

**Before the Panel of Hearing Commissioners  
For the Queenstown Lakes Proposed District Plan**

**In the Matter** of the Resource Management Act  
1991  
**And**  
**In the Matter** of the Queenstown Lakes Proposed  
District Plan - Stage 2  
**And**  
**In the Matter** of Hearing Stream 14 - Wakatipu  
Basin

**Statement of Evidence of  
Amanda Leith  
for Spruce Grove Trust (Submitter 2512  
and 2513) and Boundary Trust (Submitter  
2444)**

Dated: 13 June 2018

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## **INTRODUCTION**

### **Qualifications and Experience**

1. My full name is Amanda Jane Leith.
2. I am a Resource Management Planner and I hold a Bachelor of Arts and a Masters in Regional and Resource Planning from the University of Otago. I am a full member of the New Zealand Planning Institute.
3. I have 13 years' experience in planning and resource management including 11 years in local government in New Zealand and Australia. I am employed by Southern Planning Group (2017) Limited.
4. During 2015 and 2016 I was employed by the Queenstown Lakes District Council and I prepared the s42A reports in relation to Chapters 2 - Definitions, 7 – Low Density Residential, 8 – Medium Density Residential and 11 – Large Lot Residential of the Proposed District Plan.

### **CODE OF CONDUCT**

5. I confirm that I have read the Code of Conduct for Expert Witnesses as contained in the Environment Court Practice Note dated 1 December 2014. I agree to comply with this Code. This evidence is within my area of expertise, except where I state that I am relying upon the specified evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

### **SCOPE OF EVIDENCE**

6. My evidence will deal with the following:
  - (a) Site description;
  - (b) Background;
  - (c) Relief sought;
  - (d) Analysis;
  - (e) Other submissions; and
  - (f) Conclusions.

## EXECUTIVE SUMMARY

7. It is sought to rezone the two 'cut out' areas of land which adjoin the Millbrook Resort Zone (MRZ) from Wakatipu Basin Rural Amenity Zone (WBRAZ) to MRZ. This is sought on the basis that the subject land is not topographically or geographically distinct from the adjoining MRZ and that future development of the land can occur in a way which is consistent with the existing character and amenity of the adjoining MRZ land.
8. Residential activity areas are proposed over the land areas surrounded by open space. Consequential amendments to Chapter 43 – Millbrook are also proposed to give effect to these activity areas. The existing Chapter 43 rule framework has been utilised to ensure that development within the land areas is consistent with that on the adjoining MRZ land.
9. There are no servicing or access impediments to the rezoning proposal that cannot be resolved.
10. The proposal is consistent with and would give effect to the higher order objectives of Chapter 3 – Strategic Direction, Chapter 6 – Landscapes as well as Chapter 43 – Millbrook.

## SITE DESCRIPTION

### Arrowtown – Lake Hayes site

11. The Boundary Trust (Submitter 2444) and Spruce Grove Trust (Submitter 2512) submissions relate to land bounded by Arrowtown – Lake Hayes Road to the east, Butel Road to the north and Orchard Road to the west as shown in Figure 1 below (hereon referred to as the Arrowtown – Lake Hayes site).



*Figure 1: Land to which the Boundary Trust (Submitter 2444) and Spruce Grove Trust (Submitter 2512) submissions relate*

12. Within the Arrowtown – Lake Hayes site, Boundary Trust own 29 Butel Road (Lot 1 Deposited Plan 27846) and the Spruce Grove Trust own 459 Arrowtown – Lake Hayes Road (Part Lot 2 and Lot 3 Deposited Plan 19667), Wakatipu Basin, however their submissions relate to the entirety of the land outlined in green.
13. The Arrowtown – Lake Hayes site is comprised of five different properties<sup>1</sup> which are all in separate ownership. Each of these properties contain an existing residential unit.
14. Existing access is provided to these lots via Arrowtown – Lake Hayes Road, Butel Road and Orchard Hill. Orchard Hill is a private road however the other two are public roads.
15. The topography of the land is undulating. There is mature vegetation existing on all of the sites.

<sup>1</sup> I've considered Part Lot 2 and Lot 3 Deposited Plan 19667 as one property given the lots are held in one Certificate of Title

### Malaghans Road site

16. The Spruce Grove Trust (Submitter 2513) submission relates to 1124 Malaghans Road, Wakatipu Basin (Section 11 Survey Office Plan 447314) and is identified in Figure 2 below. The Spruce Grove Trust owns this land and it will hereon be referred to as the Malaghans Road site.



*Figure 2: Land to which the Spruce Grove Trust (Submitter 2513) relates*

17. The land is currently vacant of built form. The part of the site adjacent to Malaghans Road is almost flat and is used for the grazing of horses. Approximately 75m from the road boundary is an isolated roche moutonee. The remainder of the land to the south is sloping.
18. The land is surrounded to the east, south and west by Millbrook Country Club Limited (MCCL) owned land, including the golf course to the south and southwest, a services area and replacement turf growing area to the west. Furthermore, privately owned residential houses are located to the east which are accessed via Malaghans Ridge, the development and occupation of these properties are controlled via MCCL via legal encumbrance.
19. In terms of the resource management background for this land, a resource consent (RM080173) was granted by the Environment Court on 3 June 2011 to undertake an eight lot subdivision including four residential lots each containing a building platform, one allotment for the purposes of access, one allotment for utility purposes and two allotments for open space purposes.

An extension of time to this resource consent has been granted by Council and this consent now expires on 20 December 2018.

20. Resource consent (RM180571) was granted on 6 June 2018 for exactly the same development as approved by the Environment Court under RM080173. This approval now expires on 6 June 2023.

## **BACKGROUND**

### Operative District Plan

21. Under the Operative District Plan (ODP) all of the Arrowtown – Lake Hayes site and Malaghans Road land is located within the Rural General zone.

### Proposed District Plan – Stage 1

22. All of the Arrowtown – Lake Hayes and Malaghans Road sites were proposed to be zoned Rural as notified under Stage 1 of the Proposed District Plan (PDP).
23. Boundary Trust (submission 541) and Spruce Grove Trust (submission 559) submitted opposing the proposed Rural zoning of the Arrowtown – Lake Hayes land and sought for the land to be included within the expanded Millbrook Resort Zone (MRZ). Additional consequential relief to Chapter 43 was also proposed.
24. Spruce Grove Trust (submission 558) also submitted opposing the proposed Rural zoning of the Malaghans Road site seeking that the land be included within the expanded MRZ. Additional consequential relief to Chapter 43 was also proposed.
25. Chapter 43 – Millbrook Resort Zone was notified as part of Stage 1. The hearings on this chapter and the expansion of the zone to incorporate Dalglish Farm were held in February 2017.
26. The submission points of the two Spruce Grove Trust submissions and the Boundary Trust submission seeking that the Arrowtown – Lake Hayes and Malaghans Road land be incorporated within the MRZ, along with the consequential changes to Chapter 43, were transferred by the Council planner to the hearing on mapping. To date these submission points are yet to be considered or determined by Council.

27. Despite the abovementioned submission points seeking inclusion within the MRZ and consequential changes to Chapter 43 being sought, on 18 October 2017 Council notified the decisions on the submissions and further submissions in relation to Chapter 43. The notice of the decision states the following:

*“The effect of the decisions is to adopt the recommendations of the Independent Hearings Panel to confirm amended provisions for Chapter 43 Millbrook including the Millbrook Resort Zone Structure Plan and the Millbrook Resort Zone on Planning Map 26. The District Plan shall be deemed to have been amended in accordance with those decisions from the date of this public notice.”*

28. MCCL appealed the Council’s decision and this appeal has now been resolved. Accordingly, the land zoned MRZ and Chapter 43 is now treated as operative.

#### Proposed District Plan – Stage 2

29. The Arrowtown – Lake Hayes Road land and the Malaghans Road land was notified as being within the Wakatipu Basin Rural Amenity Zone (WBRAZ) under Stage 2. Both sites are included within Landscape Character Unit 23: Millbrook.

### **RELIEF SOUGHT IN THE SUBMISSIONS**

30. Spruce Grove Trust (2512 and 2513) and Boundary Trust (2444) seek that the Arrowtown – Lake Hayes and Malaghans Road land be included within the MRZ and that consequential amendments to Chapter 43 be undertaken to provide for this relief.
31. The relief sought is consistent with the intent of the submissions lodged by the parties in Stage 1 in that the MRZ of the land is sought, however the relief is more specific in relation to the consequential changes to Chapter 43 that are required.
32. To give effect to the MRZ of the Arrowtown – Lake Hayes and Malaghans Road land, the following changes were proposed to Chapter 43 within the three submissions:



- (a) That the MRZ – Structure Plan in 43.7 be amended to incorporate two new Residential activity areas as follows:
- (i) Malaghans Road land - a new Residential activity area (proposed as R20) is identified over the southern portion of the site as shown in **Annexure 1**, with the remainder of the land being included within the Golf Course and Open Space activity area; and
  - (ii) Arrowtown – Lake Hayes Road land - a new Residential activity area (proposed as R21) identified over all of the Arrowtown – Lake Hayes land outside of a 25m setback distance from the Arrowtown Lake Hayes Road boundary. The remainder of the land to be included within a new Golf Course and Open Space (G1) activity area.
- (b) That Rule 43.4.10(b): Buildings be amended to incorporate the two new Residential activity areas (R20 and R21) so that the construction of any buildings would require a Controlled activity resource consent with control being reserved to the appearance of the buildings and the effects on visual and landscape amenity of the area including coherence with the surrounding buildings.
- (c) Insertion of a new Rule 43.4.24 making Buildings within the Golf Course and Open Space (G1) activity area (the area of the Arrowtown – Lake Hayes land within 25m of Arrowtown – Lake Hayes Road) a Non-Complying activity area.
- (d) That Rule 43.5.2(c) be amended to incorporate the two new Residential activity areas so that buildings within the activity areas would need to be located at least 7m from the activity area boundary. Non-compliance with this rule would require a Restricted Discretionary resource consent however no matters of discretion are included within the rule.
- (e) Inclusion of the two new Residential activity areas within Rule 43.5.3 which imposes restrictions on the building colours and materials. Non-compliance with this rule would require a Restricted Discretionary resource consent with Council's discretion being restricted to effects on amenity and landscape values, building

design and the degree to which the colours and materials are recessive within the context of the building.

- (f) Amendment to Rule 43.5.4: Residential Density to exclude the proposed Residential activity areas from the maximum number of residential units in the MRZ and to prescribe a maximum average density of no more than one residential unit per 500m<sup>2</sup> within the two new Residential activity areas.
- (g) Exclusion of the proposed Residential activity areas from Rule 43.5.11 relating to the maximum total site coverage across the MRZ and addition of a new Rule 43.5.14 prescribing the maximum site coverage for the new Residential activity areas as 50% with a Restricted Discretionary activity status if 50% is exceeded. I did not specify matters of discretion within the submissions however I consider that these should be visual dominance of the buildings viewed from the street, external amenity values for future occupants of the buildings on the site; effects on sunlight and shading on adjacent properties and parking and access layout.
- (h) Addition of a new Rule 43.5.15 with a Discretionary activity status pertaining to the visibility of buildings within the Malaghans Road Residential activity area (R21). The rule is to ensure that no part of any building is visible from Malaghans Road.

## **COUNCIL RECOMMENDATION**

### Arrowtown – Lake Hayes Road land

- 33. The rezoning proposal has been recommended by Mr Langman to be rejected on the basis that the density sought is not dissimilar to an urban density and is not offset of open space as is the rest of the MRZ.
- 34. In terms of landscape evidence, Ms Gilbert considers the land as a relatively small-scale and discrete area which reads as a 'cut out' from the MRZ and displays an established rural residential character. She considers that either MRZ or Wakatipu Basin Lifestyle Precinct (WBLP) would be an appropriate zoning for the land.

35. Ms Jarvis also is also not in opposition to the proposed rezoning proposal to MRZ given that there are upgrades to the Arrowtown water supply and the broader Wakatipu wastewater scheme which should be able to support further development in this area. Ms Jarvis also notes that if the land is rezoned WBLP then the land would remain outside of the Council water and wastewater scheme boundaries.
36. In terms of traffic evidence, Mr Smith does not individually assess the proposed rezoning request however in paragraph 3.5 of his evidence he identifies that many of the submissions relate to relatively small increased in activity which in isolation would have no noticeable effect on the performance of the transport network, however there is a risk of cumulative effects if a number of these subdivisions are approved together. Mr Smith specifically identifies the State Highway 6 corridor in the vicinity of the Shotover River Bridge, Edith Cavell Bridge and Arrow Junction as being problematic.

