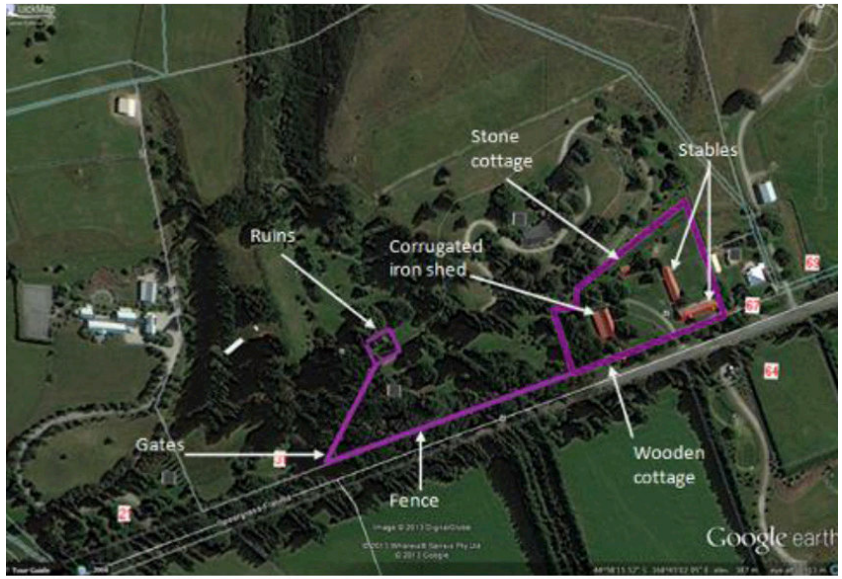
82 - Millbrook stables (remaining historic stone structure), the implement shed (remaining historic stone structure), and the blacksmith's building/ smoker - The Extent of Place is shown by the red outline.



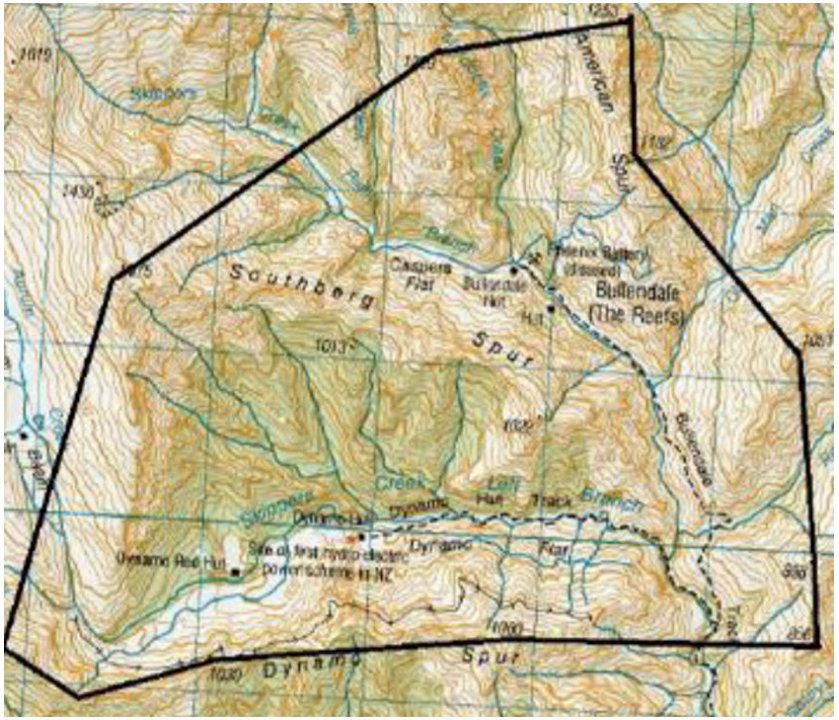
93 - Butel's Flourmill (original foundations and stone wall), Off Butel Road, Millbrook Area - The Extent of Place is shown by the red outline.



108 - Coronation Bath House, Marine Parade. The Extent of Place is indicated by the white circle.

