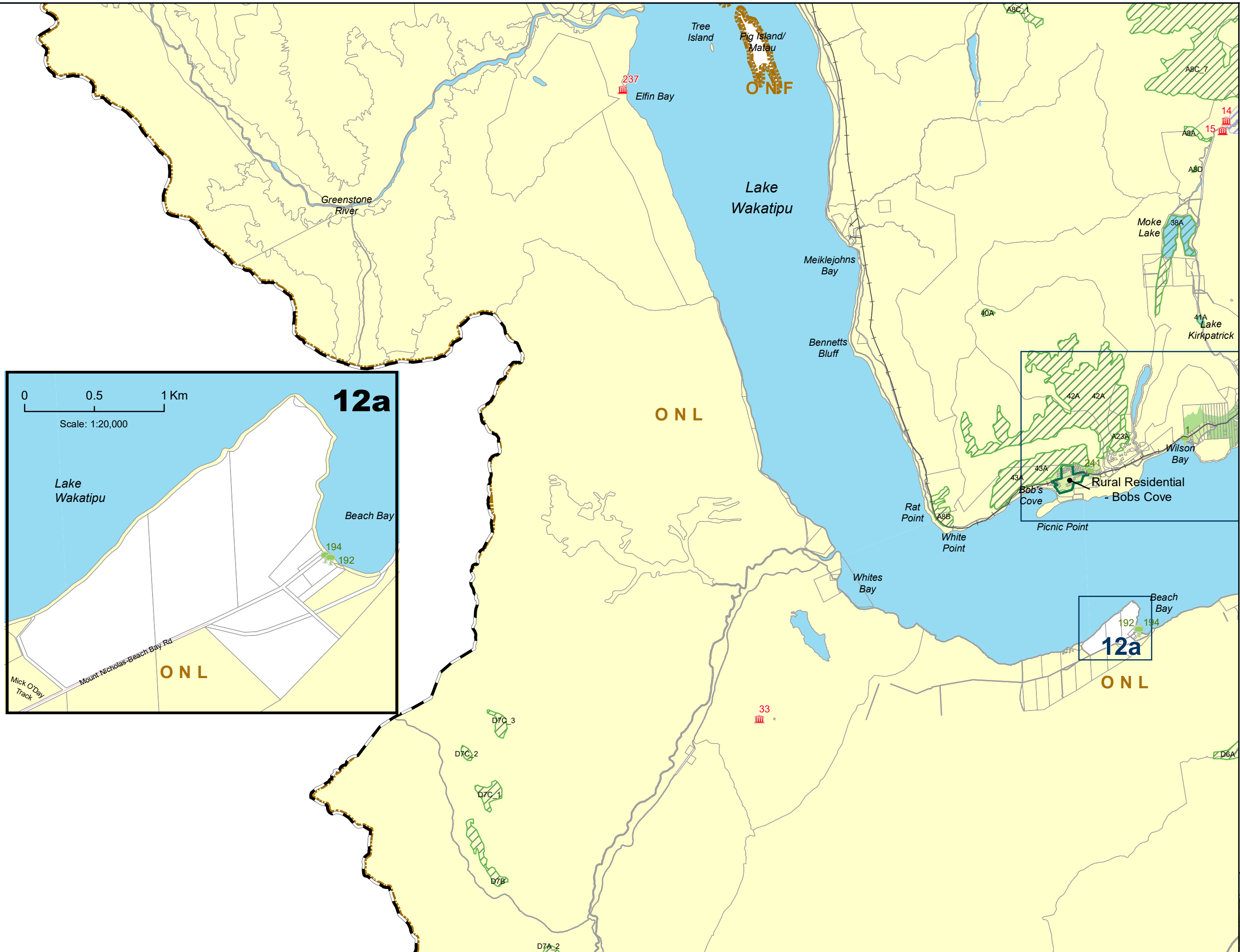
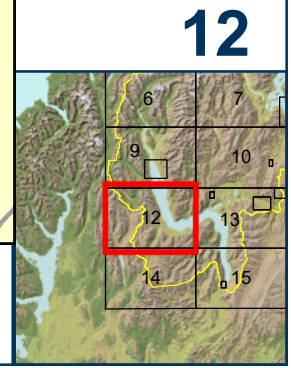
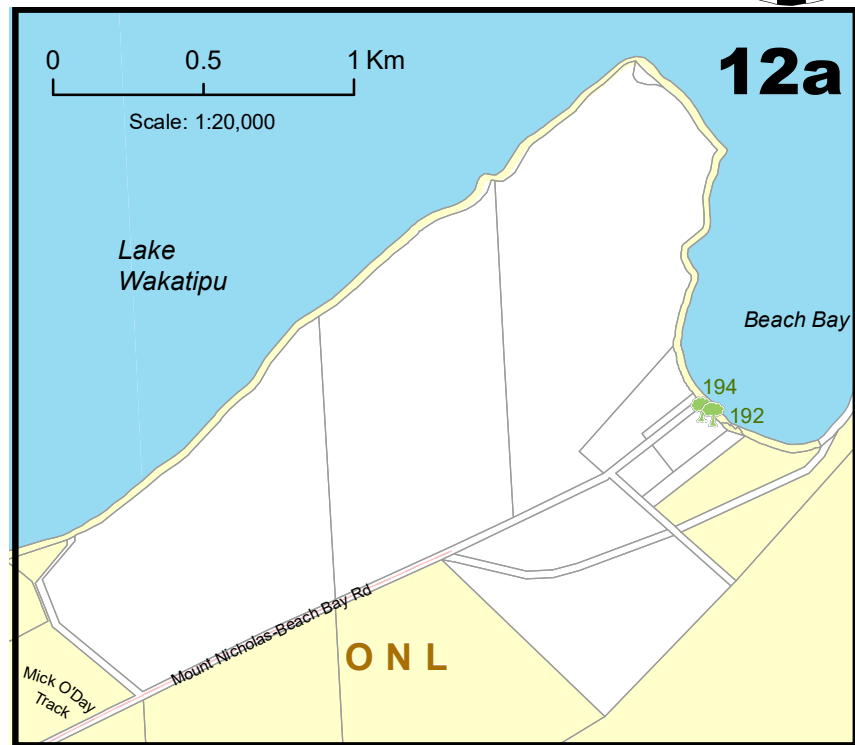


Appendix C - A copy of the relevant parts of the decision



- Legend**
- Historic Heritage Features
 - Protected Tree
 - Aurora Distribution Lines - For Information Only
 - Parcel/Road Boundary
 - Landscape Classification (ONF, ONL, RCL)
 - Territorial Authority Boundary
 - Heritage Overlay Area
 - Significant Natural Area
 - Unformed Roads
 - Rural Residential Sub-Zone
 - Rural
 - Rural Residential
 - Rural Lifestyle
 - Water (zoned Rural unless otherwise shown)



QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report 17-10

Report and Recommendations of Independent Commissioners
Regarding Mapping: West of Lake Wakatipu

Commissioners

Denis Nugent (Chair)

Jan Crawford

David Mountfort

PART B: TE ANAU DEVELOPMENTS LIMITED

Submitter **Te Anau Developments Limited (Submission 607.22)**

5. PRELIMINARY MATTERS

5.1. Subject of Submissions

18. These submissions related to an area of Department of Conservation Reserve and marginal strip adjacent to Walter Peak Station.

5.2. Outline of Relief Sought

19. The submission requested an area of DOC reserve and marginal strip adjacent to the existing visitor facilities at Walter Peak be rezoned Rural Visitor Walter Peak.

5.3. Description of the Site and Environs

20. The submitter owns and operates tourism activities at a 155ha site at Beach Bay and Walter Peak. This includes the Earnslaw Steamship tours from Queenstown, scenic flights, a restaurant, and farm and cycling tours. The company has plans to expand its activities, including into the conference and weddings market. Its site includes the land adjacent to Beach Bay and the northern headland to that bay. It is carrying out ecological restoration of its land and working with the Department of Conservation on restoration of DOC land. Most of the submitter's land is included in the ODP Rural Visitor Zone, which is not included in Stage 1 or 2 of the PDP. The DOC reserve land is in the southern part of beach adjacent to the submitter's land and existing facilities and the marginal strip extends around the Bay and the headland to the north of the bay.

21. Figure 10-2 below shows the submitter's land, the existing ODP Rural Visitor Zoning and the requested PDP zoning on the DOC land.

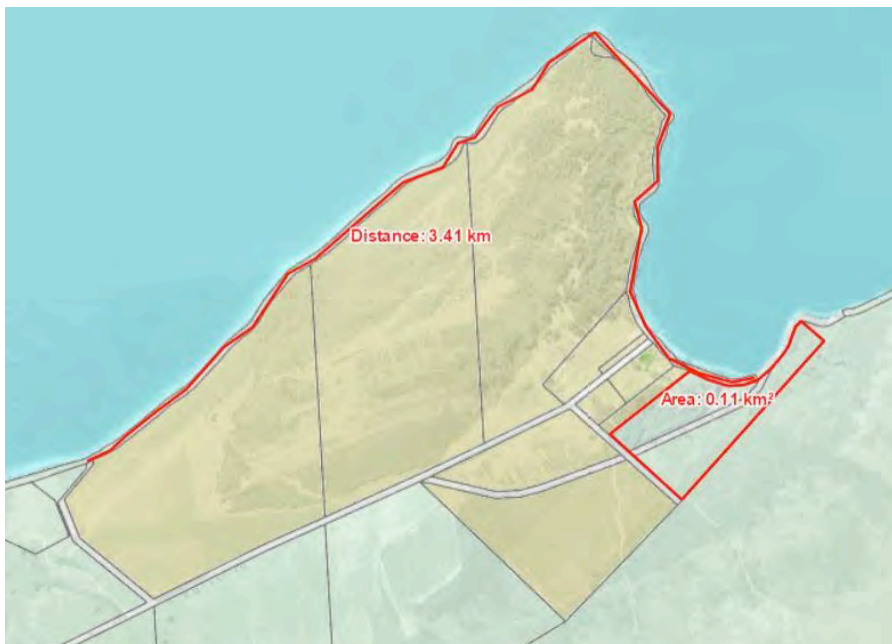


Figure 10-2 – Aerial photograph of the land subject to the submission outlined in red, showing the length of the marginal strip. The ODP Rural Visitor Zone is shaded khaki.

22. At the hearing the submitter reduced the extent of the proposed rezoning, by deleting the part of the marginal strip extending along the north western side of the headland. The land now sought to be rezoned is shown on Figure 10-3 below, taken from evidence presented to the hearing by Ms Fiona Black, a witness for the submitter.



Figure 10-3 – Modified Rezoning request. Image taken from the evidence of Ms Black.

5.4. The Case for Rezoning

23. Evidence for the submitter, from Ms Fiona Black,¹² is that it manages the land affected on behalf of DOC and subject to legal agreements with DOC. It wishes to expand the range of activities it offers, including walking and cycling tracks, a children's adventure playground, a multi-purpose space including a conference venue and wedding chapel. It also intends to carry out ecological restoration and replanting of passive areas of the site. It considered any traffic effects at the Steamer Wharf in Queenstown from increased numbers of visitors would be mitigated by the fact that its parent company, Real Journeys Limited, transports many of its visitors directly to the wharf by coach. The activity generates small amounts of visitor and

¹² F Black, EIC, 9 June 2017

service traffic via the Mavora Lakes/Von Road and this is not expected to increase by more than minimal levels.

24. Mr Ben Farrell, the planning witness, said that any landscape effects could be dealt with by adjustments to the zone rules, for example by elevating the activity status of buildings to restricted discretionary.¹³
25. For the Council, its landscape architect Dr Read, considered that any rezoning should be confined to the lower areas adjacent to the existing facilities and should not extend up the southern slopes as proposed.¹⁴ Mr Buxton, the planning witness, was concerned that the Rural Visitor zoning is an ODP zoning, and too little was known about the proposed activities to be able to assess any effects they might generate.¹⁵

6. DISCUSSION OF PLANNING FRAMEWORK

26. The land is zoned Rural within ONL. Strategic Objectives and Policies in Chapters 3 and 6 of the PDP require the identification of ONL's and avoidance of adverse effects on them that would be more than minor and or not temporary. Subdivision and development are discouraged in ONL's unless the landscape can absorb the change and where the buildings and structures and associated roading and boundary changes would be reasonably difficult to see from beyond the boundary of the site.¹⁶
27. The Zone Purpose for the Rural Zone is to enable farming activities and provide for appropriate other activities that rely on rural resources, while protecting, maintaining and enhancing landscape values, ecosystem services, nature conservation values, the soil and water resource and rural amenity. The Zone Purpose also recognises that a substantial proportion of the ONLs of the district comprises private land managed in traditional pastoral farming systems. Rural land values tend to be driven by the high landscape and amenity values in the district. The long-term sustainability of pastoral farming will depend upon farmers being able to achieve economic returns from utilising the natural and physical resources of their properties. For this reason, it is important to acknowledge the potential for a range of alternative uses of farm rural properties that utilise the qualities that make them so valuable¹⁷.
28. Objectives and Policies of Chapter 21 provide for a range of land uses including farming to be enabled, while protecting landscape and other natural and amenity values, and recognising economic diversification and sustainable commercial recreation activities.¹⁸ Rules in the plan provide for residential and larger scale commercial recreation as discretionary activities.

7. ISSUES

- a. Landscape
- b. Traffic
- c. Ecology

¹³ B Farrell, EIC, 9 June 2017, paragraph 16

¹⁴ Dr M Read, EIC, 24 May 2017, paragraphs 16.2 – 16.19

¹⁵ R Buxton, Section42A Report, 24 May 2017, paragraphs 24.6 – 24.11

¹⁶ See Objective 3.2.5, policies 3.2.5.1, and 3.3.30, and Policy 6.3.1

¹⁷ Chapter 21, Section 21.1

¹⁸ See Objectives 21.2.1, and Policy 21.2.1.1

- d. How to best accommodate increases in visitor activity.

8. DISCUSSION OF ISSUES AND CONCLUSIONS

29. Firstly we observe that we are, in principle, sympathetic to the submitter's wish to augment and increase the scale of its activities at Walter Peak and we have no doubt that this would be achievable and that the submitter has the ability and the motivation to carry this out.
30. With regard to the landscape issue, we agree with Mr Farrell that it may be possible to address this issue by inserting more rigorous rules into the proposed zone, although we think the revisions to the rules would need to go well beyond his suggestion, for reasons already outlined.¹⁹ We also agree with Dr Read that buildings on the southern slopes would be prominent, and as the area is an ONL, buildings there may be a significant issue for the development, and with Mr Buxton that the ODP Rural Visitor Zone does not provide the means to manage that effectively. Not knowing even in general terms what is proposed compounds the difficulty.
31. With regard to ecology, we accept that the submitters stated intentions, and its agreements with DOC provide sufficient assurance that any adverse effects of significant ecology would be minimal. With regard to traffic, we think the Mavora Lakes/Von Rd is too long and too remote to attract significant amounts of additional traffic. We accept that the company is in a good position to manage and mitigate at least some traffic congestion at the Steamer Wharf in Queenstown.
32. As we have stated on other cases, we are not prepared to import the existing Rural Visitor Zone from the ODP into the PDP, or to rewrite it in various forms for various sites. We are particularly concerned that in this case the submission covers only part of the Walter Peak site, and any new zoning we might create would have to sit alongside whatever the Council chooses to introduce when it reviews the ODP Rural Visitor zoning during a later stage of the plan review process. Thus, while we are sympathetic to the submitter's plans, we think the best way forward at this stage is to wait for the Council's review of the Rural Visitor Zone and for any proposals that may proceed in the meantime to be dealt with through the resource consent process under the Rural Zone.

9. RECOMMENDATION

33. For the reasons set out above, we recommend that:
 - a. Submission 607.22 be rejected; and that
 - b. The Council consider the introduction of a variation to rezone this site when it reviews the ODP Rural Visitor Zone.

¹⁹ See our discussion of the same issue in Part A of this report

12 QUEENSTOWN TOWN CENTRE



QUEENSTOWN
LAKES DISTRICT
COUNCIL

12.1

Zone Purpose

Town centres provide a focus for community life, retail, entertainment, business and services. They provide a vital function for serving the needs of residents, and as key destinations for visitors to our District, they provide a diverse range of visitor accommodation and visitor-related businesses. High visitor flows significantly contribute to the vibrancy and economic viability of the centres.

Queenstown will increasingly become a dynamic and vibrant centre with high levels of tourism activity that provides essential visitor-related employment. It serves as the principal administrative centre for the District and offers the greatest variety of activities for residents and visitors. It has a range of entertainment options and serves as a base for commercial outdoor recreation activities occurring throughout the Wakatipu Basin. Visitor accommodation is provided within and near to the town centre. Over time, Queenstown town centre will evolve into a higher intensity and high quality urban centre.

Development within the Special Character Area of the Town Centre Zone (shown on Planning Maps) is required to be consistent with the Queenstown Town Centre Design Guidelines 2015, reflecting the specific character and design attributes of development in this part of the Town Centre. The Entertainment Precinct (also shown on Planning Maps) has permitted noise thresholds that are higher than other parts of the Town Centre in order to encourage those noisier operations to locate in the most central part of town, where it will have least effect on residential zones.

The Queenstown Waterfront Sub-Zone makes an important contribution to the amenity, vibrancy, and sense of place of the Queenstown Town Centre as a whole.

12.2

Objectives and Policies

12.2.1 Objective - A Town Centre that remains relevant to residents and visitors alike and continues to be the District’s principal mixed use centre of retail, commercial, administrative, entertainment, cultural, and tourism activity.

Policies	12.2.1.1	Enable intensification within the Town Centre through: <ul style="list-style-type: none"> a. enabling sites to be entirely covered with built form other than in the Town Centre Transition Sub-Zone and in relation to comprehensive developments provided identified pedestrian links are retained; and b. enabling additional building height in some areas provided such intensification is undertaken in accordance with best practice urban design principles and the effects on key public amenity and character attributes are avoided or satisfactorily mitigated.
	12.2.1.2	Provide for new commercial development opportunities within the Town Centre Transition Sub-Zone that are affordable relative to those in the core of the Town Centre in order to retain and enhance the diversity of commercial activities within the Town Centre.
	12.2.1.3	Recognise the important contribution that night time activity makes to the vibrancy and economic prosperity of the Town Centre by enabling restaurant and bar activities to occur subject to appropriate noise controls.

- 12.2.1.4 Enable residential activities and visitor accommodation activities while acknowledging that there will be a lower level of residential amenity due to increased noise and activity resulting from the mix of activities and late night nature of the town centre.

12.2.2 Objective - Development that achieves high quality urban design outcomes and contributes to the town’s character, heritage values and sense of place.

- Policies
- 12.2.2.1 Require development in the Special Character Area to be consistent with the design outcomes sought by the Queenstown Town Centre Design Guidelines 2015.
- 12.2.2.2 Require development to:
- a. maintain the existing human scale of the Town Centre as experienced from street level through building articulation and detailing of the façade, which incorporates elements which break down building mass into smaller units which are recognisably connected to the viewer; and
 - b. contribute to the quality of streets and other public spaces and people’s enjoyment of those places; and
 - c. positively respond to the Town Centre’s character and contribute to the town’s ‘sense of place’.
- 12.2.2.3 Control the height and mass of buildings in order to:
- a. provide a reasonable degree of certainty in terms of the potential building height and mass; or
 - b. retain and provide opportunities to frame important view shafts to the surrounding landscape; or
 - c. maintain sunlight access to public places and to footpaths, with a particular emphasis on retaining solar access into the Special Character Area (as shown on Planning Maps 35 and 36); or
 - d. minimise the wind tunnel effects of buildings in order to maintain pleasant pedestrian environments.
- 12.2.2.4 Allow buildings to exceed the discretionary height standards in situations where:
- a. the outcome is of a high-quality design, which is superior to that which would be achievable under the permitted height; and
 - b. the cumulative effect of the additional height does not result in additional shading that will progressively degrade the pedestrian environment or enjoyment of public spaces, while accepting that individual developments may increase the shading of public pedestrian space to a small extent provided this is offset or compensated for by the provision of additional public space or a pedestrian link within the site; and
 - c. the increase in height will facilitate the provision of residential activity.
- 12.2.2.5 Prevent buildings exceeding the maximum height standards except that it may be appropriate to allow additional height in situations where:
- a. the proposed design is an example of design excellence; and
 - b. building height and bulk have been reduced elsewhere on the site in order to:

- i. reduce the impact of the proposed building on a listed heritage item; or
- ii. provide an urban design outcome that has a net benefit to the public environment.

For the purpose of this policy, urban design outcomes that are beneficial to the public environment include:

- a. provision of sunlight to any public space of prominence or space where people regularly congregate;
 - b. provision of a new or retention of an existing uncovered pedestrian link or lane;
 - c. where applicable, the restoration and opening up of Horne Creek as part of the public open space network;
 - d. provision of high quality, safe public open space;
 - e. retention of a view shaft to an identified landscape feature;
 - f. minimising wind tunnel effects of buildings in order to maintain pleasant pedestrian environments.
 - g. the creation of landmark buildings on key block corners and key view terminations.
- 12.2.2.6 Ensure that development within the Special Character Area reflects the general historic subdivision layout and protects and enhances the historic heritage values that contribute to the scale, proportion, character and image of the Town Centre.
- 12.2.2.7 Acknowledge and celebrate our cultural heritage, including incorporating reference to tangata whenua values, in the design of public spaces, where appropriate.
- 12.2.2.8 Acknowledge that parts of the Queenstown Town Centre are susceptible to flood risk and mitigate the effects of this through:
- a. requiring minimum floor heights to be met; and
 - b. encouraging higher floor levels (of at least RL 312.8 masl) where amenity, mobility, streetscape, and character values are not adversely affected; and
 - c. encouraging building design and construction techniques which limit the impact of flooding or ponding in areas of known risk.
- 12.2.2.9 Require high quality comprehensive developments within the Town Centre Transition Sub-Zone and on large sites elsewhere in the Town Centre, which provides primarily for pedestrian links and lanes, open spaces, outdoor dining, and well planned storage and loading/ servicing areas within the development.

12.2.3 **Objective** – An increasingly vibrant Town Centre that continues to prosper while maintaining a reasonable level of residential amenity within and beyond the Town Centre Zone.

- Policies
- 12.2.3.1 Minimise conflicts between the Town Centre and the adjacent residential zone by avoiding high levels of night time noise being generated on the periphery of the Town Centre and controlling the height and design of buildings at the zone boundary.

- 12.2.3.2 Recognise the important contribution that night time activity makes to the vibrancy and economic prosperity of the Town Centre and specifically provide for those activities, while mitigating effects on residential amenity by:
 - a. enabling night time dining and socialising, both indoors and outdoors, to varying degrees throughout the Town Centre; and
 - b. providing for noisier night time activity within the entertainment precinct in order to minimise effects on residential zones adjacent to the Town Centre; and
 - c. ensuring that the nature and scale of licensed premises located in the Town Centre Transition Sub-Zone result in effects that are compatible with adjoining residential zones; and
 - d. enabling activities within the Town Centre Zone that comply with the noise limits; and
 - e. requiring sensitive uses within the Town Centre to mitigate the adverse effects of noise through insulation.
- 12.2.3.3 Enable residential and visitor accommodation activities within the Town Centre while:
 - a. acknowledging that it will be noisier and more active than in residential zones due to the density, mixed use, and late night nature of the Town Centre and requiring that such sensitive uses are insulated for noise; and
 - b. discouraging residential uses at ground level in those areas where active frontages are particularly important to the vibrancy of the Town Centre; and
 - c. avoiding, or, where this is not possible, mitigating adverse traffic effects from visitor accommodation through encouraging operators to provide guests with alternatives to private car travel, discouraging the provision of onsite car parking, and through the careful location and design of any onsite parking and loading areas; and
 - d. only enabling new residential and visitor accommodation uses within the Town Centre Entertainment Precinct where adequate insulation and mechanical ventilation is installed.
- 12.2.3.4 Avoid the establishment of activities that cause noxious effects that are not appropriate for the Town Centre.
- 12.2.3.5 Ensure that the location and direction of lights in the Town Centre does not cause significant glare to other properties, roads, and public places and promote lighting design that mitigates adverse effects on views of the night sky.
- 12.2.3.6 Recognise the important contribution that sunny open spaces, footpaths, and pedestrian spaces makes to the vibrancy and economic prosperity of the Town Centre.

12.2.4 **Objective** - A compact Town Centre that is safe and easily accessible for both visitors and residents.

- Policies
- 12.2.4.1 Encourage a reduction in the dominance of vehicles within the Town Centre and a shift in priority toward providing for public transport and providing safe and pleasant pedestrian and cycle access to and through the Town Centre.

- 12.2.4.2 Ensure that the Town Centre remains compact, accessible and easily walkable by avoiding outward expansion of the Town Centre Zone. Encourage walking to and within the Town Centre by improving the quality of the pedestrian experience by:
- maintaining and enhancing the existing network of pedestrian linkages and ensuring these are of a high quality;
 - requiring new pedestrian linkages in appropriate locations when redevelopment occurs;
 - strictly limiting outward expansion of the Town Centre Zone and commercial activity beyond it;
 - encouraging the provision of verandas along pedestrian-oriented streets, while acknowledging that verandas may not be appropriate or necessary in applications involving a heritage building; or where no verandas exist on adjoining buildings, and may need to be specifically designed so as to not interfere with kerbside movements of high-sided vehicles;
 - promoting and encouraging the maintenance and creation of uncovered pedestrian links and lanes wherever possible, in recognition that these are a key feature of Queenstown character;
 - promoting the opening up of Horne Creek wherever possible, in recognition that it is a key visual and pedestrian feature of Queenstown, which contributes significantly to its character; and
 - ensuring the cumulative effect of buildings does not result in additional shading that will progressively degrade the pedestrian environment or enjoyment of public spaces, while accepting that individual developments may increase the shading of public pedestrian space to a small extent provided this is offset or compensated for by the provision of additional public space or a pedestrian link within the site.
- 12.2.4.3 Minimise opportunities for anti-social behaviour through incorporating Crime Prevention Through Environmental Design (CPTED) principles as appropriate in the design of streetscapes, carparking areas, public and semi-public spaces, accessways/ pedestrian links/ lanes, and landscaping.
- 12.2.4.4 Off-street parking is predominantly located at the periphery of the Town Centre in order to limit the impact of vehicles, particularly during periods of peak visitor numbers.
- 12.2.4.5 Plan for future public transport options by considering the needs of public transport services and supporting infrastructure when designing roading improvements or considering jetty applications.
- 12.2.4.6 Encourage visitor accommodation to be located and designed in a manner that minimises traffic issues that may otherwise affect the safety efficiency, and functionality of the roading network, and the safety and amenity of pedestrians and cyclists, particularly in peak periods.

12.2.5 Objective - Integrated management of the Queenstown Bay land-water interface, the activities at this interface and the establishment of a dynamic and attractive environment that benefits both residents and visitors.

- Policies
- 12.2.5.1 Encourage the development of an exciting and vibrant waterfront, which maximises the opportunities and attractions inherent in its location and setting as part of the Town Centre.
 - 12.2.5.2 Promote a comprehensive approach to the provision of facilities for water-based activities.
 - 12.2.5.3 Conserve and enhance, where appropriate, the natural qualities and amenity values of the foreshore and adjoining waters, recognising in particular, the predominantly undeveloped character of the 'Queenstown beach and gardens foreshore area' (as identified on the Planning Map) and the important contribution this area makes to providing views to the lake and mountains, pedestrian and cycle connections, water-based commercial recreation activities, and passive recreation opportunities.
 - 12.2.5.4 Retain and enhance all the public open space areas adjacent to the waterfront.
 - 12.2.5.5 Maximise pedestrian accessibility to and along the waterfront for the enjoyment of the physical setting by the community and visitors.
 - 12.2.5.6 Provide for structures within the Queenstown Bay waterfront area subject to compliance with strict bulk location and appearance criteria, provided the existing predominantly open character and a continuous pedestrian waterfront connection will be maintained or enhanced.
 - 12.2.5.7 Provide for public water ferry services within the Queenstown Town Centre Waterfront Subzone.

12.3

Other Provisions and Rules

12.3.1 District Wide

Attention is drawn to the following District Wide chapters.

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

12.3.2 Interpreting and Applying the Rules

12.3.2.1 A permitted activity must comply with all the rules listed in the activity and standards tables.

12.3.2.2 Where an activity does not comply with a Standard listed in the Standards table, the activity status identified by the 'Non-Compliance Status' column shall apply.

13.3.2.3 Where an activity breaches more than one Standard, the most restrictive status shall apply to the Activity.

12.3.2.4 The following abbreviations are used within this Chapter.

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

12.4 Rules - Activities

	Activities located in the Queenstown Town Centre Zone	Activity status
12.4.1	Activities which are not listed in this table and comply with all standards	P
12.4.2	<p>Visitor Accommodation</p> <p>Control is reserved to:</p> <ul style="list-style-type: none"> a. the location, provision, and screening of access and parking, traffic generation, and travel demand management, with a view to maintaining the safety and efficiency of the roading network, and minimising private vehicle movements to/ from the accommodation; ensuring that where onsite parking is provided it is located or screened such that it does not adversely affect the streetscape or pedestrian amenity; and promoting the provision of safe and efficient loading zones for buses; b. landscaping; c. the location, nature and scale of visitor accommodation and ancillary activities relative to one another within the site and relative to neighbouring uses; and d. where the site adjoins a residential zone: <ul style="list-style-type: none"> i. noise generation and methods of mitigation; ii. hours of operation, in respect of ancillary activities. 	C

	Activities located in the Queenstown Town Centre Zone	Activity status
12.4.3	<p>Commercial Activities within the Queenstown Town Centre Waterfront Sub-Zone (including those that are carried out on a wharf or jetty) except for those commercial activities on the surface of water that are provided for as discretionary activities pursuant to Rule 12.4.7.2.</p> <p>Control is reserved to:</p> <ul style="list-style-type: none"> a. any adverse effects of additional traffic generation from the activity; b. the location and design of access and loading areas in order to ensure safe and efficient movement of pedestrians, cyclists, and vehicles; and c. the erection of temporary structures and the temporary or permanent outdoor storage of equipment in terms of: <ul style="list-style-type: none"> i. any adverse effect on visual amenity and on pedestrian or vehicle movement; and ii. the extent to which a comprehensive approach has been taken to providing for such areas within the Sub-Zone. 	C
12.4.4	<p>Licensed Premises</p> <p>12.4.4.1 Other than in the Town Centre Transition Sub-Zone premises licensed for the consumption of liquor on the premises between the hours of 11pm and 8am, provided that this rule shall not apply to the sale of liquor:</p> <ul style="list-style-type: none"> a. to any person who is residing (permanently or temporarily) on the premises; and/or b. to any person who is present on the premises for the purpose of dining up until 12am. <p>12.4.4.2 Premises within the Town Centre Transition Sub-Zone licensed for the consumption of liquor on the premises between the hours of 6pm and 11pm provided that this rule shall not apply to the sale of liquor:</p> <ul style="list-style-type: none"> a. to any person who is residing (permanently or temporarily) on the premises; and/or b. to any person who is present on the premises for the purpose of dining up until 12am. <p>In relation to both 12.4.4.1 and 12.4.4.2 above, control is reserved to:</p> <ul style="list-style-type: none"> a. the scale of the activity; b. effects on amenity (including that of adjoining residential zones and public reserves); c. the provision of screening and/ or buffer areas between the site and adjoining residential zones; d. the configuration of activities within the building and site (e.g. outdoor seating, entrances); and e. noise issues, and hours of operation. 	C

	Activities located in the Queenstown Town Centre Zone	Activity status
12.4.5	<p>Licensed Premises within the Town Centre Transition Sub-Zone</p> <p>Premises within the Town Centre Transition Sub-Zone licensed for the consumption of liquor on the premises between the hours of 11 pm and 8 am.</p> <p>This rule shall not apply to the sale of liquor:</p> <ul style="list-style-type: none"> a. to any person who is residing (permanently or temporarily) on the premises; and/or b. to any person who is present on the premises for the purpose of dining up until 12 am. <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. the scale of the activity; b. effects on amenity (including that of adjoining residential zones and public reserves); c. the provision of screening and/ or buffer areas between the site and adjoining residential zones; d. the configuration of activities within the building and site (e.g. outdoor seating, entrances); and e. noise issues, and hours of operation. 	RD
12.4.6	<p>Buildings except temporary 'pop up' buildings that are in place for no longer than 6 months and permanent and temporary outdoor art installations</p> <p>Buildings, including verandas, and any pedestrian link provided as part of the building/ development.</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. consistency with the Queenstown Town Centre Special Character Area Design Guidelines (2015), (noting that the guidelines apply only to the Special Character Area); b. external appearance, including materials and colours; c. signage platforms; d. lighting; e. the impact of the building on the streetscape, heritage values, compatibility with adjoining buildings, the relationship to adjoining verandas; f. the contribution the building makes to the safety of the Town Centre through adherence to CPTED principles; g. the contribution the building makes to pedestrian flows and linkages and to enabling the unobstructed kerbside movement of high-sided vehicles where applicable; h. the provision of active street frontages and, where relevant, outdoor dining/patronage opportunities; and i. where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: <ul style="list-style-type: none"> i. the nature and degree of risk the hazard(s) pose to people and property; ii. whether the proposal will alter the risk to any site; and iii. the extent to which such risk can be avoided or sufficiently mitigated. 	RD

	Activities located in the Queenstown Town Centre Zone	Activity status
12.4.7	<p>Wharfs and jetties, commercial surface of water activities, and moorings within the Queenstown Town Centre Waterfront Sub-Zone</p> <p>12.4.7.1 Wharfs and Jetties within the ‘active frontage area’ of the Queenstown Town Centre Waterfront Sub-Zone as shown on the Planning Maps.</p> <p>12.4.7.2 Commercial Surface of Water Activities within the Queenstown Town Centre Waterfront Sub-Zone as shown on the Planning Maps.</p> <p>In respect of 12.4.7.1 and 12.4.7.2 the Council’s discretion is unlimited but it shall consider: The extent to which the proposal will:</p> <ol style="list-style-type: none"> a. create an exciting and vibrant waterfront which maximises the opportunities and attractions inherent in a visitor town situated on a lakeshore; b. maintain a continuous waterfront walkway from Horne Creek right through to St Omer Park; c. maximise the ability to cater for commercial boating activities to an extent compatible with maintenance of environmental standards and the nature and scale of existing activities; d. provide for or support the provision of one central facility in Queenstown Bay for boat refuelling, bilge pumping, sewage pumping. e. maintain or enhance public access to the lake and amenity values including character; f. affect water quality, navigation and people’s safety, and adjoining infrastructure; and g. the extent to which any proposed wharfs and jetties structures or buildings will: <ol style="list-style-type: none"> i. enclose views across Queenstown Bay; and ii. result in a loss of the generally open character of the Queenstown Bay and its interface with the land; iii. affect the values of wāhi Tūpuna. <p>12.4.7.3 Moorings within the ‘Queenstown beach and gardens foreshore area’ of the Queenstown Town Centre Waterfront Sub-Zone (as shown on the Planning Maps).</p> <p>In respect of 12.4.7.3 discretion is restricted to:</p> <ol style="list-style-type: none"> a. whether they are dominant or obtrusive elements in the shore scape or lake view, particularly when viewed from any public place, including whether they are situated in natural bays and not headlands; b. whether the structure causes an impediment to craft manoeuvring and using shore waters; c. the degree to which the structure will diminish the recreational experience of people using public areas around the shoreline; d. the effects associated with congestion and clutter around the shoreline, including whether the structure contributes to an adverse cumulative effect; e. whether the structure will be used by a number and range of people and craft, including the general public; and f. the degree to which the structure would be compatible with landscape and amenity values, including colour, materials, design. 	<p>D</p> <p>D</p> <p>RD</p>

Activities located in the Queenstown Town Centre Zone		Activity status
12.4.8	Wharfs and jetties, buildings on wharfs and jetties, and the use of buildings or boating craft for accommodation within the Queenstown Town Centre Waterfront Sub-Zone	NC
12.4.8.1	Wharfs and Jetties within the 'Queenstown beach and gardens foreshore area' of the Queenstown Town Centre Waterfront Sub-Zone as shown on the Planning Maps.	
12.4.8.2	Any buildings located on Wharfs and Jetties within the Queenstown Town Centre Waterfront Sub-Zone.	
12.4.8.3	Buildings or boating craft within the Queenstown Town Centre Waterfront Sub-Zone if used for visitor, residential or overnight accommodation.	
12.4.9	Industrial Activities at ground floor level Note: Specific industrial activities are listed separately below as prohibited activities.	NC
12.4.10	Factory Farming	PR
12.4.11	Forestry Activities	PR
12.4.12	Mining Activities	PR
12.4.13	Airports other than the use of land and water for emergency landings, rescues and firefighting.	PR
12.4.14	Panelbeating, spray painting, motor vehicle repair or dismantling, fibreglassing, sheet metal work, bottle or scrap storage, motorbody building.	PR
12.4.15	Fish or meat processing (excluding that which is ancillary to a retail premises such as a butcher, fishmonger or supermarket).	PR
12.4.16	Any activity requiring an Offensive Trade Licence under the Health Act 1956	PR

12.5

Rules - Standards

	Standards for activities located in the Queenstown Town Centre Zone	Non-compliance status
12.5.1	<p>Maximum building coverage in the Town Centre Transition Sub-Zone and in relation to and comprehensive developments</p> <p>12.5.1.1 In the Town Centre Transition Sub-Zone or when undertaking a comprehensive development (as defined), the maximum building coverage shall be 75%.</p> <p>Advice Note: While there is no maximum coverage rule elsewhere in the Town Centre, this does not suggest that 100% building coverage is necessarily anticipated on all sites as outdoor storage areas, and pedestrian linkages might be required.</p> <p>12.5.1.2 Any application for building within the Town Centre Transition Sub-Zone or for Comprehensive Development Plan that covers the entire development area.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> the adequate provision of cycle, vehicle, and pedestrian links and lanes, open spaces, outdoor dining opportunities; the adequate provision of storage and loading/ servicing areas; the provision of open space within the site, for outdoor dining or other purposes; the site layout and location of buildings, public access to the buildings, and landscaping, particularly in relation to how the layout of buildings and open space interfaces with the street edge and any adjoining public places and how it protects and provides for view shafts, taking into account the need for active street frontages, compatibility with the character and scale of nearby residential zones, listed heritage items, and heritage precincts, and the amenity and safety of adjoining public spaces and designated sites, including shading and wind effects.
12.5.2	<p>Waste and Recycling Storage Space</p> <p>12.5.2.1 Offices shall provide a minimum of 2.6m³ of waste and recycling storage (bin capacity) and minimum 8m² floor area for every 1,000m² gross floor space, or part thereof.</p> <p>12.5.2.2 Retail activities shall provide a minimum of 5m³ of waste and recycling storage (bin capacity) and minimum 15m² floor area for every 1,000m² gross floor space, or part thereof.</p> <p>12.5.2.3 Food and beverage outlets shall provide a minimum of 1.5m³ (bin capacity) and 5m² floor area of waste and recycling storage per 20 dining spaces, or part thereof.</p> <p>12.5.2.4 Residential and Visitor Accommodation activities shall provide a minimum of 80 litres of waste and recycling storage per bedroom, or part thereof.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> the adequacy of the area, dimensions, design, and location of the space allocated, such that it is of an adequate size, can be easily cleaned, and is accessible to the waste collection contractor, such that it need not be put out on the kerb for collection. The storage area needs to be designed around the type(s) of bin to be used to provide a practicable arrangement. The area needs to be easily cleaned and sanitised, potentially including a foul floor gully trap for wash down and spills of waste.

	Standards for activities located in the Queenstown Town Centre Zone	Non-compliance status
12.5.3	<p>Screening of Storage Areas</p> <p>Storage areas shall be situated within a building or screened from view from all public places, adjoining sites and adjoining zones.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. effects on visual amenity; b. consistency with the character of the locality; c. effects on human safety in terms of CPTED principles; and d. whether pedestrian and vehicle access is compromised.
12.5.4	<p>Verandas</p> <p>12.5.4.1 Every new, reconstructed or altered building (excluding repainting) with frontage to the roads listed below shall include a veranda or other means of weather protection.</p> <ul style="list-style-type: none"> a. Shotover Street (Stanley Street to Hay Street); b. Beach Street; c. Rees Street; d. Camp Street (Church Street to Man Street); e. Brecon Street (Man Street to Shotover Street); f. Church Street (north west side); g. Queenstown Mall (Ballarat Street); h. Athol Street; i. Stanley Street (Coronation Drive to Memorial Street). <p>12.5.4.2 Verandas shall be no higher than 3m above pavement level and no verandas on the north side of a public place or road shall extend over that space by more than 2m and those verandas on the south side of roads shall not extend over the space by more than 3m.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. consistency of the proposal and the Queenstown Town Centre Design Guidelines (2015) where applicable; and b. effects on pedestrian amenity, the human scale of the built form, and on historic heritage values.

	Standards for activities located in the Queenstown Town Centre Zone	Non-compliance status
12.5.5	<p>Residential Activities</p> <p>12.5.5.1 Residential activities shall not be situated at ground level in any building with frontage to the following roads:</p> <ol style="list-style-type: none"> a. Stanley Street (Coronation Drive to Memorial Street); b. Camp Street (Man Street to Earl Street); c. Queenstown Mall (Ballarat Street) ; d. Church Street; e. Marine Parade (north of Church Street); f. Beach Street; g. Rees Street; h. Shotover Street; i. Brecon Street; j. Athol Street; k. Duke Street. 	<p>RD</p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> a. effects on the ability to achieve active frontages along these streets; b. effects on surrounding buildings and activities; and c. the quality of the living environment within the building.
12.5.6	<p>Flood Risk</p> <p>No building greater than 20m² with a ground floor level less than RL 312.0 masl shall be relocated to a site, or constructed on a site, within this zone.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> a. the level of risk from flooding and whether the risk can be appropriately avoided or mitigated; and b. the extent to which the construction of the building will result in the increased vulnerability of other sites to flooding.

	Standards for activities located in the Queenstown Town Centre Zone	Non-compliance status
12.5.7	<p>Provision of Pedestrian Links and Lanes</p> <p>12.5.7.1 All new buildings and building redevelopments located on sites which are identified for pedestrian links or lanes in Figure 1 (at the end of this chapter) shall provide a ground level pedestrian link or lane in the general location shown.</p> <p>12.5.7.2 Where a pedestrian link or lane required by Rule 12.5.7.1 is open to the public during retailing hours the Council will consider off-setting any such area against development levies and car parking requirements.</p> <p>12.5.7.3 Where an existing lane or link identified in Figure 1 is uncovered then, as part of any new building or redevelopment of the site, it shall remain uncovered and shall be a minimum of 4m wide and where an existing link is covered then it may remain covered and shall be at least 1.8 m wide, with an average minimum width of 2.5m.</p> <p>12.5.7.4 In all cases, lanes and links shall be open to the public during all retailing hours.</p> <p>Location of Pedestrian Links within the Queenstown Town Centre</p> <ol style="list-style-type: none"> Shotover St / Beach St, Lot 2 DP 11098; Trustbank Arcade (Shotover St/Beach St), Lot 1 DP Tn of Queenstown; Plaza Arcade, Shotover St/Beach 1 DP 17661; (Cow Lane/Beach Street, Sec 30 Blk I Tn of Queenstown; Cow Lane / Beach Street, Lot 1 DP 25042; Cow Lane / Ballarat Street, Lot 2 DP 19416; Ballarat St/Searle Lane, Sec 22 & Pt Sec 23 BLK II Tn Queenstown, Ballarat Street/Searle Lane and part of Searle Lane land parcel; Church St/Earl St, Sections Lot 1 DP 27486; Searle Lane/Church St, Lot 100 DP 303504 Camp/ Stanley St, post office precinct, Lot 2 DP 416867; Camp/ Athol St, Lot 1 DP 20875. <p>Advice Notes:</p> <ol style="list-style-type: none"> where an uncovered pedestrian link or lane (i.e. open to the sky) is provided in accordance with this rule, additional building height may be appropriate pursuant to Policies 12.2.2.4 and 12.2.2.5; where an alternative link is proposed as part of the application which is not on the development site but achieves the same or a better outcome then this is likely to be considered appropriate. 	<p>RD</p> <p>Where the required link is not proposed as part of development, discretion is restricted to:</p> <ol style="list-style-type: none"> the adverse effects on the pedestrian environment, connectivity, legibility, and Town Centre character from not providing the link.

	Standards for activities located in the Queenstown Town Centre Zone	Non-compliance status
12.5.8	<p>Discretionary Building Height in Precinct 1, Precinct 1(A), Precinct 2, Precinct 4 and Precinct 5</p> <p>For the purpose of this rule, refer to the Height Precinct Map (Figure 2 at the end of this Chapter).</p> <p>12.5.8.1 Within Precinct 1 and Precinct 1 (A) the maximum height shall be 12m: and</p> <p>12.5.8.2 Within Precinct 1 (A) no part of any building shall protrude through a recession line inclined towards the site at an angle of 45 degrees commencing from a line 10m above the street boundary.</p> <p>12.5.8.3 Within Precinct 2, no part of any building shall protrude through a recession line inclined towards the site at an angle of 30 degrees commencing from a line 6.5m above any street boundary.</p> <p>12.5.8.4 Within Precinct 4, no part of any building shall protrude through a recession line inclined towards the site at an angle of 45 degrees commencing from a line 10m above the street boundary.</p> <p>12.5.8.5 Within Precinct 5, the street front parapet shall be between 7.5 and 8.5m in height and no part of any building shall protrude through a recession line inclined towards the site at an angle of 45 degrees commencing from a line 7.5m above any street boundary.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <p>a. the effect of any additional height on the urban form of the Town Centre and the character of the height precinct within which it is located. The Council will consider:</p> <ul style="list-style-type: none"> i. the extent to which the proposed building design responds sensitively to difference in height, scale and mass between the proposal and existing buildings on adjacent sites and with buildings in the wider height precinct, in terms of use of materials, facade articulation and roof forms; and ii. the effect on human scale and character as a result of proposed articulation of the façade, the roofline, and the roofscape; and iii. the amenity of surrounding streets, lanes, footpaths and other public spaces, including the effect on sunlight access to public spaces and footpaths; the provision of public space and pedestrian links; and iv. the opportunity to establish landmark buildings on key sites, such as block corners and key view terminations; and <p>b. The protection or enhancement of public views of Lake Wakatipu or of any of the following peaks:</p> <ul style="list-style-type: none"> i. Bowen Peak; ii. Walter Peak; iii. Cecil Peak; iv. Bobs Peak; v. Queenstown Hill; vi. The Remarkables Range (limited to views of Single and Double Cone); and vii. effects on any adjacent Residential Zone; and viii. the historic heritage value of any adjacent heritage item/ precinct and whether it acknowledges and respects the scale and form of this heritage item/ precinct.

	Standards for activities located in the Queenstown Town Centre Zone	Non-compliance status
12.5.9	<p>Maximum building and facade height</p> <p>For the purpose of this rule, refer to the Height Precinct Map (Figure 2 at the end of this Chapter).</p> <p>12.5.9.1 In Height Precinct 1 Precinct 1 (A) and Precinct 2, subject to sub-clauses a – d below, the maximum absolute height limits shall be as follows:</p> <ul style="list-style-type: none"> i. 15m on Secs 4-5 Blk Xv Queenstown Tn (48-50 Beach St); ii. 15.5m in Precinct 1(A); iii. 14m elsewhere. <p>and</p> <ul style="list-style-type: none"> a. throughout the precinct, the building shall contain no more than 4 storeys excluding basements; b. in addition, buildings within the block bound by Ballarat, Beetham, and Stanley streets as identified on the Height Precinct Map shall not protrude through a horizontal plane drawn at 7m above any point along the north-eastern zone boundary of this block, as illustrated in the below diagram; <div data-bbox="667 758 1332 933" data-label="Diagram"> </div> <ul style="list-style-type: none"> c. in addition, on Secs 4-5 Blk Xv Queenstown Tn, (48-50 Beach Street) no part of any building shall protrude through a recession line inclined towards the site at an angle of 45 degrees commencing from a line 12m above any boundary; d. in addition, buildings within that part of the block bound by Man, Brecon, Shotover, and Hay streets shown on the Height Precinct Map as area P1 (i) shall not protrude through a horizontal plane drawn at 330.1 masl and that part of the block shown as P1 (ii) horizontal plane drawn at 327.1 masl. <p>12.5.9.2 In Height Precinct 3 (lower Beach St to Marine Parade and the Earl/ Church Street block) the maximum height shall be 8m and the street front parapet of buildings shall be between 7.5m and 8.5m and may protrude through the height plane.</p> <p>12.5.9.3 For any buildings located on a wharf or jetty, the maximum height shall be 4 m above RL 312.0 masl.</p>	NC

	Standards for activities located in the Queenstown Town Centre Zone	Non-compliance status
	<p>12.5.9.4 In Height Precinct 7 (Man Street):</p> <ul style="list-style-type: none"> a. in Area A shown on the Height Precinct Map, the maximum height shall be 11m above RL 327.1 masl. b. in Area B the maximum height shall be 14m above RL 327.1 masl; c. in Viewshaft C the maximum height shall be RL 327.1 masl (i.e. no building is permitted above the existing structure); d. in Viewshaft D, the maximum height shall be 3 m above RL 327.6masl. <p>12.5.9.5 For all other sites within the Town Centre Zone, the maximum height shall be 12m and, in addition, the following shall apply:</p> <ul style="list-style-type: none"> a. in Height Precinct 6 (land bound by Man, Duke and Brecon streets): <ul style="list-style-type: none"> i. no building shall protrude through a horizontal plane drawn at RL 332.20 masl except that decorative parapets may encroach beyond this by a maximum of up to 0.9 metre. This rule shall not apply to any lift tower within a visitor accommodation development in this area, which exceeds the maximum height permitted for buildings by 1m or less; and ii. no part of any building shall protrude through a recession line inclined towards the site at an angle of 45° commencing from a line 10m above the street boundary. 	

	Standards for activities located in the Queenstown Town Centre Zone	Non-compliance status																													
12.5.10	<p>Noise</p> <p>12.5.10.1 Sound* from activities in the Town Centre Zone and Town Centre Transition Sub-Zone (excluding sound from the sources specified in rules 12.5.10.3 to 12.5.10.5 below) shall not exceed the following noise limits at any point within any other site in these zones:</p> <table border="0" style="margin-left: 40px;"> <tr> <td>a. Daytime</td> <td>(0800 to 2200hrs)</td> <td>60 dB L_{Aeq(15 min)}</td> </tr> <tr> <td>b. Night-time</td> <td>(2200 to 0800hrs)</td> <td>50 dB L_{Aeq(15 min)}</td> </tr> <tr> <td>c. Night-time</td> <td>(2200 to 0800hrs)</td> <td>75 dB L_{AFmax}</td> </tr> </table> <p>*measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008.</p> <p>12.5.10.2 Sound from activities in the Town Centre Zone and Town Centre Transition Sub-Zone (excluding sound from the sources specified in rules 12.5.10.3 and 12.5.10.4 below) which is received in another zone shall comply with the noise limits set for the zone the sound is received in.</p> <p>12.5.10.3 Within the Town Centre Zone, excluding the Town Centre Transition Sub-Zone sound* from music shall not exceed the following limits:</p> <table border="0" style="margin-left: 40px;"> <tr> <td>a.</td> <td>60 dB L_{Aeq(5 min)} at any point within any other site in the Entertainment Precinct;</td> </tr> <tr> <td></td> <td>and</td> </tr> <tr> <td>b.</td> <td>at any point within any other site outside the Entertainment Precinct:</td> </tr> <tr> <td></td> <td> i. daytime (0800 to 0100 hrs) 55 dB L_{Aeq(5 min)}</td> </tr> <tr> <td></td> <td> ii. late night (0100 to 0800 hrs) 50 dB L_{Aeq(5 min)}</td> </tr> </table> <p>*measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008, and excluding any special audible characteristics and duration adjustments.</p> <p>12.5.10.4 Within the Town Centre Zone, excluding the Town Centre Transition Sub-Zone sound* from voices shall not exceed the following limits:</p> <table border="0" style="margin-left: 40px;"> <tr> <td>a.</td> <td>65 dB L_{Aeq(15 min)} at any point within any other site in the Entertainment Precinct;</td> </tr> <tr> <td></td> <td>and</td> </tr> <tr> <td>b.</td> <td>at any point within any other site outside the Entertainment Precinct:</td> </tr> <tr> <td></td> <td> i. daytime (0800 to 0100 hrs) 60 dB L_{Aeq(15 min)}</td> </tr> <tr> <td></td> <td> ii. late night (0100 to 0800 hrs) 50 dB L_{Aeq(15 min)}</td> </tr> </table> <p>*measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008.</p>	a. Daytime	(0800 to 2200hrs)	60 dB L _{Aeq(15 min)}	b. Night-time	(2200 to 0800hrs)	50 dB L _{Aeq(15 min)}	c. Night-time	(2200 to 0800hrs)	75 dB L _{AFmax}	a.	60 dB L _{Aeq(5 min)} at any point within any other site in the Entertainment Precinct;		and	b.	at any point within any other site outside the Entertainment Precinct:		i. daytime (0800 to 0100 hrs) 55 dB L _{Aeq(5 min)}		ii. late night (0100 to 0800 hrs) 50 dB L _{Aeq(5 min)}	a.	65 dB L _{Aeq(15 min)} at any point within any other site in the Entertainment Precinct;		and	b.	at any point within any other site outside the Entertainment Precinct:		i. daytime (0800 to 0100 hrs) 60 dB L _{Aeq(15 min)}		ii. late night (0100 to 0800 hrs) 50 dB L _{Aeq(15 min)}	NC
a. Daytime	(0800 to 2200hrs)	60 dB L _{Aeq(15 min)}																													
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	Standards for activities located in the Queenstown Town Centre Zone	Non-compliance status
	<p>12.5.10.5 Within the Town Centre Zone, excluding the Town Centre Transition Sub-Zone sound* from any loudspeaker outside a building shall not exceed 75 dB $L_{Aeq(5min)}$ measured at 0.6 metres from the loudspeaker.</p> <p>* measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008, excluding any special audible characteristics and duration adjustments.</p> <p>Exemptions from Rule 12.5.10:</p> <ol style="list-style-type: none"> the noise limits in 12.5.10.1 and 12.5.10.2 shall not apply to construction sound which shall be assessed in accordance and comply with NZS 6803:1999. the noise limits in 12.5.10.1 to 12.5.10.5 shall not apply to outdoor public events pursuant to Chapter 35 of the District Plan. the noise limits in 12.5.10.1 and 12.5.10.2 shall not apply to motor/ water noise from commercial motorised craft within the Queenstown Town Centre Waterfront Sub-Zone which is, instead, subject to Rule 36.5.13. 	
12.5.11	<p>Acoustic insulation, other than in the Entertainment Precinct</p> <p>Where any new building is erected, or a building is modified to accommodate a recent activity:</p> <p>12.5.11.1 A mechanical ventilation system shall be installed for all critical listening environments in accordance with Table 5 in Chapter 36.</p> <p>12.5.11.2 All elements of the façade of any critical listening environment shall have an airborne sound insulation of at least 40 dB R_w+C_{tr} determined in accordance with ISO 10140 and ISO 717-1.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> the noise levels that will be received within the critical listening environments, with consideration including the nature and scale of the residential or visitor accommodation activity; the extent of insulation proposed; and whether covenants exist or are being volunteered which limit noise emissions on adjacent sites such that such noise insulation will not be necessary.
12.5.12	<p>Acoustic insulation within the Entertainment Precinct</p> <p>Where any new building is erected, or a building is modified to accommodate a new activity:</p> <p>12.5.12.1 A mechanical ventilation system shall be installed for all critical listening environments in accordance with Table 5 in Chapter 36.</p> <p>12.5.12.2 All elements of the façade of any critical listening environment shall have an airborne sound insulation of at least 40 dB R_w+C_{tr} determined in accordance with ISO 10140 and ISO 717-1.</p>	<p>NC</p>

	Standards for activities located in the Queenstown Town Centre Zone	Non-compliance status
12.5.13	<p>Glare</p> <p>12.5.13.1 All exterior lighting, other than footpath or pedestrian link amenity lighting, installed on sites or buildings within the zone shall be directed away from adjacent sites, roads and public places, and downward so as to limit the effects on views of the night sky.</p> <p>12.5.13.2 No activity in this zone shall result in a greater than 10 lux spill (horizontal or vertical) of light onto any property within the zone, measured at any point inside the boundary of any adjoining property.</p> <p>12.5.13.3 No activity shall result in a greater than 3 lux spill (horizontal or vertical) of light onto any adjoining property which is zoned High Density Residential measured at any point more than 2m inside the boundary of the adjoining property.</p>	NC

12.6

Rules - Non-Notification of Applications

12.6.1 Applications for Controlled activities shall not require the written approval of other persons and shall not be notified or limited-notified except:

12.6.1.1 Where visitor accommodation includes a proposal for vehicle access directly onto a State Highway.

12.6.2 The following Restricted Discretionary activities shall not require the written approval of other persons and shall not be notified or limited notified:

12.6.2.1 Buildings.

12.6.2.2 Building coverage in the Town Centre Transition Sub-Zone and comprehensive development .

12.6.2.3 Waste and recycling storage space.

12.6.3 The following Restricted Discretionary activities will not be publicly notified but notice will be served on those persons considered to be adversely affected if those persons have not given their written approval:

12.6.3.1 Discretionary building height in Height Precinct 1 and Height Precinct 1(A).

Figure 1: Identified Pedestrian Links

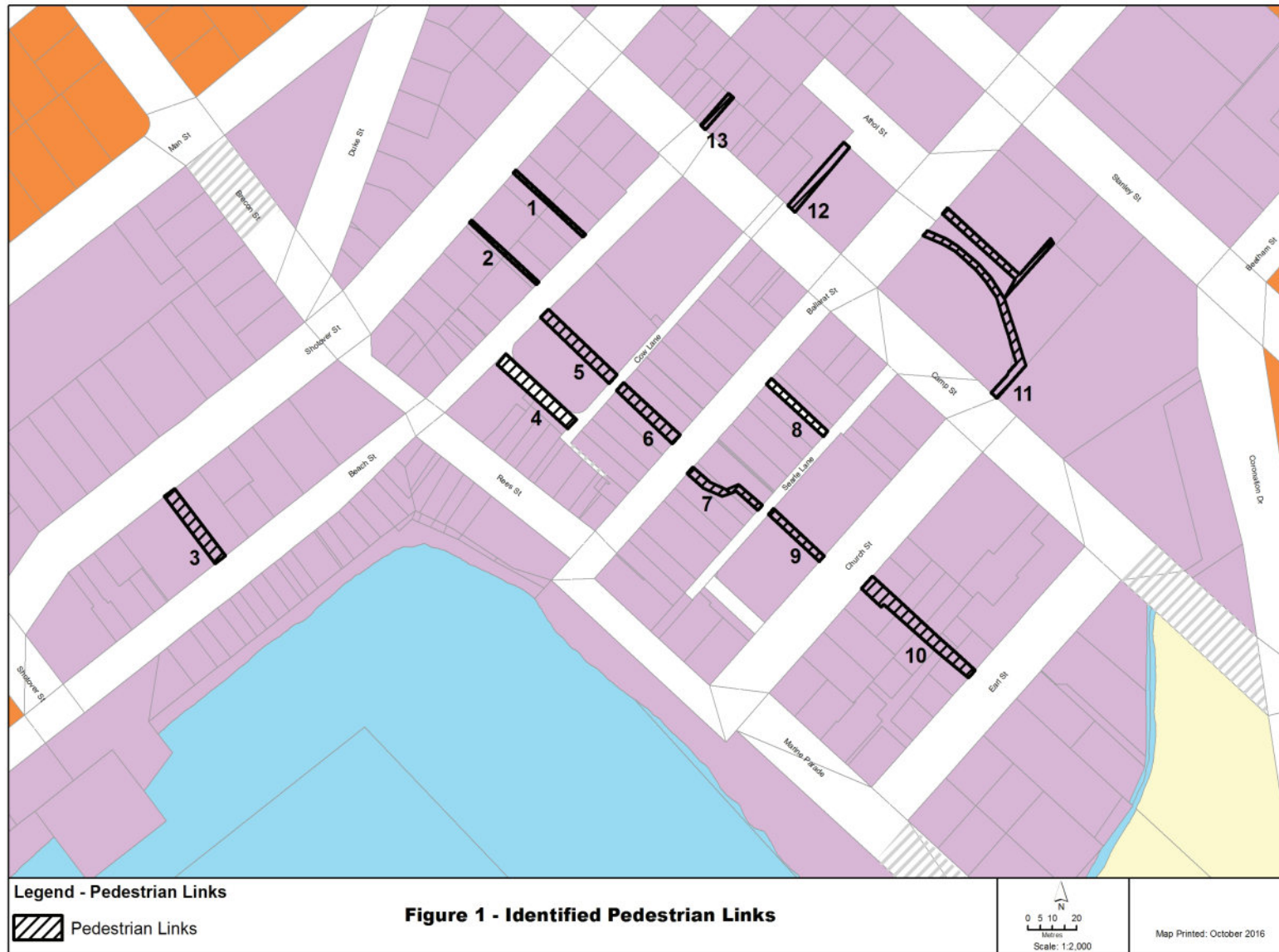
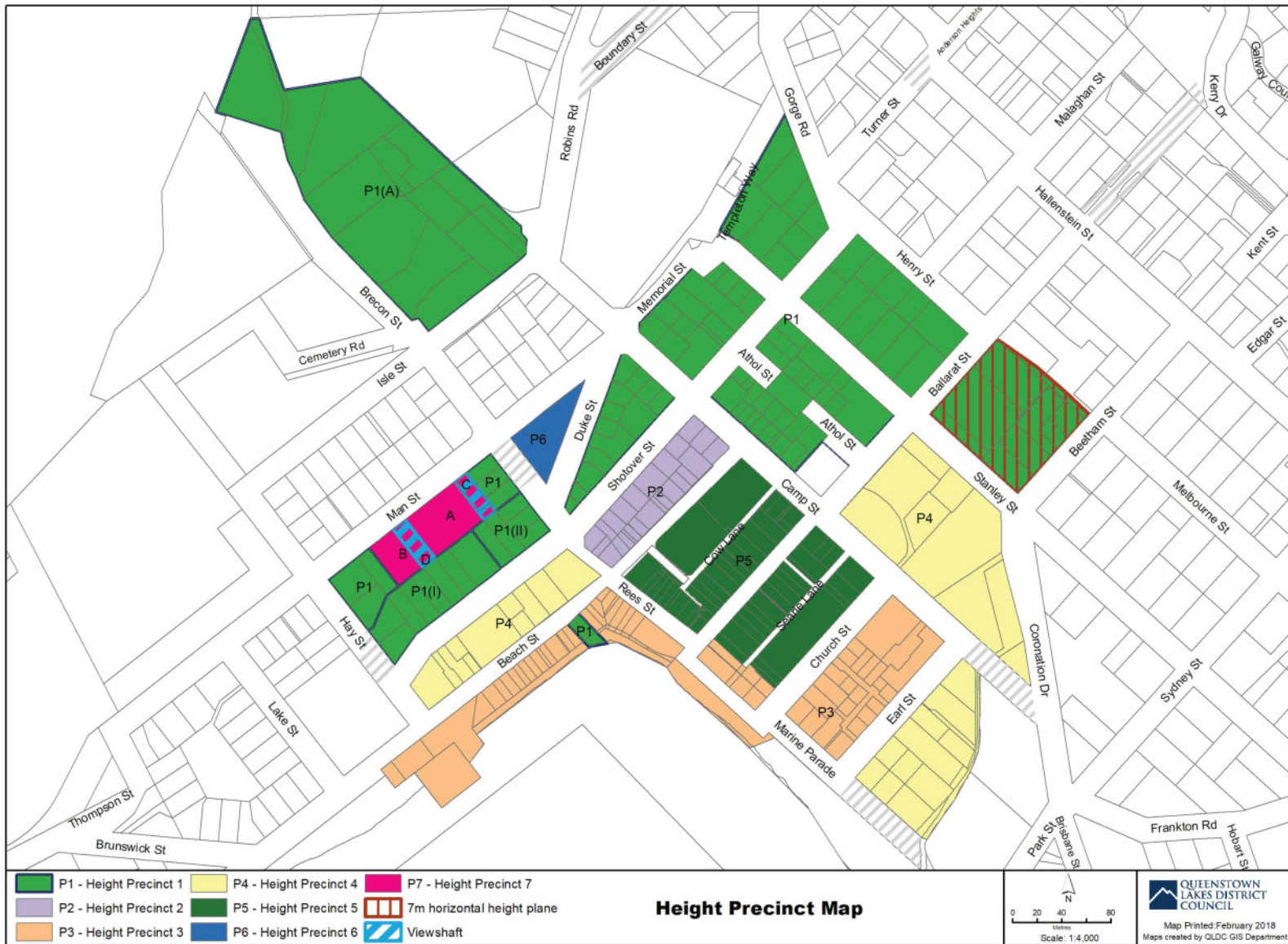


Figure 2: Queenstown Town Centre Height precinct map



QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report 11

Report and Recommendations of Independent Commissioners Regarding
Chapter 12, Chapter 13, Chapter 14, Chapter 15, Chapter 16 and Chapter 17

Commissioners

Denis Nugent (Chair)

Paul Rogers

PART B: CHAPTER 12 - QUEENSTOWN TOWN CENTRE

2. PRELIMINARY

30. Ms Vicki Jones prepared and presented the Section 42A Report for this chapter. In that report she provided a background to the QTCZ in addition to identifying the issues that arose from reviewing the ODP provisions. The PDP zone provisions sought to address those key issues. They were:
- a. A lack of capacity within the town centre and whether there was an opportunity to provide for further capacity within the existing town centre zone
 - b. Could the existing town centre be expanded in a manner that retains the compactness and walkability of the town centre, provide legible boundaries, and not exacerbate reverse sensitivity issues?
 - c. Were the existing rules, including those related to building height, bulk and location, appropriate, and would they achieve quality urban design and build efficiently and effectively, and result in efficient land use and intensification opportunities?
 - d. Management of flood risk in the QTC
 - e. Management of the interface between the town centre and lakefront
 - f. Noise and reverse sensitivity issues and acoustic insulation
 - g. The need for integrated land use and transport planning.

2.1. General Submissions

31. Some submitters²⁷ submitted generally on Chapter 12, seeking that all provisions in the chapter, not otherwise submitted on within their submission, be retained as notified unless they duplicate other provisions in which case they should be deleted.
32. E J L Guthrie²⁸ requested that the QTCZ provisions, including, but not limited to, the Zone Purpose and all Objectives, Policies and Rules, be confirmed as notified; and Tweed Developments Limited²⁹ requested the chapter be confirmed as notified as it related to the zoning of Lot 1 DP 20093 and Sections 20 & 21 Block II Town.
33. Jay Berriman³⁰ supported the Zone Purpose, although it is not clear from the submission whether he supported the geographic extent of the zoning or the zone as a whole.
34. Ms Jones recommended that those submissions seeking that the provisions be confirmed in part or whole be accepted in part and that Submission 217 supporting the zoning of certain sites be accepted. We agree with Ms Jones and recommend accordingly.

2.2. Extensions to the Queenstown Town Centre Zone

35. Ms Jones pointed out in her Section 42A Report that no submitter had opposed the notified QTC boundaries so she recommended no change in relation to the notified boundary.

²⁷ Submissions 663 (opposed by FS1139 and FS1191) and 672

²⁸ Submission 212

²⁹ Submission 617

³⁰ Submission 217

36. She traversed in her report a number of submissions³¹ supporting the notified changes to the extent of the town centre zone. Additionally, Tweed Developments Limited³² specifically sought that the notified zoning be confirmed insofar as it related to the zoning of 74 Shotover Street and 11 & 13 The Mall. We recommend that submission be accepted.
37. We agree with Ms Jones' view that the notified extent of the QTCZ is appropriate for the reasons outlined in the Section 32 Evaluation Report and we support her recommendation that the supporting submissions be accepted.

2.3. Submissions not relating to matters controlled by the PDP

38. Downtown QT³³ sought that the provisions of the PDP align with the Town Centre Strategy. Ms Jones pointed out in her Section 42A Report that the Downtown QT website³⁴ notes its strategy will be a living document and will address the look and feel, transport, parking, accessibility, lighting and future development of the town centre and provide guidance on commercial resilience and growth, local relevance and sector alignment.
39. We note that the PDP cannot be aligned with a document that is forever changing without going through the Plan Change process. No evidence was provided to clarify how exactly the QTCZ should be changed. On this basis, we recommend the submission be rejected.
40. Ms Jones drew our attention to two groups of submissions which sought amendments to notified provisions, or the inclusion of additional provisions, relating to:
- a. Car parking in the QTCZ³⁵ and
 - b. Public transport links on the water³⁶.
41. We agree that both matters are better dealt with when Chapter 29 Transport is considered for the reasons Ms Jones set out. Some of these submissions are deemed to be submissions on Chapter 29. In respect of the remainder, we note that we received insufficient evidence to justify the types of changes requested. We recommend those submissions³⁷ be rejected.

2.4. Section 12.1 – Zone Purpose

42. Kopuwai Investments Limited³⁸ sought that the words “Precinct” and “has” in the third paragraph of the zone purpose be amended to “Precincts” and “have”. These are minor amendments which add no further value or clarification and therefore they are ineffective and inefficient. We reject the submission on that basis.
43. Remarkables Park Limited³⁹ sought deletion of the word “administrative” because it failed to recognise that as the District grows the Queenstown Town Centre may not continue to provide the administrative centre of the District. Rather that centre may be found or located in

³¹ Submitter 630 (DowntownQT) Submitters 308 (WellSmart Investment Holdings Ltd) 398 (Man Street Properties Limited) opposed by FS 1274 (John Thompson & MacFarlane Investments Ltd) Submitter 394 (Stanley Street Investments Ltd & Kelso Investments Limited) opposed by FS 1117 (Remarkable Park Limited) Submitter 574 (Skyline Enterprises Ltd) opposed by FS 1063.22 (Peter Fleming)

³² Submission 617

³³ Submission 630, opposed by FS1043

³⁴ <http://www.downtownqt.nz/about/#town-centre-strategy>

³⁵ V Jones, Section 42A Report, paragraph 17.7

³⁶ *ibid*, paragraphs 17.8 and 17.9

³⁷ Listed in Footnotes 84 and 85 of Ms Jones' Section 42A Report

³⁸ Submission 714, opposed by FS1318

³⁹ Submission 807

Frankton. The submitter was concerned to see that the PDP did not artificially constrain development in Frankton.

44. Other submitters⁴⁰ sought to clarify what the word administrative means and submitted that ambiguity could be avoided by deleting the word “*administrative*” and replacing it with the words “*Local Government*”.
45. We recommend that the word “*administrative*” be retained within the zone purpose because we consider the balance wording within the zone purpose provision supports the retention of the word administrative. As we read those words, the zone purpose is all about signalling the importance and priority of the town centre to the District. It follows that it is the principal or main location of administrative activities, whether they be civic, local government or business activities.
46. Also, we do not think that acknowledging the current reality that the existing town centre is the principal administrative centre for the District pre-determines what should happen in Frankton. However, we do accept the choice of word we recommend sends, to the extent a zone purpose can, a clear signal that the QTC is the principal or predominant centre for the District.
47. We do not see anything is gained by utilising the words “*civic*” or “*local government*”. We see these words as being more aligned to civic buildings and Council or local authority activities. Those activities, and in particular civic buildings such as libraries and the like, are only a subset of the activities and types of buildings that exist in the town centre. The existing town centre activities are much broader than civic and local government activities and related buildings, and the zone purpose provision needs to recognise and provide for that.
48. We consider our recommendation, retaining the word “*administrative*” supports the strategic directions objectives, particularly Strategic Objective 3.2.1.2 which refers to Queenstown and Wanaka being the hubs for the District, which we take to include administrative activities. We note also that new Objective 3.2.1.3 provides for the role of Frankton Flats in a more general sense.
49. Two submissions⁴¹ supported the Zone Purpose, but NZIA⁴² sought to amend the Queenstown Town Centre Guidelines 2015 by extending the application of the guidelines. Failing that the submitter sought that the Zone Purpose be amended to acknowledge the importance of natural features, existing circulation patterns, roads and pathways, grid patterns, public open spaces, the quality, scale, and configuration of the built form, experiences, and Council landscaping in achieving a well-designed, high quality Town Centre.
50. We return later to the request to extend the application of the Queenstown Town Centre Design Guidelines but we do recommend rejection of this submission point. We agree with Ms Jones that including additional statements within the Zone Purpose, as sought by this submitter, would have little statutory weight, and would complicate consenting processes as many of the design considerations of interest to this submitter are dealt with by mechanisms either outside of the District Plan or through the subdivision chapter. We also consider it would make the Zone Purpose much more complicated and complex than required.

⁴⁰ Submissions 217 and 630

⁴¹ Submissions 380 (opposed by FS1318) and 238 (opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248, FS1249)

⁴² Submission 238.

51. If accepted this submission would result in the guidelines applying beyond the SCA and to more than only buildings. While such an extension could be useful, guidance on such matters is already available from a range of non-statutory documents. Also we consider expansion of the guideline, while not beyond scope would not be good practice or efficient because the opportunity to undertake widespread consultation on the proposed amendments would not be available. For these reasons we recommend rejection of this submission.
52. Ms Macdonald, legal counsel for Imperium⁴³, was opposed to any reference to the TCEP within the last paragraph of section 12.1. In summary, she was concerned that Ms Jones' Section 42A Report failed to address adequately the issues faced by existing noise sensitive activities which, she submitted, as a result of the creation of the Entertainment Precinct, would be exposed to even higher levels of noise than what currently occurs.⁴⁴
53. Ms Jones⁴⁵ recommended a number of additional changes in relation to matters she had reconsidered since filing her Section 42A Report, specifically in response to evidence filed by submitters. She considered that those additional amendments would result in more appropriate provisions that would better contribute to the district wide objectives, and the purpose of the Act.
54. In that regard, Ms Jones recommended amending the Zone Purpose to acknowledge the importance of the WSZ to the QTC. In particular, she recommended that the contribution that the waterfront makes to the amenity, vibrancy and sense of place of the QTC as a whole needed to be recognised within the Zone Purpose.
55. Queenstown Wharves (GP) Limited⁴⁶ (Queenstown Wharves) sought the recognition of the waterfront's contribution to the QTC within its submission, and in a broad way within the evidence of Ms Carter.
56. We consider there is merit in that submission and merit in Ms Jones' response to it referred to above⁴⁷. We recommend the inclusion of the following words as a last paragraph to the Zone Purpose at 12.1:
- The Queenstown waterfront subzone makes an important contribution to the amenity, vibrancy and sense of place of the Queenstown Town Centre as a whole.*
57. In our view after having considered these submissions and further submissions and the officers' report and relevant replies, we consider the wording of Ms Jones's Reply version of Section 12.1 is appropriate, as it includes recognition of the importance of WSZ which is consistent with, and supports, the recognition of the importance of the waterfront to the QTC, as discussed in the evidence of Ms Carter.

3. SECTION 12.2 OBJECTIVES AND POLICIES

58. As notified there were five objectives with supporting policies.

⁴³ Submission 151, supported by FS1043

⁴⁴ We will discuss noise in greater detail, including why we support the TCEP later in this report at 12.5.11

⁴⁵ V Jones, Summary of Evidence at [6]

⁴⁶ Submission 766

⁴⁷ V Jones, Summary of Evidence at [6]

3.1. **General Drafting Improvements to the Objectives and Policies and correcting Format Errors.**

59. In her Reply Statement, Ms Jones⁴⁸ identified for us general drafting improvements to the objectives policies and rules as well as identifying and correcting formatting errors. In so far as those drafting improvements relate to the objectives and policies we recommend those improvements be adopted and have incorporated them in our recommendations above.

60. Ms Jones⁴⁹ referred us to further general amendments recommended by Mr Goldsmith within his legal submissions for Mr John Thompson and MacFarlane Investments⁵⁰. Those amendments relate to the consistent use of the term “RL” and removing all references to Otago datum. Ms Jones’ recommended acceptance and we agree. We note that for consistency this has been applied across all chapters in the Stream, and where relevant the reference in the provisions is to masl.

3.2. **Objective 12.2.1 and Policies 12.2.1.1 – 12.2.1.4**

61. As notified these read:

12.2.1 Objective

A Town Centre that remains relevant to residents and visitors alike and continues to be the District’s principal mixed use centre of retail, commercial, administrative, entertainment, cultural, and tourism activity.

Policies

12.2.1.1 *Enable intensification within the Town Centre through providing for greater site coverage and additional building height provided effects on key public amenity and character attributes are avoided or satisfactorily mitigated.*

12.2.1.2 *Provide for new commercial development opportunities within the Town Centre Transition subzone that are affordable relative to those in the core of the Town Centre in order to retain and enhance the diversity of commercial activities within the Town Centre.*

12.2.1.3 *Recognise the important contribution that night time activity makes to the vibrancy and economic prosperity of the Town Centre by enabling restaurant and bar activities to occur without unduly restrictive noise controls.*

12.2.1.4 *Enable residential activities and visitor accommodation activities while acknowledging that there will be a lower level of residential amenity due to the mix of activities and late night nature of the town centre.*

62. Objective 12.2.1 attracted submissions in support⁵¹ and those⁵² that sought to alter its wording by deleting the word “administrative” and replacing it with “local government”. For the same reasoning advanced when considering Section 12.1, we recommend retention of the word administrative, and therefore, recommend the objective be adopted as notified.

⁴⁸ Ibid at [2]

⁴⁹ V Jones, Reply Statement at paragraph 2.3

⁵⁰ FS1274

⁵¹ Submissions 217, 630 (opposed by FS1043 and FS1117) and 470

⁵² Submission 238, opposed by FS1318, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249

63. NZIA⁵³ sought to amend notified Policy 12.2.1.1 to provide for intensification by requiring that such intensification be undertaken in accordance with best practice in urban design principles. The submitter considered allowing intensification on the basis of effects on public amenity and character being either avoided or satisfactorily mitigated, to be too imprecise.
64. Ms Jones recommended retaining the words “*avoided or satisfactorily mitigated*”. She was of the view the submitter’s reference to best practice urban design principles helped overcome interpretive difficulties that could arise in trying to determine whether or not the effects on key public amenity and character attributes had been satisfactorily mitigated.
65. We consider that reference to the urban design principles provides a useful touchstone to answer that question. Ms Jones also recommended in her reply evidence that the policy be expanded to separate the issue of coverage from height. In her view it was the matter of height that should be guided by best practice urban design principles. In addition, she did not consider a comparison between the coverage allowed in the PDP with that allowed in the ODP to be relevant. We accept the recommendations proposed by Ms Jones for the reasons she advances. We consider the changes give effect to the operative RPS particular those objectives and policies seeking to avoid, remedy or mitigate adverse effects of the built environment.
66. Accordingly we recommend Policy 12.2.1.1 reads as follows with our changes shown as underlined and struck out:
- 12.2.1.1 *Enable intensification within the Town Centre through: ~~providing for greater site coverage and~~*
- a. *enabling sites to be entirely covered with built form other than in the Town Centre Transition Subzone and in relation to comprehensive developments provided identified pedestrian links are retained and*
- b. *enabling additional building height in some areas provided such intensification is undertaken in accordance with best practice urban design principles and the effects on key public amenity and character attributes are avoided or satisfactorily mitigated.*
67. Ms Jones pointed out the linkage by way of subject matter between Policy 12.2.1.1 and Objective 12.2.2 and Policies 12.2.2.3 and 12.2.2.4. She made the point that Policy 12.2.1.1 seeks to address the circumstance created by the PDP no longer imposing coverage rules or recession planes within the town centre, in most instances. It was her view that Policy 12.2.1.1 is not intended to provide policy guidance when Rules 12.5.1, 12.5.9 and 12.5.10, which all relate to coverage or height, are breached. The policies that are relevant to these rules are those found following Objective 12.2.2. She said if this was unclear it may need to be clarified.
68. We do not think it necessary to link a policy to a particular rule by footnote or other method. This is because a particular rule which has been triggered should be read and interpreted within the context of all relevant objectives and policies. Which objective or policy is most relevant will be informed by the factual context that triggers the rule.
69. No submissions were received on notified Policy 12.2.1.2. However, we raised questions with Ms Jones as to how the relatively affordable opportunities referred to were to be provided.

⁵³ Submission 238, opposed by FS1318, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249

70. She responded within her Reply, that rezoning land located at Upper Brecon Street and the Gorge Road/Memorial Avenue corner currently zoned Residential in the ODP to QTCZ would increase the supply of town centre land.⁵⁴ It was her opinion that, given the location of this land on the fringes of the existing town centre, it would be relatively affordable land, particularly when compared to land located within the QTC in the ODP.⁵⁵
71. We agree with Ms Jones, given her Reply explanation linking the rezoning of land and the likely value of that land, the policy wording is appropriate and accordingly recommend policy 12.2.1.2 be adopted as notified.
72. Multiple submitters⁵⁶ sought to retain this policy and Imperium Group⁵⁷ requested the words “*unduly restrictive*” be replaced with the words “*subject to appropriate*”. We agree with the submitter that the word “*appropriate*” means and requires an assessment of the context in which the noise is an issue and allows for imposition of a control appropriate to that context.
73. The words as they currently appear suggest, according to the submitter, that any control on noise should not be unduly restrictive implying that noise is enabled or allowed regardless of context. We agree with those concerns.
74. For these reasons we recommend rewording the policy as follows, with additional phrasing underlined and discarded wording struck-out:
- 12.2.1.3 Recognise the important contribution that night time activity makes to the vibrancy and economic prosperity of the Town Centre by enabling restaurant and bar activities to occur ~~without unduly restrictive~~ subject to appropriate noise controls.*
75. NZIA⁵⁸ requested that notified Policy 12.2.1.4 be amended: first, by deleting reference to a lower level of residential amenity; second, by including words to the effect that residential activities and visitor accommodation would be enabled while acknowledging increased noise and activity due to a mix of activities and the late night nature of the town centre.
76. We think that this policy is trying to provide for the reality of what now occurs within the town centre. It draws attention to the potential noise effects on residential amenity contributed to by the late night nature of town centre activities.
77. Notwithstanding the purpose of the policy we agree with the submitter’s request because the wording proposed is clearer and does not allow or support noise at a level that will lower levels of residential amenity. Also, in our view, the submitter’s wording appropriately captures the status quo. In reaching this recommendation we have considered the relevant sections of the Section 32 report and the opinions of Dr Chiles⁵⁹ relevant to this point.
78. We show these recommended amendments below as underlined and strike-through. For the reasons discussed, we recommend the wording of the policy be as follows;

⁵⁴ V Jones, Reply Statement at [2.2].

⁵⁵ Ibid.

⁵⁶ Submissions 587, 589, 630, 714, and 804

⁵⁷ Submission 151

⁵⁸ Submission 238, opposed by FS1318, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249

⁵⁹ Dr S Chiles, EiC at [6.2, 9.2]

12.2.1.4 *Enable residential activities and visitor accommodation activities while acknowledging that there will be a lower level of residential amenity due to increased noise and activity resulting from the mix of activities and late night nature of the town centre.*

3.3. **Objective 12.2.2 and Policies 12.2.2.1 - 12.2.2.9**

79. As notified these read:

12.2.2 Objective

Development that achieves high quality urban design outcomes and contributes to the town's character, heritage values and sense of place.

Policies

12.2.2.1 *Require development in the Special Character Area to be consistent with the design outcomes sought by the Queenstown Town Centre Design Guidelines 2015.*

12.2.2.2 *Require development to:*

- a. *Maintain the existing human scale of the Town Centre as experienced from street level through building articulation and detailing of the façade, which incorporates elements which break down building mass into smaller units which are recognisably connected to the viewer and*
- b. *Contribute to the quality of streets and other public spaces and people's enjoyment of those places and*
- c. *Positively respond to the Town Centre's character and contribute to the town's 'sense of place.'*

12.2.2.3 *Control the height and mass of buildings in order to:*

- a. *Retain and provide opportunities to frame important view shafts to the surrounding landscape and*
- b. *Maintain sunlight access to public places and to footpaths, with a particular emphasis on retaining solar access into the Special Character Area (as shown on Planning Maps 35 and 36).*

12.2.2.4 *Allow buildings to exceed the discretionary height standards in situations where:*

- a. *The outcome is of a high quality design, which is superior to that which would be achievable under the permitted height*
- b. *The cumulative effect of the additional height does not result in additional shading that will progressively degrade the pedestrian environment or enjoyment of public spaces and*
- c. *The increase in height will facilitate the provision of residential activity.*

- 12.2.2.5 *Allow buildings to exceed the non-complying height standards only in situations where the proposed design is an example of design excellence and building height and bulk have been reduced elsewhere on the site in order to:*
- a. *Reduce the impact of the proposed building on a listed heritage item or*
 - b. *Provide an urban design outcome that is beneficial to the public environment. For the purpose of this policy, urban design outcomes that are beneficial to the public environment include:*
 - i. *Provision of sunlight to any public space of prominence or space where people regularly congregate*
 - ii. *Provision of a pedestrian link Provision of high quality, safe public open space*
 - iii. *Retention of a view shaft to an identified landscape feature*
- 12.2.2.6 *Ensure that development within the Special Character Area reflects the general historic subdivision layout and protects and enhances the historic heritage values that contribute to the scale, proportion, character and image of the Town Centre.*
- 12.2.2.7 *Acknowledge and celebrate our cultural heritage, including incorporating reference to tangata whenua values, in the design of public spaces, where appropriate."*
- 12.2.2.8 *Acknowledge that parts of the Queenstown Town Centre are susceptible to flood risk and mitigate the effects of this through:*
- a. *Requiring minimum floor heights to be met*
 - b. *Encouraging higher floor levels (of at least 312.8 metres above sea level masl) where amenity, mobility, and streetscape are not adversely affected and*
 - c. *Encouraging building design and construction techniques which limit the impact of flooding or ponding in areas of known risk."*
- 12.2.2.9 *Require high quality comprehensive developments within the Town Centre Transition subzone and on large sites elsewhere in the Town Centre."*

80. This objective is a big picture objective. It links with matters to do with building heights and setbacks view shafts and the like. Notwithstanding the scope of the objective we think that the goal or desired outcome of the objective is clear.

81. Ms Jones specifically referred us to NZIA's submission⁶⁰ which supported this objective but sought more information on what the words "*sense of place*" meant. The submitter also requested and questioned whether or not the Queenstown Town Centre Strategy needed updating. We acknowledge the updating of the Queenstown Town Centre Strategy was opposed by a number of further submissions.⁶¹ Other submitters also supported this objective as notified.⁶²

⁶⁰ Submission 238, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249, FS1318

⁶¹ FS1107, FS1226, FS1234, FS1239, FS1241, and FS1248.

⁶² Submissions 380 and 470

82. As Ms Jones pointed out, that because the Town Centre Strategy is not referred to within the PDP, it is beyond scope of this review.⁶³ We agree. In her Section 42A Report, she recommended accepting NZIA's request for relief and she included in an advice note in her Appendix 1 providing advice as to what the words "*sense of place*" might mean.
83. By the time her Reply Statement was provided, the advice note had been deleted. Ms Jones after reconsidering the issue recommended that matters to do with definition and explanation were best collected in one place and recommended definitions be located in her recommended reply rules 12.3.2.5 to 12.3.2.7. These rules provide for definitions applicable to Chapter 12. We do not agree that placing the definitions in one place within the Chapter assists readability and usability of the Chapter. We consider Chapter 2 to be the appropriate place for all definitions used in the PDP. To do otherwise would unnecessarily lengthen the document and potentially create ambiguities and inconsistencies.
84. For these reasons we recommend then the wording of Objective 12.2.2 remain as notified but that the definition of sense of place be included in Chapter 2 (this latter recommendation is to the Stream 10 Hearing Panel).
85. In her Section 42A Report, Ms Jones recommended amending Policy 12.2.1 in response to submissions by Lynda Baker⁶⁴ and Toni Okkerse.⁶⁵ However the submissions related to Policy 12.2.2.2. We deal with that below.
86. Some submitters⁶⁶ requested the following underlined words to be added to Policy 12.2.2.2: "12.2.2.2 Require development visible from public places to..."
87. In our view the inclusion of this wording would provide a limitation that is unnecessarily restrictive and as such we recommend this submission be rejected.
88. The issue which is perhaps not addressed is providing for development in those parts of the town centre which are located immediately adjacent to the Special Character Area.
89. Several submitters⁶⁷ considered this issue could be addressed by amending sub paragraph c. of Policy 12.2.2.2 by adding in the word "*historic*" before the word character.
90. Ms Jones recommended amending Policy 12.2.2.1 by adding words requiring development in both the Special Character Area and development adjacent to that area, a heritage precinct, or a listed heritage item, to respect its historic context. We do not think that there is scope for that relief available from the relevant submissions nor do we think it necessary.
91. We prefer to leave the wording of Policy 12.2.2.1 focused on the Special Character Area because the 2015 Guidelines only apply to the Special Character Area of the town centre as identified within the Guideline itself, and within the district plan.

⁶³ V Jones, Section 42A Report at [13.7].

⁶⁴ Submission 59

⁶⁵ Submission 82, supported by FS1265, FS1268 and FS1063, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249 and FS1274

⁶⁶ Submissions 663 (opposed by FS1139 and FS1191) and 672

⁶⁷ Submissions 82 (supported by FS1265, FS1268 and FS1063, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249 and FS1274), 59 (supported by FS1265, FS1268 and FS1063, opposed by FS1075), 206 (supported by FS1265, FS1268 and FS1063, opposed by FS1059 and FS1274) and 217,

92. In our view, some of Ms Jones' additional recommended wording is not required as the Guideline already applies to development within the SCA. The Guidelines specifically note that they have been through an RMA process to be incorporated by reference into the PDP.
93. Also the Guidelines and the PDP addressed the circumstances of providing for historic character in the areas of the town centre outside of the Special Character Area. The Guideline records that the QTCZ includes three heritage precincts, two of which are within the Special Character Area. All three are also identified as protected items in the PDP and are subject to the provisions of Chapter 26 (Historic Heritage). Development within the historic precincts must therefore adhere to the provisions of the historic heritage chapter and to Chapter 12.
94. As the PDP itself deals with development in a heritage precinct or the development of a listed heritage item already, there is no need for those reasons to alter this policy.
95. The remaining issue is, whether these two policies adequately deal with development of a site with some historic characteristic located adjacent to a Special Character Area, a heritage precinct or a listed heritage item.
96. Policy 12.2.2.2 c. is the focus for our consideration on this issue. We consider the QTC's character reflects its historic context, but historic heritage is only one element of its character. To qualify the word character by restricting it to historic character does not recognise that the character of the town centre is more than a historic heritage character. We also consider when Policy 12.2.2.2 c. is being applied to a particular context then the particular character of that part of the town centre will be relevant. It is during this application that the effects of the proposal on those characteristics will be examined.
97. In summary, we consider Policy 12.2.2.2 c. is sufficiently broad in its language to provide for the circumstance when a development occurs adjacent to the SCA, a heritage precinct or a listed heritage item. This is because Policy 12.2.2.2 c seeks to have the intended development respond to the relevant element of the Town Centres character.
98. The other key reason why we think notified Policy 12.2.2.2 c. is appropriate is because of the link to the definition of a "sense of place". This policy requires development to "positively respond" to the towns centre's character.
99. For these reasons we do not think it necessary to amend policy 12.2.2.2 c in the manner sought by the submitters⁶⁸. Nor do we consider it necessary to amend Policy 12.2.2.1 for the reasons we set out above. We recommend that both policies be adopted as notified and the submissions⁶⁹ be rejected.
100. Policy 12.2.2.3 addressed height and mass of buildings. Later we will address building height in relation to the various height precincts in the QTCZ. This policy is to provide the policy framework relating to building height.

