

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

21 RURAL



21.1 Zone Purpose

There are four rural zones in the District. The Rural Zone is the most extensive of these. The Gibbston Valley is recognised as a special character area for viticulture production and the management of this area is provided for in Chapter 23: Gibbston Character Zone. Opportunities for rural living activities are provided for in the Rural-Residential and Rural Lifestyle Zones (Chapter 22).

The purpose of the Rural Zone is to enable farming activities and provide for appropriate other activities that rely on rural resources while protecting, maintaining and enhancing landscape values, ecosystem services, nature conservation values, the soil and water resource and rural amenity.

A wide range of productive activities occur in the Rural Zone and because the majority of the District’s distinctive landscapes comprising open spaces, lakes and rivers with high visual quality and cultural value are located in the Rural Zone, there also exists a wide range of living, recreation, commercial and tourism activities and the desire for further opportunities for these activities.

Ski Area Sub-Zones are located within the Rural Zone. These Sub-Zones recognise the contribution tourism infrastructure makes to the economic and recreational values of the District. The purpose of the Ski Area Sub-Zones is to enable the continued development of Ski Areas as year round destinations for ski area, tourism and recreational activities within the identified Sub-Zones where the effects of the development are cumulatively minor.

In addition, the Rural Industrial Sub-Zone includes established industrial activities that are based on rural resources or support farming and rural productive activities.

A substantial proportion of the Outstanding Natural Landscapes of the district comprises private land managed in traditional pastoral farming systems. Rural land values tend to be driven by the high landscape and amenity values in the district. The long term sustainability of pastoral farming will depend upon farmers being able to achieve economic returns from utilising the natural and physical resources of their properties. For this reason, it is important to acknowledge the potential for a range of alternative uses of rural properties that utilise the qualities that make them so valuable.

The Rural Zone is divided into two areas. The first being the area for Outstanding Natural Landscapes and Outstanding Natural Features. The second area being the Rural Character Landscape. These areas give effect to Chapter 3 – Strategic Direction: Objectives 3.2.5.1 and 3.2.5.2, and the policies in Chapters 3 and 6 that implement those objectives.

21.2 Objectives and Policies

21.2.1 Objective - A range of land uses, including farming and established activities, are enabled while protecting, maintaining and enhancing landscape, ecosystem services, nature conservation and rural amenity values.

Policies	21.2.1.1	Enable farming activities while protecting, maintaining and enhancing the values of indigenous biodiversity, ecosystem services, recreational values, the landscape and surface of lakes and rivers and their margins.
	21.2.1.2	Allow Farm Buildings associated with landholdings of 100 hectares or more in area while managing effects of the location, scale and colour of the buildings on landscape values.

- 21.2.1.3 Require buildings to be set back a minimum distance from internal boundaries and road boundaries in order to mitigate potential adverse effects on landscape character, visual amenity, outlook from neighbouring properties and to avoid adverse effects on established and anticipated activities.
- 21.2.1.4 Minimise the dust, visual, noise and odour effects of activities by requiring them to locate a greater distance from formed roads, neighbouring properties, waterbodies and zones that are likely to contain residential and commercial activity.
- 21.2.1.5 Have regard to the location and direction of lights so they do not cause glare to other properties, roads, public places or views of the night sky.
- 21.2.1.6 Avoid adverse cumulative impacts on ecosystem services and nature conservation values.
- 21.2.1.7 Have regard to the spiritual beliefs, cultural traditions and practices of Tangata whenua.
- 21.2.1.8 Have regard to fire risk from vegetation and the potential risk to people and buildings, when assessing subdivision and development in the Rural Zone.
- 21.2.1.9 Provide adequate firefighting water and fire service vehicle access to ensure an efficient and effective emergency response.
- 21.2.1.10 Commercial activities in the Rural Zone should have a genuine link with the rural land or water resource, farming, horticulture or viticulture activities, or recreation activities associated with resources located within the Rural Zone.
- 21.2.1.11 Provide for the establishment of commercial, retail and industrial activities only where these would protect, maintain or enhance rural character, amenity values and landscape values.
- 21.2.1.12 Encourage production forestry to be consistent with topography and vegetation patterns, to locate outside of the Outstanding Natural Features and Landscapes and outside of significant natural areas, and ensure production forestry does not degrade the landscape character or visual amenity values of the Rural Character Landscape.
- 21.2.1.13 Ensure forestry harvesting avoids adverse effects with regards to siltation and erosion and sites are rehabilitated to minimise runoff, erosion and effects on landscape values.
- 21.2.1.14 Limit exotic forestry to species that do not have potential to spread and naturalise.
- 21.2.1.15 Ensure traffic from new commercial activities does not diminish rural amenity or affect the safe and efficient operation of the roading and trail network, or access to public places.
- 21.2.1.16 Provide for a range of activities that support the vitality, use and enjoyment of the Queenstown Trail and Upper Clutha Tracks networks on the basis that landscape and rural amenity is protected, maintained or enhanced and established activities are not compromised.

21.2.2 Objective - The life supporting capacity of soils is sustained.

Policies	21.2.2.1	Allow for the establishment of a range of activities that utilise the soil resource in a sustainable manner.
	21.2.2.2	Maintain the productive potential and soil resource of Rural Zoned land and encourage land management practices and activities that benefit soil and vegetation cover.
	21.2.2.3	Protect the soil resource by controlling activities including earthworks, indigenous vegetation clearance and prohibit the planting and establishment of identified wilding exotic trees with the potential to spread and naturalise.

21.2.3 Objective - The life supporting capacity of water is safeguarded through the integrated management of the effects of activities.

	21.2.3.1	In conjunction with the Otago Regional Council, regional plans and strategies: <ol style="list-style-type: none"> a. encourage activities that use water efficiently, thereby conserving water quality and quantity; b. discourage activities that adversely affect the potable quality and life supporting capacity of water and associated ecosystems.
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21.2.4 Objective - Situations where sensitive activities conflict with existing and anticipated activities are managed to minimise conflict between incompatible land uses.

Policies	21.2.4.1	New activities must recognise that permitted and established activities in the Rural Zone may result in effects such as odour, noise, dust and traffic generation that are reasonably expected to occur and will be noticeable to residents and visitors in rural areas.
	21.2.4.2	Control the location and type of non-farming activities in the Rural Zone, so as to minimise conflict between permitted and established activities and those that may not be compatible with such activities.

21.2.5 Objective - Mineral extraction opportunities are provided for on the basis the location, scale and effects would not degrade amenity, water, wetlands, landscape and indigenous biodiversity values.

Policies	21.2.5.1	Have regard to the importance and economic value of locally mined high-quality gravel, rock and other minerals including gold and tungsten.
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- 21.2.5.2 Provide for prospecting and small scale mineral exploration and recreational gold mining as activities with limited environmental impact.
- 21.2.5.3 Ensure that during and following the conclusion of mineral extractive activities, sites are progressively rehabilitated in a planned and co-ordinated manner, to enable the establishment of a land use appropriate to the area.
- 21.2.5.4 Ensure potentially significant adverse effects of extractive activities (including mineral exploration) are avoided, or remedied particularly where those activities have potential to degrade landscape quality, character and visual amenity, indigenous biodiversity, lakes and rivers, potable water quality and the life supporting capacity of water.
- 21.2.5.5 Avoid or mitigate the potential for other land uses, including development of other resources above, or in close proximity to mineral deposits, to adversely affect the extraction of known mineral deposits.
- 21.2.5.6 Encourage use of environmental compensation as a means to address unavoidable residual adverse effects from mineral extraction.

21.2.6 Objective - The future growth, development and consolidation of Ski Areas Activities within identified Ski Area Sub-Zones, is provided for, while adverse effects on the environment are avoided, remedied or mitigated.

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| Policies | 21.2.6.1 Identify Ski Area Sub-Zones and encourage Ski Area Activities and complementary tourism activities to locate and consolidate within the Sub-Zones. |
| | 21.2.6.2 Control the visual impact of roads, buildings and infrastructure associated with Ski Area Activities. |
| | 21.2.6.3 Provide for the continuation of existing vehicle testing facilities within the Waiorau Snow Farm Ski Area Sub-Zone on the basis that the landscape and indigenous biodiversity values are not further degraded. |
| | 21.2.6.4 Provide for appropriate alternative (non-road) means of transport to and within Ski Area Sub-Zones, by way of passenger lift systems and ancillary structures and facilities. |
| | 21.2.6.5 Provide for Ski Area Sub-Zone Accommodation activities within Ski Area Sub-Zones, which are complementary to outdoor recreation activities within the Ski Area Sub-Zone, that can realise landscape and conservation benefits and that avoid, remedy or mitigate adverse effects on the environment. |

21.2.7 Objective - An area that excludes activities which are sensitive to aircraft noise, is retained within an airport's Outer Control Boundary, to act as a buffer between airports and Activities Sensitive to Aircraft Noise.

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| Policies | 21.2.7.1 | Prohibit all new activities sensitive to aircraft noise on Rural Zoned land within the Outer Control Boundary at Queenstown Airport and Wanaka Airport to avoid adverse effects arising from aircraft operations on future activities sensitive to aircraft noise. |
| | 21.2.7.2 | Identify and maintain areas containing activities that are not sensitive to aircraft noise, within an airport's outer control boundary, to act as a buffer between the airport and activities sensitive to aircraft noise. |
| | 21.2.7.3 | Retain open space within the outer control boundary of airports in order to provide a buffer, particularly for safety and noise purposes, between the airport and other activities. |
| | 21.2.7.4 | Require as necessary mechanical ventilation for any alterations or additions to Critical Listening Environment within any existing buildings containing an Activity Sensitive to Aircraft Noise within the Queenstown Airport Outer Control Boundary and require sound insulation and mechanical ventilation for any alterations or additions to Critical Listening Environment within any existing buildings containing an Activity Sensitive to Aircraft Noise within the Queenstown Airport Air Noise Boundary. |
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21.2.8 Objective - Subdivision, use and development in areas that are unsuitable due to identified constraints not addressed by other provisions of this Plan, is avoided, or the effects of those constraints are remedied or mitigated.

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| Policies | 21.2.8.1 | Prevent subdivision and development within the building restriction areas identified on the District Plan maps, in particular: <ul style="list-style-type: none"> a. in the Glenorchy area, protect the heritage value of the visually sensitive Bible Face landform from building and development and to maintain the rural backdrop that the Bible Face provides to the Glenorchy Township; b. in Ferry Hill, within the building line restriction identified on the planning maps. |
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21.2.9 Objective - Provision for diversification of farming and other rural activities that protect landscape and natural resource values and maintains the character of rural landscapes.

- 21.2.9.1 Encourage revenue producing activities that can support the long-term sustainability of the rural areas of the district and that maintain or enhance landscape values and rural amenity.
- 21.2.9.2 Ensure that revenue producing activities utilise natural and physical resources (including existing buildings) in a way that maintains and enhances landscape quality, character, rural amenity, and natural resources
- 21.2.9.3 Provide for the establishment of activities such as tourism, commercial recreation or visitor accommodation located within farms where these enable landscape values and indigenous biodiversity to be sustained in the longer term.

21.2.10 Objective – Commercial Recreation in the Rural Zone is of a nature and scale that is commensurate to the amenity values of the location.

- Policies
- 21.2.10.1 The group size of commercial recreation activities will be managed so as to be consistent with the level of amenity anticipated in the surrounding environment.
 - 21.2.10.2 To manage the adverse effects of commercial recreation activities so as not to degrade rural quality or character or visual amenities and landscape values.
 - 21.2.10.3 To avoid, remedy or mitigate any adverse effects commercial activities may have on the range of recreational activities available in the District and the quality of the experience of the people partaking of these opportunities.
 - 21.2.10.4 To ensure the scale and location of buildings, noise and lighting associated with commercial recreation activities are consistent with the level of amenity existing and anticipated in the surrounding environment.

21.2.11 Objective - The location, scale and intensity of informal airports is managed to maintain amenity values while protecting informal airports from incompatible land uses.

- Policies
- 21.2.11.1 Ensure informal airports are located, operated and managed so as to maintain the surrounding rural amenity.
 - 21.2.11.2 Protect rural amenity values, and amenity of other zones from the adverse effects that can arise from informal airports.
 - 21.2.11.3 Protect lawfully established and anticipated permitted informal airports from the establishment of incompatible activities in the immediate vicinity.

21.2.12	Objective - The natural character of lakes and rivers and their margins is protected, maintained or enhanced, while providing for appropriate activities on the surface of lakes and rivers, including recreation, commercial recreation and public transport.	
Policies	21.2.12.1	Have regard to statutory obligations, wāhi Tūpuna and the spiritual beliefs, and cultural traditions of tangata whenua where activities are undertaken on the surface of lakes and rivers and their margins.
	21.2.12.2	Enable people to have access to a wide range of recreational experiences on the lakes and rivers, based on the identified characteristics and environmental limits of the various parts of each lake and river.
	21.2.12.3	Avoid or mitigate the adverse effects of frequent, large-scale or intrusive commercial activities such as those with high levels of noise, vibration, speed and wash, in particular motorised craft, in areas of high passive recreational use, significant nature conservation values and wildlife habitat.
	21.2.12.4	Have regard to the whitewater values of the District's rivers and, in particular, the values of parts of the Kawarau, Nevis and Shotover Rivers as three of the few remaining major unmodified whitewater rivers in New Zealand, and to support measures to protect this characteristic of rivers.
	21.2.12.5	Protect, maintain or enhance the natural character and nature conservation values of lakes, rivers and their margins from inappropriate activities with particular regard to nesting and spawning areas, the intrinsic value of ecosystem services and areas of indigenous fauna habitat and recreational values.
	21.2.12.6	Recognise and provide for the maintenance and enhancement of public access to and enjoyment of the margins of the lakes and rivers.
	21.2.12.7	Ensure that the location, design and use of structures and facilities are such that any adverse effects on visual qualities, safety and conflicts with recreational and other activities on the lakes and rivers are avoided, remedied or mitigated.
	21.2.12.8	Encourage development and use of water based public ferry systems including necessary infrastructure and marinas, in a way that avoids adverse effects on the environment as far as possible, or where avoidance is not practicable, remedies and mitigates such adverse effects.
	21.2.12.9	Take into account the potential adverse effects on nature conservation values from the boat wake of commercial boating activities, having specific regard to the intensity and nature of commercial jet boat activities and the potential for turbidity and erosion.
	21.2.12.10	Ensure that the nature, scale and number of commercial boating operators and/or commercial boats on waterbodies do not exceed levels such that the safety of passengers and other users of the water body cannot be assured.

21.2.13 Objective - Rural industrial activities and infrastructure within the Rural Industrial Sub-Zones will support farming and rural productive activities, while protecting, maintaining and enhancing rural character, amenity and landscape values.

- Policies
- 21.2.13.1 Provide for rural industrial activities and buildings within established nodes of industrial development while protecting, maintaining and enhancing landscape and amenity values.
 - 21.2.13.2 Provide for limited retail and administrative activities within the Rural Industrial Sub-Zone on the basis it is directly associated with and ancillary to the Rural Industrial Activity on the site.

21.3

Other Provisions and Rules

21.3.1 District Wide

Attention is drawn to the following District Wide chapters.

1	Introduction	2	Definitions	3	Strategic Direction
4	Urban Development	5	Tangata Whenua	6	Landscapes and Rural Character
25	Earthworks	26	Historic Heritage	27	Subdivision
28	Natural Hazards	29	Transport	30	Energy and Utilities
31	Signs	32	Protected Trees	33	Indigenous Vegetation
34	Wilding Exotic Trees	35	Temporary Activities and Relocated Buildings	36	Noise
37	Designations		Planning Maps		

21.3.2 Interpreting and Applying the Rules

- 21.3.2.1 A permitted activity must comply with all the rules listed in the Activity and Standards tables, and any relevant district wide rules.
- 21.3.2.2 Where an activity does not comply with a Standard listed in the Standards tables, the activity status identified by the 'Non-Compliance Status' column shall apply. Where an activity breaches more than one Standard, the most restrictive status shall apply to the Activity.
- 21.3.2.3 For controlled and restricted discretionary activities, the Council shall restrict the exercise of its control or discretion to the matters listed in the rule.

- 21.3.2.4 Development and building activities are undertaken in accordance with the conditions of resource subdivision consent and may be subject to monitoring by the Council.
- 21.3.3.5 The existence of a farm building either permitted or approved by resource consent under Rule 21.4.2 or Table 5 – Standards for Farm Buildings shall not be considered the permitted baseline for residential or other non-farming activity development within the Rural Zone.
- 21.3.3.6 The Ski Area and Rural Industrial Sub-Zones, being Sub-Zones of the Rural Zone, require that all rules applicable to the Rural Zone apply unless stated to the contrary.
- 21.3.2.7 Building platforms identified on a site’s computer freehold register shall have been registered as part of a resource consent approval by the Council.
- 21.3.2.8 The surface and bed of lakes and rivers are zoned Rural, unless otherwise stated.
- 21.3.2.9 Internal alterations to buildings including the replacement of joinery is permitted.
- 21.3.2.10 These abbreviations are used in the following tables. Any activity which is not permitted (P) or prohibited (PR) requires resource consent.

P	Permitted	C	Controlled	RD	Restricted Discretionary
D	Discretionary	NC	Non-Complying	PR	Prohibited

21.3.3 Advice Notes

- 21.3.3.1 Compliance with any of the following standards, in particular the permitted standards, does not absolve any commitment to the conditions of any relevant resource consent, consent notice or covenant registered on the computer freehold register of any property.
- 21.3.3.2 In addition to any rules for mining, the Otago Regional Plan: Water, also has rules related to suction dredge mining.
- 21.3.3.3 Applications for building consent for permitted activities shall include information to demonstrate compliance with the following standards, and any conditions of the applicable resource consent conditions.

All activities, including any listed permitted activities shall be subject to the rules and standards contained in Tables 1 to 15.

Table 1 – Activities Generally

Table 2 – Standards Applying Generally in the Zone

Table 3 – Standards for Farm Activities (additional to those in Table 2)

Table 4 – Standards for Structures and Buildings (other than Farm Buildings) (additional to those in Table 2)

Table 5 – Standards for Farm Buildings (additional to those in Table 2)

Table 6 – Standards for Commercial Activities (additional to those in Table 2)

Table 7– Standards for Informal Airports (additional to those in Table 2)

Table 8 – Standards for Mining and Extraction Activities (additional to those in Table 2)

Table 9 – Activities in the Ski Area Sub-Zone (additional to those listed in Table 1)

Table 10 - Activities in Rural Industrial Sub-Zone (additional to those listed in Table 1)

Table 11 – Standards for Rural Industrial Sub-Zone

Table 12– Activities on the Surface of Lakes and Rivers

Table 13 – Standards for Activities on the Surface of Lakes and Rivers

Table 14 – Closeburn Station Activities

Table 15 – Closeburn Station: Standards for Buildings and Structures

	Table 1 - Activities - Rural Zone	Activity Status
	Farming Activities	
21.4.1	Farming Activity that complies with the standards in Table 2 and Table 3.	P
21.4.2	Construction of or addition to farm buildings that comply with the standards in Table 5.	P
21.4.3	Factory Farming limited to factory farming of pigs or poultry that complies with the standards in Table 2 and Table 3.	P
21.4.4	Factory Farming animals other than pigs or poultry.	NC
	Residential Activities	
21.4.5	One residential unit, which includes a single residential flat for each residential unit and any other accessory buildings, within any building platform approved by resource consent.	P
21.4.6	The construction and exterior alteration of buildings located within a building platform approved by resource consent, or registered on the applicable computer freehold register, subject to compliance with the standards in Table 2 and Table 4.	P
21.4.7	The exterior alteration of any lawfully established building where there is not an approved building platform on the site, subject to compliance with the standards in Table 2 and Table 4.	P

	Table 1 - Activities - Rural Zone	Activity Status
21.4.8	Domestic Livestock.	P
21.4.9	The use of land or buildings for residential activity except as provided for in any other rule.	D
21.4.10	The identification of a building platform not less than 70m ² and not greater than 1000m ² .	D
21.4.11	The construction of any building including the physical activity associated with buildings including roading, access, lighting, landscaping and earthworks, not provided for by any other rule.	D
	Commercial Activities	
21.4.12	Home Occupation that complies with the standards in Table 6.	P
21.4.13	Commercial recreational activities that comply with the standards in Table 6.	P
21.4.14	Roadside stalls that meet the standards in Table 6.	P
21.4.15		
21.4.16	Retail sales of farm and garden produce and wine grown, reared or produced on-site or handicrafts produced on the site and that comply with the standards in Table 6, not undertaken through a roadside stall under Rule 21.4.14. Control is reserved to: a. the location of the activity and buildings; b. vehicle crossing location, car parking; c. rural amenity and landscape character.	C
21.4.17	Commercial activities ancillary to and located on the same site as commercial recreational or recreational activities.	D
21.4.18	Cafes and restaurants located in a winery complex within a vineyard.	D
21.4.19	Visitor Accommodation outside of a Ski Area Sub-Zone.	D
21.4.20	Forestry Activities within the Rural Character Landscapes.	D
21.4.21	Retail Sales Retail sales where the access is onto a State Highway, with the exception of the activities provided for by Rule 21.4.14 or Rule 21.4.16.	NC
	Other Activities	
21.4.22	Recreation and/or Recreational Activity.	P
21.4.23	Informal Airports that comply with Table 7.	P

Table 1 - Activities - Rural Zone		Activity Status
21.4.24	<p>Passenger Lift Systems not located within a Ski Area Sub-Zone</p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> the impact on landscape values from any alignment, earthworks, design and surface treatment, including measures to mitigate landscape effects including visual quality and amenity values; the route alignment and the whether any system or access breaks the line and form of skylines, ridges, hills and prominent slopes; earthworks associated with construction of the Passenger Lift System; the materials used, colours, lighting and light reflectance; geotechnical matters; ecological values and any proposed ecological mitigation works.; balancing environmental considerations with operational requirements of Ski Area Activities; the positive effects arising from providing alternative non-vehicular access and linking Ski Area Sub-Zones to the roading network. 	RD
21.4.25	<p>Ski Area Activities not located within a Ski Area Sub-Zone, with the exception of:</p> <ol style="list-style-type: none"> non-commercial skiing which is permitted as recreation activity under Rule 21.4.22; commercial heli skiing not located within a Ski Area Sub-Zone is a commercial recreation activity and Rule 21.4.13 applies; Passenger Lift Systems to which Rule 21.4.24 applies. 	NC
21.4.26	<p>Any building within a Building Restriction Area identified on the Planning Maps.</p> <p>Activities within the Outer Control Boundary at Queenstown Airport and Wanaka Airport</p>	NC
21.4.27	<p>New Building Platforms and Activities Sensitive to Aircraft Noise within the Outer Control Boundary - Wanaka Airport</p> <p>On any site located within the Outer Control Boundary, any new activity sensitive to aircraft noise or new building platform to be used for an activity sensitive to aircraft noise (except an activity sensitive to aircraft noise located on a building platform approved before 20 October 2010).</p>	PR
21.4.28	<p>Activities Sensitive to Aircraft Noise within the Outer Control Boundary - Queenstown Airport</p> <p>On any site located within the Outer Control Boundary, which includes the Air Noise Boundary, as indicated on the District Plan Maps, any new Activity Sensitive to Aircraft Noise.</p> <p>Mining Activities</p>	PR
21.4.29	<p>The following mining and extraction activities that comply with the standards in Table 8 are permitted:</p> <ol style="list-style-type: none"> mineral prospecting; mining by means of hand-held, non-motorised equipment and suction dredging, where the total motive power of any dredge does not exceed 10 horsepower (7.5 kilowatt); and the mining of aggregate for farming activities provided the total volume does not exceed 1000m³ in any one year. 	P

Table 1 - Activities - Rural Zone		Activity Status
21.4.30	<p>Mineral exploration that does not involve more than 20m³ in volume in any one hectare</p> <p>Control is reserved to:</p> <ul style="list-style-type: none"> a. the adverse effects on landscape, nature conservation values and water quality; b. ensuring rehabilitation of the site is completed that ensures: <ul style="list-style-type: none"> i. the long-term stability of the site; ii. that the landforms or vegetation on finished areas are visually integrated into the landscape; iii. water quality is maintained; iv. that the land is returned to its original productive capacity; c. that the land is rehabilitated to indigenous vegetation where the pre-existing land cover immediately prior to the exploration, comprised indigenous vegetation as determined utilising Section 33.3.3 of Chapter 33. 	C
21.4.31	Any mining activity or mineral prospecting other than provided for in Rules 21.4.29 and 21.4.30.	D
	Industrial Activities outside the Rural Industrial Sub-Zone	
21.4.32	Industrial Activities directly associated with wineries and underground cellars within a vineyard.	D
21.4.33	Industrial Activities outside the Rural Industrial Sub-Zone other than those provided for by Rule 21.4.32.	NC
	Default Activity Status When Not Listed	
21.4.34	Any activity not otherwise provided for in Tables 1, 9, 10, 12 or 14.	NC

21.5

Rules - General Standards

Table 2	Table 2 - Standards Applying Generally in the Zone. The following standards apply to any of the activities described in Tables 1, 9, 10, 12 and 14 in addition to the specific standards in Tables 3- 8, 11, 13 and 15 unless otherwise stated.	Non-compliance Status
21.5.1	<p>Setback from Internal Boundaries</p> <p>The setback of any building from internal boundaries shall be 15m.</p> <p>Except this rule shall not apply within the Rural Industrial Sub-Zone. Refer to Table 11.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. rural amenity and landscape character; b. privacy, outlook and amenity from adjoining properties.
21.5.2	<p>Setback from Roads</p> <p>The setback of any building from a road boundary shall be 20m, except, the minimum setback of any building from State Highway 6 between Lake Hayes and the Shotover River shall be 50m. The minimum setback of any building for other sections of State Highway 6 where the speed limit is 70 km/hr or greater shall be 40m.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. rural Amenity and landscape character; b. open space; c. the adverse effects on the proposed activity from noise, glare and vibration from the established road.
21.5.3	<p>Setback from Neighbours of Buildings Housing Animals</p> <p>The setback from internal boundaries for any building housing animals shall be 30m.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. odour; b. noise; c. dust; d. vehicle movements.
21.5.4	<p>Setback of buildings from Water bodies</p> <p>The minimum setback of any building from the bed of a wetland, river or lake shall be 20m.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. indigenous biodiversity values; b. visual amenity values; c. landscape and natural character; d. open space; e. whether the waterbody is subject to flooding or natural hazards and any mitigation to manage the adverse effects of the location of the building.

Table 2	Table 2 - Standards Applying Generally in the Zone. The following standards apply to any of the activities described in Tables 1, 9, 10, 12 and 14 in addition to the specific standards in Tables 3- 8, 11, 13 and 15 unless otherwise stated.	Non- compliance Status
21.5.5	<p>Airport Noise – Wanaka Airport</p> <p>Alterations or additions to existing buildings, or construction of a building on a building platform approved before 20 October 2010, that contain an Activity Sensitive to Aircraft Noise and are within the Outer Control Boundary, must be designed to achieve an internal design sound level of 40 dB Ldn, based on the 2036 noise contours, at the same time as meeting the ventilation requirements in Rule 36.6.2, Chapter 36. Compliance can either be demonstrated by submitting a certificate to Council from a person suitably qualified in acoustics stating that the proposed construction will achieve the internal design sound level, or by installation of mechanical ventilation to achieve the requirements in Rule 36.6.2, Chapter 36.</p>	NC
21.5.6	<p>Airport Noise – Alteration or Addition to Existing Buildings (excluding any alterations of additions to any non-critical listening environment) within the Queenstown Airport Noise Boundaries</p> <p>a. Within the Queenstown Airport Air Noise Boundary (ANB) - Alterations and additions to existing buildings containing an Activity Sensitive to Aircraft Noise must be designed to achieve an Indoor Design Sound Level of 40 dB Ldn, within any Critical Listening Environment, based on the 2037 Noise Contours. Compliance must be demonstrated by either adhering to the sound insulation requirements in Rule 36.6.1 of Chapter 36 and installation of mechanical ventilation to achieve the requirements in Rule 36.6.2 of Chapter 36, or by submitting a certificate to Council from a person suitably qualified in acoustics stating that the proposed construction will achieve the Indoor Design Sound Level with the windows open.</p> <p>b. Between the Queenstown Airport Outer Control Boundary and the ANB – Alterations and additions to existing buildings containing an Activity Sensitive to Aircraft Noise must be designed to achieve an Indoor Design Sound Level of 40 dB Ldn within any Critical Listening Environment, based on the 2037 Noise Contours. Compliance must be demonstrated by either installation of mechanical ventilation to achieve the requirements in Rule 36.6.2 of Chapter 36 or by submitting a certificate to Council from a person suitably qualified in acoustics stating that the proposed construction will achieve the Indoor Design Sound Level with the windows open.</p> <p>Standards (a) and (b) exclude any alterations or additions to any non-critical listening environment.</p>	NC
21.5.7	<p>Lighting and Glare</p> <p>21.5.7.1 All fixed exterior lighting must be directed away from adjoining sites and roads; and</p> <p>21.5.7.2 No activity on any site will result in greater than a 3.0 lux spill (horizontal and vertical) of light onto any other site measured at any point inside the boundary of the other site, provided that this rule shall not apply where it can be demonstrated that the design of adjacent buildings adequately mitigates such effects.</p> <p>21.5.7.3 There must be no upward light spill.</p>	NC

21.6

Rule - Standards for Farm Activities

Table 3 – Standards for Farm Activities.		Non-Compliance Status
The following standards apply to Farm Activities.		
21.6.1	<p>Dairy Farming (Milking Herds, Dry Grazing and Calf Rearing)</p> <p>All effluent holding tanks, effluent treatment and effluent storage ponds, must be located at least 300 metres from any formed road or adjoining property.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> odour; visual prominence; landscape character; effects on surrounding properties.
21.6.2	<p>Factory Farming (excluding the boarding of animals)</p> <p>Factory farming (excluding the boarding of animals) must be located at least 2 kilometres from a Residential, Rural Residential, Rural Lifestyle, Town Centre, Local Shopping Centre Zone, Millbrook Resort Zone, Waterfall Park Zone or Jacks Point Zone.</p>	D
21.6.3	<p>Factory Farming of Pigs</p> <p>21.6.3.1 The number of housed pigs must not exceed 50 sows or 500 pigs of mixed ages;</p> <p>21.6.3.2 Housed pigs must not be located closer than 500m from a property boundary;</p> <p>21.6.3.4 The number of outdoor pigs must not exceed 100 pigs and their progeny up to weaner stage;</p> <p>21.6.3.5 Outdoor sows must be ringed at all times; and/or</p> <p>21.6.3.6 The stocking rate of outdoor pigs must not exceed 15 pigs per hectare, excluding progeny up to weaner stage.</p>	NC
21.6.4	<p>Factory farming of poultry</p> <p>21.6.4.1 The number of birds must not exceed 10,000 birds.</p> <p>21.6.4.2 Birds must be housed at least 300m from a site boundary.</p>	NC

21.7

Rules - Standards for Buildings

Table 4 – Standards for Structures and Buildings		Non-Compliance Status
The following standards apply to structures and buildings, other than Farm Buildings.		
21.7.1	<p>Structures</p> <p>Any structure which is greater than 5 metres in length, and between 1 metre and 2 metres in height must be located a minimum distance of 10 metres from a road boundary, except for:</p> <p>21.7.1.1 Post and rail, post and wire and post and mesh fences, including deer fences;</p> <p>21.7.1.2 Any structure associated with farming activities as defined in this plan.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. effects on landscape character, views and amenity, particularly from public roads; b. the materials used, including their colour, reflectivity and permeability; c. whether the structure will be consistent with traditional rural elements.
21.7.2	<p>Buildings</p> <p>Any building, including any structure larger than 5m², that is new, relocated, altered, reclad or repainted, including containers intended to, or that remain on site for more than six months, and the alteration to any lawfully established building, are subject to the following:</p> <p>All exterior surfaces* must be coloured in the range of browns, greens or greys, including;</p> <p>21.7.2.1 Pre-painted steel and all roofs must have a light reflectance value not greater than 20%; and</p> <p>21.7.2.2 All other surface ** finishes except for schist, must have a light reflectance value of not greater than 30%.</p> <p>21.7.2.3 In the case of alterations to an existing building not located within a building platform, it does not increase the ground floor area by more than 30% in any ten year period.</p> <p>Except this rule does not apply within the Ski Area Sub-Zones.</p> <p>* Excludes soffits, windows and skylights (but not glass balustrades).</p> <p>** Includes cladding and built landscaping that cannot be measured by way of light reflectance value but is deemed by the Council to be suitably recessive and have the same effect as achieving a light reflectance value of 30%.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. external appearance; b. visual prominence from both public places and private locations; c. landscape character; d. visual amenity.

Table 4 – Standards for Structures and Buildings The following standards apply to structures and buildings, other than Farm Buildings.		Non-Compliance Status
21.7.3	<p>Building size</p> <p>The ground floor area of any building must not exceed 500m².</p> <p>Except this rule does not apply to buildings specifically provided for within the Ski Area Sub-Zones.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> external appearance; visual prominence from both public places and private locations; landscape character; visual amenity; privacy, outlook and amenity from adjoining properties.
21.7.4	<p>Building Height</p> <p>The maximum height shall be 8m.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> rural amenity and landscape character; privacy, outlook and amenity from adjoining properties; visual prominence from both public places and private locations.
21.7.5	<p>Fire Fighting water and access</p> <p>All new buildings, where there is no reticulated water supply or any reticulated water supply is not sufficient for fire-fighting water supply, must make the following provision for fire-fighting:</p> <p>21.7.5.1 A water supply of 45,000 litres and any necessary couplings.</p> <p>21.7.5.2 A hardstand area adjacent to the firefighting water supply capable of supporting fire service vehicles.</p> <p>21.7.5.3 Firefighting water connection point within 6m of the hardstand, and 90m of the dwelling.</p> <p>21.7.5.4 Access from the property boundary to the firefighting water connection capable of accommodating and supporting fire service vehicles.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> the extent to which SNZ PAS 4509: 2008 can be met including the adequacy of the water supply; the accessibility of the firefighting water connection point for fire service vehicles; whether and the extent to which the building is assessed as a low fire risk.

21.8

Rules - Standards for Farm Buildings

Table 5 - Standards for Farm Buildings The following standards apply to Farm Buildings.		Non-compliance Status
21.8.1	<p>Construction, Extension or Replacement of a Farm Building</p> <p>The construction, replacement or extension of a farm building is a permitted activity subject to the following standards:</p> <p>21.8.1.1 The landholding the farm building is located within must be greater than 100ha; and</p> <p>21.8.1.2 The density of all buildings on the landholding, inclusive of the proposed building(s) must not exceed one farm building per 50 hectares; and</p> <p>21.8.1.3 The farm building must not be located within or on an Outstanding Natural Feature (ONF); and</p> <p>21.8.1.4 If located within the Outstanding Natural Landscape (ONL) the farm building must not exceed 4 metres in height and the ground floor area must not exceed 100m²; and</p> <p>21.8.1.5 The farm building must not be located at an elevation exceeding 600 masl; and</p> <p>21.8.1.6 If located within the Rural Character Landscape (RCL), the farm building must not exceed 5m in height and the ground floor area must not exceed 300m²; and</p> <p>21.8.1.7 Farm buildings must not protrude onto a skyline or above a terrace edge when viewed from adjoining sites, or formed roads within 2km of the location of the proposed building.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <p>a. the extent to which the scale and location of the Farm Building is appropriate in terms of:</p> <ul style="list-style-type: none"> i. rural amenity values; ii. landscape character; iii. privacy, outlook and rural amenity from adjoining properties; iv. visibility, including lighting.
21.8.2	<p>Exterior colours of farm buildings</p> <p>21.8.2.1 All exterior surfaces, except for schist, must be coloured in the range of browns, greens or greys (except soffits).</p> <p>21.8.2.2 Pre-painted steel, and all roofs must have a reflectance value not greater than 20%.</p> <p>21.8.2.3 Surface finishes, except for schist, must have a reflectance value of not greater than 30%.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. external appearance; b. visual prominence from both public places and private locations; c. landscape character.; d. visual amenity.

Table 5 - Standards for Farm Buildings The following standards apply to Farm Buildings.		Non-compliance Status
21.8.3	<p>Building Height</p> <p>The height of any farm building must not exceed 10m.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. rural amenity values; b. landscape character; c. privacy, outlook and amenity from adjoining properties.
21.8.4	<p>Dairy Farming (Milking Herds, Dry Grazing and Calf Rearing)</p> <p>All milking sheds or buildings used to house, or feed milking stock must be located at least 300 metres from any adjoining property, lake, river or formed road.</p>	D

21.9 Rules - Standards for Commercial Activities

Table 6 - Standards for Commercial Activities		Non-compliance Status
21.9.1	Commercial recreational activities must be undertaken on land, outdoors and must not involve more than 12 persons in any one group.	D
21.9.2	<p>Home Occupation</p> <p>21.9.2.1 The maximum net floor area of home occupation activities must not exceed 150m².</p> <p>21.9.2.2 Goods materials or equipment must not be stored outside a building.</p> <p>21.9.2.3 All manufacturing, altering, repairing, dismantling or processing of any goods or articles must be carried out within a building.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. the nature, scale and intensity of the activity in the context of the surrounding rural area; b. visual amenity from neighbouring properties and public places; c. noise, odour and dust; d. the extent to which the activity requires a rural location because of its link to any rural resource in the Rural Zone; e. access safety and transportation effects.

	Table 6 - Standards for Commercial Activities	Non-compliance Status
21.9.3	<p>Roadside Stalls</p> <p>21.9.3.1 The ground floor area of the roadside stall must not exceed 5m²;</p> <p>21.9.3.2 The height must not exceed 2m²;</p> <p>21.9.3.3 The minimum sight distance from the roadside stall access must be at least 200m;</p> <p>21.9.3.4 The roadside stall must not be located on legal road reserve.</p>	D
21.9.4	<p>Retail Sales</p> <p>Buildings that have a gross floor area that is greater than 25m² to be used for retail sales identified in Table 1 must be setback from road boundaries by at least 30m.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> landscape character and visual amenity; access safety and transportation effects; on-site parking.

21.10 Rules - Standards for Informal Airports

	Table 7 - Standards for Informal Airports	Non-compliance Status
21.10.1	<p>Informal Airports Located on Public Conservation and Crown Pastoral Land</p> <p>Informal airports that comply with the following standards shall be permitted activities:</p> <p>21.10.1.1 Informal airports located on Public Conservation Land where the operator of the aircraft is operating in accordance with a Concession issued pursuant to Section 17 of the Conservation Act 1987.</p> <p>21.10.1.2 Informal airports located on Crown Pastoral Land where the operator of the aircraft is operating in accordance with a Recreation Permit issued pursuant to Section 66A of the Land Act 1948.</p> <p>21.10.1.3 Informal airports for emergency landings, rescues, fire-fighting and activities ancillary to farming activities, or the Department of Conservation or its agents.</p> <p>21.10.1.4 In relation to Rules 21.10.1.1 and 21.10.1.2, the informal airport shall be located a minimum distance of 500 metres from any other zone or the notional boundary of any residential unit or approved building platform not located on the same site.</p>	D

Table 7 - Standards for Informal Airports		Non-compliance Status
21.10.2	<p>Informal Airports Located on other Rural Zoned Land</p> <p>Informal Airports that comply with the following standards shall be permitted activities:</p> <p>21.10.2.1 Informal airports on any site that do not exceed a frequency of use of 2 flights* per day;</p> <p>21.10.2.2 Informal airports for emergency landings, rescues, fire-fighting and activities ancillary to farming activities;</p> <p>21.10.2.3 In relation to point Rule 21.10.2.1, the informal airport shall be located a minimum distance of 500 metres from any other zone or the notional boundary of any residential unit of building platform not located on the same site.</p> <p>* note for the purposes of this Rule a flight includes two aircraft movements i.e. an arrival and departure.</p>	D

21.11 Rules - Standards for Mining

Table 8 – Standards for Mining and Extraction Activities		non-compliance Status
21.11.1	<p>21.11.1.1 The activity will not be undertaken on an Outstanding Natural Feature.</p> <p>21.11.1.2 The activity will not be undertaken in the bed of a lake or river.</p>	NC

21.12 Rules - Ski Area and Sub-Zone

Table 9 - Activities in the Ski Area Sub-Zone		Activity Status
Additional to those activities listed in Table 1.		
21.12.1	Ski Area Activities	P
21.12.2	<p>Construction, relocation, addition or alteration of a building</p> <p>Control is reserved to:</p> <ul style="list-style-type: none"> a. location, external appearance and size, colour, visual dominance; b. associated earthworks, access and landscaping; c. provision of water supply, sewage treatment and disposal, electricity and communication services (where necessary); d. lighting. 	C

Table 9 - Activities in the Ski Area Sub-Zone Additional to those activities listed in Table 1.		Activity Status
21.12.3	Passenger Lift Systems Control is reserved to: <ol style="list-style-type: none"> a. the extent to which the passenger lift system breaks the line and form of the landscape with special regard to skylines, ridges, hills and prominent slopes; b. whether the materials and colour to be used are consistent with the rural landscape of which passenger lift system will form a part; c. the extent of any earthworks required to construct the passenger lift system, in terms of the limitations set out in Chapter 25 Earthworks; d. balancing environmental considerations with operational characteristics. 	C
21.12.4	Night lighting Control is reserved to: <ol style="list-style-type: none"> a. hours of operation; b. duration and intensity; c. impact on surrounding properties. 	C
21.12.5	Vehicle Testing In the Waiorau Snow Farm Ski Area Activity Sub-Zone; the construction of access ways and tracks associated with the testing of vehicles, their parts and accessories. Control is reserved to: <ol style="list-style-type: none"> a. gravel and silt run off; b. stormwater, erosion and siltation; c. the sprawl of tracks and the extent to which earthworks modify the landform; d. stability of over-steepened embankments. 	C
21.12.6	Retail activities ancillary to Ski Area Activities Control is reserved to: <ol style="list-style-type: none"> a. location; b. hours of operation with regard to consistency with ski-area activities; c. amenity effects, including loss of remoteness or isolation; d. traffic congestion, access and safety; e. waste disposal; f. cumulative effects. 	C

Table 9 - Activities in the Ski Area Sub-Zone Additional to those activities listed in Table 1.		Activity Status
21.12.7	<p>Ski Area Sub-Zone Accommodation</p> <p>Comprising a duration of stay of up to 6 months in any 12-month period and including worker accommodation.</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. scale and intensity and whether these would have adverse effects on amenity, including loss of remoteness or isolation; b. location, including whether that because of the scale and intensity the visitor accommodation should be located near the base building area (if any); c. parking; d. provision of water supply, sewage treatment and disposal; e. cumulative effects; f. natural hazards. 	RD
21.12.8	Earthworks, buildings and infrastructure within the No Building and Earthworks Line in the Remarkables Ski Area Sub-Zone	PR

21.13 Rules - Activities in Rural Industrial Sub-Zone

Table 10 – Activities in Rural Industrial Sub-Zone Additional to those activities listed in Table 1.		Activity Status
21.13.1	Retail activities within the Rural Industrial Sub-Zone that involve the sale of goods produced, processed or manufactured on site or ancillary to Rural Industrial activities that comply with Table 11.	P
21.13.2	Administrative offices ancillary to and located on the same site as Rural Industrial activities being undertaken within the Rural Industrial Sub-Zone that comply with Table 11.	P
21.13.3	Rural Industrial Activities within a Rural Industrial Sub-Zone that comply with Table 11.	P
21.13.4	Buildings for Rural Industrial Activities within the Rural Industrial Sub-Zone that comply with Table 11.	P

21.14

Rules - Standards for Activities within Rural Industrial Sub-Zone

Table 11 – Standards for activities within the Rural Industrial Sub Zone These Standards apply to activities listed in Table 1 and Table 10.		Non-Compliance Status
21.14.1	<p>Buildings</p> <p>Any building, including any structure larger than 5m², that is new, relocated, altered, reclad or repainted, including containers intended to, or that remain on site for more than six months, and the alteration to any lawfully established building are subject to the following:</p> <p>All exterior surface must be coloured in the range of browns, greens or greys (except soffits), including;</p> <p>21.15.1.1 Pre-painted steel and all roofs must have a reflectance value not greater than 20%; and,</p> <p>21.15.1.2 All other surface finishes must have a reflectance value of not greater than 30%.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. external appearance; b. visual prominence from both public places and private locations; c. landscape character.
21.14.2	<p>Building size</p> <p>The ground floor area of any building must not exceed 500m².</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. external appearance; b. visual prominence from both public places and private locations; c. visual amenity; d. privacy, outlook and amenity from adjoining properties.
21.14.3	<p>Building Height</p> <p>The height for of any industrial building must not exceed 10m.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. rural amenity and landscape character; b. privacy, outlook and amenity from adjoining properties.

Table 11 – Standards for activities within the Rural Industrial Sub Zone These Standards apply to activities listed in Table 1 and Table 10.		Non-Compliance Status
21.14.4	<p>Setback from Sub-Zone Boundaries</p> <p>The minimum setback of any building within the Rural Industrial Sub-Zone shall be 10m from the Sub-Zone boundaries.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. the requirement for landscaping to act as a buffer between the Rural Industrial Sub-Zone and neighbouring properties and whether there is adequate room for landscaping within the reduced setback; b. rural amenity and landscape character; c. Privacy, outlook and amenity from adjoining properties.
21.14.5	<p>Retail Activities</p> <p>Retail activities including the display of items for sale must be undertaken within a building and must not exceed 10% of the building's total floor area.</p>	NC

21.15 Rules - Activities on the Surface of Lakes and Rivers

Table 12 - Activities on the Surface of Lakes and Rivers		Activity Status
21.15.1	Activities on the surface of lakes and river not otherwise controlled or restricted by rules in Table 14.	P
21.15.2	<p>Motorised Recreational and Commercial Boating Activities</p> <p>The use of motorised craft for the purpose of emergency search and rescue, hydrological survey, public scientific research, resource management monitoring or water weed control, or for access to adjoining land for farming activities.</p>	P

Table 12 - Activities on the Surface of Lakes and Rivers		Activity Status
21.15.3	<p>Motorised Recreational Boating Activities</p> <p>Hawea River, motorised recreational boating activities on no more than six (6) days in each year subject to the following conditions:</p> <ul style="list-style-type: none"> a. at least four (4) days of such activity are to be in the months January to April, November and December; b. the Jet Boat Association of New Zealand ("JBANZ") (JBANZ or one of the Otago and Southland Branches as its delegate) administers the activity on each day; c. the prior written approval of Central Otago Whitewater Inc is obtained if that organisation is satisfied that none of its member user groups are organising activities on the relevant days; and d. JBANZ gives two (2) calendar months written notice to the Council's Harbour-Master of both the proposed dates and the proposed operating schedule; e. the Council's Harbour-Master satisfies himself that none of the regular kayaking, rafting or other whitewater (non-motorised) river user groups or institutions (not members of Central Otago Whitewater Inc) were intending to use the Hawea River on that day, and issues an approved operating schedule; f. JBANZ carries out, as its expense, public notification on two occasions 14 and 7 days before the proposed jet boating; g. public notification for the purposes of (f) means a public notice with double-size font heading in both the Otago Daily Times and the Southland Times, and written notices posted at the regular entry points to the Hawea River. 	P
21.15.4	<p>Jetboat Race Events</p> <p>Jetboat Race Events on the Clutha River, between the Lake Outlet boat ramp and the Albert Town road bridge not exceeding 6 race days in any calendar year.</p> <p>Control is reserved to:</p> <ul style="list-style-type: none"> a. the date, time, duration and scale of the jetboat race event, including its proximity to other such events, such as to avoid or mitigate adverse effects on residential and recreational activities in the vicinity; b. the adequacy of public notice of the event; c. public safety. 	C
21.15.5		

	Table 12 - Activities on the Surface of Lakes and Rivers	Activity Status
21.15.6	<p>Jetties and Moorings in the Frankton Arm</p> <p>Jetties and moorings in the Frankton Arm, identified as the area located to the east of the Outstanding Natural Landscape line as shown on the District Plan Maps.</p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> whether they are dominant or obtrusive elements in the shore scape or lake view, particularly when viewed from any public place, including whether they are situated in natural bays and not headlands; whether the structure causes an impediment to craft manoeuvring and using shore waters. the degree to which the structure will diminish the recreational experience of people using public areas around the shoreline; the effects associated with congestion and clutter around the shoreline. Including whether the structure contributes to an adverse cumulative effect; whether the structure will be used by a number and range of people and craft, including the general public; the degree to which the structure would be compatible with landscape and amenity values, including colour, materials, design. 	RD
21.15.7	<p>Structures and Moorings</p> <p>Subject to Rule 21.15.8 any structure or mooring that passes across or through the surface of any lake or river or is attached to the bank of any lake and river, other than where fences cross lakes and rivers.</p>	D
21.15.8	<p>Structures and Moorings</p> <p>Any structures or mooring that passes across or through the surface of any lake or river or attached to the bank or any lake or river in those locations on the District Plan Maps where such structures or moorings are shown as being non-complying.</p>	NC
21.15.9	<p>Motorised and non-motorised Commercial Boating Activities</p> <p>Except where otherwise limited by a rule in Table 12.</p> <p>Note: Any person wishing to commence commercial boating activities could require a concession under the QLDC Navigation Safety Bylaw. There is an exclusive concession currently granted to a commercial boating operator on the Shotover River between Edith Cavell Bridge and Tucker Beach until 1 April 2009 with four rights of renewal of five years each.</p>	D

Table 12 - Activities on the Surface of Lakes and Rivers		Activity Status
21.15.10	<p>Motorised Recreational and Commercial Boating Activities</p> <p>The use of motorised craft on the following lakes and rivers is prohibited except as provided for under Rules 21.15.2 or 21.15.3.</p> <p>21.15.10.1 Hawea River.</p> <p>21.15.10.2 Lake Hayes - Commercial boating activities only.</p> <p>21.15.10.3 Any tributary of the Dart and Rees rivers (except the Beansburn and Rockburn tributaries of the Dart River) or upstream of Muddy Creek on the Rees River.</p> <p>21.15.10.4 Young River or any tributary of the Young or Wilkin Rivers and any other tributaries of the Makarora River.</p> <p>21.15.10.5 Dingle Burn and Timaru Creek.</p> <p>21.15.10.6 The tributaries of the Hunter River.</p> <p>21.15.10.7 Hunter River during the months of May to October inclusive.</p> <p>21.15.10.8 Motatapu River.</p> <p>21.15.10.9 Any tributary of the Matukituki River.</p> <p>21.15.10.10 Clutha River - More than six jet boat race days per year as allowed by Rule 21.15.4.</p>	PR

21.16 Rules - Standards for Surface of Lakes and Rivers

Table 13 - Standards for Surface of Lakes and Rivers		Non-Compliance Status
These Standards apply to the Activities listed in Table 12.		
21.16.1	<p>Boating craft used for Accommodation</p> <p>Boating craft on the surface of the lakes and rivers may be used for accommodation, providing that:</p> <p>21.16.1.1 The craft must only be used for overnight recreational accommodation; and</p> <p>21.16.1.2 The craft must not be used as part of any commercial activity; and</p> <p>21.16.1.3 All effluent must be contained on board the craft and removed ensuring that no effluent is discharged into the lake or river.</p>	NC

	Table 13 - Standards for Surface of Lakes and Rivers These Standards apply to the Activities listed in Table 12.	Non-Compliance Status
21.16.2	<p>Jetties and Moorings in the Frankton Arm</p> <p>Jetties and moorings in the Frankton Arm, identified as the area located to the east of the Outstanding Natural Landscape line as shown on the District Plan Maps.</p> <p>No new jetty within the Frankton Arm identified as the area east of the Outstanding Natural Landscape Line shall:</p> <p>21.16.2.1 Be closer than 200 metres to any existing jetty;</p> <p>21.16.2.2 Exceed 20 metres in length;</p> <p>21.16.2.3 Exceed four berths per jetty, of which at least one berth is available to the public at all times;</p> <p>21.16.2.4 Be constructed further than 200 metres from a property in which at least one of the registered owners of the jetty resides.</p>	NC
21.16.3	<p>The following activities are subject to compliance with the following standards:</p> <p>21.16.3.1 Kawarau River, Lower Shotover River downstream of Tucker Beach and Lake Wakatipu within Frankton Arm - Commercial motorised craft, other than public transport ferry activities, may only operate between the hours of 0800 to 2000.</p> <p>21.16.3.2 Lake Wanaka, Lake Hawea and Lake Wakatipu - Commercial jetski operations must only be undertaken between the hours of 0800 to 2100 on Lakes Wanaka and Hawea and 0800 and 2000 on Lake Wakatipu.</p> <p>21.16.3.3 Dart and Rees Rivers - Commercial motorised craft must only operate between the hours of 0800 to 1800, except that above the confluence with the Beansburn on the Dart River commercial motorised craft must only operate between the hours of 1000 to 1700.</p> <p>21.16.3.4 Dart River – The total number of commercial motorised boating activities must not exceed 26 trips in any one day. No more than two commercial jet boat operators may operate upstream of the confluence of the Beansburn, other than for tramper and angler access only.</p>	NC

21.17

Rules - Closeburn Station Activities

Table 14 - Closeburn Station: Activities		Activity
21.17.1	<p>The construction of a single residential unit and any accessory building(s) within lots 1 to 6, 8 to 21 DP 26634 located at Closeburn Station.</p> <p>Control is reserved to:</p> <ul style="list-style-type: none"> a. external appearances and landscaping, with regard to conditions 2.2(a), (b), (e) and (f) of resource consent RM950829; b. associated earthworks, lighting, access and landscaping; c. provision of water supply, sewage treatment and disposal, electricity and telecommunications services. 	C

21.18

Rules - Closeburn Station Standards

Table 15 - Closeburn Station: Standards for Buildings and Structures		Non-compliance Status
21.18.1	<p>Setback from Internal Boundaries</p> <p>21.18.1.1 The minimum setback from internal boundaries for buildings within lots 1 to 6 and 8 to 21 DP 26634 at Closeburn Station shall be 2 metres.</p> <p>21.18.1.2 There shall be no minimum setback from internal boundaries within lots 7 and 22 to 27 DP300573 at Closeburn Station.</p>	D
21.18.2	<p>Building Height</p> <p>21.18.2.1 The maximum height of any building, other than accessory buildings, within Lots 1 and 6 and 8 to 21 DP 26634 at Closeburn Station shall be 7m.</p> <p>21.18.2.2 The maximum height of any accessory building within Lots 1 to 6 and 8 to 21 DP 26634 at Closeburn Station shall be 5m.</p> <p>21.18.2.4 The maximum height of any building within Lot 23 DP 300573 at Closeburn Station shall be 5.5m.</p> <p>21.18.2.5 The maximum height of any building within Lot 24 DP 300573 at Closeburn Station shall be 5m.</p>	NC

	Table 15 - Closeburn Station: Standards for Buildings and Structures	Non-compliance Status
21.18.3	Residential Density In the Rural Zone at Closeburn Station, there shall be no more than one residential unit per allotment (being lots 1-27 DP 26634); excluding the large rural lots (being lots 100 and 101 DP 26634) held in common ownership.	NC
21.18.4	Building Coverage In lots 1-27 at Closeburn Station, the maximum residential building coverage of all activities on any site shall be 35%.	NC

21.19

21.20

Rules Non-Notification of Applications

Any application for resource consent for the following matters shall not require the written approval of other persons and shall not be notified or limited-notified:

- 21.20.1 Controlled activity retail sales of farm and garden produce and handicrafts grown or produced on site (Rule 21.4.16), except where the access is onto a State highway.
- 21.20.2 Controlled activity mineral exploration (Rule 21.4.30).
- 21.20.3 Controlled activity buildings at Closeburn Station (Rule 21.17.1).

21.21

Assessment Matters (Landscape)

21.21.1 Outstanding Natural Features and Outstanding Natural Landscapes (ONF and ONL).

The assessment matters set out below are derived from Policies 3.3.30, 6.3.10 and 6.3.12 to 6.3.18 inclusive. Applications shall be considered with regard to the following assessment matters:

- 21.21.1.1 In applying the assessment matters, the Council will work from the presumption that in or on Outstanding Natural Features and Landscapes, the applicable activities are inappropriate in almost all locations and that successful applications will be exceptional cases where the landscape or feature can absorb the change and where the buildings and structures and associated roading and boundary changes are reasonably difficult to see from beyond the boundary of the site the subject of application.
- 21.21.1.2 Existing vegetation that:
 - a. was either planted after, or, self-seeded and less than 1 metre in height at 28 September 2002; and,
 - b. obstructs or substantially interferes with views of the proposed development from roads or other public places, shall not be considered:
 - i. as beneficial under any of the following assessment matters unless the Council considers the vegetation (or some of it) is appropriate for the location in the context of the proposed development; and
 - ii. as part of the permitted baseline.
- 21.21.1.3 Effects on landscape quality and character

In considering whether the proposed development will maintain or enhance the quality and character of Outstanding Natural Features and Landscapes, the Council shall be satisfied of the extent to which the proposed development will affect landscape quality and character, taking into account the following elements:

 - a. physical attributes:
 - i. geological, topographical, geographic elements in the context of whether these formative processes have a profound influence on landscape character;
 - ii. vegetation (exotic and indigenous);
 - iii. the presence of waterbodies including lakes, rivers, streams, wetlands.

- b. visual attributes:
 - i. legibility or expressiveness – how obviously the feature or landscape demonstrates its formative processes;
 - ii. aesthetic values including memorability and naturalness;
 - iii. transient values including values at certain times of the day or year;
 - iv. human influence and management – settlements, land management patterns, buildings, roads.
- c. Appreciation and cultural attributes:
 - i. Whether the elements identified in (a) and (b) are shared and recognised;
 - ii. Cultural and spiritual values for tangata whenua;
 - iii. Historical and heritage associations.

The Council acknowledges that Tangata Whenua beliefs and values for a specific location may not be known without input from iwi.
- d. In the context of (a) to (c) above, the degree to which the proposed development will affect the existing landscape quality and character, including whether the proposed development accords with or degrades landscape quality and character, and to what degree.
- e. any proposed new boundaries will not give rise to artificial or unnatural lines (such as planting and fence lines) or otherwise degrade the landscape character.

21.21.1.4 Effects on visual amenity

In considering whether the potential visibility of the proposed development will maintain and enhance visual amenity, values the Council shall be satisfied that:

- a. the extent to which the proposed development will not be visible or will be reasonably difficult to see when viewed from public roads and other public places. In the case of proposed development in the vicinity of unformed legal roads, the Council shall also consider present use and the practicalities and likelihood of potential use of unformed legal roads for vehicular and/or pedestrian, cycling, equestrian and other means of access;
- b. the proposed development will not be visually prominent such that it detracts from public or private views of and within Outstanding Natural Features and Landscapes;
- c. the proposal will be appropriately screened or hidden from view by elements that are in keeping with the character of the landscape;
- d. the proposed development will not reduce the visual amenity values of the wider landscape (not just the immediate landscape);
- e. structures will not be located where they will break the line and form of any ridges, hills and slopes;
- f. any roads, access, lighting, earthworks and landscaping will not reduce the visual amenity of the landscape.

21.21.1.5 Design and density of Development

In considering the appropriateness of the design and density of the proposed development, whether and to what extent:

- a. opportunity has been taken to aggregate built development to utilise common access ways including roads, pedestrian linkages, services and open space (i.e. open space held in one title whether jointly or otherwise);
- b. there is merit in clustering the proposed building(s) or building platform(s) within areas that are least sensitive to change;
- c. development, including access, is located within the parts of the site where it would be least visible from public and private locations;
- d. development, including access, is located in the parts of the site where it has the least impact on landscape character.

21.21.1.6 Cumulative effects of subdivision and development on the landscape

Taking into account whether and to what extent existing, consented or permitted development (including unimplemented but existing resource consent or zoning) may already have degraded:

- a. the landscape quality or character; or,
- b. the visual amenity values of the landscape.

The Council shall be satisfied the proposed development, in combination with these factors will not further adversely affect the landscape quality, character, or visual amenity values.

21.21.2 Rural Character Landscape (RCL)

The assessment matters below have been derived from Policies 3.3.32, 6.3.10 and 6.3.19 to 6.3.29 inclusive. Applications shall be considered with regard to the following assessment matters because in the Rural Character Landscapes the applicable activities are unsuitable in many locations.

21.21.2.1 Existing vegetation that:

- a. was either planted after, or, self seeded and less than 1 metre in height at 28 September 2002; and,
- b. obstructs or substantially interferes with views of the proposed development from roads or other public places, shall not be considered:
 - i. as beneficial under any of the following assessment matters unless the Council considers the vegetation (or some of it) is appropriate for the location in the context of the proposed development; and
 - ii. as part of the permitted baseline.

21.21.2.2 Effects on landscape quality and character:

The following shall be taken into account:

- a. where the site is adjacent to an Outstanding Natural Feature or Landscape, whether and the extent to which the proposed development will adversely affect the quality and character of the adjacent Outstanding Natural Feature or Landscape;
- b. whether and the extent to which the scale and nature of the proposed development will degrade the quality and character of the surrounding Rural Character Landscape;
- c. whether the design and any landscaping would be compatible with or would enhance the quality and character of the Rural Character Landscape.

21.21.2.3 Effects on visual amenity:

Whether the development will result in a loss of the visual amenity of the Rural Character Landscape, having regard to whether and the extent to which:

- a. the visual prominence of the proposed development from any public places will reduce the visual amenity of the Rural Character Landscape. In the case of proposed development which is visible from unformed legal roads, regard shall be had to the frequency and intensity of the present use and, the practicalities and likelihood of potential use of these unformed legal roads as access;
- b. the proposed development is likely to be visually prominent such that it detracts from private views;
- c. any screening or other mitigation by any proposed method such as earthworks and/or new planting will detract from or obstruct views of the Rural Character Landscape from both public and private locations;
- d. the proposed development is enclosed by any confining elements of topography and/or vegetation and the ability of these elements to reduce visibility from public and private locations;
- e. any proposed roads, boundaries and associated planting, lighting, earthworks and landscaping will reduce visual amenity, with particular regard to elements which are inconsistent with the existing natural topography and patterns;
- f. boundaries follow, wherever reasonably possible and practicable, the natural lines of the landscape or landscape units.

21.21.2.4 Design and density of development:

In considering the appropriateness of the design and density of the proposed development, whether and to what extent:

- a. opportunity has been taken to aggregate built development to utilise common access ways including roads, pedestrian linkages, services and open space (i.e. open space held in one title whether jointly or otherwise);
- b. there is merit in clustering the proposed building(s) or building platform(s) having regard to the overall density and intensity of the proposed development and whether this would exceed the ability of the landscape to absorb change;

- c. development, including access, is located within the parts of the site where they will be least visible from public and private locations;
- d. development, including access, is located in the parts of the site where they will have the least impact on landscape character.

21.21.2.5 Tangata Whenua, biodiversity and geological values:

- a. whether and to what extent the proposed development will degrade Tangata Whenua values including Tōpuni or nohoanga, indigenous biodiversity, geological or geomorphological values or features and, the positive effects any proposed or existing protection or regeneration of these values or features will have.

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

21.21.2.6 Cumulative effects of development on the landscape:

Taking into account whether and to what extent any existing, consented or permitted development (including unimplemented but existing resource consent or zoning) has degraded landscape quality, character, and visual amenity values. The Council shall be satisfied;

- a. the proposed development will not further degrade landscape quality, character and visual amenity values, with particular regard to situations that would result in a loss of valued quality, character and openness due to the prevalence of residential or non-farming activity within the Rural Landscape.
- b. where in the case resource consent may be granted to the proposed development but it represents a threshold to which the landscape could absorb any further development, whether any further cumulative adverse effects would be avoided by way of imposing a covenant, consent notice or other legal instrument that maintains open space.

21.21.3 Other factors and positive effects, applicable in all the landscape categories (ONF, ONL and RCL)

- 21.21.3.1 In the case of a proposed residential activity or specific development, whether a specific building design, rather than nominating a building platform, helps demonstrate whether the proposed development is appropriate.
- 21.21.3.2 Other than where the proposed development is a subdivision and/or residential activity, whether the proposed development, including any buildings and the activity itself, are consistent with rural activities or the rural resource and would maintain or enhance the quality and character of the landscape.
- 21.21.3.3 In considering whether there are any positive effects in relation to the proposed development, or remedying or mitigating the continuing adverse effects of past subdivision or development, the Council shall take the following matters into account:

- a. whether the proposed subdivision or development provides an opportunity to protect the landscape from further development and may include open space covenants or esplanade reserves;
- b. whether the proposed subdivision or development would enhance the character of the landscape, or protects and enhances indigenous biodiversity values, in particular the habitat of any threatened species, or land environment identified as chronically or acutely threatened on the Land Environments New Zealand (LENZ) threatened environment status;
- c. any positive effects including environmental compensation, easements for public access such as walking, cycling or bridleways or access to lakes, rivers or conservation areas;
- d. any opportunities to retire marginal farming land and revert it to indigenous vegetation;
- e. where adverse effects cannot be avoided, mitigated or remedied, the merits of any compensation;
- f. whether the proposed development assists in retaining the land use in low intensity farming where that activity maintains the valued landscape character.

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report 4A

Report and Recommendations of Independent Commissioners Regarding
Chapter 21, Chapter 22, Chapter 23, Chapter 33 and Chapter 34

Commissioners

Denis Nugent (Chair)

Brad Coombs

Mark St Clair

PART B: CHAPTER 21 – RURAL

2 PRELIMINARY

2.1 Over-arching Submissions and Structure of the Chapter

53. At a high level there were a number of submissions that addressed the approach and structure of Chapter 21. We deal with those submissions first.

2.2 Farming and other Activities relying on the Rural Resource

54. Submissions in relation to the structure of the chapter focussed on the inclusion of other activities that rely on the rural resource¹¹⁰. Addressing the Purpose of Chapter 21, Mr Brown in evidence considered that there was an over-emphasis on the importance of farming, noting that there was an inconsistency between Chapters 3 and 21 in this regard¹¹¹. In addition, Mr Brown recommended changing the 'batting order' of the objectives and policies as set out in Chapter 21 to put other activities in the Rural Zone on an equal footing with that of farming¹¹².