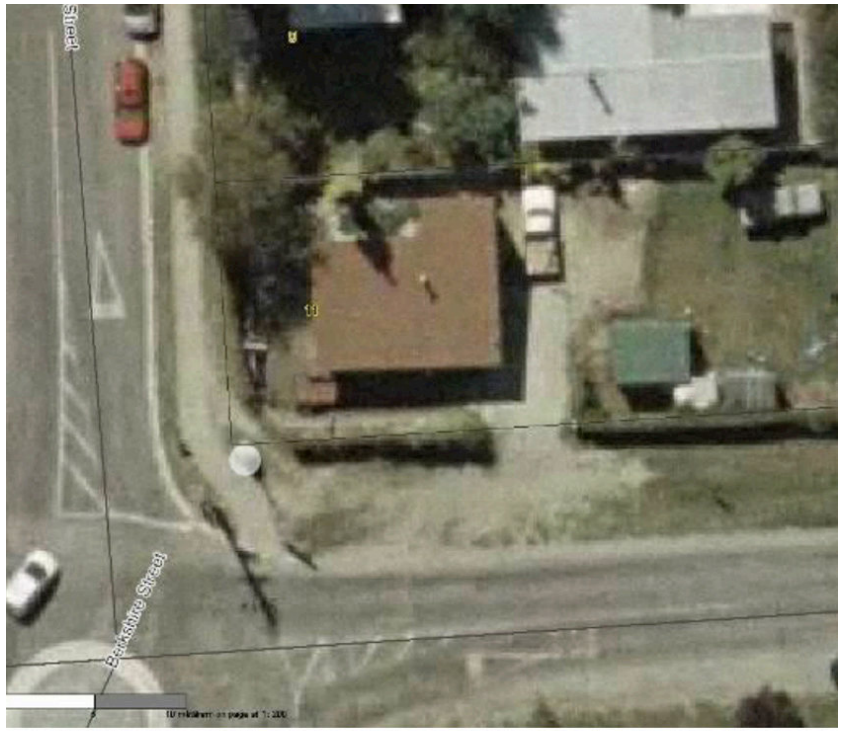


131 - Thurlby Domain - Speargrass Flat Road. The Extent of Place is shown by the purple outline.



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.

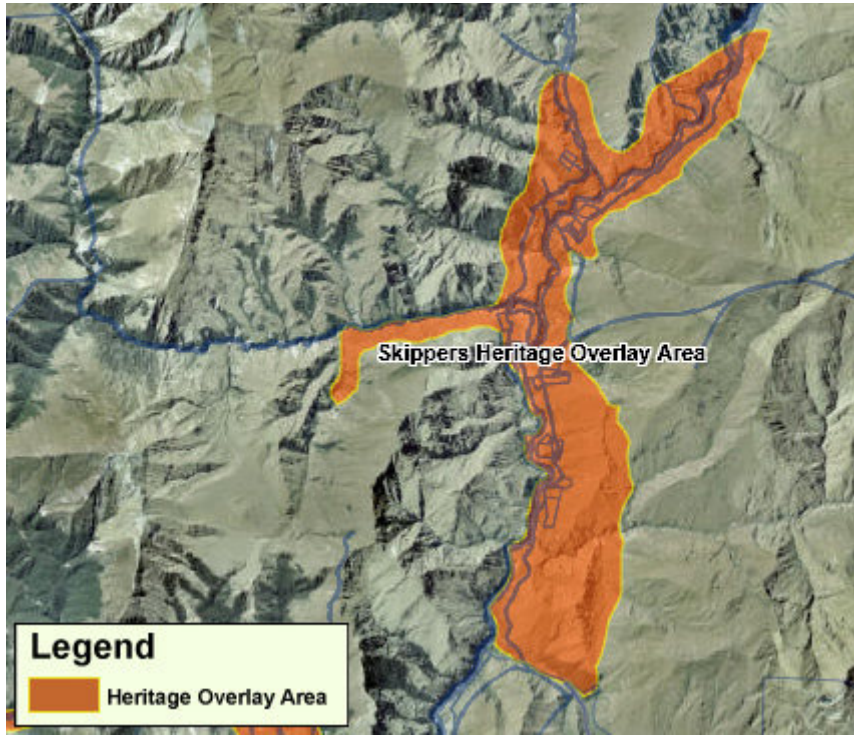
367 - St John's Church - 26 Berkshire Street Arrowtown. The Extent of Place is shown by the red outline.

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

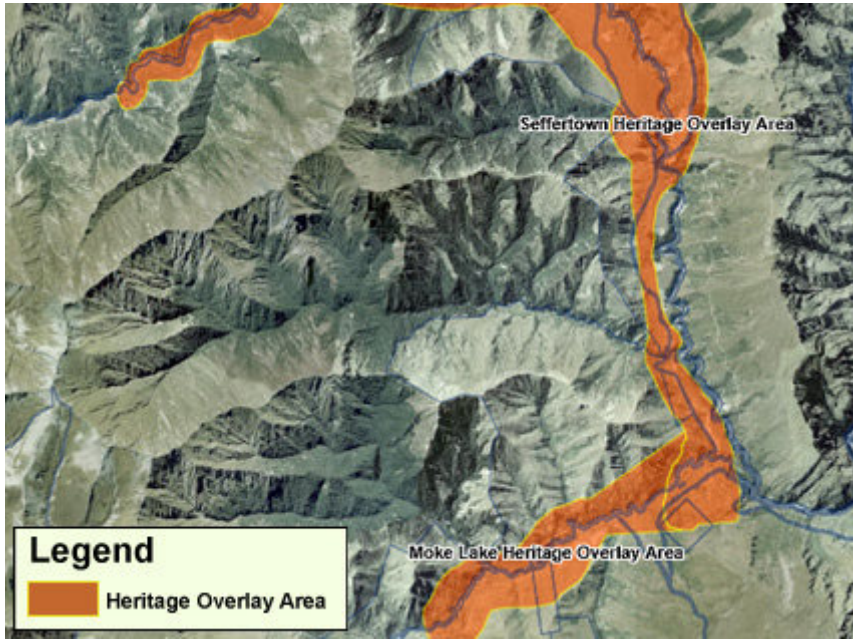
26.10.3.1 The Skippers Road and its historic revetments and construction features.