⁶⁸ Submissions 59, and 82

⁶⁹ Submissions 59 and 82

101. Toni Okkerse⁷⁰ supported Policy 12.2.2.3, however wanted provision made for car parking based on the size of the building. We accept this submission insofar as it supports Policy 12.2.2.3. We have addressed the submission in relation to car parking above.
102. Three submissions⁷¹ sought amendments to include other matters of control, such as wind tunnel effects of buildings, or ensuring the pleasantness of the environment for pedestrians. Submissions 672 and 663⁷² noted that the intent of Policy 12.2.2.3 was to control building height and mass but were concerned that this intent was not followed through in the rules of the PDP. The submitters contended the rules would restrict building development and would not provide any certainty that new building development could occur. They wished to see this uncertainty corrected. They sought amendments to support the controlled activity status to manage effects of building height and mass on public spaces.
103. The same submissions sought amendments to provide certainty, due to costs involved and the level of investment required to fund building developments. This concern from a building developer's perspective is understandable, but we do not think that cost concern is a valid means of achieving Objective 12.2.2. However, we can accept that controlling the height and mass of a building will provide some level of certainty about a buildings height and mass. Ms Jones' recommended the inclusion in the policy of the following as subparagraph a⁷³:

Provide a reasonable degree of certainty in terms of the potential building height and mass;

104. We agree with that amendment and recommend it be adopted.
105. In relation to including reference to wind tunnel effects on pedestrian environments, we agree that this effect is appropriately connected with both Objective 12.2.2 and Policy 12.2.2.3. Ms Jones recommended the following be included as the fourth matter under this policy⁷⁴:

Minimise the wind tunnel effects of buildings in order to maintain pleasant pedestrian environments.

106. We think that that is an appropriate matter to be included Policy 12.2.2.3 and recommend it be adopted.
107. We note Ms Jones⁷⁵ recommended a correction by deleting the word "and" after it appeared at the end of the second bullet point of notified Policy 12.2.2.3. We understood including the word "and" was a printing error; that the sub paragraphs of notified Policy 12.2.2.3 were to be read and applied as separate.
108. We agree with that amendment and recommend the deletion of the word "and" as correction of a minor error under Clause 16(2).
109. Accordingly, for the reasons provided, we recommend changes to Policy 12.2.2.3 underlined and struck out as follows:

⁷⁰ Submission 82, supported by FS1063, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249 and FS1274

⁷¹ Submissions 621, 672 and 663

⁷² Opposed by FS1139 and FS1191

⁷³ V Jones, Section 42A Report, Appendix 1

⁷⁴ *ibid*

⁷⁵ In her Section 42A Report, Appendix 1

12.2.2.3 *Control the height and mass of buildings in order to:*

- a. *Provide a reasonable degree of certainty in terms of the potential building height and mass*
- b. *Retain and provide opportunities to frame important view shafts to the surrounding landscape ~~and~~*
- c. *Maintain sunlight access to public places and to footpaths, with a particular emphasis on retaining solar access into the Special Character Area (as shown on Planning Maps 35 and 36)*
- d. *Minimise the wind tunnel effects of buildings in order to maintain pleasant pedestrian environments.*

110. Like some other policies, the bullet points included in the notified version of Policy 12.2.2.4 were replaced with subparagraphs labelled a., b. and c. in Ms Jones' Section 42A Report version. We utilise that labelling to discuss the notified policy.
111. We consider this policy appropriately links to Objective 12.2.2 and seeks to provide for the circumstance where the building would exceed the discretionary height standards. Ms Jones made it clear that in the absence of assessment matters in the PDP, the policy should provide some guidance about how the exceedance in height would be assessed.⁷⁶ Submitters⁷⁷ sought the inclusion of words within sub paragraph a. to provide that guidance.
112. Some submissions⁷⁸ requested that the policy be removed so that there be no provision made for buildings to exceed the height limits in the CBD. This outcome would not allow for growth in the CBD. Taking into account the evidence received, we conclude that increases in height can be provided for while still achieving high quality urban design outcomes that support the town's character heritage values and sense of place.
113. Undertaking a resource consent process enables appropriate assessments to be undertaken. In addition removing Policy 12.2.2.4 would not ensure buildings did not exceed permitted heights. Applications would still be possible and there would be no guidance for decision-makers. Absence of an encouraging policy does not equate to a prohibited activity. So for these reason we recommend those submissions⁷⁹ be rejected.
114. NZIA⁸⁰ sought to add a specific reference within the PDP requiring the urban design panel to review all projects in the town centre. In this way, they said, high quality urban design outcomes would be achieved. We have earlier commented that the Guidelines are restricted in application to the Special Character Area of the QTC. Presumably the authors of the Guidelines considered that limited application was appropriate.

⁷⁶ V Jones, Section 42A Report at [10.9a]

⁷⁷ Submissions 621, 238 (opposed by FS1318, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249), 663, 672 and 630 (opposed by FS1043).

⁷⁸ Submissions 59 (supported by FS1063, opposed by FS1236), 82 (supported by FS1063, opposed by FS1107, FS1226, FS1234, FS1236, FS1239, FS1241, FS1248, FS1249 and FS1274) and 206.

⁷⁹ Submissions 59 (supported by FS1063, opposed by FS1236), 82 (supported by FS1063, opposed by FS1107, FS1226, FS1234, FS1236, FS1239, FS1241, FS1248, FS1249 and FS1274) and 206.

⁸⁰ Submission 238, opposed by FS1318, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249

115. In any event, Ms Jones told us that, in her experience, most new builds and significant projects are in fact reviewed by urban design professionals or at least a single urban design professional while the project progresses through the consent phase.⁸¹ She was of the view that not all buildings in the town centre would warrant such a review. She advised that the Council can, pursuant to section 92 of the Act, commission an urban design report if the context of the application so requires.⁸²
116. Overall, she did not consider making an urban design review mandatory was appropriate primarily because mandatory reviews were not justified for all new builds and alterations.⁸³ Therefore, to do so was neither efficient nor effective. We agree. We also are persuaded to that point of view because we agree that the Council has other powers to commission urban design reports where they are warranted, for example, due to the significance of the site or the building within the town centre.
117. For these reasons we agree with her recommendation that a specific reference within subparagraph a. of Policy 12.2.2.4 requiring all buildings and alteration to obtain urban design panel approval not be included. This approach is also consistent with the approach provided for within the Guidelines themselves.
118. Two submitters⁸⁴ considered subparagraph b to be too restrictive because not increasing shading while increasing height was too difficult. They considered some degree of relaxation of the policy was necessary in order to implement the PDP's Strategic Objectives as expressed in Chapter 3 and, more particularly, Objective 12.2.2.
119. In response, Ms Jones sought to relax the policy by including words within subparagraph b acknowledging and accepting that increase in heights and individual developments may increase the shading of public pedestrian spaces.⁸⁵ However, provided that shading is limited, and provided that shading is offset or compensated for by either the provision of additional public space or a pedestrian link with the site, then that increased shading effect would be acceptable.⁸⁶
120. We agree that increases in height are likely to lead to increases in shading and we agree that limiting shading of public pedestrian space is an important matter. However, we recognise and accept that a shading effect may be offset or compensated by the provision of either additional public space or a pedestrian link with the site. Available public spaces within the town centre are relatively limited. Increasing such spaces would help contribute to a high quality urban design outcome. Pedestrian links would contribute and support the town's character and its heritage values. Such links are part of both the town character and its heritage. Both public spaces and pedestrian links help add to the town centres sense of place. For these reasons we recommend the amendments to sub paragraph b of Policy 12.2.2.4 suggested by Ms Jones, be adopted.

⁸¹ V Jones, Section 42A Report at [10.10].

⁸² Ibid.

⁸³ Ibid.

⁸⁴ Submissions 663 (opposed by FS1139 and FS1191) and 672.

⁸⁵ V Jones, Section 42A Report at [10.9c]

⁸⁶ Ibid.

121. So for the reasons set out above we recommend the inclusion of all of Ms Jones additions to sub paragraph b. of policy 12.2.2.4 and we recommend that the submissions seeking to disallow height exceedance being included in sub paragraph a is be rejected.
122. Accordingly, we recommend Policy 12.2.2.4 read, with the additions underlined, as follows:
- 12.2.2.4 Allow buildings to exceed the discretionary height standards in situations where:*
- a. The outcome is of a high-quality design, which is superior to that which would be achievable under the permitted height; and*
 - b. The cumulative effect of the additional height does not result in additional shading that will progressively degrade the pedestrian environment or enjoyment of public spaces, while accepting that individual developments may increase the shading of public pedestrian space to a small extent provided this is offset or compensated for by the provision of additional public space or a pedestrian link within the site and*
 - c. The increase in height will facilitate the provision of residential activity.*
123. As Policy 12.2.2.5 relates to exceeding non-complying height standards, commencing the policy with the word “allow” is challenging. Three submitters⁸⁷ recognised this. They also sought to include the circumstances where it may be appropriate to allow additional height. In the main, submitters wished to retain urban design excellence for such buildings as well as gaining additional public benefits, such as pedestrian links and the opening up of Horne Creek.
124. Other submitters⁸⁸ requested that the policy be removed in its entirety and there be no provision for buildings to exceed height limits in the CBD.
125. If growth is to be achieved, opportunity needs to be provided for that growth by way of allowing exceedance of height limits. That is provided that urban design issues are addressed to ensure the town’s character, heritage values and sense of place are respected and supported.
126. Ms Jones recommended⁸⁹ re-wording Policy 12.2.2.5 so as not to “allow”, but to “prevent” buildings exceeding the non-complying height standards, except where preconditions (a) and (b)(i) or(ii) are satisfied. We support that wording change as it clarifies the intent of the policy. As we read those preconditions, they fully support objective 12.2.2 because they focus on urban design outcomes and particularise those urban design outcomes as being beneficial to the public environment.
127. The rewording Ms Jones’ recommended set out in detail the urban design outcomes that would be beneficial to the public environment. The origins of the rewording arise from

⁸⁷ Submissions 238 (opposed by FS1318, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249), 663 (opposed by FS1139 and FS1191) and 672

⁸⁸ Submissions 59 (supported by FS1063, opposed by FS1236),⁸² (supported by FS1063, opposed by FS1107, FS1226, FS1234, FS1236, FS1239, FS1241, FS1248, FS1249 and FS1274), 206 (supported by FS1063 and opposed by FS1236 and FS1274)

⁸⁹ V Jones, Section 42A Report at [10.13]

submissions⁹⁰ she recommended should be accepted. The submissions sought to include, as urban design benefits, new or retention of existing, uncovered pedestrian links or lanes, restoration and opening up of Horne Creek as part of the open space network where applicable, and finally, the minimising of wind tunnel effects in order to maintain pleasant pedestrian environments.

128. We consider there is merit in the submissions and in the response of Ms Jones to them. Therefore we recommend acceptance of the submission points as they provide appropriate detail on urban design outcomes that have a net benefit to the public environment so assisting in attaining Objective 12.2.2.
129. Ms Jones⁹¹ dealt with an additional urban design outcome beneficial to the public environment, namely landmark buildings. She sought to include this matter as a final bullet point. She considered landmark buildings on key corner sites would be an example of the urban design outcomes sought by this policy. She accordingly supported the submission of NZIA⁹² on this point. She also relied on the evidence of Mr Tim Williams, in particular as it related to urban design when considering additional height within the town centre environment.⁹³
130. We are satisfied that inclusion of this additional bullet point to Policy 12.2.2.5, accepting the submission of NZIA, would help implement Objective 12.2.2. In particular a reference to landmark buildings is more consistent with the Urban Design Guidelines and will potentially contribute better to the QTC's sense of place through the creation of landmark buildings.
131. We queried at the hearing if "*landmark*" **building** should be defined. Ms Jones in her reply recorded she conferred with Mr Church who seems to have supported including a definition of a "*Landmark Building*". Ms Jones accepted this view but did not consider including a definition was essential for this particular policy. She referred us to Reply Rule 12.5.9.5(d) which she considered provided clarification.
132. However she proposed to add wording to Rule 12.3.2 which is renumbered as Rule 12.3.2.4 within her reply to provide a definition of a Landmark building.⁹⁴ The rule is further renumbered 12.3.2.6 in Appendix 1. She relied on the NZIA⁹⁵ submission for scope to add this new provision. We agree a definition is required for a "*landmark building*" within the plan and given this definition applies to all of Chapter 12 then this definition applies to policy 12.2.2.5.
133. Accordingly we recommend that the amendments and additions proposed by Ms Jones to Policy 12.2.2.5 be adopted along with replacing the bullet points with labels.
134. We consequently recommend Policy 12.2.2.5 now read as follows with amendments shown as strikethrough and underlined:

⁹⁰ Submissions 238 (opposed by FS1318, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249) and 621.

⁹¹ V Jones, Summary of Evidence,

⁹² Submissions 238 (opposed by FS1318, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249)

⁹³ V Jones, Section 42A Report at [13.40-41]

⁹⁴ Section 42A Report of Ms Jones at [9.3].

⁹⁵ Submitter 238

12.2.2.5 ~~Allow—Prevent—buildings—to~~ exceeding the non-complying maximum height standards, except that only it may be appropriate to allow additional height in situations where:

- a. ~~the proposed design is an example of design excellence; and building height and bulk have been reduced elsewhere on the site in order to~~
- b. ~~Building height and bulk have been reduced elsewhere on the site in order to:~~
 - i. ~~Reduce the impact of the proposed building on a listed heritage item or~~
 - ii. ~~Provide an urban design outcome that is—has a net beneficial~~ to the public environment.

For the purpose of this policy, urban design outcomes that are beneficial to the public environment include:

- a. *Provision of sunlight to any public space of prominence or space where people regularly congregate*
- b. *Provision of a new, or retention of an existing, uncovered pedestrian link or lane*
- c. *Where applicable, the restoration and opening up of Horne Creek as part of the public open space network*
- d. *Provision of high quality, safe public open space*
- e. *Retention of a view shaft to an identified landscape feature*
- f. *Minimising wind tunnel effects of buildings in order to maintain pleasant pedestrian environment.*
- g. *The creation of landmark buildings on key block corners and key view terminations.*

135. Policy 12.2.2.6 did not attract any submissions. The policy was directed at the Special Character Area and in our view the wording of the policy was appropriate. We consider the policy is clear and prescribed a course of action which will implement Objective 12.2.2. We recommend this policy be adopted unaltered.

136. Ms Jones pointed out within her Section 42A Report⁹⁶ that some submitters⁹⁷ requested the deletion of Policy 12.2.2.7 as notified, stating it was too difficult to interpret or apply. Ms Jones noted that these submissions were also considered within Stream 1A Section 42A Report and Appendix 2 to that report recommended that this relief be rejected.⁹⁸ She agreed with that recommended rejection. The Stream 1A Panel did not hear any evidence on these submissions, from the submitters or the Council, and have made no recommendation on them.

137. We agree with Ms Jones and recommend retention of this policy because tangata whenua values are part of the town centre's heritage values and contribute to its sense of place.

⁹⁶ V Jones, Section 42A Report at [6.5b] and [18.14]

⁹⁷ Submissions 663 (opposed by FS1139 and FS1191) and 672

⁹⁸ V Jones, Section 42A Report at [18.14].

Notified Policy 12.2.2.7 does not place obligations on individual landowners. Expression of cultural heritage values is to occur in the design of public spaces where appropriate. The language is a little imprecise in that it is not clear how appropriateness is determined. Nevertheless we recommend retention of the policy with a minor amendment.

138. Consequently we recommend retention of this policy with our small recommended amendment struck out as follows:

12.2.2.7 Acknowledge and celebrate ~~our~~ cultural heritage, including incorporating reference to tangata whenua values, in the design of public spaces, where appropriate.

139. Policy 12.2.2.8 related to flooding risk which is a known risk for the QTC. Given the town centre is well established, limited options are available to address flooding effects. Minimum floor heights are an available tool, particularly where new builds or renovations to existing buildings occur. To encourage higher floor levels is also appropriate.

140. However, we also agree that amenity and access to buildings and the general streetscape are considerations when assessing the effects of higher floor levels. Given that flooding will continue to occur encouraging building design and construction techniques which include installing electrical wiring and other services in buildings well above ground and flood level are sensible and pragmatic responses.

141. Some submitters⁹⁹ requested the policy only apply to land affected by flood risk, with this identification included on planning maps. Lines could be placed on maps identifying areas of flood risk. However there is no absolute certainty that a flood event would comply with those lines.

142. We agree with Ms Jones' approach that Policy 12.2.2.8 and its related rule 12.5.7 should require minimum floor level for properties with scope through the matters of discretion to seek alternative floor levels. Whether or not an alternative is suitable will be determined by the extent to which the alternate mitigation measure will sufficiently mitigate either flood risk or effect while ensuring any adverse effects of that measure on the amenity, accessibility and safety of the town centre are acceptable.

143. We also note Ms Jones' recommendation that each of the three sub paragraphs (a), (b) and (c) in Policy 12.2.2.8 are intended to be linked through the use of the word "and", so that they are read and applied jointly.¹⁰⁰ We agree.

144. The only other matter raised in submissions¹⁰¹ was to include "character values" within subparagraph (b) as a matter for assessment of the effect of higher floor levels. We agree this is appropriate because differing floor levels can have an impact on character values justifying inclusion of this matter as a matter of assessment.

145. We recommend that Policy 12.2.2.8 read with the additions underlined as follows:

12.2.2.8 Acknowledge that parts of the Queenstown Town Centre are susceptible to flood risk and mitigate the effects of this through:

⁹⁹ Submissions 663 (opposed by FS1139 and FS1191) and 672

¹⁰⁰ V Jones, Section 42A Report, Appendix 1, at p12-3.

¹⁰¹ Submissions 663 and 672

- a. *Requiring minimum floor heights to be met; and*
- b. *Encouraging higher floor levels (of at least RL 312.8 masl) where amenity, mobility, and streetscape, and character values are not adversely affected; and*
- c. *Encouraging building design and construction techniques which limit the impact of flooding or ponding in areas of known risk.*

146. Several submitters¹⁰² requested either deletion of Policy 12.2.2.9 or amendment of it. The amendments sought to diminish the policy by seeking to “manage” the design of comprehensive developments within the Town Centre Transition Sub-zone.¹⁰³ The policy as notified used the word “require” in relation to high quality comprehensive developments within that transition sub-zone.
147. The TCTSZ separates the QTCZ from the immediately surrounding high density residential zone. Appropriately providing for the transitions between zones is important. The policy is, however, further focused on comprehensive developments on large sites in the QTCZ.
148. In her Reply, Ms Jones recommended that identified details be shifted from Rule 12.5.1.1 to this policy to provide greater policy direction.¹⁰⁴ She stated that these details are already in the matters of discretion included in the rule with the exception of provision of open space which she supported to be included. She recommended the addition of words that direct attention to pedestrian links and lanes, open spaces, outdoor dining and well-planned storage loading/servicing areas being provided within the development.
149. We agree with her that it is the largest sites, both within the TCTSZ and within the QTC, which offer the opportunity to make a significant and positive contribution to the overall quality and character of the town. We also agree this outcome can be achieved particularly through the provision of pedestrian links or lanes, and open spaces.
150. In our view, the policy as notified using the word “require” is appropriate, particularly when considering Objective 12.2.2. We think Ms Jones’ recommended refinement by the inclusion of additional words from Rule 12.5.1.1 within the policy is also helpful because it identifies with more precision outcomes or actions which better support Objective 12.2.2.
151. Our recommendation is to adopt Policy 12.2.2.9 with the amendments underlined as set out below:

12.2.2.9 Require high quality comprehensive developments within the Town Centre Transition Sub-Zone and on large sites elsewhere in the Town Centre, which provides primarily for pedestrian links and lanes, open spaces, outdoor dining, and well planned storage and loading/ servicing areas within the development.

3.4. Additional Policy

152. NZIA¹⁰⁵ requested that a further Policy 12.2.2.10 be added in recognition that Council has a role in managing and investing in the street environment and encouraging vitality through both soft and hard landscaping.

¹⁰² Submissions 663 (opposed by FS1139 and FS1191) and 672

¹⁰³ V Jones, Section 42A at [13.14].

¹⁰⁴ V Jones, Reply Statement at [4.3a]

¹⁰⁵ Submission 238, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249

153. Ms Jones, in her Section 42A Report, did not support the inclusion of such a policy within the QTCZ.¹⁰⁶ Nor do we, as while such council initiatives are integral to achieving the objective, the commitment to undertake such works is more appropriately determined in the Council's long term plan process. We therefore recommend this submission be rejected.

3.5. Objective 12.2.3 and Policies 12.2.3.1 – 12.2.3.6

154. As notified these read:

12.2.3. Objective

An increasingly vibrant Town Centre that continues to prosper while maintaining a reasonable level of residential amenity within and beyond the Town Centre Zone."

Policies

12.2.3.1 *Require activities within the Town Centre Zone to comply with noise limits, and sensitive uses within the Town Centre to insulate for noise in order to mitigate the adverse effects of noise within and adjacent to the Town Centre Zone.*

12.2.3.2 *Minimise conflicts between the Town Centre and the adjacent residential zone by avoiding high levels of night time noise being generated on the periphery of the Town Centre and controlling the height and design of buildings at the zone boundary.*

12.2.3.3 *Recognise the important contribution that night time activity makes to the vibrancy and economic prosperity of the Town Centre and specifically provide for those activities, while mitigating effects on residential amenity by:*

- a. *Enabling night time dining and socialising, both indoors and outdoors, to varying degrees throughout the Town Centre*
- b. *Providing for noisier night time activity within the entertainment precinct in order to minimise effects on adjacent residential zones and*
- c. *Ensuring that the nature and scale of licensed premises located in the Town Centre Transition subzone are compatible with adjoining residential zones.*

12.2.3.4 *Enable residential and visitor accommodation activities within the Town Centre while:*

- a. *Acknowledging that the level of amenity will be lower than in residential zones due to the density, mixed use, and late night nature of the Town Centre and requiring that such sensitive uses are insulated for noise*
- b. *Discouraging residential uses at ground level in those areas where active frontages are particularly important to the vibrancy of the Town Centre*
- c. *Avoiding, or, where this is not possible, mitigating adverse traffic effects from visitor accommodation through encouraging operators to provide guests with alternatives to private car travel, discouraging the provision of onsite car*

¹⁰⁶ V Jones, Section 42A Report at [13.16].

parking, and through the careful location and design of any onsite parking and loading areas and

d. Discouraging new residential and visitor accommodation uses within the Entertainment Precinct.

12.2.3.5 Avoid the establishment of activities that cause noxious effects that are not appropriate for the Town Centre.

12.2.3.6 Ensure that the location and direction of lights in the Town Centre does not cause significant glare to other properties, roads, and public places and promote lighting design that mitigates adverse effects on the night sky.

155. This objective did not attract submissions in opposition¹⁰⁷. One submitter¹⁰⁸ did seek to clarify the meaning of the words “*reasonable level*”. That submitter sought clarification pointing out that policy 12.2.1.4 sought to enable residential activities and visitor accommodation. This raised the question as to what would a reasonable level of amenity be which would enable residential activities and visitor accommodation within and beyond the Town Centre Zone?
156. Ms Jones acknowledged the vagueness of the words. She went on to note that the vagueness was addressed when regard was had to the related policies and rules. It was her view, and we agree, that once the policies accompanying the objective and the relevant rules are considered, it is possible to better understand what is meant by the words “*reasonable level*”. We agree with her that a footnote clarifying what would be a reasonable level of amenity is not required because that clarification is provided through the linked policies and rules and their application.
157. At the heart of the issue is the challenge to provide for a range of activities within the town centre, some of which are directed at entertainment and supporting the tourism market, while at the same time providing a level of amenity conducive to activities such as residential and accommodation for visitors.
158. Overall Ms Jones was of the view that notified objective 12.2.3 would appropriately give effect to the Act. She contended that the related policy direction, which we discuss below, would be generally appropriate for the reasons that are referred to in the Section 32 report. We agree with her views in relation to the notified objective and recommend it be adopted as notified.
159. As notified Policies 12.2.3.1 - 12.2.3.3 established a clear hierarchy of anticipated noise levels within the Town Centre.¹⁰⁹
160. Two submitters¹¹⁰ sought deletion of Policy 12.2.3.1 and incorporation of its intent into Policy 12.2.3.3. Ms Jones recommended acceptance of those submissions¹¹¹ and we agree.
161. We do not see value in a policy that requires activities within the town centre to comply with the noise limits. That is a given. Next, to a lesser extent, if a new sensitive activity wished to locate in the town centre then the existing noise environment would need to be taken into

¹⁰⁷ Submission 380 supported the objective

¹⁰⁸ Submission 714

¹⁰⁹ Section 42A Report of Ms Jones at [12.23].

¹¹⁰ Submissions 672 and 663 (opposed by FS1191, FS1318, FS1139)

¹¹¹ Section 42A Report of Ms Jones at [12.17b].

account so as to provide for and avoid reverse sensitivity effects. Effectively a new noise sensitive activity in all likelihood would need to insulate for noise to achieve this outcome.

162. Finally, the issue of noise is really a night time noise issue. The evidence raised, in particular, the potential adverse impacts of night-time noise on amenity values and sleep disturbance for visitors within visitor accommodation in some areas of the QTC.
163. We agree with Ms Jones that this approach to sensitive uses within the town centre is best included within reworded Policy 12.2.3.3 as that policy relates to when noise is an issue, night time.
164. For these reasons we recommend that Policy 12.2.3.1 be deleted and its contents be addressed within Policy 12.2.3.3. This will cause a re-numbering of policies 12.2.3.2 to 12.2.3.7.
165. There were no submissions received on Policy 12.2.3.2 so we discuss it no further and recommend its adoption as notified.
166. We consider Policy 12.2.3.3 to be the key policy in this group. This policy recognises the importance to the Town Centre of the activities that cause that night time noise. It seeks to enable it by providing the Entertainment Precinct for noisier night time activity. We assume the expectation is, over time, those who need this noisier locality for their activities will gravitate or shift to it. At the same time the policy seeks compliance with noise limits in other parts of the QTCZ.
167. The provision of night-time entertainment, including dining and socialising indoors and outdoors, is an integral element of the town centre, adding to and supporting the vibrancy and economic prosperity of the town centre. Specifically providing for those activities as notified Policy 12.2.3.3 sought to do is important because many visitors to the QTC wish to avail themselves of night time dining and socialising.
168. Provision of such activities in the QTC is long standing and makes for an active and vibrant town centre. The availability of night time activities adds to the visitor's diversity of experience. Visitors know this offering is available in the Town Centre and will expect it be maintained. Many businesses have long standing investment in the broad entertainment activities the Town Centre offers.
169. Encouraging noisier night time activity within the TCEP in order to minimise noise effects on residential zones adjacent to the town centre is both a pragmatic and workable solution, albeit may take some time before the noisier night-time activities aggregate within the Entertainment Precinct.
170. Through controlling the nature and scale of licensed premises located in the Town Centre Transition Sub-Zone is also, we think, a useful and appropriate course of action to ensure that residential amenity in the adjoining residential zones is supported.
171. With the expectation that the TCEP, in particular, will both attract and provide for noisier night-time activity, we think it follows that those noise sensitive uses that wish to locate in the town centre will need to be able to mitigate the adverse effects of noise through insulation, or reverse sensitivity impacts or effects will undoubtedly arise. If this were not to occur then the desired outcome provided for within Objective 12.2.3 would not be realised.

172. Several submitters¹¹² supported the intent of Policy 12.2.3.3, and Kopuwai Investments limited¹¹³ sought minor amendments to subparagraphs (b) and (c) to clarify the meaning of the policy. Imperium Group¹¹⁴ sought to delete sub paragraph (b) of this policy.
173. Evan Jenkins¹¹⁵ supported the general approach of the policies but broadly pointed out in his submission that ‘vibrant’ does not mean loud; that the town centre is for all age groups, and that unless well monitored, the less restrictive noise policy may be abused.
174. Ms Jones pointed out in her Section 42A Report that the notified policies and rules provide for the noisiest activity within the TCEP and they enable only minor noise increases beyond that in a manner that would effectively direct certain activities to the most suitable parts of the town centre.¹¹⁶ Additionally, she pointed out that greater control over licenced premises within the TCTZ will create enclaves that will appeal to the different sectors of the resident and visitor community.¹¹⁷ We also note Dr Chiles’ advice that the noise levels now proposed reflect reality and are consistent with other town centres, and that it would be possible to monitor noise levels.¹¹⁸ We accept the submission insofar as it supports Policy 12.2.3.3 and consider that, based on the conclusions of Ms Jones and the advice of Dr Chiles, that Mr Jenkins’ concerns will be addressed.
175. We earlier referred to the submissions¹¹⁹ seeking alteration to Policy 12.2.3.3 by amalgamating it with Policy 12.2.3.1 and we recommend this occur by including sub paragraphs (d) and (e) as we have set out below.
176. Accordingly the wording we recommend for Policy 12.2.3.3 is as follows;

“12.2.3.3 Recognise the important contribution that night time activity makes to the vibrancy and economic prosperity of the Town Centre and specifically provide for those activities, while mitigating effects on residential amenity by:

- a. Enabling night time dining and socialising, both indoors and outdoors, to varying degrees throughout the Town Centre and*
- b. Providing for noisier night time activity within the entertainment precinct in order to minimise effects on ~~adjacent~~ residential zones adjacent to the Town Centre and*
- c. Ensuring that the nature and scale of licensed premises located in the Town Centre Transition Sub-Zone result in effects that are compatible with adjoining residential zones and*
- d. Enabling activities within the Town Centre Zone that comply with the noise limits and*

¹¹² Submissions 187 (opposed by FS1318), 587 (opposed by FS1318), 589 (opposed by FS1318) and 804

¹¹³ Submission 714

¹¹⁴ Submission 151

¹¹⁵ Submission 474

¹¹⁶ Section 42A Report of Ms Jones at [12.20].

¹¹⁷ Ibid.

¹¹⁸ Evidence of Dr Chiles at [7.2].

¹¹⁹ Submissions 672, and 663 (opposed by FS1139, FS1191)

e. Requiring sensitive uses within the Town Centre to mitigate the adverse effects of noise through insulation."

177. We have already recorded the importance of residential and visitor accommodation to both the town centre and the district itself. Policy 12.2.3.4 is important because it seeks recognition of the reality that the QTCZ is a noisy and active day and night time environment. In particular, night-time activities, such as entertainment bars and outdoor dining establishments, contribute to noise and high activity levels. The night-time activities can and do take place late into the night.
178. Policy 12.2.3.4 endeavoured to paint an accurate picture about what was occurring within the town centre and to send signals discouraging residential uses, particularly at ground level, and in those locations within the QTC where bars and restaurants predominate, particularly the TCEP.
179. NZIA¹²⁰ supported Policy 12.2.3.4 but sought amendment to refer to noisy and active rather than to lower amenity levels. We accept this as the requested change simply reflects the existing reality.
180. Kopuwai Investments Limited¹²¹ sought acknowledgement of self-protection¹²¹ as a method by adding the words "*and self-protected*" to subparagraph (a) after the word '*insulated*'. We agree with Ms Jones that it is unclear what is meant by this wording and therefore that it is ineffective and inefficient.¹²² We recommend this submission be rejected for that reason.
181. Imperium Group¹²³ sought to delete notified Policy 12.2.3.4(d). Ms Jones, within her Section 42A Report agreed in part with Submitter 151 to remove part (d) of notified Policy 12.2.3.4. She recommended that it be amended to better reflect the fact that the rules do not directly discourage such uses, but rather, only anticipate such uses where sufficient insulation was provided (by making it non-complying where this was not provided).¹²⁴
182. We think this would send a clear signal that the TCEP is certainly not a preferred location for new residential and visitor accommodation. However, if that location were to be used for those activities, it would only be an appropriate location if adequate insulation and mechanical ventilation were installed. We consider Ms Jones' proposed amendments in response to this submission to be appropriate.
183. Accordingly, we recommend that Policy 12.2.3.4 be amended as underlined and struckout, to read:

12.2.3.4 Enable residential and visitor accommodation activities within the Town Centre while:

a. Acknowledging that ~~the level of amenity will be lower~~ it will be noisier and more active than in residential zones due to the density, mixed use, and late night

¹²⁰ Submission 238, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249

¹²¹ Submission 714

¹²² V Jones, Section 42A Report at [12.17d].

¹²³ Submission 151

¹²⁴ V Jones, Section 42A Report at [12.17e]

nature of the Town Centre and requiring that such sensitive uses are insulated for noise; and

- b. Discouraging residential uses at ground level in those areas where active frontages are particularly important to the vibrancy of the Town Centre; and*
- c. Avoiding, or, where this is not possible, mitigating adverse traffic effects from visitor accommodation through encouraging operators to provide guests with alternatives to private car travel, discouraging the provision of onsite car parking, and through the careful location and design of any onsite parking and loading areas; and*
- d. Only enabling ~~Discouraging~~ new residential and visitor accommodation uses within the Town Centre Entertainment Precinct where adequate insulation and mechanical ventilation is installed.*

- 184. No submissions on Policy 12.2.3.5 were received and we recommend it be adopted as notified.
- 185. There was only one submission received on Policy 12.2.3.6.¹²⁵ Mr Jenkins sought additional detail be included within this policy directed at fairy lighting in trees. He referred to the southern light strategy to support his views.
- 186. Ms Jones did not recommend any further detail be included within Policy 12.2.3.6 and we agree with her recommendation. We think the policy, as expressed, adequately provides that the issue of glare and adverse effects on the night sky be appropriately addressed.
- 187. We do recommend a minor change to make it consistent with similar policies recommended by differently constituted Hearing Panels. That is, it is the effect on views of the night sky which the policy should deal with.
- 188. We discuss this issue in greater detail when considering the glare standard now renumbered as Rule 12.5.13.1 and for the reasons we there discuss, we recommend Policy 12.2.3.5 be amended as underlined below:

Ensure that the location and direction of lights in the Town Centre does not cause significant glare to other properties, roads, and public places and promote lighting design that mitigates adverse effects on views of the night sky.

3.6. New Policy

- 189. Several submitters¹²⁶, sought the inclusion of a new policy to recognise the important contribution that sunny open spaces, footpaths and pedestrian spaces make to the vibrancy and economic prosperity of the town centre.
- 190. We recognise how provision of open spaces, particularly sunny open spaces, utilisation of foot paths and provision of pedestrian space allows people to enjoy the outdoor aspect of the town centre. This is particularly so for outdoor dining during summer daytime periods. Having people in public places undertaking activities of this nature does this and we think adds to the sense of vibrancy of the town centre.

¹²⁵ Submission 474

¹²⁶ Submissions 59, 82, 599, 206 and 417

191. In response to these submissions¹²⁷, Ms Jones recommended a new Policy 12.2.3.7.¹²⁸ We recommend the inclusion of this new policy as it assists in realising Objective 12.2.3. This will become Policy 12.2.3.6 with the deletion of Policy 12.2.3.1 earlier.

12.2.3.6 Policy

Recognise the important contribution that sunny open spaces, footpaths, and pedestrian spaces makes to the vibrancy and economic prosperity of the Town Centre.

3.7. **Objective 12.2.4 and Policies 12.2.4.1 – 12.2.4.6**

192. As notified these read:

12.2.4 Objective

A compact Town Centre that is safe and easily accessible for both visitors and residents.

Policies

12.2.4.1 *Encourage a reduction in the dominance of vehicles within the Town Centre and a shift in priority toward providing for public transport and providing safe and pleasant pedestrian and cycle access to and through the Town Centre.*

12.2.4.2 *Ensure that the Town Centre remains compact and easily walkable by avoiding outward expansion of the Town Centre Zone. Encourage walking to and within the Town Centre by improving the quality of the pedestrian experience by:*

- a. *Maintaining and enhancing the existing network of pedestrian linkages and ensuring these are of a high quality*
- b. *Requiring new pedestrian linkages in appropriate locations when redevelopment occurs*
- c. *Strictly limiting outward expansion of the Town Centre Zone and commercial activity beyond it and*
- d. *Encouraging the provision of verandas along pedestrian-oriented streets, while acknowledging that verandas may not be appropriate or necessary in applications involving a heritage building; or where no verandas exist on adjoining buildings.*

12.2.4.3 *Minimise opportunities for criminal activity through incorporating Crime Prevention through Environmental Design (CPTED) principles as appropriate in the design of lot configuration and the street network, car parking areas, public and semi-public spaces, access ways/ pedestrian links/ lanes, and landscaping.*

12.2.4.4 *Off-street parking is predominantly located at the periphery of the Town Centre in order to limit the impact of vehicles, particularly during periods of peak visitor numbers.*

12.2.4.5 *Plan for future public transport options by considering the needs of public transport services and supporting infrastructure when designing roading improvements.*

¹²⁷ Submissions 59, 82, 599, 206 and 417.

¹²⁸ V Jones, Section 42A Report at [10.14].

12.2.4.6 *Encourage visitor accommodation to be located and designed in a manner that minimises traffic issues that may otherwise affect the safety and amenity of pedestrians and cyclists, particularly in peak periods.*

193. Several submitters¹²⁹ supported the objective as notified. In our view one of the key attributes of the town centre is that it is compact with the result that its small geographic size enables ease of access. Accessibility is enhanced through pedestrian walkways and laneways. This compactness and ease of accessibility is one of the features of the town centre which adds to its attractiveness and interest for both visitors and residents.
194. We agree with the submitters and recommend their submissions are accepted. We also recommend retaining Objective 12.2.4 as notified.
195. The only submission¹³⁰ on Policy 12.2.4.1 sought that it be retained. Submission 238 referred to this policy, but when the relief is examined, the reference was in error and should have referred to Policy 12.2.4.2.
196. We consider this policy is well suited and appropriate to implement Objective 12.2.4. Priorities in public transport and providing safe and pleasant pedestrian access is critical to implementing this objective. Also important is encouraging the reduction of vehicle dominance within the town centre itself.
197. Accordingly, we recommend it be adopted as notified.
198. While several submitters¹³¹ supported Policy 12.2.4.2, two¹³² also sought to change it. The Otago Regional Council¹³³ (ORC) requested the inclusion of the word “*accessibility*” into the opening paragraph. NZIA¹³⁴ requested additional bullet points relating to the promotion and encouragement of laneways and small streets being open to the sky, as well as promoting the opening up of Horne Creek as a visual feature.
199. The ORC submission sought the limitation of car parks in the periphery of the town centre so as to encourage or support the shift to shared and active transport modes. This is a transportation issue and we agree with Ms Jones that it is more appropriately considered in relation to Chapter 29 in Stage 2 of the PDP.
200. The ORC also wished to refine provisions relating to verandas within this policy, ensuring that they do not interfere with curb side movement of high sided vehicles.
201. Other submitters¹³⁵ were interested to ensure that the effects of buildings did not cause additional shading degrading the pedestrian environment or enjoyment of public spaces. Those submitters did, however, seek a trade-off where there was a small increase of shading of public pedestrian spaces such that it could be offset or compensated by the provision of additional public space or a pedestrian link within the site.

¹²⁹ Submissions 217, 380, 798 and 807

¹³⁰ Submission 719

¹³¹ Submissions 719 and 807.

¹³² Submissions 238 and 798

¹³³ Submission 798

¹³⁴ Submission 238, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249

¹³⁵ Submissions 59, 82, 206, 417, 599, 663, 672, 59, 82, 599, 206, 417 (opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249)

202. In the main, Ms Jones agreed with and supported these various submissions.¹³⁶ We agree. The addition of the word “*accessible*” derives a meaning from its context meaning the town centre is accessible to pedestrians in general. Verandas need to be sensibly designed so as not to interfere with curb side movement of high sided vehicles, although we thought this outcome would go without saying.
203. We agree that uncovered pedestrian links and lanes are both the key to, and an integral feature, of the QTC character. They should be promoted, retained and maintained. In respect of Horne Creek, we agree that all that can be achieved within the policy framework is to send the signal about promoting the opening up of Horne Creek as distinct from requiring the same.¹³⁷ We agree that those parts of the town centre where Horne Creek is opened up have a special character. The visual and aural appeal of running water in a semi natural state is a pleasing amenity feature in a busy town centre. However, given the Creek runs through both private and publicly-held land, and is partially covered over or piped, we consider the Council has no jurisdiction to require its opening, but does have the ability to promote it.
204. The final amendments link to other submissions relating to height of buildings and increasing the allowable height in various height precincts of the town centre. Increases in height lead to the need to carefully assess additional shading. Additional shading is inevitable with a height increase. That height increase enables one of the key characteristics of the town centre, namely its compact nature to be retained. We recognise an increase in height will inevitably lead to additional shading. However, the ability to offset any such effect by the provision of additional public space or pedestrian links is of value. We consider this policy, amended as recommended by Ms Jones, assists in achieving Objective 12.2.4. We recommend submissions amending Policy 12.2.4.2 be accepted.
205. We recommend Policy 12.2.4.2 read with the amendments underlined as follows:
- “Ensure that the Town Centre remains compact, accessible, and easily walkable by avoiding outward expansion of the Town Centre Zone. Encourage walking to and within the Town Centre by improving the quality of the pedestrian experience by:*
- a. Maintaining and enhancing the existing network of pedestrian linkages and ensuring these are of a high quality;*
 - b. Requiring new pedestrian linkages in appropriate locations when redevelopment occurs;*
 - c. Strictly limiting outward expansion of the Town Centre Zone and commercial activity beyond it; ~~and~~*
 - d. Encouraging the provision of verandas along pedestrian-oriented streets, while acknowledging that verandas may not be appropriate or necessary in applications involving a heritage building; or where no verandas exist on adjoining buildings; and may need to be specifically designed so as to not interfere with kerbside movements of high-sided vehicles*
 - e. Promoting and encouraging the maintenance and creation of uncovered pedestrian links and lanes wherever possible, in recognition that these are a key feature of Queenstown character;*

¹³⁶ Section 42A Report of Ms Jones at [13.19].

¹³⁷ Ibid.

- f. Promoting the opening up of Horne Creek wherever possible, in recognition that it is a key visual and pedestrian feature of Queenstown, which contributes significantly to its character; and
- g. Ensuring the cumulative effect of buildings does not result in additional shading that will progressively degrade the pedestrian environment or enjoyment of public spaces, while accepting that individual developments may increase the shading of public pedestrian space to a small extent provided this is offset or compensated for by the provision of additional public space or a pedestrian link within the site.”
206. One submission¹³⁸ sought that Policy 12.2.4.3 be amended to refer to antisocial rather than criminal behaviour, and that the CPTED principles not be applied to the design of lot configuration, the street network, car parking areas, access ways, pedestrian links and/or lanes or landscaping.
207. Like Ms Jones, we think the word “antisocial behaviour” rather than “criminal activity” is more appropriate in the policy context. We also agree with Ms Jones that lot configuration and the design of any extension to the street network will be considered through the Subdivision Chapter.¹³⁹ Therefore, those particular matters do not need to be specifically mentioned within this policy. However, notwithstanding deletion of references to lot configuration and street network, and inclusion of reference to streetscapes, these CPTED principles are still deserving of mention and reference within this policy.
208. The references in Policy 12.2.4.3 relate in the main to the public domain. Generally CPTED matters are given effect to by councils while designing public spaces. Private land owners do tend to have differing priorities more focused on security.
209. Consequently, we recommend Policy 12.2.4.3 read:
- Minimise opportunities for ~~criminal activity~~ anti-social behaviour through incorporating Crime Prevention Through Environmental Design (CPTED) principles as appropriate in the design of ~~lot configuration and the streetscapes network~~, carparking areas, public and semi-public spaces, accessways/ pedestrian links/ lanes, and landscaping.*
210. NZTA¹⁴⁰ submitted in favour of Policy 12.2.4.4. ORC¹⁴¹ suggested that accessibility to the Town Centre could be assisted by limiting the supply of car parks on the periphery of it. However, this submission did not directly refer to this policy and no evidence was provided in support of the submission.
211. We are satisfied this policy as worded appropriately supports the implementation of Objective 12.2.4 and accordingly recommend this policy be adopted as notified.
212. Ms Jones discussed Policy 12.2.4.5 in her Section 42A Report under Issue 9 Transportation. This policy received attention from other submitters¹⁴². However, only those submission

¹³⁸ Submission 663, opposed by FS1139 and FS1191

¹³⁹ V Jones, Section 42A Report at [13.21].

¹⁴⁰ Submission 719

¹⁴¹ Submission 798

¹⁴² Submissions 719, 238, 621 and 798.

points that related directly to the objectives and policies contained in Chapter 12 are addressed by this Report.

213. ORC observed in its submission that public transport users are multi modal. This means they generally walk or cycle to access bus services therefore developments should create active transport connection linking existing public transport services and infrastructure where possible. ORC raised the point that poorly designed shop front veranda setbacks and heights can interfere with kerbside bus movement however no specific relief was sought. We note Ms Jones, when considering both this submission and notified Rule 12.5.5, recommended inclusion of wording to deal with this concern.¹⁴³
214. NZTA¹⁴⁴ submitted in favour of retaining notified policy 12.2.4.5. NZIA¹⁴⁵ and Real Journeys Ltd¹⁴⁶ requested the policy not only be considered when designing roading improvements but also when designing any transportation related improvements, or, alternatively, when considering jetty applications.
215. Real Journeys, in particular, sought to include the consideration of jetty applications when considering current or future public transport needs. We agree with Ms Jones¹⁴⁷ that when jetty applications are being considered, it is appropriate to consider how those applications may impact on the planning for future public transport options. We consider that travel by watercraft assists in making the town centre accessible for both visitors and residents. We are satisfied that the amendments sought by the submitter support Objective 12.2.4.
216. For these reasons we recommend that Policy 12.2.4.5 be amended to include the words “*or considering jetty applications*” as shown underlined below:
- Plan for future public transport options by considering the needs of public transport services and supporting infrastructure when designing roading improvements or considering jetty applications.*
217. NZTA¹⁴⁸ sought amendments to Policy 12.2.4.6, while other submitters¹⁴⁹ requested the policy be deleted. The refinement sought by NZTA was to include words so as to ensure that the safety and efficiency and functionality of the roading network were matters considered when the location and design of visitor accommodation was being considered.
218. Like Ms Jones, we agree that the changes requested by NZTA are appropriate as incorporating them would help this policy better achieve Objective 12.2.4.¹⁵⁰
219. We do not support the submissions requesting that the policy be deleted because traffic issues are an important consideration for the location and design of visitor accommodation, particularly when considering safety and accessibility of both visitors and residents alike.

¹⁴³ V Jones, Section 42A Report at [13.52].

¹⁴⁴ Submission 719

¹⁴⁵ Submission 238, supported by FS1097 and FS1117, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249

¹⁴⁶ Submission 621

¹⁴⁷ V Jones, Section 42A Report at [17.5]

¹⁴⁸ Submission 719

¹⁴⁹ Submissions 663 (opposed by FS1139 and FS1191) and 672

¹⁵⁰ V Jones, Section 42A Report at [15.4].

220. We recommend the Policy read with the additions underlined as follows:

Encourage visitor accommodation to be located and designed in a manner that minimises traffic issues that may otherwise affect the safety, efficiency, and functionality of the roading network, and the safety and amenity of pedestrians and cyclists, particularly in peak periods.

3.8. Objective 12.2.5 and Policies 12.2.5.1 – 12.2.5.6

221. As notified, these read:

12.2.5 Objective

Integrated management of the Queenstown Bay land-water interface, the activities at this interface and the establishment of a dynamic and attractive environment for the benefit of both residents and visitors.

Policies

12.2.5.1 *Encourage the development of an exciting and vibrant waterfront, which maximises the opportunities and attractions inherent in its location and setting as part of the Town Centre.*

12.2.5.2 *Promote a comprehensive approach to the provision of facilities for water-based activities.*

12.2.5.3 *Conserve and enhance, where appropriate, the natural qualities and amenity values of the foreshore and adjoining waters.*

12.2.5.4 *Retain and enhance all the public open space areas adjacent to the waterfront.*

12.2.5.5 *Maximise pedestrian accessibility to and along the waterfront for the enjoyment of the physical setting by the community and visitors.*

12.2.5.6 *Provide for structures within the Queenstown Bay waterfront area subject to compliance with strict location and appearance criteria.*

222. The main issues Ms Jones¹⁵¹ identified arising from the ODP were, first that the community and visual values of the land/water interface had not been properly identified in the ODP. Secondly, the extent of the Queenstown Bay Waterfront area was not clearly defined. She observed that all but one of the ODP policies had been included in the PDP.¹⁵² However, those that referred to managing the waterfront area in accordance with various foreshore management plans were not included.

223. Several submitters¹⁵³ supported Objective 12.2.5 as notified. Te Anau Developments Limited¹⁵⁴ and Queenstown Park Limited¹⁵⁵, requested that Objective 12.2.5 and the supporting policies be amended to ensure tourism activities, including the transport of passengers and supporting buildings, infrastructure, and structures, were specifically provided for.

¹⁵¹ V Jones, Section 42A Report at [16.6]

¹⁵² Ibid at [16.17].

¹⁵³ Submissions 217, 380 and 817.

¹⁵⁴ Submission 607

¹⁵⁵ FS1097

224. In response to these submissions, Ms Jones expressed the view that it was unnecessary and inappropriate to change the objective and policies to specifically provide for tourism activities as both the objectives and policies already acknowledged the area is to be managed for visitors as well as residents¹⁵⁶. We agree.
225. In addition, she suggested that an amended policy which provides for tourism, including supporting buildings and structures as sought, would be inconsistent with the rules. We will return to rules later, but we agree with Ms Jones that rules classify many buildings and structures that would arguably support tourism, as non-complying in this Sub-Zone.
226. Other submitters¹⁵⁷ sought the objective and all its related policies be amended to recognise the importance of public transport links on the water and better integration of land and water-based journeys. Ms Jones was of the view this matter was best addressed in Stage 2 of the proposed District Plan.¹⁵⁸ Consequently she recommended rejecting these particular submission points for those reasons.
227. The Stage 2 variations propose the addition of a seventh policy under this objective., relating to public ferry services. While this may satisfy the relief sought by those submitters, we recommend the submissions be rejected at this stage.
228. We recommend adoption of the objective with the minor wording changes recommended by Ms Jones to improve clarity¹⁵⁹. This change can be made pursuant to Clause 16(2). We recommend Objective 12.2.5 read, with the amendments underlined, as follows:

Objective 12.2.5

Integrated management of the Queenstown Bay land-water interface, the activities at this interface and the establishment of a dynamic and attractive environment ~~for the~~ that benefits ~~of~~ both residents and visitors.

229. Multiple submitters¹⁶⁰ sought to amend notified Objective 12.2.5 and associated Policies 12.2.5.1, 12.2.5.2, 12.2.5.5, and 12.2.5.6 to recognise the importance of public transport links on the water and better integration of land and water-based journeys. The amendment proposed by the Stage 2 variations confirms that this is a matter better dealt with in association with the Transport Chapter. We recommend these submissions be rejected.
230. Real Journeys Limited¹⁶¹ requested that Policy 12.2.5.2 be amended to promote the strategic comprehensive approach to the provision of facilities for water-based activities. Queenstown Wharves¹⁶² requested it be deleted.
231. Ms Jones recognised that Policy 12.2.5.2 is an important policy which both appropriately and sufficiently signals the desire for a comprehensive approach to activities within the Sub-Zone. She was of the view¹⁶³, and we agree with her, that the inclusion of the word “strategic” is unnecessary. Accordingly, we recommend that Submissions 621 and 766 are rejected.

¹⁵⁶ V Jones, Section 42A Report at [16.14a].

¹⁵⁷ Submissions 766, 798, (supported by FS1341 and FS1342) and 807.

¹⁵⁸ V Jones, Section 42A Report at [17.8].

¹⁵⁹ V Jones, Summary of Evidence, Appendix 1

¹⁶⁰ Submissions 766, 798, 807 and FS1341.

¹⁶¹ Submission 621

¹⁶² Submission 766, supported by FS1341

¹⁶³ V Jones, Section 42A Report at [16.14b].

232. Remarkables Park Limited¹⁶⁴ and Queenstown Wharves¹⁶⁵ sought that Policy 12.2.5.3, regarding conserving and enhancing the natural qualities of the foreshore and adjoining waters, be deleted. Both of these submissions consider there to be a conflict between Policy 12.2.5.1 and Policy 12.2.5.3. Policy 12.2.5.1 seeks to encourage a vibrant waterfront and whilst the submitters consider retention of the waterfront amenity values to be important, they do not consider that there should be a separate policy to “*conserve and enhance*”.
233. Real Journeys Limited¹⁶⁶ also sought that this policy be amended to conserve, maintain and enhance, as far as practical where appropriate, the natural qualities and amenity values of the foreshore and adjoining waters.
234. Ms Jones was of the view that referencing amenity and natural qualities was important to support the relevant rules which prevent certain activities and built forms in the more natural parts of the Sub-Zone¹⁶⁷. She further considered that amending Policy 12.2.5.3 as sought by Real Journeys Limited, would weaken it because the submitter sought inclusion of the word “*maintain*” and the words “*as far as practical*”¹⁶⁸. We agree with that conclusion.
235. However, in Ms Jones’ Summary of Evidence presented at the hearing, she recommended additional wording for Policy 12.2.5.3 and Policy 12.2.5.6 to provide “more direction in terms of development within the QTC WSZ.”¹⁶⁹ Ms Jones advised that these amendments were made in response to Ms Carter’s evidence for Queenstown Wharves GP Limited.¹⁷⁰
236. In particular Ms Carter was seeking greater direction within Policies 12.2.5.1 to 12.2.5.6 in order to achieve Objective 12.2.5, and a more integrated approach within those policies.¹⁷¹ Indeed, we agree that Objective 12.2.5 seeks integrated management of the Queenstown Bay land –water interface.
237. Based on Ms Carter’s evidence and the Queenstown Wharves submission, Ms Jones recommended the inclusion of additional words to Policy 12.2.5.3, immediately following the word waters, they are:
- the foreshore and adjoining waters, recognising in particular, the predominantly undeveloped character of the ‘Queenstown beach and gardens foreshore area’ (as identified on the planning map) and the important contribution this area makes to providing views to the lake and mountains, pedestrian and cycle connections, water-based commercial recreation activities, and passive recreation opportunities.*
238. We agree with Ms Jones’ recommendation to include these additional words based as it is on the evidence of Ms Carter, with which we agree. We accept including these words better supports Objective 12.2.5 in achieving integrated management of this important Queenstown Bay environment. In particular, these words appropriately capture the existing context of the Bay against which integrated management can be achieved.

¹⁶⁴ Submission 807

¹⁶⁵ Submission 766, supported by FS1341

¹⁶⁶ Submission 621

¹⁶⁷ V Jones, Section 42A Report at [16.14c].

¹⁶⁸ Ibid

¹⁶⁹ V Jones, Summary of Evidence at [6c].

¹⁷⁰ Submission 766

¹⁷¹ J Carter, EIC at [6.7] and [7.1-7.2].

239. Queenstown Wharves¹⁷² sought that Policy 12.2.5.4 be retained as notified.
240. Ms Jones in her Section 42A Report, recommended accepting this submission. Policy 12.2.5.4 relates to retention and enhancement of access to all public open space areas adjacent to the waterfront. We agree with the submission and Ms Jones' recommendation as access to public places adjacent the waterfront enables enjoyment of the Queenstown Bay area by both residents and visitors thus supporting Objective 12.2.5.
241. The only submission¹⁷³ on Policy 12.2.5.5 sought its amendment in relation to water transport. We agree with Ms Jones that is a matter better dealt with in the context of the Transport Chapter and recommend that submission be rejected.
242. NZIA¹⁷⁴ generally supported Policy 12.2.5.6 but requested it be amended to be read subject to the review by the urban design panel in recognition that it is not just location and appearance that is to be considered, but also the blocking of views and filling up of harbour space etc.
243. Real Journeys Limited¹⁷⁵ requested that Policy 12.2.5.6 be amended so as to provide for the development, maintenance and upgrading of structures within the Queenstown Bay waterfront area, recognising these structures are required to meet minimum safety and design standards subject to compliance with strict location and appearance criteria.
244. With regard to Policy 12.2.5.6 and the need to require structures in the Sub-Zone to be considered by the urban design panel (UDP), Ms Jones did not recommend mandating any such review through the policy in the District Plan¹⁷⁶.
245. We agree with her because we consider that matters such as potential effect on views can already be provided for in terms of the district plan. While review by the UDP may assist in decision-making, we do not consider it appropriate to make it a mandatory requirement via the PDP in the absence of clear design guidelines.
246. After considering Ms Black's evidence for Real Journeys Limited, Ms Jones recommended a limited amendment to provide more direction in terms of development within the WSZ.¹⁷⁷
247. We agree with Ms Jones' recommended amendments as they provide more clarity as to why structures are subject to bulk, location and appearance criteria.

3.9. New Policies

248. Kopuwai Investments Limited¹⁷⁸ sought the inclusion of two new policies:

12.2.5.6 Encourage the day time and night time use of outdoor areas for the use by bars and restaurants in and around the Steamer Wharf Complex with appropriate seating, tables and/or planting to enhance the vibrancy and visual amenity.

¹⁷² Submission 766, supported by FS1341

¹⁷³ Submission 766, supported by FS12341

¹⁷⁴ Submission 238, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249

¹⁷⁵ Submission 621

¹⁷⁶ Ibid at [16.14e].

¹⁷⁷ V Jones, Summary of Evidence, at [6c].

¹⁷⁸ Submission 714, opposed by FS1318

12.2.5.7 *Ensure that residential development and visitor accommodation provide acoustic insulation over and above the minimum requirements of the Building Code to avoid reverse sensitivity.*

249. Ms Jones did not recommend adding these additional policies as she considered the intent was somewhat covered by the more general notified Policy 12.2.5.1 and Policy 12.2.3.1 respectively.

250. Further, in relation to the first suggested policy, we consider that encouraging the daytime and night-time use of these areas is not a District Plan matter, rather it is an operational matter. In respect of the second suggested policy, we cannot direct that the Building Code be exceeded in the PDP. For those reasons, we recommend these two new policies not be adopted and that the Kopuwai submission is rejected.

251. Consequently, it is our recommendation that Policies 12.2.5.1 to 12.2.5.6 as set out by Ms Jones in her reply be adopted. We set out the amended policy wording below, with the amendments underlined:

12.2.5.1 *Encourage the development of an exciting and vibrant waterfront, which maximises the opportunities and attractions inherent in its location and setting as part of the Town Centre.*

12.2.5.2 *Promote a comprehensive approach to the provision of facilities for water-based activities.*

12.2.5.3 *Conserve and enhance, where appropriate, the natural qualities and amenity values of the foreshore and adjoining waters, recognising in particular, the predominantly undeveloped character of the 'Queenstown beach and gardens foreshore area' (as identified on the planning map) and the important contribution this area makes to providing views to the lake and mountains, pedestrian and cycle connections, water-based commercial recreation activities, and passive recreation opportunities.*

12.2.5.4 *Retain and enhance all the public open space areas adjacent to the waterfront.*

12.2.5.5 *Maximise pedestrian accessibility to and along the waterfront for the enjoyment of the physical setting by the community and visitors.*

12.2.5.6 *Provide for structures within the Queenstown Bay waterfront area subject to compliance with strict bulk, location and appearance criteria, provided the existing predominantly open character and a continuous pedestrian waterfront connection will be maintained or enhanced.*

4. 12.3 OTHER PROVISIONS AND RULES

4.1. 12.3.1 District Wide Chapters

252. Rule 12.3.1 is a cross reference to other District Wide Chapters that may apply in addition to the rules in Chapter 12.

253. There were no submissions received nor any comment in the officer’s report relating to this section. Ms Jones recommended only minor amendments proposed in the interests of clarification and consistency with other parts of the Plan.
254. We recommend minor amendments be made as a minor change in accordance with Clause 16(2) consistent with our approach to this section throughout the PDP.
255. The recommended layout is shown in Appendix 1.

4.2. **12.3.2 Clarification and 12.3.2.3 General Rules Preliminary Matter**

256. As with other chapters, this section contains a series of provisions that establish how the rules work, including which chapters have precedence over others.
257. Within rules 12.3.2.3-.5 there are three ‘rules’. Each of them commence with the words “*For the purpose of this chapter*”. The rules then proceed to define a comprehensive development, a landmark building and finally a sense of place.
258. The status of the provisions within the notified subheading of “*Clarification*” and “*General Rules*” has arisen in the previous hearings. Mr Winchester, for the Council, reminded us in his opening that, within the residential hearing, counsel suggested, so as to provide more certainty as to the regulatory status of these provisions, that they be further reordered under additional headings “*General Rules*” and “*Advice Notes*”.¹⁷⁹ He advised that these changes do not affect the regulatory impact of these provisions and further those changes were considered to be non-substantive.¹⁸⁰
259. He further elaborated that for the business chapters the clarification provisions should be placed under the subheadings “*General Rules*” and “*Advice Notes*” advising us that changes have also been made to the PDP to align with other chapters.¹⁸¹
260. We accept Mr Winchester’s submission that altering the subheadings ‘*Clarification*’ and ‘*General Rules*’ is required to provide more certainty as to the regulatory status of the provisions. We agree also that his recommended changes are non-substantive. However we think that a sub heading should be more descriptive than simply ‘*General Rules*’ or ‘*Advice Notes*’ to provide greater clarity. In our view these provisions belong within a separate section entitled “*Interpreting and Applying the Rules*” because that is their purpose.
261. We recommend these minor amendments be made as a non-substantive change in accordance with Clause 16(2).
262. The recommended layout is shown in Appendix 1.

5. **DEFINITIONS PROPOSED TO BE INSERTED**

263. There are some definitions that are applicable to the provisions of Chapter 12. In her Reply, Ms Jones recommended that the definitions be located in Chapter 12. Ms Jones explained that in her view this was more appropriate than including these definitions in Chapter 2. This was because they are definitions for the purpose of this chapter, and they are not appropriate

¹⁷⁹ Legal Submissions of Mr Winchester at [9.6].

¹⁸⁰ Ibid.

¹⁸¹ ibid at [9.7].

to apply across all chapters in the PDP. Ms Jones recommended these definitions all sit under the heading “General Rules”.¹⁸²

264. While we do not totally disagree with Ms Jones, we understand that the officer reporting to the Stream 10 Hearing Panel (which heard submissions on Chapter 2 – Definitions) recommended that all definitions be located in that chapter. That recommendation has been accepted and we see little value in repeating definitions in this chapter also. We also note that while Ms Jones claimed the definitions were only used in this chapter, “comprehensive development” is also used in Chapter 13.
265. Our role is to consider the submissions on these definitions and recommend to the Stream 10 Hearing Panel the appropriate wording for the definitions and whether submissions are to be accepted or rejected. We discuss these definitions below.

Comprehensive Development

Comprehensive development means the construction of a building or buildings on a site or across a number of sites with a total land area of greater than 1400 m².

266. At notification, the definition of a comprehensive development, in part, resided in Rule 12.5.1. Ms Jones recommended in her Reply to locate this definition with the other relevant definitions for this chapter. We consider that removing the definition element from Rule 12.5.1 assists with the legibility of the rule and makes the provisions easier for plan users to understand. We note that the area of land to be the trigger for development was a matter of contention. We discuss this in detail in relation to Rule 12.5.1.
267. As this definition is derived from Rule 12.5.1, our reasons for recommending the wording of that rule contain the reasons for recommending the wording of this definition. On that basis, we recommend to the Stream 10 Hearing Panel that comprehensive development be defined as set out above.

Landmark Building

Landmark building means a building that is easily recognisable due to notable physical features, including additional height. Landmark buildings provide an external point of reference that helps orientation and navigation through the urban environment and are typically located on corners or at the termination of a visual axis.

268. The term “landmark building” is used in proposed Rule 12.5.8.5 (d) and its relevance is discussed in more detail when we discuss that rule. We questioned Ms Jones as to whether a definition should be included in the PDP.
269. In her Reply, Ms Jones advised that she had discussed this with Mr Church and she recommended adding a definition for the term landmark buildings.¹⁸³ She did note that whilst there was some clarification in notified Policy 12.2.2.5 and Rule 12.5.8.5(d) this definition would be useful for readers.¹⁸⁴
270. We agree that it is useful to have a definition, and, like Ms Jones, we consider the definition proposed appropriate. We consider that as the definition is primarily for clarification it can be

¹⁸² V Jones, Reply Statement at [4.3d].

¹⁸³ V Jones, Section 42A Report at [9.2]

¹⁸⁴ Ibid

included under Clause 16(2), and recommend to the Stream 10 Hearing Panel that it be so included in Chapter 2.

Sense of Place

Sense of place means the unique collection of visual, cultural, social, and environmental qualities and characteristics that provide meaning to a location and make it distinctly different from another. Defining, maintaining, and enhancing the distinct characteristics and quirks that make a town centre unique fosters community pride and gives the town a competitive advantage over others as it provides a reason to visit and positive and engaging experience. Elements of the Queenstown Town Centre that contribute to its sense of place are the core of low rise character buildings and narrow streets and laneways at its centre, the pedestrian links, small block size of the street grid and its location adjacent the lake and surrounded by the ever present mountainous landscape.

271. NZIA¹⁸⁵ submitted that it was “good to see acknowledgement of sense of place” but sought more information on what this meant. In her Section 42A Report Ms Jones recommended that an explanation for the term “sense of place” be added as an advice note to Objective 12.2.2.¹⁸⁶ She subsequently recommended it be listed as a definition within this chapter.
272. We agree that this definition assists in responding to the NZIA submission. We recommend to the Stream 10 Hearing Panel that Submission 238 be accepted in part by including this definition in Chapter 2.
273. We set out the recommended definitions in Appendix 8.

6. 12.4 RULES – ACTIVITIES

6.1. Rule 12.4.1 Activities not listed in this table and comply with all standards

274. Rule 12.4.1 effectively provides a default permitted activity status to any activity that complies with all standards and is not otherwise listed in Activity Table 12.1.
275. Peter Fleming¹⁸⁷ opposed Rule 12.4.1 but did not give any reasons for his request. In the absence of any evidence and on the basis that we consider Rule 12.4.1 appropriate, we recommend this submission be rejected.
276. At the commencement of the Stream 8 hearings, during the Council’s opening, we queried the approach taken in the various business chapters regarding the need to comply with all standards in order to be a permitted activity. In the QTC, WTC, ATC, LSC and BMU zones, activities which are not listed in this table and comply with all standards are permitted activities.
277. In the Reply Submissions, Ms Scott pointed out that default permitted activities need to state that any activity not listed must comply with all of the standards listed in the chapter, otherwise there would be no regulation around any unlisted activity at all.¹⁸⁸
278. Ms Scott, again in the Reply, set out the way in which the provisions are intended to work.¹⁸⁹

¹⁸⁵ Submission 238, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248.

¹⁸⁶ V Jones, Section 42A Report at [13.7b].

¹⁸⁷ Submission 599

¹⁸⁸ Submissions in Reply of Ms Scott on behalf of QLDC at [2.3].

¹⁸⁹ bid at [2.4].

- a. an activity not listed in the table must comply with all standards in order to be permitted
- b. if an activity not listed in the table breaches one of the standards, then it is no longer permitted, and a consent is required and
- c. the standard breached is what determines the basis on which consent is required (for example, if the unlisted activity breached Rule 12.5.1 then it would become restricted discretionary; if it breached Rule 12.5.10 then it would become noncomplying).

279. Ms Scott submitted that an argument that an activity does not contravene any District Rule in terms of section 9 of the Act merely because that activity is not expressly described in the table would not be tenable. She explained that this was because Rule 12.4.1 was drafted so as to capture all potential and described activities and require them to comply with a group of standards. In that respect, she said, Rule 12.4.1 is a catch- all District Rule for the purposes of section 9 of the RMA.
280. Ms Jones, in her Reply Statement, added that she considered the inclusion of this Rule at the start of the activity table in each chapter is the most legible approach.¹⁹⁰ She considered it important due to the fact that the default status varies between the zones.
281. She did point out the duplication arising from the advice note in 12.3.2.1 which also requires compliance with the standards table.¹⁹¹ She pointed out that the purpose of the advice note is more focused on identifying the non-compliant status. She was of the view the inclusion within Rule 12.4.1 of the reference to compliance with all standards to be clearer and would ensure there was no room for debate as to the correct interpretation.
282. She noted that at first blush it seemed inconsistent to have listed activities default to a non-complying status in some instances and permitted and others.¹⁹² However, she rationalised this apparent inconsistency, noting the vastly different purposes of the various zones.¹⁹³ For example, the likes of rural and residential having a relatively narrow purpose with a narrow range of uses being anticipated and the business zones being of a highly mixed use nature. Overall she did not recommend any changes to Rule 12.4.1.¹⁹⁴
283. After considering Ms Scott's submissions and the views expressed by Ms Jones we agree that the tabular approach is appropriate. Also we agree that Rule 12.4.1 does not require change for all of the reasons advanced by both Ms Scott and Ms Jones. Accordingly, we recommend retention of the table and the approach contained in the replies to determining activity status. Also we recommend retention of Rule 12.4.1 unaltered.

6.2. Rule 12.4.2 Visitor Accommodation

284. As notified, Rule 12.4.2 provided for visitor accommodation (the activity rather than the buildings) in the QTCZ as a controlled activity, with control limited to (in summary):
- a. Parking and traffic
 - b. landscaping
 - c. location, nature and scale and
 - d. noise effects when adjoining a residential zone.

¹⁹⁰ V Jones, Reply Statement at [3.3].

¹⁹¹ Ibid at [3.4].

¹⁹² Ibid at [3.5].

¹⁹³ Ibid.

¹⁹⁴ Ibid at [3.6].

285. NZTA¹⁹⁵ sought to have the rule amended to include the words “*maintaining the safety and efficiency of the roading network*”. The change to this rule mimicked the change NZTA sought to Policy 12.2.4.6.
286. Ms Jones supported the NZTA submission on this rule, considering that acknowledging the importance of the safety and efficiency of the roading network, was, while an important change, overall a minor change.¹⁹⁶
287. Downtown QT¹⁹⁷ and Queenstown Chamber of Commerce¹⁹⁸ both supported the residential and visitor accommodation provisions in the QTCZ. The Chamber added the proviso that insulation and mechanical ventilation be included with residential and visitor accommodation to prevent reverse sensitivity effects. We will return to that point when we discuss noise within the QTCZ.
288. Peter Fleming¹⁹⁹ opposed the rule relating to visitor accommodation seeking that any existing use rights regarding visitor accommodation not be diminished.
289. In considering these submissions, Ms Jones noted that the rules in the PDP were similar to those within the ODP with the main difference being that external building appearance would now be subject to a restricted discretionary consent, whereas previously it was controlled. She noted that the location, nature and scale of visitor accommodation and ancillary activities within the relevant site and in relation to neighbouring sites was a new matter of control. She further noted that matters of traffic generation and traffic demand management were new matters of control and where the site adjoined a residential zone, the hours of operation of ancillary activities and noise generation were new matters of control.
290. For these reasons, she considered that Rule 12.4.2, as amended by the NZTA submission, would provide the Council with useful additional controls in terms of encouraging site layout that benefit street scape, avoid or minimise conflict between uses and avoid or minimise potential adverse effects on the roading network and pedestrian movement. We agree with Ms Jones’ reasons.
291. As for Mr Fleming’s submission²⁰⁰ noted above, we agree with Ms Jones that it should be rejected. Adopting plan provisions only where they do not diminish existing use rights is neither a valid nor relevant consideration in determining the appropriateness of a plan provision. In any event, we observe existing use rights are provided for under section 10 of the Act and cannot be taken away.
292. We recommend the following wording for Rule 12.4.2, with our recommended amendments underlined and struck out:

12.4.2 ***Visitor Accommodation***, ~~*in respect of:*~~

Control is reserved to:

C

¹⁹⁵ Submission 719

¹⁹⁶ V Jones, Section 42A Report, Appendix 1 at p 12-6.

¹⁹⁷ Submission 630, opposed by FS1043

¹⁹⁸ Submission 774

¹⁹⁹ Submission 599

²⁰⁰ Submission 599

- a. *The location, provision, and screening of access and parking, traffic generation, and travel demand management, with a view to maintaining the safety and efficiency of the roading network, and minimising private vehicle movements to/ from the accommodation; ensuring that where onsite parking is provided it is located or screened such that it does not adversely affect the streetscape or pedestrian amenity; and promoting the provision of safe and efficient loading zones for buses*
- b. *Landscaping*
- c. *The location, nature and scale of visitor accommodation and ancillary activities relative to one another within the site and relative to neighbouring uses and*
- d. *Where the site adjoins a residential zone:*
 - i Noise generation and methods of mitigation;*
 - ii Hours of operation, in respect of ancillary activities.*

6.3. **Rule 12.4.3 Commercial Activities within the Queenstown Town Centre Waterfront Subzone**

293. As notified, this rule provided for commercial activities in the QTC Waterfront Subzone (“WSZ”) as controlled activities, with control reserved to, in summary:

- a. Traffic
- b. Access and loading
- c. Temporary structures and
- d. Outdoor storage.

294. Real Journeys Limited²⁰¹ requested that subparagraph (a) be amended by including the bolded words as follows:

- a. Any adverse effects of additional traffic generation from the activity **and mitigation of those effects.**

295. Ms Jones did not consider it was necessary to add this additional wording.²⁰² We agree with Ms Jones because the assessment of effects of the additional traffic generation will take into account the mitigation in determining the actual adverse effects of such additional traffic.

296. Our recommended wording is shown below using strikethrough and underlining:

12.4.3 Commercial Activities within the Queenstown Town Centre Waterfront Subzone C
(including those that are carried out on a wharf or jetty) except for those commercial activities on the surface of water that are provided for as discretionary activities pursuant to Rule 12.4.7.2, ~~in respect of:~~

Control is reserved to:

- a. *Any adverse effects of additional traffic generation from the activity*

²⁰¹ Submission 621

²⁰² Section 42A Report of Ms Jones at [16.16].

- b. *The location and design of access and loading areas in order to ensure safe and efficient movement of pedestrians, cyclists, and vehicles and*
- c. *The erection of temporary structures and the temporary or permanent outdoor storage of equipment in terms of:*
 - i. *any adverse effect on visual amenity and on pedestrian or vehicle movement; and*
 - ii. *the extent to which a comprehensive approach has been taken to providing for such areas within the subzone.*

6.4. Rules 12.4.4 and 12.4.5 Licensed Premises

297. As notified, these rules provided for licensed premises. Rule 12.4.4 provided that a restricted discretionary consent was required for licenced premises in two circumstances:
- a. Other than in the TCTSZ for consumption of liquor on premises between 11pm and 8am and
 - b. Within the TCTSZ for the consumption of liquor between 6pm and 11pm.
298. In both circumstances, discretion was restricted to:
- a. Scale
 - b. Car parking and traffic
 - c. Amenity effects
 - d. Screening or buffering from residential areas
 - e. Configuration of activities
 - f. Noise and hours of operation and
 - g. Consideration of any alcohol policy or bylaw.
299. Rule 12.4.5 required a discretionary activity consent for the consumption of liquor on the premises between 11pm and 8am in the TCTSZ.
300. The Good Group ²⁰³ submitted that the activity status of Rule 12.4.4.1 should be a controlled activity, as it was under the ODP.
301. Ms Jones supported this submission²⁰⁴. Ms Jones considered a controlled activity status would be efficient and effective, particularly where an application was in accordance with the Sale and Supply of Alcohol Act 2012 (SSAA).²⁰⁵ Ms Jones noted the SSAA enables a wider range of amenity and good order nuisance-related effects to be considered.²⁰⁶ Also, based on the opinions and evidence of Ms Swinney²⁰⁷, Ms Jones considered this approach was proving to be effective.
302. We agree and think that effects relating to amenity, layout, screening, noise and hours of operation are all able to be managed through resource consent conditions.

²⁰³ Submission 544

²⁰⁴ V Jones, Section 42A Report at [12.25]

²⁰⁵ Ibid at [12.25a].

²⁰⁶ Ibid at [12.25b]

²⁰⁷ In particular at [5.6].

303. As such, we recommend accepting the Good Group submission and changing the activity status to controlled.
304. The Good Group also sought that there be no time restriction on serving alcohol to diners. Other submitters²⁰⁸ requested a new rule enabling licensed premises to operate until 1.00am as a permitted activity and restricted thereafter, within a new Steamer Wharf Entertainment Precinct, and that the matters of discretion be amended.
305. Ms Jones addressed the issue of identifying Steamer Wharf as an entertainment precinct including extended hours of operation until 1.00am. She recommended against it on the basis of noise effects on nearby residentially zoned land.²⁰⁹ This was particularly so if hours of night time operations are extended beyond 11pm. She referred us to the noise contours in the evidence of Dr Chiles to support her view.²¹⁰
306. Currently, resource consents are required to extend hours of operation at Steamer Wharf. This approach allows assessment and the imposition of conditions to control details of the operation, and more effective and efficient monitoring and enforcement. Ms Jones also pointed out that extending operating hours for Steamer Wharf would be inconsistent with the rules that apply to licensed premises in the rest of the QTCZ.²¹¹ We agree for the reasons advanced and recommend these submissions be rejected.
307. Peter Fleming²¹² opposed notified Rule 12.4.4 specifically opposing the use of public areas for the consumption of liquor and hours of operation. Ms Jones pointed out that neither the ODP nor the PDP regulate liquor consumption in public areas.²¹³ However, both plans require a licensed premise to obtain a resource consent to operate after 11pm.
308. We recommend Mr Fleming's submission be rejected as the rule reflects the existing practice, and there was no evidence of any issues with that practice. In addition, there is a means of regulating the activity.
309. Kopuwai Investments Limited²¹⁴ sought that notified Rule 12.4.4.1 be amended and Rules 12.4.4.2 and 12.4.5 be deleted, with the effect of:
- a. Relaxing the licensed premises rule in respect of the Town Centre Transition Sub-Zone such that licensed premises would be permitted up until 11 pm and restricted discretionary activity thereafter, as opposed to requiring a restricted discretionary activity consent for such activity to occur between 6 pm and 11 pm and a full discretionary consent thereafter
 - b. Removing Council's discretion over car parking and traffic generation; the configuration of activities within the building and site (e.g. outdoor seating, entrances); and any alcohol policy or bylaw.
310. We have already recommended that the activity status of notified Rule 12.4.4 be changed from restricted discretionary activity to controlled so that deals with that part of the submission. However, we note here that we recommend a further consequential amendment following on

²⁰⁸ Submissions 587, 589 (opposed by FS1318) and 714.

²⁰⁹ V Jones, Section 42A Report at [12.27].

²¹⁰ In particular the noise contours attached to Dr Chiles' evidence as Appendix C.

²¹¹ V Jones, Section 42A Report at [12.27].

²¹² Submission 599.

²¹³ V Jones, Section 42A Report at [12.28].

²¹⁴ Submission 714.

from the change in activity status for this rule. We discuss this minor change below when we discuss Ms Jones' Reply in relation to this rule.

311. In response to the remainder of Kopuwai Investments Limited submission, Ms Jones, relying in part on the evidence of Ms Swinney, was of the opinion that it remained appropriate to apply more stringent time constraints to licensed premises within the TCTZ and to apply a stricter activity status to any such premises that wished to operate after 11.00 pm.²¹⁵ She stated this was due to the fact that these areas were located directly across the road from residentially zoned land and as such, it was important that greater control was retained in order to ensure that the layout and noise management of any such premises was able to be conditioned or declined if necessary. We agree and support that approach for the reasons she advanced.
312. In line with having changed the activity status of notified Rule 12.4.4 to controlled, Ms Jones recommended changing the status of Rule 12.4.5 to restricted discretionary activity and to apply the matters of control listed for Rule 12.4.4 as matters of discretion in Rule 12.4.5.²¹⁶ Kopuwai Investments Limited sought a change in status for Rule 12.4.5 from the notified position of discretionary to restricted discretionary which Ms Jones supported.
313. We agree with this recommendation on both the status change and the using of the same control/discretion matters. As we see it the control/discretion matters are appropriate to allow assessment of the relevant effects of the activity within the context in which they would be occurring. The change in activity status would ensure Rule 12.4.5 remained effective given the TCTSZ is closer to more noise sensitive areas. This change would also ensure a consistency of approach to status as between the two rules.
314. In response to the request to amend the matters of discretion/control in notified Rule 12.4.4.²¹⁷, Ms Jones was of the opinion that car parking and traffic generation should be removed as a matter of control as onsite parking is not required or generally provided in the Town Centre.²¹⁸ We note that the Council has notified Chapter 29 (Transport) and, as notified, item 29.9.1 in Table 29.5 specified that no parks were required in the QTCZ for any activity. Thus, we agree with Ms Jones that there is no point in having those matters listed as matters of control or discretion.
315. The configuration of "*the premises...*" should, in Ms Jones' view, remain a matter of control as the location and design of outdoor seating can exacerbate (or help alleviate) potential conflicts with neighbouring sites (especially in the TCTSZ) and affect peoples' safety/wellbeing (in terms of complying with CPTED principles).²¹⁹
316. Ms Jones recommended that consideration of any alcohol policy or bylaw be removed as a matter of control as it is unreasonably uncertain. With reference to evidence presented by Ms Swinney, Team Leader Alcohol Licensing for the Council, we agree it is not appropriate to include a matter of control as "*Consideration of any alcohol policy or bylaw*".

²¹⁵ Section 42A Report of Ms Jones at [12.31].

²¹⁶ V Jones, Section 42A Report at [12.31].

²¹⁷ Submission 599

²¹⁸ V Jones, Section 42A Report at [12.32].

²¹⁹ Ibid.

317. Ms Swinney told us that there were no current alcohol policies in place and that breach of any bylaw could result in enforcement action being required.²²⁰
318. Based on Ms Swinney's evidence we agree with Ms Jones' recommendation to remove the reference to this matter of control. Further, we agree with Ms Jones that the matters she has identified as matters of control/discretion are appropriate for the reasons she stated.
319. Because Ms Jones' recommendations in the above paragraphs were new, she undertook a Section 32AA assessment²²¹. We have considered that assessment and adopt it.
320. We also considered Rule 12.4.4.2 needed a non-substantive amendment through deleting the words "*with respect to the scale of this activity, car parking, retention of amenity, noise and hours of operation*", as these matters were already listed within the matters of control causing a duplication. We recommend that this amendment be made utilising Clause 16(2).
321. Jay Berriman²²² requested that the Council restrict the number of liquor licenses in the QTC in order to discourage increases in noise and antisocial behaviour, and to achieve a more balanced approach to the night entertainment which promotes the town's image as a high end product.
322. After referring to Ms Swinney's evidence, which outlined the issues that have arisen when others have tried to impose a cap under the LAP process, Ms Jones' opinion²²³ on limiting the number of premises is:
- a. There is no evidence that there is a clear relationship between the number of licenses and the environmental and economic effects that have been cited (relating to noise and economic and social wellbeing)
 - b. The capping of premises would need to be extremely well justified in order to be defensible under the Act and, on the face of it, does not sit well with the enabling and effects-based nature of the legislation
 - c. Such effects are more a function of how well designed, located, and managed the licensed premises are, rather than the sheer number of premises.
323. We agree with her reasoning and opinion and adopt it. In our view, simply restricting the number of liquor licences is a blunt instrument. Doing so would not allow resource consent applications to both made and assessed. Accordingly for these reasons we recommend rejection of this submission.
324. Real Journeys Limited²²⁴ requested that notified Rule 12.4.4 be amended to also apply to premises hosting off-licenses. Ms Jones advised the ODP also only regulates the effects from on-licenses - those premises licenced for the consumption of alcohol on the premises.²²⁵
325. We note that Ms Swinney's evidence²²⁶ confirmed that, in her opinion, off licenses are unlikely to result in environmental effects that cannot be adequately managed or avoided through the SSAA.

²²⁰ S Swinney, EiC at [5.32].

²²¹ V Jones, Section 42A Report, Appendix 4

²²² Submission 217

²²³ V Jones, Section 42A Report at [12.35].

²²⁴ Submission 621

²²⁵ V Jones, Section 42A Report at [12.36].

²²⁶ S Swinney, EiC at [6.43].

326. Regardless, she noted that pursuant to the SSAA, off-licenses are only able to remain open until 11.00 pm (and most close by 10.00 pm due to cost implications of staying open later) and therefore the rule would only have any effect between the hours of 6.00pm – 11.00pm within the TCTS. ²²⁷ In summary, she did not consider it necessary to require a resource consent under the District Plan for off-licenses as the effects can be adequately managed under the SSAA.
327. We agree with that view for the reasons advanced and accordingly recommend rejection of the Real Journeys Limited submission.
328. A related issue was Warren Cooper’s submission ²²⁸, requesting that the status quo be retained for outside dining hours. Queenstown Chamber of Commerce ²²⁹ specifically requested that the rules provide for extended outdoor trading to allow patrons to enjoy the evenings until 11.00 pm.
329. Ms Jones expressed the view that there is a perceived restriction on outdoor dining after 10pm. ²³⁰ While not specifically regulated in the PDP (or the ODP), this has arisen as a consequence of the restrictive noise rules which effectively prevented activity outdoors after 10.00 pm, and which have resulted in conditions on consents restricting such use under the ODP. ²³¹
330. Ms Jones further noted that notified Rule 12.4.4.1 would permit the serving of alcohol to any person (inside or outside) until 11.00 pm and to diners (inside or outside) until 12.00 am (midnight). She also observed that the more lenient noise rules (notified Rule 12.5.11) were likely to enable normal outdoor dining/ drinking activity to extend beyond 10.00 pm. Further, she considered that to be wholly appropriate given the objectives of the PDP and, for that reason recommended no change be made to these rules.
331. We agree with both her recommendation and the reasons she relied on.
332. Finally, in her reply, after considering our questions at the hearing, Ms Jones recommended Rule 12.4.4 be amended to read “*control is reserved*” rather than “*discretion is restricted*”. We agree as this wording better fits the now controlled status of the activity. We are satisfied this is a minor non-substantive change under Clause 16(2) of the First Schedule.
333. We recommend Rules 12.4.4 and 12.4.5 be adopted in the form set out below:

12.4.4	Licensed Premises	C
	12.4.4.1 Other than in the Town Centre Transition Sub-Zone, premises licensed for the consumption of liquor on the premises between the hours of 11pm and 8am, provided that this rule shall not apply to the sale of liquor:	

²²⁷ ibid at [6.4]
²²⁸ Submission 654, supported by FS1043, FS1063, and FS1318
²²⁹ Submission 774
²³⁰ V Jones, Section 42A Report at [12.37].
²³¹ ibid.

- a. To any person who is residing (permanently or temporarily) on the premises and/or
- b. To any person who is present on the premises for the purpose of dining up until 12am.

12.4.4.2 Premises within the Town Centre Transition sub-zone licensed for the consumption of liquor on the premises between the hours of 6pm and 11pm, provided that this rule shall not apply to the sale of liquor:

- a. To any person who is residing (permanently or temporarily) on the premises; and/or
- b. To any person who is present on the premises for the purpose of dining up until 12am.

In relation to both 12.4.4.1 and 12.4.4.2 above, control is reserved to:

- a. The scale of the activity
- b. Effects on amenity (including that of adjoining residential zones and public reserves)
- c. The provision of screening and/ or buffer areas between the site and adjoining residential zones
- d. The configuration of activities within the building and site (e.g. outdoor seating, entrances) and
- e. Noise issues, and hours of operation.

12.4.5 **Licensed Premises within the Town Centre Transition Sub-Zone** RD

Premises within the Town Centre Transition sub-zone licensed for the consumption of liquor on the premises between the hours of 11 pm and 8 am.

This rule shall not apply to the sale of liquor:

- a. To any person who is residing (permanently or temporarily) on the premises and/or
- b. To any person who is present on the premises for the purpose of dining up until 12 am.

Discretion is restricted to:

- a. The scale of the activity

- b. Effects on amenity (including that of adjoining residential zones and public reserves)
- c. The provision of screening and/ or buffer areas between the site and adjoining residential zones
- d. The configuration of activities within the building and site (e.g. outdoor seating, entrances)
- e. Noise issues, and hours of operation.

6.5. Rule 12.4.6 Buildings- Rules 12.4.6.1 and 12.4.6.2

334. As notified these rules read:

12.4.6 **Buildings** RD*

12.4.6.1. Buildings, including verandas, and any pedestrian link provided as part of the building/ development:

* Discretion is restricted to consideration of all of the following:
 Consistency with the Queenstown Town Centre Design Guidelines (2015), where applicable;
 External appearance, including materials and colours;
 Signage platforms;
 Lighting;
 The impact of the building on the streetscape, heritage values, compatibility with adjoining buildings, the relationship to adjoining verandas;
 The contribution the building makes to the safety of the Town Centre through adherence to CPTED principles;
 The contribution the building makes to pedestrian flows;
 The provision of active street frontages and, where relevant, outdoor dining/patronage opportunities; and
 Where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: an assessment by a suitably qualified person is provided that addresses the nature and degree of risk the hazard(s) pose to people and property; whether the proposal will alter the risk to any site; and the extent to which such risk can be avoided or sufficiently mitigated.

And, in addition;

12.4.6.2 In the Town Centre Transition subzone and on sites larger than 1800m², any application under this rule shall include application for approval of a structure plan in respect of the entire site and adherence with that approved plan in consequent applications under this rule.

*In addition to those matters listed in rule 12.4.6.1 above, the Council's discretion is extended to also include consideration of the provision of and adherence with the structure plan including:

the location of buildings, services, loading, and storage areas;
the provision of open and/or public spaces; and
pedestrian, cycle, and vehicle linkages

335. These rules, as notified, provided the activity status for all buildings within the QTC.
336. NZIA²³² requested restricted discretionary activity status only apply to buildings that have been to the UDP, and otherwise full discretionary status apply. The reason given in the submission was that there needed to be some incentive to have all buildings in the QTC subject to review by the UDP.
337. For a number of reasons set out in her Section 42A Report, Ms Jones did not support this submission²³³. We agree with her.
338. The key reason we recommend rejecting this submission is that for such a rule to be effective some sort of pass/fail from the UDP would be needed. That outcome would determine status and we think giving this power to a third party of deciding activity status is inappropriate. It is Council's role to determine and provide for status of an activity within its district plan. Also, having a process involving the UDP, as the submitter seeks, would, we think extend the resource consenting process raising issues as to efficiency.
339. Several submitters²³⁴ requested that notified Rule 12.4.6.1 be amended such that all buildings were controlled, rather than restricted discretionary.
340. Some of these submissions²³⁵ sought to change the matters of control (assuming status was changed to controlled), limiting them to consideration of external building design and appearance in relation to streetscape character, building design in relation to adjoining pedestrian links listed in notified Rule 12.5.8, signage platforms, and lighting. The submitters contended that it was a more succinct approach yet captured all but the natural hazard issue and provided greater certainty and would impose less cost. There were further submissions both in support and in opposition.²³⁶
341. Ms Jones pointed out that in the ODP, buildings in the SCA are a restricted discretionary activity and buildings beyond this area are a controlled activity. She agreed with the reasoning within the Section 32 report²³⁷ behind the decision to propose restricted discretionary activity status to all buildings in the QTC.
342. In summary, those reasons were that applying a restricted discretionary activity status to building(s) throughout the QTC²³⁸ would:
- a. provide greater certainty and be more effective at requiring consistency with the SCA Design Guidelines, which would enable the Council to ensure that the key character elements of the SCA were recognised and reflected in designs

²³² Submission 238, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1242 FS1248, and FS1249

²³³ V Jones, Section 42A Report at [13.24]

²³⁴ Submissions 606, 609, 614, 617, 596, 398, 663 (opposed by FS1139 and FS1191), 672, 724, 574, and 616.