#### Malaghans Road land

37. Only planning and landscape evidence specific to the proposed rezoning request of the Malaghans Road land has been lodged by the Council.
38. The rezoning request has been recommended to be rejected by Mr Langman in his planning evidence on the basis that *“the proposal in its current form is not consistent with the purpose, objectives and policies of the Millbrook Resort Zone.”* Mr Langman states that he is not opposed to the inclusion of the site within the MRZ however that this has to be tempered by the form of the proposed development and existing development in the MRZ.
39. Mr Langman states that he is of the understanding that the overall density of the MRZ is one residential unit or visitor unit per hectare and that allowing development at levels greater than this would undermine the purpose of the MRZ which provides for *“development enclaves in open rural countryside”*.
40. Mr Langman identifies that the proposed amendments to Chapter 43 would be a significant departure to that approved for the site via resource consent and would be inconsistent with development being integrated with the remainder of the MRZ.

41. Overall, Mr Langman considers that the notified WBRAZ of the site is more appropriate.
42. In terms of landscape evidence, Ms Gilbert describes the site as comprising a relatively small scale and discrete area that reads as a 'cut out' in the MRZ along its Malaghans Road frontage.
43. Ms Gilbert states that the consented rural residential development on the southern portion of the site suggests that this part of the property could be developed for MRZ without compromising the landscape character and visual amenity values of the wider Wakatipu Basin. However that any such development should be confined to the flat land on the south side of the knoll landform for it to be acceptable. She notes that the proposed extent of the R20 activity area anticipates residential development over the crest, west and south sides of the knoll landform and considers that this would generate significant adverse land and visual effects in relation to the adjoining Millbrook land.

## AMENDED RELIEF

44. As a result of the Council's evidence, the relief sought has been amended to address the concerns raised in the landscape and planning evidence. This amended relief is as follows and the proposed wording of the provisions is included in **Annexure 2**.
- (a) That the proposed activity areas to be incorporated within the MRZ – Structure Plan in 43.7 be amended to the following:
- (i) Malaghans Road land – identification of three separate activity areas (proposed as R21a - b<sup>2</sup>) over the southern portion of the site as shown in Appendix 7 to Ms Smetham's evidence, with the remainder of the land being included within the Golf Course and Open Space activity area.
- (ii) Arrowtown – Lake Hayes Road land – identification of five new Residential activity areas (proposed as R20a - e) with

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<sup>2</sup> Please note that in the preparation of the evidence the Activity Area references have been inadvertently swapped over compared to what was originally lodged in the submissions. The R20 description now refers to the Arrowtown – Lake Hayes land and the R21 to the Malaghans Road land.

the remainder of the land being included within the Golf Course and Open Space activity area (and deletion of the proposed G1 Golf Course and Open Space activity area which was previously proposed). This is shown in Appendix 6 in Ms Smetham's evidence.

- (b) That Rule 43.4.11: Buildings be amended to incorporate the proposed Residential activity areas (R20a - e and R21a - b) so that the construction of any buildings would require a Restricted Discretionary activity resource consent with discretion being reserved to the appearance of the buildings, associated landscaping controls and the effects on visual and landscape amenity of the area including coherence with the surrounding buildings.
- (c) That Rule 43.5.2(c) be amended to incorporate the new activity areas as per paragraph 32(d) above.
- (d) Inclusion of the new Residential activity areas within Rule 43.5.3 as per paragraph 32(e) above which imposes restrictions on the building colours and materials.
- (e) Amendment to Rule 43.5.4: Residential Density as detailed in paragraph 32(f) above to exclude the proposed Residential activity areas from the maximum number of residential units in the MRZ and to apply an average density of 500m<sup>2</sup> across each of the proposed activity areas.
- (f) Exclusion of the proposed Residential activity areas from Rule 43.5.11 relating to the maximum total site coverage across the MRZ.
- (g) Addition of a new Rule 43.5.14 prescribing the maximum building coverage for the proposed activity areas as no more than 50% of each lot. To breach this is proposed to be a Restricted Discretionary activity and the same matters of discretion as outlined in paragraph 32(g) above could apply.
- (h) Addition of a new Rule 43.5.15 with a Discretionary activity status as outlined in paragraph 32(h) above.

45. The reasoning for the proposed amendments is outlined below.

46. The proposed amendments are considered to be within the scope of the original relief sought as they represent a more refined proposal with a reduction in the area of the proposed activity areas and more open space.

## **ANALYSIS**

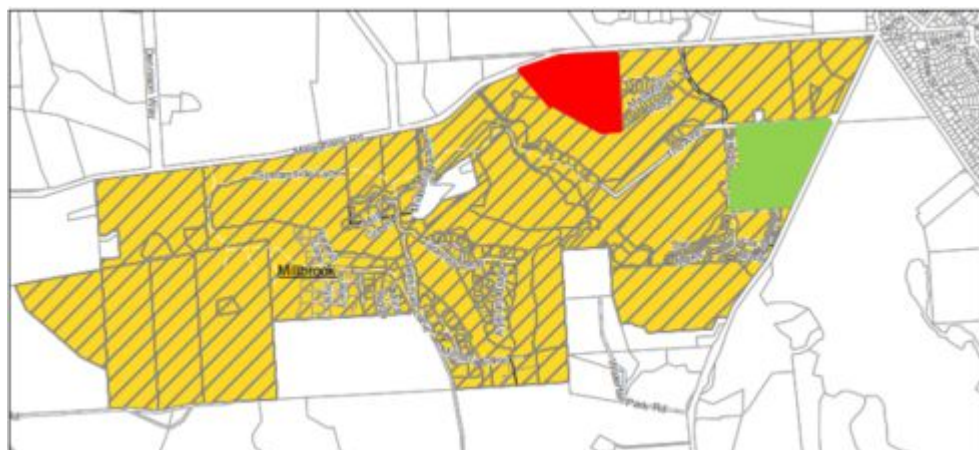
47. Landscape evidence has been prepared in relation to the two proposed rezoning requests by Ms Nikki Smetham and evidence in relation to servicing and access has been prepared by Mr John McCarthy. I rely upon their evidence were appropriate below.

### Strategic background

48. An assessment of the relief sought against the relevant higher order strategic objectives and policies is included within the Section 32 evaluation attached in **Annexure 3**.
49. As outlined in the Section 32 evaluation, the proposal is considered to be consistent with the objectives within Chapter 3 – Strategic Direction and the policies within Chapter 3 – Landscapes and Rural Character. The proposal is also considered to give effect to the objective and policies within Chapter 43 – Millbrook Resort.

### Extent of the zone

50. As described by Ms Gilbert, the Arrowtown – Lake Hayes land and the Malaghans Road land represent two ‘cut outs’ of the MRZ, one along the northern extent and the other along the eastern extent as shown in Figure 3 below.



*Figure 3: Location of the Malaghans Road site (identified in red) and the Arrowtown – Lake Hayes site (identified in green) in the context of the MRZ<sup>3</sup>*

51. I consider that the exclusion of these two land areas from the MRZ and inclusion within the Rural zone as notified in Stage 1 and the WBRAZ as notified in Stage 2 is akin to a 'spot zone'.
52. It is acknowledged that these land areas were previously excluded from the MRZ under the ODP, however this is not a sufficient planning reason to exclude them from the MRZ within the PDP without specific consideration<sup>4</sup>. The Section 32 report for the MRZ was prepared for notification on behalf of Council by MCCL's representatives and it does not consider the possibility of including other land parcels within the MRZ aside for the MCCL owned Dalgleish land. I expect that this is due to MCCL's intention for the MRZ to only apply to land that MCCL owns or controls and therefore is without a valid section 32 justification.
53. As outlined in the Section 32 analysis in **Annexure 3**, the inclusion of these two land areas within the WBRAZ is incongruous with the intent of that zoning.
54. The two land areas are identified within Chapter 24 as being within Landscape Character Unit (LCU) 23 – Millbrook. This LCU primarily encompasses the MRZ as well as a few smaller adjoining land areas. The descriptions of the LCU are primarily centred around the existing development within the MRZ.
55. For land located within LCU 23 and within the WBRAZ, under Policy 24.2.1.3 development and subdivision will need to maintain and enhance the Wakatipu Basin landscape character and visual amenity values identified within LCU 23. It would also need to adhere to the WBRAZ rule framework which is very prohibitive in terms of residential subdivision and development of the land compared to the MRZ. This creates an anomaly of sorts as development within the MRZ has essentially created the character of the LCU but the land outside of the MRZ is subject to assessment of this and has different and more restrictive rules applied to it.

<sup>3</sup> Reference: Map 26 published 1 September 2017

<sup>4</sup> Quality Planning recommends that this roll over approach to zoning should be avoided

*Arrowtown – Lake Hayes land*

56. The Arrowtown – Lake Hayes land is surrounded by MRZ land to the north (across Butel Road), west and to the south. To the east is the Arrowtown – Lake Hayes Road and the land across this road is zoned WBRAZ as notified in Stage 2<sup>5</sup>.
57. The MRZ Structure Plan in 43.7 has three Residential activity areas in close proximity to the Arrowtown – Lake Hayes land being the R1, R2 and R3 activity areas as shown in Figure 4 below. In addition, the F activity area being for recreational facilities is located to the north in the area of the existing driving range. The remainder of the surrounding area is within the Golf Course and Open Space (G) activity area.



*Figure 4: MRZ structure plan except showing the Residential and Recreational activity areas adjacent to the Arrowtown – Lake Hayes site (shown as green)*

58. Residential development within the R1 – R3 activity areas has been established and the density varies.

<sup>5</sup> However a rezoning submission has been lodged seeking a Resort zoning of the land



59. Within the R1 activity area the allotments are just over 1,000m<sup>2</sup> in size and they all adjoin the western boundary of 29 Butel Road. All of these lots contain a residential unit with vehicular access being from Orchard Hill. The lots within the R1 activity area are identified in Figure 5 below.



Figure 5: Lots located within the R1 activity area (approx.) highlighted in yellow

60. The lots within the R2 activity area are below 200m<sup>2</sup> in size and contain 17 two storey townhouses with separate garages adjacent to Arrowtown – Lake Hayes Road as can be seen in Figure 6 below. These are accessed via Fox's Rush road which runs adjacent to the southern boundaries of 459 and 461 Arrowtown – Lake Hayes Road and 9 Orchard Hill.



*Figure 6: Approximate location of the R2 (outlined in red) and R3 (outlined in blue) activity areas and the existing development*

61. The lots within the R3 activity area are around 800m<sup>2</sup> in area. The existing development within this area comprises single and two storey residential development of both townhouses and detached residential units.
62. Some of the buildings located within the R2 and R3 activity areas are visible from Arrowtown - Lake Hayes Road. When travelling in a northeast direction towards Arrowtown, residential buildings within the R3 activity area can be seen as the backdrop to the golf course. When travelling in either a northeast or southwest direction, many of the buildings within the R2 activity area are also visible. There is existing vegetation and mounding along the Arrowtown – Lake Hayes Road boundary which makes these views at times intermittent, however the development is nonetheless visible.
63. Ms Smetham considers that the Arrowtown-Lake Hayes land is not highly visible nor prominent – at least not in a way that is differentiated from Millbrook.
64. The amended Residential activity areas now proposed are setback a minimum of 40m from the Arrowtown – Lake Hayes Road boundary. This distance will ensure that future development will not dominate the road and will also allow for landscape planting (and possible retention of existing planting) which would further reduce the dominance of buildings. Landscape planting within this area could be required as part of the proposed Restricted Discretionary activity resource consent for buildings under Rule 43.4.11.
65. The amended activity areas allow for intensified nodes of residential development surrounded by open space which is akin to the existing development of the R2 and R3 activity areas.
66. In drafting this evidence I have identified that a further site: 29 Butel Road (Lot 2 DP 21141) located on the opposite side of Butel Road and only 2,000m<sup>2</sup> in size is also surrounded by MRZ to the north, east and west but is also proposed to be zoned WBRAZ rather than MRZ. In my opinion this lot should also be included within the MRZ for the same reasons as outlined for the Arrowtown – Lake Hayes land, however this relief was not included within the Boundary Trust or Spruce Grove Trust submissions and therefore I will not address it further.

*Malaghans Road land*

67. As shown in Figure 3 above, the Malaghans Road land is surrounded by MRZ to the east, south and west. To the north of the site is Malaghans Road, with the land across the road being zoned WBRAZ to the northwest (as notified in Stage 2) and Meadow Park Special Zone to the northeast (ODP zoning).
68. The MRZ Structure Plan in 43.7 has four Residential activity areas in close proximity to the Malaghans Road site (see Figure 7 below) being the R4, R5, R6 and R7 activity areas. The remainder of the area surrounding the site is within the Golf Course and Open Space (G) activity area. Figure 7 also shows the location of the Village (V) and Resort Services (S) activity areas in relation to the subject site.