55. Mr Barr in reply, supported a change to the purpose so that it would "*provide for appropriate other activities that rely on rural resources*" (our emphasis), but noted that there was no hierarchy or preference in terms of the layout of the objectives and therefore he did not support the change in their order proposed by Mr Brown.¹¹³

56. This theme of a considered preference within the chapter of farming over non-farming activities and, more specifically a failure to provide for tourism, was also raised by a number of other submitters¹¹⁴. In evidence and presentations to us, Ms Black and Mr Farrell for R/L questioned the contribution of farming¹¹⁵ to maintain the rural landscape and highlighted issues with the proposed objectives and policies making it difficult to obtain consent for tourism proposals¹¹⁶.

57. Similarly, the submission from UCES¹¹⁷ sought that the provisions of the ODP relating to subdivision and development in the rural area be rolled over to the PDP. The reasons expressed in the submission for this relief, were in summary because the PDP in its notified form:

- a. did not protect natural landscape values, in particular ONLs;
- b. was too permissive;
- c. was contrary to section 6 of the Act and does not have particular regard to section 7 matters; and
- d. was biased towards farming over other activities, resulting in a weakening of the protection of landscape values.

58. Mr Haworth addressed these matters in his presentation to us and considered, "Farming as a mechanism for protecting landscape values in these areas has been a spectacular failure."¹¹⁸ He called evidence in support from Ms Lucas, a landscape architect, who critiqued the provisions in Chapter 6 of the PDP and, noting its deficiencies, considered that those

¹¹⁰ E.g. Submissions 122, 343, 345, 375, 407, 430, 437, 456, 610, 613, 615, 806, FS 1229

¹¹¹ J Brown, Evidence, Pages 3- 4, Para 2.3

¹¹² J Brown, Evidence, Pages 5 - 6, Paras 2.8-2.9

¹¹³ C Barr, Reply, Page 2, Para 2.2

¹¹⁴ E.g. Submissions 607, 621, 806

¹¹⁵ F Black, Evidence, Page 3 - 5, Paras 3.8 – 3.16

¹¹⁶ F Black, Evidence, Page 5 , Para 3.17

¹¹⁷ Submission 145

¹¹⁸ J Haworth, Evidence, Page 5, Para 1

deficiencies had been carried through to Chapter 21. Ms Lucas noted that much of Rural Zone was not appropriate for farming and that the objectives and policies did not protected natural character¹¹⁹.

59. In evidence on behalf of Federated Farmers¹²⁰, Mr Cooper noted the permitted activity status for farming, but considered that this came at a significant opportunity cost for farmers. That said, Mr Cooper, on balance, agreed that those costs needed to be assessed against the benefits of providing for farming as a permitted activity in the Rural Zone, including the impacts on landscape amenity.¹²¹
60. Mr Barr, in his Section 42A Report, accepted that farming had been singled out as a permitted land use, but he also considered that the framework of the PDP was suitable for managing the impacts of farming on natural and physical resources.¹²² In relation to other activities that rely on the rural resource, Mr Barr in reply, considered that those activities were appropriately contemplated, given the importance of protecting the Rural Zone's landscape resource.¹²³ In reaching this conclusion, Mr Barr relied on the landscape evidence of Dr Read and the economic evidence of Mr Osborne presented as part of the Council's opening for this Hearing Stream.
61. Responding to these conflicting positions, we record that in Chapter 3 the Stream 1B Hearing Panel has already found that as an objective farming should be encouraged¹²⁴ and in Chapter 6, that policies should recognise farming and its contribution to the existing rural landscape¹²⁵. Similarly, in relation to landscape, the Stream 1B Hearing Panel found that a suggested policy providing favourably for the visitor industry was too permissive¹²⁶ and instead recommended policy recognition for these types of activities on the basis they would protect, maintain or enhance the qualities of rural landscapes.¹²⁷
62. Bearing this in mind, we concur that it is appropriate to provide for other activities that rely on the rural resource, but that such provision needs to be tempered by the equally important recognition of maintaining the qualities that the rural landscape provides. In reaching this conclusion, we found the presentation by Mr Hadley¹²⁸ useful in describing the known and predictable quality of the landscape under farming, while noting the reduced predictability resulting from other activities. In our view, tourism may not necessarily maintain the qualities that are important to maintenance of rural character (including openness, where it is an important characteristic) and amenity, and it is this latter point that needs to be addressed.
63. In order to achieve this we recommend:
 - a. Amending the Purpose of the chapter to provide for 'appropriate other activities' that rely on rural resources;
 - b. Objective 21.2.9 (as notified) be deleted and incorporated in Objective 21.2.1; and
 - c. Policies under 21.2.9 (as notified) be added to policies under Objective 21.2.1.

¹¹⁹ D Lucas, Evidence, Pages 5-11

¹²⁰ Submission 600

¹²¹ D Cooper, Evidence, Paras 31-33

¹²² C Barr, Section 42A Report, Page 17, Para 8.16

¹²³ C Barr, Reply, Page 9, Para 4.3

¹²⁴ Recommendation Report 3, Section 2.3

¹²⁵ Recommendation Report 3, Section 8.5

¹²⁶ Recommendation Report 3, Section 3.19

¹²⁷ Recommended Strategic Policy 3.3.20

¹²⁸ J Hadley, Evidence, Pages 2 -3

2.3 Rural Zone to Provide for Rural Living

64. Mr Goldsmith, appearing as counsel for a number of submitters¹²⁹, put to us that Chapter 21 failed to provide for rural living, in particular in the Wakatipu Basin¹³⁰. Mr J Brown¹³¹ and Mr B Farrell¹³² presented evidence in support of that position. Mr Brown recommended a new policy:

*Recognise the existing rural living character of the Wakatipu Basin Rural Landscape, and the benefits which flow from rural living development in the Wakatipu Basin, and enable further rural living development where it is consistent with the landscape character and amenity values of the locality.*¹³³

65. Mr Barr, in his Reply Statement, considered that the policy framework for rural living was already provided for in Chapter 22 Rural Lifestyle and Rural Residential Zones. However, Mr Barr also opined, *“that there is merit associated with providing policies associated with rural living in the Rural Zone on the basis they do not duplicate or confuse the direction of the Landscape Chapter and assessment matters in part 21.7 that assist with implementing these policies.”*¹³⁴ Mr Barr emphasised the need to avoid conflict with the Strategic Directions and Landscape Chapters and noted that he did not support singling out the Wakatipu Basin or consider that benefits that follow from rural development had been established in evidence.¹³⁵
66. Mr Barr did recommend a policy that recognised rural living within the limits of a locality and its capacity to absorb change, but nothing further.¹³⁶ Mr Barr’s recommendation for the policy was as follows;

*“Ensure that rural living is located where rural character, amenity and landscape values can be managed to ensure that over domestication of the rural landscape is avoided.”*¹³⁷

67. We consider that there are three aspects to this issue that need to be addressed. The first is, and we agree with Mr Barr in this regard, that the policy framework for rural living is already provided for in Chapter 22 Rural Lifestyle and Rural Residential Zones. That said we recommend that a description be added to the purpose of each of the Rural Chapters setting out how the chapters are linked.
68. The second aspect is that in its Recommendation Report, the Stream 1B Hearing Panel addressed the matter of rural living as follows:

“785. In summary, we recommend the following amendments to policies 3.2.5.4.1 and 3.2.5.4.2 (renumbered 3.3.22 and 3.3.24), together with addition of a new policy 3.3.23 as follows:

“Provide for rural living opportunities in areas identified on the District Plan maps as appropriate for Rural Residential and Rural Lifestyle development.

¹²⁹ Submissions 502, 1256, 430, 532, 530, 531, 535, 534, 751, 523, 537, 515,

¹³⁰ W Goldsmith, Legal Submissions, Pages 3 - 4

¹³¹ J Brown, Evidence, Dated 21 April 2016

¹³² B Farrell, Evidence, Dated 21 April 2016

¹³³ J Brown, Summary Statement to Primary Evidence, Pages 1 -2, Para 4

¹³⁴ C Barr, Reply Statement, Page 19, para 6.8

¹³⁵ C Barr, Reply Statement, Page 20, paras 6.10-6.11

¹³⁶ C Barr, Reply Statement, Page 21, paras 6.14

¹³⁷ C Barr, Reply Statement, Page 21, paras 6.15

Identify areas on the District Plan maps that are not within Outstanding Natural Landscapes or Outstanding Natural Features and that cannot absorb further change, and avoid residential development in those areas.

Ensure that cumulative effects of new subdivision and development for the purposes of rural living does not result in the alteration of the character of the rural environment to the point where the area is no longer rural in character.”

759. *We consider that the combination of these policies operating in conjunction with recommended policies 3.3.29-3.3.32, are the best way in the context of high-level policies to achieve objectives 3.2.1.8, 3.2.5.1 and 3.2.5.2, as those objectives relate to rural living developments.”*

69. We similarly adopt that position in recommending rural living be specifically addressed in Chapter 22.
70. Finally, with reference to the Wakatipu Basin, we record that the Council has, as noted above, already notified the Stage 2 Variations which contains specific rural living opportunities for the Wakatipu Basin.
71. Considering all these matters, we are not convinced that rural living requires specific recognition within the Rural Chapter. We agree with the reasoning of Mr Barr in relation to the potential conflict with the Strategic and Landscape chapters and that benefits that follow from rural development have not been established. We therefore recommend that the submissions seeking the inclusion of policies providing for and enabling rural living in the Rural Zone be rejected.

2.4 A Separate Water Chapter

72. Submissions from RJL¹³⁸ and Te Anau Developments¹³⁹ sought to “Extract provisions relating to the protection, use and development of the surface of lakes and rivers and their margins and insert them into specific chapter...”. Mr Farrell addressed this matter in his evidence¹⁴⁰.
73. We note that the Stream 1B Hearing Panel has already considered this matter in Report 3 at Section 8.8, and agreed that there was insufficient emphasis on water issues in Chapter 6. This was addressed in that context by way of appropriate headings. That report noted Mr Farrell’s summary of his position that he sought to focus attention on water as an issue, rather than seek substantive changes to the existing provisions.
74. Mr Barr, in reply, was of the view that water issues were adequately addressed in a specific objective with associated policies and the activities and associated with lakes and rivers are contained in one table¹⁴¹. We partly agree with each of Mr Farrell and Mr Barr.
75. In terms of the structure of the activities and standards tables, we recommend that tables deal with first the general activities in the Rural Zone and then second with location-specific activities such as those on the surface of lakes and rivers. In addition, we recommend a reordering and

¹³⁸ Submission 621

¹³⁹ Submission 607

¹⁴⁰ B Farrell, Evidence, Pages 10-11

¹⁴¹ C Barr, Reply, Page 4

clarification of the activities and standards in relation to the surface of lakes and river table to better identify the activity status and relevant standards.

2.5 New Provisions – Wanaka Airport

76. QAC¹⁴² sought the inclusion of new objectives and policies to recognise and provide for Wanaka Airport. The airport is zoned Rural and is subject to a Council designation but we were told that the designation does not serve the private operators with landside facilities at the airport. At the hearing, QAC explained the difficulties that this regime caused for the private operators.
77. Ms Sullivan, in evidence-in-chief, proposed provisions by way of amendments to the Rural Chapter, but following our questions of Mr Barr during Council's opening, provided supplementary evidence with a bespoke set of provisions for Wanaka as a subset of the Queenstown Airport Mixed Use Zone.
78. Having reached a preliminary conclusion that specific provisions for Wanaka Airport were appropriate, we requested that Council address this matter in reply. Mr Winchester, in reply for Council, advised that there was scope for a separate zone for the Wanaka Airport and that it could be completely separate or a component of the Queenstown Airport Mixed Use Zone in Chapter 17 of the PDP. Agreeing that further work on the particular provisions was required, we directed that the zone provisions for Wanaka Airport be transferred to Hearing Stream 7 Business Zones.
79. The Minute of the Chair, dated 16 June 2016, set out the directions detailed above. Those directions did not apply to the submissions of QAC seeking Runway End Protection Areas at Wanaka Airport. We deal with those submissions now.
80. QAC¹⁴³ sought two new policies to provide for Runway End Protection Areas (REPAs) at Wanaka Airport, worded as follows:

Policy 21.2.X.3 Retain a buffer around Wanaka Airport to provide for the runway end protection areas at the Airport to maintain and enhance the safety of the public and those using aircraft at Wanaka Airport.

Policy 21.2.X.1 Avoid activities which may generate effects that compromise the safety of the operation of aircraft arriving at or departing from Wanaka Airport.

81. The QAC submission also sought a new rule derived from these policies, being prohibited activity status for REPAs as follows:

Within the Runway End Protection Areas, as indicated on the District Plan Maps,

- a. Buildings except those required for aviation purposes*
- b. Activities which generate or have the potential to generate any of the following effects:*
 - i. mass assembly of people*
 - ii. release of any substance which would impair visibility or otherwise interfere with the operation of aircraft including the creation of smoke, dust and steam*

¹⁴² Submission 433

¹⁴³ Submission 433

- iii. *storage of hazardous substances*
- iv. *production of direct light beams or reflective glare which could interfere with the vision of a pilot*
- v. *production of radio or electrical interference which could affect aircraft communications or navigational equipment*
- vi. *attraction of birds*

82. We think it is appropriate to deal with the requested new policies and new rule together, as the rule relies on the policies.
83. In opening legal submissions for Council, Mr Winchester raised jurisdictional concerns regarding the applicability of the rule as related to creation of smoke and dust; those are matters within the jurisdiction of ORC. Mr Winchester also raised a fairness issue for affected landowners arising from imposition of prohibited activity status by way of submission, noting that many permitted farming activities would be negated by the new rule. He submitted that insufficient evidence had been provided to justify the prohibited activity status¹⁴⁴.
84. Ms Wolt, in legal submissions for QAC¹⁴⁵, submitted in summary that there was no requirement under the Act for submitters to consult, that the further submission process was the opportunity for affected land owners to raise any concerns, and that they had not done so. Ms Wolt drew our attention to the fact that one potentially affected land owner had submissions on the PDP prepared by consultants and that those submissions did not raise any concerns. In conclusion, Ms Wolt submitted that the concerns about fairness were unwarranted.
85. At this point, we record that we had initial concerns about the figure (Figure 3.1) showing the extent of the REPA included in the QAC Submission¹⁴⁶ as that figure was not superimposed over the cadastral or planning maps to show the extent the suggested REPA extended onto private land. Rather, the figure illustrated the dimensions of the REPA from the runway. The summary of submissions referred to the Appendix, but even if Figure 3.1 had been reproduced, in our view, it would not have been apparent to the airport neighbours that the REPA covered their land. Against this background, the failure of airport neighbours to lodge further submissions on this matter does not, in our view, indicate their acquiescence.
86. In supplementary evidence for QAC, Ms O’Sullivan provided some details from the Airbiz Report dated March 2013 from which Figure 3.1 was derived¹⁴⁷. Ms O’Sullivan also included a Plan prepared by AirBiz dated 17 May 2016, showing the spatial extent of the REPA on an aerial photograph with the cadastral boundaries also superimposed¹⁴⁸. We also received a further memorandum from Ms Wolt dated 3 June 2016, with the relevant extracts from the AirBiz March 2013 report and which included additional Figures 3.2 and 3.3 showing the REPA superimposed on the cadastral map.
87. Given that it was only at that stage that the extent of the REPA in a spatial context was identified, we do not see how any adjoining land owner could know how this might affect them. We do

¹⁴⁴ J Winchester, Opening legal Submissions, Page 11, Paras 4.21 – 4.22

¹⁴⁵ R Wolt, Legal Submissions, Pages 22-24, Paras 111 - 122

¹⁴⁶ Submission 433, Annexure 3

¹⁴⁷ K O’Sullivan, Supplementary evidence, Pages 5 – 6, Paras 3.3 - 3.5

¹⁴⁸ K O’Sullivan, Supplementary evidence, Appendix C

not consider QAC's submission to be valid for this reason. If the suggested prohibited activity rule fails for this reason, so must the accompanying policies that support it. Even if this were not the case, we agree with Mr Winchester's submission that QAC has supplied insufficient evidence to justify the relief that it seeks. The suggested prohibited activity rule is extraordinarily wide (on the face of it, the rule would preclude the neighbouring farmers from ploughing their land if they had not done so within the previous 12 months because of the potential for it to attract birds). To support it, we would have expected a comprehensive and detailed section 32 analysis to be provided. Ms O'Sullivan expressed the opinion that there was adequate justification in terms of section 32 of the Act for a prohibited activity rule¹⁴⁹. Ms O'Sullivan, however, focused on the development of ASANs, which are controlled by other rules, rather than the incremental effect of the suggested new rule, and thus in our view, significantly understated the implications of the suggested rule for neighbouring land owners. We do not therefore accept her view that the rule has been adequately justified in terms of section 32.

88. For completeness we note that the establishment of ASANs in the Rural Zone, over which these REPA would apply, would, in the main, be prohibited activities (notified Rule 21.4.28). For the small area affected by the proposed REPA outside the OCB, ASANs would require a discretionary activity consent. Thus, the regulatory regime we are recommending would enable consideration of the type of reverse sensitivity effects raised by QAC.
89. Accordingly, we recommend that submission from QAC for two new policies and an associated rule for the REPA at Wanaka Airport be rejected.

3 SECTION 21.1 – ZONE PURPOSE

90. We have already addressed a number of the submissions regarding this part of Chapter 21 in Sections 3.2 and 3.3 above, as they applied to the wider planning framework for the Rural Zone Chapter. We also record that the Zone Purpose is explanatory in nature and does not contain any objectives, policies or regulatory provisions.
91. Submissions from QAC¹⁵⁰ and Transpower¹⁵¹ sought that infrastructure in the Rural Zone needed specific recognition. Mr Barr addressed this matter in the Section 42A Report noting;
- “Infrastructure and utilities are also contemplated in the Rural Zone and while not specifically identified in the Rural Zone policy framework they are sufficiently provided for in higher order provisions in the Strategic Direction Chapter and Landscape Chapter and the Energy and Utilities Chapter.”¹⁵²*
92. Ms Craw, in evidence¹⁵³ for Transpower, agreed with that statement, provided that the Panel adopted changes to Chapter 3 Strategic Directions regarding recognition and provision of regionally significant infrastructure.
93. Ms O'Sullivan, in evidence for QAC, noted that Wanaka Airport was recognised in the ODP and suggested that it was appropriate to continue that recognition in the PDP. Her evidence was

¹⁴⁹ K O'Sullivan, Supplementary evidence, Pages 7 - 8, Paras 3.8 – 3.10

¹⁵⁰ Submission 433

¹⁵¹ Submission 805

¹⁵² C Barr, Section 42A Report, Chapter 21, Para 8.3

¹⁵³ A Craw, Evidence, dated 21 April 2016, Paras 21-22

that it was also appropriate to incorporate PC35 provisions into the PDP in order to provide guidance to plan users.¹⁵⁴

94. Forest & Bird¹⁵⁵ also sought the recognition of the loss of biodiversity on basin floors and NZTM¹⁵⁶ similarly sought recognition of mining. In evidence on behalf of NZTM, Mr Vivian was of the opinion that the combination of traditional rural activities, which include mining, are expected elements in a rural landscape and hence would not offend landscape character.¹⁵⁷
95. In our view infrastructure and biodiversity are district wide issues that are appropriately addressed in the separate chapters, Energy and Utilities and Indigenous Vegetation and Biodiversity respectively, as well as at a higher level in the strategic chapters. Provision for Wanaka Airport has been deferred to the business hearings for the reasons set out above. We agree with Ms O’Sullivan’s additional point regarding the desirability of assisting plan users as a general principle, but find that incorporating individual matters from the chapter into the Purpose section would be repetitive. We think that Mr Vivian’s reasoning regarding the combination of traditional rural activities not offending rural landscape goes too far. Nonetheless, we note that mining is the subject of objectives and associated policies in this chapter. These matters do not need to be specified in the purpose statement of every chapter in which they occur. We therefore recommend that these submissions be rejected.
96. The changes we do recommend to this section are those that address the wider matters discussed in the previous section. We recommend that the opening paragraph read:

There are four rural zones in the District. The Rural Zone is the most extensive of these. The Gibbston Valley is recognised as a special character area for viticulture production and the management of this area is provided for in Chapter 23: Gibbston Character Zone. Opportunities for rural living activities are provided for in the Rural-Residential and Rural Lifestyle Zones (Chapter 22).

97. In the five paragraphs following, we recommend accepting the amendments recommended by Mr Barr¹⁵⁸. Finally, we recommend deletion of the notified paragraph relating to the Gibbston Character Zone and the addition of the following paragraph to clarify how the landscape classifications are applied in the zone:

The Rural Zone is divided into two ~~overlay~~ areas. The first being the ~~overlay~~ area for Outstanding Natural Landscapes and Outstanding Natural Features. The second ~~overlay~~ area being the Rural Character Landscape. These ~~overlay~~ areas give effect to Chapter 3 – Strategic Direction: Objectives 3.2.5.1 and 3.2.5.2, and the policies in Chapters 3 and 6 that implement those objectives.

98. With those amendments, we recommend Section 21.1 be adopted as set out in Appendix 1.

4 SECTION 21.2 – OBJECTIVES AND POLICIES

4.1 Objective 21.2.1

99. Objective 21.2.1 as notified read as follows:

¹⁵⁴ K O’Sullivan, Evidence, dated 22 April 2016, Page 9-10, Paras 4.8 – 4.13

¹⁵⁵ Submission 706

¹⁵⁶ Submission 519

¹⁵⁷ C Vivian, Evidence, Page 11, Para 4.28

¹⁵⁸ C Barr, Reply Statement, Appendix 1

“Enable farming, permitted and established activities while protecting, maintaining and enhancing landscape, ecosystem services, nature conservation and rural amenity values.”

100. The submissions on this objective primarily sought inclusion of activities that relied on the rural resource¹⁵⁹, the addition of wording from the RMA such as “avoid, remedy or mitigate” or “from inappropriate use and development”¹⁶⁰ and removal of the word “protecting”¹⁶¹. Transpower sought the inclusion of ‘regionally significant infrastructure’.

101. As noted in Section 2.1 above, the Council lodged amended objectives and policies, reflecting our request for outcome orientated objectives. The amended version of Objective 21.2.1 read as follows:

“A range of land uses including farming, permitted and established activities are enabled, while protecting, maintaining and enhancing landscape, ecosystem services, nature conservation and rural amenity values.”

102. We record that this amended objective is broader than the objective as notified, by suggesting the range of enabled activities extends beyond farming and established activities, and circular by referring to permitted activities (which should only be permitted if giving effect to the objective). We have addressed the activities relying on the rural resource in Section 3.2 above. In addition, as we noted in Section 4, we consider infrastructure is more appropriately dealt with in Chapter 30 Energy and Utilities..

103. In his evidence for Darby Planning LP *et al*¹⁶², which sought to remove the word “protecting”, Mr Ferguson was of the view that the Section 42A Report wording of Objective 21.2.1 was not sufficiently clear in, “providing the balance between enabling appropriate rural based activities and recognising the important values in the rural environment.”¹⁶³ Mr Ferguson was also of the view that this balance needed to be continued into the associated policies. Similarly, in evidence tabled for X-Ray Trust, Ms Taylor was of the view that “protecting” was an inappropriately high management threshold and that it could prevent future development¹⁶⁴.

104. We do not agree. Consistent with the findings in the report on the Strategic Chapters, we consider that removal of the word “protecting” would have exactly the opposite result from that sought by Mr Ferguson and Ms Taylor by creating an imbalance in favour of other activities to the detriment of landscape values. This would be inconsistent with the Strategic Objectives 3.2.5.1 and 3.2.5.2 which seek to protect ONLs and ONFs from the adverse effects of subdivision, use and development, and maintain and enhance rural character and visual amenity values in Rural Character Landscapes.

105. We are satisfied that the objective as recommended by Mr Barr reflects both the range of landscapes in the Rural Zone, and, with minor amendment, the range of activities that are appropriate within some or all of those landscapes. The policies to implement this objective should appropriately apply the terms “protecting, maintaining and enhancing” so as to

¹⁵⁹ Submissions 343, 345, 375, 407, 430, 437, 456, 513, 515, 522, 531, 537, 546, 608, 621, 624, 806

¹⁶⁰ Submissions 513, 515, 522, 531, 537, 621, 624, 805

¹⁶¹ Submissions 356, 608 – we record that these submissions similarly sought the removal of the word protect from Policy 21.2.1.1

¹⁶² Submission 608

¹⁶³ C Fergusson, EIC, dated 21 April 2016, Para 54

¹⁶⁴ L Taylor, Evidence, Appendix A, Page 1

implement the higher order objectives and policies. Consequently, we recommend that the wording for Objective 21.2.1 be as follows:

A range of land uses, including farming and established activities, are enabled while protecting, maintaining and enhancing landscape, ecosystem services, nature conservation and rural amenity values.

106. In relation to wording from the RMA such as “avoid, remedy or mitigate” or “from inappropriate use and development”, Mr Brown in his evidence for Chapter 21 reiterated the view he put forward at the Strategic Chapters hearings that the, “RMA language should be the “default” language of the PDP and any non-RMA language should be used sparingly, ...”¹⁶⁵, in order to avoid uncertainty and potentially litigation.
107. The Stream 1B Hearings Panel addressed this matter in detail¹⁶⁶ and concluded that, “we take the view that use of the language of the Act is not a panacea, and alternative wording should be used where the wording of the Act gives little or no guidance to decision makers as to how the PDP should be implemented.” We agree with that finding for the same reasons as are set out in Recommendation Report 3 and therefore recommend rejecting those submissions seeking inclusion of such wording in the objective.

4.2 Policy 21.2.1.1

108. Policy 21.2.1.1 as notified read as follows:

“Enable farming activities while protecting, maintaining and enhancing the values of indigenous biodiversity, ecosystem services, recreational values, the landscape and surface of lakes and rivers and their margins.”

109. The majority of submissions on this policy sought, in the same manner as for Objective 21.2.1, to include reference to activities that variously rely on rural resources, as well as inclusion of addition of wording from the RMA such as “avoid, remedy or mitigate”¹⁶⁷, or softening of the policy through removal of the word “protecting”¹⁶⁸, or inserting the words “significant” before the words indigenous biodiversity¹⁶⁹, or amending the reference to landscape to “outstanding natural landscape values”¹⁷⁰.
110. In evidence for RJJ *et al* Mr Farrell recommended that the policy be amended as follows:
- “Enable a range of activities that rely on the rural resource while, maintaining and enhancing indigenous biodiversity, ecosystem services, recreational values, landscape character and the surface of lakes and rivers and their margins.”*¹⁷¹
111. Mr Barr did not recommend any additional amendments to this policy in his Section 42A Report or in reply. We have already addressed the majority of these matters in Section 3.2 above. The additional amendments recommended by Mr Farrell in our view do not align the policy so that

¹⁶⁵ J Brown, Evidence , Page 2, Para 1.9

¹⁶⁶ Recommendation Report 3, Section 1.9

¹⁶⁷ Submissions 343, 345, 375, 456, 515, 522, 531

¹⁶⁸ Submissions 356, 608

¹⁶⁹ Submissions 701, 784

¹⁷⁰ Submissions 621, 624

¹⁷¹ B Farrell, Evidence, Page 15, Para 48

it implements Objective 21.1.1, and are also inconsistent with the Hearing Panel’s findings in regard to the Strategic Chapters.

112. We therefore recommend that Policy 21.2.1.1 remain as notified.

4.3 Policy 21.2.1.2

113. Policy 21.2.1.2 as notified read as follows:

“Provide for Farm Buildings associated with larger landholdings where the location, scale and colour of the buildings will not adversely affect landscape values.”

114. Submissions to this policy variously sought;

- a. To remove the reference to “large landholdings”¹⁷²;
- b. To delete reference to farm buildings and replace with reference to buildings that support rural and tourism based land uses¹⁷³;
- c. To change the policy to not “significantly adversely affect landscape values”¹⁷⁴;
- d. To roll-over provisions of the ODP so that farming activities are not permitted activities.¹⁷⁵

115. The Section 42A Report recommended that the policy be amended as follows;

“Provide for Farm Buildings associated with larger landholdings over 100 hectares in area where the location, scale and colour of the buildings will not adversely affect landscape values.”

116. In his evidence, Mr Brown for Trojan Helmet *et al* considered that the policy should apply to all properties, not just larger holdings and that the purpose of what is proposed to be managed, the effect on landscape values, should be clearer¹⁷⁶. Mr Farrell in evidence for RJL *et al* was of a similar view, considering that 100 hectares was too high a threshold for the provision of farm buildings and that a range of farm buildings should be provided for and were appropriate¹⁷⁷. Mr Farrell did not support the amendment sought by RJL in relation to changing the policy to not “significantly adversely affect landscape values”, but rather recommended that policy be narrowed to adverse effects on the district’s significant landscape values. There was no direct evidence supporting the request to widen the reference to buildings that support rural and tourism based land uses. The argument of Mr Haworth for UCES, seeking that the provisions of the ODP be rolled over so that farming activities are not permitted activities have already been addressed in Section 3.2 above. However, later in the report we address the density of farm buildings in response to UCES’s submission.

117. In the Section 42A Report, Mr Barr considered that provision for farm buildings of a modest size and height, subject to standards controlling colour, density and location, is an efficient management regime that would lower transition costs for modest size buildings without compromising the landscape¹⁷⁸. In evidence for Federated Farmers¹⁷⁹, Mr Cooper emphasised the need to ensure that the associated costs were reasonable in terms of the policy

¹⁷² Submission 356, 437, 621, 624

¹⁷³ Submission 806

¹⁷⁴ Submission 356, 621

¹⁷⁵ Submission 145

¹⁷⁶ J Brown, Evidence, Para 2.11 – 2.12

¹⁷⁷ B Farrell, Evidence, Para 51

¹⁷⁸ C Barr, Summary of S42A Report, Para 4, Page 2

¹⁷⁹ D Cooper, Evidence, Paras 25-26

implementation. We note that while we heard from several farmers, none of them raised an issue with this policy.

118. In reply, Mr Barr did not agree with Mr Brown and Mr Farrell's view that the policy should apply to all properties. Mr Barr's opinion was that the policy needed to both recognise the permitted activity status for buildings on 100 hectares plus sites and require resource consents for buildings on smaller properties on the basis that their scale and location are appropriate¹⁸⁰.
119. Mr Barr also addressed in his Reply Statement, evidence presented by Mr P Bunn¹⁸¹ and Ms D MacColl¹⁸² as to the policy and rules relating to farm buildings¹⁸³. On a review of these submissions, we note that the submissions do not seek amendments to the farm building policy and rules and consequently, we have not considered that part of the submitters' evidence any further.
120. We concur with Mr Barr and find that the policy will provide for efficient provision of genuine farm buildings without a reduction in landscape and rural amenity values. While a 100 hectare cut-off is necessarily somewhat arbitrary, it both characterises 'genuine' farming operations and identifies properties that are of a sufficiently large scale that they can absorb additional buildings meeting the specified standards. We agree, however, with Mr Brown that the purpose of the policy needs to be made clear, that being the management of the potential adverse effects on the landscape values.
121. We therefore recommend that Policy 21.2.1.2 be worded as follows:

"Allow Farm Buildings associated with landholdings of 100 hectares or more in area while managing the effects of the location, scale and colour of the buildings on landscape values."

4.4 Policies 21.2.1.3 – 21.2.1.8

122. Policies 21.2.3 to 21.2.8 as notified read as follows:

21.2.1.3 Require buildings to be set back a minimum distance from internal boundaries and road boundaries in order to mitigate potential adverse effects on landscape character, visual amenity, outlook from neighbouring properties and to avoid adverse effects on established and anticipated activities.

21.2.1.4 Minimise the dust, visual, noise and odour effects of activities by requiring facilities to locate a greater distance from formed roads, neighbouring properties, waterbodies and zones that are likely to contain residential and commercial activity.

21.2.1.5 Have regard to the location and direction of lights so they do not cause glare to other properties, roads, public places or the night sky.

21.2.1.6 Avoid adverse cumulative impacts on ecosystem services and nature conservation values.

21.2.1.7 Have regard to the spiritual beliefs, cultural traditions and practices of Tangata Whenua.

¹⁸⁰ C Barr, Reply, Page 17, Para 5.12

¹⁸¹ Submission 265

¹⁸² Submission 285 and 626

¹⁸³ C Barr, Reply, Pages 15 - 16, Paras 5.7 – 5.9

21.2.1.8 *Have regard to fire risk from vegetation and the potential risk to people and buildings, when assessing subdivision and development in the Rural Zone.*

123. Submissions to these policies variously sought;

Policies

21.2.1.3 remove the reference to “avoid adverse effects on established and anticipated activities”¹⁸⁴ or retain the policy as notified¹⁸⁵;

21.2.1.4 remove reference to “requiring facilities to locate a greater distance from”¹⁸⁶, retain the policy¹⁸⁷ and delete the policy entirely¹⁸⁸;

21.2.1.5 retain the policy¹⁸⁹;

21.2.1.6 insert “mitigate, remedy or offset” after the word avoid¹⁹⁰, reword to address significant adverse impacts¹⁹¹ or support as notified¹⁹²;

21.2.1.7 delete the policy¹⁹³ and amend the policy to address impacts on Manawhenua¹⁹⁴;

21.2.1.8 include provision for public transport¹⁹⁵.

124. Specific evidence presented to us by Mr MacColl supporting the NZTA submission which supported the retention of Policy 21.2.1.3¹⁹⁶. In evidence tabled for X-Ray Trust, Ms Taylor considered that Policy 21.2.1.3 sought to manage aesthetic effects as well as reverse sensitivity and that Objective 21.2.4 and the associated policies sufficiently dealt with the management of reverse sensitivity effects. Hence it was her view that reference to that matter in Policy 21.2.3.1 was not required¹⁹⁷.

125. Mr Barr generally addressed these matters in the Section 42A Report¹⁹⁸ and again in his Reply Statement¹⁹⁹. In the latter Mr Barr considered that the only amendment required to this suite of policies was to Policy 21.2.1.4 which he suggested be amended as follows:

184 Submissions 356, 806

185 Submissions 600, 719

186 Submissions 356, 437

187 Submission 600

188 Submission 806

189 Submission 600

190 Submissions 356, 437

191 Submissions 356, 600, 719

192 Submissions 339, 706

193 Submission 806

194 Submission 810: Noting that this aspect of this submission was withdrawn by the representatives of the submitter when they appeared at the Stream1A Hearing. Refer to the discussion in Section 3.6 of Report 2. We have not referred to the point again in the balance of our report for that reason.

195 Submission 798

196 A MacColl, Evidence for NZTA, Page 5, Para 17

197 L Taylor, Evidence, Page 4, Para 5.4

198 Issue 1 – Farming Activity and non-farming activities.

199 Section 4

“Minimise the dust, visual, noise and odour effects of activities by requiring them to locate a greater distance from formed roads, neighbouring properties, waterbodies and zones that are likely to contain residential and commercial activity.”

126. We agree with Mr Barr, that this rewording provides greater clarity as to the purpose of this policy. We have already addressed in our previous findings the use of RMA language such as “avoid, remedy, mitigate”. In relation to Ms Taylor’s suggestion of deleting Policy 21.2.1.3, we consider that policy provides greater clarity as to the types of effects that it seeks to control. We received no evidence in relation to the other deletions and amendments sought in the submissions. We therefore recommend that Policies 21.2.1.3 and 2.2.1.5- 21.2.1.8 remain as notified and Policy 21.2.1.4 be amended as set out in the previous paragraph.

127. At this point we note that in Stream 1B Recommendation Report, the Hearing Panel did not recommend acceptance of the NZFSC submission seeking a specific objective for emergency services, but instead recommended that it be addressed in the detail of the PDP²⁰⁰. We address that matter now. In the first instance we note that Mr Barr, recommended a new policy to be inserted into Chapter 22 as follows:

22.2.1.8 Provide adequate firefighting water and fire service vehicle access to ensure an efficient and effective emergency response.²⁰¹

128. Mr Barr considered this separate policy was required rather than amending Policy 22.2.1.7 which addressed separate matters and that the policy should sit under Objective 22.2.1 which addressed rural living opportunities²⁰².

129. Mr Barr did not consider that such a policy and any subsequent rules were required in Chapter 21 as there were no development rights for rural living provided within that Chapter²⁰³. In response to our questions, Mr Barr stated that his recommended rules relating to fire fighting and water supply in Chapter 22 could be applied to Chapters 21 and 23²⁰⁴. We agree and also consider an appropriate policy framework is necessary. This is particularly so in this zone with its limited range of permitted activities. We agree with Ms McLeod²⁰⁵ that fire safety is an issue outside of the Rural-Residential and Rural Lifestyle Zones.

130. Accordingly, we recommend that a new policy be inserted, numbered 21.2.1.9, worded as follows:

Provide adequate firefighting water and fire service vehicle access to ensure an efficient and effective emergency response.

131. We address the specific rules for firefighting water and fire service vehicle access later in this report.

4.5 Objective 21.2.2

132. As notified, Objective 21.2.2 read as follows:

²⁰⁰ Recommendation Report 3, Section 2.3

²⁰¹ C Barr, Chapter 22 Section 42A Report, Page 35, Para 16.13

²⁰² C Barr, Chapter 22 Section 42A Report, Page 35, Para 16.9 – 16.14

²⁰³ C Barr, Section 42A Report, Pages 99 -100, Paras 20.1 – 20.5

²⁰⁴ C Barr, Reply – Chapter 22, Page 13, Para 13.1

²⁰⁵ Ms A McLeod, EIC, Page 13, Par 5.25

“Sustain the life supporting capacity of soils”

133. Submissions on the objective sought that it be retained or approved.²⁰⁶ Mr Barr recommended amending the objective under the Council’s memoranda on revising the objectives to be more outcome focused.²⁰⁷ Mr Barr’s recommended wording was as follows;

“The life supporting capacity of soils is sustained.”

134. We agree with that wording and that the amendment is a minor change under Clause 16(2) of the First Schedule which does not alter the intent.
135. As such, we recommend that Objective 21.2.2 be reworded as Mr Barr recommended.

4.6 Policies 21.2.2.1 – 21.2.2.3

136. As notified policies 21.2.2.1 – 21.2.2.3 read as follows:

21.2.2.1 Allow for the establishment of a range of activities that utilise the soil resource in a sustainable manner.

21.2.2.2 Maintain the productive potential and soil resource of Rural Zoned land and encourage land management practices and activities that benefit soil and vegetation cover.

21.2.2.3 Protect the soil resource by controlling activities including earthworks, indigenous vegetation clearance and prohibit the planting and establishment of recognised wilding exotic trees with the potential to spread and naturalise.

137. Submissions to these policies variously sought the deletion²⁰⁸ or retention²⁰⁹ of particular policies, although in the main, the requests were to soften the intent of the policies through rewording so the that policies applied to “significant soils”,²¹⁰ and Policy 21.2.2.3 be amended to “Protect, enhance or maintain the soil resource ...”²¹¹ or “Protect, the soil resource by controlling earthworks, and appropriately managing the effects of ... the planting and establishment of recognised wilding exotic trees with the potential to spread and naturalise.”²¹²
138. We heard no evidence in regard to these submission requests. Mr Barr recommended in the Section 42A Report that Policy 21.2.2.3 be amended as follows “...and establishment of identified wilding exotic trees ...” for consistency with recommendations made to Chapter 34 on Wilding Exotic Trees.²¹³
139. These policies are part of the permitted activity framework for the Chapter in relation to appropriateness of farming within the context of landscape values to be protected, maintained or enhanced. Removal of the policies or softening their wording would not provide the direction required to assist achievement of the objective. We accept, however, the need for the

²⁰⁶ Submissions 289, 325, 356

²⁰⁷ Council Memoranda dated 13 April 2016

²⁰⁸ Submission 806

²⁰⁹ Submissions 600, 806

²¹⁰ Submissions 643, 693, 702

²¹¹ Submission 356

²¹² Submission 600

²¹³ C Barr, Section 42A Report, Appendix 1

consequential amendment suggested by Mr Barr. We therefore recommend that the Policies 21.2.2.1 and 21.2.2.2 remain as notified and that 21.2.2.3 read as follows:

“Protect the soil resource by controlling activities including earthworks, indigenous vegetation clearance and prohibit the planting and establishment of identified wilding exotic trees with the potential to spread and naturalise.”

4.7 Objective 21.2.3

140. As notified, Objective 21.2.3 read as follows:

“Safeguard the life supporting capacity of water through the integrated management of the effects of activities.”

141. Submissions on the objective were generally supportive²¹⁴ with a specific request for inclusion of “...capacity of water and water bodies through ...”.²¹⁵ This submission was not directly addressed in the Section 42A Report or in evidence. We note that the definitions of water and water body in the RMA means that water bodies are included within ‘water’, and therefore consider that there is no advantage in expanding the objective.

142. Mr Barr recommended amending the objective under the Council’s memoranda on revising the objectives to be more outcome focused.²¹⁶ The suggested rewording was:

“The life supporting capacity of water is safeguarded through the integrated management of the effects of activities.”

143. We agree that this rewording captures the original intention in an appropriate outcome orientated manner and recommend that the objective be amended as such.

4.8 Policy 21.2.3.1

144. As notified, Policy 21.2.3.1 read as follows:

“In conjunction with the Otago Regional Council, regional plans and strategies:

- a. Encourage activities that use water efficiently, thereby conserving water quality and quantity*
- b. Discourage activities that adversely affect the potable quality and life supporting capacity of water and associated ecosystems.”*

145. Submissions to this policy variously sought its deletion²¹⁷ or retention²¹⁸, its rewording so as to delete reference to “water quality and quantity” and/or reference to “potable quality, life-supporting capacity and ecosystems”.²¹⁹

146. There was no direct reference to these submissions in the Section 42A Report or in evidence.

147. Given that the objective under which this policy sits refers to safeguarding life-supporting capacity, then it seems to us incongruous to remove reference to “water quality and quantity”

²¹⁴ Submissions 289, 356, 600

²¹⁵ Submissions 339, 706

²¹⁶ Council Memoranda dated 13 April 2016

²¹⁷ Submission 590

²¹⁸ Submission 339, 706, 755,

²¹⁹ Submissions 600, 791, 794

or “potable quality, life-supporting capacity and ecosystems”, which are all relevant to achievement of that objective. We therefore, recommend that the policy as notified remains unchanged.

4.9 New Policy on Wetlands

148. The Forest & Bird²²⁰ and E Atly²²¹ sought an additional policy to avoid the degradation of natural wetlands. The reasons set out in the submissions included that it is a national priority project to protect wetlands and that rules other than those related to vegetation clearance were needed.

149. We could not identify where this matter was addressed in the Section 42A Report. In evidence for the Forest & Bird, Ms Maturin advised that the Society would be satisfied if this matter was added to Policy 21.2.12.5.²²² We therefore address the point later in this report in the context of Policy 21.2.12.5.

4.10 Objective 21.2.4

150. As notified, Objective 21.2.4 read as follows:

Manage situations where sensitive activities conflict with existing and anticipated activities in the Rural Zone.

151. Submissions on this objective were generally in support of the wording as notified.²²³ Transpower²²⁴ sought that the Objective be amended to read as follows;

Avoid situations where sensitive activities conflict with existing and anticipated activities and regional significant infrastructure in the Rural Zone, protecting the activities and regionally significant infrastructure from adverse effects, including reverse sensitivity effects.

152. One other submission did not seek a specific change to the wording of the objective but wanted to “encourage a movement away from annual scrub burning in the Wakatipu Basin”.²²⁵ We heard no evidence on this particular matter as to the link between the objective and the issue identified. We are both unsure of the linkage between the request and the objective, and whether the issue is within the Council’s jurisdiction. We therefore recommend that the submission be rejected.

153. Mr Barr recommended amending the objective under the Council’s memoranda on revising the objectives to be more outcome focused.²²⁶ His suggested rewording was:

Situations where sensitive activities conflict with existing and anticipated activities are managed.

154. In evidence for Transpower, Ms Craw²²⁷

²²⁰ Submission 706

²²¹ Submission 336

²²² S Maturin, Evidence, Page 10, Para 62

²²³ Submissions 134, 433, 600, 719, 723, 730, 732, 734, 736, 738, 739, 760, 843

²²⁴ Submission 805

²²⁵ Submission 380

²²⁶ Council Memoranda dated 13 April 2016

²²⁷ A Craw, Evidence, Page 6, Para 30-33

- a. Considered that Policy 3.2.8.1.1 in Council’s reply addressed Policies 10 and 11 of the NPSET 2008 to safeguard the National Grid from incompatible development
- b. Agreed with the Section 42A Report, that infrastructure did not need to be specifically identified within the objective
- c. Considered that “avoid” provided stronger protection than “manage”
- d. Suggested that if the Panel adopted Policy 3.2.8.1.1. (Council’s reply version), then the wording in the previous paragraph would be appropriate.

155. In his evidence, Mr Brown ²²⁸ recommended the following wording for the objective;

Reverse sensitivity effects are managed.

156. This was on the basis that the reworded objective had the same intent, but was simpler. We agree that the intent might be the same (which, if correct, would also overcome potential jurisdictional hurdles given that the submission Mr Brown was addressing ²²⁹ sought amendments to the policies under this objective, rather than to the objective itself), but this also means that it does not solve the problem we see with the original objective – that it did not specify a clear outcome in respect of which any policies might be applied in order to achieve the objective. Transpower’s suggested wording would solve that problem, but in our view, a position of avoiding all conflict is unrealistic and unachievable without significant restrictions on new development that we do not believe can be justified. As is discussed in greater detail in the report on the strategic chapters, the NPSET 2008 does not require that outcome (as regards reverse sensitivity effects on the National Grid).

157. In reply, Mr Barr further revised his view on the wording of the objective as follows;

Situations where sensitive activities conflict with existing and anticipated activities are managed to minimise conflict between incompatible land uses.

158. Mr Barr’s reasons for the further amendments included clarification as to what was being managed and to what end result, and that use of the term ‘reverse sensitivity’ was not desirable as it applied to new activities coming to an existing nuisance.²³⁰ We consider this wording is the most appropriate way to achieve the purpose of the Act given the alternatives offered.

159. We therefore recommend that Objective 2.4.1 be worded as follows;

“Situations where sensitive activities conflict with existing and anticipated activities are managed to minimise conflict between incompatible land uses.”

4.11 Policies 21.2.4.1 – 21.2.4.2

160. As notified, policies 21.2.4.1 – 21.2.4.2 read as follows:

21.2.4.1 Recognise that permitted and established activities in the Rural Zone may result in effects such as odour, noise, dust and traffic generation that are reasonably expected to occur and will be noticeable to residents and visitors in rural areas.

²²⁸ J Brown, Evidence, Page 12, Para 2.17

²²⁹ Submission 806 (Queenstown Park Ltd)

²³⁰ C Barr, Reply, Appendix 2, Page 2

21.2.4.2 *Control the location and type of non-farming activities in the Rural Zone, to minimise or avoid conflict with activities that may not be compatible with permitted or established activities.*

161. Submissions to these policies variously sought their retention²³¹ or deletion²³². Queenstown Park Limited²³³ sought that the two policies be replaced with effects-based policies that would enable diversification and would be forward focused. However, the submission did not specify any particular wording. RJI and D & M Columb sought that Policy 21.2.4.2 be narrowed to apply to only new non-farming and tourism activities²³⁴, while TML and Straterra sought that the policy be amended to “manage” rather than “control” the location and type of non-farming activities and to “manage” conflict with activities “that may or may not be compatible with permitted or established activities.”²³⁵
162. In the Section 42A Report, Mr Barr suggested an amendment to Policy 21.4.2.1 as follows;
- New activities must recognise that permitted and established activities in the Rural Zone may result in effects such as odour, noise, dust and traffic generation that are reasonably expected to occur and will be noticeable to residents and visitors in rural areas.*²³⁶
163. We were unable to find any reasons detailed in the Section 42A Report for this recommended amendment or a submission that sought this specific wording. That said, we do find that it clarifies the intent of the policy (as notified, it leaves open who is expected to recognise the specified matters) and consider that as such, that it is within scope.
164. In his evidence on behalf of TML, Mr Vivian²³⁷ recommended a refinement of the policy from that sought in TML’s submission, such that it read:
- To manage the location and type of non-farming activities in the Rural Zone, in order to minimise or avoid conflict with activities that may not be compatible with permitted or established activities.*
165. In his evidence, Mr Farrell on behalf of RJI Ltd, expressed the view that Policy 21.2.4.2 as notified did not give satisfactory recognition to the benefits of tourism. He supported inserting specific reference to tourism activities and to limiting the policy to new activities.²³⁸
166. Mr Barr, did not provide any additional comment on these matters in reply.
167. There was no evidence presented as to why these policies should be deleted and in our view their deletion would not be the most appropriate way to achieve the objective.
168. While the amendments suggested by Mr Vivian provide some clarification of the intent and purpose of Policy 21.2.4.2, we find that this is already appropriately achieved with the current wording – we do not think there is a meaningful difference between management and control

²³¹ Submissions 433, 600, 719, 723, 730, 732, 734, 736, 738, 739, 760, 843

²³² Submissions 693, 702, 806,

²³³ Submission 806

²³⁴ Submissions 621, 624

²³⁵ Submissions 519, 598

²³⁶ C Barr, Section 42A Report, Appendix 1

²³⁷ C Vivian, EiC, paragraphs 4.30 – 4.37

²³⁸ B Farrell, Evidence, Page 16, Paras 52 - 54

in this context. In relation to the benefits of tourism, we find that the potential effects of such activities should not be at the expense of unnecessary adverse effects on existing lawfully established activities. We consider that a policy focus on minimising conflict strikes an appropriate balance between the two given the objective it seeks to achieve. However, we consider this can be better expressed.

169. In relation to the specific wording changes recommended by Mr Farrell, we do not think it necessary to identify tourism as a non-farming type activity, but we agree that, consistently with the suggested change to Policy 21.2.4.1, that the focus of Policy 21.2.4.2 should be on new non-farming activities.

170. Lastly, we consider that the policy could be simplified to delete reference to avoiding conflict as an alternative given that minimisation includes avoidance where avoidance is possible.

171. Hence we recommend that policies 21.2.4.1 and 21.2.4.2 be worded as follows;

21.2.4.1 New activities must recognise that permitted and established activities in the Rural Zone may result in effects such as odour, noise, dust and traffic generation that are reasonably expected to occur and will be noticeable to residents and visitors in rural areas.

21.2.4.2 Control the location and type of new non-farming activities in the Rural Zone, so as to minimise conflict between permitted and established activities and those that may not be compatible such activities.

4.12 Definitions Relevant to Mining Objective and Policies

172. Before addressing Objective 21.2.5 and associated policies, we consider it logical to address the definitions associated with mining activities in order that the meaning of the words within the objective and associated policies is clear.

173. NZTM²³⁹ sought replacement of the PDP definitions for “mining activity” and “prospecting”, and new definitions for “exploration”, “mining” and “mine building” (this latter definition we address in Section 5.15 below).

174. Stage 2 Variations have proposed a new definition of mining activity. We have been advised that the submission and further submissions relating to that definition have been transferred to the Stage 2 Variations hearings. Thus we make no recommendation on those.

175. Mr Vivian in evidence for NZTM drew attention to the need also to include separate definitions of exploration and prospecting. In reply Mr Barr agreed with Mr Vivian.²⁴⁰

176. The wording for the new definition of “Exploration” sought by NZTM²⁴¹ was as follows;

Means any activity undertaken for the purpose of identifying mineral deposits or occurrences and evaluating the feasibility of mining particular deposits or occurrences of 1 or more minerals; and includes any drilling, dredging, or excavations (whether surface or subsurface) that are reasonably necessary to determine the nature and size of a mineral deposit or occurrence; and to explore has a corresponding meaning.

²³⁹ Submission 519

²⁴⁰ C Barr, Reply, Page 37, Para 13.2

²⁴¹ Submission 519, opposed by FS1040 and FS1356

177. Mr Barr did not directly address this definition except as it related to the permitted activity rules, but he did recommend the inclusion of the new definition.²⁴² We address the matter of permitted activity status later in the decision. Mr Vivian in evidence for NZTM was of the view that the definition was necessary to show the difference between prospecting, mining and exploration and to align the definition with the CMA.²⁴³
178. We do not have any issue in principle with the suggested definition, but it needs to be recognised that as defined, mineral exploration has potentially significant adverse environmental effects. Our consideration of policy and rules below reflect that possibility.
179. The wording for the definition of “Prospecting” sought by NZTM²⁴⁴ (showing the revisions from the notified definition) was as follows;
- “Mineral Prospecting Means any activity undertaken for the purpose of identifying land likely to contain ~~exploitable~~ mineral deposits or occurrences; and includes the following activities:*
- a. Geological, geochemical, and geophysical surveys*
 - b. The taking of samples by hand or hand held methods*
 - c. Aerial surveys*
 - d. Taking small samples by low impact mechanical methods.”*
180. Mr Barr and Mr Vivian agreed that inclusion of reference to “*low impact mechanical methods*” was not necessary given the context in which the term is used. We disagree. Reference to prospecting in policies and rules that we discuss below, proceeds on the basis that prospecting is a low impact activity. We think that it is important that reference to mechanical sampling in the definition should reflect that position. We are also concerned that the definition is inclusive of the activities listed as bullet points. The consequence could be that activities not contemplated occur under the guise of Mineral Prospecting. We doubt that there is scope to replace the word “includes” and recommend, via the Stream 10 Hearing Panel, that the Council consider a variation to amend this definition.
181. In considering these amendments, we conclude that they are appropriate in terms of consistency and the clarity of the application of these terms within the provisions of the Plan.
182. NZTM also requested a new definition be included in the PDP for “*mining*” as it has a different range of effects compared to exploration and prospecting, and that it should align with the CMA. The wording sought by NZTM was as follows:

Mining

- a. means to take, win or extract , by whatever means, -
 - i. a mineral existing in its natural state in land, or
 - ii. a chemical substance from a mineral existing in its natural state in land and
- b. includes –
 - i. the injection of petroleum into an underground gas storage facility but

²⁴² C Barr, Section 42A Report, Page 108, Para 21.21

²⁴³ C Vivian, Evidence, Page 10, Para 4.21

²⁴⁴ Submission 519, opposed by FS1040 and FS1356

- c. does not include prospecting or exploration for a mineral or chemical substance referred in in paragraph (a).

183. Mr Barr did not address this submission point directly in the Section 42A Report or in reply. Mr Vivian, again for NZTM, considered it important to include such a definition for reasons of consistency with the CMA, and that while all the aspects of the definition were not necessarily applicable to the District (he acknowledged gas storage as being in this category), it was not unusual to have definitions describing an industry/use as well as an activity in a District Plan.²⁴⁵
184. While we do not see any value in referring to underground gas storage facilities when there is no evidence of that being a potential activity undertaken in the district we think that there is value in having a separate definition of mining as otherwise suggested. Among other things, that assists distinction being drawn between mining, exploration and prospecting.
185. In conclusion, we recommend to the Stream 10 Hearing Panel that the definitions pertaining to mining read as follows;

Mining

Means to take, win or extract, by whatever means, -

- a. *a mineral existing in its natural state in land, or*
- b. *a chemical substance from a mineral existing in its natural state in land*

but does not include prospecting or exploration for a mineral or chemical substance.

Mineral Exploration

Means any activity undertaken for the purpose of identifying mineral deposits or occurrences and evaluating the feasibility of mining particular deposits or occurrences of 1 or more minerals; and includes any drilling, dredging, or excavations (whether surface or subsurface) that are reasonably necessary to determine the nature and size of a mineral deposit or occurrence; and to explore has a corresponding meaning.

Mineral Prospecting

Means any activity undertaken for the purpose of identifying land likely to contain mineral deposits or occurrences; and includes the following activities:

- a. *Geological, geochemical, and geophysical surveys*
- b. *The taking of samples by hand or hand held methods*
- c. *Aerial surveys*
- d. *Taking small samples by low impact mechanical methods.*

4.13 Objective 21.2.5

186. As notified Objective 21.2.5 read as follows:

²⁴⁵ C Vivian, Evidence, Page 10, Para 4.17

“Recognise and provide for opportunities for mineral extraction providing location, scale and effects would not degrade amenity, water, landscape and indigenous biodiversity values.”

187. Submissions on this objective variously sought the inclusion of “wetlands” as something not to be degraded²⁴⁶, replacement of the words “*providing location, scale and effects would not degrade*” with “*while avoiding, remedying, or mitigating*”²⁴⁷, narrowing the objective to refer to “*significant*” amenity, water, landscape and indigenous biodiversity values²⁴⁸ or amendment so it should apply in circumstances where the degradation would be “*significant*”.²⁴⁹
188. The submission from the Forest & Bird²⁵⁰ stated that wetlands should be included within the objective as it a national priority to protect them and Mr Barr agreed with that view.²⁵¹
189. Apart from some minor amendments, Mr Barr was otherwise of the view the objective (and associated policies which we address below) were balanced so as to recognise the economic benefits of mining operations while ensuring the PDP provisions appropriately addressed the relevant s6 and s7 RMA matters.²⁵² Mr Barr’s recommended amendments in the Council’s memoranda on revising the objectives to be more outcome focused²⁵³ also addressed the submission points. The suggested wording was:

Mineral extraction opportunities are provided for on the basis the location, scale and effects would not degrade amenity, water, wetlands, landscape and indigenous biodiversity values.

190. In evidence, Mr Vivian for NZTM considered that the objective as notified did not make sense and the wording sought by NZTM (seeking that it refer to significant values) was more effects based.²⁵⁴
191. We concur with Mr Barr that his reworded objective is both balanced and appropriate in achieving the purpose of the Act. Given that most mineral extraction opportunities are likely to occur within ONL’s, a high standard of environmental protection is an appropriate outcome to aspire to. We also find that inclusion of wetlands is appropriate²⁵⁵ and the amended version addresses the ‘sense’ issues raised by Mr Vivian. We have already addressed the insertion of RMA language “avoid, remedy, mitigate” in Section 5.1 above.
192. In conclusion, we recommend that the objective be worded as follows;
- 21.2.5 *Mineral extraction opportunities are provided for on the basis the location, scale and effects would not degrade amenity, water, wetlands, landscape and indigenous biodiversity values.*

4.14 Policies 21.2.5.1 – 21.2.5.4

193. As notified Policies 21.2.5.1 – 21.2.5.4 read as follows:

²⁴⁶ Submissions 339, 706
²⁴⁷ Submissions 519, 806
²⁴⁸ Submission 519
²⁴⁹ Submission 598
²⁵⁰ Submission 706
²⁵¹ C Barr, Section 42A Report, Page 108, Para 21.21
²⁵² Section 42A Report, Page 105, Para 21.4
²⁵³ Council Memoranda dated 13 April 2016
²⁵⁴ C Vivian, Evidence, Page 13, Paras 4.42- 4.43
²⁵⁵ C Barr, Section 42A Report, Appendix 4, Page 1

- 21.2.5.1 *Recognise the importance and economic value of locally sourced high-quality gravel, rock and other minerals for road making and construction activities.*
- 21.2.5.2 *Recognise prospecting and small scale recreational gold mining as activities with limited environmental impact.*
- 21.2.5.3 *Ensure that during and following the conclusion of mineral extractive activities, sites are progressively rehabilitated in a planned and co-ordinated manner, to enable the establishment of a land use appropriate to the area.*
- 21.2.5.4 *Ensure potential adverse effects of large-scale extractive activities (including mineral exploration) are avoided or remedied, particularly where those activities have potential to degrade landscape quality, character and visual amenity, indigenous biodiversity, lakes and rivers, potable water quality and the life supporting capacity of water.*

194. The submissions to these policies variously sought:

Policies

- 21.2.5.1 replace the word “sourced” with mined, broaden the policy by recognising that the contribution of minerals is wider than just road making and construction, and insert additional wording to further emphasise the economic and export contribution of minerals.²⁵⁶
- 21.2.5.2 insert the word “*exploration*” after “*prospecting*”²⁵⁷
- 21.2.5.3 replace the word “*Ensure*” with the word “*Encourage*”²⁵⁸, and provide provisions so that rehabilitation does not cause ongoing adverse effects from discharges to air and water²⁵⁹
- 21.2.5.4 remove reference to “*large scale*” extractive activities²⁶⁰, amend the policy to relate to mineral exploration “*where applicable*”, and following “*avoided or remedied*” add “*mitigated*”.²⁶¹

195. As noted above, Mr Barr considered the policies were balanced, recognising the economic benefits while ensuring the PDP provisions addressed the relevant section 6 and section 7 RMA matters.²⁶² Mr Barr considered that it was appropriate to broaden Policy 21.2.5.1 rather than restrict it to road making and construction activities.²⁶³ Mr Vivian in evidence for NZTM agreed and suggested that the policy should also reflect minerals present in the district.²⁶⁴ We concur with Mr Barr and Mr Vivian that these amendments better align the policy with the objective. Therefore we recommend Policy 21.2.5.1 read:

²⁵⁶ Submissions 519, 598

²⁵⁷ Submission 598

²⁵⁸ Submission 519

²⁵⁹ Submission 798

²⁶⁰ Submissions 339, 706

²⁶¹ Submissions 519, 598

²⁶² Section 42A Report, Page 105, Para 21.4

²⁶³ Section 42A Report, Page 105, Para 21.5 and Pages 1-2, Appendix 4

²⁶⁴ C Vivian, Evidence, Page 14, Para 4.48

Have regard to the importance and economic value of locally mined high-quality gravel, rock and other minerals including gold and tungsten.

196. Mr Barr agreed with the inclusion of “*exploration*” into Policy 21.2.5.2.²⁶⁵ We were unable to find any specific reasons for this addition other than a comment that this was in response to the submission from Straterra.²⁶⁶ Consideration of this issue needs to take into account our earlier discussion on the definition of “*mineral exploration*”. While the evidence we heard indicated that exploration would typically have a low environmental impact and therefore might appropriately be referred to in this policy, the defined term would permit much more invasive activities. Accordingly while we agree that exploration should be referred to in this context, it needs to be qualified to ensure that is indeed an activity with limited environmental impact.

197. Therefore, we recommend Policy 21.2.5.2 be worded as follows;

Provide for prospecting and small scale mineral exploration and recreational gold mining as activities with limited environmental impact.

198. Mr Barr did not recommend any amendments to Policy 21.2.5.3. Mr Vivian did not agree with NZTM’s submission seeking the replacement of the word “*Ensure*” with the word “*Encourage*”. Mr Vivian’s view was that “*encourage*” implied that rehabilitation was optional, whereas “*ensured*” implied it was not. We agree with Mr Vivian in this regard.

199. Mr Vivian also suggested that:

‘...the word “progressively” is deleted and [sic] rehabilitation is already ensures [sic] in a “planned and coordinated manner”.’²⁶⁷

200. On this point, we do not agree with Mr Vivian. A reference to planned and co-ordinated rehabilitation may mean that the rehabilitation is all planned to occur at the closure of a mine. That is not the same as progressive rehabilitation, and has potentially much greater and more long-lasting effects.

201. We did not receive any evidence on the ORC submission seeking the addition of provisions so that rehabilitation does not cause ongoing adverse effects from discharges to air and water. In any case, we think this is already addressed under Objective 21.2.3 and the associated policies as far the jurisdiction of a TLA extends to these matters under the Act.

202. Therefore, we recommend Policy 21.2.5.3 be adopted as notified.

203. In relation to Policy 21.2.5.4, Mr Barr took the view in the Section 42A Report that the widening of the policy (i.e. amending the policy so that it applied to all mining activities rather than just larger scale activities) would ensure that those activities would be appropriately managed, irrespective of the scale of the activity. In addition, Mr Barr considered that the inclusion of mitigation would provide an additional option to avoidance or remediation.²⁶⁸ Mr Vivian agreed with Mr Barr as regards the inclusion of the word mitigation. However, Mr Vivian was also of the view that the policy as worded, without the qualification of “*where applicable*’ for mineral

²⁶⁵ Section 42A Report, Appendix 1, Page 21-3, Policy 21.2.5.2

²⁶⁶ Submission 5

²⁶⁷ C Vivian, Evidence, Page 18, Para 4.75

²⁶⁸ Section 42A Report, Page 2, Appendix 4

exploration would foreclose small scale mining activities and exploration activities that are permitted activities.²⁶⁹

204. On Mr Barr’s point regarding the widening of the policy to apply to all activities regardless of scale, we find that this would be in direct contradiction to Policy 21.2.5.2 which recognises that some small-scale mining operations will have a limited environmental impact, that is to say, an impact which is not avoided or (implicitly) remedied.
205. We consider that rather than focussing on the scale of the extractive activity, the better approach is to focus on the scale of effects. If the policy refers to potentially significant effects, that is consistent with Policy 21.2.5.2 and an avoidance or remediation policy response is appropriate in that instance. The alternative suggested by Mr Barr (adding reference to mitigation) removes the direction provided by the policy and leaves the end result unsatisfactorily vague and uncertain when applied to mining and exploration operations with significant effects. We also do not consider that adding the words “*where applicable*” has the beneficial effect Mr Vivian suggests. Read in context, it merely means that the policy only applies to exploration where exploration is proposed – something that we would have thought was obvious anyway.
206. Accordingly, we recommend that Policy 21.2.5.4 be worded as follows;

Ensure potentially significant adverse effects of extractive activities (including mineral exploration) are avoided or remedied, particularly where those activities have potential to degrade landscape quality, character and visual amenity, indigenous biodiversity, lakes and rivers, potable water quality and the life supporting capacity of water.

4.15 New Mining Objectives and Policies

207. NZTM sought additional objectives and policies to recognise the importance of mining²⁷⁰. The wording of those requested additions was as follows;

Objective

Recognise that the Queenstown Lakes District contains mineral deposits that may be of considerable social and economic importance to the district and the nation generally, and that mining activity and associated land restoration can provide an opportunity to enhance the land resource, landscape, heritage and vegetation values.