²³⁵ Submitters 663, 672, and 724

²³⁶ Supported by FS1200 and opposed by FS1274, FS1063, FS1139, and FS1191

²³⁷ V Jones, Section 42A Report at p23-26.

²³⁸ *ibid* at [13.27].

- b. be more effective at achieving quality architecture and urban design and enable poor design to be declined
 - c. result in economic benefits to applicants and a reduction in transaction costs (and therefore the overall development costs). This conclusion was based on the fact that, even if a non-notified restricted discretionary activity consent were more costly to obtain than a controlled consent, this was counteracted by removing or relaxing the bulk and location controls of the ODP, that have routinely triggered potentially notifiable restricted discretionary activity and non-complying consents
 - d. be more efficient from a District Plan drafting and administration perspective in that it would enable a single rule to be relied on to manage the design of building(s) rather than having different rules for the SCA and the rest of the QTCZ.
343. We agree with her reasons outlined above and agree Rule 12.4.6 should have Restricted Discretionary status and so recommend.
344. Ms Jones also noted that, in the past the Council has had considerable leverage to influence design and quality at resource consent stage due to breaches in standards including building coverage standards²³⁹. Consequently, she advised, very few buildings have actually been processed as controlled activities (i.e. for design control only).
345. From Ms Jones' own experience as the Council's 'Manager: Strategy and Planning' and as a member of the UDP, she was personally aware of a number of examples where the outcome was improved greatly through a process that did not occur with controlled activity resource consents.²⁴⁰
346. Ms Jones did note that requiring a restricted discretionary consent for all buildings and external alterations will create greater uncertainty and cost. However, in her view this was justified by the importance of the QTC and the risks to the environment and the economy from poor design outcomes.²⁴¹
347. In addition, Ms Jones was of the view that the non-notification clause for restricted discretionary buildings would reduce uncertainty, cost, and time delays considerably; and the consent would likely be less onerous than ODP rules, which, she advised, routinely trigger non-complying consent status.²⁴²
348. Finally, she noted the lack of controlled activity applications being processed under the ODP meant there was no evidence of the adequacy of the ODP classification.²⁴³
349. Ms Jones considered that a relaxation of the bulk and location rules and a strengthening of design control in the manner recommended was the most appropriate method to achieve the objectives.²⁴⁴ As such, no change to the notified Rule 12.4.6 relating to status was recommended in her view.

²³⁹ *ibid* at [13.28].

²⁴⁰ *ibid* at [13.30].

²⁴¹ *ibid* at [13.31].

²⁴² *ibid* at [13.31].

²⁴³ *ibid* at [13.31].

²⁴⁴ *ibid* at [13.32].

350. Mr Church agreed with this approach as to status for similar reasons but primarily because the restricted discretionary status would allow assessment.²⁴⁵
351. Taking into account all of these matters advanced by Ms Jones, and the recommendations and opinions of Mr Church, we agree and recommend no change to activity status for notified Rule 12.4.6.
352. Downtown QT²⁴⁶ sought to provide for “pop up” buildings and art works and sculptures by providing such activities permitted activity status. The “pop up” building could be utilised for retail, bar and street entertainment purposes. For the “pop up” buildings a six month time limit would apply. The submitter contended this outcome would enable a diversity of street life. The relief sought that the rule apply to the entire QTC, or other areas such as the Lake Esplanade. The submitter suggested regulation of such activities was also provided via bylaws. Providing this exemption would help further support entertainment which is very important to the local economy.
353. In her Section 42A Report, Ms Jones agreed the exceptions sought were appropriate.²⁴⁷ She recommended ‘Pop Ups and Art Works’ be exempted from obtaining a resource consent in respect of design.²⁴⁸ We agree for the reasons advanced by the submitter and recommend this part of the submission be accepted resulting in an amendment to the notified version of Rule 12.4.6.
354. The ORC²⁴⁹ sought provision for unobstructed movement of high sided vehicles within the matters of consideration. Ms Jones signalled support for this outcome in her Section 42A Report.²⁵⁰ We agree. Efficient movement of transportation is important for the QTCZ. We recommend inclusion of this matter of consideration.
355. Finally, in relation to the matters for consideration under this rule, two submitters²⁵¹ sought minor changes to the matters relating to Natural Hazards. We see them as non-substantive changes and recommend they be adopted as they assist the legibility of that part of the rule.
356. In her Reply, Ms Jones recommended the removal of the word “remedied” from the natural hazard matter, and its replacement with the word “reduced” so as to make this provision consistence with other PDP Chapters.²⁵² We agree that the matter of discretion needs to be amended, but we adopt the wording used by the Stream 6 Panel so that administratively, natural hazard matters of discretion are included, rather than assessment matters. We consider this a non-substantive change and recommend it be made under Clause 16(2).
357. Ms Jones also recommended inclusion of additional words to the first assessment matter in rule 12.4.6.1 to make it clear the Design Guidelines related only to the SCA.²⁵³ We agree with those clarifications and recommend acceptance.

²⁴⁵ Ibid at [13.29].

²⁴⁶ Submission 630, opposed by FS1043

²⁴⁷ V Jones, Section 42A Report at [13.60].

²⁴⁸ Ibid at [13.68-69].

²⁴⁹ Submission 798

²⁵⁰ V Jones, Section 42A Report at [13.52]

²⁵¹ Submissions 621 and 798

²⁵² V Jones, Reply Statement at [2.1f].

²⁵³ Ibid at [2.1e].

Notified Rule 12.4.6.2

358. Several submitters²⁵⁴ sought the deletion of notified Rule 12.4.6.2 which required the provision of the structure plan for sites over 1800 m² in any area, or for any site within the TCTSZ. They contended the rule would not achieve efficient land use, would be inefficient as it would add additional consenting costs, and would be unnecessary given the control over building provided through rule 12.4.6.1.
359. Although not recorded in the body of her Section 42A Report, Ms Jones recommended to delete Rule 12.4.6.2 as it duplicated Rule 12.5.1.2. In her Reply she identified errors in her Section 42A Report.²⁵⁵ She recorded that paragraph 14.1(a) should have stated “*that it is recommended to remove Rule 12.4.6.2 rather than amend it.*”²⁵⁶
360. While we discuss comprehensive development later,²⁵⁷ we recommend deleting Rule 12.4.6.2, preferring instead Rule 12.5.1; in particular Rules 12.5.1.1 and 12.5.1.2.
361. Our recommended wording for Rule 12.4.6 is as follows, with our recommended amendments underlined or struck out:

12.4.6	<p><u>Buildings except temporary ‘pop up’ buildings that are in place for no longer than 6 months and permanent and temporary outdoor art installations</u></p> <p>12.4.6.1 Buildings, including verandas, and any pedestrian link provided as part of the building/ development:</p> <p>*Discretion is restricted to consideration of all of the following:</p> <ul style="list-style-type: none"> a. Consistency with the Queenstown Town Centre <u>Special Character Area Design Guidelines (2015), (noting that the guidelines apply only to the Special Character Area); where applicable</u> b. External appearance, including materials and colours c. Signage platforms d. Lighting e. The impact of the building on the streetscape, heritage values, compatibility with adjoining buildings, the relationship to adjoining verandas f. The contribution the building makes to the safety of the Town Centre through adherence to CPTED principles The contribution the building makes to pedestrian flows and linkages <u>and to enabling the unobstructed kerbside movement of high-sided vehicles where applicable</u> 	RD*
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²⁵⁴ Submissions 398,574,663 (opposed by FS1139 and FS 1191)

²⁵⁵ Reply of Ms Jones at [13.1b].

²⁵⁶ Ibid.

²⁵⁷ Rule 12.5.1

	<p>g. The provision of active street frontages and, where relevant, outdoor dining/patronage opportunities and</p> <p>h. Where a site is subject to any natural hazard and the proposal results in an increase in gross floor area:</p> <ul style="list-style-type: none"> i. The nature and degree of risk the hazard(s) pose to people and property ii. whether the proposal will alter the risk to any site; and the extent to which iii. <u>whether</u> such risk can be avoided or sufficiently mitigated <u>remedied</u> <u>reduced</u>. <p>And, in addition;</p> <p>14.4.6.2 In the Town Centre Transition subzone and on sites larger than 1800m², any application under this Rule <u>12.2.6.1</u> shall include application for approval of a structure plan in respect of the entire site and adherence with that approved plan in consequent applications under this rule.</p> <p>*In addition to those matters listed in rule 12.4.6.1 above, the Council's discretion is extended to also include consideration of the provision of and adherence with the structure plan including: the location of buildings, services, loading, and storage areas; the provision of open and/or public spaces; and pedestrian, cycle, and vehicle linkages</p>	
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- 6.6. Rule 12.4.7 Surface of Water and Interface Activities and Rule 12.4.8 Surface of Water and Interface Activities
362. As notified, this rule read:

12.4.7	<p>Surface of Water and Interface Activities</p> <p>12.4.7.1 Wharfs and Jetties within the Queenstown Town Centre Waterfront Zone between the Town Pier and St Omer Park.</p> <p>12.4.7.2 Commercial Surface of Water Activities within the Queenstown Town Centre Waterfront Zone.</p> <p>In respect of the above activities, the Council’s discretion is unlimited but it shall consider:</p> <p>The extent to which the proposal will:</p> <ul style="list-style-type: none"> a. Create an exciting and vibrant waterfront which maximises the opportunities and attractions inherent in a visitor town situated on a lakeshore b. Provide a continuous waterfront walkway from Horne Creek right through to St Omer Park c. Maximise the ability to cater for commercial boating activities to an extent compatible with maintenance of environmental standards and the nature and scale of existing activities and d. Provide for or support the provision of one central facility in Queenstown Bay for boat refuelling, bilge pumping, sewage pumping. <p>The extent to which any proposed structures or buildings will:</p> <ul style="list-style-type: none"> a. Enclose views across Queenstown Bay; and b. Result in a loss of the generally open character of the Queenstown Bay and its interface with the land. 	D
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363. These rules and the related sub-rules received attention from Ms Jones within her Section 42A Report, her summary of evidence and finally within her Reply.

364. Her summary of evidence was prepared after she had reviewed the submitters’ pre-circulated evidence. This meant she was able to both update her Section 42A Report and provide a response to some of the submitter evidence when she presented her Section 42A Report at the hearing. Later she was able to further address submitter evidence and submitter legal submissions and respond to our question within her reply. As we move through these rules from beginning to end we will identify the source of Ms Jones’ suggested changes, be it her Section 42A Report, her evidence summary or her reply. We also provide discussion and comment on submissions, submitter evidence and submitter legal submissions in the sequence that they were presented.

6.7. Minor Drafting Amendments

365. Ms Jones also noticed in reviewing the chapter that, while the waterfront area is referred to as the Queenstown Town Centre Waterfront Subzone in Rule 12.4.2, it is incorrectly referred to as the Queenstown Waterfront Zone in Rules 12.4.7.1, 12.4.7.2, 12.4.8.1, 12.4.8.2 and 12.4.8.3.²⁵⁸ She advised this was a drafting error and should be corrected for consistency.²⁵⁹ She considered that this was a non-substantive change and would not affect the regulatory impact of the rule. Further she considered it would avoid any uncertainty that the QTCZ zone-wide provisions also apply to the QTCWSZ.²⁶⁰ In her Section 42A Report, she recommended it be changed by including the word “sub” before the word “zone” as that word appeared throughout the rules.
366. Ms Jones recommended in her Reply, following consideration of questions from us at the hearing, amending the headings of both Rules 12.4.7 and 12.4.8 from simply “*Surface of Water and Interface Activities*”, so that the headings more clearly reflect the content of each rule.²⁶¹ She proposed wording the headings as “*Wharfs and jetties, commercial surface of water activities, and moorings within the Queenstown Town Centre Waterfront Subzone.*”²⁶²
367. We agree both with her amended wording and that the amendment is not substantive but would improve efficiency through increased legibility.²⁶³ We recommend adoption of these heading changes to Rule 12.4.7 and Rule 12.4.8 for these reasons. In our view, the recommended heading links much more directly to the content of the amended rules than the previous heading.

6.8. Mapping Issues

368. Next, we address mapping issues in Rules 12.4.7.1, 12.4.7.2, 12.4.8.2 and 12.4.8.3. Two submitters²⁶⁴ requested that the Queenstown Waterfront Subzone be reinstated on proposed planning maps 35 and 36 as shown in the ODP, and that the boundary be clarified particularly in relation to the boundary of St Omer Park. The submissions noted that the intention in the PDP was to retain this as per the ODP and to make no change other than to make it clearer on the planning maps. Queenstown Wharves²⁶⁵ noted in particular that it appeared from the planning maps that St Omer Park extended further than the lines denoting where the non-complying status ended.
369. Ms Jones advised in her Section 42A Report that the omission of the St Omer Park boundary was a mapping error in the notified planning maps.²⁶⁶ Due to the importance of the specific rules that apply to the waterfront subzone, she recommend that the boundary be reinstated on the planning maps as per the ODP and in the manner intended. Ms Jones said adding this subzone boundary, together with a consequential change to wording of Rule 12.4.7.1, which refers specifically to the St Omer Park boundary, should rectify the ambiguity (that as currently drafted, part of the park is within the waterfront zone and part of it is outside of it) identified by the submitter.²⁶⁷

²⁵⁸ Section 42A Report of Ms Jones at [16.5].

²⁵⁹ V Jones, Section 42A Report at [16.5].

²⁶⁰ Ibid.

²⁶¹ V Jones, Reply Statement at [5.2].

²⁶² V Jones, Reply Statement, Appendix 1 at p 12-11.

²⁶³ V Jones, Reply Statement at [5.2].

²⁶⁴ Submissions 383 and 766

²⁶⁵ Submission 766

²⁶⁶ V Jones, Section 42A Report at [16.3]

²⁶⁷ Ibid.

370. Real Journeys Limited²⁶⁸ sought Rule 12.4.7. and Rule 12.4.8 be amended to ensure that all areas referred to in the rules were accurately identified on the planning maps and that the maps be referred to in the rules. Ms Jones recommended²⁶⁹ that the reference to "*as shown on the planning maps*" be included in Rules 12.4.7.1, 12.4.7.2, 12.4.8.2 and 12.4.8.3.
371. Also in response to Submission 621, Ms Jones recognised the wording amendment she advanced for Rule 12.4.7.1, relating to including reference to St Omer Park, within her Section 42A Report was redundant.
372. Within her summary of evidence and presentation at the hearing she recommended removal of the words "between the Town Pier " and "and Queenstown Gardens" as those words would be redundant, given her recommendation to amend Rule 12.4.7.1.
373. Ms Carter, for Queenstown Wharves²⁷⁰, noted in her evidence that while Ms Jones's suggested amendments to Rule 12.4.7.1 were helpful, further clarification was required. She provided her Figure 1 to illustrate the three different areas that make up the QTCWSZ, namely the active Frontage, Queenstown beach and the Queenstown Gardens shoreline.²⁷¹
374. Ms Carter described the characteristics of those areas in her evidence and opined that those areas each had a different set of values and resource management issues.²⁷² Ms Carter recommended that a plan clearly show the three different areas within the QTCWSZ, and that the objective and associated policies and rules be re-drafted to recognise the three areas that comprise the WSZ.²⁷³
375. Ms Jones²⁷⁴ responded to Ms Carter's evidence by proposing amendments to the QTCZ purpose²⁷⁵ to acknowledge the importance of the QTCWSZ; and by amending Policies 12.2.5.3 and 12.2.5.6 to provide more direction in terms of development within the QTWSZ; adding more detail on Planning Map 35 to more clearly distinguish between the '*active frontage*' and the '*Queenstown Beach and Gardens foreshore*' areas; and by making minor non-substantive amendments to Rules 12.4.7.1 by adding reference to "*active frontage area*" and to 12.4.8.1 to refer to the two areas, "*Queenstown beach and gardens foreshore area*" in the QTCWSZ.
376. In our view the points raised by the submitters²⁷⁶, and evidence in support from Ms Carter, along with the recommendations of Ms Jones, all assist with better defining and identifying the QTCWSZ and the key elements within it compared to the notified provisions. The amendments arising from these two sources would add clarity and certainty to these rule provisions and we recommend their adoption.
377. In her Summary of Evidence, Ms Jones also recommended making moorings within the '*Queenstown beach and gardens foreshore area*' of the QTCWSZ a restricted discretionary

²⁶⁸ Submission 621, supported by FS1115

²⁶⁹ V Jones, Section 42A Report at [16.4]. 87

²⁷⁰ Submission 766

²⁷¹ J Carter, EiC at p6.

²⁷² Ibid at [4.8].

²⁷³ Ibid at [4.9]

²⁷⁴ V Jones, Summary of Evidence, at paragraph 6(c)

²⁷⁵ Section 12.1

²⁷⁶ Submission 621, and 766

activity rather than permitted as in the notified version.²⁷⁷ She reasoned that this would more effectively conserve the natural qualities and amenity values of the foreshore and adjoining waters, enable cumulative effects of such to be considered via resource consent, and be more consistent with the rules relating to moorings in the majority of the Frankton Arm.²⁷⁸

378. To include a new rule numbered 12.4.7.3 and the matters to which discretion would be restricted, Ms Jones provided a Section 32AA evaluation of her recommended amendments within her reply at Appendix 2.²⁷⁹ Having reviewed that assessment we agree with it and adopt it for the purposes of our recommendations. We agree with her recommendation and the need and wording of new Rule 12.4.7.3. We consider the assessment matters for the new rule are appropriate. The new Rule 12.4.7.3 and its related discretionary assessment matters are set out in full below.

6.9. Matters of Discretion

379. Two submissions²⁸⁰ sought expansion of the assessment matters in respect of Rules 12.4.7.1 and 12.4.7.2 when processing applications for wharfs, jetties and surface water activities. These matters were fully detailed in paragraphs 16.21 and 16.22 of Ms Jones Section 42A Report. They included provision of one central facility in Queenstown Bay for boat refuelling, bilge and sewage pumping, maintaining or enhancing public access to the lake, water quality, navigation and people's safety. Ms Jones considered inclusion of some of these further assessment matters as appropriate to more fully inform Council discretion when processing applications for wharves, jetties and commercial surface of water activities. We agree with Ms Jones and the submitters that the inclusion within the rules of these additional assessment matters is necessary to enable an appropriate assessment of activities in this zone.

380. The same submitters also sought to include a reference to Rules 12.4.7.1 and 12.4.7.2 at the commencement of those discretionary matters. This, we consider, clarifies the overall rule and assists with legibility, particularly because of the subsequent inclusion of new Rule 12.4.7.3 and the new matters of discretion relevant to that rule. We agree and also recommend inclusion of those matters of discretion that appear in the recommended version of the rule set out below.

381. Submission 810 sought a further additional matter of discretion be included, namely the extent to which any proposed wharfs and jetties would affect the values of wahi tupuna. Ms Jones in her Section 42A Report²⁸¹ noted this submission was considered in Hearing Stream 1A with the relevant Section 42A Report recommending the relief sought being rejected.

382. Ms Jones recommended inclusion of this matter of discretion.²⁸² Although she provided no explanation as to her recommendation, we agree with this inclusion. We consider that this matter of discretion would aid in achieving Objective 12.2.2 and Policy 12.2.2.7. Just as we support these provisions in recognising and providing for cultural heritage, we also acknowledge and support the rule that seeks to implement the overarching objective to contribute to the town's heritage and sense of place.

²⁷⁷ V Jones, Summary of Evidence at [6d].

²⁷⁸ Ibid.

²⁷⁹ V Jones, Reply Statement at [5.6].

²⁸⁰ Submitter 621 and 810 FS 1115.5

²⁸¹ V Jones, Section 42A at paragraph 16.21 on page 90

²⁸² *ibid* at [16.23].

383. Within submissions, a number of other issues were raised, such as providing for maintenance of wharves and jetties²⁸³ and that the status of activities for Rules 12.4.7.1 and 12.4.7.2 be amended from discretionary to controlled.²⁸⁴ We do not support those submissions for the same reasons as set out in Ms Jones' Section 42A Report²⁸⁵.

6.10. Other Submissions

384. Real Journeys Limited²⁸⁶ and Te Anau Developments Limited²⁸⁷ wanted all of the provisions relating to the protection, use and development of the surface of lakes and rivers and their margins to be inserted into a separate chapter. We consider that these provisions fit appropriately within this Chapter because of the relationship with the town centre. Retaining these provisions within the Chapter also aids in making the PDP more legible and giving these provisions a separate section would increase the volume of the PDP. For those reasons we recommend the submissions be rejected. This recommendation is consistent with that made by the Stream 2 Hearing Panel, where the same matter was raised.

385. Two submitters²⁸⁸ requested the amendment of Rule 12.4.7 to enable certain buildings (e.g. ticket offices) while continuing to restrict other buildings (as non-complying), with Real Journeys Limited²⁸⁹ suggesting the inclusion of a new restricted discretionary activity provision.

386. Glare and effect on navigation was discussed by Ms Black in her evidence for Real Journeys²⁹⁰. However, the focus of her evidence on glare was directed at notified Rule 12.5.14.1 which dealt specifically with glare.²⁹¹ Rule 12.4.7 is restricted in its application to wharves, jetties, commercial surface of water activities and moorings. The glare she was concerned about emanated from buildings activities and lighting located not on wharves and jetties, but from buildings, street lights and the like in the town centre.

387. In our view, this rule can only control glare for navigation purposes from wharves and jetties. Nevertheless, even accepting the limited ambit of the application of the rule and observing Council's discretion under the rule is unlimited, we note the matters of discretion would include navigation and people's safety. Thus, to a limited extent, the submitter's concerns can be dealt with in the rule.

388. Manoeuvring of TSS Earnslaw was also raised as an issue by Ms Black. She described the challenges the characteristics of the vessel caused in relation to manoeuvring it. In that regard, she supported the discretionary activity status of Rule 12.4.7 considering that the manoeuvring issues raised could be addressed when that rule was triggered.²⁹²

389. Also, Ms Black considered these manoeuvring challenges would be assisted by making all structures and moorings between the Town Pier and Queenstown Gardens a non-complying

²⁸³ Submissions 621 (supported by FS1115) and 766

²⁸⁴ Submissions 766 and 807.

²⁸⁵ at paragraph 16.19.

²⁸⁶ Submission 621

²⁸⁷ Submission 607

²⁸⁸ Submissions 621 and 766 (supported by FS1341)

²⁸⁹ Submission 621

²⁹⁰ Submission 621

²⁹¹ F Black, EIC at [3.1].

²⁹² F Black, EIC at [3.6].

activity so as to avoid a proliferation of such structures in this area.²⁹³ Ms Jones recommended the status of moorings in this area be restricted discretionary and recommended the matters of discretion include whether the structure would cause an impediment to craft manoeuvring.

390. While Ms Jones' recommendation on status differs from the submitter's relief, we think Ms Jones' recommendation strikes an appropriate balance between the competing interests and provides an efficient and effective mechanism to address issues.
391. We think that Ms Jones' recommended Rule 12.4.7.3 will be more effective and efficient at implementing revised Objective 12.2.5 and the associated policies. This new rule provides greater certainty as to what is expected to occur in the Queenstown gardens and beach part of the QTCWSZ whilst accepting that in the main the QTCWSZ would provide a dynamic environment.
392. Finally, in addition to the recommendations in response to submitters concerns, Ms Jones recommended a non-substantive change for consistency and clarity. In her Reply, Ms Jones²⁹⁴ recommended amending the assessment matters by replacing the assessment matter commencing '*the extent to which any proposed structures or buildings...*' to '*the extent to which any proposed wharfs and jetties...*'. This, she said, would make this rule consistent with the fact that the rule only relates to wharfs and jetties.²⁹⁵
393. She noted²⁹⁶ that any other buildings in the QTCWSZ are not subject to this rule but are, in fact, non-complying (under Rule 12.4.8.2) or restricted discretionary (under Rule 12.4.6). While not substantive, this minor amendment would, she said, improve efficiency by removing the existing conflict within the rule and thereby avoiding potential confusion. We agree.

Rule 12.4.8.2

394. Notified Rule 12.4.8.2 provided that any buildings located on wharves and jetties within the QTCWSZ were non-complying.
395. In addition to the restricted discretionary rule sought, Submission 621 sought to amend Rule 12.4.8.2 as follows:
- Any buildings and structures, located on Wharfs and Jetties within the Queenstown Town Centre Waterfront Zone, which are not provided for by Rule 12.4.7.*
396. Queenstown Wharves²⁹⁷ sought to delete the non-complying activity rule for buildings located on jetties and wharves. Queenstown Wharves submitted that the effects from buildings could be adequately managed by Rule 12.4.7.1.
397. The submission also suggested that if the rule were to be retained, then it should be amended to exclude provision of buildings that are for the purpose of providing water based public transport facilities.

²⁹³ Ibid at [3.9].

²⁹⁴ V Jones, Reply Statement at [5.1].

²⁹⁵ Ibid.

²⁹⁶ Ibid.

²⁹⁷ Submission 766, supported by FS1341.15

398. Ms Jones did not consider that this would achieve the objectives of the PDP.²⁹⁸ In her opinion, buildings on wharfs and jetties within the QTCWS specified in Rule 12.4.8 would have the potential to have a significant effect on views, natural qualities, amenity, and pedestrian flows/accessibility in the waterfront subzone. Also, she advised that there was ample commercial capacity within the QTCZ adjacent to subzone for buildings in which ticketing and the like could occur. She did not recommend any change in this regard.²⁹⁹
399. Submitters³⁰⁰ raised the need to provide, in this part of the PDP, specific policies and rules for the provision of public transport. We agree with Ms Jones that this is a matter better dealt with in the context of the Transport Chapter and recommend those submissions be rejected.
400. In our view, redrafted Rule 12.4.7 in combination with Rule 12.4.8 would be more effective and efficient in achieving Objective 12.2.5 and associated policies. We accept that the QTCWSZ will provide a dynamic and vibrant area, but at the same time this rule provides certainty as to what is expected to occur in this area by outlining matters that will be considered in decision-making.
401. Buildings or structures in this area have the potential to impact on the views, natural qualities, amenity and accessibility of the QTCWSZ. The wording of the rule means that effects on the natural qualities of the Queenstown gardens and beach area and the views from both will be considered and conserved to a degree. Further understanding what is anticipated in the area provides some certainty also to the Earnslaw and other boating activity, that the area will be relatively free of obstacles, such as permanently moored craft.
402. In conclusion, for all of the reasons expressed above we recommend that Rules 12.4.7 and 12.4.8 be adopted in the form set out below.

²⁹⁸ V Jones, Section 42A Report at [16.26].

²⁹⁹ Ibid at [16.26].

³⁰⁰ Parts of submissions 766.2, 798.54, FS1341.1, FS1341.3 and FS1341.25, FS1342.16, 766.3, 766.5, 766.7, 766.33, FS1341.4, and FS1341.6, and 807.81 and 807.82 .

<p>12.4.7</p>	<p>Wharfs and jetties, commercial surface of water activities, and moorings within the Queenstown Town Centre Waterfront Subzone</p> <p>12.4.7.1 Wharfs and Jetties within the ‘active frontage area’ of the Queenstown Town Centre Waterfront subzone as shown on the planning maps;</p> <p>12.4.7.2 Commercial Surface of Water Activities within the Queenstown Town Centre Waterfront Subzone, as shown on the planning maps.</p> <p>In respect of 12.4.7.1 and 12.4.7.2, the Council’s discretion is unlimited but it shall consider the extent to which the proposal will:</p> <ul style="list-style-type: none"> a. Create an exciting and vibrant waterfront which maximises the opportunities and attractions inherent in a visitor town situated on a lakeshore b. Maintain a continuous waterfront walkway from Horne Creek right through to St Omer Park c. Maximise the ability to cater for commercial boating activities to an extent compatible with maintenance of environmental standards and the nature and scale of existing activities d. Provide for or support the provision of one central facility in Queenstown Bay for boat refuelling, bilge pumping, sewage pumping e. Maintain or enhance public access to the lake and amenity values including character and f. Affect water quality, navigation and people’s safety, and adjoining infrastructure; g. The extent to which any proposed wharfs and jetties structures or buildings will: <ul style="list-style-type: none"> i. Enclose views across Queenstown Bay and ii. Result in a loss of the generally open character of the Queenstown Bay and its interface with the land iii. Affect the values of wahi tupuna 	<p>D</p>
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	<p>12.4.7.3 Moorings within the 'Queenstown beach and gardens foreshore area' of the Queenstown Town Centre Waterfront Subzone (as shown on the planning maps).</p> <p>In respect of 12.4.7.3, discretion is restricted to:</p> <ul style="list-style-type: none"> a. Whether they are dominant or obtrusive elements in the shore scape or lake view, particularly when viewed from any public place, including whether they are situated in natural bays and not headlands b. Whether the structure causes an impediment to craft manoeuvring and using shore waters c. The degree to which the structure will diminish the recreational experience of people using public areas around the shoreline d. The effects associated with congestion and clutter around the shoreline. Including whether the structure contributes to an adverse cumulative effect e. Whether the structure will be used by a number and range of people and craft, including the general public f. The degree to which the structure would be compatible with landscape and amenity values, including colour, materials, design. 	RD
<p>12.4.8</p>	<p>Wharfs and jetties, buildings on wharfs and jetties, and the use of buildings or boating craft for accommodation within the Queenstown Town Centre Waterfront Subzone</p> <p>12.4.8.1 Wharfs and Jetties within the 'Queenstown beach and gardens foreshore area' of the Queenstown Town Centre Waterfront Sub-Zone (as shown on the planning maps).</p> <p>12.4.8.2 Any buildings located on Wharfs and Jetties within the Queenstown Town Centre Waterfront Sub-Zone, as shown on the planning maps;</p> <p>12.4.8.3 Buildings or boating craft within the Queenstown Town Centre Waterfront Sub-Zone if used for visitor, residential or overnight accommodation, as shown on the planning maps.</p>	NC

- 6.11. Rule 12.4.9 Industrial Activities at Ground Floor Level
- Rule 12.4.10 Factory Farming
- Rule 12.4.11 Forestry Activities
- Rule 12.4.12 Mining Activities
- Rule 12.4.13 Airports other than the use of land and water for emergency landings, rescues and firefighting
- Rule 12.4.14 Panel beating, spray painting, motor vehicle repair or dismantling, fibre glassing, sheet metal work, bottle or scrap storage, motor body building
- Rule 12.4.15 Fish or meat processing (excluding that which is ancillary to a retail premises such as a butcher, fishmonger or supermarket)
- Rule 12.4.16 Any activity requiring an Offensive Trade Licence under the Health Act 1956.
- 403. Notified Rules 12.4.9 to 12.4.16 were not the subject of direct submissions but were subject to those submissions³⁰¹ requesting that all provisions not otherwise submitted on be retained as notified unless they duplicate other provisions, in which case they should be deleted.
- 404. We agree with the recommendation contained in Ms Jones' Section 42A Report that those seeking the provisions be confirmed in part or in whole are recommended to be accepted in part.³⁰²
- 405. Taking a broader view, in particular having regard to the desired purpose of the objectives and policies, we conclude that the activity status which is either non-complying or prohibited provided for by this group of rules is appropriate. This is because having provision for any of the activities provided for within this group of rules within the QTC would not achieve the desired purpose or the outcomes sought by the objectives and policies of the PDP.

7. 12.5 RULES – STANDARDS

- 7.1. Rule 12.5.1 Building Coverage in the Town Centre Transition subzone and comprehensive development of sites 1800m² or greater
- 406. As notified, this rule read:

12.5.1	<p>Building coverage in the Town Centre Transition subzone and comprehensive developments of sites 1800m² or greater</p> <p>12.5.1.1 In the Town Centre Transition subzone or for any comprehensive development of sites greater than 1800m², the maximum building coverage shall be 75%. primarily for the purpose of providing pedestrian links, open spaces, outdoor dining, and well planned storage and loading/ servicing areas within the development.</p> <p>Note: While there is no maximum coverage rule elsewhere in the Town Centre, this does not suggest that 100% building coverage is necessarily anticipated on all sites as setbacks, outdoor storage areas, and pedestrian linkages might be required.</p>	RD*
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³⁰¹ Submissions 672, 663, 212 (supported by FS1117)
³⁰² V Jones, Section 42A Report at [18.15].

	<p>12.5.1.2 Any application for development within the Town Centre Transition Subzone or on a site 1800m² or greater shall be accompanied by a comprehensive Structure Plan for an area of at least 1800m².</p> <p>*In regard to rules 12.5.1.1 and 12.5.1.2, discretion is restricted to consideration of all of the following:</p> <ul style="list-style-type: none"> a. The adequate provision of pedestrian links, open spaces, outdoor dining opportunities b. The adequate provision of storage and loading/ servicing areas c. The site layout and location of buildings, public access to the buildings, and landscaping, particularly in relation to how the layout of buildings and open space interfaces with the street edge and any adjoining public places and how it protects and provides for view shafts, taking into account the need for active street frontages, compatibility with the character and scale of nearby residential zones, and the amenity and safety of adjoining public spaces and designated sites. 	
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407. This rule deals with two matters:
- a. Rule 12.2.5.1 provided for a maximum building coverage of 75% for sites in the Town Centre Transition Subzone, or for any development on a site greater than 1800m².
 - b. Rule 12.2.5.2 stated the need to provide a comprehensive Structure Plan when undertaking development in the Town Centre Transition Subzone, or for any development on a site greater than 1800m².
408. The maximum building coverage as notified for these described sites was 75%. Any activity that breached the 75% maximum coverage would be a restricted discretionary activity. The matters of discretion to consider related to how well the building fitted into its surrounds and in particular public access to the building.
409. By way of context the ODP provided differing building coverage percentages for differing precincts ranging from 95% to 70%. The ODP did not use a structure plan/comprehensive development approach based on site size.
410. There were several submissions received on Rule 12.5.1, both with respect to the 1800m² as the trigger site area and also the 75% maximum coverage percentage.
411. Seven submitters³⁰³ sought to remove all controls over site coverage for the majority of the QTCZ. NZIA submitted to request that development over 80% of a site in the QTCZ be a discretionary activity.
412. Redson Holdings Ltd³⁰⁴ submitted in support of the notified rule, on the proviso that there would be no restrictive site coverage provisions within the wider QTCZ on sites smaller than 1800m². The submitter owned a site in Beach Street which has an area of 555m².

³⁰³ Submissions 491, 596, 606, 609, 614, 616 and 650.

³⁰⁴ Submission 491, opposed by FS1236

413. IHG Queenstown Ltd and Carter Queenstown Ltd³⁰⁵ submitted requesting that the 75% coverage only apply to the QTCT Subzone, and not to sites over 1800m². The submitter did not consider such a restriction would promote the efficient use of land in the QTCZ.
414. NZIA³⁰⁶ requested that all development beyond 80% of a site be discretionary to allow for permeability and connections to be made through the sites. Further NZIA noted in its submission that this would align with that sought in Wanaka township.
415. Ms Jones advised that in her view it was still appropriate to enable 100% site coverage through the QTCZ, except in relation to large comprehensive developments and in the TCTZ.³⁰⁷ (our emphasis added). She based this opinion on the Section 32 Evaluation Report³⁰⁸ and Mr Church's evidence.³⁰⁹ She said although there may be some times where there is benefit in providing some unbuilt private or semi-public space, she considered these opportunities would be rare in the heart of the QTC.³¹⁰ Rather, she was of the view that on balance the environmental and economic costs associated with imposing the site coverage rule on all sites would outweigh any benefits.³¹¹
416. As such, she recommended retaining the maximum site coverage rule with some amendments as follows.

7.2. 75% Maximum Coverage

417. Ms Jones explained how the 75% maximum coverage rule was determined. In summary:³¹²
- a. She considered the building coverage in the comprehensive development in the Marine Parade/Church/ Earl/ Camp Street block³¹³ at 75% and the building coverage provided within the post office precinct development at 67% to be good examples of comprehensively planned developments;
 - b. If the recommended viewshafts on the Man Street carpark block were developed as open space (as recommended in her Section 42A Report) then the building coverage would be 72%;
 - c. Development within the PC50 area is subject to maximum coverage rules of 70-80% in the respective Lakeview and Isle Street subzones.
418. Ms Jones said that, in the absence of evidence to the contrary, she considered that retaining the 75% maximum coverage requirement was appropriate.³¹⁴ She noted that if this 75% coverage were exceeded, then the activity status would be restricted discretionary and that would not preclude proposals from being considered on a case by case basis.³¹⁵ She further noted that this would avoid almost all resource consents in the Town Centre from having to obtain a resource consent, which was the case with the ODP.³¹⁶

³⁰⁵ Submission 663, opposed by FS1139 and FS1191

³⁰⁶ Submission 238, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248 and FS1249

³⁰⁷ V Jones, Section 42A Report at [14.4].

³⁰⁸ Section 32 Evaluation Report, namely at p18-19.

³⁰⁹ T Church, EIC, at [17.1-17.11]

³¹⁰ V Jones, Section 42A Report at [14.4].

³¹¹ Ibid.

³¹² *ibid* at [14.9].

³¹³ RM000902

³¹⁴ V Jones, Section 42A Report at [14.10].

³¹⁵ *Ibid*.

³¹⁶ *Ibid*.

419. Relying on the aforementioned NZIA³¹⁷ submission for scope, Ms Jones recommended reducing the site size triggering the 75% maximum coverage rule to 1400m². The NZIA submission sought all sites to be subject to an 80% coverage. That would mean all sites would be subject to a maximum site coverage restriction. As such, Ms Jones relied on that to provide scope to recommend reducing the site size that would trigger the maximum restriction in order to enable the rule to apply to more sites.
420. Ms Jones' recommendation was informed by the expert evidence of Mr Church. Ms Jones sought Mr Church's opinion as to whether the notified 75% site coverage and Structure Plan requirement for comprehensive developments was appropriate.³¹⁸
421. In his evidence, Mr Church referred to the same comprehensive developments as Ms Jones.³¹⁹ He said his understanding was that the 75% building coverage threshold was based on the recent Church Street and Ngai Tahu Courthouse developments.³²⁰ In his view, those developments represented good urban design outcomes for comprehensive development within the context of the town centre.³²¹
- 7.3. Reducing the site area trigger to 1400m²**
422. Basing his opinion on an analysis of contiguous property across the town centre he considered the 1800m² threshold should be reduced to 1400m².³²² He included in his Appendix 1 a comparison of the QTCZ to show the likely additional sites captured by this reduction, based on current property configurations.
423. Mr Church was of the view, that a 1400m² threshold would capture a better range of larger sites where there was potential for redevelopment that could contain multiple buildings, laneways, open spaces and comprehensive car parking and servicing solutions.³²³
424. Ms Jones also asked Mr Church if the proposed removal of any maximum coverage rules from the Town Centre (other than large sites/Transition area) would be appropriate.³²⁴
425. In his evidence, Mr Church noted that the QTC is the most intensive urban form in the District. Based on his experience, it was his view that areas of intensification typically transfer on-site amenity and some services into the public realm.³²⁵ He noted that Queenstown was no exception and he considered that there was a resulting heavy reliance on public amenity in the town centre, including good quality streetscape with street trees, and landscaped open spaces.³²⁶ He further noted that views to the natural landscape beyond substitute for on-site landscape and amenity and provide critical visual relief within the town centre.³²⁷

³¹⁷ Submission 238

³¹⁸ T Church, EIC at [14.2].

³¹⁹ Ibid at [14.3-14.5].

³²⁰ Ibid at [14.5].

³²¹ Ibid.

³²² Ibid at [14.6].

³²³ T Church, EIC at [14.6].

³²⁴ Ibid at [17.2].

³²⁵ Ibid at [17.3-17.4]

³²⁶ Ibid at [17.4].

³²⁷ Ibid.

426. In summary, Mr Church supported the removal of site coverage across the whole town centre and suggested 75% coverage be consistently applied to sites over the 1,400m² threshold and delivered as part of the Comprehensive Development Plan.³²⁸
427. Ms Jones, for her part, considered her re-draft of Rule 12.5.1, as per her Section 42A Report, would more effectively implement the outcomes sought by Objectives 12.2.2 and 12.2.4 and provide complementary support to Rules 12.4.6.2 and 12.5.8.
428. At the hearing several submitters presented evidence regarding site coverage.
429. Mr Richard Staniland³²⁹ gave examples on behalf of Skyline Enterprises Limited³³⁰ in relation to the O'Connells Pavilion site. Based on these examples of economic loss, it was his opinion the proposal to reduce the site size trigger from 1800 m² to 1400 m² should be rejected.
430. Mr Williams³³¹ agreed that the largest sites should be considered comprehensively with matters including mid-block connections, grain of development and massing becoming more important on those larger development sites.
431. It was his opinion that reducing the site size trigger to 1400 m² would represent an inefficient use of the town centre land resource and, moreover, it was not necessary to choose this trigger point to manage the potential effects the rule sought to manage.³³²
432. Mr Williams was of the view that the main driver of the comprehensive development rule and accompanying site coverage rules was to encourage additional lanes and pedestrian links and/or view shafts.³³³ He noted that because the planning framework sought to identify pedestrian links within plan provisions and to protect them, that outcome needed to be taken into consideration when determining whether or not the 1400 m² site size trigger was actually required.³³⁴ In other words, in his view, the outcome sought was already available via other plan provisions.

7.4. Scope for Amendments

433. Mr Todd, legal counsel for MSPL³³⁵, submitted that there was no scope for Ms Jones' recommended coverage changes to Rule 12.5.1. Mr Todd pointed out that the relief sought by NZIA was that all development in excess of 80% of the site should be a discretionary activity. Therefore he questioned how this could justify a more restrictive rule whereby all development on sites over 1400 m² would have a maximum site coverage of 75%.
434. Ms Jones relied on the submission by NZIA³³⁶ for scope for her recommended changes particularly to site size. Ms Jones considered the submission was couched in a zone –wide manner, presumably linked to the QTCZ, and provided a “reasonable argument”³³⁷ that it provided scope to amend the notified coverage rule 12.5.1.

³²⁸ Ibid at [17.11].

³²⁹ R Staniland, EIC at [4-8].

³³⁰ Submission 574.

³³¹ T Williams, EIC at paragraphs 42-50 page10

³³² Ibid at [45].

³³³ Ibid at [47].

³³⁴ Ibid.

³³⁵ Submission 398

³³⁶ Submission 238

³³⁷ V Jones Section 42A Report, at Paragraph 14.8 page 81

435. Ms Scott, in the Council's legal submissions in reply, pointed out the NZIA further submission sought an 80% coverage rule for all sites rather than being limited to only those sites in the town centre transition sub-zone and sites over 1800 m².
436. Ms Scott argued that the changes recommended by Ms Jones, principally in her Section 42A Report, also had the same effect of the NZIA submission of capturing more sites within the rule. However, she pointed out that Ms Jones took a different route to do so, being the reduction in the site size trigger to 1400 m² as distinct from 80% of site coverage across all sites as utilised by NZIA.
437. Ms Jones, in her Reply Statement, pointed out that in so far as Mr Todd's clients were concerned, the ODP already provided a 95% coverage rule for the O'Connell site with part of the site being subject to an 80% coverage rule.³³⁸ Therefore, she said, her proposed rule would not represent a change from a permitted 100% coverage for the site. She made similar points for the Stratton House site, noting that a pedestrian link was offered and accepted within a resource consent in lieu of height breaches.
438. Ms Jones revisited Rule 12.5.1.1 in her Reply and suggested two alternatives, particularly if we found her suggested amendments were not in scope.
439. The first being to amend building coverage limit to 80% as sought by NZIA; or, alternatively, apply the 75% coverage as recommended in her Section 42A Report but limit its application only to sites over 1800 m².
440. We need to decide if reducing the site size to 1400m² would be within scope, and if necessary whether the alternatives raised in Ms Jones' Reply of either 80% site coverage or 75% coverage and a site size trigger for a structure plan at 1800m² would be within scope.
441. Certainly the NZIA further submission has some clarity issues. However, of the two competing arguments on scope we prefer the view of Ms Jones and Ms Scott over that of Mr Todd. In our view Mr Todd has taken a more limited and literal interpretation of the NZIA submission.
442. We think Ms Jones and Ms Scott are correct in that the effect of the NZIA submission would be to catch more sites, just as there would be more sites caught, albeit a lesser number than that caught by the NZIA submission, if the site size trigger were reduced to 1400m². We conclude there is scope for Ms Jones' recommendations.
443. Moving to consider the options presented to us by Ms Jones, she had, within her Section 42A Report, extensively outlined her support for a 75% threshold. Further she was in support of enabling 100% site coverage on smaller sites throughout the QTCZ. Changing to 80% of all sites seemed to us to be at odds with this earlier view. Also, increasing the allowable site coverage size even by a small amount did not seem to us to support Objectives 12.2.2 and 12.2.4 nor support Rules 12.4.6.2 and 12.5.8. We also consider adopting a site size trigger of 1400m² as opposed to the notified 1800m² better supports those same objectives and related rules.
444. Further, we are not convinced that smaller sites should be subjected to a maximum site coverage of 80%. We agree with Ms Jones and consider that in order to provide the most

³³⁸ V Jones, Rely Statement at [4.2].

efficient use of land in the QTCZ there should be no site coverage rules, for those sites under the 1400m² threshold.

445. For these reasons we recommend the NZIA further submission be accepted in part and the site coverage be 75% and the site size trigger be set at 1400m². We recommend rejecting those submissions that sought to increase the site coverage to 80% or retain the threshold at 1800m².

7.5. Matters of Discretion

446. Several submitters³³⁹ sought to include additional points within the final matter of discretion. Those additional points related to listed heritage items and heritage precincts as well as consideration of shading and wind effects.

447. In her Section 42A Report, Ms Jones recommended including these in the matters of discretion. We agree. These are relevant considerations for development and recognise the importance of the QTC heritage and also recognise and provide for amenity effects on neighbouring sites from shading and wind.

448. We recommend these submissions are accepted and the additional points are included.

7.6. Rule 12.5.1.2

449. This Rule as notified required that any site to which Rule 12.5.1.2 applied should be accompanied by a comprehensive Structure Plan. Mr Church considered that based on his experience of structure planning and preparing the guidance for these, there are considerable benefits to RMA matters.³⁴⁰ Referring to the Quality Planning website, he summarised these as the ability to:³⁴¹

- a. provide integrated management of complex environmental issues
- b. coordinate the staging of development over time
- c. ensure co-ordinated and compatible patterns and intensities of development across parcels of land in different ownership, and between existing and proposed areas of development and redevelopment
- d. provide certainty regarding the layout and character of development
- e. ensure that new development achieves good urban design outcomes by defining the layout, pattern, density and character of new development and transportation networks and
- f. complement other tools such as urban design guides.

450. Mr Church noted that in some instances, namely greenfield or broad urban areas these structure planning processes can be significant undertakings.³⁴² However, both Ms Jones and Mr Church considered that the intention of the rule was not to be onerous for applicants, but rather to ensure that a *“well-considered, master planned approach is followed resulting in a plan that is carefully integrated into the town centre and surrounding context.”*³⁴³

451. Mr Church supported this approach with one recommendation to rename the term from 'Structure Plan' to a 'Comprehensive Development Plan' or similar to better describe its

³³⁹ Submissions 59, 82, 206, 417, 599 and 621.

³⁴⁰ T Church, EIC at [14.10].

³⁴¹ Ibid.

³⁴² Ibid at [14.11].

³⁴³ T Church, EIC at [14.11].

purpose.³⁴⁴ He also recommended the Council provided further guidance outside the Plan regarding the expected review process, required content of an application and interpretation of the matters of discretion, to give more certainty to future applicants.³⁴⁵

452. We recommend renaming this term as suggested by Mr Church. We also recommend that the Council consider Mr Church's recommendation to provide guidance to applicants outside of the Plan.

7.7. Minor Amendments

453. There are a number of consequential changes to the first assessment matter to include the words "*cycle and vehicle and lanes.*" This change comes about as a consequence of Ms Jones' recommendation to remove Rule 12.4.6.2.

454. The next change recommended by Ms Jones within her Reply Statement related to shifting the words "*the provision of open space within the site, for outdoor dining or other purposes:*" from within paragraph 12.5.1.2 to the list of matters informing the exercise of the discretion. We agree and recommend that change because it enhances the clarity of the rule.

455. In her Reply Statement, Ms Jones also recommended that the definition of "comprehensive development" as she enhanced it be moved to Rule 12.3.2.3. We have discussed this earlier and recommend the definition sit in Chapter 2.

456. Finally, we have identified a drafting issue with this rule. Rule 12.5.1.1 states that the maximum building coverage in the two instances discussed shall be 75%. Non-compliance is stated to be restricted discretionary and matters of discretion are listed.

457. Rule 12.5.1.2 requires that in the same two instances, a Comprehensive Development Plan is to be provided, irrespective of the maximum building coverage proposed, and non-compliance is also a restricted discretionary activity subject to the same matters of discretion. Ms Jones' recommended amendments included the statement that the Comprehensive Development Plan is "*of sufficient detail to enable the matters of discretion listed below to be fully considered*". That implies that the Comprehensive Development Plan is a necessary part of any restricted discretionary consent application, however, if the proposal involves building coverage less than 75%, the lodgement of such a plan would satisfy the standard and no consent would be required. On the other hand, failure to lodge such a plan would equally require a restricted discretionary consent application and be tested against the same matters of discretion that the plan was supposed to enable full consideration of.

458. In our view, the only practical solution to this is to delete the words quoted above, noting that such a deletion is the only amendment within the scope of the submissions. However, it seems to us that the intention was to require Comprehensive Development Plans to be subject to some form of consent, whether in every development proposal on these sites, or only when the 75% coverage limit was breached. We recommend the Council review this rule, firstly determining whether it is setting a standard or an activity, then drafting a rule that achieves the outcome desired.

459. Taking all of the above into account we recommend Rule 12.5.1 be adopted as set out below:

³⁴⁴ Ibid at [14.12].

³⁴⁵ Ibid at [14.14].

<p>12.5.1</p>	<p>Maximum building coverage in the Town Centre Transition Sub-Zone and in relation to comprehensive developments</p> <p>12.5.1.1 In the Town Centre Transition Sub-Zone or when undertaking a comprehensive development (as defined), the maximum building coverage shall be 75%.</p> <p>Advice note: While there is no maximum coverage rule elsewhere in the Town Centre, this does not suggest that 100% building coverage is necessarily anticipated on all sites as outdoor storage areas, and pedestrian linkages might be required.</p> <p>12.5.1.2 Any application for building within the Town Centre Transition Sub-Zone or for a comprehensive development (as defined) shall include a Comprehensive Development Plan that covers the entire development area.</p>	<p>RD Discretion is restricted to:</p> <ul style="list-style-type: none"> a. The adequate provision of cycle, vehicle, and pedestrian links and lanes, open spaces, outdoor dining opportunities b. The adequate provision of storage and loading/ servicing areas c. The provision of open space within the site, for outdoor dining or other purposes d. The site layout and location of buildings, public access to the buildings, and landscaping, particularly in relation to how the layout of buildings and open space interfaces with the street edge and any adjoining public places and how it protects and provides for view shafts, taking into account the need for active street frontages, compatibility with the character and scale of nearby residential zones, listed heritage items, and heritage precincts, and the amenity and safety of adjoining public spaces and designated sites, including shading and wind effects.
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7.8. Rule 12.5.2 Street Scene - building setbacks

460. As notified Rule 12.5.2 provided for a minimum setback of 0.8 m for buildings on the north side of Beach Street and 1 m for buildings on the south side of Beach Street. Any non-compliance with these setbacks was a restricted discretionary activity with the matters of discretion being the effects on overall streetscape.

461. Several submitters³⁴⁶ sought the removal or alteration of the setbacks on both sides of Beach Street. These submitters considered that the rule would limit the efficient use of a scarce resource and would place significant limits on development potential without any identifiable benefits³⁴⁷. They further considered that a suitable design could be achieved without arbitrarily imposing any additional bulk and location controls, and that imposing additional setbacks would not reflect the positive effects that the existing varied setbacks of the buildings have on the streetscape.

³⁴⁶ Submissions 383,606 (opposed by 1063),616.617

³⁴⁷ See Submission 616 and V Jones, Section 42A Report at [14.16].

462. Having considered the submitter's position, Ms Jones³⁴⁸ noted the most compelling reason for retaining the setbacks was that on the north-side of Beach Street they provided an indirect way of achieving two-storey buildings with 7 m high facades and a parapet at the stipulated height or within the recession plane and with minimal effect on sunlight access. However, she concluded that the setbacks on Beach Street were not the most appropriate method of achieving Objectives 12.2.2 and 12.2.4.
463. In reaching that view she relied on the evidence of Ms Gillies and Mr Church. Ms Gillies, in her evidence³⁴⁹, was very clear that because of the historic character of the heritage streetscape in Beach Street, which did not include setbacks from the street boundary, she did not support setbacks. She did observe that the ODP included a requirement for setbacks but explained that setbacks were an urban design theory designed to produce a varied frontage resulting in the visual interest and varied experiences.³⁵⁰ However, she pointed out that this was a modern theory and did not relate to historic streetscape design as existed in Precinct P5.³⁵¹
464. Mr Church expressed the view that he could see no urban design rationale for the Beach Street setbacks being retained, other than providing additional sunlight access to the street.³⁵² He was of the view that sunlight access could be addressed through the use of facade heights and recession planes.
465. Further, Mr Church noted Beach Street was now pedestrianised and therefore he saw no real merit in having the street any wider for other functions such as vehicle accessibility.³⁵³ We assumed he did not see benefit in encouraging on-site outdoor dining. More importantly, we thought, he noted the intimacy of Beach Street without setbacks added to the character of the town centre, and it was one of the few narrow streets remaining from the early morphology of the town.³⁵⁴
466. Mr Church considered stepped or uneven building setbacks were not a characteristic that predominated across the SCA. He supported Ms Gillies' view and recommended removing the provision of the 0.8 m to 1.0 m setbacks on Beach Street in combination with appropriate facade height and recession plane controls to avoid any significant loss of sunlight to the Street.³⁵⁵
467. We note that Mr Williams, who had been engaged by submitters³⁵⁶ with an interest in the Beach Street set back issue, supported Ms Jones' recommendation to remove the setback requirements for buildings on Beach Street. It was his view that those setbacks did not serve any real benefit to the built form outcomes and placed a constraint on efficient development of sites along Beach Street³⁵⁷.

348 V Jones, Section 42A Report at [14.21].

349 J Gillies, EIC at [10.1-10.3]

350 Ibid at [10.2].

351 J Gillies, EIC at [10.2].

352 T Church, EIC at [18.1 to 18.7]

353 Ibid at [18.4].

354 Ibid at [18.5].

355 Ibid at [18.7].

356 Submission 616

357 T Williams, EIC at [15].

468. Appended to her Section 42A Report, Ms Jones undertook a Section 32AA evaluation of dispensing with the street scene setback rules for Beach Street.³⁵⁸ Having considered that evaluation we accept it and adopt it.

469. Essentially for the reasons advanced by Ms Jones, Ms Gillies, Mr Church and Mr Williams, we agree that the notified Rule 12.5.2 applying to Beach Street should be deleted because it is not the most appropriate method of achieving Objectives 12.2.2 and 12.2.4.

470. We recommend the deletion of Rule 12.5.2 in its entirety.

7.9. Rule 12.5.3 Waste and Recycling Storage Space

471. This rule did not attract submissions. The only changes we recommend to it are the non-substantive minor changes to reference to the matters of discretion, consistent with the approach taken elsewhere in the PDP.

472. We recommend Rule 12.5.2 be worded as follows:

12.5.2	Waste and Recycling Storage Space	RD
	<p>12.5.2.1 Offices shall provide a minimum of 2.6m³ of waste and recycling storage (bin capacity) and minimum 8m² floor area for every 1,000m² gross floor space, or part thereof.</p> <p>12.5.2.2 Retail activities shall provide a minimum of 5m³ of waste and recycling storage (bin capacity) and minimum 15m² floor area for every 1,000m² gross floor space, or part thereof.</p> <p>12.5.2.3 Food and beverage outlets shall provide a minimum of 1.5m³ (bin capacity) and 5m² floor area of waste and recycling storage per 20 dining spaces, or part thereof.</p> <p>12.5.2.4 Residential and Visitor Accommodation activities shall provide a minimum of 80 litres of waste and recycling storage per bedroom, or part thereof.</p>	<p>Discretion is restricted to:</p> <p>a. The adequacy of the area, dimensions, design, and location of the space allocated, such that it is of an adequate size, can be easily cleaned, and is accessible to the waste collection contractor, such that it need not be put out on the kerb for collection. The storage area needs to be designed around the type(s) of bin to be used to provide a practicable arrangement. The area needs to be easily cleaned and sanitised, potentially including a foul floor gully trap for wash down and spills of waste.</p>

³⁵⁸ V Jones, Section 42A Report, Appendix 4, at p7.

7.10. Rule 12.5.4 Screening of Storage Space

473. This notified rule is carried over from the ODP. The rule attracted submissions³⁵⁹ seeking changes. In essence the notified rule required that all storage areas on sites with frontage to certain streets be located within a building, or otherwise, be screened.
474. Real Journeys³⁶⁰ sought to amend the rule to clarify that temporary storage of equipment on the wharf being transported via a vessel is either permitted or exempt from the rule. The submitter also sought to amend the rule to include a permitted rule allowing for storage of rubbish provided it was screened from neighbouring properties and public places.
475. IHG Queenstown Ltd and Carter Queenstown Ltd³⁶¹ requested that notified Rule 12.5.4.1 be deleted and that notified rule 12.5.4.2 should be applied to all sites in the zone. This would mean that storage areas would either be situated within the building or screened from view from all public places, adjoining sites including adjoining zones.
476. Ms Jones expressed the view that notified Rule 12.5.4.1 would not apply to the storage of goods on wharves as this rule only applied to sites that have frontage to Beach Street.³⁶² In other words, frontage to Beach Street (or one of the other streets listed) was required to trigger notified Rule 12.5.4.1. Goods stored on the wharf were controlled by notified Rule 12.4.3.
477. In relation to Submission 663, Ms Jones observed that the wording of notified Rules 12.5.4.1 and 12.5.4.2 had been carried over from the ODP but simplified to remove reference to street names and instead apply to the whole of the SCA. Also she ultimately agreed it was somewhat irrelevant whether the storage was within a building or within a well screened outdoor area.³⁶³ She concluded, and we agree, that relaxing notified Rule 12.5.4.2 to enable this alternative of screening without the need for the storage to be within a building would simplify the rule and provide for a greater range of suitable storage options.
478. Ms Jones had also expressed a concern that allowing outdoor storage areas could cause adverse visual effects and crime related effects.³⁶⁴ To address this concern, she recommended adding a further matter of discretion to the redraft rule relating to CPTED principles. She considered the addition of this further matter of discretion to be a consequential amendment of removing the need for storage to be within a building as required by notified Rule 12.5.4.1
479. In summary, Ms Jones recommended ³⁶⁵ removing notified Rule 12.5.4.1 and applying redrafted Rule 12.5.4.2 to all parts of the QTCZ, as well as adding a further matter of discretion to the redraft rule relating to CPTED principles.
480. We note that this redraft negates, to a degree, Ms Jones' comments that this rule would not apply to goods stored on the wharf. In our view, using the term "storage area" implies a permanent storage arrangement, not the temporary location of goods while they are waiting to be loaded onto a boat.

³⁵⁹ Submissions 621 and 663 (opposed by FS1191, FS1139)

³⁶⁰ Submission 621

³⁶¹ Submission 663, opposed by FS1139 and FS1191

³⁶² V Jones, Section 42A Report at [13.46].

³⁶³ Ibid at [13.49]

³⁶⁴ Ibid.

³⁶⁵ ibid at [13.50].

481. We have considered Ms Jones' Section 32AA assessment in relation to her recommendation described above and we agree with it for the reasons she provides. Having greater flexibility for storage options provided they are well screened is a sensible outcome and preferred over the notified Rule.

482. Accordingly we recommend Rule 12.5.4 be renumbered and amended to read:

12.5.3	Screening of Storage Areas <i>Storage areas shall be situated within a building or screened from view from all public places, adjoining sites and adjoining zones.</i>	<i>RD</i> <i>Discretion is restricted to:</i> <i>a. Effects on visual amenity</i> <i>b. Consistency with the character of the locality</i> <i>c. Effects on human safety in terms of CPTED principles and</i> <i>d. Whether pedestrian and vehicle access is compromised.</i>
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7.11. Rule 12.5.5 Verandas

483. As notified, Rule 12.5.5 required all new, reconstructed or altered buildings with frontage to listed roads to provide a veranda or other means of weather protection. Non-compliance with this required consent as a restricted discretionary activity.

484. This rule attracted a single submission³⁶⁶ that requested that buildings along Hay Street need not provide a veranda. Ms Jones explained the merit of requiring a veranda on Hay Street because it would provide an increasingly important pedestrian link to the Lakeview sub-zone. However, she also acknowledged that for practical reasons, namely the steepness of Hay Street, provision of verandas were impractical.³⁶⁷ She also noted that there was no requirement to provide verandas in the Isle Street or Lakeview Town Centre sub-zone beyond Hay Street. Finally because an all-weather pedestrian link already exists through the centre of the Man Street block, she recommended Submission 663 be accepted so that the requirement to provide a veranda on Hay Street be deleted from notified Rule 12.5.5.1.

485. We agree with that reasoning and accordingly recommend that the rule be adopted subject to deletion of Hay Street from the list of streets where verandas are to be provided, and renumbered as 12.5.4.1.

486. The ORC³⁶⁸ raised the issue of verandas potentially interfering with high-sided vehicles, in relation to notified Rule 12.5.5.2. We have discussed this issue earlier in relation to notified Rule 12.4.6.1. We are satisfied that with the amendment we are recommending to Rule 12.4.6.1, no change is necessary to this rule in response to this submission.

487. Consequently, we recommend the rule be renumbered as Rule 12.5.4, and be adopted as follows:

³⁶⁶ Submission 663, opposed by FS1139 and 1191

³⁶⁷ V Jones, Section 42A Report at [13.51].

³⁶⁸ Submission 798.

12.5.4	<p>Verandas</p> <p>12.5.4.1 Every new, reconstructed or altered building (excluding repainting) with frontage to the roads listed below shall include a veranda or other means of weather protection.</p> <ul style="list-style-type: none"> a. Shotover Street (Stanley Street to Hay Street) b. Beach Street c. Rees Street d. Camp Street (Church Street to Man Street) e. Brecon Street (Man Street to Shotover Street) f. Church Street (north west side) g. Queenstown Mall (Ballarat Street) h. Athol Street i. Stanley Street (Coronation Drive to Memorial Street). <p>12.5.4.2 Verandas shall be no higher than 3m above pavement level and no verandas on the north side of a public place or road shall extend over that space by more than 2m and those verandas on the south side of roads shall not extend over the space by more than 3m.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. Consistency of the proposal and the Queenstown Town Centre Design Guidelines (2015) where applicable and b. Effects on pedestrian amenity, the human scale of the built form, and on historic heritage values.
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7.12. Rule 12.5.6 Residential Activities

488. There were no submissions on this rule. The only changes we recommend to it are renumbering it as Rule 12.5.5 and those formatting changes required for consistency with the approach we have taken through the PDP. Apart from those changes, which are shown in Appendix 1, we recommend the rule be adopted as notified.

7.13. Rule 12.5.7 Flood Risk

489. There were no submissions on this rule. We recommend it be renumbering as Rule 12.5.6 and rewording the standard to make it clearer. We recommend no changes to the matters of discretion. We recommend the standard read:

No building greater than 20m² with a ground floor level less than RL 312.0 masl shall be relocated to a site, or constructed on a site, within this zone.

7.14. Rule 12.5.8 Provision of Pedestrian Links

490. As notified, Rule 12.5.8 dealt with the provision of pedestrian links for any new buildings or building development in sites identified by the rule, both in Figure 1 and listed. Where the required link was not proposed, then the rule required consent as a restricted discretionary activity.
491. The NZIA submission³⁶⁹ sought recognition of the importance of pedestrian links, particularly those that are open to the sky. Other submitters sought revisions to the pedestrian link map, complaining the link map was of an insufficient size that only detailed existing pedestrian linkages. They also suggested the map should include future linkages and encompass the Gorge Road retail area and the expanded town centre.
492. Peter Fleming³⁷⁰ sought that the pedestrian link map include legal descriptions on sites over which pedestrian links were provided. Tweed Developments Limited³⁷¹ considered that the notified Rule 12.5.8 and Figure 1 should also include pedestrian connections provided as a result of covenants and agreements between the Council and property owners.
493. Ms Gillies³⁷² expressed the view that the pedestrian links were possibly a feature unique to the Queenstown town centre. She noted some have direct links to the town centre's historic beginnings while others are much more recent in time. Some were open to the sky. In her view, the character of the existing pedestrian links was varied.
494. Ms Gillies was very clear in her opinion that any existing pedestrian links should be retained.³⁷³ She was less certain on whether or not new links should be open to the sky or closed. She agreed Figure 1 (showing the existing pedestrian links) was inaccurate and should be updated.³⁷⁴ She supported new pedestrian links being encouraged as part of new developments. However, she did not think intended or proposed links should be shown on the PDP maps.³⁷⁵ She considered that new links should evolve from an assessment of the relevant site and after careful regard of design issues arising.
495. Mr Church³⁷⁶ supported Ms Gillie's opinion on the amendments and additions to the identified pedestrian links plan.³⁷⁷ He supported the approach of a network of pedestrian links being maintained and enhanced through the targeted notified Rule 12.5.8.1.³⁷⁸
496. Mr Church also did not support potential future pedestrian links being included on the identified pedestrian links plan.³⁷⁹ He, however, noted that recording those potential future links would have the benefit of potentially expanding the pedestrian link network across the

³⁶⁹ Submission 238, supported by FS1368, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, and FS1249

³⁷⁰ Submission 599

³⁷¹ Submission 617

³⁷² J Gillies, EIC at [11.3 - 11.5].

³⁷³ Ibid at [11.2]

³⁷⁴ Ibid at [11.4]

³⁷⁵ ibid at [11.5].

³⁷⁶ T Church, EIC at paragraphs 15.1 to 15.3

³⁷⁷ Ibid at [15.6].

³⁷⁸ Ibid.

³⁷⁹ Ibid at [15.8].

town centre which would lead, he said, to positive urban design outcomes.³⁸⁰ In his opinion it was preferred that provision of those potential future pedestrian links be reviewed more holistically with other parts of the movement and open space networks and be incorporated into non-statutory guidance, such as a revised town centre strategy or preparation of a streetscape framework.³⁸¹

497. Essentially Mr Church supported identification of potential alignment of lanes through both non-statutory documents and the use of ongoing restricted discretionary applications for comprehensive development plans, site coverage and building rules to achieve identification.
498. He was also of the opinion that utilising pedestrian links and other types of open space as an incentive to fulfilling restricted discretionary or non-complying planning requirements was appropriate.³⁸² Overall he considered this halfway house where Council identified potential alignment of lanes early through non-statutory documents and then utilised the resource consenting process, provided an appropriate balance between anticipated outcomes and provided flexibility around exact alignment for future applicants.³⁸³
499. In Mr Church's view, the benefits of lanes being open to the sky would be that it would allow the narrow width of the lane to feel more spacious and allow the users to remain in touch with changes in the external environment and activities.³⁸⁴ Being open to the sky would also allow connection with the surrounding natural and cultural landscape.
500. However, he also recognised that there was a place for covered lanes, bridging lanes and/or arcades, particularly in larger scale buildings with larger floor plates.³⁸⁵ Overall, he was of the view that any new pedestrian link should be established as a lane that was open to the sky and with a minimum width of some 4 m.³⁸⁶
501. Following consideration of the submissions and the expert evidence of Ms Gillies and Mr Church, Ms Jones made a number of recommendations:³⁸⁷
- a. Correction of the notified pedestrian link map, Figure 1, so as to improve the map, accurately capture related legal descriptions, and ensure that all formal existing laneways in pedestrian links were included;
 - b. The pedestrian link map be referred to in notified Rule 12.5.8 but the actual map be inserted at the end of Chapter 12;
 - c. Future potent links and laneways not be included on the pedestrian link map in the PDP;
 - d. Provision of links and laneways when consenting the buildings, or when development plans and building coverage applications were being considered. She agreed with Mr Church that it was appropriate that future links should be shown on documents such as the Queenstown Town Centre Strategy (2009), which document could be taken into account when consents were sought;
 - e. Amending notified Policy 12.2.2.5 (b) to specify that where such links or laneways were being offered as a trade-off for height, then those laneways should be open to the sky. She noted that this could also include the uncovering and restoration of Horne Creek;

380

ibid.

381

ibid at [15.8].

382

ibid at [15.10].

383

ibid at [15.10].

384

ibid at [15.14].

385

ibid at [15.16-15.17].

386

ibid at [15.17].

387

V Jones, Section 42A Report at [13.56].

- f. Amending notified Rule 12.5.8 to clarify that where existing lanes and links were open to the sky, then they were to remain so. Also, if provided as part of a redevelopment of the site, lanes would be a minimum of 4 m wide, but where the existing link was covered then when the site is redeveloped it could remain covered but be at least 1.8 m wide;
- g. The pedestrian link map should not be extended beyond the town centre because to do so would be beyond the scope of Chapter 12;
- h. It was unnecessary to include text in the PDP recognising covenants or the such like because the existence of such a covenant was available as a consequence of a title search and further, the rules specify connections only need be in a general location as distinct from a specific location. (In relation to the submission by Tweed Developments Limited³⁸⁸).
502. Ms Jones considered it was preferable for lanes and links to be open to the sky.³⁸⁹ However, she recognised that existing use rights make such an outcome unrealistic, particularly in relation to existing links.³⁹⁰ Further, she considered if the nature and scale of the development with an existing link was changing then it could be opened to the sky.³⁹¹ She observed, however, that the fine grain of the SCA could limit the suitability of wider mid-block lanes in that area and narrower pedestrian lanes, even those not open to the sky made an important contribution to the town centre character.³⁹²
503. Overall, Ms Jones was of the view that, provided any redevelopment of those existing lanes was of a high quality, and importantly the CPTED principles were adhered to, then those narrower closed lanes could continue to make a positive contribution in the town centre.³⁹³ However, she was of the view that the narrower closed lanes should not be replicated in any new development areas on the periphery of the town centre where the scale of the grid and built form differs and where lanes of the sort provided in the Church Street and Post Office precincts were much more suited.³⁹⁴
504. Mr Williams, appearing for several submitters³⁹⁵, accepted the desirability of providing pedestrian links but was concerned about the economic implications for the affected landowners of providing protection for those pedestrian links.
505. He referred us to the evidence of Mr Staniland and Mr Johnston for illustrations of the significance of the financial impact of providing pedestrian links.
506. Mr Johnston³⁹⁶ made the point that a rule requiring a pedestrian link would not only greatly diminish potential future design flexibility and earning capability in the form of rental income but would be effectively a designation.³⁹⁷ He added that it would strip Trojan Holding Limited of its development rights, with that company, not the designating authority, having to bear financial responsibility for the pedestrian link.³⁹⁸ Mr Todd elaborated on this point in his legal submissions which we will return to later.

³⁸⁸ Submission 617

³⁸⁹ V Jones, Section 42A Report at [13.57].

³⁹⁰ Ibid.

³⁹¹ Ibid.

³⁹² Ibid.

³⁹³ Ibid.

³⁹⁴ Ibid.

³⁹⁵ Submissions 398, 596, 606, 609, 616 and 617.

³⁹⁶ On behalf of Trojan Holdings Limited

³⁹⁷ N Johnston, EiC at [8].

³⁹⁸ Ibid.

507. Mr Staniland³⁹⁹ was concerned that the PDP sought to formalise pedestrian links within the Skyline Arcade building. He explained that informal pedestrian access was provided as part of the development of the Arcade Building when it was erected many years ago.⁴⁰⁰
508. It was his opinion and concern that it was unfair for the Council to impose a penalty in the form of a de facto designation of a pedestrian link on the submitter because future development options would be reduced as would rental returns.⁴⁰¹ Also, because this was a de facto designation SEL would not be able to obtain compensation as would usually be the case from the designating authority.⁴⁰² He wished to see the pedestrian links proposal for the QTCZ rejected.
509. Mr Williams was concerned that while Objective 12.2.2.5 identified the potential to enable additional height, it only made reference to connections or pedestrian links if they were uncovered.⁴⁰³ He noted, insofar as his clients were concerned, the Skyline Arcade and the link through Stratton House are covered.⁴⁰⁴ He observed that those connections gave rise to a significant financial cost to development but under the objective as worded there did not appear to be methods to offset this cost or loss. As he put it, because the policy did not provide additional height when the proposed pedestrian link was covered, he considered the provision of a covered link should also enable consideration of offsets.⁴⁰⁵
510. Mr Williams also considered that, given the financial cost of providing a pedestrian link through a building, some regard should be had to already established existing pedestrian links.⁴⁰⁶
511. As an example he drew attention to the link through Stratton House, noting that link was within 15 m of another lane which provided connection from Beach Street to Cow Lane.⁴⁰⁷ He also considered the PDP needed to recognise the significant financial cost of providing links and provide methods to compensate for this loss.⁴⁰⁸
512. Mr Todd, for these submitters⁴⁰⁹, identified for us that those submitters had voluntarily provided pedestrian walkways. He identified two such pedestrian walkways within the Trojan Holdings and Beach Street Holdings Limited building known as Stratton House located between the Beach Street and Cow Lane and the other being within the Skyline Arcade between Cow Lane and the Mall.⁴¹⁰
513. In essence, Mr Todd's clients' concern was the PDP⁴¹¹ seeking to provide for the formalisation, the retention and, in some cases, enhancement to these pedestrian links and others, through various properties in the Queenstown Town Centre.⁴¹² As we understood Mr Todd's

399 On behalf of Skyline Enterprises Limited.
400 R Staniland, EIC at [12].
401 Ibid.
402 Ibid.
403 T Williams, EIC at [53].
404 Ibid.
405 Ibid.
406 Ibid at [54].
407 Ibid.
408 Ibid at [55].
409 Submitters 1238, 1239, 1241, 1248 and FS606, 609 and 616.
410 Synopsis of Legal Submissions of Mr Todd at [3].
411 Suggested in the Section 42A Report.
412 Synopsis of Legal Submissions of Mr Todd at [1].

submission, identification of those pedestrian links on the pedestrian link plan amounted to the formalisation he was concerned with.

514. Mr Todd submitted that the proposal to include in the PDP rules requiring such linkages was in effect the imposition of *de facto* designations.⁴¹³ Moreover, the Council had not taken any financial responsibility or indeed offered any compensation for the offsetting of such links.⁴¹⁴ This was exacerbated by the resultant potential loss of land available for development and subsequently leasing.
515. He further submitted that such a proposal was repugnant to sound resource management practice where no compensation or incentive was offered to the affected parties in return for something for which the public would benefit.⁴¹⁵ He further noted that it would be wrong to think that the Council was doing nothing more than formalising what was in existence through promoting this rule.⁴¹⁶
516. Mr Todd submitted that it would be wrong for the Council to seek to take advantage of what is a public benefit from a developer who has chosen to provide a pedestrian link in a particular design of a building.⁴¹⁷ He referred to the Environment Court case of *Thurlow Consulting Engineers and Surveyors Ltd v Auckland City Council*⁴¹⁸ where the Court found it would be inappropriate to provide for what was effectively a designation over land providing for the identification of a future road without the Council using its designation powers to take the land and compensate the land owner.⁴¹⁹
517. Within her Reply Statement, Ms Jones carried over many of the amendments to notified Rule 12.5.7 she recommended within her original Section 42A Report. The additional changes she recommended were matters of clarification, and we consider all of her further recommended changes provided certainty and clarity.
518. We find ourselves in agreement with her recommendations primarily for the reasons she advanced within her Section 42A Report. We agree with her that correctly referring to the location of existing pedestrian links with the QTC is important. We agree with the amendments she has made to correctly identify the location of these existing pedestrian links.
519. As to the submitters' concerns that including existing pedestrian links on Figure 1 within the PDP would amount to a *de facto* designation without providing them access to compensation, we find that we disagree.
520. We prefer the approach taken by Ms Scott in her legal submissions in reply⁴²⁰. We agree that the case relied upon by Mr Todd is capable of being distinguished. We also agree that the *Thurlow* case is not about the Court refusing to uphold a rule only because it was a *de facto* designation. More correctly, the Court refused to uphold the rule because of uncertain wording of the rule.

⁴¹³ Ibid at [4].

⁴¹⁴ Ibid.

⁴¹⁵ Ibid.

⁴¹⁶ Ibid at [5].

⁴¹⁷ Ibid.

⁴¹⁸ [2001] NZEnvC 82 (substantive) and [2001] NZEnvC 97 (costs)

⁴¹⁹ Synopsis of Legal Submissions of Mr Todd at [6].

⁴²⁰ Legal Submissions in Reply of Mr Winchester at [5.13 to 5.17]

521. None of the uncertainty evident in the *Thurlow* case exists here. There is no uncertainty about the location of the existing pedestrian links. As we read the rules, it is clear that if a pedestrian link is not provided, resource consent will be required but that the link needs to be in the general rather than the exact location shown as per the Reply version of Rule 12.5.8.1.
522. Also, we think it clear from the advice note included in the rule that where an alternative link is proposed, as part of the resource consent application, which is not on the development site but achieves the same or better outcome, then that is likely to be considered appropriate.
523. There was no evidence presented to us that the pedestrian links require a designation. We accept Ms Scott's submission that the plan provisions for pedestrian links can be compared to other built form standards and requirements. Also, provided these plan rules are related to achieving the purpose of the Act, they can be included in a district plan as a standard as they have been in this case. We think the evidence of the submitters, as well as Mr Todd's submissions, ignore the fact that provision of new pedestrian links could result in gains for a resource consent applicant through additional height.
524. In conclusion, it is our view that the submitters' concerns about *de facto* designations and alternative nearby pedestrian links not being properly taken into account, are unfounded.
525. Accordingly, we recommend that the changes to notified Rule 12.5.8, renumbered 12.5.7, as set out below be adopted for the reasons we have set out above.

12.5.7	Provision of Pedestrian Links and lanes	RD Where the required link is not proposed as part of development, discretion is restricted to: a. The adverse effects on the pedestrian environment, connectivity, legibility, and Town Centre character from not providing the link.
	12.5.7.1 All new buildings and building redevelopments located on sites which are identified for pedestrian links or lanes in Figure 1 (at the end of this chapter) shall provide a ground level pedestrian link or lane in the general location shown.	
	12.5.7.2 Where a pedestrian link or lane required by Rule 12.5.8.1 is open to the public during retailing hours the Council will consider off-setting any such area against development levies and car parking requirements.	
	12.5.7.3 Where an existing lane or link identified in Figure 1 is uncovered then, as part of any new building or redevelopment of the site, it shall remain uncovered and shall be a minimum of 4m wide and where an existing link is covered then it may remain covered and shall be at least 1.8 m wide, with an average minimum width of 2.5m.	
	12.5.7.4 In all cases, lanes and links shall be open to the public during all retailing hours.	

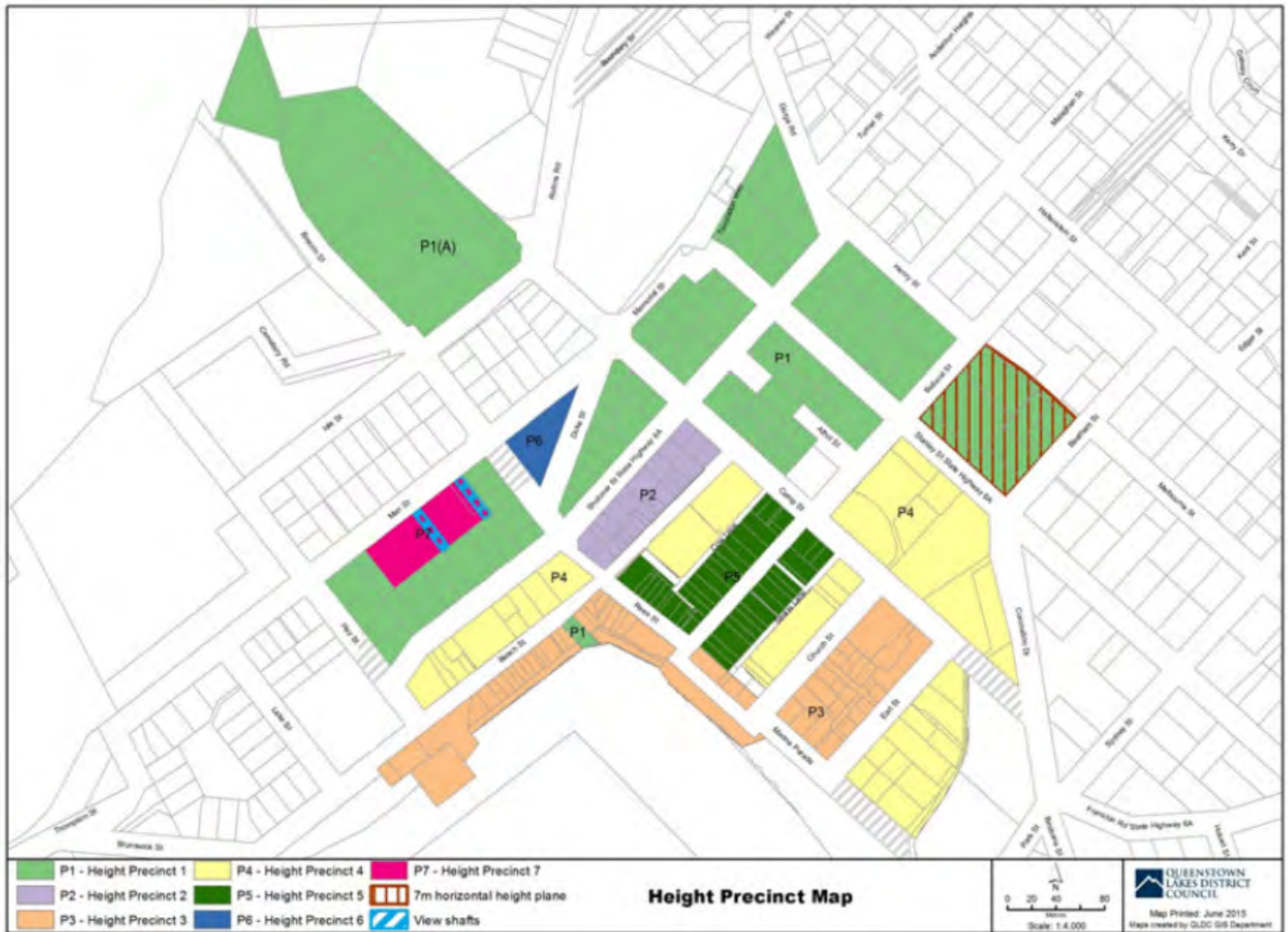
	<p>Location of Pedestrian Links within the Queenstown Town Centre.</p> <ul style="list-style-type: none"> a. Shotover St/ Beach St, Lot 2 DP 11098, Lot 3 DP 11098 b. Trustbank Arcade (Shotover St/ Beach St), Lot 1 DP 11098, Pt Sec 23 Bk VI Tn of Queenstown c. Plaza Arcade, Shotover St/ Beach St, Lot 1 DP 17661 d. Cow Lane/ Beach Street, Sec 30 Blk I Tn of Queenstown e. Cow Lane/ Beach Street, Lot 1 DP 25042 f. Cow lane/ Ballarat Street, Lot 2 DP 19416 g. Ballarat St/ Searle Lane, Sec 22 & Pt Sec 23 Blk II Tn of Queenstown h. Ballarat Street/ Searle Lane, part of the Searle Lane land parcel i. Church St/ Earl St, Lot 1 DP 27486 j. Searle Lane/ Church St, Lot 100 DP 303504 k. Camp/ Stanley St, post office precinct, Lot 2 DP 416867 l. Camp/ Athol St, Lot 1 DP 20875. <p>Advice Notes:</p> <ul style="list-style-type: none"> a. Where an uncovered pedestrian link or lane (i.e. open to the sky) is provided in accordance with this rule, additional building height may be appropriate pursuant to Policies 12.2.2.4 and 12.2.2.5. b. Where an alternative link is proposed as part of the application, which is not on the development site but achieves the same or a better outcome then this is likely to be considered appropriate. 	
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7.15. Height Rules

Height - General

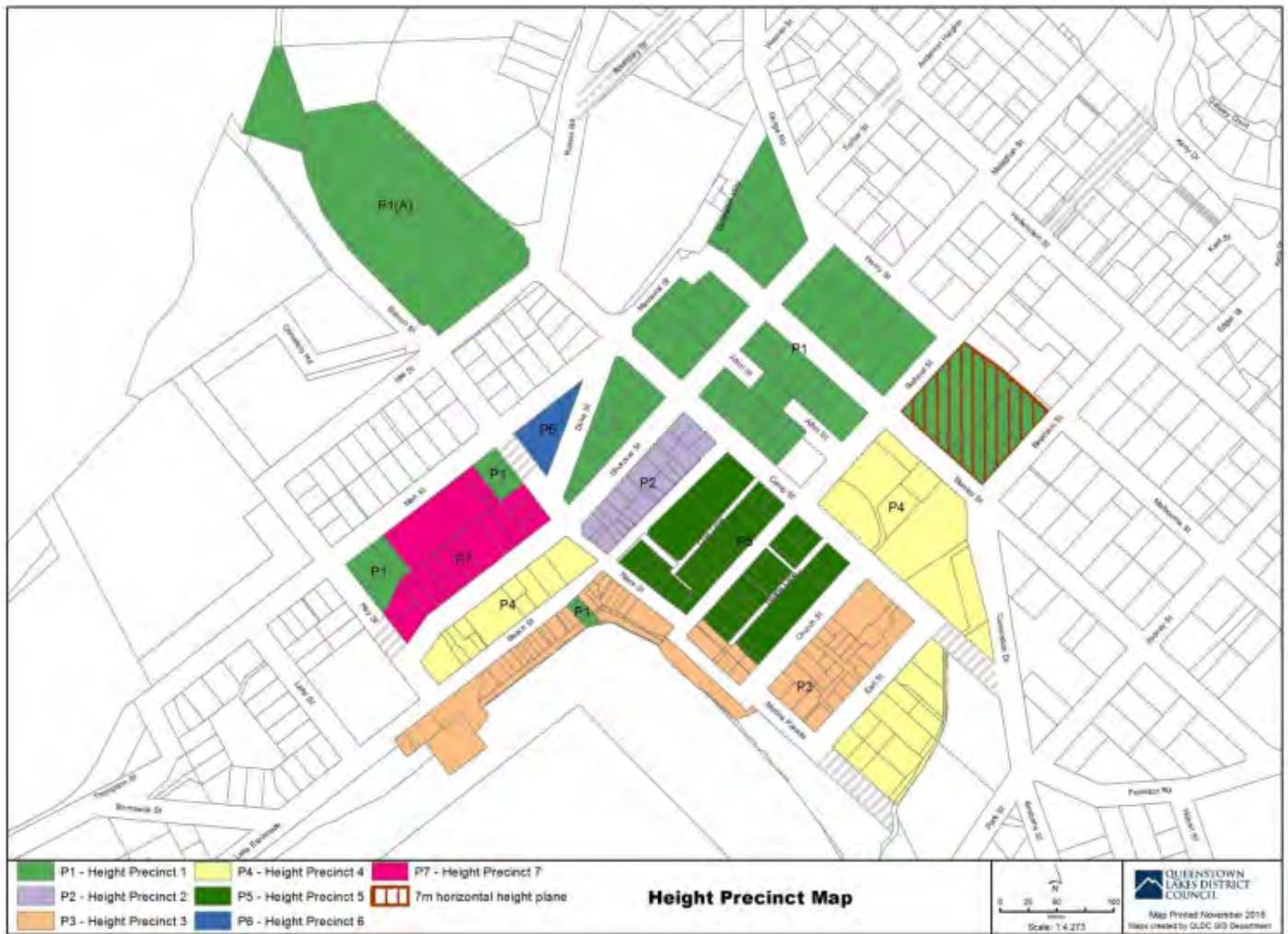
526. As notified, the QTCZ introduced the concept of mapped height precincts as a clearer way of applying different heights to the various parts of the QTC than the approach taken in the ODP.
527. The two notified Rules, 12.5.9 and 12.5.10, dealt not only with height for the various precincts, but included recession line controls. The discretionary height controls for Precincts 1 and 1A were included within notified Rule 12.5.9.1, and the recession line controls for Precinct 1A were in Rule 12.5.9.2. Non-compliance with these rules required consent as a restricted discretionary activity.
528. Notified Rule 12.5.10 included horizontal and recession plane line rules for Precincts 1, 2, 3, 4, 5, 6. This rule also provided view shaft rules for Precinct 7. We will return to these recession control sub-rules when we discuss each precinct. Rule 12.5.10 also set what was referred to in the rule as an “absolute” height limit in Precinct 1, and maximum height limits in all other parts of the QTC. Non-compliance with Rule 12.5.10 required consent as a non-complying activity.
529. Rules 12.5.9 and 12.5.10 both referred to the Height Precinct Map, Figure 2, which identified the height precincts and their locations. We will refer to this throughout our report as Figure 2, and identify which version we refer to. In addition to this, we include Figure 2 in the following discussion in order to aid the reader in understanding how the height precincts and rules evolved through the hearing process.
530. Christine Byrch⁴²¹ neither supported nor opposed notified Figure 2 and therefore we recommend this submission be rejected.
531. Notified Figure 2 was included in Chapter 12 as follows:

⁴²¹ Submission 243, opposed by FS1224



532. While out of chronological order, we note here the version of Figure 2 attached to Ms Jones Section 42A Report was inserted by error. Prior to the hearing, by memorandum of 8 November 2016, a version of Figure 2 consistent with the recommendations in her Section 42A Report, was circulated to all participants. That Map contained the following amendments to the Precincts:
- a. Precinct 7 was extended down to Shotover Street to include the majority of the Man/Hay/Shotover/Brecon Street Block
 - b. Precinct 5 was extended to include those parts of the south side of Upper Beach Street and the North side of Church Street, which were shown as Precinct 4 in the notified version
 - c. That part of Precinct 3 between the Mall and Church Street was extended north-east to include the adjacent sites.