*Figure 7: MRZ structure plan except showing the Residential activity areas adjacent to the Malaghans Road site (shown as red)*

69. Residential development within the R4, R5 and R6 activity areas has been established as shown in Figure 8 below.



*Figure 8: Approximate location of the R4 (outlined in blue), R5 (outlined in red), R6 (outlined in green) and R7 (outlined in yellow) activity areas and the existing development*

70. The existing development within the R4 activity area comprises three lots containing three buildings built of residential style with separate garages. The buildings appear to all be utilised for resort services. These lots are just under 900m<sup>2</sup> in area.
71. The R5 activity area comprises the development accessed via Malaghans Ridge. Nineteen lots have been created within this activity area and they contain single and two storey dwellings. The lots are around 800m<sup>2</sup>. These lots are located on the same roche moutonee landform that is within the subject site which has been significantly modified so to allow for the existing development on its southern extent.
72. The R6 activity area is accessed via Streamside Lane and adjoins the Village activity area. These lots all contain residential units and are around 1,200m<sup>2</sup> in size. Development within the R6 activity area adjoins and is not visually decipherable from the development within the adjoining V activity area.
73. The R7 activity area is located to the east of the Resort Services (S) activity area. No buildings are constructed within the activity area and is currently used for growing of replacement turf for the golf course. Residential development is anticipated on the land however with the construction of buildings being a Controlled activity under Rule 43.4.10.

74. The existing development within these activity areas is not visible from Malaghans Road by virtue of topography, planting and distance from the road.
75. Ms Smetham identifies that the roche moutonee within the site is a recognisable feature that adds to the visual character of Malaghans Road. However, this glacial landform is a localised site feature that may be easily protected via the rule framework. Methods such as landscape protection areas are employed by the MRZ to achieve maintain important visual character and access to views. The balance of the Malaghans Road site is discrete and hidden from view.
76. The proposed Residential activity areas on the Malaghans Road land are intended to extend the line of development which has occurred in the adjoining R5 activity (Malaghans Ridge). The location and extent of the activity areas is further tempered by the proposed consequential changes to Chapter 43 which are outlined below.
77. The reduced area of the proposed Residential activity areas and establishment of further open space activity area within the land area is proposed to address some of the concerns raised within the Council's evidence.

#### Consequential amendments to Chapter 43

78. My intention in drafting the proposed amendments to Chapter 43 outlined in the submissions was to rely upon and follow the existing framework provided for the MRZ and to make as few changes and amendments as possible whilst ensuring that the specific resource management issues associated with inclusion of the land within the MRZ are adequately addressed.
79. Following consideration of the Council's evidence, the amendments to Chapter 43 have been further refined as outlined above.
80. I have compiled a table in **Annexure 2** which outlines the rules which would be applicable to future development within the proposed activity areas. This shows that minimal amendments are proposed to Chapter 43 to administer the proposed zoning of the land.

81. Furthermore, the Section 32 evaluation in **Annexure 3** assessed the costs, benefits, effectiveness and efficiency of the proposed amendments to Chapter 43. Alternatives are also outlined. The proposed amendments are however considered the most effective and efficient way to manage the resource management issues identified for the development of the two land areas.
82. Overall, I consider that the proposed amendments to Chapter 43 will allow for the development of the two land areas so that they are consistent with that developed on the adjoining MCCL land, whilst ensuring that the potential adverse resource management effects will be avoided, remedied or mitigated.

#### Potential Development Capacity

83. The amended relief is more specific than the relief originally sought within the Spruce Gove Trust and Boundary Trust submissions. The proposed activity areas have been reduced in size and allow for more open space areas to be identified between and around them.
84. Based on the size of the proposed activity areas and the proposed average density of one residential unit per 500m<sup>2</sup>, the maximum number of residential units within the Malaghans Road land could be 88 and the maximum number within the Arrowtown – Lake Hayes Road land could be 90. These maximum numbers are not however anticipated to be realised, as I have not extracted any of the activity area land area for the purpose of roading or servicing.
85. Unlike the Malaghans Road land which is in a single ownership, the Arrowtown – Lake Hayes Road land is currently owned by five different landowners. Therefore, the comprehensive redevelopment of the land area would be more difficult to achieve. Furthermore, I am only representing two of the five landowners and therefore it is acknowledged that other landowners may not want to redevelop their land or may wish to develop their land differently.
86. Separate residential activity areas have therefore been identified over the five different properties and these properties could be developed independently of one another or as a joint development. Development of each, or some of the activity areas independently would not however undermine the established character of the MRZ, as the activity area

identified over each site is compensated within the site by open space and an average density has been prescribed. Access is available to each of the land parcels via either Arrowtown – Lake Hayes Road or Butel Road with the exception of 9 Orchard Hill which may have to get approval to access via Orchard Hill road or via an easement over one of the other Arrowtown – Lake Hayes Road properties.

87. I also note that there is some flexibility in application of the MRZ Structure Plan as Rule 43.5.1 states:

*“Development shall be undertaken in general accordance with the Structure Plan.”*

88. Therefore should any of the landowners wish to undertake development outside of the proposed Residential activity areas, depending upon the scale and nature of the development outside of the activity area and any mitigation proposed, this may still be accepted by Council.
89. The proposed Residential activity area R21A extends to the crest of the roche moutonee, however the location and design of any buildings and landscaping will be tempered by the matters of discretion in Rule 43.4.11 and the proposed rule 43.5.15.

### Access and Traffic

#### *Access*

90. Mr McCartney identifies that access is feasible at multiple locations along the Malaghans Road land frontage.
91. Furthermore, complying access to the Arrowtown – Lake Hayes Road land could be provided from either Arrowtown – Lake Hayes Road, Butel Road or Orchard Road<sup>6</sup>.
92. Some upgrades may be required for the above however Mr McCartney has identified that there is sufficient room within the existing road reserve alignment for these to be undertaken.

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<sup>6</sup> Subject to agreement with the owner of the road

### *Traffic*

93. As noted above, Mr Dave Smith on behalf of Council has not specifically addressed the subject rezoning proposals, however overall he opposes any increases in density or intensification of development on the basis that the wider network which supports the Wakatipu Basin will already be at capacity based upon the notified zoning.
94. Mr Smith's evidence highlights the importance of strategic infrastructure planning in identifying necessary upgrades in advance and securing the necessary funding through the Long Term Plan process and possible recoup via development contributions.
95. In my opinion, infrastructure capacity is one consideration of a vast number in the strategic planning of the District. In the majority of instances there are options in solving infrastructure capacity issues, however it is the cost which is the barrier.
96. The relief sought by the submitters represents intensification of development however I do not consider that the wider network constraints should override what I think is a common sense approach to the zoning of land taking into account the surrounding context.

### Servicing

#### *Water Supply*

97. Council's Arrowtown water supply services Millbrook via a bulk services agreement and is reticulated around the land via private servicing infrastructure, therefore connection to Millbrook services has not been considered for either land areas.
98. In relation to the Malaghans Road site, Council services the Remarkables Vets and Butel Park properties located directly across the road, therefore it is feasible that connection to the Council's reticulation would be possible for this land also. Further it is noted that Council has approved connection of the site to Council reticulation for the creation of four residential lots under RM080571.



99. Mr McCartney identifies that the existing water pipe along Malaghans Road adjacent to the site is not of sufficient size, therefore upgrades would be necessary to allow for the development of the land.
100. Mr McCartney also identifies that the Arrowtown – Lake Hayes land could connect to Council’s supply either via the existing connection point in Butel Road or to another main on Durham Street.
101. In terms of capacity, it is noted that Council plans to upgrade the Arrowtown Water Supply with works being completed 2025 – 2026, therefore additional capacity will be available within the Council’s network in the next 8 years if all goes to plan.
102. On the basis of the planned upgrades, Ms Jarvis’ evidence states that she does not oppose the connection of the Arrowtown – Lake Hayes Road land to Council reticulated supply if the MRZ is approved by the Panel. If WBLP is approved by the Panel, Ms Jarvis notes that Council reticulation would not be an option.
103. Due to the Malaghans Road submission not being considered by Ms Jarvis in error there is no recommendation in relation to this land, however Mr McCartney has identified two water servicing options for this land.
104. Overall, water supply is available to the land and is not an impediment to the MRZ of the land.

#### *Wastewater*

105. Ms Jarvis identifies that there are planned upgrades to the Council wastewater infrastructure that service the area and confirms that the Arrowtown – Lake Hayes land could be serviced via this method<sup>7</sup>.
106. Mr McCartney has identified that due to the topography of both the Malaghans Road and Arrowtown – Lake Hayes sites, it is likely that an on-site wastewater pump station would be required in order to discharge wastewater from the sites to Council reticulation. Alternatively, installation of individual pump stations on each allotment could occur.

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<sup>7</sup> No recommendation has been made in relation to the Malaghans Road land

107. The Malaghans Road site could drain to the existing manhole near the Bush Creek Road intersection or to the pump station on Essex Avenue. The Arrowtown – Lake Hayes site could drain to the existing gravity manhole on Arrowtown – Lake Hayes Road south of the site.
108. Due to the Malaghans Road submission being missed, Mr McCartney has also included consideration of on-site wastewater disposal on this land which is also feasible.
109. Overall, wastewater disposal from the future development of the land is available and is not an impediment to the MRZ of the land.

#### *Stormwater*

110. Mr McCartney identifies that the most feasible approach to stormwater disposal over the two sites is to undertake a low impact design approach which has been used on recent subdivisions in Arrowtown.

#### *Geotechnical*

111. I note that a geotechnical report has previously been prepared by David Bell of Bell Geoconsulting Limited for the Malaghans Road land which confirmed that the land within the proposed R21 activity area is not subject to any issues in relation to section 106 of the RMA and confirms the overall suitability of the land for subdivision subject to a number of recommendations. This is therefore not an impediment to the MRZ of this land.
112. In relation to the Arrowtown – Lake Hayes land, five residential units and various accessory buildings are already constructed on the land, therefore it is expected that this land is also suitable

### **OTHER SUBMISSIONS**

113. In relation to the Arrowtown – Lake Hayes land, I also lodged submissions on behalf of J Egerton and Cook Allan Gibson Trustee and M & K Campbell which align with that proposed in the Boundary Trust and Spruce Grove Trust submissions. However we have not been engaged to prepare evidence on behalf of these parties.

114. The Arrowtown – Lake Hayes land which is sought to be zoned MRZ also includes 9 Butel Road which is owned by Walrus Jack Trustee Limited (Walrus Jack). Walrus Jack (submitter 2480) lodged a submission on Stage 2 which in part states:
- “The Wakatipu Basin needs design-led planning. This can be achieved through very detailed zonings which direct where development can occur and the type of mitigation required, and/or through a discretionary resource consent regime which allows assessment on case-by-case basis.”*
115. The relief sought by Walrus Jack appears to reject the proposed Chapter 24 - Wakatipu Basin and to instead seek a mix of zonings similar to the ODP with various amendments to the objectives, policies and the rules. The proposed inclusion of both the Malaghans Road and Arrowtown – Lake Hayes land within the MRZ is not considered to be contrary to the relief sought by Walrus Jack.
116. MCCL lodged a submission (submission 2295) in response to the notified Stage 2 PDP specifically in relation to the Malaghans Road and Arrowtown – Lake Hayes land and also lodged a further submission (submission 2773) in opposition to the submitter’s primary submissions.
117. Submission 2295 seeks that all of the land the Malaghans Road and Arrowtown – Lake Hayes land be zoned WBRAZ as notified or alternatively zoned Rural General with the discretionary design-led regime for development as provided for in the ODP. I note that MCCL have lodged submissions in relation to all of the land surrounding the MRZ generally supporting the Chapter 24 zoning of the land (with the exception of some amendments to the land to the south of the MRZ). The purpose of this submission appears to be to ensure that the surrounding land not owned by MCCL is not incorporated within the MRZ.
118. MCCL’s further submission 2773 opposes the relief sought by the Boundary Trust and Spruce Grove Trust and seeks that the land continue to be zoned for rural purposes as either WBRAZ or as an alternative WBLP. MCCL have detailed a number of reasons for their opposition to the proposed MRZ of the Malaghans Road and Arrowtown – Lake Hayes land, of which I will address the planning related concerns.

119. The proposed MRZ of the Malaghans Road and Arrowtown – Lake Hayes land is to allow for residential development within adjoining areas of open space. Given the location of the land and the size, no commercial or recreational resort type facilities are anticipated to be developed on the land. However, residential development is an established characteristic of the MRZ and this supports the other resort functions of the MRZ in providing accommodation for those living or visiting Queenstown.
120. Millbrook Resort's many visitor offerings are open to the public to use (at a cost) for example the restaurants, the golf course and the day spa. Consequently, while the people residing within the houses that could be constructed within the proposed activity areas would not have a 'right' via covenant to be a member of Millbrook Resort, they would possibly be able to patronise those Millbrook Resort facilities which are available to the public.
121. Mr O'Malley of MCCL in his evidence<sup>8</sup> for the hearing on Chapter 43 outlined that of the approximately 480 family memberships at MCCL, half of those are residential members, meaning that approximately 240 memberships are held by people who reside outside of the MCCL land. This could also apply to the future occupants of the proposed land areas and would therefore support the Millbrook resort financially.
122. I disagree with the MCCL submission in relation to the assertion that the land sought to be zoned MRZ is unsuitable and undesirable for resort development. As outlined above, no landscape, infrastructure or servicing reasons have identified that the MRZ of the two land areas is unsuitable and given the current residential land shortage within Queenstown Lakes I would expect that the land would be desirable for the construction of residential dwellings.
123. MCCL is correct in that the submitter's intent that the land continue to be in separate ownership and control and unfettered by the covenants and membership rules imposed by MCCL. I expect that this concern is in relation to the potential location and design of the future dwellings within the proposed activity areas.

