BEFORE THE HEARINGS PANEL
FOR THE QUEENSTOWN LAKES PROPOSED DISTRICT PLAN

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Hearing Stream 06 – Residential chapters

REPLY OF AMANDA JANE LEITH ON BEHALF OF QUEENSTOWN LAKES DISTRICT COUNCIL

7 LOW DENSITY RESIDENTIAL ZONE CHAPTER

11 November 2016

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1. INTRODUCTION

1.1 My name is Amanda Jane Leith. I prepared the section 42A report for the Low Density Residential Zone chapter of the Proposed District Plan (**PDP**). My qualifications and experience are listed in that s42A report dated 14 September 2016.

1.2 I have reviewed the evidence filed by other expert witnesses on behalf of submitters, attended part of the hearing on 10 October – 27 October 2016 and have been provided with information from submitters and counsel at the hearing, including reports of what has taken place at the hearing each day.

1.3 This reply evidence covers the following issues:

(a) differences between the PDP residential zones;
(b) subdivision;
(c) density;
(d) minimum site density / maximum lot area;
(e) building height;
(f) recession planes;
(g) building coverage and landscaped permeable surface;
(h) boundary setbacks;
(i) building length
(j) setback of buildings from waterbodies;
(k) community activities;
(l) commercial activities;
(m) home occupation;
(n) Queenstown Heights;
(o) road noise;
(p) airport noise;
(q) waste and recycling storage space;
(r) objectives and policies;
(s) non-notification;
(t) definitions;
(u) outdoor storage;
(v) activity status;
(w) natural hazards matter of discretion;
(x) height restrictions along Frankton Road; and

(y) Arrowtown policies.

1.4 Where I am recommending changes to the provisions as a consequence of the Hearing evidence, I have included these in the recommended chapter in **Appendix 1** (**Revised Chapter**). I have attached an additional section 32AA evaluation in **Appendix 2** and attached an updated list of submission points with recommended decisions in **Appendix 3**. Where I have not discussed the Hearing evidence, I have considered the points raised however have nothing further to add from that included within the s42A report on the matter.

1.5 In this Reply:

(a) if I refer to a provision number without any qualification, it is the notified provision number and has not changed through my recommendations;
(b) if I refer to a "s42A" provision number, I am referring to the provision version in Appendix 1 of my s42A report; and
(c) if I refer to a "redraft" provision number, I am referring to the redraft provision number in **Appendix 1** to this Reply.

2. DIFFERENCES BETWEEN THE PDP RESIDENTIAL ZONES

2.1 A theme which occurred within the questioning by the Hearing Panel (**Panel**) in relation to the Low, Medium and High Density chapters was how each of the zones are differentiated from one another and what their anticipated character and amenity is. This was something also raised by Ms Rennie in her evidence on behalf of the Wanaka Trust (536) and the Estate of Norma Kreft (512). As a result, I have provided a summary of each of these zones below and their characteristics.

2.2 I note that the Panel queried whether high amenity is only attributed to those zones which allow large setbacks and increased privacy such as the Large Lot Residential Zone (**LLRZ**). I however see all of the District's residential zones as having high amenity values, albeit a different anticipated amenity for each derived from their unique attributes, not necessarily limited to open spaces and privacy. This is explained further below.

2.3 All of the residential zones are located within the Urban Growth Boundaries (**UGBs**) with the exception of a pocket of Low Density Residential Zone (**LDRZ**) land along the eastern side of Lake Hayes. This LDRZ area is a legacy from the Operative District Plan (**ODP**) in which this area is zoned and has developed as a LDRZ area. An UGB could be identified around this discrete LDRZ area, however I note that there are a number of rezoning requests for land surrounding this area and consequently the zoning may change as part of the consideration of submissions for the mapping hearing. Furthermore, this area is part of the Wakatipu Basin study which may also result in changes to the zoning in this area. As a result, I do not recommend any changes to the mapping at this time to identify an UGB around the Lakes Hayes component of the LDRZ.

Low Density Residential Zone

2.4 The LDRZ is the largest residential zone within the District. The majority of the proposed LDRZ is already zoned in a similar way under the ODP and the established built form has a typical suburban character of predominantly detached single and two storey residential units surrounded by landscaped open space including private outdoor living areas. Lot sizes typically range from 600m² to 900m² having a portion of outdoor living area and landscaping surrounding the dwellings. Detached dwellings have a degree of separation and privacy from neighbouring properties and dwellings.

2.5 The PDP proposes to increase the existing densities of the LDRZ through allowing for sensitive infill development. The permitted density is retained at 450m². However, a lower density is achievable where the height of any additional dwellings is no higher than 5.5m in height. This restriction is proposed to ensure that the low density and low rise built form character of the zone will be maintained.

2.6 Given that the LDRZ areas are further away from town and employment centres, the amenity of the zone is considered to be attributed to the suburban residential environment, which is generally homogenous and quiet in nature (with the noted exception of those areas within the Queenstown Airport Air Noise Boundary or Outer Control Boundary or adjacent to the State Highway network).

Medium Density Residential

2.7 The proposed MDRZ is a new zone under the PDP. With the exception of two greenfield areas (Frankton and Scurr Heights), this zone has been identified over existing established residential areas. Under the ODP these areas mainly have a LDRZ or High Density Residential – Subzone C zoning and the built form within these areas is predominantly detached single and two storey residential units, although there are some exceptions such as large hotel or serviced apartment complexes in locations close to the town centres.

2.8 Under the proposed MDRZ, increased density is proposed which is anticipated to result in the development of different housing typologies (terrace housing, duplexes and the like) to that currently occurring within the areas. These housing typologies and densities will reduce the space around dwellings that is currently characteristic within the areas. Flexibility is proposed in the application of the built form standards to allow creativity in design and mitigation of effects.