533. The 8 November 2016 version of Figure 2 (S42A Figure 2) was as follows:



Background to the Notified Height Rules

534. Before we discuss the submissions, we provide some background to the notified provisions, utilising the information in Ms Jones’ Section 42A Report. Building height within the QTCZ was one of the principal issues in the Chapter 12 hearings and as such we think it important to provide a full discussion to aid in understanding the rules and the recommendations we make to amend the height rules.
535. Within her Section 42A Report, Ms Jones⁴²² helpfully included a table setting out a comparison between the ODP and PDP height rules for Precincts 1 to 7 and buildings on wharves.⁴²³ She also identified if there were submissions on the changes to the various precincts.
536. Ms Jones summarised⁴²⁴ the effect of the notified rules in the PDP, and we repeat that summary here:
- a. Permitted heights in Precinct 1/ Precinct 1A were increased by virtue of the fact that the recession plane rule had been removed and buildings between 12m and 14m (15/ 15.5m on identified sites) were restricted discretionary rather than non-complying. However, given the 4 story maximum rule, the amount of additional floor space/ mass provided for

⁴²² at Issue 2

⁴²³ V Jones, Section 42A Report at p 24-26.

⁴²⁴ Ibid at [10.20].

- by the rules was unlikely to change significantly. Of significance, Precinct 1 sites adjacent to the proposed Precinct 7 were no longer subject to a horizontal plane rule
- b. Permitted heights in Precinct 2 were increased along the Shotover Street frontage and a minor (0.5 m) height increase had been provided along the Beach Street frontage in order to achieve better design while minimising shading effects
 - c. The rules relating to Precinct 5, Precinct 6, and buildings on wharves/ jetties were unchanged and no submitter opposed those
 - d. Two large developed areas which were previously subject to restrictive (character-based) recession plane rules were now included in Precinct 4
 - e. In Precinct 7, the maximum height enabled was set at 11 m above the existing concrete slab (created by the underground carpark), which meant the height enabled a consistent building height across the site that was higher than under the ODP in some parts of the site, and possibly lower in others.
537. As to the reasons for the changes between the ODP and PDP in relation to height, Ms Jones referred us to the Monitoring Report for the town centre.⁴²⁵ She identified that between 2004 and 2011 there were a sizeable number of resource consent applications seeking to obtain consent for over-height buildings.⁴²⁶ Ms Jones also gave us a summary of development in the QTC over the last 17 years based on her own knowledge.⁴²⁷ Whilst she advised this was not an exhaustive list, we found it helpful to gain an appreciation of the extent of resource consents obtained for recently constructed buildings.⁴²⁸ She concluded that very few buildings managed to be designed within the ODP height rules and as such the emerging character of the town centre did not reflect those rules.⁴²⁹
538. Ms Jones further concluded that the height rules within the ODP were not efficient and did not provide any certainty or direction as to what level or extent of height breaches would be appropriate and why.⁴³⁰ Further, she went on to say that the ODP rules did not accurately reflect the existing character/environment. The PDP rules proposed were, she advised, a more accurate reflection of the bulk and form evolving, particularly in Precinct 1, over recent years via non-complying resource consent applications⁴³¹.
539. Ms Jones set out in detail the shade modelling⁴³² used to test the extent of additional shading under various height scenarios so as to inform the ultimate height level rules within the PDP. She noted that the model provided an indication of the outcome that could be expected in terms of bulk and mass of buildings relative to street widths, adjacent buildings and open spaces.⁴³³
540. In the case of Precinct 7 and the surrounding Precinct 1 sites (the Man Street Block), Ms Jones told us that the effects that the various height scenarios could have on visual amenity, architectural outcomes, economic viability, and public and private views within the zone were also able to be considered utilising the model.⁴³⁴

⁴²⁵ Ibid at [10.21].

⁴²⁶ Ibid.

⁴²⁷ Ibid.

⁴²⁸ Ibid at [10.21].

⁴²⁹ Ibid at [10.22].

⁴³⁰ Ibid at [10.22a].

⁴³¹ Ibid at [10.22b].

⁴³² Undertaken by the QLDC IT Department in 2014 using CityEngine software.

⁴³³ V Jones, Section 42A Report at [10.23].

⁴³⁴ Ibid.

541. Ms Jones noted that, for all areas, other than Precinct 1A, the existing built environment was included in the model.⁴³⁵ This provided a useful context in terms of the existing use rights/receiving environment of the town centre. It also demonstrated how extensively the buildings encroached beyond the ODP permitted heights.

542. For the precincts where Ms Jones recommended change, or submitters sought change, we utilised the results of the modelling to help us determine which outcome in terms of height was to be preferred. In some instances, where height had been specifically opposed by submitters, snap shots of various scenarios were created, enabling better evaluation of options. These snap shots were attached to Mr Church's evidence⁴³⁶.

Shade Modelling

543. Ms Jones described the methodology, assumptions and limitations of the model.⁴³⁷ She also detailed⁴³⁸ how the model had been utilised for the purpose of considering submissions on the notified chapter. She described for us the dates chosen for modelling and reasons why.⁴³⁹ Two dates were modelled: lunchtime on 11 July and 11 August, lunchtime being a busy time for pedestrians and diners wishing to eat outside. The July date fell within the winter peak season and coincided with New Zealand and Australian school holidays. She also provided specific details relating to the Man Street Block assessment methodology.

544. Ms Jones identified those submitters⁴⁴⁰ who had lodged general submissions in relation to the height rules either seeking significantly higher heights, or opposing building height increases. Her response to those general submissions was that she considered, in principle, building height could be increased beyond those in the ODP in some parts of the town centre in order to achieve the objectives of a high quality urban design, character, heritage values and sense of place for the town centre.⁴⁴¹

Policy Context for Consideration

545. Before turning to consider the height precincts we remind ourselves the policy settings focus on ensuring positive outcomes or net environmental benefits as a result of enabling additional height, rather than simply minimising adverse effects from allowing height increases. Also, the policy setting contemplates breaches in only exceptional circumstances and only where there are specific public benefits provided, such as pedestrian links, which outweigh negative effects. Increases in height can and do cause issues for public spaces, particularly loss of sunlight, increases in winter shading, and general reduction in amenity of those spaces. Again the policy setting recognises and addresses such issues.

546. Ms Jones discussed each of the precincts in turn in relation to the submissions received specifically on each precinct, drawing mainly on the evidence of Mr Church to develop and support her recommendations. We will discuss the issues, precinct by precinct. In doing so, we refer to them as precincts, although in the rules they are formally called Height Precincts.

⁴³⁵ Ibid.

⁴³⁶ T Church, EIC, Appendix A

⁴³⁷ V Jones, Section 42A Report at [10.25].

⁴³⁸ Ibid, at paragraph 10.26

⁴³⁹ Ibid at [10.26 b].

⁴⁴⁰ Submissions 20, 187, 438, 159, 417, (opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249), 238 (supported by FS1368 and opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249)

⁴⁴¹ V Jones, Section 42A Report at [10.27].

- 7.16. Notified Rule 12.5.9 Discretionary Building Height in Precinct 1 and Precinct 1(A) and Rule 12.5.10 maximum building and façade height.
547. As notified, Rule 12.5.9 provided for heights in Precinct 1 and 1(A) as follows:
- a. In Precinct 1, buildings had a maximum permitted height of 12m, exceedance to 14m being a restricted discretionary activity, and higher than 14m being a non-complying activity. The exception being 48-50 Beach Street that had permitted height to 12m, restricted discretionary between 12m and 15m, above which was non-complying
 - b. Precinct 1(A) had a permitted height of 12m, restricted discretionary to 15.5m, above which was non-complying.

Precinct 1

548. Notified Precinct 1 included land outside the SCA which Ms Jones considered held potential for redevelopment and that would result in the least shading effects over and above the existing situation.⁴⁴²
549. In particular, Precinct 1 included most of the land fronting Shotover and Stanley Streets, the newly added (by virtue of the PDP) QTCZ on Upper Brecon Street and 48 to 50 Beach Street⁴⁴³, currently occupied by AVA backpackers, adjacent to Earnslaw Park. Ms Jones reminded us that 48 to 50 Beach Street was recognised as a unique case due to existing use rights and the opportunity that particular site provided to create a landmark building when developed in the future.⁴⁴⁴ She informed us the highest building heights in the town centre were allowed in this area.⁴⁴⁵
550. Precinct 1A was the area bounded by Isle Street, Brecon Street, and Roberts Road, all being land around and neighbouring the PC 50 land which has had its building height limits increased by that Plan Change.
551. Three submitters⁴⁴⁶ sought that the maximum height limit in Precinct 1 be changed from 12 m down to 8.5 m. The reasons given, primarily in Ms Baker-Galloway's submission⁴⁴⁷, were that an increase in height would adversely affect views, sunlight, and the quality of public spaces, and also would contradict notified Policies 12.2.2.2 and 12.2.2.3.
552. Ms Baker-Galloway was also concerned that an increase in height would, in turn, increase the number of workers and visitors to the town centre resulting in an increase in traffic congestion, pollution and parking. Peter Fleming⁴⁴⁸ also opposed the notified height in Precinct 1 because increasing height would, in his view, effect the village square proposal and the waterfront.
553. Skyline Investments Limited & O'Connells Pavilion Limited⁴⁴⁹ supported the 15m height allowance for secs 4-5 Blk XV Queenstown Tn (the lake front site adjacent to Earnslaw Park currently occupied by AVA backpackers); Skyline Properties Limited & Accommodation and

⁴⁴² V Jones, Section 42A Report at [10.29].

⁴⁴³ Legal description: sections 4-5 Blk XV Queenstown Town

⁴⁴⁴ V Jones, Section 42A Report at [10.29].

⁴⁴⁵ Ibid.

⁴⁴⁶ Submissions 59 (supported by FS1059, FS1063, opposed by FS1236, FS1075, FS1125), 82 (supported by FS1063, opposed by FS1107, FS1125, FS1226, FS1234, FS1236, FS1239, FS1241, FS1248, FS1249, FS1274), 206 (supported by FS1063, opposed by FS1060, FS1236, FS1274)

⁴⁴⁷ Submission 59

⁴⁴⁸ Submission 599

⁴⁴⁹ Submission 606 (opposed by FS1063)

Booking Agents Queenstown Limited⁴⁵⁰ supported the 14m height allowed on the Chester building site on Shotover Street; Shotover Memorial Properties Limited & Horne Water Holdings Limited⁴⁵¹ supported the inclusion of 9 Shotover St in Precinct 1 and the 14m/ no recession plane height rule that applied; and The New Zealand Fire Service⁴⁵² requested that notified Rule 12.5.9 be retained.

554. Relying upon Mr Church's evidence, and the Section 32 Report, with the exception of removing the reference to 4 storeys from notified Rule 12.5.9 and enabling the creation of landmark buildings to be considered at resource consent stage, Ms Jones considered the Precinct P1 height rules as notified (12 m) to be the most appropriate, when compared with the alternatives proposed: a maximum 8.5 m height; the ODP rules; or increase in heights beyond the 12 m height.⁴⁵³
555. Ms Jones was also of the view that the proposed height rules for Precinct 1 would be both effective and efficient at achieving the relevant objectives: Objectives 12.2.1, 12.2.2 and 12.2.4.⁴⁵⁴ Overall, she considered the rules struck a balance between the status quo and enabling some modest increases in height which would help design and efficiency, without adversely affecting shading to any extent.⁴⁵⁵
556. Ms Jones relied heavily upon Mr Church's expert evidence⁴⁵⁶ as to the results of the shade modelling and shade effects of heights at both 12 m and 14 m. She noted from these shading diagrams that buildings above 12m could potentially have unacceptable adverse effects on sunlight access to public space.⁴⁵⁷ She considered the 14m height allowance as a restricted discretionary activity sent the signal that there should be no presumption that granting consent at 14m would be appropriate in all circumstances.⁴⁵⁸ She observed beyond 14m would be subject to non-complying resource consent.
557. Ms Jones paid particular attention to the shading effects from the heights permitted by the notified rules on the sites specifically mentioned in submissions, with reference to Mr Church's evidence.⁴⁵⁹ She concluded those heights were appropriate.
558. Ms Jones described that she undertook a shading analysis using the model when drafting the provisions.⁴⁶⁰ She and Mr Church undertook a further analysis prior to preparation of both his evidence and her Section 42A Report.⁴⁶¹
559. The criteria they chose was that the maximum permitted building height should not create any more than minor additional shading on a 2.5 m strip of public pedestrian space on the opposite side of the road up until at least 12:30 PM, that is, mid lunchtime. This time would be assessed at or around the time of year that this pedestrian strip came into full sun under the ODP rules following the mid-winter months.

450 Submission 609 (opposed by FS1063)

451 Submission 614 (supported by FS1200)

452 Submission 428

453 V Jones, Section 42A Report at [10.33].

454 Ibid at [10.34].

455 Ibid.

456 In particular figures 10 and 12 in Appendix A to Mr Church's evidence.

457 V Jones, Section 42A Report at [10.36].

458 Ibid

459 Ibid.

460 Ibid at [10.37].

461 Ibid.

560. Applying that criteria, Ms Jones and Mr Church found that on most streets, this pedestrian strip would be in full shade during the busy lunch hour for many of the winter months even under the ODP rules.⁴⁶² Her conclusion was that there was little point in considering shading effects during those months as they would essentially be nil.
561. The criteria, as Ms Jones explained, was further developed so as to ensure this key pedestrian strip of public space should be in sunlight for as many months of the year as possible.⁴⁶³ She considered this outcome was important to achieve the amenity and vibrancy of the town centre, leading to its economic development and resulting in the social well-being of the wider community.⁴⁶⁴ Essentially, access to sunlight was an important component in the criteria and that access was to be extended for as many months of the year as possible. She and Mr Church concluded that a model using the equinox as the key date was of little use, because in most instances there would be little if any effect on sunlight over the critical public space at that time of year, regardless of the height being tested.⁴⁶⁵
562. Ms Jones concluded that, given the objective, which was to recognise and provide for the amenity, social and economic benefits that accrue from providing sunny outdoor space, it was inappropriate to impose heights which would provide little or no sun to key public spaces and busy foot paths for up to 6 months of the year.⁴⁶⁶ She explained this resulted in testing the model on the wider streets such as Shotover Street on 11 July, which is one of the busiest months in terms of tourism, and the narrow pedestrian streets of Beach Street and the Mall on 11 August.⁴⁶⁷
563. Taking into account Ms Jones' opinions and explanations as to the criteria chosen, how it was developed over time, the objective or outcome, and deployment of the model, we agree and accept all of these matters are appropriate to properly enable and inform choices in height for the various precincts. Our findings in this regard are also made in reliance upon Mr Church's evidence.
564. After undertaking the modelling exercises and other assessments described, Ms Jones expressed the opinion that a 14m high building could be designed to achieve a human scale and to accommodate four stories of reasonable internal quality, plus an interesting roof.⁴⁶⁸
565. Ms Jones considered that enabling a 14m height as a restricted discretionary activity, as opposed to being non-complying under the ODP, was a far more efficient outcome than triggering a non-complying consent.⁴⁶⁹ She also considered this outcome would have the indirect effect of discouraging those wishing to develop four stories from trying to squeeze them into the 12m height available under the ODP, which resulted in a relatively poor outcome.⁴⁷⁰

⁴⁶² Ibid.

⁴⁶³ Ibid at [10.38].

⁴⁶⁴ Ibid.

⁴⁶⁵ Ibid at [10.38].

⁴⁶⁶ Ibid.

⁴⁶⁷ Ibid.

⁴⁶⁸ Ibid at [10.39].

⁴⁶⁹ Ibid.

⁴⁷⁰ Ibid

566. We agree with that opinion, particularly given the resource consent history Ms Jones referred us to. We see that adopting a restricted discretionary activity status as opposed to non-complying is preferred because it would be more efficient and effective.
567. We are also satisfied that the various heights promoted by Ms Jones have been properly and robustly assessed using appropriate criteria which has been informed by the overall objective or outcome sought for Precinct 1.
568. Specifically referring to 48 to 50 Beach Street, Ms Jones agreed with Mr Church's analysis and investigations that the shading effects of the proposed height limits at 12m as per Rule 12.5.9, as compared with the ODP building height, would be minimal.⁴⁷¹
569. Ms Jones relied on Mr Church's view and opinion that the role of landmark buildings should be included as a matter of discretion in relation to whether granting restricted discretionary height is appropriate.⁴⁷² She recommended inclusion of this matter as new item d.
570. Taking all of the above into account, particularly the shading analysis, and the prior resource consent history within Precinct 1, we recommend that:
- a. the permitted height limit in Precinct 1 be 12 m;
 - b. between 12 to 14 m be a restricted discretionary activity; and
 - c. above 14 m be non-complying.
571. We also recommend that, in terms of 48 – 50 Beach Street:
- a. 12 m be the permitted height;
 - b. between 12 to 15 m be a restricted discretionary activity; and
 - c. above 15m be non-complying.
572. In coming to this conclusion, we have accepted the shading evidence of Mr Church, and the opinion of Mr Jones that these revised PDP rules would impose a lesser consenting barrier and lower consenting costs. In addition, we agree the increased height is likely to enable or encourage only a modest increase in capacity which would have no significant effect on the number of workers and visitors to the town centre, traffic congestion, pollution or parking.
573. Within Precinct 1 there is an area with a 7m horizontal plane rule, notified as a Rule 12.5.10.1 b including an explanatory diagram. That rule was not the subject of submissions. However, consequent on alterations to the Height Precinct Map, Ms Jones recommended some drafting alterations. We have suggested some clearer wording to this rule as well.
574. Our recommended wording of this rule, renumbered as Rule 12.5.9.b, is set out at the end of our discussion on height rules.

Precinct 1A

575. For Precinct 1A, QLDC⁴⁷³ requested an amendment to notified Rules 12.5.9 and 12.5.10.1 such that building height up to 12 m would be permitted, heights between 12 and 15.5 m would be restricted discretionary, and those beyond 15.5 m would be non-complying. Skyline Enterprises Limited⁴⁷⁴ opposed this relief, seeking an absolute height limit of 17.5 m over Section 1 SO 22971. We note that a further submission may only support or oppose a

⁴⁷¹ *ibid* at [10.40].

⁴⁷² *ibid*

⁴⁷³ Submission 383, opposed by FS 1236

⁴⁷⁴ FS1236

submission, not substitute a relief which goes beyond that in the original submission. We therefore disregard this request for additional height.

576. In its original submission⁴⁷⁵, Skyline Enterprises Limited sought that the proposed maximum height allowed in Precinct 1A be changed to 15.5 m.
577. Other submissions⁴⁷⁶ sought minor wording amendments to the Precinct 1A rule, which Ms Jones considered to be clarification only.
578. Ms Jones, referring to the Section 32 Evaluation Report and her further Section 32AA, said she considered the amendments sought by QLDC in terms of height within Precinct 1A to be the most appropriate compared to the alternatives of the ODP permitted building height (7-8 m), or retaining the notified PDP provisions (permitted up to 14 m and non-complying thereafter).⁴⁷⁷
579. As well, it was Ms Jones' view that the key reasons for recommending 12 m as permitted with a recession plane and up to 15.5 m as restricted discretionary, were that doing so would utilise the rule framework that was proposed for Precinct 1.⁴⁷⁸
580. That framework provided a base level of allowable height and an additional height providing the building was well designed. It also enabled more height, 15.5 m rather than 14 m, as is provided for in most parts of Precinct 1, in order to be consistent with building heights on the surrounding properties.
581. Ms Jones noted that on the surrounding properties, ODP Plan Change 50 had become operative with the effect that sites on the opposite side of Isle Street were subject to a 12 m height limit plus an additional 2 m roof bonus.⁴⁷⁹ Also height could further be extended up to 15.5 m if the site exceeded 2000 m² and fronted Isle or Man Street. She considered the ODP 7-8 m limit to be inconsistent with the heights that were enabled by Plan Change 50, which affected many of the properties adjacent to Precinct 1A.⁴⁸⁰
582. Ms Jones pointed out that the notified limits were inconsistent, in that Rule 12.5.10.1 made all buildings over 14 m non-complying, thereby making notified Rule 12.5.9.2, which in theory enabled buildings up to 15.5 m high as restricted discretionary activities, redundant.⁴⁸¹
583. In terms of the requests to increase height, Ms Jones was of the view a height of either 14 m or 15.5 m, as sought by Skyline, to be too high in the context of the site which was highly prominent from Gorge Road, Hallenstein Street and the Cemetery, and could result in unacceptable shading on Brecon Street.⁴⁸²
584. Similar alternatives to those considered in Precinct 1 were assessed. They were the ODP provisions, the notified PDP provisions, or submitter requests. Considering these available

⁴⁷⁵ Submission 574, opposed by FS1063

⁴⁷⁶ Submissions 663 (opposed by FS1139 and FS1191), 667 (opposed by FS1236) and 672

⁴⁷⁷ V Jones, Section 42A Report at [10.45].

⁴⁷⁸ Ibid at [10.46].

⁴⁷⁹ Ibid at [10.45].

⁴⁸⁰ Ibid at [10.46].

⁴⁸¹ Ibid at [10.47].

⁴⁸² Ibid.

alternatives, we agree with Ms Jones that 12 m as a permitted activity with a recession plane, and up to 15.5 m as a restricted discretionary activity, are the preferred outcomes.

585. This has the benefit of utilising the same rule framework as that recommended for Precinct 1, namely a base level of allowable height and additional height provided a building is well designed. However, in the case of Precinct 1A, more height would be allowed, 15.5 m rather than 14 m, so as to be consistent with building heights on surrounding properties.
586. We agree and accept that the ODP height limit for Precinct 1A of 7/8 m is inconsistent with heights enabled by Plan Change 50 and does not synchronise with the Precinct 1 rule framework. We also agree with and adopt Ms Jones' Section 32AA evaluation, particularly as it relates to providing discretionary activity status for height between 12 m and 15.5 m.
587. Accordingly, we recommend these heights be included in what will be a re-numbered Rules 12.5.8 and 12.5.9.
588. The final matters to address in this rule are the recession planes. As notified, the Precinct 1A recession planes were provided for within notified Rule 12.5.9.2.
589. QLDC⁴⁸³ sought to simplify and clarify that rule. Ms Jones recommended acceptance of those amendments. We agree. The amendments assist legibility and clarity of the rule.
590. We recommend adoption of notified Rule 12.5.9.2 as amended and re numbered as rule 12.5.8.2.

Precinct 2

591. Precinct 2 covered the block bounded by Shotover, Camp, Rees and Beach Streets. Ms Jones explained that it was unique in that the narrow width of Upper Beach Street meant that buildings within this precinct must adhere to shallow recession planes off boundaries, yet there were no adverse shading effects from enabling heights to extend up to 14 m, subject to complying with the recession plane.
592. QLDC⁴⁸⁴ had identified clarity issues with notified Rule 12.5.10.1. As notified, it could be interpreted that Precinct 2 would be subject to this rule, as alluded to by Rule 12.5.10.1 (d), or that it would be subject to a 12m height as per the notified Rule 12.5.10.5.
593. Ms Jones recommended this submission be accepted and referred to the reasoning set out in the Section 32 Report. She explained that greater height would be enabled in order to offset the relatively restrictive recession plane/facade height enabled on the Beach Street frontage of that block.⁴⁸⁵ This recognised, she said, that a considerable portion of ownerships within the block run through the whole block and have frontage to both streets.⁴⁸⁶
594. Trojan Holdings Limited and Beach Street Holdings Limited⁴⁸⁷ requested that notified Rule 12.5.10.1 (d), which set a maximum and minimum parapet height along part of each street, be deleted. Modelling various facade heights and differing recession planes which represent the ODP, PDP, and submitter's outcomes, was undertaken in the manner described in relation to

⁴⁸³ Submission 383

⁴⁸⁴ Submission 383

⁴⁸⁵ V Jones, Section 42A Report at [10.52].

⁴⁸⁶ Ibid.

⁴⁸⁷ Submission 616

Precinct 1. These were illustrated in the visuals attached as Appendix A to Mr Church's evidence. The outcome was that at 12:30 PM on 11 August, 2.5 m of public space was fully in sun under the ODP rules, and the only effect on sunlight access at the same time under the PDP rules was minor, along the frontage of Glassons.

595. Ms Jones told us that such minor reduction in sunlight access would remain for about a week.⁴⁸⁸ The modelling also disclosed the effect on sunlight access at the same time under a 7m high recession plane was significant. In Ms Jones' view, that was unacceptable, and not justified by the small increase in building height.⁴⁸⁹
596. For all of the above reasons and those provided with the Section 32 Evaluation Report, Ms Jones was of the opinion the proposed heights for Precinct 2 as amended and clarified as earlier described,⁴⁹⁰ were considered to be the most appropriate way of enabling development within Precinct 2 that would achieve the objectives of the PDP.
597. We accept the reasons supporting the Precinct 2 heights advanced by Ms Jones and we accept and adopt the outcomes of Mr Church's modelling. We have carried through these recommendations into our Appendix 1.
598. Turning to recession lines under notified Rule 12.5.10 d, a breach of this rule within Precinct 2 was a non-complying activity. After reviewing the evidence of Mr Williams⁴⁹¹ and Mr Farrell⁴⁹², Ms Jones accepted this recession rule was more appropriately relocated to notified Rule 12.5.9. She agreed that the breach of the rule was more appropriately a restricted discretionary activity subject to the matters of discretion provided for in Rule 12.5.9.⁴⁹³ We agree for the reasons she advanced and recommend adoption. The rule has been re numbered as Rule 12.5.8.3.

Precinct 3

599. Notified Precinct 3 covered the land directly abutting the QTCWSZ, extending from Poole Street to and including Steamer Wharf, as well as a recently developed block bound by Marine Parade, Church, Earl, and Camp Streets. This precinct allowed the lowest absolute height in the QTC by providing for a maximum height of 8m, above which was non-complying.
600. Ms Jones noted two submitters⁴⁹⁴ supported Rule 12.5.10, including removal of the ODP parapet and recession plane controls. One submitter⁴⁹⁵ sought the operative height rules for the QTC be reinstated. Another submitter⁴⁹⁶ supported the removal of the ODP parapet and recession plane controls that would otherwise be applicable to the Town Pier site and to the Eichardts site.
601. In terms of heights, for the reasons advanced by Ms Jones, we recommend a height of 8m for Precinct 3, above which it would be non-complying.

⁴⁸⁸ V Jones, Section 42A Report at [10.56].

⁴⁸⁹ Ibid.

⁴⁹⁰ 12m permitted, 12m-14m restricted discretionary and above 14m non-complying.

⁴⁹¹ Supporting Submissions 606 and 616

⁴⁹² Supporting Submission 308

⁴⁹³ V Jones, Summary of Evidence at [6(b)]

⁴⁹⁴ Submissions 606 and 609 (opposed by FS1063)

⁴⁹⁵ Submission 417, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249

⁴⁹⁶ Submission 609, opposed by FS1063

602. The other issue that arose was a point of clarification around the boundaries of Precinct 3.
603. QLDC⁴⁹⁷ requested that Precinct 3 be extended to include those areas to the immediate north which are currently either included in Precinct 5 or not included within any precinct. That is, the rear parts of the Marine Parade site at the corner of Marine Parade and Church Street which have no precinct assigned to them.
604. Skyline Investments Limited and O'Connells Pavilion Limited⁴⁹⁸ sought that the same area be included within Precinct 4.
605. These sites were more particularly shown on three figures within Ms Jones' Section 42A Report⁴⁹⁹. What was clear was that realigning the Precinct 3 boundary to include the two areas referred to above would correspond with the ODP boundary and with the physical buildings and cadastral boundaries. We consider it impractical to split these existing sites into different height precincts.
606. We therefore agree with Ms Jones' recommendation that the Height Precinct Map be amended so as to include those sites within Height Precinct 3. We have included this site within Precinct 3 within Appendix 1 and recommend this inclusion be adopted.
607. Turning to recession and parapet rules, as notified (Rule 12.5.10.2) this precinct did not have such sub-rules. Relying on Ms Gillies⁵⁰⁰ and the scope provided by Mr Boyle's submission⁵⁰¹, Ms Jones recommended reinstating the ODP rule specifying that a parapet be between 7.5 and 8.5 m in height and able to protrude through the maximum height plane.⁵⁰² This was because a recession plane commencing just 0.5 m below the maximum allowable height would be ineffective at mitigating shading effects or influencing design in any positive way. We agree and recommend this change to the notified rule be adopted.
608. For the reasons set out in Ms Gilles' evidence and Ms Jones' Section 42A Report⁵⁰³, we recommend this amendment be adopted. We have included it re-numbered Rule 12.5.9.3 set out below at the end of our discussion on height.

Precinct 4

609. Notified Precinct 4 included the land to the north of Earnslaw Park on the northern side of Beach Street, the Novotel Hotel site, the land on the north side of Camp Street and east of and including the Post Office, most of the western side of Church Street, and most of the eastern side of Upper Beach Street.
610. The ODP height rule allowed 12 m building heights with a 10m high recession plane. Ms Jones explained these areas had either been recently redeveloped or the shading effects of not imposing a recession plane were not considered acceptable.⁵⁰⁴

⁴⁹⁷ Submission 383

⁴⁹⁸ Submission 606

⁴⁹⁹ V Jones, Section 42A Report at p 39.

⁵⁰⁰ J Gillies, EIC at [7.2].

⁵⁰¹ Submission 417, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249

⁵⁰² V Jones, Section 42A Report at [10.63].

⁵⁰³ Ibid.

⁵⁰⁴ Ibid at [10.66].

611. Notified Rule 12.5.10.5 carried forward the 12m height and the recession plane requirement in clause a.
612. Skyline Investments Limited and O’Connells Pavilion Limited⁵⁰⁵ sought the removal of the recession plane controls in respect of the O’Connell Street site Trojan Holdings Limited and Beach Street Holdings Limited⁵⁰⁶ supported the removal of the ODP parapet control from Stratton House.
613. Mr Boyle⁵⁰⁷, as earlier noted, sought a return to the ODP rules zone wide.
614. Ms Jones noted that both Ms Gillies⁵⁰⁸ and Mr Church⁵⁰⁹, favoured replacing Precinct 4 as applied to the majority of the north side of Church Street (the premises extending from Nomads to the Night and Day), and to the majority of the south side of upper Beach Street, with Precinct 5.⁵¹⁰ Ms Jones explained that the effect of this was that a 45° recession plane commencing at 7.5 m above the street boundary would be applied to these sites rather than the recession plane commencing at 10 m as in notified Rule 12.5.10.5 a.
615. We agree with that reasoning and we recommend a height limit of 12 m for Precinct 4 with retention of the recession line as per notified rule 12.5.10.5 a. We further recommend that those sites identified above be placed within Precinct 5.
616. Turning to recession lines, under notified Rule 12.5.10.5 a, a breach of this rule within Precinct 4 was a non-complying activity. After reviewing the evidence of Mr Williams⁵¹¹ and Mr Farrell⁵¹², Ms Jones accepted this recession rule was more appropriately relocated to notified Rule 12.5.9. Also, she agreed that the breach of the rule was more appropriately a restricted discretionary activity subject to the matters of discretion provided for in Rule 12.5.9. We agree for the reasons she advanced and recommend adoption. The rule has been renumbered as Rule 12.5.8.4.

Precinct 5

617. Notified Precinct 5 included the land either side of The Mall on Lower Ballarat Street and that area on the north eastern side of Rees Street between The Mall and Beach Street.
618. As notified, Rule 12.5.10.5 enabled buildings up to 12 m and a 7.5 m recession plane was imposed, reflecting the fact this area was at the core of the Special Character Area and within a heritage precinct, and acknowledging the narrowness of the Mall.
619. Notified Rule 12.5.10 applying to this area was unchanged from the ODP. The Rule attracted no submissions. Accordingly we recommend the notified Rule 12.5.10.5 be adopted for Precinct 5, renumbered as Rule 12.5.9.5.
620. Turning to recession lines under notified rule 12.5.10.5 b, a breach of this rule within Precinct 5 was a non-complying activity. Consistent with her approach to rules as applied to the

⁵⁰⁵ Submission 606

⁵⁰⁶ Submission 616

⁵⁰⁷ Submission 417, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249

⁵⁰⁸ J Gillies, EIC at [8.1 to 8.6].

⁵⁰⁹ T Church, EIC at [18.1 to 18.7].

⁵¹⁰ V Jones, Section 42A Report at [10.69].

⁵¹¹ On behalf of Submitters 606 and 616

⁵¹² On behalf of Submitter 308

precincts previously discussed, Ms Jones accepted this recession rule was more appropriately relocated to, as it then was, notified Rule 12.5.9, as she considered that the breach of the rule would be more appropriately dealt with as a restricted discretionary activity.⁵¹³ We agree for the reasons she advanced and recommend adoption. The rule has been re-numbered as Rule 12.5.8.5.

Precinct 6

621. Notified Precinct 6 included the triangular parcel of land bound by Duke, Man, Brecon and Shotover Streets. Notified Rule 12.5.10 applied a height limit of 12m, subject to horizontal and recession plane conditions.
622. This represented no change from the ODP and did not attract any submissions.
623. Accordingly we recommend the notified Rule 12.5.10.5 applying to Precinct 6 be adopted as renumbered Rule 12.5.9.5 a.

Precinct 7 and the surrounding Precinct 1 land within the Man Street Block

The Plans and the Precincts

624. Notified Precinct 7 included the majority of the land bound by Man, Brecon, Hay, and Shotover Streets (the Man Street Block) and notified Rule 12.5.10.4 applied a range of site specific height rules to this block. The maximum height limit proposed was 11 m above 327.1 masl, except that the two view shafts identified on the Height Precinct Map imposed a limit of 4 m above 321.7 masl.
625. No recession rules were proposed for Precinct 7.
626. This precinct would apply to the Man Street car park and all of the land in the Man Street Block fronting Shotover Street. The existing Man Street car park we generally refer to as the northern area, and that area fronting Shotover Street we refer to as the southern area.
627. Under the ODP the permitted height provided was up to 8 m above ground level and up to the height allowed on any adjacent sites. Sites below the Man Street car park fronting Shotover Street could be 1.5 m above the Man Street car park. The outcome was a height of 9.5 m. Thereafter, exceedance was non-complying.
628. Under the ODP, on the sites either side of Precinct 7 (fronting Hay and Brecon Streets), buildings up to 8 m were permitted and up to the maximum height permitted on any adjacent site and non-complying thereafter. Sites on the Shotover Street frontage⁵¹⁴ were permitted to 12 m and no more than 1.5 m above Man Street and non-complying thereafter. On other sites, height was permitted to 12 m and no more than 4 m above the level of Man Street and non-complying thereafter.
629. Within the Man Street Block there were, as well, two separate areas of Precinct 1, one to the east and one to the west. To help orientate, 10 Man Street, 10 and 14 Brecon Street and the Language School were located within Precinct 1 at the eastern end of Precinct 7, adjacent the Brecon Street steps. 30 Man Street was within the other area of Precinct 1 at the western end.
630. As notified, Precinct 1, applying notified Rules 12.5.9 and 12.5.10, provided for permitted height of up to 12 m, restricted discretionary between 12m and 14m, and non-complying

⁵¹³ V Jones, Summary of Evidence at [6(b)].

⁵¹⁴ Secs 23-26 The Lofts and Hamilton Extension

thereafter. Horizontal plane requirements were not imposed in Precinct 1 as it applied to the Man Street Block.

The Man Street Block and Issues

631. The Man Street Block slopes downhill from Man Street to Shotover Street. It is understood the slope is not uniform over the whole block. The properties in the block are in different ownership.
632. The issues, as we see them in relation to this area, revolve around determining what the appropriate building heights are for the various parts of the block, and how those heights interrelate to each other and height levels beyond the block.
633. First, there is the northern part of the block, the area above the existing Man Street car park, which includes the two view shafts. The issues for this part of the block include determining height levels that are appropriate given the Man Street streetscape and the need to ensure views via the view shafts are appropriate.
634. The two Precinct 1 areas on the western and eastern end of the Man Street Block had their own separate issues, though both areas step down the slope from Man Street.
635. On the eastern end, or the Language School site, the issues related to what was the appropriate height levels given the sloping nature of the site, the sites' relationship with the adjacent Brecon Street Steps and the adjoining Sofitel Hotel site. The heights selected also needed to relate well to the heights for the balance of the block.
636. For the western end, 30 Man Street, height relative to adjoining surrounding buildings and their height was the issue. Again linkage back to the balance of the block was important.
637. On the remaining part of the block, the southern side, being the area fronting Shotover Street, the issues were: height relative to building heights on the Man Street car park; effect of height on shading Shotover Street; and the impact of differing natural ground levels on how to determine appropriate heights.
638. The first issue we deal with is, we think, a relatively minor one. QLDC⁵¹⁵ requested that the topographical error in notified rule 12.5.10.4 be amended such that the reference to 321.7 masl is changed to 327.1 masl. While this was opposed, we agree with Ms Jones that this was an error which needs correction.⁵¹⁶ Accordingly we recommend accepting that submission.

Submissions on the PDP

639. Dealing with height limits (notified Rule 12.5.10.4) for Precinct 7, Mr Boyle⁵¹⁷ requested that the maximum building heights be no greater than in the ODP and any other related, consequential or alternate relief.
640. In relation to the view shafts above the Man Street car park, Man Street Properties Limited ("MSP")⁵¹⁸ supported the notified height for Precinct 7 at 11 m but requested the view shafts on the site be confirmed or moved so that the Western most view shaft was repositioned to correspond with section 26 Block IX Town of Queenstown.

⁵¹⁵ Submission 383, opposed by FS1274

⁵¹⁶ V Jones, Section 42A Report, Appendix 1 at p12-19.

⁵¹⁷ Submission 417, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249

⁵¹⁸ Submission 398, opposed by FS1274

641. In relation to the two Precinct 1 sites, MSP sought that those sites also be subject to the rules which imposed a maximum height based on specified reduced levels or RLs rather than simply allowing 12 m above ground level.
642. For 30 Man Street, at the western end within Precinct 1, MSP sought height controls alternative to those notified.
643. On the eastern end of Precinct 7, within the Language School site, Maximum Mojo Holdings Limited⁵¹⁹ sought that the building height limit for that site (10 Man Street) be the same as the height limit for Precinct 7.

Ms Jones' Section 42A Report

644. Ms Jones advised she relied on the submission of Mr Cowie⁵²⁰ to provide scope to recommend the amended heights, which may be higher than those achievable under the ODP or the PDP on some parts of the Man Street Block.⁵²¹ She also relied on the NZIA submission⁵²² to provide extra height in some areas of the Man Street car park site in lieu of lowering it on the view shafts and other parts so they could serve as open space and potentially as linkages through the site.⁵²³ We note that we return to scope later.
645. Mr Cowie⁵²⁴ sought that all areas should have significantly higher property heights, especially towards the centre of Queenstown, and far greater density with buildings of 4 to 5 storeys as the norm with hotels being higher.
646. NZIA⁵²⁵ sought relief under the zone wide height rules and suggested that there could be incentives within the rules such as an additional height in exchange for linkages offered in desired areas.
647. Ms Jones pointed out⁵²⁶, and we agree with her, that enabling buildings on the Man Street Block to extend up to heights of 14 m above original ground level, including on relatively elevated rear parts of their sites, without corresponding horizontal plane rules, would result in adverse effects on views, visual amenity, mass and bulk. Doing so would also impact on the overall quality of the resultant architectural and urban design outcomes particularly in relation to the Shotover Street frontage.
648. To address the site issues identified above, Ms Jones requested Mr Church to assess a redraft of the notified Rule 12.5.10.4 using modelled outcomes to assist in understanding the effects of those drafted rules on the matters referred to in the immediate preceding paragraphs.⁵²⁷ The modelled outcome of these rules was detailed in Appendix A of Mr Church's evidence.

⁵¹⁹ Submission 548, supported/opposed by FS1117
⁵²⁰ Submission 20
⁵²¹ V Jones, Section 42A Report at [10.82].
⁵²² Submission 238
⁵²³ V Jones, Section 42A Report at [10.82].
⁵²⁴ Submission 20.
⁵²⁵ Submission 238
⁵²⁶ V Jones, Section 42A Report at [10.83].
⁵²⁷ T Church, EiC at [12.8]

649. In Ms Jones' view, while the redrafts were worded differently to those suggested by MSP⁵²⁸, the outcome was not dissimilar to the relief sought, and in Ms Jones' opinion, was the appropriate way of addressing the submitter's key issues as well as achieving the objectives of the PDP.⁵²⁹
650. Ms Jones⁵³⁰ explained the outcome of the different height rules as they applied to labelled areas of Precinct 7 (Areas A, B, C and D) and Precinct 1. Ms Jones included a plan illustrating these areas in her Section 42A Report.⁵³¹ She recommended the plan set out in her Section 42A Report be included within Rule 12.5.10 so as to aid clarity.⁵³² We agree that showing the height areas would aid understanding the Rule.
651. For Precinct 7 Area A, being east of the central view shaft labelled D, buildings could extend to 11m above the known height of the concrete slab, in Area B to the west of the central view shaft labelled D, buildings could be 14m above the concrete slab. Ms Jones recommended Area D, the view shaft, be moved further west as sought by MSP for the reasons set out in that submission. We discuss this point further below. Ms Jones recommended that Area C, which is the eastern view shaft, have no buildings within it. For, Area D, which is the central view shaft, she recommended a maximum 3m building height.
652. This outcome, she said, would provide for two discrete building forms to be constructed of varying levels separated by view shafts/open plazas of approximately 12 m and 16 m width on this northern part of the site.⁵³³
653. In Ms Jones' opinion, this outcome would prevent a long horizontal built form stretching across this highly visible site and enable an extra floor of development in the western block⁵³⁴. This would result, she said, in more consistency with surrounding properties while still providing for three floors with uninterrupted views to the south.⁵³⁵ Also, it would provide for a better streetscape along Man Street, with the buildings on the eastern block extending between approximately 7.5 m and 11 m above street level.
654. By comparison, Ms Jones pointed out that the notified PDP rules would result in the building at the western end of the site protruding between 4.5 m and 9 m above the street, which she considered would appear something of an anomaly.⁵³⁶
655. We acknowledge that evidence⁵³⁷ promoted a different approach, proposing to remove the view shafts and, instead, promoting a comprehensive development plan rule. This evidence raised scope issues which we address subsequently. We also note the issue of the view shafts was canvassed fully in Ms Jones' Reply Statement after consideration of the submitter evidence. We will return to the matter of the view shafts subsequently.

528 Submission 398

529 V Jones, Section 42A Report at [10.83].

530 Ibid at [10.86].

531 Ibid at p43.

532 Ibid at [10.84].

533 Ibid at [10.86].

534 Ibid at [10.86(b)].

535 Ibid.

536 V Jones, Section 42A Report at [10.86(b)].

537 J Edmonds, EIC.

656. As to a height within the balance area of Precinct 7, being the southern area fronting Shotover Street, Ms Jones recommended adding a new rule and a height map which effectively was a redraft of notified Rule 12.5.10.4.⁵³⁸ She labelled these southern areas of the site fronting Shotover Street as Area E and Area F.
657. The redraft would enable buildings to extend to 12 m above (rolling) ground level. Also, it would require that within Area E, they be no more than 17 m above the level of Shotover Street adjacent to the respective site. In addition, buildings in Area F would be no more than 14 m above the level of Shotover Street adjacent to the respective site. Finally, the redraft would require buildings to comply with a 45° recession plane commencing at 10 m, which is a similar control to that within Precinct 4. She also recommended Precinct 7 be slightly expanded. She set out in detail in her report the beneficial outcomes of this redraft as she saw them⁵³⁹.
658. This recommendation was challenged in submitter evidence and subsequently addressed by Ms Jones in two memoranda we received dated 8 and 18 November 2016 and in her Reply Statement. We address this matter further below.
659. Finally, in terms of the remaining sites to the east and west of the Man Street car park, Ms Jones' recommendation⁵⁴⁰ was to retain them within Precinct 1, enabling buildings to be built to 12 m or potentially 14 m in height, as a restricted discretionary activity.
660. Ms Jones acknowledged these were higher than the heights allowed on the car park site. She did not consider those heights would be significantly inconsistent with the carpark heights or those enabled on the opposite side of Man Street under the ODP as amended by Plan Change 50.⁵⁴¹
661. Ms Jones undertook a Section 32AA assessment of her recommended redraft to notified Rule 12.5.10, which we have carefully considered. The southern part of the site, fronting Shotover Street, was also the subject of challenge and submitter evidence. The issues were the appropriate maximum height level allowed in front of the Man Street car park site, including the horizontal plane level, and the use of the district wide rolling plane height. Finally, whether or not there should be a discretionary height allowance between 12 m and 14 m as per Precinct 1.

Changes in the Officer Recommendations

662. We observe here that as the hearing advanced, Ms Jones and Mr Church re-evaluated what they considered to be the appropriate rule response to this challenging site. While, within the Section 42A Report and expert evidence presented at the commencement of the hearings, we received recommendations as to the rules, these recommendations were altered and modified as further modelling was undertaken as a consequence of some oversights in the original modelling. Also some mapping errors were addressed.
663. Before touching on the relevant submitter evidence we record two memoranda were issued by the Council. The first, which we earlier referred to, was dated 8 November 2016. The purpose of this memorandum was to provide the Panel and submitters with updated versions of the height map that replaced those provided in the recommended Chapter 12 in Appendix

⁵³⁸ V Jones, Section 42A Report at [10.87].

⁵³⁹ Ibid at [10.87(a)-(g)].

⁵⁴⁰ Ibid at [10.88].

⁵⁴¹ V Jones, Section 42A Report at [10.88]

1 of the Section 42A Report. This version of the height precinct map showed Precinct 7 as extending down to the southern part of the site, to include the majority of the Man/Hay/Shotover/Brecon Street block within Precinct 7.

664. The second memoranda was dated 18 November 2016 and this provided us with:
- a. updated versions of Figures 2, 11 and 20 in Appendix A to the statement of evidence of Mr Church; and
 - b. updated recommendations to the Queenstown Town Centre chapter in Appendix 1 of the Section 42A Report for Chapter 12.
665. This information was provided prior to the hearing to “allow submitters an opportunity to consider the updated figures and recommendations in advance of the hearing”.⁵⁴²
666. This memorandum made it clear that Ms Jones supported Mr Church’s updated Figure 20⁵⁴³ and the updated version of re-drafted Rule 12.5.10.4 as included in Appendix 2 to that memorandum. It was explained to us that, when using the Council’s shading model to undertake further assessments, both Ms Jones and Mr Church became aware that, with respect to Precinct 7, the model did not accurately represent all of the recommended rules.⁵⁴⁴
667. In particular, the original Figure 20 did not accurately reflect the fact that redraft rules 12.5.10.4 (e) and 12.5.10.4 (f) required the buildings to be no more than 12 m above ground level. In the case of areas E and F, that meant 12 m was a rolling height plane relative to the sloping ground level rather than a flat horizontal plane as was originally modelled.⁵⁴⁵ This was rectified in Mr Church’s updated Figure 20.
668. Further changes resulting from a review of the model resulted in Ms Jones updating her recommendations. In particular, Ms Jones considered it unnecessary from a shading perspective, or for any other reason, to impose a recession plane height on Precinct 7, particularly for the southern part.⁵⁴⁶ It was apparent on review of the model that removing the recession plane rule did not result in any greater shading of the opposite side of Shotover Street than resulted with the recession plane. This effectively reversed her recommendation contained within the Section 42A Report⁵⁴⁷.
669. Consequently, Ms Jones recommended further amending Rule 12.5.10.4 in order to enable a 12 m building height at the Shotover Street boundary. This provided for the same building height at the street facade as would be enabled under notified Rule 12.5.9, being 12m as permitted, 12m-14m as restricted discretionary, and above 14m as non-complying. It was pointed out to us⁵⁴⁸ that no submitter specifically sought the reintroduction of the recession plane rule but rather the general submission by Mr Boyle⁵⁴⁹ was being relied on to recommend this change.
670. Finally, upon further investigation of the reduced levels (RLs) along the Shotover Street frontage of Precinct 7, Ms Jones advised that the levels vary across the block to a greater

⁵⁴² Memorandum of Counsel on behalf of QLDC dated 18 November 2016 at [2]

⁵⁴³ Figure 20 illustrates an indicative height envelope of the Man Street block.

⁵⁴⁴ Memorandum of Counsel on behalf of QLDC dated 18 November 2016 at [6]

⁵⁴⁵ Ibid.

⁵⁴⁶ Ibid at [7a], V Jones, Reply Statement at [6.10].

⁵⁴⁷ V Jones, Section 42A Report at [10.87].

⁵⁴⁸ Ibid at [10.54].

⁵⁴⁹ Submission 417, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248 and FS1249

extent than first thought.⁵⁵⁰ The result was that the built outcome enabled by redraft rules 12.5.10.4 (e) and 12.5.10.4 (f) would be reasonably uncertain.

671. Ms Jones recommended that those rules be further amended so as to ensure that the buildings would not protrude above the car park level slab in Area F, and protrude no more than 3 m in area E.⁵⁵¹
672. The diagrams attached to the 18 November 2016 memoranda provided us with a model view of the Section 42A Report recommended PDP height precincts. This was identified as Figure 2. Figure 11 provided us with a photograph showing the existing circumstances for Shotover Street in terms of street shading. That photograph was accompanied by a diagram which showed the ODP 12 m/45° height recession plane modelled at 11 August 2017 at 12:30 PM, compared with the PDP recommended 12 m height again modelled at the same time. A comparison of the two modelled results showed very little difference.
673. Mr Church's updated Figure 20 provided us with a model of the recommended Precinct 7 height controls from both a south east view and a north west view. Figure 21 related to the Man Street view shafts. The first figure was a photograph of the existing Man Street car park alongside which were human figures illustrating the recommended eastern view shaft and recommended western view shaft. We found these figures to be very helpful in both understanding perspective and evaluating the options.
674. Ms Jones confirmed at the hearing on 25 November her support for the amendments conveyed to us in both memoranda.⁵⁵²

Submitter Evidence

675. Mr Ben Farrell, a planning consultant, appeared for Well Smart Investments Limited⁵⁵³. The submitter has property interests in numbers 51 to 67 Shotover Street, within Area E of the diagram utilised by Ms Jones for notified height standard 12.5.10.4.
676. His evidence recorded many areas of agreement with Ms Jones' Section 42A Report.⁵⁵⁴
677. He disagreed with her recommendations as to height, opining that the permitted height standard should increase from 12 m to 15m, that the activity status for breaching the 10 m +45° height recession plane standard should change from non-complying to discretionary and the proposed 17 m height restriction above Shotover Street should be deleted. Mr Farrell outlined his rationale for this opinion as:⁵⁵⁵
- a. The Sofitel Hotel, Crown Plaza Hotel and Hamilton Building all exceed 17m above the height of Shotover Street;
 - b. Sites within area E, in his view, could absorb additional building height without creating significant adverse effects;
 - c. There should be a level of certainty as to the height of buildings that could be constructed without the need for public notification; and
 - d. There were no special or unique characteristics associated with the frontage of Shotover Street to justify discouraging building heights above 12m.

⁵⁵⁰ Memorandum of Counsel on behalf of QLDC dated 18 November 2016 at [7c].

⁵⁵¹ Ibid.

⁵⁵² V Jones, Summary of Evidence at [4].

⁵⁵³ Submission 308

⁵⁵⁴ Mr Farrell, EiC at [7].

⁵⁵⁵ ibid at [11].

678. Mr Williams, providing planning evidence for MSP⁵⁵⁶, agreed that retaining a specific set of height controls for the Man Street Block was the most efficient and effective way to provide certainty to landowners and the building form outcomes given the challenges around understanding of the original ground levels for this block.⁵⁵⁷

679. However, he considered that additional height on the southern side of Man Street over and above that recommended by Ms Jones should be provided.⁵⁵⁸ He was also of the view that because of the interrelationship between development on Man Street and properties fronting Shotover Street, they should be considered together given the influence the development on Shotover Street would have on the building form outcomes and views from development on Man Street.⁵⁵⁹

Ms Jones Reply - Southern Part of Man Street Block/Areas E and F

680. We do note Ms Jones was clearly alive to the need to address the interrelationship between the two parts of the site but she was of the view, as expressed in her Reply Statement, which we agree with, that the matter of views from Man Street should not trump good urban design outcomes for the entire site particularly the Shotover Street frontage.⁵⁶⁰

681. In her Reply⁵⁶¹, Ms Jones responded to Mr Farrell's evidence and questions, by recommending that Areas E and F (as shown in notified Figure 2) be removed from Precinct 7 and replaced with Precinct 1, and consequential changes be made to Rules 12.5.10.4 and 12.5.10.1. These consequential changes included adding a rule to 12.5.10.1 that no building exceed a horizontal plane at 271.1/ 330.1 masl. The recommended rules in Appendix 1 to her Reply Statement would have the effect of providing the restricted discretionary activity status to buildings between 12 and 14m above ground level as in the rest of Precinct 1, while ensuring that anything above either 14m above ground level or 271/ 330 masl respectively would be non-complying. She considered this to be more efficient and effective than redraft Rules 12.5.10.4(e) and 12.5.10.4(f) that applied to this area in the version attached to the Section 42A Report.

682. Ms Jones explained that including the 330 masl building height, as opposed by MSP⁵⁶², would be very similar to that which existed in the ODP and that which was determined through a mediated agreement of all affected parties during the resolution of appeals on submissions to the ODP.⁵⁶³

683. Ms Jones also pointed out that Mr Farrell agreed it was not unreasonably difficult to determine ground level and, from that, the permitted height for Areas E and F.⁵⁶⁴ She also observed that the rule she promoted resulted in an outcome that was relatively consistent with the approach taken for the Ballarat Street car park site, namely notified Rule 12.5.10.1.⁵⁶⁵

⁵⁵⁶ Submission 398

⁵⁵⁷ T Williams, EIC at [17].

⁵⁵⁸ Ibid at [19].

⁵⁵⁹ Ibid at [18].

⁵⁶⁰ V Jones, Reply Statement at [6.12a].

⁵⁶¹ V Jones, Reply Statement at [6.10] page 11.

⁵⁶² Submitter 398

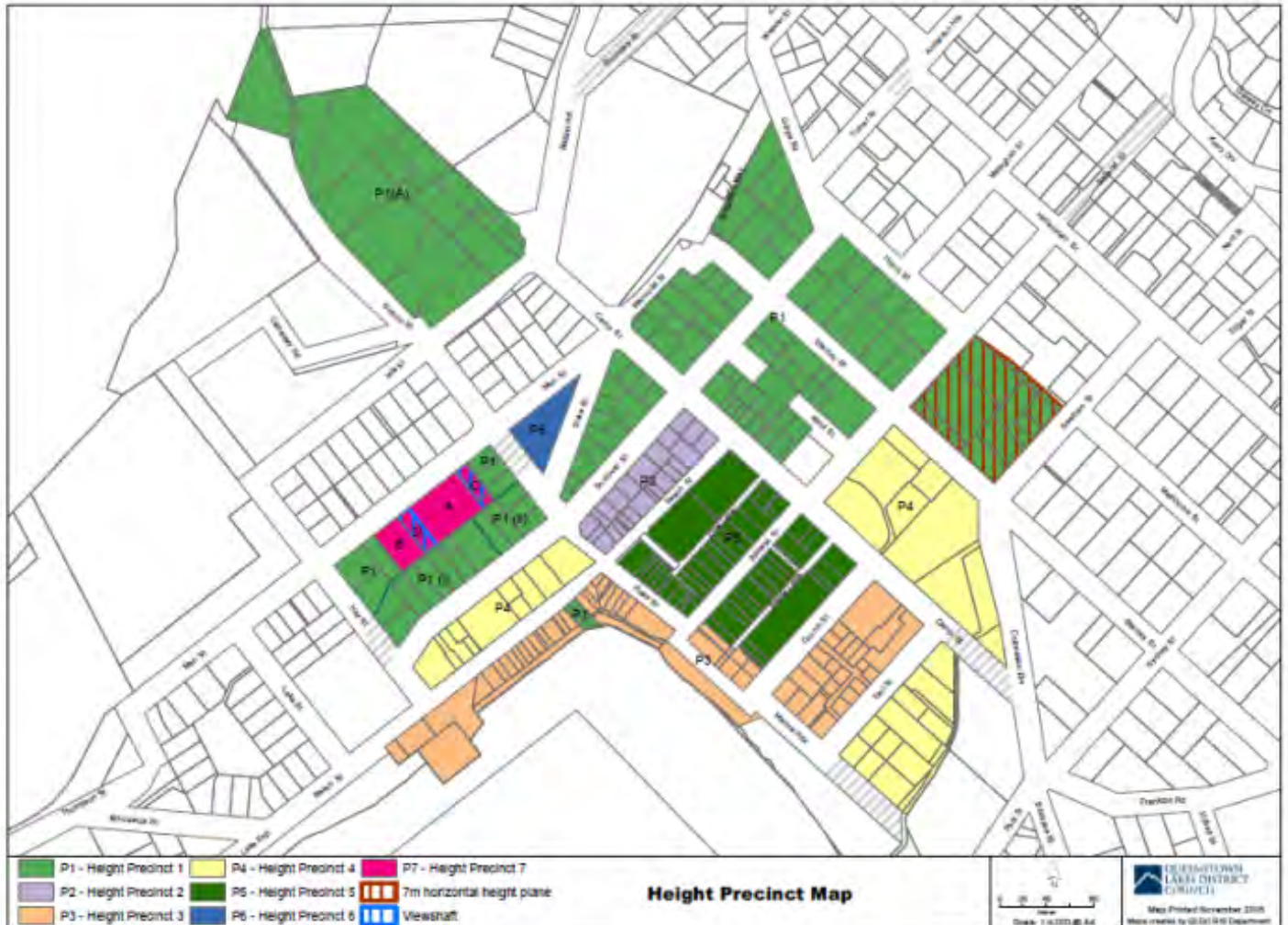
⁵⁶³ V Jones, Reply Statement at [6.12a].

⁵⁶⁴ Ibid at [6.12b].

⁵⁶⁵ Ibid at [6.12c].

Reply Figure 2

684. Included in Ms Jones' Reply Statement was her final recommended Figure 2 (Reply Figure 2). We include this below in order to aid in understanding the recommendations that follow. Reply Figure 2 is also included in our recommended Chapter 12 set out in Appendix 1.



Recommendation on Southern Parts of the Man Street Block/Areas E and F

685. Having carefully considered the evidence of Mr Farrell, the opinions of Mr Church, and in particular Mr Church's amended Figure 20⁵⁶⁶, and the reasons advanced by Ms Jones, particularly within her Reply evidence to support her amendments to the rules relating to areas E and F, we agree with her reasoning and accept the opinions of Mr Church.
686. We have paid careful attention to Ms Jones' Section 32AA evaluation which set out the costs and benefits of adopting her recommended amendments in relation to adopting Precinct 1 rules with sub-set precincts P (i) and P (ii) providing for horizontal plane requirements. These requirements were included in re-drafted rule 12.5.10.1 d. We also agree with her assessment under Section 32AA.
687. Our recommendation relating to the Southern Parts of the Man Street Block/ Areas E and F is that the Council accept the recommended rules as redrafted by Ms Jones, including removing areas E and F from Height Precinct 7 and placing them within Precinct 1 with a permitted

⁵⁶⁶ Included in Appendix 2 of the Council's Memorandum dated 18 November 2016.

building height at 12m, 12m -14m being restricted discretionary and above 14m being non-complying.

688. We also recommend the inclusion of horizontal plane requirements, with breach of them being a non-complying activity.

Ms Jones' Reply Man Street Car Park Portion

689. As to building heights for the Man Street car park, after considering Mr Todd's legal submissions and Mr Williams's evidence, Ms Jones remained of the view that her recommendations in relation to height on the Man Street car park should remain as recommended in her Section 42A Report⁵⁶⁷.

690. Ms Jones' Section 32AA report reflected this position. Her recommended amendments were, we considered, non-substantive as they updated the reference within the rule to Reply Figure 2. The remaining recommendation was to include the RL reference. We recommend both amendments be adopted.

691. We agree with Ms Jones' reasoning for her recommended changes⁵⁶⁸ and adopt it as supporting our recommendation that the wording of renumbered Rule 12.5.9.4, relating to the height of the Man Street carpark in Precinct 7, be as we have as set out in Appendix 1.

Ms Jones Reply on the View Shafts

692. The remaining issue with the Man Street car park related to the view shafts. MSP⁵⁶⁹ supported the notified height rules and sought that the position of the view shafts and figure to be confirmed to ensure the western view shaft was located to align with Section 26 Block IX Town of Queenstown. However, the legal submissions and evidence presented at the hearing promoted a different approach, seeking to remove the view shafts and support a comprehensive development rule.

693. Ms Scott⁵⁷⁰ submitted that MSP's submission did not seek removal of the second (Western) view shaft and accordingly there was no scope to do so. Ms Scott also pointed out that there were no other submitters who had sought removal of the second view shaft. We agree. Therefore, both Mr Todd's legal submissions and the evidence presented by Mr Williams in regard to the second view shaft was beyond scope and requires no consideration by us.

694. We record that Ms Jones, after considering the legal submissions from Mr Todd and the evidence of Mr Williams, advised us that her opinion on the view shafts remained unchanged. Accordingly, she maintained, it was appropriate to show both the view shafts on Reply Figure 2, as well as applying the zone wide coverage and comprehensive development rule to the site.⁵⁷¹

695. Within her Reply Statement, Ms Jones also identified the possible consequences if the key western view shaft were not identified on a planning map to compliment Rule 12.5.1 and to provide greater certainty.⁵⁷²

⁵⁶⁷ At paragraph 10.86.

⁵⁶⁸ *ibid*

⁵⁶⁹ Submission 398.

⁵⁷⁰ Submissions in Reply of Ms Scott at [5.6].

⁵⁷¹ V Jones, Reply Statement at [6.14].

⁵⁷² *Ibid* at [6.15].

Our Recommendation on View Shafts

696. We agree with Ms Jones and accept that, on this relatively large site, both view shafts serve numerous purposes and are a very important determinant of the eventual built form, effectively breaking up the site into discrete component parts, which we consider advantageous.
697. For these reasons, and the reasons Ms Jones advanced, including her Section 32AA evaluation, and for the reasons advanced by Mr Church in his evidence⁵⁷³, we recommend the adoption of Rule 12.5.9.4 as set out in Appendix 1.
698. The final issue with the view shafts related to queries we raised during the hearing about whether the view shafts should be movable or their shape able to be altered. Ms Jones was of the view that she did not consider this to be necessary as the eastern view shaft was set, and she reminded us that there were limited alternate locations for the western view shaft. Overall, she preferred fixing their position on Reply Figure 2.
699. Ms Jones did, however, reconsider the recommended location of the western view shaft (Area D), which she had moved to the location specifically sought in MSP's submission⁵⁷⁴. After taking into account Mr Williams's evidence, she recommended⁵⁷⁵ that the western view shaft be repositioned approximately 13 m to the west to avoid the lean to roof form that Mr Williams referred to in paragraph 11 of his evidence summary.
700. The consequence of this was that recommended Area B was reduced in size and, due to the rising level of Man Street, the height enabled in the view shaft could be raised by 0.5 m without impeding on views from the street. This has the added benefit of enabling more design flexibility for the first floor beneath.
701. We agree with the evidence of Mr Williams and Ms Jones on this point and accept Ms Jones' reasoning for the change in the location of the western view shaft. We recommend adoption of this change as shown on Reply Figure 2.

The Language School

702. The last issue to address is the Language School building heights. The first matter to address is one of jurisdiction. Mr Goldsmith presented legal submissions on behalf of John Thompson and MacFarlane Investments Ltd⁵⁷⁶ (John Thompson). As a general matter, he expressed concern that the height rules in his view repeated earlier mistakes and that they referred to a range of differing measurement criteria.⁵⁷⁷
703. Mr Goldsmith contended that the process by which Council had identified jurisdiction to increase height limits within the Man Street block was questionable and could present a *vires* issue.⁵⁷⁸ After setting out a range of Court authorities he submitted that for submitters to be put on notice of the issues sought to be raised, a submission must sufficiently identify issues with due particularity including the relief sought.⁵⁷⁹

⁵⁷³ particularly at paragraph 12.12

⁵⁷⁴ Submission 398

⁵⁷⁵ V Jones, Reply Statement at [6.19].

⁵⁷⁶ Further Submission 1274

⁵⁷⁷ Amended Legal Submissions of Mr Goldsmith at [10].

⁵⁷⁸ Legal Submissions of Mr Goldsmith at [11].

⁵⁷⁹ Ibid at [12-15, particularly 13].

704. He noted the Council relied upon the Cowie submission⁵⁸⁰ for jurisdiction to increase heights on the Man Street Block. He identified for us that part of the Cowie submission that he considered related to a request for relief relating to height. He submitted that the relief sought by Cowie could provide jurisdiction to increase height limits anywhere in the district by an unspecified amount. He then queried whether or not the relief sought met the relevant tests within the case law he referred us to. It was his submission that it was questionable whether Mr Cowie's submission could be relied upon as fairly and reasonably putting submitters on notice of this potential change to increase height.
705. In his Reply, Ms Scott referred directly to Mr Goldsmith's legal submissions.⁵⁸¹ We here observe that Mr Goldsmith filed these submissions on behalf of the submitter before the hearing in accordance with our Procedural Minute. He then subsequently replaced them with amended submissions at the hearing on 1 December 2016. We took from this that the earlier submissions in which this jurisdictional issue was raised had been formally replaced.
706. Like Ms Scott, we have assumed the question of whether Mr Cowie's submission provides scope for increased height limits in the QTC was not being pursued given those submissions were replaced. However, Ms Scott addressed this issue of jurisdiction in her Reply.
707. Essentially, Ms Scott pointed to the fact that the legal submissions of Mr Todd for MSP disclosed that both MSP and NZIA had made further submissions to the Cowie submission on the very matter of increased height within the QTC.⁵⁸² Ms Scott submitted, and we agree with her, that the existence of further submitters to Mr Cowie submission strongly supports the proposition that the matter of increased height limits in the QTC was a reasonably foreseeable outcome of Mr Cowie's submission.⁵⁸³
708. We agree and accept Council has jurisdiction to increase in height for the Man Street Block.
709. In her reply, Ms Jones accepted some of Mr Goldsmith's suggestions such as consistent use of the term RL throughout the rules and a removal of all references to the Otago datum level in brackets.⁵⁸⁴ These amendments have been included within our recommended rules.
710. Mr John Edmonds, on behalf of John Thompson⁵⁸⁵, presented his opinion on the appropriate approaches to height limits for the Language School site in pre-lodged evidence filed before the hearing. His evidence responded to Ms Jones' Section 42A Report and the pre-circulated urban design evidence of Mr Church. His evidence related to the properties located at 10 Man Street, 14 Brecon Street and 10 Brecon Street, collectively referred to as the "*Language School*."
711. Mr Edmonds raised several issues relating to the Language School. He was concerned about the practicality of using a sloping height limit on the Language School site.⁵⁸⁶ He had concerns relating to the uncertainty of the original ground level which would be the basis of the height limit applicable to the Language School site.⁵⁸⁷ Mr Edmonds considered that there would be

⁵⁸⁰ Submission 20

⁵⁸¹ Submissions in Reply of Ms Scott at [5.1].

⁵⁸² Ibid at [5.2].

⁵⁸³ Ibid.

⁵⁸⁴ V Jones, Reply Statement at [2.3].

⁵⁸⁵ J Edmonds, EiC

⁵⁸⁶ Ibid at [10].

⁵⁸⁷ Ibid at [11].

significant urban design issues in relation to both Brecon Street and the Man Street frontage.⁵⁸⁸ Finally, he was concerned about the very real potential for conflict arising from a contested consent application.⁵⁸⁹

712. Mr Edmonds evidence set out in a proposed alternative approach for the Language School site to address the issues he had identified. He contended his proposed alternative provided a more appropriate method for implementing Objectives 12.2.2 and accorded with Policies 12.2.2.2 and 12.2.2.3.
713. Essentially his alternative approach was that the recommended maximum height limit applicable to the Language School site change from a sloping height limit above original ground level to a flat plane height limit being a specified RL or a masl level.⁵⁹⁰
714. Mr Edmonds contended adopting this approach to determining a height limit for the Language School would be more logical and rational particularly having regard to the context of having the Sofitel Hotel with its height to the north-east and the car park to the south-west.⁵⁹¹
715. Additionally Mr Edmonds requested that area P1 in redraft Rule 10.5.10.4 be changed to Area G. He also considered that an additional sub clause be added to Rule 10.5.10.4 specifying the maximum height in Area G. In his view, the height in this Area G should be determined by Rule 12.5.10.4 rather than Rule 12.5.10.1.
716. Mr Edmonds considered that his suggested approach generally aligned with the relief sought by MSP, except with regard to the RL for the carpark building.⁵⁹²
717. Mr Williams, on behalf of MSP⁵⁹³, in his pre-circulated evidence addressed the Man/Hay/Shotover/Brecon Street block controls. He addressed these controls further in his evidence summary presented at the hearing. He detailed the agreed position between submitters MSP and Mr Thompson.⁵⁹⁴ He set out his opinion supporting, but with some exceptions, the approach recommended in the Council Memorandum dated 18 November.
718. The main exceptions were the cut of plane should avoid buildings above the Man Street Car Park Podium 327.1masl.⁵⁹⁵ Also he still preferred the use of a height cut of plane and recession plane to manage the built form in relation to Shotover Street because of uncertainty around determining ground levels.⁵⁹⁶
719. Ms Jones⁵⁹⁷, with the assistance of Mr Church, assessed this evidence and the alternate proposed approaches contained within it. She noted that there were three sites which comprise the Language School site and the site appeared to be in two separate ownerships, neither of whom had submitted on the height rules in the PDP.⁵⁹⁸ The only submission on the

588 Ibid at [13].

589 Ibid at [14].

590 Ibid at [15a].

591 Ibid at [19c].

592 Ibid at [15a].

593 Submission 398

594 T Williams, Summary of Evidence at [2] and Appendix A.

595 Ibid at [6].

596 Ibid at [10].

597 V Jones, Reply Statement at [6.20 to 6.31]

598 Ibid at [6.22].

height of the Language School site she identified for us was from Maximum Mojo Holdings limited⁵⁹⁹. The relief sought in that submission was that the height on 10 Man Street be amended to be the same as on the Man Street car park site.

720. When considering Mr Williams and Mr Edmonds' evidence, Ms Jones' conclusions were that it was likely that less development would be enabled on the Language School site under Mr Williams and Mr Edmonds' suggestions, than under the PDP rules.⁶⁰⁰
721. It was her view that following Mr Williams' and Mr Edmonds' rules, the site would have significantly lesser views of the lake due to the level plane allowed over the three lots⁶⁰¹, and the site would be likely to need to be excavated below the Man Street level to achieve a well-designed two storey development along Man Street.⁶⁰²
722. Turning to considering which rules would best achieve an acceptable outcome on Man Street and the Brecon Street steps, Ms Jones was of the view that it was not a sound assumption that the PDP provisions would result in a 14m high building on the street frontage of the Language School site⁶⁰³. She noted that, in any event, Rule 12.5.9 included discretion over urban form and specifically in relation to whether the building would respond sensitively to different heights on adjacent sites and the effect on amenity of the street.⁶⁰⁴
723. In respect of the Man Street landscape, Ms Jones did not consider that, given the Language School site was a stand-alone site with view shafts either side, consistency in height with the adjacent buildings, such as the Man Street car park, when viewed from on the street, to be the most critical issue.⁶⁰⁵ Rather, she considered the rule should enable quality building design and quality relationship between the Language School site and Man Street.⁶⁰⁶
724. Ms Jones considered the 7 m height limit on Man Street proposed by Mr Williams and Mr Edmonds to be too low, particularly in the context of the development enabled on the Man Street car park block and on the opposite side of the road enabled to by Plan Change 50.⁶⁰⁷ She agreed that a high building on the Language School site would be likely to be similar in effect to the Sofitel Hotel.⁶⁰⁸ However, she considered that the western end of the hotel was something of an anomaly and should not, in her view, lead future built form along this street edge.⁶⁰⁹
725. In terms of effects on the Brecon Street steps, Ms Jones noted that the Sofitel Hotel stepped down three times from Man Street to the narrow corner with Duke Street. She referred to this as an example of the sort of built form that can be achieved through a rule that applied a rolling height plane coupled with a horizontal high plane.⁶¹⁰ In her view it was important that

⁵⁹⁹ Submission 548. This submitter owned 19 Man St and sought that height on 10 Man Street be amended to be the same as on the carpark site.

⁶⁰⁰ V Jones, Reply Statement at [6.24].

⁶⁰¹ 10 Man, 10 Brecon and 14 Brecon Streets.

⁶⁰² V Jones, Reply Statement at [6.24].

⁶⁰³ Ibid at [6.25(a)]

⁶⁰⁴ Ibid at [6.25a].

⁶⁰⁵ Ibid at [6.25b].

⁶⁰⁶ Ibid.

⁶⁰⁷ Ibid at [6.25c].

⁶⁰⁸ Ibid.

⁶⁰⁹ Ibid.

⁶¹⁰ Ibid at [6.25d].

both sides of the Brecon Street steps bear some relationship to one another.⁶¹¹ Stepping the built form down the Brecon Street steps would result, she thought, in an appropriate outcome.⁶¹²

726. Ms Jones' primary concern with the rules proposed by Mr Edmonds and Mr Williams was that the allowed height above Brecon Street at the mid-block would be some 21.55 m above the street level.⁶¹³ She considered that to be too high, and that it would potentially create adverse visual dominance effects over Brecon Street.⁶¹⁴ She pointed out that such an outcome did not correspond with the step in the Sofitel Hotel built form, and provided some graphics to illustrate that point⁶¹⁵. Overall, it was Ms Jones' opinion that a consistent height plane across all three properties fronting Brecon Street as supported by Mr Edmonds and Mr Williams, would result in a building that was too low on Man Street to contribute positively to the streetscape.⁶¹⁶ Also it would be an inefficient use of 10 Man Street and would potentially be visually dominating on Brecon Street. She did not support such an approach.

727. We note that having conferred with Mr Church, Ms Jones confirmed the view that the application of Precinct 1 to the Language School site and sloping height plane rules for the site was appropriate.

728. Ms Jones did propose the option of a lower height plane over the two uppermost sites, 10 Man Street and 14 Brecon Street, to 335.1 masl, although this was not her preference.⁶¹⁷ This would provide, she said, a consistent 3 m step between each building height limit and to some extent would match the hotel on the opposite side of Brecon Street.⁶¹⁸ However, she considered 8 m would restrict the building height to two low stories which was not the most appropriate outcome.⁶¹⁹

Our Recommendations on 30 Man Street

729. Submitter evidence challenged Ms Jones' recommendation in relation to the appropriate heights for the Language School site, but as we understood the evidence, there was no challenge in relation to 30 Man Street. We agree with and adopt Ms Jones' recommendations in regard to 30 Man Street.

Our Recommendations on the Language School Site

730. Overall, having considered the various options presented to us by Mr Williams, Mr Edmonds and Ms Jones, we have concluded that applying the Precinct 1 height rules to this site and the adjoining two on Brecon Street would provide the most appropriate outcome. While the graphics included in Ms Jones' Reply Statement show the potential for a building on 10 Man Street to loom over any building on the adjoining 14 Brecon Street, we consider the stepped height regime of permitted, restricted discretionary and non-complying would enable a satisfactory urban design outcome along this portion of Brecon Street. Finally, we see no reason to limit the development potential of 10 Man Street solely to protect private views from another commercial property.

⁶¹¹ *ibid* at [6.25d].

⁶¹² *ibid*.

⁶¹³ *ibid* at [6.26].

⁶¹⁴ *ibid*.

⁶¹⁵ *ibid* at p17-18.

⁶¹⁶ *ibid* at [6.28].

⁶¹⁷ *ibid* at [6.29].

⁶¹⁸ *ibid*.

⁶¹⁹ *ibid*.

731. For these reasons, and for the reasons advanced by Ms Jones, we recommend that the relevant rule version we have set out below be adopted.

Recommended wording of rule 12.5.9 and 12.5.10

732. It is clear that height in the QTCZ is a key issue. These rules attracted many submissions and further submissions and much analysis in particular by Ms Jones and Mr Church.

733. We wish to thank Ms Jones and Mr Church for their input and analysis which enabled us to determine the rule wording which we consider achieves the objectives and policies and ultimately supports the zone purpose as set out earlier in this decision.

734. We recommend these rules be renumbered as Rule 12.58 and Rule 12.5.9, and be adopted with the wording set out in Appendix 1. This wording incorporates necessary consequential changes resulting from the revisions we have discussed above. We also recommend including as Figure 2 the Height Precinct Plan shown as Reply Figure 2 above.

7.17. Rule 12.5.11 Noise

735. As notified, this rule set out the standards for activities in the QTCZ regarding noise. In the PDP, the noise limits were increased slightly throughout the QTC (other than in the TCTZ). The noise rules included a newly identified TCEP where a higher level of noise was allowed in order to encourage noisier venues to locate in the most central part of town, where they would have the least effect on residential zones (within which acoustic insulation is not required).

736. The issues raised by submitters relating to noise focused on:

- a. the appropriateness of the noise levels particularly the more enabling limits relating to music, voices and loud speakers and if those new limits applied to the TCTZ;
- b. establishing the Town Centre Entertainment Precinct and its possible expansion;
- c. determining if the noise limits applied to commercial motorised water based craft was a further issue.

Town Centre Entertainment Precinct (TCEP)

737. Turning first to the issue of whether the TCEP should be established and, if so, expanded.

738. Various submitters⁶²⁰ opposed both the TCEP concept and its rules, requesting it be deleted and the whole of the QTC be subject to lower noise standards. Imperium Group⁶²¹ specifically requested that all consequential amendments necessary be made to remove the TCEP from the chapter.

739. The PDP introduced changes to noise limits resulting in a range of submitters⁶²² requesting that noise limits be lowered through the town centre. They requested the reinstatement of the ODP rules or the deletion of the exclusion of sound from the sources specified in notified Rules 12.5.11.3, 12.5.11.4, 12.5.11.1 and 12.5.11.2. Consequently, the second key issue was the appropriateness of the noise limits within the proposed rules.

740. Submitters opposing the proposed noise rules contended that raising the limits would increase adverse effects on residents and visitors staying in and around the town centre, users of the gardens and detract from amenity values generally.

⁶²⁰ Submissions 599, 151 and FS1318), 654 (supported by FS1043 and FS1063)

⁶²¹ Submission 151.

⁶²² Submissions 151, 503, 506, 654, 302, 474 and 217

741. Conversely a number of submitters⁶²³ either supported the proposed noise rules or requested more lenient noise limits. Primarily they sought extending the TCEP rules to a greater area of the town centre such as Steamer Wharf, the waterfront area, or in discreet cases, such as 1876 Speights Ale House, The Pig & Whistle and Brazz, and to both sides of Seale Lane. They also requested particular exemptions to the rules.
742. Reasons the submitters put forward for extending the TCEP to the above areas included the point that there were no accommodation providers in some of the locations referred to but, rather, these areas were characterised by patrons occupying outdoor areas. Submitters linked to Steamer Wharf explained the wharf was a proven hospitality destination with 11 established bars, a central management structure, a good alcohol record, and resource consents allowing open air bars to operate to 12 am with positive results. They also pointed out there were limited numbers of sensitive receivers in the vicinity and a low possibility of such activities establishing within the complex. Submitters also contended applying the TCEP to Steamers Wharf would result in consolidation of entertainment type activities resulting in minimising conflict with other users and also making enforcement and self-monitoring easier.
743. Including the Queenstown Bay waterfront, according to some submitters⁶²⁴, was essential to maintaining Queenstown's reputation as a premier destination. Those submitters also noted that Pog Mahones was a long-time business associated with this vibrant area and including it within the TCEP was considered appropriate.
744. Similarly with Searle Lane, submitters⁶²⁵ made the point that this was already a busy vibrant hospitality precinct. Including it in the TCEP would ensure its ongoing development. Submitters made the point that the central location of Searle Lane worked well to insulate noise from leaving this area.
745. Other submitters⁶²⁶ requested that the rules that apply to the TCEP, namely notified Rules 12.5.11.3 (a) and 12.5.11.4 (a), should apply throughout the whole QTCZ except the TCTSZ.
746. In considering and determining a response to these submissions, Ms Jones relied upon the expert evidence of Dr Stephen Chiles.⁶²⁷ As well as being well-qualified, Dr Chiles recorded in his evidence that he had worked extensively on acoustic issues in the district for over a decade.⁶²⁸ He told us his involvement in the district has been primarily with respect to disturbance or potential disturbance from various restaurants and bars at nearby residential and visitor accommodation.
747. Before evaluating the noise rules and submitter position, Dr Chiles made what we think is a very important context point: the town centre noise limits in the ODP are, according to Dr Chiles, more stringent than most other districts in New Zealand.⁶²⁹ They do not allow for the degree of night-time entertainment enabled by both the policies and rules in the PDP. The PDP, according to Dr Chiles, would provide more lenient noise limits for night-time

⁶²³ Submissions 714, 804 (opposed by FS1318), 774, 70, 247, 587, 589, 835, 839, 777, 71, 774, 596 (opposed by FS1318), 549 (supported by FS1134, opposed by FS1318)

⁶²⁴ Submissions 70, 71, 714 (opposed by FS1318), 774, 247, 587, 589, 835, 839, and 777.

⁶²⁵ Submissions 549, FS1134.2 (opposed by FS1318.14)

⁶²⁶ Submissions 250, 544 (supported by FS1134), 630 (opposed by FS1043 and FS1318)

⁶²⁷ V Jones, Section 42A Report at [12.19].

⁶²⁸ Dr S Chiles, EiC at [1.5].

⁶²⁹ Ibid at [2.1a].

entertainment.⁶³⁰ As we understood the evidence before us, we did not understand anybody to challenge Dr Chiles on these points.

748. Dr Chiles expressed the opinion that the PDP would be likely to compromise residential amenity in the QTC and to a lesser extent in nearby residential zones.⁶³¹ He went on to note that he was not aware of a practical alternative to avoid compromising either noisy or noise sensitive activities in the QTC.⁶³² He did express the opinion, however, that the proposed compromise of residential amenity in the town centre and nearby residential zones was reasonable and should be acceptable in these environments.
749. Dr Chiles was of the view the PDP noise limits were robust and practical. He noted that while bar and restaurant activity would be enabled to a greater extent than under the ODP, he pointed out that those activities would still need to be subject to standard noise management practices, such as limiting sound system volumes.⁶³³
750. In relation to the TCEP, Dr Chiles made the point that the purpose of the precinct was to provide for fewer restrictions on some bar and restaurant activities in an area.⁶³⁴ He said that area had been selected to minimise effects on residential zones and to avoid conflict with existing residential and visitor accommodation in the QTC, as far as practicable.⁶³⁵
751. Dr Chiles explained to us that due to the distribution of visitor accommodation throughout the QTCZ there were some effects that could not be avoided. This circumstance was aptly demonstrated by the Eichardt's Private Hotel (Eichardt's), given that its location at 2 Marine Parade was immediately adjacent to the proposed TCEP. Dr Chiles noted that the nearest parts of Eichardt's facing the TCEP were occupied by retail units on the ground floor.⁶³⁶ These units were not considered noise sensitive because of the nature of activities performed in them and, more importantly, because they were unlikely to be occupied at night.⁶³⁷
752. Dr Chiles noted the first floor hotel spaces appeared to have sound insulating glazing and in any event they were currently exposed to sound from people in the Mall at night.⁶³⁸ He observed that, based on his past experience, night-time noise from people in the Mall would often generate sound levels similar to or higher than those permitted by the PDP noise limits.⁶³⁹ Finally, he noted that because Eichardt's was not in the entertainment precinct itself, the more stringent noise limits in notified Rules 12.5.11.3 (b) and 12.5.11.4 (b) would apply to any sound within the TCEP received at Eichardt's.⁶⁴⁰
753. He also made the point that the precinct would serve as a guide for future developments in the QTC as the most appropriate location for both noisy and noise sensitive activities.⁶⁴¹ We understood this to mean that the existence of the precinct would encourage noisier activities to locate within it and it would discourage the location of noise sensitive activities.

630 Ibid.

631 Ibid.

632 Ibid.

633 Ibid at [2.1b].

634 Ibid at [2.1c].

635 Ibid.

636 Ibid at [10.2].

637 Ibid.

638 Ibid.

639 Ibid.

640 Ibid.

641 Ibid.

754. As to extending the TCEP to other areas in the QTC, Dr Chiles was clear that to do so would give rise to additional adverse effects.⁶⁴² Consequently, he did not support an extension of the TCEP. In respect of those submitters who sought deletion of the precinct, he responded that he considered the TCEP would serve a useful function that, based on his experience, would not be provided by assessing individual bars on a case by case basis as currently occurred under the ODP.⁶⁴³
755. Having particular regard to Dr Chiles' evidence, particularly the noise contours attached as Appendix C, we are satisfied that the effects on residential amenity as modelled of including Steamer Wharf and/or the Brazz precinct of bars and/or the whole of the QTC would be unacceptable in terms of noise effects.
756. Having carefully considered Dr Chiles' evidence, including his previous reports, we agree with Ms Jones that the location and extent of the proposed TCEP is the most appropriate response to the potential conflicts between bars and restaurants on one hand, and residential and visitor accommodation uses on the other, in and around the QTC. We have paid particular attention to the noise contours in Dr Chiles' evidence, comparing the three sets of noise contours in what he describes as his "*First 2014 letter*".⁶⁴⁴ We conclude that the contours provide compelling evidence that the proposed location of the TCEP is appropriate.
757. In respect of expanding the TCEP to both sides of Searle Lane, we accept, based on Dr Chiles' evidence, that this may not result in a significant increase in the noise received within the residential zone. We do, however, agree that to expand the TCEP would exacerbate noise effects on Nomads Backpackers and cause sleep disturbance to a large number of people.
758. We have considered the solution of retrofitting this backpacker's facility with noise insulation, but we do not consider the benefits of expanding the TCEP outweigh imposing costs on the backpacker's operator. In any event, the Council cannot compel noise insulation. It follows that we do not recommend extending the TCEP to include Pog Mahones Irish pub, or extending the TCEP as requested by the Good Group, to all of the QTC excluding the TCTSZ.
759. Also we do not support extending the TCEP to include the Pig and Whistle and historic courthouse buildings nor extending the precinct more broadly around the village green to Stanley Street. Having close regard to Dr Chiles' contours in the "*Second 2014 Letter*" and comparing them with scenario 2 in the "*First 2014 Letter*", confirms that, to extend the TCEP in the manner submitters sought, would result in sound levels that would generally be unacceptable, particularly at the interface with the residential zone around Henry Street and Melbourne Street.

Appropriateness of Noise levels

760. As notified the Noise rules provide for noise levels at differing times of the day and night for activities located within the TCZ and the TCTZ. Exceptions to these noise limits were provided for in subsequent rules. Before turning to the exceptions, if noise levels were not complied with by an activity then the status of that activity would become non complying.
761. The exceptions were more permissive enabling higher sound from music, voices and from loudspeakers within any site in the TCEP.

⁶⁴² Ibid at [2.1d].

⁶⁴³ Ibid.

⁶⁴⁴ Ibid at [1.10e].

762. Construction noise and outdoor public events pursuant to Chapter 36 were dealt with differently. As originally notified, the rules did not deal with or were unclear in terms of application to commercial motorised craft operating within the QTCWSZ.
763. Some submitters⁶⁴⁵ wished to see the notified rules reduce allowable noise, and deletion of the exclusion of sound from the sources specified in notified Rules 12.5.11.1 to 12.5.11.4. Reasons for opposing the proposed noise rules included the contention that raising limits would increase adverse effects on residents and visitors staying in and around the QTC and amenity values generally.
764. Other submitters⁶⁴⁶ requested the noise allowed within the TCEP apply throughout the QTC. Some expressed concern as to whether or not the increases would be sufficient to provide for night-time entertainment⁶⁴⁷.
765. Those seeking noise reductions included Mr James Cavanagh⁶⁴⁸ for Imperium Group⁶⁴⁹. He described the impact of existing noise on both The Spire and Eichardt Hotels. He noted both hotels prided themselves on the ability to give guests a luxurious stay without interruption or disturbance.⁶⁵⁰ He detailed instances of a number of complaints from guests regarding noise, from sources such as taking kegs out and or moving outside furniture.
766. However, as Ms Jones pointed out, the noise limits in the PDP in that regard would be the same as the ODP so there would be no change.⁶⁵¹ Also, we observe that, while the PDP does propose more permissive noise limits as usefully described in the evidence of Dr Chiles, this would not promote people shouting or loud music with open doors and windows. Furthermore, sound from patrons on public streets is not directly controlled by either noise rules in the ODP or the PDP. However, we do not doubt either the accuracy or the genuineness of Mr Cavanagh's concerns, particularly in relation to enforcement of the noise rules.
767. In legal submissions for the Imperium Group, Ms Macdonald repeated Imperium's original submission that:⁶⁵²
- a. there was no "justifiable resource management reason for providing separate and increased noise limits" for the TCEP;
 - b. making provision for higher noise limits in the TCEP would result in significant adverse effects on properties within the TCEP and in its vicinity;
 - c. there was no justification for those notified rules which would allow noise to spill over into areas outside the TCEP in a manner that would depart from standard noise provisions; and
 - d. insufficient consideration had been given to alternatives.
768. Essentially reverting to the status quo as per the ODP was sought.⁶⁵³ Ms Macdonald submitted that the adverse effects generated by the higher noise levels were significant and that they

⁶⁴⁵ Submissions 151, 503, 506, 654, FS1063, FS1318, 302, FS1043, 474, 217.

⁶⁴⁶ Submissions 544, FS1134, 630, 250 (opposed by FS1043 and FS1313).

⁶⁴⁷ Submission 630

⁶⁴⁸ J Cavanagh, EiC at [3.1 to 3.13]

⁶⁴⁹ Submission 151

⁶⁵⁰ J Cavanagh, EiC at section 3.

⁶⁵¹ V Jones, Reply Statement at [11.1].

⁶⁵² Legal Submissions of Ms Macdonald at [1a].

⁶⁵³ Ibid at [21].

had not been adequately assessed or addressed in proposed Chapter 12, Dr Chiles' evidence or Ms Jones' Section 42A Report.

