

In the Environment Court of New Zealand
Christchurch Registry

I Te Koti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2018-CHC-150

Under the Resource Management Act 1991 (**RMA**)

In the matter of An appeal under clause 14(1) of Schedule 1 of the RMA in relation to the proposed Queenstown Lakes District Plan

Between **Darby Planning Limited**
Appellant

And **Queenstown Lakes District Council**
Respondent

AMENDED Notice of Appeal

~~19 June~~ 2 November 2018

Appellant's solicitors:
Maree Baker-Galloway | Rosie Hill
Anderson Lloyd
Level 2, 13 Camp Street, Queenstown 9300
PO Box 201, Queenstown 9348
DX Box ZP95010 Queenstown
p + 64 3 450 0700 | f + 64 3 450 0799
maree.baker-galloway@al.nz | rosie.hill@al.nz

**anderson
lloyd.**

To The Registrar
Environment Court
Christchurch

- 1 Darby Planning LP (**DPL**) appeals against part of the decision of Queenstown Lakes District Council on the proposed Queenstown Lakes District Plan (**PDP**).
- 2 DPL made a submission (#608) and further submission (#1313) on the PDP.
- 3 DL is not a trade competitor for the purpose of section 308D Resource Management Act 1991 (**RMA**).
- 4 DPL received notice of the decision on 7 May 2018.
- 5 The decision was made by Queenstown Lakes District Council (**QLDC**).
- 6 The parts of the decisions appealed relate to:
 - (a) Chapter 3 Strategic Direction;
 - (b) Chapter 4 Urban Growth;
 - (c) Chapter 6 Landscapes;
 - (d) Chapter 21 Rural;
 - (e) Chapter 22 Rural Residential / Lifestyle;
 - (f) Chapter 27 Subdivision.
- 7 Reasons for appeal

Chapter 3 Strategic Direction

- 8 Chapter 3 provides for the overarching strategic direction for resource management in the Queenstown Lakes District. DPL has varied interests in land across different zones of the PDP as set out in its original and further submissions. The nature of Chapter 3 applying as higher order provisions to all other provisions of the PDP means that all of those DPL interests are affected by Chapter 3.
- 9 DPL has a proven track record and a strong ethic of land stewardship and management of resources sensitively through a masterplanning based approach that integrates use and management of land into the landscape in which they are located and the wider environment.

- 10 Significant changes to content and structure of Chapter 3 have occurred between the notified PDP version and the decisions version. DPL therefore considers that its appeal on this chapter is significantly broad and not limited in scope to original policies and objectives listed.
- 11 DPL opposes those provisions of Chapter 3 which do not provide for appropriate diversification of land uses (particularly in the Rural Zones and in chapter 6 Landscapes), and which do not provide sufficiently for the social, economic, and cultural wellbeing of people and communities.
- 12 The specific provisions of Chapter 3 and the relief sought by DPL are set out in **Appendix A** to this Appeal.

Chapter 4 Urban Growth

- 13 The provisions of the PDP seek to play a much greater role in the management of urban growth. The relevant new objectives and policies seek to introduce controls on Urban Development in particular through the creation of Urban Growth Boundaries. The focus of the policies is on the concentration of urban development within existing urban areas and related settlements together with the introduction of stronger policies to avoid urban development within rural areas.
- 14 If urban growth boundaries are to be retained, DPL seeks a clearer and more efficient regime for their future amendments to account for the Queenstown Lakes District as a High Growth Area under the National Policy Statement Urban Development 2016.
- 15 The provisions of Chapter 4 should also be amended to ensure that urban growth within those urban growth boundaries are not unnecessarily restricted, and are not used as buffers for adjacent urban development occurring in areas not within an urban growth boundary.
- 16 The specific provisions of Chapter 4 and the relief sought by DPL are set out in **Appendix A** to this Appeal.

Chapter 6 Landscapes

- 17 DPL has significant interests within the rural areas of the Queenstown Lakes District, including Jacks Point, Parkins Bay, Wyuna, Soho and Treble Cone Ski areas, Mount Christina, Amisfield vineyard and winery, Lakes Hayes and Morven Ferry. The general approach taken to land development within these areas places a high value on the protection and maintenance of landscape values. Equally, farming and rural based activities, including rural living and other accommodation are activities which are supported as a means of

managing the land, together with the use of land for other recreation, landscape management or viticulture purposes.