Policies

- a. *Provide for Mining Buildings where the location, scale and colour of the buildings will not adversely affect landscape values*
- b. *Identify the location and extent of existing or pre-existing mineral resources in the region and encourage future mining activity to be carried out in these locations*
- c. *Enable mining activity, including prospecting and exploration, where they are carried out in a manner which avoids, remedies or mitigates adverse effects on the environment*
- d. *Encourage the use of off-setting or environmental compensation for mining activity by considering the extent to which adverse effects can be directly offset or otherwise compensated, and consequently reducing the significance of the adverse effects*

²⁶⁹ C Vivian, evidence, Pages 18-19, Paras 4.78-4.79

²⁷⁰ Submission 519, opposed by FS1040 and FS1356

- e. *Manage any waste heaps or long term stockpiles to ensure that they are compatible with the forms in the landscape*
- f. *Encourage restoration to be finished to a contour sympathetic to the surrounding topography and revegetated with a cover appropriate for the site and setting*
- g. *Recognise that the ability to extract mineral resources can be adversely affected by other land use, including development of other resources above or in close proximity to mineral deposits*
- h. *Recognise that exploration, prospecting and small-scale recreational gold mining are activities with low environmental impact.*

208. Mr Barr, in the Section 42A Report, set out his reasons for recommending rejection of these amendments²⁷¹. As noted in Section 5.14 above, Mr Barr was of the view that the existing objectives and policies were balanced, recognising the economic benefits while ensuring the PDP provisions addressed the relevant section 6 and section 7 RMA matters.²⁷²

209. Mr Vivian, for NZTM, noted that Objective 21.2.5 addressed the adverse effects of mining but considered there was no objective to recognise the importance of mineral deposits in the District. He was of the view that that result was inconsistent with the RPS.²⁷³ Mr Vivian recommended the rewording of the new objective sought by NZTM as follows:

Acknowledge the District contains mineral deposits that may be of considerable social and economic importance to the district and the nation generally.

210. We also heard evidence from Mr G Gray, a director of NZTM, as to the social and economic benefits of mining²⁷⁴.

211. Having considered the evidence in regard to the suggested new objective, we find that the matters raised are already included in the first part of objective 21.2.5 (“*Mineral extraction opportunities are provided for ...*”) and that this gives effect to both the RPS and proposed RPS.²⁷⁵ That said, Mr Barr and Mr Vivian considered that it was necessary to include a policy to recognise that the ability to extract mineral resources can be adversely affected by other land uses in order to achieve the objective, as well as to be consistent with the RPS.²⁷⁶ We agree with Mr Barr and Mr Vivian for the reasons set out in their evidence that a new policy on this matter needs to be added. We consider that the proposed course of action might be addressed more simply and so we recommend a new policy numbered 21.2.5.5, to read as follows:

Avoid or mitigate the potential for other land uses, including development of other resources above, or in close proximity to mineral deposits, to adversely affect the extraction of known mineral deposits.

²⁷¹ C Barr, Section 42A Report, Pages 105-106, Paras 21.6 – 21-10

²⁷² Section 42A Report, Page 105, Para 21.4

²⁷³ C Vivian, Evidence Page 15, Para 4.53

²⁷⁴ G Gary, Evidence, Page 6-9

²⁷⁵ proposed RPS, Objective 5.3, Policy 5.3.5

²⁷⁶ C Barr, Reply, Page 37, Para 13.3, Mr C Vivian, Evidence, Page 16, Para 4.58

212. Mr Barr and Mr Vivian agreed also that the policies sought by NZTM listed as (b) and (c) above were respectively inappropriate and unnecessary and already addressed under Objective 21.2.5. We agree. We also agree with Mr Vivian that policy (f) above (in relation to restoration) is already addressed under Policy 21.2.5.3 and is therefore unnecessary. Similarly, policy (h) above duplicates Policy 21.2.5.2 and is again unnecessary. We therefore recommend that those parts of the submission be rejected.
213. In the Section 42A Report, Mr Barr was of the view that a policy specifically on mining buildings (policy (a) above) was not appropriate and overstated the importance of mining buildings in the context of the resources that require management. Mr Barr went on to opine that the mining buildings should have the same controls as other non-farming buildings.²⁷⁷ In addition to this policy, NZTM also sought the inclusion of a definition for mining building apparently to avoid the need to meet the height requirements applying to other buildings. Mr Barr also recommended that this submission be rejected. Mr Barr's explained his position as follows:
- It is my preference that this request is rejected because mining is a discretionary activity, therefore creating a disjunction between removing standards for all buildings and mining buildings. In addition, the locational constraints emphasised by NZTM are likely to mean that these buildings are located in within the ONL or ONF. Therefore, I recommend that mining buildings are not provided any exemptions.*²⁷⁸
214. Mr Vivian had a contrary view, that traditional rural activities including mining were expected elements of the rural landscape and did not offend landscape character. Mr Vivian went on;
- This proposition is supported by the inclusion of Rule 21.4.30(d) which permits the mining of aggregate for farming activities provide [sic] the total volume does not exceed 1000 m³ in any one year. As such, mining buildings necessary for the undertaking of mining activities do not have the same issues associated with them as other buildings, such as residential, visitor accommodation or commercial activities.*²⁷⁹
215. We do not follow Mr Vivian's reasoning. Mr Vivian sought to leverage off the limited provision for aggregate extraction in the permitted activity rules, but provided no evidence as to the nature and extent of mining buildings that would accompany such an aggregate extraction operation (if any) compared to the range of buildings that might accompany a large scale mining operation. Nor is it apparent to us that the historic evidence of mining is necessarily representative of the structures that would be required for a new mine. Mr Gray gave evidence that an underground tungsten mining operation would have minimal above ground impact, but it was not clear to us that this would be the case for all mining operations, and if it were, that it would remove the need for special recognition of "mining buildings".
216. We share the concerns of Mr Barr that NZTM's proposal could lead to large mining related buildings being potentially located in ONLs/ONFs and that it is more effective to manage the effects of mining buildings within the framework for mining activities as discretionary activities. Hence, we recommend that the request for a definition and policy on mining buildings be rejected.
217. In relation to the proposed policy (e) above (*Manage any waste heaps or long term stockpiles to ensure that they are compatible with the forms in the landscape*), Mr Vivian considered this

²⁷⁷ C Barr, Section 42A Report, Page 105, Para 21.6

²⁷⁸ C Barr, Section 42A Report, Page 108, Para 21.19

²⁷⁹ C Vivian, Evidence, Page 11, Para 4.24

an important policy to be included under Objective 21.2.5.²⁸⁰ We consider that this does not take the matter very far. Mr Barr did not directly address this proposed policy. We think that this policy is unnecessary, as the issue of waste heaps and stockpiles and their form in the landscape is only an aspect of more general issues raised by the effects of mining on natural forms and landscapes that have already been addressed by the Stream 1B Hearing Panel in the context of Chapter 6.²⁸¹

218. On the final matter of a new policy regarding environmental compensation (policy (d) above), Mr Vivian in evidence²⁸² and Mr Barr in reply, agreed that such a policy was appropriate, with Mr Barr noting that it required separation from the “biodiversity offsetting” policy in Chapter 33 so as to avoid confusion.²⁸³ Mr Barr recommending the following wording for the new policy to be numbered 21.2.5.6;

Encourage environmental compensation where mineral extraction would have significant adverse effects.

219. We agree with Mr Barr and Mr Vivian in part. However, we think that compensation for significant adverse effects goes too far (among other things, it implies that mineral extraction may have significant adverse effects, which would not be consistent with Objective 21.2.5) and that it should be residual effects which cannot be avoided that are addressed by compensation. We also consider that it would assist if greater direction were provided as to why environmental compensation is being encouraged.

220. Accordingly, we recommend that Policy 21.2.5.6 be worded as follows:

Encourage use of environmental compensation as a means to address unavoidable residual adverse effects from mineral extraction.

4.16 Definitions Relevant to Ski Activity Objectives and Policies

221. As with the objective and policies relating to mining addressed above; we consider it logical to address the definitions associated with ski activities in order that the meaning of the words within the objective and associated policies is clear.

222. As notified the definition of Ski Area Activities read as follows;

Means the use of natural and physical resources for the purpose of providing for:

- a. recreational activities either commercial or non-commercial*
- b. chairlifts, t-bars and rope tows to facilitate commercial recreational activities.*
- c. use of snow groomers, snowmobiles and 4WD vehicles for support or operational activities*
- d. activities ancillary to commercial recreational activities*
- e. in the Waiorau Snow Farm Ski Area Sub Zone vehicle and product testing activities, being activities designed to test the safety, efficiency and durability of vehicles, their parts and accessories.*

²⁸⁰ C Vivian, Evidence, Page 16, Para 4.67

²⁸¹ Recommendation Report 3, Section 8.6

²⁸² C Vivian, Evidence, Pages 16-17, Paras 4.62 – 4.66

²⁸³ C Barr, Reply, Page 37, Para 13.4

223. The submissions from Soho Ski Area Ltd and Blackmans Creek No.1 LP²⁸⁴, and Treble Cone Investments Ltd²⁸⁵ sought more clarity in the preamble, the expansion of the definition at “(b)” to include “*passenger lift or other systems*” and the addition of the following;
- a. Visitor and residential accommodation associated with ski area activities
 - b. Commercial activities associated with ski area activities or recreation activities
 - c. Guest facilities including ticketing, offices, restaurants, cafes, ski hire and retailing associated with any commercial recreation activity
 - d. Ski area operations, including avalanche control and ski patrol
 - e. Installation and operation of snow making infrastructure, including reservoirs, pumps, snow makers and associated elements
 - f. The formation of trails and other terrain modification necessary to operate the ski area.
 - g. The provision of vehicle and passenger lift or other system access and parking
 - h. The provisions of servicing infrastructure, including water supply, wastewater disposal, telecommunications and electricity.
224. Similarly, the submission from Mt Cardrona Station Ltd²⁸⁶ sought that “(b)” be replaced with the term “*passenger lift systems*” and that buildings ancillary to ski activities be included within the definition. The Mt Cardrona Station Ltd submission also sought a new definition for “*passenger lift systems*” as follows;
- Means any mechanical system used to convey or transport passengers within or to a Ski Area Sub-Zone, including chairlifts, gondolas, T-bars and rope tows, and including all moving, fixed and ancillary components of such systems such as towers, pylons, cross arms, pulleys, cables, chairs, cabins, and structures to enable the embarking and disembarking of passengers.*
225. Also in relation to the Ski Area Activities definition, the submission from CARL²⁸⁷ sought that “earthworks and vegetation clearance” be added to the ancillary activities under “(d)” in the definition as notified.
226. Mr Barr considered that amendment to the definition of Ski Area Activities for the inclusion of passenger lift systems and the new definition for passenger lift systems sought by Mt Cardrona Station Ltd were appropriate in that they captured a broad range of transport systems as well as enabling reference to the definition in the rules without having to repeat the specific type of transport system.²⁸⁸ Mr Brown’s evidence for Mt Cardrona Station Ltd also supported the amendment noting that the provision of such systems would significantly reduce vehicle traffic to the ski area subzone facilities, as well as the land required for car parking.²⁸⁹ We agree in part with Mr Barr and Mr Brown for the reasons set out in their evidence. However, we note that there are things other than passengers that are transported on lifts, such as goods and materials, that should also be encompassed with the definition. We recommend that the definition be worded to provide for “*other goods*” to avoid such a limitation.
227. In relation to the amendment to the preamble and the matters to be added to the definition sought by Soho Ski Area Ltd and Blackmans Creek No.1 LP, and Treble Cone Investments Ltd, in general Mr Barr was of the view that those matters were addressed in other parts of the PDP.

²⁸⁴ Submission 610

²⁸⁵ Submission 613

²⁸⁶ Submission 407

²⁸⁷ Submission 615

²⁸⁸ C Barr, Section 42A Report, Page 57, Para 14.18

²⁸⁹ J Brown, Evidence, Page 22, Para 2.37

However, Mr Barr also accepted that some of the changes were valid.²⁹⁰ Mr Ferguson²⁹¹, held a different view, particularly in relation to the inclusion of residential and visitor accommodation within the definition. Relying on Mr McCrostie’s evidence²⁹², he stated that the *“Inclusion of visitor accommodation within this definition is one of the ways by which the finite capacity of the resource can be sustained while balancing the financial viability and the diversity of experience necessary to remain internationally competitive.”*²⁹³ We address the policy issues regarding provision for residential and visitor accommodation in Ski Area Sub Zones later in the report, but for the present, we find that the additions to the definition sought by Soho Ski Area Ltd and Blackmans Creek No.1 LP, and Treble Cone Investments Ltd, beyond those recommended by Mr Barr, would have implications for the range of effects encompassed within the term and hence we recommend that those further additions be rejected.

228. We record in particular that Mr Barr in reply, noted that the potential effects of inclusion of a range of buildings (e.g. ticketing offices, base or terminal buildings) were wider than the matters of discretion put forward by Mr Brown in his summary statement²⁹⁴ and hence, in his view, the definition should not be expanded to include them. We agree. We also consider that to include such buildings would be inconsistent with the overall policy approach of the Rural Zone to buildings.
229. Mr Barr, also recommended rejection of the submission regarding the inclusion of earthworks and vegetation clearance sought by CARL as earthworks were not part of this District Plan Review and vegetation was addressed in Chapter 33: Indigenous Vegetation.²⁹⁵ We heard no evidence in relation to this submission on the definition itself and hence do not recommend the change sought. However, we record that we address the policy issues regarding earthworks and vegetation clearance in relation to Ski Area Activities later in this report.
230. The submissions from Soho Ski Area Ltd and Blackmans Creek No.1 LP²⁹⁶, and Treble Cone Investments Ltd²⁹⁷ also sought amendment to the definition of *“building”* to clarify that facilities, services and infrastructure associated with ski lifts systems were excluded from the definition. This matter is related to the submission sought by Mt Cardrona Station Ltd²⁹⁸ that buildings ancillary to ski activities be included within the definition of Ski Area Activities.
231. In relation to the definition of building, Mr Barr in his Section 42A Report, was of the view that this matter was more appropriately dealt with under the definitions hearing as the submission related to gondolas generally and not specifically to Ski Area Activities or Ski Sub Zones.²⁹⁹ Mr Ferguson’s understanding was that section 9 of the Building Act specifically excluded ski tows and stand-alone machinery, so therefore specifically excluding that equipment would add clarity without substantively altering the position.³⁰⁰

²⁹⁰ C Barr, Section 42A Report, Pages 61-62, Para 14.40

²⁹¹ EIC for Soho Ski Area Ltd and Blackmans Creek No.1 LP, and Treble Cone Investments Ltd

²⁹² EIC for Soho Ski Area Ltd and Blackmans Creek No.1 LP, and Treble Cone Investments Ltd

²⁹³ C Ferguson, Evidence, Page 26, Para 104

²⁹⁴ C Barr, Reply, Page 39, Paras 14.6 – 14.7

²⁹⁵ C Barr, Section 42A Report, Page 63, Paras 14.45 – 14.47

²⁹⁶ Submission 610

²⁹⁷ Submission 613

²⁹⁸ Submission 407

²⁹⁹ C Barr, Section 42A Report, Page 61, Paras 14.38

³⁰⁰ C Ferguson, Evidence, Page 28, Para 109

232. In this case, we concur with Mr Barr and find that the definition of building is a wider matter that should appropriately be considered in the definitions hearing. Our findings above with respect to the effect of including buildings within the definition of “passenger lift systems” and “ski area activities” have addressed the potential issues around base and terminal buildings.
233. In conclusion, we recommend to the Stream 10 Hearing Panel that the definitions pertaining to Ski Area Activities and Passenger Lift Systems read as follows;

Passenger Lift Systems

Means any mechanical system used to convey or transport passengers and other goods within or to a Ski Area Sub-Zone, including chairlifts, gondolas, T-bars and rope tows, and including all moving, fixed and ancillary components of such systems such as towers, pylons, cross arms, pulleys, cables, chairs, cabins, and structures to enable the embarking and disembarking of passengers. Excludes base and terminal buildings.

Ski Area Activities

Means the use of natural and physical resources for the purpose of establishing, operating and maintaining the following activities and structures:

- a. *recreational activities either commercial or non-commercial;*
- b. *passenger lift systems;*
- c. *use of snow groomers, snowmobiles and 4WD vehicles for support or operational activities;*
- d. *activities ancillary to commercial recreational activities including, avalanche safety, ski patrol, formation of snow trails and terrain;*
- e. *Installation and operation of snow making infrastructure including reservoirs, pumps and snow makers;*
- f. *in the Waiorau Snow Farm Ski Area Sub-Zone vehicle and product testing activities, being activities designed to test the safety, efficiency and durability of vehicles, their parts and accessories.*

4.17 Objective 21.2.6

234. As notified, Objective 21.2.6 read as follows:

“Encourage the future growth, development and consolidation of existing Ski Areas within identified Sub Zones, while avoiding, remedying or mitigating adverse effects on the environment.”

235. The submissions on this objective variously sought that it be retained³⁰¹, the objective be revised to reflect that Council should not be encouraging growth in ski areas and should control lighting effects³⁰², that the objective be broadened to apply to not just existing ski areas and be amended to provide for integration with urban zones³⁰³, and that it provide for better

³⁰¹ Submissions 610, 613

³⁰² Submission 243

³⁰³ Submission 407

sustainable management for the Remarkables Ski Area, provide for summer and winter activities and provide for sustainable gondola access and growth.³⁰⁴

236. In the Council’s memorandum on revising the objectives to be more outcome focused³⁰⁵, Mr Barr’s recommended rewording was as follows:

The future growth, development and consolidation of Ski Area Activities is encouraged within identified Ski Area Sub Zones, while avoiding remedying or mitigating adverse effects on the environment.

237. Mr Barr did not support the submission from QPL in regard to the Remarkables Ski Area as the submission provided no justification.³⁰⁶ In relation to the submission from Mt Cardrona Station Ltd seeking the inclusion of the connection to urban areas, Mr Barr did not support this, opining that it would create an, “*expectation that urban zones are expected to establish where they could easily integrate and connect to the Ski Area Sub Zones.*”³⁰⁷ Mr Barr also considered that the submission on the objective appeared to advance the rezoning sought by Mt Cardrona Station Ltd rather than applying broadly to all Ski Area Sub-Zones.

238. In evidence for various submitters, Mr Brown supported the objective (and related policies) because of the contribution of the ski industry to the district³⁰⁸, but recommended that it be reworded as follows:

21.2.6 Objective

The future growth, development and consolidation of Ski Area Activities is encouraged within identified Ski Area Sub Zones, and where appropriate Ski Area Sub Zones are connected with other areas, including urban zones, while adverse effects on the environment are avoided, remedied or mitigated.

239. Mr Brown explained the reasons for his recommended changes as including,
- a. Replacement of “*Skiing*” with “*Ski Area*” so that the terminology is internally consistent and aligns with the definitions in PDP³⁰⁹
 - b. There are opportunities for better connection between ski areas and urban zones via passenger lift systems and to reduce reliance on vehicle access and effects of vehicle use, and road construction and maintenance³¹⁰

240. In reply Mr Barr, reiterated his concerns regarding the reference to urban areas.³¹¹

241. We find that an objective encouraging growth in ski areas is appropriate and we agree with Mr Brown that consolidation in existing ski areas is an efficient way to minimise adverse effects.³¹² However, we consider that some clarification is required as to what form that “*encouragement*” takes. In addition, and in general, we also find that connections to ski areas for access purposes is also appropriate, but agree with Mr Barr that the specific reference to urban areas goes too

³⁰⁴ Submission 806
³⁰⁵ Council Memorandum dated 13 April 2016
³⁰⁶ C Barr, Section 42A Report, Page 54, Para 14.6
³⁰⁷ C Barr, Section 42A Report, Page 58, Para 14.22
³⁰⁸ J Brown, Evidence, Page 19, Para 2.30
³⁰⁹ J Brown, Evidence, Page 21, Para2.31 (a)
³¹⁰ J Brown, Evidence, Page 21, Para2.31 (c) – 2.33
³¹¹ C Barr, Reply, Page 38, Para 14.2
³¹² J Brown, Evidence, Page 22, Para 2.30

far. However, we also find that it more appropriate to address access as a policy rather than as part of the objective.

242. We therefore recommend that Objective 21.2.6 be reworded as follows;

The future growth, development and consolidation of Ski Area Activities within identified Ski Area Sub-Zones, is provided for, while adverse effects on the environment are avoided, remedied or mitigated.

4.18 Policies 21.2.6.1 – 21.2.6.3

243. As notified, policies 21.2.6.1 – 21.2.6.3 read as follows:

21.2.6.1 Identify Ski Field Sub Zones and encourage Ski Area Activities to locate and consolidate within the sub zones.

21.2.6.2 Control the visual impact of roads, buildings and infrastructure associated with Ski Area Activities.

21.2.6.3 Provide for the continuation of existing vehicle testing facilities within the Waiorau Snow Farm Ski Area Sub Zone on the basis the landscape and indigenous biodiversity values are not further degraded.

244. The submissions to these policies variously sought:

Policies

21.2.6.1 Retain the policy³¹³ and widen the policy to encourage tourism activities³¹⁴.

21.2.6.2 Retain the policy³¹⁵, or amend to replace the word “Control” with “Enable and mitigate”³¹⁶ (We note that the submission from CARL³¹⁷ merely repeated the wording of the policy and provided no indication of support/opposition or relief sought).

21.2.6.3 amend the policy to “encourage” continuation and “future development” of existing vehicle testing “only” within the Waiorau Snow Farm³¹⁸

245. Mr Barr did not directly refer to Policy 21.2.6.1 in his Section 42A Report. In general Mr Barr did not support the relief sought by CARL as it did not provide substantial benefit to the Cardrona Ski Area Sub-Zone, when compared to other zones.³¹⁹ Mr Farrell, the planner giving evidence for CARL, stated that the “the resort lends itself to the provision of four season tourism activities such as mountain biking, tramping, sightseeing, and mountain adventure activities”, and as such the policy should be amended to insert reference to “tourism”³²⁰.

³¹³ Submissions 610, 613

³¹⁴ Submission 615

³¹⁵ Submission 610, 613

³¹⁶ Submission 621

³¹⁷ Submission 615

³¹⁸ Submission 376

³¹⁹ C Barr, Section 42A Report, Page 63, Para 14.44

³²⁰ B Farrell, Evidence, Page 17, Para 56

246. This notion of Ski Areas being year-round destinations rather than just ski season destinations, was also raised by CARL and by other submitters seeking the addition of new policies to provide for such activities. We address the detail of those submissions later in this report. However, for present purposes, we find that recognising ski areas as year-round destinations and that activities outside ski seasons contribute to the viability and consolidation of activities in those areas is a valid policy position that implements Objective 21.2.6. We consider, however, that some amendment is required to the relief supported by Mr Farrell as there are many tourism activities that are not suited to location in Ski Areas and it is not realistic to seek consolidation of all tourism activities within those areas.
247. In relation to the amendments sought to Policy 21.2.6.2, Mr Brown in evidence, sought that the word control be replaced with the word manage, for the reason that manage is more consistent with “avoid, remedy or mitigate” as set out in the objective and is more effective.³²¹ On the same matter, Mr Farrell, in his evidence for CARL, did not support the replacement of the word “Control”, with “Enable and mitigate”, agreeing with the reasons of Mr Barr in the Section 42A Report.³²² We were unable to find any direct reference in the Section 42A Report to Mr Barr’s reasons for recommending that the wording of the policy remain as notified. We find that the policy as notified set out what was to be controlled, but did not indicate to what end or extent. We were not able to find any submissions that would provide scope for the inclusion of a greater degree of direction. The same situation would apply if the term manage (or for that matter, “enable and mitigate”) was used and we do not regard the change in terminology suggested by Mr Brown as a material change that might be considered to more appropriately achieve the objective than the notified wording. We therefore recommend that the policy remain as notified.
248. In the Section 42A Report, Mr Barr did not address the submission from Southern Hemisphere Proving Grounds Limited in regard to Policy 21.2.6.3. The submission itself stated the reason for the relief sought was to align the policy more precisely with the objective. We did not receive any evidence in support of the submission. We find that the encouragement of future growth and development in the policy goes beyond the intent of the policy which is balanced by reference to there being no further degradation of landscape and biodiversity values and that the other changes sought do not materially alter its effect. We therefore recommend that the submission be rejected.
249. Hence we recommend the wording of Policies 21.2.6.1 – 21.2.6.3 as follows:
- 21.2.6.1 *Identify Ski Area Sub-Zones and encourage Ski Area Activities and complementary tourism activities to locate and consolidate within the Sub-Zones.*
- 21.2.6.2 *Control the visual impact of roads, buildings and infrastructure associated with Ski Area Activities.*
- 21.2.6.3 *Provide for the continuation of existing vehicle testing facilities within the Waiorau Snow Farm Ski Area Sub-Zone on the basis that the landscape and indigenous biodiversity values are not further degraded.*

³²¹ J Brown, Evidence, Page 19, Para 2.31(b), Page 21, Para 2.34

³²² B Farrell, Evidence, Page 17, Paras 57 - 58

4.19 New Ski Area Objectives and Policies

250. QPL³²³ sought additional objectives and policies specific to the Remarkables Ski Area to follow Objective 21.2.6 and Policies 21.2.6.1 – 21.2.6.3. The wording of those requested additions was as follows;

Objective

Encourage the future growth and development of the Remarkables alpine recreation area and recognise the importance of providing sustainable gondola access to the alpine area while avoiding, remedying or mitigating adverse effects on the environment.

Policies

- a. *Recognise the importance of the Remarkables alpine recreation area to the economic wellbeing of the District, and support its growth and development.*
- b. *Recognise the importance of providing efficient and sustainable gondola access to the Remarkables alpine recreation area while managing potential adverse effects on the landscape quality.*
- c. *Support the construction and operation of a gondola that provides access between the Remarkables Park zone and the Remarkables alpine recreation area, recognising the benefits to the local, regional and national community.*

251. Mr Barr considered that the new objective and policies applied to the extension of the Ski Area Sub-Zone at Remarkables Park and therefore should be deferred to the mapping hearings.³²⁴ We heard no evidence or submissions to the contrary and hence have not reached a recommendation on those submissions. However, we do address the second new policy sought in a more general sense of 'gondola access' as it applies to Ski Area Sub-Zones below.

252. CARL³²⁵ sought an additional policy as follows;

Provide for expansion of four season tourism and accommodation activities at the Cardrona Alpine Resort.

253. Mr Barr did not consider that requested policy provided any additional benefit to the Cardrona Ski Area Sub-Zone over that provided by the recommended amendments to the objectives and policies included in his Section 42A Report.³²⁶ Having heard no evidence to the contrary (Mr Farrell did not address it in his evidence for CARL), we agree with Mr Barr and recommend that the submission be rejected.

254. Mt Cardrona Station Limited sought an additional policy to be worded as follows:

Provide for appropriate alternative (non-road) means of transport to Ski Area Sub Zones from nearby urban resort zones and facilities including by way of gondolas and associated structures and facilities.

³²³ Submission 608

³²⁴ C Barr, Section 42A Report, Page 55, Para 14.9

³²⁵ Submission 615

³²⁶ C Barr, Section 42A Report, Page 63, Para 14.44

255. Related to the above request, Soho Ski Area Limited & Blackmans Creek No.1 LP³²⁷ and Treble Cone Investments Limited³²⁸ sought an additional policy as follows;

To recognise and provide for the functional dependency of ski area activities to transportation infrastructure, such as vehicle access and passenger lift based or other systems, linking on-mountain facilities to the District's road and transportation network.

256. Mr Barr, in the Section 42A Report, considered that there was merit in the policy generally, as sought in these submissions. We agree in part with the likely potential benefits set out in Mr Brown's evidence.³²⁹ However, we agree also with the point made by Mr Barr when he clarified in reply that he did not support the link to urban zones sought by Mt Cardrona Station Limited³³⁰. We do not consider that the planning merit of recognising the value of non-road transport systems to ski areas depends on their inter-relationship with urban resort zones (or any other sort of urban zone for that matter).

257. Accordingly, we recommend the wording and numbering of an additional policy, as follows:

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

258. Soho Ski Area Limited & Blackmans Creek No.1 LP³³¹ and Treble Cone Investments Limited³³² sought an additional policy as follows;

Enable commercial, visitor and residential accommodation activities within Ski Area Sub Zones, which are complementary to outdoor recreation activities, can realise landscape and conservation benefits and that avoid, remedy or mitigate adverse effects on the environment.

259. Mr Barr was generally supportive of visitor accommodation, but expressed concern as to impacts on amenity of residential activity and subdivision.³³³ Mr McCrostie³³⁴ set out details of the nature of visitor and worker accommodation sought, which included seasonal use of such accommodation.³³⁵

260. Mr Ferguson³³⁶ opined that the short stay accommodation for Ski Areas did not sit well with the PDP definitions of residential activity or visitor accommodation due to the length of stay component,³³⁷ but suggested that this could be corrected by amendment to the rules.³³⁸ Mr Barr in reply concurred that a policy to guide visitor accommodation in Ski Area Sub-Zones would assist decision making as it is a distinct activity type from visitor accommodation in the

³²⁷ Submission 610

³²⁸ Submission 613

³²⁹ J Brown, Evidence, Page 20, Para 2.31 (c)

³³⁰ C Barr, Reply, Page 38, Para 14.2

³³¹ Submission 610

³³² Submission 613

³³³ C Barr, Section 42A Report, Page 59, Para 14.30

³³⁴ EiC for Soho Ski Area Limited & Blackmans Creek No.1 LP and Treble Cone Investments Limited

³³⁵ H McCrostie, Evidence Pages 5 – 7, Para 5.8 and Page 10, Para 6.7

³³⁶ EiC for Soho Ski Area Limited & Blackmans Creek No.1 LP and Treble Cone Investments Limited

³³⁷ C Ferguson, Evidence, Page 30 -33, Paras 117 - 125

³³⁸ C Ferguson, Evidence, Page 29, Pars 114 - 115

Rural Zone. He preferred the wording “*provided for on the basis*”, with qualifiers, rather than “*enabled*” as the requested activity status was not permitted.³³⁹

261. We consider that an appropriate policy needs to be established first, and then for the rules to follow from that. We agree in part with Mr Ferguson and Mr Barr as to the need for the policy, but agree that an enabling approach goes too far given the potential for adverse environmental effects. We also consider that clarification by way of a definition for Ski Area accommodation for both visitors and workers, would assist development of a more effective and efficient policy. We put this question to Mr Ferguson, who in his written response provided the following suggested definition;

Ski Area Sub Zone Accommodation

Means the use of land or buildings within a Ski Area Sub Zone and associated with the operation of a Ski Area Activity for short-term living accommodation, including the payment of fees, for guests, staff, worker and custodial management accommodation where the length of stay is less than 6 months and includes:

- a. hotels, motels, apartments, backpackers accommodation, hostels, lodges and chalets; and*
- b. centralised services or facilities such as food preparation, dining and sanitary facilities, conference, bar and recreational facilities if such facilities are associated with the visitor accommodation activity.³⁴⁰*

262. Mr Barr in reply, considered that the generic visitor accommodation definition was adequate as sub clause c of that definition provides for specific zones to alter the applicability of the definition, in this case for Ski Area Sub-Zones. We find that both suggestions do not fully address the issue. As noted above the policy needs to be determined first and we also find that there would be less confusion for plan users if a separate definition is provided. Having said that, we take on board Mr Barr’s point that care needs to be taken with the drafting of rules (and policies for that matter) to ensure that accommodation provided for longer than 6 month stays does not fall into a regulatory ‘hole’ or create internal contradictions through references to visitor accommodation that is for longer than 6 months.

263. We are broadly comfortable with Mr Ferguson’s suggested wording with the exception of two matters. First, we consider greater clarity is required around the extent of associated services or facilities. The second matter is that including the 6 month stay presents the issue of what would be ‘the activity’ if the length of stay was longer? To avoid this situation we think that the length of stay is more appropriately contained within the rule, rather than the definition.

264. We therefore recommend to the Stream 10 Hearing Panel that a new definition be included in Chapter 2 which reads as follows:

Ski Area Sub Zone Accommodation

Means the use of land or buildings for short-term living accommodation for visitor, guest, worker, and

- a. Includes such accommodation as hotels, motels, guest houses, bunkhouses, lodges and the commercial letting of a residential unit: and*

³³⁹ C Barr, Reply, Page 40 , Para 14.11

³⁴⁰ C Ferguson, Written Response To Commissioners Questions, 27 May 2016, Page 10, Para 6

b. *May include some centralised services or facilities such as food preparation, dining and sanitary facilities, conference, bar and recreational facilities if such facilities are ancillary to the accommodation facilities: and*

c. *Is limited to visitors, guests or workers, visiting and or working in the respective Ski Area Sub Zone.*

265. Taking all of the above into account, we recommend a new policy and numbering as follows;

21.2.6.5 *Provide for Ski Area Sub Zone Accommodation activities within Ski Area Sub Zones, which are complementary to outdoor recreation activities within the Ski Area Sub Zone, that can realise landscape and conservation benefits and that avoid, remedy or mitigate adverse effects on the environment.*

4.20 Objective 21.2.7

266. As notified Objective 21.2.7 read as follows:

Objective

Separate activities sensitive to aircraft noise from existing airports through:

a. *The retention of an undeveloped open area; or*

b. *at Queenstown Airport an area for Airport related activities; or*

c. *where appropriate an area for activities not sensitive to aircraft noise*

d. *within an airport's Outer Control Boundary to act as a buffer between airports and other land use activities.*

267. Two submissions supported this objective³⁴¹ and one submission from QAC sought that the objective be deleted and replaced with the following:

*Retention of an area containing activities that are not sensitive to aircraft noise, within an airport's Outer Control Boundary, to act as a buffer between airports and Activities sensitive to Aircraft Noise.*³⁴²

268. In the Council's memorandum on revising the objectives to be more outcome focused³⁴³, Mr Barr's recommended rewording was as follows:

An area to contain activities that are not sensitive to aircraft noise is retained within an airport's Outer Control Boundary, to act as a buffer between airports and Activities Sensitive to Aircraft Noise.

269. Ms O'Sullivan in evidence for QAC, suggested "further refinement to remove repetition and ensure the objective is more in in keeping with PC26 and PC35"³⁴⁴ and Mr Barr in reply agreed.³⁴⁵ That wording being:

³⁴¹ Submissions 271, 649

³⁴² Submission 433

³⁴³ Council Memorandum dated 13 April 2016

³⁴⁴ K O'Sullivan, Evidence, Page 8, Para 4.5

³⁴⁵ C Barr, Reply, Page 24, Para 8.3

An area that excludes activities which are sensitive to aircraft noise, is retained within an airport's Outer Control Boundary, to act as a buffer between airports and Activities Sensitive to Aircraft Noise.

270. We accept the recommendation of Ms O'Sullivan and Mr Barr, and recommend that Objective 21.2.7 be worded as set out in the previous paragraph.

4.21 Policies 21.2.7.1 – 21.2.7.4

271. As notified Policy 21.2.7.1 read as follows:

21.2.7.1 Prohibit all new activity sensitive to aircraft noise on any Rural Zoned land within the Outer Control Boundary at Wanaka Airport and Queenstown Airport to avoid adverse effects arising from aircraft operations on future activities sensitive to aircraft noise.

272. Submissions on this policy sought that it be retained³⁴⁶, deleted³⁴⁷, or reworded³⁴⁸ as follows:

Prohibit any new [non-existing] activity sensitive to aircraft noise on any rural zoned land within the outer Control Boundaries of Queenstown airport and Wanaka airport, Glenorchy, Makarora area and all other existing informal airports including private airstrips with the QLDC, used for fixed wing aircraft.

273. Mr Barr did not address this policy directly in the Section 42A Report apart from in Appendix 1, where Mr Barr recommended that the notified policy be retained. The only additional evidence we received was from Ms O'Sullivan, supporting Mr Barr's recommendation.³⁴⁹

274. In relation to the submission by Mr Wright (Submission 385) suggesting rewording, we note that this would require mapping of an outer control boundary for all airports/ informal airports identified. We do not have the evidence before us to undertake that task (Mr Wright did not include that information with his submission and did not appear at the hearing). As a result, we do not know what areas the Outer Control Boundaries of airports other than Wanaka and Queenstown could encompass or the existing and potential future uses of those areas. Nor do we have any evidence of the extent of aircraft use of those other airports. Consequently, we have no means to assess the costs and benefits (either qualitatively or quantitatively) if the relief sought were granted as required by section 32.

275. We do not consider that deletion of the policy would be the most appropriate means to achieve the relevant objective either – it would largely deprive the Council of the means to achieve that outcome. Accordingly, we recommend the policy be retained as notified subject to minor amendments to make "activity" plural.

276. As notified, Policy 21.2.7.2 read as follows:

21.2.7.2 Identify and maintain areas containing activities that are not sensitive to aircraft noise, within an airport's outer control boundary, to act as a buffer between the airport and activities sensitive to aircraft noise.

³⁴⁶ Submission 443

³⁴⁷ Submission 806

³⁴⁸ Submission 385

³⁴⁹ K O'Sullivan, Evidence , Page 7, Para 4.3

277. The submission from QAC sought that this policy be deleted³⁵⁰ as it was redundant in light of Policies 21.2.7.1 and 21.2.7.3.
278. Mr Barr did not address this policy directly in the Section 42A Report apart from in Appendix 1, where Mr Barr recommended that the policy be retained. The only additional evidence we received was from Ms O’Sullivan supporting Mr Barr’s recommendation.³⁵¹ We consider that Policy 21.2.7.2 serves a useful purpose, distinct from Policies 21.1.7.1 and 21.2.7.3, by providing for activities that are neither ASANs nor open space. Accordingly, we recommend the policy be retained as notified.
279. Policies 21.2.7.3 and 21.2.7.4 as notified read as follows:
- 21.2.7.3 *Retain open space within the outer control boundary of airports in order to provide a buffer, particularly for safety and noise purposes, between the airport and other activities.*
- 21.2.7.4 *Require as necessary mechanical ventilation for any alterations or additions to Critical Listening Environment within any existing buildings containing an Activity Sensitive to Aircraft Noise within the Queenstown Airport Outer Control Boundary and require sound insulation and mechanical ventilation for any alterations or additions to Critical Listening Environment within any existing buildings containing an Activity Sensitive to Aircraft Noise within the Queenstown Airport Air Noise Boundary.*
280. The submission from QAC sought that these policies be retained³⁵². There were no submissions seeking amendments to these policies³⁵³ Again Mr Barr and Ms O’Sullivan were in agreement that they should be retained as notified.
281. In conclusion, we recommend that Policies 21.2.7.1 – 21.2.7.4 be retained as notified.

4.22 Objective 21.2.8

282. As notified, Objective 21.2.8 read as follows:

Avoid subdivision and development in areas that are identified as being unsuitable for development.

283. Submissions on this objective ranged from support³⁵⁴, seeking its deletion³⁵⁵, to its amendment³⁵⁶ as follows:

Avoid, remedy or mitigate subdivision and development in areas specified on planning maps identified as being unsuitable for development.

³⁵⁰ Submission 806

³⁵¹ K O’Sullivan, Evidence , Page 7, Para 4.3

³⁵² Submission 806

³⁵³ Although there were further submissions opposing QAC’s submissions, those further submissions do not provide jurisdiction to amend the policies – refer discussion of this point in the context of the Strategic Chapters – Report 3 at Section 1.7.

³⁵⁴ Submission 339, 380, 706

³⁵⁵ Submissions 356, 806

³⁵⁶ Submissions 636, 643, 688, 693, 702

284. In the Section 42A Report, Mr Barr described the intention of the objective as being to manage development (usually rural living or commercial developments) from constraints such as hazards, noxious land uses, or identified landscape or rural amenity reasons. He noted that the ODP contained a number of building line restrictions or similar constraints. Taking account of the submissions, he reached the view that the objective could be rephrased so as not to be so absolute and better framed³⁵⁷. Responding to the submission from X Ray Trust³⁵⁸ that the purpose of the objective was unclear as to what was trying to be protected, Mr Barr's view was that the policies would better define the areas in question. Mr Barr recommended rewording as follows;

Subdivision, use and development is avoided, remedied or mitigated in areas that are unsuitable due to identified constraints for development.

285. In the Council's memorandum on revising the objectives to be more outcome focused³⁵⁹, Mr Barr recommended further rewording as follows;

Subdivision, use and development in areas that are unsuitable due to identified constraints is avoided, remedied or mitigated.

286. Ms Taylor's evidence for X Ray Trust agreed with this suggested rewording³⁶⁰. We agree that the absolute nature of the objective as notified could be problematic in regard to development proposals in the rural area. We also consider that the overlap between this objectives and the objectives in other parts of the plan dealing with constraints such as natural hazards and landscape needs to be addressed. We do not think that limiting the objective to areas identified on the planning maps is appropriate. That would still include notations such as ONL lines, the significance of which is addressed in Chapters 3 and 6. We regard the purpose of this objective as being to provide for constraints not addressed in other parts of the plan and we think the objective needs to say that. In effect it is operating as a catch all and in that context an avoid remedy or mitigate position is appropriate to preserve flexibility. However, we consider that a minor wording change is necessary to clarify that it is the effects of the constraints that are remedied or mitigated.

287. In summary, therefore, we recommend that Objective 21.2.8 be reworded to read;

Subdivision, use and development in areas that are unsuitable due to identified constraints not addressed by other provisions of this Plan, is avoided, or the effects of those constraints are remedied or mitigated.

4.23 Policies 21.2.8.1 – 21.2.8.2

288. As notified Policy 21.2.8.1 read as follows:

Assess subdivision and development proposals against the applicable District Wide chapters, in particular, the objectives and policies of the Natural Hazards and Landscape chapters.

³⁵⁷ C Barr, Section 42A Report, Page 102, Para 20.13

³⁵⁸ Submission 356

³⁵⁹ Council Memorandum dated 13 April 2016

³⁶⁰ L Taylor, Evidence, Appendix A, Page 5

289. Submissions on this policy ranged from support³⁶¹; its deletion as superfluous or repetitive³⁶², amendment to include “indigenous vegetation, wilding and exotic trees”³⁶³, amendment to include the Historic Heritage Chapter³⁶⁴ or amendment to remove the “in particular” references entirely³⁶⁵.

290. In the Section 42A Report, Mr Barr accepted that proposals were required to be assessed anyway against the District Wide chapters, but considered that a separate policy was needed to provide direction for proposals where the suitability of land had not been predetermined.³⁶⁶ Mr Barr recommended further amendment to the policy such that it read as follows;

To ensure that any subdivision, use and development is undertaken on land that is appropriate in terms of the anticipated use, having regard to potential constraints including hazards and landscape.

291. Mr Farrell, in evidence for various submitters agreed with Mr Barr’s reasons and resulting amendment to the policy³⁶⁷.

292. We agree that as notified this policy is unnecessary. Mr Barr’s suggested amendment addresses that issue, but we are concerned that there is no submission we could identify that would provide jurisdiction to make the suggested amendment. In addition, the issue of overlap with more detailed provisions elsewhere in the plan would need to be addressed. We think that the best course is to delete this policy and leave the objective supported by the second much more detailed policy that we are about to discuss.

293. Accordingly, we recommend that Policy 21.2.8.1 be deleted.

294. As notified Policy 21.2.8.2 read as follows;

Prevent subdivision and development within the building restriction areas identified on the District Plan maps, in particular:

a. In the Glenorchy area, protect the heritage value of the visually sensitive Bible Face landform from building and development and to maintain the rural backdrop that the Bible Face provides to the Glenorchy Township

b. In Ferry Hill, within the building line restriction identified on the planning maps.

295. The only submission related to this policy was by QPL³⁶⁸ which sought its deletion along with the relevant objective and associated policy. This matter was not addressed in the Section 42A Report or in evidence. It appears to us that QPL’s objection is linked to its opposition to particular building line restrictions affecting its property. Removal of the policy would leave no policy support for the identified building line restrictions. As such, we recommend that they be retained. If there are objections (like QPL’s) to particular restrictions, they should be addressed

³⁶¹ Submission 335

³⁶² Submissions 433, 806

³⁶³ Submissions 339, 706

³⁶⁴ Submission 810

³⁶⁵ Submissions 513, 515, 522, 531, 537

³⁶⁶ C Barr, Section 42A Report, Page 102, Para 20.14

³⁶⁷ B Farrell, Evidence, Page 17, Para 61

³⁶⁸ Submission 806

in the Plan Map hearings. As it is, the Stream 13 Hearing Panel is recommending deletion of the building restriction area affecting QPL's property.

296. In summary, we recommend that Policy 21.2.8.2, be renumbered 21.2.8.1 but otherwise be retained as notified. We do note, however, that this policy has been amended by the Stage 2 Variations by the deletion of clause b. Our recommendation, therefore, only relates to the introductory words and clause a.

4.24 Objective 21.2.9

297. As notified, Objective 21.2.9 read as follows;

Ensure commercial activities do not degrade landscape values, rural amenity, or impinge on farming activities.

298. Submissions on the objective ranged from support³⁶⁹, its deletion³⁷⁰, amendment to include nature conservation values³⁷¹ or Manawhenua values³⁷², amendment to soften the policy by replacing "Ensure" with "Encourage" and inserting "significant" before the word landscape³⁷³, and also amendment to provide for a range of activities so as to make it effects based in accordance with the RMA and for consistency.³⁷⁴

299. In considering these submissions, first in the Section 42A Report, and then further in reply, Mr Barr's recommended wording for the objective was as follows:

A range of activities are undertaken that rely on a rural location on the basis they do not degrade landscape values, rural amenity, or impinge on permitted and established activities.

300. We have already addressed our reasoning for combining this Objective 21.2.9 into Objective 21.2.1 (see Section 3.2 above). However, one aspect not directly addressed in the Section 42A Report was the submission opposed to an objective and policy approach that seeks to avoid or limit commercial activities in the Rural Zone³⁷⁵. We received no evidence in support of the submission. The reason for opposition, as set out in the submission was that there was no section 32 evidence that quantified the costs and benefits of the policy approach. We refer back to the introductory report (Report 1) discussing the requirements of section 32. Consideration of costs and benefits is required at the second stage of the evaluation, as part of the examination under section 32(1)(b) as to whether the provisions are the most appropriate way to achieve the objectives. The test for objectives (under s32(1)(a)) is whether they are the most appropriate way to achieve the purpose of the Act. Accordingly, we consider the submission misdirected and we recommend that it be rejected. We note that the submission from Shotover Trust³⁷⁶ also sought the deletion of Policies 21.2.9.1 and 21.2.9.2 for the same reasons. We return to that point below.

301. The combining of Objective 21.2.9 into Objective 21.2.1 is, we consider, the most appropriate way to achieve the purpose of Act. While it follows that the individual policies under Objective

³⁶⁹ Submissions 217, 600

³⁷⁰ Submissions 248, 621, 624

³⁷¹ Submissions 339, 706

³⁷² Submission 810

³⁷³ Submission 624

³⁷⁴ Submission 608

³⁷⁵ Submission 248

³⁷⁶ Submission 248

21.2.9 as notified also move to be relocated under the new objective 21.2.1, we address those individual policies 21.2.9.1 – 21.2.9.6 below.

4.25 Policy 21.2.9.1

302. Policy 21.2.9.1 as notified read as follows:

21.2.9.1 Commercial activities in the Rural Zone should have a genuine link with the rural land resource, farming, horticulture or viticulture activities, or recreation activities associated with resources located within the Rural Zone.

303. A submission on this policy sought specific reference to tourism activities.³⁷⁷

304. In Mr Barr's view, tourism activities were encompassed within the policy as it referred to commercial activities. Mr Barr was also of the view that for clarity that 'water' should be added to matters to be managed as activities on the surface of water are deemed to be a use of land.³⁷⁸

305. Mr Brown in evidence for QPL, noted the equivalent of this policy in its suggested reordered policies required a genuine link to the rural area, and stated that, *"This was important in that activities that could otherwise happen in an urban area, without a need for locating rurally, are discouraged."*³⁷⁹ Mr Brown did not recommend any amendment to the wording of the policy.

306. We agree with Mr Brown as to the importance of the policy and with Mr Barr in that the reference to commercial activities already encompasses tourism. The amendment suggested by Mr Barr as to the inclusion of the word water we find does provide clarity as to the applicability of the policy, and we think is within scope, even though there is no submission directly seeking that wording.

307. As regards Submission 248 (noted above) opposing this and the following policy on the basis that the Council has not quantified the costs and benefits, we note the discussion of the Hearing Panel on the Strategic Chapters³⁸⁰ (Report 3 in relation to Chapters3-6). If the submitter seeks to convince us these policies should be amended or deleted, it was incumbent on it to produce its own assessment of costs and benefits to enable us to be satisfied that course was appropriate. As it is, we are left with Mr Barr's uncontradicted, but admittedly qualitative evaluation³⁸¹, supported by Mr Brown's evidence, as above. We recommend the submission be rejected.

308. We therefore recommend that Policy 21.2.9.1 be relocated to be Policy 21.1.1.10 and worded as follows:

Commercial activities in the Rural Zone should have a genuine link with the rural land or water resource, farming, horticulture or viticulture activities, or recreation activities associated with resources located within the Rural Zone.

4.26 Policy 21.2.9.2

309. Policy 21.2.9.2 as notified read as follows;

³⁷⁷ Submission 806

³⁷⁸ C Barr, Section 42A Report, Page 46, Paras 13.24-13.25 and Appendix 4 – S32AA evaluation

³⁷⁹ J Brown, Evidence, Page 9, Para 2.14(d)

³⁸⁰ Report 3, Section 1.6

³⁸¹ C Barr, Section 42A Report, pages 79-83

21.2.9.2 *Avoid the establishment of commercial, retail and industrial activities where they would degrade rural quality or character, amenity values and landscape values.*

310. The submissions on this policy;
- a. Sought deletion of the policy³⁸²
 - b. Sought avoidance of forestry activities and addition of nature conservation values as a matter that could be degraded³⁸³
 - c. Sought rewording so as to remove the word avoid and replace with enabling a range of activities while avoiding, remedying or mitigating adverse effects in order to ensure the maintenance of rural quality or character, amenity values and landscape values³⁸⁴

311. Mr Barr's view was that the use of the term avoid was appropriate but he also considered that the policy could be more positively phased. Mr Barr was also of the view that "avoid, remedy or mitigate" was better replaced with "protect, maintain and enhance". The latter was derived from the overall goal of achieving sustainable management and in Mr Barr's opinion, reference to maintenance and enhancement can be used to take account of the positive merits of a proposal.³⁸⁵ Mr Barr's revised wording of the policy was as follows;

Provide for the establishment of commercial, retail and industrial activities only where these would protect, maintain or enhance rural character, amenity values and landscape values.

312. Mr Farrell in evidence for RJI, considered the addition of the word "only" to be inappropriate, as it would mean that protection, maintenance or enhancement was required for the establishment of a commercial activity.³⁸⁶ Mr Farrell also considered the policy could be improved by reference to the quality of the environment rather than "character" and "landscape values".

313. Mr Brown in evidence for QPL (in the context of his revised policy ordering of the notified Objectives and Policies for 21.2.9 and 21.2.10) considered that 'protect, maintain and enhance' would be too high a hurdle for even the simplest of applications, particularly if considered at the scale of a single site.³⁸⁷ Mr Brown recommended revised wording of his equivalent policy (21.2.2.4 in his evidence) to 21.2.9.2, by addition of the words "wherever practical".

314. We note that Policy 21.2.9.2 is worded similarly to Policy 21.2.1.1, but in this case applies to commercial activities. In keeping with our findings on Policy 21.2.1.1 and taking account of our recommended shifting of Policies 21.2.9.1 – 21.2.9.6 to sit under Objective 21.2.1, the amendments suggested by Mr Farrell and Mr Brown do not align the policy in implementing the associated objective and are also inconsistent with the Stream 1B Hearing Panel's findings in relation to the Strategic Chapters.

315. Accordingly, we recommend that Policy 21.2.9.2 be relocated to be Policy 21.2.1.11 and worded as follows:

Provide for the establishment of commercial, retail and industrial activities only where these would protect, maintain or enhance rural character, amenity values and landscape values.

³⁸² Submissions 621, 624

³⁸³ Submission 706

³⁸⁴ Submission 806

³⁸⁵ C Barr, Section 42A Report, Page 46 - 47, Paras 13.27 – 13.28

³⁸⁶ B Farrell, Evidence, Page 18, Para 68

³⁸⁷ J Brown, Evidence, Page 8 Para 2.14 (b) – (c)

316. We address the submission of Mr Atly and the Forest & Bird as to nature conservation values in consideration of Policy 21.2.9.3 where similar amendments were sought.

4.27 Policy 21.2.9.3

317. Policy 21.2.9.3 as notified read as follows;

21.2.9.3 Encourage forestry to be consistent with topography and vegetation patterns, to locate outside of the Outstanding Natural Features and Landscapes, and ensure forestry does not degrade the landscape character or visual amenity values of the Rural Landscape.

318. Submissions on this policy sought to make it more directive, exclude forestry from significant natural areas and add nature conservation values to matters not to be degraded.³⁸⁸

319. Mr Barr did not support making the policy more directive through replacing ‘Encourage’ with the term ‘Avoid’, as this would imply prohibited activity status. Mr Barr also considered that the inclusion of significant natural areas was a useful cross reference to the rules restricting the planting of exotic species in SNAs. Finally on this policy, Mr Barr did not support the inclusion of nature conservation values as elements of the definition of nature conservation values are set out in the policy.³⁸⁹ We heard no other evidence on this matter.

320. The Stream 1B Hearing Panel has recommended that the policy referring to forestry refer to “production forestry” to make it clear that the policy focus has no connection to indigenous vegetation or biodiversity provisions and to limit the breadth of the reference to timber harvesting (which might otherwise be seen as inconsistent with the policy focus on controlling wilding species)³⁹⁰. We recommend the same change to this policy for the same reasons, and for consistency.

321. We agree with and adopt the reasoning set out by Mr Barr and recommend that the policy be relocated to be Policy 21.2.1.12 and worded as follows:

Encourage production forestry to be consistent with topography and vegetation patterns, to locate outside of the Outstanding Natural Features and Landscapes and outside of significant natural areas, and ensure production forestry does not degrade the landscape character or visual amenity values of the Rural Character Landscape.

4.28 Policy 21.2.9.4

322. There were no submissions on Policy 21.2.9.4 and thus we do not need to consider it further, other than relocate it to become Policy 21.1.1.13.

4.29 Policy 21.2.9.5

323. Policy 21.2.9.5 as notified read as follows:

21.2.9.5 Limit forestry to species that do not have potential to spread and naturalise.

³⁸⁸ Submissions 339, 706

³⁸⁹ C Barr, Section 42A Report, Page 47, Para 13.22

³⁹⁰ See the discussion regarding recommended Policy 6.3.6 in Report 3, Section 8.5

324. Submissions on this policy sought that it be deleted³⁹¹ or be amended to apply only to exotic forestry.³⁹²
325. These submissions were not directly addressed in the Section 42A Report, although an amendment to the policy to limit it to exotic species only was incorporated in the recommended revised Chapter in Appendix 1. Mr Brown in evidence for QLP adopted Mr Barr's recommended amendment.³⁹³
326. We agree that the policy is appropriately clarified by its specific reference to exotic forestry and recommend that it be relocated to be Policy 21.2.1.14 and worded as follows:

Limit exotic forestry to species that do not have potential to spread and naturalise.

4.30 Policy 21.2.9.6

327. Policy 21.2.9.6 as notified read as follows;

21.2.9.6 Ensure traffic from commercial activities does not diminish rural amenity or affect the safe and efficient operation of the roading and trail network, or access to public places.

328. Submissions on this policy variously sought that it be retained³⁹⁴, that it be deleted³⁹⁵, or that it be amended to apply to only new commercial activities.³⁹⁶
329. Mr Barr did not recommend an amendment to this policy in the Section 42A Report.
330. Mr Farrell in evidence for RJJ and D & M Columb, was of the view that this policy was not necessary as traffic effects were already addressed in the transport chapter of the ODP; that the policy should apply to all activities not just commercial activities and should be amended from "*does not diminish*" to "*maintain*".³⁹⁷ Mr Brown, in evidence for QPL did not recommend any amendment to the policy.³⁹⁸
331. We disagree with Mr Farrell that the transport chapter of the ODP removes the necessity for the policy. The policy has wider applicability than just transport issues through its inclusion of reference to rural amenity. We also consider that the policy is efficient and effective in its specific reference to the traffic effect of commercial operations not diminishing amenity, as it is precisely this issue that makes the policy consistent with objective.
332. However, we agree with the suggestion in the RJJ and Columb submissions that the focus of the policy should be on "*new*" commercial activities.
333. Accordingly, we recommend that the wording policy be amended to insert the word "*new*" before "*commercial*" but otherwise be retained as notified and relocated to become Policy 21.2.1.15.

³⁹¹ Submission 806

³⁹² Submission 600

³⁹³ J Brown, Evidence, Page8, Para 2.13

³⁹⁴ Submission 719

³⁹⁵ Submissions 621, 624

³⁹⁶ Submission 806

³⁹⁷ B Farrell, Evidence, Page 19, Para 72

³⁹⁸ J Brown, Evidence, Page8, Para 2.13

4.31 Objective 21.2.10

334. As notified, Objective 21.2.10 read as follows;

Recognise the potential for diversification of farms that utilises the natural or physical resources of farms and supports the sustainability of farming activities.

335. Submissions on this policy sought that it be retained³⁹⁹, or sought various wording amendments so that the objective applied to wider range of rural activities than just farms⁴⁰⁰.

336. In the Section 42A Report, Mr Barr set out his view that the objective and associated policies had been included for the purpose of providing for the ongoing viability of farming and maintaining rural character and not to apply to activities on rural land that were not farming.⁴⁰¹ Notwithstanding this, Mr Barr considered that there was merit in the submission of Trojan Helmet, seeking that the range of land uses to which the objective was applicable be broadened, so long as it supported sustainability for natural resources in a productive and efficiency use context, as well as protecting landscape and natural resource values. He also considered it to be more effects based.⁴⁰² Mr Barr recommended rewording of the objective as follows;

Diversification of farming and other rural activities that supports the sustainability natural and physical resources.

337. In the Council's memorandum on revising the objectives to be more outcome focused⁴⁰³, Mr Barr recommended further rewording as follows;

The potential for diversification of farming and other rural activities that supports the sustainability of natural and physical resources.

338. Mr Brown in evidence for Trojan Helmet *et al*; suggested deleting Objective 21.2.10 (along with Objective 21.2.9 and the associated policies for both objectives). We have addressed this batting order and aggregation suggestion in Section 3.2 above. We think that this objective is sufficiently different to 21.2.9 in the matters it addresses to be retained as a discrete outcome separate from the amalgamation of Objectives 21.2.9 and 21.2.1 (as discussed above). However, we consider that Mr Barr's revised wording needs further amendment so that it captures his reasoning as set out above and is consistent with recommended Policy 3.2.1.8. The suggested reference to sustainability in our view leaves the potential range of outcomes too open and fails to ensure the protection of the range of values referred to in Policy 3.2.1.8. It also needs amendment so that it is more correctly framed as an objective, and is then the most appropriate way to achieve the purpose of the Act.

339. As a consequence of amalgamating Objective 21.2.9 (and its policies) into Objective 21.2.1, this objective (and its policies) have been renumbered in Appendix 1.

340. We therefore recommend Objective 21.2.10, renumbered as 21.2.9, be worded as follows:

³⁹⁹ Submission 217,325, 335, 356, 598, 600, 660, 662, 791, 794

⁴⁰⁰ Submissions 343,345, 375, 407, 430, 437, 456, 636, 643, 693, 702, 806

⁴⁰¹ C Barr, Section 42A Report, Page 49, Para 13.39

⁴⁰² C Barr, Section 42A Report, Page 50, Para 13.42 – 13.43

⁴⁰³ Council Memorandum dated 13 April 2016

Provision for the diversification of farming and other rural activities that protect landscape and natural resource values and maintains the character of rural landscapes.

4.32 Policy 21.2.10.1

341. Policy 21.2.10.1 as notified read as follows;

Encourage revenue producing activities that can support the long term sustainability of farms in the district.

342. Submissions on this policy variously sought that it be retained⁴⁰⁴, be amended to apply to ‘rural areas’ rather than just ‘farms’⁴⁰⁵, or be amended to the following wording;

*Enable revenue producing activities, including complementary commercial recreation, residential, tourism, and visitor accommodation that diversifies and supports the long term sustainability of farms in the district, particularly where landowners take a comprehensive approach to maintaining and enhancing the natural and physical resources and amenity or other values of the rural area.*⁴⁰⁶

343. For similar reasons to those expressed in relation to Objective 21.2.10 (see Section 5.31 above), Mr Barr concurred with the submitters that the policy should be amended to apply to rural areas, and not just farms.

344. The Section 42A Report did not directly address the submission of Darby Planning⁴⁰⁷ to widen the policy. In evidence for Darby Planning, Mr Ferguson considered that the amended policy suggested in the submission recognised the importance of the commercial recreation, residential and tourism activities that flows from the Strategic Directions Chapters. He was of the opinion that this more ‘comprehensive approach’ could lead to more sustainable outcomes.⁴⁰⁸

345. We agree with Mr Barr that Policy 21.2.10.1 should be amended to apply to rural areas, and not just farms, for similar reasons as we have discussed in relation to Objective 21.2.10. Again, for similar reasons as in relation to Objective 21.2.10, the consequence of broadening the policy to apply to rural areas is that some test of environmental performance is then required. Mr Ferguson suggested a test of maintaining and enhancing specified aspects of the rural environment. We consider that this is a good starting point. However, we do not think that the itemisation of commercial recreation, residential and tourism activities is necessary or desirable in this policy. Accordingly, we recommend that the submission of Darby Planning LP be only accepted in part.

346. In summary, we consider the following wording to be the most efficient and effective method to achieve the objective, namely:

Encourage revenue producing activities that can support the long term sustainability of the rural areas of the district and that maintain or enhance landscape values and rural amenity.

⁴⁰⁴ Submissions 598, 600

⁴⁰⁵ Submissions 343, 345, 375, 430, 437, 456

⁴⁰⁶ Submission 608

⁴⁰⁷ Submission 608

⁴⁰⁸ C Ferguson, Evidence, Page 73

4.33 Policy 21.2.10.2

347. Policy 21.2.10.2 as notified read as follows;

Ensure that revenue producing activities utilise natural and physical resources (including buildings) in a way that maintains and enhances landscape quality, character, rural amenity, and natural values.

348. Submissions on this policy ranged from support⁴⁰⁹, amendment to include “nature conservation values”⁴¹⁰ or “manawhenua values”⁴¹¹ as matters to be maintained or enhanced, amendment to specifically identify “commercial recreation, residential, tourism, and visitor accommodation” as revenue producing activities⁴¹², amendment to “maintain and / or enhance landscape values” and “and / or natural values”⁴¹³, and finally amend to apply “generally” only to “significant” landscape values.⁴¹⁴

349. In considering the submissions, for the overall reasons set out in relation to Objective 21.2.10, Mr Barr recommended that Policy 21.2.10.2 be reworded as follows;

*Ensure that revenue producing activities utilise natural and physical resources (including buildings) in a way that maintains and enhances landscape quality, character, rural amenity, and natural resources.*⁴¹⁵

350. In evidence for RJL, Mr Farrell considered that the policy set a high bar for revenue producing activities that he considered other high order provisions in Plan were seeking to enable.⁴¹⁶ Mr Farrell recommended that the policy be reworded as follows;

Promote revenue producing activities that utilise natural and physical resources (including buildings) in a way that maintains and enhances the landscape quality of the environment.

351. In evidence for Darby Planning, Mr Ferguson considered that the amended policy sought by the submitter was, for similar reasons as for 21.2.10.2, a more effective and efficient means of achieving the objectives of the PDP.⁴¹⁷

352. We have already addressed the submissions on the inclusion of reference to “nature conservation values” or “manawhenua values” as matters to be maintained or enhanced, and we reach a similar conclusion: that it is not necessary to include reference to these matters in every policy.

353. The recommended wording by Mr Farrell to “promote” rather than “ensure” we find goes beyond the scope of the original submission and we therefore recommend that that amendment be rejected. Consistent with our finding on Policy 21.2.10.1, we are not convinced by Mr Ferguson’s view that the suggested wording in the Darby Planning LP submission is a more effective and efficient means of achieving the objective.

⁴⁰⁹ Submissions 430, 598

⁴¹⁰ Submissions 339, 706

⁴¹¹ Submission 810

⁴¹² Submission 608

⁴¹³ Submission 356

⁴¹⁴ Submissions 621, 624

⁴¹⁵ C Barr, Section 42A Report, Page 51, Para 13.44

⁴¹⁶ B Farrell, Evidence, Page 19, Para 76

⁴¹⁷ C Ferguson, Evidence, Page 13, Para 58

354. We consider however, that Mr Barr’s suggestion fails to provide for consumptive activities (like mining) that by definition do not maintain or enhance natural resources.
355. Finally we accept the point made in Submission 356 that where the policy refers to “*natural and physical resources*”, and “*maintain and enhance*”, these need to be put as alternatives. We also consider the policy should be clear that it is existing buildings that it refers to.
356. Accordingly, we recommend that Policy 21.2.10.2 (renumbered 21.1.9.2) be worded as follows;
- Ensure that revenue producing activities utilise natural or physical resources (including existing buildings) in a way that maintains and enhances landscape quality, character, rural amenity, and natural resources.*

4.34 Policy 21.2.10.3

357. Policy 21.2.10.3 as notified read as follows:

Recognise that the establishment of complementary activities such as commercial recreation or visitor accommodation located within farms may enable landscape values to be sustained in the longer term. Such positive effects should be taken into account in the assessment of any resource consent applications.

358. Submissions on this policy ranged from support⁴¹⁸; amendment to include “*nature conservation values*” as matters to be sustained in the future⁴¹⁹; amendment to specifically identify “*recreation*”, and/or “*tourism*” as complementary activities⁴²⁰; and amendment to substitute reference to people’s wellbeing and sustainable management of the rural resource (instead of landscape values) as matters provided for by complementary activities, and to require consideration of such positive benefits in the assessment of resource consent applications.⁴²¹
359. In the Section 42A Report, Mr Barr addressed the submissions on this policy in the general discussion on Objective 21.2.10 and Policies 21.2.10.1 and 21.2.10.2 we have noted above. As a result of that consideration, Mr Barr recommended that Policy 21.2.10.3 be reworded as follows;
- Have regard to the establishment of activities such as tourism, commercial recreation or visitor accommodation located within farms where these enable landscape values and indigenous biodiversity to be sustained in the longer term.*⁴²²
360. Mr Ferguson considered that the suggested changes did not go far enough. He did, however, identify that the Section 42A Report included some of the specific activities sought in the Darby Planning LP submission in this policy, but not in the preceding Policies 21.2.10.1 and 21.2.10.2.⁴²³ Mr Farrell, in evidence for RJL *et al* supported the amendments in the Section 42A Report⁴²⁴, but did not specify any reasons for reaching that conclusion.