769. As much as Mr Cavanagh's evidence presented concerns, we do have to consider what both Dr Chiles and Ms Jones told us about the existing noise environment.
770. In particular, as Ms Jones recorded⁶⁵⁴, in practice the rules would allow activity and noise levels of a very similar nature to what in fact has actually been able to occur regularly through non-complying resource consents over the years. We understood Dr Chiles to confirm the same point. Returning to the status quo would not appropriately deal with this circumstance. We think it more appropriate that the PDP recognise and provide for the current noise environment in a manner which both recognises that existing noise environment and provides appropriate levels of protection for noise sensitive activities. We are satisfied that the TCEP and the noise levels within the notified rules would achieve that difficult balance. We also agree with Dr Chiles that, given the current noise environment, there are very few practical alternatives available.⁶⁵⁵
771. Dr Chiles and Ms Jones pointed to the history of resource consent applications which sought to exceed the noise limits.⁶⁵⁶ This demonstrated to us those ODP plan provisions did not adequately provide for or meet the community's demand for those activities in the QTC. As well, noise assessment and controls in relation to those resource consents could be costly, inefficient and potentially ineffective.
772. It seemed to us that Dr Chiles explicitly recognised the shortcomings in this consenting approach in supporting the PDP noise rules. As we note below, he also explicitly recognised the important shift in noise-related policies because that shift would recognise the effects of the current noise environment on residential amenity and visitor accommodation is largely unavoidable. This effect on residential amenity would be specifically recognised in recommended Policies 12.2.1.4 and 12.2.3.4.
773. We do accept that notified Rules 12.5.12 and 12.5.13 would not relate to the existing critical listening areas. However, those notified rules would at least address this circumstance for a new noise sensitive activity wishing to locate either within or nearby the TCEP. We see that as an improvement.
774. Also, in our view notified Rules 12.5.11.1 to 12.5.11.5 would give effect to recommended Policies 12.2.1.3, 12.2.1.4, 12.2.3.3 and 12.2.3.4. All of these policies seek to enable bar and restaurant activity in the QTC at the expense of compromised residential amenity in the QTC, while minimising effects on nearby residential zones.
775. In respect of notified Rule 12.5.11.5, Evan Jenkins⁶⁵⁷ sought to have all outside loudspeakers banned on the basis that the noise from them could not be contained, they infected public space and disturbed customers of other establishments. The Queenstown Chamber of Commerce⁶⁵⁸ sought confirmation that the noise limits in the PDP were consistent with other resort towns. Dr Chiles confirmed the noise limits in the PDP as notified were consistent with

⁶⁵⁴ V Jones, Section 42A Report at paragraph 12.57

⁶⁵⁵ Dr S Chiles, EiC at[2(1)a].

⁶⁵⁶ Ibid at [3.2], Section 42A Report of Ms Jones at [12.61].

⁶⁵⁷ Submission 474

⁶⁵⁸ Submission 774

other towns seeking to enable night entertainment.⁶⁵⁹ He did note, however, that in the QTC outside of the TCEP, the PDP noise limits would remain relatively stringent for some restaurants and bars and would, in his opinion, still constrain activity at night.⁶⁶⁰

776. Peter Fleming⁶⁶¹ submitted that notified Rule 12.5.11 was unworkable. Dr Chiles disagreed. In his view, the rules were consistent with the approach of other towns and the noise limits are measured and assessed against relevant New Zealand Standards.⁶⁶²
777. Dr Chiles also responded that it would explicitly address several issues in making the application of the noise limits more practical, particularly in the light of experience with the ODP.⁶⁶³ For example, the outdoor loudspeaker noise limit in notified Rule 12.5.11.4 would provide a simple practical control that could be readily verified by measurements on site at the same time as there being people in the vicinity. We were satisfied by Dr Chiles' evidence on this point.
778. Dr Chiles identified a drafting issue with notified Rule 12.5.11 in that it did not give effect to the structure of noise limits as originally intended.⁶⁶⁴ The intention was for these rules not to apply within the TCTSZ so that a buffer was created between activities with more lenient noise limits and surrounding residential zones. Relying on several submissions⁶⁶⁵, Ms Jones recommended amendments to give effect to the original intention of the rules. We agree and recommend those changes.
779. While on the point of amendments, Ms Jones pointed out that notified Rules 12.5.11.3 and 12.5.11.4 potentially conflicted with Rule 36.3.2.9 in Chapter 36 (Noise). She explained that those rules do not require noise from music or voices to meet residential noise levels on the boundary of that zone, yet reply Rule 36.3.2.9 provided otherwise.⁶⁶⁶
780. Ms Jones recommended amending the notified purpose within Chapter 36 at 36.1 and amending reply Rule 36.3.2.9 to deal with this potential conflict.⁶⁶⁷ Some of the changes to Section 36.1 were promoted as non-substantive and we agree with both the amendment and the basis of that amendment.
781. Ms Jones identified the submissions⁶⁶⁸ relied on to provide scope for her recommended changes to the notified Section 36.1 and also to Rule 36.3.2.9.⁶⁶⁹ We agree with her changes and recommend to the Stream 5 Hearing Panel that those amendments be made. We have included those changes within our Appendix 8.

Noise from Commercial Motorised Craft

782. Real Journeys⁶⁷⁰ sought that vessels carrying out navigational procedures be exempt from notified Rule 12.5.11, making such noise permitted. This submission identified for Ms Jones

⁶⁵⁹ Dr S Chiles, EIC at [4.1].

⁶⁶⁰ Ibid.

⁶⁶¹ Submission 599

⁶⁶² Dr S Chiles, EIC at [4.3].

⁶⁶³ Ibid at [4.4].

⁶⁶⁴ Ibid at [4.5].

⁶⁶⁵ Submissions 151, 503, 506, 654, 302, 217

⁶⁶⁶ V Jones, Section 42A Report at [12.55].

⁶⁶⁷ Ibid.

⁶⁶⁸ Submissions 151, 503, 506, 654, 302, 474, 217.

⁶⁶⁹ V Jones, Section 42A Report at [12.52].

⁶⁷⁰ Submission 621

an inconsistency between the rules relating to vessels within the WSZ and Chapter 12.⁶⁷¹ Dr Chiles agreed.⁶⁷²

783. Ms Jones pointed out that Chapter 36 proposed a specific noise limit for commercial motorised craft on the lake.⁶⁷³ It also proposed exempting craft from other zone noise limits, whereas such craft operating in the WSZ would be subject to the general QTC noise limits of Chapter 12.
784. Dr Chiles preferred the limits and methodology contained in Chapter 36 over those contained in Chapter 12.⁶⁷⁴ Ms Jones recommended that notified Rule 12.5.11 be amended by adding a further provision exempting water and motor-related noise from commercial motorised craft within the QTZ WSZ from meeting the limits set out in Rules 12.5.11.1 and 12.5.11.2.⁶⁷⁵ This would have the effect of such noise being subject to (reply version) Rule 36.5.14. Further Purpose 36.1 and Rule 36.3.2.9 would need minor amendment to clarify this point. We agree and so recommend to the Stream 5 Hearing Panel. The changes we recommend to Chapter 36 are set out in Appendix 8.

Our Recommendations

785. In our view the noise levels within the notified rules based on the expert evidence of Dr Chiles and the opinion of Ms Jones are appropriate as they largely reflect the existing noise environment. The notified rules support the zone purpose and policy framework.
786. We consider the TCEP is also appropriate and extension or modification to allow application of it to additional areas is not warrant
787. We also consider clarifying the appropriate noise rule that applies to commercial motorised craft operating within the QTCWS is appropriate.
788. Accordingly, we recommend Rule 12.5.10 (notified Rule 12.5.11) be as set out below, with our amendments shown as strikethrough and underlined.

12.5.110	<p>Noise</p> <p>10.1.2.1 <i>Sound* from activities in the Town Centre Zone and Town Centre Transition Sub-Zone (excluding sound from the sources specified in rules 12.5.11.3 to 12.5.11.5 below) shall not exceed the following noise limits at any point within any other site in these zones:</i></p> <p style="margin-left: 40px;">a. daytime (0800 to 2200 hrs) 60 dB L_{Aeq}(15 min)</p> <p style="margin-left: 40px;">b. night-time (2200 to 0800 hrs) 50 dB L_{Aeq}(15 min)</p>	NC
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⁶⁷¹ V Jones, Section 42A Report at [12.54].

⁶⁷² Dr S Chiles, EiC at [8.3].

⁶⁷³ V Jones, Section 42A Report at [12.55].

⁶⁷⁴ Dr S Chiles, EiC at [8.3].

⁶⁷⁵ V Jones, Section 42A Report at [12.55].

	<p>c. night-time (2200 to 0800 hrs) 75 dB L_AF_{max}</p> <p>*measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008</p>	
10.1.2.2	<p><i>Sound from activities in the Town Centre Zone and Town Centre Transition Sub-Zone (excluding sound from the sources specified in rules 12.5.11.3 and 12.5.11.4 below) which is received in another zone shall comply with the noise limits set for the zone the sound is received in:-</i></p>	
10.1.2.3	<p><i>Within the Town Centre Zone only <u>excluding the Town Centre Transition Sub-Zone</u>, sound* from music shall not exceed the following limits:</i></p> <p>a. 60 dB LAeq(5 min) at any point within any other site in the Entertainment Precinct; and</p> <p>b. At any point within any other site outside the Entertainment Precinct.</p> <p>i. daytime (0800 to 0100 hrs) 55 dB L_Aeq(5 min)</p> <p>ii. Late night (0100 to 0800 hrs) 50 dB L_Aeq(5 min)</p> <p>*measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008, and excluding any special audible characteristics and duration adjustments.</p>	
10.1.2.4	<p><i>Within the Town Centre Zone only <u>excluding the Town Centre Transition Sub-Zone</u>, sound* from voices shall not exceed the following limits:</i></p> <p>a. 65 dB LAeq(15 min) at any point within any other site in the Entertainment Precinct; and</p> <p>b. At any point within any other site outside the Entertainment Precinct.</p> <p>i. daytime (0800 to 0100 hrs) 60 dB L_Aeq(15 min)</p> <p>ii. Late night (0100 to 0800 hrs) 50 dB L_Aeq(15 min)</p> <p>*measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008.</p>	

	<p>10.1.2.5 <i>Within the Town Centre Zone only excluding the Town Centre Transition Sub-Zone,, sound* from any loudspeaker outside a building shall not exceed 75 dB L_{Aeq(5 min)} measured at 0.6 metres from the loudspeaker.</i></p> <p>* measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008, excluding any special audible characteristics and duration adjustments.</p> <p><u>Exemptions from Rule 12.5.11:</u></p> <p>The noise limits in 12.5.11.1 and 12.5.11.2 shall not apply to construction sound which shall be assessed in accordance and comply with NZS 6803:1999;-</p> <p>The noise limits in 12.5.11.1 to 12.5.11.5 shall not apply to outdoor public events pursuant to Chapter 35 of the District Plan;-</p> <p><u>The noise limits in 12.5.11.1 and 12.5.11.2 shall not apply to motor/ water noise from commercial motorised craft within the Queenstown Town Centre Waterfront Sub-Zone which is, instead, subject to Rule 36.5.13.</u></p>	
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7.18. **Rule 12.5.12 Acoustic insulation, other than in the Entertainment Precinct and Rule 12.5.13 Acoustic insulation within the Entertainment Precinct.**

789. Two submitters⁶⁷⁶ supported the new provisions for insulation and mechanical ventilation. Other submitters,⁶⁷⁷ primarily as a consequence of overarching relief, requested the deletion of notified Rule 12.5.13 which required insulation and ventilation in the TCEP. Other submitters⁶⁷⁸, as a consequence of requesting that the TCEP be extended, requested that the rule be amended to apply to those additional areas.

790. Dr Chiles explained that these rules would require both mechanical ventilation/cooling and enhanced sound insulation of facades.⁶⁷⁹ To meet the facade sound insulation requirements both inside and outside the TCEP, glazing would generally need to be a high performance secondary or triple glazed system with a large cavity of approximately 100 mm between panes of glass. He said that could be achieved by installing a second window inside the main window.⁶⁸⁰

791. Dr Chiles referred us to section 5 of the 2011 report that explained the need for the sound insulation to result in internal sound levels that should provide reasonable protection from

⁶⁷⁶ Submissions 217 and 774

⁶⁷⁷ Submissions 302 and 151

⁶⁷⁸ Submissions 714 and 774

⁶⁷⁹ Dr S Chiles, EIC at [9.1].

⁶⁸⁰ Ibid

sleep disturbance. He was clear in his view⁶⁸¹ that the acoustic treatment required by these rules was essential to give effect to notified Policies 12.2.1.3, 12.2.1.4, 12.2.3.3 and 12.2.3.4.

792. It was Dr Chiles' view that, even if the noise limits were not being increased within the PDP, it would still be appropriate to include an acoustic treatment requirement.⁶⁸² This reinforced for us the point about the already existing noisy environment.
793. Ms Jones recommended that it was essential that all new critical listening areas wishing to establish in the TCEP be required to be insulated to the standard required by these rules.⁶⁸³ It was her understanding that the costs associated with achieving the necessary insulation would not be significant in the context of a new commercial building.
794. However, she acknowledged these rules could deter some owners from developing residential and visitor accommodation within this relatively small area and instead developing upper stories for office, light manufacturing secondary retail or some other use.⁶⁸⁴
795. Ms Jones did not see this as an adverse outcome. Rather, she considered this was simply internalising the environmental and economic cost of establishing residential development within the TCEP and as such would very likely result in efficient land use in the long-term.⁶⁸⁵
796. Also, Ms Jones noted that, for those where cost does not present a financial barrier to developing residential and visitor accommodation, then these provisions would enable the development in a manner that should not result in adverse effects on health and well-being.⁶⁸⁶
797. Finally, Ms Jones reminded us that removal of this requirement would not enable the achievement of notified Objective 12.2.3, as it would not result in a reasonable level of residential amenity for those seeking to reside in the TCEP.⁶⁸⁷
798. We accept the opinions and the reasons for them as advanced by both Dr Chiles and Ms Jones in relation to acoustic installation and ventilation and we recommend inclusion of those rules as we have set out below. We think the rules advanced are realistic given the existing noise environment. We also consider these rules are appropriate and are to be preferred having considered the alternatives promoted within submissions.
799. We show our recommended wording as underlined or strikethrough, including renumbering to Rule 12.5.11 and 12.5.12 (notified Rules 12.5.12 and 12.5.13) as follows:

<p>12.5.12 <u>12.5.11</u></p>	<p>Acoustic insulation, other than in the Entertainment Precinct</p> <p><u>Where any new building is erected or a building is modified to accommodate a new activity:</u></p>	<p>RD*</p> <p><u>Discretion is restricted to:</u></p> <p>a. <u>the noise levels that will be received within the critical listening environments, with</u></p>
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⁶⁸¹ Ibid at [9.2].

⁶⁸² Ibid

⁶⁸³ V Jones, Section 42A Report at [12.67].

⁶⁸⁴ Ibid.

⁶⁸⁵ Ibid.

⁶⁸⁶ Ibid.

⁶⁸⁷ Ibid.

	<p>12.5.121.1 A mechanical ventilation system shall be installed for all critical listening environments in accordance with Table 5 in Chapter 36;</p> <p>12.5. 121.2 All elements of the façade of any critical listening environment shall have an airborne sound insulation of at least 40 dB R_w+C_{tr} determined in accordance with ISO 10140 and ISO 717-1.</p> <p>*Discretion is restricted to consideration of all of the following:</p> <ul style="list-style-type: none"> ● the noise levels that will be received within the critical listening environments, with consideration including the nature and scale of the residential or visitor accommodation activity; ● the extent of insulation proposed; and ● whether covenants exist or are being volunteered which limit noise emissions on adjacent sites such that such noise insulation will not be necessary. 	<p><u>consideration including the nature and scale of the residential or visitor accommodation activity;</u></p> <p>b. <u>the extent of insulation proposed; and</u></p> <p>c. <u>whether covenants exist or are being volunteered which limit noise emissions on adjacent sites such that such noise insulation will not be necessary.</u></p>
<p>12.5.13 <u>12.5.12</u></p>	<p>Acoustic insulation within the Entertainment Precinct</p> <p><u>Where any new building is erected or a building is modified to accommodate a new activity:</u></p> <p>12.5. 132.1 A mechanical ventilation system shall be installed for all critical listening environments in accordance with Table 5 in Chapter 36;.</p> <p>12.5. 132.2 All elements of the façade of any critical listening environment shall have an airborne sound insulation of at least 40 dB R_w+C_{tr} determined in accordance with ISO 10140 and ISO 717-1.</p>	<p>NC</p>

7.19. Rule 12.5.14 Glare

800. This Rule, as notified, raised two issues. The first was in relation to limiting effects of glare on the night sky. The reporting officers had recommended deletion of the words “*and so as to limit the effects on the night sky*” because those words were uncertain and would make the standard *ultra vires*. However, they stated, simply excising the words in the phrase would make the standard *intra vires*.

801. During the hearing we asked Mr Winchester to consider whether there was scope within submissions to delete that phrase within any submissions received. In particular, the

submissions of Grant Bisset⁶⁸⁸ and Ros and Dennis Hughes⁶⁸⁹ (Hughes). Ms Scott, in the Legal Submission in Reply, submitted that those submissions did not provide scope to delete the phrase, but they did provide scope to make the zone provisions more measurable and specific.⁶⁹⁰

802. Mr Bisset's submission stated that the night sky was a valuable resource and the ability to clearly view it was an amenity value of the district. The submission also supported the provisions controlling the effects of lighting⁶⁹¹ and stated that "*a greater level of direction is required*" to achieve this.
803. Ms Scott explained that the Hughes similarly submitted that the PDP did not adequately recognise the significance of the night sky, and sought that it be given greater prominence and recognition in the PDP.⁶⁹²
804. We agree that a consistent approach in the Plan should be taken to this phrase.
805. It is apparent that we have two alternatives. Relying upon Ms Scott's analysis that submissions do provide scope to make the provisions more measurable and specific, we could amend the relevant words in Rule 12.5.13.1 to read "*directed downward ... so as to limit effects on views of the night sky*". We think that wording is more certain.
806. The other alternative is to delete the words altogether. Doing so would conclusively address the problem but would leave a vacuum and the rule would not support Policy 12.2.3.6, which is directed at promoting lighting design that mitigates adverse effects on views of the night sky.
807. We prefer amending the wording because we think in this way the rule is made clearer and supports Policy 12.2.3.6. We have carried this recommendation through into our Appendix 1 and set it out below and we have applied this approach to this glare rule in all Stream 8 Chapters.
808. The other issue related to notified Rule 12.5.14.4. This related to reflectance and exterior materials. Several submitters⁶⁹³ opposed this rule and sought that it be deleted. Considering this issue, Ms Jones was of the view that this notified rule was not the most appropriate way of achieving the objectives.⁶⁹⁴ She noted that the QTC was a relatively shady part of the district and consequently glare was not a significant issue.⁶⁹⁵ She also considered that there were no landscape values that needed to be considered and, in her view, allowing a range of colours and materials would add vibrancy and diversity to highly urbanised areas.⁶⁹⁶

⁶⁸⁸ Submission 568.

⁶⁸⁹ Submission 340.

⁶⁹⁰ Legal Submissions in Reply of Ms Scott at [3.5].

⁶⁹¹ in Chapters 6 (Landscape) and 21 (Rural Zone).

⁶⁹² Legal Submissions in Reply of Ms Scott at [3.4].

⁶⁹³ Submissions 398 (opposed by FS1274), 606 (opposed by FS1063) 609 (opposed by FS1063), 614 (supported by FS1200), 616, 617.

⁶⁹⁴ V Jones, Section 42A Report at [13.36].

⁶⁹⁵ Ibid.

⁶⁹⁶ Ibid.

809. Also, in so far as it was necessary, Ms Jones considered Rule 12.4.6.1 provided the Council with control over colour where necessary.⁶⁹⁷ In addition, the guidelines for the SCA considered reflective colours such as cream to be appropriate from a character perspective, which she said, could be in direct conflict with the rule. Finally, she was of the view that there were no objectives or policies that supported this particular glare rule.⁶⁹⁸
810. Ms Jones' recommendation was to remove Rule 12.5.14.4, but to retain the objectives, policies and guidelines as notified in respect of this matter.
811. For all of the reasons she advanced we recommend deletion of Rule 12.5.14.4 and recommend the Council accept the submissions seeking to delete Rule 12.5.14.4 and reject those further submissions in opposition.
812. Real Journeys Limited⁶⁹⁹ requested that this rule be amended to include a standard limiting glare from the Queenstown Bay foreshore so as to avoid interference with the navigational safety of vessels. Ms Black produced evidence and photographs showing light spill over the Queenstown Bay foreshore area in calm water conditions. Ms Jones did not respond to this evidence in her reply.
813. In our view the evidence produced by Ms Black detailed an existing circumstance. It is not possible by amendment to the plan to remedy those existing navigation challenges. While Ms Black did promote additional wording⁷⁰⁰, we do not think that wording is required because the rule as we are recommending it be amended, would require that lighting be directed away from public places. The Queenstown Bay foreshore area is a public place. In that way then, while not specifically addressing the safe operation and navigation of the TSS Earnslaw, the issue of light spill effecting the TSS Earnslaw, would be partially addressed in an indirect way. In any event, perhaps this issue is best dealt with in the transport chapter. We do not recommend any change and recommend rejection of Submission 621.
814. Our recommended wording of Rule 12.5.13 is as follows:

12.5. 14 13	<p>Glare</p> <p>12.5.1413.1 All exterior lighting, other than footpath or pedestrian link amenity lighting, installed on sites or buildings within the zone shall be directed away from adjacent sites, roads and public places and downward so as to limit effects on views of the night sky.</p> <p>12.5.1413.2 No activity in this zone shall result in a greater than 10 lux spill (horizontal or vertical) of light onto any property within the zone, measured at any point inside the boundary of any adjoining property.</p> <p>12.5.1413.3 No activity shall result in a greater than 3 lux spill (horizontal or vertical) of light onto any adjoining</p>	NC
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⁶⁹⁷ Ibid at [13.37].

⁶⁹⁸ Ibid.

⁶⁹⁹ Submission 621

⁷⁰⁰ Suggested wording included in Submission #621 at p 14. "Light from any activity shall not be directed out over the water in Queenstown Bay in such a way that interferes with the safe operation and navigation of the "TSS Earnslaw"."

	<p>property which is zoned High Density Residential measured at any point more than 2m inside the boundary of the adjoining property.</p> <p>12.5.14.4 External building materials shall either:</p> <p style="padding-left: 40px;">a. Be coated in colours which have a reflectance value of between 0 and 36%; or</p> <p style="padding-left: 40px;">b. Consist of unpainted wood (including sealed or stained wood), unpainted stone, unpainted concrete, or copper;</p> <p>Except that: Architectural features, including doors and window frames, may be any colour; and roof colours shall have a reflectance value of between 0 and 20%.</p>	
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7.20. Rule 12.6 Rules - Non-Notification of Applications

815. This section provided for applications for controlled activities to proceed without any written consents and on a non-notified basis. It also provided for certain restricted discretionary activities to proceed on the same basis, and for certain restricted discretionary activities to require limited notification.

816. NZTA⁷⁰¹ requested that Rule 12.6.1 be amended to read:

“Applications for Controlled activities shall not require the written consent of other persons and shall be notified or limited-notified except for 12.6.1.1 visitor accommodation adjacent to the State highway where the road controlling authority shall be deemed an affected party”

817. Regarding the request that NZTA be notified of all visitor accommodation on state highways, Ms Jones was of the view that while it was inappropriate to deem NZTA an affected party in all instances, it was appropriate to remove from the non-notification clause, instances where visitor accommodation proposed access onto the state highway; thus enabling the Council to determine if NZTA was affected on a case by case basis, even in the absence of special circumstances.⁷⁰²

818. Ms Jones considered this was an appropriate exemption given the existing traffic congestion levels in the town centre, including on those portions of the state highway that are located within the zone and the traffic generation/disruption that can result from visitor accommodation.⁷⁰³

819. The only issue with this rule was that it contained a deeming provision that would exempt the road controlling authority from rules precluding notification or limited notification. We raised this issue through questions during the course of the hearing.

820. Ms Scott, in her Reply Submissions, agreed that section 77D does not allow a local authority to make a rule constraining, nor provide an exemption from, non-notification for particular parties.⁷⁰⁴ However, she noted Ms Jones had recommended amending Rule 12.6.1.1 so that the exemption would be framed in terms of vehicle access and egress on to a state highway.

⁷⁰¹ Submission 719

⁷⁰² V Jones, Section 42A Report at [18.5e].

⁷⁰³ Ibid.

⁷⁰⁴ Legal Submissions in Reply of Ms Scott at [3.10].

She submitted that this would be *intra vires* because it specified an activity rather than a party.⁷⁰⁵ With the addition of the word vehicle, he said, this recommendation would be consistent with what was recommended in the Reply version of the rule.⁷⁰⁶

821. We agree and recommend the change to renumbered Rule 12.6.1.1 as we have set out below.
822. Foodstuffs⁷⁰⁷ supported notified Rule 12.6.2, stating that removing the need to affected party approvals and notification for new buildings in the QTCZ would streamline decision-making process, minimise consenting risk and reduce processing costs/delays.
823. Christine Byrch⁷⁰⁸ sought that Rule 12.6.2.2 be amended to reflect that a breach of the building coverage rule in relation to large developments in the TCTSZ, and comprehensive development of sites 1800m² or more, should be notified.
824. Kopuwai Investments Limited⁷⁰⁹ sought that Rule 12.6.2 be amended to also list licenced premises and the sale and supply of alcohol within the Steamer Wharf entertainment precinct as being non-notified.
825. In response to those submissions, Ms Jones supported the non-notification clause for new buildings on the basis that it provided greater efficiencies and certainty in respect of timeframes and costs, and provided an appropriate counterbalance to the fact the activity status has changed from controlled in the ODP to restricted discretionary in the PDP.⁷¹⁰
826. Further, Ms Jones stated that, as a consequence of changing the status of licenced premises after 11:00pm (6:00pm) to controlled, such applications would not be notified unless special circumstances existed, pursuant to Rule 12.6.1.⁷¹¹
827. Ms Jones concluded, and we agree, that it is inappropriate and unnecessary to have a rule stating that certain activities will always be publicly notified⁷¹² (as requested in respect of developments that breach the building coverage rule or subject to limited notification).
828. In respect of whether a breach in building coverage should be non-notified by default, on the basis of efficiency and certainty and in order to be consistent with the approach taken for the Plan Change 50 area, Ms Jones was of the view that the clause regarding non-notification for such breaches should be retained.⁷¹³ We agree with her.
829. The final change we recommend is a clarification change by including the word height before Precinct 1 and Precinct 1A as it appears in standard 12.6.3.1.
830. Our recommended wording for rule 12.6 is:

⁷⁰⁵ Ibid at [3.11].

⁷⁰⁶ Ibid at [3.11].

⁷⁰⁷ Submissions 650 and 673

⁷⁰⁸ Submission 243, opposed by FS1224

⁷⁰⁹ Submission 714

⁷¹⁰ V Jones, Section 42A Report at [18.5a].

⁷¹¹ Ibid at [18.5b].

⁷¹² Ibid at [18.5c].

⁷¹³ Ibid at [18.5d].

- “12.6.1 Applications for Controlled activities shall not require the written approval of other persons and shall not be notified or limited-notified, except:
12.6.1.1 Where visitor accommodation includes a proposal for vehicle access directly onto a State Highway.*
- 12.6.2 The following Restricted Discretionary activities shall not require the written approval of other persons and shall not be notified or limited-notified:*
- 12.6.2.1 Buildings.*
- 12.6.2.2 Building coverage in the Town Centre Transition Sub-Zone and comprehensive developments.*
- 12.6.2.3 Waste and recycling storage space.*
- 12.6.3 The following Restricted Discretionary activities will not be publicly notified but notice will be served on those persons considered to be adversely affected if those persons have not given their written approval:*
- 12.6.3.1 Discretionary building height in Height Precinct 1 and Height Precinct 1(A).”*

7.21. Further Recommendations of the Panel

831. We have included this section in order to identify matters that we think warrant consideration but are out of scope.
832. Ms Jones considered possible amendments to provisions that would be desirable, either from an effectiveness and efficiency point of view or in order to achieve consistency between the QTCZ and other zones.
833. In particular, Ms Jones referred to Dr Chiles’ view in the Residential hearing⁷¹⁴ that he did not support the use of no complaints covenants as a tool for managing noise issues as they did not, in his view, address the noise effects other than potentially providing some forewarning for people purchasing a property. While there were no submissions in relation to this matter, it was Ms Jones’ preference, based on Dr Chiles’ view, and in respect of her own experience with such covenants, that this matter of discretion within renumbered Rule 12.5.11.2 be removed. We agree.
834. We recommend the Council consider a variation to make such a change.
835. We recommend the Council review Rule 12.5.1 where the rule drafting confuses activities and standards in such a way as to make avoidance of the intent of the rule a probable outcome. We have explained this in detail above in Section 8.1 under the heading Minor Amendments.

7.22. Recommendation to Stream 10 Hearings Panel

836. There are three definitions recommended for inclusion in Chapter 2. These are:
- a. Comprehensive development;
 - b. Landmark building;
 - c. Sense of place.

⁷¹⁴ 10 October 2016

837. These definitions and our reasoning for including them in the PDP are set out in Section 6 above. We have listed the recommended definitions in Appendix 8.
838. We recommend that the Stream 10 Hearings Panel:
- a. Include the recommended definitions as set out in Appendix 8 in Chapter 2 for the reasons we have provided in Section 6 above; and
 - b. Recommend that the relevant submissions be accepted, accepted in part, or rejected as set out in Appendix 9.

7.23. Recommendation to Stream 5 Hearings Panel

839. As noted earlier, Ms Jones identified a conflict between Rules 12.5.11.3 and 12.5.11.4 and Rule 36.3.2.9. She explained that Rules 12.5.11.3 and 12.5.11.4 did not require noise from music or voices to meet residential noise levels on the boundary of that zone, yet reply Rule 36.3.2.9 stated that:

The noise standards in this chapter still apply to noise generated within the Town Centre zones but received in other zones.

840. In order to amend this inconsistency, Ms Jones recommended amending the notified purpose within Chapter 36 at 36.1 and amending reply Rule 36.3.2.9.⁷¹⁵ Some of the changes to purpose at 36.1 were promoted as non-substantive and we agree with both the amendment and the basis of that amendment.
841. Ms Jones identified the submissions⁷¹⁶ relied on to provide scope for her recommended changes to the notified Section 36.1 and also to Rule 36.3.2.9.⁷¹⁷ We agree with her changes and recommend to the Stream 5 Hearing Panel that those amendments be made. We have included those changes within our Appendix 8.
842. Consequently, with regard to the Zone Purpose in Section 36.1 and reply Rule 36.3.2.9 as discussed above, we recommend that the Stream 5 Hearings Panel
- a. Accept the recommended provisions as set out in Appendix 8 and
 - b. The submissions be accepted, accepted in part, or rejected as set out in Appendix 9.

8. CONCLUSION

843. For the reasons advanced through this part of the report, we conclude that the recommended amendments support the zone purpose and enable the objectives of the chapter to be achieved and are more effective and efficient than the notified chapter and further changes sought by submitters that we recommend rejecting.
844. We consider that the amendments will improve the clarity and consistency of the Plan; contribute towards achieving the objectives of the District Plan and Strategic Direction goals in an effective and efficient manner and give effect to the purpose and principles of the RMA.
845. Consequently, we recommend that:
- a. Chapter 12 be adopted as set out in Appendix 1; and
 - b. The submissions be accepted, accepted in part, or rejected as set out in Appendix 7.

⁷¹⁵ Ibid.

⁷¹⁶ Submissions 151, 503, 506, 654, 302, 474, 217.

⁷¹⁷ V Jones, Section 42A Report at [12.52].

21 RURAL



21.1 Zone Purpose

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

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

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

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

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

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

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

21.2 Objectives and Policies

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21.3

Other Provisions and Rules

21.3.1 District Wide

Attention is drawn to the following District Wide chapters.

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

21.3.2 Interpreting and Applying the Rules

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

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

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

21.3.3 Advice Notes

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

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

Table 1 – Activities Generally

Table 2 – Standards Applying Generally in the Zone

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

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

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

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

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

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

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

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

Table 11 – Standards for Rural Industrial Sub-Zone

Table 12– Activities on the Surface of Lakes and Rivers

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

Table 14 – Closeburn Station Activities

Table 15 – Closeburn Station: Standards for Buildings and Structures

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

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

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

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

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

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

21.6

Rule - Standards for Farm Activities

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

21.7

Rules - Standards for Buildings

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

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

21.8

Rules - Standards for Farm Buildings

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

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

21.9 Rules - Standards for Commercial Activities

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

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

21.10 Rules - Standards for Informal Airports

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

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

21.11 Rules - Standards for Mining

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

21.12 Rules - Ski Area and Sub-Zone

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

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

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

21.13 Rules - Activities in Rural Industrial Sub-Zone

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

21.14

Rules - Standards for Activities within Rural Industrial Sub-Zone

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

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

21.15 Rules - Activities on the Surface of Lakes and Rivers

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

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

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

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

21.16 Rules - Standards for Surface of Lakes and Rivers

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

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

21.17

Rules - Closeburn Station Activities

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

21.18

Rules - Closeburn Station Standards

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

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

21.19

21.20

Rules Non-Notification of Applications

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

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

21.21

Assessment Matters (Landscape)

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

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

- 21.21.1.1 In applying the assessment matters, the Council will work from the presumption that in or on Outstanding Natural Features and Landscapes, the applicable activities are inappropriate in almost all locations and that successful applications will be exceptional cases where the landscape or feature can absorb the change and where the buildings and structures and associated roading and boundary changes are reasonably difficult to see from beyond the boundary of the site the subject of application.

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

- 21.21.1.3 Effects on landscape quality and character

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

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

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

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

21.21.1.4 Effects on visual amenity

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

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

21.21.1.5 Design and density of Development

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

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

21.21.1.6 Cumulative effects of subdivision and development on the landscape

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

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

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

21.21.2 Rural Character Landscape (RCL)

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

21.21.2.1 Existing vegetation that:

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

21.21.2.2 Effects on landscape quality and character:

The following shall be taken into account:

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

21.21.2.3 Effects on visual amenity:

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

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

21.21.2.4 Design and density of development:

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

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

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

21.21.2.5 Tangata Whenua, biodiversity and geological values:

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

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

21.21.2.6 Cumulative effects of development on the landscape:

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

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

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

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

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

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report 4A

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

Commissioners

Denis Nugent (Chair)

Brad Coombs

Mark St Clair

PART B: CHAPTER 21 – RURAL

2 PRELIMINARY

2.1 Over-arching Submissions and Structure of the Chapter

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

2.2 Farming and other Activities relying on the Rural Resource

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

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

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

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

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

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

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

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

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

¹¹³ C Barr, Reply, Page 2, Para 2.2

¹¹⁴ E.g. Submissions 607, 621, 806

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

¹¹⁶ F Black, Evidence, Page 5 , Para 3.17

¹¹⁷ Submission 145

¹¹⁸ J Haworth, Evidence, Page 5, Para 1

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

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

¹¹⁹ D Lucas, Evidence, Pages 5-11

¹²⁰ Submission 600

¹²¹ D Cooper, Evidence, Paras 31-33

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

¹²³ C Barr, Reply, Page 9, Para 4.3

¹²⁴ Recommendation Report 3, Section 2.3

¹²⁵ Recommendation Report 3, Section 8.5

¹²⁶ Recommendation Report 3, Section 3.19

¹²⁷ Recommended Strategic Policy 3.3.20

¹²⁸ J Hadley, Evidence, Pages 2 -3

2.3 Rural Zone to Provide for Rural Living

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

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

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

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

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

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

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

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

¹³⁰ W Goldsmith, Legal Submissions, Pages 3 - 4

¹³¹ J Brown, Evidence, Dated 21 April 2016

¹³² B Farrell, Evidence, Dated 21 April 2016

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

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

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

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

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

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

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

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

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

2.4 A Separate Water Chapter

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

¹³⁸ Submission 621

¹³⁹ Submission 607

¹⁴⁰ B Farrell, Evidence, Pages 10-11

¹⁴¹ C Barr, Reply, Page 4

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

2.5 New Provisions – Wanaka Airport

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

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

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

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

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

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

¹⁴² Submission 433

¹⁴³ Submission 433

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

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

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

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

¹⁴⁶ Submission 433, Annexure 3

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

¹⁴⁸ K O’Sullivan, Supplementary evidence, Appendix C

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

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

3 SECTION 21.1 – ZONE PURPOSE

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

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

¹⁵⁰ Submission 433

¹⁵¹ Submission 805

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

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

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

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

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

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

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

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

4 SECTION 21.2 – OBJECTIVES AND POLICIES

4.1 Objective 21.2.1

99. Objective 21.2.1 as notified read as follows:

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

¹⁵⁵ Submission 706

¹⁵⁶ Submission 519

¹⁵⁷ C Vivian, Evidence, Page 11, Para 4.28

¹⁵⁸ C Barr, Reply Statement, Appendix 1

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

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

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

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

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

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

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

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

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

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

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

¹⁶² Submission 608

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

¹⁶⁴ L Taylor, Evidence, Appendix A, Page 1

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

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

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

4.2 Policy 21.2.1.1

108. Policy 21.2.1.1 as notified read as follows:

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

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

¹⁶⁵ J Brown, Evidence , Page 2, Para 1.9

¹⁶⁶ Recommendation Report 3, Section 1.9

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

¹⁶⁸ Submissions 356, 608

¹⁶⁹ Submissions 701, 784

¹⁷⁰ Submissions 621, 624

¹⁷¹ B Farrell, Evidence, Page 15, Para 48

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

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

4.3 Policy 21.2.1.2

113. Policy 21.2.1.2 as notified read as follows:

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

114. Submissions to this policy variously sought;

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

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

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

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

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

¹⁷² Submission 356, 437, 621, 624

¹⁷³ Submission 806

¹⁷⁴ Submission 356, 621

¹⁷⁵ Submission 145

¹⁷⁶ J Brown, Evidence, Para 2.11 – 2.12

¹⁷⁷ B Farrell, Evidence, Para 51

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

¹⁷⁹ D Cooper, Evidence, Paras 25-26

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

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

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

4.4 Policies 21.2.1.3 – 21.2.1.8

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

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

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

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

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

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

¹⁸⁰ C Barr, Reply, Page 17, Para 5.12

¹⁸¹ Submission 265

¹⁸² Submission 285 and 626

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

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

123. Submissions to these policies variously sought;

Policies

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

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

21.2.1.5 retain the policy¹⁸⁹;

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

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

21.2.1.8 include provision for public transport¹⁹⁵.

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

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

184 Submissions 356, 806

185 Submissions 600, 719

186 Submissions 356, 437

187 Submission 600

188 Submission 806

189 Submission 600

190 Submissions 356, 437

191 Submissions 356, 600, 719

192 Submissions 339, 706

193 Submission 806

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

195 Submission 798

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

197 L Taylor, Evidence, Page 4, Para 5.4

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

199 Section 4

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

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

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

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

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

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

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

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

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

4.5 Objective 21.2.2

132. As notified, Objective 21.2.2 read as follows:

²⁰⁰ Recommendation Report 3, Section 2.3

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

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

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

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

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

“Sustain the life supporting capacity of soils”

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

“The life supporting capacity of soils is sustained.”

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

4.6 Policies 21.2.2.1 – 21.2.2.3

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

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

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

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

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

²⁰⁶ Submissions 289, 325, 356

²⁰⁷ Council Memoranda dated 13 April 2016

²⁰⁸ Submission 806

²⁰⁹ Submissions 600, 806

²¹⁰ Submissions 643, 693, 702

²¹¹ Submission 356

²¹² Submission 600

²¹³ C Barr, Section 42A Report, Appendix 1

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

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

4.7 Objective 21.2.3

140. As notified, Objective 21.2.3 read as follows:

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

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

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

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

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

4.8 Policy 21.2.3.1

144. As notified, Policy 21.2.3.1 read as follows:

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

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

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

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

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

²¹⁴ Submissions 289, 356, 600

²¹⁵ Submissions 339, 706

²¹⁶ Council Memoranda dated 13 April 2016

²¹⁷ Submission 590

²¹⁸ Submission 339, 706, 755,

²¹⁹ Submissions 600, 791, 794

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

4.9 New Policy on Wetlands

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

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

4.10 Objective 21.2.4

150. As notified, Objective 21.2.4 read as follows:

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

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

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

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

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

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

154. In evidence for Transpower, Ms Craw²²⁷

²²⁰ Submission 706

²²¹ Submission 336

²²² S Maturin, Evidence, Page 10, Para 62

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

²²⁴ Submission 805

²²⁵ Submission 380

²²⁶ Council Memoranda dated 13 April 2016

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

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

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

Reverse sensitivity effects are managed.

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

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

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

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

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

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

4.11 Policies 21.2.4.1 – 21.2.4.2

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

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

²²⁸ J Brown, Evidence, Page 12, Para 2.17

²²⁹ Submission 806 (Queenstown Park Ltd)

²³⁰ C Barr, Reply, Appendix 2, Page 2

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

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

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

²³² Submissions 693, 702, 806,

²³³ Submission 806

²³⁴ Submissions 621, 624

²³⁵ Submissions 519, 598

²³⁶ C Barr, Section 42A Report, Appendix 1

²³⁷ C Vivian, EiC, paragraphs 4.30 – 4.37

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

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

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

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

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

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

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

4.12 Definitions Relevant to Mining Objective and Policies

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

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

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

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

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

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

²³⁹ Submission 519

²⁴⁰ C Barr, Reply, Page 37, Para 13.2

²⁴¹ Submission 519, opposed by FS1040 and FS1356

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

Mining

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

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

²⁴³ C Vivian, Evidence, Page 10, Para 4.21

²⁴⁴ Submission 519, opposed by FS1040 and FS1356

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

183. Mr Barr did not address this submission point directly in the Section 42A Report or in reply. Mr Vivian, again for NZTM, considered it important to include such a definition for reasons of consistency with the CMA, and that while all the aspects of the definition were not necessarily applicable to the District (he acknowledged gas storage as being in this category), it was not unusual to have definitions describing an industry/use as well as an activity in a District Plan.²⁴⁵

184. While we do not see any value in referring to underground gas storage facilities when there is no evidence of that being a potential activity undertaken in the district we think that there is value in having a separate definition of mining as otherwise suggested. Among other things, that assists distinction being drawn between mining, exploration and prospecting.

185. In conclusion, we recommend to the Stream 10 Hearing Panel that the definitions pertaining to mining read as follows;

Mining

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

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

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

Mineral Exploration

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

Mineral Prospecting

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

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

4.13 Objective 21.2.5

186. As notified Objective 21.2.5 read as follows:

²⁴⁵ C Vivian, Evidence, Page 10, Para 4.17

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

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

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

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

4.14 Policies 21.2.5.1 – 21.2.5.4

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

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

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

194. The submissions to these policies variously sought:

Policies

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

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

²⁵⁶ Submissions 519, 598

²⁵⁷ Submission 598

²⁵⁸ Submission 519

²⁵⁹ Submission 798

²⁶⁰ Submissions 339, 706

²⁶¹ Submissions 519, 598

²⁶² Section 42A Report, Page 105, Para 21.4

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

²⁶⁴ C Vivian, Evidence, Page 14, Para 4.48

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

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

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

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

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

199. Mr Vivian also suggested that:

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

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

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

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

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

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

²⁶⁶ Submission 5

²⁶⁷ C Vivian, Evidence, Page 18, Para 4.75

²⁶⁸ Section 42A Report, Page 2, Appendix 4

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

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

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

4.15 New Mining Objectives and Policies

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

Objective

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

Policies

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

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

²⁷⁰ Submission 519, opposed by FS1040 and FS1356

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

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

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

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

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

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

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

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

²⁷² Section 42A Report, Page 105, Para 21.4

²⁷³ C Vivian, Evidence Page 15, Para 4.53

²⁷⁴ G Gary, Evidence, Page 6-9

²⁷⁵ proposed RPS, Objective 5.3, Policy 5.3.5

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

212. Mr Barr and Mr Vivian agreed also that the policies sought by NZTM listed as (b) and (c) above were respectively inappropriate and unnecessary and already addressed under Objective 21.2.5. We agree. We also agree with Mr Vivian that policy (f) above (in relation to restoration) is already addressed under Policy 21.2.5.3 and is therefore unnecessary. Similarly, policy (h) above duplicates Policy 21.2.5.2 and is again unnecessary. We therefore recommend that those parts of the submission be rejected.

213. In the Section 42A Report, Mr Barr was of the view that a policy specifically on mining buildings (policy (a) above) was not appropriate and overstated the importance of mining buildings in the context of the resources that require management. Mr Barr went on to opine that the mining buildings should have the same controls as other non-farming buildings.²⁷⁷ In addition to this policy, NZTM also sought the inclusion of a definition for mining building apparently to avoid the need to meet the height requirements applying to other buildings. Mr Barr also recommended that this submission be rejected. Mr Barr's explained his position as follows:

*It is my preference that this request is rejected because mining is a discretionary activity, therefore creating a disjunction between removing standards for all buildings and mining buildings. In addition, the locational constraints emphasised by NZTM are likely to mean that these buildings are located in within the ONL or ONF. Therefore, I recommend that mining buildings are not provided any exemptions.*²⁷⁸

214. Mr Vivian had a contrary view, that traditional rural activities including mining were expected elements of the rural landscape and did not offend landscape character. Mr Vivian went on;

*This proposition is supported by the inclusion of Rule 21.4.30(d) which permits the mining of aggregate for farming activities provide [sic] the total volume does not exceed 1000 m³ in any one year. As such, mining buildings necessary for the undertaking of mining activities do not have the same issues associated with them as other buildings, such as residential, visitor accommodation or commercial activities.*²⁷⁹

215. We do not follow Mr Vivian's reasoning. Mr Vivian sought to leverage off the limited provision for aggregate extraction in the permitted activity rules, but provided no evidence as to the nature and extent of mining buildings that would accompany such an aggregate extraction operation (if any) compared to the range of buildings that might accompany a large scale mining operation. Nor is it apparent to us that the historic evidence of mining is necessarily representative of the structures that would be required for a new mine. Mr Gray gave evidence that an underground tungsten mining operation would have minimal above ground impact, but it was not clear to us that this would be the case for all mining operations, and if it were, that it would remove the need for special recognition of "mining buildings".

216. We share the concerns of Mr Barr that NZTM's proposal could lead to large mining related buildings being potentially located in ONLs/ONFs and that it is more effective to manage the effects of mining buildings within the framework for mining activities as discretionary activities. Hence, we recommend that the request for a definition and policy on mining buildings be rejected.

217. In relation to the proposed policy (e) above (*Manage any waste heaps or long term stockpiles to ensure that they are compatible with the forms in the landscape*), Mr Vivian considered this

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

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

²⁷⁹ C Vivian, Evidence, Page 11, Para 4.24

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

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

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

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

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

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

4.16 Definitions Relevant to Ski Activity Objectives and Policies

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

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

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

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

²⁸⁰ C Vivian, Evidence, Page 16, Para 4.67

²⁸¹ Recommendation Report 3, Section 8.6

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

²⁸³ C Barr, Reply, Page 37, Para 13.4

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

²⁸⁴ Submission 610

²⁸⁵ Submission 613

²⁸⁶ Submission 407

²⁸⁷ Submission 615

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

²⁸⁹ J Brown, Evidence, Page 22, Para 2.37

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

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

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

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

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

²⁹³ C Ferguson, Evidence, Page 26, Para 104

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

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

²⁹⁶ Submission 610

²⁹⁷ Submission 613

²⁹⁸ Submission 407

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

³⁰⁰ C Ferguson, Evidence, Page 28, Para 109

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

Passenger Lift Systems

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

Ski Area Activities

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

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

4.17 Objective 21.2.6

234. As notified, Objective 21.2.6 read as follows:

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

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

³⁰¹ Submissions 610, 613

³⁰² Submission 243

³⁰³ Submission 407

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

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

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

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

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

21.2.6 Objective

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

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

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

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

³⁰⁴ Submission 806

³⁰⁵ Council Memorandum dated 13 April 2016

³⁰⁶ C Barr, Section 42A Report, Page 54, Para 14.6

³⁰⁷ C Barr, Section 42A Report, Page 58, Para 14.22

³⁰⁸ J Brown, Evidence, Page 19, Para 2.30

³⁰⁹ J Brown, Evidence, Page 21, Para 2.31 (a)

³¹⁰ J Brown, Evidence, Page 21, Para 2.31 (c) – 2.33

³¹¹ C Barr, Reply, Page 38, Para 14.2

³¹² J Brown, Evidence, Page 22, Para 2.30

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

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

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

4.18 Policies 21.2.6.1 – 21.2.6.3

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

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

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

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

244. The submissions to these policies variously sought:

Policies

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

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

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

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

³¹³ Submissions 610, 613

³¹⁴ Submission 615

³¹⁵ Submission 610, 613

³¹⁶ Submission 621

³¹⁷ Submission 615

³¹⁸ Submission 376

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

³²⁰ B Farrell, Evidence, Page 17, Para 56

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

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

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

4.19 New Ski Area Objectives and Policies

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

Objective

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

Policies

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

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

252. CARL³²⁵ sought an additional policy as follows;

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

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

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

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

³²³ Submission 608

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

³²⁵ Submission 615

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

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

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

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

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

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

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

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

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

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

³²⁷ Submission 610

³²⁸ Submission 613

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

³³⁰ C Barr, Reply, Page 38, Para 14.2

³³¹ Submission 610

³³² Submission 613

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

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

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

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

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

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

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

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

Ski Area Sub Zone Accommodation

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

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

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

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

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

Ski Area Sub Zone Accommodation

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

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

³³⁹ C Barr, Reply, Page 40 , Para 14.11

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

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

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

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

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

4.20 Objective 21.2.7

266. As notified Objective 21.2.7 read as follows:

Objective

Separate activities sensitive to aircraft noise from existing airports through:

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

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

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

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

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

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

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

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

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

³⁴¹ Submissions 271, 649

³⁴² Submission 433

³⁴³ Council Memorandum dated 13 April 2016

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

³⁴⁵ C Barr, Reply, Page 24, Para 8.3

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

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

4.21 Policies 21.2.7.1 – 21.2.7.4

271. As notified Policy 21.2.7.1 read as follows:

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

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

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

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

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

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

276. As notified, Policy 21.2.7.2 read as follows:

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

³⁴⁶ Submission 443

³⁴⁷ Submission 806

³⁴⁸ Submission 385

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

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

4.22 Objective 21.2.8

282. As notified, Objective 21.2.8 read as follows:

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

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

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

³⁵⁰ Submission 806

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

³⁵² Submission 806

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

³⁵⁴ Submission 339, 380, 706

³⁵⁵ Submissions 356, 806

³⁵⁶ Submissions 636, 643, 688, 693, 702

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

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

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

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

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

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

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

4.23 Policies 21.2.8.1 – 21.2.8.2

288. As notified Policy 21.2.8.1 read as follows:

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

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

³⁵⁸ Submission 356

³⁵⁹ Council Memorandum dated 13 April 2016

³⁶⁰ L Taylor, Evidence, Appendix A, Page 5

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

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

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

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

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

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

294. As notified Policy 21.2.8.2 read as follows;

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

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

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

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

³⁶¹ Submission 335

³⁶² Submissions 433, 806

³⁶³ Submissions 339, 706

³⁶⁴ Submission 810

³⁶⁵ Submissions 513, 515, 522, 531, 537

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

³⁶⁷ B Farrell, Evidence, Page 17, Para 61

³⁶⁸ Submission 806

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

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

4.24 Objective 21.2.9

297. As notified, Objective 21.2.9 read as follows;

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

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

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

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

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

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

³⁶⁹ Submissions 217, 600

³⁷⁰ Submissions 248, 621, 624

³⁷¹ Submissions 339, 706

³⁷² Submission 810

³⁷³ Submission 624

³⁷⁴ Submission 608

³⁷⁵ Submission 248

³⁷⁶ Submission 248

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

4.25 Policy 21.2.9.1

302. Policy 21.2.9.1 as notified read as follows:

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

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

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

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

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

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

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

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

4.26 Policy 21.2.9.2

309. Policy 21.2.9.2 as notified read as follows;

³⁷⁷ Submission 806

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

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

³⁸⁰ Report 3, Section 1.6

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

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

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

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

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

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

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

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

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

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

³⁸² Submissions 621, 624

³⁸³ Submission 706

³⁸⁴ Submission 806

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

³⁸⁶ B Farrell, Evidence, Page 18, Para 68

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

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

4.27 Policy 21.2.9.3

317. Policy 21.2.9.3 as notified read as follows;

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

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

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

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

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

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

4.28 Policy 21.2.9.4

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

4.29 Policy 21.2.9.5

323. Policy 21.2.9.5 as notified read as follows:

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

³⁸⁸ Submissions 339, 706

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

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

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

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

4.30 Policy 21.2.9.6

327. Policy 21.2.9.6 as notified read as follows;

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

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

³⁹¹ Submission 806

³⁹² Submission 600

³⁹³ J Brown, Evidence, Page8, Para 2.13

³⁹⁴ Submission 719

³⁹⁵ Submissions 621, 624

³⁹⁶ Submission 806

³⁹⁷ B Farrell, Evidence, Page 19, Para 72

³⁹⁸ J Brown, Evidence, Page8, Para 2.13

4.31 Objective 21.2.10

334. As notified, Objective 21.2.10 read as follows;

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

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

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

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

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

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

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

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

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

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

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

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

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

⁴⁰³ Council Memorandum dated 13 April 2016

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

4.32 Policy 21.2.10.1

341. Policy 21.2.10.1 as notified read as follows;

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

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

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

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

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

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

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

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

⁴⁰⁴ Submissions 598, 600

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

⁴⁰⁶ Submission 608

⁴⁰⁷ Submission 608

⁴⁰⁸ C Ferguson, Evidence, Page 73

4.33 Policy 21.2.10.2

347. Policy 21.2.10.2 as notified read as follows;

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

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

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

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

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

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

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

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

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

⁴⁰⁹ Submissions 430, 598

⁴¹⁰ Submissions 339, 706

⁴¹¹ Submission 810

⁴¹² Submission 608

⁴¹³ Submission 356

⁴¹⁴ Submissions 621, 624

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

⁴¹⁶ B Farrell, Evidence, Page 19, Para 76

⁴¹⁷ C Ferguson, Evidence, Page 13, Para 58

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

4.34 Policy 21.2.10.3

357. Policy 21.2.10.3 as notified read as follows:

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

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

⁴¹⁸ Submissions 430, 600

⁴¹⁹ Submissions 339, 706

⁴²⁰ Submission 608, 621, 624

⁴²¹ Submission 624

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

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

⁴²⁴ B Farrell, Evidence, Page 20, Para 80

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

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

4.35 Objective 21.2.11

365. As notified, Objective 21.2.11 read as follows;

Manage the location, scale and intensity of informal airports.

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

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

⁴²⁶ Submission 607

⁴²⁷ Submission 217

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

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

⁴³⁰ Council Memoranda dated 13 April 2016

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

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

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

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

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

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

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

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

4.36 Policy 21.2.11.1

375. Policy 21.2.11.1 as notified read as follows:

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

⁴³¹ Submission 571

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

⁴³³ Submission 607

⁴³⁴ C Barr, Evidence, Page 24, Para 110

⁴³⁵ C Barr, Reply, Page 28, Para 9.19

⁴³⁶ C Barr, Reply, Page 27, Para 9.14

⁴³⁷ C Barr, Reply, Page 5, Appendix 2

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

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

⁴³⁹ Submission 122

⁴⁴⁰ Submission 607

⁴⁴¹ Submission 385

⁴⁴² Submissions 285, 288

⁴⁴³ Submission 122

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

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

⁴⁴⁶ C Barr, Reply, Page 29, 9.20

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

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

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

4.37 Policy 21.2.11.2

385. Policy 21.2.11.2 as notified read as follows:

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

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

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

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

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

4.38 Additional Policy – Informal Airports

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

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

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

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

⁴⁴⁸ Submission 285, 288, 385, 607

⁴⁴⁹ C Barr, Reply, Appendix 1

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

⁴⁵¹ Mr Tapper and Mr Carlton

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

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

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

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

4.39 New Objective and Policies – Informal Airports

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

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

4.40 Objective 21.2.12

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

397. As notified, Objective 21.2.12 read as follows:

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

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

⁴⁵² Submissions 660, 662

⁴⁵³ Submission 356, 600, 758

⁴⁵⁴ Submission 339, 706

⁴⁵⁵ Submission 307

⁴⁵⁶ Submission 621

⁴⁵⁷ Submission 766

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

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

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

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

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

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

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

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

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

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

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

⁴⁵⁸ Submission 621

⁴⁵⁹ Submissions 766, 806

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

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

⁴⁶² Council Memoranda dated 13 April 2016

⁴⁶³ B Farrell, Evidence, Page 20, Para 84

⁴⁶⁴ Submissions 307, 766, 806,

⁴⁶⁵ J Brown, Evidence, Page 14, Para 2.24

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

⁴⁶⁷ C Barr, Reply, Page 30, Para 10.1

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

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

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

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

4.41 Policy 21.2.12.1

408. Policy 21.2.12.1 as notified read as follows;

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

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

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

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

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

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

⁴⁶⁸ Refer Recommended policy 6.3.33

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

⁴⁷⁰ Submission 810

⁴⁷¹ Refer Recommended objective 3.2.7.1 and the related policies

⁴⁷² Refer Recommended objective 5.4.5 and the related policies

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

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

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

4.42 Policy 21.2.12.2

415. Policy 21.2.12.2 as notified read as follows:

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

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

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

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

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

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

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

⁴⁷³ Submission 766

⁴⁷⁴ Submission 621

⁴⁷⁵ Submission 806

⁴⁷⁶ J Brown, Evidence, Page 14, Para 2.24

⁴⁷⁷ B Farrell, Evidence, Page 21 Para 88

4.43 Policy 21.2.12.3

422. Policy 21.2.12.3 as notified read as follows;

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

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

478 Submissions 243, 649

479 Submissions 766, 806

480 Submission 621

481 Submission 766

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

483 J Brown, Evidence, Page 14, Para 2.24

484 J Brown, Evidence, Page 15, Para 2.24

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

486 Section 74(4) of the Act

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

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

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

4.44 Policy 21.2.12.4

433. Policy 21.2.12.4 as notified read as follows;

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

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

⁴⁸⁷ Submissions 766, 806

⁴⁸⁸ Submissions 339, 706

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

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

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

4.45 Policy 21.2.12.5

440. Policy 21.2.12.5 as notified read as follows;

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

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

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

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

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

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

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

⁴⁹² Submissions 339, 706

⁴⁹³ Submissions 766, 806

⁴⁹⁴ Submission 621

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

⁴⁹⁵ S Maturin, Evidence, Page 10, Para 62

⁴⁹⁶ D Lucas, Evidence Page 9, Para 38

⁴⁹⁷ J Brown, Evidence, Page 14, Para 2.24

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

⁴⁹⁹ C Barr, Reply, Appendix 2, Page 5

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

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

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

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

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

4.46 Policy 21.2.12.6

457. Policy 21.2.12.6 as notified read as follows;

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

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

⁵⁰² Submissions 766, 806

⁵⁰³ Submission 194

⁵⁰⁴ Submission 301

4.47 Policy 21.2.12.7

461. Policy 21.2.12.7 as notified read as follows;

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

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

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

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

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

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

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

4.48 Policy 21.2.12.8

467. Policy 21.2.12.8 as notified read as follows;

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

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

⁵⁰⁵ Submissions 766, 806

⁵⁰⁶ Submission 519, 766, 806

⁵⁰⁷ C Vivian, Evidence, Page 19, Para 4.84

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

⁵⁰⁹ Submission 194

⁵¹⁰ Submissions 766, 806

⁵¹¹ Submission 621

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

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

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

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

⁵¹⁵ B Farrell, Evidence, Page 23, Para 101

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

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

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

4.49 Policy 21.2.12.9

476. Policy 21.2.12.9 as notified read as follows;

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

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

4.50 Policy 21.2.12.10

482. Policy 21.2.12.10 as notified read as follows:

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

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

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

⁵¹⁸ Submission 621

⁵¹⁹ Submissions 806

⁵²⁰ Submission 806

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

⁵²² B Farrell, Evidence, Page 23, Para 103

⁵²³ J Brown, Evidence, Page 15, Para 2.24

⁵²⁴ Submission 621

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

4.51 Objective 21.2.13

491. As notified, Objective 21.2.13 read as follows;

⁵²⁵ Submission 806

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

⁵²⁷ J Brown, Evidence, Page 15, Para 2.24

⁵²⁸ B Farrell, Evidence, Page 23, Para 106

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

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

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

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

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

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

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

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

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

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

4.52 Policies 21.2.13.1 – 21.2.13.2

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

⁵²⁹ Submission 217

⁵³⁰ Submission 806

⁵³¹ Submission 805

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

⁵³³ Council Memoranda dated 13 April 2016

⁵³⁴ A Craw, Evidence, Page 5, Para 26

4.53 New Policy – Commercial Operations Close to Trails

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

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

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

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

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

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

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

4.54 New Objective and Policies – Commercial Recreation Activities

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

Objective

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

Policy

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

Policy

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

⁵³⁵ Submission 671

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

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

⁵³⁸ Submission 122

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

Objective

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

Policy

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

Policy

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

Policy

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

Policy

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

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

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

⁵⁴⁰ Submission 571

⁵⁴¹ Submission 574

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

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

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

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

2.2.10 Objective

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

Policies

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

4.55 New Objective and Policies – Community Activities and Facilities

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

⁵⁴⁴ C Barr, Reply, Page 34, Para 12.1

⁵⁴⁵ Submission 524

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

4.56 New Objective and Policies - Lighting

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

5 21.3 OTHER PROVISIONS AND RULES

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

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

⁵⁴⁷ Submissions 568

⁵⁴⁸ C Barr, Sub

⁵⁴⁹ Submission 805

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

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

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

⁵⁵² Submission 806

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

⁵⁵⁴ Submission 45

⁵⁵⁵ Submission 806

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

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

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

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

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

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

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

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

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

⁵⁵⁶ Submission 519

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

⁵⁵⁸ Submissions 610, 613

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

⁵⁶⁰ Submission 806

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

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

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

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

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

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

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

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

6 SECTION 21.4 – RULES – ACTIVITIES

6.1 Structure of Rules and Tables

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

⁵⁶³ As a recommendation to the Stream 10 Hearing Panel.

⁵⁶⁴ Submission 806

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

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

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

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

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

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

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

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

⁵⁶⁶ Submissions 624, 636, 643, 688, 693

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

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

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

6.3 Rule 21.4.2 – Farming Activity

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

6.4 Rule 21.4.3 – Farm Buildings

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

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

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

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

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

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

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

⁵⁶⁹ Submissions 325, 348, 608

⁵⁷⁰ Submission 145

⁵⁷¹ Submission 45

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

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

⁵⁷⁴ Submission 45

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

6.5 Rule 21.4.4 – Factory Farming

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

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

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

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

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

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

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

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

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

⁵⁷⁵ Submission 355

⁵⁷⁶ Submission 806

⁵⁷⁷ C Barr, Section 42A Report, Pages 32-37, Paras 11.1 – 11.28

⁵⁷⁸ C Barr, Section 42A Report, Pages 36 – 37, Para 11.25

⁵⁷⁹ Report 7, Section 1.7

⁵⁸⁰ L Taylor, Evidence, Appendix A, Page 6

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

6.7 Rule 21.4.6 – One Residential Unit per Building Platform

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

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

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

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

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

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

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

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

581 Submissions 355, 384, 806

582 Submissions 331, 348, 411, 414

583 Submission 145

584 Submission 608

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

586 Submissions 331, 348, 411, 414

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

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

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

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

⁵⁸⁹ C Barr, Section 42A Report – Chapter 22, Page 12, Para 8.10

⁵⁹⁰ Submissions 411, 414

⁵⁹¹ N Geddes, Evidence, Page 6, Paras 34 - 35

⁵⁹² W Goldsmith, Evidence, Page 14, Paras 4.3 – 4.6 and Summary, Page 1, Para 2

⁵⁹³ Submission 515

⁵⁹⁴ Submission 535

⁵⁹⁵ B Farrell, Evidence, Page 36 Para 155

⁵⁹⁶ C Barr, Reply, Chapter 21, Page 18, Para 6.3

associated with controlling multiple residential units within a single building platform.⁵⁹⁷ We note that Mr Barr provided a similar response in reply regarding Chapter 22.

581. Mr Barr's recommended amendment to the definition of residential flat was as follows;

"Means a residential activity that comprises a self-contained flat that is ancillary to a residential unit and meets all of the following criteria:

- a. *Has a total floor area not exceeding 70m², and 150m² in the Rural Zone and Rural Lifestyle Zone, not including the floor area of any garage or carport;*
- b. *contains no more than one kitchen facility;*
- c. *is limited to one residential flat per residential unit; and*
- d. *is situated on the same site and held in the same ownership as the residential unit, but may be leased to another party.*

Notes:

- a. A proposal that fails to meet any of the above criteria will be considered as a residential unit.
- b. Development contributions and additional rates apply."

582. Mr Barr recommended that Rule 21.4.6 and 22.5.12 remain as notified.

583. Firstly, we note that as regards the application of this rule in the Wakatipu Basin, the notification of the Stage 2 Variations has overtaken this process. It has also involved, through the operation of Clause 16B of the First Schedule to the Act, transferring many of these submissions to be heard on the Stage 2 Variations.

584. While we agree with Mr Barr that the simplicity of the solution he recommended is desirable, we do note our unease about using a definition to set a standard for an activity⁵⁹⁸. In this instance, however, to remove the standard from the definition would require amendment to all zones in the PDP. We doubt there is scope in the submissions to allow the Council to make such a change. Subject to these concerns, Mr Barr's solution effectively addresses the issues around potential consequential subdivision effects from creating a density of dwellings within a building platform that would not be consistent with the objectives in the strategic chapters and in this chapter.

585. Accordingly, we recommend that aside from renumbering, Rules 21.4.6 and 22.5.12.1 remain as notified and that the definition of Residential Flat be worded as follows:

"Means a residential activity that comprises a self-contained flat that is ancillary to a residential unit and meets all of the following criteria:

- a. *the total floor area does not exceed:*
 - i. *150m² in the Rural Zone and Rural Lifestyle Zone;*

⁵⁹⁷ C Barr, Reply, Chapter 21, Pages 18 - 19, Para 6.5

⁵⁹⁸ We note that the Stream 6 Hearing Panel raised the same concerns.

ii. 70m² in any other zone;

not including in either case the floor area of any garage or carport;

b. it contains no more than one kitchen facility;

c. is limited to one residential flat per residential unit; and

d. is situated on the same site and held in the same ownership as the residential unit, but may be leased to another party.

Notes:

a. A proposal that fails to meet any of the above criteria will be considered as a residential unit.

b. Development contributions and additional rates apply.”

586. We return to the issue of density as it applies to other rules and the objectives in Chapter 22 later in this report.

6.8 Rules 21.4.7 & 21.4.8– Construction or Alteration of Buildings Within and Outside a Building Platform

587. As notified, Rule 21.4.7, provided for “The construction and exterior alteration of buildings located within a building platform approved by resource consent, or registered on the applicable computer freehold register, subject to compliance with the standards in Table 3.” as a permitted activity.

588. As notified, Rule 21.4.8, provided for “The exterior alteration of any lawfully established building located outside of a building platform, subject to compliance with the standards in Table 3.” as a permitted activity.

589. Two submissions sought that Rule 21.4.7 be retained⁵⁹⁹ and one submission sought that the rule be replaced with the equivalent provisions of the ODP⁶⁰⁰ which relate to Construction and Alteration of Residential Buildings located within an approved residential building platform or outside a residential building platform.

590. One submission sought that Rule 21.4.8 be retained⁶⁰¹, one submission sought that the activity status be changed to discretionary and one submission sought that the rule be replaced with the equivalent provisions of the ODP⁶⁰² which relate to Construction and Alteration of Residential Buildings located within an approved residential building platform or outside a residential building platform.

591. In the Section 42A Report, Mr Barr addressed these matters, noting that there was general support for the provisions, and that, as we noted above, he considered that permitted activity status would significantly reduce the number of consents without compromising environmental

⁵⁹⁹ Submissions 238, 608

⁶⁰⁰ Submission 145

⁶⁰¹ Submission 608

⁶⁰² Submission 145

outcomes.⁶⁰³ Mr Barr also considered that Rule 21.4.8 was necessary to provide for minor alterations of buildings that were lawfully established prior to the ODP regime which established the requirement for a building platform.⁶⁰⁴

592. Mr Haworth, in evidence for UCES on these rules, expressed the view that permitted activity status would engender an “anything goes” attitude and there would be less scrutiny given to proposals, which often results in greater adverse effects⁶⁰⁵. Mr Haworth considered that the controlled activity status in the same form as in the ODP should be retained so that adverse effects on landscape were adequately controlled.⁶⁰⁶

593. There was no evidence from UCES as to why, after 15 years of experience of the ODP regime, that a controlled activity was a more appropriate approach than a permitted activity with appropriate standards. In particular, no section 32 evaluation was presented to us which would have supported an alternative and more regulated approach. UCES sought this relief for a number of rules in Chapter 21 and in each case, the same position applies. We do not consider it necessary to address the UCES submission further.

594. In response to our questions, Mr Barr, in reply, recommended an amendment to Rule 21.4.8 as notified, to clarify that the rule applied to situations where there was no building platform in place. Mr Barr’s recommended wording was as follows;

“The exterior alteration of any lawfully established building located outside of a building platform where there is not an approved building platform in place, subject to compliance with the standards in Table 3.”

595. We consider that Mr Barr’s suggested rewording confuses rather than clarifies the position, because it refers both to a building outside a building platform and to there being no building platform; a situation which cannot in fact exist. The answer is to delete the words, “*located outside of a building platform*”. However, we also envisage a situation where there is a building platform in place and an extension is proposed that would extend the existing dwelling beyond the building platform. The NZIA⁶⁰⁷ submission sought to address that circumstance by seeking discretionary activity status. From our reading this is already addressed in Rule 21.4.10 (as notified) that applies to construction not provided for by the any other rule as a discretionary activity and therefore no additional amendment is required to address it.

596. We concur with Mr Barr as to the activity status, and accordingly recommend that Rules 21.4.7 be renumbered 21.4.6 and the wording and activity status remain unchanged other than referring to Tables 2 and 4 rather than Table 3. We further recommend that Rule 21.4.8 be renumbered 21.4.7, the activity status remain permitted and be worded as follows;

“The exterior alteration of any lawfully established building where there is no approved building platform on the site, subject to compliance with the standards in Table 2 and Table 4.”

6.9 Rule 21.4.9 – Identification of Building Platform.

597. As notified, Rule 21.4.9, provided for “The identification of a building platform not less than 70m² and not greater than 1000m².” as a discretionary activity.

⁶⁰³ C Barr, Section 42A Report, Page 34, Para 11.13

⁶⁰⁴ C Barr, Section 42A Report, Page 34, Para 11.14

⁶⁰⁵ J Haworth, Evidence, Page 21, Para 152

⁶⁰⁶ J Haworth, Evidence, Page 21, Para 156

⁶⁰⁷ Submission 328

598. Three submissions sought that the rule be deleted⁶⁰⁸.
599. Mr Barr, in the Section 42A Report, recorded the reasons for the requested deletion from two of the submitters as being that *“defaulting to a non-complying activity if outside these parameters is arbitrary because ‘if the effects of a rural building platform sized outside of this range can be shown to be appropriate, there is no reason it should not be considered on a discretionary basis.’”*⁶⁰⁹
600. Mr Barr, did not disagree with that reason but noted *“that it could create a potential for proposals to identify building platforms that are very large (while taking the risk of having the application declined) and this in itself would be arbitrary. Similarly, if the effects of a rural building platform are appropriate irrespective of the size it would more than likely accord with s104D of the RMA.”*⁶¹⁰ In tabled evidence⁶¹¹ for X-Ray Trust Limited, Ms Taylor agreed with Mr Barr’s recommendation⁶¹².
601. We agree with Mr Barr’s reasoning. We recommend that these submissions are rejected and that Rule 21.4.9 be remain as worded, but be renumbered 21.4.10.

6.10 Rule 21.4.10 – Construction not provided for by any other rule.

602. As notified, Rule 21.4.10, provided for “The construction of any building including the physical activity associated with buildings including roading, access, lighting, landscaping and earthworks, not provided for by any other rule.” as a discretionary activity.
603. Five submissions sought the provision be amended⁶¹³ as follows;
- “The construction of any building including the physical activity associated with buildings not provided for by any other rule.”*
604. Mr Barr considered the need to separate farming activities from non-farming activities in the Section 42A Report and noted that roading, access, lighting, landscaping and earthworks associated with non-farming activities can all impact on landscape.⁶¹⁴
605. While arguably, specific reference to the matters listed is unnecessary since all are ‘associated’ with construction (and ongoing use) of a building, we think it is helpful to provide clarification of the sort of activities covered, for the reason Mr Barr identifies. Accordingly, we recommend that 21.4.10 be renumbered 21.4.11 and that the wording and activity status remain as notified.

6.11 Rule 21.4.11 – Domestic Livestock

606. There were no submissions on this rule. We recommend it be adopted as notified but renumbered as 21.4.8.

⁶⁰⁸ Submissions 693, 702, 806

⁶⁰⁹ C Barr, Section 42A Report, Page 37, Para 11.26

⁶¹⁰ C Barr, Section 42A Report, Page 37, Para 11.27

⁶¹¹ FS1349

⁶¹² L Taylor, Evidence, Appendix A, Page 8

⁶¹³ Submissions 636, 643, 688, 693, 702

⁶¹⁴ C Barr, Section 42A Report, Pages 36-37, Para 11.25

6.12 Rule 21.4.12 – Residential Flat; Rule 21.4.13 - Home Occupations

607. As notified, Rule 21.4.12, provided for “Residential Flat (activity only, the specific rules for the construction of any buildings apply).” as a permitted activity.
608. As notified, Rule 21.4.13, provided for “Home Occupation that complies with the standards in Table 5.” as a permitted activity.
609. One submission sought that Rule 21.4.12 be retained⁶¹⁵. One submission sought that Rules 21.4.12 and 21.4.13 be deleted⁶¹⁶. The reason stated for this relief was that the submitter considered these consequential deletions were needed for clarity that any permitted activity not listed but meeting the associated standards is a permitted activity and as such negates the need for such rules.
610. Mr Barr did not address these submissions directly in the Section 42A Report and nor did we receive any direct evidence in support of the deletion of these particular rules.
611. We have already addressed this matter in Section 7.2 above, noting that it is not apparent that the effects of all non-listed activities can be appropriately avoided, remedied or mitigated in the Rural Zone across the District, such that a permitted activity status is the most appropriate way in which to achieve the objectives of Chapter 21. We note that in Stream 6, the council officers recommended that reference to “residential flat” be removed as it was part of a residential unit as defined. That Panel (differently constituted) concluded that, as the definition of “residential unit” included a residential flat, there was no need for a separate activity rule for residential flat, but it would assist plan users if the listing of residential unit identified that such activity included a residential flat and accessory buildings. For consistency, “residential flat” should be deleted from this chapter and recommended Rule 21.4.5 read:

One residential unit, including a single residential flat and any accessory buildings, within any building platform approved by resource consent.

612. We so recommend.
613. We recommend that Rule 21.4.13 be retained as notified and renumbered 21.4.12..

6.13 Rule 21.4.14 – Retail sales from farms

614. As notified, Rule 21.4.14, provided for, as a controlled activity:

“Retail sales of farm and garden produce and wine grown, reared or produced on-site or handicrafts produced on the site and that comply with the standards in Table 5.

Except roadside stalls that meet the following shall be a permitted activity:

- a. *the ground floor area is less than 5m²*
- b. *are not higher than 2.0m from ground level*
- c. *the minimum sight distance from the stall/access shall be 200m*
- d. *the minimum distance of the stall/access from an intersection shall be 100m and, the stall shall not be located on the legal road reserve.*

⁶¹⁵ Submission 608

⁶¹⁶ Submission 806

Control is reserved to all of the following:

- *The location of the activity and buildings*
- *Vehicle crossing location, car parking*
- *Rural amenity and landscape character..”*

as a controlled activity.

615. One submission sought that the rule be amended so as to provide for unrestricted retail⁶¹⁷ and one submission sought that it be amended to a permitted activity for the reason to encourage locally grown and made goods for a more sustainable future⁶¹⁸.
616. These submissions were not directly addressed in the Section 42A Report and nor did we receive any evidence directly in support of these submissions.
617. Given that lack of evidence we recommend that the submissions be rejected.
618. This rule, however, is an example of a situation as we identified in Section 7.5 above, where a permitted activity has been incorporated as an exception within a controlled activity rule. We recommend that the permitted activity be separated out as its own rule, and that the remainder of the rule be retained as notified.
619. Accordingly, we recommend that Rule 21.4.14 be renumbered as 21.4.16 and worded as follows;

Retail sales of farm and garden produce and wine grown, reared or produced on-site or handicrafts produced on the site and that comply with the standards in Table 6, not undertaken through a roadside stall under 21.4.14.

Control is reserved to:

- a. the location of the activity and buildings*
- b. vehicle crossing location, car parking*
- c. rural amenity and landscape character..”*

as a controlled activity.

620. In addition, we recommend a new permitted activity rule numbered 21.4.14 be inserted and worded as follows:

Roadside stalls that meet the standards in Table 6.

621. We further recommend that standards for roadside stalls be inserted into Table 6 worded as follows:

⁶¹⁷ Submission 806

⁶¹⁸ Submission 238

- 21.9.3.1 *The ground floor area of the roadside stall must not exceed 5m²*
- 21.9.3.2 *The height must not exceed 2m²*
- 21.9.3.3 *The minimum sight distance from the roadside stall access must be at least 200m*
- 21.9.3.4 *The roadside stall must not be located on legal road reserve.*

6.14 Rule 21.4.15 – Commercial Activities ancillary to recreational activities

622. As notified, Rule 21.4.15 provided for:

“Commercial activities ancillary to and located on the same site as recreational activities.”
as discretionary activities.

623. One submission sought that the rule be deleted so as to provide for commercial and recreational activities on the same site⁶¹⁹.

624. This submission was not directly addressed in the Section 42A Report, other than implicitly, through a recommendation that it should be rejected as set out in Appendix 2⁶²⁰.

625. Mr Brown in evidence for QPL, considered that the rule should be expanded to provide for *“commercial recreational activities”* as well as *“recreational activities”* so as to provide clarification between these two activities which have separate definitions.⁶²¹

626. Mr Barr, in reply considered that the amendment recommended by Mr Brown went some way to meeting the request of the submitter⁶²² and recommended that the Rule 21.4.15 be amended as follows;

“Commercial activities ancillary to and located on the same site as commercial recreational or recreational activities.”

627. We agree with Mr Brown that for the purposes of clarity, commercial recreational activities need to be incorporated into the rule. We heard no evidence in support of the rule being deleted.

628. Accordingly, we recommend that the activity status remain as discretionary, and that Rule 21.4.15 be renumbered as 21.4.17 and worded as follows;

“Commercial activities ancillary to and located on the same site as commercial recreational or recreational activities.”

6.15 Rule 21.4.16 – Commercial Activities that comply with standards and Rule 21.5.21 Standards for Commercial Activities

629. As notified, Rule 21.4.16, provided for:

⁶¹⁹ Submission 806
⁶²⁰ C Barr, Section 42A Report, Appendix 2, Page 93
⁶²¹ J Brown, Evidence, Page 14, Para 2.20 – 2.21
⁶²² C Barr, Reply, Page 10. Para 4.8

“Commercial recreation activities that comply with the standards in Table 5.”
as a permitted activity.

630. One submission sought that the rule be retained⁶²³ and one submission sought that the rule be amended to include Heli-Skiing as a permitted activity⁶²⁴.

631. Rule 21.5.21 (Table 5 Standards for Commercial Activities) needs to be read in conjunction with Rule 21.4.16. As notified it read as follows:

“Commercial recreation activity undertaken on land, outdoors and involving not more than 10 persons in any one group.”

632. Non-compliance with this standard required consent as a discretionary activity.

633. Two submissions sought that Rule 21.5.21 be retained⁶²⁵, three submissions sought the number of persons be increased to anywhere from 15 – 28⁶²⁶ and one submission sought that number of persons in the group be reduced to 5⁶²⁷.

634. The Section 42A Report did not address the issue of heli-skiing within the definition of commercial recreational activity.

635. Mr Dent in evidence for Totally Tourism, identified that heli-skiing fell with the definition of “commercial recreational activity”. We agree. Mr Dent described a typical heli-skiing activity and referenced the informal airport rules that applied and that heli-skiing activities undertaken on crown pastoral and public conservation land already required Recreation Permits and concessions. To avoid the additional regulation involved in requiring resource consents which would be costly and inefficient Mr Dent recommended that Rule 21.4.6 be reworded as follows;

*“Commercial recreation activities that comply with the standards in Table 5, and commercially guided heli-skiing.”*⁶²⁸

636. This would mean that commercially guided heli-skiing would be a permitted activity, but not be subject to the standards in Table 5. Having agreed with Mr Dent that heli-skiing activities fall within the definition of commercial recreational activity, we do not see how an exemption exempting commercially guided heli-skiing from the standard applied to any other commercial recreation activity for commercially guided heli-skiing can be justified. We address the issue of the numbers of person in a group below. We therefore recommend that the submission of Totally Tourism be rejected.

637. In relation to the permitted activity standard 21.5.21, Mr Barr expressed the opinion in the Section 42A Report that

“... that the limit of 10 people is balanced in that it provides for a group that is commensurate to the size of groups that could be contemplated for informal recreation activities. Ten persons

⁶²³ Submission 806

⁶²⁴ Submission 571

⁶²⁵ Submission 315

⁶²⁶ Submissions 122, 621, 624

⁶²⁷ Submission 489

⁶²⁸ S Dent, Evidence, Page 13, Para 83

*is also efficient in that it would fit a min-van or a single helicopter, which I would consider as one group.*⁶²⁹

638. Mr Brown in evidence for QPL supported the group size of 10 person, as it recognised the small scale, low impact outdoor commercial recreation activities that can be accommodated without the resulting adverse effects on the environment and hence no need to obtain resource consent, compared to large scale activities that do require scrutiny.⁶³⁰

639. Mr Vivian, in evidence for Bungy NZ Limited and Paul Henry Van Asch, was of the opinion that the threshold of 5 people in a group (in the ODP) worked well and changing it to 10 people “... would significantly change how those commercial guided groups are perceived and interact with other users in public recreation areas”⁶³¹. Mr Vivian, also noted potential safety issues as from his experience of applying for resource consents for such activities, safety was a key issue in consideration of any such application.

640. Ms Black, in evidence for RJL, was of the view that the number of persons should align with that of other legislation such as the Land Transport Act 2005, which provides for small passenger vehicles that carry 12 or less people and Park Management plans that provide concession parties of up to 15.⁶³² Mr Farrell, in evidence for RJL, concurred with Ms Black as to the benefit of alignment between the documents and recommended that the rule be reworded as follows:

*“Commercial recreation activity undertaken on land, outdoors and involving not more than ~~10~~ 15 persons in any one group (inclusive of guides).”*⁶³³

641. In reply Mr Barr, recommended increasing the number of persons from 10 to 12 to align with the minivan size, for the reasons set out in Ms Black’s evidence.⁶³⁴

642. Safety in regard to group size may be a factor, but we think that there is separate legislation to address such matters. The alignment between minivan size and other legislation as to the size of any group may be a practical consideration. However, we consider that the more important point is that there are no implications in terms of effects. We also recommend that in both Rules 21.4.16 and Rule 21.5.21, the defined term by used (i.e. commercial recreational activity) for clarity.

643. Accordingly we recommend that apart from that minor clarification and renumbering, Rule 21.4.16 be renumbered 21.4.13 with the Table reference amended, but otherwise remain as notified, and that Rule 21.5.21 be renumbered and worded as follows:

Commercial recreational activities must be undertaken on land, outdoors and must not involve more than 12 persons in any one group.

6.16 Rule 21.4.17 – Cafes and Restaurants

644. There were no submissions on this rule. We recommend it be retained as notified and renumbered as 21.4.18.

⁶²⁹ C Barr, Section 42A Report, Page 48, Para 13.35

⁶³⁰ J Brown, Evidence, Page 14, Para 2.19

⁶³¹ C Vivian, Evidence, Pages 26 – 27, Para 5.7

⁶³² F Black, Evidence, Pages 7 – 8, Para 3.24 – 3.25

⁶³³ B Farrell, Evidence, Page 27, Para 124

⁶³⁴ C Barr, Reply, Page 10, Para 4.8

6.17 Rule 21.4.18 – Ski Area Activities within a Ski Area Sub Zone

645. As notified, Rule 21.4.18, provided for:

“Ski Area Activities within the Ski Area Sub Zone.”

as a permitted activity.

646. One submission sought that the rule be amended to add *“subject to compliance with the standards in Table 7”*⁶³⁵, as Table 1 does not specify what standards apply for an activity to be permitted (Table 7 as notified being the standards for Ski Area Activities within the Ski Area Sub Zones). Two submissions sought that the rule be moved completely into Table 7⁶³⁶. One submission sought that the Rule be amended as follows;

*“Ski Area Activities within the Ski Area Sub Zone and Tourism Activities within the Cardrona Alpine Resort (including Ski Area Activities).”*⁶³⁷.

647. Mr Barr, in the part of the Section 42A Report addressing the submission of Soho Ski Area Ltd, noted that Table 1 generally set out activities and the individual tables set out the standards for those activities.⁶³⁸ Mr Barr identified issues with Table 7. However, we address those matters later in this report. In addressing submissions and evidence on Objective 21.2.6 and the associated policies above, we have already addressed the requested insertion of reference to tourism activities and the specific identification of the Cardrona Alpine Resort, concluding that recognition of tourism activities was appropriate but that the specific identification of the Cardrona Alpine Resort was not; so we do not repeat that here.

648. In Section 7.1 above, we set out our reasoning regarding the overall structural changes to the tables and activities. However, we did not address Ski Activities within Ski Area Sub-Zones in that section. We found the rules on this subject matter to be complicated and the matters listed as standards in Table 7 to actually be activities. In order to provide clarity, we recommend that a separate table be created and numbered to provide for *“Activities within the Ski Area Sub Zones”*.

649. None of the submissions on Rule 21.4.18 sought a change to the activity status for the ski area activities and accordingly, we do not recommend any substantive change to the rule. The end result is therefore that we recommend that the submissions seeking that Rule 21.4.18 be amended to refer to the Table 7 standards, and that it be shifted into a new Table 9, both be accepted in part.

6.18 Rule 21.4.19 – Ski Area Activities not located within a Ski Area Sub Zone

650. As notified, Rule 21.4.19, provided for:

“Ski Area Activities not located within a Ski Area Sub Zone, with the exception of heli-skiing and non-commercial skiing.”

as a non-complying activity.

⁶³⁵ Submission 407

⁶³⁶ Submissions 610, 613

⁶³⁷ Submission 615

⁶³⁸ C Barr, Section 42A Report, Page 57, Para 14.19

651. One submission sought that the rule be deleted⁶³⁹ and one submission sought that the rule be amended or replaced to change the activity status from non-complying to discretionary⁶⁴⁰.
652. In the Section 42A Report, Mr Barr considered that purpose of the rule was to encourage Ski Area Activities to locate within the Ski Area Sub Zones, in part to reduce the adverse effects of such activities on ONLs.⁶⁴¹ We agree. The objectives and policies we addressed above reinforce that position.
653. Mr Barr also noted that his recommended introduction of a policy to provide for non-road transportation systems such as a passenger lift system, which would cross land that is not within a Ski Area Sub Zone, would be in potential conflict with the rule. Accordingly, Mr Barr recommended an exception for passenger lift systems.⁶⁴²
654. Mr Brown, in evidence for Mt Cardrona Station Ltd, agreed with Mr Barr's recommended amendment, but noted that there was no rule identifying the status of passenger lift systems. Mr Brown considered that the status should be controlled or restricted discretionary, subject to appropriate assessment matters.⁶⁴³ In his summary presentation to us at the hearing, Mr Brown advised that having reflected on this matter further, he considered restricted discretionary activity status to be appropriate. He recommended a new rule as follows:

Passenger lift systems not located within a Ski Area Sub Zone.

Discretion is reserved to all of the following:

- a. The route of the passenger lift system and the extent to which the passenger lift system breaks the line and form of the landscape with special regard to skylines, ridges, hills and prominent slopes*
- b. Whether the materials and colours to be used are consistent with the rural landscape of which the passenger lift system will form a part*
- c. Whether the geotechnical conditions are suitable for the passenger lift system and the extent to which they are relevant to the route.*
- d. Lighting*
- e. The ecological values of the land affected by structures and activities*
- f. Balancing environmental considerations with operational requirements*
- g. The positive effects arising from directly linking settlements with ski area sub zones and providing alternative non-vehicular access.⁶⁴⁴*

⁶³⁹ Submission 806

⁶⁴⁰ Submission 615

⁶⁴¹ C Barr, Section 42A Report, Page 64, Para 14.53

⁶⁴² C Barr, Section 42A Report, Pages 64 - 65, Para 14.55

⁶⁴³ J Brown, Evidence, Page 25, Par 2.41

⁶⁴⁴ J Brown, Summary of Evidence, Pages 4-5, Para 17

655. In reply Mr Barr, noted that Mr Brown's recommended amendment would also be subject to the District Wide rules regarding earthworks and indigenous vegetation clearance and as such, Mr Barr considered the activity status and matters of discretion to be appropriate.⁶⁴⁵
656. Also in reply Mr Barr, while in accepting some of the changes suggested by Mr Brown, recommended that activity status for Ski Area Activities not located within a Ski Area Sub Zone remain as non-complying activities, with exceptions as follows;

Ski Area Activities not located within a Ski Area Sub Zone, with the exception of the following:

- a. Commercial heli skiing not located within a Ski Area Sub Zone is a commercial recreation activity Rule 21.4.16 applies*
- b. Passenger Lift Systems not located within a Ski Area Sub Zone shall be a restricted discretionary activity.*

Discretion is reserved to all of the following:

- a. The route of the passenger lift system and the extent to which the passenger lift system breaks the line and form of the landscapes with special regard to skylines, ridges, hills and prominent slopes*
- b. Whether the materials and colours to be used are consistent with the rural landscape of which the passenger lift system will form a part*
- c. Whether the geotechnical conditions are suitable for the passenger lift system and the extent to which they are relevant to the route*
- d. Lighting*
- e. The ecological values of the land affected by structures and activities*
- f. Balancing environmental considerations with operational requirements*
- g. The positive effects arising from directly linking settlements with ski area sub zones and providing alternative non-vehicular access.⁶⁴⁶*

657. Mr Barr provided justification for these changes by way of a brief section 32AA evaluation, noting the effectiveness of the provision with respect to cross zoning regulatory differences.
658. As we have addressed above, we consider that the Ski Area Activities not located within a Ski Area Sub Zone should be non-complying activities as this aligns with the objectives and policies. We think a description of the exceptions is appropriate, but that should not effectively include another rule with different activity status. Rather, if an exception is to have a different activity status, that should be set out as a separate rule.
659. We now turn to the activity status of a passenger lift system outside a Ski Area Sub Zone. As well as the evidence we heard, the Hearing Panel for Stream 11 (Ski Area Sub Zones) heard further evidence on this issue, with specific reference to particular ski areas. That Panel has

⁶⁴⁵ C Barr, Reply, Page 38 – 39, Para 14.3 – 14.5

⁶⁴⁶ C Barr, Reply, Appendix 1, Page 21-11

recommended to us, for the reasons set out in Report 15, that passenger lift systems outside of a Ski Area Sub Zone should be a restricted discretionary activity.