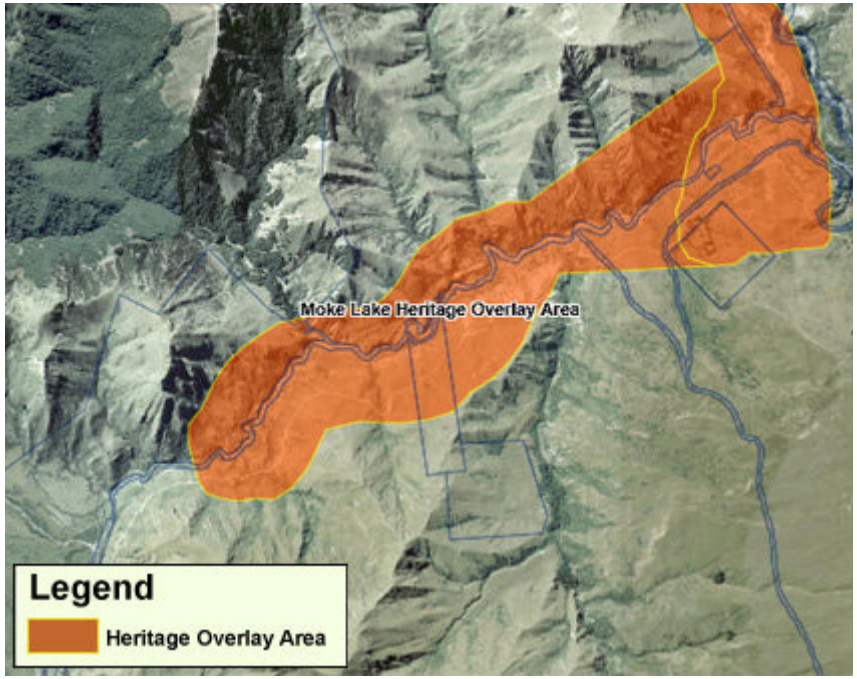
26.10.3.2 The Skippers suspension bridge and former township area.

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.

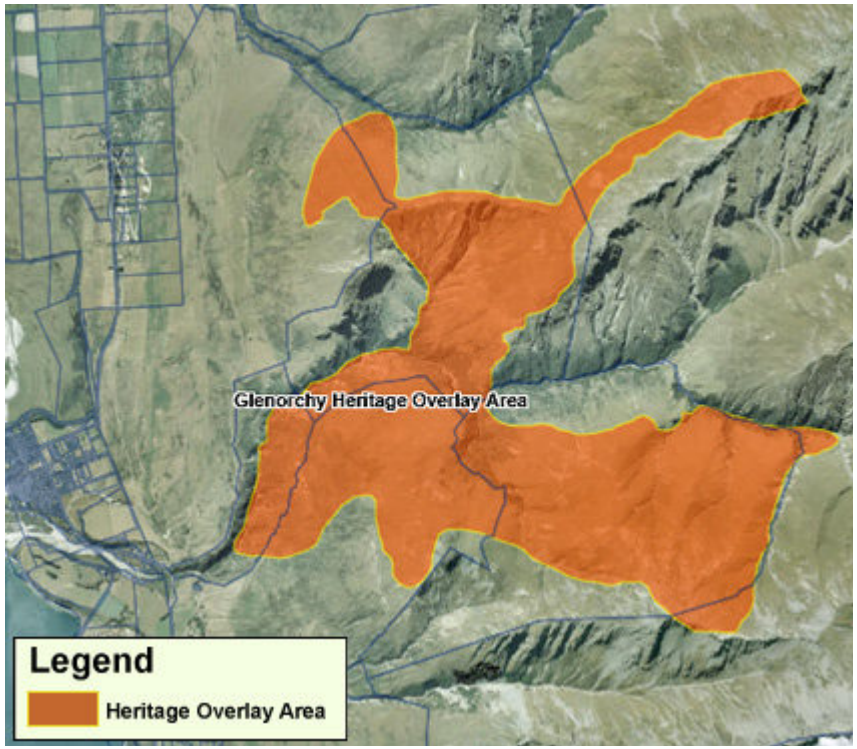
26.10.6.3 Moke Lake Road and the historic track to Butchers Hut along the true right bank of the Moonlight Creek.

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.

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