- 18 DPL opposes those policies relating to the preference for farming as the means to protect landscape values as these are disproportionately weighted towards the protection of agriculture and fails to provide for those rural landscapes where pastoral farming does not occur such as within the conservation estate or other land held for recreation purposes including ski areas. Farming is one method for using rural resources productively, but its long term sustainability is uncertain particularly in this district, and there are other uses of rural land that are compatible with the protection of landscape values. Other natural factors, processes and human activities have shaped the landscape of the district in addition to farming.
- 19 DPL opposes those landscape provisions which establish a more than minor threshold or transience of effects into the determination of what is appropriate development in a landscape. This is a higher standard than that which is provided for in section 6(b) of the Act and is unjustified where the legislature has provided that such landscapes are only required to be protected from 'inappropriate' development. What is appropriate or inappropriate in a particular landscape, and based on a particular proposal may be a broader question than simply a more than minor effects assessment.
- 20 DPL considers that the PDP is fundamentally flawed in recognising that over 97% of the District is classified as a section 6(b) landscape and requests that landscape mapping be undertaken from a first principles landscape basis, applying the criterion that such landscapes to qualify must be 'outstanding or preeminent within the District'.
- 21 Where landscapes are specifically mapped in the PDP these should also be further particularised in the text of the plan so as to detail those characteristics and features which are existing in the landscapes. Such characteristics and features will better inform future decision making and assessments as to appropriateness of effects.
- 22 The specific provisions of Chapter 6 and the relief sought by DPL are set out in **Appendix A** to this Appeal.

Chapter 21 Rural

- 23 DPL considers that the policies relating to the value of farming as fundamental to the management of landscape values are disproportionately weighted towards the protection of agriculture and fail to provides for those rural landscapes where pastoral farming does not occur such as within the

conservation estate or other land held for recreation, visitor, residential or other purposes including ski areas.

- 24 As can be demonstrated through the range of projects undertaken through the master planning and design of DPL, rural areas are becoming increasingly diverse in their importance as a resource for not only farming, but also viticulture, visitor accommodation, residential, tourism and recreation activities, particularly where those activities enable ecological, open space, conservation public access and amenity values to be protected and enhanced. The policies need to recognise and provide for those activities as contributing to both the diversity and protection and enhancement of the full breadth of values in relation to rural land that positively contribute to the District's social, cultural and economic well-being.
- 25 The specific provisions of Chapter 21 and the relief sought by DPL are set out in **Appendix A** to this Appeal.

Chapter 22 Rural Residential / Lifestyle

- 26 DPL considers that Rural living zones should achieve their primary purpose of providing for rural living opportunities and the associated benefits of such development for social, cultural, and economic wellbeing. Such zones have been located in areas which are identified to have capacity to absorb the effects of additional development for rural living. It is therefore unnecessary and inefficient for these zones to repeat landscape preservation and amenity protections afforded in higher order chapters and the Rural Zone. Such provisions hinder development in areas where such development is anticipated to occur and is an inefficient use of a relatively valuable land resource.
- 27 Specific provisions pertaining to visitor accommodation, setbacks, buildings within building platforms and density are opposed by DPL for the reasons set out above, in particular their inefficiency to achieve integrated and streamlined planning outcomes.
- 28 The specific provisions of Chapter 22 and the relief sought by DPL are set out in **Appendix A** to this Appeal.

Chapter 27 Subdivision and Development

- 29 The notified provisions within Chapter 27 Subdivision and Development also provide a significant change in approach to the management of subdivision through the default status of subdivision as a discretionary activity (unrestricted), the removal of matters of control and related assessment matters and the reformulation of an expanded suite of objectives and policies to establish the framework formerly covered through the controlled activity regime

under the operative District Plan. Coupled with these changes is an expanded non notification clause relating to most discretionary activities subdivisions to remove risk of notification.

- 30 The fundamental change from a controlled activity regime to a restricted discretionary regime introduces a level of uncertainty that is inconsistent with the higher order chapters of the PDP and Part 2 of the Act.
- 31 The specific provisions of Chapter 27 and the relief sought by DPL are set out in **Appendix A** to this Appeal.

Further and consequential relief sought

- 32 DPL opposes any further provisions and seeks alternative, consequential, or necessary additional relief to that set out in this appeal and to give effect to the matters raised generally in this appeal and DPL's PDP submissions.

Attachments

- 33 The following documents are **attached** to this notice:
- (a) **Appendix A** – relief sought
 - (b) **Appendix B** - A copy of the Appellant's submission and further submissions;
 - (c) **Appendix C** - A copy of the relevant parts of the decision; and
 - (d) **Appendix D** - A list of names and addresses of persons to be served with this notice.

Dated this ~~19th~~ 2nd day of ~~June~~ November 2018



Maree Baker-Galloway/Rosie Hill
Counsel for the Appellant

Address for service of the Appellants

Anderson Lloyd

Level 2, 13 Camp Street

PO Box 201

Queenstown 9300

Phone: 03 450 0700 Fax: 03 450 0799

Email: maree.baker-galloway@al.nz | rosie.hill@al.nz

Contact persons: Maree Baker-Galloway | Rosie Hill

Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must,—

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the Appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

Advice

If you have any questions about this notice, contact the Environment Court in Christchurch.