⁴¹⁸ Submissions 430, 600

⁴¹⁹ Submissions 339, 706

⁴²⁰ Submission 608, 621, 624

⁴²¹ Submission 624

⁴²² C Barr, Section 42A Report, Page 51, Para 13.44

⁴²³ C Ferguson, Evidence, Page 12, Paras 54 and 56

⁴²⁴ B Farrell, Evidence, Page 20, Para 80

361. When considered alongside the other policies under Objective 21.2.10, we agree that identification of tourism, commercial recreation and visitor accommodation located within farms is appropriate. We also think that reference to indigenous biodiversity rather than “*nature conservation values*” is appropriate as it avoids any confusion with the use of the defined term for the latter.
362. We do not, however, accept Mr Ferguson’s rationale for seeking reference to residential activities. We do not regard expansion of permanent residential activities as being complementary to farming where it is not providing accommodation for on-site farm workers.
363. We do not consider the formula “have regard to” gives any direction as to how the policy will achieve the objective. Given that the objective is about how the provision of certain activities can have beneficial outcomes, we consider this policy would be better expressed as “providing for”.
364. Accordingly, we recommend that Policy 21.2.10.3 (renumbered 21.2.9.3) be reworded as follows:

Provide for the establishment of activities such as tourism, commercial recreation or visitor accommodation located within farms where these enable landscape values and indigenous biodiversity to be sustained in the longer term.

4.35 Objective 21.2.11

365. As notified, Objective 21.2.11 read as follows;

Manage the location, scale and intensity of informal airports.

366. Submissions on this objective provided conditional support subject to other relief sought to policies and rules, including location and frequency controls⁴²⁵, or sought amendments to provide for new informal airports and protect existing informal airports from incompatible land uses.⁴²⁶ One submission also sought clarification in relation to its application to commercial ballooning in the district.⁴²⁷
367. In the Section 42A Report, Mr Barr expressed the view that the definition of aircraft included hot air balloons and therefore a site on which a balloon lands or launches from is an informal airport.⁴²⁸
368. Mr Barr did not recommend any amendments to the objective and associated policies for informal airports in the Section 42A Report. Rather, Mr Barr addressed details of the permitted activity standards governing setbacks, frequency of flights, standards for Department of Conservation operational activities and other matters.⁴²⁹
369. In the Council’s memorandum on revising the objectives to be more outcome focused⁴³⁰, Mr Barr recommended rewording of the objective as follows;

⁴²⁵ Submissions 571, 723, 730, 732, 734, 736, 738, 739, 760, 843

⁴²⁶ Submission 607

⁴²⁷ Submission 217

⁴²⁸ C Barr, Section 42 Report, Page 76, Para 16.36

⁴²⁹ C Barr, Section 42 Report, Pages 69 - 78

⁴³⁰ Council Memoranda dated 13 April 2016

The location, scale and intensity of informal airports is managed.

370. Mr Dent, in evidence for Totally Tourism⁴³¹, considered that the objective was poorly worded and should be amended to indicate that informal airports are desired within the Rural Zone, but should be subject to their effects on amenity being managed.⁴³² Mr Dent recommended the objective be reworded as follows;

The operation of informal airports in the Rural Zone is enabled subject to the management of their location, scale and intensity.

371. Mr Farrell in evidence for Te Anau Developments⁴³³, supported the submitter's request for new informal airports to be "provided for" in the objective protection of existing informal airports from incompatible land uses. Mr Farrell expressed the view that existing "... informal airports face operational risks from potential reverse sensitivity effects associated with noise sensitive activities, which is an operational risk, and could result in unnecessary costs, to tourism operators."⁴³⁴

372. In reply, Mr Barr, agreed and accepted the intent of Mr Dent's recommended amendment to the objective⁴³⁵. Mr Barr also agreed with Mr Farrell that a policy protecting existing informal airports from incompatible land uses was warranted, but not at expense of a policy that protects amenity from airports⁴³⁶. Mr Barr recommended alternative wording for the objective and set out a brief section 32AA analysis⁴³⁷.

373. An objective that sets out that something is to be managed, but does not specify to what purpose or end result, does not take one very far. We agree with Mr Dent that it is the effects of informal airports that should be managed, but consider that his suggestion of 'enabling' goes too far. We found Mr Farrell's reasoning as to operational risks a little difficult to follow and the amended wording of the objective he supported unsatisfactory because it failed to address amenity effects. In conclusion, we prefer Mr Barr's reply version, which did address our concerns as to purpose, as being the most appropriate in terms of the alternatives available to us and in achieving the purposes of the Act.

374. Accordingly, we recommend that the wording of Objective 21.2.11 should be as follows:

The location, scale and intensity of informal airports is managed to maintain amenity values while protecting informal airports from incompatible land uses.

4.36 Policy 21.2.11.1

375. Policy 21.2.11.1 as notified read as follows:

Recognise that informal airports are an appropriate activity within the rural environment, provided the informal airport is located, operated and managed so as to minimise adverse effects on the surrounding rural amenity.

⁴³¹ Submission 571

⁴³² S Dent, Evidence, Page 4, Paras 17 - 18

⁴³³ Submission 607

⁴³⁴ C Barr, Evidence, Page 24, Para 110

⁴³⁵ C Barr, Reply, Page 28, Para 9.19

⁴³⁶ C Barr, Reply, Page 27, Para 9.14

⁴³⁷ C Barr, Reply, Page 5, Appendix 2

376. Submissions on this policy ranged from conditional support subject to other relief sought to policies and rules including location and frequency controls⁴³⁸; or sought amendment to the words after 'managed' to insert 'in accordance with CAA regulations'⁴³⁹; amendment to replace 'minimise' with 'avoid, remedy mitigate' and limit to existing rural amenity values⁴⁴⁰; amendment to apply to existing informal airports and to protect them from surrounding rural amenity⁴⁴¹; and finally amendment to include reference to flight path locations of fixed wing aircraft and their protection from surrounding rural amenity.⁴⁴²
377. As noted above, Mr Barr did not recommend any amendments to the policies for informal airports in the Section 42A Report.
378. Ms Macdonald, counsel for Skydive Queenstown Limited⁴⁴³, suggested an amendment to the relief sought by the submitter, recognising that a function of a territorial authority was management of the effects of land use and that objectives, policies and rules could be prepared to that end. The amended relief was as follows:
- Recognise that informal airports are an appropriate activity within the rural environment, provided the informal airport is located, operated and managed so as to minimise adverse effects on the surrounding rural amenity, and in accordance with Civil Aviation Act requirements.*⁴⁴⁴
379. Mr Farrell's evidence for Te Anau Developments supporting the submitter's requested change was based on the same reasoning as we set out in relation to Objective 21.2.11 above.
380. Mr Dent in evidence for Totally Tourism considered that the policies (21.2.11.1 and 21.2.11.2) did not provide a credible course of action to implement the objective and set out recommended rewording.⁴⁴⁵
381. Mr Barr, in reply concurred with Mr Dent, and recommended similar changes to those proposed by Mr Dent.⁴⁴⁶
382. As noted in the reasons for the submission from Skydive Queenstown Limited, a territorial authority has no particular expertise in CAA matters. We therefore find that it is not effective and efficient for the policy to include requirements of CAA regulations that are for the CAA to administer.
383. On Mr Farrell's evidence in support of the relief sought by Te Anau Developments we reach a similar finding as for Objective 21.2.11 above. We also find that the protection of informal airports from incompatible uses could potentially be a separate policy and we address that matter in detail below. For present purposes, we find that that that issue should not be

⁴³⁸ Submissions 723, 730, 732, 734, 736, 738, 739, 760, 843

⁴³⁹ Submission 122

⁴⁴⁰ Submission 607

⁴⁴¹ Submission 385

⁴⁴² Submissions 285, 288

⁴⁴³ Submission 122

⁴⁴⁴ J Macdonald, Legal Submissions, Page 3, Para 5

⁴⁴⁵ S Dent, Evidence, Pages 4-5, Paras 19 - 20

⁴⁴⁶ C Barr, Reply, Page 29, 9.20

referenced in this policy. Similarly we think that the wording recommend by Mr Barr is effective and efficient in its alignment with the objective.

384. Accordingly we recommend that Policy 21.2.11.1 be reworded as follows;

Ensure informal airports are located, operated and managed so as to maintain the surrounding rural amenity.

4.37 Policy 21.2.11.2

385. Policy 21.2.11.2 as notified read as follows:

Protect rural amenity values, and amenity of other zones from the adverse effects that can arise from informal airports.

386. Submissions on this policy ranged from conditional support subject to other relief sought to policies and rules including location and frequency controls⁴⁴⁷ or sought amendment to protect informal airports and flight path locations of fixed wing aircraft from surrounding rural amenity⁴⁴⁸.

387. As we have already noted, Mr Barr did not recommend any amendments to the policies for informal airports in the Section 42A Report.

388. Similarly we addressed the evidence of Mr Farrell and Mr Dent, as well as Mr Barr's response in reply, under Policy 21.2.11.1 above. Again, we think that protection of informal airports should be addressed separately. Taking account of our recommended amendment to Policy 21.2.11.1, we find that a policy to address the adverse effects in non-rural zones from informal airports is required. Otherwise a policy gap would be remain.

389. Accordingly, we find that Policy 21.2.11.2 should remain as notified.

4.38 Additional Policy – Informal Airports

390. We observed above that there appeared to be a case to protect informal airports from incompatible activities. Considering the issues identified to us by a number of recreational pilots at the hearing and the evidence of Mr Dent, Mr Farrell and Mr Barr, we agree that a policy addressing that matter is appropriate in achieving the stated objective. Mr Barr, in reply, proposed the following wording of such an additional policy as follows;

*21.2.11.3 Protect legally established and permitted informal airports from the establishment of incompatible activities.*⁴⁴⁹

391. In reaching this view, Mr Barr did not recommend that the new policy flow through to a new rule to the same effect, given the administrative difficulties in identifying existing informal airport locations and noting that Objective 21.2.4 and associated policies already sought to protect permitted and legally established activities.⁴⁵⁰ We tested the potential identification of informal airports with some of the recreational pilots at the hearings⁴⁵¹ and reached the conclusion that such a method would not be efficient. Mr Barr's proposed new policy refers to

⁴⁴⁷ Submissions 723, 730, 732, 734, 736, 738, 739, 760, 843

⁴⁴⁸ Submission 285, 288, 385, 607

⁴⁴⁹ C Barr, Reply, Appendix 1

⁴⁵⁰ C Barr, Reply, Pages 27-28, Paras 9.14 – 9.15

⁴⁵¹ Mr Tapper and Mr Carlton

"legally established" informal airports. To our mind, consistent with the wording in the Act, we think that *"lawfully established"* is more correct.

392. We also consider that some qualification of reference to permitted informal airports is required. While Mr Barr is correct that Objective 21.2.4 and the related policies provide for permitted activities these are "anticipated" permitted activities. It would not be efficient to constrain land uses on the basis that they are incompatible with informal airports at all locations where the airports would meet the permitted activity standards. We also consider that it should only be the establishment incompatible activities in the immediate vicinity that the policy addresses.

393. We therefore recommend the inclusion of a new policy (21.2.11.3) worded as follows;

Protect lawfully established and anticipated permitted informal airports from the establishment of incompatible activities in the immediate vicinity.

4.39 New Objective and Policies – Informal Airports

394. Two submissions sought objectives and policies to *"enable the assessment of proposals that exceed the occasional /infrequent limitations"*⁴⁵². The submission reasons identified that this relief was sought as the Plan is *"silent on how applications to exceed Standards 21.5.26.1 and 21.5.26.2 will be assessed and considered"*.

395. We did not receive specific evidence on this matter. No specific wording of the objectives or policies were put before us. In the absence of evidence providing and/or justifying such objectives and policies, we recommend that these submissions be rejected.

4.40 Objective 21.2.12

396. Before addressing this specific objective, we note that we have already addressed the submissions seeking that the surface of water and its margins be placed in a separate chapter, in Section 3.4 above, concluding that rather than a separate zone, re-ordering of the rules would enable a clearer understanding of the provisions affecting the surface of waterbodies subset of the rural provisions. This objective and the policies to give effect to it, assist in clarifying which provisions affect waterbodies. In this part of the report we address the other submissions on this suite of objectives and policies.

397. As notified, Objective 21.2.12 read as follows:

Protect, maintain or enhance the surface of lakes and rivers and their margins.

398. Submissions on this objective variously sought that it be retained⁴⁵³; be amended to change the word "Protect" to "Preserve"⁴⁵⁴; be amended to provide for appropriate recreational and commercial recreational activities⁴⁵⁵; be amended or deleted and replaced with an objective that provides for the benefits associated with a public transport system⁴⁵⁶; be amended to recognise the importance of water based transport⁴⁵⁷; be amended to delete *"protect, maintain and enhance"* and add after the word *"margins"* *"are safeguarded from inappropriate, use and*

⁴⁵² Submissions 660, 662

⁴⁵³ Submission 356, 600, 758

⁴⁵⁴ Submission 339, 706

⁴⁵⁵ Submission 307

⁴⁵⁶ Submission 621

⁴⁵⁷ Submission 766

*development*⁴⁵⁸; and finally be amended to delete "*protect, maintain and enhance*" and replace with "*avoid, remedy, mitigate*".⁴⁵⁹

399. In the Section 42A Report, Mr Barr considered that itemising the enabling opportunities within the objective would conflict with the "*protect, maintain and enhance*" wording.⁴⁶⁰ However, Mr Barr also considered the use of the word "*preserve*" inappropriate and that the objectives and policies must contemplate change, which is the reason for managing the resource.⁴⁶¹ Mr Barr recommended that the submissions to the objective be rejected and no changes made.

400. In the Council's memorandum on revising the objectives to be more outcome focused⁴⁶², Mr Barr recommended rewording of the objective as follows;

The surface of lakes and rivers and their margins are protected, maintained or enhanced.

401. In evidence for RJI and Te Anau Developments, Mr Farrell's view was that the objective did not satisfactorily recognise how the surface of lakes and the margins could be used or developed in order to achieve sustainable management and that the qualifier "*from inappropriate use and development*" was required so that the objective accorded with section 6 of the Act⁴⁶³.

402. Mr Brown in evidence for several submitters⁴⁶⁴ recommended the objective be reworded as follows;

*The surface of lakes and rivers and their margins are protected, maintained or enhanced while appropriate recreational, commercial recreational, and public transport activities that utilise those resources are recognised and provided for, and their effects managed.*⁴⁶⁵

403. Mr Brown considered the change necessary to ensure this objective was appropriately balanced and provided a better context for the associated policies, as well as recognising lake and river-based public transport.⁴⁶⁶

404. In reply, Mr Barr agreed with Mr Brown that the objective should be broader and more specific as to the outcomes sought.⁴⁶⁷ Mr Barr's recommended rewording of the objective was as follows;

The surface of lakes and rivers and their margins are protected, maintained or enhanced while providing for appropriate activities including recreational, commercial recreational, and public transport.

405. We agree with the witnesses that that it appropriate for the objective to be broadened. However, to our mind, the objective fails to capture the purpose for which the surface of lakes and rivers are being protected, maintained or enhanced. Turning to Mr Farrell's evidence in

⁴⁵⁸ Submission 621

⁴⁵⁹ Submissions 766, 806

⁴⁶⁰ C Barr, Section 42A Report, Page 80, Para 17.9

⁴⁶¹ C Barr, Section 42A Report, Page 80, Para 17.10

⁴⁶² Council Memoranda dated 13 April 2016

⁴⁶³ B Farrell, Evidence, Page 20, Para 84

⁴⁶⁴ Submissions 307, 766, 806,

⁴⁶⁵ J Brown, Evidence, Page 14, Para 2.24

⁴⁶⁶ J Brown, Evidence, Page 15, Para 2.26 (a) and (b)

⁴⁶⁷ C Barr, Reply, Page 30, Para 10.1

relation to section 6 of the Act, that purpose relates to “*natural character*”. Similarly, we find that the location where the “*appropriate activities*” occur also needs to be specified, namely, the “*surface of the lakes and rivers*”. In addition, we are mindful of the Stream 1B Hearing Panel’s recommendation that a policy in Chapter 6 provide for appropriate activities on the surface of water bodies⁴⁶⁸ and the need for alignment.

406. Accordingly, we recommend that the objective be reworded as follows:

The natural character of lakes and rivers and their margins is protected, maintained or enhanced while providing for appropriate activities on the surface of the lakes and rivers, including recreation, commercial recreation, and public transport.

407. In summary, we consider that the revised objective is the most appropriate way to achieve the purpose of the Act in this context and having regard to the Strategic Direction objectives and policies in Chapters 3 and 6, and the alternatives available to us.

4.41 Policy 21.2.12.1

408. Policy 21.2.12.1 as notified read as follows;

Have regard to statutory obligations, the spiritual beliefs, cultural traditions and practices of Tangata Whenua where activities are undertaken on the surface of lakes and rivers and their margins.

409. There was one submission⁴⁶⁹ from Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga (collectively Manawhenua)⁴⁷⁰ seeking the following amendments to the policy;

Have regard to wahi tupuna, access requirements, statutory obligations, the spiritual beliefs, cultural traditions and practices of Manawhenua where activities are undertaken on the surface of lakes and rivers and their margins.

410. We note that the representatives of Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga (collectively Manawhenua) advised that the part of their submission seeking the change from the words Tangata Whenua to Manawhenua was no longer pursued when they appeared at the Stream 1A Hearing.

411. The parts of this submission left in play were not addressed in the Section 42A Report, and Appendix 1 of the Section 42A Report showed no recommended changes to the policy. We heard no evidence in regard to the policy and it was not addressed in Reply.

412. We note that the Stream 1A and 1B Hearing Panels have recommended objectives and policies in both Chapter 3⁴⁷¹ and Chapter 5⁴⁷² related to protection of wahi tupuna. We therefore find that it is appropriate that reference be made in this policy to wahi tupuna as a relevant issue, which will then link back to those provisions.

⁴⁶⁸ Refer Recommended policy 6.3.33

⁴⁶⁹ We note that Queenstown Wharves GP Ltd, (Submission 766), withdrew its relief sought as to the deletion of all provisions referring to Tangata whenua.

⁴⁷⁰ Submission 810

⁴⁷¹ Refer Recommended objective 3.2.7.1 and the related policies

⁴⁷² Refer Recommended objective 5.4.5 and the related policies

413. The need or desirability of reference being made to ‘*access requirements*’ is less clear and we do not recommend that change in the absence of evidence to support it.

414. In summary therefore, we recommend that Policy 21.2.12.1 be amended to read:

Have regard to statutory obligations, wahi tupuna, and the spiritual beliefs and cultural traditions of tangata whenua where activities are undertaken on the surface of lakes and rivers and their margins.

4.42 Policy 21.2.12.2

415. Policy 21.2.12.2 as notified read as follows:

Enable people to have access to a wide range of recreational experiences on the lakes and rivers, based on the identified characteristics and environmental limits of the various parts of each lake and river.

416. One submission sought that policy be retained⁴⁷³. Another submission sought that the policy be amended to delete the word ‘identified’ and add to the end of the policy “*specifically in or referred to by this plan*”⁴⁷⁴. A third submission did not recommend any specific wording but sought that the policy be amended to identify the anticipated high level of activity on the Kawarau River and also to recognise the Kawarau River as a strategic link for water based public transport.⁴⁷⁵

417. These submissions were not directly addressed in the Section 42A Report, and Appendix 1 to that report included no recommended changes to the policy.

418. Mr Brown, in evidence for QPL and Queenstown Wharves GP Limited, did not recommend any changes to the policy⁴⁷⁶. Mr Farrell in evidence for RJL *et al*, observed that the environmental limits referred to in the policy were not identified in the policy or elsewhere in the Plan, nor was it explained how they might be applied. In Mr Farrell’s view, this would create uncertainty, and lead to unnecessary costs and frustration with plan administration.⁴⁷⁷ Mr Farrell suggested this could be addressed by amending the policy so that it referred to the environmental limits identified in the plan.

419. This matter was not addressed in Council’s reply and no amendments to the policy were recommended.

420. We note that the policy is to enable access to recreational experience on rivers. Some form of limit on an enabling policy is, in this case, appropriate, but we do not consider that those limits need specification in the plan. The limits may vary from environmental effects to safety issues and, as the policy states, will apply to various parts of each lake or river. For similar reasons, we do not agree that specific reference to the Kawarau River is required.

421. Accordingly, we recommend that the policy be retained as notified.

⁴⁷³ Submission 766

⁴⁷⁴ Submission 621

⁴⁷⁵ Submission 806

⁴⁷⁶ J Brown, Evidence, Page 14, Para 2.24

⁴⁷⁷ B Farrell, Evidence, Page 21 Para 88

4.43 Policy 21.2.12.3

422. Policy 21.2.12.3 as notified read as follows;

Avoid or mitigate the adverse effects of frequent, large-scale or intrusive commercial activities such as those with high levels of noise, vibration, speed and wash, in particular motorised craft in areas of high passive recreational use, significant nature conservation values and wildlife habitat.

423. Two submissions sought that policy be retained⁴⁷⁸. Two submissions sought that the policy be variously amended to clarify that it did not apply to the Frankton Arm and the Kawarau River between Kawarau Falls and Chard Farm as those areas could provide for water based public transport⁴⁷⁹. One submission sought the amendment to the policy to provide for frequent use, large scale and potentially intrusive commercial activities along the Kawarau River and Frankton Arm.⁴⁸⁰
424. In the Section 42A Report, Mr Barr considered the inclusion of provision for large scale intrusive commercial activities would mean the policy would not meet section 5 of the Act. Rather, Mr Barr considered that the wider benefits of such proposals should be considered in the context of a specific proposal. Mr Barr noted that Queenstown Wharves GP Ltd⁴⁸¹ had sought similar amendments excluding the Frankton Arm and the Kawarau River between Kawarau Falls and Chard Farm from other policies (Policies 21.2.12.4 – 21.2.12.7 (and we note policies 21.2.12.9 and 21.2.12.10)). Mr Barr considered that the policies were appropriately balanced and as worded, could be applied across the entire district. Again, Mr Barr considered that the specific transport link proposals should be considered on the merits of the specific proposal.⁴⁸²
425. Mr Brown, in evidence for QPL and Queenstown Wharves GP Limited, did not recommend any changes to this policy⁴⁸³, but he did recommend a specific new policy to be placed following 21.2.12.10 to recognise and provide for a water based public transport system on the Kawarau River and Frankton Arm⁴⁸⁴. Mr Farrell, in evidence for RJL *et al*⁴⁸⁵, opined that it was not appropriate for the plan to always avoid or mitigate the adverse effects of frequent, large scale or intrusive commercial activities. Mr Farrell considered that the policy should be amended to recognise existing commercial activities.
426. We agree that the policy needs to be considered in the context of its district-wide application and find that provision for frequent use, large scale or intrusive commercial activities at particular locations would not align with the objective to the extent that provision would allow for materially more mechanised boat traffic than at present.
427. Consideration of activities affecting the natural character of the Kawarau River below the Control Gates Bridge also needs to take account of the Water Conservation (Kawarau) Order 1997 (WCO) given that the PDP cannot be inconsistent with it⁴⁸⁶. The WCO states that identified characteristics (including wild and scenic, and natural characteristics) are protected. While the

478 Submissions 243, 649

479 Submissions 766, 806

480 Submission 621

481 Submission 766

482 C Barr, Section 42A Report, Page 82, Para s17.13 – 17.15

483 J Brown, Evidence, Page 14, Para 2.24

484 J Brown, Evidence, Page 15, Para 2.24

485 B Farrell, Evidence, Page 22, Paras 92-96

486 Section 74(4) of the Act

WCO also recognises recreational jet-boating as an outstanding characteristic of the river, we find the breadth of the policy amendment sought would be inconsistent with the WCO.

428. It also needs to be recognised that the policy as notified focuses on areas of high passive recreational use, significant nature conservation values and wildlife habitat. It does not purport to apply to all waterways.
429. We agree generally with Mr Barr that the other policies under this objective are likewise appropriately balanced. We also find that the new policy suggested by Mr Brown would not align with the objective and to the extent that it would allow for significant new non-recreational mechanised use of the Kawarau River below the Control Gates, potentially inconsistent with the WCO.
430. We therefore recommend that the submissions that sought the exclusion of the Frankton Arm and the Kawarau River between Kawarau Falls and Chard Farm from the policies and the specific recommendation (of Mr Brown) to provide for water based transport be rejected. We do not consider those submissions further, apart from recording the policies where they apply below. That said, we return to the issue of water based public transport later, as part of our consideration of Policy 21.2.12.8.
431. We do think that the policy would be improved with some minor punctuation changes.
432. Accordingly, we recommend that policy 21.2.12.3 be renumbered and worded as follows:

Avoid or mitigate the adverse effects of frequent, large-scale or intrusive commercial activities such as those with high levels of noise, vibration, speed and wash, in particular motorised craft, in areas of high passive recreational use, significant nature conservation values and wildlife habitat.

4.44 Policy 21.2.12.4

433. Policy 21.2.12.4 as notified read as follows;

Recognise the whitewater values of the District's rivers and, in particular, the values of the Kawarau and Shotover Rivers as two of the few remaining major unmodified whitewater rivers in New Zealand, and to support measures to protect this characteristic of rivers.

434. Two submissions sought that the policy be amended to clarify that it did not apply to the Frankton Arm and the Kawarau River between Kawarau Falls and Chard Farm as those areas could provide for water based public transport⁴⁸⁷. Two submissions sought amendment to the policy to include 'wild and scenic' values and to add the Nevis to the identified rivers.⁴⁸⁸
435. Mr Barr, identified that this policy was included to recognise the WCO on the Kawarau River and part of the Shotover River. Mr Barr agreed with Forest & Bird that the amendment to the WCO in 2013 to include the Nevis River meant that it was appropriate to include reference to that river in the policy⁴⁸⁹. The Section 42A Report did not reference the relief sought regarding the inclusion of "wild and scenic" values.

⁴⁸⁷ Submissions 766, 806

⁴⁸⁸ Submissions 339, 706

⁴⁸⁹ C Barr, Section 42A Report, Page 82 – 83, Para 17.16

436. Mr Brown in evidence for QPL and Queenstown Wharves GP Limited recommended amending the policy to only refer to ‘parts’ of the Kawarau River as not all of the river was whitewater⁴⁹⁰. Mr Barr, in reply, agreed with that amendment and also recommended a grammatical change to the beginning of the policy.⁴⁹¹
437. We note that the Frankton Arm is not part of the Kawarau River. Thus the policy would not apply to that part of the lake in any event.
438. We agree that the reference in the policy should be to ‘parts’ of the Kawarau and Shotover Rivers reflecting the fact that only sections of the rivers are ‘whitewater’. While the WCO identifies other outstanding characteristics (than whitewater) and it is clear that both rivers have large sections that could aptly be described as ‘scenic’, it is the whitewater sections that qualify as ‘wild’. Accordingly, we do not see addition of ‘wild **and** scenic’ as adding anything to the policy.
439. Accordingly, we recommend that the policy be reworded as follows:

Have regard to the whitewater values of the District’s rivers and, in particular, the values of parts of the Kawarau, Nevis and Shotover Rivers as three of the few remaining major unmodified whitewater rivers in New Zealand, and to support measures to protect this characteristic of rivers.

4.45 Policy 21.2.12.5

440. Policy 21.2.12.5 as notified read as follows;

Protect, maintain or enhance the natural character and nature conservation values of lakes, rivers and their margins, with particular regard to places with nesting and spawning areas, the intrinsic value of ecosystem services and areas of indigenous fauna habitat and recreational values.

441. Two submissions sought that the policy be retained⁴⁹². Two submissions sought that the policy be variously amended to clarify that it did not apply to the Frankton Arm and the Kawarau River between Kawarau Falls and Chard Farm as those areas could provide for water based public transport⁴⁹³. One submission sought the policy be amended as follows;

Protect, maintain or enhance the natural character and nature conservation values of lakes, rivers and their margins from inappropriate development, with particular regard to places with significant indigenous vegetation, nesting and spawning areas, the intrinsic values of ecosystems, and areas of significant indigenous fauna habitat and recreational values.⁴⁹⁴

442. We addressed the submissions seeking that the policy not apply to the Frankton Arm and the Kawarau River between Kawarau Falls and Chard Farm, above. Submissions on this policy were not directly addressed in the Section 42A Report and Appendix 1 of the Section 42A Report showed no recommended changes to the policy.

443. Mr Farrell in evidence for RJL *et al* supported retention of the policy as notified.

⁴⁹⁰ J Brown, Evidence, Page 16, Para 2.26 (d)

⁴⁹¹ C Barr, Reply, Appendix 1, Page 21-6, Policy 21.2.12.4, Para 10.1

⁴⁹² Submissions 339, 706

⁴⁹³ Submissions 766, 806

⁴⁹⁴ Submission 621

444. At the hearing, Ms Maturin representing Forest & Bird, noted that Forest & Bird should have sought the inclusion of wetlands into this policy, and indicated that Forest & Bird would be satisfied if that intention was added to the policy.⁴⁹⁵
445. Ms Lucas in evidence for UCES, considered that the policy only sought to protect, maintain or enhance natural character, whereas section 6(a) of the Act required that it be preserved.⁴⁹⁶
446. Mr Brown, in evidence for QPL and Queenstown Wharves GP Limited, recommended amending the policy to delete the words “... *natural character* ...”⁴⁹⁷. Mr Brown explained that that wording was more appropriate in Policy 21.2.12.7 as
- “... Policy 21.2.12.5 deals with nature conservation values and focusses on ecological values, and I consider that the intention to “protect, maintain and enhance” these is necessary and desirable. However, a jetty, for example, is likely to have some impact on natural character, and it is likely to be difficult to construct a jetty in a way that protects, maintains or enhances natural character. In this context, “natural character” is more aligned with “visual qualities” rather than with ecological values, and I therefore consider that “natural character” is better located in Policy 21.2.12.7 which deals with the effects of the location, design and use of structures and facilities, and for which the duty is to avoid, remedy or mitigate the effects.”*⁴⁹⁸
447. Mr Barr, in reply, recommended a change to replace “*Protect, maintain or enhance*” with “*Preserve*” at the beginning of the policy and to include the words “*from inappropriate activities*”, after the word “*margins*”. Mr Barr set out a brief section 32AA evaluation noting that in his view the amendments would better align with section 6 of the Act.⁴⁹⁹
448. The difficulty with this policy is that it is addressing two different considerations – natural character and nature conservation values. As Mr Brown notes, the principal focus is on the latter. Certainly, most of the examples noted relate to nature conservation values. Section 6(a) requires us to recognise and provide for preservation of the natural character of lakes and rivers (and protect them from inappropriate subdivision, use and development). On the face of the matter, ‘*preservation*’ would therefore be a more appropriate policy stance for natural character of lakes and rivers than protection, maintenance and enhancement⁵⁰⁰.
449. It does not necessarily follow that the same is true for nature conservation values. This is a similar, but arguably a broader concept than areas of significant indigenous fauna, the ‘*protection*’ of which is required by section 6(c), which would suggest that ‘*protection*’ rather than ‘*preservation*’ is required for nature conservation values.
450. Mr Brown’s suggested solution of shifting natural character into Policy 27.2.12.7 faces two hurdles. The first is that an “*avoid or mitigate*” instruction⁵⁰¹ is too weak a policy response for a matter whose preservation is required to be recognised and provided for, as well as being out

⁴⁹⁵ S Maturin, Evidence, Page 10, Para 62

⁴⁹⁶ D Lucas, Evidence Page 9, Para 38

⁴⁹⁷ J Brown, Evidence, Page 14, Para 2.24

⁴⁹⁸ J Brown, Evidence, Page 18, Para 2.26 (c)

⁴⁹⁹ C Barr, Reply, Appendix 2, Page 5

⁵⁰⁰ Although the WCO speaks in terms of protection of the identified outstanding characteristics of the Kawarau River, which include natural character and, of course, section 6(a) uses both terms.

⁵⁰¹ Mr Brown incorrectly described it as imposing a duty to “*avoid, remedy or mitigate*”.

of line with the objective. Secondly, Policy 21.2.12.17 deals with structures and facilities. The PDP also needs to address activities on the surface of lakes and rivers.

451. As already noted, we asked in-house counsel at the Council to provide us with legal advice as to whether there is a meaningful difference between ‘*preservation*’ and ‘*protection*’ and her advice, in summary, is that there is not.
452. This suggests to us that the simplest solution is to retain the notified formulation.
453. We agree, however, with Mr Brown that some qualification is necessary for examples such as those he identified, in order for some development in these areas to occur.
454. Given Mr Farrell’s support for the policy as notified (giving evidence for RJJ) we do not need to give further consideration to the other aspects of the relief in RJJ’s submission.
455. Lastly, we do not consider that the failure by Forest & Bird to seek relief in the terms it now regards as desirable can be addressed in the manner Ms Maturin suggests.
456. Accordingly, we recommend that Policy 21.2.12.5 be reworded as follows:

Protect, maintain and enhance the natural character and nature conservation values of lakes, rivers and their margins from inappropriate activities with particular regard to nesting and spawning areas, the intrinsic value of ecosystem services and areas of indigenous fauna habitat and recreational values.

4.46 Policy 21.2.12.6

457. Policy 21.2.12.6 as notified read as follows;

Recognise and provide for the maintenance and enhancement of public access to and enjoyment of the margins of the lakes and rivers.

458. Two submissions sought that the policy be amended to clarify that it did not apply to the Frankton Arm and the Kawarau River between Kawarau Falls and Chard Farm as those areas could provide for water based public transport⁵⁰². One submission sought the policy be amended to include private investment/donation⁵⁰³. One submission sought that the policy be amended to include the words “*including jetty’s [sic] and launching facilities*”⁵⁰⁴ ;
459. We addressed the submissions seeking that the policy not apply to the Frankton Arm and the Kawarau River between Kawarau Falls and Chard Farm, above. Submissions on this policy were not directly addressed in the Section 42A Report and Appendix 1 of the Section 42A Report showed no recommended changes to the policy. We heard no evidence in support of Submissions 194 and 301. The reasons for the relief sought in the submissions related to funding of marina upgrades and the upgrades to specific jetties and boat ramps. We consider these issues are outside the jurisdiction of the Act and therefore recommend those submissions be rejected.
460. Accordingly, we recommend that Policy 21.2.12.6 remain as notified.

⁵⁰² Submissions 766, 806

⁵⁰³ Submission 194

⁵⁰⁴ Submission 301

4.47 Policy 21.2.12.7

461. Policy 21.2.12.7 as notified read as follows;

Ensure that the location, design and use of structures and facilities are such that any adverse effects on visual qualities, safety and conflicts with recreational and other activities on the lakes and rivers are avoided or mitigated.

462. Two submissions sought that the policy be amended to recognise the importance of the Frankton Arm and the Kawarau River as a public transport link⁵⁰⁵. Three submissions sought the policy be amended to insert the word “remedied” after the word “avoid”⁵⁰⁶.

463. We address the submissions seeking that the policy recognise the Frankton Arm and the Kawarau River as important transport link, under Policy 21.2.12.8 below. We could not find these submissions directly addressed in the Section 42A Report. However, Appendix 1 of that report has a comment recommending that the word “remedied” be inserted as sought by TML.

464. Mr Vivian’s evidence for TML⁵⁰⁷ and Mr Brown’s evidence for QPL and Queenstown Wharves Ltd⁵⁰⁸ agreed with the Section 42A Report.

465. We agree. Although opportunities to remedy adverse effects may in practice be limited, the addition of the word “remedied” is appropriate within the context of the policy in being a legitimate method to address potential effects. We addressed the amendment suggested by Mr Brown, of the insertion of reference to natural character into this policy above.

466. Accordingly, we recommend that Policy 21.2.12.7 be reworded as follows:

Ensure that the location, design and use of structures and facilities are such that any adverse effects on visual qualities, safety and conflicts with recreational and other activities on the lakes and rivers are avoided, remedied or mitigated.

4.48 Policy 21.2.12.8

467. Policy 21.2.12.8 as notified read as follows;

Encourage the development and use of marinas in a way that avoids or, where necessary, remedies and mitigates adverse effects on the environment.

468. One submission sought that the words “jetty and other structures” be inserted following the word “marinas”⁵⁰⁹. Two submissions sought that the policy be amended to replace the words “marinas in a way that ” with “a water based public transport system including necessary infrastructure, in a way that as far as possible”⁵¹⁰. One submission sought to amend the policy by replacing the word “Encourage” with “Provide for” and to delete the words “where necessary”.⁵¹¹

⁵⁰⁵ Submissions 766, 806

⁵⁰⁶ Submission 519, 766, 806

⁵⁰⁷ C Vivian, Evidence, Page 19, Para 4.84

⁵⁰⁸ J Brown, Evidence, Page 4, Para 2.24 (by adopting the Section 42 A Report recommendation on the policy)

⁵⁰⁹ Submission 194

⁵¹⁰ Submissions 766, 806

⁵¹¹ Submission 621

469. In the Section 42A Report, Mr Barr agreed that clarification of the policy would be improved by also referring to jetties and moorings. Mr Barr also considered that the term “*Encourage*” was more in line with the Strategic Direction of the Plan which was not to provide for such facilities, but rather when they are being considered, to encourage their appropriate location, design and scale. Mr Barr also agreed that the words “*where necessary*” did not add value to the policy and recommended they be deleted.⁵¹² Mr Barr addressed the provision of public transport within the Frankton Arm and Kawarau River in a separate part of the Section 42A Report. However, this discussion was on the rules rather than the policy⁵¹³. That said, in discussing the rules, Mr Barr acknowledged the potential positive contribution to transport a public ferry system could provide. Mr Barr considered “*ferry*” a more appropriate term than “*commercial boating*” which in his view may include cruises and adventure tourism⁵¹⁴. Mr Barr did not, however, recommend the term “*ferry*” be included in the policy in his Section 42A Report.
470. In evidence for RJL, Mr Farrell supported the recommendation in the Section 42A Report⁵¹⁵.
471. Mr Brown, in evidence for QPL and Queenstown Wharves Ltd, supported the reference to lake and river public transport as an example of relieving road congestion and also facilitating access and enjoyment of rivers and their margins⁵¹⁶. Mr Brown’s recommended wording of the policy did not include the relief sought by QPL and Queenstown Wharves Ltd, to qualify the policy by adding the words, “*in a way that as far as possible*”.
472. In reply, Mr Barr incorporated part of Mr Brown’s recommended wording into the Appendix 1 of the Section 42A Report.⁵¹⁷ Mr Barr included the word “*ferry*” at this point to address the difference between water based public transport and other commercial boating we identified above.
473. The starting point for consideration of these issues is renumbered Policy 6.3.31 (Notified Policy 6.3.6.1) which seeks to control the location, intensity, and scale of buildings, jetties, moorings and infrastructure on the surface and margins of water bodies by ensuring these structures maintain or enhance landscape quality and character, and amenity values. We therefore have difficulty with Mr Barr’s suggested addition of reference to jetties and moorings in this context without a requirement that landscape quality and character, and amenity values all be protected. Certainly we do not agree that that would be consistent with the Strategic Chapters. We do, however agree that provision for water-based public transport “*ferry systems*” and related infrastructure, is appropriate within the context of this policy and that it needs to be distinguished from other types of commercial boating.
474. We agree with Mr Barr’s suggestion that the words “*where necessary*” are unnecessary but we consider that greater emphasis is required to note the need to avoid, remedy or mitigate adverse effects as much as possible and, therefore, we accept the submissions of QPL and Queenstown Wharves Ltd in this regard.
475. Accordingly, we recommend that Policy 21.2.12.8 be reworded as follows:

⁵¹² C Barr, Section 42A Report, Page 83, Paras 17.18 – 17.19

⁵¹³ C Barr, Section 42A Report, Page 85 - 88, Paras 17.29 – 17.42

⁵¹⁴ C Barr, , Section 42A Report, Page 87 - 88, Paras 17.41 – 17.42

⁵¹⁵ B Farrell, Evidence, Page 23, Para 101

⁵¹⁶ J Brown, Evidence, Page 15, Para 2.26(b)

⁵¹⁷ C Barr, Reply, Page 21-6, Appendix 1

Encourage development and use of water based public ferry systems including necessary infrastructure and marinas, in a way that avoids adverse effects on the environment as far as possible, or where avoidance is not practicable, remedies and mitigates such adverse effects.

4.49 Policy 21.2.12.9

476. Policy 21.2.12.9 as notified read as follows;

Take into account the potential adverse effects on nature conservation values from the boat wake of commercial boating activities, having specific regard to the intensity and nature of commercial jet boat activities and the potential for turbidity and erosion.

477. One submission sought that the policy be amended to apply only to jet boats and the removal of the words “*intensity and nature of commercial jet boat activities*”⁵¹⁸ and similarly, another submission sought that the policy be amended to enable the continued use of commercial jet boats while recognising that management techniques could be used to manage effects⁵¹⁹. One other submission sought the amendment of the policy to recognise the importance of the Kawarau River as a water based public transport link.⁵²⁰
478. Mr Barr, in his Section 42A Report, considered that jet boats were already specified in the policy and that there was a need to address the potential impacts from any propeller driven craft in relation to turbidity and wash⁵²¹. Mr Barr recommended that policy remain as notified.
479. Mr Farrell, in evidence for RJL *et al*, agreed with Mr Barr’s recommendation⁵²² and Mr Brown, for QPL, did not recommend any amendments to the policy⁵²³.
480. There being no evidence in support of the changes sought by the submitters, we adopt the reasoning of the witnesses and find that the amendments sought would not be the most appropriate way of achieving the objective.
481. Accordingly, we recommend that the submissions be rejected and that policy 21.2.12.9 remain as notified.

4.50 Policy 21.2.12.10

482. Policy 21.2.12.10 as notified read as follows:

Ensure that the nature, scale and number of commercial boating operators and/or commercial boats on waterbodies do not exceed levels where the safety of passengers and other users of the water body cannot be assured.

483. One submission sought that the policy be amended as follows;

*Protect historical and well established commercial boating operations from incompatible activities and manage new commercial operations to ensure that the nature, scale and number of new commercial boating operators and/or commercial boats on waterbodies do not exceed levels where the safety of passengers and other users of the water body cannot be assured.*⁵²⁴

⁵¹⁸ Submission 621

⁵¹⁹ Submissions 806

⁵²⁰ Submission 806

⁵²¹ C Barr, Section 42A Report, Page 84, Para 17.21

⁵²² B Farrell, Evidence, Page 23, Para 103

⁵²³ J Brown, Evidence, Page 15, Para 2.24

⁵²⁴ Submission 621

484. One other submission sought that the policy be amended to enable the continued use of commercial jet boats while recognising that management techniques could be used to manage effect and that the policy be amended to recognise the importance of the Kawarau River as a water based public transport link.⁵²⁵
485. In the Section 42A Report, Mr Barr considered the relief sought by RJL to be neither necessary nor appropriate, because consideration of the effects of new activities on established activities was inherently required by the wording of the policy as notified. Mr Barr noted that all established activities would have consent anyway, so ‘*well established*’ did not add anything to the policy. In addition, Mr Barr considered that the qualifiers in the policy were a guide as to incompatibility, so the introduction of the word “*incompatible*” was not appropriate in this context⁵²⁶. Mr Barr recommended that the policy remain as notified.
486. Mr Brown, for QPL, did not recommend any amendments to the policy⁵²⁷. Mr Farrell, in evidence for RJL, considered the policy did not satisfactorily recognise the benefits of historical and well established commercial boating operations which were important to the district’s special qualities and overall sense of place⁵²⁸. Mr Farrell recommended we adopt the relief sought by RJL.
487. We disagree with Mr Farrell. This policy would come into play when resource consent applications were being considered. At that point, safety considerations need to be addressed both for entirely new proposals and for expansion of existing operations. It would not affect operations that were already consented (and established) unless the conditions on that consent were being reviewed. In those circumstances, it could well be appropriate to consider safety issues.
488. In summary, in relation to the amendments sought by RJL, we agree with and adopt the reasoning the reasoning of Mr Barr. We recommend that the submission by RLJ be rejected.
489. In reviewing this policy we have identified that it contains a double negative that could create ambiguities in interpreting it: the policy requires that *the nature, scale and number* (of activities) *do not exceed levels where ... safety ... cannot be assured*. We consider a minor, non-substantive amendment under Clause 16(2) of the First Schedule to replace “where” with “such that” will address this problem.
490. Accordingly, we recommend that Policy 21.2.12.10 be reworded as follows:
- Ensure that the nature, scale and number of commercial boating operators and/or commercial boats on waterbodies do not exceed levels such that the safety of passengers and other users of the water body cannot be assured.*

4.51 Objective 21.2.13

491. As notified, Objective 21.2.13 read as follows;

⁵²⁵ Submission 806

⁵²⁶ C Barr, Section 42A Report, Page 84, Para 17.23

⁵²⁷ J Brown, Evidence, Page 15, Para 2.24

⁵²⁸ B Farrell, Evidence, Page 23, Para 106

Enable rural industrial activities within the Rural Industrial Sub Zones, that support farming and rural productive activities, while protecting, maintaining and enhancing rural character, amenity and landscape values.

492. One submission supported the objective⁵²⁹. One submission sought clarification as to the location of the Rural Industrial Sub-Zones⁵³⁰. One submission sought that the objective be amended as follows:

*Enable rural industrial activities and infrastructure within the Rural Industrial Sub Zones, that support farming and rural productive activities, while avoiding remedying or mitigating effects on rural character, amenity and landscape values.*⁵³¹

493. In the Section 42A Report, Mr Barr identified that the Rural Industrial Sub Zone was located in Luggate (Map 11a)⁵³². In Appendix 2 to that report, Mr Barr recommended that the submission from Transpower be rejected, noting that the Rural Industrial Sub Zone was distinct from the Rural Zone and would lend itself to infrastructure due its character and visual amenity.

494. In the Council's memorandum on revising the objectives to be more outcome focused⁵³³, Mr Barr recommended rewording of the objective as follows;

Rural industrial activities within the Rural Industrial Sub Zones will support farming and rural productive activities, while protecting, maintaining and enhancing rural character, amenity and landscape values.

495. Ms Craw, in evidence for Transpower, agreed with Mr Barr and noted that there were no Transpower assets with the Rural Industrial Sub Zone⁵³⁴.

496. We agree with Mr Barr's rewording of the objective as being more outcome orientated and find that it is the most appropriate way to achieve the purpose of the Act. We think that Mr Barr's reasoning supports the inclusion of the reference to infrastructure rather than the reverse. If the character and visual amenity (and the permitted activity rules) are consistent with infrastructure in this Sub Zone, the policy should provide for it.

497. Accordingly, we recommend that Objective 21.2.13 be reworded as follows;

Rural industrial activities and infrastructure within the Rural Industrial Sub-Zones will support farming and rural productive activities, while protecting, maintaining and enhancing rural character, amenity and landscape values.

4.52 Policies 21.2.13.1 – 21.2.13.2

498. We observe that there were no submissions on Policies 21.2.13.1 and 21.2.13.2. We therefore recommend they be renumbered but otherwise be retained as notified.

⁵²⁹ Submission 217

⁵³⁰ Submission 806

⁵³¹ Submission 805

⁵³² C Barr, Section 42A Report, Page 51, Para 13.48

⁵³³ Council Memoranda dated 13 April 2016

⁵³⁴ A Craw, Evidence, Page 5, Para 26

4.53 New Policy – Commercial Operations Close to Trails

499. A submission from Queenstown Trails Trust⁵³⁵ sought a new policy to enable commercial operations, associated with and close to trail networks.

500. In the Section 42A Report, Mr Barr considered that a policy recognising the potential benefits of the trail was generally appropriate, but that the policy should not extend to creating new rules or amending existing rules for the trails or related commercial activities, as it was important that the effects of such activities should be considered on a case by case basis.⁵³⁶ Mr Barr undertook a section 32AA of the Act evaluation as to the effectiveness and efficiency of the policy and recommended wording for a policy that supported activities complementary to the trails as follows:

Provide for a range of activities that support the vitality, use and enjoyment of the Queenstown Trail and Upper Clutha Tracks Trail network on the basis that landscape and rural amenity is protected, maintained or enhanced and established activities are not compromised.

501. In reply, Mr Barr recommended the removal of the word “Trail” after the words “Upper Clutha Tracks”⁵³⁷ which we understand was to correct an error.

502. We agree with and adopt Mr Barr’s reasoning as set out above. Noting our recommendation above to combine notified Objectives 21.2.1 and 21.2.9, we find the new policy is the most appropriate way in which to achieve our recommended revised Objective 21.2.1.

503. Accordingly, we recommend a new policy to be worded and numbered as follows;

21.2.1.16 Provide for a range of activities that support the vitality, use and enjoyment of the Queenstown Trail and Upper Clutha Tracks networks on the basis that landscape and rural amenity is protected, maintained or enhanced and established activities are not compromised.

4.54 New Objective and Policies – Commercial Recreation Activities

504. A submission from Skydive Queenstown Ltd⁵³⁸ sought insertion of the following new objective and policies;

Objective

Recognise and provide opportunities for recreation, including commercial recreation and tourism activities.

Policy

Recognise the importance and economic value of recreation including commercial recreation and tourist activities.

Policy

Ensure that recreation including commercial recreation and tourist activities do not degrade rural quality or character or visual amenities and landscape values

⁵³⁵ Submission 671

⁵³⁶ C Barr, Section 42A Report, Pages 45-46, Paras 13.18 – 13.22

⁵³⁷ C Barr, Reply, Appendix 1, Page 21-5

⁵³⁸ Submission 122

505. In the Section 42A Report, Mr Barr addressed this request only in a general sense as part of an overall consideration of commercial activities in the Rural Zone⁵³⁹, expressing the view that recreation, commercial recreation and tourism were adequately contemplated and managed. Mr Barr recommended that the submission be rejected.
506. The evidence of Mr Brown for Skydive Queenstown Ltd did not, as far as we could identify, directly address this relief sought.
507. In evidence for Totally Tourism Ltd⁵⁴⁰ and Skyline Enterprises Ltd⁵⁴¹, Mr Dent noted the objectives and policies under 21.2.9 (as notified) did not refer to “commercial recreation activity” and he also noted that there was a separate definition for “commercial recreation activity” as compared to the definition of “commercial activity”.⁵⁴² Mr Dent went on to recommend the following objective and policies to fill the identified policy gap as follows;

Objective

Commercial Recreation in the Rural Zone occurs at a scale that is commensurate to the amenity values of the specified location.

Policy

The group size of commercial recreation activities will be managed so as to be consistent with the level of amenity anticipated in the surrounding environment.

Policy

To avoid, remedy or mitigate the adverse effects of commercial recreation activities on the natural character, peace and tranquillity of remote areas of the District.

Policy

To avoid, remedy or mitigate any adverse effects commercial recreation activities may have on the range of recreational activities available in the District and the quality of the experience of people partaking of these opportunities.

Policy

To ensure the scale and location of buildings, noise and lighting associated with commercial recreation activities are consistent with the level of amenity anticipated in the surrounding environment.

508. In summary, Mr Dent considered that such a suite of provisions was appropriate given the contribution of commercial recreation activities to the district, but accepted that it was important that those activities did not adversely affect amenity values by way of noise, overcrowding and use of remote areas.⁵⁴³ Mr Dent also noted that he had derived the policies from the ODP Section 4.4- Open Space and Recreation.
509. In reply, Mr Barr supported the intent of the Mr Dent’s recommendation, but noted legal submissions from Council on the Strategic Chapters that ODP Section 4.4- Open Space and Recreation was part of Stage 2 of the plan review and not part of this PDP under our consideration. Mr Barr recommended that the submitter resubmit under Stage 2, rather than

⁵³⁹ C Barr, Section 42A Report, Page 20, Para 8.32

⁵⁴⁰ Submission 571

⁵⁴¹ Submission 574

⁵⁴² S Dent, Evidence, Page 11, Paras 65 -66

⁵⁴³ S Dent, Evidence, Page 11-12, Paras 68 -73

have the provisions in two places. Mr Barr also noted the provisions sought by Mr Dent were not requested in the submission of Totally Tourism Ltd.⁵⁴⁴

510. We consider Mr Dent's suggested objective both narrows the relief sought in Skydive Queenstown's submission and tailors it to be specific to the Rural Zone, and is therefore properly the subject of this chapter (rather than necessarily needing to be dealt with in Stage 2 of the District Plan Review). As such, we consider it is within the scope provided by that submission, and generally appropriate, subject to some tightening to better meet the purpose of the Act.
511. The suggested policies likewise address relevant issues, but require amendment both to align with the objective and to fall within the scope provided by the Skydive Queenstown submission (i.e. ensure rural quality or character or visual amenities and landscape values are not degraded).
512. In addition, we find that the inclusion of these objectives and policies is consistent both with the Stream 1B Hearing Panel's findings on the Strategic Chapters, and with our findings on the inclusion of reference to activities that rely on rural resources. We also consider that given the importance of Commercial Recreation Activities to the district, that it is important that the matter be addressed now, rather than leaving it for consideration as part of a later stage of the District Plan review.
513. Accordingly, we recommend that a new objective and suite of policies to be worded and numbered as follows as follows;

2.2.10 Objective

Commercial Recreation in the Rural Zone is of a nature and scale that is commensurate to the amenity values of the location.

Policies

- 21.2.10.1 *The group size of commercial recreation activities will be managed so as to be consistent with the level of amenity anticipated in the surrounding environment.*
- 21.2.10.2 *To manage the adverse effects of commercial recreation activities so as not to degrade rural quality or character or visual amenities and landscape values.*
- 21.2.10.3 *To avoid, remedy or mitigate any adverse effects commercial recreation activities may have on the range of recreational activities available in the District and the quality of the experience of people partaking of these opportunities.*
- 21.2.10.4 *To ensure the scale and location of buildings, noise and lighting associated with commercial recreation activities are consistent with the level of amenity existing and anticipated in the surrounding environment.*

4.55 New Objective and Policies – Community Activities and Facilities

514. One submission sought the inclusion of objectives, policies and rules for community activities and facilities in the Rural Zone⁵⁴⁵. Appendix 2 of the Section 42A Report recommended the submission be rejected on the basis that the existing provisions in the PDP were appropriate in this regard.

⁵⁴⁴ C Barr, Reply, Page 34, Para 12.1

⁵⁴⁵ Submission 524

515. Ms McMinn, in tabled evidence for the Ministry of Education, noted that while the Ministry relies on designations under the Act for the establishment of schools, it also relies on policy support to enable ongoing education and community activities. Ms McMinn advised that the Ministry had similarly submitted on the proposed RPS and that for consistency with the proposed RPS, provisions such as sought in the Ministry's submission should be included⁵⁴⁶. Ms McMinn did not identify where in the Proposed RPS this matter was addressed.
516. We could not identify a response to this matter in the Council's reply.
517. On review of the decisions version of the proposed RPS we could not identify provisions providing for the enablement of education and community activities. The designation powers of a requiring authority are very wide and we are not convinced that additional policy support would make them any less effective.
518. Accordingly, we recommend that the submission of the Ministry of Education be rejected.

4.56 New Objective and Policies - Lighting

519. One submission sought a new objective and policies in relation to the maintenance of the ability to view the night sky, avoid light pollution and to promote the use of LED lighting in new subdivisions and developments⁵⁴⁷.
520. Specific wording of the objectives or policies were included in the submission. Mr Barr, in the Section 42A Report considered that Policy 21.2.1.5 and the landscape assessment matters 21.7.14(f) already addressed the matters raised⁵⁴⁸. We did not receive specific evidence in support of the requested objective and policies. We agree with Mr Barr and in the absence of evidence providing and/or justifying such objectives and policies, we recommend that this submission be rejected.

5 21.3 OTHER PROVISIONS AND RULES

521. We understand the purpose of notified Section 21.3 is to provide clarification as to the relationship between Chapter 21 and the balance of the PDP. Section 21.3.1 as notified outlined a number of district wide chapters of relevance to the application of Chapter 21.
522. There was one submission on Section 21.3.1⁵⁴⁹, which sought that specific emphasis be given to Chapter 30 as it relates to any use, development or subdivision near the National Grid. Mr Barr recommended acceptance in part of submission but we could find no reasons set out in the report for reaching that recommendation⁵⁵⁰. Ms Craw, in evidence for Transpower, stated incorrectly that the officer's report had recommended declining the relief sought and she considered that the planning maps and existing provisions were sufficient to guide plan users to the rules under Chapter 30 regarding the National Grid⁵⁵¹. We with agree with Ms Craw that sufficient guidance is already provided by way of the maps.
523. Accordingly, we recommend that the Transpower submission be rejected.

⁵⁴⁶ J McMinn, Tabled Evidence, Page 4, Paras 17 - 19

⁵⁴⁷ Submissions 568

⁵⁴⁸ C Barr, Sub

⁵⁴⁹ Submission 805

⁵⁵⁰ C Barr, Section 42A Report, Appendix 2, Page 80

⁵⁵¹ A Craw, Evidence, Page 6 -7, Paras 34 -36

524. Consistent with our approach in other chapters, we recommend the table in 21.3.1 only refer to PDP chapters, and that it distinguish between those notified in Stage 1 and those notified subsequently or yet to be notified (by showing the latter in italics). We recommend this change as a minor and non-substantive change under Clause 16(2) of the First Schedule.
525. Sections 21.3.2 and 21.3.3, as notified, contained a mixture of rules of interpretation and advice notes. We recommend these be re-arranged such that the rules be listed under Section 21.3.2 Interpreting and Applying the Rules, and the remainder under Section 21.3.3 Advice Notes.. The re-arrangement, incorporating the amendments discussed below, are included in Appendix 1.
526. There were no submissions on notified Section 21.3.2. We now address each of the submissions on notified section 21.3.3.
527. We questioned Mr Barr on the as notified Clarification 21.3.3.3 which used “site” to refer to the Certificate of Title, whereas the definition of site in the PDP is an area of land held in one Certificate of Title. Mr Barr agreed that this was an error. We recommend that this be corrected under Clause 16(2) of the First Schedule. Accordingly, we recommend 21.3.3.3. be renumbered 21.3.3.1 (we consider it an advice note) and be reworded as follows;
- Compliance with any of the following standards, in particular the permitted standards, does not absolve any commitment to the conditions of any relevant resource consent, consent notice or covenant registered on the computer freehold register of any property.*
528. As notified, 21.3.3.5 read as follows:
- Applications for building consent for permitted activities shall include information to demonstrate compliance with the following standards, and any conditions of the applicable resource consent conditions.*
529. One submission sought this be deleted. It argued that the requirement was ultra vires as the consents in question are under the Building Act⁵⁵². Mr Barr recommended the submission be rejected, but we could find no reasons set out in the report for reaching that recommendation⁵⁵³. We received no other evidence in regard to this matter.
530. We consider this provision is no more than an advice note and of no regulatory effect. We have left the wording unaltered and renumbered it 21.3.3.3.. Accordingly, we recommend that the submission of QPL be rejected.
531. Clarification point 21.3.3.7 as notified read as follows;
- The existence of a farm building either permitted or approved by resource consent under Table 4 – Farm Buildings shall not be considered the permitted baseline for residential or other non-farming activity development within the Rural Zone.*
532. One submission sought this be retained⁵⁵⁴, one that it be deleted⁵⁵⁵ as the Environment Court had called it into question, and one submission sought that the reference to “or other non-

⁵⁵² Submission 806

⁵⁵³ C Barr, Section 42A Report, Appendix 2, Page 80

⁵⁵⁴ Submission 45

⁵⁵⁵ Submission 806

farming” be removed⁵⁵⁶. Mr Barr recommended the submissions seeking deletion or amendment be rejected, but we could find no reasons set out in the report for reaching that recommendation⁵⁵⁷. We received no other evidence in regard to this matter.

533. Taking into account the specific policy provision made for farm buildings (Policy 21.2.1.2) as opposed to the regime applying to residential and other non-farming activities, we conclude there is justification in retaining this statement. We also conclude it is more in the nature of a rule explaining how the regulatory regime of the Chapter applies. Accordingly, we recommend that this clause retain the notified wording after altering the reference to “Table 4” to “Rule 21.4.2 and Table 5” and relocated so as to be provision 21.3.2.5.

534. As notified, clarification point 21.3.3.8 read as follows;

The Ski Area and Rural Industrial Sub Zones, being Sub Zones of the Rural Zone, require that all rules applicable to the Rural Zone apply unless stated to the contrary.

535. Two submissions sought that this clarification be amended to state that in the event of conflict between the Ski Area Sub Zone Rules in as notified Table 7 and the other rules in Chapter 21, the provisions in Table 7 would prevail⁵⁵⁸.

536. These submissions were not directly addressed in the Section 42A Report. Mr Fergusson in evidence for Soho Ski Area Ltd and Treble Cone Investments Ltd, addressed this clarification point as part of a wider consideration of the difference between Ski Area Sub Zone Accommodation and Visitor Accommodation in the Rural Area⁵⁵⁹. We addressed this difference between the types of accommodation in Section 5.19 above, and recommended a separate definition for Ski Area Sub Zone Accommodation. We think that this addresses the potential issue raised in the submission and accordingly recommend that the submission be rejected.

537. We find this to be an implementation rule and have relocated to be provision 21.3.2.6.

538. Clarification point 21.3.3.9 related to the calculation of “ground floor area” in the Rural Zone. One submission sought either that the clarification point be deleted, relying on the definition of “ground floor area”, or that the definition of “ground floor area” be amended so as to provide for the rural area⁵⁶⁰. Mr Barr recommended the submission be rejected⁵⁶¹ but we could find no reasons set out in the report for him reaching that recommendation. We received no direct evidence on this matter.

539. Although Submission 806 states that there is a definition of “Ground floor area” in Chapter 2, that definition, as notified, only applied to signs⁵⁶², not buildings.. We note that the definition of ground floor area included in Section 21.3.3 is also included in Chapters 22 and 23. In our view, rather than repeating this as an implementation rule, it should be included in Chapter 2 as a definition. Therefore, we recommend that Submission 806 is accepted to the extent that

⁵⁵⁶ Submission 519

⁵⁵⁷ C Barr, Section 42A Report, Appendix 2, Page 80

⁵⁵⁸ Submissions 610, 613

⁵⁵⁹ C Fergusson, Evidence, Pages 34-35, Para 129 - 133

⁵⁶⁰ Submission 806

⁵⁶¹ C Barr, Section 42A Report, Appendix 2, Page 81

⁵⁶² We note that the notified definition does not appear to define a ground area in any event and is the subject of the Stage 2 Variations.

21.3.3.9 is deleted and the definition is included in Chapter 2⁵⁶³. We also recommend that the equivalent amendments are made in Chapters 22 and 23.

540. Clarification Point 21.3.3.11 set out the meaning of the abbreviations used in the Rule Tables in 21.4 of the PDP. It also notes that any activity that is not permitted or prohibited requires a resource consent.
541. One submission from QPL sought that the clarification point be amended to ensure that the rules are applied on an effects basis⁵⁶⁴. Mr Barr recommended the submission be rejected⁵⁶⁵, but we could find no reasons set out in the report for him reaching that recommendation. We received no direct evidence on this matter.
542. On review of the submission itself, it sets out as the reason for the submission that “*the Council should not attempt to list all activities that may occur and should instead rely on the proposed standard to ensure that effects are appropriately managed.*”
543. To our mind, this has more to do with the content of rules than clarification of the meaning of the abbreviations, or the effect of activities being permitted or prohibited for that matter. We recommend that the submission as it relates to 21.3.3.11 be rejected. As a result of our re-arrangement of the clauses in 21.3.2 and 21.3.3, this is renumbered 21.3.2.9.
544. In his Reply Statement, Mr Barr recommended inclusion of the following three matters for clarification purposes:

21.3.3.11 The surface of lakes and rivers are zoned Rural, unless otherwise stated.

21.3.3.12 In this chapter the meaning of bed shall be the same as in section 2 of the RMA.

21.1.1.13 Internal alterations to buildings including the replacement of joinery is permitted.

545. We consider the first of these is a useful inclusion to avoid any ambiguity. We do not see the second as helpful as it may imply that when considering provisions in other chapters, the meaning of bed given in section 2 of the Act does not apply. We would have thought the defined term from the Act would apply unless the context required otherwise. Although we are not sure the third is necessary, there is no reason not to include it. We recommend these be included as 21.3.2.8 and 21.3.2.9.

6 SECTION 21.4 – RULES – ACTIVITIES

6.1 Structure of Rules and Tables

546. In considering the rules and their layout in the tables, we found these difficult to follow. For example, in some cases activities and standards were combined under ‘activities’. In these situations, we recommend that the activities and standards be separated and the tables be renumbered. We note that we have already addressed the table for the surface of lakes and rivers, activities and standards in Section 3.4 above. Another example is where the rules specify that activities are prohibited with exceptions detailing what is permitted, rather than setting out firstly what is permitted and secondly, if the activity is not permitted, what the appropriate activity status is.

⁵⁶³ As a recommendation to the Stream 10 Hearing Panel.

⁵⁶⁴ Submission 806

⁵⁶⁵ C Barr, Section 42A Report, Appendix 2, Page 81

547. Taking those matters into account, we recommend re-ordering the tables into the following sequence, which we consider more logical and easier for plan users to follow:

Table 1	Activities Generally
Table 2	Standards applying generally in zone
Table 3	Standards applying to Farm Activities (additional to those in Table 2)
Table 4	Standards for Structures and Buildings (other than Farm Buildings) (additional to those in Table 2)
Table 5	Standards for Farm Buildings (additional to those in Table 2)
Table 6	Standards for Commercial Activities (additional to those in Table 2)
Table 7	Standards for Informal Airports (additional to those in Table 2)
Table 8	Standards for Mining and Extraction Activities (additional to those in Table 2)
Table 9	Activities in the Ski Area Sub Zone additional to those listed in Table 1
Table 10	Activities in Rural Industrial Subzone additional to those listed in Table 1
Table 11	Standards for Rural Industrial Subzone
Table 12	Activities on the Surface of Lakes and Rivers
Table 13	Standards for Activities on the Surface of Lakes and Rivers
Table 14	Closeburn Station: Activities
Table 15	Closeburn Station: Standards for Buildings and Structures

548. We consider these to be minor correction matters that can be addressed under Clause 16(2) and we make recommendations accordingly.