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<sup>8</sup> Paragraph 8.3

124. I have reviewed the Millbrook Design Guidelines<sup>9</sup> and I find them to be comprehensive and very specific. This coupled with the Design Review Board process has resulted in quite a uniform building aesthetic throughout the existing Millbrook. I do not consider it necessary to replicate the design guidelines to control development on the subject land areas as all buildings within the two activity areas would require a Restricted Discretionary activity resource consent pursuant to rule 43.4.11 which controls external appearance, landscaping controls, as well as the effects on visual and landscape amenity values of the area, including coherence with the surrounding buildings. Furthermore, minimum setbacks are prescribed via rule 43.5.2 from the activity area boundaries, controls on colours and materials are imposed by rule 43.5.3, height is controlled via rule 43.5.6 and site coverage is to be controlled via proposed rule 43.5.14. Consequently, although more variety in design and landscaping may be possible within the proposed activity areas than within the MCCL controlled part of the MRZ, there are considered to be adequate controls in place to ensure that the design and location of the future buildings within the activity areas will not be overly dominant or of such unusual design so to result in adverse landscape amenity effects.
125. I note however that solid fencing along the southern boundary of the Malaghans Road land may have an adverse amenity effect due to it adjoining the Millbrook Golf Course where it would be inconsistent with the treatment along the remainder of the golf course. Notwithstanding, this could be considered by the Council in the assessment of the resource consent for buildings under Rule 43.4.11. However, as this consideration is not explicit it may be missed. Alternatively, this could be added as a matter of control into Rule 43.4.11 specific to the R21a - b activity area. The other proposed activity areas are not considered to be as sensitive in this regard.
126. MCCL states that in relation to the Arrowtown – Lake Hayes land that the *“present openness of the Land with its homestead dwelling(s) and Arcadian characteristics complements and balances the existing resort development in a way that will be lost if the submitters’ land were to be zoned MRZ, but not subject to comprehensive design, building and operational controls.”*

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<sup>9</sup> <https://www.millbrook.co.nz/assets/PropertyFiles/32329-Millbrook-West-Design-Guidelines.pdf>

This appears to be acknowledging that MCCL benefits from the current Rural zoning and development of the Arrowtown – Lake Hayes land and seeks to maintain the status quo for their own benefit of mitigating the density of the existing MCCL development. This approach is not accepted or justifiable in a section 32 sense. In fact, I consider that the development undertaken by MCCL within the MRZ contributes to the suitability of the proposed zoning of the two land areas.

127. In relation to the submitter's land, and as outlined above, I consider that the future buildings within the proposed activity areas will still be subject to adequate assessment via the resource consent process and the Chapter 43 standards will provide controls upon the built form and scale of development.
128. In relation to the Malaghans Road land, MCCL reference the Environment Court decision for the subdivision of the site for four lots<sup>10</sup> as being the correct capacity for the residential development of the land. Ms Gilbert and Mr Langman on behalf of Council also appears swayed by this resource consent also.
129. I agree that the four residential lot capacity of the Malaghans Road land is the correct capacity for the land based upon the current Rural General zoning of the land under the ODP, however as outlined above, I consider that there is significant merit in the rezoning proposal. Under the MRZ, taking into account the density of the surrounding development within the adjacent residential activity areas (in particular the adjoining R5 activity area of which the lots are around 800m<sup>2</sup>), I consider that there could be additional development potential for the land.
130. The two sites are not known to have any specific heritage, ecological or water quality values and the landscape merits of the proposal have been addressed by Ms Smetham in her evidence.
131. MCCL also noted the lack of section 32 analysis and the lack of any expert reports in respect of infrastructure, roading, landscape or golf tourism to justify the re-zoning of the land for development on such a scale. As outlined above, a section 32 is appended as **Annexure 3**, Mr McCartney has provided evidence in relation to servicing and access and Ms Smetham has provided evidence in relation to landscape effects. These assessments

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<sup>10</sup> ENV-2009-CHC-55

support the proposed MRZ zoning of the subject land. As outlined above, the development of the land would be for residential purposes and not for golf course development.

132. Further, as outlined in the section 32, I consider that the proposed zoning of the land is consistent with the objective and associated policies for Chapter 43 and will allow for the sustainable management of the land resource for residential development as part of a wider resort development.

## **CONCLUSION**

133. I consider that the proposed rezoning of the Malaghans Road and Arrowtown – Lake Hayes Road land is a common sense request on the basis of the environment surrounding both land areas.
134. Subject to the identification of the proposed Residential activity areas across the land areas and maintenance of the remainder of the land as open space, the proposed rezoning will be consistent with the ‘enclave’ approach undertaken throughout the MRZ for residential development areas.
135. Minor changes to the rule framework within Chapter 43 are proposed to give effect to the proposed new activity areas. Reliance upon the existing rule framework rather than creation of new bespoke rules is proposed so to ensure that future development of the land areas would be consistent with that in the remainder of the MRZ.
136. There are no servicing or access impediments to the rezoning of the land areas. Traffic network constraints require consideration in terms of the Wakatipu Basin as a whole but these are able to be overcome.
137. Overall, I consider that the proposed rezoning request gives effect to the higher order strategic objectives in the PDP as well as the objective and policies of Chapter 43.
138. Land ownership should not be the basis of whether the land is suitable to be included within the MRZ or not. Subject to the same planning controls, it is considered that the development of the two land areas will be of consistent character and amenity to that within the existing MRZ.



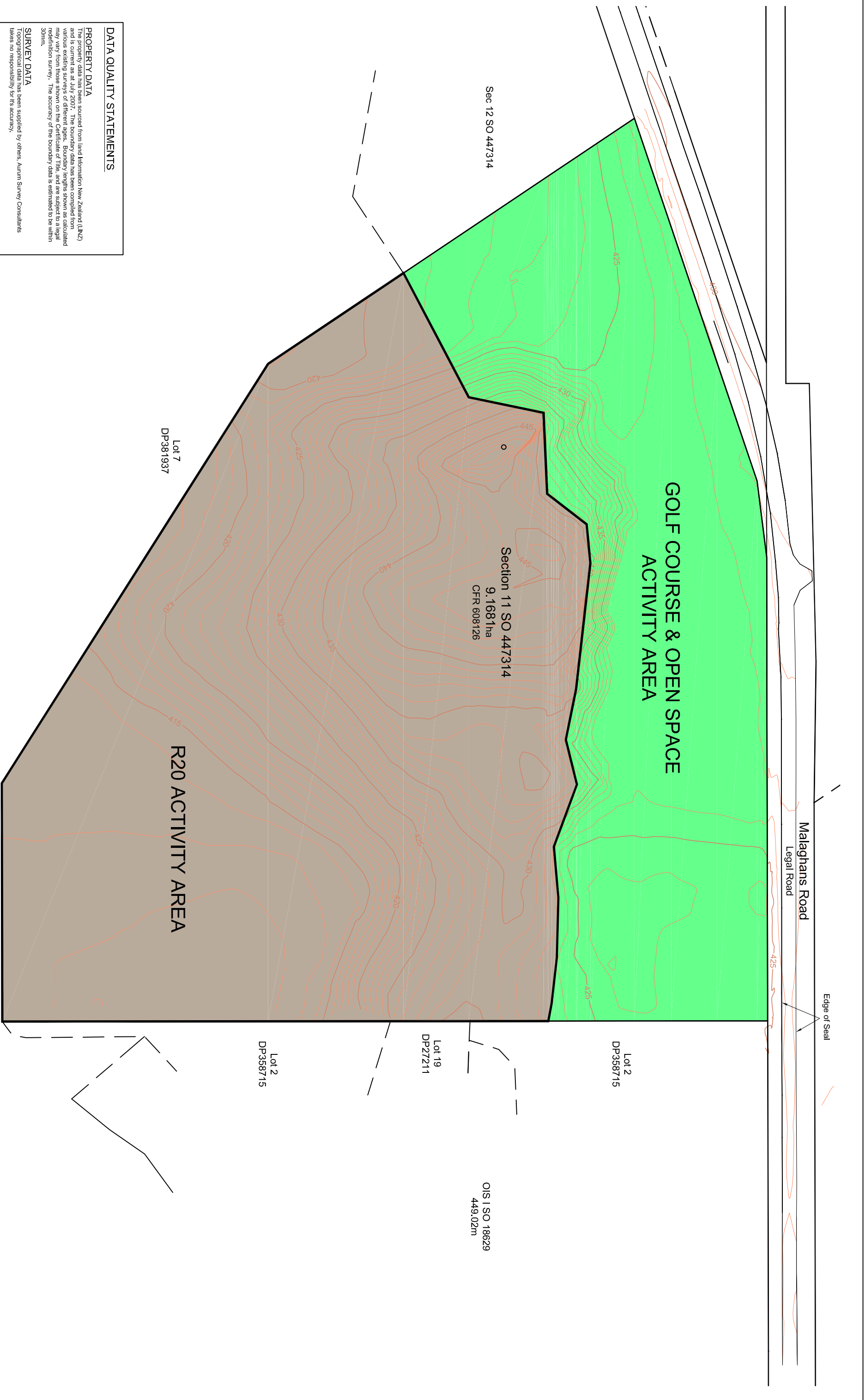
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Amanda Leith.

13 June 2018



## **ANNEXURE 1 – MALAGHANS ROAD ACTIVITY AREA PLAN**



**DATA QUALITY STATEMENTS**

**PROPERTY DATA**  
 The property data has been sourced from Land Information New Zealand (LINZ) and is current as at July 2007. The boundary data has been compiled from various existing surveys of different ages. Boundary lengths shown as calculated may vary from those shown on the Certificate of Title, and are subject to a legal redefinition survey. The accuracy of the boundary data is estimated to be within 30mm.

**SURVEY DATA**  
 Topographical data has been supplied by others. Aurum Survey Consultants takes no responsibility for its accuracy.

**SURVEY DATUMS**  
 Horizontal coordinates are in terms of Mount Nicholas 2000 Circuit. Topographical data has been supplied by others. Aurum Survey Consultants takes no responsibility for its accuracy.  
 Vertical elevations GFS derived  
 Origin of Levels OLS 1 SO 18629 (449.02m)  
 1.0m contour interval

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**ACTIVITY AREA PLAN**  
**MILL FARM HEIGHTS, QUEENSTOWN**  
 for SPRUCE GROVE TRUST

DATE: 22 Feb 2018	Scale 1:1500	DRAWING & ISSUE NO.
BY: B McLeod	Original Plan A3	2618-40R-1B

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**ANNEXURE 2 – CHAPTER 43 RULES AND PROPOSED  
AMENDMENTS**

## Proposed Amendments to Chapter 43 and analysis as to their suitability

The below outlines the proposed textual amendments to Chapter 43. The amendments are signified by a red type and ~~strikethrough~~.

The tables also identify which Chapter 43 provisions would be applicable to the Malaghans Road and Arrowtown – Lake Hayes sites.