Provision (PDP decision version)	Reason for appeal	Relief sought
Chapter 3 Strategic Direction		
<p>New policy and objective suite</p>	<p>Sustainable management under the RMA includes enabling social, economic, and cultural wellbeing for present and future generations, resource management decisions need to recognise that individual and community wellbeing depends on the use and development of natural and physical resources, as well as their protection in some instances.</p> <p>The PDP Strategic Direction chapter currently provides specific recognition for economic wellbeing and resource use / diversification, specific to some urban areas and some rural land. This however should be broadened or otherwise complemented by additional general provisions which provide for all aspects of section 5 RMA. Previous to the Supreme Court judgement of EDS v King Salmon, these considerations could be separately accounted for through an overall judgement approach, however now these matters are confined to the relevant planning instrument. Not adequately providing for these matters will result in an incomplete District Plan and will undermine its purpose.</p> <p>These additions sought will also give effect to new Chapter 1 in the proposed RPS, which is not accounted for in the Council's</p>	<p>Include new objective and policy suite into Chapter 3 to address the following (wording may be further refined subject to appeals and PDP drafting consistency):</p> <p>Strategic objectives</p> <p><u>SO 3.2.1.x Natural and physical resources of the District are sustainably used to promote economic, social, and cultural wellbeing of people and communities.</u></p> <p>Strategic policies</p> <p>...</p> <p><u>Social, cultural, and economic wellbeing</u></p> <p><u>3.3.x.x Provide for the economic wellbeing of the District's people and communities by enabling sustainable use and development of natural resources.</u></p> <p><u>3.3.x.x Provide for social and cultural wellbeing of the District's people and communities when undertaking subdivision, use and development of natural and physical resources.</u></p>

Provision (PDP decision version)	Reason for appeal	Relief sought
3.2.1.7	<p>Decision on the PDP.</p> <p>Objective 3.2.1.7 duplicates 3.3.20 (farming is a permitted activity) with a risk of this strategic objective having primacy over diversification of land resource which is appropriate subject to landscape character (provided for in Chapter 6). Amendments are sought to this objective to incorporate tourism and to re-frame the maintenance of rural character to the districts outstanding natural landscape.</p>	<p>Amend objective 3.2.1.7 as follows:</p> <p><u>Agricultural and tourism land uses that maintain consistent with the maintenance of the districts outstanding natural landscape character of rural landscapes</u> and significant nature conservation values are enabled. (also elaborates on SO 3.2.4 and 3.2.5 following)</p>
3.2.1.8	<p>The Objective fails to recognise and provide for tourism activities in the rural zone. Maintaining character of rural landscapes and is contrary to maintaining and enhancing nature conservation values.</p>	<p>Amend Objective 3.2.1.8 as follows:</p> <p>3.2.1.8 Diversification of land use in rural areas beyond traditional activities, including farming, provided that the character of rural landscapes, significant nature conservation values and Ngāi Tahu values, interests and customary resources, are maintained. (also elaborates on S.O.3.2.5 following)</p>
3.2.2.1	<p>Currently ensures urban development occurs so as to 'be integrated with existing and planned future infrastructure'. This could pose a risk to infrastructure which is private and what the interpretation of 'planned future' infrastructure will be.</p>	<p>Amend objective 3.2.2.1(h) as follows:</p> <p><u>be coordinated with the design and development of infrastructure growth and redevelopment planning</u></p>

Provision (PDP decision version)	Reason for appeal	Relief sought
3.2.3	<p>This is a sound objective however is only supported by recognition of historic heritage values. This should also recognise the importance of quality urban design and development which provides for an integrated built form reflecting the surrounding environment.</p>	<p>New SO 3.2.3.2 – <u>Built form expresses the individual character and values of those communities and integrates well with its surrounding environment by quality urban design planning</u></p>
3.2.5.1	<p>The objective should focus on the protection of natural values from inappropriate development which is the section 6 legislative standard. There is no evidence to depart from the legislative intent of section 6. If this amendment is not accepted, then the Appellant seeks a revised approach landscapes in the PDP which requires the scheduling / mapping of all ONLs and ONFs individually, and the particularisation of the outstanding characteristics and other characteristics which exist within a landscape, to be specifically recognised.</p> <p>This will assist further planning and decrease uncertainty.</p>	<p>Amend strategic objective as follows:</p> <p>3.2.5.1 The landscape and visual amenity values and the natural character values of Outstanding Natural Landscapes and Outstanding Natural Features are protected from <u>inappropriate</u> adverse effects of subdivision, use and development that are more than minor and/or not temporary in duration.</p> <p>And / or:</p> <p>Amend 3.2.5 and associated policies to provide for a listed schedule / appendix to the PDP which specifically identifies all ONLs and ONFs in the District and their individual characteristics / values.</p>
3.2.5.2	<p>The objective should be amended to ensure appropriate</p>	<p>Amend strategic objective 3.2.5.2 as follows:</p>