549. In addition, the terminology of the rules themselves needs amendment; using the term “shall” could be read as providing a degree of discretion that is not appropriate in a rule context. We recommend that the term “must” replace the term “shall” except where the context requires the use of “shall” or another term. Again, we consider these to be minor correction matters that can be addressed under Clause 16(2) and we make recommendations accordingly.

6.2 Table 1 (As Notified) - Rule 21.4.1 - Activity Default Status

550. Rule 21.4.1 as notified identified that activities not listed in the rule tables were “Non-complying” Activities. A number of submissions⁵⁶⁶ sought that activities not listed in the tables should be made permitted.

551. We did not receive any direct evidence in regard to this matter, although Mr Barr addressed it in his Section 42A Report⁵⁶⁷. We agree with Mr Barr that it is not apparent that the effects of all non-listed activities can be appropriately avoided, remedied or mitigated in the Rural Zone across the District, such that a permitted activity status is the most appropriate way in which to achieve the objectives of Chapter 21. We therefore recommend that the default activity status for activities not listed in the rule table remain non-complying. Consistent with our approach

⁵⁶⁶ Submissions 624, 636, 643, 688, 693

⁵⁶⁷ C Barr, Section 42A Report, Paras 8.9 – 8.10

of listing activities from the least restricted to the most restricted, we recommend this rule be located at the end of Table 1. We also recommend that it only refer to those tables that list activities (as opposed to standards applying to activities). To remove any possible ambiguity we recommend it read:

Any activity not otherwise provided for in Tables 1, 9, 10, 12 or 14.

6.3 Rule 21.4.2 – Farming Activity

552. The only submissions on this rule supported it⁵⁶⁸. With the re-arrangement of the tables of standards discussed above, a consequential change is required to this rule to refer to Table 3 as well as Table 2. Other than that change and renumbering to 21.4.1, we recommend the rule be adopted as notified.

6.4 Rule 21.4.3 – Farm Buildings

553. As notified, Rule 21.4.3 provided for the “Construction or addition to farm buildings that comply with the standards in Table 4” as permitted activities.

554. Three submissions sought that the rule be retained⁵⁶⁹. One submission sought to roll-over provisions of the ODP so that farming buildings not be permitted activities.⁵⁷⁰ One submission supported permitted activity status for farm buildings, but sought that Council be firm where a landholder establishes farm buildings and then makes retrospective application for consent so that the buildings can be used for a non-farming purposes⁵⁷¹.

555. Mr Barr, in the Section 42A Report, recommended that the submission from UCES be rejected for the reasons set out in the Section 32 Report.⁵⁷² The Section 32 Report concluded that administrative efficiencies can be achieved while maintaining landscape protection, by requiring compliance with standards in conjunction with a permitted activity status for farm buildings.⁵⁷³

556. We have already addressed the permitted activity status for farming activities in Section 7.3 above. Similarly, we have also addressed farm buildings in Policy 21.2.1.2, as notified, above (Section 5.3) and recommended allowing farm buildings on landholdings over 100 ha subject to managing effects on landscape values.

557. Accordingly, we recommend that Rule 21.4.3 be renumbered 21.4.2 and refer to Table 5, but otherwise be retained as notified.

558. We think that the submission of M Holor⁵⁷⁴ raises a genuine issue regarding the conversion of farm buildings to a non-farming use, such as a dwelling. We are aware of situations in the district where applicants seeking consent for such conversions rely on existing environment arguments in order to obtain consent. This is sometimes referred to as ‘environmental creep’.

⁵⁶⁸ Submissions 325, 384, 600 (supported by FS1209, opposed by FS1034), 608

⁵⁶⁹ Submissions 325, 348, 608

⁵⁷⁰ Submission 145

⁵⁷¹ Submission 45

⁵⁷² C Barr, Section 42A Report, Page 29, Para 10.4

⁵⁷³ C Barr, Section 42A Report, Appendix 3, Section 32 Evaluation Report, Landscape, Rural Zone and Gibbston Character Zone, Pages 18 - 19

⁵⁷⁴ Submission 45

559. As notified, Rule 21.3.3.7 stated that farm building were not to be considered the permitted baseline for residential or other non-farming activities. We have recommended retaining this as implementation provision 21.3.2.5. We do not consider Submission 45 provides scope for any additional provision.

6.5 Rule 21.4.4 – Factory Farming

560. There were no submission on this rule. However, this is an instance where a “standard” in Table 2 (as notified) classified certain types of factory farming non-complying (notified Rule 21.5.11). In addition, notified Rules 21.5.9 and 21.5.10 set standards for pig and poultry factory farming respectively. There were no submissions to Rules 21.5.9, 21.5.10 or 21.5.11.

561. We recommend, as a minor amendment under Clause 16(2), that Rule 21.4.4 be renumbered 21.4.3, amended to be restricted to pigs and poultry, and to refer to Table 2 and 3. In addition, we recommend in the same way that notified Rule 21.5.11 be relocated to 21.4.4. The two rules would read:

21.4.3	Factory Farming limited to factory farming of pigs or poultry that complies with the standards in Table 2 and Table 3.	P
21.4.4	Factory Farming animals other than pigs or poultry.	NC

6.6 Rule 21.4.5 – Use of Land or Building for Residential Activity

562. As notified, Rule 21.4.5 provided for the “the use of land or buildings for residential activity except as provided for in any other rule” as a discretionary activity.

563. One submission sought that this rule be retained⁵⁷⁵ and one sought that it be deleted⁵⁷⁶.

564. The Section 42A Report did not address these submissions directly. Rather, Mr Barr addressed residential activity and residential/non-farming buildings in a general sense⁵⁷⁷, concluding that Rule 21.4.5 was appropriate as non-farming activities could have an impact on landscape⁵⁷⁸. Although not directed to the submissions on this rule, Mr Barr considered that discretionary activity status was more appropriate to that of non-complying.

565. Mr Barr’s discussion addressed submissions made by UCES. The UCES position was based on the potential for proposed legislative amendments to make the residential activity application non-notified if they are discretionary activities. This matter was also canvassed extensively in the Stream 4 Hearing (Subdivision). We adopt the reasoning of the Stream 4 Hearing Panel⁵⁷⁹ in recommending this submission be rejected.

566. We heard no evidence from QPL in support of its submission seeking deletion of the rule. In tabled evidence for Matukitiki Trust, Ms Taylor agreed with the recommendation in the Section 42A Report.⁵⁸⁰

⁵⁷⁵ Submission 355
⁵⁷⁶ Submission 806
⁵⁷⁷ C Barr, Section 42A Report, Pages 32-37, Paras 11.1 – 11.28
⁵⁷⁸ C Barr, Section 42A Report, Pages 36 – 37, Para 11.25
⁵⁷⁹ Report 7, Section 1.7
⁵⁸⁰ L Taylor, Evidence, Appendix A, Page 6

567. We accept Mr Barr’s recommendation, given the submissions before us and the evidence we heard. Thus, we recommend the rule be retained as notified but be relocated to be Rule 21.4.10.

6.7 Rule 21.4.6 – One Residential Unit per Building Platform

568. As notified, Rule 21.4.6 provided for “One residential unit within any building platform approved by resource consent” as a permitted activity.

569. Three submissions sought that this rule be retained⁵⁸¹, four submissions sought that it be deleted⁵⁸², one submission sought that the rule be replaced with the equivalent provisions of the ODP⁵⁸³ which would have had the effect of deleting the rule, and one submission sought that the rule be amended to clarify that it only applies to the activity itself, as there are other rules (21.4.7 and 21.4.8) that relate to the actual buildings⁵⁸⁴.

570. In the Section 42A Report, Mr Barr addressed some of these points directly, noting that it is generally contemplated that there is one residential unit per fee simple lot and that Rule 21.4.12 provides for one residential flat per residential unit. He was of the opinion that the proposed change to a permitted activity status from controlled in the ODP would significantly reduce the number of consents without compromising environmental outcomes.⁵⁸⁵

571. At this point we record that that a similar provision to notified Rule 21.4.6, is also contained in Chapter 22, Rural Residential & Rural Lifestyle (Rule 22.5.12.1) which also has a limit within the Rural Lifestyle Zone of one residential unit within each building platform. Therefore, we address the number of residential units and residential flats within a building platform for the Rural, and Rural Lifestyle zones at the same time.

572. As notified, Rule 22.5.12.1, (a standard) provided for “One residential unit located within each building platform”. Non-compliance with the standard results in classification as a non-complying activity.

573. Four submissions sought that this rule be deleted⁵⁸⁶ and seven submissions sought that it be amended to provide for two residential units per building platform⁵⁸⁷.

574. In the Section 42A Report for Chapter 22, Mr Barr considered that two dwellings within one building platform would alter the density of the Rural Lifestyle zone in such a way as to affect the rural character of the zone and also create an ill-conceived perception “that subdivision is contemplated based on the argument that the effect of the residential unit is already established”⁵⁸⁸.

575. Responding to the reasons provided in the submissions, Mr Barr also considered that the rule was not contrary to Objective 3.2.6.1 as notified, which sought to ensure a mix of housing opportunities. In Mr Barr’s view, that objective has a district wide focus and does not require

581 Submissions 355, 384, 806

582 Submissions 331, 348, 411, 414

583 Submission 145

584 Submission 608

585 C Barr, Section 42A Report, Page 34, Paras 11.11 - 11.14

586 Submissions 331, 348, 411, 414

587 Submissions 497, 513, 515, 530, 532, 534, 535

588 C Barr, Section 42A Report – Chapter 22, Pages 11 – 12, Paras 8.8 – 9.9

provision for intensification in all zones. Rather, the intention is that intensification be promoted within urban boundaries, but not in other zones.⁵⁸⁹

576. Mr N Geddes, in evidence for NT McDonald Family Trust *et al*⁵⁹⁰, was of the view that to require discretionary activity status for an additional residential unit under 21.4.6 while a residential flat was a permitted activity, was unnecessary and unbalanced, and not justified by a s32 analysis. In relation to Rule 22.5.1.2.1, Mr Geddes observed that there was no section 32 analysis supporting the rule and he disagreed with Mr Barr as to the perception that subdivision was contemplated. He noted that subdivision is managed as a discretionary activity under Chapter 27, and two units in one approved building platform would provide a wider range of opportunities⁵⁹¹.
577. Mr Goldsmith, in evidence for Arcadian Triangle, suggested that within the Rural Lifestyle Zone, amending the residential flat provision to a separate residential unit was a fairly minor variation but needed caveats, e.g. further subdivision prevented, to avoid abuse. Mr Goldsmith considered two residential units within a single 1000m² building platform would not create a perceptible difference to one residential unit and one residential flat, where the residential flat could be greater than 70m². Addressing the subdivision issue raised by Mr Barr, Mr Goldsmith suggested that to make it clear that subdivision was not allowed, the rule could make subdivision a prohibited activity.⁵⁹²
578. Mr Farrell, in evidence for Wakatipu Equities Ltd⁵⁹³ and G W Stalker Family Trust⁵⁹⁴ raised similar issues to that of Mr Geddes and Mr Goldsmith. He also expressed the view that the rule contradicted higher level provisions (Objective 3.2.6.1) and noted that two residential units within a building platform would be a more efficient and effective use of resources⁵⁹⁵. However, in his summary presentation to us, Mr Farrell advised that his evidence was particularly directed to issues in the Wakatipu Basin, rather than to the wider District.
579. In reply, Mr Barr noted that residential flat *"...sits within the definition of Residential Unit, therefore, if two Residential Units are allowed, there would be an expectation that a Residential Flat would be established with each Residential Unit. In addition, within a single building platform with two Residential Units there could be four separate living arrangements. From an effects based perspective this could be well beyond what was contemplated when the existing building platforms in the Rural General Zone were authorised."*⁵⁹⁶
580. Mr Barr also considered that in the Rural and Rural Lifestyle Zones, the size of a residential flat could be increased from 70m² to 150m² to address the concern raised by Mr Goldsmith that the 70m² size for a residential flat was arbitrary and related to an urban context. Mr Barr also considered that this solution would mean, among other things, that subdivision of residential flat from a residential unit should be a non-complying activity, and that the only amendment required is to the definition of residential flat which would therefore reduce the complexity

⁵⁸⁹ C Barr, Section 42A Report – Chapter 22, Page 12, Para 8.10

⁵⁹⁰ Submissions 411, 414

⁵⁹¹ N Geddes, Evidence, Page 6, Paras 34 - 35

⁵⁹² W Goldsmith, Evidence, Page 14, Paras 4.3 – 4.6 and Summary, Page 1, Para 2

⁵⁹³ Submission 515

⁵⁹⁴ Submission 535

⁵⁹⁵ B Farrell, Evidence, Page 36 Para 155

⁵⁹⁶ C Barr, Reply, Chapter 21, Page 18, Para 6.3

associated with controlling multiple residential units within a single building platform.⁵⁹⁷ We note that Mr Barr provided a similar response in reply regarding Chapter 22.

581. Mr Barr's recommended amendment to the definition of residential flat was as follows;

"Means a residential activity that comprises a self-contained flat that is ancillary to a residential unit and meets all of the following criteria:

- a. *Has a total floor area not exceeding 70m², and 150m² in the Rural Zone and Rural Lifestyle Zone, not including the floor area of any garage or carport;*
- b. *contains no more than one kitchen facility;*
- c. *is limited to one residential flat per residential unit; and*
- d. *is situated on the same site and held in the same ownership as the residential unit, but may be leased to another party.*

Notes:

- a. A proposal that fails to meet any of the above criteria will be considered as a residential unit.
- b. Development contributions and additional rates apply."

582. Mr Barr recommended that Rule 21.4.6 and 22.5.12 remain as notified.

583. Firstly, we note that as regards the application of this rule in the Wakatipu Basin, the notification of the Stage 2 Variations has overtaken this process. It has also involved, through the operation of Clause 16B of the First Schedule to the Act, transferring many of these submissions to be heard on the Stage 2 Variations.

584. While we agree with Mr Barr that the simplicity of the solution he recommended is desirable, we do note our unease about using a definition to set a standard for an activity⁵⁹⁸. In this instance, however, to remove the standard from the definition would require amendment to all zones in the PDP. We doubt there is scope in the submissions to allow the Council to make such a change. Subject to these concerns, Mr Barr's solution effectively addresses the issues around potential consequential subdivision effects from creating a density of dwellings within a building platform that would not be consistent with the objectives in the strategic chapters and in this chapter.

585. Accordingly, we recommend that aside from renumbering, Rules 21.4.6 and 22.5.12.1 remain as notified and that the definition of Residential Flat be worded as follows:

"Means a residential activity that comprises a self-contained flat that is ancillary to a residential unit and meets all of the following criteria:

- a. *the total floor area does not exceed:*
 - i. *150m² in the Rural Zone and Rural Lifestyle Zone;*

⁵⁹⁷ C Barr, Reply, Chapter 21, Pages 18 - 19, Para 6.5

⁵⁹⁸ We note that the Stream 6 Hearing Panel raised the same concerns.

ii. 70m² in any other zone;

not including in either case the floor area of any garage or carport;

b. it contains no more than one kitchen facility;

c. is limited to one residential flat per residential unit; and

d. is situated on the same site and held in the same ownership as the residential unit, but may be leased to another party.

Notes:

a. A proposal that fails to meet any of the above criteria will be considered as a residential unit.

b. Development contributions and additional rates apply.”

586. We return to the issue of density as it applies to other rules and the objectives in Chapter 22 later in this report.

6.8 Rules 21.4.7 & 21.4.8– Construction or Alteration of Buildings Within and Outside a Building Platform

587. As notified, Rule 21.4.7, provided for “The construction and exterior alteration of buildings located within a building platform approved by resource consent, or registered on the applicable computer freehold register, subject to compliance with the standards in Table 3.” as a permitted activity.

588. As notified, Rule 21.4.8, provided for “The exterior alteration of any lawfully established building located outside of a building platform, subject to compliance with the standards in Table 3.” as a permitted activity.

589. Two submissions sought that Rule 21.4.7 be retained⁵⁹⁹ and one submission sought that the rule be replaced with the equivalent provisions of the ODP⁶⁰⁰ which relate to Construction and Alteration of Residential Buildings located within an approved residential building platform or outside a residential building platform.

590. One submission sought that Rule 21.4.8 be retained⁶⁰¹, one submission sought that the activity status be changed to discretionary and one submission sought that the rule be replaced with the equivalent provisions of the ODP⁶⁰² which relate to Construction and Alteration of Residential Buildings located within an approved residential building platform or outside a residential building platform.

591. In the Section 42A Report, Mr Barr addressed these matters, noting that there was general support for the provisions, and that, as we noted above, he considered that permitted activity status would significantly reduce the number of consents without compromising environmental

⁵⁹⁹ Submissions 238, 608

⁶⁰⁰ Submission 145

⁶⁰¹ Submission 608

⁶⁰² Submission 145

outcomes.⁶⁰³ Mr Barr also considered that Rule 21.4.8 was necessary to provide for minor alterations of buildings that were lawfully established prior to the ODP regime which established the requirement for a building platform.⁶⁰⁴

592. Mr Haworth, in evidence for UCES on these rules, expressed the view that permitted activity status would engender an “anything goes” attitude and there would be less scrutiny given to proposals, which often results in greater adverse effects⁶⁰⁵. Mr Haworth considered that the controlled activity status in the same form as in the ODP should be retained so that adverse effects on landscape were adequately controlled.⁶⁰⁶

593. There was no evidence from UCES as to why, after 15 years of experience of the ODP regime, that a controlled activity was a more appropriate approach than a permitted activity with appropriate standards. In particular, no section 32 evaluation was presented to us which would have supported an alternative and more regulated approach. UCES sought this relief for a number of rules in Chapter 21 and in each case, the same position applies. We do not consider it necessary to address the UCES submission further.

594. In response to our questions, Mr Barr, in reply, recommended an amendment to Rule 21.4.8 as notified, to clarify that the rule applied to situations where there was no building platform in place. Mr Barr’s recommended wording was as follows;

“The exterior alteration of any lawfully established building located outside of a building platform where there is not an approved building platform in place, subject to compliance with the standards in Table 3.”

595. We consider that Mr Barr’s suggested rewording confuses rather than clarifies the position, because it refers both to a building outside a building platform and to there being no building platform; a situation which cannot in fact exist. The answer is to delete the words, “*located outside of a building platform*”. However, we also envisage a situation where there is a building platform in place and an extension is proposed that would extend the existing dwelling beyond the building platform. The NZIA⁶⁰⁷ submission sought to address that circumstance by seeking discretionary activity status. From our reading this is already addressed in Rule 21.4.10 (as notified) that applies to construction not provided for by the any other rule as a discretionary activity and therefore no additional amendment is required to address it.

596. We concur with Mr Barr as to the activity status, and accordingly recommend that Rules 21.4.7 be renumbered 21.4.6 and the wording and activity status remain unchanged other than referring to Tables 2 and 4 rather than Table 3. We further recommend that Rule 21.4.8 be renumbered 21.4.7, the activity status remain permitted and be worded as follows;

“The exterior alteration of any lawfully established building where there is no approved building platform on the site, subject to compliance with the standards in Table 2 and Table 4.”

6.9 Rule 21.4.9 – Identification of Building Platform.

597. As notified, Rule 21.4.9, provided for “The identification of a building platform not less than 70m² and not greater than 1000m².” as a discretionary activity.

⁶⁰³ C Barr, Section 42A Report, Page 34, Para 11.13

⁶⁰⁴ C Barr, Section 42A Report, Page 34, Para 11.14

⁶⁰⁵ J Haworth, Evidence, Page 21, Para 152

⁶⁰⁶ J Haworth, Evidence, Page 21, Para 156

⁶⁰⁷ Submission 328

598. Three submissions sought that the rule be deleted⁶⁰⁸.
599. Mr Barr, in the Section 42A Report, recorded the reasons for the requested deletion from two of the submitters as being that *“defaulting to a non-complying activity if outside these parameters is arbitrary because ‘if the effects of a rural building platform sized outside of this range can be shown to be appropriate, there is no reason it should not be considered on a discretionary basis.’”*⁶⁰⁹
600. Mr Barr, did not disagree with that reason but noted *“that it could create a potential for proposals to identify building platforms that are very large (while taking the risk of having the application declined) and this in itself would be arbitrary. Similarly, if the effects of a rural building platform are appropriate irrespective of the size it would more than likely accord with s104D of the RMA.”*⁶¹⁰ In tabled evidence⁶¹¹ for X-Ray Trust Limited, Ms Taylor agreed with Mr Barr’s recommendation⁶¹².
601. We agree with Mr Barr’s reasoning. We recommend that these submissions are rejected and that Rule 21.4.9 be remain as worded, but be renumbered 21.4.10.

6.10 Rule 21.4.10 – Construction not provided for by any other rule.

602. As notified, Rule 21.4.10, provided for “The construction of any building including the physical activity associated with buildings including roading, access, lighting, landscaping and earthworks, not provided for by any other rule.” as a discretionary activity.
603. Five submissions sought the provision be amended⁶¹³ as follows;
- “The construction of any building including the physical activity associated with buildings not provided for by any other rule.”*
604. Mr Barr considered the need to separate farming activities from non-farming activities in the Section 42A Report and noted that roading, access, lighting, landscaping and earthworks associated with non-farming activities can all impact on landscape.⁶¹⁴
605. While arguably, specific reference to the matters listed is unnecessary since all are ‘associated’ with construction (and ongoing use) of a building, we think it is helpful to provide clarification of the sort of activities covered, for the reason Mr Barr identifies. Accordingly, we recommend that 21.4.10 be renumbered 21.4.11 and that the wording and activity status remain as notified.

6.11 Rule 21.4.11 – Domestic Livestock

606. There were no submissions on this rule. We recommend it be adopted as notified but renumbered as 21.4.8.

⁶⁰⁸ Submissions 693, 702, 806
⁶⁰⁹ C Barr, Section 42A Report, Page 37, Para 11.26
⁶¹⁰ C Barr, Section 42A Report, Page 37, Para 11.27
⁶¹¹ FS1349
⁶¹² L Taylor, Evidence, Appendix A, Page 8
⁶¹³ Submissions 636, 643, 688, 693, 702
⁶¹⁴ C Barr, Section 42A Report, Pages 36-37, Para 11.25

6.12 Rule 21.4.12 – Residential Flat; Rule 21.4.13 - Home Occupations

607. As notified, Rule 21.4.12, provided for “Residential Flat (activity only, the specific rules for the construction of any buildings apply).” as a permitted activity.
608. As notified, Rule 21.4.13, provided for “Home Occupation that complies with the standards in Table 5.” as a permitted activity.
609. One submission sought that Rule 21.4.12 be retained⁶¹⁵. One submission sought that Rules 21.4.12 and 21.4.13 be deleted⁶¹⁶. The reason stated for this relief was that the submitter considered these consequential deletions were needed for clarity that any permitted activity not listed but meeting the associated standards is a permitted activity and as such negates the need for such rules.
610. Mr Barr did not address these submissions directly in the Section 42A Report and nor did we receive any direct evidence in support of the deletion of these particular rules.
611. We have already addressed this matter in Section 7.2 above, noting that it is not apparent that the effects of all non-listed activities can be appropriately avoided, remedied or mitigated in the Rural Zone across the District, such that a permitted activity status is the most appropriate way in which to achieve the objectives of Chapter 21. We note that in Stream 6, the council officers recommended that reference to “residential flat” be removed as it was part of a residential unit as defined. That Panel (differently constituted) concluded that, as the definition of “residential unit” included a residential flat, there was no need for a separate activity rule for residential flat, but it would assist plan users if the listing of residential unit identified that such activity included a residential flat and accessory buildings. For consistency, “residential flat” should be deleted from this chapter and recommended Rule 21.4.5 read:

One residential unit, including a single residential flat and any accessory buildings, within any building platform approved by resource consent.

612. We so recommend.
613. We recommend that Rule 21.4.13 be retained as notified and renumbered 21.4.12..

6.13 Rule 21.4.14 – Retail sales from farms

614. As notified, Rule 21.4.14, provided for, as a controlled activity:

“Retail sales of farm and garden produce and wine grown, reared or produced on-site or handicrafts produced on the site and that comply with the standards in Table 5.

Except roadside stalls that meet the following shall be a permitted activity:

- a. *the ground floor area is less than 5m²*
- b. *are not higher than 2.0m from ground level*
- c. *the minimum sight distance from the stall/access shall be 200m*
- d. *the minimum distance of the stall/access from an intersection shall be 100m and, the stall shall not be located on the legal road reserve.*

⁶¹⁵ Submission 608

⁶¹⁶ Submission 806

Control is reserved to all of the following:

- *The location of the activity and buildings*
- *Vehicle crossing location, car parking*
- *Rural amenity and landscape character..”*

as a controlled activity.

615. One submission sought that the rule be amended so as to provide for unrestricted retail⁶¹⁷ and one submission sought that it be amended to a permitted activity for the reason to encourage locally grown and made goods for a more sustainable future⁶¹⁸.
616. These submissions were not directly addressed in the Section 42A Report and nor did we receive any evidence directly in support of these submissions.
617. Given that lack of evidence we recommend that the submissions be rejected.
618. This rule, however, is an example of a situation as we identified in Section 7.5 above, where a permitted activity has been incorporated as an exception within a controlled activity rule. We recommend that the permitted activity be separated out as its own rule, and that the remainder of the rule be retained as notified.
619. Accordingly, we recommend that Rule 21.4.14 be renumbered as 21.4.16 and worded as follows;

Retail sales of farm and garden produce and wine grown, reared or produced on-site or handicrafts produced on the site and that comply with the standards in Table 6, not undertaken through a roadside stall under 21.4.14.

Control is reserved to:

- a. the location of the activity and buildings*
- b. vehicle crossing location, car parking*
- c. rural amenity and landscape character..”*

as a controlled activity.

620. In addition, we recommend a new permitted activity rule numbered 21.4.14 be inserted and worded as follows:

Roadside stalls that meet the standards in Table 6.

621. We further recommend that standards for roadside stalls be inserted into Table 6 worded as follows:

⁶¹⁷ Submission 806

⁶¹⁸ Submission 238

- 21.9.3.1 *The ground floor area of the roadside stall must not exceed 5m²*
- 21.9.3.2 *The height must not exceed 2m²*
- 21.9.3.3 *The minimum sight distance from the roadside stall access must be at least 200m*
- 21.9.3.4 *The roadside stall must not be located on legal road reserve.*

6.14 Rule 21.4.15 – Commercial Activities ancillary to recreational activities

622. As notified, Rule 21.4.15 provided for:

“Commercial activities ancillary to and located on the same site as recreational activities.”
as discretionary activities.

623. One submission sought that the rule be deleted so as to provide for commercial and recreational activities on the same site⁶¹⁹.

624. This submission was not directly addressed in the Section 42A Report, other than implicitly, through a recommendation that it should be rejected as set out in Appendix 2⁶²⁰.

625. Mr Brown in evidence for QPL, considered that the rule should be expanded to provide for *“commercial recreational activities”* as well as *“recreational activities”* so as to provide clarification between these two activities which have separate definitions.⁶²¹

626. Mr Barr, in reply considered that the amendment recommended by Mr Brown went some way to meeting the request of the submitter⁶²² and recommended that the Rule 21.4.15 be amended as follows;

“Commercial activities ancillary to and located on the same site as commercial recreational or recreational activities.”

627. We agree with Mr Brown that for the purposes of clarity, commercial recreational activities need to be incorporated into the rule. We heard no evidence in support of the rule being deleted.

628. Accordingly, we recommend that the activity status remain as discretionary, and that Rule 21.4.15 be renumbered as 21.4.17 and worded as follows;

“Commercial activities ancillary to and located on the same site as commercial recreational or recreational activities.”

6.15 Rule 21.4.16 – Commercial Activities that comply with standards and Rule 21.5.21 Standards for Commercial Activities

629. As notified, Rule 21.4.16, provided for:

⁶¹⁹ Submission 806
⁶²⁰ C Barr, Section 42A Report, Appendix 2, Page 93
⁶²¹ J Brown, Evidence, Page 14, Para 2.20 – 2.21
⁶²² C Barr, Reply, Page 10. Para 4.8

“Commercial recreation activities that comply with the standards in Table 5.”
as a permitted activity.

630. One submission sought that the rule be retained⁶²³ and one submission sought that the rule be amended to include Heli-Skiing as a permitted activity⁶²⁴.

631. Rule 21.5.21 (Table 5 Standards for Commercial Activities) needs to be read in conjunction with Rule 21.4.16. As notified it read as follows:

“Commercial recreation activity undertaken on land, outdoors and involving not more than 10 persons in any one group.”

632. Non-compliance with this standard required consent as a discretionary activity.

633. Two submissions sought that Rule 21.5.21 be retained⁶²⁵, three submissions sought the number of persons be increased to anywhere from 15 – 28⁶²⁶ and one submission sought that number of persons in the group be reduced to 5⁶²⁷.

634. The Section 42A Report did not address the issue of heli-skiing within the definition of commercial recreational activity.

635. Mr Dent in evidence for Totally Tourism, identified that heli-skiing fell with the definition of “commercial recreational activity”. We agree. Mr Dent described a typical heli-skiing activity and referenced the informal airport rules that applied and that heli-skiing activities undertaken on crown pastoral and public conservation land already required Recreation Permits and concessions. To avoid the additional regulation involved in requiring resource consents which would be costly and inefficient Mr Dent recommended that Rule 21.4.6 be reworded as follows;

*“Commercial recreation activities that comply with the standards in Table 5, and commercially guided heli-skiing.”*⁶²⁸

636. This would mean that commercially guided heli-skiing would be a permitted activity, but not be subject to the standards in Table 5. Having agreed with Mr Dent that heli-skiing activities fall within the definition of commercial recreational activity, we do not see how an exemption exempting commercially guided heli-skiing from the standard applied to any other commercial recreation activity for commercially guided heli-skiing can be justified. We address the issue of the numbers of person in a group below. We therefore recommend that the submission of Totally Tourism be rejected.

637. In relation to the permitted activity standard 21.5.21, Mr Barr expressed the opinion in the Section 42A Report that

“... that the limit of 10 people is balanced in that it provides for a group that is commensurate to the size of groups that could be contemplated for informal recreation activities. Ten persons

⁶²³ Submission 806

⁶²⁴ Submission 571

⁶²⁵ Submission 315

⁶²⁶ Submissions 122, 621, 624

⁶²⁷ Submission 489

⁶²⁸ S Dent, Evidence, Page 13, Para 83

*is also efficient in that it would fit a min-van or a single helicopter, which I would consider as one group.*⁶²⁹

638. Mr Brown in evidence for QPL supported the group size of 10 person, as it recognised the small scale, low impact outdoor commercial recreation activities that can be accommodated without the resulting adverse effects on the environment and hence no need to obtain resource consent, compared to large scale activities that do require scrutiny.⁶³⁰

639. Mr Vivian, in evidence for Bungy NZ Limited and Paul Henry Van Asch, was of the opinion that the threshold of 5 people in a group (in the ODP) worked well and changing it to 10 people “... would significantly change how those commercial guided groups are perceived and interact with other users in public recreation areas”⁶³¹. Mr Vivian, also noted potential safety issues as from his experience of applying for resource consents for such activities, safety was a key issue in consideration of any such application.

640. Ms Black, in evidence for RJL, was of the view that the number of persons should align with that of other legislation such as the Land Transport Act 2005, which provides for small passenger vehicles that carry 12 or less people and Park Management plans that provide concession parties of up to 15.⁶³² Mr Farrell, in evidence for RJL, concurred with Ms Black as to the benefit of alignment between the documents and recommended that the rule be reworded as follows:

*“Commercial recreation activity undertaken on land, outdoors and involving not more than ~~10~~ 15 persons in any one group (inclusive of guides).”*⁶³³

641. In reply Mr Barr, recommended increasing the number of persons from 10 to 12 to align with the minivan size, for the reasons set out in Ms Black’s evidence.⁶³⁴

642. Safety in regard to group size may be a factor, but we think that there is separate legislation to address such matters. The alignment between minivan size and other legislation as to the size of any group may be a practical consideration. However, we consider that the more important point is that there are no implications in terms of effects. We also recommend that in both Rules 21.4.16 and Rule 21.5.21, the defined term by used (i.e. commercial recreational activity) for clarity.

643. Accordingly we recommend that apart from that minor clarification and renumbering, Rule 21.4.16 be renumbered 21.4.13 with the Table reference amended, but otherwise remain as notified, and that Rule 21.5.21 be renumbered and worded as follows:

Commercial recreational activities must be undertaken on land, outdoors and must not involve more than 12 persons in any one group.

6.16 Rule 21.4.17 – Cafes and Restaurants

644. There were no submissions on this rule. We recommend it be retained as notified and renumbered as 21.4.18.

⁶²⁹ C Barr, Section 42A Report, Page 48, Para 13.35

⁶³⁰ J Brown, Evidence, Page 14, Para 2.19

⁶³¹ C Vivian, Evidence, Pages 26 – 27, Para 5.7

⁶³² F Black, Evidence, Pages 7 – 8, Para 3.24 – 3.25

⁶³³ B Farrell, Evidence, Page 27, Para 124

⁶³⁴ C Barr, Reply, Page 10, Para 4.8

6.17 Rule 21.4.18 – Ski Area Activities within a Ski Area Sub Zone

645. As notified, Rule 21.4.18, provided for:

“Ski Area Activities within the Ski Area Sub Zone.”

as a permitted activity.

646. One submission sought that the rule be amended to add *“subject to compliance with the standards in Table 7”*⁶³⁵, as Table 1 does not specify what standards apply for an activity to be permitted (Table 7 as notified being the standards for Ski Area Activities within the Ski Area Sub Zones). Two submissions sought that the rule be moved completely into Table 7⁶³⁶. One submission sought that the Rule be amended as follows;

*“Ski Area Activities within the Ski Area Sub Zone and Tourism Activities within the Cardrona Alpine Resort (including Ski Area Activities).”*⁶³⁷.

647. Mr Barr, in the part of the Section 42A Report addressing the submission of Soho Ski Area Ltd, noted that Table 1 generally set out activities and the individual tables set out the standards for those activities.⁶³⁸ Mr Barr identified issues with Table 7. However, we address those matters later in this report. In addressing submissions and evidence on Objective 21.2.6 and the associated policies above, we have already addressed the requested insertion of reference to tourism activities and the specific identification of the Cardrona Alpine Resort, concluding that recognition of tourism activities was appropriate but that the specific identification of the Cardrona Alpine Resort was not; so we do not repeat that here.

648. In Section 7.1 above, we set out our reasoning regarding the overall structural changes to the tables and activities. However, we did not address Ski Activities within Ski Area Sub-Zones in that section. We found the rules on this subject matter to be complicated and the matters listed as standards in Table 7 to actually be activities. In order to provide clarity, we recommend that a separate table be created and numbered to provide for *“Activities within the Ski Area Sub Zones”*.

649. None of the submissions on Rule 21.4.18 sought a change to the activity status for the ski area activities and accordingly, we do not recommend any substantive change to the rule. The end result is therefore that we recommend that the submissions seeking that Rule 21.4.18 be amended to refer to the Table 7 standards, and that it be shifted into a new Table 9, both be accepted in part.

6.18 Rule 21.4.19 – Ski Area Activities not located within a Ski Area Sub Zone

650. As notified, Rule 21.4.19, provided for:

“Ski Area Activities not located within a Ski Area Sub Zone, with the exception of heli-skiing and non-commercial skiing.”

as a non-complying activity.

⁶³⁵ Submission 407

⁶³⁶ Submissions 610, 613

⁶³⁷ Submission 615

⁶³⁸ C Barr, Section 42A Report, Page 57, Para 14.19

651. One submission sought that the rule be deleted⁶³⁹ and one submission sought that the rule be amended or replaced to change the activity status from non-complying to discretionary⁶⁴⁰.
652. In the Section 42A Report, Mr Barr considered that purpose of the rule was to encourage Ski Area Activities to locate within the Ski Area Sub Zones, in part to reduce the adverse effects of such activities on ONLs.⁶⁴¹ We agree. The objectives and policies we addressed above reinforce that position.
653. Mr Barr also noted that his recommended introduction of a policy to provide for non-road transportation systems such as a passenger lift system, which would cross land that is not within a Ski Area Sub Zone, would be in potential conflict with the rule. Accordingly, Mr Barr recommended an exception for passenger lift systems.⁶⁴²
654. Mr Brown, in evidence for Mt Cardrona Station Ltd, agreed with Mr Barr's recommended amendment, but noted that there was no rule identifying the status of passenger lift systems. Mr Brown considered that the status should be controlled or restricted discretionary, subject to appropriate assessment matters.⁶⁴³ In his summary presentation to us at the hearing, Mr Brown advised that having reflected on this matter further, he considered restricted discretionary activity status to be appropriate. He recommended a new rule as follows:

Passenger lift systems not located within a Ski Area Sub Zone.

Discretion is reserved to all of the following:

- a. The route of the passenger lift system and the extent to which the passenger lift system breaks the line and form of the landscape with special regard to skylines, ridges, hills and prominent slopes*
- b. Whether the materials and colours to be used are consistent with the rural landscape of which the passenger lift system will form a part*
- c. Whether the geotechnical conditions are suitable for the passenger lift system and the extent to which they are relevant to the route.*
- d. Lighting*
- e. The ecological values of the land affected by structures and activities*
- f. Balancing environmental considerations with operational requirements*
- g. The positive effects arising from directly linking settlements with ski area sub zones and providing alternative non-vehicular access.⁶⁴⁴*

⁶³⁹ Submission 806

⁶⁴⁰ Submission 615

⁶⁴¹ C Barr, Section 42A Report, Page 64, Para 14.53

⁶⁴² C Barr, Section 42A Report, Pages 64 - 65, Para 14.55

⁶⁴³ J Brown, Evidence, Page 25, Par 2.41

⁶⁴⁴ J Brown, Summary of Evidence, Pages 4-5, Para 17

655. In reply Mr Barr, noted that Mr Brown's recommended amendment would also be subject to the District Wide rules regarding earthworks and indigenous vegetation clearance and as such, Mr Barr considered the activity status and matters of discretion to be appropriate.⁶⁴⁵
656. Also in reply Mr Barr, while in accepting some of the changes suggested by Mr Brown, recommended that activity status for Ski Area Activities not located within a Ski Area Sub Zone remain as non-complying activities, with exceptions as follows;

Ski Area Activities not located within a Ski Area Sub Zone, with the exception of the following:

- a. *Commercial heli skiing not located within a Ski Area Sub Zone is a commercial recreation activity Rule 21.4.16 applies*
- b. *Passenger Lift Systems not located within a Ski Area Sub Zone shall be a restricted discretionary activity.*

Discretion is reserved to all of the following:

- a. *The route of the passenger lift system and the extent to which the passenger lift system breaks the line and form of the landscapes with special regard to skylines, ridges, hills and prominent slopes*
- b. *Whether the materials and colours to be used are consistent with the rural landscape of which the passenger lift system will form a part*
- c. *Whether the geotechnical conditions are suitable for the passenger lift system and the extent to which they are relevant to the route*
- d. *Lighting*
- e. *The ecological values of the land affected by structures and activities*
- f. *Balancing environmental considerations with operational requirements*
- g. *The positive effects arising from directly linking settlements with ski area sub zones and providing alternative non-vehicular access.*⁶⁴⁶

657. Mr Barr provided justification for these changes by way of a brief section 32AA evaluation, noting the effectiveness of the provision with respect to cross zoning regulatory differences.
658. As we have addressed above, we consider that the Ski Area Activities not located within a Ski Area Sub Zone should be non-complying activities as this aligns with the objectives and policies. We think a description of the exceptions is appropriate, but that should not effectively include another rule with different activity status. Rather, if an exception is to have a different activity status, that should be set out as a separate rule.
659. We now turn to the activity status of a passenger lift system outside a Ski Area Sub Zone. As well as the evidence we heard, the Hearing Panel for Stream 11 (Ski Area Sub Zones) heard further evidence on this issue, with specific reference to particular ski areas. That Panel has

⁶⁴⁵ C Barr, Reply, Page 38 – 39, Para 14.3 – 14.5

⁶⁴⁶ C Barr, Reply, Appendix 1, Page 21-11

recommended to us, for the reasons set out in Report 15, that passenger lift systems outside of a Ski Area Sub Zone should be a restricted discretionary activity.

660. We accept and adopt the recommendations of the Stream 11 Panel for the reasons given in Report 15.

661. We recommend that Rule 21.4.19 therefore be reworded, and that a new rule numbered and worded as follows be inserted to address passenger lift systems located outside of Ski Area Sub-Zones. We also recommend that these rules be relocated to under the heading “Other Activities” in Table 1.

Table 1	Activities Rural Zone	Activity Status
21.4.25	Ski Area Activities not located within a Ski Area Sub-Zone, with the exception of the following: <ul style="list-style-type: none"> a. non-commercial skiing which is permitted as recreation activity under Rule 21.4.22; b. commercial heli-skiing not located within a Ski Area Sub-Zone, which is a commercial recreational activity to which Rule 21.4.13 applies; b. Passenger Lift Systems to which Rule 21.4.24 applies. 	NC
21.4.24	Passenger Lift Systems not located within a Ski Area Sub-Zone Discretion is restricted to: <ul style="list-style-type: none"> a. The Impact on landscape values from any alignment, design and surface treatment, including measures to mitigate landscape effects including visual quality and amenity values. b. The route alignment and the whether any system or access breaks the line and form of skylines, ridges, hills and prominent slopes. c. Earthworks associated with construction of the Passenger Lift System. d. The materials used, colours, lighting and light reflectance. e. Geotechnical matters. f. Ecological values and any proposed ecological mitigation works. g. Balancing environmental considerations with operational requirements of Ski Area Activities. h. The positive effects arising from providing alternative non-vehicular access and linking Ski Area Sub-Zones to the roading network. 	RD

6.19 Table 1 - Rule 21.4.20 – Visitor Accommodation

662. As notified, Rule 21.4.20, provided for:

“Visitor Accommodation.”

as a discretionary activity.

663. One submission sought a less restrictive activity status⁶⁴⁷ and one submission sought that visitor accommodation in rural areas be treated differently to that in urban areas due to their placing less demand on services⁶⁴⁸.
664. In the Section 42A Report, Mr Barr considered that comparison of urban area provisions with rural area provision should be treated with caution as those urban provisions were not part of the Stage 1 review of the District Plan. Mr Barr also considered that nature and scale of the visitor accommodation activity and the potential selectivity of the location would be the main factors considered in relation to any proposal. He therefore recommended that the activity status remain discretionary.⁶⁴⁹
665. We heard no evidence in support of the submissions.
666. For the reasons set out in Mr Barr’s Section 42A Report, we recommend that other than renumbering it, the rule remain as notified, subject to a consequential amendment arising from our consideration of visitor accommodation in Ski Area Sub Zones discussed below.

6.20 Table 1 - Rule 21.4.21 – Forestry Activities in Rural Landscapes

667. As notified, Rule 21.4.21, provided for:

“Forestry Activities in Rural Landscapes.”

as a discretionary activity.

668. Two submissions sought that the activity status be amended to discretionary⁶⁵⁰. Mr Barr, in the Section 42A Report, identified that forestry activities were discretionary in the Rural Landscape areas (Rule 21.4.21) and non-complying in ONLs/ONFs (Rule 21.4.1).⁶⁵¹ We heard no evidence in support of the submissions. In reply, Mr Barr included some revised wording to clarify that it is the Rural Landscape Classification areas that the provision applies to.⁶⁵²
669. In the report on Chapter 6 (Report 3), the Hearing Panel recommended that the term used to describe non-outstanding rural landscapes be Rural Character Landscapes. That term should as a consequence be used in this context.
670. The submissions appear to be seeking to retain what was in the Plan as notified. We agree with Mr Barr and recommend that forestry activities remain discretionary in “Rural Character Landscapes”.

6.21 Rule 21.4.22 – Retail Activities and Rule 21.4.23 – Administrative Offices

671. Both of these rules provide for activities within the Rural Industrial Sub-Zone. No submissions were received on these rules. We recommend they be retained as notified, but relocated into Table 10 which lists the activities specifically provided for in this Sub-Zone.

6.22 Rule 21.4.24 – Activities on the surface of lakes and rivers

672. As notified, Rule 21.4.24, provided for:

⁶⁴⁷ Submission 806
⁶⁴⁸ Submission 320
⁶⁴⁹ C Barr, Section 42A Report, Page 103, Para 201.19
⁶⁵⁰ Submissions 339, 706
⁶⁵¹ C Barr, Section 42 A Report, Page 43, Para 13.5
⁶⁵² C Barr, Reply, Appendix 1, Page 21-11

“Activities on the surface of lakes and rivers that comply with Table 9.”

as a permitted activity.

673. One submission generally supported this provision⁶⁵³. Other submissions that were assigned to this provision in Appendix 2 of the section 42A Report, actually sought specific amendments to Table 9 and we therefore deal with those requests later in this report.

674. We have already addressed requests for repositioning the provisions regarding the surface of water in Section 3.4 above, and concluding that reordering and clarification of the activities and standards in the surface of lakes and river table to better identify the activity status and standards was appropriate. Accordingly, we recommend that provision 21.2.24 be moved to Table 12 and renumbered, but that the activity status remain permitted, subject to the provisions within renumbered Table 13.

6.23 Rule 21.4.25 – Informal Airports

675. As notified, Rule 21.4.25, provided for:

“Informal airports that comply with Table 6.”

as a permitted activity.

676. The submissions on this rule are linked to the Rules 21.5.25 and 21.5.26, being the standards applying to informal airports. It is appropriate to deal with those two rules at the same time as considering Rule 21.4.25.

677. As notified, the standards for informal airport Rules 21.5.25 and 21.5.26 (Table 6) read as follows;

	Table 6 - Standards for Informal Airports	Non-Compliance
21.5.25	<p>Informal Airports Located on Public Conservation and Crown Pastoral Land</p> <p>Informal airports that comply with the following standards shall be permitted activities:</p> <p>21.5.25.1 Informal airports located on Public Conservation Land where the operator of the aircraft is operating in accordance with a Concession issued pursuant to Section 17 of the Conservation Act 1987;</p> <p>21.5.25.2 Informal airports located on Crown Pastoral Land where the operator of the aircraft is operating in accordance with a Recreation Permit issued pursuant to Section 66A of the Land Act 1948;</p> <p>21.5.25.3 Informal airports for emergency landings, rescues, fire-fighting and activities ancillary to farming activities;</p> <p>21.5.25.4 In relation to points (21.5.25.1) and (21.5.25.2), the informal airport shall be located a minimum</p>	D

⁶⁵³ Submission 307

	Table 6 - Standards for Informal Airports	Non-Compliance
	distance of 500 metres from any formed legal road or the notional boundary of any residential unit or approved building platform not located on the same site.	
21.5.26	<p>Informal Airports Located on other Rural Zoned Land</p> <p>Informal Airports that comply with the following standards shall be permitted activities:</p> <p>21.5.26.1 Informal airports on any site that do not exceed a frequency of use of 3 flights* per week;</p> <p>21.5.26.2 Informal airports for emergency landings, rescues, fire-fighting and activities ancillary to farming activities;</p> <p>21.5.26.3 In relation to point (21.5.26.1), the informal airport shall be located a minimum distance of 500 metres from any formed legal road or the notional boundary of any residential unit of building platform not located on the same site.</p> <p>* note for the purposes of this Rule a flight includes two aircraft movements i.e. an arrival and departure.</p>	D

678. There were eleven submissions that sought that Rule 21.4.25 be retained⁶⁵⁴, and six submissions that sought it be deleted⁶⁵⁵ for various reasons including seeking the retention of ODP rules.

679. For Rule 21.5.25, submissions variously ranged from:

- Retain as notified⁶⁵⁶
- Delete provision⁶⁵⁷
- Delete or amend (reduce) set back distances in 21.5.25.4
- Amend permitted activities list 21.5.25.3 to include operational requirements of Department of Conservation⁶⁵⁸

680. For Rule 21.5.26, submissions variously ranged from:

- Retain as notified⁶⁵⁹
- Delete provision⁶⁶⁰
- Delete or amend (increase) number of flights in 21.5.26.1⁶⁶¹
- Delete or amend (reduce) set back distances in 21.5.26.3⁶⁶²
- Amend permitted activities list 21.5.26.2 to only to emergency and farming⁶⁶³, or amend to include private fixed wing operations and flight currency requirements⁶⁶⁴

⁶⁵⁴ Submissions 563, 573, 608, 723, 730, 732, 734, 736, 738, 739, 760, 843

⁶⁵⁵ Submission 109, 143, 209, 213, 500, 833

⁶⁵⁶ Submissions 315, 571, 713

⁶⁵⁷ Submissions 105, 135, 162, 211, 500, 385

⁶⁵⁸ Submission 373

⁶⁵⁹ Submissions 571, 600

⁶⁶⁰ Submissions 93, 105, 162, 209, 211, 385, 883

⁶⁶¹ Submissions 122, 138, 221, 224, 265, 405, 423, 660, 662

⁶⁶² Submissions 106, 137, 138, 174, 221, 265, 382, 405, 423, 660, 723, 730, 732, 734, 736, 738, 739, 760, 784, 843

⁶⁶³ Submission 9

⁶⁶⁴ Submission 373

- f. Amend 21.5.26.1 to read as follows “Informal Airports where sound levels do not exceed limits prescribed in Rule 36.5.14”.
681. In the Section 42A Report, Mr Barr recorded that the change from the system under the ODP where all informal airports required resource consents, to permitted activity status under the PDP was motivated in part by a desire to reduce the duplication of authorisations that were already required from the Department of Conservation or Commissioner of Lands and that details were set out in the Section 32 Report.⁶⁶⁵ Mr Barr also recorded that noise standards were not part of this Chapter, but were rather considered under the Hearing Stream 5 (District Wide Provisions).⁶⁶⁶
682. Our understanding of the combined rules was assisted by the evidence of Dr Chiles. He explained the difficulty in comprehensively quantifying the noise effects from infrequently used airports. We understood that the two New Zealand Standards for airport noise (NZ6805 and NZS6807) required averaging of aircraft sound levels over periods of time that would not adequately represent noise effects from sporadic aircraft movements that are usually associated with informal airports.
683. Dr Chiles explained that the separation distance of 500m required by Rules 21.5.25.4 and 21.5.26.3 should result in compliance with a 50 DB L_{dn} criterion for common helicopter flights unless there were more than approximately 10 flights per day.⁶⁶⁷ Dr Chiles was also satisfied that for fixed wing aircraft, at 500m to the side of the runway there would be compliance with 55 dB L_{dn} and 95 dB L_{AE} for up to 10 flights per day. However, he noted, compliance off the end of the runway may not be achieved until approximately 1 kilometre away.⁶⁶⁸
684. For those occasions where compliance with the noise criteria referred to above could not be achieved, Dr Chiles concluded that the relevant rules in Chapter 36 (recommended Rules 36.5.10 and 36.5.11) would apply. As we understood his evidence, the purpose of the informal airport rules in this zone are to provide a level of usage as a permitted activity that could be expected to comply with the rules in Chapter 36, but compliance would be expected nonetheless.
685. Mr Barr reviewed all the evidence provided in his Reply Statement and recommended amendments to the rules:
- a. providing for Department of Conservation operations on Conservation or Crown Pastoral Land;
 - b. requiring 500m separation from zone boundaries, but not road boundaries; and
 - c. providing for informal airports on land other than Conservation or Crown Pastoral Land to have up to 2 flights per day (instead of 3 per week).
686. We agree that the provision of some level of permitted informal activity in the Rural Zone is appropriate, as opposed to the ODP regime where all informal airports require consent. While we heard from submitters who considered more activity should be allowed as of right, and others who considered no activity should be allowed, we consider Mr Barr and Dr Chiles have proposed a regime that will facilitate the use of rural land by aircraft while protecting rural amenity values. Consequently, we recommend that Rule 21.4.25 be renumbered and amended

⁶⁶⁵ C Barr, Section 42A Report, Page 71, Paras 16.6 – 16.7

⁶⁶⁶ C Barr, Section 42A Report, Pages 70 – 71, Paras 16.3 – 16.4

⁶⁶⁷ Dr S Chiles, EIC, paragraph 5.1

⁶⁶⁸ *ibid*, paragraph 5.2

to refer to the standards in Table 7, and that Rules 21.5.25 and 21.5.26 be renumbered and revised to read:

	Table 7 - Standards for Informal Airports	Non-Compliance
21.10.1	<p>Informal Airports Located on Public Conservation and Crown Pastoral Land</p> <p>Informal airports that comply with the following standards shall be permitted activities:</p> <p>21.10.1.1 Informal airports located on Public Conservation Land where the operator of the aircraft is operating in accordance with a Concession issued pursuant to Section 17 of the Conservation Act 1987;</p> <p>21.10.1.2 Informal airports located on Crown Pastoral Land where the operator of the aircraft is operating in accordance with a Recreation Permit issued pursuant to Section 66A of the Land Act 1948;</p> <p>21.10.1.3 Informal airports for emergency landings, rescues, fire-fighting and activities ancillary to farming activities, or the Department of Conservation or its agents;</p> <p>21.10.1.4 In relation to Rules 21.10.1.1 and 21.10.1.2, the informal airport shall be located a minimum distance of 500 metres from any other zone or the notional boundary of any residential unit or approved building platform not located on the same site.</p>	D
21.10.2	<p>Informal Airports Located on other Rural Zoned Land</p> <p>Informal Airports that comply with the following standards shall be permitted activities:</p> <p>21.10.2.1 Informal airports on any site that do not exceed a frequency of use of 2 flights* per day;</p> <p>21.10.2.2 Informal airports for emergency landings, rescues, fire-fighting and activities ancillary to farming activities;</p> <p>21.10.2.3 In relation to rule 21.10.2.1, the informal airport shall be located a minimum distance of 500 metres from any other zone or the notional boundary of any residential unit of building platform not located on the same site.</p> <p>* note for the purposes of this Rule a flight includes two aircraft movements i.e. an arrival and departure.</p>	D

6.24 Rule 21.4.26 – Building Line Restrictions

687. As notified, Rule 21.4.26, provided for:

“Any building within a Building Restriction Area identified on the Planning Maps.”
as a noncomplying activity.

688. The only submission on this rule⁶⁶⁹ related to a specific building restriction area adjoining and over the Shotover River delta. That submission was deferred to be heard in Hearing Stream 13. We recommend the rule be retained as notified.

6.25 Rule 21.4.27 – Recreational Activities

689. This rule provided for recreation and/or recreational activities to be permitted. There were no submissions on this rule. We recommend it be retained as notified but relocated and renumbered to be the first activity listed under the heading “Other Activities”.

6.26 Rules 21.4.28 & 21.4.29 - Activities within the Outer Control Boundary at Queenstown and Wanaka Airports

690. As notified, Rule 21.4.28, provided for:

*“New Building Platforms and Activities within the Outer Control Boundary - Wanaka Airport
On any site located within the Outer Control Boundary, any new activity sensitive to aircraft noise or new building platform to be used for an activity sensitive to aircraft noise (except an activity sensitive to aircraft noise located on a building platform approved before 20 October 2010).”*

as a prohibited activity.

691. Two submissions sought that the provision be retained⁶⁷⁰. One submission sought that the provision be deleted or be amended so that the approach applied to ASANs located within the Outer Control Boundary, whether in the Airport Mixed Use Zone or the Rural Zone⁶⁷¹, was consistent.

692. The Section 42A Report did not directly address the relief sought by QPL as it applied to this provision. As with his approach to Objective 21.2.7 and the associated policies, Mr Barr did not address this provision directly in the Section 42A Report apart from in Appendix 1, where Mr Barr recommended that the provision be retained⁶⁷². The only additional evidence we received was from Ms O’Sullivan. She explained that Plan Changes 26 and 35 to the ODP had set up regimes in the rural area surrounding Wanaka and Queenstown Airports respectively prohibiting the establishment of any new Activities Sensitive to Aircraft Noise (ASANs) within the OCB of either airport⁶⁷³. She supported Mr Barr’s recommendation to continue this regime in the PDP.

693. We agree with Mr Barr and Ms O’Sullivan. These rules continue the existing resource management regime. We recommend that apart from renumbering, the provision remain worded as notified.

694. As notified, Rule 21.4.29, provided for:

*“Activities within the Outer Control Boundary - Queenstown Airport
On any site located within the Outer Control Boundary, which includes the Air Noise Boundary, as indicated on the District Plan Maps, any new Activity Sensitive to Aircraft Noise.”*
as a prohibited activity.

⁶⁶⁹ Submission 806, opposed by FS1340

⁶⁷⁰ Submissions 433, 649

⁶⁷¹ Submission 806

⁶⁷² C Barr, Section 42A Report, Appendix 1

⁶⁷³ K O’Sullivan, EiC, Section 2

695. Three submissions sought that the provision be retained⁶⁷⁴. Two submissions sought that the provision be deleted⁶⁷⁵. One submission sought the provision be amended to excluded tourism activities from being subject to the provision⁶⁷⁶.
696. The Section 42A Report did not directly address the relief sought by Te Anau Developments Limited (607) as it applied to this provision. Mr Barr, as we noted above, did not address this provision directly in the Section 42A Report apart from in Appendix 1, where he recommended that the provision be retained⁶⁷⁷. Ms O’Sullivan, as discussed above, supported Mr Barr’s recommendation.⁶⁷⁸
697. Mr Farrell, in evidence for Te Anau Developments Limited, considered that the provision prohibited visitor accommodation and community activities that could contribute to the benefits of tourism activities. He was of the view that there was a lack of policy and evidence to justify a prohibited classification of visitor accommodation and community activities.⁶⁷⁹
698. Mr Farrell went on to recommend that the rule or the definition of Activities Sensitive to Aircraft Noise be amended to:
- “a. Exclude tourism activities (as sought by Real Journeys⁶⁸⁰); or*
- b. Exclude visitor accommodation and community activities; or*
- c. Alter the activity status could be amended [sic] so that tourism, visitor accommodation, and community activities are classified as discretionary activities.”⁶⁸¹*
699. From a review of the Te Anau Developments Limited submission, there does not appear to be a reference to an amendment to the definition of ‘Activities Sensitive to Aircraft Noise’. Rather, it seeks to exclude “tourism activities” from the rule. As such, we think that Mr Farrell’s recommended amendments to the definition are beyond scope, because the submission is specific to this rule and the exclusion he recommended would apply also to Wanaka Airport. In addition, it is not axiomatic that “tourism activities” includes visitor accommodation.
700. As to Mr Farrell’s assertion that there is a lack of policy and evidence to justify the prohibited activity classification, we are aware that this provision was part of the PC 35 process which went through to thorough assessment in the Environment Court. While we are not bound to reach the same conclusion as the Environment Court, Mr Farrell did not in our view present any evidence other than claimed benefits from tourism to support his position. In particular, he did not address the extent to which those benefits would be reduced if the rule remained as notified, or the countervailing reverse sensitivity effects on the airport’s operations if it were to

⁶⁷⁴ Submission 271, 433, 649

⁶⁷⁵ Submissions 621, 658

⁶⁷⁶ Submission 607

⁶⁷⁷ C Barr, Section 42A Report, Appendix 1

⁶⁷⁸ K O’Sullivan, Evidence , Page 7, Para 4.3

⁶⁷⁹ B Farrell, Evidence, Page 25, Paras 112 - 115

⁶⁸⁰ On review of Submission 621 (submission point 81) RJL only sought that Rule 21.4.29 be deleted. The submission by Te Anau Developments Limited (607) sought the inclusion of “excluding tourism activities” within the rule.

⁶⁸¹ B Farrell, Evidence, Page 26, Para 116

be amended as suggested so as to call into question the appropriateness of the Environment Court's conclusion.

701. Accordingly, we recommend that apart from renumbering, that provision 21.4.29 remain worded as notified, but renumbered.

6.27 Mining Activities - Rule 21.4.30 and 21.4.31

702. As notified, Rule 21.4.30 stated:

The following mining and extraction activities are permitted:

- a. *Mineral prospecting*
- b. *Mining by means of hand-held, non-motorised equipment and suction dredging, where the total motive power of any dredge does not exceed 10 horsepower (7.5 kilowatt); and*
- c. *The mining of aggregate for farming activities provided the total volume does not exceed 1000m³ in any one year*
- d. *The activity will not be undertaken on an Outstanding Natural Feature.*

703. The submissions on Rule 21.4.30 variously sought:

- a. to add 'exploration' to the list of activities and include motorised mining devices⁶⁸²
- b. to add reference to landscape and significant natural areas as areas where the activity cannot be undertaken⁶⁸³
- c. to delete the restriction under (d) requiring the activity not to be undertaken on Outstanding Natural Features.⁶⁸⁴
- d. to delete the requirement under (c) restricting the mining of aggregate of 1000m³ in any one year to "farming activities"⁶⁸⁵
- e. amendments to ensure sensitive aquifers are not intercepted, and to address rehabilitation.⁶⁸⁶

704. It is also appropriate to consider Rule 21.4.31 at this time, as that rule as notified provided for 'exploration' as a controlled activity. As notified, 21.4.31 stated:

Mineral exploration that does not involve more than 20m³ in volume in any one hectare.

Control is reserved to all of the following:

- *The adverse effects on landscape, nature conservation values and water quality.*

Rehabilitation of the site is completed that ensures:

- *the long term stability of the site.*

⁶⁸² Submission 519

⁶⁸³ Submission 339, 706

⁶⁸⁴ Submission 519

⁶⁸⁵ Submission 806

⁶⁸⁶ Submission 798

- *that the landforms or vegetation on finished areas are visually integrated into the landscape.*
 - *water quality is maintained.*
 - *that the land is returned to its original productive capacity.*
705. Two submissions⁶⁸⁷ to this rule sought the addition of indigenous vegetation as an alternative state that a site should be rehabilitated to.
706. In the Section 42A Report⁶⁸⁸, Mr Barr noted that the NZTM submission seeking to add mineral exploration to Rule 21.4.30, was silent on the deletion of “*mineral exploration*” as a controlled activity in Rule 21.4.31. Mr Barr went on to explain that in his view, that while he accepted the submitter’s request to add a definition of mineral exploration, that activity should remain a controlled activity. Mr Vivian agreed with Mr Barr that while NZTM sought permitted activity for mineral exploration, it did not seek the deletion of Rule 21.4.31 and as such Mr Vivian saw no point in adding mineral exploration to Rule 21.4.30⁶⁸⁹. We agree and recommend that the request for mineral exploration as a permitted activity be rejected and that it remain a controlled activity.
707. We did not receive any evidence on the submission from Queenstown Park Ltd, seeking the expansion of the permitted activity status for mining aggregate (1000m³ in any one year), for activities not restricted to farming. The Section 32 Report records that the activities in Rules 21.4.30 and 21.4.31 were retained from the ODP with minor modifications to give effect to Objectives and Policies 6.3.5, 21.3.5, 21.2.7 and 21.2.8 (as notified).⁶⁹⁰ We do not find the analysis very helpful. On the face of the matter, if the activity is acceptable as a permitted activity for one purpose, it is difficult to understand why it should not be permitted if undertaken for a different purpose. However, in this case, the purpose of the aggregate extraction is linked to the scale of effects.
708. Extraction of 1000m³ of aggregate on a relatively small rural property in order that it might be utilised off-site has an obvious potential for adverse effects. Limiting use of aggregate to farming purposes serves a useful purpose in this regard as well as being consistent with policies seeking to enable farming activities.
709. We therefore recommend that the submission from Queenstown Park Limited be rejected.
710. Mr Barr, in the Section 42A Report, did not consider it necessary to add reference to landscape and significant natural areas as areas where the activity cannot be undertaken, given that standards regarding land disturbance and vegetation clearance are already provided for in Chapter 33.⁶⁹¹ We heard no evidence in support of the submission. Relying on the evidence of Mr Barr, we recommend that the submission of Mr Atly and Forest & Bird New Zealand be rejected.
711. Mr Barr, in the Section 42A Report, agreed with the submission of Forest & Bird and Mr Atly that rehabilitation to ‘indigenous vegetation’ may be preferable to rehabilitating disturbed land

⁶⁸⁷ Submissions 339, 706

⁶⁸⁸ C Barr, Section 42A Report, Page 108, Para 21.21

⁶⁸⁹ C Vivian, Evidence, Page 25, Para 4.122

⁶⁹⁰ C Barr, Section 42A Report, Page 87

⁶⁹¹ C Barr, Section 42A Report, Page 108-109, Para 21.23

to its original capacity in some circumstances⁶⁹². We agree with Mr Barr that parameters should be included, so that where the land cover comprised indigenous vegetation coverage prior to exploration indigenous vegetation planted as part of rehabilitation must attain a certain standard. We also agree with Mr Barr that it would not be fair on persons responsible for rehabilitation to require indigenous vegetation rehabilitation if the indigenous vegetation didn't comprise a minimum coverage or the indigenous vegetation had been cleared previously for other land uses.

712. Accordingly, we recommend that that an additional bullet point to be added to the matters of control, under Rule 21.4.31, as follows;

Ensuring that the land is rehabilitated to indigenous vegetation where the pre-existing land cover immediately prior to the exploration, comprised indigenous vegetation as determined utilising Section 33.3.3 of Chapter 33.

713. We also consider the matter commencing “Rehabilitation of the site” should be amended by the inclusion of “ensuring” at the commencement to make it a matter of control.

714. Mr Vivian supported the deletion of Rule 21.4.30(d) on the basis that the scale of the activities set out in 21.4.30 (a) and (b) were small and usually confined to river valleys.⁶⁹³ In addition, Mr Vivian noted that the activities in 21.4.30(c) were potentially of a larger scale and as they were permitted on an annual basis, there was the potential for adverse effects on landscape integrity over time. Mr Vivian concluded that 21.4.30(d) should be combined into Rule 21.4.30(c).

715. Having considered Mr Vivian’s evidence in combination with the submissions lodged, we consider it appropriate to create a table containing standards which mining and exploration activities have to meet. In coming to this conclusion we note that notified rule 21.4.30(d) is expressed as a standard, rather than an activity.

716. Consequently, we recommend the insertion of Table 8 which reads:

	Table 8 – Standards for Mining and Extraction Activities	Non-Compliance
21.11.1	21.11.1.1 The activity will not be undertaken on an Outstanding Natural Feature.	NC
	21.22.1.2 The activity will not be undertaken in the bed of a lake or river.	