### Rules - Activities

	<b>Activities - Millbrook</b>	<b>Activity Status</b>	<b>Application to proposed Activity Areas and assessment of suitability</b>
43.4.1	<b>Any activity</b> which complies with the standards for permitted activities and is not listed as a controlled, discretionary, non-complying or prohibited activity.	P	Applies
43.4.2	<b>Residential Activity</b> <ul style="list-style-type: none"> <li>a. Resort Services Activity Area, except for residential activity ancillary to a permitted or approved activity</li> <li>b. Golf / Open Space Activity Area, except for residential activity ancillary to a permitted or approved activity.</li> <li>c. Recreational Facilities Activity Areas, except for residential activity ancillary to a permitted or approved activity.</li> </ul>	D	Applies - Golf / Open Space Activity Area is proposed over a portion of both the Malaghans Road and Arrowtown – Lake Hayes sites.
43.4.3	<b>Visitor Accommodation outside of the Village Activity Area</b>	D	Applies
43.4.4	<b>Golf Courses</b> <ul style="list-style-type: none"> <li>a. In the Landscape Protection Activity Area</li> <li>b. In the Landscape Protection (Malaghans Road) Activity Area</li> </ul>	NC	Not applicable as no Landscape Protection Activity Area is proposed.
43.4.5	<b>Commercial and Community Activities</b> , except for: <ul style="list-style-type: none"> <li>a. Commercial recreation activities</li> <li>b. Offices and administration activities directly associated with the management and development of Millbrook or ancillary to other permitted or approved activities located within the Resort Services and Village Activity Areas</li> </ul>	D	Applies

	<ul style="list-style-type: none"> <li>c. Bars, restaurants, theatres, conference, cultural and community facilities in the Village Activity Area</li> <li>d. Retail activities which comply with rule 43.5.10 (Retail Sales)</li> </ul>		
43.4.6	<p><b>Commercial Recreation Activities</b>, except for:</p> <ul style="list-style-type: none"> <li>a. Golf Courses; or</li> <li>b. Within the Recreation Facilities Activity Area or Village Activity Area</li> </ul>	D	Applies
43.4.7	<p><b>Licensed Premises in the Village Activity Area</b>  Premises licensed for the consumption of alcohol on the premises between the hours of 11pm and 8am, provided that this rule shall not apply to the sale and supply of alcohol to any person who is residing (permanently or temporarily) on the premises or to any person who is present on the premises for the purpose of dining up until 12am.  Control is reserved to:</p> <ul style="list-style-type: none"> <li>a. The scale of the activity</li> <li>b. Car parking and traffic generation</li> <li>c. Effects on amenity (including that of adjoining residential zones and public reserves)</li> <li>d. The configuration of activities within the building and site (e.g. outdoor seating, entrances)</li> <li>e. Noise issues and hours of operation</li> </ul>	C	Not applicable, no Village activity areas are proposed.
43.4.8	<p><b>Licensed Premises Outside Village Activity Area</b>  Premises licensed for the consumption of alcohol on the premises between the hours of 11pm and 8am, provided that this rule shall not apply to the sale and supply of alcohol:</p> <ul style="list-style-type: none"> <li>a. To any person who is residing (permanently or temporarily) on the premises</li> <li>b. To any person who is present on the premises for the purpose of dining up until 12am</li> </ul>	NC	Applies
43.4.9	<p><b>Farm Buildings</b>  All Activity Areas except for the Landscape Protection (Malaghans) Activity Area.  Control is reserved to effects on heritage and landscape values.</p>	C	Applies
43.4.10	<b>Buildings</b>	C	Not applicable

	<ul style="list-style-type: none"> <li>a. Village Activity Area</li> <li>b. R1 to R13 of the Residential Activity Area</li> <li>c. The Recreational Facilities Activity Area</li> </ul> <p>Control is reserved to:</p> <ul style="list-style-type: none"> <li>i. The appearance of the building</li> <li>ii. Effects on visual and landscape amenity of the area including coherence with the surrounding buildings</li> </ul>		
43.4.11	<p><b>Buildings</b></p> <ul style="list-style-type: none"> <li>a. R14, R15 <del>and</del> R16, R20a – e and R21a - b of the Residential Activity Area</li> </ul> <p>Discretion is restricted to the following:</p> <ul style="list-style-type: none"> <li>i. The appearance of the building</li> <li>ii. Associated landscaping controls</li> <li>iii. The effects on visual and landscape amenity values of the area including coherence with the surrounding buildings</li> </ul>	RD	Applies subject to inclusion of the proposed Residential activity areas within the rule.
43.4.12	<p><b>Buildings</b></p> <ul style="list-style-type: none"> <li>a. R17 and R18 of the Residential Activity Area</li> </ul> <p>Discretion is restricted to the following:</p> <ul style="list-style-type: none"> <li>i. The appearance of the building</li> <li>ii. The effects on visual and landscape amenity of the area including coherence with the surrounding buildings and heritage values</li> </ul>	RD	Not applicable
43.4.13	<p><b>Buildings</b></p> <ul style="list-style-type: none"> <li>a. Golf Course and Open Space Activity Area, except for utilities, service and accessory buildings up to 40m<sup>2</sup> in gross floor area.</li> </ul>	D	Applies
43.4.14	<p><b>Buildings in the Landscape Protection (Malaghans) Activity Area</b>, except for:</p> <ul style="list-style-type: none"> <li>a. One farm building relocated from within the zone and restored the Landscape Protection (Malaghans) Activity Area (refer Rule 43.4.9)</li> <li>b. Utility buildings up to 25m<sup>2</sup> in gross floor area</li> </ul>	NC	Not applicable
43.4.15	<b>Buildings in the E1 and E2 Earth Mounding Overlay Areas</b>	PR	Not applicable
43.4.16	<b>Amenity Landscaping Works</b>	RD	Not applicable

	<p>Landscaping works within the Gully Planting Overlay, the Open Planting Overlay, the Amenity Landscaping Overlay, the Earth Mounding Overlay, the Landscape Protection (Malaghans) Activity Area and the Landscape Protection Activity Area.</p> <p>Discretion is restricted to the following:</p> <ol style="list-style-type: none"> <li>a. An integrated landscape management plan that incorporates: <ol style="list-style-type: none"> <li>i. Landscape designs and planting plans that indicate how the Gully Planting and Open Planting Overlays will be planted and maintained with at least 90% of plants listed in Appendix 1</li> <li>ii. Practical and reasonable measures within the Aneity Landscaping overlay to avoid or mitigate adverse effects on the amenity values enjoyed within properties beyond the Zone boundary, utilising the species lists for the Gully Planting and Open Planting Overlays in Appendix 1</li> <li>iii. Removal of all Pinus, Pseudotsuga and Cystisus from the E1, E2, Open Planting, Gully Planting and Amenity Landscaping overlay area</li> <li>iv. Earthworks to be undertaken in E1 for the purpose of visually screening all residential properties within the R14 and R15 Residential Activity Areas from approved Residential Building Platforms on Lot 1 DP 475822 and Lot 2 DP 475822</li> <li>v. Earthworks to be undertaken in E2 for the purpose of mitigating views of golfing activities as viewed from approved Residential Building Platforms on Lot 1 DP 475822 and Lot 2 DP 475822</li> <li>vi. Details on and commitments to prompt establishment, density of planting, replacement of dead and diseased plants, restrictions on removal of other vegetation, irrigation, fertiliser, composting, rabbit control and use of gender dimorphic stock sources from local seeds where practical</li> </ol> </li> </ol>		
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	<ul style="list-style-type: none"> <li>vii. The measures that shall be employed to maintain or enhance the quality of water within Mill Creek</li> <li>viii. Landscape designs and planting plans for the Landscape Protection (Malaghans) Activity Area that ensures a predominantly screened effect when viewed from the road.</li> </ul>		
43.4.17	<p><b>Helicopter Landing and Take Off</b></p> <ul style="list-style-type: none"> <li>a. Helicopter Landscaping and Take-off Activity Area</li> </ul> <p>Discretion is restricted to the following:</p> <ul style="list-style-type: none"> <li>i. Safety</li> <li>ii. Effects on amenity values</li> </ul>	RD	Not applicable
43.4.18	<p><b>Airports</b>, except for:</p> <ul style="list-style-type: none"> <li>a. Helicopter landings and take-offs approved under rule 43.4.17</li> <li>b. The use of land and water for any emergency landings, rescues and fire-fighting.</li> </ul>	NC	Applies
43.4.19	<p><b>Service Activities</b>, except where:</p> <ul style="list-style-type: none"> <li>a. Directly related to other approved or permitted activities within the Zone and located within the Resort Services Activity Area; or</li> <li>b. Located within the Golf / Open Space Activity Area and which have a gross floor area of no more than 40m<sup>2</sup></li> </ul>	NC	Rule (b) applies
43.4.20	<p><b>Industrial Activities</b>; except for:</p> <ul style="list-style-type: none"> <li>a. Activities directly related to other approved or permitted activities within the Zone</li> <li>b. Activities located within the Resort Services Activity Area</li> </ul>	NC	Applies
43.4.21	<b>Mining</b>	NC	Applies
43.4.22	<b>Panelbeating, spray painting, motor vehicle repair or dismantling</b> except for activities directly related to other approved or permitted activities within the Zone and located within the Resort Services Activity Area	NC	Applies
43.4.23	<b>Forestry Activities</b>	NC	Applies
43.4.24	<b>Fibreglassing, sheet metal work, bottle or scrap storage, motorbody building or wrecking, fish or meat processing (excluding that which is ancillary to a retail premises such as a butcher, fishmonger or supermarket), or any activity requiring an Offensive Trade Licence under the Health Act 1956.</b>	PR	Applies



43.4.25	<b>Factory Farming</b>	PR	Applies
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## Rules - Standards

	<b>Activities - Millbrook</b>	<b>Activity Status</b>	<b>Application to proposed Activity Areas and assessment of suitability</b>
43.5.1	<b>Structure Plan</b> Development shall be undertaken in general accordance with the Structure Plan	D	Applies, subject to the identification of the proposed activity areas within the Structure Plan
43.5.2	<b>Setbacks</b> <ul style="list-style-type: none"> <li>a. No building or structure shall be located closer than 6m to the Zone boundary</li> <li>b. No building shall be located closer than 10m from Malaghans Road or the Arrowtown Lake Hayes Road</li> <li>c. On Residential Activity Sites 14 <del>and</del> 19, 20a - e and 21a - b buildings shall be located at least 7m from the Residential Activity Area boundary</li> </ul>	RD	Applies, subject to inclusion of the proposed activity areas within (c).
43.5.3	<b>Building Colours and Materials in Residential Activity Areas R14, R15, R16, R20a - e and R21a - b</b> <ul style="list-style-type: none"> <li>a. Roof materials and colours will be limited to: <ul style="list-style-type: none"> <li>i. Dark grey corrugated iron</li> <li>ii. Dark grey tray profile</li> <li>iii. Slate</li> <li>iv. Copper (left to weather)</li> <li>v. Gutters and downpipes to match the roof colour</li> </ul> </li> <li>b. Claddings will be limited to: <ul style="list-style-type: none"> <li>i. Millbrook quarry stone</li> <li>ii. Painted or stained weatherboards</li> <li>iii. Steel sheeting</li> <li>iv. Textured concrete</li> <li>v. Painted plaster</li> </ul> </li> </ul>	NC	Applies, subject to inclusion of the proposed activity areas within the rule.

	<p>c. Paint colours and external joinery shall have a maximum 30% light reflectancy value</p> <p>Council's discretion is restricted to:</p> <ul style="list-style-type: none"> <li>i. Effects on amenity and landscape values</li> <li>ii. Building design</li> <li>iii. The degree to which the colours and materials are recessive within the context of the building</li> </ul>		
43.5.4	<p><b>Residential Density</b></p> <p>The maximum number of residential units in the Millbrook Resort Zone (excluding the residential units within the R20a - e and R21a - b activity areas) shall be limited to 450. In the R20a - e and R21a - b activity areas the average density shall be no more than 1 residential unit per 500m<sup>2</sup>.</p>	NC	Applies.
43.5.5	<p><b>Residential Density</b></p> <ul style="list-style-type: none"> <li>a. In the following parts of the Residential Activity Area the total number of residential units shall not exceed: <ul style="list-style-type: none"> <li>i. R13 10 residential units</li> <li>ii. R14 6 residential units</li> <li>iii. R15 15 residential units</li> <li>iv. R16 6 residential units</li> <li>v. R17 7 residential units</li> <li>vi. R18 1 residential unit</li> </ul> </li> <li>b. In addition there shall be no more than one residential unit per Indicative Residential Site</li> </ul>	NC	Does not apply.
43.5.6	<p><b>Building Height</b></p> <p>The maximum height of buildings shall be:</p> <ul style="list-style-type: none"> <li>a. Visitor accommodation, clubhouses, conference and theatre facilities, restaurants, retail and residential buildings except in R14, R15, R16, R17 – 8m</li> <li>b. Filming towers – 12m</li> <li>c. All other buildings and structures except in R14, R15, R16, R17 – 4m</li> </ul>	NC	Applies.