660. We accept and adopt the recommendations of the Stream 11 Panel for the reasons given in Report 15.

661. We recommend that Rule 21.4.19 therefore be reworded, and that a new rule numbered and worded as follows be inserted to address passenger lift systems located outside of Ski Area Sub-Zones. We also recommend that these rules be relocated to under the heading “Other Activities” in Table 1.

Table 1	Activities Rural Zone	Activity Status
21.4.25	Ski Area Activities not located within a Ski Area Sub-Zone, with the exception of the following: <ul style="list-style-type: none"> a. non-commercial skiing which is permitted as recreation activity under Rule 21.4.22; b. commercial heli-skiing not located within a Ski Area Sub-Zone, which is a commercial recreational activity to which Rule 21.4.13 applies; b. Passenger Lift Systems to which Rule 21.4.24 applies. 	NC
21.4.24	Passenger Lift Systems not located within a Ski Area Sub-Zone Discretion is restricted to: <ul style="list-style-type: none"> a. The Impact on landscape values from any alignment, design and surface treatment, including measures to mitigate landscape effects including visual quality and amenity values. b. The route alignment and the whether any system or access breaks the line and form of skylines, ridges, hills and prominent slopes. c. Earthworks associated with construction of the Passenger Lift System. d. The materials used, colours, lighting and light reflectance. e. Geotechnical matters. f. Ecological values and any proposed ecological mitigation works. g. Balancing environmental considerations with operational requirements of Ski Area Activities. h. The positive effects arising from providing alternative non-vehicular access and linking Ski Area Sub-Zones to the roading network. 	RD

6.19 Table 1 - Rule 21.4.20 – Visitor Accommodation

662. As notified, Rule 21.4.20, provided for:

“Visitor Accommodation.”

as a discretionary activity.

663. One submission sought a less restrictive activity status⁶⁴⁷ and one submission sought that visitor accommodation in rural areas be treated differently to that in urban areas due to their placing less demand on services⁶⁴⁸.
664. In the Section 42A Report, Mr Barr considered that comparison of urban area provisions with rural area provision should be treated with caution as those urban provisions were not part of the Stage 1 review of the District Plan. Mr Barr also considered that nature and scale of the visitor accommodation activity and the potential selectivity of the location would be the main factors considered in relation to any proposal. He therefore recommended that the activity status remain discretionary.⁶⁴⁹
665. We heard no evidence in support of the submissions.
666. For the reasons set out in Mr Barr’s Section 42A Report, we recommend that other than renumbering it, the rule remain as notified, subject to a consequential amendment arising from our consideration of visitor accommodation in Ski Area Sub Zones discussed below.

6.20 Table 1 - Rule 21.4.21 – Forestry Activities in Rural Landscapes

667. As notified, Rule 21.4.21, provided for:

“Forestry Activities in Rural Landscapes.”

as a discretionary activity.

668. Two submissions sought that the activity status be amended to discretionary⁶⁵⁰. Mr Barr, in the Section 42A Report, identified that forestry activities were discretionary in the Rural Landscape areas (Rule 21.4.21) and non-complying in ONLs/ONFs (Rule 21.4.1).⁶⁵¹ We heard no evidence in support of the submissions. In reply, Mr Barr included some revised wording to clarify that it is the Rural Landscape Classification areas that the provision applies to.⁶⁵²
669. In the report on Chapter 6 (Report 3), the Hearing Panel recommended that the term used to describe non-outstanding rural landscapes be Rural Character Landscapes. That term should as a consequence be used in this context.
670. The submissions appear to be seeking to retain what was in the Plan as notified. We agree with Mr Barr and recommend that forestry activities remain discretionary in “Rural Character Landscapes”.

6.21 Rule 21.4.22 – Retail Activities and Rule 21.4.23 – Administrative Offices

671. Both of these rules provide for activities within the Rural Industrial Sub-Zone. No submissions were received on these rules. We recommend they be retained as notified, but relocated into Table 10 which lists the activities specifically provided for in this Sub-Zone.

6.22 Rule 21.4.24 – Activities on the surface of lakes and rivers

672. As notified, Rule 21.4.24, provided for:

⁶⁴⁷ Submission 806
⁶⁴⁸ Submission 320
⁶⁴⁹ C Barr, Section 42A Report, Page 103, Para 201.19
⁶⁵⁰ Submissions 339, 706
⁶⁵¹ C Barr, Section 42 A Report, Page 43, Para 13.5
⁶⁵² C Barr, Reply, Appendix 1, Page 21-11

“Activities on the surface of lakes and rivers that comply with Table 9.”

as a permitted activity.

673. One submission generally supported this provision⁶⁵³. Other submissions that were assigned to this provision in Appendix 2 of the section 42A Report, actually sought specific amendments to Table 9 and we therefore deal with those requests later in this report.

674. We have already addressed requests for repositioning the provisions regarding the surface of water in Section 3.4 above, and concluding that reordering and clarification of the activities and standards in the surface of lakes and river table to better identify the activity status and standards was appropriate. Accordingly, we recommend that provision 21.2.24 be moved to Table 12 and renumbered, but that the activity status remain permitted, subject to the provisions within renumbered Table 13.

6.23 Rule 21.4.25 – Informal Airports

675. As notified, Rule 21.4.25, provided for:

“Informal airports that comply with Table 6.”

as a permitted activity.

676. The submissions on this rule are linked to the Rules 21.5.25 and 21.5.26, being the standards applying to informal airports. It is appropriate to deal with those two rules at the same time as considering Rule 21.4.25.

677. As notified, the standards for informal airport Rules 21.5.25 and 21.5.26 (Table 6) read as follows;

	Table 6 - Standards for Informal Airports	Non-Compliance
21.5.25	<p>Informal Airports Located on Public Conservation and Crown Pastoral Land</p> <p>Informal airports that comply with the following standards shall be permitted activities:</p> <p>21.5.25.1 Informal airports located on Public Conservation Land where the operator of the aircraft is operating in accordance with a Concession issued pursuant to Section 17 of the Conservation Act 1987;</p> <p>21.5.25.2 Informal airports located on Crown Pastoral Land where the operator of the aircraft is operating in accordance with a Recreation Permit issued pursuant to Section 66A of the Land Act 1948;</p> <p>21.5.25.3 Informal airports for emergency landings, rescues, fire-fighting and activities ancillary to farming activities;</p> <p>21.5.25.4 In relation to points (21.5.25.1) and (21.5.25.2), the informal airport shall be located a minimum</p>	D

⁶⁵³ Submission 307

	Table 6 - Standards for Informal Airports	Non-Compliance
	distance of 500 metres from any formed legal road or the notional boundary of any residential unit or approved building platform not located on the same site.	
21.5.26	<p>Informal Airports Located on other Rural Zoned Land</p> <p>Informal Airports that comply with the following standards shall be permitted activities:</p> <p>21.5.26.1 Informal airports on any site that do not exceed a frequency of use of 3 flights* per week;</p> <p>21.5.26.2 Informal airports for emergency landings, rescues, fire-fighting and activities ancillary to farming activities;</p> <p>21.5.26.3 In relation to point (21.5.26.1), the informal airport shall be located a minimum distance of 500 metres from any formed legal road or the notional boundary of any residential unit of building platform not located on the same site.</p> <p>* note for the purposes of this Rule a flight includes two aircraft movements i.e. an arrival and departure.</p>	D

678. There were eleven submissions that sought that Rule 21.4.25 be retained⁶⁵⁴, and six submissions that sought it be deleted⁶⁵⁵ for various reasons including seeking the retention of ODP rules.

679. For Rule 21.5.25, submissions variously ranged from:

- Retain as notified⁶⁵⁶
- Delete provision⁶⁵⁷
- Delete or amend (reduce) set back distances in 21.5.25.4
- Amend permitted activities list 21.5.25.3 to include operational requirements of Department of Conservation⁶⁵⁸

680. For Rule 21.5.26, submissions variously ranged from:

- Retain as notified⁶⁵⁹
- Delete provision⁶⁶⁰
- Delete or amend (increase) number of flights in 21.5.26.1⁶⁶¹
- Delete or amend (reduce) set back distances in 21.5.26.3⁶⁶²
- Amend permitted activities list 21.5.26.2 to only to emergency and farming⁶⁶³, or amend to include private fixed wing operations and flight currency requirements⁶⁶⁴

⁶⁵⁴ Submissions 563, 573, 608, 723, 730, 732, 734, 736, 738, 739, 760, 843

⁶⁵⁵ Submission 109, 143, 209, 213, 500, 833

⁶⁵⁶ Submissions 315, 571, 713

⁶⁵⁷ Submissions 105, 135, 162, 211, 500, 385

⁶⁵⁸ Submission 373

⁶⁵⁹ Submissions 571, 600

⁶⁶⁰ Submissions 93, 105, 162, 209, 211, 385, 883

⁶⁶¹ Submissions 122, 138, 221, 224, 265, 405, 423, 660, 662

⁶⁶² Submissions 106, 137, 138, 174, 221, 265, 382, 405, 423, 660, 723, 730, 732, 734, 736, 738, 739, 760, 784, 843

⁶⁶³ Submission 9

⁶⁶⁴ Submission 373

- f. Amend 21.5.26.1 to read as follows “Informal Airports where sound levels do not exceed limits prescribed in Rule 36.5.14”.
681. In the Section 42A Report, Mr Barr recorded that the change from the system under the ODP where all informal airports required resource consents, to permitted activity status under the PDP was motivated in part by a desire to reduce the duplication of authorisations that were already required from the Department of Conservation or Commissioner of Lands and that details were set out in the Section 32 Report.⁶⁶⁵ Mr Barr also recorded that noise standards were not part of this Chapter, but were rather considered under the Hearing Stream 5 (District Wide Provisions).⁶⁶⁶
682. Our understanding of the combined rules was assisted by the evidence of Dr Chiles. He explained the difficulty in comprehensively quantifying the noise effects from infrequently used airports. We understood that the two New Zealand Standards for airport noise (NZ6805 and NZS6807) required averaging of aircraft sound levels over periods of time that would not adequately represent noise effects from sporadic aircraft movements that are usually associated with informal airports.
683. Dr Chiles explained that the separation distance of 500m required by Rules 21.5.25.4 and 21.5.26.3 should result in compliance with a 50 DB L_{dn} criterion for common helicopter flights unless there were more than approximately 10 flights per day.⁶⁶⁷ Dr Chiles was also satisfied that for fixed wing aircraft, at 500m to the side of the runway there would be compliance with 55 dB L_{dn} and 95 dB L_{AE} for up to 10 flights per day. However, he noted, compliance off the end of the runway may not be achieved until approximately 1 kilometre away.⁶⁶⁸
684. For those occasions where compliance with the noise criteria referred to above could not be achieved, Dr Chiles concluded that the relevant rules in Chapter 36 (recommended Rules 36.5.10 and 36.5.11) would apply. As we understood his evidence, the purpose of the informal airport rules in this zone are to provide a level of usage as a permitted activity that could be expected to comply with the rules in Chapter 36, but compliance would be expected nonetheless.
685. Mr Barr reviewed all the evidence provided in his Reply Statement and recommended amendments to the rules:
- a. providing for Department of Conservation operations on Conservation or Crown Pastoral Land;
 - b. requiring 500m separation from zone boundaries, but not road boundaries; and
 - c. providing for informal airports on land other than Conservation or Crown Pastoral Land to have up to 2 flights per day (instead of 3 per week).
686. We agree that the provision of some level of permitted informal activity in the Rural Zone is appropriate, as opposed to the ODP regime where all informal airports require consent. While we heard from submitters who considered more activity should be allowed as of right, and others who considered no activity should be allowed, we consider Mr Barr and Dr Chiles have proposed a regime that will facilitate the use of rural land by aircraft while protecting rural amenity values. Consequently, we recommend that Rule 21.4.25 be renumbered and amended

⁶⁶⁵ C Barr, Section 42A Report, Page 71, Paras 16.6 – 16.7

⁶⁶⁶ C Barr, Section 42A Report, Pages 70 – 71, Paras 16.3 – 16.4

⁶⁶⁷ Dr S Chiles, EIC, paragraph 5.1

⁶⁶⁸ *ibid*, paragraph 5.2

to refer to the standards in Table 7, and that Rules 21.5.25 and 21.5.26 be renumbered and revised to read:

	Table 7 - Standards for Informal Airports	Non-Compliance
21.10.1	<p>Informal Airports Located on Public Conservation and Crown Pastoral Land</p> <p>Informal airports that comply with the following standards shall be permitted activities:</p> <p>21.10.1.1 Informal airports located on Public Conservation Land where the operator of the aircraft is operating in accordance with a Concession issued pursuant to Section 17 of the Conservation Act 1987;</p> <p>21.10.1.2 Informal airports located on Crown Pastoral Land where the operator of the aircraft is operating in accordance with a Recreation Permit issued pursuant to Section 66A of the Land Act 1948;</p> <p>21.10.1.3 Informal airports for emergency landings, rescues, fire-fighting and activities ancillary to farming activities, or the Department of Conservation or its agents;</p> <p>21.10.1.4 In relation to Rules 21.10.1.1 and 21.10.1.2, the informal airport shall be located a minimum distance of 500 metres from any other zone or the notional boundary of any residential unit or approved building platform not located on the same site.</p>	D
21.10.2	<p>Informal Airports Located on other Rural Zoned Land</p> <p>Informal Airports that comply with the following standards shall be permitted activities:</p> <p>21.10.2.1 Informal airports on any site that do not exceed a frequency of use of 2 flights* per day;</p> <p>21.10.2.2 Informal airports for emergency landings, rescues, fire-fighting and activities ancillary to farming activities;</p> <p>21.10.2.3 In relation to rule 21.10.2.1, the informal airport shall be located a minimum distance of 500 metres from any other zone or the notional boundary of any residential unit of building platform not located on the same site.</p> <p>* note for the purposes of this Rule a flight includes two aircraft movements i.e. an arrival and departure.</p>	D

6.24 Rule 21.4.26 – Building Line Restrictions

687. As notified, Rule 21.4.26, provided for:

“Any building within a Building Restriction Area identified on the Planning Maps.”
as a noncomplying activity.

688. The only submission on this rule⁶⁶⁹ related to a specific building restriction area adjoining and over the Shotover River delta. That submission was deferred to be heard in Hearing Stream 13. We recommend the rule be retained as notified.

6.25 Rule 21.4.27 – Recreational Activities

689. This rule provided for recreation and/or recreational activities to be permitted. There were no submissions on this rule. We recommend it be retained as notified but relocated and renumbered to be the first activity listed under the heading “Other Activities”.

6.26 Rules 21.4.28 & 21.4.29 - Activities within the Outer Control Boundary at Queenstown and Wanaka Airports

690. As notified, Rule 21.4.28, provided for:

*“New Building Platforms and Activities within the Outer Control Boundary - Wanaka Airport
On any site located within the Outer Control Boundary, any new activity sensitive to aircraft noise or new building platform to be used for an activity sensitive to aircraft noise (except an activity sensitive to aircraft noise located on a building platform approved before 20 October 2010).”*

as a prohibited activity.

691. Two submissions sought that the provision be retained⁶⁷⁰. One submission sought that the provision be deleted or be amended so that the approach applied to ASANs located within the Outer Control Boundary, whether in the Airport Mixed Use Zone or the Rural Zone⁶⁷¹, was consistent.

692. The Section 42A Report did not directly address the relief sought by QPL as it applied to this provision. As with his approach to Objective 21.2.7 and the associated policies, Mr Barr did not address this provision directly in the Section 42A Report apart from in Appendix 1, where Mr Barr recommended that the provision be retained⁶⁷². The only additional evidence we received was from Ms O’Sullivan. She explained that Plan Changes 26 and 35 to the ODP had set up regimes in the rural area surrounding Wanaka and Queenstown Airports respectively prohibiting the establishment of any new Activities Sensitive to Aircraft Noise (ASANs) within the OCB of either airport⁶⁷³. She supported Mr Barr’s recommendation to continue this regime in the PDP.

693. We agree with Mr Barr and Ms O’Sullivan. These rules continue the existing resource management regime. We recommend that apart from renumbering, the provision remain worded as notified.

694. As notified, Rule 21.4.29, provided for:

*“Activities within the Outer Control Boundary - Queenstown Airport
On any site located within the Outer Control Boundary, which includes the Air Noise Boundary, as indicated on the District Plan Maps, any new Activity Sensitive to Aircraft Noise.”*
as a prohibited activity.

⁶⁶⁹ Submission 806, opposed by FS1340

⁶⁷⁰ Submissions 433, 649

⁶⁷¹ Submission 806

⁶⁷² C Barr, Section 42A Report, Appendix 1

⁶⁷³ K O’Sullivan, EiC, Section 2

695. Three submissions sought that the provision be retained⁶⁷⁴. Two submissions sought that the provision be deleted⁶⁷⁵. One submission sought the provision be amended to excluded tourism activities from being subject to the provision⁶⁷⁶.
696. The Section 42A Report did not directly address the relief sought by Te Anau Developments Limited (607) as it applied to this provision. Mr Barr, as we noted above, did not address this provision directly in the Section 42A Report apart from in Appendix 1, where he recommended that the provision be retained⁶⁷⁷. Ms O’Sullivan, as discussed above, supported Mr Barr’s recommendation.⁶⁷⁸
697. Mr Farrell, in evidence for Te Anau Developments Limited, considered that the provision prohibited visitor accommodation and community activities that could contribute to the benefits of tourism activities. He was of the view that there was a lack of policy and evidence to justify a prohibited classification of visitor accommodation and community activities.⁶⁷⁹
698. Mr Farrell went on to recommend that the rule or the definition of Activities Sensitive to Aircraft Noise be amended to:
- “a. Exclude tourism activities (as sought by Real Journeys⁶⁸⁰); or*
- b. Exclude visitor accommodation and community activities; or*
- c. Alter the activity status could be amended [sic] so that tourism, visitor accommodation, and community activities are classified as discretionary activities.”⁶⁸¹*
699. From a review of the Te Anau Developments Limited submission, there does not appear to be a reference to an amendment to the definition of ‘Activities Sensitive to Aircraft Noise’. Rather, it seeks to exclude “tourism activities” from the rule. As such, we think that Mr Farrell’s recommended amendments to the definition are beyond scope, because the submission is specific to this rule and the exclusion he recommended would apply also to Wanaka Airport. In addition, it is not axiomatic that “tourism activities” includes visitor accommodation.
700. As to Mr Farrell’s assertion that there is a lack of policy and evidence to justify the prohibited activity classification, we are aware that this provision was part of the PC 35 process which went through to thorough assessment in the Environment Court. While we are not bound to reach the same conclusion as the Environment Court, Mr Farrell did not in our view present any evidence other than claimed benefits from tourism to support his position. In particular, he did not address the extent to which those benefits would be reduced if the rule remained as notified, or the countervailing reverse sensitivity effects on the airport’s operations if it were to

⁶⁷⁴ Submission 271, 433, 649

⁶⁷⁵ Submissions 621, 658

⁶⁷⁶ Submission 607

⁶⁷⁷ C Barr, Section 42A Report, Appendix 1

⁶⁷⁸ K O’Sullivan, Evidence , Page 7, Para 4.3

⁶⁷⁹ B Farrell, Evidence, Page 25, Paras 112 - 115

⁶⁸⁰ On review of Submission 621 (submission point 81) RJL only sought that Rule 21.4.29 be deleted. The submission by Te Anau Developments Limited (607) sought the inclusion of “excluding tourism activities” within the rule.

⁶⁸¹ B Farrell, Evidence, Page 26, Para 116

be amended as suggested so as to call into question the appropriateness of the Environment Court's conclusion.

701. Accordingly, we recommend that apart from renumbering, that provision 21.4.29 remain worded as notified, but renumbered.

6.27 Mining Activities - Rule 21.4.30 and 21.4.31

702. As notified, Rule 21.4.30 stated:

The following mining and extraction activities are permitted:

- a. *Mineral prospecting*
- b. *Mining by means of hand-held, non-motorised equipment and suction dredging, where the total motive power of any dredge does not exceed 10 horsepower (7.5 kilowatt); and*
- c. *The mining of aggregate for farming activities provided the total volume does not exceed 1000m³ in any one year*
- d. *The activity will not be undertaken on an Outstanding Natural Feature.*

703. The submissions on Rule 21.4.30 variously sought:

- a. to add 'exploration' to the list of activities and include motorised mining devices⁶⁸²
- b. to add reference to landscape and significant natural areas as areas where the activity cannot be undertaken⁶⁸³
- c. to delete the restriction under (d) requiring the activity not to be undertaken on Outstanding Natural Features.⁶⁸⁴
- d. to delete the requirement under (c) restricting the mining of aggregate of 1000m³ in any one year to "farming activities"⁶⁸⁵
- e. amendments to ensure sensitive aquifers are not intercepted, and to address rehabilitation.⁶⁸⁶

704. It is also appropriate to consider Rule 21.4.31 at this time, as that rule as notified provided for 'exploration' as a controlled activity. As notified, 21.4.31 stated:

Mineral exploration that does not involve more than 20m³ in volume in any one hectare.

Control is reserved to all of the following:

- *The adverse effects on landscape, nature conservation values and water quality.*

Rehabilitation of the site is completed that ensures:

- *the long term stability of the site.*

⁶⁸² Submission 519

⁶⁸³ Submission 339, 706

⁶⁸⁴ Submission 519

⁶⁸⁵ Submission 806

⁶⁸⁶ Submission 798

- *that the landforms or vegetation on finished areas are visually integrated into the landscape.*
 - *water quality is maintained.*
 - *that the land is returned to its original productive capacity.*
705. Two submissions⁶⁸⁷ to this rule sought the addition of indigenous vegetation as an alternative state that a site should be rehabilitated to.
706. In the Section 42A Report⁶⁸⁸, Mr Barr noted that the NZTM submission seeking to add mineral exploration to Rule 21.4.30, was silent on the deletion of “*mineral exploration*” as a controlled activity in Rule 21.4.31. Mr Barr went on to explain that in his view, that while he accepted the submitter’s request to add a definition of mineral exploration, that activity should remain a controlled activity. Mr Vivian agreed with Mr Barr that while NZTM sought permitted activity for mineral exploration, it did not seek the deletion of Rule 21.4.31 and as such Mr Vivian saw no point in adding mineral exploration to Rule 21.4.30⁶⁸⁹. We agree and recommend that the request for mineral exploration as a permitted activity be rejected and that it remain a controlled activity.
707. We did not receive any evidence on the submission from Queenstown Park Ltd, seeking the expansion of the permitted activity status for mining aggregate (1000m³ in any one year), for activities not restricted to farming. The Section 32 Report records that the activities in Rules 21.4.30 and 21.4.31 were retained from the ODP with minor modifications to give effect to Objectives and Policies 6.3.5, 21.3.5, 21.2.7 and 21.2.8 (as notified).⁶⁹⁰ We do not find the analysis very helpful. On the face of the matter, if the activity is acceptable as a permitted activity for one purpose, it is difficult to understand why it should not be permitted if undertaken for a different purpose. However, in this case, the purpose of the aggregate extraction is linked to the scale of effects.
708. Extraction of 1000m³ of aggregate on a relatively small rural property in order that it might be utilised off-site has an obvious potential for adverse effects. Limiting use of aggregate to farming purposes serves a useful purpose in this regard as well as being consistent with policies seeking to enable farming activities.
709. We therefore recommend that the submission from Queenstown Park Limited be rejected.
710. Mr Barr, in the Section 42A Report, did not consider it necessary to add reference to landscape and significant natural areas as areas where the activity cannot be undertaken, given that standards regarding land disturbance and vegetation clearance are already provided for in Chapter 33.⁶⁹¹ We heard no evidence in support of the submission. Relying on the evidence of Mr Barr, we recommend that the submission of Mr Atly and Forest & Bird New Zealand be rejected.
711. Mr Barr, in the Section 42A Report, agreed with the submission of Forest & Bird and Mr Atly that rehabilitation to ‘indigenous vegetation’ may be preferable to rehabilitating disturbed land

⁶⁸⁷ Submissions 339, 706

⁶⁸⁸ C Barr, Section 42A Report, Page 108, Para 21.21

⁶⁸⁹ C Vivian, Evidence, Page 25, Para 4.122

⁶⁹⁰ C Barr, Section 42A Report, Page 87

⁶⁹¹ C Barr, Section 42A Report, Page 108-109, Para 21.23

to its original capacity in some circumstances⁶⁹². We agree with Mr Barr that parameters should be included, so that where the land cover comprised indigenous vegetation coverage prior to exploration indigenous vegetation planted as part of rehabilitation must attain a certain standard. We also agree with Mr Barr that it would not be fair on persons responsible for rehabilitation to require indigenous vegetation rehabilitation if the indigenous vegetation didn't comprise a minimum coverage or the indigenous vegetation had been cleared previously for other land uses.

712. Accordingly, we recommend that that an additional bullet point to be added to the matters of control, under Rule 21.4.31, as follows;

Ensuring that the land is rehabilitated to indigenous vegetation where the pre-existing land cover immediately prior to the exploration, comprised indigenous vegetation as determined utilising Section 33.3.3 of Chapter 33.

713. We also consider the matter commencing “Rehabilitation of the site” should be amended by the inclusion of “ensuring” at the commencement to make it a matter of control.

714. Mr Vivian supported the deletion of Rule 21.4.30(d) on the basis that the scale of the activities set out in 21.4.30 (a) and (b) were small and usually confined to river valleys.⁶⁹³ In addition, Mr Vivian noted that the activities in 21.4.30(c) were potentially of a larger scale and as they were permitted on an annual basis, there was the potential for adverse effects on landscape integrity over time. Mr Vivian concluded that 21.4.30(d) should be combined into Rule 21.4.30(c).

715. Having considered Mr Vivian’s evidence in combination with the submissions lodged, we consider it appropriate to create a table containing standards which mining and exploration activities have to meet. In coming to this conclusion we note that notified rule 21.4.30(d) is expressed as a standard, rather than an activity.

716. Consequently, we recommend the insertion of Table 8 which reads:

	Table 8 – Standards for Mining and Extraction Activities	Non-Compliance
21.11.1	21.11.1.1 The activity will not be undertaken on an Outstanding Natural Feature.	NC
	21.22.1.2 The activity will not be undertaken in the bed of a lake or river.	

717. With that change, we agree with Mr Vivian’s suggestion and recommend that Rules 21.4.30 and 21.4.31 read as follows:

Rule 21.4.29 - Permitted:

The following mining and extraction activities, that comply with the standards in Table 8 are permitted:

- a. *Mineral prospecting.*

⁶⁹² C Barr, Section 42A Report, Page 109, Para 21.24

⁶⁹³ C Vivian, Evidence, Page 25, Para 4.125

- b. *Mining by means of hand-held, non-motorised equipment and suction dredging, where the total motive power of any dredge does not exceed 10 horsepower (7.5 kilowatt); and*
- c. *The mining of aggregate for farming activities provided the total volume does not exceed 1000m³ in any one year.*

Rule 21.4.30 - Controlled

Mineral exploration that does not involve more than 20m³ in volume in any one hectare

Control is reserved to:

- a. *The adverse effects on landscape, nature conservation values and water quality.*
- b. *Ensuring rehabilitation of the site is completed that ensures:*
 - i. *the long-term stability of the site.*
 - ii. *that the landforms or vegetation on finished areas are visually integrated into the landscape.*
 - iii. *water quality is maintained.*
 - iv. *that the land is returned to its original productive capacity.*
- c. *That the land is rehabilitated to indigenous vegetation where the pre-existing land cover immediately prior to the exploration, comprised indigenous vegetation as determined utilising Section 33.3.3 of Chapter 33.*

6.28 Rule 21.4.32 – Other Mining Activity

718. As notified, this rule provided that any mining activity not provided for in the previous two rules was a discretionary activity. There were no submissions on this rule. We recommend it be renumbered, but otherwise be retained as notified.

6.29 Rule 21.4.33 – Rural Industrial Activities

719. As notified, this rule listed the following as a permitted activity:

Rural Industrial Activities within a Rural Industrial Sub-Zone that comply with Table 8.

720. The only submission received on this rule was in support⁶⁹⁴. We recommend that this rule be moved to Table 10 – Activities in Rural Industrial Sub Zone, and with our recommended re-arrangement of the tables, we recommend that the rule refer to the standards in Table 11. Otherwise we recommend the rule be retained as notified.

6.30 Rule 21.4.34 – Buildings for Rural Industrial Activities

721. As notified, this rule provided that buildings for rural industrial activities, complying with Table 8, as a permitted activity. No submissions were received on this rule.

722. As with the previous rule, we recommend it be relocated to Table 10 and that it refer to Table 11. However, we also note an ambiguity in the wording of the rule. While, by its reference to Table 8, it is implicit that it only apply to buildings in the Rural Industrial Sub-Zone, we consider the rule would better implement the objectives and policies of the zone if it were explicitly limited to buildings in the Rural Industrial Sub Zone. We consider such a change to be non-substantive and can be made under Cl 16(2) of the First Schedule. On that basis we recommend the rule read:

Buildings for Rural Industrial Activities within the Rural Industrial Sub-Zone that comply with Table 11.

⁶⁹⁴ Submission 315

6.31 Rule 21.4.35 – Industrial Activities at a Vineyard

723. This rule, as notified, provided for industrial activities directly associated with wineries and underground cellars within a vineyard as a discretionary activity.
724. No submissions were received to this rule and we recommend it be renumbered and retained as notified. We also recommend that the heading in Table 1 directly above this rule be changed to read: “Industrial Activities outside the Rural Industrial Sub-Zone”.

6.32 Rule 21.4.36 – Other Industrial activities

725. As notified this rule provided that other industrial activities in the Rural Zone were non-complying. Again, no submissions were received on this rule.
726. We consider there is an element of ambiguity in the rule, particularly with the removal of the Rural Industrial Sub-Zone activities and buildings to a separate table. We recommend this be corrected by rewording the rule to read:

Industrial Activities outside the Rural Industrial Sub-Zone other than those provided for in Rule 21.4.32.

727. We consider this to be a minor, non-substantive amendment that can be made under Clause 16(2).

7 TABLE 2 – GENERAL STANDARDS

7.1 Rule 21.5.1 – Setback from Internal Boundaries

728. As notified, this rule set a minimum setback of 15m of buildings from internal boundaries, with non-compliance requiring consent as a restricted discretionary activity.
729. No submissions were received on this rule and we recommend it be retained as notified with the matters of discretion listed alphanumerically rather than with bullet points.

7.2 Rule 21.5.2 – Setback from Roads

730. As notified Rule 21.5.2 stated:

Setback from Roads

The minimum setback of any building from a road boundary shall be 20m, except, the minimum of any building setback from State Highway 6 between Lake Hayes and Frankton shall be 50m. The minimum setback of any building for other sections of State Highway 6 where the speed limit is 70 km/hr or greater shall be 40m.

Discretion is restricted to all of the following:

- a. Rural Amenity and landscape character*
- b. Open space*
- c. The adverse effects on the proposed activity from noise, glare and vibration from the established road.*

Non-compliance Status – RD

731. One submission sought that the standard be adopted as proposed⁶⁹⁵ and one submission sought that the standard be retained, but that additional wording be added (providing greater setbacks from State Highways for new dwellings) to address the potential reverse sensitivity effects from State Highway traffic noise on new residential dwellings.⁶⁹⁶
732. Mr Barr, in the Section 42A Report, considered that as the majority of resource consents in the Rural Zone were notified or would require consultation with NZTA if on a Limited Access Road, then in his view, the performance standards suggested by NZTA would be better implemented as conditions of consent, particularly if the specific parameters of noise attenuation standard were to change. Mr Barr therefore recommended that the relief sought be rejected.⁶⁹⁷
733. In evidence for NZTA, Mr MacColl, disagreed with Mr Barr’s reasoning, noting that NZTA were often not deemed an affected party and without the proposed rule, District Plan users may assume, incorrectly, that any building outside the setback areas as notified, would be outside the noise effect area, when that may not be the case.⁶⁹⁸ Mr MacColl further suggested that the rule amendments he supported were required in order that the rule be consistent with the objectives and policies of Chapter 3. In response to questions from the Chair, Mr MacColl advised that the NZTA guidelines for setbacks were the same, regardless of the volume of traffic. We sought a copy of the guideline from Mr MacColl, but did not receive it.
734. Mr Barr, in reply, recommended some minor wording amendment to clarify that the rule applied to the setback of buildings from the road, but not in relation to the 80m setback sought by NZTA.
735. Without evidence as to the traffic noise effects and noise levels depending on the volume of traffic and its speed, we are not convinced as to the appropriateness of a blanket 80 metre setback for new dwellings from State Highway 6 where the speed limit is 70 – 100 km/hr. The only change we recommend is that, for clarity the term “Frankton” be replaced with “Shotover River”. We were concerned that using the term “Frankton” could lead to disputes as to where the restriction commenced/ended at that end. It was our understanding from questioning of Mr Barr and Mr MacColl, that it was intended to apply as far as the river.
736. Accordingly, we recommend that it be reworded as follows:

Setback from Roads

The minimum setback of any building from a road boundary shall be 20m, except, the minimum setback of any building from State Highway 6 between Lake Hayes and the Shotover River shall be 50m. The minimum setback of any building for other sections of State Highway 6 where the speed limit is 70 km/hr or greater shall be 40m.

Non-compliance Status – RD

Discretion is restricted to:

- a. rural amenity and landscape character*
- b. open space*

⁶⁹⁵ Submission 600

⁶⁹⁶ Submission 719

⁶⁹⁷ C Barr, Section 42A Report, Page 22, Para 9.6

⁶⁹⁸ A MacColl, EIC, Pages 5-6, Paras 20-21.

c. the adverse effects on the proposed activity from noise, glare and vibration from the established road.

7.3 Rule 21.5.3 – Setback from Neighbours of Buildings Housing Animals

737. As notified, this rule required a 30m setback of any building housing animals from internal boundaries, with a restricted discretionary activity consent required for non-compliance.

738. There were no submissions, and other than listing the matters of discretion alphanumerically, we recommend the rule be adopted as notified.

7.4 Rule 21.5.4 – Setback of buildings from Water bodies

739. As notified Rule 21.5.4 stated:

Setback of buildings from Water bodies

The minimum setback of any building from the bed of a wetland, river or lake shall be 20m.

Discretion is restricted to all of the following:

a. Indigenous biodiversity values

b. Visual amenity values

c. Landscape and natural character

d. Open space

e. Whether the waterbody is subject to flooding or natural hazards and any mitigation to manage the adverse effects of the location of the building

740. Four submissions sought that the standard be adopted as proposed⁶⁹⁹. One submission sought that the standard be amended so that the setback be 5m for streams less than 3m in width⁷⁰⁰. Another submission⁷⁰¹ sought to exclude buildings located on jetties where the purpose of the building is for public transport.

741. In the Section 42A Report, while Mr Barr recognised that the amenity values of a 3m wide stream may not be high, he considered that a 5m setback was too small.⁷⁰² We heard no evidence to the contrary. We agree in part with Mr Barr and note that there would be several other factors, such as natural hazards, that would support a 20m buffer. Accordingly, we recommend that the submission by D & M Columb be rejected.

742. As to the exclusion of buildings located on jetties where the purpose of the building is for public transport, Mr Barr noted that Rules 21.5.40 - 21.5.43 would trigger the need for consent anyway, and Mr Barr did not consider that Rule 21.5.4 generated unnecessary consents. Mr Barr was also of the view that it was the effects of any building that should trigger consent, not whether it was publicly or privately owned.⁷⁰³

⁶⁹⁹ Submissions 339, 384, 600, 706

⁷⁰⁰ Submission 624

⁷⁰¹ Submission 806

⁷⁰² C Barr, Section 42A Report, Page 23, Para 9.9

⁷⁰³ C Barr, Section 42A Report, Page 23, Para 9.10

743. We heard no evidence in support of that submission and concur with Mr Barr that the wording of rule should be retained as notified. Accordingly, we recommend that Rule 21.5.4 be retained as notified.

7.5 Rule 21.5.5 – Dairy Farming

744. As notified, Rule 21.5.5 required that effluent holding tanks, and effluent treatment and storage ponds be located 300m from any formed road or adjoining property with non-compliance a restricted discretionary activity.

745. Submissions on this provision variously sought:

- a. Its retention⁷⁰⁴
- b. Its deletion⁷⁰⁵ (No reasons provided)
- c. The addition of “lake, river” to the list of “formed roads or adjoining property”⁷⁰⁶
- d. The addition of “sheep and beef farms” and “silage pits” to the list of “effluent holding tanks, effluent treatment and storage ponds”⁷⁰⁷
- e. Amendment to reduce the specified distance of 300m to a lesser distance⁷⁰⁸
- f. Amendment of the activity status for non-compliance to discretionary.⁷⁰⁹

746. In the Section 42A Report, Mr Barr considered that the addition of “sheep and beef farms” and “silage pits” would capture too wide a range of activities that are not as intensive as dairying and do not have the same degree adverse effects. As such, Mr Barr recommended that that submission be rejected.⁷¹⁰ As regards the inclusion “lake or river” to the list of “formed roads, rivers and property boundaries”, Mr Barr considered lakes and rivers are not likely to be on the same site as a dairy farm. Hence in his view, the suggested qualifier to the boundary set back is appropriate.⁷¹¹

747. Mr Edgar, in his evidence for Longview Environmental Trust⁷¹², provided examples where the failure to include lake or river, could result in effluent holding tanks, effluent treatment and storage ponds being within 15 metres of the margin of a lake or unformed road. Mr Edgar was also of the view that amendments were required for consistency with Policies 21.2.1.1 and 21.2.1.4. We note that Mr Edgar’s evidence did not go as far as recommending reference to unformed as well as formed roads, presumably as this relief was not sought by Longview Environmental Trust. In reply, Mr Barr agreed with Mr Edgar as to the identification of public areas whose amenity values needed to be managed through the mechanism of setbacks⁷¹³. We agree with Mr Edgar and Mr Barr that the setback should include lakes or rivers and that it is appropriate in achieving the objectives.

748. We heard no evidence in support of the submissions seeking to reduce the 300m separation distance. The submission itself identified that 300m would create infrastructural problems for

⁷⁰⁴ Submissions 335, 384, 600

⁷⁰⁵ Submission 400

⁷⁰⁶ Submission 659

⁷⁰⁷ Submission 642

⁷⁰⁸ Submissions 701, 784

⁷⁰⁹ Submission 659

⁷¹⁰ C Barr, Section 42A Report, Page 24, Para 9.16

⁷¹¹ C Barr, Section 42A Report, Page 24, Para 9.17

⁷¹² S Edgar, EIC, Pages 3-4, Paras 7 - 13

⁷¹³ C Barr, Reply, Page 14, Para 5.1 – 5.2

farmers.⁷¹⁴ We note that compliance with the 300m distance is for permitted activity status and that any non-compliance, for infrastructural reasons, are provided for as a restricted discretionary activity. Given the potential effects of the activity, and the lack of evidence as to an appropriate lesser distance, we consider the distance to be appropriate in terms of achieving the objectives. Accordingly, we recommend that the submission be rejected.

749. We were unable to identify evidence from Mr Barr or Mr Edgar relating to the submission by Longview Environmental Trust⁷¹⁵ seeking the amendment of the activity status for non-compliance from restricted discretionary to discretionary. The reason set out in the submission for the request is for consistency between Rules 21.5.5 and 21.5.6.⁷¹⁶ We consider that there is a difference between Rules 21.5.5 and 21.5.6 in that 21.5.5 applies to an activity and 21.5.6 applies to buildings. This difference is further reflected in there being separate tables for activities and buildings (including farm buildings). This separation does not imply that they should have the same activity status. Accordingly, we recommend that the Longview Environmental Trust submission be rejected.

750. In summary, we recommend that Rule 21.5.5 be relocated into Table 3 Standards for Farm Activities, renumbered as Rule 21.6.1, and worded as follows:

Dairy Farming (Milking Herds, Dry Grazing and Calf Rearing)

All effluent holding tanks, effluent treatment and effluent storage ponds, must be located at least 300 metres from any formed road, lake, river or adjoining property.

Non-compliance RD

Discretion is restricted to:

- a. Odour*
- b. Visual prominence*
- c. Landscape character*
- d. Effects on surrounding properties.*

7.6 Rule 21.5.6 – Dairy Farming

751. Rule 21.5.6, as notified, required milking sheds or buildings used to house or feed milking stock be located 300m from any formed road or adjoining property, with non-compliance as a discretionary activity.

752. Submissions on this provision variously sought:

- a. Its retention⁷¹⁷
- b. The addition of “lake, river” to the list of “formed roads or adjoining property”⁷¹⁸
- c. Amendment to reduce the specified distance of 300m to a lesser distance.⁷¹⁹

⁷¹⁴ Submission 701, Page 2, Para 16

⁷¹⁵ S Edgar, EIC, Pages 3-4, Paras 7 - 13

⁷¹⁶ Submission 659, Page 2

⁷¹⁷ Submissions 335, 384, 600

⁷¹⁸ Submission 659

⁷¹⁹ Submissions 701, 784

753. We have addressed the matter of the reduction of the 300m distance in Section 8.5 above and do not repeat that analysis here. We simply note our recommendation is that, for the same reasons, those submissions be rejected.
754. Mr Barr considered that the rule is appropriate in a context where farm buildings can be established as a permitted activity on land holdings greater than 100ha.⁷²⁰
755. As regards the addition of lakes and rivers, Mr Barr, again in the Section 42A Report, noted that farm buildings were already addressed under Rule 21.5.4 (as notified) which required a 20m setback from water bodies and therefore, in his view, the submission should be rejected.
756. Mr Edgar, in evidence, raised similar issues with this rule as with 21.5.5 discussed above. In reply, Mr Barr agreed as to the appropriateness of the inclusion of rivers and lakes. Following the same reasoning, we agree with Mr Edgar and Mr Barr that the setback of buildings from water bodies should include recognition of their amenity values. Accordingly, we recommend that Rule 21.5.6 be relocated into Table 5 Standards for Farm Buildings, be renumbered and worded as follows;

21.8.4	Dairy Farming (Milking Herds, Dry Grazing and Calf Rearing) All milking sheds or buildings used to house or feed milking stock must be located at least 300 metres from any adjoining property, lake, river or formed road.	D
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7.7 Rule 21.5.7 – Dairy Farming

757. Rule 21.5.7, as notified, read as follows;

	Dairy Farming (Milking Herds, Dry Grazing and Calf Rearing) Stock shall be prohibited from standing in the bed of, or on the margin of a water body. For the purposes of this rule: a. Margin means land within 3.0 metres from the edge of the bed b. Water body has the same meaning as in the RMA, and also includes any drain or water race that goes to a lake or river.	PR
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758. Submissions on this rule variously sought that it be retained⁷²¹, be deleted⁷²², be widened or clarified to include other livestock including “deer, beef”⁷²³ or expressed concern regarding it overlapping Regional Plan rules⁷²⁴.
759. In the Section 42A Report, Mr Barr considered that dairy farming was more intensive than traditional sheep and beef grazing with a greater potential to damage riparian margins and contaminate waterbodies. Mr Barr considered that the effects of stock in waterways was not only a water quality issue but also a biodiversity, landscape and amenity value issue, and that the proposed rule complemented the functions of the Otago Regional Council.⁷²⁵

⁷²⁰ C Barr, Section 42A Report, Page 24, Para 9.20

⁷²¹ Submission 335, 384

⁷²² Submission 600

⁷²³ Submission 117, 289, 339, 706, 755

⁷²⁴ Submission 798

⁷²⁵ C Barr, Section 42A Report, Pages 25 – 27, Paras 9.24 – 9.36

760. In evidence for Federated Farmers, Mr Cooper raised the issue of confusion for plan users between rules in the Regional Water Plan and Rule 21.5.7. He considered that this was not fully addressed in the Section 32 Report.⁷²⁶ We agree.

761. To us, this is a clear duplication of rules that does not meet the requirements of section 32 as being the most effective and efficient way of meeting the objectives of the QLDC plan. Accordingly, we recommend that the submission of Federated Farmers be accepted and Rule 21.5.7, as notified, be deleted.

7.8 Rule 21.5.8 – Factory Farming

762. As notified, this rule stated in relation to factory farming (excluding the boarding of animals):

Factory farming within 2 kilometres of a Residential, Rural Residential, Rural Lifestyle, Township, Rural Visitor, Town Centre, Local Shopping Centre or Resort Zone.

763. Non-compliance required consent as a discretionary activity.

764. The only submissions on this rule supported its retention⁷²⁷, however it has a number of problems. First, it lists zones which are not notified as part of stage 1 (or Stage 2) of the PDP, notably the Rural Visitor and Township. It also lists Resort Zones as if that is a zone or category, which it is not in the PDP.

765. The most significant problem with the rule, however, is that it appears the author has confused standard and activity status. Given that our recommended Rule 21.4.3 classifies factory farming of pigs or poultry as permitted activities, it appears to be inconsistent that such activities would be discretionary when they were located more than 2 kilometres from the listed zones, but permitted within 2 kilometres. We recommend this be corrected under Clause 16(2) of the First Schedule by wording this rule as:

Factory farming (excluding the boarding of animals) must be located at least 2 kilometres from a Residential, Rural Residential, Rural Lifestyle, Town Centre, Local Shopping Centre Zone, Millbrook Resort Zone, Waterfall Park Zone, or Jacks Point Zone.

766. We also recommend it be renumbered and relocated into Table 3.

7.9 Rule 21.5.9 – Factory Farming

767. This rule, as notified, set standards that factory farming of pigs were to comply with. Non-compliance required consent as a non-complying activity. No submissions were received to this rule and we recommend it be adopted as notified with a minor wording changes to make it clear it is a standard, and renumbered and relocated into Table 3.

7.10 Rule 21.5.10 – Factory Farming of Poultry

768. This rule, as notified, set standards that factory farming of poultry were to comply with. Non-compliance required consent as a non-complying activity. No submissions were received to this rule and we recommend it be adopted as notified with a minor wording changes to make it clear it is a standard, and renumbered and relocated into Table 3.

⁷²⁶ D Cooper, EIC, Para 44

⁷²⁷ Submissions 335 and 384

7.11 Rule 21.5.11 – Factory Farming

769. As notified, this rule read:

Any factory farming activity other than factory farming of pigs or poultry.

770. Non-compliance was listed as non-complying. Again there were no submissions on this rule.

771. It appears to us that this rule is intended as a catch-all activity status rule, rather than a standard. We recommend it be retained as notified, but relocated into Table 1 and numbered as Rule 21.4.4.

7.12 Rule 21.5.12 – Airport Noise – Wanaka Airport

772. As notified, this rule read:

Alterations or additions to existing buildings, or construction of a building on a building platform approved before 20 October 2010 within the Outer Control Boundary, shall be designed to achieve an internal design sound level of 40 dB L_{dn}, based on the 2036 noise contours, at the same time as meeting the ventilation requirements in Table 5, Chapter 36. Compliance can either be demonstrated by submitting a certificate to Council from a person suitably qualified in acoustics stating that the proposed construction will achieve the internal design sound level, or by installation of mechanical ventilation to achieve the requirements in Table 5, Chapter 36.

773. Non-compliance required consent as a non-complying activity.

774. The only submission⁷²⁸ on this rule sought that it be retained.. As a consequence of recommendations made by the Hearing Stream 5 Panel, Table 5 has been deleted from Chapter 36. The reference should be to Rule 36.6.2 in Chapter 36.

775. We also recommend a minor change to the wording so that the standard applies to buildings containing Activities Sensitive to Aircraft Noise, consistent with the following rule applying to Queenstown Airport. Thus, we recommend that the standard, renumbered as Rule 21.5.5, read:

Alterations or additions to existing buildings, or construction of a building on a building platform approved before 20 October 2010 that contain an Activity Sensitive to Aircraft Noise and are within the Outer Control Boundary, must be designed to achieve an internal design sound level of 40 dB L_{dn}, based on the 2036 noise contours, at the same time as meeting the ventilation requirements in Rule 36.6.2, Chapter 36. Compliance can either be demonstrated by submitting a certificate to Council from a person suitably qualified in acoustics stating that the proposed construction will achieve the internal design sound level, or by installation of mechanical ventilation to achieve the requirements in Rule 36.6.2, Chapter 36.

7.13 Rule 21.5.13 – Airport Noise – Queenstown Airport

776. As notified, this rule contained similar provisions as Rule 21.5.12, albeit distinguishing between buildings within the Air Noise Boundary and those within the Outer Control Boundary. Again, there was only one submission⁷²⁹ in respect of this rule, and that submission sought that the rule be retained.

⁷²⁸ Submission 433, opposed by FS1030, FS1097 and FS1117

⁷²⁹ Submission 433, opposed by FS1097 and FS1117

777. Subject to amending the standard to refer to Rule 36.6.2 in place of Table 5 in Chapter 36 and other minor word changes, we recommend the rule be renumbered 21.5.6 and adopted as notified.

8 TABLE 3 – STANDARDS FOR STRUCTURES AND BUILDINGS

8.1 Rule 21.5.14 - Structures

778. Rule 21.5.14, as notified, read as follows;

21.5.14	<p>Structures</p> <p>Any structure within 10 metres of a road boundary, which is greater than 5 metres in length, and between 1 metre and 2 metres in height, except for:</p> <p>21.5.14.1 post and rail, post and wire and post and mesh fences, including deer fences;</p> <p>21.5.14.2 any structure associated with farming activities as defined in this plan.</p> <p>Discretion is restricted to all of the following:</p> <ol style="list-style-type: none"> a. Effects on landscape character, views and amenity, particularly from public roads b. The materials used, including their colour, reflectivity and permeability c. Whether the structure will be consistent with traditional rural elements. 	RD
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779. One submission sought that the rule be retained⁷³⁰, two sought that “nature conservation values” be added the matters of discretion⁷³¹, one submission sought that 21.5.14.2 be amended without specifying such amendments⁷³², and another sought that 21.5.14.2 be amended to read “*any structure associated with farming activities as defined in this Plan. This includes any structures associated with irrigation including centre pivots and other irrigation infrastructure*”⁷³³. Lastly, two submissions sought that 21.5.14 be amended to be restricted to matters that are truly discretionary⁷³⁴.

780. We also note that there were two submissions seeking the heading for Table 3 as notified be amended to specifically provide for irrigation structures and infrastructure.⁷³⁵

781. Mr Barr, in Appendix 2 of the Section 42A Report⁷³⁶, considered that applying nature conservation values to the matters of discretion would be too broad as it would encapsulate ecosystems, hence removing the specificity of the restricted discretionary status and the reason for needing a consent. We heard no other evidence on this matter. We agree with Mr Barr that the relief sought would make the discretion too wide and therefore not be effective in

⁷³⁰ Submission 335, 384

⁷³¹ Submissions 339, 706

⁷³² Submission 701

⁷³³ Submissions 784

⁷³⁴ Submission 701, 784

⁷³⁵ Submissions 701, 784

⁷³⁶ C Barr, Section 42A Report, Appendix 2, Page 107

achieving the objective. Accordingly, we recommend that those submissions be rejected. We note that Mr Atly and Forest & Bird made requests for similar relief to Rules 21.5.15 – 21.5.17. We recommend that those submissions be rejected for the same reasons.

782. Mr Barr, in Appendix 2 of the Section 42A Report⁷³⁷, considered that irrigators were not buildings, as per the QLDC Practice Note⁷³⁸ and therefore did not require specific provisions. We heard no other evidence on this matter. We agree with Mr Barr that irrigators are not buildings and therefore the amendments sought are not required. Accordingly we recommend that those submissions be rejected. This similarly applies to the submissions requesting the change to the Table 3 Heading.

783. In the Section 42A Report, Mr Barr addressed a range of submissions that sought that the matters of discretion be tightened, and specifically the removal of reference to “rural amenity values’ in the consent of Rule 21.5.18⁷³⁹. We address all the submissions on this matter at Rule 21.5.18.

784. In line with our recommendation in Section 7.1 regarding rule and table structure, we recommend that Rule 21.5.14 be relocated to Table 4, renumbered and worded as follows:

21.7.1	<p>Structures Any structure which is greater than 5 metres in length, and between 1 metre and 2 metres in height must be located a minimum distance of 10 metres from a road boundary, except for:</p> <p>21.5.14.1 post and rail, post and wire and post and mesh fences, including deer fences;</p> <p>21.5.14.2 any structure associated with farming activities as defined in this plan.</p>	<p>RD Discretion is restricted to:</p> <p>a. Effects on landscape character, views and amenity, particularly from public roads</p> <p>b. The materials used, including their colour, reflectivity and permeability</p> <p>c. Whether the structure will be consistent with traditional rural elements.</p>
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8.2 Rule 21.5.15 - Buildings

785. Rule 21.5.15, as notified read as follows;

⁷³⁷ C Barr, Section 42A Report, Appendix 2, Page 107

⁷³⁸ QLDC – Practice Note 1/2014

⁷³⁹ Submission 600

21.5.15	<p>Buildings</p> <p>Any building, including any structure larger than 5m², that is new, relocated, altered, reclad or repainted, including containers intended to, or that remain on site for more than six months, and the alteration to any lawfully established building are subject to the following:</p> <p>All exterior surfaces shall be coloured in the range of browns, greens or greys (except soffits), including;</p> <p>21.5.15.1 Pre-painted steel and all roofs shall have a reflectance value not greater than 20%; and,</p> <p>21.5.15.2 All other surface finishes shall have a reflectance value of not greater than 30%.</p> <p>21.5.12.3 In the case of alterations to an existing building not located within a building platform, it does not increase the ground floor area by more than 30% in any ten year period.</p> <p>Discretion is restricted to all of the following:</p> <ol style="list-style-type: none"> a. External appearance b. Visual prominence from both public places and private locations c. Landscape character d. Visual amenity. 	RD
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786. One submission sought that the rule be retained⁷⁴⁰; two sought that the reference to colour be removed⁷⁴¹; one submission sought that 21.5.15.1 be deleted⁷⁴²; one submission sought that wording be amended for clarity and that the reflectance value not apply to locally sourced schist⁷⁴³; another submission sought amendments such that the area be increased to 10m² and that the reflectance value be increased to 36% for walls and roofs, and a number of finishes to be excluded⁷⁴⁴; two submissions sought that buildings within Ski Area Sub-Zones be excluded from these requirements⁷⁴⁵; one submission sought that 21.5.15.3 be less restrictive and amended to 30% in any 5 year period⁷⁴⁶; lastly, one submission sought the benefits of the buildings to rural sustainable land use be added as a matter of discretion.⁷⁴⁷

787. In the Section 42A Report, Mr Barr acknowledged that the permitted limits were conservative, but overall, considered that the provisions as notified would reduce the volume of consents that were required by the ODP⁷⁴⁸, and that these issues had been fully canvassed in the Section 32 Report, which concluded that the ODP rules were inefficient.⁷⁴⁹ Mr Barr also considered that for long established buildings and any non-compliance with the standards, the proposed rules allow case by case assessment.⁷⁵⁰ We concur with Mr Barr that the shift from controlled activity under the ODP to permitted under the PDP, subject to the specified standards, is a more efficient approach to controlling the effects of building colour.

⁷⁴⁰ Submission 600

⁷⁴¹ Submissions 368, 829

⁷⁴² Submission 411

⁷⁴³ Submission 608

⁷⁴⁴ Submission 368

⁷⁴⁵ Submissions 610, 613

⁷⁴⁶ Submission 829

⁷⁴⁷ Submissions 624

⁷⁴⁸ C Barr, Section 42A Report, page 34, paragraph 11.13

⁷⁴⁹ C Barr. Section 42A Report, Pages 37 – 38, Paras 12.2, 12.5

⁷⁵⁰ C Barr. Section 42A Report, Page 38, Paras 12.3 – 12.5

788. Mr Barr did not consider that the exclusion of certain natural materials from the permitted activity standards to be appropriate, recording difficulties with interpretation and potential lack of certainty⁷⁵¹. However, in an attempt to provide some ability for landowners to utilise natural materials as a permitted activity, Mr Barr recommended slightly revising wording of the standard⁷⁵².
789. We heard detailed evidence for Darby Planning from Ms Pflüger, a landscape Architect, and for QLDC from Dr Read, also a landscape architect, that schist has no LRV, and concerning the difference between dry stacked schist and bagged schist⁷⁵³. The latter was considered by Dr Read to be inappropriate due to its resemblance to concrete walls. Ms Pflüger, on the other hand, was of the view that bagged schist was sufficiently different to concrete walls as to be appropriate in the landscape context of the district. Mr Ferguson, in his evidence for Darby Planning, relying on the evidence of Ms Pflüger, considered that schist should be excluded from the identified surfaces with LRV.⁷⁵⁴
790. In his Reply Statement, Mr Barr maintained his opinion that a list of material should not be included in this rule, as *“over the life of the district plan there will almost certainly be other material that come onto the market and it would be ineffective and inefficient if these materials required a resource consent because they were not listed.”*⁷⁵⁵
791. We agree in part with Mr Barr’s recommended amendments:
- a. To exclude soffits, windows and skylights (but not glass balustrades) from the exterior surfaces that have colour and reflectivity controls; and
 - b. To include a clarification in 21.5.15.2 (as notified) that it includes cladding and built landscaping that cannot be measured by way of light reflective value.
792. However, we disagree with his view that the inclusion of an exemption for schist from the light reflective control would somehow lead to inefficiencies due to other materials coming on the market. We agree with Ms Pflüger that incorporating schist into buildings is an appropriate response to the landscape in this district. We also consider that the term “luminous reflectance value” proposed by Mr Barr is more readily understood if phrased “light reflectance value”.
793. Mr Barr in the Section 42A Report, agreed that Rule 21.5.15 need not apply to the Ski Area Sub Zones, because these matters were already provided for by the controlled activity status for the construction and alteration of buildings in those Sub-Zones⁷⁵⁶. Accordingly, we accept Mr Barr’s recommendation to clarify that position in this rule and recommend that the submissions on this aspect be accepted. We note that the same submission issue applies to Rule 21.5.16⁷⁵⁷ and we reach a similar recommendation. As a consequence, we do not address this matter further.
794. Accordingly, with other minor changes to the wording, we recommend that Rule 21.5.15 be relocated into Table 4, renumbered, and worded as follows:

⁷⁵¹ C Barr, Section 42A Report, Page 39, Paras 12.9 – 12.10

⁷⁵² C Barr, Section 42A Report, page 39-40, paragraph 12.13

⁷⁵³ Y Pflüger, EIC, Pages 13 -14, Paras 7.3 – 7.5 and Dr M Read, EIC, Pages 8 – 9, Paras 5.2 – 5.6

⁷⁵⁴ C Fergusson, EIC, Page 14, Para 65

⁷⁵⁵ C Barr, Reply Statement, page 23, paragraph 7.4

⁷⁵⁶ C Barr, Section 42A Report, Page 41, Para 12.19

⁷⁵⁷ Submissions 610, 613

<p>21.7.2</p>	<p>Buildings</p> <p>Any building, including any structure larger than 5m², that is new, relocated, altered, reclad or repainted, including containers intended to, or that remain on site for more than six months, and the alteration to any lawfully established building, are subject to the following:</p> <p>All exterior surfaces* must be coloured in the range of browns, greens or greys, including;</p> <p>21.7.2.1 Pre-painted steel and all roofs must have a light reflectance value not greater than 20%; and,</p> <p>21.7.2.2 All other surface** finishes, except for schist, must shall have a light reflectance value of not greater than 30%.</p> <p>21.7.2.3 In the case of alterations to an existing building not located within a building platform, it does not increase the ground floor area by more than 30% in any ten year period.</p> <p>Except this rule does not apply within the Ski Area Sub-Zones.</p> <p>* Excludes soffits, windows and skylights (but not glass balustrades).</p> <p>** Includes cladding and built landscaping that cannot be measured by way of light reflectance value but is deemed by the Council to be suitably recessive and have the same effect as achieving a light reflectance value of 30%.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> a. external appearance; b. visual prominence from both public places and private locations; c. landscape character; d. visual amenity.
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8.3 Rule 21.5.16 – Building Size

795. Rule 21.5.16, as notified read as follows;

<p>21.5.16</p>	<p>Building size</p> <p>The maximum ground floor area of any building shall be 500m².</p> <p>Discretion is restricted to all of the following:</p> <ol style="list-style-type: none"> a. External appearance b. Visual prominence from both public places and private locations c. Landscape character d. Visual amenity e. Privacy, outlook and amenity from adjoining properties. 	<p>RD</p>
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796. One submission sought that this rule be retained⁷⁵⁸ and two submissions sought that the rule be deleted⁷⁵⁹.
797. We note that at the hearing on 18 May 2016, Mr Vivian, appearing among others for Woodlot Properties, withdrew submission 501 relating to Rule 21.5.16.
798. The reasons contained in the remaining submission seeking deletion suggested that there were circumstances on large subdivided lots where larger houses could be appropriate and that restricting the size of the houses would have a less acceptable outcome. The submitters considered that each should be judged on its own merit and that restrictions on size were already in place via the defined building platform.
799. In the Section 42A Report, Mr Barr noted that the rule was part of the permitted activity regime for buildings in the Rural Zone and that the purpose of the limit was to provide for the assessment of buildings that may be of a scale that is likely to be prominent. Mr Barr noted that buildings of 1000m² were not common and that the rule provided discretion as to whether additional mitigation was required due to the scale of the building.⁷⁶⁰
800. We agree with Mr Barr. Completely building out a 1000m² building platform is not an appropriate way to achieve the objectives of the PDP and, in our view, the 500m² limit enables appropriately scaled buildings. Proposals involving larger floor plates can still be considered under the discretion for buildings greater than 500m².
801. Accordingly, we recommend that the submission seeking the deletion of the rule be rejected and the rule be relocated into Table 4, renumbered and amended to be worded as follows:

21.7.3	<p>Building size</p> <p>The ground floor area of any building must not exceed 500m².</p> <p>Except this rule does not apply to buildings specifically provided for within the Ski Area Sub-Zones.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. external appearance; b. visual prominence from both public places and private locations; c. landscape character; d. visual amenity; e. privacy, outlook and amenity from adjoining properties.
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8.4 Rule 21.5.17 – Building Height

802. Rule 21.5.17, as notified limited the height of buildings to 8m. Two submissions sought that rule be amended, one to exclude the rule from applying to passenger lift systems⁷⁶¹ and one to exclude the rule from applying to mining buildings⁷⁶². One submission sought that the rule be retained as notified⁷⁶³.

⁷⁵⁸ Submission 600

⁷⁵⁹ Submission 368, 501

⁷⁶⁰ C Barr, Section 42A Report, Pages 40-41, Paras 12.15 – 12.18

⁷⁶¹ Submission 407

⁷⁶² Submission 519

⁷⁶³ Submission 600

803. As regards exclusion of passenger lift systems from the rule, we note that this is related to our discussion on the definition of passenger lifts systems in paragraphs 191 – 193 where we recommended that this matter should be addressed in the definitions hearing.
804. That said, in evidence for Mt Cardrona Station Ltd, Mr Brown considered that passenger lift systems should be excluded from the general standards applying to buildings and structures in the same way that farm buildings are exceptions⁷⁶⁴, although he did not discuss any of the rules in Table 3 in detail.
805. The submission of NZTM (519) seeking exclusion of mining building from this rule was also framed in the general. Mr Vivian’s evidence⁷⁶⁵ addressed this submission, opining that mining buildings necessary for the undertaking of mining activities could be treated much the same way as farm buildings, as they would be expected in the landscape where mining occurs.
806. We noted above, in discussing the definition of Passenger Lift Systems, (Section 5.16) Mr Fergusson’s understanding that ski tows and machinery were exempt from the definition of building in the Building Act. Other than that evidence, we were not provided with any reasons why passenger lift systems should be excluded from this rule. If Mr Fergusson’s understanding is correct, then the pylons of passenger lift systems would not be subject to the rule in any event. In the absence of clear evidence justifying the exclusion of passenger lift systems from the effect of this rule we are not prepared to recommend such an exclusion.
807. Turning to the NZTM submission, we consider that mining building buildings are not in the same category as farm buildings. The policy direction of this zone is to enable farming as the main activity in the zone. The separate provisions for farm buildings recognise the need for such buildings so as to enable the farming activity. However, such buildings are constrained as to frequency in the landscape, location, size, colour and height. In addition, mining, other than for farming purposes, cannot occur without a resource consent. While Mr Vivian may be correct that one would expect buildings to be associated with a mine, without detailed evidence on what those buildings may entail and how any adverse effects of such buildings could be avoided, we are unable to conclude that some separate provision should be made for mining buildings.
808. Accordingly, we recommend that apart from relocation into Table 4, renumbering and minor wording changes, Rule 21.5.17 be retained as notified.

9 TABLE 4 – STANDARDS FOR FARM BUILDINGS

9.1 Rule 21.5.18 – Construction or Extension to Farm Buildings

809. Rule 21.5.18, as notified, set out the permitted activity standards for farm buildings (21.5.18.1 – 21.5.18.7) and provided matters of discretion for a restricted discretionary activity status when the standards were not complied with.
810. One submission opposed farm buildings being permitted activities and sought that provisions of the ODP be rolled over in their current form.⁷⁶⁶ We have already addressed that matter in Section 7.4 above and have recommended that submission be rejected. In the Section 42A Report, however, Mr Barr relied on that submission and the evidence of Dr Read that a density of 1 farm building per 25 hectares (Rule 21.5.18.2 as notified) created the risk to the landscape from a proliferation of built form, as the basis for his recommendation that a density for farm

⁷⁶⁴ J Brown, EIC, Page 24, Paras 2.39 – 2.40

⁷⁶⁵ C Vivian, EIC, page 21, paragraphs 4.95-4.96

⁷⁶⁶ Submission 145

buildings of one per 50 hectares was more appropriate⁷⁶⁷. No other evidence was provided on this provision. We recommend that, subject to minor wording changes to make the rule clearer, Rule 12.5.18.2 be adopted as recommended by Mr Barr.

811. There were other submissions on specific aspects of 21.5.18 that we address now.
812. One submission sought that 21.5.18.3 be amended so that containers located on ONFs would be exempt from this rule⁷⁶⁸. Mr Barr did not address this matter directly in the Section 42A Report. Mr Vivian addressed this matter in evidence suggesting that provision for small farm buildings could be made⁷⁶⁹, but gave no particular reasons as to how he reached that opinion. Given the policy direction of the PDP contained in Chapters 3 and 6, we consider to exempt containers from this rule would represent an implementation failure. We recommend that submission be rejected.
813. One submission sought that 21.5.18.4 be amended to provide for buildings up to 200m² and 5m in height.⁷⁷⁰
814. Mr Barr, in the Section 42A Report, relying on the evidence of Dr Read as to the importance of landscape, considered the proposed rule as notified provided the appropriate balance between providing for farm buildings and ensuring landscape values were maintained. Mr Barr also considered that the rule was not absolute and provided for proposals not meeting the permitted standards to be assessed for potential effects on landscape and visual amenity.
815. We heard no evidence in support of the submission. We agree with and adopt the reasons of Mr Barr. Accordingly, we recommended that the submission be rejected.
816. One submission sought that the permitted elevation for farm buildings be increased from 600 metres above sea level (masl) to 900 masl⁷⁷¹. In the Section 42A Report, Mr Barr noted that this provision had been brought across from the ODP, acknowledged that there were some farms with areas over 600 masl, but considered that the 600 masl cut-off was appropriate because areas at the higher elevation were visually vulnerable.⁷⁷²
817. This is another area where we see that the permitted activity status for farming needs to be balanced against its potential adverse effects on landscape and visual amenity. We consider that the 600 masl cut-off is the most appropriate balance in terms of the rule achieving the objective. Accordingly, we recommend that the submission be rejected.
818. Two submissions opposed the open-ended nature of the matters of discretion that applied to this provision through the inclusion of reference to rural amenity values⁷⁷³. We note these submitters opposed other provisions in the standards of this chapter on a similar basis. Jeremy Bell Investment Limited (Submission 784) considered that the matters of discretion were so wide that they effectively made the provision a fully discretionary activity.

⁷⁶⁷ C Barr, Section 42A Report, Page 31, Para 10.19

⁷⁶⁸ Submission 519

⁷⁶⁹ C Vivian, EIC, Page 21, Para 4.100

⁷⁷⁰ Submission 384

⁷⁷¹ Submission 829

⁷⁷² C Barr, Section 42A Report, Page 29, Para 10.10

⁷⁷³ Submission 600, 784

819. In the Section 42A Report, Mr Barr considered that the matters of discretion related to the effects on landscape and were consistent with the ODP in this regard. However, Mr Barr went on to compare the matters of control for farm buildings under the ODP with the matters of discretion under the PDP, concluding that the ODP matters of control nullified the controlled activity status. Mr Barr acknowledged that the “scale” and “location” were broad matters, but he remained of the view that they were relevant and should be retained.⁷⁷⁴
820. We heard no evidence in support of these submissions. We also note that the change in approach of the PDP, providing for farm buildings as permitted activities, is accompanied by objectives and policies to protect landscape values. We agree with Mr Barr where, in the Section 42A Report, he observes that the matters of discretion relate to landscape and not other matters such as vehicle access and trip generation, servicing, natural hazards or noise. While the matters of discretion are broad, they are in line with the relevant objectives and policies.
821. Nonetheless, we questioned Mr Barr as to relevance of “location” and “scale” as matters of discretion given that matters of discretion listed in this rule already provide for these matters.
822. In reply, Mr Barr noted the importance of “location” and “scale”, observing that they were specifically identified in Policy 21.2.1.2 (as notified) but considered that “... *The matters of discretion would better suit the rural amenity, landscape character, privacy and lighting being considered in the context of the scale and location of the farm building.*”⁷⁷⁵ Mr Barr, went on to recommend rewording of the matters of discretion so that location and scale are considered in the context of the other assessment matters. We agree and recommend that the wording of the matters of discretion be modified accordingly. Otherwise, we recommend that the submissions of Federated Farmers and JBIL be rejected.
823. Another submission sought that wahi tupuna be added to matters of discretion where farm buildings affect ridgelines and slopes⁷⁷⁶.
824. Mr Barr, in the Section 42A Report, considered that this matter was already addressed in Policy 21.2.1.7 and that as it pertained to ridgelines and slopes, it was already included in the matters of discretion⁷⁷⁷. We agree. Accordingly, we recommend that the submission be rejected.
825. Taking account of the amendments recommended above and our overall rewording of the provisions, we recommend that Rule 21.5.18 be located in Table 5, renumbered and worded as follows;

	Table 5- Standards for Farm Buildings	Non-compliance
	The following standards apply to Farm Buildings.	
21.8.1	<p>Construction, Extension or Replacement of a Farm Building</p> <p>The construction, replacement or extension of a farm building is a permitted activity, subject to the following standards:</p> <p>21.8.1.1 The landholding the farm building is located within must be greater than 100ha; and</p>	<p>RD</p> <p>Discretion is restricted to:</p> <p>a. The extent to which the scale and location of the Farm Building is appropriate in terms of:</p> <p>i. rural amenity values.</p> <p>ii. landscape character.</p>

⁷⁷⁴ C Barr, Section 42 A Report, Pages 3-32, Para 10.21 – 10.26

⁷⁷⁵ C Barr, Reply, Page 15, Para 5.5

⁷⁷⁶ Submission 810

⁷⁷⁷ C Barr, Section 42A Report, Page 32, Para 10.27 – 10.28

	Table 5- Standards for Farm Buildings The following standards apply to Farm Buildings.	Non-compliance
	<p>21.8.1.2 The density of all buildings on the landholding, inclusive of the proposed building(s) must not exceed one farm building per 50 hectares; and</p> <p>21.8.1.3 The farm building must not be located within or on an Outstanding Natural Feature (ONF); and</p> <p>21.8.1.4 If located within the Outstanding Natural Landscape (ONL), the farm building must not exceed 4 metres in height and the ground floor area must not exceed 100m²; and</p> <p>21.8.1.5 The farm building must not be located at an elevation exceeding 600 masl; and</p> <p>21.8.1.6 If located within the Rural Character Landscape (RCL), the farm building must not exceed 5m in height and the ground floor area must not exceed 300m²; and</p> <p>21.8.1.7 Farm buildings must not protrude onto a skyline or above a terrace edge when viewed from adjoining sites, or formed roads within 2km of the location of the proposed building.</p>	<p>iii. privacy, outlook and rural amenity from adjoining properties.</p> <p>iv. visibility, including lighting.</p>

9.2 Rule 21.5.19 – Exterior colours of buildings

826. Rule 21.5.19, as notified, set out the permitted activity standards for exterior colours for farm buildings (21.5.19.1 – 21.5.19.3) and provided matters of discretion to support a restricted discretionary activity status where the standards were not complied with.
827. One submission sought that the rule be retained⁷⁷⁸, one submission sought that wording be amended for clarity and that the reflectance value not apply to locally sourced schist⁷⁷⁹, and one submission sought removal of visual amenity values from the matters of discretion⁷⁸⁰.
828. The submission on this provision from Darby Planning⁷⁸¹ is the same as that made to 21.5.15 which we addressed above (Section 8.15). For the same reasons, we recommend that the submission on provision 21.5.19 be accepted in part.
829. The submission from Federated Farmers⁷⁸² seeking the removal of visual amenity values from the matters of discretion is the same as that made to 21.5.15 in regard to rural amenity values, which we addressed above (Section 8.15). For the same reasons, we recommend that the submission on provision 21.5.19 be rejected.

⁷⁷⁸ Submission 325

⁷⁷⁹ Submission 608

⁷⁸⁰ Submission 600

⁷⁸¹ Submission 608

⁷⁸² Submission 600

830. Accordingly, we recommend that 21.5.19 be located in Table 5, renumbered and worded as follows;

21.8.2	<p>Exterior colours of farm buildings:</p> <p>21.8.2.1 All exterior surfaces, except for schist, must be coloured in the range of browns, greens or greys (except soffits).</p> <p>21.8.2.2 Pre-painted steel, and all roofs must have a reflectance value not greater than 20%.</p> <p>21.8.2.3 Surface finishes, except for schist, must have a reflectance value of not greater than 30%.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. external appearance b. visual prominence from both public places and private locations c. landscape character d. visual amenity.
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9.3 Rule 21.5.20 – Building Height

831. This standard set a maximum height of 10m for farm buildings. Two submissions⁷⁸³ supported this provision. Other than some minor rewording to make the rule clearer, location in Table 5 and renumbering, we recommend it be adopted as notified.

10 TABLE 5 – STANDARDS FOR COMMERCIAL ACTIVITIES

10.1 Rule 21.5.21 – Commercial Recreational Activity

832. We have dealt with this standard in Section 7.15 above.

10.2 Rule 21.5.22 – Home Occupation

833. Rule 21.5.22, as notified set out the permitted activity standards for home occupations and provided for a restricted discretionary activity status for non-compliance with the standards.

834. One submission sought that the provision be retained⁷⁸⁴ and one sought that it be amended to ensure that the rule was effects-based and clarified as to its relationship with rules controlling commercial and commercial recreational activities.⁷⁸⁵

835. In the Section 42A Report, Mr Barr considered that the rule did provide clear parameters and certainty.⁷⁸⁶ We heard no other evidence on this provision. We agree with Mr Barr, that this rule is clear and note that it specifically applies to home occupations. Accordingly, we recommend that the submission seeking that the rule be amended, be rejected.

836. Accordingly, taking account of the amendments recommended above and our overall rewording of the provisions, we recommend that Rule 21.5.22 be located in Table 6, renumbered and worded as follows;

⁷⁸³ Submissions 325 and 600 (supported by FS1209, opposed by FS1034)

⁷⁸⁴ Submission 719

⁷⁸⁵ Submission 806

⁷⁸⁶ C Barr, Section 42A Report, Page 48, Par 13.36

21.9.2	<p>Home Occupation</p> <p>21.9.2.1 The maximum net floor area of home occupation activities must not exceed 150m²;</p> <p>21.9.2.2 Goods materials or equipment must not be stored outside a building;</p> <p>21.9.2.3 All manufacturing, altering, repairing, dismantling or processing of any goods or articles must be carried out within a building.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <p>a. the nature, scale and intensity of the activity in the context of the surrounding rural area.</p> <p>b. visual amenity from neighbouring properties and public places.</p> <p>c. noise, odour and dust.</p> <p>d. the extent to which the activity requires a rural location because of its link to any rural resource in the Rural Zone.</p> <p>e. access safety and transportation effects.</p>
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10.3 Rule 21.5.23 – Retail Sales

837. This rule imposed a setback from road boundaries of 30m on buildings in excess of 25m² used for retail sales. No submissions were received on this standard. Other than some wording changes for clarification purposes, we recommend the rule be located in Table 6, renumbered and adopted as notified.

10.4 Rule 21.5.24 – Retail Sales

838. As notified, this rule read:

Retail sales where the access is onto a State Highway, with the exception of the activities listed in Table 1.

839. Non-compliance was listed as a non-complying activity.

840. The sole submission⁷⁸⁷ on the rule sought its retention.

841. The problem with this rule is that it is not a standard. It appears to us that the intention of the rule is to make any retail sales other than those specifically listed in Table 1 (21.4.14 Roadside stalls and 21.4.15 sales of farm produce) a non-complying activity. That being the case, we recommend the rule be relocated in Table 1 as Rule 21.4.21 to read:

Retail sales where the access is onto a State Highway, with the exception of the activities provided for by Rule 21.4.14 or Rule 21.4.16.

Non-complying activity

11 TABLE 6 – STANDARDS FOR INFORMAL AIRPORTS

842. We have dealt with this in Section 7.23 above.

12 TABLE 7 – STANDARDS FOR SKI AREA ACTIVITIES WITHIN THE SKI AREA SUB ZONE

⁷⁸⁷ Submission 719

12.1 Rule 21.5.27 – Construction, relocation, addition or alteration of a building

843. As notified, Rule 21.5.27 read:

21.5.27	Construction, relocation, addition or alteration of a building. Control is reserved to all of the following: <ol style="list-style-type: none"> a. Location, external appearance and size, colour, visual dominance b. Associated earthworks, access and landscaping c. Provision of water supply, sewage treatment and disposal, electricity and communication services (where necessary) d. Lighting. 	C
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844. One submission sought to add provisions relating to the exterior colour of all buildings⁷⁸⁸; and one submission sought that the table be renamed “Standards for Ski Area Activities within Ski Area Sub Zones and Tourism Activities within the Cardrona Alpine Resort” and that numerous changes be made to 21.5.27 including adding reference to earthworks infrastructure, snow grooming, lift and tow provisions and particular reference to the Cardrona Alpine Resort.⁷⁸⁹

845. The submission seeking specification of the exterior colour for building stated as the reason for the request that the matters listed are assessment matters not standards. Mr Barr, in the Section 42A Report, acknowledged the ambiguity of the table and recommended it be updated to correct this issue. Mr Brown, in evidence for Mt Cardrona Station Ltd, supported such an amendment⁷⁹⁰ and Mr Barr, in reply provided further modification to the Table to clarify activity status⁷⁹¹. We agree with Mr Brown and Mr Barr that clarification as to the difference between activity status and standards is required. However, we do not think that their recommended amendments fully address the issue.

846. Accordingly, and in line with our recommendation in Section 7.1 above, we recommend that the activities for Ski Area Sub Zones be included in one table (Table 9).

847. Mr Barr, in the Section 42A Report, questioned if the substantive changes sought by Cardrona Alpine Resort Ltd were to be addressed in the Stream 11 hearing due to the extensive nature of changes sought by the submission. For the avoidance of doubt, Mr Barr assessed the amendments to 21.5.27 in a comprehensive manner, concluding that the submission should be rejected⁷⁹². We heard no evidence in support of the amendments to Rule 21.5.27 sought by Cardrona Alpine Resort Ltd. As such, we agree with Mr Barr, for the reasons set out in the Section 42A Report, and recommend that the submission be rejected.

848. Accordingly, we recommend that Rule 21.5.27 be located in Table 9 Activities within the Ski Area Sub Zones, renumbered and worded as follows:

21.11.2	Construction, relocation, addition or alteration of a building. Control is reserved to: <ol style="list-style-type: none"> a. location, external appearance and size, colour, visual dominance b. associated earthworks, access and landscaping c. provision of water supply, sewage treatment and disposal, electricity and communication services (where necessary) 	C
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⁷⁸⁸ Submission 407

⁷⁸⁹ Submission 615

⁷⁹⁰ J Brown, EIC, Page 24, Para 2.38

⁷⁹¹ C Barr, Reply, Appendix 1, Page 21-21

⁷⁹² C Barr, Section 42A Report, Pages 63 – 64, Paras 14.43 – 14.51

	d. lighting.	
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12.2 Rule 21.5.28 – Ski tows and lifts

849. As notified, Rule 21.5.28 read as follows:

21.5.28	<p>Ski tows and lifts.</p> <p>Control is reserved to all of the following:</p> <ol style="list-style-type: none"> a. The extent to which the ski tow or lift or building breaks the line and form of the landscape with special regard to skylines, ridges, hills and prominent slopes b. Whether the materials and colour to be used are consistent with the rural landscape of which the tow or lift or building will form a part c. Balancing environmental considerations with operational characteristics. 	C
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850. One submission sought to replace ski tows and lift with passenger lift systems and add provisions relating to the exterior colour of all passenger lift systems⁷⁹³. We have already addressed the definition of passenger lift system in paragraphs Section 5.16 above, concluding that it is appropriate to use this term for all such systems, including gondolas, ski tows and lifts. In addition, the submission of Mt Cardrona Station Ltd regarding exterior colour has the same reasoning as we discussed in Section 13.1 above. We adopt that same reasoning here. After hearing more extensive evidence on passenger lift systems, the Stream 11 Panel has recommended the inclusion of an additional matter of control ((c) in the rule set out below). Accordingly, we recommend that Rule 21.5.28 be located in Table 9 as an activity rather an a standard, be renumbered and worded as follows:

21.11.3	<p>Passenger Lift Systems.</p> <p>Control is reserved over:</p> <ol style="list-style-type: none"> a. the extent to which the passenger lift system breaks the line and form of the landscape with special regard to skylines, ridges, hills and prominent slopes; b. whether the materials and colour to be used are consistent with the rural landscape of which the passenger lift system will form a part; c. the extent of any earthworks required to construct the passenger lift system, in terms of the limitations set out in Chapter 25 Earthworks; d. balancing environmental considerations with operational characteristics. 	C
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12.3 Rule 21.5.29 – Night Lighting

851. As notified, this rule made night lighting a controlled activity in the SASZ. There were no submissions on it. We recommend it be located in Table 9 as an activity rather than a standard, and adopted as notified subject to minor wording changes and renumbering.

12.4 Rule 21.5.30 – Vehicle Testing

852. As notified, this rule provided for vehicle testing facilities at the Waiorau Snow Farm SASZ as a controlled activity There were no submissions on it. We recommend it be located in Table 9 as

⁷⁹³ Submission 407

an activity rather than a standard, and adopted as notified subject to minor wording changes and renumbering.

12.5 Rule 21.5.31 – Retail activities ancillary to Ski Area Activities

853. As notified, this rule provided for retail activities ancillary to ski area activities as a controlled activity in the SASZ. There were no submissions on it. We recommend it be located in Table 9 as an activity rather than a standard, and adopted as notified subject to minor wording changes and renumbering.

12.6 New Activity for Ski Area Sub Zone Accommodation within Ski Area Sub Zones

854. Two submissions sought to insert a new rule into Table 7 (as notified) to provide Residential and Visitor Accommodation⁷⁹⁴.

855. In Section 5.19 above, we set out findings as regards a definition and policy for Ski Area Sub Zone Accommodation. We do not repeat that here. Rather, having established the policy framework, we address here the formulation of an appropriate rule. We understood that Mr Barr and Mr Ferguson⁷⁹⁵ were in general agreement as to the substance of the proposed rule. However, in terms of matters that we have not previously addressed, they had differences of opinion in relation to the inclusion in the rule of reference to landscape and ecological values.

856. Mr Ferguson initially recommended inclusion in the matters of discretion of reference to the positive benefits for landscape and ecological values⁷⁹⁶. However, in response to our questions, he made further amendments removing the reference to positive benefits.⁷⁹⁷ Mr Barr, in reply, considered that it did not seem appropriate to have landscape and ecological values apply to Ski Area Sub-Zone Accommodation facilities and not to other buildings in the Sub-Zone, which are addressed by the framework in Chapter 33 and which provided for the maintenance of biological diversity⁷⁹⁸. We agree with Mr Barr. The inclusion of reference to ecological matters would be a duplication of provisions requiring assessment. We note that the policy framework for Ski Area Sub-Zones precludes the landscape classification from applying in the Sub-Zone. This is not to say that landscape considerations are unimportant, but, in our view, those considerations should be applied consistently when considering all buildings and structures in the Sub-Zone.

857. In Section 5.19, we noted the need for the inclusion of the 6 month stay period as it applies to Ski Area Sub Zone Accommodation to be part of this rule. Mr Ferguson included this matter as a separate rule⁷⁹⁹. Mr Barr, in reply, recommended the 6 month period be included as part of a single rule and also considered that given that such activities were in an alpine environment, natural hazards should be included as a matter of discretion.

858. In considering all of the above, we recommend that new rule be included in Table 9 to provide for Ski Area Sub Zone Accommodation, numbered and worded as follows:

21.12.7	Ski Area Sub Zone Accommodation	RD
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⁷⁹⁴ Submissions 610, 613

⁷⁹⁵ Expert Planning Witness for Submission Numbers 610 and 613

⁷⁹⁶ C Ferguson, EIC, Page 32-33, Para 125

⁷⁹⁷ C Ferguson, Response to Panel Questions, 27 May 2016, Pages 7 - 8

⁷⁹⁸ C Barr, Reply, Pages 40 – 41, Para 14.12

⁷⁹⁹ C Ferguson, Response to Panel Questions, 27 May 2016, Page 8

	<p>Comprising a duration of stay of up to 6 months in any 12 month period and including worker accommodation.</p> <p>Discretion is restricted to:</p> <ol style="list-style-type: none"> a. scale and intensity and whether these would have adverse effects on amenity, including loss of remoteness or isolation b. location, including whether that because of the scale and intensity the visitor accommodation should be located near the base building area (if any) c. parking d. provision of water supply, sewage treatment and disposal e. cumulative effects f. natural hazards 	
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12.7 New Rule – Ski Area Sub-Zone Activities

859. As a result of hearings in Stream 11, a new Rule 21.12.8 providing for a no build area in the Remarkables Ski Area Sub-Zone has been recommended by the Stream 11 Panel.

12.8 Standards for Ski Area Sub-Zones

860. As will be clear from above, we concluded that all the provisions listed in notified Table 7 were activities rather than standards. We had no evidence suggesting any specific standard be included for Ski Area Sub-Zone. Thus we recommend the table for such standards be deleted.

13 TABLE 8 – STANDARDS FOR ACTIVITIES WITHIN THE RURAL INDUSTRIAL SUB ZONE

13.1 Rule 21.5.32 – Buildings

861. As notified, Rule 21.5.32 read as follows;

21.5.32	<p>Buildings Any building, including any structure larger than 5m², that is new, relocated, altered, reclad or repainted, including containers intended to, or that remain on site for more than six months, and the alteration to any lawfully established building are subject to the following: All exterior surfaces shall be coloured in the range of browns, greens or greys (except soffits), including;</p> <p>21.5.32.1 Pre-painted steel and all roofs shall have a reflectance value not greater than 20%; and,</p> <p>21.5.32.2 All other surface finishes shall have a reflectance value of not greater than 30%.</p> <p>Discretion is restricted to all of the following:</p> <ul style="list-style-type: none"> • External appearance • Visual prominence from both public places and private locations. • Landscape character • Visual amenity. 	RD
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862. One submission sought that the activity status be amended to fully discretionary or that the Rural Industrial Sub-Zone be removed from this Stage of the Review⁸⁰⁰. On reviewing the submission, we note that the concern expressed was that ‘rural amenity’ was not provided in the list of matters of discretion.
863. This submission was addressed by Mr Barr in the Section 42A Report, Appendix 2 where Mr Barr recorded that, *“The matters of discretion are considered to appropriately contemplate ‘rural amenity’. The matters of discretion specify ‘visual amenity’. Visual amenity would encompass rural amenity.”*⁸⁰¹
864. We heard no evidence in support of the submission. We agree with Mr Barr for the reasons set out in the Section 42A Report. Accordingly, we recommend that the submission be rejected and subject to minor word changes, the rule be adopted as notified as Rule 21.14.1 in Table 11..

13.2 Rule 21.5.33 – Building size

865. As notified this rule set a maximum ground floor of buildings in the Rural Industrial Sub-Zone at 500m², with non-compliance a restricted discretionary activity. No submissions were received on this rule.
866. Other than minor wording changes for clarity and renumbering, we recommend this rule be adopted as notified.

13.3 Rule 21.5.34 – Building height

867. As notified, this rule set the maximum building height at 10m in the Sub-Zone. No submissions were received on this rule.
868. Other than minor wording changes for clarity and renumbering, we recommend this rule be adopted as notified.

13.4 Rule 21.5.35 – Setback from Sub-Zone Boundaries

869. As notified, this rule set the setback from the Sub-Zone boundaries at 10m in the Sub-Zone. No submissions were received on this rule.
870. Other than minor wording changes for clarity and renumbering, we recommend this rule be adopted as notified.

13.5 Rule 21.5.36 – Retail Activities

871. As notified, this limited the location and area of space used for retail sales to being within a building, and not exceeding 10% of the building’s total floor area. Non-compliance was set as a non-complying activity. No submissions were received on this rule.
872. Other than minor wording changes for clarity and renumbering, we recommend this rule be adopted as notified.

13.6 Rule 21.5.37 – Lighting and Glare

873. As notified, Rule 21.5.37 read as follows;

21.5.37	Lighting and Glare	NC
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⁸⁰⁰ Submission 314

⁸⁰¹ C Barr, Section 42A Report, Appendix 2, Page 127

	21.5.37.1	All fixed exterior lighting shall be directed away from adjoining sites and roads; and	
	21.5.37.2	No activity on any site shall result in greater than a 3.0 lux spill (horizontal and vertical) of light onto any other site measured at any point inside the boundary of the other site, provided that this rule shall not apply where it can be demonstrated that the design of adjacent buildings adequately mitigates such effects.	
	21.5.37.3	There shall be no upward light spill.	

874. One submission sought that this provision be relocated to Table 2 – General Standards⁸⁰². At this point, we also note that there was one submission seeking shielding and filtration standards for outdoor lighting generally within the zone with any non-compliance to be classified as a fully discretionary activity⁸⁰³.

875. Mr Barr considered that shifting the standard to Table 2 – General Standards was appropriate relying on the evidence of Dr Read, “... *that the absence of any lighting controls in the ONF/L is an oversight and is of the opinion that the lighting standards should apply District Wide*”⁸⁰⁴. We agree for the reason set out in Mr Barr’s Section 42A Report and recommend that the submission be accepted in part. We also consider that this addresses the submission seeking new lighting standards and accordingly recommended that submission be accepted in part.

876. The submission of QLDC Corporate also sought the following additional wording be added to the standard, ‘*Lighting shall be directed away from adjacent roads and properties, so as to limit effects on the night sky*’.

877. We agree with Mr Barr that such a standard is too subjective in that the rule itself would limit effects on the night sky and that it would be too difficult to ascertain as a permitted standard. Accordingly, we recommended that that submission be rejected.