717. With that change, we agree with Mr Vivian’s suggestion and recommend that Rules 21.4.30 and 21.4.31 read as follows:

Rule 21.4.29 - Permitted:

The following mining and extraction activities, that comply with the standards in Table 8 are permitted:

- a. *Mineral prospecting.*

⁶⁹² C Barr, Section 42A Report, Page 109, Para 21.24

⁶⁹³ C Vivian, Evidence, Page 25, Para 4.125

- b. *Mining by means of hand-held, non-motorised equipment and suction dredging, where the total motive power of any dredge does not exceed 10 horsepower (7.5 kilowatt); and*
- c. *The mining of aggregate for farming activities provided the total volume does not exceed 1000m³ in any one year.*

Rule 21.4.30 - Controlled

Mineral exploration that does not involve more than 20m³ in volume in any one hectare

Control is reserved to:

- a. *The adverse effects on landscape, nature conservation values and water quality.*
- b. *Ensuring rehabilitation of the site is completed that ensures:*
 - i. *the long-term stability of the site.*
 - ii. *that the landforms or vegetation on finished areas are visually integrated into the landscape.*
 - iii. *water quality is maintained.*
 - iv. *that the land is returned to its original productive capacity.*
- c. *That the land is rehabilitated to indigenous vegetation where the pre-existing land cover immediately prior to the exploration, comprised indigenous vegetation as determined utilising Section 33.3.3 of Chapter 33.*

6.28 Rule 21.4.32 – Other Mining Activity

718. As notified, this rule provided that any mining activity not provided for in the previous two rules was a discretionary activity. There were no submissions on this rule. We recommend it be renumbered, but otherwise be retained as notified.

6.29 Rule 21.4.33 – Rural Industrial Activities

719. As notified, this rule listed the following as a permitted activity:

Rural Industrial Activities within a Rural Industrial Sub-Zone that comply with Table 8.

720. The only submission received on this rule was in support⁶⁹⁴. We recommend that this rule be moved to Table 10 – Activities in Rural Industrial Sub Zone, and with our recommended re-arrangement of the tables, we recommend that the rule refer to the standards in Table 11. Otherwise we recommend the rule be retained as notified.

6.30 Rule 21.4.34 – Buildings for Rural Industrial Activities

721. As notified, this rule provided that buildings for rural industrial activities, complying with Table 8, as a permitted activity. No submissions were received on this rule.

722. As with the previous rule, we recommend it be relocated to Table 10 and that it refer to Table 11. However, we also note an ambiguity in the wording of the rule. While, by its reference to Table 8, it is implicit that it only apply to buildings in the Rural Industrial Sub-Zone, we consider the rule would better implement the objectives and policies of the zone if it were explicitly limited to buildings in the Rural Industrial Sub Zone. We consider such a change to be non-substantive and can be made under Cl 16(2) of the First Schedule. On that basis we recommend the rule read:

Buildings for Rural Industrial Activities within the Rural Industrial Sub-Zone that comply with Table 11.

⁶⁹⁴ Submission 315

6.31 Rule 21.4.35 – Industrial Activities at a Vineyard

723. This rule, as notified, provided for industrial activities directly associated with wineries and underground cellars within a vineyard as a discretionary activity.
724. No submissions were received to this rule and we recommend it be renumbered and retained as notified. We also recommend that the heading in Table 1 directly above this rule be changed to read: “Industrial Activities outside the Rural Industrial Sub-Zone”.

6.32 Rule 21.4.36 – Other Industrial activities

725. As notified this rule provided that other industrial activities in the Rural Zone were non-complying. Again, no submissions were received on this rule.
726. We consider there is an element of ambiguity in the rule, particularly with the removal of the Rural Industrial Sub-Zone activities and buildings to a separate table. We recommend this be corrected by rewording the rule to read:

Industrial Activities outside the Rural Industrial Sub-Zone other than those provided for in Rule 21.4.32.

727. We consider this to be a minor, non-substantive amendment that can be made under Clause 16(2).

7 TABLE 2 – GENERAL STANDARDS

7.1 Rule 21.5.1 – Setback from Internal Boundaries

728. As notified, this rule set a minimum setback of 15m of buildings from internal boundaries, with non-compliance requiring consent as a restricted discretionary activity.
729. No submissions were received on this rule and we recommend it be retained as notified with the matters of discretion listed alphanumerically rather than with bullet points.

7.2 Rule 21.5.2 – Setback from Roads

730. As notified Rule 21.5.2 stated:

Setback from Roads

The minimum setback of any building from a road boundary shall be 20m, except, the minimum of any building setback from State Highway 6 between Lake Hayes and Frankton shall be 50m. The minimum setback of any building for other sections of State Highway 6 where the speed limit is 70 km/hr or greater shall be 40m.

Discretion is restricted to all of the following:

- a. Rural Amenity and landscape character*
- b. Open space*
- c. The adverse effects on the proposed activity from noise, glare and vibration from the established road.*

Non-compliance Status – RD

731. One submission sought that the standard be adopted as proposed⁶⁹⁵ and one submission sought that the standard be retained, but that additional wording be added (providing greater setbacks from State Highways for new dwellings) to address the potential reverse sensitivity effects from State Highway traffic noise on new residential dwellings.⁶⁹⁶
732. Mr Barr, in the Section 42A Report, considered that as the majority of resource consents in the Rural Zone were notified or would require consultation with NZTA if on a Limited Access Road, then in his view, the performance standards suggested by NZTA would be better implemented as conditions of consent, particularly if the specific parameters of noise attenuation standard were to change. Mr Barr therefore recommended that the relief sought be rejected.⁶⁹⁷
733. In evidence for NZTA, Mr MacColl, disagreed with Mr Barr’s reasoning, noting that NZTA were often not deemed an affected party and without the proposed rule, District Plan users may assume, incorrectly, that any building outside the setback areas as notified, would be outside the noise effect area, when that may not be the case.⁶⁹⁸ Mr MacColl further suggested that the rule amendments he supported were required in order that the rule be consistent with the objectives and policies of Chapter 3. In response to questions from the Chair, Mr MacColl advised that the NZTA guidelines for setbacks were the same, regardless of the volume of traffic. We sought a copy of the guideline from Mr MacColl, but did not receive it.
734. Mr Barr, in reply, recommended some minor wording amendment to clarify that the rule applied to the setback of buildings from the road, but not in relation to the 80m setback sought by NZTA.
735. Without evidence as to the traffic noise effects and noise levels depending on the volume of traffic and its speed, we are not convinced as to the appropriateness of a blanket 80 metre setback for new dwellings from State Highway 6 where the speed limit is 70 – 100 km/hr. The only change we recommend is that, for clarity the term “Frankton” be replaced with “Shotover River”. We were concerned that using the term “Frankton” could lead to disputes as to where the restriction commenced/ended at that end. It was our understanding from questioning of Mr Barr and Mr MacColl, that it was intended to apply as far as the river.
736. Accordingly, we recommend that it be reworded as follows:

Setback from Roads

The minimum setback of any building from a road boundary shall be 20m, except, the minimum setback of any building from State Highway 6 between Lake Hayes and the Shotover River shall be 50m. The minimum setback of any building for other sections of State Highway 6 where the speed limit is 70 km/hr or greater shall be 40m.

Non-compliance Status – RD

Discretion is restricted to:

- a. rural amenity and landscape character*
- b. open space*

⁶⁹⁵ Submission 600

⁶⁹⁶ Submission 719

⁶⁹⁷ C Barr, Section 42A Report, Page 22, Para 9.6

⁶⁹⁸ A MacColl, EIC, Pages 5-6, Paras 20-21.

c. the adverse effects on the proposed activity from noise, glare and vibration from the established road.

7.3 Rule 21.5.3 – Setback from Neighbours of Buildings Housing Animals

737. As notified, this rule required a 30m setback of any building housing animals from internal boundaries, with a restricted discretionary activity consent required for non-compliance.

738. There were no submissions, and other than listing the matters of discretion alphanumerically, we recommend the rule be adopted as notified.

7.4 Rule 21.5.4 – Setback of buildings from Water bodies

739. As notified Rule 21.5.4 stated:

Setback of buildings from Water bodies

The minimum setback of any building from the bed of a wetland, river or lake shall be 20m.

Discretion is restricted to all of the following:

a. Indigenous biodiversity values

b. Visual amenity values

c. Landscape and natural character

d. Open space

e. Whether the waterbody is subject to flooding or natural hazards and any mitigation to manage the adverse effects of the location of the building

740. Four submissions sought that the standard be adopted as proposed⁶⁹⁹. One submission sought that the standard be amended so that the setback be 5m for streams less than 3m in width⁷⁰⁰. Another submission⁷⁰¹ sought to exclude buildings located on jetties where the purpose of the building is for public transport.

741. In the Section 42A Report, while Mr Barr recognised that the amenity values of a 3m wide stream may not be high, he considered that a 5m setback was too small.⁷⁰² We heard no evidence to the contrary. We agree in part with Mr Barr and note that there would be several other factors, such as natural hazards, that would support a 20m buffer. Accordingly, we recommend that the submission by D & M Columb be rejected.

742. As to the exclusion of buildings located on jetties where the purpose of the building is for public transport, Mr Barr noted that Rules 21.5.40 - 21.5.43 would trigger the need for consent anyway, and Mr Barr did not consider that Rule 21.5.4 generated unnecessary consents. Mr Barr was also of the view that it was the effects of any building that should trigger consent, not whether it was publicly or privately owned.⁷⁰³

⁶⁹⁹ Submissions 339, 384, 600, 706

⁷⁰⁰ Submission 624

⁷⁰¹ Submission 806

⁷⁰² C Barr, Section 42A Report, Page 23, Para 9.9

⁷⁰³ C Barr, Section 42A Report, Page 23, Para 9.10

743. We heard no evidence in support of that submission and concur with Mr Barr that the wording of rule should be retained as notified. Accordingly, we recommend that Rule 21.5.4 be retained as notified.

7.5 Rule 21.5.5 – Dairy Farming

744. As notified, Rule 21.5.5 required that effluent holding tanks, and effluent treatment and storage ponds be located 300m from any formed road or adjoining property with non-compliance a restricted discretionary activity.

745. Submissions on this provision variously sought:

- a. Its retention⁷⁰⁴
- b. Its deletion⁷⁰⁵ (No reasons provided)
- c. The addition of “lake, river” to the list of “formed roads or adjoining property”⁷⁰⁶
- d. The addition of “sheep and beef farms” and “silage pits” to the list of “effluent holding tanks, effluent treatment and storage ponds”⁷⁰⁷
- e. Amendment to reduce the specified distance of 300m to a lesser distance⁷⁰⁸
- f. Amendment of the activity status for non-compliance to discretionary.⁷⁰⁹

746. In the Section 42A Report, Mr Barr considered that the addition of “sheep and beef farms” and “silage pits” would capture too wide a range of activities that are not as intensive as dairying and do not have the same degree adverse effects. As such, Mr Barr recommended that that submission be rejected.⁷¹⁰ As regards the inclusion “lake or river” to the list of “formed roads, rivers and property boundaries”, Mr Barr considered lakes and rivers are not likely to be on the same site as a dairy farm. Hence in his view, the suggested qualifier to the boundary set back is appropriate.⁷¹¹

747. Mr Edgar, in his evidence for Longview Environmental Trust⁷¹², provided examples where the failure to include lake or river, could result in effluent holding tanks, effluent treatment and storage ponds being within 15 metres of the margin of a lake or unformed road. Mr Edgar was also of the view that amendments were required for consistency with Policies 21.2.1.1 and 21.2.1.4. We note that Mr Edgar’s evidence did not go as far as recommending reference to unformed as well as formed roads, presumably as this relief was not sought by Longview Environmental Trust. In reply, Mr Barr agreed with Mr Edgar as to the identification of public areas whose amenity values needed to be managed through the mechanism of setbacks⁷¹³. We agree with Mr Edgar and Mr Barr that the setback should include lakes or rivers and that it is appropriate in achieving the objectives.

748. We heard no evidence in support of the submissions seeking to reduce the 300m separation distance. The submission itself identified that 300m would create infrastructural problems for

⁷⁰⁴ Submissions 335, 384, 600

⁷⁰⁵ Submission 400

⁷⁰⁶ Submission 659

⁷⁰⁷ Submission 642

⁷⁰⁸ Submissions 701, 784

⁷⁰⁹ Submission 659

⁷¹⁰ C Barr, Section 42A Report, Page 24, Para 9.16

⁷¹¹ C Barr, Section 42A Report, Page 24, Para 9.17

⁷¹² S Edgar, EIC, Pages 3-4, Paras 7 - 13

⁷¹³ C Barr, Reply, Page 14, Para 5.1 – 5.2

farmers.⁷¹⁴ We note that compliance with the 300m distance is for permitted activity status and that any non-compliance, for infrastructural reasons, are provided for as a restricted discretionary activity. Given the potential effects of the activity, and the lack of evidence as to an appropriate lesser distance, we consider the distance to be appropriate in terms of achieving the objectives. Accordingly, we recommend that the submission be rejected.

749. We were unable to identify evidence from Mr Barr or Mr Edgar relating to the submission by Longview Environmental Trust⁷¹⁵ seeking the amendment of the activity status for non-compliance from restricted discretionary to discretionary. The reason set out in the submission for the request is for consistency between Rules 21.5.5 and 21.5.6.⁷¹⁶ We consider that there is a difference between Rules 21.5.5 and 21.5.6 in that 21.5.5 applies to an activity and 21.5.6 applies to buildings. This difference is further reflected in there being separate tables for activities and buildings (including farm buildings). This separation does not imply that they should have the same activity status. Accordingly, we recommend that the Longview Environmental Trust submission be rejected.

750. In summary, we recommend that Rule 21.5.5 be relocated into Table 3 Standards for Farm Activities, renumbered as Rule 21.6.1, and worded as follows:

Dairy Farming (Milking Herds, Dry Grazing and Calf Rearing)

All effluent holding tanks, effluent treatment and effluent storage ponds, must be located at least 300 metres from any formed road, lake, river or adjoining property.

Non-compliance RD

Discretion is restricted to:

- a. Odour*
- b. Visual prominence*
- c. Landscape character*
- d. Effects on surrounding properties.*

7.6 Rule 21.5.6 – Dairy Farming

751. Rule 21.5.6, as notified, required milking sheds or buildings used to house or feed milking stock be located 300m from any formed road or adjoining property, with non-compliance as a discretionary activity.

752. Submissions on this provision variously sought:

- a. Its retention⁷¹⁷
- b. The addition of “lake, river” to the list of “formed roads or adjoining property”⁷¹⁸
- c. Amendment to reduce the specified distance of 300m to a lesser distance.⁷¹⁹

⁷¹⁴ Submission 701, Page 2, Para 16

⁷¹⁵ S Edgar, EIC, Pages 3-4, Paras 7 - 13

⁷¹⁶ Submission 659, Page 2

⁷¹⁷ Submissions 335, 384, 600

⁷¹⁸ Submission 659

⁷¹⁹ Submissions 701, 784

753. We have addressed the matter of the reduction of the 300m distance in Section 8.5 above and do not repeat that analysis here. We simply note our recommendation is that, for the same reasons, those submissions be rejected.
754. Mr Barr considered that the rule is appropriate in a context where farm buildings can be established as a permitted activity on land holdings greater than 100ha.⁷²⁰
755. As regards the addition of lakes and rivers, Mr Barr, again in the Section 42A Report, noted that farm buildings were already addressed under Rule 21.5.4 (as notified) which required a 20m setback from water bodies and therefore, in his view, the submission should be rejected.
756. Mr Edgar, in evidence, raised similar issues with this rule as with 21.5.5 discussed above. In reply, Mr Barr agreed as to the appropriateness of the inclusion of rivers and lakes. Following the same reasoning, we agree with Mr Edgar and Mr Barr that the setback of buildings from water bodies should include recognition of their amenity values. Accordingly, we recommend that Rule 21.5.6 be relocated into Table 5 Standards for Farm Buildings, be renumbered and worded as follows;

21.8.4	Dairy Farming (Milking Herds, Dry Grazing and Calf Rearing) All milking sheds or buildings used to house or feed milking stock must be located at least 300 metres from any adjoining property, lake, river or formed road.	D
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7.7 Rule 21.5.7 – Dairy Farming

757. Rule 21.5.7, as notified, read as follows;

	Dairy Farming (Milking Herds, Dry Grazing and Calf Rearing) Stock shall be prohibited from standing in the bed of, or on the margin of a water body. For the purposes of this rule: a. Margin means land within 3.0 metres from the edge of the bed b. Water body has the same meaning as in the RMA, and also includes any drain or water race that goes to a lake or river.	PR
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758. Submissions on this rule variously sought that it be retained⁷²¹, be deleted⁷²², be widened or clarified to include other livestock including “deer, beef”⁷²³ or expressed concern regarding it overlapping Regional Plan rules⁷²⁴.
759. In the Section 42A Report, Mr Barr considered that dairy farming was more intensive than traditional sheep and beef grazing with a greater potential to damage riparian margins and contaminate waterbodies. Mr Barr considered that the effects of stock in waterways was not only a water quality issue but also a biodiversity, landscape and amenity value issue, and that the proposed rule complemented the functions of the Otago Regional Council.⁷²⁵

⁷²⁰ C Barr, Section 42A Report, Page 24, Para 9.20

⁷²¹ Submission 335, 384

⁷²² Submission 600

⁷²³ Submission 117, 289, 339, 706, 755

⁷²⁴ Submission 798

⁷²⁵ C Barr, Section 42A Report, Pages 25 – 27, Paras 9.24 – 9.36

760. In evidence for Federated Farmers, Mr Cooper raised the issue of confusion for plan users between rules in the Regional Water Plan and Rule 21.5.7. He considered that this was not fully addressed in the Section 32 Report.⁷²⁶ We agree.

761. To us, this is a clear duplication of rules that does not meet the requirements of section 32 as being the most effective and efficient way of meeting the objectives of the QLDC plan. Accordingly, we recommend that the submission of Federated Farmers be accepted and Rule 21.5.7, as notified, be deleted.

7.8 Rule 21.5.8 – Factory Farming

762. As notified, this rule stated in relation to factory farming (excluding the boarding of animals):

Factory farming within 2 kilometres of a Residential, Rural Residential, Rural Lifestyle, Township, Rural Visitor, Town Centre, Local Shopping Centre or Resort Zone.

763. Non-compliance required consent as a discretionary activity.

764. The only submissions on this rule supported its retention⁷²⁷, however it has a number of problems. First, it lists zones which are not notified as part of stage 1 (or Stage 2) of the PDP, notably the Rural Visitor and Township. It also lists Resort Zones as if that is a zone or category, which it is not in the PDP.

765. The most significant problem with the rule, however, is that it appears the author has confused standard and activity status. Given that our recommended Rule 21.4.3 classifies factory farming of pigs or poultry as permitted activities, it appears to be inconsistent that such activities would be discretionary when they were located more than 2 kilometres from the listed zones, but permitted within 2 kilometres. We recommend this be corrected under Clause 16(2) of the First Schedule by wording this rule as:

Factory farming (excluding the boarding of animals) must be located at least 2 kilometres from a Residential, Rural Residential, Rural Lifestyle, Town Centre, Local Shopping Centre Zone, Millbrook Resort Zone, Waterfall Park Zone, or Jacks Point Zone.

766. We also recommend it be renumbered and relocated into Table 3.

7.9 Rule 21.5.9 – Factory Farming

767. This rule, as notified, set standards that factory farming of pigs were to comply with. Non-compliance required consent as a non-complying activity. No submissions were received to this rule and we recommend it be adopted as notified with a minor wording changes to make it clear it is a standard, and renumbered and relocated into Table 3.

7.10 Rule 21.5.10 – Factory Farming of Poultry

768. This rule, as notified, set standards that factory farming of poultry were to comply with. Non-compliance required consent as a non-complying activity. No submissions were received to this rule and we recommend it be adopted as notified with a minor wording changes to make it clear it is a standard, and renumbered and relocated into Table 3.

⁷²⁶ D Cooper, EIC, Para 44

⁷²⁷ Submissions 335 and 384

7.11 Rule 21.5.11 – Factory Farming

769. As notified, this rule read:

Any factory farming activity other than factory farming of pigs or poultry.

770. Non-compliance was listed as non-complying. Again there were no submissions on this rule.

771. It appears to us that this rule is intended as a catch-all activity status rule, rather than a standard. We recommend it be retained as notified, but relocated into Table 1 and numbered as Rule 21.4.4.

7.12 Rule 21.5.12 – Airport Noise – Wanaka Airport

772. As notified, this rule read:

Alterations or additions to existing buildings, or construction of a building on a building platform approved before 20 October 2010 within the Outer Control Boundary, shall be designed to achieve an internal design sound level of 40 dB L_{dn}, based on the 2036 noise contours, at the same time as meeting the ventilation requirements in Table 5, Chapter 36. Compliance can either be demonstrated by submitting a certificate to Council from a person suitably qualified in acoustics stating that the proposed construction will achieve the internal design sound level, or by installation of mechanical ventilation to achieve the requirements in Table 5, Chapter 36.

773. Non-compliance required consent as a non-complying activity.

774. The only submission⁷²⁸ on this rule sought that it be retained.. As a consequence of recommendations made by the Hearing Stream 5 Panel, Table 5 has been deleted from Chapter 36. The reference should be to Rule 36.6.2 in Chapter 36.

775. We also recommend a minor change to the wording so that the standard applies to buildings containing Activities Sensitive to Aircraft Noise, consistent with the following rule applying to Queenstown Airport. Thus, we recommend that the standard, renumbered as Rule 21.5.5, read:

Alterations or additions to existing buildings, or construction of a building on a building platform approved before 20 October 2010 that contain an Activity Sensitive to Aircraft Noise and are within the Outer Control Boundary, must be designed to achieve an internal design sound level of 40 dB L_{dn}, based on the 2036 noise contours, at the same time as meeting the ventilation requirements in Rule 36.6.2, Chapter 36. Compliance can either be demonstrated by submitting a certificate to Council from a person suitably qualified in acoustics stating that the proposed construction will achieve the internal design sound level, or by installation of mechanical ventilation to achieve the requirements in Rule 36.6.2, Chapter 36.

7.13 Rule 21.5.13 – Airport Noise – Queenstown Airport

776. As notified, this rule contained similar provisions as Rule 21.5.12, albeit distinguishing between buildings within the Air Noise Boundary and those within the Outer Control Boundary. Again, there was only one submission⁷²⁹ in respect of this rule, and that submission sought that the rule be retained.

⁷²⁸ Submission 433, opposed by FS1030, FS1097 and FS1117

⁷²⁹ Submission 433, opposed by FS1097 and FS1117

777. Subject to amending the standard to refer to Rule 36.6.2 in place of Table 5 in Chapter 36 and other minor word changes, we recommend the rule be renumbered 21.5.6 and adopted as notified.

8 TABLE 3 – STANDARDS FOR STRUCTURES AND BUILDINGS

8.1 Rule 21.5.14 - Structures

778. Rule 21.5.14, as notified, read as follows;

21.5.14	<p>Structures</p> <p>Any structure within 10 metres of a road boundary, which is greater than 5 metres in length, and between 1 metre and 2 metres in height, except for:</p> <p>21.5.14.1 post and rail, post and wire and post and mesh fences, including deer fences;</p> <p>21.5.14.2 any structure associated with farming activities as defined in this plan.</p> <p>Discretion is restricted to all of the following:</p> <ol style="list-style-type: none"> a. Effects on landscape character, views and amenity, particularly from public roads b. The materials used, including their colour, reflectivity and permeability c. Whether the structure will be consistent with traditional rural elements. 	RD
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779. One submission sought that the rule be retained⁷³⁰, two sought that “nature conservation values” be added the matters of discretion⁷³¹, one submission sought that 21.5.14.2 be amended without specifying such amendments⁷³², and another sought that 21.5.14.2 be amended to read “*any structure associated with farming activities as defined in this Plan. This includes any structures associated with irrigation including centre pivots and other irrigation infrastructure*”⁷³³. Lastly, two submissions sought that 21.5.14 be amended to be restricted to matters that are truly discretionary⁷³⁴.

780. We also note that there were two submissions seeking the heading for Table 3 as notified be amended to specifically provide for irrigation structures and infrastructure.⁷³⁵

781. Mr Barr, in Appendix 2 of the Section 42A Report⁷³⁶, considered that applying nature conservation values to the matters of discretion would be too broad as it would encapsulate ecosystems, hence removing the specificity of the restricted discretionary status and the reason for needing a consent. We heard no other evidence on this matter. We agree with Mr Barr that the relief sought would make the discretion too wide and therefore not be effective in

⁷³⁰ Submission 335, 384

⁷³¹ Submissions 339, 706

⁷³² Submission 701

⁷³³ Submissions 784

⁷³⁴ Submission 701, 784

⁷³⁵ Submissions 701, 784

⁷³⁶ C Barr, Section 42A Report, Appendix 2, Page 107

achieving the objective. Accordingly, we recommend that those submissions be rejected. We note that Mr Atly and Forest & Bird made requests for similar relief to Rules 21.5.15 – 21.5.17. We recommend that those submissions be rejected for the same reasons.

782. Mr Barr, in Appendix 2 of the Section 42A Report⁷³⁷, considered that irrigators were not buildings, as per the QLDC Practice Note⁷³⁸ and therefore did not require specific provisions. We heard no other evidence on this matter. We agree with Mr Barr that irrigators are not buildings and therefore the amendments sought are not required. Accordingly we recommend that those submissions be rejected. This similarly applies to the submissions requesting the change to the Table 3 Heading.

783. In the Section 42A Report, Mr Barr addressed a range of submissions that sought that the matters of discretion be tightened, and specifically the removal of reference to “rural amenity values’ in the consent of Rule 21.5.18⁷³⁹. We address all the submissions on this matter at Rule 21.5.18.

784. In line with our recommendation in Section 7.1 regarding rule and table structure, we recommend that Rule 21.5.14 be relocated to Table 4, renumbered and worded as follows:

21.7.1	<p>Structures Any structure which is greater than 5 metres in length, and between 1 metre and 2 metres in height must be located a minimum distance of 10 metres from a road boundary, except for:</p> <p>21.5.14.1 post and rail, post and wire and post and mesh fences, including deer fences;</p> <p>21.5.14.2 any structure associated with farming activities as defined in this plan.</p>	<p>RD Discretion is restricted to:</p> <p>a. Effects on landscape character, views and amenity, particularly from public roads</p> <p>b. The materials used, including their colour, reflectivity and permeability</p> <p>c. Whether the structure will be consistent with traditional rural elements.</p>
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8.2 Rule 21.5.15 - Buildings

785. Rule 21.5.15, as notified read as follows;

⁷³⁷ C Barr, Section 42A Report, Appendix 2, Page 107

⁷³⁸ QLDC – Practice Note 1/2014

⁷³⁹ Submission 600

21.5.15	<p>Buildings</p> <p>Any building, including any structure larger than 5m², that is new, relocated, altered, reclad or repainted, including containers intended to, or that remain on site for more than six months, and the alteration to any lawfully established building are subject to the following:</p> <p>All exterior surfaces shall be coloured in the range of browns, greens or greys (except soffits), including;</p> <p>21.5.15.1 Pre-painted steel and all roofs shall have a reflectance value not greater than 20%; and,</p> <p>21.5.15.2 All other surface finishes shall have a reflectance value of not greater than 30%.</p> <p>21.5.12.3 In the case of alterations to an existing building not located within a building platform, it does not increase the ground floor area by more than 30% in any ten year period.</p> <p>Discretion is restricted to all of the following:</p> <ol style="list-style-type: none"> a. External appearance b. Visual prominence from both public places and private locations c. Landscape character d. Visual amenity. 	RD
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786. One submission sought that the rule be retained⁷⁴⁰; two sought that the reference to colour be removed⁷⁴¹; one submission sought that 21.5.15.1 be deleted⁷⁴²; one submission sought that wording be amended for clarity and that the reflectance value not apply to locally sourced schist⁷⁴³; another submission sought amendments such that the area be increased to 10m² and that the reflectance value be increased to 36% for walls and roofs, and a number of finishes to be excluded⁷⁴⁴; two submissions sought that buildings within Ski Area Sub-Zones be excluded from these requirements⁷⁴⁵; one submission sought that 21.5.15.3 be less restrictive and amended to 30% in any 5 year period⁷⁴⁶; lastly, one submission sought the benefits of the buildings to rural sustainable land use be added as a matter of discretion.⁷⁴⁷

787. In the Section 42A Report, Mr Barr acknowledged that the permitted limits were conservative, but overall, considered that the provisions as notified would reduce the volume of consents that were required by the ODP⁷⁴⁸, and that these issues had been fully canvassed in the Section 32 Report, which concluded that the ODP rules were inefficient.⁷⁴⁹ Mr Barr also considered that for long established buildings and any non-compliance with the standards, the proposed rules allow case by case assessment.⁷⁵⁰ We concur with Mr Barr that the shift from controlled activity under the ODP to permitted under the PDP, subject to the specified standards, is a more efficient approach to controlling the effects of building colour.

⁷⁴⁰ Submission 600

⁷⁴¹ Submissions 368, 829

⁷⁴² Submission 411

⁷⁴³ Submission 608

⁷⁴⁴ Submission 368

⁷⁴⁵ Submissions 610, 613

⁷⁴⁶ Submission 829

⁷⁴⁷ Submissions 624

⁷⁴⁸ C Barr, Section 42A Report, page 34, paragraph 11.13

⁷⁴⁹ C Barr. Section 42A Report, Pages 37 – 38, Paras 12.2, 12.5

⁷⁵⁰ C Barr. Section 42A Report, Page 38, Paras 12.3 – 12.5

788. Mr Barr did not consider that the exclusion of certain natural materials from the permitted activity standards to be appropriate, recording difficulties with interpretation and potential lack of certainty⁷⁵¹. However, in an attempt to provide some ability for landowners to utilise natural materials as a permitted activity, Mr Barr recommended slightly revising wording of the standard⁷⁵².
789. We heard detailed evidence for Darby Planning from Ms Pflüger, a landscape Architect, and for QLDC from Dr Read, also a landscape architect, that schist has no LRV, and concerning the difference between dry stacked schist and bagged schist⁷⁵³. The latter was considered by Dr Read to be inappropriate due to its resemblance to concrete walls. Ms Pflüger, on the other hand, was of the view that bagged schist was sufficiently different to concrete walls as to be appropriate in the landscape context of the district. Mr Ferguson, in his evidence for Darby Planning, relying on the evidence of Ms Pflüger, considered that schist should be excluded from the identified surfaces with LRV.⁷⁵⁴
790. In his Reply Statement, Mr Barr maintained his opinion that a list of material should not be included in this rule, as *“over the life of the district plan there will almost certainly be other material that come onto the market and it would be ineffective and inefficient if these materials required a resource consent because they were not listed.”*⁷⁵⁵
791. We agree in part with Mr Barr’s recommended amendments:
- a. To exclude soffits, windows and skylights (but not glass balustrades) from the exterior surfaces that have colour and reflectivity controls; and
 - b. To include a clarification in 21.5.15.2 (as notified) that it includes cladding and built landscaping that cannot be measured by way of light reflective value.
792. However, we disagree with his view that the inclusion of an exemption for schist from the light reflective control would somehow lead to inefficiencies due to other materials coming on the market. We agree with Ms Pflüger that incorporating schist into buildings is an appropriate response to the landscape in this district. We also consider that the term “luminous reflectance value” proposed by Mr Barr is more readily understood if phrased “light reflectance value”.
793. Mr Barr in the Section 42A Report, agreed that Rule 21.5.15 need not apply to the Ski Area Sub Zones, because these matters were already provided for by the controlled activity status for the construction and alteration of buildings in those Sub-Zones⁷⁵⁶. Accordingly, we accept Mr Barr’s recommendation to clarify that position in this rule and recommend that the submissions on this aspect be accepted. We note that the same submission issue applies to Rule 21.5.16⁷⁵⁷ and we reach a similar recommendation. As a consequence, we do not address this matter further.
794. Accordingly, with other minor changes to the wording, we recommend that Rule 21.5.15 be relocated into Table 4, renumbered, and worded as follows:

⁷⁵¹ C Barr, Section 42A Report, Page 39, Paras 12.9 – 12.10

⁷⁵² C Barr, Section 42A Report, page 39-40, paragraph 12.13

⁷⁵³ Y Pflüger, EIC, Pages 13 -14, Paras 7.3 – 7.5 and Dr M Read, EIC, Pages 8 – 9, Paras 5.2 – 5.6

⁷⁵⁴ C Fergusson, EIC, Page 14, Para 65

⁷⁵⁵ C Barr, Reply Statement, page 23, paragraph 7.4

⁷⁵⁶ C Barr, Section 42A Report, Page 41, Para 12.19

⁷⁵⁷ Submissions 610, 613

<p>21.7.2</p>	<p>Buildings Any building, including any structure larger than 5m², that is new, relocated, altered, reclad or repainted, including containers intended to, or that remain on site for more than six months, and the alteration to any lawfully established building, are subject to the following: All exterior surfaces* must be coloured in the range of browns, greens or greys, including;</p> <p>21.7.2.1 Pre-painted steel and all roofs must have a light reflectance value not greater than 20%; and,</p> <p>21.7.2.2 All other surface** finishes, except for schist, must shall have a light reflectance value of not greater than 30%.</p> <p>21.7.2.3 In the case of alterations to an existing building not located within a building platform, it does not increase the ground floor area by more than 30% in any ten year period.</p> <p>Except this rule does not apply within the Ski Area Sub-Zones.</p> <p>* Excludes soffits, windows and skylights (but not glass balustrades).</p> <p>** Includes cladding and built landscaping that cannot be measured by way of light reflectance value but is deemed by the Council to be suitably recessive and have the same effect as achieving a light reflectance value of 30%.</p>	<p>RD Discretion is restricted to:</p> <ol style="list-style-type: none"> a. external appearance; b. visual prominence from both public places and private locations; c. landscape character; d. visual amenity.
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8.3 Rule 21.5.16 – Building Size

795. Rule 21.5.16, as notified read as follows;

<p>21.5.16</p>	<p>Building size The maximum ground floor area of any building shall be 500m².</p> <p>Discretion is restricted to all of the following:</p> <ol style="list-style-type: none"> a. External appearance b. Visual prominence from both public places and private locations c. Landscape character d. Visual amenity e. Privacy, outlook and amenity from adjoining properties. 	<p>RD</p>
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796. One submission sought that this rule be retained⁷⁵⁸ and two submissions sought that the rule be deleted⁷⁵⁹.
797. We note that at the hearing on 18 May 2016, Mr Vivian, appearing among others for Woodlot Properties, withdrew submission 501 relating to Rule 21.5.16.
798. The reasons contained in the remaining submission seeking deletion suggested that there were circumstances on large subdivided lots where larger houses could be appropriate and that restricting the size of the houses would have a less acceptable outcome. The submitters considered that each should be judged on its own merit and that restrictions on size were already in place via the defined building platform.
799. In the Section 42A Report, Mr Barr noted that the rule was part of the permitted activity regime for buildings in the Rural Zone and that the purpose of the limit was to provide for the assessment of buildings that may be of a scale that is likely to be prominent. Mr Barr noted that buildings of 1000m² were not common and that the rule provided discretion as to whether additional mitigation was required due to the scale of the building.⁷⁶⁰
800. We agree with Mr Barr. Completely building out a 1000m² building platform is not an appropriate way to achieve the objectives of the PDP and, in our view, the 500m² limit enables appropriately scaled buildings. Proposals involving larger floor plates can still be considered under the discretion for buildings greater than 500m².
801. Accordingly, we recommend that the submission seeking the deletion of the rule be rejected and the rule be relocated into Table 4, renumbered and amended to be worded as follows:

21.7.3	<p>Building size</p> <p>The ground floor area of any building must not exceed 500m².</p> <p>Except this rule does not apply to buildings specifically provided for within the Ski Area Sub-Zones.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. external appearance; b. visual prominence from both public places and private locations; c. landscape character; d. visual amenity; e. privacy, outlook and amenity from adjoining properties.
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8.4 Rule 21.5.17 – Building Height

802. Rule 21.5.17, as notified limited the height of buildings to 8m. Two submissions sought that rule be amended, one to exclude the rule from applying to passenger lift systems⁷⁶¹ and one to exclude the rule from applying to mining buildings⁷⁶². One submission sought that the rule be retained as notified⁷⁶³.

⁷⁵⁸ Submission 600

⁷⁵⁹ Submission 368, 501

⁷⁶⁰ C Barr, Section 42A Report, Pages 40-41, Paras 12.15 – 12.18

⁷⁶¹ Submission 407

⁷⁶² Submission 519

⁷⁶³ Submission 600

803. As regards exclusion of passenger lift systems from the rule, we note that this is related to our discussion on the definition of passenger lifts systems in paragraphs 191 – 193 where we recommended that this matter should be addressed in the definitions hearing.
804. That said, in evidence for Mt Cardrona Station Ltd, Mr Brown considered that passenger lift systems should be excluded from the general standards applying to buildings and structures in the same way that farm buildings are exceptions⁷⁶⁴, although he did not discuss any of the rules in Table 3 in detail.
805. The submission of NZTM (519) seeking exclusion of mining building from this rule was also framed in the general. Mr Vivian’s evidence⁷⁶⁵ addressed this submission, opining that mining buildings necessary for the undertaking of mining activities could be treated much the same way as farm buildings, as they would be expected in the landscape where mining occurs.
806. We noted above, in discussing the definition of Passenger Lift Systems, (Section 5.16) Mr Fergusson’s understanding that ski tows and machinery were exempt from the definition of building in the Building Act. Other than that evidence, we were not provided with any reasons why passenger lift systems should be excluded from this rule. If Mr Fergusson’s understanding is correct, then the pylons of passenger lift systems would not be subject to the rule in any event. In the absence of clear evidence justifying the exclusion of passenger lift systems from the effect of this rule we are not prepared to recommend such an exclusion.
807. Turning to the NZTM submission, we consider that mining building buildings are not in the same category as farm buildings. The policy direction of this zone is to enable farming as the main activity in the zone. The separate provisions for farm buildings recognise the need for such buildings so as to enable the farming activity. However, such buildings are constrained as to frequency in the landscape, location, size, colour and height. In addition, mining, other than for farming purposes, cannot occur without a resource consent. While Mr Vivian may be correct that one would expect buildings to be associated with a mine, without detailed evidence on what those buildings may entail and how any adverse effects of such buildings could be avoided, we are unable to conclude that some separate provision should be made for mining buildings.
808. Accordingly, we recommend that apart from relocation into Table 4, renumbering and minor wording changes, Rule 21.5.17 be retained as notified.

9 TABLE 4 – STANDARDS FOR FARM BUILDINGS

9.1 Rule 21.5.18 – Construction or Extension to Farm Buildings

809. Rule 21.5.18, as notified, set out the permitted activity standards for farm buildings (21.5.18.1 – 21.5.18.7) and provided matters of discretion for a restricted discretionary activity status when the standards were not complied with.
810. One submission opposed farm buildings being permitted activities and sought that provisions of the ODP be rolled over in their current form.⁷⁶⁶ We have already addressed that matter in Section 7.4 above and have recommended that submission be rejected. In the Section 42A Report, however, Mr Barr relied on that submission and the evidence of Dr Read that a density of 1 farm building per 25 hectares (Rule 21.5.18.2 as notified) created the risk to the landscape from a proliferation of built form, as the basis for his recommendation that a density for farm

⁷⁶⁴ J Brown, EIC, Page 24, Paras 2.39 – 2.40

⁷⁶⁵ C Vivian, EIC, page 21, paragraphs 4.95-4.96

⁷⁶⁶ Submission 145

buildings of one per 50 hectares was more appropriate⁷⁶⁷. No other evidence was provided on this provision. We recommend that, subject to minor wording changes to make the rule clearer, Rule 12.5.18.2 be adopted as recommended by Mr Barr.

811. There were other submissions on specific aspects of 21.5.18 that we address now.
812. One submission sought that 21.5.18.3 be amended so that containers located on ONFs would be exempt from this rule⁷⁶⁸. Mr Barr did not address this matter directly in the Section 42A Report. Mr Vivian addressed this matter in evidence suggesting that provision for small farm buildings could be made⁷⁶⁹, but gave no particular reasons as to how he reached that opinion. Given the policy direction of the PDP contained in Chapters 3 and 6, we consider to exempt containers from this rule would represent an implementation failure. We recommend that submission be rejected.
813. One submission sought that 21.5.18.4 be amended to provide for buildings up to 200m² and 5m in height.⁷⁷⁰
814. Mr Barr, in the Section 42A Report, relying on the evidence of Dr Read as to the importance of landscape, considered the proposed rule as notified provided the appropriate balance between providing for farm buildings and ensuring landscape values were maintained. Mr Barr also considered that the rule was not absolute and provided for proposals not meeting the permitted standards to be assessed for potential effects on landscape and visual amenity.
815. We heard no evidence in support of the submission. We agree with and adopt the reasons of Mr Barr. Accordingly, we recommended that the submission be rejected.
816. One submission sought that the permitted elevation for farm buildings be increased from 600 metres above sea level (masl) to 900 masl⁷⁷¹. In the Section 42A Report, Mr Barr noted that this provision had been brought across from the ODP, acknowledged that there were some farms with areas over 600 masl, but considered that the 600 masl cut-off was appropriate because areas at the higher elevation were visually vulnerable.⁷⁷²
817. This is another area where we see that the permitted activity status for farming needs to be balanced against its potential adverse effects on landscape and visual amenity. We consider that the 600 masl cut-off is the most appropriate balance in terms of the rule achieving the objective. Accordingly, we recommend that the submission be rejected.
818. Two submissions opposed the open-ended nature of the matters of discretion that applied to this provision through the inclusion of reference to rural amenity values⁷⁷³. We note these submitters opposed other provisions in the standards of this chapter on a similar basis. Jeremy Bell Investment Limited (Submission 784) considered that the matters of discretion were so wide that they effectively made the provision a fully discretionary activity.

⁷⁶⁷ C Barr, Section 42A Report, Page 31, Para 10.19

⁷⁶⁸ Submission 519

⁷⁶⁹ C Vivian, EIC, Page 21, Para 4.100

⁷⁷⁰ Submission 384

⁷⁷¹ Submission 829

⁷⁷² C Barr, Section 42A Report, Page 29, Para 10.10

⁷⁷³ Submission 600, 784

819. In the Section 42A Report, Mr Barr considered that the matters of discretion related to the effects on landscape and were consistent with the ODP in this regard. However, Mr Barr went on to compare the matters of control for farm buildings under the ODP with the matters of discretion under the PDP, concluding that the ODP matters of control nullified the controlled activity status. Mr Barr acknowledged that the “scale” and “location” were broad matters, but he remained of the view that they were relevant and should be retained.⁷⁷⁴
820. We heard no evidence in support of these submissions. We also note that the change in approach of the PDP, providing for farm buildings as permitted activities, is accompanied by objectives and policies to protect landscape values. We agree with Mr Barr where, in the Section 42A Report, he observes that the matters of discretion relate to landscape and not other matters such as vehicle access and trip generation, servicing, natural hazards or noise. While the matters of discretion are broad, they are in line with the relevant objectives and policies.
821. Nonetheless, we questioned Mr Barr as to relevance of “location” and “scale” as matters of discretion given that matters of discretion listed in this rule already provide for these matters.
822. In reply, Mr Barr noted the importance of “location” and “scale”, observing that they were specifically identified in Policy 21.2.1.2 (as notified) but considered that “... *The matters of discretion would better suit the rural amenity, landscape character, privacy and lighting being considered in the context of the scale and location of the farm building.*”⁷⁷⁵ Mr Barr, went on to recommend rewording of the matters of discretion so that location and scale are considered in the context of the other assessment matters. We agree and recommend that the wording of the matters of discretion be modified accordingly. Otherwise, we recommend that the submissions of Federated Farmers and JBIL be rejected.
823. Another submission sought that wahi tupuna be added to matters of discretion where farm buildings affect ridgelines and slopes⁷⁷⁶.
824. Mr Barr, in the Section 42A Report, considered that this matter was already addressed in Policy 21.2.1.7 and that as it pertained to ridgelines and slopes, it was already included in the matters of discretion⁷⁷⁷. We agree. Accordingly, we recommend that the submission be rejected.
825. Taking account of the amendments recommended above and our overall rewording of the provisions, we recommend that Rule 21.5.18 be located in Table 5, renumbered and worded as follows;

	Table 5- Standards for Farm Buildings	Non-compliance
	The following standards apply to Farm Buildings.	
21.8.1	<p>Construction, Extension or Replacement of a Farm Building</p> <p>The construction, replacement or extension of a farm building is a permitted activity, subject to the following standards:</p> <p>21.8.1.1 The landholding the farm building is located within must be greater than 100ha; and</p>	<p>RD</p> <p>Discretion is restricted to:</p> <p>a. The extent to which the scale and location of the Farm Building is appropriate in terms of:</p> <p>i. rural amenity values.</p> <p>ii. landscape character.</p>

⁷⁷⁴ C Barr, Section 42 A Report, Pages 3-32, Para 10.21 – 10.26

⁷⁷⁵ C Barr, Reply, Page 15, Para 5.5

⁷⁷⁶ Submission 810

⁷⁷⁷ C Barr, Section 42A Report, Page 32, Para 10.27 – 10.28

	Table 5- Standards for Farm Buildings The following standards apply to Farm Buildings.	Non-compliance
	<p>21.8.1.2 The density of all buildings on the landholding, inclusive of the proposed building(s) must not exceed one farm building per 50 hectares; and</p> <p>21.8.1.3 The farm building must not be located within or on an Outstanding Natural Feature (ONF); and</p> <p>21.8.1.4 If located within the Outstanding Natural Landscape (ONL), the farm building must not exceed 4 metres in height and the ground floor area must not exceed 100m²; and</p> <p>21.8.1.5 The farm building must not be located at an elevation exceeding 600 masl; and</p> <p>21.8.1.6 If located within the Rural Character Landscape (RCL), the farm building must not exceed 5m in height and the ground floor area must not exceed 300m²; and</p> <p>21.8.1.7 Farm buildings must not protrude onto a skyline or above a terrace edge when viewed from adjoining sites, or formed roads within 2km of the location of the proposed building.</p>	<p>iii. privacy, outlook and rural amenity from adjoining properties.</p> <p>iv. visibility, including lighting.</p>

9.2 Rule 21.5.19 – Exterior colours of buildings

826. Rule 21.5.19, as notified, set out the permitted activity standards for exterior colours for farm buildings (21.5.19.1 – 21.5.19.3) and provided matters of discretion to support a restricted discretionary activity status where the standards were not complied with.
827. One submission sought that the rule be retained⁷⁷⁸, one submission sought that wording be amended for clarity and that the reflectance value not apply to locally sourced schist⁷⁷⁹, and one submission sought removal of visual amenity values from the matters of discretion⁷⁸⁰.
828. The submission on this provision from Darby Planning⁷⁸¹ is the same as that made to 21.5.15 which we addressed above (Section 8.15). For the same reasons, we recommend that the submission on provision 21.5.19 be accepted in part.
829. The submission from Federated Farmers⁷⁸² seeking the removal of visual amenity values from the matters of discretion is the same as that made to 21.5.15 in regard to rural amenity values, which we addressed above (Section 8.15). For the same reasons, we recommend that the submission on provision 21.5.19 be rejected.

⁷⁷⁸ Submission 325

⁷⁷⁹ Submission 608

⁷⁸⁰ Submission 600

⁷⁸¹ Submission 608

⁷⁸² Submission 600

830. Accordingly, we recommend that 21.5.19 be located in Table 5, renumbered and worded as follows;

21.8.2	<p>Exterior colours of farm buildings:</p> <p>21.8.2.1 All exterior surfaces, except for schist, must be coloured in the range of browns, greens or greys (except soffits).</p> <p>21.8.2.2 Pre-painted steel, and all roofs must have a reflectance value not greater than 20%.</p> <p>21.8.2.3 Surface finishes, except for schist, must have a reflectance value of not greater than 30%.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. external appearance b. visual prominence from both public places and private locations c. landscape character d. visual amenity.
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9.3 Rule 21.5.20 – Building Height

831. This standard set a maximum height of 10m for farm buildings. Two submissions⁷⁸³ supported this provision. Other than some minor rewording to make the rule clearer, location in Table 5 and renumbering, we recommend it be adopted as notified.

10 TABLE 5 – STANDARDS FOR COMMERCIAL ACTIVITIES

10.1 Rule 21.5.21 – Commercial Recreational Activity

832. We have dealt with this standard in Section 7.15 above.

10.2 Rule 21.5.22 – Home Occupation

833. Rule 21.5.22, as notified set out the permitted activity standards for home occupations and provided for a restricted discretionary activity status for non-compliance with the standards.

834. One submission sought that the provision be retained⁷⁸⁴ and one sought that it be amended to ensure that the rule was effects-based and clarified as to its relationship with rules controlling commercial and commercial recreational activities.⁷⁸⁵

835. In the Section 42A Report, Mr Barr considered that the rule did provide clear parameters and certainty.⁷⁸⁶ We heard no other evidence on this provision. We agree with Mr Barr, that this rule is clear and note that it specifically applies to home occupations. Accordingly, we recommend that the submission seeking that the rule be amended, be rejected.

836. Accordingly, taking account of the amendments recommended above and our overall rewording of the provisions, we recommend that Rule 21.5.22 be located in Table 6, renumbered and worded as follows;

⁷⁸³ Submissions 325 and 600 (supported by FS1209, opposed by FS1034)

⁷⁸⁴ Submission 719

⁷⁸⁵ Submission 806

⁷⁸⁶ C Barr, Section 42A Report, Page 48, Par 13.36

21.9.2	<p>Home Occupation</p> <p>21.9.2.1 The maximum net floor area of home occupation activities must not exceed 150m²;</p> <p>21.9.2.2 Goods materials or equipment must not be stored outside a building;</p> <p>21.9.2.3 All manufacturing, altering, repairing, dismantling or processing of any goods or articles must be carried out within a building.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <p>a. the nature, scale and intensity of the activity in the context of the surrounding rural area.</p> <p>b. visual amenity from neighbouring properties and public places.</p> <p>c. noise, odour and dust.</p> <p>d. the extent to which the activity requires a rural location because of its link to any rural resource in the Rural Zone.</p> <p>e. access safety and transportation effects.</p>
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10.3 Rule 21.5.23 – Retail Sales

837. This rule imposed a setback from road boundaries of 30m on buildings in excess of 25m² used for retail sales. No submissions were received on this standard. Other than some wording changes for clarification purposes, we recommend the rule be located in Table 6, renumbered and adopted as notified.

10.4 Rule 21.5.24 – Retail Sales

838. As notified, this rule read:

Retail sales where the access is onto a State Highway, with the exception of the activities listed in Table 1.

839. Non-compliance was listed as a non-complying activity.

840. The sole submission⁷⁸⁷ on the rule sought its retention.

841. The problem with this rule is that it is not a standard. It appears to us that the intention of the rule is to make any retail sales other than those specifically listed in Table 1 (21.4.14 Roadside stalls and 21.4.15 sales of farm produce) a non-complying activity. That being the case, we recommend the rule be relocated in Table 1 as Rule 21.4.21 to read:

Retail sales where the access is onto a State Highway, with the exception of the activities provided for by Rule 21.4.14 or Rule 21.4.16.

Non-complying activity

11 TABLE 6 – STANDARDS FOR INFORMAL AIRPORTS

842. We have dealt with this in Section 7.23 above.

12 TABLE 7 – STANDARDS FOR SKI AREA ACTIVITIES WITHIN THE SKI AREA SUB ZONE

⁷⁸⁷ Submission 719

12.1 Rule 21.5.27 – Construction, relocation, addition or alteration of a building

843. As notified, Rule 21.5.27 read:

21.5.27	Construction, relocation, addition or alteration of a building. Control is reserved to all of the following: <ol style="list-style-type: none"> a. Location, external appearance and size, colour, visual dominance b. Associated earthworks, access and landscaping c. Provision of water supply, sewage treatment and disposal, electricity and communication services (where necessary) d. Lighting. 	C
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844. One submission sought to add provisions relating to the exterior colour of all buildings⁷⁸⁸; and one submission sought that the table be renamed “Standards for Ski Area Activities within Ski Area Sub Zones and Tourism Activities within the Cardrona Alpine Resort” and that numerous changes be made to 21.5.27 including adding reference to earthworks infrastructure, snow grooming, lift and tow provisions and particular reference to the Cardrona Alpine Resort.⁷⁸⁹

845. The submission seeking specification of the exterior colour for building stated as the reason for the request that the matters listed are assessment matters not standards. Mr Barr, in the Section 42A Report, acknowledged the ambiguity of the table and recommended it be updated to correct this issue. Mr Brown, in evidence for Mt Cardrona Station Ltd, supported such an amendment⁷⁹⁰ and Mr Barr, in reply provided further modification to the Table to clarify activity status⁷⁹¹. We agree with Mr Brown and Mr Barr that clarification as to the difference between activity status and standards is required. However, we do not think that their recommended amendments fully address the issue.

846. Accordingly, and in line with our recommendation in Section 7.1 above, we recommend that the activities for Ski Area Sub Zones be included in one table (Table 9).

847. Mr Barr, in the Section 42A Report, questioned if the substantive changes sought by Cardrona Alpine Resort Ltd were to be addressed in the Stream 11 hearing due to the extensive nature of changes sought by the submission. For the avoidance of doubt, Mr Barr assessed the amendments to 21.5.27 in a comprehensive manner, concluding that the submission should be rejected⁷⁹². We heard no evidence in support of the amendments to Rule 21.5.27 sought by Cardrona Alpine Resort Ltd. As such, we agree with Mr Barr, for the reasons set out in the Section 42A Report, and recommend that the submission be rejected.

848. Accordingly, we recommend that Rule 21.5.27 be located in Table 9 Activities within the Ski Area Sub Zones, renumbered and worded as follows:

21.11.2	Construction, relocation, addition or alteration of a building. Control is reserved to: <ol style="list-style-type: none"> a. location, external appearance and size, colour, visual dominance b. associated earthworks, access and landscaping c. provision of water supply, sewage treatment and disposal, electricity and communication services (where necessary) 	C
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⁷⁸⁸ Submission 407

⁷⁸⁹ Submission 615

⁷⁹⁰ J Brown, EIC, Page 24, Para 2.38

⁷⁹¹ C Barr, Reply, Appendix 1, Page 21-21

⁷⁹² C Barr, Section 42A Report, Pages 63 – 64, Paras 14.43 – 14.51

	d. lighting.	
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12.2 Rule 21.5.28 – Ski tows and lifts

849. As notified, Rule 21.5.28 read as follows:

21.5.28	<p>Ski tows and lifts.</p> <p>Control is reserved to all of the following:</p> <ol style="list-style-type: none"> a. The extent to which the ski tow or lift or building breaks the line and form of the landscape with special regard to skylines, ridges, hills and prominent slopes b. Whether the materials and colour to be used are consistent with the rural landscape of which the tow or lift or building will form a part c. Balancing environmental considerations with operational characteristics. 	C
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850. One submission sought to replace ski tows and lift with passenger lift systems and add provisions relating to the exterior colour of all passenger lift systems⁷⁹³. We have already addressed the definition of passenger lift system in paragraphs Section 5.16 above, concluding that it is appropriate to use this term for all such systems, including gondolas, ski tows and lifts. In addition, the submission of Mt Cardrona Station Ltd regarding exterior colour has the same reasoning as we discussed in Section 13.1 above. We adopt that same reasoning here. After hearing more extensive evidence on passenger lift systems, the Stream 11 Panel has recommended the inclusion of an additional matter of control ((c) in the rule set out below). Accordingly, we recommend that Rule 21.5.28 be located in Table 9 as an activity rather an a standard, be renumbered and worded as follows:

21.11.3	<p>Passenger Lift Systems.</p> <p>Control is reserved over:</p> <ol style="list-style-type: none"> a. the extent to which the passenger lift system breaks the line and form of the landscape with special regard to skylines, ridges, hills and prominent slopes; b. whether the materials and colour to be used are consistent with the rural landscape of which the passenger lift system will form a part; c. the extent of any earthworks required to construct the passenger lift system, in terms of the limitations set out in Chapter 25 Earthworks; d. balancing environmental considerations with operational characteristics. 	C
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12.3 Rule 21.5.29 – Night Lighting

851. As notified, this rule made night lighting a controlled activity in the SASZ. There were no submissions on it. We recommend it be located in Table 9 as an activity rather than a standard, and adopted as notified subject to minor wording changes and renumbering.

12.4 Rule 21.5.30 – Vehicle Testing

852. As notified, this rule provided for vehicle testing facilities at the Waiorau Snow Farm SASZ as a controlled activity. There were no submissions on it. We recommend it be located in Table 9 as

⁷⁹³ Submission 407

an activity rather than a standard, and adopted as notified subject to minor wording changes and renumbering.

12.5 Rule 21.5.31 – Retail activities ancillary to Ski Area Activities

853. As notified, this rule provided for retail activities ancillary to ski area activities as a controlled activity in the SASZ. There were no submissions on it. We recommend it be located in Table 9 as an activity rather than a standard, and adopted as notified subject to minor wording changes and renumbering.

12.6 New Activity for Ski Area Sub Zone Accommodation within Ski Area Sub Zones

854. Two submissions sought to insert a new rule into Table 7 (as notified) to provide Residential and Visitor Accommodation⁷⁹⁴.

855. In Section 5.19 above, we set out findings as regards a definition and policy for Ski Area Sub Zone Accommodation. We do not repeat that here. Rather, having established the policy framework, we address here the formulation of an appropriate rule. We understood that Mr Barr and Mr Ferguson⁷⁹⁵ were in general agreement as to the substance of the proposed rule. However, in terms of matters that we have not previously addressed, they had differences of opinion in relation to the inclusion in the rule of reference to landscape and ecological values.

856. Mr Ferguson initially recommended inclusion in the matters of discretion of reference to the positive benefits for landscape and ecological values⁷⁹⁶. However, in response to our questions, he made further amendments removing the reference to positive benefits.⁷⁹⁷ Mr Barr, in reply, considered that it did not seem appropriate to have landscape and ecological values apply to Ski Area Sub-Zone Accommodation facilities and not to other buildings in the Sub-Zone, which are addressed by the framework in Chapter 33 and which provided for the maintenance of biological diversity⁷⁹⁸. We agree with Mr Barr. The inclusion of reference to ecological matters would be a duplication of provisions requiring assessment. We note that the policy framework for Ski Area Sub-Zones precludes the landscape classification from applying in the Sub-Zone. This is not to say that landscape considerations are unimportant, but, in our view, those considerations should be applied consistently when considering all buildings and structures in the Sub-Zone.

857. In Section 5.19, we noted the need for the inclusion of the 6 month stay period as it applies to Ski Area Sub Zone Accommodation to be part of this rule. Mr Ferguson included this matter as a separate rule⁷⁹⁹. Mr Barr, in reply, recommended the 6 month period be included as part of a single rule and also considered that given that such activities were in an alpine environment, natural hazards should be included as a matter of discretion.

858. In considering all of the above, we recommend that new rule be included in Table 9 to provide for Ski Area Sub Zone Accommodation, numbered and worded as follows:

21.12.7	Ski Area Sub Zone Accommodation	RD
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⁷⁹⁴ Submissions 610, 613

⁷⁹⁵ Expert Planning Witness for Submission Numbers 610 and 613

⁷⁹⁶ C Ferguson, EIC, Page 32-33, Para 125

⁷⁹⁷ C Ferguson, Response to Panel Questions, 27 May 2016, Pages 7 - 8

⁷⁹⁸ C Barr, Reply, Pages 40 – 41, Para 14.12

⁷⁹⁹ C Ferguson, Response to Panel Questions, 27 May 2016, Page 8

	<p>Comprising a duration of stay of up to 6 months in any 12 month period and including worker accommodation.</p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> a. scale and intensity and whether these would have adverse effects on amenity, including loss of remoteness or isolation b. location, including whether that because of the scale and intensity the visitor accommodation should be located near the base building area (if any) c. parking d. provision of water supply, sewage treatment and disposal e. cumulative effects f. natural hazards 	
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12.7 New Rule – Ski Area Sub-Zone Activities

859. As a result of hearings in Stream 11, a new Rule 21.12.8 providing for a no build area in the Remarkables Ski Area Sub-Zone has been recommended by the Stream 11 Panel.

12.8 Standards for Ski Area Sub-Zones

860. As will be clear from above, we concluded that all the provisions listed in notified Table 7 were activities rather than standards. We had no evidence suggesting any specific standard be included for Ski Area Sub-Zone. Thus we recommend the table for such standards be deleted.

13 TABLE 8 – STANDARDS FOR ACTIVITIES WITHIN THE RURAL INDUSTRIAL SUB ZONE

13.1 Rule 21.5.32 – Buildings

861. As notified, Rule 21.5.32 read as follows;

21.5.32	<p>Buildings Any building, including any structure larger than 5m², that is new, relocated, altered, reclad or repainted, including containers intended to, or that remain on site for more than six months, and the alteration to any lawfully established building are subject to the following: All exterior surfaces shall be coloured in the range of browns, greens or greys (except soffits), including;</p> <p>21.5.32.1 Pre-painted steel and all roofs shall have a reflectance value not greater than 20%; and,</p> <p>21.5.32.2 All other surface finishes shall have a reflectance value of not greater than 30%.</p> <p>Discretion is restricted to all of the following:</p> <ul style="list-style-type: none"> • External appearance • Visual prominence from both public places and private locations. • Landscape character • Visual amenity. 	RD
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862. One submission sought that the activity status be amended to fully discretionary or that the Rural Industrial Sub-Zone be removed from this Stage of the Review⁸⁰⁰. On reviewing the submission, we note that the concern expressed was that ‘rural amenity’ was not provided in the list of matters of discretion.
863. This submission was addressed by Mr Barr in the Section 42A Report, Appendix 2 where Mr Barr recorded that, *“The matters of discretion are considered to appropriately contemplate ‘rural amenity’. The matters of discretion specify ‘visual amenity’. Visual amenity would encompass rural amenity.”*⁸⁰¹
864. We heard no evidence in support of the submission. We agree with Mr Barr for the reasons set out in the Section 42A Report. Accordingly, we recommend that the submission be rejected and subject to minor word changes, the rule be adopted as notified as Rule 21.14.1 in Table 11..

13.2 Rule 21.5.33 – Building size

865. As notified this rule set a maximum ground floor of buildings in the Rural Industrial Sub-Zone at 500m², with non-compliance a restricted discretionary activity. No submissions were received on this rule.
866. Other than minor wording changes for clarity and renumbering, we recommend this rule be adopted as notified.

13.3 Rule 21.5.34 – Building height

867. As notified, this rule set the maximum building height at 10m in the Sub-Zone. No submissions were received on this rule.
868. Other than minor wording changes for clarity and renumbering, we recommend this rule be adopted as notified.

13.4 Rule 21.5.35 – Setback from Sub-Zone Boundaries

869. As notified, this rule set the setback from the Sub-Zone boundaries at 10m in the Sub-Zone. No submissions were received on this rule.
870. Other than minor wording changes for clarity and renumbering, we recommend this rule be adopted as notified.

13.5 Rule 21.5.36 – Retail Activities

871. As notified, this limited the location and area of space used for retail sales to being within a building, and not exceeding 10% of the building’s total floor area. Non-compliance was set as a non-complying activity. No submissions were received on this rule.
872. Other than minor wording changes for clarity and renumbering, we recommend this rule be adopted as notified.

13.6 Rule 21.5.37 – Lighting and Glare

873. As notified, Rule 21.5.37 read as follows;

21.5.37	Lighting and Glare	NC
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⁸⁰⁰ Submission 314

⁸⁰¹ C Barr, Section 42A Report, Appendix 2, Page 127

	21.5.37.1	All fixed exterior lighting shall be directed away from adjoining sites and roads; and	
	21.5.37.2	No activity on any site shall result in greater than a 3.0 lux spill (horizontal and vertical) of light onto any other site measured at any point inside the boundary of the other site, provided that this rule shall not apply where it can be demonstrated that the design of adjacent buildings adequately mitigates such effects.	
	21.5.37.3	There shall be no upward light spill.	

874. One submission sought that this provision be relocated to Table 2 – General Standards⁸⁰². At this point, we also note that there was one submission seeking shielding and filtration standards for outdoor lighting generally within the zone with any non-compliance to be classified as a fully discretionary activity⁸⁰³.

875. Mr Barr considered that shifting the standard to Table 2 – General Standards was appropriate relying on the evidence of Dr Read, “... that the absence of any lighting controls in the ONF/L is an oversight and is of the opinion that the lighting standards should apply District Wide”⁸⁰⁴. We agree for the reason set out in Mr Barr’s Section 42A Report and recommend that the submission be accepted in part. We also consider that this addresses the submission seeking new lighting standards and accordingly recommended that submission be accepted in part.

876. The submission of QLDC Corporate also sought the following additional wording be added to the standard, ‘Lighting shall be directed away from adjacent roads and properties, so as to limit effects on the night sky’.

877. We agree with Mr Barr that such a standard is too subjective in that the rule itself would limit effects on the night sky and that it would be too difficult to ascertain as a permitted standard. Accordingly, we recommended that that submission be rejected.

878. Consequently, we recommend this rule be located in Table 2 as Rule 21.5.7 with the only text change being the replacement in recommended Rule 21.5.7.3 of “shall” with “must”.

14 TABLE 9 – ACTIVITIES AND STANDARDS FOR ACTIVITIES ON THE SURFACE OF LAKES AND RIVERS

879. This table, as notified, contained a mixture of activities and standards. We recommend it be divided into two tables: Table 12 containing the activities on the surface of lakes and rivers, and Table 13 containing the standards for those activities.

14.1 Rule 21.5.38 – Jetboat Race Events

880. As notified, Rule 21.5.38 read as follows:

⁸⁰² Submission 383

⁸⁰³ Submission 568

⁸⁰⁴ C Barr, EIC, Page 101, Para 20.8

21.5.38	<p>Jetboat Race Events</p> <p>Jetboat Race Events on the Clutha River, between the Lake Outlet boat ramp and the Albert Town road bridge not exceeding 6 race days in any calendar year.</p> <p>Control is reserved to all of the following:</p> <ol style="list-style-type: none"> a. The date, time, duration and scale of the jetboat race event, including its proximity to other such events, such as to avoid or mitigate adverse effects on residential and recreational activities in the vicinity b. Adequate public notice is given of the holding of the event c. Reasonable levels of public safety are maintained. 	C
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881. One submission sought that the rule be deleted as it would limit recreational opportunities and activities on the Clutha River⁸⁰⁵.