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	<p>development in rural landscapes in enabled; delete 'without materially detracting from those values'.</p> <p>Objective 3.2.5.2 establishes the overall direction in relation to the management of s7 landscapes within the rural zone, Maintaining or enhances the values of this landscape by directing subdivision, use or development into areas with greatest capacity to absorb change is appropriate, but not if that outcome is further qualified by also having to occur “without materially detracting from those values”. This qualification is in conflict with the policies relating to the management of special amenity landscape and highly valued natural features under the proposed Otago Regional Policy Statement and is vague and uncertain as to its meaning. If the values are to be maintained or enhanced through directing development into areas with greater capacity to absorb change, this sentence is not of assistance.</p>	<p>3.2.5.2 The rural character and visual amenity values in identified Rural Character Landscapes are maintained or enhanced by managing directing new subdivision, use or development <u>or directing new subdivision, use or development</u> to occur in those areas that have the potential to absorb change without materially detracting from those values.</p> <p>And / or:</p> <p>Amend 3.2.5 and associated policies to provide for a listed schedule / appendix to the PDP which specifically identifies all ONLs and ONFs in the District and their individual characteristics / values.</p>
3.3.1	<p>The panel introduced this new strategic policy into the PDP. The policy should be elevated to an objective, with more specific polices provided to ensure visitor activities are sufficiently provided for.</p>	<p>Amend policy 3.3.1 to include it as a strategic objective, and;</p> <p>Amend policy 3.3.1 as follows:</p> <p>3.3.1 Make provision for the visitor industry to maintain, <u>and enhance, upgrade and expand attractions, facilities and</u></p>

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	The policy is focused on urban areas and should capture all of the district (namely the rural environment)	services, <u>including supporting infrastructure</u> within the Queenstown and Wanaka town centre areas and elsewhere within the District's urban areas and settlements at locations where this is consistent with objectives and policies for the relevant zone. (relevant to S.O. 3.2.1.1)
Policy 3.3.20	The Policy onerous and should include existing tourism and transportation activities.	Amend policy 3.3.20 as follows: <u>Enable continuation of existing farming, and other activities that rely on the rural land resource and evolving forms of agricultural land use in rural areas except where those activities conflict with significant nature conservation values or degrade the existing character of rural landscapes.</u> (relevant to S.O. 3.2.1.7, 3.2.5.1 and 3.2.5.2)
3.3.21	Objective 3.3.21 is important in recognising the appropriateness of commercial recreation and tourism related activities in the Rural Zone. The qualifier included within this objective to "protect, maintain or enhance" combines various outcomes relating to each classifications of landscape. Because the outcomes for managing all types of subdivision, use and development within the District's landscapes are separately stated, wording covering all bases renders it less	Amend Objective 3.3.21, as follows: Recognise that commercial recreation and tourism related activities seeking to locate within the Rural Zone may be appropriate where these activities enhance the appreciation of landscapes, and on the basis they would protect, maintain or enhance <u>appropriately manage effects on</u> landscape quality, character and visual amenity values. (relevant to S.O. 3.2.1.1,

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	<p>effective. DPL seek to replace “protect, maintain or enhance” with the appropriate management of the effects on landscape quality, character and visual amenity values. This does not diminish landscape values but rather has that guidance provided through the more specific strategic and detailed objectives</p>	<p>3.2.1.8, 3.2.5.1 and 3.2.5.2)</p>
<p>3.3.23</p>	<p>This policy seeks to recognise 'areas' on maps that cannot absorb further changes. It is unclear from the policy to what part of the plan this relates, and how such identification is to occur – for example building restriction areas, or other annotations.</p> <p>Avoiding development in all areas of the District that are not within outstanding natural landscapes or features leaves this strategic policy open to very wide interpretation and it is not particularised to any part of the District, such as the rural zone.</p> <p>In any event, avoidance of residential development is a very high threshold that does not align with the legislative test for amenity values in section 7</p>	<p>Delete policy 3.3.23 or otherwise amend to clarify its application on planning maps.</p>
<p>3.3.24</p>	<p>This policy seeks to control cumulative effects of rural lifestyle</p>	<p>Clarify strategic policy 3.3.24 does not apply to rural living</p>