878. Consequently, we recommend this rule be located in Table 2 as Rule 21.5.7 with the only text change being the replacement in recommended Rule 21.5.7.3 of “shall” with “must”.

14 TABLE 9 – ACTIVITIES AND STANDARDS FOR ACTIVITIES ON THE SURFACE OF LAKES AND RIVERS

879. This table, as notified, contained a mixture of activities and standards. We recommend it be divided into two tables: Table 12 containing the activities on the surface of lakes and rivers, and Table 13 containing the standards for those activities.

14.1 Rule 21.5.38 – Jetboat Race Events

880. As notified, Rule 21.5.38 read as follows:

⁸⁰² Submission 383

⁸⁰³ Submission 568

⁸⁰⁴ C Barr, EIC, Page 101, Para 20.8

21.5.38	<p>Jetboat Race Events</p> <p>Jetboat Race Events on the Clutha River, between the Lake Outlet boat ramp and the Albert Town road bridge not exceeding 6 race days in any calendar year.</p> <p>Control is reserved to all of the following:</p> <ol style="list-style-type: none"> a. The date, time, duration and scale of the jetboat race event, including its proximity to other such events, such as to avoid or mitigate adverse effects on residential and recreational activities in the vicinity b. Adequate public notice is given of the holding of the event c. Reasonable levels of public safety are maintained. 	C
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881. One submission sought that the rule be deleted as it would limit recreational opportunities and activities on the Clutha River⁸⁰⁵.

882. Mr Barr, in the Section 42A Report, noted that this rule was effectively brought over from the ODP with the same activity status. The only change was that the limitation of 6 races per year was specified in the rule, rather than in a note⁸⁰⁶. We heard no evidence in support of the submission and we do not consider a 6 race limit unreasonable. Accordingly, we recommend that the submission be rejected and that the only changes be to numbering and structuring, in line with our more general recommendations. Some minor changes to the matters of control are also recommended so they do not read as standards. It would therefore be located in Table 12 as an activity and worded as follows:

21.15.4	<p>Jetboat Race Events</p> <p>Jetboat Race Events on the Clutha River, between the Lake Outlet boat ramp and the Albert Town road bridge not exceeding 6 race days in any calendar year.</p> <p>Control is reserved to:</p> <ol style="list-style-type: none"> a. the date, time, duration and scale of the jetboat race event, including its proximity to other such events, such as to avoid or mitigate adverse effects on residential and recreational activities in the vicinity; b. the adequacy of public notice of the event; c. public safety. 	C
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14.2 Rule 21.5.39 - Commercial non-motorised boating activities and Rule 21.5.43 – Commercial boating activities

883. As notified, Rule 21.5.39 read as follows:

21.5.39	<p>Commercial non-motorised boating activities</p> <p>Discretion is restricted to all of the following:</p> <ol style="list-style-type: none"> a. Scale and intensity of the activity b. Amenity effects, including loss of privacy, remoteness or isolation c. Congestion and safety, including effects on other commercial operators and recreational users 	RD
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⁸⁰⁵ Submission 758

⁸⁰⁶ C Barr, Section 42A Report, Pages 88 – 89, Paras 17.43 – 17.48

	<p>d. Waste disposal</p> <p>e. Cumulative effects</p> <p>f. Parking, access safety and transportation effects.</p>	
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884. One submission sought that the rule be retained⁸⁰⁷, one sought that it be deleted⁸⁰⁸, two submissions sought that the rule be amended to prohibit non-motorised commercial activities on Lake Hayes⁸⁰⁹ and one submission sought that the rule be amended so that the matters of discretion included location⁸¹⁰. We note that Queenstown Rafting Ltd lodged a number of further submissions opposing many of the submissions on this provision and also seeking that the activity status be made fully discretionary. We find this latter point is beyond the scope of the original submissions, and hence we not have considered that part of those further submissions.
885. Mr Barr, in the Section 42A Report, noted the safety concerns raised in the QRL submission⁸¹¹, but considered that the provision as notified adequately addressed safety issues and that the restricted discretionary activity status was appropriate. Mr Barr also considered that the addition of 'location' as a matter of discretion was appropriate.⁸¹² Mr Farrell, in evidence for R/L agreed with Mr Barr⁸¹³.
886. In evidence for QRL, Mr Boyd (Managing Director of QRL) suggested that restricted discretionary activity status would result in the Council not considering other river and lake users when assessing such applications. He also highlighted the potential impact of accidents on tourism activities.⁸¹⁴
887. Mr Brown, in his evidence for Kawarau Jet Services Holdings Limited⁸¹⁵ considered safety and congestion an important factor that should be considered for any application involving existing and new motorised and non-motorised boating activities⁸¹⁶.
888. In reply, Mr Barr considered that the inclusion of safety in the matters of assessment meant that restricted discretionary status did not unduly impinge on a thorough analysis and application of section 104 and section 5.⁸¹⁷
889. Considering the evidence of the witnesses we heard, we had difficulty in reaching the conclusion that restricted discretionary activity status was appropriate for commercial non-motorised boating activities (Rule 21.5.39) alongside fully discretionary activity status for commercial motorised boating activities (Rule 21.4.43), particularly where motorised and non-motorised activities may occur on the same stretch of water. It appeared to us that the same activity status should apply to both motorised and non-motorised commercial boating activities.
890. We therefore consider Rule 21.5.43 at this point. As notified, this rule read as follows;

⁸⁰⁷ Submissions 45, 719

⁸⁰⁸ Submission 167

⁸⁰⁹ Submission 11, 684

⁸¹⁰ Submission 621

⁸¹¹ Submission 167

⁸¹² C Barr, Section 42A Report, Page 84-85, Paras 17.25 – 17.28

⁸¹³ B Farrell, EIC, Page 27, Paras 125 - 126

⁸¹⁴ RV Boyd, EIC, Pages 3- 5, Paras 3.3 – 4.5

⁸¹⁵ Submission 307

⁸¹⁶ J Brown, EIC, Page 20, Para 2.28

⁸¹⁷ C Barr, Reply, Page 30, Para 10.2

21.5.43	<p>Commercial boating activities Motorised commercial boating activities.</p> <p>Note: Any person wishing to commence commercial boating activities could require a concession under the QLDC Navigation Safety Bylaw. There is an exclusive concession currently granted to a commercial boating operator on the Shotover River between Edith Cavell Bridge and Tucker Beach until 1 April 2009 with four rights of renewal of five years each.</p>	D
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891. One submission sought that the term “motorised commercial boating activities” be deleted from the rule⁸¹⁸ and one submission sought that the rule be amended to separately provide for commercial ferry operations for public transport between the Kawarau River, Frankton Arm, and Queenstown CBD as a controlled activity⁸¹⁹.
892. We were unable to find direct reference in the Section 42A Report to this rule or to the submission from QRL. Rather, the focus of the Section 42A Report remained on the commercial non-motorised boating activities as discussed above.
893. Reading Submission 167 as a whole, the combination of relief resulting from deleting rule 21.5.39 and deleting “*motorised commercial boating activities*” from Rule 21.5.43 would mean that all commercial boating activities (meaning both motorised and non-motorised operations) would become fully discretionary activities. For the reasons discussed above, we agree that it is appropriate that the same activity status apply to motorised and non-motorised boating activities. We have no jurisdiction to consider restricted discretionary status for motorised activities (other than for commercial ferry operations in the areas specified in Submission 806).
894. Accordingly, we recommend that Rule 21.5.39 and Rule 21.4.43 be combined and renumbered, with the following wording;

21.15.9	<p>Motorised and non-motorised Commercial Boating Activities Except where otherwise limited by a rule in Table 12.</p> <p>Note: Any person wishing to commence commercial boating activities could require a concession under the QLDC Navigation Safety Bylaw. There is an exclusive concession currently granted to a commercial boating operator on the Shotover River between Edith Cavell Bridge and Tucker Beach until 1 April 2009 with four rights of renewal of five years each.</p>	D
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895. In relation to the submission of QPL seeking commercial ferry operations for public transport between the Kawarau River, Frankton Arm, and Queenstown CBD be subject to a separate rule as a controlled activity, this issue has also been raised by RJL. Both QPL and RJL sought related amendments to a number of provisions and we address those matters later in the report in Section 15.4.

⁸¹⁸ Submission 167

⁸¹⁹ Submission 806

14.3 Rule 21.5.40 – Jetties and Moorings in the Frankton Arm

896. As notified, this rule provided for jetties and moorings in the Frankton Arm as a restricted discretionary activity. No submissions were received on this rule.
897. Other than minor wording changes and renumbering, we recommend this be adopted as notified.

14.4 Rule 21.5.41 and Rule 21.5.42 – Structures and Moorings

898. As notified, Rules 21.5.41 and 21.5.42 read as follows;

21.5.41	Structures and Moorings Any structure or mooring that passes across or through the surface of any lake or river or is attached to the bank of any lake and river, other than where fences cross lakes and rivers.	D
21.5.42	Structures and Moorings Any structures or mooring that passes across or through the surface of any lake or river or attached to the bank or any lake or river in those locations on the District Plan Maps where such structures or moorings are shown as being non-complying.	NC

899. One submission sought that Rule 21.5.41 be amended to include pipelines for water takes that are permitted in a regional plan and gabion baskets or similar low impact erosion control structures installed for prevention of bank erosion⁸²⁰.
900. Two submissions sought that Rule 21.5.42 be amended to provide for jetties and other structures for water based public transport on the Kawarau River and Frankton Arm, as a controlled activity⁸²¹.
901. In relation to the amendment sought by RJL regarding water take pipelines and erosion controls, we could not find reference to this submission point in the Section 42A Report. Mr Farrell, likewise did not address this matter in evidence for RJL. In reply, Mr Barr recommended amending 21.5.41 to clarify that post and wire fences were in this situation permitted activities, although he provided no discussion of this change or reference to a submission seeking it.
902. Having heard no evidence in support of the amendments for inclusion of water pipeline takes and erosion control devices, we recommend that that submission be rejected.
903. While there may have been an intention that post and wire fences crossing lakes and rivers were a permitted activity, Rule 21.5.41 as notified did not classify those activities in that way. What the rule did do is exclude fences crossing lakes and rivers from the discretionary activity category. Given the application of (notified) Rule 21.4.1, those fences would therefore be non-complying activities. There is no scope for those activities to be reclassified as permitted. Therefore, we do not agree with Mr Barr's recommended amendment.
904. What we do recommend is a minor, non-substantive change to Rule 21.5.41 to make it clear that it is subject to Rule 21.5.42 (as notified).

⁸²⁰ Submission 621

⁸²¹ Submission 621, 806

905. Accordingly, we recommend that Rules 21.5.41 and 21.5.42 be renumbered and worded as follows:

21.15.7	Structures and Moorings Subject to Rule 21.15.8, any structure or mooring other than post and wire fences that passes across or through the surface of any lake or river or is attached to the bank of any lake and river.	D
21.15.8	Structures and Moorings Any structures or mooring that passes across or through the surface of any lake or river or attached to the bank or any lake or river in those locations on the District Plan Maps where such structures or moorings are shown as being non-complying.	NC

906. Returning to the submissions regarding jetties and other structures for water based public transport on the Kawarau River and Frankton Arm as a controlled activity, we have already addressed these matters at a policy level in Section 5.48 above, where we recommended separating public ferry systems from other commercial boating activities. We also recorded the need for jetties and moorings to be considered in the context of policies related to protection landscape quality and character, and amenity values.

907. Mr Barr, in the Section 42A Report, was opposed to controlled activity status for jetties and other structures and his recommendation was *“that the restricted discretionary activity status is appropriate, as is a discretionary, or non-complying activity status for other areas as identified in the provisions.”*⁸²² Mr Farrell, in evidence for RJL, agreed with Mr Barr as to the restricted discretionary activity status for structures associated with water based public transport in the Frankton Arm⁸²³.

908. We could not identify anywhere in the Section 42A Report or in his Reply Statement where Mr Barr included any recommendations so that the revised text of the PDP would provide for jetties and other structures as restricted discretionary activities. Even if we are wrong on that matter, we do not agree that that is the appropriate activity status. In our view, Policy 21.2.12.8 recommended above goes far enough towards encouraging public ferry systems and beyond that, the rules need to be balanced so that consideration is given to landscape quality and character, and amenity values, that are to be maintained and enhanced under Policies 6.3.29 and 6.3.30.

909. Accordingly, we recommend that the submissions seeking rule amendments to provide for jetties and other structures for water based public transport on the Kawarau River and Frankton Arm as a controlled activity be rejected.

14.5 Rule 21.5.44 – Recreational and commercial boating activities

910. As notified, Rule 21.5.44 read as follows:

21.5.44	Recreational and commercial boating activities The use of motorised craft on the following lakes and rivers is prohibited, except where the activities are for emergency search and rescue, hydrological survey, public scientific research,	PR
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⁸²² C Barr, Section 42A Report, Page 87, Para 17.36

⁸²³ B Farrell, EIC, Page 28, Para 129

	resource management monitoring or water weed control, or for access to adjoining land for farming activities.	
21.5.44.1	Hawea River.	
21.5.44.2	Commercial boating activities on Lake Hayes.	
21.5.44.3	Any tributary of the Dart and Rees rivers (except the Rockburn tributary of the Dart River) or upstream of Muddy Creek on the Rees River.	
21.5.44.4	Young River or any tributary of the Young or Wilkin Rivers and any other tributaries of the Makarora River.	
21.5.44.5	Dingle Burn and Timaru Creek.	
21.5.44.6	The tributaries of the Hunter River.	
21.5.44.7	Hunter River during the months of May to October inclusive.	
21.5.44.8	Motatapu River.	
21.5.44.9	Any tributary of the Matukituki River.	
21.5.44.10	Clutha River - More than six jet boat race days per year as allowed by Rule 21.5.38.	

911. Submissions to this rule variously sought that:

- a. 21.5.44 be retained⁸²⁴
- b. 21.5.44.1 be amended to provide for recreational jet sprint racing on the Hawea River⁸²⁵
- c. 21.5.44.3 be amended to provide for recreational and commercial boating activities on the Beansburn tributary of the Dart River⁸²⁶
- d. 21.5.44.7 amend rule to permitted activity status⁸²⁷
- e. 21.5.44.10 amend rule to permitted activity status⁸²⁸.

912. Mr Barr, in the Section 42A Report, addressed the submission of Jet Boat NZ as regards jet sprint racing on the Hawea River, noting that the ODP did provide for such activities 6 days per year on an identified course on the river. However, Mr Barr set out in detail the reasons he considered that the activity status in the PDP should remain as prohibited, as follows;

- “a. There is not any 'one approved jet sprint course' on the ODP planning maps. I accept this is not the fault of the submitter, however it illustrates that the rule has not been exercised.*
- a. *The qualifiers in the exemption to the prohibited status are cumbersome and subject to third party approvals from a whitewater group and the Queenstown Harbour Master.*
 - b. *There is a jet sprint course constructed and in operation near the Wanaka Airport⁵³ for these activities that negate the need to manage risks to safety, amenity and nature conservation values as required in the qualifiers in Rule 5.3.3.5(a) through undertaking the activity on the Hawea River.*
 - c. *The jet sprint course near Wanaka Airport held a New Zealand Jet Sprint Championship event, however the resource consent was for a one-off event⁵⁴. While these activities require a resource consent the physical works associated with constructing a jet sprint course are already done*

⁸²⁴ Submission 688

⁸²⁵ Submission 758

⁸²⁶ Submission 716

⁸²⁷ Submission 758

⁸²⁸ Submission 758

d. *The jet sprint course on the Hawea River has not been used for a long time and is disused. The Council's Albert Town Reserve Management Plan 2010⁵⁵ noted this and states that the jet sprint course was not compatible with the quiet values of the reserve and adjacent camping areas and, Central Otago Whitewater have expressed an interest in using the disused course for a pond to complement the kayak slalom site.*⁸²⁹

53. *<http://www.jetsprint.co.nz/tracks/oxbow-aquatrack-wanaka/> Downloaded 28 February 2016.*

54. *RM130098 Oxbow Limited. To hold the fifth round of the New Zealand Jet Sprint Championship on the 30 March 2013 and undertake earthworks to construct the jet sprint course*

55. *http://www.qldc.govt.nz/assets/OldImages/Files/Reserve_Management_Plan_s/Albert_Town_Recreation_Reserve_Mgmt_Plan_2010.pdf*

913. Mr McSoriley, in evidence for JBNZ, considered that Mr Barr's interpretation of the rules in the ODP was incorrect and that the rules provided for both jet boating runs on the Hawea River itself, as well as jet sprint events on the identified course⁸³⁰. Mr McSoriley considered that there was no support for a blanket prohibition on the Hawea River and also set out the reasons for the limited utilisation of jet sprint course and factors that may have led to the PDP discouraging recreational jet boating⁸³¹.

914. In reply, Mr Barr considered that it was appropriate to have jet boating runs on the Hawea River as per the ODP Rule 5.3.3.5i (a) (2) despite the cumbersome nature of the provisions in the ODP and recommended amendments to that effect⁸³². Having considered the witness's evidence, we agree.

915. We questioned Mr Barr, as to whether the jet sprint course was part of the river, or whether, because it was artificially constructed, it therefore fell under Council's jurisdiction as a land-based activity rather than a surface of water activity. We understood from Mr Barr's evidence in reply that he supported the second interpretation. It followed that any activity on the course would require consideration under the provisions governing noise, commercial recreation activities and temporary activities. Mr Barr provided a copy of a consent from 14 Dec 1999 for a one-off jet sprint event to be held on 3 Jan 2000.

916. We agree with Mr Barr that the jet sprint course is not part of the surface of a lake or river, but that this use should be addressed under other provisions in Plan. We also note that we did not receive any evidence that the activity was lawfully established. In our view, the activity would be most appropriately addressed as a temporary activity.

917. Accordingly we recommend that the submission of JBNZ seeking the reinstatement of the Jet Sprint Course be rejected and recreational jet boat runs on the Hawea be provided for subject to limitations as follows;

⁸²⁹ C Barr, Section 42A Report, Pages 90 – 91, Para 17.52

⁸³⁰ L McSoriley, EIC, Pages 2-3, Para 10 - 12

⁸³¹ L McSoriley, EIC, Pages 4-5, Paras 14 - 24

⁸³² C Barr, Reply, Page 31, Para 10.6

21.15.3	<p>Motorised Recreational Boating Activities</p> <p>Hawea River, motorised recreational boating activities on no more than six (6) days in each year subject to the following conditions:</p> <ol style="list-style-type: none"> a. at least four (4) days of such activity are to be in the months January to April, November and December b. The Jet Boat Association of New Zealand (“JBANZ”) (JBANZ or one of the Otago and Southland Branches as its delegate) administers the activity on each day c. The prior written approval of Central Otago Whitewater Inc is obtained if that organisation is satisfied that none of its member user groups are organising activities on the relevant days; and d. JBANZ gives two (2) calendar months written notice to the Council’s Harbour-Master of both the proposed dates and the proposed operating schedule e. The Council’s Harbour-Master satisfies himself that none of the regular kayaking, rafting or other whitewater (non-motorised) river user groups or institutions (not members of Central Otago Whitewater Inc) were intending to use the Hawea River on that day, and issues an approved operating schedule f. JBANZ carries out, as its expense, public notification on two occasions 14 and 7 days before the proposed jet boating g. Public notification for the purposes of (f) means a public notice with double-size font heading in both the Otago Daily Times and the Southland Times, and written notices posted at the regular entry points to the Hawea River. 	P
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918. As regards the submission of Ngai Tahu Tourism Ltd seeking that Rule 21.5.44.3 be amended to provide for recreational and commercial boating activities on the Beansburn tributary of the Dart River, Mr Barr, in the Section 42A Report, considered that the submission did not contain any evaluation of safety effects, or how natural conservation values or amenity values of other recreational users would be impacted⁸³³.

919. Mr Edmonds spoke to the submission of Ngai Tahu Tourism Ltd, noting that the jet boat trip includes a stop at toilet facilities up the Beansburn River for which Ngai Tahu Tourism have a concession and presented maps showing stopping points. Mr Barr, in reply, agreed with Mr Edmonds and included a recommended amendment as part of a section 32AA assessment to provide for the exception of Beansburn tributary of the Dart River⁸³⁴.

920. We agree that an exception in this case is appropriate in addressing a practical aspect of the existing commercial boating operation. By excluding the Beansburn from the rule, the more general Rule 21.15.9 (as recommended) would apply making the activities described by Mr Edmonds a discretionary activity. Accordingly, we recommend that 21.5.44.3 be renumbered and worded as follows:

⁸³³ C Barr, Section 42A Report, Page 91, Para 17.55

⁸³⁴ C Barr, Reply, Appendix 2, Page 12, Rule 21.5.44.3

Any tributary of the Dart and Rees rivers (except the Beansburn and Rockburn tributaries of the Dart River) or upstream of Muddy Creek on the Rees River.

921. The submission of JBNZ sought to amend Rule 21.5.44.7, which prohibited recreational motorised craft on the Hunter River during the months of May to October, so that it would be permitted. Mr Barr in the Section 42A Report, noted that the submission stated that the rule would, *“prohibit recreational opportunities in certain months which is a permitted activity under the Operative District Plan”*. Mr Barr recorded that the rule is in fact carried over from the ODP and he considered the rule appropriate in terms of navigation and safety considerations and environmental impacts.
922. We heard no evidence from JBNZ in support of the submission that would contradict Mr Barr’s evidence. Therefore we recommend that the submission be rejected.
923. As regards the amendment sought by JBNZ to Rule 21.5.44.10 seeking permitted activity status for jet boating racing on the Clutha River (up to 6 race days a year), Mr Barr noted in the Section 42A Report that controlled activity status under Rule 21.5.38 is the same as in the ODP.⁸³⁵ Mr Barr did not consider the reasons provided by JBNZ to be compelling enough to alter the existing situation.
924. As for our consideration of Rule 21.5.38, JBNZ did not present any evidence in support of the submission that would cause us to take a different view to Mr Barr. We therefore recommend that the submission be rejected.
925. Notwithstanding the recommended acceptance and rejection of submissions set out above, we consider this rule has some inherent difficulties. As we understand the intention of the rule, it is to make it a prohibited activity for motorised craft to use the listed rivers and Lake Hayes (limited to commercial motorised craft). However, the rule also implies that where motorised craft are used for emergency search and rescue, hydrological survey, public scientific research, resource management monitoring or water weed control, or for access to adjoining land for farming activities, then they can use those rivers and Lake Hayes, presumably as a permitted activity.
926. In our view, the PDP would be a more easily understood document if the permitted activities were specified as such, and the prohibited activity rule was drafted so that it did not apply to those activities. For those reasons, we recommend this rule be split into two rules as follows:

21.15.2	Motorised Recreational and Commercial Boating Activities The use of motorised craft for the purpose of emergency search and rescue, hydrological survey, public scientific research, resource management monitoring or water weed control, or for access to adjoining land for farming activities.	P
21.15.10	Motorised Recreational and Commercial Boating Activities The use of motorised craft on the following lakes and rivers is prohibited except as provided for under Rules 21.15.2 and 21.15.3. 21.15.10.1 Hawea River. 21.15.10.2 Lake Hayes - Commercial boating activities only.	PR

⁸³⁵ C Barr, Section 42A Report, Page 89, Para 17.47

	<p>21.15.10.3 Any tributary of the Dart and Rees Rivers (except the Beansburn and Rockburn tributaries of the Dart River) or upstream of Muddy Creek on the Rees River.</p> <p>21.15.10.4 Young River or any tributary of the Young or Wilkin Rivers and any other tributaries of the Makarora River.</p> <p>21.15.10.5 Dingle Burn and Timaru Creek.</p> <p>21.15.10.6 The tributaries of the Hunter River.</p> <p>21.15.10.7 Hunter River during the months of May to October inclusive.</p> <p>21.15.10.8 Motatapu River.</p> <p>21.15.10.9 Any tributary of the Matukituki River.</p> <p>21.15.10.10 Clutha River - More than six jet boat race days per year as allowed by Rule 21.15.4</p>	
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14.6 Rule 21.5.45 – Boating Craft used for Accommodation

927. As notified, this rule provided standards applying to the use of craft for overnight accommodation. Non-compliance was a non-complying activity. No submissions were received to this rule.

928. In his Reply Statement, Mr Barr recommended changed wording so as to make it clear that the activity is allowed subject to the standards. In large part we agree with his recommended amendments. We consider such an amendment to be minor and available under Clause 16(2).

929. We recommend the rule be renumbered and adopted with the following wording:

21.16.1	<p>Boating craft used for Accommodation</p> <p>Boating craft on the surface of the lakes and rivers may be used for accommodation, provided that:</p> <p>21.16.1.1 The craft must only be used for overnight recreational accommodation; and</p> <p>21.16.1.2 The craft must not be used as part of any commercial activity; and</p> <p>21.16.1.3 All effluent must be contained on board the craft and removed, ensuring that no effluent is discharged into the lake or river.</p>	NC
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14.7 Rule 21.5.46 – Jetties in Frankton Arm

930. As notified, Rules 21.5.46 read as follows:

21.5.46	<p>No new jetty within the Frankton Arm identified as the area east of the Outstanding Natural Landscape Line shall:</p> <p>21.5.46.1 be closer than 200 metres to any existing jetty;</p> <p>21.5.46.2 exceed 20 metres in length;</p> <p>21.5.46.3 exceed four berths per jetty, of which at least one berth is available to the public at all times;</p> <p>21.5.46.4 be constructed further than 200 metres from a property in which at least one of the registered owners of the jetty resides.</p>	NC
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931. One submission sought that the standard be amended to exclude jetties associated with water based public transport or amended to provide flexibility for the provision of such jetties⁸³⁶. Two other submissions similarly sought that the rule not apply to jetties for public transport linkage on the Kawarau River, the Frankton Arm and Queenstown CBD⁸³⁷.
932. Submissions to this rule were not directly referenced in the Section 42A Report, Mr Barr noting in Appendix 2 that the matter was addressed under his consideration of Objective 21.2.12 (as notified)⁸³⁸.
933. Mr Farrell, in evidence for RJC opined that the importance of water based public transport warranted discretionary activity status for associated jetties and structures rather than the non-complying activity status⁸³⁹. Mr Farrell did not provide any further reasons for reaching that opinion.
934. We have already addressed the issue of water based public transport infrastructure at a policy level in Section 5.48 above, where we recommended separating public ferry systems from other commercial boating activities and, in particular, recording the need for jetties and moorings to be considered within the context of landscape quality and character, and amenity values all being maintained and enhanced under Policies 6.3.29 and 6.3.30. For the same reasons, we recommend that these submissions be rejected.
935. Mr Barr, in reply did recommend clarification of the rule by inserting a reference to Outstanding Natural Landscape line as shown on the District Plan Maps⁸⁴⁰. We agree that this is a useful clarification. Accordingly, we recommend that Rule 21.5.46 be renumbered and the wording be as follows;

21.16.2	<p>Jetties and Moorings in the Frankton Arm</p> <p>Jetties and moorings in the Frankton Arm, identified as the areas located to the east of the Outstanding Natural Landscape line as shown on District Plan Map</p> <p>No new jetty within the Frankton Arm identified as the area east of the Outstanding Natural Landscape Line shall:</p> <p>21.16.2.1 Be closer than 200 metres to any existing jetty;</p> <p>21.16.2.2 Exceed 20 metres in length;</p> <p>21.16.2.3 Exceed four berths per jetty, of which at least one berth is available to the public at all times;</p> <p>21.16.2.4 Be constructed further than 200 metres from a property in which at least one of the registered owners of the jetty resides.</p>	NC
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14.8 Rule 21.5.47 – Specific Standards

936. As notified, Rule 21.5.47 read as follows;

21.5.47	The following activities are subject to compliance with the following standards:	NC
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⁸³⁶ Submission 621

⁸³⁷ Submissions 766, 806

⁸³⁸ C Barr, Section 42A Report, Appendix 2, Page 131

⁸³⁹ B Farrell, EIC, Page 29, Para 135

⁸⁴⁰ C Barr, Reply, Appendix 1, Page 21-27

	<p>21.5.47.1 Kawarau River, Lower Shotover River downstream of Tucker Beach and Lake Wakatipu within Frankton Arm - Commercial motorised craft shall only operate between the hours of 0800 to 2000.</p> <p>21.5.47.2 Lake Wanaka, Lake Hawea and Lake Wakatipu - Commercial jetski operations shall only be undertaken between the hours of 0800 to 2100 on lakes Wanaka and Hawea and 0800 and 2000 on Lake Wakatipu.</p> <p>21.5.47.3 Dart and Rees Rivers - Commercial motorised craft shall only operate between the hours of 0800 to 1800, except that above the confluence with the Beansburn on the Dart River commercial motorised craft shall only operate between the hours of 1000 to 1700.</p> <p>21.5.47 Dart River – The total number of commercial motorised boating activities shall not exceed 26 trips in any one day. No more than two commercial jet boat operators shall operate upstream of the confluence of the Beansburn, other than for tramper and angler access only.</p>	
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937. One submission sought that the rule be amended to clarify that it did not apply to commercial boating operations providing a public transport service⁸⁴¹. Another submission sought that Rule 21.5.47.1 be amended so as not to provide a disincentive for public transport⁸⁴². A third submission sought that rule 21.5.47.4 be amended to refer to ‘one’ instead of ‘two’ commercial jet boat operators⁸⁴³.
938. Mr Barr, in the Section 42A Report, agreed that the hours of operation specified in Rule 21.5.47.1 could provide a disincentive for public transport and recommended amending the rule to exclude public transport ferries, rather than deleting the rule entirely.⁸⁴⁴
939. We have already addressed public transport ferry activities above. We agree with Mr Barr that the restriction on the hours of operation would be a disincentive that should be removed.
940. In speaking to the submission of Ngai Tahu Tourism Ltd⁸⁴⁵ seeking an amendment to Rule 21.5.47.4, to refer to ‘one’ instead of ‘two’ commercial jet boat operators, Mr Edmonds explained that Ngai Tahu Tourism Ltd now owned all the jet boat operations on the Dart River.
941. We are concerned that, notwithstanding that Ngai Tahu Tourism Limited may be the only present operator on the Dart River, restricting the number of operators to one would amount to a restriction of trade competition. In the absence of evidence of resource management reasons as to why the standard should be further restricted, we do not recommend it be changed.

⁸⁴¹ Submission 806

⁸⁴² Submission 383

⁸⁴³ Submission 716

⁸⁴⁴ C Barr, Section 42A Report, Page 87, Para 17.39

⁸⁴⁵ Submission 716

942. Taking account of all of the above, we recommend that rule 21.5.47 be renumbered and worded as follows:

21.16.3	<p>The following activities are subject to compliance with the following standards:</p> <p>21.16.3.1 Kawarau River, Lower Shotover River downstream of Tucker Beach and Lake Wakatipu within Frankton Arm - Commercial motorised craft other than public transport ferry activities, may only operate between the hours of 0800 to 2000.</p> <p>21.16.3.2 Lake Wanaka, Lake Hawea and Lake Wakatipu - Commercial jetski operations must only be undertaken between the hours of 0800 to 2100 on Lakes Wanaka and Hawea and 0800 and 2000 on Lake Wakatipu.</p> <p>21.16.3.3 Dart and Rees Rivers - Commercial motorised craft must only operate between the hours of 0800 to 1800, except that above the confluence with the Beansburn on the Dart River commercial motorised craft must only operate between the hours of 1000 to 1700.</p> <p>21.16.3.4 Dart River – The total number of commercial motorised boating activities must not exceed 26 trips in any one day. No more than two commercial jet boat operators may operate upstream of the confluence of the Beansburn, other than for tramper and angler access only.</p>	NC
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15 TABLE 10 – CLOSEBURN STATION

943. As notified, this table contained one activity rule and four standards applying solely to Closeburn Station. The only submission⁸⁴⁶ on these supported the provisions.
944. We recommend these be split into two tables: Table 14: Closeburn Station – Activities; and Table 15: Closeburn Station – Standards. Other than that, renumbering and a minor grammatical correction to the height standards, we recommend the rules be adopted as notified.

16 NEW STANDARDS SOUGHT

945. The NZFS⁸⁴⁷ sought inclusion of a standard requiring compliance with the NZFS Code of Practice SNZ PAS 4509:2003 in relation to water supply and access. We were not able to find any further submissions opposing the relief sought.
946. In the Section 42A Report, Mr Barr supported the request but raised concerns around the reliance on the Code of Practice, which is a document outside the PDP, for a permitted activity status. As there were no development rights attached to dwellings in the Rural Zone, Mr Barr

⁸⁴⁶ Submission 323

⁸⁴⁷ Submission 438

did not consider the rule necessary and recommended that the submission be rejected⁸⁴⁸. We note that in Section 5.4 above that we have already dealt with the policy matter of the provision of firefighting water supply and fire service vehicle access within this Chapter and the other rural chapters. We also note that Mr Barr, in the Section 42A Report on Chapter 22, recommended that the specifics of the Code of Practice be incorporated into the wording of a standard⁸⁴⁹.

947. We heard evidence from Mr McIntosh, Area Manager Central/North Otago at the NZFS, as to the detail of the Code of Practice and the importance of water supply and access to property in the event of the NZFS attending emergency call outs⁸⁵⁰. We also heard evidence from Ms A McLeod, a planner appearing for NZFS. Ms McLeod had a different view to Mr Barr, considering that a standard should be included. Her reasons included greater certainty and clarity for plan users, consistency with the priority given to fire-fighting water supply in section 14(3) of the RMA and by being *“the most appropriate way to achieve the purpose of the RMA by enabling people and community to provide for their health, safety and well-being by managing a potential adverse effect of relatively low probability but high consequence.”*⁸⁵¹
948. In her evidence, Ms McLeod considered that reference to codes of practice were provided for by the Act and that interpreting the code into the provision as proposed by Mr Barr could lead to the PDP being more restrictive than the code itself⁸⁵². We questioned the NZFS witnesses regarding the detail of the application of the code and proposed standard and activity status during the hearing and also sought additional information on specific questions relating to the treatment of multiple units, separation distances and the suggested 45,000 litre tank size. We received that information on 7 June 2016.
949. Taking into account all the evidence and information we were provided with, we think that reliance on the code of practice is not appropriate in terms of specifying the requirements and that those requirements should be set out in the Plan. We agree that the tank/s size should be 45,000litres and the activity status for non-compliance should be restricted discretionary. In line with our policy recommendation above, we also consider that these provisions be consistently applied across all the rural chapters.
950. Accordingly we recommend the NZFS submission be accepted in part and that the provisions be located in Table 4 (Standards for Structures and Buildings), numbered and worded as follows:

21.7.5	<p>Fire Fighting water and access</p> <p>All new buildings, where there is no reticulated water supply or any reticulated water supply is not sufficient for fire-fighting water supply, must make the following provision for fire-fighting:</p> <p>21.7.5.1 A water supply of 45,000 litres and any necessary couplings.</p> <p>21.7.5.2 A hardstand area adjacent to the firefighting water supply</p>	<p>RD</p> <p>Discretion is restricted to:</p> <p>a. The extent to which SNZ PAS 4509: 2008 can be met including the adequacy of the water supply.</p> <p>b. The accessibility of the firefighting water connection point for fire service vehicles.</p>
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⁸⁴⁸ C Barr, Section 42A Report, Pages 99 -100, Paras 20.1 – 20.5

⁸⁴⁹ C Barr, Chapter 22 Section 42A Report, Page 34, Paras 16.6 – 16.8

⁸⁵⁰ D McIntosh, EIC, Pages 2 – 5, Paras 19 - 33

⁸⁵¹ A McLeod, EIC, Pages 8-9, Para 5.10

⁸⁵² A McLeod, EIC, Pages 9 – 11, Paras 5.13 – 5.18

	<p>capable of supporting fire service vehicles.</p> <p>21.7.5.3 Firefighting water connection point within 6m of the hardstand, and 90m of the dwelling.</p> <p>21.7.5.4 Access from the property boundary to the firefighting water connection capable of accommodating and supporting fire service vehicles.</p>	c. Whether and the extent to which the building is assessed as a low fire risk.
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17 RULE 21.6 – NON-NOTIFICATION OF APPLICATIONS

951. As notified, Rule 21.6 read as follows;

21.6 Non-Notification of Applications

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

21.6.1 Controlled activity retail sales of farm and garden produce and handicrafts grown or produced on site (Rule 21.4.14), except where the access is onto a State highway.

21.6.2 Controlled activity mineral exploration (Rule 21.4. 31).

21.6.3 Controlled activity buildings at Closeburn Station (Rule 21.5.48).

952. One submission sought that the rule be amended to include a provision that states consent to construct a building will proceed non-notified⁸⁵³. The reasons set out in the submission include that, *“Buildings within the rural zone can have limited impact upon the environment and the community. Often buildings are related to the activities that occur onsite. Given the limited impact that buildings have on the rural environment and communities it is appropriate that consent for any building proceed non-notified.”*⁸⁵⁴

953. In the Section 42A Report, Mr Barr considered that it was important that all buildings had the potential to be processed on a notified or limited notified basis and recommended that the submission be rejected⁸⁵⁵. We heard no evidence in support of the submission.

954. We agree with Mr Barr that buildings should have the potential to be processed as notified or limited notified. Any decision as regards buildings in the Rural Zone is needs to be subject of a separate assessment as to effects and potentially affected parties. In appropriate cases, applications will proceed on a non-notified basis.

955. Accordingly, we recommend that submission be rejected and that apart from numbering, the provisions remain as notified.

⁸⁵³ Submission 701

⁸⁵⁴ Submission 701, Page 3, Para 23

⁸⁵⁵ C Barr, Section 42A Report, Page 92, Para 18.4

18 SUMMARY OF CONCLUSIONS ON RULES

956. We have set out in full in Appendix 1 the rules we recommend the Council adopt. For all the reasons set out above, we are satisfied that these rules are the most effective and efficient means of implementing the policies so as to achieve the objectives of Chapter 21, and those in the Strategic Directions chapters. Where we have recommended rules not be included, that is because, as our reasons above show, we do not consider them to be efficient or effective.

19 21.7 – ASSESSMENT MATTERS (LANDSCAPE)

19.1 21.7.1 Outstanding Natural Features and Outstanding Natural Landscapes

957. As notified Clauses 21.7.1 and 21.7.1.1 – 21.7.1.2 read as follows;

21.7.1 *Outstanding Natural Features and Outstanding Natural Landscapes (ONF and ONL).*

These assessment matters shall be considered with regard to the following principles because, in or on Outstanding Natural Features and Landscapes, the applicable activities are inappropriate in almost all locations within the zone:

21.7.1.1 *The assessment matters are to be stringently applied to the effect that successful applications will be exceptional cases.*

21.7.1.2 *Existing vegetation that:*

a. was either planted after, or, self-seeded and less than 1 metre in height at 28 September 2002; and,

b. obstructs or substantially interferes with views of the proposed development from roads or other public places, shall not be considered:

i. as beneficial under any of the following assessment matters unless the Council considers the vegetation (or some of it) is appropriate for the location in the context of the proposed development; and

ii. as part of the permitted baseline.

958. Submissions on these provisions sought that the introductory note be deleted entirely⁸⁵⁶, or that the wording in the introductory note be variously amended to remove the wording “*the applicable activities are inappropriate in almost all locations within the zone.*”⁸⁵⁷; or to refer only to the Wakatipu Basin⁸⁵⁸; that the provision be amended to take into account the locational constraints of infrastructure⁸⁵⁹; that the assessment criteria be amended to accord with existing case law⁸⁶⁰; and that 21.7.1.1⁸⁶¹ and 21.7.1.2⁸⁶² be deleted.

⁸⁵⁶ Submissions 179, 421

⁸⁵⁷ Submission 355, 608, 693, 702

⁸⁵⁸ Submission 519

⁸⁵⁹ Submission 433

⁸⁶⁰ Submission 806

⁸⁶¹ Submissions 179, 191, 249, 355, 421, 598, 621, 624, 693, 702, 781

⁸⁶² Submission 249

959. In the Section 42A Report, Mr Barr provided a table that set out in detail the comparison between the assessment criteria under the ODP and PDP⁸⁶³ and recommended that 21.7.1 and 21.7.1.1 be amended in response to the submissions and should be worded as follows:

19.1.1.1 ~~21.7.1~~ Outstanding Natural Features and Outstanding Natural Landscapes (ONF and ONL).

These assessment matters shall be considered with regard to the following principles because, in or on Outstanding Natural Features and Landscapes, the applicable activities are inappropriate in almost all locations within the Wakatipu Basin, and inappropriate in many locations throughout the District wide Outstanding Natural Landscapes:

~~19.1.1.2 21.7.1.1 The assessment matters are to be stringently applied to the effect that successful applications will be exceptional cases.~~

960. Mr Barr's reasoning supporting the amendments, was to clarify that the assessment criteria were not a 'test', and to remove the word exceptional which has connotations to section 104D of the RMA given it is discretionary activities that the assessment is generally applied to⁸⁶⁴.

961. In evidence for Darby Planning, Mr Ferguson considered the wording of the assessment criteria as notified predetermined that activities were inappropriate in almost all locations, and that this was itself inappropriate and unnecessary⁸⁶⁵.

962. Mr Vivian, in evidence for NZTM agreed with Mr Barr's recommendation as to referencing that activities are inappropriate in almost all locations within the Wakatipu Basin and noted the Environment Court decision from which the assessment criteria was derived (C180/99). However, Mr Vivian considered that the term Wakatipu Basin was not adequately defined and recommended additional wording for clarification purposes.⁸⁶⁶

963. Mr Haworth, in evidence for UCES on wider assessment criteria matters, referred to the assessment criteria as a 'test'⁸⁶⁷. We questioned Ms Lucas as to her tabled evidence for UCES as to what the meaning of 'test' was in the context of her evidence. Ms Lucas' response was that "A "test", that is, in application of the assessment matter, "shall be satisfied" that".

964. Mr Barr, in reply, made some changes to the recommended assessment criteria in light of the submissions and evidence noted above, but considered that some of the wording changes added little value or would potentially weaken the assessment required⁸⁶⁸. Also in reply, Mr Barr detailed his view that a test was appropriately located in the objective and policies and that assessment matters provide guidance in considering specified environment effects⁸⁶⁹.

965. In the Section 42A Report, Mr Barr did not support the amendment sought by QAC for the inclusion of locational constraints within the assessment criteria on the basis that it was the

⁸⁶³ C Barr, Section 42A Report, Page 110, Table 1, Issue 12: Landscape Assessment Matters: cross referencing with PDP Landscape Policy and ODP assessment matters

⁸⁶⁴ C Barr, Section 42A Report, Page 98, Para 19.21

⁸⁶⁵ C Ferguson, EIC, Page 15, Para 66

⁸⁶⁶ C Vivian, EIC, Page 22, Paras 4.102 – 4.106

⁸⁶⁷ J Haworth, EIC, Page 12, Para 88

⁸⁶⁸ C Barr, Reply, Pages 31-32, Para 11.1

⁸⁶⁹ C Barr, Reply, Pages 32, Para 11.4

place of policies or higher order planning documents to direct consideration of any such constraints and amendments to the strategic directions chapter had been recommended⁸⁷⁰.

966. In evidence for QAC, Ms O’Sullivan took a different view, considering *“that the Assessment Matters, as drafted, may inappropriately constrain the development, operation and upgrade of infrastructure and utilities that have a genuine operational and/or locational requirement to be located ONLs, ONFs or RCLs. I also consider the complex cross referencing between the Chapter 6 Landscapes, Chapter 21 Rural and Chapter 30 Energy and Utilities will give rise to inefficiencies and confusion in interpretation”*⁸⁷¹. To address these issues Ms O’Sullivan recommended new assessment criteria, narrowing the assessment to regional significant infrastructure with the assessment criteria be worded as follows;

21.7.3.4 For the construction, operation and replacement of regionally significant infrastructure and for additions, alterations, and upgrades to regionally significant infrastructure, in addition to the assessment matters at 21.7.1, 21.7.2, 21.7.3.2 and 21.7.3.3, whether the proposed development:

- a. Is required to provide for the health, safety or wellbeing of the community; and*
- b. Is subject to locational or functional requirements that necessitate a particular siting and reduce the ability of the development to avoid adverse effects; and*
- c. Avoids, remedies or mitigates adverse effects on surrounding environments to the extent practicable in accordance with Objective 30.2.7 and Policies 30.2.7.1 – 30.2.7.4 (as applicable).*

967. We agree with Mr Barr that the assessment criteria are for landscape assessment and the policies are the place where consideration by decision-makers as to policy direction on locational constraints of infrastructure should be found. Earlier in this decision we addressed the inclusion of infrastructure into this chapter⁸⁷². For the reasons we set out there, and because we doubt that Ms O’Sullivan’s suggestion is within the scope of the QAC submission, we recommend that the submission of QAC be rejected.

968. The wording of the first paragraph of 21.7.1 along with 21.7.1.1 are derived from (notified) policy 6.3.1.3. The issue as to inappropriateness and stringency of application were also canvassed before the Hearing Stream 1B in hearing submissions on Policy 6.3.1.3.. We refer to and adopt the reasoning of that Panel⁸⁷³. That Panel has recommended that (revised) Policy 6.3.11 read:

Recognise that subdivision and development is inappropriate in almost all locations in Outstanding Natural Landscapes and on Outstanding Natural Features, meaning successful applications will be exceptional cases where the landscape or feature can absorb the change and where the buildings and structures and associated roading and boundary changes are reasonably difficult to see from beyond the boundary of the site the subject of application.

969. In considering all of the above, we agree in part with Mr Barr that the objectives and policies need to link through to the assessment criteria. However, to our minds, the recommendations

⁸⁷⁰ C Barr, Section 42A Report, Pages 97 – 98, Para 19.20

⁸⁷¹ K O’Sullivan, EIC, Page5, Para 3.4

⁸⁷² Section 5

⁸⁷³ Report 3, Recommendations on Chapters 3, 4 and 6, Section 10.6

to establish that connection do not go far enough. Accordingly, we recommend that there be direct reference to the policies from Chapters 3 and 6 included within the assessment criteria description. In addition, we agree with Mr Barr as the assessment criteria are not tests and accordingly recommend that the submission of UCES be rejected.

970. Given the recommended wording of Policy 6.3.11, we recommend that the introductory paragraph and 21.7.1.1 be reworded consistent with that policy.

971. We heard no evidence from Willowridge Developments Limited⁸⁷⁴ in relation to its submission seeking the deletion of Rule 21.7.1.2. Mr Barr did not particularly discuss the submission, nor recommend any changes to the provision. We understand the provision has been taken directly from the ODP (Section 5.4.2.2(1)). Without any evidence as to why the provision should be deleted or changed, we recommend it remain unaltered.

972. Accordingly we recommend that the introductory part of 21.7.1 be numbered and worded as follows:

21.21 *Assessment Matters (Landscapes)*

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

The assessment matters set out below are derived from Policies 3.3.30, 6.3.10 and 6.3.12 to 6.3.18 inclusive Applications shall be considered with regard to the following assessment matters.

21.20.1.1 *In applying the assessment matters, the Council will work from the presumption that in or on Outstanding Natural Features and Landscapes, the applicable activities are inappropriate in almost all locations and that successful applications will be exceptional cases where the landscape or feature can absorb the change and where the buildings and structures and associated roading and boundary changes are reasonably difficult to see from beyond the boundary of the site the subject of application.*

21.20.1.2 *Existing vegetation that:*

- a. *was either planted after, or, self-seeded and less than 1 metre in height at 28 September 2002; and*
- b. *obstructs or substantially interferes with views of the proposed development from roads or other public places, shall not be considered:*
 - i. *as beneficial under any of the following assessment matters unless the Council considers the vegetation (or some of it) is appropriate for the location in the context of the proposed development; and*
 - ii. *as part of the permitted baseline.*

19.2 Assessment Matters 21.7.1.3 to 21.7.1.6 Inclusive

973. The only submission on these assessment matters supported 21.7.1.5⁸⁷⁵. We recommend those matters be adopted as notified, subject to renumbering.

19.3 Section 21.7.2 Rural Landscape Classification (RCL) and 21.7.2.1 – 21.7.2.2

974. As notified Rule 21.7.2 and 21.7.2.1 – 21.7.2.2 read as follows;

21.7.2 Rural Landscape Classification (RLC)

These assessment matters shall be considered with regard to the following principles because in the Rural Landscapes the applicable activities are inappropriate in many locations:

21.7.2.1 *The assessment matters shall be stringently applied to the effect that successful applications are, on balance, consistent with the criteria.*

21.7.2.2 *Existing vegetation that:*

- a. *was either planted after, or, self seeded and less than 1 metre in height at 28 September 2002; and,*
- b. *obstructs or substantially interferes with views of the proposed development from roads or other public places, shall not be considered:*
 - i. *as beneficial under any of the following assessment matters unless the Council considers the vegetation (or some of it) is appropriate for the location in the context of the proposed development; and*
 - ii. *as part of the permitted baseline.*

975. Submissions on these provisions variously sought that the introductory note be deleted entirely⁸⁷⁶, that the wording in the introductory note be amended to remove the wording “*the applicable activities are inappropriate in almost all locations within the zone:*”⁸⁷⁷, that the current assessment criteria in 21.7.2 be deleted and replaced with a set of assessment matters that better reflect and provide for the “Other Rural Landscape (ORL) category of landscapes⁸⁷⁸, that 21.7.2 be amended to provide for cultural and historic values⁸⁷⁹, and that 21.7.2.1⁸⁸⁰ and 21.7.1.2⁸⁸¹ be deleted.

976. In the Section 42A Report, Mr Barr disagreed with the request for the inclusion of the ORL category of landscape criteria which the submitters were seeking to transfer from the ODP. Relying on Dr Read’s evidence that the ORL has only been applied in two circumstances, Mr Barr considered that the ORL criteria were too lenient on development and would not maintain amenity values, quality of the environment or finite characteristics of natural physical

⁸⁷⁵ Submission 719

⁸⁷⁶ Submissions 179, 251, 781

⁸⁷⁷ Submission 608

⁸⁷⁸ Submission 345, 456

⁸⁷⁹ Submission 798

⁸⁸⁰ Submissions 179, 191, 421, 781

⁸⁸¹ Submission 251

resources⁸⁸². We agree for reasons set out in Mr Barr’s Section 42A Report. We also note that it has already been determined by the Stream 1B Hearing Panel that there are only two landscape categories (ONL/ONR and RCL) and that is reflected in our recommendations on this Chapter. Accordingly, we recommend that Submissions 345 and 456 be rejected.

977. In the Section 42A Report, Mr Barr recommended that 21.7.2 and 21.7.2.1 be amended in response to the submissions and should be worded as follows:

21.7.2 Rural Landscape Classification (RLC)

These assessment matters shall be considered with regard to the following principles because in the Rural Landscapes the applicable activities are unsuitable in many locations:

~~*21.7.2.1 The assessment matters shall be stringently applied to the effect that successful applications are, on balance, consistent with the criteria.*~~

978. Mr Barr did not alter his opinion in his Reply Statement.
979. We note that before addressing the detail of this provision, a consequential change is required to refer to Rural Character Landscapes (RCL) consistent with the recommendations of the Stream 1B Hearing Panel. In addition, the reference in the introductory sentence to “Rural Landscapes” should be changed to “Rural Character Landscapes” so as to make it clear that these assessment criteria do not apply in ONLs or on ONFs.
980. As in the discussion on 21.7.1 above, we consider the introductory remarks should refer the relevant policies from Chapters 3 and 6. For those reasons, and taking into account Mr Barr’s recommendations, we recommend that 21.7.2 and 21.7.2.1 be renumbered and worded as follows :

21.7.2 Rural Character Landscape (RCL)

The assessment matters below have been derived from Policies 3.3.32, 6.3.10 and 6.3.19 to 6.3.29 inclusive. Applications shall be considered with regard to the following assessment matters because in the Rural Character Landscapes the applicable activities are unsuitable in many locations:

~~*21.7.2.1 The assessment matters shall be stringently applied to the effect that successful applications are, on balance, consistent with the criteria.*~~

19.4 Assessment Matters 21.7.2.2 and 21.7.2.3

981. There were no submissions on these assessment matters and, accordingly, we recommend they be adopted as notified subject to renumbering.

19.5 Assessment Matters 21.7.2.4, 21.2.2.5 and 21.7.2.7

982. As notified Rule 21.7.2.4, 21.7.2.5 and 21.7.2.7 read as follows;

21.7.2.4 Effects on visual amenity:

Whether the development will result in a loss of the visual amenity of the Rural Landscape, having regard to whether and the extent to which:

⁸⁸² C Barr, Section 42A report, Page 98, Para 9.24

- a. *the visual prominence of the proposed development from any public places will reduce the visual amenity of the Rural Landscape. In the case of proposed development which is visible from unformed legal roads, regard shall be had to the frequency and intensity of the present use and, the practicalities and likelihood of potential use of these unformed legal roads as access*
- b. *the proposed development is likely to be visually prominent such that it detracts from private views*
- c. *any screening or other mitigation by any proposed method such as earthworks and/or new planting will detract from or obstruct views of the Rural Landscape from both public and private locations*
- d. *the proposed development is enclosed by any confining elements of topography and/or vegetation and the ability of these elements to reduce visibility from public and private locations*
- e. *any proposed roads, boundaries and associated planting, lighting, earthworks and landscaping will reduce visual amenity, with particular regard to elements which are inconsistent with the existing natural topography and patterns*
- f. *boundaries follow, wherever reasonably possible and practicable, the natural lines of the landscape or landscape units.*

21.7.2.5 *Design and density of development:*

In considering the appropriateness of the design and density of the proposed development, whether and to what extent:

- a. *opportunity has been taken to aggregate built development to utilise common access ways including roads, pedestrian linkages, services and open space (i.e. open space held in one title whether jointly or otherwise)*
- b. *there is merit in clustering the proposed building(s) or building platform(s) having regard to the overall density and intensity of the proposed development and whether this would exceed the ability of the landscape to absorb change*
- c. *development, including access, is located within the parts of the site where they will be least visible from public and private locations*
- d. *development, including access, is located in the parts of the site where they will have the least impact on landscape character.*

21.7.2.7 *Cumulative effects of development on the landscape:*

Taking into account whether and to what extent any existing, consented or permitted development (including unimplemented but existing resource consent or zoning) has degraded landscape quality, character, and visual amenity values. The Council shall be satisfied;

- a. *the proposed development will not further degrade landscape quality, character and visual amenity values, with particular regard to situations that would result in a loss of valued quality, character and openness due to the prevalence of residential or non-farming activity within the Rural Landscape*
- b. *where in the case resource consent may be granted to the proposed development but it represents a threshold to which the landscape could absorb any further development, whether any further cumulative adverse effects would be avoided by way of imposing a covenant, consent notice or other legal instrument that maintains open space.*

983. Submissions on these provisions variously sought that;

- a. 21.7.4.2 (b) be deleted⁸⁸³
- b. 21.7.2.5 (b) be incorporated into the ODP assessment matters⁸⁸⁴
- c. 21.7.2.5 (c) be deleted⁸⁸⁵
- d. 21.7.2.7 be deleted⁸⁸⁶

984. In the Section 42A Report, having addressed the majority of the submissions in relation to 21.7.2, Mr Barr did not specifically address these submissions, but recommended that the assessment matters be retained as notified⁸⁸⁷.

985. Mr Brown and Mr Farrell, in evidence for the submitters, made recommendations to amend the assessment criteria in 21.7.2.4, 21.7.2.5 and 21.7.2.7. Mr Brown and Mr Farrell also made recommendations to amend other assessment criteria in 21.7.2⁸⁸⁸. In summary, Mr Brown and Mr Farrell recommended amendments to reflect RMA language, rephrase from negative to positive language, and remove repetition⁸⁸⁹.

986. In reply, Mr Barr considered that the amendments to these provisions added little value or potentially weakened the assessment required⁸⁹⁰ and hence remained of the view that the provisions as notified should be retained. We agree.

987. In addition, the amendments recommend by Mr Brown and Mr Farrell in some instances go beyond the relief sought. Accordingly, we recommend that the submissions be rejected.

988. We have already the UECS submission seeking the retaining of the ODP provisions. We do not repeat that here and recommend that submission on this provision be rejected.

19.6 Assessment Matter 21.7.2.6

989. There were no submissions in relation to this matter. We recommend it be adopted as notified, subject to renumbering.

⁸⁸³ Submissions 513, 515, 522, 531, 532, 534, 535, 537

⁸⁸⁴ Submission 145

⁸⁸⁵ Submission 513, 515, 522, 531, 532, 534, 535, 537

⁸⁸⁶ Submission 513, 515, 522, 531, 532, 534, 535, 537

⁸⁸⁷ C Barr, Section 42A Report, Page 99, Para 19.25

⁸⁸⁸ J Brown, EIC, Attachment B, Pages 35-37 and Mr B Farrell, EIC, Pages 30-32, Para 138

⁸⁸⁹ J Brown, EIC, Page 15, Para 2.22 and Mr B Farrell, EIC, Page 29, Para 137

⁸⁹⁰ C Barr, Reply, Pages 31-32, Para 11.1

19.7 21.7.3 Other factors and positive effects, applicable in all the landscape categories (ONF, ONL and RLC)

990. One submission⁸⁹¹ supported this entire section. No submissions were lodged specifically in relation to 21.7.3.1. We therefore recommend that 21.7.3.1 be adopted as notified, subject to renumbering and amending the title to refer to Rural Character Landscapes.

19.8 Assessment Matter 21.7.3.2

991. As notified, 21.7.3.2 read as follows:

Other than where the proposed development is a subdivision and/or residential activity, whether the proposed development, including any buildings and the activity itself, are consistent with rural activities or the rural resource and would maintain or enhance the quality and character of the landscape.

992. One submission sought that this provision be amended to enable utility structures in landscapes where there is a functional or technical requirement⁸⁹².

993. We addressed this matter in above in discussing the provisions sought by QAC in 21.7.1. We heard no evidence in relation to this submission. We recommend that the submission be rejected.

19.9 Assessment Matter 21.7.3.3

994. As notified, this criterion set out the matters to be taken into account in considering positive effects. Two submissions⁸⁹³ sought the retention of this matter, and one⁸⁹⁴ supported it subject to inclusion of an additional clause to enable the consideration of the positive effects of services provided by utilities.

995. We heard no evidence in support of the amendment sought by PowerNet Limited. We agree with Mr Barr's comments⁸⁹⁵ made in relation to the QAC submission discussed above. Assessment criteria are a means of assessing applications against policies in the Plan. The amendment sought by the submitter should be located in the policies, particularly those in Chapter 6. Consequently, we recommend this submission be rejected, and 21.7.3.3 be adopted as notified, subject to renumbering.

20 SUMMARY REGARDING ASSESSMENT MATTERS

996. We have included our recommended set of assessment matters in Appendix 1. We are satisfied that application of these assessment matters on resource consent applications will implement the policies in the Strategic Direction Chapters and those of Chapter 21.

21 SUBMISSIONS ON DEFINITIONS NOT OTHERWISE DEALT WITH

997. Several submissions relating to definitions were set down to be heard that were relevant to this chapter that have not been dealt with in the discussion above. In each case we received no evidence in support of the submission therefore we do not recommend any changes to the relevant definitions, which were as follows:

⁸⁹¹ Submission 378, opposed by FS1049, FS1095 and FS1282

⁸⁹² Submission 251, supported by FS1097 and FS1121

⁸⁹³ Submissions 355 and 806

⁸⁹⁴ Submission 251, supported by FS1097, opposed by FS1320

⁸⁹⁵ C Barr, Section 42A Report, page 97, paragraph 19.20

- a. Factory farming⁸⁹⁶;
- b. Farming activity⁸⁹⁷;
- c. Farm building⁸⁹⁸;
- d. Forestry⁸⁹⁹;
- e. Holding⁹⁰⁰;
- f. Informal airport⁹⁰¹;
- g. Rural industrial activity⁹⁰²;
- h. Rural selling place.⁹⁰³

⁸⁹⁶ Submission 805

⁸⁹⁷ Submissions 243 and 805

⁸⁹⁸ Submissions 600 and 805

⁸⁹⁹ Submission 600

⁹⁰⁰ Submission 600

⁹⁰¹ Submissions 220, 296, 433 and 600

⁹⁰² Submission 252

⁹⁰³ Submission 600

30 ENERGY AND UTILITIES

30.1

Purpose

Energy and Utilities are of strategic importance and require a coordinated approach in relation to the development of energy resources, the generation of electricity and the provision of essential infrastructure throughout the District.

30.1.1 Energy

Energy resources play a key role in the socio-economic wellbeing and growth of the District. Local energy needs may change over time and are dependent on the scale of demand, as well as measures to reduce demand through energy efficiency, conservation and small scale renewable generation.

In the future, there may be a need for new generation sources to meet demand. Electricity generation by renewable energy sources is desired over non-renewable sources and this is reinforced in the National Policy Statement on Renewable Electricity Generation 2011. The generation of electricity from non-renewable sources is generally discouraged. However, standby generation may be necessary for essential public, civic, community and health functions, or in areas not connected to the electricity distribution network.

Energy efficiency and conservation go hand in hand with renewable energy. Conserving the use of energy together with the generation of renewable energy will be vital in responding to the challenges of providing enough energy to meet future energy needs and reducing greenhouse gas emissions. Small and community scale generation is encouraged and advantages of solar energy within the District are recognised. The benefits of solar energy may be realised through site design methods which promote solar efficient design, in addition to the inclusion of solar photovoltaic panels and solar hot water heating systems within buildings. Sustainable building forms which reduce energy demand and minimise heating costs are encouraged, including use of the Homestar™ rating system for residential buildings and Green Star tool for commercial buildings.

30.1.2 Utilities

Utilities are essential to the servicing and functioning of the District. Utilities have the purpose to provide a service to the public and are typically provided by a network utility operator.

Due to the importance of utilities in providing essential services to the community, their often high capital cost to establish, and their long life expectancy, the need for the establishment and on-going functioning, maintenance and upgrading of utilities is recognised. In addition, some utilities have specific locational needs that need to be accommodated for their operation. The co-location of utilities may achieve efficiencies in design and operation, reduce capital investment costs and also minimise amenity and environmental effects. The ability to co-locate compatible uses should be considered for all utility proposals.

It is recognised that while utilities can have national, regional and local benefits, they can also have adverse effects on surrounding land uses, some of which have been established long before the network utility. The sustainable management of natural and physical resources requires a balance between the effects of different land uses. However, it is also necessary that essential utilities are protected, where possible, from further encroachment by incompatible activities which may lead to reverse sensitivity effects. This chapter therefore also addresses requirements for sensitive uses and habitable buildings located near to utilities.

Energy

30.2.1 **Objective** - The sustainable management of the District's resources benefits from the District's renewable and non-renewable energy resources and the electricity generation facilities that utilise them.

Policies	30.2.1.1	Recognise the national, regional and local benefits of the District's renewable and non-renewable electricity generation activities.
	30.2.1.2	Enable the operation, maintenance, repowering, upgrade of existing non-renewable electricity generation activities and development of new ones where adverse effects can be avoided, remedied or mitigated.

30.2.2 **Objective** - The use and development of renewable energy resources achieves the following:

- a. It maintains or enhances electricity generation capacity while avoiding, reducing or displacing greenhouse gas emissions;
- b. It maintains or enhances the security of electricity supply at local, regional and national levels by diversifying the type and/or location of electricity generation;
- c. It assists in meeting international climate change obligations;
- d. It reduces reliance on imported fuels for the purpose of generating electricity;
- e. It helps with community resilience through development of local energy resources and networks.

Policies	30.2.2.1	Enable the development, operation, maintenance, repowering and upgrading of new and existing renewable electricity generation activities, (including small and community scale), in a manner that: <ol style="list-style-type: none"> a. recognises the need to locate renewable electricity generation activities where the renewable electricity resources are available; b. recognises logistical and technical practicalities associated with renewable electricity generation activities; c. provides for research and exploratory-scale investigations into existing and emerging renewable electricity generation technologies and methods.
	30.2.2.2	Enable new technologies using renewable energy resources to be investigated and established in the district.

30.2.3 **Objective** - Energy resources are developed and electricity is generated, in a manner that minimises adverse effects on the environment.

Policies	30.2.3.1	Promote the incorporation of Small and Community-Scale Distributed Electricity Generation structures and associated buildings (whether temporary or permanent) as a means to improve efficiency and reduce energy demands.
	30.2.3.2	Ensure the visual effects of Wind Electricity Generation do not exceed the capacity of an area to absorb change or significantly detract from landscape and visual amenity values.
	30.2.3.3	Promote Biomass Electricity Generation in proximity to available fuel sources that minimise external effects on the surrounding road network and the amenity values of neighbours.
	30.2.3.4	Assess the effects of Renewable Electricity Generation proposals, other than Small and Community Scale with regards to: <ul style="list-style-type: none"> a. landscape values and areas of significant indigenous flora or significant habitat for indigenous fauna; b. recreation and cultural values, including relationships with tangata whenua; c. amenity values; d. the extent of public benefit and outcomes of location specific cost-benefit analysis.
	30.2.3.5	Existing energy facilities, associated infrastructure and undeveloped energy resources are protected from incompatible subdivision, land use and development.
	30.2.3.6	To compensate for adverse effects, consideration must be given to any offset measures (including biodiversity offsets) and/or environmental compensation including those which benefit the local environment and community affected.
	30.2.3.7	Consider non-renewable energy resources including standby power generation and Stand Alone Power systems where adverse effects can be mitigated.

30.2.4 **Objective** - Subdivision layout, site layout and building design takes into consideration energy efficiency and conservation.

Policies	30.2.4.1	Encourage energy efficiency and conservation practices, including use of energy efficient materials and renewable energy in development.
	30.2.4.2	Encourage subdivision and development to be designed so that buildings can utilise energy efficiency and conservation measures, including by orientation to the sun and through other natural elements, to assist in reducing energy consumption.

- 30.2.4.3 Encourage Small and Community-Scale Distributed Electricity Generation and Solar Water Heating structures within new or altered buildings.
- 30.2.4.4 Encourage building design which achieves a Homestar™ certification rating of 6 or more for residential buildings, or a Green Star rating of at least 4 stars for commercial buildings.
- 30.2.4.5 Transport networks should be designed so that the number, length and need for vehicle trips is minimised, and reliance on private motor vehicles is reduced, to assist in reducing energy consumption.
- 30.2.4.6 Control the location of buildings and outdoor living areas to reduce impediments to access to sunlight.

Utilities

30.2.5 **Objective** - The growth and development of the District is supported by utilities that are able to operate effectively and efficiently.

- Policies
- 30.2.5.1 Utilities are provided to service new development prior to buildings being occupied, and activities commencing.
 - 30.2.5.2 Ensure the efficient management of solid waste by:
 - a. encouraging methods of waste minimisation and reduction such as re-use and recycling;
 - b. providing landfill sites with the capacity to cater for the present and future disposal of solid waste;
 - c. assessing trends in solid waste;
 - d. identifying solid waste sites for future needs;
 - e. consideration of technologies or methods to improve operational efficiency and sustainability (including the potential use of landfill gas as an energy source);
 - f. providing for the appropriate re-use of decommissioned landfill sites.
 - 30.2.5.3 Recognise the future needs of utilities and ensure their provision in conjunction with the provider.
 - 30.2.5.4 Assess the priorities for servicing established urban areas, which are developed but are not reticulated.
 - 30.2.5.5 Ensure reticulation of those areas identified for urban expansion or redevelopment is achievable, and that a reticulation system be implemented prior to subdivision.
 - 30.2.5.6 Encourage low impact design techniques which may reduce demands on local utilities.

30.2.6 **Objective** - The establishment, continued operation and maintenance of utilities supports the well-being of the community.

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| Policies | 30.2.6.1 | Provide for the need for maintenance or upgrading of utilities including regionally significant infrastructure to ensure its on-going viability and efficiency subject to managing adverse effects on the environment consistent with the objectives and policies in Chapters 3, 4, 5 and 6. |
| | 30.2.6.2 | When considering the effects of proposed utility developments consideration must be given to alternatives, and also to how adverse effects will be managed through the route, site and method selection process, while taking into account the locational, technical and operational requirements of the utility and the benefits associated with the utility. |
| | 30.2.6.3 | Ensure that the adverse effects of utilities on the environment are managed while taking into account the positive social, economic, cultural and environmental benefits that utilities provide, including: <ol style="list-style-type: none"> a. enabling enhancement of the quality of life and standard of living for people and communities; b. providing for public health and safety; c. enabling the functioning of businesses; d. enabling economic growth; e. enabling growth and development; f. protecting and enhancing the environment; g. enabling the transportation of freight, goods, people; h. enabling interaction and communication. |
| | 30.2.6.4 | Encourage the co-location of facilities where operationally and technically feasible. |
| | 30.2.6.5 | Manage land use, development and/or subdivision in locations which could compromise the safe and efficient operation of utilities. |

30.2.7 **Objective** - The adverse effects of utilities on the surrounding environments are avoided or minimised.

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| Policies | 30.2.7.1 | Manage the adverse effects of utilities on the environment by: <ol style="list-style-type: none"> a. avoiding their location on sensitive sites, including heritage and special character areas, Outstanding Natural Landscapes and Outstanding Natural Features, and skylines and ridgelines and where avoidance is not practicable, avoid significant adverse effects and minimise other adverse effects on those sites, areas, landscapes or features; b. encouraging co-location or multiple use of network utilities where this is efficient and practicable in order to avoid, remedy or mitigate adverse effects on the environment; |
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- c. ensuring that redundant utilities are removed;
 - d. using landscaping and or colours and finishes to reduce visual effects;
 - e. integrating utilities with the surrounding environment; whether that is a rural environment or existing built form.
- 30.2.7.2 Require the undergrounding of services in new areas of development where technically feasible.
- 30.2.7.3 Encourage the replacement of existing overhead services with underground reticulation or the upgrading of existing overhead services where technically feasible.
- 30.2.7.4 Take account of economic and operational needs in assessing the location and external appearance of utilities.

30.2.8 Objective - The ongoing operation, maintenance, development and upgrading of the National Grid subject to the adverse effects on the environment of the National Grid network being managed.

- Policies
- 30.2.8.1 Enabling the use and development of the National Grid by managing its adverse effects by:
- a. only allowing buildings, structures and earthworks in the National Grid Yard where they will not compromise the operation, maintenance, upgrade and development of the National Grid;
 - b. avoiding Sensitive Activities within the National Grid Yard;
 - c. managing potential electrical hazards, and the adverse effects of buildings, structures and Sensitive Activities on the operation, maintenance, upgrade and development of the Frankton Substation;
 - d. managing subdivision within the National Grid corridor so as to facilitate good amenity and urban design outcomes.

30.3

Other Provisions and Rules

30.3.1 District Wide

Attention is drawn to the following District Wide Chapters.

1	Introduction	2	Definitions	3	Strategic Direction
4	Urban Development	5	Tangata Whenua	6	Landscapes and Rural Character
25	Earthworks	26	Historic Heritage	27	Subdivision
28	Natural Hazards	29	Transport	31	Signs
32	Protected Trees	33	Indigenous Vegetation	34	Wilding Exotic Trees
35	Temporary Activities and Relocated Buildings	36	Noise	37	Designations
	Planning Maps				

30.3.2 Information on National Environmental Standards and Regulations

- a. Resource Management (National Environmental Standard for Electricity Transmission Activities) Regulations 2009:

Notwithstanding any other rules in the District Plan, the National Grid existing as at 14 January 2010 is covered by the Resource Management (National Environmental Standard for Electricity Transmission Activities) Regulations 2009 (NESETA) and must comply with the NESETA.

The provisions of the NESETA prevail over the provisions of this District Plan to the extent of any inconsistency. No other rules in the District Plan that duplicate or conflict with the Standard shall apply.
- b. Resource Management (National Environmental Standards for Telecommunications Facilities “NESTF”) Regulations 2016:

The NESTF 2016 controls a variety of telecommunications facilities and related activities as permitted activities subject to standards, including:

 - i. cabinets in and outside of road reserve;
 - ii. antennas on existing and new poles in the road reserve;
 - iii. replacement, upgrading and co-location of existing poles and antennas outside the road reserve;
 - iv. new poles and antennas in rural areas;
 - v. antennas on buildings;
 - vi. small-cell units on existing structures;
 - vii. telecommunications lines (underground, on the ground and overhead) and facilities in natural hazard areas; and
 - viii. associated earthworks.

All telecommunications facilities are controlled by the NESTF 2016 in respect of the generation of radiofrequency fields.

The NESTF 2016 and relevant guidance for users can be found at: <http://www.mfe.govt.nz/rma/legislative-tools/national-environmental-standards/national-environmental-standards> .

The provisions of the NESTF 2016 prevail over the provisions of this District Plan, to the extent of any inconsistency. No other rules in the District Plan that duplicate or conflict with the NESTF 2016 shall apply. However, District Plan provisions continue to apply to some activities covered by the NESTF 2016, including those which, under regulations 44 to 52, enable rules to be more stringent than the NESTF, such as being subject to heritage rules, Significant Natural Areas, Outstanding Natural Features and Landscapes, and amenity landscape rules.

- c. New Zealand Electrical Code of Practice for Electrical Safe Distances.

Compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances (“NZECP 34:2001”) is mandatory under the Electricity Act 1992. All activities regulated by the NZECP 34, including any activities that are otherwise permitted by the District Plan must comply with this legislation.

Advice Note: To assist plan users in complying with these regulations, the major distribution components of the Aurora network are shown on the Planning Maps.

Compliance with this District Plan does not ensure compliance with NZECP 34.

- d. Advice Note: Electricity (Hazards from Trees) Regulations 2003.

Vegetation to be planted around electricity networks should be selected and/or managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003.

30.3.3 Interpreting and Applying the Rules

30.3.3.1 A permitted activity must comply with all the rules listed in the Activity and Standards tables, and any relevant district wide rules.

30.3.3.2 Where an activity does not comply with a Standard listed in the Standards table, the activity status identified by the Non-Compliance Status column applies. Where an activity breaches more than one Standard, the most restrictive status applies to the Activity.

30.3.3.3 The rules contained in this Chapter take precedence over any other rules that may apply to energy and utilities in the District Plan, unless specifically stated to the contrary and with the exception of:

- a. 25 Earthworks;
- b. 26 Historic Heritage.

Note: Utilities can also be provided as designations if the utility operator is a requiring authority. Refer to Chapter 37 – Designations of the Plan for conditions and descriptions of designated sites.

30.3.3.4 The following abbreviations are used in the tables.

P	Permitted	C	Controlled	RD	Restricted Discretionary
D	Discretionary	NC	Non-Complying	PR	Prohibited

30.4 Energy Rules

30.4.1	Renewable Energy Activities	Activity Status
30.4.1.1	Small and Community-Scale Distributed Electricity Generation and Solar Water Heating (including any structures and associated buildings but excluding Wind Electricity Generation), other than those activities restricted by Rule 30.4.1.4.	P
30.4.1.2	<p>Small and Community-Scale Distributed Wind Electricity Generation within the Rural Zone, Gibbston Character Zone and Rural Lifestyle Zone that complies with Rule 30.4.2.3</p> <p>Control is reserved to the following:</p> <ul style="list-style-type: none"> a. noise; b. visual effects; c. colour; d. vibration. 	C
30.4.1.3	<p>Renewable Electricity Generation Activities, limited to masts, drilling and water monitoring for the purpose of research and exploratory-scale investigations that are temporary.</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. the duration of works and the research purpose; b. the location of investigation activities and facilities, including proximity to, and effects on, sensitive uses and environments; c. the height and scale of facilities and potential visual effects; d. environmental effects. 	RD
30.4.1.4	<p>Small and Community-Scale Distributed Electricity Generation and Solar Water Heating including any structures and associated buildings, which is either:</p> <ul style="list-style-type: none"> a. Wind Electricity Generation other than that provided for in Rule 30.4.1.2. <p>OR</p> <ul style="list-style-type: none"> b. Located in any of the following sensitive environments: <ul style="list-style-type: none"> i. Arrowtown Residential Historic Management Zone; ii. Town Centre Special Character Areas ; iii. Significant Natural Areas; iv. Outstanding Natural Landscapes; v. Outstanding Natural Features; vi. Heritage Features and Heritage Overlay Areas. 	D
30.4.1.5	Renewable Electricity Generation Activities, other than Small and Community-Scale Distributed Electricity Generation, and including any new or additional building housing plant and electrical equipment.	D

30.4.2	Renewable Energy Standards	Activity Status
30.4.2.1	<p>Small and Community-Scale Distributed Electricity Generation and Solar Water Heating must:</p> <p>30.4.2.1.1 Not overhang the edge of any building.</p> <p>30.4.2.1.2 Be finished in recessive colours: black, dark blue, grey or brown if Solar Electricity Generation cells, modules or panels.</p> <p>30.4.2.1.3 Be finished in similar recessive colours to those in the above standard if frames, mounting or fixing hardware. Recessive colours must be selected to be the closest colour to the building to which they form part of, are attached to, or service.</p> <p>30.4.2.1.4 Be set back in accordance with the internal and road boundary setbacks for buildings in the zone in which they are located. Any exemptions identified in the zone rules for accessory buildings do not apply.</p> <p>30.4.2.1.5 Not intrude through any recession planes applicable in the zone in which they are located.</p> <p>30.4.2.1.6 Not protrude more than a maximum of 0.5 m above the maximum height limit specified for the zone if solar panels on a sloping roof.</p> <p>30.4.2.1.7 Not protrude a maximum of 1.0 m above the maximum height limit specified for the zone, for a maximum area of 5m² if solar panels on a flat roof.</p> <p>30.4.2.1.8 Not exceed 150m² in area if free standing Solar Electricity Generation and Solar Water Heating.</p> <p>30.4.2.1.9 Not exceed 2.0 metres in height if free standing Solar Electricity Generation and Solar Water Heating.</p> <p>30.4.2.1.10 Be located within an approved building platform where located in the Rural, Gibbston Character or Rural Lifestyle Zone.</p>	D
30.4.2.2	<p>Mini and Micro Hydro Electricity Generation must:</p> <p>30.4.2.2.1 Comply with Road and Internal Boundary Building Setbacks in the zone in which they are located.</p> <p>30.4.2.2.2 Not exceed 2.5 metres in height.</p> <p>30.4.2.2.3 Be finished in recessive colours consistent with the building it is servicing on site.</p> <p>Note: Reference should also be made to the Otago Regional Council Regional Plan: Water.</p>	D

30.4.2	Renewable Energy Standards	Activity Status
30.4.2.3	<p>Wind Electricity Generation must:</p> <p>30.4.2.3.1 Comprise no more than two Wind Electricity Generation turbines or masts on any site.</p> <p>30.4.2.3.2 Involve no lattice towers.</p> <p>30.4.2.3.3 Be set back in accordance with the internal and road boundary setbacks for buildings in the zone in which they are located. Any exemptions identified in the zone rules for accessory buildings do not apply.</p> <p>30.4.2.3.4 Not exceed the maximum height or intrude through any recession planes applicable in the zone in which they are located.</p> <p>30.4.2.3.5 Be finished in recessive colours with a light reflectance value of less than 16%.</p> <p>Notes:</p> <p>In the Rural and Gibbston Character Zones the maximum height shall be that specified for non-residential building ancillary to viticulture or farming activities (10m).</p> <p>The maximum height for a wind turbine shall be measured to the tip of blade when in vertical position.</p> <p>Wind turbines must comply with Chapter 36 (Noise).</p>	D
30.4.2.4	<p>Biomass Electricity Generation</p> <p>30.4.2.4.1 Biomass Electricity Generation fuel material shall be sourced on the same site as the generation plant, except where the generation plant is located in Industrial Zones (and Industrial Activities Areas within Structure Plans).</p> <p>30.4.2.4.2 Any outdoor storage of Biomass Electricity Generation fuel material shall be screened from adjoining sites and public places.</p> <p>30.4.2.4.3 Biomass Electricity Generation plant and equipment shall be located inside a Building.</p> <p>Note: Reference should also be made to the Otago Regional Council Regional Plan: Air</p>	D
30.4.2.5	<p>Buildings for renewable energy activities</p> <p>Any building housing plant and electrical equipment associated with Renewable Electricity Generation activities, unless permitted in the zone in which it located or approved by resource consent, shall:</p> <p>30.4.2.5.1 Not exceed 10m² in area and 2.5m in height.</p> <p>30.4.2.5.2 Be set back in accordance with the internal and road boundary setbacks for accessory buildings in the zone in which it is located.</p> <p>30.4.2.5.3 Be finished in recessive colours, consistent with the building it is servicing on site.</p>	D

30.4.3	Non-Renewable Energy Activities	Activity Status
30.4.3.1	<p>Non-renewable Electricity Generation where either:</p> <ul style="list-style-type: none"> a. the generation only supplies activities on the site on which it is located and involves either: <ul style="list-style-type: none"> i. standby generators associated with community, health care, and utility activities; or ii. generators that are part of a Stand-Alone Power System on sites that do not have connection to the local distributed electricity network. <p>OR</p> <ul style="list-style-type: none"> b. generators that supply the local distributed electricity network for a period not exceeding 3 months in any calendar year. <p>Note: Diesel Generators must comply with the provisions of Chapter 36 (Noise).</p>	P
30.4.3.2	Non-Renewable Energy Activities which are not otherwise specified.	NC

30.5 Utility Rules

30.5.1	General Utility Activities	Non-compliance Status
30.5.1.1	<p>Buildings associated with a Utility</p> <p>Any building or cabinet or structure of 10m² or less in total footprint or 3m or less in height which is not located in the areas listed in Rule 30.5.1.4.</p> <p>This rule does not apply to:</p> <ul style="list-style-type: none"> a. masts for navigation or meteorology b. poles, antennas, and associated cabinets (cabinets up to 10m² in area and 3m in height, exclusive of any plinth or other foundation), for telecommunication and radio communication c. lines and support structures. 	P
30.5.1.2	Flood Protection Works for the maintenance, reinstatement, repair or replacement of existing flood protection works for the purpose of maintaining the flood carrying capacity of water courses and/or maintaining the integrity of existing river protection works.	P

30.5.1	General Utility Activities	Non-compliance Status
30.5.1.3	<p>Buildings (associated with a Utility)</p> <p>The addition, alteration or construction of buildings greater than 10m² in total footprint or 3m in height other than buildings located in the areas listed in Rule 30.5.1.4.</p> <p>This rule does not apply to:</p> <ul style="list-style-type: none"> a. masts or poles for navigation or meteorology; b. poles, antennas, and associated cabinets (cabinets up to 10m² in area and 3m in height, exclusive of any plinth or other foundation) for telecommunication and radio communication; c. line and support structures. <p>Control is reserved to:</p> <ul style="list-style-type: none"> a. location; b. external appearance and visual effects; c. associated earthworks; d. parking and access; e. landscaping. 	C
30.5.1.4	<p>Buildings (associated with a Utility)</p> <p>Any addition, alteration or construction of buildings in:</p> <ul style="list-style-type: none"> a. any Significant Natural Areas; b. the Arrowtown Residential Historic Management Zone. <p>This rule does not apply to:</p> <ul style="list-style-type: none"> a. masts or poles for navigation or meteorology; b. poles, antennas, and associated cabinets (cabinets up to 10m² in area and 3m in height, exclusive of any plinth or other foundation), for telecommunication and radio communication; c. lines and support structures. 	D
30.5.1.5	Flood Protection Works not otherwise provided for in Rule 30.4.5.1.2	D
30.5.1.6	Waste Management Facilities	D
30.5.1.7	Water and Wastewater Treatment Facilities	D
30.5.1.8	<p>Utilities and Buildings (associated with a Utility) which are not:</p> <p>30.5.8.1 provided for in any National Environmental Standard;</p> <p>OR</p> <p>30.5.8.2 otherwise listed in Rules 30.5.1.1 to 30.5.1.7, 30.5.3.1 to 30.5.3.5, 30.5.5.1 to 30.5.5.8, or 30.5.6.1 to 30.5.6.13.</p>	D

30.5.2	General Utilities - Standards	Non-compliance Status
30.5.2.1	<p>Setback from internal boundaries and road boundaries</p> <p>Where the utility is a building, it must be set back in accordance with the internal and road boundary setbacks for accessory buildings in the zone in which it is located.</p> <p>This rule does not apply to:</p> <ol style="list-style-type: none"> poles, antennas, and associated cabinets (cabinets up to 10m² in area and 3m in height, exclusive of any plinth or other foundation), for telecommunication and radio communication; lines and support structures for telecommunications. 	D
30.5.2.2	<p>Buildings associated with a Utility in Outstanding Natural Landscapes (ONL) and Outstanding Natural Features (ONF)</p> <p>Any building within an ONL or ONF must be less than 10m² in area and less than 3m in height.</p> <p>This rule does not apply to:</p> <ol style="list-style-type: none"> masts or poles for navigation or meteorology; poles, antennas, and associated cabinets (cabinets up to 10m² in area and 3m in height, exclusive of any plinth or other foundation), for telecommunication and radio communication; lines and support structures. 	D
30.5.2.3	<p>Height</p> <p>All buildings or structures must comply with the relevant maximum height provisions for buildings of the zone they are located in.</p> <p>This rule does not apply to:</p> <ol style="list-style-type: none"> masts or poles for navigation or meteorology; poles, antennas, and associated cabinets (cabinets up to 10m² in area and 3m in height, exclusive of any plinth or other foundation), for telecommunication and radio communication; lines and support structures. 	D

30.5.3	National Grid Activities	Non-compliance Status
30.5.3.1	Minor Upgrading	P
30.5.3.2	Buildings, structures and activities that are not National Grid sensitive activities within the National Grid Corridor Subject to compliance with Rules 30.5.4.1 and 30.5.4.2.	P
30.5.3.3	Earthworks within the National Grid Yard Subject to compliance with Rule 30.5.4.2	P
30.5.3.4	Buildings, structures and National Grid sensitive activities in the vicinity of the Frankton Substation Any building, structure or National Grid sensitive activity within 45m of the designated boundary of Transpower New Zealand Limited's Frankton Substation. Control is reserved to: a. the extent to which the design and layout (including underground cables, services and fencing) avoids adverse effects on the on-going operation, maintenance upgrading and development of the substation; b. the risk of electrical hazards affecting public or individual safety, and the risk of property damage; and c. measures proposed to avoid or mitigate potential adverse effects.	C
30.5.3.5	Erecting any lines, lattice towers or support structures for new overhead lines to convey electricity (at a voltage of more than 110kV with a capacity over 100MVA) in all zones.	D

30.5.4	National Grid Standards	Non-compliance Status
30.5.4.1	<p>Buildings and Structures permitted within the National Grid Yard</p> <p>30.5.4.1.1 A non-conductive fence located 5m or more from any National Grid Support Structure and no more than 2.5m in height.</p> <p>30.5.4.1.2 Network utility within a transport corridor or any part of electricity infrastructure that connects to the National Grid, excluding a building or structure for the reticulation and storage of water for irrigation purposes.</p> <p>30.5.4.1.3 Any new non-habitable building less than 2.5m high and 10m² in floor area and is more than 12m from a National Grid Support Structure.</p> <p>30.5.4.1.4 Any non-habitable building or structure used for agricultural activities provided that they are:</p> <ol style="list-style-type: none"> a. less than 2.5m high; b. located at least 12m from a National Grid Support Structure; c. not a milking shed/dairy shed (excluding the stockyards and ancillary platforms), or a commercial glasshouse, or a structure associated with irrigation, or a factory farm. <p>30.5.4.1.5 Alterations to existing buildings that do not alter the building envelope.</p> <p>30.5.4.1.6 An agricultural structure where Transpower has given written approval in accordance with clause 2.4.1 of NZECP34:2001.</p> <p>Note: Refer to the Definitions for illustration of the National Grid Yard.</p>	NC
30.5.4.2	<p>Earthworks permitted within the National Grid Yard</p> <p>30.5.4.2.1 Earthworks within 6 metres of the outer visible edge of a National Grid Transmission Support Structure must be no deeper than 300mm.</p> <p>30.5.4.2.2 Earthworks between 6 metres to 12 metres from the outer visible edge of a National Grid Transmission Support Structure must be no deeper than 3 metres.</p> <p>30.5.4.2.3 Earthworks must not create an unstable batter that will affect a transmission support structure.</p> <p>30.5.4.2.4 Earthworks must not result in a reduction in the existing conductor clearance distance below what is required by the NZECP 34:2001.</p> <p>The following earthworks are exempt from the rules above:</p> <p>30.5.4.2.5 Earthworks undertaken by network utility operators in the course of constructing or maintaining utilities providing the work is not associated with buildings or structures for the storage of water for irrigation purposes.</p> <p>30.5.4.2.6 Earthworks undertaken as part of agricultural activities or domestic gardening.</p> <p>30.5.4.2.7 Repair sealing, resealing of an existing road, footpath, farm track or driveway.</p> <p>Note: Refer to the Definitions for illustration of the National Grid Yard.</p>	NC

30.5.5	Electricity Distribution Activities	Non-compliance Status
30.5.5.1	Minor Upgrading	P
30.5.5.2	Lines and Supporting Structures The placement and upgrading of lines, poles and supporting structures within formed legal road.	P
30.5.5.3	Underground Electricity Cables The placement of underground electricity distribution cables provided the ground surface is reinstated to the state it was prior to works commencing.	P
30.5.5.4	Lines and Supporting Structures Except as otherwise stated in Rules 30.5.5.2 above, and 30.5.5.5 below new lines and associated above ground support structures including masts, poles or ancillary equipment, but excluding lattice towers, to convey electricity (at a voltage of equal to or less than 100kV at a capacity equal to or less than 100MVA). Control is reserved to: <ol style="list-style-type: none"> a. location; b. route; c. height; d. appearance, scale and visual effects. 	C
30.5.5.5	Lines and Supporting Structures Any line or support structure where it involves erecting any support structures for overhead lines to convey electricity (at a voltage of equal to or less than 110kV at a capacity of equal to or less than 100MVA) in any Outstanding Natural Feature or Outstanding Natural Landscape or Significant Natural Areas.	D

30.5.6	Telecommunications, radio communication, navigation or meteorological communication activities	Activity Status
30.5.6.1	Minor Upgrading	P
30.5.6.2	New Aerial Lines and Supporting Structures within formed road reserve; or New aerial telecommunication line/s on existing telecommunication or power structures including when located in sensitive environments identified in Rule 30.5.6.5.	P
30.5.6.3	The construction, alteration, or addition to underground lines providing the ground surface is reinstated to the state it was prior to works commencing.	P
30.5.6.4	New Aerial Lines and Supporting Structures (outside formed road reserve) Not located in any of the sensitive environments identified by Rule 30.5.6.5 Control is reserved to: a. location; b. route; c. appearance, scale and visual effects.	C
30.5.6.5	New Aerial Lines and Supporting Structures Any line or support structure within any Outstanding Natural Feature or Outstanding Natural Landscape or Significant Natural Areas.	D
30.5.6.6	Poles With a maximum height no greater than: a. 18m in the High Density Residential (Queenstown – Flat Sites), Queenstown Town Centre, Wanaka Town Centre (Wanaka Height Precinct) or Airport Zones; b. 25m in the Rural Zone; c. 15m in the Business Mixed Use Zone (Queenstown); d. 13m in the Local Shopping Centre, Business Mixed Use (Wanaka) or Jacks Point zones; e. 11m in any other zone; and f. 8m in any identified Outstanding Natural Landscape. Where located in the Rural Zone within the Outstanding Natural Landscape or Rural Character Landscape, poles must be finished in colours with a light reflectance value of less than 16%.	P

30.5.6	Telecommunications, radio communication, navigation or meteorological communication activities	Activity Status
30.5.6.7	<p>Poles</p> <p>Exceeding the maximum height for the zones identified in Rule 30.5.6.6 OR any pole located in</p> <ul style="list-style-type: none"> a. any identified Outstanding Natural Feature; b. the Arrowtown Residential Historic Management Zone; c. Arrowtown Town Centre; d. Queenstown Special Character Area; e. Significant Natural Area; f. Sites containing a Heritage Feature; and g. Heritage Overlay Areas. 	D
30.5.6.8	<p>Antennas and ancillary equipment</p> <p>Provided that for panel antennas the maximum width is 0.7m, and for all other antenna types the maximum surface area is no greater than 1.5m² and for whip antennas, less than 4m in length.</p> <p>Where located in the Rural Zone within the Outstanding Natural Landscape or Rural Landscape Classification, antennae must be finished in colours with a light reflectance value of less than 16%.</p>	P
30.5.6.9	<p>Antennas and ancillary equipment</p> <p>Subject to Rule 30.5.6.10 provided that for panel antennas the maximum width is between 0.7m and 1.0m, and for all other antenna types the surface area is between 1.5m² and 4m² and for whip antennas, more than 4m in length.</p> <p>Control is reserved to all of the following:</p> <ul style="list-style-type: none"> a. location; b. appearance, colour and visual effects 	C
30.5.6.10	<p>Any antennas located in the following:</p> <ul style="list-style-type: none"> a. any identified Outstanding Natural Feature; b. the Arrowtown Residential Historic Management Zone ; c. Arrowtown Town Centre; d. Queenstown Special Character Area; e. Significant Natural Areas; and f. Heritage, Features and Heritage Overlay Areas. 	D
30.5.6.11	<p>Small Cell Units</p> <p>Provided that the small cell unit is not located within a Heritage Precinct.</p>	P

30.5.6	Telecommunications, radio communication, navigation or meteorological communication activities	Activity Status
30.5.6.12	<p>Microcells</p> <p>A microcell and associated antennas, with a volume of between 0.11m³ and 2.5m³ provided that the microcell is not located within a Heritage Precinct.</p> <p>Control is reserved to:</p> <ol style="list-style-type: none"> a. appearance; b. colour; and c. visual effects. 	C
30.5.6.13	<p>Small Cell Units and Microcells</p> <p>30.5.6.13.1 A microcell and associated antennas, with a volume more than 2.5m³.</p> <p>OR</p> <p>30.5.6.13.2 A small cell unit located within a Heritage Precinct.</p>	D

30.6

Rules - Non-Notification of Applications

30.6.1 Any application for resource consent for the following matters does not require the written approval of other persons and will not be notified or limited-notified:

- 30.6.1.1 Controlled activities except for applications when within 45m of the designated boundary of Transpower New Zealand Limited's Frankton Substation.
- 30.6.1.2 Discretionary activities for Flood Protection Works.