2.9 The notified MDRZ is generally located within walking distance to town centres, employment centres and public transport routes. As a result, one of the important attributes of the proposed zone is its connectivity to places of employment, education, social and recreation. Given the housing typologies anticipated, a reasonable level of outdoor living space and privacy is still anticipated. This will be in closer proximity to other residents than in the LDRZ.

High Density Residential

2.10 The PDP High Density Residential Zone (**HDRZ**) is generally the same as the zone boundaries within the ODP. This zone is the most urbanised of the residential zones, located in close proximity to town centres, amenities, community and social services as well as public transport routes.

2.11 The character of the existing HDRZ areas is mixed and includes detached dwellings, townhouses and apartments. The PDP allows for increased heights which will therefore allow a greater developable envelope. It is anticipated therefore that over time the density of this zone will increase and that

developments will be of larger, integrated proposals of attached dwellings and units.

2.12 The PDP provisions are intended to provide greater flexibility in design with emphasis on quality and sustainable features where the permitted standards are exceeded. Protection of a 'reasonable' level of amenity is sought in the context of the expected intensification of the zone.

2.13 The HDRZ is located in areas which obtain highly valued views over Lake Wanaka or Lake Wakatipu and beyond. The amenity of these areas is therefore primarily attributed to both the proximity to the town centres but also the views. Reduced housing size and outdoor living space is therefore offset by these amenities. It is however acknowledged that as the zone redevelops that not all residential units on all sites will still retain a view (for example, sites on flat land or ground floor units) however the amenity of the zone derived from its locational aspects, connectivity and density still remain.

3. SUBDIVISION

3.1 The Panel requested that I review the submissions made by Paterson Pitts Partners (Wanaka) Ltd (453) and the recording of their evidence provided at the hearing on Chapter 27 – Subdivision and Development on Rule 27.5.3 (redraft Rule 27.7.14[1]) in light of the practicality and efficiency queries that the submitter raises.

3.2 I have reviewed the submission and recording and considered the rule further. I understand that the problems the submitter identifies with the rule include:

(a) The subdivider will often not be the developer of the vacant site(s) and therefore the expense of having to obtain a resource consent or certificate of compliance for something that will probably not be built is wasteful;

(b) A resource consent or certificate of compliance will lapse after five years if it has not been given effect to. However, as a result of the rule, the plans approved via the resource consent or certificate of

1 Mr Nigel Bryce's Right of Reply in relation to Chapter 27 – Subdivision and Development

compliance would still be registered via consent notice on the Computer Freehold Register (**CFR**). This would create an issue (and confusion) whereby a new resource consent may be required to undertake the development even though the plans are registered on the CFR. Furthermore, a resource consent may have originally been granted on the basis of affected party approval(s) being obtained which may no longer be forthcoming. Consequently, a new resource consent may not be granted for the same development, however the consent notice would still require compliance with the approved plan; and

(c) The added expense of having to vary consent notices if plans are amended between approval and development.

3.3 As a result, the submitter (453) in presentation to the Panel suggested registration of a building envelope within a consent notice registered on the CFR as a solution.

3.4 Whilst I consider that it is possible for a building envelope to be identified via application of the relevant built form controls within the LDRZ chapter as conditions of a consent notice, I also have concerns with this approach:

(a) When lots of less than 350m² (akin to a medium density scale) are being subdivided, it is important to ensure that they will be able to function effectively, particularly in relation to access and vehicle manoeuvring. Redraft Rule 27.5.6[2] includes:

- *"Lot sizes and dimensions in respect of internal roading design and provision, relating to access and service easements for future subdivision on adjoining land;*
- *Subdivision design and layout of lots;*
- *Property access and roading…"*

However, whether a house could be designed or located to provide the required number of parking bays while allowing suitable on-site manoeuvring would not be able to be assessed without plans. This

2 Mr Nigel Bryce's Right of Reply Appendix 1

may result in situations such as people having to reverse down long, steep driveways. Consequently, the cost of a variation to a consent notice to alter the design of a dwelling would be a small cost relative to subdividing a site that would result in poor or unsafe outcomes; and

(b) It is likely that some future owners of subdivided sites upon developing a design for their site may wish to depart from the built form standards within the LDRZ chapter and obtain resource consent. An example is a setback intrusion. This would also necessitate a variation to the applicable consent notice condition, therefore not being any less onerous than the implications of the proposed rule.

3.5 As a result, although I agree that putting a developer through the expense of having to obtain a resource consent or certificate of compliance for something that will probably not be built is wasteful, I consider that the potential for the creation of lots which result in poor outcomes outweighs this concern.

3.6 Rule 7.4.10 requires resource consent for the development of residential units where the net site area is less than 450m². Consequently, regardless of whether Rule 27.5.3 (redraft Rule 27.7.14[3]) specifies the need to obtain resource consent (or certificate of compliance) or for a building envelope to be imposed, resource consent will ultimately be required for the construction of residential units on lots less than 450m². For this reason, reference to certificate of compliance in Rule 27.5.3 (redraft Rule 27.7.14[4]) can be deleted. I have included this recommendation within **Appendix 1**.

3.7 In comparing Rule 27.5.2 (redraft Rule 27.7.13[5]) and Rule 27.5.3 (redraft Rule 27.7.14[6]), the intent of the former is to allow subdivision of lots which are less than the prescribed minimum lot size and dimensions within the Low, Medium and High Density Residential Zones where a dwelling has been constructed on

3 Mr Nigel Bryce's Right of Reply in relation to Chapter 27 – Subdivision and Development
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each of the lots. The intent of this rule is very similar to that within the ODP Zone Standard 15.2.6.3(i).[7]

3.8 The intent of Rule 27.5.3 (redraft Rule 27.7.14[8]) is to allow the subdivision of smaller sites within the LDRZ where it can be shown via resource consent that the resulting lots can operate effectively. The removal of the requirement to build prior to subdivision will allow people to subdivide their residential sites with less financial outlay and risk.