43.5.7	<p><b>Building Height – Residential Activity Areas R14, R15, R16 and R17</b></p> <p>a. In the following parts of the Residential Activity Area the following maximum building heights shall apply:</p> <ul style="list-style-type: none"> <li>i. R14 6.5m</li> <li>ii. R15 6.5m except within those parts subject to the Height Restriction Overlay where the height limit shall be 5.5m</li> <li>iii. R16 6.5m</li> <li>iv. R17 5.5m</li> </ul> <p>b. No part of a building shall exceed the following heights above sea level (excluding chimneys which may exceed the height control by 2.0m with a maximum horizontal dimension of 1.5m):</p> <table border="1" data-bbox="456 592 1252 850"> <thead> <tr> <th>Indicative Residential Site as shown on the Structure Plan</th> <th>Datum (masl) using the “Mt Nic 2000 &amp; MSL” datum</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>481.8</td> </tr> <tr> <td>3</td> <td>478.8</td> </tr> <tr> <td>6-13</td> <td>475.8</td> </tr> <tr> <td>14</td> <td>475.8</td> </tr> <tr> <td>19</td> <td>472.8</td> </tr> </tbody> </table> <p>c. No part of a building on Indicative Residential Sites 1 and 3 shall protrude through a recession plane running due south at an angle of 30 degrees commencing at the boundary of the indicative residential sites noted below and as measured from the following heights above sea level:</p> <table border="1" data-bbox="456 1034 1252 1177"> <thead> <tr> <th>Indicative Residential Site as shown on the Structure Plan</th> <th>Datum (masl) using the “Mt Nic 2000 &amp; MSL” datum</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>478</td> </tr> <tr> <td>3</td> <td>475</td> </tr> </tbody> </table>	Indicative Residential Site as shown on the Structure Plan	Datum (masl) using the “Mt Nic 2000 & MSL” datum	1	481.8	3	478.8	6-13	475.8	14	475.8	19	472.8	Indicative Residential Site as shown on the Structure Plan	Datum (masl) using the “Mt Nic 2000 & MSL” datum	1	478	3	475	NC	Does not apply.
Indicative Residential Site as shown on the Structure Plan	Datum (masl) using the “Mt Nic 2000 & MSL” datum																				
1	481.8																				
3	478.8																				
6-13	475.8																				
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Indicative Residential Site as shown on the Structure Plan	Datum (masl) using the “Mt Nic 2000 & MSL” datum																				
1	478																				
3	475																				
43.5.8	<p><b>Glare</b></p> <p>a. All fixed lighting shall be directed away from adjacent roads and properties</p> <p>b. Any building or fence constructed or clad in metal, or material with reflective surfaces shall be painted or otherwise coated with a non-reflective finish</p>	NC	Applies																		

	<p>c. No activity shall result in a greater than 3.0 lux spill, horizontal and vertical, or light onto any property located outside of the Zone, measured at any point inside the boundary of the adjoining property.</p> <p>External lighting shall be limited to down lighting only, not more than 1.5 metres above the finished floor level of the dwelling with the light source shielded from horizontal view.</p>		
43.5.9	<p><b>Nature and Scale of Activities</b></p> <p>a. Except within the Village and Resort Services Activity Areas:</p> <p>i. No goods, materials or equipment shall be stored outside a building, except for vehicles associated with the activity parked on the site overnight</p> <p>ii. All manufacturing, altering, repairing, dismantling or processing of any materials, goods or articles shall be carried out within a building</p>	NC	Applies
43.5.10	<p><b>Retail Sales</b></p> <p>No goods or services shall be displayed, sold or offered for sale from a site except:</p> <p>a. Goods grown, reared or produced on the site</p> <p>b. Goods and services associated with, and ancillary to the creation activities taking place (within buildings associated with such activities) within the Recreation Facilities Activity Area; or</p> <p>c. Within the Village Activity Area</p>	NC	Applies
43.5.11	<p><b>Maximum Total Site Coverage</b></p> <p>The maximum site coverage shall not exceed 5% of the total area of the Zone. For the purposes of this Rule, site coverage includes all buildings, accessory, utility and service buildings but excludes weirs, filming towers, bridges and roads and parking areas. <b>Activity areas R20a - e and R21a - b are excluded from this calculation.</b></p>	NC	Does not apply if the proposed amendments to the rule are accepted.
43.5.12	<p><b>Golf Course Development</b></p> <p>Development of:</p> <p>a. more than 27 holes of golf without prior certification by the Council of the plans for the Gully Planting Overlay, Open Planting Overlay,</p>	NC	Does not apply.

	<p>Earthworks Mounding Overlay, and Amenity Landscaping areas (refer Rule 43.4.16); or</p> <p>b. residential units in the South Dalgleish part of the zone without prior certification by the Council of the implemented plans for the Gully Planting Overlay, Open Planting Overlay, Earthworks Mounding Overlay and Amenity Landscaping areas (refer Rule 43.4.16).</p>		
43.5.13	<p><b>Helicopter Landing Areas</b> More than one permanent helicopter landing area within the Zone.</p>	NC	Applies
43.5.14	<p><b>Maximum Building Coverage – R20a - e and R21a - b Activity Areas</b> The maximum building coverage shall not exceed 50% of each lot.</p>	RD	Proposed to apply to the proposed activity areas in lieu of the requirement in Rule 43.5.11.
43.5.15	<p><b>Visibility of Buildings within the Residential R21a Activity Area</b> No part of any building located within the R21a activity area is to be visible from Malaghans Road. Methods to achieve this may include restriction on building height, mounding and landscaping.</p>	D	Proposed to apply to the R21a activity area.
43.6	<p><b>Non-Notification of Applications</b></p>		Would apply.
43.6.1	<p>Except as provided for by the Act, all applications for controlled activities and restricted discretionary activities will be considered without public notification or the need to obtain the written approval of or serve notice on affected persons.</p>		

## **ANNEXURE 3 – SECTION 32 ANALYSIS**

# Section 32 AA Evaluation Report

## *Consideration of the MRZ of the Malaghans Road and Arrowtown – Lake Hayes land as sought by the Spruce Grove Trust and Boundary Trust*

### **1 Purpose of this report**

Section 32 AA Resource Management Act requires a further evaluation for any changes that are made subsequent to the section 32 report by report. The section 32 AA report must be proposed in accordance with section 32. Section 32 of the Resource Management Act 1991 (the Act) requires objectives in plan change proposals to be examined for their appropriateness in achieving the purpose of the Act, and the policies and methods of those proposals to be examined for their efficiency, effectiveness and risk in achieving the objectives.

Accordingly, this report provides an analysis of the key issues, objectives and policy response and the proposed methods that are proposed in relation to the zoning of the Malaghans Road and Arrowtown – Lake Hayes land.

As required by section 32 of the RMA, this report provides the following:

- An overview of the applicable Statutory Policy Context
- Description of the Non-Statutory Context (strategies, studies and community plans) which have informed proposed provisions
- Description of the Resource Management Issues which provide the driver for proposed provisions
- An Evaluation against Section 32(1)(a) and Section 32(1)(b) of the Act, that is:
  - Whether the objectives are the most appropriate way to achieve the RMA's purpose (s32(1)(a)).
  - Whether the provisions (policies and methods) are the most appropriate way to achieve the objectives (S32(1)(b)), including:
    - identifying other reasonably practicable options for achieving the objectives,
    - assessing the efficiency and effectiveness of the provisions in achieving the objectives, and
    - summarising the reasons for deciding on the provisions.
- A level of detail that corresponds to the scale and significance of the environmental, economic, social and cultural effects that are anticipated from the implementation of the proposal (s32(1)(c))
- Consideration of Risk

### **2 Background**

The proposed change to the Proposed District Plan (PDP) is in relation to the zoning of two areas of land.

The first is hereon referred to as the Arrowtown – Lake Hayes land and is the land bounded by Arrowtown – Lake Hayes Road to the east, Butel Road to the north and Orchard Road to the west as shown in Figure 1 below:



*Figure 1: The area of land referred to as the Arrowtown – Lake Hayes land*

The second land area is hereon referred to as the Malaghans Road land which is 1124 Malaghans Road as identified in Figure 2 below:



*Figure 2: The area of the land referred to as the Malaghans Road land*

Under the Operative District Plan (ODP) all of the Arrowtown – Lake Hayes site and Malaghans Road site are located within the Rural General zone.

Under Stage 1 of the PDP as notified on 26 August 2015 all of the Arrowtown – Lake Hayes and Malaghans Road sites were proposed to be zoned Rural.



Under Stage 2 of the PDP as notified in November 2017 all of the Butel Road and Malaghans Road sites are proposed to be included within the Wakatipu Basin Rural Amenity Zone (WBRAZ).

Chapter 43 – Millbrook Resort Zone was notified as part of Stage 1. The hearings on this chapter and the expansion of the zone to incorporate Dagleish Farm were held in February 2017. On 18 October 2017, Council notified the decisions on the submissions and further submissions in relation to Chapter 43. Chapter 43 and the land zoned MRZ are now treated as operative.

Decisions on the chapters notified as part of Stage 1 (including the strategic chapters) were notified on 7 May 2018 and the appeal period is until 19 June 2018.

### **3 Proposal**

It is sought that the Malaghans Road and Arrowtown – Lake Hayes land is included within the Millbrook Resort Zone (MRZ) and for consequential amendments to the provisions within Chapter 43: Millbrook to occur to facilitate this zoning and to manage the potential resource management issues that may arise.

These consequential amendments are as follows:

- (a) That the MRZ – Structure Plan in 43.7 be amended to incorporate new Residential activity areas as follows:
  - (i) Malaghans Road land - New Residential activity areas (proposed as R21a - b) identified over the southern portion of the site as shown in **Appendix 1**, with the remainder of the land being included within the Golf Course and Open Space activity area; and
  - (ii) New Residential activity areas (proposed as R20a - e) identified over all of the Arrowtown – Lake Hayes land as shown in **Appendix 2**, with the remainder of the land to be included within the Golf Course and Open Space activity area.
- (b) That Rule 43.4.10(b): Buildings be amended to incorporate the new Residential activity areas so that the construction of any buildings would require a Controlled activity resource consent with control being reserved to the appearance of the buildings and the effects on visual and landscape amenity of the area including coherence with the surrounding buildings.
- (c) That Rule 43.5.2(c) be amended to incorporate the new Residential activity areas so that buildings within the activity areas would need to be located at least 7m from the activity area boundary. Non-compliance with this rule would require a Restricted Discretionary resource consent, however no matters of discretion are included within the rule.
- (d) Inclusion of the new Residential activity areas within Rule 43.5.3 which imposes restrictions on the building colours and materials. Non-compliance with this rule would require a Restricted Discretionary resource consent with Council's discretion being restricted to effects on amenity and landscape values, building design and the degree to which the colours and materials are recessive within the context of the building.

- (e) Amendment to Rule 43.5.4: Residential Density to exclude the proposed Residential activity areas from the maximum number of residential units in the MRZ.
- (f) Inclusion of the proposed Residential activity areas within Rule 43.5.5 Residential Density to prescribe the maximum number of residential units within each of the proposed activity areas.
- (g) Exclusion of the proposed Residential activity areas from Rule 43.5.11 relating to the maximum total site coverage across the MRZ.
- (h) Addition of a new Rule 43.5.14 prescribing the maximum building coverage for the new Residential activity areas as 50% of each lot with a Restricted Discretionary activity status if 50% is exceeded.
- (i) Addition of a new Rule 43.5.15 with a Discretionary activity status pertaining to the visibility of buildings within the Malaghans Road Residential activity area (R21a). The rule is to ensure that no part of any building is visible from Malaghans Road.

The evidence of Ms Smetham, Landscape Architect and Mr McCartney, Civil Engineer in relation to the proposal are relied upon in the assessment of the proposal in terms of section 32.

#### **4 Statutory Context**

Section 32(1)(a) of the Resource Management Act (the Act) requires that a section 32 evaluation examine the extent to which the proposed objectives are the most appropriate way to achieve the purpose of the Act.

The purpose of the Act requires an integrated planning approach and direction:

##### *5 Purpose*

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while –*
  - (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
  - (b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
  - (c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

The assessment contained within this report considers the proposed provisions in the context of advancing the purpose of the Act to achieve the sustainable management of natural and physical resources.

The District's landscapes and natural environment are highly recognised and valued and the potential effect upon these are required to be addressed via sections 6 and 7 of the Act.

Section 31 of the Act provides the basis for objectives, policies and methods within a District Plan to manage the effects of use, development or protection of land and associated natural and physical resources of the District. Section 31 is further supported by the National Policy Statement on Urban Development Capacity which came into effect on 1 December 2016. The NPS directs Councils on how to provide for sufficient development capacity for current and future housing and business demand under the Act.

Consequently, a balanced and strategic approach is required to manage future growth while still promoting the sustainable management of the values landscape, nature conservation, productive land and infrastructure resources.

## **5 Regional Planning Documents**

### Operative Regional Policy Statement 1998

Section 74 of the Act requires that a District Plan "give effect to" any operative Regional Policy Statement (RPS).

The operative RPS contains a number of objectives and policies of relevance to this plan change, specifically Objectives 5.4.1 to 5.4.4 (Land) and related policies which, in broad terms promote the sustainable management of Otago's land resource by:

- Maintaining and enhancing the primary productive capacity and life supporting capacity of land resources;
- Avoid, remedy or mitigate degradation of Otago's natural and physical resources resulting from activities utilising the land resource;
- Protect outstanding natural features and landscapes from inappropriate subdivision, use and development.

Objectives 9.4.1 to 9.4.3 (Built Environment) and related policies are also of relevance. Objective 9.4.1 seeks to promote the sustainable management of Otago's built environment in order to meet the present and reasonable foreseeable needs of the community and to provide for amenity values and to conserve and enhance environmental and landscape quality.

Objectives 9.4.2 and 9.4.3 seeks to avoid, remedy or mitigate the adverse effects of Otago's built environment on Otago's natural and physical resources, and to promote the sustainable management of infrastructure.