Provision (PDP decision version)	Reason for appeal	Relief sought
	development where this results in the area becoming 'no longer rural in character'. Amendments to this policy are sought to ensure it is not applicable to rural living zones or the Wakatipu Basin Lifestyle Precinct (Stage 2 PDP) as this would otherwise undermine the purpose of those zones	zones or the Wakatipu Basin Lifestyle Precinct.
3.3.30	Strategic Policy 3.3.30 fails to identify the values within the Districts outstanding natural landscapes or features for which the policy applies. DPL seeks to amend the policy to recognise the listed landscape values and character. This change works in tandem with Strategic Policy 3.3.29 to identify the Districts outstanding natural landscape and features, such that when managing the subdivision, use or development within such landscapes the plan is being clear as to what those values are.	<p>Amend policy 3.3.30 as follows:</p> <p><u>Protect outstanding natural landscapes and outstanding natural features against inappropriate development by maintaining the scheduled outstanding values of the feature or landscape.</u></p> <p>Amend 3.30 to reference 'recognised / scheduled' landscape character / values'.</p>
3.3.32	Ensure this policy is not applicable to rural living zones or the Wakatipu Basin Lifestyle Precinct as this would otherwise undermine the purpose of those zones	Clarify strategic policy 3.3.32 does not apply to rural living zones, or the Wakatipu Basin Lifestyle Precinct or otherwise amend the policy to better enable rural living and subdivision.
New policy 3.3.2x	The current policy 3.3.22 recognises the need to 'provide for rural living opportunities in appropriate locations'. This is the only positive policy which acknowledges the existence and	3.3.2.xx New Policy – Recognise and provide for the amenity, social, cultural, and economic benefits of rural living development

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	<p>benefits of rural living development. In light of the new objective and policy suite sought in Chapter 24 (Wakatipu Basin), which further recognises the benefits of rural living development, it is important that this is also recognised at the strategic level. The specifics of these provisions are to be addressed further in Stage 2, however given the uncertainties of the Council's approach to staging the District Plan, also form part of this appeal</p>	
Chapter 4 Urban Development		
<p>4.2.1.5 When locating Urban Growth Boundaries or extending urban settlements through plan changes, avoid impinging on Outstanding Natural Landscapes or Outstanding Natural Features and minimise degradation of the values derived from open rural landscapes.</p>	<p>The wording of Policy 4.2.1.5 is considered vague and uncertain, including by failing to include reference to the effects of urban development on the values of the ONF/Ls. The wording of the policy confusingly requires multiple tests to be achieved: "avoid impinging on", to "minimise the degradation of the values", and "open rural values". Delete policy 4.2.1.5 or otherwise amend so as to use same threshold as ONL development in chapter 3 (adverse effects not more than minor / temporary in duration, or the revised relief for those provisions).</p>	<p>Delete policy 4.2.1.5 or otherwise amend so as to incorporate a consideration of the effects urban development on the relevant ONF/Ls and adopts the same policy tests for ONF/Ls under Chapter 3; or</p> <p>Amend policy 4.2.1.5 as follows:</p> <p>4.2.1.5 When locating Urban Growth Boundaries or extending urban settlements through plan changes, avoid impinging on <u>provide for the protection of scheduled features of Outstanding Natural Landscapes or Outstanding Natural Features from inappropriate development</u> and minimise degradation of the values <u>maintain and enhance amenity values</u> derived from</p>

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4.2.2.1	DPL consider Policy 4.2.2.1 as having two distinct outcomes relating to the integration of urban development with infrastructure and reverse sensitivity and that would be better expressed as to separate out as two policies. It is important also to ensure that development can be consented / zoned with future provision for infrastructure rather than planned at the time so as to avoid a housing shortfall, particularly in the provision of private infrastructure.	open rural landscapes. Amend policy 4.2.2.1 as follows: <u>4.2.2.1 Integrate urban development with the design and development of infrastructure growth and redevelopment planning</u> 4.2.2.x <u>Ensure urban development mitigates the risk of reverse sensitivity effects on regionally significant infrastructure.</u>
4.2.2.8	Unclear on policy intent and duplication of 4.2.2.8 with 4.2.2.7 (encouraging innovative ways to assist provision of quality affordable housing), suggest delete.	Delete policy 4.2.2.7 or otherwise clarify its application with policy 4.2.2.8.
4.2.2.12	Amend to recognise that a secure buffer between urban and rural is appropriate whether within or outside of the UGB, so long as can be relied on. Otherwise may undermine the purpose of the UGB.	Delete policy 4.2.2.12
4.2.2.14	This is potentially inconsistent with the UGBs which includes the ONL. Suggest delete or incorporate same standard as	Amend policy 4.2.2.14 as follows: 4.2.2.14 Define Urban Growth Boundaries for the balance of