882. Mr Barr, in the Section 42A Report, noted that this rule was effectively brought over from the ODP with the same activity status. The only change was that the limitation of 6 races per year was specified in the rule, rather than in a note⁸⁰⁶. We heard no evidence in support of the submission and we do not consider a 6 race limit unreasonable. Accordingly, we recommend that the submission be rejected and that the only changes be to numbering and structuring, in line with our more general recommendations. Some minor changes to the matters of control are also recommended so they do not read as standards. It would therefore be located in Table 12 as an activity and worded as follows:

21.15.4	<p>Jetboat Race Events</p> <p>Jetboat Race Events on the Clutha River, between the Lake Outlet boat ramp and the Albert Town road bridge not exceeding 6 race days in any calendar year.</p> <p>Control is reserved to:</p> <ol style="list-style-type: none"> a. the date, time, duration and scale of the jetboat race event, including its proximity to other such events, such as to avoid or mitigate adverse effects on residential and recreational activities in the vicinity; b. the adequacy of public notice of the event; c. public safety. 	C
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14.2 Rule 21.5.39 - Commercial non-motorised boating activities and Rule 21.5.43 – Commercial boating activities

883. As notified, Rule 21.5.39 read as follows:

21.5.39	<p>Commercial non-motorised boating activities</p> <p>Discretion is restricted to all of the following:</p> <ol style="list-style-type: none"> a. Scale and intensity of the activity b. Amenity effects, including loss of privacy, remoteness or isolation c. Congestion and safety, including effects on other commercial operators and recreational users 	RD
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⁸⁰⁵ Submission 758

⁸⁰⁶ C Barr, Section 42A Report, Pages 88 – 89, Paras 17.43 – 17.48

	<p>d. Waste disposal</p> <p>e. Cumulative effects</p> <p>f. Parking, access safety and transportation effects.</p>	
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884. One submission sought that the rule be retained⁸⁰⁷, one sought that it be deleted⁸⁰⁸, two submissions sought that the rule be amended to prohibit non-motorised commercial activities on Lake Hayes⁸⁰⁹ and one submission sought that the rule be amended so that the matters of discretion included location⁸¹⁰. We note that Queenstown Rafting Ltd lodged a number of further submissions opposing many of the submissions on this provision and also seeking that the activity status be made fully discretionary. We find this latter point is beyond the scope of the original submissions, and hence we not have considered that part of those further submissions.
885. Mr Barr, in the Section 42A Report, noted the safety concerns raised in the QRL submission⁸¹¹, but considered that the provision as notified adequately addressed safety issues and that the restricted discretionary activity status was appropriate. Mr Barr also considered that the addition of 'location' as a matter of discretion was appropriate.⁸¹² Mr Farrell, in evidence for R/L agreed with Mr Barr⁸¹³.
886. In evidence for QRL, Mr Boyd (Managing Director of QRL) suggested that restricted discretionary activity status would result in the Council not considering other river and lake users when assessing such applications. He also highlighted the potential impact of accidents on tourism activities.⁸¹⁴
887. Mr Brown, in his evidence for Kawarau Jet Services Holdings Limited⁸¹⁵ considered safety and congestion an important factor that should be considered for any application involving existing and new motorised and non-motorised boating activities⁸¹⁶.
888. In reply, Mr Barr considered that the inclusion of safety in the matters of assessment meant that restricted discretionary status did not unduly impinge on a thorough analysis and application of section 104 and section 5.⁸¹⁷
889. Considering the evidence of the witnesses we heard, we had difficulty in reaching the conclusion that restricted discretionary activity status was appropriate for commercial non-motorised boating activities (Rule 21.5.39) alongside fully discretionary activity status for commercial motorised boating activities (Rule 21.4.43), particularly where motorised and non-motorised activities may occur on the same stretch of water. It appeared to us that the same activity status should apply to both motorised and non-motorised commercial boating activities.
890. We therefore consider Rule 21.5.43 at this point. As notified, this rule read as follows;

⁸⁰⁷ Submissions 45, 719

⁸⁰⁸ Submission 167

⁸⁰⁹ Submission 11, 684

⁸¹⁰ Submission 621

⁸¹¹ Submission 167

⁸¹² C Barr, Section 42A Report, Page 84-85, Paras 17.25 – 17.28

⁸¹³ B Farrell, EIC, Page 27, Paras 125 - 126

⁸¹⁴ RV Boyd, EIC, Pages 3- 5, Paras 3.3 – 4.5

⁸¹⁵ Submission 307

⁸¹⁶ J Brown, EIC, Page 20, Para 2.28

⁸¹⁷ C Barr, Reply, Page 30, Para 10.2

21.5.43	<p>Commercial boating activities Motorised commercial boating activities.</p> <p>Note: Any person wishing to commence commercial boating activities could require a concession under the QLDC Navigation Safety Bylaw. There is an exclusive concession currently granted to a commercial boating operator on the Shotover River between Edith Cavell Bridge and Tucker Beach until 1 April 2009 with four rights of renewal of five years each.</p>	D
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891. One submission sought that the term “motorised commercial boating activities” be deleted from the rule⁸¹⁸ and one submission sought that the rule be amended to separately provide for commercial ferry operations for public transport between the Kawarau River, Frankton Arm, and Queenstown CBD as a controlled activity⁸¹⁹.
892. We were unable to find direct reference in the Section 42A Report to this rule or to the submission from QRL. Rather, the focus of the Section 42A Report remained on the commercial non-motorised boating activities as discussed above.
893. Reading Submission 167 as a whole, the combination of relief resulting from deleting rule 21.5.39 and deleting “*motorised commercial boating activities*” from Rule 21.5.43 would mean that all commercial boating activities (meaning both motorised and non-motorised operations) would become fully discretionary activities. For the reasons discussed above, we agree that it is appropriate that the same activity status apply to motorised and non-motorised boating activities. We have no jurisdiction to consider restricted discretionary status for motorised activities (other than for commercial ferry operations in the areas specified in Submission 806).
894. Accordingly, we recommend that Rule 21.5.39 and Rule 21.4.43 be combined and renumbered, with the following wording;

21.15.9	<p>Motorised and non-motorised Commercial Boating Activities Except where otherwise limited by a rule in Table 12.</p> <p>Note: Any person wishing to commence commercial boating activities could require a concession under the QLDC Navigation Safety Bylaw. There is an exclusive concession currently granted to a commercial boating operator on the Shotover River between Edith Cavell Bridge and Tucker Beach until 1 April 2009 with four rights of renewal of five years each.</p>	D
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895. In relation to the submission of QPL seeking commercial ferry operations for public transport between the Kawarau River, Frankton Arm, and Queenstown CBD be subject to a separate rule as a controlled activity, this issue has also been raised by RJL. Both QPL and RJL sought related amendments to a number of provisions and we address those matters later in the report in Section 15.4.

⁸¹⁸ Submission 167

⁸¹⁹ Submission 806

14.3 Rule 21.5.40 – Jetties and Moorings in the Frankton Arm

896. As notified, this rule provided for jetties and moorings in the Frankton Arm as a restricted discretionary activity. No submissions were received on this rule.
897. Other than minor wording changes and renumbering, we recommend this be adopted as notified.

14.4 Rule 21.5.41 and Rule 21.5.42 – Structures and Moorings

898. As notified, Rules 21.5.41 and 21.5.42 read as follows;

21.5.41	Structures and Moorings Any structure or mooring that passes across or through the surface of any lake or river or is attached to the bank of any lake and river, other than where fences cross lakes and rivers.	D
21.5.42	Structures and Moorings Any structures or mooring that passes across or through the surface of any lake or river or attached to the bank or any lake or river in those locations on the District Plan Maps where such structures or moorings are shown as being non-complying.	NC

899. One submission sought that Rule 21.5.41 be amended to include pipelines for water takes that are permitted in a regional plan and gabion baskets or similar low impact erosion control structures installed for prevention of bank erosion⁸²⁰.
900. Two submissions sought that Rule 21.5.42 be amended to provide for jetties and other structures for water based public transport on the Kawarau River and Frankton Arm, as a controlled activity⁸²¹.
901. In relation to the amendment sought by RJL regarding water take pipelines and erosion controls, we could not find reference to this submission point in the Section 42A Report. Mr Farrell, likewise did not address this matter in evidence for RJL. In reply, Mr Barr recommended amending 21.5.41 to clarify that post and wire fences were in this situation permitted activities, although he provided no discussion of this change or reference to a submission seeking it.
902. Having heard no evidence in support of the amendments for inclusion of water pipeline takes and erosion control devices, we recommend that that submission be rejected.
903. While there may have been an intention that post and wire fences crossing lakes and rivers were a permitted activity, Rule 21.5.41 as notified did not classify those activities in that way. What the rule did do is exclude fences crossing lakes and rivers from the discretionary activity category. Given the application of (notified) Rule 21.4.1, those fences would therefore be non-complying activities. There is no scope for those activities to be reclassified as permitted. Therefore, we do not agree with Mr Barr's recommended amendment.
904. What we do recommend is a minor, non-substantive change to Rule 21.5.41 to make it clear that it is subject to Rule 21.5.42 (as notified).

⁸²⁰ Submission 621

⁸²¹ Submission 621, 806

905. Accordingly, we recommend that Rules 21.5.41 and 21.5.42 be renumbered and worded as follows:

21.15.7	Structures and Moorings Subject to Rule 21.15.8, any structure or mooring other than post and wire fences that passes across or through the surface of any lake or river or is attached to the bank of any lake and river.	D
21.15.8	Structures and Moorings Any structures or mooring that passes across or through the surface of any lake or river or attached to the bank or any lake or river in those locations on the District Plan Maps where such structures or moorings are shown as being non-complying.	NC

906. Returning to the submissions regarding jetties and other structures for water based public transport on the Kawarau River and Frankton Arm as a controlled activity, we have already addressed these matters at a policy level in Section 5.48 above, where we recommended separating public ferry systems from other commercial boating activities. We also recorded the need for jetties and moorings to be considered in the context of policies related to protection landscape quality and character, and amenity values.

907. Mr Barr, in the Section 42A Report, was opposed to controlled activity status for jetties and other structures and his recommendation was *“that the restricted discretionary activity status is appropriate, as is a discretionary, or non-complying activity status for other areas as identified in the provisions.”*⁸²² Mr Farrell, in evidence for RJL, agreed with Mr Barr as to the restricted discretionary activity status for structures associated with water based public transport in the Frankton Arm⁸²³.

908. We could not identify anywhere in the Section 42A Report or in his Reply Statement where Mr Barr included any recommendations so that the revised text of the PDP would provide for jetties and other structures as restricted discretionary activities. Even if we are wrong on that matter, we do not agree that that is the appropriate activity status. In our view, Policy 21.2.12.8 recommended above goes far enough towards encouraging public ferry systems and beyond that, the rules need to be balanced so that consideration is given to landscape quality and character, and amenity values, that are to be maintained and enhanced under Policies 6.3.29 and 6.3.30.

909. Accordingly, we recommend that the submissions seeking rule amendments to provide for jetties and other structures for water based public transport on the Kawarau River and Frankton Arm as a controlled activity be rejected.

14.5 Rule 21.5.44 – Recreational and commercial boating activities

910. As notified, Rule 21.5.44 read as follows:

21.5.44	Recreational and commercial boating activities The use of motorised craft on the following lakes and rivers is prohibited, except where the activities are for emergency search and rescue, hydrological survey, public scientific research,	PR
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⁸²² C Barr, Section 42A Report, Page 87, Para 17.36

⁸²³ B Farrell, EIC, Page 28, Para 129

	resource management monitoring or water weed control, or for access to adjoining land for farming activities.	
21.5.44.1	Hawea River.	
21.5.44.2	Commercial boating activities on Lake Hayes.	
21.5.44.3	Any tributary of the Dart and Rees rivers (except the Rockburn tributary of the Dart River) or upstream of Muddy Creek on the Rees River.	
21.5.44.4	Young River or any tributary of the Young or Wilkin Rivers and any other tributaries of the Makarora River.	
21.5.44.5	Dingle Burn and Timaru Creek.	
21.5.44.6	The tributaries of the Hunter River.	
21.5.44.7	Hunter River during the months of May to October inclusive.	
21.5.44.8	Motatapu River.	
21.5.44.9	Any tributary of the Matukituki River.	
21.5.44.10	Clutha River - More than six jet boat race days per year as allowed by Rule 21.5.38.	

911. Submissions to this rule variously sought that:

- a. 21.5.44 be retained⁸²⁴
- b. 21.5.44.1 be amended to provide for recreational jet sprint racing on the Hawea River⁸²⁵
- c. 21.5.44.3 be amended to provide for recreational and commercial boating activities on the Beansburn tributary of the Dart River⁸²⁶
- d. 21.5.44.7 amend rule to permitted activity status⁸²⁷
- e. 21.5.44.10 amend rule to permitted activity status⁸²⁸.

912. Mr Barr, in the Section 42A Report, addressed the submission of Jet Boat NZ as regards jet sprint racing on the Hawea River, noting that the ODP did provide for such activities 6 days per year on an identified course on the river. However, Mr Barr set out in detail the reasons he considered that the activity status in the PDP should remain as prohibited, as follows;

- “a. There is not any 'one approved jet sprint course' on the ODP planning maps. I accept this is not the fault of the submitter, however it illustrates that the rule has not been exercised.*
- a. *The qualifiers in the exemption to the prohibited status are cumbersome and subject to third party approvals from a whitewater group and the Queenstown Harbour Master.*
 - b. *There is a jet sprint course constructed and in operation near the Wanaka Airport⁵³ for these activities that negate the need to manage risks to safety, amenity and nature conservation values as required in the qualifiers in Rule 5.3.3.5(a) through undertaking the activity on the Hawea River.*
 - c. *The jet sprint course near Wanaka Airport held a New Zealand Jet Sprint Championship event, however the resource consent was for a one-off event⁵⁴. While these activities require a resource consent the physical works associated with constructing a jet sprint course are already done*

⁸²⁴ Submission 688

⁸²⁵ Submission 758

⁸²⁶ Submission 716

⁸²⁷ Submission 758

⁸²⁸ Submission 758

d. *The jet sprint course on the Hawea River has not been used for a long time and is disused. The Council's Albert Town Reserve Management Plan 2010⁵⁵ noted this and states that the jet sprint course was not compatible with the quiet values of the reserve and adjacent camping areas and, Central Otago Whitewater have expressed an interest in using the disused course for a pond to complement the kayak slalom site.*⁸²⁹

53. *<http://www.jetsprint.co.nz/tracks/oxbow-aquatrack-wanaka/> Downloaded 28 February 2016.*

54. *RM130098 Oxbow Limited. To hold the fifth round of the New Zealand Jet Sprint Championship on the 30 March 2013 and undertake earthworks to construct the jet sprint course*

55. *http://www.qldc.govt.nz/assets/OldImages/Files/Reserve_Management_Plan_s/Albert_Town_Recreation_Reserve_Mgmt_Plan_2010.pdf*

913. Mr McSoriley, in evidence for JBNZ, considered that Mr Barr's interpretation of the rules in the ODP was incorrect and that the rules provided for both jet boating runs on the Hawea River itself, as well as jet sprint events on the identified course⁸³⁰. Mr McSoriley considered that there was no support for a blanket prohibition on the Hawea River and also set out the reasons for the limited utilisation of jet sprint course and factors that may have led to the PDP discouraging recreational jet boating⁸³¹.

914. In reply, Mr Barr considered that it was appropriate to have jet boating runs on the Hawea River as per the ODP Rule 5.3.3.5i (a) (2) despite the cumbersome nature of the provisions in the ODP and recommended amendments to that effect⁸³². Having considered the witness's evidence, we agree.

915. We questioned Mr Barr, as to whether the jet sprint course was part of the river, or whether, because it was artificially constructed, it therefore fell under Council's jurisdiction as a land-based activity rather than a surface of water activity. We understood from Mr Barr's evidence in reply that he supported the second interpretation. It followed that any activity on the course would require consideration under the provisions governing noise, commercial recreation activities and temporary activities. Mr Barr provided a copy of a consent from 14 Dec 1999 for a one-off jet sprint event to be held on 3 Jan 2000.

916. We agree with Mr Barr that the jet sprint course is not part of the surface of a lake or river, but that this use should be addressed under other provisions in Plan. We also note that we did not receive any evidence that the activity was lawfully established. In our view, the activity would be most appropriately addressed as a temporary activity.

917. Accordingly we recommend that the submission of JBNZ seeking the reinstatement of the Jet Sprint Course be rejected and recreational jet boat runs on the Hawea be provided for subject to limitations as follows;

⁸²⁹ C Barr, Section 42A Report, Pages 90 – 91, Para 17.52

⁸³⁰ L McSoriley, EIC, Pages 2-3, Para 10 - 12

⁸³¹ L McSoriley, EIC, Pages 4-5, Paras 14 - 24

⁸³² C Barr, Reply, Page 31, Para 10.6

21.15.3	<p>Motorised Recreational Boating Activities</p> <p>Hawea River, motorised recreational boating activities on no more than six (6) days in each year subject to the following conditions:</p> <ol style="list-style-type: none"> a. at least four (4) days of such activity are to be in the months January to April, November and December b. The Jet Boat Association of New Zealand (“JBANZ”) (JBANZ or one of the Otago and Southland Branches as its delegate) administers the activity on each day c. The prior written approval of Central Otago Whitewater Inc is obtained if that organisation is satisfied that none of its member user groups are organising activities on the relevant days; and d. JBANZ gives two (2) calendar months written notice to the Council’s Harbour-Master of both the proposed dates and the proposed operating schedule e. The Council’s Harbour-Master satisfies himself that none of the regular kayaking, rafting or other whitewater (non-motorised) river user groups or institutions (not members of Central Otago Whitewater Inc) were intending to use the Hawea River on that day, and issues an approved operating schedule f. JBANZ carries out, as its expense, public notification on two occasions 14 and 7 days before the proposed jet boating g. Public notification for the purposes of (f) means a public notice with double-size font heading in both the Otago Daily Times and the Southland Times, and written notices posted at the regular entry points to the Hawea River. 	P
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918. As regards the submission of Ngai Tahu Tourism Ltd seeking that Rule 21.5.44.3 be amended to provide for recreational and commercial boating activities on the Beansburn tributary of the Dart River, Mr Barr, in the Section 42A Report, considered that the submission did not contain any evaluation of safety effects, or how natural conservation values or amenity values of other recreational users would be impacted⁸³³.

919. Mr Edmonds spoke to the submission of Ngai Tahu Tourism Ltd, noting that the jet boat trip includes a stop at toilet facilities up the Beansburn River for which Ngai Tahu Tourism have a concession and presented maps showing stopping points. Mr Barr, in reply, agreed with Mr Edmonds and included a recommended amendment as part of a section 32AA assessment to provide for the exception of Beansburn tributary of the Dart River⁸³⁴.

920. We agree that an exception in this case is appropriate in addressing a practical aspect of the existing commercial boating operation. By excluding the Beansburn from the rule, the more general Rule 21.15.9 (as recommended) would apply making the activities described by Mr Edmonds a discretionary activity. Accordingly, we recommend that 21.5.44.3 be renumbered and worded as follows:

⁸³³ C Barr, Section 42A Report, Page 91, Para 17.55

⁸³⁴ C Barr, Reply, Appendix 2, Page 12, Rule 21.5.44.3

Any tributary of the Dart and Rees rivers (except the Beansburn and Rockburn tributaries of the Dart River) or upstream of Muddy Creek on the Rees River.

921. The submission of JBNZ sought to amend Rule 21.5.44.7, which prohibited recreational motorised craft on the Hunter River during the months of May to October, so that it would be permitted. Mr Barr in the Section 42A Report, noted that the submission stated that the rule would, *“prohibit recreational opportunities in certain months which is a permitted activity under the Operative District Plan”*. Mr Barr recorded that the rule is in fact carried over from the ODP and he considered the rule appropriate in terms of navigation and safety considerations and environmental impacts.
922. We heard no evidence from JBNZ in support of the submission that would contradict Mr Barr’s evidence. Therefore we recommend that the submission be rejected.
923. As regards the amendment sought by JBNZ to Rule 21.5.44.10 seeking permitted activity status for jet boating racing on the Clutha River (up to 6 race days a year), Mr Barr noted in the Section 42A Report that controlled activity status under Rule 21.5.38 is the same as in the ODP.⁸³⁵ Mr Barr did not consider the reasons provided by JBNZ to be compelling enough to alter the existing situation.
924. As for our consideration of Rule 21.5.38, JBNZ did not present any evidence in support of the submission that would cause us to take a different view to Mr Barr. We therefore recommend that the submission be rejected.
925. Notwithstanding the recommended acceptance and rejection of submissions set out above, we consider this rule has some inherent difficulties. As we understand the intention of the rule, it is to make it a prohibited activity for motorised craft to use the listed rivers and Lake Hayes (limited to commercial motorised craft). However, the rule also implies that where motorised craft are used for emergency search and rescue, hydrological survey, public scientific research, resource management monitoring or water weed control, or for access to adjoining land for farming activities, then they can use those rivers and Lake Hayes, presumably as a permitted activity.
926. In our view, the PDP would be a more easily understood document if the permitted activities were specified as such, and the prohibited activity rule was drafted so that it did not apply to those activities. For those reasons, we recommend this rule be split into two rules as follows:

21.15.2	Motorised Recreational and Commercial Boating Activities The use of motorised craft for the purpose of emergency search and rescue, hydrological survey, public scientific research, resource management monitoring or water weed control, or for access to adjoining land for farming activities.	P
21.15.10	Motorised Recreational and Commercial Boating Activities The use of motorised craft on the following lakes and rivers is prohibited except as provided for under Rules 21.15.2 and 21.15.3. 21.15.10.1 Hawea River. 21.15.10.2 Lake Hayes - Commercial boating activities only.	PR

⁸³⁵ C Barr, Section 42A Report, Page 89, Para 17.47

	<p>21.15.10.3 Any tributary of the Dart and Rees Rivers (except the Beansburn and Rockburn tributaries of the Dart River) or upstream of Muddy Creek on the Rees River.</p> <p>21.15.10.4 Young River or any tributary of the Young or Wilkin Rivers and any other tributaries of the Makarora River.</p> <p>21.15.10.5 Dingle Burn and Timaru Creek.</p> <p>21.15.10.6 The tributaries of the Hunter River.</p> <p>21.15.10.7 Hunter River during the months of May to October inclusive.</p> <p>21.15.10.8 Motatapu River.</p> <p>21.15.10.9 Any tributary of the Matukituki River.</p> <p>21.15.10.10 Clutha River - More than six jet boat race days per year as allowed by Rule 21.15.4</p>	
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14.6 Rule 21.5.45 – Boating Craft used for Accommodation

927. As notified, this rule provided standards applying to the use of craft for overnight accommodation. Non-compliance was a non-complying activity. No submissions were received to this rule.

928. In his Reply Statement, Mr Barr recommended changed wording so as to make it clear that the activity is allowed subject to the standards. In large part we agree with his recommended amendments. We consider such an amendment to be minor and available under Clause 16(2).

929. We recommend the rule be renumbered and adopted with the following wording:

21.16.1	<p>Boating craft used for Accommodation</p> <p>Boating craft on the surface of the lakes and rivers may be used for accommodation, provided that:</p> <p>21.16.1.1 The craft must only be used for overnight recreational accommodation; and</p> <p>21.16.1.2 The craft must not be used as part of any commercial activity; and</p> <p>21.16.1.3 All effluent must be contained on board the craft and removed, ensuring that no effluent is discharged into the lake or river.</p>	NC
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14.7 Rule 21.5.46 – Jetties in Frankton Arm

930. As notified, Rules 21.5.46 read as follows:

21.5.46	<p>No new jetty within the Frankton Arm identified as the area east of the Outstanding Natural Landscape Line shall:</p> <p>21.5.46.1 be closer than 200 metres to any existing jetty;</p> <p>21.5.46.2 exceed 20 metres in length;</p> <p>21.5.46.3 exceed four berths per jetty, of which at least one berth is available to the public at all times;</p> <p>21.5.46.4 be constructed further than 200 metres from a property in which at least one of the registered owners of the jetty resides.</p>	NC
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931. One submission sought that the standard be amended to exclude jetties associated with water based public transport or amended to provide flexibility for the provision of such jetties⁸³⁶. Two other submissions similarly sought that the rule not apply to jetties for public transport linkage on the Kawarau River, the Frankton Arm and Queenstown CBD⁸³⁷.
932. Submissions to this rule were not directly referenced in the Section 42A Report, Mr Barr noting in Appendix 2 that the matter was addressed under his consideration of Objective 21.2.12 (as notified)⁸³⁸.
933. Mr Farrell, in evidence for R/L opined that the importance of water based public transport warranted discretionary activity status for associated jetties and structures rather than the non-complying activity status⁸³⁹. Mr Farrell did not provide any further reasons for reaching that opinion.
934. We have already addressed the issue of water based public transport infrastructure at a policy level in Section 5.48 above, where we recommended separating public ferry systems from other commercial boating activities and, in particular, recording the need for jetties and moorings to be considered within the context of landscape quality and character, and amenity values all being maintained and enhanced under Policies 6.3.29 and 6.3.30. For the same reasons, we recommend that these submissions be rejected.
935. Mr Barr, in reply did recommend clarification of the rule by inserting a reference to Outstanding Natural Landscape line as shown on the District Plan Maps⁸⁴⁰. We agree that this is a useful clarification. Accordingly, we recommend that Rule 21.5.46 be renumbered and the wording be as follows;

21.16.2	<p>Jetties and Moorings in the Frankton Arm</p> <p>Jetties and moorings in the Frankton Arm, identified as the areas located to the east of the Outstanding Natural Landscape line as shown on District Plan Map</p> <p>No new jetty within the Frankton Arm identified as the area east of the Outstanding Natural Landscape Line shall:</p> <p>21.16.2.1 Be closer than 200 metres to any existing jetty;</p> <p>21.16.2.2 Exceed 20 metres in length;</p> <p>21.16.2.3 Exceed four berths per jetty, of which at least one berth is available to the public at all times;</p> <p>21.16.2.4 Be constructed further than 200 metres from a property in which at least one of the registered owners of the jetty resides.</p>	NC
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14.8 Rule 21.5.47 – Specific Standards

936. As notified, Rule 21.5.47 read as follows;

21.5.47	The following activities are subject to compliance with the following standards:	NC
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⁸³⁶ Submission 621

⁸³⁷ Submissions 766, 806

⁸³⁸ C Barr, Section 42A Report, Appendix 2, Page 131

⁸³⁹ B Farrell, EIC, Page 29, Para 135

⁸⁴⁰ C Barr, Reply, Appendix 1, Page 21-27

	21.5.47.1	Kawarau River, Lower Shotover River downstream of Tucker Beach and Lake Wakatipu within Frankton Arm - Commercial motorised craft shall only operate between the hours of 0800 to 2000.	
	21.5.47.2	Lake Wanaka, Lake Hawea and Lake Wakatipu - Commercial jetski operations shall only be undertaken between the hours of 0800 to 2100 on lakes Wanaka and Hawea and 0800 and 2000 on Lake Wakatipu.	
	21.5.47.3	Dart and Rees Rivers - Commercial motorised craft shall only operate between the hours of 0800 to 1800, except that above the confluence with the Beansburn on the Dart River commercial motorised craft shall only operate between the hours of 1000 to 1700.	
	21.5.47	Dart River – The total number of commercial motorised boating activities shall not exceed 26 trips in any one day. No more than two commercial jet boat operators shall operate upstream of the confluence of the Beansburn, other than for tramper and angler access only.	

937. One submission sought that the rule be amended to clarify that it did not apply to commercial boating operations providing a public transport service⁸⁴¹. Another submission sought that Rule 21.5.47.1 be amended so as not to provide a disincentive for public transport⁸⁴². A third submission sought that rule 21.5.47.4 be amended to refer to ‘one’ instead of ‘two’ commercial jet boat operators⁸⁴³.
938. Mr Barr, in the Section 42A Report, agreed that the hours of operation specified in Rule 21.5.47.1 could provide a disincentive for public transport and recommended amending the rule to exclude public transport ferries, rather than deleting the rule entirely.⁸⁴⁴
939. We have already addressed public transport ferry activities above. We agree with Mr Barr that the restriction on the hours of operation would be a disincentive that should be removed.
940. In speaking to the submission of Ngai Tahu Tourism Ltd⁸⁴⁵ seeking an amendment to Rule 21.5.47.4, to refer to ‘one’ instead of ‘two’ commercial jet boat operators, Mr Edmonds explained that Ngai Tahu Tourism Ltd now owned all the jet boat operations on the Dart River.
941. We are concerned that, notwithstanding that Ngai Tahu Tourism Limited may be the only present operator on the Dart River, restricting the number of operators to one would amount to a restriction of trade competition. In the absence of evidence of resource management reasons as to why the standard should be further restricted, we do not recommend it be changed.

⁸⁴¹ Submission 806

⁸⁴² Submission 383

⁸⁴³ Submission 716

⁸⁴⁴ C Barr, Section 42A Report, Page 87, Para 17.39

⁸⁴⁵ Submission 716

942. Taking account of all of the above, we recommend that rule 21.5.47 be renumbered and worded as follows:

21.16.3	<p>The following activities are subject to compliance with the following standards:</p> <p>21.16.3.1 Kawarau River, Lower Shotover River downstream of Tucker Beach and Lake Wakatipu within Frankton Arm - Commercial motorised craft other than public transport ferry activities, may only operate between the hours of 0800 to 2000.</p> <p>21.16.3.2 Lake Wanaka, Lake Hawea and Lake Wakatipu - Commercial jetski operations must only be undertaken between the hours of 0800 to 2100 on Lakes Wanaka and Hawea and 0800 and 2000 on Lake Wakatipu.</p> <p>21.16.3.3 Dart and Rees Rivers - Commercial motorised craft must only operate between the hours of 0800 to 1800, except that above the confluence with the Beansburn on the Dart River commercial motorised craft must only operate between the hours of 1000 to 1700.</p> <p>21.16.3.4 Dart River – The total number of commercial motorised boating activities must not exceed 26 trips in any one day. No more than two commercial jet boat operators may operate upstream of the confluence of the Beansburn, other than for tramper and angler access only.</p>	NC
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15 TABLE 10 – CLOSEBURN STATION

943. As notified, this table contained one activity rule and four standards applying solely to Closeburn Station. The only submission⁸⁴⁶ on these supported the provisions.

944. We recommend these be split into two tables: Table 14: Closeburn Station – Activities; and Table 15: Closeburn Station – Standards. Other than that, renumbering and a minor grammatical correction to the height standards, we recommend the rules be adopted as notified.

16 NEW STANDARDS SOUGHT

945. The NZFS⁸⁴⁷ sought inclusion of a standard requiring compliance with the NZFS Code of Practice SNZ PAS 4509:2003 in relation to water supply and access. We were not able to find any further submissions opposing the relief sought.

946. In the Section 42A Report, Mr Barr supported the request but raised concerns around the reliance on the Code of Practice, which is a document outside the PDP, for a permitted activity status. As there were no development rights attached to dwellings in the Rural Zone, Mr Barr

⁸⁴⁶ Submission 323

⁸⁴⁷ Submission 438

did not consider the rule necessary and recommended that the submission be rejected⁸⁴⁸. We note that in Section 5.4 above that we have already dealt with the policy matter of the provision of firefighting water supply and fire service vehicle access within this Chapter and the other rural chapters. We also note that Mr Barr, in the Section 42A Report on Chapter 22, recommended that the specifics of the Code of Practice be incorporated into the wording of a standard⁸⁴⁹.

947. We heard evidence from Mr McIntosh, Area Manager Central/North Otago at the NZFS, as to the detail of the Code of Practice and the importance of water supply and access to property in the event of the NZFS attending emergency call outs⁸⁵⁰. We also heard evidence from Ms A McLeod, a planner appearing for NZFS. Ms McLeod had a different view to Mr Barr, considering that a standard should be included. Her reasons included greater certainty and clarity for plan users, consistency with the priority given to fire-fighting water supply in section 14(3) of the RMA and by being *“the most appropriate way to achieve the purpose of the RMA by enabling people and community to provide for their health, safety and well-being by managing a potential adverse effect of relatively low probability but high consequence.”*⁸⁵¹
948. In her evidence, Ms McLeod considered that reference to codes of practice were provided for by the Act and that interpreting the code into the provision as proposed by Mr Barr could lead to the PDP being more restrictive than the code itself⁸⁵². We questioned the NZFS witnesses regarding the detail of the application of the code and proposed standard and activity status during the hearing and also sought additional information on specific questions relating to the treatment of multiple units, separation distances and the suggested 45,000 litre tank size. We received that information on 7 June 2016.
949. Taking into account all the evidence and information we were provided with, we think that reliance on the code of practice is not appropriate in terms of specifying the requirements and that those requirements should be set out in the Plan. We agree that the tank/s size should be 45,000litres and the activity status for non-compliance should be restricted discretionary. In line with our policy recommendation above, we also consider that these provisions be consistently applied across all the rural chapters.
950. Accordingly we recommend the NZFS submission be accepted in part and that the provisions be located in Table 4 (Standards for Structures and Buildings), numbered and worded as follows:

21.7.5	<p>Fire Fighting water and access</p> <p>All new buildings, where there is no reticulated water supply or any reticulated water supply is not sufficient for fire-fighting water supply, must make the following provision for fire-fighting:</p> <p>21.7.5.1 A water supply of 45,000 litres and any necessary couplings.</p> <p>21.7.5.2 A hardstand area adjacent to the firefighting water supply</p>	<p>RD</p> <p>Discretion is restricted to:</p> <p>a. The extent to which SNZ PAS 4509: 2008 can be met including the adequacy of the water supply.</p> <p>b. The accessibility of the firefighting water connection point for fire service vehicles.</p>
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⁸⁴⁸ C Barr, Section 42A Report, Pages 99 -100, Paras 20.1 – 20.5

⁸⁴⁹ C Barr, Chapter 22 Section 42A Report, Page 34, Paras 16.6 – 16.8

⁸⁵⁰ D McIntosh, EIC, Pages 2 – 5, Paras 19 - 33

⁸⁵¹ A McLeod, EIC, Pages 8-9, Para 5.10

⁸⁵² A McLeod, EIC, Pages 9 – 11, Paras 5.13 – 5.18

	<p>capable of supporting fire service vehicles.</p> <p>21.7.5.3 Firefighting water connection point within 6m of the hardstand, and 90m of the dwelling.</p> <p>21.7.5.4 Access from the property boundary to the firefighting water connection capable of accommodating and supporting fire service vehicles.</p>	c. Whether and the extent to which the building is assessed as a low fire risk.
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17 RULE 21.6 – NON-NOTIFICATION OF APPLICATIONS

951. As notified, Rule 21.6 read as follows;

21.6 Non-Notification of Applications

Any application for resource consent for the following matters shall not require the written consent of other persons and shall not be notified or limited-notified:

21.6.1 *Controlled activity retail sales of farm and garden produce and handicrafts grown or produced on site (Rule 21.4.14), except where the access is onto a State highway.*

21.6.2 *Controlled activity mineral exploration (Rule 21.4. 31).*

21.6.3 *Controlled activity buildings at Closeburn Station (Rule 21.5.48).*

952. One submission sought that the rule be amended to include a provision that states consent to construct a building will proceed non-notified⁸⁵³. The reasons set out in the submission include that, *“Buildings within the rural zone can have limited impact upon the environment and the community. Often buildings are related to the activities that occur onsite. Given the limited impact that buildings have on the rural environment and communities it is appropriate that consent for any building proceed non-notified.”*⁸⁵⁴

953. In the Section 42A Report, Mr Barr considered that it was important that all buildings had the potential to be processed on a notified or limited notified basis and recommended that the submission be rejected⁸⁵⁵. We heard no evidence in support of the submission.

954. We agree with Mr Barr that buildings should have the potential to be processed as notified or limited notified. Any decision as regards buildings in the Rural Zone is needs to be subject of a separate assessment as to effects and potentially affected parties. In appropriate cases, applications will proceed on a non-notified basis.

955. Accordingly, we recommend that submission be rejected and that apart from numbering, the provisions remain as notified.

⁸⁵³ Submission 701

⁸⁵⁴ Submission 701, Page 3, Para 23

⁸⁵⁵ C Barr, Section 42A Report, Page 92, Para 18.4

18 SUMMARY OF CONCLUSIONS ON RULES

956. We have set out in full in Appendix 1 the rules we recommend the Council adopt. For all the reasons set out above, we are satisfied that these rules are the most effective and efficient means of implementing the policies so as to achieve the objectives of Chapter 21, and those in the Strategic Directions chapters. Where we have recommended rules not be included, that is because, as our reasons above show, we do not consider them to be efficient or effective.

19 21.7 – ASSESSMENT MATTERS (LANDSCAPE)

19.1 21.7.1 Outstanding Natural Features and Outstanding Natural Landscapes

957. As notified Clauses 21.7.1 and 21.7.1.1 – 21.7.1.2 read as follows;

21.7.1 *Outstanding Natural Features and Outstanding Natural Landscapes (ONF and ONL).*

These assessment matters shall be considered with regard to the following principles because, in or on Outstanding Natural Features and Landscapes, the applicable activities are inappropriate in almost all locations within the zone:

21.7.1.1 *The assessment matters are to be stringently applied to the effect that successful applications will be exceptional cases.*

21.7.1.2 *Existing vegetation that:*

a. was either planted after, or, self-seeded and less than 1 metre in height at 28 September 2002; and,

b. obstructs or substantially interferes with views of the proposed development from roads or other public places, shall not be considered:

i. as beneficial under any of the following assessment matters unless the Council considers the vegetation (or some of it) is appropriate for the location in the context of the proposed development; and

ii. as part of the permitted baseline.

958. Submissions on these provisions sought that the introductory note be deleted entirely⁸⁵⁶, or that the wording in the introductory note be variously amended to remove the wording “*the applicable activities are inappropriate in almost all locations within the zone.*”⁸⁵⁷; or to refer only to the Wakatipu Basin⁸⁵⁸; that the provision be amended to take into account the locational constraints of infrastructure⁸⁵⁹; that the assessment criteria be amended to accord with existing case law⁸⁶⁰; and that 21.7.1.1⁸⁶¹ and 21.7.1.2⁸⁶² be deleted.

⁸⁵⁶ Submissions 179, 421

⁸⁵⁷ Submission 355, 608, 693, 702

⁸⁵⁸ Submission 519

⁸⁵⁹ Submission 433

⁸⁶⁰ Submission 806

⁸⁶¹ Submissions 179, 191, 249, 355, 421, 598, 621, 624, 693, 702, 781

⁸⁶² Submission 249

959. In the Section 42A Report, Mr Barr provided a table that set out in detail the comparison between the assessment criteria under the ODP and PDP⁸⁶³ and recommended that 21.7.1 and 21.7.1.1 be amended in response to the submissions and should be worded as follows:

19.1.1.1 ~~21.7.1~~ Outstanding Natural Features and Outstanding Natural Landscapes (ONF and ONL).

These assessment matters shall be considered with regard to the following principles because, in or on Outstanding Natural Features and Landscapes, the applicable activities are inappropriate in almost all locations within the Wakatipu Basin, and inappropriate in many locations throughout the District wide Outstanding Natural Landscapes:

~~19.1.1.2 21.7.1.1 The assessment matters are to be stringently applied to the effect that successful applications will be exceptional cases.~~

960. Mr Barr's reasoning supporting the amendments, was to clarify that the assessment criteria were not a 'test', and to remove the word exceptional which has connotations to section 104D of the RMA given it is discretionary activities that the assessment is generally applied to⁸⁶⁴.

961. In evidence for Darby Planning, Mr Ferguson considered the wording of the assessment criteria as notified predetermined that activities were inappropriate in almost all locations, and that this was itself inappropriate and unnecessary⁸⁶⁵.

962. Mr Vivian, in evidence for NZTM agreed with Mr Barr's recommendation as to referencing that activities are inappropriate in almost all locations within the Wakatipu Basin and noted the Environment Court decision from which the assessment criteria was derived (C180/99). However, Mr Vivian considered that the term Wakatipu Basin was not adequately defined and recommended additional wording for clarification purposes.⁸⁶⁶

963. Mr Haworth, in evidence for UCES on wider assessment criteria matters, referred to the assessment criteria as a 'test'⁸⁶⁷. We questioned Ms Lucas as to her tabled evidence for UCES as to what the meaning of 'test' was in the context of her evidence. Ms Lucas' response was that "A "test", that is, in application of the assessment matter, "shall be satisfied" that".

964. Mr Barr, in reply, made some changes to the recommended assessment criteria in light of the submissions and evidence noted above, but considered that some of the wording changes added little value or would potentially weaken the assessment required⁸⁶⁸. Also in reply, Mr Barr detailed his view that a test was appropriately located in the objective and policies and that assessment matters provide guidance in considering specified environment effects⁸⁶⁹.

965. In the Section 42A Report, Mr Barr did not support the amendment sought by QAC for the inclusion of locational constraints within the assessment criteria on the basis that it was the

⁸⁶³ C Barr, Section 42A Report, Page 110, Table 1, Issue 12: Landscape Assessment Matters: cross referencing with PDP Landscape Policy and ODP assessment matters

⁸⁶⁴ C Barr, Section 42A Report, Page 98, Para 19.21

⁸⁶⁵ C Ferguson, EIC, Page 15, Para 66

⁸⁶⁶ C Vivian, EIC, Page 22, Paras 4.102 – 4.106

⁸⁶⁷ J Haworth, EIC, Page 12, Para 88

⁸⁶⁸ C Barr, Reply, Pages 31-32, Para 11.1

⁸⁶⁹ C Barr, Reply, Pages 32, Para 11.4

place of policies or higher order planning documents to direct consideration of any such constraints and amendments to the strategic directions chapter had been recommended⁸⁷⁰.

966. In evidence for QAC, Ms O’Sullivan took a different view, considering “*that the Assessment Matters, as drafted, may inappropriately constrain the development, operation and upgrade of infrastructure and utilities that have a genuine operational and/or locational requirement to be located ONLs, ONFs or RCLs. I also consider the complex cross referencing between the Chapter 6 Landscapes, Chapter 21 Rural and Chapter 30 Energy and Utilities will give rise to inefficiencies and confusion in interpretation*”⁸⁷¹. To address these issues Ms O’Sullivan recommended new assessment criteria, narrowing the assessment to regional significant infrastructure with the assessment criteria be worded as follows;

21.7.3.4 *For the construction, operation and replacement of regionally significant infrastructure and for additions, alterations, and upgrades to regionally significant infrastructure, in addition to the assessment matters at 21.7.1, 21.7.2, 21.7.3.2 and 21.7.3.3, whether the proposed development:*

- a. *Is required to provide for the health, safety or wellbeing of the community; and*
- b. *Is subject to locational or functional requirements that necessitate a particular siting and reduce the ability of the development to avoid adverse effects; and*
- c. *Avoids, remedies or mitigates adverse effects on surrounding environments to the extent practicable in accordance with Objective 30.2.7 and Policies 30.2.7.1 – 30.2.7.4 (as applicable).*

967. We agree with Mr Barr that the assessment criteria are for landscape assessment and the policies are the place where consideration by decision-makers as to policy direction on locational constraints of infrastructure should be found. Earlier in this decision we addressed the inclusion of infrastructure into this chapter⁸⁷². For the reasons we set out there, and because we doubt that Ms O’Sullivan’s suggestion is within the scope of the QAC submission, we recommend that the submission of QAC be rejected.

968. The wording of the first paragraph of 21.7.1 along with 21.7.1.1 are derived from (notified) policy 6.3.1.3. The issue as to inappropriateness and stringency of application were also canvassed before the Hearing Stream 1B in hearing submissions on Policy 6.3.1.3.. We refer to and adopt the reasoning of that Panel⁸⁷³. That Panel has recommended that (revised) Policy 6.3.11 read:

Recognise that subdivision and development is inappropriate in almost all locations in Outstanding Natural Landscapes and on Outstanding Natural Features, meaning successful applications will be exceptional cases where the landscape or feature can absorb the change and where the buildings and structures and associated roading and boundary changes are reasonably difficult to see from beyond the boundary of the site the subject of application.

969. In considering all of the above, we agree in part with Mr Barr that the objectives and policies need to link through to the assessment criteria. However, to our minds, the recommendations

⁸⁷⁰ C Barr, Section 42A Report, Pages 97 – 98, Para 19.20

⁸⁷¹ K O’Sullivan, EIC, Page5, Para 3.4

⁸⁷² Section 5

⁸⁷³ Report 3, Recommendations on Chapters 3, 4 and 6, Section 10.6

to establish that connection do not go far enough. Accordingly, we recommend that there be direct reference to the policies from Chapters 3 and 6 included within the assessment criteria description. In addition, we agree with Mr Barr as the assessment criteria are not tests and accordingly recommend that the submission of UCES be rejected.

970. Given the recommended wording of Policy 6.3.11, we recommend that the introductory paragraph and 21.7.1.1 be reworded consistent with that policy.

971. We heard no evidence from Willowridge Developments Limited⁸⁷⁴ in relation to its submission seeking the deletion of Rule 21.7.1.2. Mr Barr did not particularly discuss the submission, nor recommend any changes to the provision. We understand the provision has been taken directly from the ODP (Section 5.4.2.2(1)). Without any evidence as to why the provision should be deleted or changed, we recommend it remain unaltered.

972. Accordingly we recommend that the introductory part of 21.7.1 be numbered and worded as follows:

21.21 *Assessment Matters (Landscapes)*

21.21.1 *Outstanding Natural Features and Outstanding Natural Landscapes (ONF and ONL).*

The assessment matters set out below are derived from Policies 3.3.30, 6.3.10 and 6.3.12 to 6.3.18 inclusive Applications shall be considered with regard to the following assessment matters.

21.20.1.1 *In applying the assessment matters, the Council will work from the presumption that in or on Outstanding Natural Features and Landscapes, the applicable activities are inappropriate in almost all locations and that successful applications will be exceptional cases where the landscape or feature can absorb the change and where the buildings and structures and associated roading and boundary changes are reasonably difficult to see from beyond the boundary of the site the subject of application.*

21.20.1.2 *Existing vegetation that:*

- a. *was either planted after, or, self-seeded and less than 1 metre in height at 28 September 2002; and*
- b. *obstructs or substantially interferes with views of the proposed development from roads or other public places, shall not be considered:*
 - i. *as beneficial under any of the following assessment matters unless the Council considers the vegetation (or some of it) is appropriate for the location in the context of the proposed development; and*
 - ii. *as part of the permitted baseline.*

19.2 Assessment Matters 21.7.1.3 to 21.7.1.6 Inclusive

973. The only submission on these assessment matters supported 21.7.1.5⁸⁷⁵. We recommend those matters be adopted as notified, subject to renumbering.

19.3 Section 21.7.2 Rural Landscape Classification (RCL) and 21.7.2.1 – 21.7.2.2

974. As notified Rule 21.7.2 and 21.7.2.1 – 21.7.2.2 read as follows;

21.7.2 Rural Landscape Classification (RLC)

These assessment matters shall be considered with regard to the following principles because in the Rural Landscapes the applicable activities are inappropriate in many locations:

21.7.2.1 *The assessment matters shall be stringently applied to the effect that successful applications are, on balance, consistent with the criteria.*

21.7.2.2 *Existing vegetation that:*

- a. *was either planted after, or, self seeded and less than 1 metre in height at 28 September 2002; and,*
- b. *obstructs or substantially interferes with views of the proposed development from roads or other public places, shall not be considered:*
 - i. *as beneficial under any of the following assessment matters unless the Council considers the vegetation (or some of it) is appropriate for the location in the context of the proposed development; and*
 - ii. *as part of the permitted baseline.*

975. Submissions on these provisions variously sought that the introductory note be deleted entirely⁸⁷⁶, that the wording in the introductory note be amended to remove the wording “*the applicable activities are inappropriate in almost all locations within the zone:*”⁸⁷⁷, that the current assessment criteria in 21.7.2 be deleted and replaced with a set of assessment matters that better reflect and provide for the “Other Rural Landscape (ORL) category of landscapes”⁸⁷⁸, that 21.7.2 be amended to provide for cultural and historic values⁸⁷⁹, and that 21.7.2.1⁸⁸⁰ and 21.7.1.2⁸⁸¹ be deleted.

976. In the Section 42A Report, Mr Barr disagreed with the request for the inclusion of the ORL category of landscape criteria which the submitters were seeking to transfer from the ODP. Relying on Dr Read’s evidence that the ORL has only been applied in two circumstances, Mr Barr considered that the ORL criteria were too lenient on development and would not maintain amenity values, quality of the environment or finite characteristics of natural physical

⁸⁷⁵ Submission 719

⁸⁷⁶ Submissions 179, 251, 781

⁸⁷⁷ Submission 608

⁸⁷⁸ Submission 345, 456

⁸⁷⁹ Submission 798

⁸⁸⁰ Submissions 179, 191, 421, 781

⁸⁸¹ Submission 251

resources⁸⁸². We agree for reasons set out in Mr Barr’s Section 42A Report. We also note that it has already been determined by the Stream 1B Hearing Panel that there are only two landscape categories (ONL/ONR and RCL) and that is reflected in our recommendations on this Chapter. Accordingly, we recommend that Submissions 345 and 456 be rejected.

977. In the Section 42A Report, Mr Barr recommended that 21.7.2 and 21.7.2.1 be amended in response to the submissions and should be worded as follows:

21.7.2 Rural Landscape Classification (RLC)

These assessment matters shall be considered with regard to the following principles because in the Rural Landscapes the applicable activities are unsuitable in many locations:

~~*21.7.2.1 The assessment matters shall be stringently applied to the effect that successful applications are, on balance, consistent with the criteria.*~~

978. Mr Barr did not alter his opinion in his Reply Statement.
979. We note that before addressing the detail of this provision, a consequential change is required to refer to Rural Character Landscapes (RCL) consistent with the recommendations of the Stream 1B Hearing Panel. In addition, the reference in the introductory sentence to “Rural Landscapes” should be changed to “Rural Character Landscapes” so as to make it clear that these assessment criteria do not apply in ONLs or on ONFs.
980. As in the discussion on 21.7.1 above, we consider the introductory remarks should refer the relevant policies from Chapters 3 and 6. For those reasons, and taking into account Mr Barr’s recommendations, we recommend that 21.7.2 and 21.7.2.1 be renumbered and worded as follows :

21.7.2 Rural Character Landscape (RCL)

The assessment matters below have been derived from Policies 3.3.32, 6.3.10 and 6.3.19 to 6.3.29 inclusive. Applications shall be considered with regard to the following assessment matters because in the Rural Character Landscapes the applicable activities are unsuitable in many locations:

~~*21.7.2.1 The assessment matters shall be stringently applied to the effect that successful applications are, on balance, consistent with the criteria.*~~

19.4 Assessment Matters 21.7.2.2 and 21.7.2.3

981. There were no submissions on these assessment matters and, accordingly, we recommend they be adopted as notified subject to renumbering.

19.5 Assessment Matters 21.7.2.4, 21.2.2.5 and 21.7.2.7

982. As notified Rule 21.7.2.4, 21.7.2.5 and 21.7.2.7 read as follows;

21.7.2.4 Effects on visual amenity:

Whether the development will result in a loss of the visual amenity of the Rural Landscape, having regard to whether and the extent to which:

⁸⁸² C Barr, Section 42A report, Page 98, Para 9.24

- a. *the visual prominence of the proposed development from any public places will reduce the visual amenity of the Rural Landscape. In the case of proposed development which is visible from unformed legal roads, regard shall be had to the frequency and intensity of the present use and, the practicalities and likelihood of potential use of these unformed legal roads as access*
- b. *the proposed development is likely to be visually prominent such that it detracts from private views*
- c. *any screening or other mitigation by any proposed method such as earthworks and/or new planting will detract from or obstruct views of the Rural Landscape from both public and private locations*
- d. *the proposed development is enclosed by any confining elements of topography and/or vegetation and the ability of these elements to reduce visibility from public and private locations*
- e. *any proposed roads, boundaries and associated planting, lighting, earthworks and landscaping will reduce visual amenity, with particular regard to elements which are inconsistent with the existing natural topography and patterns*
- f. *boundaries follow, wherever reasonably possible and practicable, the natural lines of the landscape or landscape units.*

21.7.2.5 *Design and density of development:*

In considering the appropriateness of the design and density of the proposed development, whether and to what extent:

- a. *opportunity has been taken to aggregate built development to utilise common access ways including roads, pedestrian linkages, services and open space (i.e. open space held in one title whether jointly or otherwise)*
- b. *there is merit in clustering the proposed building(s) or building platform(s) having regard to the overall density and intensity of the proposed development and whether this would exceed the ability of the landscape to absorb change*
- c. *development, including access, is located within the parts of the site where they will be least visible from public and private locations*
- d. *development, including access, is located in the parts of the site where they will have the least impact on landscape character.*

21.7.2.7 *Cumulative effects of development on the landscape:*

Taking into account whether and to what extent any existing, consented or permitted development (including unimplemented but existing resource consent or zoning) has degraded landscape quality, character, and visual amenity values. The Council shall be satisfied;

- a. *the proposed development will not further degrade landscape quality, character and visual amenity values, with particular regard to situations that would result in a loss of valued quality, character and openness due to the prevalence of residential or non-farming activity within the Rural Landscape*
- b. *where in the case resource consent may be granted to the proposed development but it represents a threshold to which the landscape could absorb any further development, whether any further cumulative adverse effects would be avoided by way of imposing a covenant, consent notice or other legal instrument that maintains open space.*

983. Submissions on these provisions variously sought that;

- a. 21.7.4.2 (b) be deleted⁸⁸³
- b. 21.7.2.5 (b) be incorporated into the ODP assessment matters⁸⁸⁴
- c. 21.7.2.5 (c) be deleted⁸⁸⁵
- d. 21.7.2.7 be deleted⁸⁸⁶

984. In the Section 42A Report, having addressed the majority of the submissions in relation to 21.7.2, Mr Barr did not specifically address these submissions, but recommended that the assessment matters be retained as notified⁸⁸⁷.

985. Mr Brown and Mr Farrell, in evidence for the submitters, made recommendations to amend the assessment criteria in 21.7.2.4, 21.7.2.5 and 21.7.2.7. Mr Brown and Mr Farrell also made recommendations to amend other assessment criteria in 21.7.2⁸⁸⁸. In summary, Mr Brown and Mr Farrell recommended amendments to reflect RMA language, rephrase from negative to positive language, and remove repetition⁸⁸⁹.

986. In reply, Mr Barr considered that the amendments to these provisions added little value or potentially weakened the assessment required⁸⁹⁰ and hence remained of the view that the provisions as notified should be retained. We agree.

987. In addition, the amendments recommend by Mr Brown and Mr Farrell in some instances go beyond the relief sought. Accordingly, we recommend that the submissions be rejected.

988. We have already the UECS submission seeking the retaining of the ODP provisions. We do not repeat that here and recommend that submission on this provision be rejected.

19.6 Assessment Matter 21.7.2.6

989. There were no submissions in relation to this matter. We recommend it be adopted as notified, subject to renumbering.

⁸⁸³ Submissions 513, 515, 522, 531, 532, 534, 535, 537

⁸⁸⁴ Submission 145

⁸⁸⁵ Submission 513, 515, 522, 531, 532, 534, 535, 537

⁸⁸⁶ Submission 513, 515, 522, 531, 532, 534, 535, 537

⁸⁸⁷ C Barr, Section 42A Report, Page 99, Para 19.25

⁸⁸⁸ J Brown, EIC, Attachment B, Pages 35-37 and Mr B Farrell, EIC, Pages 30-32, Para 138

⁸⁸⁹ J Brown, EIC, Page 15, Para 2.22 and Mr B Farrell, EIC, Page 29, Para 137

⁸⁹⁰ C Barr, Reply, Pages 31-32, Para 11.1

19.7 21.7.3 Other factors and positive effects, applicable in all the landscape categories (ONF, ONL and RLC)

990. One submission⁸⁹¹ supported this entire section. No submissions were lodged specifically in relation to 21.7.3.1. We therefore recommend that 21.7.3.1 be adopted as notified, subject to renumbering and amending the title to refer to Rural Character Landscapes.

19.8 Assessment Matter 21.7.3.2

991. As notified, 21.7.3.2 read as follows:

Other than where the proposed development is a subdivision and/or residential activity, whether the proposed development, including any buildings and the activity itself, are consistent with rural activities or the rural resource and would maintain or enhance the quality and character of the landscape.

992. One submission sought that this provision be amended to enable utility structures in landscapes where there is a functional or technical requirement⁸⁹².

993. We addressed this matter in above in discussing the provisions sought by QAC in 21.7.1. We heard no evidence in relation to this submission. We recommend that the submission be rejected.

19.9 Assessment Matter 21.7.3.3

994. As notified, this criterion set out the matters to be taken into account in considering positive effects. Two submissions⁸⁹³ sought the retention of this matter, and one⁸⁹⁴ supported it subject to inclusion of an additional clause to enable the consideration of the positive effects of services provided by utilities.

995. We heard no evidence in support of the amendment sought by PowerNet Limited. We agree with Mr Barr's comments⁸⁹⁵ made in relation to the QAC submission discussed above. Assessment criteria are a means of assessing applications against policies in the Plan. The amendment sought by the submitter should be located in the policies, particularly those in Chapter 6. Consequently, we recommend this submission be rejected, and 21.7.3.3 be adopted as notified, subject to renumbering.

20 SUMMARY REGARDING ASSESSMENT MATTERS

996. We have included our recommended set of assessment matters in Appendix 1. We are satisfied that application of these assessment matters on resource consent applications will implement the policies in the Strategic Direction Chapters and those of Chapter 21.

21 SUBMISSIONS ON DEFINITIONS NOT OTHERWISE DEALT WITH

997. Several submissions relating to definitions were set down to be heard that were relevant to this chapter that have not been dealt with in the discussion above. In each case we received no evidence in support of the submission therefore we do not recommend any changes to the relevant definitions, which were as follows:

⁸⁹¹ Submission 378, opposed by FS1049, FS1095 and FS1282

⁸⁹² Submission 251, supported by FS1097 and FS1121

⁸⁹³ Submissions 355 and 806

⁸⁹⁴ Submission 251, supported by FS1097, opposed by FS1320

⁸⁹⁵ C Barr, Section 42A Report, page 97, paragraph 19.20

- a. Factory farming⁸⁹⁶;
- b. Farming activity⁸⁹⁷;
- c. Farm building⁸⁹⁸;
- d. Forestry⁸⁹⁹;
- e. Holding⁹⁰⁰;
- f. Informal airport⁹⁰¹;
- g. Rural industrial activity⁹⁰²;
- h. Rural selling place.⁹⁰³

⁸⁹⁶ Submission 805

⁸⁹⁷ Submissions 243 and 805

⁸⁹⁸ Submissions 600 and 805

⁸⁹⁹ Submission 600

⁹⁰⁰ Submission 600

⁹⁰¹ Submissions 220, 296, 433 and 600

⁹⁰² Submission 252

⁹⁰³ Submission 600

36 NOISE

36.1 Purpose

The purpose of this chapter is to manage the effects of noise in the District. Noise is part of the environment. While almost all activities give rise to some degree of noise, noise can cause adverse effects on amenity values and the health and wellbeing of people and communities. Adverse effects may arise where the location, character, frequency, duration, or timing of noise is inconsistent or incompatible with anticipated or reasonable noise levels.

The Resource Management Act 1991 (RMA) requires every occupier of land and every person carrying out an activity to adopt the best practicable option to ensure noise does not exceed a reasonable level. The RMA also defines noise to include vibration. "Reasonable" noise levels are determined by the standard of amenity and ambient noise level of the receiving environment and the Council provides direction on this through the prescription of noise limits for each Zone. Noise is also managed by the Council through the use of relevant New Zealand Standards for noise. Land use and development activities, including activities on the surface of lakes and rivers, should be managed in a manner that avoids, remedies or mitigates the adverse effects of noise to a reasonable level.

In most situations, activities should consider the control of noise at the source and the mitigation of adverse effects of noise on the receiving environment. However, the onus on the reduction of effects of noise should not always fall on the noise generating activity. In some cases it may be appropriate for the noise receiver to avoid or mitigate the effects from an existing noise generating activity, particularly where the noise receiver is a noise sensitive activity.

Overflying aircraft have the potential to adversely affect amenity values. The Council controls noise emissions from airports, including take-offs and landings, via provisions in this District Plan, and Designation conditions. However, this is different from controlling noise from aircraft that are in flight. The RMA which empowers territorial authorities to regulate activities on land and water affecting amenity values, does not enable the authorities to control noise from overflying aircraft. Noise from overflying aircraft is controlled under section 29B of the Civil Aviation Act 1990.

With the exception of ventilation requirements for the Queenstown and Wanaka town centres contained in Rule 36.7, and noise from water and motor-related noise from commercial motorised craft within the Queenstown Town Centre Waterfront Sub-Zone (which is subject to Rule 36.5.13) noise received within town centres is not addressed in this chapter, but rather in the Queenstown, Wanaka and Arrowtown Town Centre Zone chapters. This is due to the town centre-specific complexities of noise in those zones, and its fundamental nature as an issue that inter-relates with all other issues in those zones. Noise generated in the town centres but received outside of the town centres is managed under this chapter, except that noise from music, voice and loudspeakers in the Wanaka and Queenstown Town Centres (excluding the Queenstown Town Centre Transition Sub-Zone), need not meet the noise limits set by this chapter.

36.2 Objectives and Policies

36.2.1 Objective - The adverse effects of noise emissions are controlled to a reasonable level to manage the potential for conflict arising from adverse noise effects between land use activities.

- Policies
- 36.2.1.1 Avoid, remedy or mitigate adverse effects of unreasonable noise from land use and development.
 - 36.2.1.2 Avoid, remedy or mitigate adverse noise reverse sensitivity effects.

36.3.1 District Wide

Attention is drawn to the following District Wide Chapters.

1 Introduction	2 Definitions	3 Strategic Direction
4 Urban Development	5 Tangata Whenua	6 Landscapes and Rural Character
25 Earthworks	26 Historic Heritage	27 Subdivision
28 Natural Hazards	29 Transport	30 Energy and Utilities
31 Signs	32 Protected Trees	33 Indigenous Vegetation
34 Wilding Exotic Trees	35 Temporary Activities and Relocated Buildings	37 Designations
Planning Maps		

36.3.2 Interpreting and Applying the Rules

- 36.3.2.1 Any activity that is not Permitted requires resource consent. Any activity that does not specify an activity status for non-compliance but breaches a standard, requires resource consent as a Non-complying activity.
- 36.3.2.2 Sound levels shall be measured and assessed in accordance with NZS 6801:2008 Acoustics - Measurement of Environmental Sound and NZS 6802:2008 Acoustics - Environmental Noise, except where another Standard has been referenced in these rules, in which case that Standard should apply.
- 36.3.2.3 Any activities which are Permitted, Controlled or Restricted Discretionary in any section of the District Plan must comply with the noise standards in Tables 2, 3, 4 and 5 below, where that standard is relevant to that activity.
- 36.3.2.4 In addition to the above, the noise from the activities listed in Table 1 shall be Permitted activities in all zones (unless otherwise stated). For the avoidance of doubt, the activities in Table 1 are exempt from complying with the noise standards set out in Table 2.
- 36.3.2.5 Notwithstanding compliance with Rules 36.5.13 (Helicopters) and 36.5.14 (Fixed Wing Aircraft) in Table 3, informal airports shall also be subject to the rules in the chapters relating to the zones in which the activity is located.
- 36.3.2.6 Sound from non-residential activities, visitor accommodation activities and sound from stationary electrical and mechanical equipment must not exceed the noise limits in Table 2 in each of the zones in which sound from an activity is received. The noise limits in Table 2 do not apply to assessment locations within the same site as the activity.
- 36.3.2.7 The noise limits contained in Table 2 do not apply to sound from aircraft operations at Queenstown Airport or Wanaka Airport.