These objectives and policies highlight the importance of the rural resource both in terms of the productive resources of the rural area and the protection of the District's outstanding natural features and landscapes.

### Proposed Regional Policy Statement 2015

Section 74 of the Act requires that a District Plan must “have regard to” any proposed policy statement.

The Proposed RPS (PRPS) was notified for public submissions on 23 May 2015. Decisions on submissions were released on 1 October 2016. The majority of the provisions of the Decisions Version have been appealed and mediation is currently taking place. Accordingly, limited weight can be provided to the Decisions Version of the Proposed RPS. However, the provisions of the Proposed RPS are relevant in highlighting the direction given toward local authorities managing land use activities in terms of the protection and maintenance of landscape, infrastructure, hazards and urban development.

The following objectives and their associated policies of the PRPS (decisions version 1 October 2016) are considered to be of relevance to the proposed change to the zoning of the land:

- 1.1 Recognise and provide for the integrated management of natural and physical resources to support the wellbeing of people and communities in Otago.*
- 3.1 The values of Otago’s natural and physical resources are recognised, maintained and enhanced.*
- 3.2 Otago’s significant and highly values natural resources are identified, and protected or enhanced.*
- 5.4 Adverse effects of using and enjoying Otago’s natural and built environment are minimised.*

The evaluation of the proposed zoning change has had regard to the PRPS.

## **6 Proposed District Plan**

The PDP’s strategic objectives and policies are contained within Chapters 3 – 6, with the objectives within Chapters 3: Strategic Direction and the policies in Chapter 6: Landscapes being of most relevance to the proposed change to the zoning. These are copied below:

### Chapter 3 – Strategic Direction

- 3.2.1 The development of a prosperous, resilient and equitable economy in the District.*
  - 3.2.1.1 The significant socioeconomic benefits of well designed and appropriately located visitor industry facilities and services are realised across the District.*
- 3.2.3 A quality built environment taking into account the character of individual communities.*
- 3.2.5 The retention of the District’s distinctive landscapes.*
  - 3.2.5.1 The landscape and visual amenity values and the natural character of Outstanding Natural Landscapes and Outstanding Natural Features are protected from adverse effects of subdivision, use and development that are more than minor and/or not temporary in duration.*
  - 3.2.5.2 The rural character and visual amenity values in identified Rural Character Landscapes are maintained or enhanced by directing new subdivision, use or development to occur in those areas that have the potential to absorb change without materially detracting from those values.*

3.2.6 *The District's residents and communities are able to provide for their social, cultural and economic wellbeing and their health and safety.*

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

#### Chapter 6 – Landscapes and Rural Character

The following policy is considered to be of most relevance to the proposed zoning of the land:

6.3.3 *Provide a separate regulatory regime for the Gibbston Valley (identified as the Gibbston Character Zone), Rural Residential Zone, Rural Lifestyle Zone and the Special Zones within which the Outstanding Natural Feature, Outstanding Natural Landscape and Rural Character Landscape categories and the policies of this chapter related to those categories do not apply unless otherwise stated.*

#### Chapter 43 – Millbrook Resort

Below are the operative Chapter 43 – Millbrook Resort objective and policies.

43.2.1 *Objective – Visitor, residential and recreation activities developed in an integrated manner with particular regard for landscape, heritage, ecological, and water quality values.*

##### *Policies*

43.2.1.1 *Require development and activities to be located in accordance with a Structure Plan so as to promote orderly and integrated development and prevent the inappropriate development of sensitive parts of the site.*

43.2.1.2 *Require buildings and associated landscaping to have regard to landscape and heritage values.*

43.2.1.3 *Protect valuable ecological remnants and promote the enhancement of ecological values where reasonably practical.*

43.2.1.4 *Require the take-off and landing of aircraft to be controlled.*

43.2.1.5 *Require an integrated landscape management plan for the South Dalgliesh part of the zone.*

43.2.1.6 *Reduce nutrient levels and other pollutants entering Mill Creek."*

In general terms, and within the context of the proposed MRZ zoning of the land, the above objectives and policies are considered to be met as follows:

- The proposed inclusion of the Malaghans Road and Arrowtown – Lake Hayes Road land within the MRZ is considered to be appropriately located given that it is immediately adjacent to the existing Residential activity areas within the MRZ. The methods provided within Chapter 43 will also ensure that any future development is well designed and in coherence with surrounding buildings.
- As outlined in Ms Smetham's evidence, development could occur on the two land areas which is of consistent character and amenity to that within the existing MRZ. The location and extent of the proposed Residential activity areas and the rule framework as proposed to be modified will also ensure that future development is in keeping with the surrounding landscape character.

- The MRZ is not ‘urban development’ as defined within the PDP through its exclusion of Resort zones surrounded by rural land.
- The MRZ framework is being replicated in the proposal in the identification of activity areas and through the application of the same objective, policies and methods, subject to minor amendments.

## **7 Resource Management Issues**

### Surrounding Context

The proposed change to the zoning of the land is in response to the inclusion of the land within the Rural zone as notified in Stage 1 and the WBRAZ as notified in Stage 2. Given that the Stage 2 zoning represents Council’s current position, the Stage 1 Rural zoning will not be considered further.

The purpose of the WBRAZ as detailed in Section 24.1 of the PDP is:

*“... to protect, maintain and enhance the particular character and amenity of the rural landscape which distinguishes the Wakatipu Basin from other parts of the District that are zoned Rural.*

*A primary focus of the Zone is on protecting, maintaining and enhancing rural landscape and amenity values while noting that productive farming is not a dominant activity in the Wakatipu Basin. To achieve the purpose of the Zone a minimum lot size of 80 hectares is required if subdividing and all buildings except small farm buildings in the Zone require resource consent as a means to ensure rural landscape character and visual amenity outcomes are fulfilled...”*

The zoning of the two land areas as WBRAZ is considered to represent a ‘spot zone’ or an anomaly given that both land areas are surrounded by the MRZ on three sides and road on the other. They certainly do not achieve the purpose of the Zone in terms of the 80 hectare minimum lot size (even when all of the Arrowtown – Lake Hayes land parcels are amalgamated).

The two land areas are also adjoining established residential MRZ areas which are of a density akin to low density development surrounded by areas of open space, rather than an arcadian or pastoral landscape with rural character. The MRZ is not subject to the landscape assessment matters within the PDP.

As a result, the proposed WBRAZ zoning of the two land areas is not considered to take into account the existing context of the land areas or the surrounds.

### Integrated Development

In considering an alternative zoning of the two land parcels, the integration of the future development with the existing residential and golf course development adjoining the two land parcels needs to be considered.

**Broad options considered to address the key resource management issues outlined in Section 7 above**

Option 1: Retain the WBRAZ zoning of the land (as notified)

Option 2: Rezone the land areas Wakatipu Basin Lifestyle Precinct (WBLP)

Option 3: Rezone the land areas MRZ (recommended)

Option 4: Rezone the land Lower Density Suburban Residential (LDSR)

	<b>Option 1: WBRAZ as notified</b>	<b>Option 2: Rezone as WBLP</b>	<b>Option 3: Rezone as MRZ</b>	<b>Option 4: Rezone as LDSR</b>
<b>Costs</b>	<ul style="list-style-type: none"> <li>The WBRAZ zoning of the land does not take into account the existing development of the Arrowtown – Lake Hayes land or the existing context surrounding the two land parcels within the existing MRZ and is therefore considered incongruous.</li> <li>Does not allow the submitters to develop their land consistent with that which has occurred on the adjoining land therefore affecting their social and economic wellbeing.</li> <li>Significantly restricted development potential results in less development contribution to fund</li> </ul>	<ul style="list-style-type: none"> <li>The WBLP zoning of the land does not take into account the existing context surrounding the two land parcels.</li> <li>Would represent a spot zone of the two land areas.</li> </ul>	<ul style="list-style-type: none"> <li>Additional development potential would increase demand on Council infrastructure.</li> </ul>	<ul style="list-style-type: none"> <li>Establishment of the LDSR zoning over the two land parcels would represent urban development outside of the notified Urban Growth Boundary for Arrowtown.</li> <li>Additional bespoke provisions would be required to be included within the LDSR chapter to address potential resource management issues such as a setback from Malaghans Road and Arrowtown – Lake Hayes Road and the like. This would be contrary to the streamlined approach being sought by the Council.</li> </ul>

	<p>infrastructure improvements and rates revenue for Council.</p> <ul style="list-style-type: none"> <li>• Would represent a spot zone of the two land areas.</li> </ul>			<ul style="list-style-type: none"> <li>• Would not allow consideration of design coherence with adjoining MRZ dwellings or landscape amenity effects.</li> <li>• Additional development potential would increase demand on Council infrastructure.</li> <li>• Would represent a spot zone of the two land areas.</li> </ul>
<b>Benefits</b>	<ul style="list-style-type: none"> <li>• Would make further development of the Arrowtown – Lake Hayes Road land very difficult and would only allow for one residential unit on the Malaghans Road land. This would be inconsistent with the surrounding context of both sites.</li> <li>• Would reduce the pressure upon Council’s infrastructure.</li> <li>• No costs of change to Council in terms of staff time.</li> </ul>	<ul style="list-style-type: none"> <li>• The WBLP would provide additional development potential for the two land areas.</li> <li>• There is a demand for residential accommodation with the District.</li> <li>• Additional development contributions and rates from additional residential dwellings.</li> <li>• Low degree of change to the PDP.</li> </ul>	<ul style="list-style-type: none"> <li>• The extent of a zone should not be restricted to land ownership. Zoning is a tool to manage resource management issues. The two land parcels do not have any resource management issues that are different to that of the adjoining MRZ land.</li> <li>• Allows a bespoke approach to address the resource management issues associated with the development of the land via the use of activity areas and controls. Inclusion of these within the PDP</li> </ul>	<ul style="list-style-type: none"> <li>• There is a demand for residential accommodation with the District.</li> <li>• Additional development contributions and rates from additional residential dwellings.</li> </ul>



			<p>provides greater certainty for the submitters.</p> <ul style="list-style-type: none"> <li>• There is a demand for residential accommodation with the District.</li> <li>• Additional development contributions and rates from additional residential dwellings.</li> <li>• Low degree of change to the PDP maps and provisions.</li> </ul>	
<b>Ranking</b>	<b>3</b>	<b>2</b>	<b>1</b>	<b>4</b>

## **8 Scale and Significance Evaluation**

The level of detailed analysis undertaken for the evaluation of the proposed change in zoning has been determined by an assessment of the scale and significance of the implementation of the proposed zoning and provisions. In making this assessment, regard has been had to the following:

- Result in a significant variance from the PDP.
- Have effects on resources that are considered to be a matter of national importance in terms of Section 6 of the Act.
- Adversely effect those with specific interests.
- Involve effects that have been considered implicitly or explicitly by higher order documents.
- Impose increased costs or restrictions on individuals, communities or businesses.

The level of detail of analysis in this report is low – moderate being that the subject land areas are discrete and do not form or are not part of any ONL or ONF identified in the PDP and therefore is not a matter of national importance.

It is proposed to amend the zoning of the two land areas as well as to undertake minor amendments to the Chapter 43 rules in order to implement the zoning. No amendments to the strategic or zone objectives or policies are considered necessary.

**Evaluation of Proposal – Section 32(1)(a)**

Proposals	Appropriateness
<p>Inclusion of the Malaghans Road and Arrowtown – Lake Hayes land areas within the MRZ</p>	<p>The proposed MRZ zoning of the land is considered to be the most appropriate way to achieve the purpose of the Act because it will remove the ‘spot zone’ of this land and take into account the existing context of the land.</p> <p>Ms Smetham states that her visual capability assessment concludes that the Millbrook Landscape Character Unit is able to absorb more development without adverse landscape and amenity effects on the surrounding Wakatipu Basin including the outlook to the surrounding ONL’s and ONF’s. Furthermore, she states that the environmental characteristics and amenity values to be maintained and enhanced for the MRZ are the attractive urban parkland character and landscape coherence of which the proposed activity areas are considered to maintain.</p> <p>The objectives, policies and methods that apply to the MRZ will allow for the appearance of buildings and effects on visual and landscape amenity of the area and coherence with surrounding buildings to be considered.</p> <p>The proposal is therefore considered to be consistent with the following:  PDP Strategic Directions objectives 3.2.1, 3.2.1.1, 3.2.3, 3.2.6  PDP Landscapes and Rural Character policy 6.3.3</p> <p>The proposal is also considered to give effect to RPS objectives 9.4.1 – 9.4.3 and regard has been given to PRPS objectives 1.1, 3.1, 3.2 and 5.4.</p> <p>Regard has also been had to Sections 6 and 7 of the Act.</p>

**Evaluation of Proposal – Section 32(1)(b)**

The following considers whether the proposal is the most appropriate way to achieve the relevant PDP objectives. The relevant PDP objectives and policies are listed in Section 6 above. The costs and benefits of the proposed provisions and whether they are effective and efficient is also assessed.