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	chapter 3 more than minor effects.	<p>the Wakatipu Basin, as shown on the District Plan Maps that:</p> <p>...</p> <p>d. Avoid Outstanding Natural Features and Outstanding Natural Landscapes</p>
New objectives and policies sought	Further amendments may be required to chapter 4 to give effect to the NPS Urban Development Capacity and its implementation through the proposed RPS (Which post-dates decisions on the PDP). Scope is reserved in respect of specific relief to give effect to these higher order instruments as required.	Consequentially amend Chapter 4 by including further provisions which give effect to the NPS-UDC and its implementation in the proposed RPS.
Chapter 6 Landscapes		
Values 6.2	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	<p>Amend Values 6.2 as follows:</p> <p>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</p>

Provision (PDP decision version)	Reason for appeal	Relief sought
	<p>the District's rural landscapes.</p> <p>SASZs should be recognised specifically in introduction of values</p>	<p>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.</p> <p>...</p> <p><u>recognise that diversification of rural land use beyond historical agricultural use can provide for positive social cultural and environmental benefits. (strategic objective 3.2.1.8)</u></p> <p><u>Ski Area Subzones are excluded from the provisions of Chapter 6 applying to outstanding natural landscapes and features. These areas are recognised for their significant contribution to the District's economic and social wellbeing, and for enhancing people's appreciation of and access to the natural environment..</u></p>
<p>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</p>	<p>Clarify that landscape categories do not apply to RR, RLZ, and special zones / Wakatipu Basin Lifestyle Precinct (WB Precinct) as those are areas which have been identified as</p>	<p>Provide a separate regulatory regime for the Gibbston Valley (identified as the Gibbston Character Zone), Rural Residential Zone, Rural Lifestyle Zone, the <u>Wakatipu Basin Lifestyle</u></p>

Provision (PDP decision version)	Reason for appeal	Relief sought
<p>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).</p>	<p>suitable for further development. Clarify whether 'special zones' is useful terminology (i.e. does this cover Jacks Point), specifically refer to other resort zones.</p>	<p><u>Precinct</u> 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).</p>
<p>New policy / objective suite</p>	<p>Insert new objective / policy to recognise the benefits of specifically identifying / scheduling the individual characteristics of each ONF / ONL in the District which contributes to that feature / landscape being outstanding. This will assist future planning decisions to determine which developments are appropriate and what effects are more than minor, based upon the recognised values of that landscape / feature</p>	<p>Amend Chapter 6 to provide for the mapping of specific ONLs / ONFs and the specific scheduling of values and characteristics existing in each.</p>
<p>Policy 6.3.3</p>	<p>No provisions of the landscape category should be applicable to rural living zones or the Wakatipu Basin Lifestyle Precinct as this could undermine the purpose and objective of those zones to achieve rural living</p>	<p>Amend Policy 6.3.3 as follows:</p> <p>Provide a separate regulatory regime for the Gibbston Valley (identified as the Gibbston Character Zone), Rural Residential Zone, Rural Lifestyle Zone, <u>the Wakatipu Basin Lifestyle Precinct</u>, and the Special Zones within which the Outstanding Natural Feature, Outstanding Natural Landscape and Rural</p>

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		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).
Policy 6.3.4	Policy 6.3.4 is applicable to rural living zones. This does not take into account existing consented development which is of an urban nature in resort zones otherwise surrounded by Rural land and which therefore affect absorption capacity of adjacent land. The avoidance policy will not allow future development in areas which could be suitable for this.	Delete policy 6.3.4 or otherwise amend to exclude the WB Precinct and rural living zones from its application.
Policy 6.3.7	Applying this policy in the rural living zones which provides primacy for farming is contrary to the purpose and objective of chapter 22, to enable rural living development.	Delete policy 6.3.7 or otherwise amend to exclude rural living zones and the Wakatipu Basin Lifestyle Precinct
6.3.9	Amend to also recognise benefits of development which result in increased access to landscapes and recreation opportunities (or provide separate policy)	Include new policy 6.3.x as follows: <u>Encourage subdivision and development proposals to promote access to outstanding natural landscapes and outstanding natural features, and increased recreation opportunities 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</u>

Provision (PDP decision version)	Reason for appeal	Relief sought
		<p><u>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).</u></p>
<p>6.3.10</p>	<p>Development in adjacent RCL landscapes should not be held to same standard as that for ONLs and ONFs. Alternatively delete this policy as duplication.</p>	<p>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 <u>inappropriate</u> adverse effects on the <u>recognised / scheduled</u> landscape quality, character and visual amenity <u>values</u> of the relevant Outstanding Natural Feature(s). (3.2.5.1, 3.3.30).</p>
<p>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)</p>	<p>Inserted public places to the reasonably difficult to see test to ensure amenity of neighbours is separately considered. Similar standard as that applied through Chapter 3 and in Part 2 should be applied in this provision.</p>	<p>Recognise that subdivision and development is inappropriate in almost all locations in <u>Ensure that subdivision and development within</u> Outstanding Natural Landscapes and on Outstanding Natural Features, meaning successful applications will be exceptional cases where the landscape or feature can absorb the change <u>protects the scheduled characteristics of that landscape or feature from inappropriate development by ensuring that</u> and where the buildings and structures and associated roading and boundary changes will be reasonably</p>