3.9 Taking all of the above into account, I still consider that redraft Rule 27.7.14[9] is the best way to facilitate subdivision within the LDRZ while ensuring that the resultant lots are suitable. Consequently, I recommend that the redraft Rule 27.7.14[10] as recommended by Mr Nigel Bryce in his right of reply in relation to Chapter 27 – Subdivision and Development be retained with the deletion of sub-clause (a) which relates to the issue of a certificate of compliance.

3.10 The Panel also requested that I consider comprehensive development rules to allow the land use and subdivision to occur concurrently. ODP Rule 7.5.3.4(v) provides for comprehensive residential developments in the LDRZ as discretionary activities. The ODP defines 'Comprehensive Residential Development' as:

> *"Means a comprehensively planned and designed collection of two or more Residential units where:*
> *(a) the building and subdivision consents are submitted concurrently*
> *(b) the net area for a residential unit is less than 450m²*
> *(c) the net area of the site containing all residential units is 2000m² or larger"*

3.11 The PDP does not include a similar provision to the above. However I can see no restriction upon someone applying for land use consent for a greater density via Rule 7.4.10 (or possibly Rule 7.4.1) at the same time as subdivision consent to breach the minimum allotment size via redraft Rules 27.7.13 or 27.7.14. This avenue has the same effect as the ODP rule outlined

7 "No minimum allotments size shall apply in the Low and High Density Residential Zones and the Shotover Country Special Zone where each allotment to be created, and the original allotment, all contain at least one residential unit" - page 15-29 and 15-30 of the Operative District Plan
8 Mr Nigel Bryce's Right of Reply in relation to Chapter 27 – Subdivision and Development
9 Mr Nigel Bryce's Right of Reply in relation to Chapter 27 – Subdivision and Development
10 Mr Nigel Bryce's Right of Reply in relation to Chapter 27 – Subdivision and Development

above and would open up the potential for increased densities on all lots, not only those that are 2000m². As a result, I do not see a need to recommend re-introduction of provisions for comprehensive residential developments into the PDP.

4. DENSITY

4.1 In relation to the reference to 'gentle density' within redraft Objective 7.2.2 and redraft Policy 7.2.2.1, I accept the Panel's concerns about the term not being well known or understood. I have consequently recommended that this be deleted and the notified wording of '*higher density housing than typical in the zone*' be re-introduced. This wording is consistent with the intent of Rule 7.4.10 which allows increased density via resource consent. This recommendation is shown in **Appendix 1** to this report.

4.2 Rules 7.4.9 and 7.4.10 specify the density anticipated within the zone. In relation to these rules, the Panel queried[11] whether density rules are needed at all, or whether bulk and location controls would be sufficient. I note that a similar question was also asked in relation to the Medium Density Residential Zone (**MDRZ**).

4.3 The density of a site is controlled via Rules 7.4.9 and 7.4.10 along with general (redraft) Rule 7.3.2.4 which specifies that development resulting in more than one residential unit per lot shall show each unit contained within the net area. General (redraft) Rule 7.3.2.4 ensures that residential units are designed and located within the required net site area, which will ensure that each unit provides adequate amenity.

4.4 I consider that in the context of the LDRZ, density rules in addition to bulk and location controls are required to ensure that the low density character and amenity is maintained. Removal of density controls would mean that a building complying with the bulk and location controls could be internally configured to contain one unit or multiple units, such as duplexes, terrace houses or apartments. This approach would create inefficiencies in infrastructure planning given the large area that the zoning covers and the inability to reasonably predict the number of units and therefore demand within the zone.

11 On 10 October 2016.

Furthermore, the anticipated typologies and density of residential units is not what is anticipated for the zone as outlined within the Zone Purpose in 7.1, Objective 7.2.1 and redraft Objective 7.2.2 and the related policies.

4.5 As a result, I recommend that the density controls in Rules 7.4.9 and 7.4.10 are maintained in addition to the built form controls to ensure that a low density environment is achieved and maintained.

4.6 With regard to density within the Air Noise Boundary (**ANB**) and between the ANB and the Outer Control Boundary (**OCB**) of Queenstown Airport, I support the evidence provided by Mr Kyle on behalf of the Queenstown Airport Corporation (**QAC**) (433) subject to some minor wording changes:

(a) As outlined above, with regard to redraft Objective 7.2.2 the reference to 'gentle density' has been removed. I did not adopt Mr Kyle's suggested wording of 'discrete areas' as I do not consider the remainder of the LDRZ outside of the ANB and OCB of Queenstown Airport to be a discrete area.

(b) I have also recommended an additional policy under redrafted Objective 7.2.2 suggested by Mr Kyle to reflect the expanded objective restricting infill development within the ANB and OCB of Queenstown Airport.

(c) Mr Kyle in his evidence has pointed out that redraft Objective 7.2.7 represents only part of the Plan Change 35 (**PC35**) outcome with respect to maintaining residential amenity but also protecting Queenstown Airport from potential reverse sensitivity effects. I agree with Mr Kyle that the latter requirement is also important. I note that the QAC (433) submission does not directly request this relief, however I consider that there is scope via the other relief sought in the QAC (433) submission in relation to the zone purpose. Accordingly, I have recommended an additional objective in **Appendix 1** in line with Mr Kyle's evidence. To prevent unnecessary replication of the policies, I have added the new objective as Objective 7.2.7B and renumbered redraft Objective 7.2.7 to 7.2.7A. In addition, as a consequential amendment of the recommended redraft

Policy 7.2.7.3, I also recommend that the State Highway network be referenced within the new objective.