<b>Proposed provisions</b>	<b>Costs</b>	<b>Benefits</b>	<b>Effectiveness &amp; Efficiency</b>
<b>Inclusion within the MRZ Structure Plan</b>	<p><b>Environmental</b> Nil</p> <p><b>Economic</b> Administration costs for Council to edit the MRZ Structure Plan</p> <p><b>Social &amp; Cultural</b> The Millbrook Country Club Limited (MCCL) design guidelines and design review process will not apply to this land as on the adjoining MRZ land which may result in the built form being different to that existing within the MRZ.</p> <p>The location of the proposed Residential activity areas where the land is currently undeveloped (Malaghans Road land) or developed at a lesser intensity than proposed (Arrowtown – Lake Hayes land) may impact upon current views from the adjoining residential buildings.</p>	<p><b>Environmental</b> Identification of the Golf Course and Open Space activity area over all of the land outside of the Residential activity areas will allow for the amenity of the roads and neighbouring properties to be safeguarded through provision of open space and attractive landscaping.</p> <p><b>Economic</b> Greater certainty of the development potential of the land for the submitters.</p> <p><b>Social &amp; Cultural</b> The activity area approach is consistent with the approach undertaken within the existing MRZ Structure Plan and therefore will be fair and equitable.</p>	The inclusion of the land within the MRZ Structure Plan will be consistent with the activity area approach used within Chapter 43 and will therefore be both efficient and effective.
	<b>Alternative options</b>	<ul style="list-style-type: none"> <li>• The proposed activity areas could be modified so to alter their location or extent.</li> <li>• Alternative activity areas for other purposes could be imposed.</li> </ul>	
<b>Amendment to Rule 43.4.11: Buildings to incorporate the R20a - e and R21a - b activity areas</b>	<p><b>Environmental</b> Nil</p> <p><b>Economic</b></p>	<p><b>Environmental</b> The resource consent assessment for buildings within the proposed activity areas will include consideration of the effects of the</p>	The inclusion of the proposed activity areas within this rule is consistent with the framework used within Chapter 43 and will therefore be both efficient and effective.

	<p>Administration costs for Council to edit Chapter 43.</p> <p>Resource consent costs to the developers of the land for the construction of buildings within the proposed activity areas.</p> <p><b>Social &amp; Cultural</b> Nil</p>	<p>development on visual and landscape amenity and associated landscaping controls.</p> <p><b>Economic</b> Nil</p> <p><b>Social &amp; Cultural</b> The resource consent assessment for buildings within the proposed activity areas will include consideration of the appearance of the buildings and coherence with surrounding buildings is taken into account.</p>	<p>Despite the MCCL design guidelines and design review process not applying to the two land areas, the resource consent assessment of proposed buildings against the matters of control listed in Rule 43.4.11 is anticipated to be effective in ensuring that the design and appearance of future buildings are in coherence with the buildings within the surrounding area. Furthermore, landscaping controls surrounding the buildings can be assessed.</p>
	<p><b>Alternative options</b></p>	<ul style="list-style-type: none"> <li>• Buildings within the proposed Residential activity areas could instead be included within Rule 43.4.10 as a controlled activity, and</li> <li>• If greater control on landscaping within the wider site is considered to be necessary, a separate Golf Course / Open Space activity area (such as G1 and G2) could be identified over the balance land outside of the proposed residential activity areas and the landscaping works within these areas included within Rule 43.4.16: Amenity Landscaping Works.</li> <li>• Incorporation of additional matters of discretion applicable to the proposed Residential activity areas, such as controls on fencing along the southern boundary of the Malaghans Road land.</li> </ul>	
<p><b>Amendment to Rule 43.5.2 Setbacks to include the proposed R20a - e and R21a - b activity areas</b></p>	<p><b>Environmental</b> Nil</p> <p><b>Economic</b> Administration costs for Council to edit Chapter 43.</p>	<p><b>Environmental</b> Setbacks will ensure that no undue overshadowing effects will occur upon neighbouring land.</p> <p><b>Economic</b> Nil</p>	<p>The inclusion of the proposed activity areas within this rule is consistent with the framework used within Chapter 43 and will therefore be both efficient and effective.</p>

	<p>Resource consent costs to the developers of the land if setbacks are proposed to be breached.</p> <p>Reduction in the developable land.</p> <p><b>Social &amp; Cultural</b> Nil</p>	<p><b>Social &amp; Cultural</b></p> <p>The prescribed setbacks will be consistent with those required for other residential activity areas within the MRZ.</p> <p>The setbacks will ensure that any future buildings do not dominate the adjoining residential, golf course or open space land.</p>	
	<p><b>Alternative options</b></p>	<ul style="list-style-type: none"> <li>• To not apply a minimum setback requirement for the proposed activity areas.</li> <li>• To apply different setback requirements to the proposed land areas.</li> <li>• To allow for consideration of setbacks of buildings as part of resource consents applied for under Rule 43.4.10.</li> </ul>	
<p><b>Change to Rule 43.5.3 to include the proposed R20a - e and R21a - b activity areas</b></p>	<p><b>Environmental</b> Nil</p> <p><b>Economic</b> Administration costs for Council to edit Chapter 43.</p> <p>Resource consent costs to the developers of the land if alternative building colours or materials are proposed.</p> <p>Costs of the specified materials may be of higher cost than other materials on the market.</p> <p><b>Social &amp; Cultural</b></p>	<p><b>Environmental</b></p> <p>The colours and materials within the rule are of natural materials and colours so that the effect of any buildings upon the wider landscape values of the area will be mitigated.</p> <p><b>Economic</b> Nil</p> <p><b>Social &amp; Cultural</b></p> <p>Coherence with the range of materials and colours which are utilised within the MCCL parts of the MRZ.</p>	<p>The incorporation of the proposed activity areas within this existing rule will be both effective and efficient as it utilises the established rule framework.</p> <p>It will also be efficient and effective as it will clearly signify to developers what the required colours and materials are for buildings within the activity areas.</p>

	<p>Less variety in building colours and materials so that buildings may appear 'cookie cutter'.</p> <p>The restricted material palette will not take into account any new products which become available.</p>		
	<p><b>Alternative options</b></p>	<ul style="list-style-type: none"> <li>• Not include the proposed R20a - e and R21a - b activity areas within the rule and rely upon the resource consent assessment under Rule 43.4.10 to assess the suitability of materials and colours.</li> </ul>	
<p><b>Amendment to Rule 43.5.4 to exclude the R20a – e and R21a – b activity areas from the prescribed maximum number of residential units and to apply an average density across each activity area</b></p>	<p><b>Environmental</b> Additional demand on Council's water supply and wastewater network to service the proposed density of development.</p> <p>The need to dispose of stormwater without degrading the environmental values of the area.</p> <p><b>Economic</b> Administration costs for Council to edit Chapter 43.</p> <p>Costs of potential upgrades to Council's infrastructure to service the development of the land (could be recouped via development contributions).</p> <p><b>Social &amp; Cultural</b> Nil</p>	<p><b>Environmental</b> Nil</p> <p><b>Economic</b> Additional development contribution and rates revenue from Council from development of the land.</p> <p>Excluding the density of development within the proposed activity areas from the MCCL portion of the MRZ under Rule 43.5.4 will not impact upon the existing development capacity of MCCL.</p> <p><b>Social &amp; Cultural</b> Provision of additional land for residential development which is needed in the District.</p> <p>An average density approach provides greater flexibility for the</p>	<p>The proposed amendments to the rules are effective and efficient as it provides both flexibility and clarity over the anticipated density as well as not removing any of the permitted dwelling numbers of MCCL.</p>

		landowner in that townhouse or apartment development surrounded by more open space or freehold subdivision and detached housing on larger lots could be proposed.	
	<b>Alternative options</b>	<ul style="list-style-type: none"> <li>• Specification of an alternative average or maximum density for the proposed activity areas.</li> <li>• Addition of a maximum total number of residential units within the proposed activity areas to the 450 dwellings allowed under Rule 43.5.4.</li> </ul>	
<b>Amendment to Rule 43.5.11 relating to the total site coverage to exclude the R20a - e and R21a - b activity areas.</b>	<b>Environmental</b> Nil  <b>Economic</b> Administration costs for Council to edit Chapter 43.  <b>Social &amp; Cultural</b> Nil	<b>Environmental</b> Nil  <b>Economic</b> Excluding the R20a - e and R21a - b activity areas in this rule will ensure that the total site coverage established for the MCCL portion of the MRZ will not be impacted  <b>Social &amp; Cultural</b> Separation of the proposed activity areas from Rule 43.5.11 will ensure that MCCL cannot increase their allowable site coverage should development on these land areas be delayed (and vice versa).	The proposed amendment to the rule is effective and efficient as it is clear in its intent and application. Maximum site coverage of the proposed R20a - e and R21a - b activity areas will be addressed via new Rule 43.5.14.
	<b>Alternative options</b>	<ul style="list-style-type: none"> <li>• Application of the 5% total site coverage across the entire MRZ including the R20a - e and R21a - b activity areas.</li> </ul>	
<b>Addition of new Rule 43.5.14 prescribing Maximum Building Coverage for the R20a - e and R21a - b activity areas</b>	<b>Environmental</b> The 50% maximum building coverage per lot in conjunction with the Golf Course / Open Space activity areas surrounding the Residential	<b>Environmental</b> The proposed activity areas represent approximately 35% of the land area of the Malaghans Road and Arrowtown – Lake Hayes Road sites.	The proposed rule will be more efficient as the developers of the two land areas will not be privy to MCCL’s running site coverage calculation across the MCCL owned portions of



	<p>activity areas will allow for low impact design approaches to be utilised in terms of stormwater disposal.</p> <p><b>Economic</b> Administration costs for Council to edit Chapter 43.</p> <p><b>Social &amp; Cultural</b> Nil</p>	<p>Some of this land will need to be developed as roading. A 50% building coverage of the resulting lots would not be dissimilar to the 5% applied to the MCCL controlled land within the MRZ.</p> <p><b>Economic</b> Certainty for developers as to the maximum site coverage permitted.</p> <p><b>Social &amp; Cultural</b> The 50% standard would ensure the built form will not dominate particularly when the adjoining Golf Course / Open Space areas are taken into account.</p> <p>Separation of the two land areas from Rule 43.5.11 will ensure that MCCL cannot increase their allowable site coverage should development on these land areas be delayed (and vice versa).</p>	<p>MRZ and to calculate this would be an expensive task.</p> <p>The proposed rule would also be more effective and efficient as calculation across a smaller area is easy to monitor for compliance rather than across the entire zone.</p>
	<p><b>Alternative options</b></p>	<ul style="list-style-type: none"> <li>• Incorporation of the site coverage requirement within Rule 43.5.11.</li> <li>• Change to the specified building coverage limit.</li> </ul>	
<p><b>Addition of new Rule 43.5.15 relating to visibility of buildings within the proposed R21a - b activity areas</b></p>	<p><b>Environmental</b> A restriction on the visibility of future houses within the activity area may result in further earthworks being undertaken which will alter the landform.</p>	<p><b>Environmental</b> The neighbouring Malaghans Ridge development has altered the southern portion of the roche moutonee therefore earthworks to allow for the construction of future</p>	<p>This rule is considered to be effective as applicants will need to show compliance when resource consent is applied for buildings under Rule 43.4.11 or alternatively apply for resource consent to breach the rule.</p>

	<p><b>Economic</b> Administration costs for Council to edit Chapter 43.</p> <p>Costs of the earthworks, mounding or landscaping that may be necessary to screen the visibility of future development.</p> <p><b>Social &amp; Cultural</b> Nil</p>	<p> dwellings would be anticipated to be similar.</p> <p><b>Economic</b> Nil</p> <p><b>Social &amp; Cultural</b> Nil</p>	<p>The rule is also efficient as it is clear as to its intent and application and the non-complying activity status clearly indicates that visibility of buildings is not anticipated.</p>
	<p><b>Alternative options</b></p>		<ul style="list-style-type: none"> <li>• Deletion of the rule and reliance upon the matters of control in Rule 43.4.11.</li> <li>• Reduction in the proposed R21a activity area.</li> <li>• Establishing a maximum RL level.</li> <li>• Use of a height restriction overlay as outlined in the Zone Purpose.</li> <li>• Identification of indicative residential sites to identify locations of future buildings and specify height limits and recession plane controls.</li> </ul>

## **9 Efficiency and effectiveness of the provisions**

The above provisions are drafted to specifically address the resource management issues identified for the two land areas. The proposal provides greater certainty than the notified PDP zoning and provisions and takes into account the existing surrounding context and therefore will create a more efficient consent process

## **10 The risk of not acting**

Section 32(c) of the RMA requires an assessment of the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions. It is not considered that there is uncertain or insufficient information about the proposal. The issues identified and options taken forward are the most appropriate way to achieve the purpose of the RMA.