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		difficult to see from <u>public places</u> beyond the boundary of the site the subject of application. (3.2.1.1, 3.2.5.1, 3.3.21, 3.3.30)
Policy 6.3.14	Amend the policy to remove a primacy for farming activities	Amend policy 6.3.14 as follows: 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 <u>overall</u> character of the Outstanding Natural Landscape is not <u>inappropriately</u> adversely affected. (3.2.1.7, 3.2.1.8, 3.2.4.1, 3.2.5.1, 3.3.20, 3.3.30).
Policy 6.3.16	It is unclear whether this provision would inhibit or discourage appropriate development, such as revegetation as part of proposed developments	Delete policy 6.3.16
Policy 6.3.19	The policy is not currently consistent with the section 7 legislative standard. Either delete this policy or amend as follows.	Amend policy 6.3.19 as follows: Recognise <u>Ensure</u> that subdivision and development is unsuitable in many locations in <u>consistent with the underlying Zone within a</u> Rural Character Landscape and successful applications will need to be, on balance, consistent with the

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		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)
Policies 6.3.19 – 6.3.29 (managing activities in Rural character Landscapes)	Clarify that rural living zones are excluded from assessment against these policies, or otherwise amend to enable rural living development to occur within those rural living zones or the Wakatipu Basin Precinct, and in particular, the Site.	Clarify that rural living zones and the Wakatipu Basin Lifestyle Precinct are excluded from assessment against 6.3.19 -6.3.29, or otherwise amend those policies to ensure an efficient rural living development regime for Chapter 22 is achieved.
6.3.20	This policy could have unintended consequences in requiring developments to proceed as plan changes, resulting in a dispersed and unwieldy District Plan, which this Review has sought to avoid.	Delete policy 6.3.20 or otherwise amend to exclude rural living zones and the Wakatipu Basin Precinct
6.3.21	Delete as contradiction / overlap with case law on receiving environment 'likely' to be implemented and the existing environment (re <i>Hawthorn v QLDC</i>).	Delete policy 6.3.21
6.3.26	This policy should be amended to recognise that some developments in RCL may be appropriate even if visible, e.g. Amisfield restaurant. Ensure that public places is consistently administered as per definition, and that protection of views to	Amend policy 6.3.26 as follows: Avoid <u>ensure</u> adverse effects on visual amenity from subdivision, use and development <u>are appropriately mitigated</u>

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	ONL / ONF is effects based	<p>that:</p> <p>a. is <u>are</u> 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</p> <p>b. forms the foreground for an <u>would detract from views to an</u> 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)</p>
Policy 6.3.27	This policy is contradictory to this type of activity (planting and screening) being permitted and already established in many landholdings in this Basin.	Delete policy 6.3.27 or otherwise amend to apply this policy only in respect of consideration at the stage of subdivision and design / in any proposed mitigation.
Chapter 21 Rural		
New policy 6.3.xx Rural living and development in the Wakatipu Basin	Provide specific policy support for rural living and development in the Wakatipu Basin and the WB Precinct and its distinctive development aspects. The specifics of these provisions are to be addressed further in Stage 2, however given the uncertainties of the Council's approach to staging the District Plan, also form part of this appeal	<u>New Policy 6.3.1.xx - Recognise the distinctive character of the Wakatipu Basin and the amenity benefits of rural living development in this area.</u>

Provision (PDP decision version)	Reason for appeal	Relief sought
21.2.1 Objective	Objective does not sufficiently recognise tourism activity as established. The second (protectionist) part of this objective could be deleted as it is not necessary	Amend objective 21.2.1 as follows: A range of land uses, including farming, <u>and other activities which rely on the rural land resource</u> , and established activities, are enabled while protecting, maintaining and enhancing landscape, ecosystem services, nature conservation and rural amenity values.
21.2.1.1 policy	Policy does not sufficiently recognise tourism activity as established. The second (protectionist) part of this objective could be deleted as it is not necessary	Amend policy 21.2.1.1 as follows: Enable farming <u>and tourism</u> 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.
Policy 21.2.4.2	Existing activities extend beyond farming and which require reverse sensitivity protection	Amend policy 21.2.4.2 as follows: Control the location and type of <u>new activities</u> 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.