(d) With regard to the evidence provided by Mr Beckett and Mr Morgan on behalf of the Board of Airline Representatives New Zealand (**BARNZ**), I still recommend deletion of notified Rule 7.4.11 and adopting a consistent approach with that determined under PC35[12] for the reasons outlined in the s42A report.[13] I have not made any changes to **Appendix 1** in this regard.

(e) I note that the Panel posed a number of questions to submitters regarding the ability to construct 'Residential Flats' within the ANB and OCB as permitted activities. Under the ODP (including PC35), 'Residential Flats' are permitted activities within the LDRZ including within the ANB and OCB. The QAC (433) in their submission sought that the definition of 'Residential Flat' be amended to clarify that there is a limit of one per residential unit or one per site, whichever is less. I addressed this submission point within paragraphs 14.19 – 14.21 of the s42A report and retain the view that the status quo under the ODP should be maintained in the PDP.

5. MINIMUM SITE DENSITY / MAXIMUM LOT AREA

5.1 On 10 October, the Panel queried whether, if there was scope, I would support a maximum site density or maximum lot area of 800m² in line with Mr Falconer's urban design evidence.

5.2 At the hearing I responded that I would support such a provision. However, upon listening to the evidence presented by Universal Developments (177) in relation to the MDRZ, it has become evident to me that the application of a minimum site density or maximum lot area would not work in practice. If it were applied zone wide without consideration of site constraints and other context, it could create an undue burden upon the development of the land. Instead the application of an average density may be more flexible and enable consideration of these constraints; however this would only work in an identified discrete land area, rather than zone wide. Consequently, although I

12 And the relief sought by the QAC (433), S Freeman (555) and others
13 At paragraphs 9.50 to 9.53 of the s42A report dated 14 September 2016

support the intensification of the LDRZ and maximisation of the urban zoned land, I do not recommend the application of a rule such as a maximum site density or minimum lot area of 800m².

5.3 It is noted that the density allowed for within Rule 7.4.10 will allow development of a greater density than currently permitted. This is anticipated to provide additional diversity in lot size and in turn diversity in the housing stock, for example smaller dwellings.

6. BUILDING HEIGHT

6.1 In the context of Rules 7.5.1 and 7.5.2, the Panel queried whether the non-complying activity status is appropriate for breaches of height and whether there is benefit in having more flexible rules to allow for roof articulation.

6.2 I note that there are no submissions specifically seeking a change to the non-complying activity status for height (with the exception of redraft Rule 7.5.3 where I recommended a change to discretionary in the s42A report, in line with the S & J McLeod (391) submission). I also note that there are no submissions seeking additional permitted height within the LDRZ for roof articulation. Consequently, I do not believe that there is scope to make these changes.

6.3 Notwithstanding, I am aware of the more flexible rules that the Panel refers to including the height standard H3.6.6 within the Auckland Unitary Plan[14] which allows:

> *"Buildings must not exceed 8m in height except that 50 per cent of a building's roof in elevation, measured vertically from the junction between wall and roof, may exceed this height by 1m, where the entire roof slopes 15 degrees or more, as shown in Figure H3.6.6.1 Building height in the Residential – Single House Zone below."*

6.4 Also the exemption for roofs in the notified Dunedin City Council Second Generation District Plan:

14 http://unitaryplan.aucklandcouncil.govt.nz/Images/Auckland%20Council%20Decision/Chapter%20H%20Zones/H3%20Residential%20-%20Single%20House%20Zone.pdf

Except, rooftop structures are exempt from the performance standard for height provided they do not exceed the maximum height limit for all other buildings and structures by more than one third of that limit.

6.5 I acknowledge that additional flexibility in roof form could potentially promote more variety in design. However, in looking at dwellings that have been constructed within the life of the ODP (which does not have an allowance as in the Auckland and Dunedin plans above), lack of design variety does not appear to be an issue in the District. Furthermore, one of the residential amenities that is valued as one of the most important within the District is the views that are obtained towards the District's natural landscape features. To allow additional height for the roof form could adversely affect these views whilst not providing any benefit to the community such as additional density of development.

7. REDRAFT RULE 7.5.3

7.1 Redrafted Rule 7.5.3 specifies the height for residential units on lots that are less than 900m² in area. I have recommended a discretionary activity status in the s42A report for this rule for the reasons outlined in paragraph 10.14; however the Panel have questioned whether the issues associated with height are so broad that Council would be unable to define what the matters of discretion should be.

7.2 I acknowledge that it is possible to draft matters of discretion to support a change of activity status to restricted discretionary for the majority of the potential effects that occur as a result of additional height. However, given that this rule is tied to Rule 7.4.10 (which allows a density of development less than 450m²) and is intended to ensure that infill development is of a low density scale despite the density which may be akin to medium density, I continue to recommend a discretionary activity status.

7.3 I anticipate that on some sites, such as sloping sites or those that are surrounded by two storey developments for example, additional height in conjunction with the increased density may be suitable. However, I do not expect that it will be suitable in all locations in the LDRZ. I also consider that drafting a matter of discretion addressing the impact of the additional height in conjunction with the density sought upon the low density character of the

LDRZ would be difficult, as the interconnections between density and height in protecting the low density character of the zone would require more detail than is usually provided within a matter of discretion.

7.4 The Panel also queried why sub-clause (d) of redrafted Rule 7.5.3 has been included in the chapter. It appears as if this rule correlates with the ODP zone standard 7.5.5.3(iii)(a) for zone density which states:

> ***(iii) Site Density***
>
> *In the Low Density Residential Zone, the minimum net area for any site shall be 450m² for each residential unit contained within the site, except that where:*
>
> *(a) (i) a site is shown as being located in the Medium Density Residential Sub-Zone; and*
> *(ii) the site was contained in a separate Certificate of Title as at 10 October 1995; and*
> *(iii) no residential unit has been built on the site; and*
> *(iv) the site has an area between 625m² and 900m²*
>
> *then two residential units may be erected on the site.*

7.5 From reading the s32 report it is unclear as to why some of the above ODP provision has been replicated within the height standards and applied to any vacant site in Queenstown that existed on, or prior to 10 October 1995.