- 36.3.2.8 Noise standards for noise received in the Queenstown, Wanaka and Arrowtown Town Centre, Local Shopping and Business Mixed Use zones are not included in this chapter. Please refer to Chapters 12, 13, 14, 15 and 16. The noise standards in this chapter still apply for noise generated within these zones but received in other zones, except that noise from music, voices, and loud speakers in the Wanaka and Queenstown Town Centres (excluding the Queenstown Town Centre Transition Sub-Zone) need not meet the noise limits set by this chapter.
- 36.3.2.9 The standards in Table 3 are specific to the activities listed in each row and are exempt from complying with the noise standards set out in Table 2.
- 32.3.2.10 The following abbreviations are used in the tables:

P	Permitted	C	Controlled	RD	Restricted Discretionary
D	Discretionary	NC	Non-Complying	PR	Prohibited

36.4 Rules - Activities

Table 1 - Permitted Activities

Rule Number	Permitted Activities	Activity Status
36.4.1	Sound from vehicles on public roads or trains on railway lines (including at railway yards, railway sidings or stations).	P
36.4.2	Any warning device that is activated in the event of intrusion, danger, an emergency or for safety purposes, provided that vehicle reversing alarms are a broadband directional type.	P
36.4.3	Sound arising from fire stations (including rural fire stations), fire service appliance sirens and call-out sirens for volunteer brigades.	P
36.4.4	Sound from temporary military training activities.	P
36.4.5	In the Rural Zone and the Gibbston Character Zone, sound from farming and forestry activities, and bird scaring devices, other than sound from stationary motors and stationary equipment.	P
36.4.6	Sound from telecommunications cabinets in road reserve.	P
36.4.7	<p>Sound from emergency and backup electrical generators:</p> <ul style="list-style-type: none"> a. operating for emergency purposes or; b. operating for testing and maintenance for less than 60 minutes each month during a weekday between 0900 and 1700. <p>For the purpose of this rule backup generators are generators only used when there are unscheduled outages of the network (other than routine testing or maintenance provided for in (b) above).</p>	P

36.5

Rules - Standards

Table 2 - General Standards

Rule Number	General Standards				Non-compliance Status
	Activity or sound source	Assessment location	Time	Noise Limits	
36.5.1	Rural Zone (Note: refer 36.5.14 for noise received in the Rural Zone from the Airport Zone - Queenstown). Gibbston Character Zone Airport Zone - Wanaka	Any point within the notional boundary of a residential unit.	0800h to 2000h	50 dB L _{Aeq(15 min)}	NC
			2000h to 0800h	40 dB L _{Aeq(15 min)} 75 dB L _{AFmax}	NC
36.5.2	Low, Medium, and High Density and Large Lot Residential Zones (Note: refer 36.5.14 for noise received in the Residential Zones from the Airport Zone - Queenstown). Arrowtown Residential Historic Management Zone Rural Residential Zone Rural Lifestyle Zone Waterfall Park Zone Millbrook Resort Zone - Residential Activity Areas only Jacks Point Zone- Residential Activity Areas only	Any point within any site.	0800h to 2000h	50 dB L _{Aeq(15 min)}	NC
			2000h to 0800h	40 dB L _{Aeq(15 min)} 75 dB L _{AFmax}	NC
36.5.3	Airport Zone - Queenstown	At any point within the zone.	Any time	No limit	P
36.5.4	Jacks Point Zone - Village Activity Area only	Any point within any site.	0800h to 2200h	60 dB L _{Aeq(15 min)}	NC
			2200h to 0800h	50 dB L _{Aeq(15 min)} 75 dB L _{AFmax}	NC

Table 3 - Specific Standards

Rule Number	Specific Standards				Non-compliance Status	
	Activity or sound source	Assessment location	Time	Noise Limits		
36.5.5	<p>Certain Telecommunications Activities in Road Reserve</p> <p>The Resource Management (National Environmental Standards for Telecommunications Facilities “NESTF”) Regulations 2008 provide for noise from telecommunications equipment cabinets located in the road reserve as a permitted activity, subject to the specified noise limits.</p> <p>The noise from the cabinet must be measured in accordance with NZS 6801: 2008 Acoustics – Measurement of environmental sound, the measurement must be adjusted in accordance with NZS 6801: 2008 Acoustics – Measurement of environmental sound to a free field incident sound level, and the adjusted measurement must be assessed in accordance with NZS 6802: 2008 Acoustics – Environmental noise.</p>	36.5.5.1	<p>Where a cabinet located in a road reserve in an area in which allows residential activities, the noise from the cabinet must be measured and assessed at 1 of the following points:</p> <ul style="list-style-type: none"> a. if the side of a building containing a habitable room is within 4 m of the closest boundary of the road reserve, the noise must be measured: <ul style="list-style-type: none"> i. at a point 1 m from the side of the building; or ii. at a point in the plane of the side of the building; b. in any other case, the noise must be measured at a point that is: <ul style="list-style-type: none"> i. at least 3 m from the cabinet; and ii. within the legal boundary of land next to the part of the road reserve where the cabinet is located. 	0700h to 2200h	50 dB $L_{Aeq(5\ min)}$	Refer NESTF
				2200h to 0700h	40 dB $L_{Aeq(5\ min)}$	
				2200h to 0700h	65 dB L_{AFmax}	
		36.5.5.2	<p>Where a cabinet is located in a road reserve in an area in which does not allow residential activities, the noise from the cabinet must be measured and assessed at 1 of the following points:</p> <ul style="list-style-type: none"> a. if the side of a building containing a habitable room is within 4 m of the closest boundary of the road reserve, the noise must be measured: <ul style="list-style-type: none"> i. at a point 1 m from the side of the building; or ii. at a point in the plane of the side of the building; b. in any other case, the noise must be measured at a point that is: <ul style="list-style-type: none"> i. at least 3 m from the cabinet; and ii. within the legal boundary of land next to the part of the road reserve where the cabinet is located. 	Any time	60 dB $L_{Aeq(5\ min)}$	
		2200h to 0700h	65 dB L_{AFmax}			

Rule Number	Specific Standards				Non-compliance Status
	Activity or sound source	Assessment location	Time	Noise Limits	
36.5.6	<p>Wind Turbines</p> <p>Wind farm sound must be measured and assessed in accordance with NZS 6808:2010 Acoustics - Wind Farm Noise</p>	At any point within the notional boundary of any residential unit.	Any time	40 dB $L_{A90(10 \text{ min})}$ or the background sound level $L_{A90(10 \text{ min})}$ plus 5 dB, whichever is higher	NC
36.5.7	<p>Audible Bird Scaring Devices</p> <p>The operation of audible devices (including gas guns, audible avian distress alarms and firearms for the purpose of bird scaring, and excluding noise arising from fire stations).</p> <p>In relation to gas guns, audible avian distress alarms and firearms no more than 15 audible events shall occur per device in any 60 minute period.</p> <p>Each audible event shall not exceed three sound emissions from any single device within a 1 minute period and no such events are permitted during the period between sunset and sunrise the following day.</p> <p>The number of devices shall not exceed one device per 4 hectares of land in any single land holding, except that in the case of a single land holding less than 4 hectares in area, one device shall be permitted.</p>	36.5.7.1 At any point within a Residential Zone or the notional boundary of any residential unit, other than on the property in which the device is located.	Hours of daylight but not earlier than 0600h	65 dB L_{AE} shall apply to any one event	NC
		36.5.7.2 In any public place.	At any time	90 dB L_{AE} is received from any one noise event	
36.5.8	<p>Frost fans</p> <p>Sound from frost fans.</p>	At any point within the notional boundary of any residential unit, other than residential units on the same site as the activity.	At any time	55 dB $L_{A_{\text{aeg}}(15 \text{ min})}$	NC

Rule Number	Specific Standards				Non-compliance Status
	Activity or sound source	Assessment location	Time	Noise Limits	
36.5.9	<p>Vibration</p> <p>Vibration from any activity shall not exceed the guideline values given in DIN 4150-3:1999 Effects of vibration on structures at any buildings on any other site.</p>	On any structures or buildings on any other site.	Refer to relevant standard	Refer to relevant standard	NC
36.5.10	<p>Helicopters</p> <p>Sound from any helicopter landing area must be measured and assessed in accordance with NZ 6807:1994 Noise Management and Land Use Planning for Helicopter Landing Areas.</p> <p>Sound from helicopter landing areas must comply with the limits of acceptability set out in Table 1 of NZS 6807.</p> <p>In assessing noise from helicopters using NZS 6807: 1994 any individual helicopter flight movement, including continuous idling occurring between an arrival and departure, shall be measured and assessed so that the sound energy that is actually received from that movement is conveyed in the Sound Exposure Level (SEL) for the movement when calculated in accordance with NZS 6801: 2008.</p> <p>For the avoidance of doubt this rule does not apply to Queenstown Airport and Wanaka Airport.</p> <p>Advice Note: See additional rules in Rural Zone Chapter at 21.10.1 and 21.10.2.</p>	<p>At any point within the notional boundary of any residential unit, other than residential units on the same site as the activity.</p> <p>*Note: The applicable noise limit in this rule and in rule 36.5.11 below for informal airports/landing strips used by a combination of both fixed wing and helicopters shall be determined by an appropriately qualified acoustic engineer on the basis of the dominant aircraft type to be used.</p>	At all times	50 dB L _{dn}	NC
36.5.11	<p>Fixed Wing Aircraft</p> <p>Sound from airports/landing strips for fixed wing aircraft must be measured and assessed in accordance with NZS 6805:1992 Airport Noise Management and Land Use Planning.</p> <p>For the avoidance of doubt this rule does not apply to Queenstown and Wanaka Airports.</p> <p>Advice Note: See additional rules in Rural Zone Chapter at 21.10.1 and 21.10.2.</p>	<p>At any point within the notional boundary of any residential unit and at any point within a residential site other than residential units on the same site as the activity.</p> <p>*Note: The applicable noise limit in this rule and in rule 36.5.10 above for informal airports/landing strips used by a combination of both fixed wing and helicopters shall be determined by an appropriately qualified acoustic engineer on the basis of the dominant aircraft type to be used.</p>	At all times	55 dB L _{dn}	NC

Rule Number	Specific Standards				Non-compliance Status
	Activity or sound source	Assessment location	Time	Noise Limits	
36.5.12	<p>Construction Noise</p> <p>Construction sound must be measured and assessed in accordance with NZS 6803:1999 Acoustics - Construction Noise. Construction sound must comply with the recommended upper limits in Tables 2 and 3 of NZS 6803. Construction sound must be managed in accordance with NZS 6803.</p>	At any point within any other site.	Refer to relevant standard	Refer to relevant standard	D
36.5.13	<p>Commercial Motorised Craft</p> <p>Sound from motorised craft must be measured and assessed in accordance with ISO 2922:2000 and ISO 14509-1:2008.</p>	25 metres from the craft.	0800 to 2000h 2000h to 0800h	77 dB L_{ASmax} 67 dB L_{ASmax}	NC
36.5.14	Sound from the Airport Zone - Queenstown received in the Residential Zones, and the Rural Zone, excluding sound from aircraft operations that are subject to the Queenstown Airport Designation No.2.	At any point within the Residential Zone and at any point within the notional boundary in the Rural Zone.	0700h to 2200h 2200h to 0700h	55 dB $A_{eq(15 min)}$ 45 dB $A_{eq(15 min)}$ 70 dB A_{Fmax}	RD Discretion is restricted to the extent of effects of noise generated on adjoining zones.

36.6

Airport Noise

36.6.1 Sound Insulation Requirements for the Queenstown and Wanaka Airport - Acceptable Construction Materials (Table 4).

The following table sets out the construction materials required to achieve appropriate sound insulation within the airport Air Noise Boundary (ANB) as shown on the planning maps.

Table 4

Building Element	Minimum Construction	
External Walls	Exterior Lining	Brick or concrete block or concrete, or 20mm timber or 6mm fibre cement
	Insulation	Not required for acoustical purposes
	Frame	One layer of 9mm gypsum or plasterboard (or an equivalent combination of exterior and interior wall mass)
Windows/Glazed Doors	Double-glazing with 4 mm thick panes separated by a cavity at least 12 mm wide	
Pitched Roof	Cladding	0.5mm profiled steel or masonry tiles or 6mm corrugated fibre cement
	Insulation	100mm thermal insulation blanket/batts
	Ceiling	1 layer 9mm gypsum or plaster board
Skillion Roof	Cladding	0.5mm profiled steel or 6mm fibre cement
	Sarking	None Required
	Insulation	100mm thermal insulation blanket/batts
	Ceiling	1 layer 1mm gypsum or plasterboard
External Door	Solid core door (min 24kg/m2) with weather seals	

Note: The specified construction materials in this table are the minimum required to meet the Indoor Design Sound Level. Alternatives with greater mass or larger thicknesses of insulation will be acceptable. Any additional construction requirements to meet other applicable standards not covered by this rule (e.g. fire, Building Code etc.) would also need to be implemented.

36.6.2 Ventilation Requirements for the Queenstown and Wanaka Airport

The following applies to the ventilation requirements within the airport Outer Control Boundary (OCB) and Air Noise Boundary (ANB).

Critical Listening Environments must have a ventilation and cooling system(s) designed, constructed and maintained to achieve the following:

- a. an outdoor air ventilation system. The ventilation rate must be able to be controlled by the occupant in increments as follows:
 - i. a low air flow setting that provides air at a rate of between 0.35 and 0.5 air changes per hour. The sound of the system on this setting must not exceed 30dB LAeg(30s) when measured 2m away from any grille or diffuser;
 - ii. a high air flow setting that provides at least 5 air changes per hour. The sound of the system on this setting must not exceed 35 dB LAeg(30s) when measured 2m away from any grille or diffuser.

- b. the system must provide, either by outdoor air alone, combined outdoor air and heating/cooling system or by direct room heating / cooling:
 - i. cooling that is controllable by the occupant and can maintain the temperature within the Critical Listening Environment at no greater than 25°C; and
 - ii. heating that is controllable by the occupant and can maintain the temperature within the Critical Listening Environment at no less than 18°C ;and
 - iii. the sound of the system when in heating or cooling mode must not exceed 35 dB $L_{Aeq(30s)}$ when measured 2m away from any grille or diffuser.
- c. a relief air path must be provided to ensure the pressure difference between the Critical Listening Environments and outside is never greater than 30Pa;
- d. if cooling is provided by a heat pump then the requirements of (a)(ii) and (c) do not apply.

Note: Where there is an existing ventilation, heating and/or cooling system, and/or relief air path within a Critical Listening Environment that meets the criteria stated in the rule, the existing system may be utilised to demonstrate compliance with the rule.

36.7 Ventilation Requirements for other Zones (Table 5)

The following table (Table 5) sets out the ventilation requirements in the Wanaka and Queenstown Town Centre Zones, the Local Shopping Centre Zone and the Business Mixed Use Zone.

Table 5

Room Type	Outdoor Air Ventilation Rate (Air Changes Room Type per Hour, ac/hr)	
	Low Setting	High Setting
Bedrooms	1-2 ac/hr	Min. 5 ac/hr
Other Critical Listening Environments	1-2 ac/hr	Min. 15 ac/hr
Noise from ventilation systems shall not exceed 35 dB $L_{Aeq(1 min)}$ on High Setting and 30 dB $L_{Aeq(1 min)}$ on Low Setting. Noise levels shall be measured at a distance of to 2 m from any diffuser.		
Each system must be able to be individually switched on and off and when on, be controlled across the range of ventilation rates by the occupant with a minimum of 3 stages.		
Each system providing the low setting flow rates is to be provided with a heating system which, at any time required by the occupant, is able to provide the incoming air with an 18 °C heat rise when the airflow is set to the low setting. Each heating system is to have a minimum of 3 equal heating stages.		
If air conditioning is provided to any space then the high setting ventilation requirement for that space is not required.		

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report 8

Report and Recommendations of Independent Commissioners Regarding
Chapter 30, Chapter 35 and Chapter 36

Commissioners

Denis Nugent (Chair)

Calum MacLeod

Mark St Clair

PART D: CHAPTER 36 - NOISE

13. PRELIMINARY

13.1. Stage 2 Variations

558. On 23 November 2016 the Council notified Stage 2 of the PDP and variations. That proposed the inclusion of new rules in this chapter providing noise controls for the Wakatipu Basin Zone and the Open Space and Recreation Zones.

559. We have left space for these rules in locations we consider appropriate for the respective rules. The rules do not form part of our recommendations and we discuss them no further.

13.2. General Submissions

560. Two submissions³⁸⁸ generally supported this Chapter. As we recommend changes to this Chapter, we recommend those submissions be accepted in part.

561. Submission 115 stated that the landscape values of the District can be spoilt by noise from motor boats and lawnmowers. The submitter sought that the Plan institute a quiet day each week. Ms Evans considered that the PDP provisions set appropriate standards for the receipt of noise in a way that managed amenity standards³⁸⁹. We agree with Ms Evans' opinion. We also consider it would be both impractical and inconsistent with the general expectations of the people of the District to impose a noise ban on a weekly basis. We recommend this submission be rejected.

562. Submission 159 was concerned with noise from late night parties and sought increased monitoring. We agree with Ms Evans' analysis that the noise standards provide a basis for monitoring and enforcement³⁹⁰. The PDP cannot do any more than that. We recommend this submission be rejected.

13.3. 36.1 –Purpose

563. There were four submissions in relation to this section. These sought:

- a. the retention of the section unaltered³⁹¹;
- b. the retention of the third paragraph³⁹²;
- c. amendment to exclude application of this chapter to the Town Centre Zone³⁹³; and
- d. amend to apply appropriate and consistent terminology³⁹⁴.

564. Ms Evans agreed with the wording changes sought by the Southern District Health Board³⁹⁵ for the reasons given in the submission³⁹⁶. She did not agree that the Chapter did not relate to the Town Centre Zones, noting that rules in Chapter 36 imposed restrictions on noise generated in that zone and received in residential zones, as well as imposing ventilation requirements in the Queenstown and Wanaka Town Centre zones. As a result, she recommended a series of minor word changes to the purpose statement in her Section 42A

³⁸⁸ Submissions 19 and 21

³⁸⁹ Ruth Evans, Section 42A Report, page 28

³⁹⁰ *ibid*, page 28

³⁹¹ Submission 433, supported by FS1211, opposed by FS1097 and FS1117

³⁹² Submission 1365

³⁹³ Submission 714

³⁹⁴ Submission 649

³⁹⁵ Submission 649

³⁹⁶ Ruth Evans, Section 42A Report, page 11

Report. The only substantive change she recommended in her Reply Statement was to amend the reference to the Civil Aviation Act to refer to the correct section.

565. We agree with Ms Evans (and the Southern District Health Board) that the amendments she has proposed to this section improve clarity and understanding of the purpose of the chapter. We also agree with her that the amendments she has proposed that are outside of the scope of the submissions lodged are minor with no substantive effect, or improve grammar, and therefore can be made under Clause 16(2).
566. The Stream 8 Hearing Panel has recommended to us³⁹⁷ a further amendment to clarify that certain forms of noise (from music, voices and loudspeakers) generated in the Queenstown and Wanaka Town Centres are not managed under this Chapter. We recommend that change be made for the reasons given by the Stream 8 Panel.
567. We recommend the Section 36.1 be adopted as worded in Appendix 3 to this report, and the submissions be accepted in part.

14. 36.2 – OBJECTIVES AND POLICIES

14.1. Objective 36.2.1 and Policies

568. As notified, these read:

Objective *Control the adverse effects of noise emissions to a reasonable level and manage the potential for conflict arising from adverse noise effects between land use activities.*

36.2.1.1 Manage subdivision, land use and development activities in a manner that avoids, remedies or mitigates the adverse effects of unreasonable noise.

36.2.1.2 Avoid, remedy or mitigate adverse noise reverse sensitivity effects.

569. The submissions on these sought:

- a. Retain all as notified³⁹⁸;
- b. Retain the objective³⁹⁹;
- c. Retain Policy 2⁴⁰⁰;
- d. Amend Policy 2 to discourage noise sensitive activities establishing in the vicinity of consented or existing noise generating activities.⁴⁰¹

570. In her Section 42A Report, Ms Evans recommended minor changes to the objective to make it more outcome focussed. Following our questioning at the hearing, she recommended further changes to the objective and Policy 1 in her Reply Statement.

³⁹⁷ Report 11, Section 8.11

³⁹⁸ Submissions 197, 649 (supported by FS1211) and 1365

³⁹⁹ Submissions 717 (supported by FS1211 and FS1270, opposed by FS1029), 719 and 847 (supported by FS1207)

⁴⁰⁰ Submission 719

⁴⁰¹ Submissions 717 (supported by FS1211 and FS1270, opposed by FS1029) and 847 (supported by FS1207)

571. Ms Evans considered the submissions seeking amendments to Policy 2 and concluded that the policy did not need to be altered as it does not distinguish between new or established noise sensitive activities leading to reverse sensitivity effects⁴⁰².
572. The only evidence we heard on these provisions was from Mr MacColl⁴⁰³ who supported Policy 2 as notified and agreed with Ms Evans' conclusions in respect of that policy.
573. We do not think Policy 2 provides any guidance as to how to achieve the objective, but we consider the wording proposed by Submitters 717 and 847 does not particularly assist. Without evidence we are not inclined to amend this policy.
574. We consider the word changes recommended by Ms Evans to the objective and Policy 1 improve their clarity without altering the meaning. We agree that those changes are minor non-substantive amendments that the Council can make under Clause 16(2).
575. We note that Policy 1 fails to provide any guidance as to how to it is to achieve the objective, in the same manner as Policy 2.
576. We recommend that the Council amend the objectives and policies under Clause 16(2) so that they read:
Objective *The adverse effects of noise emissions are controlled to a reasonable level to manage the potential for conflict arising from adverse noise effects between land use activities.*
- 36.2.1.1 *Avoid, remedy or mitigate adverse effects of unreasonable noise from land use and development.*
- 36.2.1.2 *Avoid, remedy or mitigate adverse noise reverse sensitivity effects.*
577. We also recommend that the Council review the two policies with a view to providing clearer guidance as to how the objective is to be achieved. We do not consider that parroting s.5(2)(c) of the Act assists.

15. 36.3 – OTHER PROVISIONS

15.1. 36.3.1 – District Wide

578. There were no submissions on this section. The only changes we recommend to it are to make it consistent with the same section in other chapters. We consider this to be a minor amendment that can be made under Clause 16(2).
579. We recommend the Council amend this section as shown in Appendix 3 as a minor, non-substantive amendment under Clause 16(2).

15.2. 36.3.2 – Clarification

580. As notified this section contained 10 clauses, the first two of which, consistent with other chapters, described when a consent was required and the abbreviations used in the tables. The following eight clauses read:
 36.3.2.3 *Sound levels shall be measured and assessed in accordance with NZS 6801:2008 Acoustics - Measurement of Environmental Sound and NZS 6802:2008 Acoustics -*

⁴⁰² Ruth Evans, Section 42A Report, page 12

⁴⁰³ Anthony MacColl, EiC, page 7

Environmental Noise, except where another Standard has been referenced in these rules, in which case that Standard should apply.

- 36.3.2.4 *Any activities which are Permitted, Controlled or Restricted Discretionary in any section of the District Plan must comply with the noise standards in Tables 2, 3, 4 and 5 below, where that standard is relevant to that activity.*
- 36.3.2.5 *In addition to the above, the noise from the following activities listed in Table 1 shall be Permitted activities in all zones (unless otherwise stated). For the avoidance of doubt, the activities in Table 1 are exempt from complying with the noise standards set out in Table 2.*
- 36.3.2.6 *Notwithstanding compliance with Rules 36.5.13 (Helicopters) and 36.5.14 (Fixed Wing Aircraft) in Table 3, informal airports shall be subject to the rules in the applicable zones.*
- 36.3.2.7 *Sound from non-residential activities, visitor accommodation activities and sound from stationary electrical and mechanical equipment must not exceed the noise limits in Table 2 in each of the zones in which sound from an activity is received. The noise limits in Table 2 do not apply to assessment locations within the same site as the activity.*
- 36.3.2.8 *The noise limits contained in Table 2 do not apply to sound from aircraft operations at Queenstown Airport.*
- 36.3.2.9 *Noise standards for Town Centre, Local Corner Shopping and Business Mixed Use zones are not included in this chapter. Please refer to Chapters 12, 13, 14, 15 and 16.*
- 36.3.2.10 *The standards in Table 3 are specific to the activities listed in each row and are exempt from complying with the noise standards set out in Table 2.*

581. Submissions on this section sought the following:

- a. Support the provisions⁴⁰⁴;
- b. Amend 36.3.2.7 so as to exclude the temporary operation of emergency and backup generators from the noise limits⁴⁰⁵;
- c. Include reference to Wanaka Airport in 36.3.2.8⁴⁰⁶;
- d. Include an additional clarification stating that activities in the Rural Zone established at the time of the Review will be administered for noise purposes in accordance with the rules at the time the activity was established or consented⁴⁰⁷.

582. Ms Evans agreed that reference to Wanaka Airport should be included in 36.3.2.8. Ms Evans also noted that the noise of aircraft at that airport, as for Queenstown Airport, is controlled by the designation⁴⁰⁸. We agree with that conclusion.

⁴⁰⁴ Submissions 649 (supported by FS1211) and 1365

⁴⁰⁵ Submission 635

⁴⁰⁶ Submission 433, opposed by FS1097 and FS1117

⁴⁰⁷ Submissions 717 (supported by FS1270, opposed by FS1029) and 847 (supported by FS1270).

⁴⁰⁸ Ruth Evans, Section 42A Report, page 13

583. Ms Evans considered that the additional clarification sought (item (d)) was unnecessary as provision was made in the Act to protect lawfully established existing uses⁴⁰⁹. We agree with her assessment. We heard no evidence from the submitters so our understanding of their reasoning is that contained in the submission. That reasoning is clearly focussed on restating existing use provisions from the Act in the PDP. We cannot understand why, if such provisions were to be included, they should be limited to the Rural Zone. We recommend those submissions be rejected.
584. The submission by Aurora concerning the temporary operation of emergency and backup generators included a proposal to include such operations in Table 1 as a permitted activity. It is appropriate to consider both parts of the submission together.
585. Dr Chiles assessed this submission⁴¹⁰. It was his opinion that, in terms of emergency generators, people are prepared to tolerate the noise of them because it is an emergency, and by definition, temporary. He also noted that where emergency generators are fixed installations they need to be tested regularly. He recommended that emergency generators be provided for as a permitted activity in Table 1, along with an allowance for testing. He considered that amendment to 36.3.2.7 was unnecessary as 36.3.2.5 already identified that the activities in Table 1 were exempt from compliance with Table 2 standards. Ms Evans adopted Dr Chiles evidence and recommended changes to Table 1 consistent with his opinion.
586. Ms Dowd, appearing for Aurora, supported this proposed rule⁴¹¹.
587. In response to our questioning, Ms Evans further refined the rule in Table 1 in her Reply Statement so as to clarify the circumstances when it applied to backup generation⁴¹².
588. We accept the advice of Dr Chiles for the reasons he set out and recommend that a new permitted activity be included in Table 1, modified as proposed by Ms Evans in her Reply Statement subject to replacing “grid” with “network” so that the wording is consistent with that used in Chapter 30. We agree that it is unnecessary to make provision in 36.3.2.7 for an activity that listed in Table 1.
589. Ms Evans recommended some minor changes to 36.3.2.9 to properly identify the zones it applied to, and to note that activities in those zones were still required to meet the noise standards for noise received in other zones. The Stream 8 Panel has further recommended that this provision be amended to make it clear that noise from music, voices and loud speakers in the Wanaka and Queenstown Town Centre Zones (excluding the Queenstown town Centre Transition Sub-Zone) need not meet the noise standards set in this chapter.⁴¹³
590. Ms Evans also recommended minor changes to 36.3.2.1 to clarify the meaning and remove unnecessary words.
591. We agree that those amendments are helpful in providing clarity to the meaning of the relevant provision. We consider them to be minor changes that can be made under Clause 16(2). We recommend the amendments recommended by the Stream 8 Panel be adopted for the reasons that Panel has given.

⁴⁰⁹ *ibid*, page 12

⁴¹⁰ Dr Stephen Chiles, EIC, pages 9-10

⁴¹¹ Joanne Dowd, EIC, page 6

⁴¹² Ruth Evans, Reply Statement, paragraph 2.4

⁴¹³ Report 11, Section 8.11

592. We also recommend moving 36.3.2.2 to the end of the list so it more clearly relates to the tables that follow. As a consequence it becomes renumbered as 36.3.2.10 and clauses 3 to 10 are consequentially renumbered.
593. The Stream 13 Hearing Panel has recommended an amendment to notified 36.3.2.6 under Clause 16(2) to clarify the relationship of Rules 36.5.13 and 36.5.14 and the rules in the relevant zone chapters. We adopt their recommendation and include the amendment to recommended Rule 36.3.2.5 in Appendix 3.
594. For those reasons we recommend that Section 36.3.2 be titled “Rules – Explanation” and that clauses 1, 8 (renumbered as 7) and 9 (renumbered as 8) be amended to read as follows:
- 36.3.2.1 *Any activity that is not Permitted requires resource consent. Any activity that does not specify an activity status for non-compliance, but breaches a standard, requires resource consent as a Non-complying activity.*
- 36.3.2.7 *The noise limits contained in Table 2 do not apply to sound from aircraft operations at Queenstown Airport or Wanaka Airport.*
- 36.3.2.8 *Noise standards for noise received in the Queenstown, Wanaka and Arrowtown Town Centre, Local Shopping and Business Mixed Use zones are not included in this chapter. Please refer to Chapters 12, 13, 14, 15 and 16. The noise standards in this chapter still apply for noise generated within these zones but received in other zones, except that noise from music, voices, and loud speakers in the Wanaka and Queenstown Town Centres (excluding the Queenstown Town Centre Transition Sub-Zone) need not meet the noise limits set by this chapter.*
595. We also recommend, as discussed above, that a new permitted activity be inserted in Rule 36.4 Table 1 to read as follows:
- Sound from emergency and backup generators:*
- a. *Operating for emergency purposes; or*
 - b. *Operating for testing and maintenance for less than 60 minutes each month during a*
 - c. *weekday between 0900 and 1700.*

For the purpose of this rule, backup generators are generators only used when there are unscheduled outages of the network (other than routine testing or maintenance provided for in (b) above).

16. 36.4 – RULES – ACTIVITIES

16.1. Table 1

596. As notified, this rule listed the following as permitted activities (exempt from the standards in Table 2):
- 36.4.1 *Sound from vehicles on public roads or trains on railway lines (including at railway yards, railway sidings or stations).*
- 36.4.2 *Any warning device that is activated in the event of intrusion, danger, an emergency or for safety purposes, provided that vehicle reversing alarms are a broadband directional type.*

36.4.3 *Sound arising from fire stations (including rural fire stations), fire service appliance sirens and call-out sirens for volunteer brigades.*

36.4.4 *Sound from temporary military training activities.*

36.4.5 *In the Rural Zone and the Gibbston Character Zone, sound from farming and forestry activities, and bird scaring devices, other than sound from stationary motors and stationary equipment.*

36.4.6 *Sound from aircraft movements within designated airports.*

36.4.7 *Sound from telecommunications cabinets in road reserve.*

597. Apart from the Aurora submission dealt with in the previous section, the submissions on this rule sought:

- a. Retain the rules⁴¹⁴;
- b. Retain Rule 36.4.3⁴¹⁵;
- c. Retain Rule 36.4.4⁴¹⁶;
- d. Delete Rule 36.4.6⁴¹⁷;
- e. Add new rule exempting noise from vessels⁴¹⁸.

598. Ms Evans agreed that Rule 36.4.6 could be deleted as such aircraft noise was covered by the designations, and deleting it was consistent with the amended 36.3.2.7 above⁴¹⁹. We agree with that analysis and recommend the submission be accepted and Rule 36.4.6 be deleted.

599. Dr Chiles provided detailed evidence on the noise effects of motorised craft⁴²⁰. We heard no contrary expert noise evidence on this issue. It was Dr Chiles' opinion that sound from motorised craft has the potential to cause significant adverse noise effects in terms of degradation of amenity and disturbance. Consequently, he did not consider it appropriate to provide a blanket permitted activity status for noise from motorised craft.

600. We accept Dr Chiles assessment and recommend the submissions seeking the inclusion of this rule be rejected.

601. In summary, therefore, we recommend that Rule 36.4.6 be deleted, Rule 36.4.7 be renumbered 36.4.6, and, as we recommended above, a new Rule 36.4.7 be inserted for emergency and backup electrical generators. For clarity purposes, we recommend the Table be titled "Permitted Activities". The revised Table 1 is set out in Appendix 3.

17. 36.5 – RULES – STANDARDS

17.1. Table 2 : General Standards

602. As notified, this table set out the noise standards that applied to all activities, other than those specifically exempted, when measured in the receiving environment. Non-compliance with the set standards were non-complying, except in two cases as discussed below.

⁴¹⁴ Submissions 649 (supported by FS1211) and 719

⁴¹⁵ Submissions 438 and 708

⁴¹⁶ Submission 1365

⁴¹⁷ Submission 433, opposed by FS1097 and FS1117

⁴¹⁸ Submissions 607 (supported by FS1097) and 621

⁴¹⁹ Ruth Evans, Section 42A Report, page 14

⁴²⁰ Dr Stephen Chiles, EiC, section 7

603. Ms Evans identified an error in the labelling of the table as notified⁴²¹. The second column heading as notified was “Activity or sound source”. Ms Evans advised that it should have been headed “Zones sound is received in” and she recommended it be so amended as a minor Clause 16(2) amendment. As the various standards do not make sense if the notified heading is applied, we agree with Ms Evans that it should be corrected. We do not consider such a change to be anything other than minor as any person reading the standards would immediately see that the column did not list activities or sound sources (except for Rule 36.5.2 which we discuss below). We recommend this change be made as a correction under Clause 16(2).
604. As noted, Rule 36.5.2 applied different standards in the residential zones and the Rural Zone for sound generated in the Queenstown Airport Mixed Use Zone. Rule 36.5.2 had the effect of allowing more noise to be generated within the Queenstown Airport Mixed Use Zone than could be generated by any other activity, where the noise was received in a residential zone or the Rural Zone. Non-compliance with this more generous standard required consent as a restricted discretionary activity.
605. The second situation where non-compliance was not specified as “Non-complying” was Rule 36.5.5, which set no limit for noise received in the Queenstown Airport Mixed Use Zone. Although the non-compliance column stated “permitted”, logically it was not possible to not comply with that standard.
606. The other matter in respect of this table we need to point out at the outset is that it included standards for a large number of zones which were not in Stage 1 of the Review, but are, rather, zones in the ODP. We note in this respect that a submission by Real Journeys Limited seeking to change the standard applying to the Rural Visitor Zone was identified by the reporting officer as being “out of scope”⁴²². We also note that by resolution of the Council the geographic areas of several of these have been withdrawn from the PDP⁴²³. As of the date of that resolution those zones (or parts of zones) have been removed from this rule.
607. We also note that, as notified, Rule 27.3.3.1 explicitly stated that the zones listed were not part of the PDP: Stage 1, and Rule 27.3.3.2 explicitly stated that all the Special Zones in Chapter 12 of the ODP other than Jacks Point, Waterfall Park and Millbrook, were excluded from the PDP subdivision chapter.
608. Ms Scott addressed this matter in her Reply Submissions. It was her submission that the provisions of Chapter 36 were, at notification, intended to apply district-wide, even to zones not included in Stage 1. She submitted that we could take a “flexible and pragmatic approach as to whether submissions are “on” Stage 2 matters, when they relate to types of activities addressed through one of the district-wide chapters”⁴²⁴.
609. We have previously advised the Council that we have serious concerns with the approach it has taken regarding the suggestion that provisions in the PDP:Stage 1 apply to land which does

⁴²¹ Ruth Evans, Section 42A Report, Paragraph 8.24

⁴²² Ruth Evans, Section 42A Report, Appendix 2, page 7

⁴²³ Resolution of the Council dated 25 May 2017 to withdraw the geographic areas of the following ODP zones from the PDP: Frankton Flats B, Remarkables Park, Shotover Country Estate, Northlake Special, Ballantyne Road Industrial and Residential (Change 46), Queenstown Town Centre extension (Change 50), Peninsula Bay North (Change 51), Mount Cardrona Station

⁴²⁴ Council Reply Submissions, paragraph 2.4

not have a Stage 1 zoning⁴²⁵. In this chapter, what have been listed in the rules are, in addition to the Stage 1 zones, ODP zones. Ms Scott submitted that it would be appropriate for us to direct that those provisions be transferred to Stage 2⁴²⁶.

610. There is no information before us to suggest that any of these zones (in the terms used in these rules) will become part of the PDP. While the geographic areas those ODP zones apply to may become part of the PDP in due course, it is not axiomatic that those areas will have the same ODP zones applied.
611. We also note that the only submission⁴²⁷ on these rules referring to the zones listed in Ms Scott's submissions sought the deletion of "Industrial Zones" on the basis that those zones were not in Stage 1 and should not, therefore, be included in the rule at this stage. This raises the question for us as to whether the public understood that the Council was expecting the submission period in 2015 to be the one time a submission could be lodged in respect of noise received in any of these zones. We also have a concern that, if we were simply to direct that they be transferred to Stage 2, that would not automatically confer any submission rights in respect of these rules at Stage 2. Such submission rights will only be conferred if the Stage 2 process involves a change to the PDP to include such areas or zones.
612. We note at this point that the Stream 13 Hearing Panel is recommending the inclusion of the Coneburn Industrial Zone in the PDP. No noise limits were proposed within this zone, but the policies proposed included:

*To minimise the adverse effects of noise, glare, dust and pollution.*⁴²⁸

613. It may be that the submitter assumed that the provisions in Chapter 36 would apply, both within and outside the zone. On the face of it, the inclusion of the Coneburn Industrial Zone within the PDP would support the retention of notified Rule 36.5.7 as it applies to Industrial Zones. However, when the rule is examined, it only sets limits within Activity Areas 2, 2a, 3, 4, 5, 6, 7 and 8. It is unclear what this specification relates to, but it is clear that the rule as notified would not apply in the Coneburn Industrial Zone even if Rule 36.5.7 remained in the District Plan.. We do note that activities in the Coneburn Industrial Zone, while not needing to meet noise limits within the zone, would still need to meet the standards for noise received in the adjoining Rural Zone, or the nearby Jacks Point Zone.
614. Given the above, including the position the Council took in the reply, we have come to the conclusion that listing of the following zones in Rule 36.5 is an error:
- a. Township Zones;
 - b. Rural Visitor Zones;
 - c. Quail Rise Special Zone;
 - d. Meadow Park Special Zone;
 - e. Ballantyne Road Special Zone;
 - f. Penrith Park Special Zone;
 - g. Bendemeer Special Zone;
 - h. Kingston Village Special Zone;
 - i. Industrial Zones.

⁴²⁵ Minute Concerning Annotations on Maps, dated 12 June 2017

⁴²⁶ Council Reply Submissions, paragraph 4.1

⁴²⁷ Submission 746

⁴²⁸ Proposed Policy 18.2.1.5 in Revised Chapter 18 provided with Joint Witness Statement on 15 September 2017

615. Consequently, we recommend all references to those zones be deleted from Rule 36.5 to correct this error. In terms of item (i) Industrial Zones, we recommend accepting Submission 746. The remainder we consider can be deleted as errors requiring correction with no substantive effect under Clause 16(2). We also consider that without deleting these references, the Council may inadvertently deprive persons with land in geographic area covered by those zones the opportunity to submit on the noise rules which would affect them when those geographic areas are brought into the PDP.
616. We consider the proper course for the Council to follow in the future is, when a variation or plan change is initiated to include an additional geographic area in the PDP, where applicable, references to the zones applied can be included in these rules as appropriate. Obviously, if that land has a PDP zone applied, such a change would not be necessary.
617. Two submissions generally supported the entire rule⁴²⁹. We recommend those submissions be accepted in part.
618. There were no submissions on Rule 36.5.1 which sets the standards for noise received in the Rural and Gibbston Character Zones. We recommend this rule be adopted as notified.
619. There were no submissions on Rule 36.5.4, other than that by Real Journeys Limited⁴³⁰ which the Council identified as being out of scope. With our recommended amendments to this rule to correct the error of including references to ODP zones, the area that submission related to is no longer affected by the rule. We recommend that Rule 36.5.4 be adopted in the revised form shown in Appendix 3. We note that recommendations we make below will further amend this rule.
620. Following the Council's withdrawal of the geographic areas covered by the Shotover Country Special Zone and Mount Cardrona Special Zone, Rule 36.5.6 only applied to the Ballantyne Road Special Zone. Our recommendation that the error of including that zone in this rule be corrected by its deletion, would have the effect of deleting this rule, but Ms Evans has recommended the inclusion of other provisions within it. We will deal with that matter below.
- 17.2. **Rule 36.5.2**
621. Rule 36.5.2, which as we explained above, allowed a higher level of noise to emanate from the Queenstown Airport than from other activities, was subject to one submission⁴³¹ which sought that this rule be deleted and replaced with notified Rule 17.5.6. We note that the only substantive difference between those rules was that the night-time L_{max} was 5dB lower under Rule 17.5.6.
622. We were concerned these two rules were inconsistent with the general approach to managing noise in the District and there appeared to be no policy support for such a difference. Dr Chiles considered these limits to be inconsistent also, and it was his opinion that the inconsistencies undermine the level of amenity provided in surrounding locations by district wide noise limits⁴³².

⁴²⁹ Submissions 52 and 649

⁴³⁰ Submission 621

⁴³¹ Submission 433, opposed by FS1097 and FS1117

⁴³² Dr Stephen Chiles, EIC, paragraph 8.3

623. Mr Day did not address this inconsistency in his evidence. When questioned by the Panel, he answered that the residential areas around the airport are generally exposed to higher noise levels anyway.
624. Ms Evans, in her Reply Statement, noted that the noise limits were the same as in the ODP in respect of the Residential Zones, but have been extended to the Rural Zone also in the PDP. She recommended moving the standard to Table 3, which relates to specific noise sources, with a minor alteration to the wording to clarify the activities affected by the rule.
625. We agree with Dr Chiles that a separate and less onerous noise standard for Queenstown Airport is both inconsistent with the standards generally applied and undermines the amenity values the PDP is generally protecting in close-by residential areas. We also can find no basis for this differentiation in the objectives and policies of the PDP. However, with no submissions seeking the complete deletion of the standard, we cannot recommend its deletion. If there were a submission that sought such relief we would have recommended that submission be accepted. As it is, we largely agree with Ms Evans' proposed rule subject to two changes:
- a. clarification that it does not apply to sound from aircraft operations that are subject to Designation 2; and
 - b. Changing the night-time $L_{A_{\text{max}}}$ to 70dB as it was notified in Rule 17.5.6.
626. For the reasons set out, we recommend to the Stream 8 Hearing Panel that Rule 17.5.6 (as notified) be deleted, and recommend to the Council that Rule 36.5.2 be moved to become Rule 36.5.15 with the wording as set out in Appendix 3. We add that we cannot confirm that this rule meets the statutory tests of s.32AA.

17.3. Rule 36.5.3

627. This rule applies standards for noise received in the residential parts of the Jacks Point and Millbrook Resort Zones. We note that the former zone was incorrectly named in the rule, being termed a resort zone. We recommend that the zone name be changed by deleting "Resort" from "Jacks Point Resort Zone" so it has the zone name applied in the PDP. We consider this to be a minor correction under Clause 16(2).
628. Two submissions were received seeking:
- a. Include the Village Activity Area in the assessment locations⁴³³; and
 - b. Exclude the Village and EIC Activity Areas from column 2, and create a new rule making it a restricted discretionary activity for sounds from the Village and EIC Activity Areas to exceed the limits⁴³⁴.
629. We note that since hearing Stream 5, submitters on the Jacks Point Zone have sought the removal of the EIC Activity Area from that zone, and the Hearing Stream 9 Panel is recommending that change be accepted. Thus, we will not address that Activity Area further.
630. Ms Evans attempted to reconcile these two seemingly opposing submissions⁴³⁵. Dr Chiles was concerned that imposing the residential noise standards on the Village Activity Area would hinder the development of activities such as cafes with patrons sitting outside⁴³⁶. Ms Evans recommendation was to move both the Millbrook and Jacks Point provisions from Rule 36.5.3 to 36.5.4 on the basis that the standards would be the same for residential areas, and to

⁴³³ Submission 632, opposed by FS1219, FS1252, FS1275, FS1277, FS1283, FS1316

⁴³⁴ Submission 762, opposed by FS1316

⁴³⁵ Ruth Evans, Section 42A Report, paragraphs 8.28 to 8.31 inclusive

⁴³⁶ Dr Stephen Chiles, EIC, Section 9

include the Jacks Point Zone Village Activity Area in Rule 36.5.6 which provides for higher levels of received noise.

631. Mr Ferguson supported these changes but raised two matters:
- a. Clarification of how the noise standards are applied between the stipulated assessment locations and the zone or activity areas within it is received; and
 - b. The status of any breach of the noise standards⁴³⁷.
632. Mr Ferguson's first point was that the heading to Column 2 (as amended) referred to receiving zones, whereas in Jacks Point Zone at least, it was only within part of the zone that it applied. We consider this can be dealt with by amending the additional words after each zone to say "Residential (or Village) Activity Areas only" to make it clear it is only part of the zone within which the relevant rule controls the receipt of noise.
633. We have considered Mr Ferguson's opinion that non-compliance with the rules applicable to the Village Activity Area should require consent as a restricted discretionary activity. In our view the point of noise standards is to establish a bottom line for amenity values which should not be breached. The standards themselves, and the forms of measurement, provide for the rare or momentary exceedance of any fixed level. If an activity is proposing to create a level of noise that will always or regularly exceed the standard, then we consider it appropriate for the Council, on a resource consent application, to be able to firstly consider whether that activity meets the thresholds of s.104D, and if so, to undertake a full evaluation of the proposal under s.104. We agree with Ms Evans' evaluation of this matter in her Reply Statement.
634. In summary, we recommend that Rule 36.5.3 be deleted and the following be inserted in Column 2 of Rule 36.5.4 (consequently renumbered 36.5.2):
- Millbrook Resort Zone – Residential Activity Areas only*
Jacks Point Zone – Residential Activity Areas only
635. We additionally recommend that the following be inserted in Column 2 of Rule 36.5.6 (now renumbered 36.5.4):
- Jacks Point Zone – Village Activity Area only*
- 17.4. **Rule 36.5.5**
636. The only submission on this rule sought its retention⁴³⁸. As noted above, and agreed by Ms Evans⁴³⁹, there is no possibility of not complying with this rule, so the appropriate thing is to leave the Non-compliance Status Column blank. With that change, we recommend the rule be adopted.
- 17.5. **Table 3**
637. This table sets standards for noise from specified activities, including identifying any applicable special considerations. One submitter⁴⁴⁰ supported all of the rules in this table subject to amendments to Rule 36.5.11 which we deal with below. There were no other submissions on Rules 36.5.8, 36.5.9, 36.5.10, 36.5.12 and 36.5.17.
638. The only other submission⁴⁴¹ on Rule 36.5.15 sought that it be retained.

⁴³⁷ Christopher Ferguson, EiC, page 5

⁴³⁸ Submission 433, opposed by FS1097, FS1117

⁴³⁹ Ruth Evans, Reply Statement, Appendix 1

⁴⁴⁰ Submission 649

⁴⁴¹ Submission 580

639. Ms Evans recommended that Rule 36.5.17 be transferred to Chapter 41 as a rule applying to Jacks Point Zone. We agree with that recommendation and refer that rule to the Stream 9 Hearing Panel.

640. Subject to renumbering and altering the reference in Rule 36.5.8 to the NESTF 2016, we recommend that Rules 36.5.8, 36.5.9, 36.5.10, 36.5.12 and 36.5.15 be adopted as notified.

17.6. Rule 36.5.11

641. This rule controls noise from frost fans. The sole submission⁴⁴² sought that the L_{AFmax} limit failed to account for increased annoyance where there are special audible characteristics present. It sought that the limit be changed to 55 dB $L_{Aeq(15 min)}$.

642. Dr Chiles⁴⁴³ agreed that the 85 dB L_{AFmax} would not adequately control noise effects. He considered that proposed in the submission to be adequate, although significantly more lenient than the general night-time noise limit of 40 dB $L_{Aeq(15 min)}$. Ms Evans accepted Dr Chiles advice and recommended amending this rule as requested.

643. On the basis of that evidence we recommend that Rule 36.5.11 (renumbered as 36.5.8) be amended to set a noise limit of 55 dB $L_{Aeq(15 min)}$.

17.7. Rule 36.5.13

644. This rule set the standard for noise from helicopters. Three submitters⁴⁴⁴ supported this rule. Other submissions sought:

- a. Delete the rule⁴⁴⁵;
- b. Measure L_{max} rather than L_{dn} ⁴⁴⁶;
- c. Delete the L_{dn} measurement⁴⁴⁷;
- d. Make non-compliance a discretionary activity⁴⁴⁸.

645. In addition, one submission sought the introduction of a separate rule for helicopters landing near the top of Skyline Access Road⁴⁴⁹.

646. It was Dr Chiles' evidence⁴⁵⁰ that the adverse effects of helicopters are related to both the sound level of individual helicopter movements, and also the frequency of movements. He noted that while there were some limitations with the use of an L_{dn} noise limit, it would control both factors. On the other hand, while a L_{AFmax} noise level would control the sound level, it would not control the number of movements. He also noted that there can be difficulty in obtaining reliable assessments of helicopter noise using the L_{AFmax} limit.

647. Dr Chiles also explained why he considered the L_{dn} control for helicopter noise in this rule, coupled with the additional controls on movement numbers in the Rural Zone, sets an appropriate noise limit to manage adverse noise effects. While he agreed that there was

442 Submission 649

443 EIC, Section 12

444 Submissions 143 (opposed by FS1093), 433 (opposed by FS1097, FS1117) and 571

445 Submission 475, opposed by FS1245

446 Submissions 607, 626, 660, 713

447 Submission 243, opposed by FS1224, FS1245

448 Submission 607

449 Submission 574, opposed by FS1063

450 EIC, Section 13

justification for applying the noise limits recommended for commercial areas by NZS6807 to commercial areas in the PDP, as sought in Submission 574, he considered that limit not to be appropriate in the area specified in that submission. He advised us that a recent Environment Court decision⁴⁵¹ found that the commercial area noise limit from NZ6807 was not appropriate in that location. He advised that in considering that application, the Court found that a helicopter noise limit of 60 dB L_{dn} in conjunction with a limit of four helicopter flights a day to be appropriate. He was unaware of justification to insert specific and different noise limits for this location into the PDP.

648. Mr Dent appeared in support of Submission 574. It was his opinion that NZ6807 was the appropriate standard for measuring helicopter noise. He explained that the ODP rules effectively have no applicable noise rules for helicopters. Turning to the specific issue of the Skyline helicopter pad, he considered there was value in making provision for a helicopter pad to locate in the vicinity of Bobs Peak with a noise limit of 60 dB L_{dn} (less than the 65 dB L_{dn} sought in the submission).
649. In response to this evidence, Ms Evans proffered the opinion that if the Council were to include specific controls for a specific consented activity, the PDP would be littered with such special provisions. She also advised that the Environment Court only granted consent for 5 years, to enable review, whereas if it became a rule in the PDP then it would not be subject to review until the PDP were reviewed, and would, potentially, be there for the life of the activity⁴⁵².
650. There are three issues for us to deal with in regard to this rule:
- a. Whether helicopter noise limits be set using NZS6807 or in the same manner as other noise is generally controlled in the District;
 - b. The activity status of a resource consent for non-compliance; and
 - c. Whether special provision should be made for helicopter landing at Skyline.
651. All the expert evidence we heard advised us that NZS6807 is the appropriate standard to use of the assessment and control of helicopter noise. As that standard is specifically designed to deal with helicopter noise, that is unsurprising. Mr Dent assisted us by setting out a number of local consent hearings where the hearing commissioners had agreed with expert noise evidence that concluded the ODP noise rules were ineffective, or unable to control, helicopter noise. We accept all that evidence and conclude that Rule 36.5.13 as notified is fundamentally sound. We also agree with Ms Evans' recommendation that the Advice Note should specify Queenstown and Wanaka Airports.
652. Our views on the non-compliance status of any breach of this rule is consistent with those we gave above in respect of Rule 36.5.3 above. As it was, we heard no evidence on this from the submitter.
653. The Stream 10 Hearing Panel has recommended that the final clause in the notified definition of noise in Chapter be inserted in this rule. We agree that is a more appropriate location and is a non-substantive change under Clause 16(2).
654. For those reasons we recommend that Rule 36.5.13 (renumbered 36.5.10) be adopted as notified, with the addition of the phrase from Chapter 2 and a minor amendment to the advice note.

⁴⁵¹ ZJV (NZ) Limited v Queenstown Lakes District Council & Skyline Enterprises Limited [2015] NZEnvC 205

⁴⁵² Ruth Evans, Reply Statement, Section 9

655. We also note that, in addition to this rule, other rules in the Rural Zone relating to informal airports restrict the frequency of flights and impose setback requirements in certain situations. The combination of those rules should go some way to address the concerns of those submitters who sought the deletion or modification of this rule.

656. Turning to the Skyline issue, we agree with Ms Evans that turning a resource consent into district plan rules, when that consent is subject to a time limitation because of the potential adverse effects, is fraught with issues. We consider it would be poor resource management practice to create such a rule as it would restrict the Council's ability to adjust the terms of the activity if monitoring disclosed adverse environmental effects beyond those foreseen. In our view, if Skyline wishes to choose a better site for helicopter landing, and it requires a resource consent, then they should follow that process. We recommend that submission be rejected.

17.8. Rule 36.5.14

657. This rule sets noise limits for fixed wing aircraft using NZS6805 as the means of measuring and assessing aircraft noise. One submission⁴⁵³ sought the retention of this rule, while two submissions⁴⁵⁴ sought its replacement with an L_{max} limit and changing the non-compliance status to discretionary.

658. Again this issue is whether a standard specifically designed to measure and assess aircraft noise (NZS6805) should be used as the basis for setting the limits in this rule, or the general provisions used elsewhere in the District. We heard no evidence in support of the submissions seeking to amend this rule and see no reason to for there to be a different approach to setting noise limits for fixed wing aircraft from that used for setting noise limits for helicopters.

659. We recommend that Rule 36.5.14 (renumbered 36.5.11) be adopted as notified, and the advice note be amended to specify Queenstown and Wanaka Airports.

17.9. Rule 36.5.16 and Rule 36.8

660. Rule 36.5.16 set a noise limit of 77 dB L_{ASmax} for commercial motorised craft operating on the surface of lakes and rivers. Rule 36.8 set out the methods of measurement and assessment of such noise.

661. One submission⁴⁵⁵ sought the retention of Rule 36.8. Other submissions sought:

- Lower the limit in Rule 36.5.16 and include live commentary on vessel as well⁴⁵⁶;
- Exempt low or moderate speed passenger service vessels from 36.8⁴⁵⁷;
- Set the limit for jet boats competing in jet boat race events at 92 dB L_{ASmax} ⁴⁵⁸.

662. We note in respect of item (b) above, the same submitter sought that such vessels be permitted activities in Table 1. We have deal with that matter above and recommended rejecting that submission.

663. Dr Chiles discussed the issues that have arisen with administering the noise rules relating to motorised craft under the ODP. He recommended that deletion of the testing methodology

⁴⁵³ Submission 433, supported by FS1345 and opposed by FS1097, FS1117

⁴⁵⁴ Submissions 607 and 621

⁴⁵⁵ Submission 649

⁴⁵⁶ Submission 243, opposed by FS1224, FS1245

⁴⁵⁷ Submission 621

⁴⁵⁸ Submission 758

in Rule 36.8 would partly address concerns raised in Submission 621. Ms Evans recommended a consolidation of Rules 36.5.16 and 36.8 which would include deletion of the testing methods.

664. Dr Chiles advised us that the level of 77 dB L_{ASmax} had operated successfully under the ODP. He considered that if it were reduced, it would restrict the ability of many vessels to operate on the surface of lakes and rivers in the District. He also considered it was not practicable to assess the sound of on-board commentary using the methods for assessing motorised craft. He considered the general noise standards (Rule 36.5.1 for instance) should apply to such noise.
665. It was Dr Chiles' opinion that the noise from jet boat racing should be assessed on a case by case basis via the resource consent process.
666. As alluded to above, Ms Evans recommended a consolidation of Rules 36.5.16 and 36.8. In doing this she incorporated Rule 36.8.1.2 into Rule 36.5.16. As notified, there was a potential conflict between these two rules, and, at minimum, an ambiguity. Rule 36.5.16 set a single noise limit, and in the "Time" Column stated "Refer 36.8". Rule 36.8.1.2 stated:
The measured sound pressure level shall not exceed a maximum A weighted level:
- 77 dB L_{ASmax} for vessels to be operated between the hours of 0800 and 2000;
 - 67 dB L_{ASmax} for vessels to be operated between the hours of 2000 and 0800.
667. In consolidating the rules, Ms Evans pulled the night-time level into Rule 36.5.16. We need to consider whether a plan user would have expected the night-time limits to apply given the notified version of Rule 36.5.16. As Ms Black's evidence, on behalf of Real Journeys Ltd, was concerned in part with the ability of her company's vessels to operate between 0700 and 0800, and 2000 and 2100, in accordance with the lower levels, we can be satisfied that submitters understood those lower limits to apply.
668. While Ms Black's evidence was mainly focussed on the permitted activity status sought, as discussed in an earlier section above, she did explain the nature of Real Journeys' vessel operations. We understood Dr Chiles' evidence to be that the PDP noise rules for vessels represented no change from those in the ODP for commercial vessels. There was nothing in Ms Black's evidence to suggest that meeting the ODP noise limits had been an issue for her company. For those reasons, we see no justification in altering the limits in Rule 36.5.16.
669. Mr McKenzie presented a statement on behalf of Jet Boating New Zealand Inc in respect of the request for a separate noise limit for jet boats taking part in jet boat race events. He attached to his evidence a noise report from 2005 for applications for a number of international jet boat races.
670. The fundamental difficulty this submitter has is that Rules 36.5.16 and 36.8 only relate to commercial vessels. We do not understand jet boats involved in jet boat races to fall into that category. In the absence of any other noise rules controlling vessels, non-commercial boating fall to be considered under the provisions of Table 2. Dr Chiles expressed the opinion that the same noise limits should apply to all motorised craft⁴⁵⁹. We agree and recommend that the Council initiate a variation to apply the noise limits in Rule 36.5.16 to all motorised craft. Jet Boating New Zealand Inc would have the opportunity to lodge a submission on such a variation if it considered it did not adequately provide for its members' activities.

⁴⁵⁹ Dr Stephen Chiles, EiC, paragraph 7.1

671. In summary, for the reasons set out above, we agree with the revised version of Rule 36.5.16 (renumbered 36.5.14) recommended by Ms Evans and recommend the Council adopt that version of the rule as set out in Appendix 3, and we recommend the deletion of Rule 36.8.

17.10. Rule 36.6

672. This rule contained provisions designed to protect nearby residents from the effects of airport noise. Rule 36.6.1 related specifically to a zone which was not part of PDP: Stage 1 – the Rural Visitor Zone. Rule 36.6.2 (Table 4) set the acceptable construction methods to meet the sound insulation requirements within the Air Noise Boundary of the Queenstown Airport. Rule 36.6.3 (Table 5) set out the ventilation requirements within the Outer Control Boundary and Air Noise Boundary of Queenstown and Wanaka Airports.

673. One submission supported the rules in full⁴⁶⁰, one supported Table 4 with a minor correction and replacement of Table 5⁴⁶¹, one sought amendments to address modern building solutions⁴⁶², and another sought that provision be made for requiring air conditioning⁴⁶³. Another submission⁴⁶⁴ was listed as being relevant to this rule, but on reading the submission we concluded it only related to the provision for informal airports in the rural chapters. We have taken no account of that submission and leave it to the Stream 2 Hearing Panel to deal with.

674. We consider Rule 36.6.1 creates the same issues as those we discussed above in relation to ODP zone names being listed in Rules 36.5.4, 36.5.6 and 36.5.7. In our view, for the purposes of the PDP, the Rural Visitor Zone does not exist. Thus, this rule is of no practical effect. We also note that this rule has not been mentioned in the Section 32 Report for Noise. In fact, that report does not mention the Rural Visitor Zone at all. We can only conclude that the inclusion of this rule is a mistake that should be corrected. For those reasons, we recommend Rule 36.6.1 be deleted as an error under Clause 16(2).

675. Dr Chiles provided useful evidence on the construction and ventilation requirements⁴⁶⁵. It was his advice that the glazing requirement in Table 4 be changed to double glazing with 4mm thick panes separated by a cavity at least 12mm wide. He also confirmed that ceiling plasterboard should be 9 mm, as sought in Submission 433.

676. In terms of ventilation, Dr Chiles advised that he had sought advice (for another client) on how ventilation rules could meet the aim of providing sufficient thermal comfort for occupants, so they have a free choice to leave windows closed if required to reduce adverse external sound. Based on that review, he recommended a specification that would replace Rule 36.6.3 (and also 36.7 which we deal with below). In his opinion, such a specification would give effect to Submission 80, but would only adopt the specification put forward in Submission 433 in part. Ms Evans redrafted Rule 36.6.3 based on Dr Chiles advice.

677. The only submitter heard from in respect of this rule was QAC. By the time of the hearing the only matters at issue related to Rule 36.6.3 – Table 5. These issues can be further narrowed to be, in essence:

- a. The appropriate standard for low rate ventilation;

⁴⁶⁰ Submission 649

⁴⁶¹ Submission 433, opposed by FS1097, FS1117

⁴⁶² Submission 383, opposed by FS1340

⁴⁶³ Submission 80, opposed by FS1077

⁴⁶⁴ Submission 310, opposed by FS1245

⁴⁶⁵ Dr Stephen Chiles, EIC, Section 14

- b. How many air changes per hour occurred at high setting on the ventilation system;
 - c. The need for passive relief venting; and
 - d. The measuring point for assessing the noise level of the ventilation system.
678. Mr Roberts provided expert ventilation evidence. He described the difficulties faced in implementing the ventilation system required by the notified rules. He also identified that some of the requirements, particularly that requiring 15 air changes per hour, were unnecessary in the Queenstown climate. His recommendation was that Table 5 should be amended so as to:
- a. *Reduce the high setting air changes so that there is no difference between Bedrooms and other Critical Listening Environments, for the purposes of rationalising the type, physical size and quantity of separate ventilation systems required to comply, and that those ventilation systems can readily achieve the difference between high and low setting air flow rates;*
 - b. *Provide the ability to use more modern and efficient plant, including heat pump air conditioning units; and*
 - c. *Simplify the system design in order that it can be readily designed to comply by local contractors.*⁴⁶⁶
679. In respect of the differences between the Council provisions and QAC provisions, he noted:
- a. The ventilation rates should not be linked to provisions of the NZ Building Code as those provisions are designed for different purposes;
 - b. While 6 air changes per hour proposed by the Council is very similar to the 5 air changes per hour he recommended, the extra change per hour would require an additional fan or complex air flow control system, with costs disproportionate to benefit;
 - c. High air change setting and cooling via heat pump cooling system could be provided as alternates;
 - d. The omission of a heating requirement from the Council proposal is possibly an error;
 - e. To ensure that combustion appliances can operate safely under the high air change requirement, additional passive relief venting is required;
 - f. There should be no need to duplicate heating, ventilation or cooling systems where they are already present and satisfy the requirements of the rule⁴⁶⁷.
680. Ms O’Sullivan attached a draft rule that, in her opinion, achieved the matters raised by Mr Roberts⁴⁶⁸.
681. The other outstanding matter was the point at which to measure the noise of the cooling system. The rule stated that noise levels were to be measure at a distance of 1 m to 2 m from any diffuser. Dr Chiles recommended that it be set at 1 m to remove ambiguity, while it was Mr Day’s evidence that this should be set at 2 m.
682. Ms Wolt submitted that there was no scope to set the measuring point at 1 m, while there was scope to set it at 2 m. In her Reply Statement, Ms Evans accepted that there may not be scope to set it at 1 m and recommended that it be set at 2 m, noting that it was likely that most persons measuring such noise would use the most lenient point.⁴⁶⁹

⁴⁶⁶ Scott Roberts, EiC, paragraph 17

⁴⁶⁷ *ibid*, paragraphs 28 - 38

⁴⁶⁸ Kirsty O’Sullivan, EiC, Appendix D

⁴⁶⁹ Ruth Evans, Reply Statement, paragraph 8.4

683. The evidence from the noise experts did not suggest that there was a difference between the ventilation rule options put to us in terms of protecting residents from aircraft noise. Given that lack of difference, we prefer the expert advice of Mr Roberts and accept that the rule drafted by Ms O'Sullivan, subject to minor amendments, is the most appropriate to include in the PDP. As amended, this rule explicitly provides for cooling as sought in Submission 80.
684. For those reasons, we recommend that Rule 36.6.3 (renumber 36.6.2) be adopted in the form shown in Appendix 3.

17.11. Rule 36.7

685. This rule provides ventilation requirements for critical listening environments in the Wanaka and Queenstown Town Centre Zones, the Local Shopping Zones and the Business Mixed Use Zone. There were no submissions on this rule and the Council, therefore, has no scope to change it other than by variation. It was Dr Chiles' evidence that it did need changing, even if only to correct the low setting from 1-2 ac/hr to 0.5 ac/hr. We recommend the Council obtain expert ventilation advice on appropriate standards for these zones and implement a variation to implement that advice if required.

17.12. Consequential Amendments Recommended by Other Hearing Streams

686. In addition to the amendments recommended by the Stream 8 Panel in relation to Section 36.1 and Rule 36.3.2.8 discussed above, that Panel has also recommended consequential amendments to recommended Rules 36.5.1, 36.5.3, 36.5.4 and 36.5.14.
687. The amendment to Rule 36.5.1 is consequential on the recommended rezoning of Wanaka Airport from Rural to Airport Zone. We agree that listing the Airport Zone – Wanaka in this rule will continue the notified noise regime for the land and therefore it can be made as a non-substantive change under Clause 16(2).
688. The remaining amendments are consequential on changing the name of the Airport Mixed Use Zone to Airport Zone. Again such changes are non-substantive changes under Clause 16(2).
689. We recommend those amendments, as shown in Appendix 3, are adopted.

17.13. Summary of Conclusions on Rules

690. We have set out in Appendix 3 the rules we recommend the Council adopt. For all the reasons set out above, we are satisfied that the rules are the most effective and efficient means of implementing the policies so as to achieve the objectives of Chapter 36, and those in the Strategic Directions chapters. Where we have recommended rules not be included, that is because, as our reasons above show, we do not consider them to be efficient or effective.

18. CHANGES SOUGHT TO DEFINITIONS

18.1. Introduction

691. Submitters on this Chapter also lodged submissions on a number of notified definitions and also sought the inclusion of several new definitions. In accordance with the Hearing Panel's directions in its Second Procedural Minute dated 5 February 2016, we heard evidence on these definitions and have considered them in the context of the rules which apply them. However, to ensure a consistent outcome of consideration of definitions, given the same definition may be relevant to a number of hearing streams, our recommendations in this part of the report are to the Hearing Stream 10 Panel, who have overall responsibility for recommending the final form of the definitions to the Council. As the recommendations in this section are not

directly to the Council, we have listed the wording we are recommending for these definitions in Appendix 5.

18.2. Noise

692. One submission⁴⁷⁰ sought that L_{dn} be deleted from the definition of noise. The submission suggests that it is only there to allow helicopters and no special provision should be made for noise from helicopters.

693. In discussing Rule 36.5.13 above we noted that expert noise evidence advised that the L_{dn} method is the best for measuring noise from helicopters. We recommend to the Stream 10 Hearing Panel that this submission be rejected.

18.3. Notional Boundary

694. The Southern District Health Board⁴⁷¹ recommended that “façade” in this definition be replaced by “any side” on the basis that in rural areas, where notional boundaries are used for noise measurement, it is all sides of the building that are important. Using the term façade may imply that it is only that facing the road which is relevant.

695. We agree with that logic and recommend to the Stream 10 Hearing Panel that the definition of notional boundary be amended to read:

Notional boundary means a line 20 m from any side of any residential unit or the legal boundary whichever is closer to the residential unit.

⁴⁷⁰ Submission 243, opposed by FS1340

⁴⁷¹ Submission 649