Provision (PDP decision version)	Reason for appeal	Relief sought
Objective and policy suite 21.2.9	Enable tourism and recreation growth within the Rural Zone	<p>Amend objective and policy suite as follows:</p> <p>21.2.9 Provision for diversification of farming and other rural activities <u>that have a functional need for location within the rural land resource</u> protect landscape and natural resource values and maintains the character of rural landscapes.</p> <p>21.2.9.2 in a way that maintains and enhances landscape quality, character, rural amenity, and natural resources</p> <p>21.2.9.3 Provide for the establishment <u>and operation</u> of activities such as tourism, commercial recreation or visitor accommodation located within the <u>Rural Zone, particularly farms</u> where these enable landscape values and indigenous biodiversity to be sustained in the longer term.</p>
Policy 21.2.1.15	The policy as currently worded is unclear in its application as to what 'diminishment' would be, as this is not consistent RMA terminology.	<p>Amend policy 21.2.1.15 as follows:</p> <p>Ensure traffic from new commercial activities does not <u>have inappropriate adverse effects on</u> diminish rural amenity or affect the safe and efficient operation of the roading and trail network, or access to public places.</p>

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Assessment matters 21.21	The assessment matters in 21.21 are long, duplicative, and unnecessary. In some instances these assessment matters are not consistent with the legislative standard of landscapes and amenity values in Part 2 of the Act, and otherwise in accordance with the higher order provisions of the PDP, and the proposed RPS. While these provisions have been sought to be deleted in their entirety, the Appellant will consider further refinements and streamlining of the assessment matters in the course of these proceedings.	Delete assessment matters 21.21
Chapter 22 Rural Residential and Rural Lifestyle		
Policy 22.2.1.4	This policy is an unnecessary repetition of provisions included in Chapter 6 and is uncertain in its application as to what development constitutes being 'near' ONL / ONFs. The policy should be limited to adverse effects on views to ONLs / ONFs if it is to be retained.	Delete policy 22.2.1.4 or otherwise amend to clarify what is near an ONL / ONF
Policy 22.2.2.2	This policy is unclear in its application as the urban rural edge is not defined. This is also duplication of Chapter 4.	Delete policy 22.2.2.2

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<p>Policy 22.2.3.4</p>	<p>The application of this policy is unclear, given that many infrastructure upgrades will bear some cost to the community through Council and Government contributions. This is also repetition of subdivision and development policies relevant to landowners bearing the costs of subdivision</p>	<p>Delete policy 22.2.3.4</p>
<p>Rule 22.4.1Q1 Visitor Accommodation</p>	<p>The Councils decision is to make visitor accommodation a discretionary activity and has not accepted the submissions seeking this to be a RD Activity.</p> <p>Note that stage 2 visitor accommodation only deals with short term stays through the new definitions and rules relating to residential visitor accommodation and homestays. The decisions on Chapter 22 remain relevant for visitor accommodation generally i.e. for stays beyond 90 days.</p>	<p>Amend Rule 22.4.1Q1 to be an RDA activity beyond permitted activity thresholds</p>
<p>Rule 22.5.5 Setback from roads</p>	<p>Road boundary setback increased from 15m to 20m is an inefficient use of land resource where developments can be appropriately designed to protect public views and amenity.</p>	<p>Amend Rule 22.5.5 as follows:</p> <p>The minimum setback of any building from a road boundary shall be:</p> <p>22.5.5.1 Rural Lifestyle Zone: 20<u>15</u>m</p>

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<p>Rule 22.5.12 Residential Density: Rural Lifestyle Zone</p>	<p>There is no justification for the limitation of one unit per building platform, where in most instances building platforms are large (1000m²) and through innovative design can lead to better outcomes in terms of provision of greater housing opportunities and a mix of housing types in the District. The specifics of these provisions are to be addressed further in Stage 2, however given the uncertainties of the Council's approach to staging the District Plan, also form part of this appeal</p>	<p>Amend Rule 22.5.12.1 – 12.5.12.3 to provide for two units per building platform as follows:</p> <p><u>22.5.12.1 – Two residential units within each building platform</u></p>
<p>Chapter 27 Subdivision</p>		
<p>Rule 27.5.8 All subdivision activities in the District's Rural Residential and Rural Lifestyle Zones</p>	<p>The default activity status for rural living subdivision is opposed on the basis there is no justification to remove the existing controlled activity regime. Matters of control should be reserved to those which are necessary to achieve the Chapter 22 overall purpose and objectives which are to enable rural living opportunities and maintain and enhance amenity landscape values</p>	<p>Amend Rule 27.5.8 to provide a default controlled activity status and refine the listed matters of control to just those necessary to achieve the Chapter 22 purpose and objectives.</p>

Appendix B - A copy of the Appellant's submission and further submissions

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

Appendix D - A list of names and addresses of persons to be served with this notice.