7.6 No submissions were received in specific regard to this provision and I acknowledge that it is contrary to the *'higher density than typical in the zone'* approach being promoted through the chapter. However, I also note that the number of vacant LDRZ sites (which are subdivided and ready to be built upon) in Queenstown are few. There are a few large vacant LDRZ zoned areas, for example along Kelvin Heights, within which the increased height would apply. However, this would only be able to occur if they built first and then subdivided (on the assumption that the existing CFR is dated 10 October 1995 or prior). Consequently, although there is no scope to amend this sub-rule, I anticipate that the potential impact upon the zone will be minimal.

7.7 The Panel suggested that a definition of “sloping site” be provided within Chapter 2 to assist plan users. The second Note under both Rules 7.5.1 and 7.5.2 is akin to a definition of sloping site and this reflects the wording in the ODP Zone Standard 7.5.5.3(v).

7.8 Notwithstanding the above, I noted that Ms Banks in her s42A report in relation to the HDRZ has recommended a new definition of "sloping site" and has recommended a further change to this within her right of reply. I concur with Ms Banks' definition in this regard.

8. RECESSION PLANES

8.1 On 10 October 2016 the Panel raised a number of issues with the 3D shading diagrams provided in Appendix 9 to the s42A report. Upon further review I have found that the concern about the diagrams being at different scales and being difficult to compare is valid. Attached as **Appendix 4** to this Right of Reply are updated versions of the two diagrams, that are now in the same format and scale for ease of comparison. One diagram depicts the shadowing as a result of a building which complies with the ODP 2.5m / 25 degree recession plane angle. The other diagram depicts the shadowing resulting from a building complying with the proposed southern boundary recession plane of 2.5m / 35 degrees.

8.2 In relation to the Panel's specific queries, I have confirmed with the designer of the diagrams that they are not intended to be to scale. However the horizontal lines on the vertical wall are at 0.5m intervals to show the shadow cast on a neighbouring building setback 3m from the boundary line. The sun angles only relate to Queenstown and the simulation has been undertaken on flat land with a section size of 41m x 17m. No landforms have been included in the modelling. The floor to ceiling height used is 3m with the highest point of the roof at 4.65m.

9. BUILDING COVERAGE AND LANDSCAPED PERMEABLE SURFACE

9.1 In paragraph 10.39 of the s42A report, I quote qv.co.nz which states that the average house size in Queenstown in 2011 was 181m². The Panel subsequently queried whether this includes or excludes garaging. I have rechecked this website and it does not specify. However, I have reviewed the

size of 587 new dwellings granted building consent between 1 October 2015 and 1 October 2016 and found an average house size of 210m² which includes garaging where a garage was consented at the same time as the dwelling.

9.2 In response to the NZIA (238) submission and Mr Falconer's evidence in which he recommended increasing the setback requirements to align with those in the ODP to provide a living court, the Panel queried whether I would support a rule prescribing an outdoor living area if orientation were included. Whilst I consider that the addition of orientation as a factor in the location of an outdoor living area would be of benefit, I still consider that given the maximum building coverage in redraft Rule 7.5.5 (s42A Rule 7.5.6) is 40%, it is unnecessary to also prescribe a minimum outdoor living area. The extra prescription would not promote flexibility in design.

9.3 The Panel in relation to redraft Rule 7.5.6 queried why the activity status for this standard has been retained as non-complying whereas I have recommended that the activity status for the same standard in the MDRZ be changed to restricted discretionary. I confirmed at the hearing that no submission requested this change for the LDRZ although there was an equivalent submission for the MDRZ. Consequently, I do not consider that I have scope to make this recommendation for the LDRZ, even though in my professional opinion a restricted discretionary activity status is more suitable subject to the same matters of discretion listed for the MDRZ rule. I have also reviewed the submissions received on the entire plan, however I did not find one which generally requested a change to more permissive activity status across the entire plan.

10. BOUNDARY SETBACKS

10.1 I recommended an exemption to the minimum boundary setbacks in redraft Rule 7.5.8 in the s42A report for eaves. The Panel questioned whether eaves could be greater along the northern side. This suggestion aligns with solar passive design principles. Furthermore, an additional intrusion into the setback distances along the northern boundary for eaves will not result in overshadowing effects upon the adjoining property by virtue of the orientation, and eaves are unlikely to result in increased dominance or amenity effects. As

a result, I have modified redraft Rule 7.5.8 to allow eaves to protrude up to 1m into the setback distances.

10.2 This change is shown in **Appendix 1** to this reply. I consider that the general wording of the Aurum Survey Consultants (166) submission provides scope for this change.

11. BUILDING LENGTH

11.1 Upon review of redraft Rule 7.5.10: Building Length, I note that the matters of discretion do not include consistency with the Arrowtown Design Guidelines 2016. I consider that this is an oversight as breaches of the building length rule could have an adverse effect upon the character of the surrounding area in Arrowtown.

11.2 As a consequence, I recommend that this be included in **Appendix 1**. I consider that the submission from A Gormack (189) seeking strong protection in Arrowtown so as to '*retain it as a Historical Village*' provides the scope for this recommendation.

12. SETBACK OF BUILDINGS FROM WATERBODIES

12.1 With regard to redraft Rule 7.5.13 (s42A Rule 7.5.14), the Panel queried why the 7m setback from waterbodies requirement differs from the 20m esplanade strip required under the RMA. Through review of the s32 report, I found no mention of the reasoning for this inconsistency. Notwithstanding, within an urban context a 20m setback would in some instances impose a significant constraint upon the development potential of a site, however in other instances due to flooding potential that 20m may not be significant. I note that there were no submissions received on this rule.

13. COMMUNITY ACTIVITIES

13.1 In relation to redraft Objective 7.2.4, the Panel put forward a scenario about more commercial community activities wishing to locate within the LDRZ and some not being suitable within the zone. I accept this possibility and consider that a limitation restricting community activities within the zone to those which would service the local community that they are within, would be of benefit. I

consider that this may have been the intention of the originally drafted "*generally best located in a residential environment close to residents*", however consider that the objective would be clearer in stating "*serving the community they are within*". I consider this change in wording to be within scope of the notified version and I have recommended this change within the **Appendix 1** to this reply.

13.2 Also in relation to redrafted Objective 7.2.4, the Panel asked whether '*managed*' was the right word to use as it appears that the underlying intention was more like compatibility of scale. I agree with the Panel in this regard and have recommended a change within **Appendix 1** to this effect. I consider that this recommended amendment does not alter the intention of the notified objective.

13.3 With regard to the activity status of Community Activities within the LDRZ, I have further considered the Southern District Health Board's (**SDHB**) (678) evidence and still recommend a discretionary activity status as being most suitable given the potential effects that could occur as a result of the variety of uses that are encompassed by the term 'Community Activity'.

13.4 The Panel requested that I review Chapter 3 – Strategic Direction to determine whether there are any resulting implications upon the recommendations for Community Facilities within the residential zones. I note that Objective 3.2.6.3 and its associated policies[15] of the Strategic Direction chapter are of relevance:

> ***3.2.6.3 Objective*** *– A high quality network of open spaces and community facilities.*
>
> ***Policies***
>
> *3.2.6.3.1 Ensure that open spaces and community facilities are accessible for all people.*
>
> *3.2.6.3.2 That open spaces and community facilities are located and designed to be desirable, safe, accessible places.*

15 Copied from Mr Paetz' Right of Reply dated 7 April 2016 in relation to the Strategic Direction and Urban Development chapters

13.5 In addition to the above, in reviewing Chapter 4 – Urban Development[16] and Chapter 27 – Subdivision and Development[17], 'Community Facilities' are also referenced. All of these provisions relate to achieving coordination, integration and connectivity between the location of community facilities and other components of an area such as open space, transportation, residential and the like. In reviewing these provisions I note that the use of the term 'Community Facility' in these chapters does not appear to specifically relate only to the activities included within the defined term of 'Community Facility' but is rather a more general term which I consider would encompass both the definitions of 'Community Facility' and 'Community Activity'.

13.6 As outlined in paragraph 13 of my summary of evidence presented to the Panel, I now recommend deletion of the definition of 'Community Facility'. This is primarily due to no community facility sub-zones being included within the PDP. I consider that the definition of 'Community Activity' satisfactorily addresses the use of land and buildings for these activities and therefore it is not necessary to differentiate between the two. This recommendation is identified in **Appendix 1** to this reply and I acknowledge that the remainder of the references to 'Community facility' within the PDP need to be replaced with 'Community activity' as a consequence of this recommendation.

13.7 I noted the Panel's suggestions for Council to consider a special zone over the Lakes District Hospital site with site specific controls and I note that the SDHB (678) submission provides scope for the establishment of a 'Community Facility Sub-zone' over the site. I also note from the evidence provided by the submitter to the Hearings Panel on 25 October 2016 that planning for the redevelopment of the Lakes District Hospital is not well advanced in being able to identify specific parameters at this time. Consequently, I consider that the identification of a 'Community Facility Sub-zone' without associated built form standards would be pointless and therefore continue to recommend the approach set out within the LDRZ chapter attached as **Appendix 1**.

13.8 In consideration of the New Zealand Fire Service (**NZFS**) (438) evidence, I maintain the recommendation included within the s42A report in relation to the proposed additional definition of 'Emergency Service Facilities'. I do not

16 Zone Purpose 4.1, Policies 4.2.1.3, 4.2.3.1, 4.2.3.2, 4.2.3.6, 4.2.4.1, 4.2.4.2, 4.2.8.2 of Chapter 4 – Urban Development of Mr Paetz's Right of Reply dated 7 April 2016

17 Policies 27.2.2.4 and 27.3.2.4 of Chapter 27 – Subdivision and Development of Mr Bryce's Right of Reply dated 26 August 2016

consider it necessary to differentiate these services further from the definition of 'Community Activity'. I acknowledge that both the Operative Regional Policy Statement and the Proposed Regional Policy Statement (**PRPS**) (decisions version) both specifically mention 'Emergency Services' and that the PRPS includes a number of provisions in relation to emergency services to ensure their ongoing effective functional and operational requirements are maintained. I consider that the provisions within the LDRZ chapter still give effect to both the operative and PRPS given that 'Community Activities' are provided for, however that the location and design is to take into account the surrounding residential context.

13.9 As a result, I do not recommend any additional amendments to **Appendix 1** in this regard.

14. COMMERCIAL ACTIVITIES

14.1 Redraft Objective 7.2.6 and its associated policies all allow small scale commercial activities to occur within the LDRZ subject to a number of qualifiers. In the s42A report[18] I recommended removal of the words "(100m² or less gross floor area)" from redraft Policy 7.2.6.2.

14.2 The Panel identified that there is a disconnect between the objectives and policies encouraging small scale commercial activities and notified Rule 7.4.6 which states that all commercial activities are non-complying.

14.3 I accept the Panel's comment in this regard and agree that the rule does not align with the objective and policies. I therefore recommend that notified Rule 7.4.6 be split into two activities – "*Commercial Activities – 100m² or less gross floor area*" and "*Commercial Activities – greater than 100m² gross floor area*" (redraft Rules 7.4.5 and 7.4.6). I consider that the D Barton (269) submission in relation to redraft Policy 7.2.6.2 provides scope to make this change. I have recommended retention of the non-complying activity status for commercial activities greater than 100m² and a restricted discretionary activity status for those that are less than 100m² which aligns with the objectives and policies.

14.4 These changes are identified in **Appendix 1** to this report.

18 Paragraphs 11.2 and 11.3.

15. HOME OCCUPATION

15.1 In relation to Home Occupations, the Panel questioned whether the standards in notified Rule 7.4.15 should be included in Table 7.5 instead of within the activity so that Home Occupations which meet the standards can be permitted activities and those that do not could be discretionary as in notified Rule 7.4.16. I agree with this approach and have made the change by recommending redraft Standard 7.5.16 in **Appendix 1**. This change does not affect the intent or application of these provisions.

16. QUEENSTOWN HEIGHTS

16.1 On 26 October 2016 the Chair of the Panel and the agent for the Middleton Family Trust (336, 354) agreed to defer consideration of the Queenstown Heights Overlay Area until the hearing on mapping. **Appendix 1 and 3** have consequently been updated to this effect and I note that paragraphs 9.42 – 9.47 of the LDRZ s42A report are no longer applicable.

17. ROAD NOISE

17.1 The Panel queried whether redraft Policy 7.2.7.3 should specify 80m given that Dr Chiles' evidence states that there should be different distances in certain locations and the NZTA submission sought different distances. In paragraph 8.3 of Dr Chiles' evidence he identified three locations where a lesser distance would be applicable:

(a) Makarora-Lake Hawea Road (SH6) – 40m;
(b) Wanaka – Luggate Highway (SH84) where the speed limit reduces to 50km/hr between Anderson Road and Ardmore Street – 60m; and
(c) Shortcut Road and Luggate – Tarras Road (SH8A) – 60m.

17.2 I note that there is no proposed LDRZ[19] land adjoining the State Highways outlined in (a) and (c) above. There is however proposed LDRZ land adjoining the area of the State Highway outlined in (b) above.

19 Or MDRZ or HDRZ

17.3 The New Zealand Transport Agency (**NZTA**) (719) submission requested a new policy to recognise potential reverse sensitivity effects from State Highway traffic noise as follows:

> *"Ensure all new and altered buildings for residential and other noise sensitive activities (including community uses) located within the State Highway road noise effects area are designed to meeting internal sound levels of AS/NZ 2107:2000."*

17.4 In the s42A report I accepted the relief sought by NZTA although I made some modifications in accordance with recommendations provided by Dr Chiles. Given that there is one area where a lesser distance of 80m may be applicable, I agree with the Panel that the reference to the 80m should be removed. I have consequently recommended an amendment to redraft Policy 7.2.7.3 to specify that it is those activities "*adjacent to*" the State Highway. I have recommended the word "*adjacent*" rather than "*adjoining*" as I note that there is a large land parcel which functions as road reserve at present separating the properties along the northern side of SH84 from the highway; however some of the properties are still within 60m of the highway. I consider that the recommended change in **Appendix 1** is within scope of the original NZTA (719) submission.

17.5 This recommended change also aligns with redraft Rule 7.5.14 (s42A Rule 7.5.15) which specifies distances of both 80m and 40m as sought in the NZTA (719) submission.

18. AIRPORT NOISE

18.1 In relation to redraft Rule 7.5.4, the Panel suggested that s42A Rules 7.5.4 and 7.5.5 should be combined. Upon further review of these rules, I note that the first paragraph within each rule is the same, with the second paragraph providing differences. S42A Rule 7.5.4 pertains to developments within the ANB and requires both sound insulation and mechanical ventilation,[20] however s42A Rule 7.5.5 is for developments between the ANB and the OCB and only

20 Or a certificate from an acoustics expert stating the construction will achieve the Indoor Design Sound Level with the windows open

requires mechanical ventilation.[21] For purposes of succinctness, these two rules can be combined and I have recommended this change in redraft Rule 7.5.4 in **Appendix 1**.

18.2 I have also recommended a change to the reference to Table 4 in Chapter 36, as in Ms Evans' Right of Reply on Chapter 36 this table reference was removed.

18.3 In relation to s42A Rules 7.5.4 and 7.5.5, the Panel queried whether the reference to the 2037 Noise Contours could be identified on the planning maps. From reviewing the definitions of ANB and OCB, I understand that the ANB and OCB lines identified on the planning maps represent the extent of the 2037 noise contours (however not the contour increments). Accordingly, I do not consider that a change to reference the planning maps instead of the noise contours would be sufficiently accurate.

19. WASTE AND RECYCLING STORAGE SPACE

19.1 During the hearing the Panel queried whether the waste and recycling storage space required in Rule 7.5.12 (redraft Rule 7.5.11) is necessary given the site area of the LDRZ and the site coverage restrictions. I agree with the Panel in this regard and have checked both the submissions lodged on the chapter and those lodged on the entire plan, and have not found any scope to recommend deletion of this rule.

20. OBJECTIVES AND POLICIES

20.1 In relation to Policy 7.2.1.2, the Panel suggested reconsideration of the word 'require' to allow more flexibility. I concur that the word 'require' is rigid in its application and does not represent the 'gentle density' approach being promoted within the LDRZ. As a result, I recommend the use of the word 'encourage' in its place. This change is outlined within **Appendix 1**.

20.2 The Panel suggested consideration of reference to other matters within the third bullet point of redraft Policy 7.2.2.1, as street activation is more than only connection between front doors and the street. I agree with the Panel in that

21 Or a certificate from an acoustics expert stating the construction will achieve the Indoor Design Sound Level with the windows open

street activation is also about passive surveillance, encouraging community engagement and the like. This is done through methods such as provision of windows into habitable rooms, low fencing along the street, and usable front yards. Notwithstanding the above, I do not consider that any submission provides me with scope to recommend additions such as the above to the policy.

20.3 In relation to redraft Policy 7.2.5.1, the Panel questioned what “efficiency and safety” relate to as the policy is unclear. I consider that it relates to the roading network as this reflects the overarching redraft Objective 7.2.5. I have therefore recommended this change in **Appendix 1** as a clarification.

20.4 The Panel requested that redraft Objective 7.2.6 be reframed as a positive statement to fit better with the policies that sit under the objective. I have made this change in **Appendix 1** and I consider that the change in tone does not alter the intent of the provision.

21. NON-NOTIFICATION (RULE 7.6.2.1)

21.1 In relation to this rule, I accept the Chair's recommendation that the wording be altered from 'notified' to 'an affected party' as a way to resolve the issues raised between Council and the NZTA (719) in this instance. I note that Mr MacColl on behalf of NZTA also agreed to this at the hearing.

21.2 Having considered Mr MacColl's evidence in relation to the term 'direct access', I have also recommended in **Appendix 1** the deletion of the word 'direct' and inclusion of 'vehicle crossing or right of way access'. This will therefore cover the scenario outlined by Mr MacColl and will prevent the confusion that might occur where a site may be accessed via a street located off a State Highway.

22. DEFINITIONS

Residential Flat

22.1 On 27 October 2016 the Chair of the Panel requested that the definition of 'Residential Flat' be transferred to the hearing on definitions. **Appendices 1** and **3** have been updated to this effect and I note that paragraphs 14.17 -

14.19 (in part) as well as paragraphs 14.20 – 14.27 of the LDRZ s42A are no longer applicable.

Day Care Facility

22.2 Paragraph 11.24 of the s42A report addressed the Ministry of Education (**MoE**) (524) submission seeking an amendment to the definition of 'Day Care Facility'. I concluded that this was not necessary. Since this time however I have noted that given the recommended new definition of 'Education Activity', deletion of the 'Education Facility' definition and the subsequent change to the definition of 'Community Activity', that 'Day Care Facilities' are not incorporated within the definition of 'Community Activity'. 'Day Care Facilities' are also not individually included within 7.4 Rules – Activities. As a consequence, 'Day Care Facilities' within the LDRZ would be classed as 'Activities which are not listed' in 8.4.1 which is a non-complying activity. This differs from 'Community Activities' in 8.4.9 which are discretionary activities. I consider this difference is nonsensical given the effects relating to day care facilities and early childhood education would be very similar. To correct this, I recommend that day care facilities be included within the definition of 'Community Activity'. I consider that the MoE (524) submission provides scope to do this.

23. OUTDOOR STORAGE

23.1 Ms Banks has addressed the matter of 'Outdoor Storage' and 'Bulk Outdoor Storage' in paragraphs 12.2 – 12.5 of her Right of Reply in relation to the High Density Residential zone. I concur with her assessment and conclusion and consequently recommend that a consistent approach is undertaken for the LDRZ. It is my opinion that Rule 7.4.5 should be deleted, however I note that there are no submissions seeking this relief, consequently, I have not recommended this change within **Appendix 1**.

24. ACTIVITY STATUS

24.1 On 10 October the Panel requested that I provide a table showing the statistics on applications for restricted discretionary, discretionary and non-complying activities over the past five years, showing whether they were notified or non-notified and whether a hearing was held or not. This table is provided in

Appendix 5. Please note that the accuracy of the statistics prior to 2014 should not be relied upon as Council's records are not complete.

25. NATURAL HAZARDS MATTER OF DISCRETION

25.1 As shown in **Appendix 1**, I recommend that the matter of discretion for natural hazards in redraft Rule 7.4.10 is modified to remove the requirement for an assessment by a suitably qualified person. This recommended change is consistent with the recommended change within the Business zone s42A reports. The change also in my view gives effect to notified Policy 28.3.2.3 of Chapter 28 (Natural Hazards), which lists the information requirements for natural hazards assessments and does not include a requirement for all natural hazards assessments to be undertaken by a suitably qualified person. I note that the Otago Regional Council (798) sought considerable changes to the Natural Hazards framework within the PDP and consider therefore that there is scope to address this throughout the PDP.

25.2 I have also included the updated natural hazard matter of discretion within the recommended matters of discretion for redraft Rule 7.4.5 relating to small scale Commercial Activities. I consider that this is a valid matter of discretion for these standards as they may result in an increased number of units or floor area within hazard prone areas and this requires assessment.

26. HEIGHT RESTRICTIONS ALONG FRANKTON ROAD

26.1 With regard to s42a Rule 7.5.16, the Panel requested that the sites that are subject to the rule be identified on the planning maps rather than for plan users to have to locate the extent of the area. Upon mapping of these sites it has become apparent that they are all proposed to be zoned HDRZ under the PDP, rather than LDRZ. As a consequence, the recommended s42A Rule 7.5.16 is not required within the LDRZ chapter and I have updated **Appendix 1** to this effect. I note however that Ms Banks at paragraphs 6.1-6.2 in her right of reply relating to the HDRZ has recommended inclusion of the equivalent rule, and the changes required to the planning maps.

27. ARROWTOWN POLICIES

27.1 In order to be consistent with the recommended redraft Policy 8.2.4.1 and in line with the relief sought by A Gormack (189) to ensure strong protection of Arrowtown as a 'historical village', I have recommended an amendment to redraft Policy 7.2.3.1 in **Appendix 1**.

27.2 This recommendation will both strengthen the policy and be more specific as to the matters to be paid particular regard within the Arrowtown Design Guidelines 2016.

28. CONCLUSION

28.1 Overall, I consider that the revised chapter as set out in **Appendix 1** is the most appropriate way to meet the purpose of the RMA.

Amanda Leith
Senior Planner
11 November 2016