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report 8

Report and Recommendations of Independent Commissioners Regarding
Chapter 30, Chapter 35 and Chapter 36

Commissioners

Denis Nugent (Chair)

Calum MacLeod

Mark St Clair

PART B: CHAPTER 30 - ENERGY AND UTILITIES

2. PRELIMINARY

2.1. General Submissions

32. Several submissions require consideration before discussing the provisions in the chapter and the submissions on those provisions. Kain Froud²⁷ supported the chapter generally. As we are recommending changes to the chapter, we recommend his submission be accepted in part.
33. Maggie Lawton²⁸ sought that the Council consider introducing an organic waste collection so as to reduce the amount of waste going into landfills. Although this has some relationship to this chapter, in that the rules of the chapter provide for waste management facilities, we do not consider it is a matter that falls within the Council's resource management functions. Rather it is a matter better dealt with under the Council's Local Government Act functions. On that basis, we recommend this submission be rejected.
34. David Pickard²⁹ has sought a general policy to discourage light pollution throughout the District. This issue has been dealt with in relation to other chapters. The Hearing Panel, differently constituted, that heard Stream 1B has recommended a new policy in chapter 4 that reads:
- Ensure lighting standards for urban development avoid unnecessary adverse effects on views of the night sky.*³⁰
35. The same Panel has also recommended that Policy 6.3.5 read:
- Ensure the location and direction of lights does not cause excessive glare and avoids unnecessary degradation of views of the night sky and of landscape character, including the sense of remoteness where it is an important part of that character.*
36. We consider that these policies give effect to the relief sought by Mr Pickard, but as they are in a different part of the PDP, we recommend his submission be accepted in part.
37. The Telecom Companies³¹ sought that Chapter 30 be amended to provide a framework that supports utilities and manages the adverse effects of activities. This was conditionally supported by Te Anau Developments Limited³². As the overall effect of our recommendations on the submissions on this chapter, in our view, do provide such a framework, we recommend this submission be accepted. The conditional nature of the further submission means it should only be accepted in part.
38. Te Ao Marama Inc³³ sought that those aspects of Chapter 30 which affected freshwater quality and quantity should give effect to the NPSFWM 2014, particularly Objective D and Policy D-1. We have taken those provisions into account in coming to our conclusions on this chapter. We recommend the submission therefore be accepted in part.

²⁷ Submission 19

²⁸ Submission 165

²⁹ Submission 424

³⁰ Policy 4.2.2.10

³¹ Submissions 179.15, 191.13 and 781.14

³² Further Submission FS1342.9

³³ Submission 817

39. Te Anau Developments Ltd³⁴ and Cardrona Alpine Resort Ltd³⁵ sought amendments to the chapter to make special provision to ensure that the development, operation, maintenance and upgrading of energy, utilities and infrastructure related to tourism activities are specifically enabled. Ms Black appeared in support of these submissions. Her evidence focussed on the utility requirements of isolated locations, such as Walter Peak Station and Cardrona Alpine Resort and how specific policies and rules could be amended to assist those requirements. We have taken these matters into account in our consideration of the objectives, policies and rules and consequently recommend that the submissions be accepted in part.

2.2. **Aurora Submission³⁶**

40. While this submission sought a number of amendments to the objectives, policies and rules in Chapter 30, one aspect of the submission, contained in 8 submission points, has an overall goal of having provisions inserted into the PDP to protect certain lines of the Aurora network from the effects of other land uses. In our view, it is more appropriate to consider this matter at the outset rather than a piecemeal approach policy by policy or rule by rule. Further submissions were lodged opposing this aspect of the submission by Federated Farmers³⁷ and Transpower³⁸.

41. Aurora also appeared in respect of this overall objective in Hearing Streams 1 and 4 (each with Hearing Panels differently constituted from this Panel). While our recommendations are based on the submissions and evidence we heard in respect of this submission, we have also had the benefit of reviewing the reports and recommendations of those other hearing panels. In addition, Ms Dowd attached to her evidence copies of the evidence presented to the Stream 1 Hearing Panel, and the evidence and written answers she provided to questions set by the Stream 4 Hearing Panel.

42. The Aurora submission sought corridor protection for what it described as its strategic electricity distribution assets, namely -

- a. All 33kV and 66kV sub-transmission and distribution overhead lines and underground cables;
- b. 11kV overhead line to Glenorchy;
- c. 11kV overhead line between the Cardrona Substation up to the ski fields;
- d. 11kV overhead line to Treble Cone; and
- e. 11kV overhead line to Makarora.

43. The components of the submission are:

Submission Point	Amendment Sought (Summarised)
.1	Insert definition of Critical Electricity Line
.3	Insert definition of Electricity Distribution
.4	Insert definition of Electricity Distribution Line Corridor
.51	Amend Policy 30.2.6.4 to include reference to Critical Electricity Line Corridor
.61	Amend Rule 30.4.10 to include reference to Critical Electricity Line Corridor

³⁴ Submission 607.38, supported by FS1097.561

³⁵ Submission 615.36, supported by FS1105.36 and FS1137.37

³⁶ Submission 635

³⁷ Further submission 1132

³⁸ Further submission 1301

.70	Insert new Rule requiring all buildings (as defined in PDP) plus some other structures and defined tree planting within 10m, and all earthworks over underground cables or within 20m, of the centreline of a Critical Electricity Line Corridor to obtain consent as a restricted discretionary activity
.71	Include a reference in all zones to the new rule sought in point 70
.86	Amend the Planning Maps to show the relevant portions of the Aurora network

44. Thus, the submission sought protection of the lines listed above by, in essence, requiring that all buildings and specified earthworks and tree planting within specified distances of “Critical Electricity Lines” be restricted discretionary activities. We note also, that submission point 42 sought that all subdivision within 32m of the centreline of Critical Electricity Line Corridors be a restricted discretionary activity. That submission point is dealt with in Report 7 – Subdivision.
45. We understood, from both Ms Dowd’s evidence³⁹ and answers to our questions, that the essential purpose was to enable Aurora to be notified of building, planting, earthworks or subdivision activity within the vicinity of these lines so it could ensure landowners or those undertaking works complied with the NZECP 34:2001.
46. In her submissions on behalf of Aurora, Ms Irving submitted that Aurora’s distribution network must be recognised in the PDP to implement the RPS⁴⁰. In response to our questioning, Ms Irving submitted that the proposed RPS should be given more weight than the RPS.
47. The evidence of Ms Dowd, Delta Utility Services Limited⁴¹ Network Policy Manager, dealt in large part with areas of disagreement she had with the rules proposed by Mr Barr in his Section 42A Report. Her conclusion was that the corridor protection measures sought would promote the sustainable management of natural and physical resources and assist Aurora in delivering a robust and reliable power distribution network to the District⁴². In her Summary of Evidence Ms Dowd explained that, while under the NZECP 34:2001 Aurora should be notified if a building is within the minimum safe distances, that does not always occur.
48. Mr Sullivan presented a group of photographs showing instances of buildings or trees located within the distances required by NZECP 34:2001. Unfortunately, no location information was provided with the photographs. However, our knowledge of the area enabled us to identify four photographs as being of commercial buildings in Brownston Street, Wanaka and the date on one of the photographs indicated they were taken in 2008. It was also apparent that several of the photographs related to properties in Central Otago District.
49. Neither Ms Dowd nor Mr Sullivan were able to assist with indicating the actual extent of the problem in Queenstown Lakes District.
50. In his Section 42A report, Mr Barr accepted the approach sought by Aurora, but did not propose its implementation in a manner consistent with that sought by Aurora. In his reply

³⁹ Joanne Dowd, EiC, paragraph 13

⁴⁰ Legal submissions, paragraph 12.

⁴¹ We understand that Delta Utility Services Ltd, a sister company to Aurora, maintains and manages the Aurora network

⁴² Joanne Dowd, EiC, paragraph 69

statement, Mr Barr in large part reaffirmed this view. His differences with Aurora at that point related to the setback distances to be applied in the rule.

51. Two further submissions were lodged on Aurora's submission. That by Transpower was concerned that terminology used in any rule be distinct from that used in the NPSET 2008 and NESET 2009. Ms McLeod, when appearing for Transpower, suggested that distribution line was a better term than sub-transmission line. She also noted that the restrictions sought by Aurora were greater than those applied in respect of the National Grid. Mr Renton, also appearing for Transpower, suggested to us that there had been no demonstration of need for the yard and corridor widths Aurora sought given the nature of the lines used on the Aurora network as compared to those on the National Grid.
52. The further submission lodged by Federated Farmers opposed Aurora's submission in large part. Federated Farmers agreed that there could be a definition of Electricity Distribution, and that an advisory note could be included in the PDP noting that compliance with NZECP 34:2001 is mandatory for buildings, earthworks and when using machinery in close proximity to the electricity distribution network. However, Federated Farmers considered it inappropriate for the PDP to police the NZECP 34:2001 when dealing with local lines. Mr Cooper, Senior Policy analyst at Federated Farmers, tabled evidence in support of this further submission, but was not able to appear due to medical reasons⁴³.
53. In considering this issue, we start by analysing what is actually being sought by Aurora. Aurora has a number of lines passing over, or under in the case of cabled portions, private land. Some of these lines are located within road reserve. We were not provided with a breakdown of the proportions within each category, nor how much was on public reserve land. Ms Dowd did advise us that the network Aurora was seeking these provisions apply to amounts to 263 kilometres of overhead lines and 9 kilometres of underground lines⁴⁴. We received no information as to whether the underground lines referred to were within road reserves or within private property.
54. As we read the rule proposed, the corridor setback requirements would apply whether or not the relevant line was on road reserve, other reserve, or private land. Thus, owners and occupiers of land adjoining a road reserve or other site which contained a line would be affected by the rules to extent that part of their land lay within the 10m, 20m or 32m restriction area. Neither Ms Dowd nor Mr Barr undertook any analysis of how many properties would be affected by the proposed rules.
55. Aurora's position was that the restrictions are imposed by the NZECP 34:2001 so no additional burden is being imposed on the land owner. However, that is not entirely correct. The obligation to obtain a resource consent imposes a financial cost on the applicant, even if only for the Council's processing fees. If Ms Dowd is correct that the process would enable input by Aurora on such proposals⁴⁵, the expectation must be that such applications would be notified in some form. Our understanding is that the costs to the applicant could be substantial just to commence such a process. Unless the Council's fees cover 100% of the processing costs, the Council will also have a financial cost imposed.
56. The purpose of the provisions Aurora propose are, as was explained to us by Ms Dowd and Mr Sullivan, to protect the network from activities that could lead to power outages, and to ensure

⁴³ Explained in an email to the Hearing Panel on 13 September 2016

⁴⁴ Joanne Dowd, Summary of Evidence, paragraph 3.7

⁴⁵ Joanne Dowd, Evidence in Chief, paragraph 13

access remains available for ongoing maintenance. We understood there also to be an element of public safety by ensuring people could not come within such a distance that electricity would arc from the lines on them. These are not matters which come within the definition of reverse sensitivity, which appeared to be the justification Ms Dowd⁴⁶ and Mr Barr⁴⁷ had for their conclusions that some provision should be made. Our understanding is that a reverse sensitivity effect arises when a new activity seeks changes to an existing activity by reason of its adverse effects.

57. Ms Irving confirmed that Aurora is a requiring authority. She advised that Aurora steered away from using its requiring authority powers to protect its infrastructure as it would trigger the Public Works Act and landowners could seek acquisition or some other compensation. We took from this answer that a subsidiary purpose of the Aurora submission was to have controls in place to protect its infrastructure that, under s.85 of the Act, would not create any liability for compensation.
58. The purpose of the PDP is to assist the Council in carrying out its functions in order to achieve the purpose of the Act⁴⁸. The Act recognises that there are certain infrastructure activities, often, as in this case, undertaken by private companies, that are important for the wellbeing of the community by providing, in Part 8, the ability of those infrastructure providers to become requiring authorities and to impose their own mechanisms in a district plan to protect their infrastructure. Neither Ms Dowd nor Mr Barr addressed this option in coming to their conclusions. Nor did they address whether it should be the Council's function to, as Federated Farmers put it, police the NZECP 34:2001 for Aurora. It is not within the Council's functions to administer NZECP 34:2001.
59. We were referred to the proposed RPS as supporting Aurora's submission. The relevant policy⁴⁹ appears to be 4.4.5:
- Protect electricity distribution infrastructure by all of the following:*
- a. Recognising the functional needs of electricity distribution activities;*
 - b. Restricting the establishment of activities that may result in reverse sensitivity effects;*
 - c. Avoiding, remedying or mitigating adverse effects from other activities on the functional needs of that infrastructure;*
 - d. Protecting existing distribution corridors for infrastructure needs, now and for the future.*
60. The implementation method for district plans is Method 4.1, with no further specificity. We understand that both the policy and Method 4.1 are under appeal. Thus we cannot be certain of the final wording or either. This goes to the weight that can be given these provisions. However, we do not see that Policy 4.4.5 could not be given affect to by the relevant territorial authority recommending that a notice of requirement lodged by Aurora be confirmed. It is not apparent that the policy direction intended by the proposed RPS is that the only method of implementation is that district councils implement rules so as to enable Aurora to be aware of activities that may breach NZECP 34:2001.
61. On this last point, we are not certain that the objective, policy and rule framework proposed by Aurora achieves the outcome of increasing its awareness of such activities. The discretion

⁴⁶ Joanne Dowd, Evidence in Chief, paragraph 48

⁴⁷ Section 42A Report, paragraph 8.7

⁴⁸ Section 72

⁴⁹ As the hearing predated the ORC releasing its decisions on the proposed RPS, Ms Irving's submissions referred to the notified version.

as to notification lies with the Council⁵⁰. More certainty would be provided to Aurora by the application of s.176(1)(b) if the provisions were included in the PDP by way of a notice of requirement. In addition, any person requiring the approval of Aurora under that section would not be subject to the regulatory charges required for a resource consent. Thus, that method is more efficient for both Aurora and the landowners involved.

62. There is also a question as to whether the proposed rule provides any benefit to an applicant. While it is clearly within the powers of the Council to grant consent to a restricted discretionary activity, it appears that the provisions of NZECP 34:2001⁵¹ are such that holding such a consent would not necessarily allow the relevant work to proceed.
63. Finally, we have a concern that if the Council were to accede to Aurora's request, it would be imposing restrictions on a large number of landowners who may not have been aware that Aurora's submission could directly affect their use of their land. While the proposed objectives, policies and rules were clearly summarised, the extent of the land which could be affected by such provisions was not explicitly set out in the summary⁵². The summary refers to the maps attached to the submission, but those maps are not of such a scale as to clearly show every site potentially affected. As we noted above, affected land includes land adjoining land on which lines are located as well as land on which they are located. We understood that no attempt was made by Aurora to advise potentially affected landowners of the submission. One of the benefits of the notice of requirement method is that each affected landowner is directly notified.
64. Having considered the proposed provisions in terms of s.32AA, we conclude there is a practical alternative method available to Aurora which is both more effective and more efficient than the provisions proposed in the submission. We are also not satisfied that the Council has any need to ensure that NZECP 34:2001 is complied with – it is not one of its functions.
65. Thus, we recommend that those parts of Aurora's submission seeking the inclusion of objectives, policies and rules directed to imposing resource consent requirements within set distances of Aurora's lines or cables should be rejected.
66. We do, however, consider that Aurora's concerns can be addressed by improving the information in the PDP. Section 30.3.2.3 advises readers that NZECP 34:2001 is applicable. We consider that, if this was supplemented by showing the relevant overhead lines portion of the Aurora network, as shown in Annexure 2 to Submission 635, on the Planning Maps, landowners would have increased awareness of their obligations. When we raised this option with Ms Irving at the hearing she conceded this would go some way achieving Aurora's goal, but that it would prefer rules.
67. We will deal with other parts of Aurora's submission in discussion of the detailed PDP provisions below.

2.3. Section 30.1 - Purpose

68. This section notes the strategic importance of energy and utilities. Subsection 30.1.1 explains the value of energy, and section 30.1.2 sets out the value of utilities.

⁵⁰ Section 95A, or s.95E if limited notification.

⁵¹ The Introduction to the Code states: "*Compliance with this Code is mandatory.*"

⁵² See Submission Point 635.86 summarised on pages 1332 and 1333 of the summary

69. Section 30.1 was supported by one submitter⁵³ and a second submitter sought an amendment to refer to electricity transmission⁵⁴. We agree with Mr Barr that there is no need to amend this opening sentence. Electricity transmission clearly falls within the term “essential infrastructure”.
70. A number of submitters sought amendments to section 30.1.1 to emphasise aspects of design that could enhance energy efficiency⁵⁵. We are of the view that these suggested amendments add little to what is essentially an explanatory section. We do not recommend any changes to section 30.1.1.
71. One submission⁵⁶ supported section 30.1.2 as notified. Transpower⁵⁷ and PowerNet Ltd⁵⁸ each sought non-substantive amendments to the wording of this section. We agree with the further submissions by Contact Energy Ltd that the amendments proposed are, respectively, too specific or add nothing to the section. Mr Barr recommended a minor grammatical amendment to the discussion of reverse sensitivity effects. We agree with that amendment and recommend it be made as a minor change in accordance with Clause 16(2).

3. SECTION 30.2 - OBJECTIVES AND POLICIES

3.1. Objective 30.2.1 and Policies 30.2.1.1 and 30.2.1.2

72. As notified, these read:

30.2.1 The benefits of the District’s renewable and non-renewable energy resources and the electricity generation facilities that utilise such resources are recognised as locally, regionally and nationally important in the sustainable management of the District’s resources.

30.2.1.1 Recognise the national, regional and local benefits of the District’s renewable and non-renewable electricity generation activities.

30.2.1.2 Enable the operation, maintenance, repowering, upgrade of existing non-renewable electricity generation activities and development of new ones where adverse effects can be avoided, remedied or mitigated.

73. There were no submissions on this objective and the ensuing policies. In his Section 42A Report Mr Barr raised concerns that the objective and Policy 30.2.1.2 were problematic as they indicated non-renewable energy resources and generation were equally as important as renewable energy resources and generation, when the former were non-complying activities and the latter discretionary. He rightly conceded that there was no jurisdiction available to correct that inconsistency. That is a matter the Council would have to deal with by way of variation.

74. We have two concerns with the objective as notified. Firstly, similar to Mr Barr’s concern, we consider the objective inappropriately focusses on the benefits of utilising non-renewable

⁵³ Submission 238.117. Nine further submissions opposed submission 238 but did not appear to oppose this specific point.

⁵⁴ Submission 805.69, supported by FS1159.5 and opposed by FS1132.65

⁵⁵ Submissions 115.6, 230.6, 238.11, 383.59, 238.118

⁵⁶ Submission 719.147, supported by FS1186.8

⁵⁷ Submission 805.70, supported by FS1211.32 and opposed by FS1186.11

⁵⁸ Submission 251.11, supported by FS1097.89, opposed by FS1186.1 and FS1132.16

energy resources in the District when there is no evidence that such resources exist in the District, and if such resources did exist, the utilisation of them could be inconsistent with the Strategic objectives and policies in Chapters 3 and 6.

75. Our second concern is more one of style. As written, this is not an objective as it does not express an environmental outcome. We consider that this can be remedied as a minor grammatical change in accordance with Clause 16(2) of the First Schedule.
76. We recommend the Council reconsider this objective and the associated policies taking into account the concerns we and Mr Barr have expressed and institute a variation to replace them with more appropriate objective(s) and policies. In the meantime, we recommend the Council make a minor change under Clause 16(2) to objective 30.2.1 so that it reads:

The sustainable management of the District's resources benefits from the District's renewable and non-renewable energy resources and the electricity generation facilities that utilise them.

3.2. Objective 30.2.2 and Policies 30.2.2.1 and 30.2.2.2

77. As notified, these read:

30.2.2 *Recognise that the use and development of renewable energy resources have the following benefits:*

- *Maintain or enhance electricity generation capacity while avoiding, reducing or displacing greenhouse gas emissions*
- *Maintain or enhance the security of electricity supply at local, regional and national levels by diversifying the type and/or location of electricity generation*
- *Assist in meeting international climate change obligations*
- *Reduce reliance on imported fuels for the purpose of generating electricity*
- *Help with community resilience through development of local energy resources and networks.*

30.2.2.1 *Enable the development, operation, maintenance, repowering and upgrading of new and existing renewable electricity generation activities, (including small and community scale), in a manner that:*

- *Recognises the need to locate renewable electricity generation activities where the renewable electricity resources are available*
- *Recognises logistical and technical practicalities associated with renewable electricity generation activities*
- *Provides for research and exploratory-scale investigations into existing and emerging renewable electricity generation technologies and methods.*

30.2.2.2 *Enable new technologies using renewable energy resources to be investigated and established in the district.*

78. Again, there were no submissions on this objective or the ensuing policies, and again Mr Barr expressed concerns with them in his Section 42A report. We agree with Mr Barr that they could be improved by including reference to the need to achieve the higher order Strategic Direction objectives and policies in Chapters 3 and 6. We note in particular that Policy 30.2.2.1 appears to be contrary to a number of policies in Chapters 3 and 6, such as 3.3.25, 3.3.30, 3.3.32-35 inclusive, 6.3.15, 6.3.1, 6.3.18, 6.3.24, 6.3.25.

79. We also have concerns that the introductory section of Objective 30.2.2 is again focused on recognising something, rather than expressing an environmental outcome. We are satisfied that can be corrected as a minor grammatical change under Clause 16(2).
80. We recommend the Council reconsider this objective and the ensuing policies to ensure they are consistent with, and give effect to both the NPSREG and the Strategic Objectives and Policies in Chapters 3, 5 and 6. In the interim, we recommend Objective 30.2.2 be rephrased utilising Clause 16(2) to read:

The use and development of renewable energy resources achieves the following:

- a. *It maintains or enhances electricity generation capacity while avoiding, reducing or displacing greenhouse gas emissions;*
- b. *It maintains or enhances the security of electricity supply at local, regional and national levels by diversifying the type and/or location of electricity generation;*
- c. *It assists in meeting international climate change obligations;*
- d. *It reduces reliance on imported fuels for the purpose of generating electricity;*
- e. *It helps with community resilience through development of local energy resources and networks.*

3.3. Objective 30.2.3 and Policies

81. As notified these read:

Objective *Energy resources are developed and electricity is generated, in a manner that minimises adverse effects on the environment.*

30.2.3.1 *Promote the incorporation of Small and Community-Scale Distributed Electricity Generation structures and associated buildings (whether temporary or permanent) as a means to improve efficiency and reduce energy demands.*

30.2.3.2 *Ensure the visual effects of Wind Electricity Generation do not exceed the capacity of an area to absorb change or significantly detract from landscape and visual amenity values.*

30.2.3.3 *Promote Biomass Electricity Generation in proximity to available fuel sources that minimise external effects on the surrounding road network and the amenity values of neighbours.*

30.2.3.4 *Assess the effects of Renewable Electricity Generation proposals, other than Small and Community Scale, on a case-by-case basis, with regards to:*

- *landscape values and areas with significant indigenous flora or fauna*
- *recreation and cultural values, including relationships with tangata whenua*
- *amenity values*
- *The extent of public benefit and outcomes of location specific cost-benefit analysis.*

30.2.3.5 *Existing energy facilities, associated infrastructure and undeveloped energy resources are protected from incompatible subdivision, land use and development.*

30.2.3.6 *To compensate for adverse effects, consideration shall be given to any offset measures and/or environmental compensation including those which benefit the local environment and community affected.*

30.2.3.7 Consider non-renewable energy resources including standby power generation and Stand Alone Power systems where adverse effects can be mitigated.

82. The objective⁵⁹ and Policy 30.2.3.7⁶⁰ received submissions in support. The only submissions seeking to amend the provisions were those by the DoC in respect of Policy 30.2.3.4⁶¹ and Policy 30.2.3.6⁶². The amendment sought to Policy 30.2.3.4 sought that the first bullet point reference “significant habitat” for indigenous fauna, consistent with the wording in section 6(c) of the Act. The amendment sought to Policy 30.2.3.6 was to make it consistent with the approach taken by the DoC on Chapter 33.
83. Mr Barr agreed with the DoC’s proposed amendment to Policy 30.2.4, and we agree that such wording is necessary for consistency and because, although indigenous fauna are natural resources, the PDP can only control the habitat of such fauna, not the fauna themselves. Mr Barr also recommended deleting “on a case by case basis” from this policy, although did not provide reasons. We are satisfied that the words are unnecessary in the policy, as assessment is always taken on a case by case basis. We recommend the words be removed as a minor correction under Clause 16(2).
84. Although Mr Barr recommended a minor amendment to Policy 30.2.3.6 in response to the DoC’s submission, he did not discuss the reasoning for this in his Section 42A report. In our view, the policy as notified encompasses the possibility of environmental compensation being used to compensate for a wider range of effects than just effects on indigenous biodiversity (which the DoC submission was focussed on). The inclusion of the reference to biodiversity offsets, as recommended by Mr Barr, does, in our view, link this policy to the provisions in Chapter 33 (which apply in addition to this Chapter where energy resources are to be developed). In addition, we have changed the term shall to must for clarity purposes. We consider that change to be a minor grammatical change under Clause 16(2).
85. Consequently, we recommend that Policies 30.2.3.4 and 30.2.3.6 read as follows:

30.2.3.4 Assess the effects of Renewable Electricity Generation proposals, other than Small and Community Scale with regards to:

- a. landscape values and areas of significant indigenous flora or significant habitats of indigenous fauna;*
- b. recreation and cultural values, including relationships with tangata whenua*
- c. amenity values;*
- d. The extent of public benefit and outcomes of location specific cost-benefit analysis.*

30.2.3.6 To compensate for adverse effects, consideration must be given to any offset measures (including biodiversity offsets) and/or environmental compensation including those which benefit the local environment and community affected.

3.4. Objective 30.2.4 and Policies

86. As notified, these read:

⁵⁹ Submission 580
⁶⁰ Submission 635
⁶¹ Submission 373.16
⁶² Submission 373.17

Objective *Site layout and building design takes into consideration energy efficiency and conservation.*

30.2.4.1 *Encourage energy efficiency and conservation practices, including use of energy efficient materials and renewable energy in development.*

30.2.4.2 *Encourage subdivision and development to be designed so that buildings can utilise energy efficiency and conservation measures, including by orientation to the sun and through other natural elements, to assist in reducing energy consumption.*

30.2.4.3 *Encourage Small and Community-Scale Distributed Electricity Generation and Solar Water Heating structures within new or altered buildings.*

30.2.4.4 *Encourage building design which achieves a Homestar™ certification rating of 6 or more for residential buildings, or a Green Star rating of at least 4 stars for commercial buildings.*

30.2.4.5 *Transport networks should be designed so that the number, length and need for vehicle trips is minimised, and reliance on private motor vehicles is reduced, to assist in reducing energy consumption.*

30.2.4.6 *Control the location of buildings and outdoor living areas to reduce impediments to access to sunlight.*

87. The submissions on these ranged from support⁶³ to support with amendments. NZTA⁶⁴ sought to extend the effect of the objective to include the location of land use development, and to amend Policy 30.2.4.5 to achieve integration of land use and transport planning. QPL⁶⁵ sought to widen the ambit of Policy 30.2.4.5 to give emphasis to public transport, including water taxis and QPL's gondola proposal. Submitter 126 sought that amendments be made so that the location of trees were controlled to avoid shading neighbouring properties.

88. In his Section 42A Report, Mr Barr recommended no changes to this objective and the ensuing policies. In his reply statement, he responded to our questioning during the hearing by recommending a minor change to the objective to make it clear that it was both subdivision layout and site layout that should take into account energy efficiency and conservation.

89. We agree with Mr Barr that the minor word changes to the objective clarifies the outcome sought, and that the outcome was previously implicit given the wording of Policy 30.2.4.2. We do not consider any of the amendments sought by submitters are necessary. The changes sought to the objective would not assist the Council in achieving its functions under the Act. The changes sought to Policy 30.2.4.5 would be more appropriately dealt with in the Transportation Chapter of the PDP. None of them would give effect to the objective.

90. Consequently, the only amendment we recommend is to Objective 30.2.4 so that it reads:

Subdivision layout, site layout and building design takes into consideration energy efficiency and conservation.

⁶³ Submission 290

⁶⁴ Submission 719 supported by FS1186 and FS1097

⁶⁵ Submission 806

3.5. Objective 30.2.5 and Policies

91. As notified these read:

Objective *Co-ordinate the provision of utilities as necessary to support the growth and development of the District.*

30.2.5.1 *Essential utilities are provided to service new development prior to buildings being occupied, and activities commencing.*

30.2.5.2 *Ensure the efficient management of solid waste by:*

- *encouraging methods of waste minimisation and reduction such as re-use and recycling*
- *providing landfill sites with the capacity to cater for the present and future disposal of solid waste*
- *assessing trends in solid waste*
- *identifying solid waste sites for future needs*
- *consideration of technologies or methods to improve operational efficiency and sustainability (including the potential use of landfill gas as an energy source)*
- *providing for the appropriate re-use of decommissioned landfill sites.*

30.2.5.3 *Recognise the future needs of utilities and ensure their provision in conjunction with the provider.*

30.2.5.4 *Assess the priorities for servicing established urban areas, which are developed but are not reticulated.*

30.2.5.5 *Ensure reticulation of those areas identified for urban expansion or redevelopment is achievable, and that a reticulation system be implemented prior to subdivision.*

30.2.5.6 *Encourage low impact design techniques which may reduce demands on local utilities.*

92. Although six submitters supported the objective⁶⁶, each of them sought amendments to it. As notified, the objective read as if it were a policy – it proposed an action rather than an outcome. The amendment proposed by the Telecommunication Companies⁶⁷ overcame that problem and was largely supported by Mr Barr in his Section 42A Report. The amendments proposed by PowerNet⁶⁸ and Transpower⁶⁹ suffered from proposing an alternative action rather than an outcome. Mr Barr’s recommended changes were supported by Mr McCallum-Clark⁷⁰.

93. We agree with Mr Barr’s wording, which achieves the outcome sought by the Telecommunication Companies – a clear outcome that the ensuing policies can give effect to. We recommend objective 30.2.5 read:

⁶⁶ Submissions 179, 191 and 781 (each supported by FS1097), Submission 251 (supported by FS 1186 and FS1097), Submission 805 (supported by FS1186), and Submission 421

⁶⁷ Submissions 179, 191, 421 and 781

⁶⁸ Submission 251

⁶⁹ Submission 805

⁷⁰ Mathew McCallum-Clark, EiC, paragraph 19

30.2.5 *The growth and development of the District is supported by utilities that are able to operate effectively and efficiently.*

94. The only amendment⁷¹ sought to Policy 30.2.5.1 was the deletion of the word “essential” at the commencement of the policy, on the basis that essential utilities were not defined, and the objective applies to all utilities. Mr Barr also suggested the deletion of “and activities commencing” from the end of the policy. However, he provided no reasoning for this and we can find no basis for such a change in the submissions. We accept that the word “essential” should be deleted from the policy, but otherwise leave it unchanged.
95. Submissions 179, 191 and 781 supported Policy 30.2.5.3 and sought that it be retained unaltered. Two submissions⁷² sought amendments to this policy. The amendment sought by Submission 805, which sought the inclusion of statements about protecting utility corridors, was opposed by FS1159 on the basis that it could lead to the policy only applying to utilities that had specified corridors. FS1186 supported submission 805 but sought a different policy wording.
96. Mr Barr did not recommend any amendments to this policy. Ms McLeod considered that the amendments sought by Transpower were no longer necessary, subject to Policy 30.2.6.4 being amended⁷³. We agree with Mr Barr’s approach. The policy does not need additional wording of the type sought by submitters to implement the objective.
97. Mr Barr recommended the deletion of Policy 30.2.5.4⁷⁴, but we are unable to find any submissions seeking its deletion, although Mr McCallum-Clark appeared to support this course of action⁷⁵. We are also unable to find any reasons in the Section 42A Report for the deletion. Having considered the policy, we can see that it may not be directed to implementing the objective, but is more an internal matter for utility providers, including the Council in that role. We agree with Mr Barr that it should be deleted, but consider, that in the absence of submissions seeking its deletion, that can only be achieved by the Council initiating a variation to that end.
98. The Telecommunication Companies⁷⁶ sought the inclusion of an additional policy to identify the positive contribution utilities make to the cultural, social and economic wellbeing of society. Mr Barr recommended acceptance of this submission, with an amendment to the introductory words⁷⁷. We agree that the policy proposed (Reply Version) identifies the benefits of utilities to society within the context of managing the effects of utilities on the environment. However, we consider that this policy is misplaced under Objective 30.2.5. We consider it is more directed to implementing Objective 30.2.6 and we recommend it be located as Policy 30.2.6.3 (with subsequent policies being renumbered).
99. In summary, we recommend the rewording of Objective 30.2.5 as set out above, and other than the deletion of “Essential” from Policy 30.2.5.1, we recommend no changes to the policies under Objective 30.2.5.

⁷¹ By submissions 179, 191 and 781

⁷² Submissions 635 and 805

⁷³ Ainsley McLeod, EiC, paragraph 32(a)

⁷⁴ Section 42A Report, Appendix 1

⁷⁵ Matthew McCallum-Clark, EiC, paragraph 19

⁷⁶ Submissions 179, 191 and 781, supported by FS1121

⁷⁷ The amendment was included in the Reply Version.

3.6. Objective 30.2.6 and Policies

100. As notified these read:

Objective *The establishment, efficient use and maintenance of utilities necessary for the well-being of the community.*

30.2.6.1 *Recognise the need for maintenance or upgrading of a utility to ensure its on-going viability and efficiency.*

30.2.6.2 *Consider long term options and economic costs and strategic needs when considering alternative locations, sites or methods for the establishment or alteration of a utility.*

30.2.6.3 *Encourage the co-location of facilities where operationally and technically feasible.*

30.2.6.4 *Provide for the sustainable, secure and efficient use and development of the electricity transmission network, including within the transmission line corridor, and to protect activities from the adverse effects of the electricity transmission network, including by:*

- *Controlling the proximity of buildings, structures and vegetation to existing transmission corridors*
- *Discouraging sensitive activities from locating within or near to the electricity transmission National Grid Yard to minimise potential reverse sensitivity effects on the transmission network*
- *Managing subdivision within or near to electricity transmission corridors to achieve the outcomes of this policy to facilitate good amenity and urban design outcomes*
- *Not compromising the operation or maintenance options or, to the extent practicable, the carrying out of routine and planned upgrade works.*

30.2.6.5 *Recognise the presence and function of established network utilities, and their locational and operational requirements, by managing land use, development and/or subdivision in locations which could compromise their safe and efficient operation.*

101. One submission supported this objective⁷⁸, while five sought various amendments⁷⁹. The amendments generally sought that the objective identify that the continued operation and maintenance of utilities supported or enabled community well-being. Mr Barr supported these in a general sense in his Section 42A Report and recommended a hybrid of the versions sought by the submitters. Mr McCallum-Clark supported Mr Barr's recommended amendments⁸⁰.

102. The concern we have with Mr Barr's proposed wording is that it is unclear what the outcome relates to – community well-being, or the establishment, operation and maintenance of utilities to support community well-being. Given the policies designed to implement the objective, we consider it must be the latter outcome that is sought. To achieve this, we recommend that the objective be rephrased to read:

⁷⁸ Submission 600

⁷⁹ Submissions 179, 191 (supported by FS1121), 421, 781 and 805 (supported by FS1186)

⁸⁰ Matthew McCallum-Clark, EiC, paragraph 19

30.2.6 *The establishment, continued operation and maintenance of utilities supports the well-being of the community.*

103. Two submissions supported Policy 30.2.6.1⁸¹, one submission sought its amendment⁸², three submissions sought its replacement⁸³, and one sought its deletion⁸⁴. The amendments sought recognition of regionally significant infrastructure, and provision that maintenance and upgrading was cognisant of environmental constraints. Mr Barr proposed an amendment to include reference to regionally significant infrastructure. In Ms McLeod's view, the amendments sought by Transpower were unnecessary if amended Policy 30.2.6.4 was accepted⁸⁵.

104. This Chapter sits under the Strategic Directions Chapters (3, 4, 5 and 6). The objectives and policies contained within those chapters emphasise the importance of protecting outstanding natural landscapes and features from more than minor adverse effects on key values, and the importance of retaining rural character in other rural areas, and seeking high amenity values in urban areas. Objectives and policies in this chapter are to be read as achieving those strategic outcomes. In addition, in proposing this wording, we have had regard to Policy 4.3.3 of the proposed RPS. The submissions of the Telecommunication Companies seek changes which come closest to reflecting those outcomes. We also note that we generally do not consider policies which merely require recognition of something to be an effective means of implementing an objective. For those reasons, we recommend that Policy 30.2.6.1 read:

30.2.6.1 Provide for the maintenance or upgrading of utilities, including regionally significant infrastructure, to ensure its on-going viability and efficiency, subject to managing adverse effects on the environment consistent with the objectives and policies in Chapters 3, 4, 5 and 6.

105. A submission by the Council⁸⁶ sought the correction of a typographical error in Policy 30.2.6.2 by replacing the word "options" with "operational". Federated Farmers⁸⁷ sought that the economic costs of activities adversely effected be included in the policy. Transpower⁸⁸ sought the replacement of this policy with one the submitter contended would better give effect to the NPSET 2008.

106. Mr Barr accepted the amendment proposed by Transpower in his Section 42A report, and in her evidence Ms McLeod supported him for the reasons set out in the Transpower submission⁸⁹. In his reply version, Mr Barr recommended some grammatical changes to avoid repetition and tense changes. Subject to a further minor grammatical change, we accept the amendments to this policy for the reasons given by Ms McLeod. We recommend the policy read:

30.2.6.2 When considering the effects of proposed utility developments, consideration must be given to alternatives, and also to how adverse effects

⁸¹ Submissions 251 (supported by FS1186) and 635

⁸² Submission 805, opposed by FS1186

⁸³ Submissions 179, 191 and 781, opposed by FS1132 and FS1097

⁸⁴ Submission 421

⁸⁵ Ainsley McLeod, EiC, paragraph 32(b)

⁸⁶ Submission 383

⁸⁷ Submission 600, supported by FS1209, opposed by FS1121 and FS1034

⁸⁸ Submission 805, opposed by FS1186

⁸⁹ Ainsley McLeod, EiC, paragraph 32(c)

will be managed through the route, site and method selection process, while taking into account the locational, technical and operational requirements of the utility and the benefits associated with the utility.

107. In paragraph 97 we recommended that a policy proposed under Objective 30.2.5 be located under this policy. We recommend the inserted policy read:

30.2.6.3 Ensure that the adverse effects of utilities on the environment are managed while taking into account the positive social, economic, cultural and environmental benefits that utilities provide, including:

- a. enabling enhancement of the quality of life and standard of living for people and communities;*
- b. providing for public health and safety;*
- c. enabling the functioning of businesses;*
- d. enabling economic growth;*
- e. enabling growth and development;*
- f. protecting and enhancing the environment;*
- g. enabling the transportation of freight, goods, people;*
- h. enabling interaction and communication.*

108. The only submissions⁹⁰ on Policy 30.2.6.3 sought that it be retained. We recommend that be remain unaltered save for renumbering to 30.2.6.4.

109. One submission⁹¹ sought that policy 30.2.6.4 be retained. Three submissions sought its amendment. Federated Farmers⁹² supported the policy subject to it being confined to referencing the National Grid. Transpower⁹³, while supporting the intent of the policy, sought its replacement with an objective and policy aiming to avoid the establishment of activities that could adversely affect the National Grid. Aurora's submission⁹⁴ sought amendments consistent with its overall approach of obtaining provisions in the PDP to protect its network.

110. Mr Barr recommended some changes to this policy and its relocation under a new objective proposed by Transpower. Ms McLeod⁹⁵ recognised that Mr Barr's amendments went some way to achieving the goal of Transpower's submission, but recommended further changes, particularly to give effect to the NPSET 2008, and having regard to policies in the proposed RPS (notified version). In his reply statement, Mr Barr largely agreed with the policy wording of Ms McLeod as being the most effective way of implementing the proposed Transpower objective (see below – new Objective 30.2.8), subject to an additional clause to support a setback rule protecting the Frankton Substation. This was in response to the description of the potential for electrical hazards around the Frankton Substation described to us by Mr Renton⁹⁶.

111. We have set out above the reasons we do not accept Aurora's submission in respect of protecting its network.

⁹⁰ Submissions, 179, 191, 421 and 781

⁹¹ Submission 251

⁹² Submission 600, supported by FS1209, opposed by FS1034 and FS1159

⁹³ Submission 805, opposed by FS1132

⁹⁴ Submission 635, opposed by FS1132 and FS1301

⁹⁵ Ainsley McLeod, EiC, paragraph 32(e)

⁹⁶ Andrew Renton, EiC, paragraphs 55-77

112. In addition to ensuring the PDP gives effect to the NPSET 2008, we have had regard to Policies 4.3.2, 4.3.4, 4.4.4 and 4.4.5 in the proposed RPS in concluding that the policy wording proposed by Mr Barr in his reply statement is appropriate, and that it be moved from under Objective 30.2.6 and located in association with an objective specifically oriented to the National Grid.
113. Three submissions⁹⁷ supported Policy 30.2.6.5 as notified. Transpower's submission⁹⁸ sought its amendment. Four submissions⁹⁹ sought the creation of two policies out of this policy.
114. Ms McLeod¹⁰⁰ advised in her evidence that she did not consider the amendments sought by Transpower were necessary if the proposed new policies 30.2.6.2 and 30.2.6.4 (albeit moved) were accepted. Mr Barr did not recommend any change to Policy 30.2.6.5.
115. The Telecommunication Companies' submission split the policy into two parts, as set out below

Enable the functioning and enhancement of established network utilities, and their operational and upgrade requirements.

Manage land use, development and/or subdivision and their effects in locations which could compromise their safe and efficient operation of utilities.

116. The first part has essentially been provided for in our recommended Policy 30.2.6.1 set out above. We consider that, with some grammatical changes, the second part better expresses the point of notified Policy 30.2.6.5. As we read it, the policy is focused on managing other activities so as to minimising the potential for those other activities to compromise the operation of utilities. The Telecommunication Companies' submission almost captures that. We recommend the policy read:

30.2.6.5 Manage land use, development and/or subdivision and their effects in locations which could compromise the safe and efficient operation of utilities.

117. Mr Barr recommended the inclusion of an additional policy under this objective to provide a policy basis for the rules he considered should be included to satisfy Aurora's submission regarding its distribution network. Given our conclusions above that the Aurora proposal should be rejected, we do not recommend the inclusion of this additional policy.

3.7. Objective 30.2.7 and Policies

118. As notified these read:

Objective *Avoid, remedy or mitigate the adverse effects of utilities on surrounding environments, particularly those in or on land of high landscape value, and within special character areas.*

30.2.7.1 *Reduce adverse effects associated with utilities by:*

- *Avoiding or mitigating their location on sensitive sites, including heritage and special character areas, Outstanding Natural Landscapes and Outstanding Natural Features, and skylines and ridgelines*

⁹⁷ Submissions 251 (supported by FS186), 635 and 719 (supported by FS1186)

⁹⁸ Submission 805, supported by FS1186 and opposed by FS1132

⁹⁹ Submissions 179 (opposed by FS1132), 191 (opposed by FS1132), 421 and 781

¹⁰⁰ Ainsley McLeod, EiC, paragraph 32(f)

- *Encouraging co-location or multiple use of network utilities where this is efficient and practicable in order to avoid, remedy or mitigate adverse effects on the environment*
- *Ensuring that redundant utilities are removed*
- *Using landscaping and or colours and finishes to reduce visual effects*
- *Integrating utilities with the surrounding environment; whether that is a rural environment or existing built form.*

30.2.7.2 *Require the undergrounding of services in new areas of development where technically feasible.*

30.2.7.3 *Encourage the replacement of existing overhead services with underground reticulation or the upgrading of existing overhead services where technically feasible.*

30.2.7.4 *Take account of economic and operational needs in assessing the location and external appearance of utilities.*

119. Three submissions supported this objective¹⁰¹, while four sought amendments to the objective¹⁰². The submissions seeking amendments sought primarily to include the words “where practicable” and to define the landscape areas and special character areas referred to as being defined in the PDP. In addition, the four Telecommunication Companies¹⁰³ sought the inclusion of an additional policy to read:

Recognise that in some cases it might not be possible for utilities to avoid outstanding natural landscapes, outstanding natural features or identified special character areas and in those situations greater flexibility as to the way that adverse effects are managed may be appropriate.

120. Mr Barr dealt with this matter in some detail in his Section 42A Report¹⁰⁴. He also noted that PowerNet¹⁰⁵ sought amendments to Policy 30.2.7.1 to reflect that it may be difficult for utility providers to reduce the visual effects of their assets. Mr McCallum-Clark explained in his evidence¹⁰⁶ that the requested amendments provide an approach of focussing on the values and attributes of a sensitive environment and referred to provisions in other plans in Canterbury and the Bay of Plenty. He retained this view when he appeared before us¹⁰⁷.

121. We have a number of concerns with Objective 30.2.7, both as notified and as recommended by Mr Barr. As has been noted in other Hearing Reports, we do not consider that adding “avoid, remedy or mitigate” to an objective or policy provides any guidance for decision-makers or other plan users. We also agree with the submitters that, if this objective is solely directed to areas of “high landscape value” then the objective should be clear that it is

¹⁰¹ Submissions 635, 781 and 806

¹⁰² Submissions 179 (supported by FS1097), 191 (supported by FS1097), 421, 719 (supported by FS1160) and 805 (opposed by FS1186)

¹⁰³ Submissions 179, 191, 421 and 781

¹⁰⁴ Section 42A Hearing Report: Chapter 30 Energy and Utilities, Issue 4, pp 37-38

¹⁰⁵ Submission 251, supported by FS1186 and FS1097

¹⁰⁶ Matthew McCallum-Clark, EiC, paragraphs 20-23

¹⁰⁷ Matthew McCallum-Clark, Opening Statement and Summary of Evidence, 15 September 2017, paragraph 6

referring to the areas identified in the PDP as ONLs or ONFs. As notified, Policy 30.2.7.1 clarified that it was ONLs and ONFs that were being referred to.

122. The Hearing Panel for Stream 1B has recommended the following policies:

6.3.17 *Locate, design, operate and maintain regionally significant infrastructure so as to seek to avoid adverse effects on Outstanding Natural Landscapes and Outstanding Natural Features, while acknowledging that location constraints and/or the nature of the infrastructure may mean that this is not possible in all cases.*

6.3.18 *In cases where it is demonstrated that regionally significant infrastructure cannot avoid adverse effects on Outstanding Natural Landscapes and Outstanding Natural Features, avoid significant adverse effects and minimise other adverse effects on those landscapes and features.*

6.3.24 *Locate, design, operate and maintain regionally significant infrastructure so as to seek to avoid significant adverse effects on the character of the landscape, while acknowledging that location constraints and/or the nature of the infrastructure may mean that this is not possible in all cases.*

6.3.25 *In cases where it is demonstrated that regionally significant infrastructure cannot avoid significant adverse effects on the character of the landscape, such adverse effects shall be minimised.*

123. The objectives and policies in Chapter 30 need to give effect to those policies, noting that regionally significant infrastructure is a subset of utilities with a higher status than the generality of utilities.

124. Taking into account the policy direction of Chapter 6, and recognising that the policies under Objective 30.2.7 have the role of defining how it is to be achieved, we consider the objective can be simplified so as to express the overall outcome that is expected. We note that while the focus of the submitters was on the inclusion of the term “high landscape value”, the objective is actually directed to all environments in the District. We consider removing reference to a particular type of environment from the objective will make the outcome sought clearer. The policies are able to identify how it will be achieved in different environments. Consequently, we recommend it read:

30.2.7 *The adverse effects of utilities on the surrounding environment are avoided or minimised.*

125. Submissions on Policy 30.2.7.1 sought:

- a. *Insert “remedying” between “Avoiding” and “or mitigating” in the first bullet point;*¹⁰⁸
- b. *Add “whilst having regard to their technical, operational and locational constraints and their benefits” at the end of the first bullet point;*¹⁰⁹
- c. *Insert “where economically viable and technically feasible” at the end of the fifth bullet point;*¹¹⁰

¹⁰⁸ Submissions 251 (supported by FS1186 and FS1097) and 519 (supported by FS1015, opposed by FS1097)

¹⁰⁹ Submission 805, supported by FS1186

¹¹⁰ Submission 635

- d. *Change the fifth bullet point to read “In Outstanding Natural Landscapes and Outstanding Natural Features using landscaping and colours and finishes to remedy or mitigate visual effects where necessary”¹¹¹; and*
 - e. *Delete the final bullet point¹¹².*
126. Two of the Telecommunication Companies sought the retention of this policy, but the insertion of the additional policy quoted above¹¹³.
127. Mr Barr recommended changes to clarify the distinction between rural areas contained within ONLs and ONFs and other rural land in the first two bullet points, but no other changes.
128. In our view the changes sought by the submitters to emphasise locational constraints or economic factors in this policy overlooked the fact that such matters are covered in Policy 30.2.7.4. We do not consider it necessary for this policy to cover every matter of consideration under the objective. It is a combination of all the policies that achieve the outcome. We do agree with Mr Barr that the policy should clearly distinguish between how utilities are to be dealt with in ONLs and on ONFs versus other areas. We further consider the purpose of this policy is to identify how utilities are to be managed to achieve the objective. Thus Mr Barr’s suggested “Provide for utilities”¹¹⁴ is unnecessary. We also take into account the policies from Chapter 6 discussed above. With further minor grammatical changes, we recommend the policy read:
- 30.2.7.1 Manage the adverse effects of utilities on the environment by:*
- a. *Avoiding their location on sensitive sites, including heritage and special character areas, Outstanding Natural Landscapes and Outstanding Natural Features, and skylines and ridgelines, and where avoidance is not practicable, avoid significant adverse effects and minimise other adverse effects on those sites, areas, landscapes or features;*
 - b. *Encouraging co-location or multiple use of network utilities where this is efficient and practicable in order to avoid, remedy or mitigate adverse effects on the environment;*
 - c. *Ensuring that redundant utilities are removed;*
 - d. *Using landscaping and or colours and finishes to reduce visual effects;*
 - e. *Integrating utilities with the surrounding environment; whether that is a rural environment or existing built form.*
129. There were five submissions in relation to Policy 30.2.7.2. Three sought amendments inserting wording that the undergrounding be efficient, effective and operationally feasible¹¹⁵. Two sought additional wording with the effect of requiring undergrounding be economically viable¹¹⁶. No specific evidence was provided in support of these amendments. Ms McLeod, in her evidence on behalf of Transpower¹¹⁷, suggested additional wording limiting the policy to new services in urban areas, although no changes were sought by Transpower.

¹¹¹ Submission 251, supported by FS1186 and FS1097

¹¹² Submission 251, supported by FS1186 and FS1097

¹¹³ Submissions 179, 191, both supported by FS1097 and FS1121

¹¹⁴ In his Reply version of the policy

¹¹⁵ Submissions 179, 191 and 781

¹¹⁶ Submissions 251 (opposed by FS1186) and 635

¹¹⁷ Ainslie McLeod, EiC, paragraph 33

130. We consider it entirely appropriate that areas of new development have utility services provided underground, except where it is technically not feasible. If we had jurisdiction to make the changes suggested by Ms McLeod, we would not make them as we do not consider undergrounding should be limited to new services, nor to urban areas. Underground reticulation can be appropriate in many parts of the District. We recommend the policy remain as notified.
131. One submission supported Policy 30.2.7.3 unaltered¹¹⁸. Aurora¹¹⁹ sought it be limited to residential zones, and Transpower¹²⁰ sought it be limited to reticulated lines so that it did not apply to the National Grid. Although not directly related to this policy, the submission of John Walker¹²¹ seeking a policy requiring the progressive undergrounding of reticulated services in Wanaka can be discussed in conjunction with Policy 30.2.7.3.
132. Ms McLeod briefly commented on this policy in her evidence¹²², suggesting the amendments proposed would be beneficial, but did note that the NPSET 2008 does not require the undergrounding of the National Grid. Mr Walker appeared in person and spoke to his submission. Mr Barr did not comment on it specifically and recommended no changes to the policy.
133. The policy is that the Council will encourage undergrounding. We do not see any reason to limit the areas the Council may prioritise for such encouragement. While we have sympathy for the views expressed by Mr Walker, we consider the policy as expressed is the most appropriate given the Council's functions under the Act. We recommend the policy remain as notified.
134. Five submissions supported Policy 30.2.7.4 and sought its retention¹²³. Transpower¹²⁴ sought additional wording such that locational and technical requirements be considered, and that the policy refer to network utilities. No evidence was presented in support of this submission.
135. We are satisfied that, when read in conjunction with the other policies under Objective 30.2.7, the wording as notified is appropriate. We recommend the policy remain as notified.

3.8. Additional Objectives and Policies Sought

136. NZIA sought an objective and policies aimed at reducing energy use¹²⁵. No evidence was presented in support of this submission. We do note, however, that the policies sought seeking a compact urban form and the application of urban growth boundaries have been provided in other chapters. We do not recommend the inclusion of the objective and policies sought in this submission.
137. Transpower¹²⁶ sought the inclusion of a new objective and policy specifically related to its operation of the National Grid. Mr Barr did not specifically deal with this in his Section 42A

¹¹⁸ Submission 251

¹¹⁹ Submission 635

¹²⁰ Submission 805

¹²¹ Submission 292, opposed by FS1106, FS1208 and FS1253

¹²² Ainsley McLeod, EiC, paragraph 32(h)

¹²³ Submissions 179, 191, 251, 635 and 781

¹²⁴ Submission 805

¹²⁵ Submission 238, opposed by FS1157, FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248 and FS1249

¹²⁶ Submission 805

Report. Ms McLeod¹²⁷ proposed the inclusion of two new objectives and further amendments to the amended Policy 30.2.6.4 recommended by Mr Barr¹²⁸. It was Ms McLeod's evidence that these additional policies and the amendments she proposed were necessary to give effect to the NPSET 2008.

138. In his reply statement, Mr Barr largely agreed with Ms McLeod's proposals and recommended an amended objective (Objective 30.2.8) and recommended moving Policy 30.2.6.4, largely as suggested by Ms McLeod to sit under that new objective. In his view, the new objective was the most appropriate way to give effect to the NPSET 2008 Objective 5¹²⁹.

139. We agree with and accept the reasoning of Ms McLeod and Mr Barr. We have recommended in paragraph 111 above that notified policy 30.2.6.4 be amended and moved to be located under this objective. We do, however, consider both the objective and the policy need further modification. As recommended, the objective in part reads like a policy, and the policy unnecessarily repeats part of the objective and is grammatically too complicated.

140. We recommend the objective and policy read as follows:

30.2.8 *The ongoing operation, maintenance, development and upgrading of the National Grid subject to the adverse effects on the environment of the National Grid network being managed.*

30.2.8.1 *Enabling the use and development of the National Grid by managing its adverse effects and by managing the adverse effects of activities on the National Grid by:*

- a. *only allowing buildings, structures and earthworks in the National Grid Yard where they will not compromise the operation, maintenance, upgrade and development of the National Grid;*
- b. *avoiding Sensitive Activities within the National Grid Yard;*
- c. *managing potential electrical hazards and the adverse effects of buildings, structures and Sensitive Activities on the operation, maintenance, upgrade and development of the Frankton Substation;*
- d. *managing subdivision within the National Grid corridor so as to facilitate good amenity and urban design outcomes.*

141. PowerNet¹³⁰ sought the inclusion of a new policy under Objective 30.2.6 which would read:

Provide for the sustainable development, use, upgrading and maintenance of electricity distribution networks, including lines, transformers, substations and switching stations and ancillary buildings.

142. Mr Barr did not address this submission directly in his Section 42A Report, but he did recommend a modification to the objectives and policies in response to several submissions seeking modifications, including PowerNet's¹³¹. This policy was not addressed in Ms Justice's evidence.

¹²⁷ Ainsley McLeod, EIC, paragraphs 27 and 33

¹²⁸ Section 42A Report, Appendix 1, page 30-5

¹²⁹ Reply of Craig Alan Barr, 22 September 2016, paragraph 9.3

¹³⁰ Submission 251, opposed by FS1132

¹³¹ Craig Barr, Section 42A Report, Section 10

143. Our view is that Policy 30.2.6.1 with the wording we have recommended above achieves the same outcome as that expressed in PowerNet’s policy. The only difference is that Policy 30.2.6.1 relates to utilities in general, whereas the PowerNet proposal is directed solely to electricity distribution networks. We see no justification creating a semi-duplication specifically for electricity distribution networks and recommend that the submission be rejected.

3.9. Summary

144. We have set out in Appendix 1 the recommended objectives and policies. We note that two of the objectives we conclude need to be reconsidered by the Council and amended by variation, notwithstanding that we recommend minor amendments under Clause 16(2) to them.

145. In summary, in relation to the remaining objectives and policies, we regard the combination of objectives recommended as being the most appropriate way to achieve the purpose of the Act in this context, while giving effect to, and taking into account, the relevant higher order documents, the Strategic Direction Chapters and the alternatives open to us. The suggested new policies are, in our view, the most appropriate way to achieve those objectives.

4. SECTION 30.3 – OTHER PROVISIONS AND RULES

4.1. Section 30.3.1 – District Wide

146. There were no submissions on this section. We recommend that the references in it be amended to be consistent with the references in other chapters. We consider this to be a non-substantive change of minor effect as the material in the section is purely for information purposes. We have set out are recommended wording in Appendix 1.

4.2. Section 30.3.2 – National

147. As notified this section listed two relevant National Environmental Standards¹³² and the NZECP 34:2001, along with a brief explanation of each.

148. Submissions sought:

- a. Amend to refer to the relationship between district plans and National Environmental Standards and update to ensure consistency with NESTF 2016¹³³;
- b. Add reference to Electricity (Hazards from Trees) Regulations 2003¹³⁴;
- c. Amend 30.3.2.1 to clarify that the provisions of NESETA 2009 prevail of the Plan rather than the chapter¹³⁵;
- d. Include references to the National Grid in 30.3.2.3 and clarify that compliance with the PDP does not ensure compliance with NZECP 34:2001¹³⁶;
- e. Retain 30.3.2.3 as notified¹³⁷.

149. Mr Barr recommended the inclusion of an advice note concerning the Electricity (Hazards from Trees) Regulations and a minor change to the title of the section. Ms McLeod was the only

¹³² NESETA 2009 and NESTF 2016

¹³³ Submissions 179, 191, 421 and 781

¹³⁴ Submission 805

¹³⁵ Submission 805

¹³⁶ Submission 805

¹³⁷ Submissions 600 (opposed by FS1034, supported by FS1209) and 635

witness to comment on the redrafting and she considered any differences in wording from what was sought were immaterial¹³⁸.

150. Our understanding is that the material contained in this section is information to assist readers of the Chapter. It does not contain rules under s.76 of the Act. In our view, that distinction should be made clear in the section title. We recommend the title be “Information on National Environmental Standards and Regulations”. In addition, numbering the provisions listed gives the appearance that they are Plan provisions. We recommend the provisions be listed using (a), (b), etc. We consider those to be minor changes with no regulatory effect that fall under Clause 16(2).
151. We agree that the provisions should be updated to reflect the NESTF 2016¹³⁹. These regulations were made on 21 November 2016 after the date of the hearing. As the references are for information purposes we do not consider any person to be disadvantaged by the references being included without further hearing. Four submissions sought that the references be changed. No further submitters opposed those submissions.
152. Taking into account all the above and our earlier conclusions on the NZECP 34:2001, we recommend the section read:

30.3.2 Information on National Environmental Standards and Regulations

a. Resource Management (National Environmental Standard for Electricity Transmission Activities) Regulations 2009:

Notwithstanding any other rules in the District Plan, the National Grid existing as at 14 January 2010 is covered by the Resource Management (National Environmental Standard for Electricity Transmission Activities) Regulations 2009 (NESETA) and must comply with the NESETA.

The provisions of the NESETA prevail over the provisions of this District Plan, to the extent of any inconsistency. No other rules in the District Plan that duplicate or conflict with the Standard shall apply.

b. Resource Management (National Environmental Standards for Telecommunications Facilities “NESTF”) Regulations 2016:

The NESTF 2016 controls a variety of telecommunications facilities and related activities as permitted activities subject to standards, including:

- i. cabinets in and outside of road reserve;*
- ii. antennas on existing and new poles in the road reserve;*
- iii. replacement, upgrading and co-location of existing poles and antennas outside the road reserve;*
- iv. new poles and antennas in rural areas;*
- v. antennas on buildings;*
- vi. small-cell units on existing structures;*
- vii. telecommunications lines (underground, on the ground and overhead) and facilities in natural hazard areas; and*
- viii. associated earthworks.*

¹³⁸ Ainsley McLeod, EiC, paragraph 36

¹³⁹ The Resource Management (National Environmental Standards for Telecommunications Facilities) Regulations 2016

All telecommunications facilities are controlled by the NESTF 2016 in respect of the generation of radiofrequency fields.

The NESTF 2016 and relevant guidance for users can be found at: <http://www.mfe.govt.nz/rma/legislative-tools/national-environmental-standards/national-environmental-standards> .

In general, the provisions of the NESTF 2016 prevail over the provisions of this District Plan Chapter, to the extent of any inconsistency. No other rules in the District Plan that duplicate or conflict with the NESTF 2016 shall apply. However, District Plan provisions continue to apply to some activities covered by the NESTF 2016, including those which, under regulations 44 to 52, enable rules to be more stringent than the NESTF, such as being subject to heritage rules, Significant Natural Areas, Outstanding Natural Features and Landscapes, and amenity landscape rules.

c. New Zealand Electrical Code of Practice for Electrical Safe Distances Compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances (“NZECP 34:2001”) is mandatory under the Electricity Act 1992. All activities regulated by the NZECP 34, including any activities that are otherwise permitted by the District Plan must comply with this legislation. Compliance with this District Plan does not ensure compliance with NZECP 34.

Note: To assist plan users in complying with these regulations, the major distribution components of the Aurora network are shown on the Planning Maps.

d. Electricity (Hazards from Trees) Regulations 2003

Vegetation to be planted around electricity networks should be selected and/or managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003.

4.3. Section 30.3.3 – Clarification

153. As in other chapters, this section contains a series of provisions establishing how the rules work, including which chapters have precedence over others.
154. There was only one submission on this section¹⁴⁰. It sought the inclusion of an advice note regarding the planting of vegetation near electricity lines, which has been incorporated into 30.3.2(d), and the retention of the provision which gave utility rules priority over other rules.
155. Other than some minor non-substantive changes, the only amendment recommended by Mr Barr was to include a provision clarifying that Airport Activities in the Airport Mixed Use Zone (Chapter 17) prevail over the provisions of this chapter, in response to a legal submissions presented by Ms Wolt, counsel for QAC¹⁴¹.

¹⁴⁰ Submission 805

¹⁴¹ Legal Submissions for Queenstown Airport Corporation Limited, dated 9 September 2016, paragraphs 44-57

156. The concern of QAC was that the definition of utility included in Chapter 2 defined the term in such a way as to include airports. Chapter 17 included a specific set of rules relating to Queenstown Airport classifying many of the activities, which would fall within the definition of utility, as permitted. However, such activities could be classified as controlled or discretionary under Chapter 30. While there is an obvious inconsistency, the difficulty we face, as Ms Wolt conceded, is there is no submission seeking an appropriate solution. Ms Wolt submitted that a solution could fall within the Council's broad scope to amend the Plan based on the range of relief sought by submissions.
157. Mr Barr's response is the rule described above. We asked both Ms Wolt and Ms O'Sullivan whether an alternative solution would be to change the definition of utility to exclude airports from the definition. Ms Wolt undertook to consider that option, and Ms O'Sullivan suggested the definition could be changed to exclude airport activities and airport related activities within the Airport Mixed Use Zone. We understood her response to be that QAC would want any of its activities outside of that zone to continue to be controlled by Chapter 30.
158. We are not satisfied that there is scope to make either Mr Barr's amendment or to amend the definition of utility to obviate the apparent inconsistency. Having considered the two alternatives, we conclude that the most appropriate solution is to amend the definition of utility consistent with Ms O'Sullivan's suggestion. That will require a variation to the PDP and we recommend the Council investigate initiating such a variation.
159. Consistent with our approach in other chapters, recommend that the heading of this section be "Explanation of Rules" to better identify the purpose of the provisions contained. The only other change we recommend is to provision 30.3.3.5. This does not explain the rules. Rather it is a note that designations can also apply to some utilities. This should be identified as a note without a provision number to avoid confusion.
160. We set out in Appendix 1 our recommended layout of this section.

5. SECTIONS 30.4 AND 30.5 – RULES

5.1. Introductory Remarks

161. As notified, Section 30.4 contained a single table with activities listed and the activity classification. The list was broken into two sections: those for energy activities; and those for utilities. While there may have been a logic to the order of activities within each group, it was not obvious to us. Following this table, Section 30.5 contained a second table, this time setting out the standards that applied to certain activities. Again that was split into two groups. As the rules from sections 30.4 and 30.5 interact with each other, it is sensible to consider them together where possible.
162. In his reply statement, Mr Barr proposed a re-order of both the activity classifications and the standards into several tables such that the standards for a group of activities (such as renewable energy activities) immediately followed the classification table for that group. In part this was a response to submissions lodged by the Telecommunication Companies¹⁴² which sought a re-ordering of the rules applying to telecommunication utilities and a conflating of activity classifications and standards. Thus, Mr Barr's re-ordering had standards for some

¹⁴² Submissions 179, 191, 421 and 781

groups of activities, but in other cases included the standard within the classification of the activity. This has led to some repetition of standards.

163. We agree that the re-ordering is a more user-friendly approach and have largely followed Mr Barr's layout. However, we have made some further changes to assist users. Within each classification table we have generally listed the activities in order of their classification with permitted first, followed by controlled, then restricted discretionary, discretionary, non-complying and prohibited in that order. In addition, we have numbered each table and restarted the rule numbers for each table, meaning that rules have the format 30.4.[Table-Number].[Rule-Number].

164. Our discussion of the submissions on the rules will be in the rule order as notified, but when making our recommendation on each provision we will identify where it fits in our re-ordered version.

5.2. Rule 30.4.1 – Energy Activities which are not listed in this table

165. These activities were classified as non-complying by this rule. No submissions were lodged in respect of this rule. Although we do not recommend any changes in the effect of this rule, we note that the classification of other energy activities in the table has the effect that it only applies to non-renewable energy activities and in part duplicates Rule 30.4.7. We consider that this rule is unnecessary given that the only activity it affects which is not covered by Rule 30.4.7 is one we conclude, in our discussion of Rule 30.4.3 below, is caught by error rather than intent. We recommend that it can be deleted as having no regulatory value.

5.3. Rule 30.4.2 and Rule 30.5.1

166. This rule provides for small and community-scale distributed electricity generation and solar hot water heating as a permitted activity, provided it has a rated capacity of less than 3.5kW and is not located within a number of sensitive zones and areas (covered by Rule 30.4.3).

167. One submission¹⁴³ supported the rule, and a second submission¹⁴⁴ sought it be amended by removing the capacity limit, replacing that with an area limit. Mr Barr did not comment on this submission, but in his recommended amendments to the chapter attached to his Section 42A Report he recommended changing the 3.5kW rated capacity limitation to 5kW.

168. This rule needs to be considered in relation to Rule 30.5.1 which sets additional standards for this activity. Four submissions¹⁴⁵ opposed the standards in this rule that allowed solar panels to protrude beyond the maximum height limit specified for the zone. One submission¹⁴⁶ sought the deletion of the area limitation of 150m² for free standing solar systems, and one submission¹⁴⁷ sought the standards be amended to promote ground and water source energy at a domestic scale.

169. Mr Barr commented on the submissions concerned with protrusion through the height limit in his Section 42A Report¹⁴⁸. He concluded that the potential of panels to protrude through the relevant height limit was little different to the exemption given to chimneys, and recommended the rule remain as notified.

¹⁴³ Submission 72, supported by FS1352

¹⁴⁴ Submission 126

¹⁴⁵ Submissions 263, 510, 511 and 792

¹⁴⁶ Submission 368

¹⁴⁷ Submission 383

¹⁴⁸ Paragraphs 14.19 to 14.22

170. We agree with Mr Leece and Ms Kobienia¹⁴⁹ that, when considered in light of the standards in Rule 30.5.1, there is no need for Rule 30.4.2 to contain any limit on rated capacity, even if 5kW as recommended by Mr Barr. There was no evidence to suggest that capacity correlated to the level of adverse effects, and it is the latter that is relevant. In addition, such a limitation essentially discourages the use of more efficient small-scale photovoltaic systems – that is, systems that have a higher rated capacity but take up a smaller area than those contemplated by these rules, and it appears to be inconsistent with the objectives and policies of this chapter relating to renewable electricity generation and Policy F of the NPSREG 2011. We also recommend some minor grammatical changes to this rule.
171. Mr Barr recommended several amendments to Rule 30.5.1¹⁵⁰:
- a. Insert into Rule 30.5.1.2 after “recessive colours” the phrase “with a light reflectance value of less than 36%” with a reference to Submission 383;
 - b. Clarify the phrasing regarding the setback exemption not being available in rule 30.5.1.3;
 - c. Specify that such activities had to be located within building platforms within those zones that require them; and
 - d. Add a requirement that such facilities cannot exceed site coverage rules.
172. We could not find scope in the submissions Mr Barr referred to for the first and last amendments so consider those no further. We agree that the other two amendments assist in improving the rule. Rule 30.5.1.2 does require some rewording for it to logically fit within the overall wording of the standard. Such a change does not alter the effect of the rule and we consider such a change to be minor in terms of Clause 16(2).
173. In our view, the combination of standards in Rule 30.5.1, incorporating amendments (b) and (c) above, appropriately deal with the potential effects on the environment of the activity. We do not consider that the limited protrusion beyond the height limit allowed by this rule to be any more than minor, and consider such an intrusion to be consistent with the provisions of the NPSREG 2011. We consider that it is appropriate for free-standing units greater than 150m² and/or greater than 2.0m in height to be assessed as discretionary activities, as notified Rule 30.5.1 required.
174. As a consequence, and allowing for the relocation of the two rules, we recommend that Rules 30.4.2 and 30.5.1 be renumbered as 30.4.1.1 and 30.4.2.1 respectively, and amended to read:
- 30.4.1.1 **Small and Community-Scale Distributed Electricity Generation and Solar Water Heating**, excluding Wind Electricity Generation, including any structures and associated buildings, other than those activities restricted by Rule 30.4.1.4.*
- As a permitted activity.
- 30.4.2.1 **Small and Community-Scale Distributed Electricity Generation and Solar Water Heating** must:*
- 30.4.2.1.1 not overhang the edge of any building.*

¹⁴⁹ Submission 126

¹⁵⁰ Reply Version, p.30-13

- 30.4.2.1.2 *be finished in recessive colours: black, dark blue, grey or brown if Solar Electricity Generation cells, modules or panels.*
- 30.4.2.1.3 *be finished in similar recessive colours to those in the above standard if frames, mounting or fixing hardware. Recessive colours must be selected to be the closest colour to the building to which they form part of, are attached to, or service.*
- 30.4.2.1.4 *be set back in accordance with the internal and road boundary setbacks for buildings in the zone in which they are located. Any exemptions identified in the zone rules for accessory buildings do not apply.*
- 30.4.2.1.5 *not intrude through any recession planes applicable in the zone in which they are located.*
- 30.4.2.1.6 *not protrude more than a maximum of 0.5 m above the maximum height limit specified for the zone if solar panels on a sloping roof.*
- 30.4.2.1.7 *not protrude more than a maximum of 1.0 m above the maximum height limit specified for the zone, for a maximum area of 5m² if solar panels on a flat roof.*
- 30.4.2.1.8 *not exceed 150 m² in area if free standing Solar Electricity Generation and Solar Water Heating.*
- 30.4.2.1.9 *not exceed 2.0 metres in height if free standing Solar Electricity Generation and Solar Water Heating.*
- 30.4.2.1.10 *be located within an approved building platform where located in the Rural, Gibbston Character or Rural Lifestyle Zone.¹⁵¹*

Non-compliance would require consent as a discretionary activity.

5.4. Rule 30.4.3

175. This rule, as notified, classified small and community-scale distributed electricity generation with a rated capacity of 3.5kW or more as a discretionary activity, or a discretionary activity if located within:
- a. Arrowsmith Residential Historic management Zone
 - b. Town Centre Special Character Areas;
 - c. Open Space Zones;
 - d. Any open space and landscape buffer areas identified on any of the Special Zones;
 - e. Significant Natural Areas;
 - f. Outstanding Natural Landscapes;
 - g. Outstanding Natural Features;
 - h. Heritage Features and Landscapes;
 - i. Rural Zones (if detached from or separate to a building).
176. Submissions on this rule sought:
- a. Photovoltaic panels and roofing profiles suitable for photovoltaic laminates be a permitted activity in the Arrowsmith Residential Historic Management Zone¹⁵²;

¹⁵¹ See discussion of next rule for additional reasons for inclusion of this standard.

¹⁵² Submission 752

- b. Require at least limited notification of facilities over 1.2 m in height¹⁵³;
 - c. Remove the capacity restriction¹⁵⁴;
 - d. Limit the restriction in rural zones to outside of a building platform¹⁵⁵.
177. Again, Mr Barr did not comment on this rule but did recommend some minor amendments in Appendix 1 of his Section 42A Report. As well as increasing the rated capacity threshold to 5 kW, to be consistent with Rule 30.4.2, he recommended clarifying that “Rural Zones” meant “Rural Zone, Rural Residential Zone and Rural Lifestyle Zone”. He also recommended that the qualification in respect of the rural zones be changed to read “if outside a building platform”.
178. We consider the placement of photovoltaic panels (or laminates) on roofs in the Arrowtown Residential Historic Management Zone is a matter best considered within the context of the heritage purpose of that zone. For that reason we conclude the discretionary activity regime proposed for this zone as notified is appropriate and recommend that Submission 752 be rejected.
179. As with the previous rule, and for the same reasons, we recommend the rated capacity threshold be removed. If the proposed facility exceeds the standards in Rule 30.5.1 (as notified) then it will require consent as a discretionary activity. We also agree that the restriction in rural areas (other than in ONLs and on ONFs) should be limited to outside of building platforms. Built form is expected within building platforms and limitation of 150m² and a height limit of 2m (as in Rule 30.5.1) is an appropriate threshold in such a location. We note that building platforms are not required in the Rural Residential Zone so this provision should not refer to that zone. We also consider the restriction would be better founded in the standard Rule 30.4.2.1 (formerly 30.5.1) phrased as follows:
- 30.4.2.1.10 be located within an approved building platform where located in the Rural, Gibbston Character or Rural Lifestyle Zone.*
180. A consequential result of removing the rated capacity threshold is that small and community-scale wind electricity generation with a rated capacity of less than 3.5kW will become a discretionary activity, whereas as notified it could have been construed as being non-complying. As notified, Rule 30.4.2 excluded wind electricity generation from the permitted activity status, and Rule 30.4.3 made such generation, provided it had a rated capacity exceeding 3.5kW, a discretionary activity.
181. Mr Barr noted the issue in his Reply Statement and recommended a new rule providing for small scale wind generation as a controlled activity in the Rural, Gibbston Character and Rural Lifestyle Zones¹⁵⁶, subject to compliance with the standards for wind generation. From Mr Barr’s Reply Statement it is also apparent that he intended that such facilities did not locate in any of the areas restricted in notified Rule 30.4.3, and that it be limited to being within approved building platforms. These latter restrictions do not seem to have been carried into his draft rules.
182. We doubt that the rule drafters intended that the smaller capacity wind generation facility would require a more onerous consent process than a larger facility. The proposal does also satisfy matters raised in Submission 368. We do not consider the facility should not have a

¹⁵³ Submission 20, opposed by FS1097 and FS1121

¹⁵⁴ Submission 126, supported by FS1024

¹⁵⁵ Submission 368

¹⁵⁶ Craig Barr, Reply Statement dated 22 September 2016, Section 5

rated capacity limitation, consistent with our reasoning set out above. The standards that would apply, and identifying the activity as being Small and Community Scale Electricity Generation (a defined term which is scale limiting), impose a scale limit on any equipment utilising Mr Barr's proposed rule. Subject to some adjustment to the wording of Mr Barr's proposed rule and Rule 30.4.3, we accept that provision should be made as proposed by Mr Barr.

183. We recommend that a new rule providing a controlled activity for small scale wind electricity generation be included as follows:

30.4.1.2 Small and Community-Scale Distributed Wind Electricity Generation within the Rural Zone, Gibbston Character Zone and the Rural Lifestyle Zone provided that:

- a. it is located within an approved building platform;*
- b. it is not restricted by Rule 30.4.1.4; and*
- c. it complies with the standards in Rule 30.4.2.3.*

Control is reserved to:

- a. Noise;*
- b. Visual effects;*
- c. Colour;*
- d. Vibration.*

184. One final change to Rule 30.4.3 is required in respect of "Heritage Features and Landscapes". The Hearing Panel for Stream 3 has recommended that "Heritage Landscapes" be renamed "Heritage Overlay Areas". We recommend that terminology be used in this rule for consistency. Consequently, and incorporating minor grammatical changes consistent with those in the previous rule, we recommend this rule, as a discretionary activity, read:

30.4.1.4 Small and Community-Scale Distributed Electricity Generation and Solar Water Heating, including any structures and associated buildings, which is either:

30.4.1.4.1 Wind Electricity Generation other than that provided for in Rule 30.4.1.2;

OR

30.4.1.4.2 Located in any of the following:

- a. Arrowtown Residential Historic Management Zone*
- b. Town Centre Special Character Areas;*
- c. Significant Natural Areas;*
- d. Outstanding Natural Landscapes;*
- e. Outstanding Natural Features;*
- f. Heritage Features and Heritage Overlay Areas.*

5.5. Rule 30.4.4

185. This rule provides for equipment and activities for the purpose of research and exploratory-scale investigations for renewable electricity generation to be a restricted discretionary activity.

186. There were two submissions on this rule. One¹⁵⁷ sought that it not apply in the Hydro Generation Zone. That zone is within the ODP and not part of the PDP. Notwithstanding that

¹⁵⁷ Submission 580

Mr Barr proposed providing an exclusion to satisfy this submitter¹⁵⁸, we recommend the submission therefore be rejected as not being necessary.

187. The second submission¹⁵⁹ sought amendment to the matter of discretion related to natural hazards. Mr Barr recommended the deletion of that matter of discretion¹⁶⁰, and some minor grammatical changes. Subject to those changes, we recommend the rule remain as notified other than renumbering to 30.4.1.3.

5.6. Rule 30.4.5

188. This rule provided for renewable electricity generation facilities not provided for by the previous rules to be a discretionary activity. The sole submission¹⁶¹ on the rule supported the discretionary activity status.

189. We recommend the rule be confirmed without alteration, subject to being numbered 30.4.1.5.

5.7. Rule 30.4.6

190. This rule provided for, as a permitted activity, non-renewable electricity generation that was either:

- a. Standby generation for community, health care and utility activities; or
- b. Part of a stand-alone system on remote sites that do not have connection to the distributed electricity network.

191. The only submission¹⁶² sought that the temporary operation of emergency and back-up generator should be exempt from complying with the Noise Rules in Chapter 36. The same submitter sought that Chapter 36 be similarly amended.

192. In her evidence¹⁶³, Ms Dowd identified another issue of concern to Aurora. This related to the interface with the Temporary Activities provisions in Chapter 35. A gap in those rules relating to the definition of utilities meant that temporary electricity generation serving an area wider than the site it was located on was not provided for. Aurora's submission sought amendments to the definition of utilities as a means of overcoming this problem, but Ms Dowd suggested that an amendment to this rule would obviate that change. Ms Dowd's evidence did not consider the noise issue referred to in the previous paragraph.

193. Mr Barr agreed with this approach and recommended amendments in his Reply Statement¹⁶⁴.

194. We agree with the reasons provided by Ms Dowd and Mr Barr for amending this rule. However, we do not consider Mr Barr's solution achieves the correct outcome. We prefer the approach suggested by Ms Dowd¹⁶⁵, albeit with wording more similar to that suggested by Mr Barr.

¹⁵⁸ Craig Barr, Reply Statement, paragraphs 14.45 to 14.48

¹⁵⁹ Submission 383

¹⁶⁰ Craig Barr, Reply Statement, 22 September 2016, Section 12

¹⁶¹ Submission 580

¹⁶² Submission 635

¹⁶³ Joanne Dowd, EiC, paragraph 28

¹⁶⁴ Paragraphs 16.1 and 16.2

¹⁶⁵ *ibid*

195. Finally, we note that Chapter 31 no longer relates to hazardous substances and their control is no longer a function of the Council. We have deleted the reference to that chapter in the note.

196. Consequently we recommend that Rule 30.4.6 be amended and renumbered as follows:

30.4.3.1 Non-renewable Electricity Generation where either:

a. *the generation only supplies activities on the site on which it is located and involves either:*

i. *Standby generators associated with community, health care, and utility activities; or*

ii. *Generators that are part of a Stand-Alone Power System on remote sites that do not have connection to the local distributed electricity network;*

OR

b. *the generation supplies the local electricity distribution network for a period not exceeding 3 months in any calendar year.*

Note – Diesel Generators must comply with the provisions of Chapter 36 (Noise) and Chapter 31 (Hazardous Substances)

5.8. **Rule 30.4.7**

197. This rule partially duplicated Rule 30.4.1 by classifying non-renewable electricity generation that was not otherwise identified as a non-complying activity. No submissions were received on this rule.

198. We recommend it remain as notified, but be renumbered as 30.4.3.2.

5.9. **Rule 30.5.2**

199. This rule sets the standards applying to mini and micro hydro electricity generation. There were no submissions on this rule and we heard no evidence on it. Mr Barr recommended two amendments¹⁶⁶:

a. Insert in 30.5.2.3 after “recessive colours” the phrase “with a light reflectance value of less than 36%” with a reference to Submission 383; and

b. Change the reference in the Note to the Regional Plan: Water

200. We can find no scope in Submission 383 to amend this rule as Mr Barr suggests. His discussion of the issue in the Section 42A Report¹⁶⁷ appears to ignore the fact that the submission clearly states, in the column identifying the provision it relates to, “30.5.3.5”. We do, however, accept that the advice note should refer to the Regional Plan: Water rather than the “Water Plan Rules”. Therefore, we recommend the rule be adopted with only a minor grammatical change, that it be numbered 30.4.2.2, and the advice note be amended to refer to the Regional Plan: Water.

5.10. **Rule 30.5.3**

201. This rule provides the standards for wind electricity generation. There were two submissions on this rule. Submission 368 sought that Rule 30.5.3.1 be deleted so that there was no limit

¹⁶⁶ Craig Barr, Reply Statement, Appendix 1, p.30-14

¹⁶⁷ Craig Barr, Section 42A Report, paragraph 14.3

on the number of turbines. Submission 383¹⁶⁸ sought the inclusion of a maximum reflectance value in Rule 30.5.3.5.

202. Mr Barr discussed the matter of the maximum reflectance value in his Section 42A Report, and we accept his recommendation in relation to this rule. Mr Barr also recommended a grammatical change to 30.5.3.3 in his Reply Version which we accept. Additionally, in his Reply Version, Mr Barr recommended the maximum height of masts in the Rural and Gibbston Character Zones be 12m, rather than the 10m as notified; the maximum height of the turbine be measured to the top of the mast, not the blade as notified; and that a new standard be added requiring compliance with Chapter 36 (Noise).

203. As we have noted with amendments to other standards, we can find no scope in the submissions for these last three amendments. We accept that Chapter 36 contains standards which wind turbines must comply with. It seems that a note referring a reader to that would suffice here, rather than including it as a standard. We are not prepared to recommend the other changes in the absence of submissions.

204. We heard no evidence as to why there should not be a limit of two turbines per site. We consider that, in the context of the environment of this District, to be a suitable limit.

205. We recommend this rule be amended to read:

*30.4.2.3 **Wind Electricity Generation** shall:*

30.4.2.3.1 Comprise no more than two Wind Electricity Generation turbines or masts on any site.

30.4.2.3.2 Involve no lattice towers.

30.4.2.3.3 Be set back in accordance with the internal and road boundary setbacks for buildings in the zone in which they are located. Any exemptions identified in the zone rules for accessory buildings shall not apply

30.4.2.3.4 Not exceed the maximum height or intrude through any recession planes applicable in the zone in which they are located.

30.4.2.3.5 Be finished in recessive colours with a light reflectance value of less than 16%

Notes: In the Rural and Gibbston Character Zones the maximum height shall be that specified for non-residential building ancillary to viticulture or farming activities (10m).

The maximum height for a wind turbine shall be measured to the tip of blade when in vertical position.

Wind turbines must comply with Chapter 36 (Noise)

5.11. Rules 30.5.4 and 30.5.5

206. There were no submissions on Rule 30.5.4. We recommend it be adopted renumbered to 30.4.2.4 and with an amendment to the advice note to refer to the appropriate regional plan.

¹⁶⁸ Opposed by FS1106, FS1208 and FS1253

207. The only submission¹⁶⁹ on Rule 30.5.5 sought that the it be a controlled activity. It is unclear from the submission whether the submitters were seeking that to be the base requirement for the activity, or the status of the activity if it did not meet the standards in Rule 30.5.5.
208. Mr Barr recommended changing the maximum height in clause 1 to 3m¹⁷⁰, and inserting a maximum reflectance value of 36% in clause 3¹⁷¹. We can find not scope in the submissions for such changes and consider them no further.
209. We are satisfied that this rule as notified provides appropriate standards for buildings accessory to renewable generation activities. We recommend it be adopted as notified, subject to being renumbered 30.4.2.5 and with the title changed to *Buildings accessory to renewable energy activities*.

5.12. Rules for Utilities

210. We preface discussion of this section of the rules by noting that the Telecommunications Companies all lodged submissions¹⁷² seeking the complete replacement of Rules 30.4.8 to 30.4.16 (except for 30.4.10) with a completely new set of rules. In addition, and consequent on that submission, they also sought the deletion of Rules 30.5.7, 30.5.8 and 30.5.9 as no longer being necessary. In his evidence for the Companies, Mr McCallum-Clark did not seek such wholesale replacement. Rather he accepted most of the changes recommended by Mr Barr and provided no direct evidence supporting the complete replacement as sought in the submissions.

211. While we do not disregard these submissions, given the lack of supporting evidence, we do not discuss them in any detail below unless the recommendations of Mr Barr or Mr McCallum-Clark warrant it.

5.13. Rule 30.4.8

212. This rule classified utilities, buildings, structures and earthworks not otherwise listed as a discretionary activity. The sole submission¹⁷³ on this rule sought that underground lines be included in the list of activities.

213. To understand this rule, one needs to read it with reference to the heading immediately preceding it, which states:

Rules for Utilities; and Buildings, Structures and Earthworks within or near to the National Grid Corridor

Note - The rules differentiate between four types of activities: lines and support structures; masts and antennas; utility buildings; and flood protection works & waste management facilities.

214. With this understanding, it is clear the rule as notified was directed to two different activities: utilities; and activities within or near the National Grid Corridor. Without that understanding one could conclude that it affected a wide range of activities.

¹⁶⁹ Submission 368

¹⁷⁰ Section 42A Report, Appendix 1, p.30-16

¹⁷¹ Reply Version, p. 30-15

¹⁷² Submissions 179 (opposed by FS1301), 191 (opposed by FS1301), 421 and 781 (opposed by FS1301)

¹⁷³ Submission 251, supported by FS1121

215. Mr Barr did not discuss this rule, nor the submission, in his Section 42A Report. He did, however, recommend, as a new rule 30.4.22, that underground lines be a permitted activity, subject to ground reinstatement. In Ms Justice’s tabled evidence, she advised that she considered the new rule addressed PowerNet’s submission, and that it was appropriate¹⁷⁴.

216. Mr Barr considered Rule 30.4.8 in his Reply Statement and recommended an effective split between the non-specified utilities and the activities in or near the National Grid Corridor. He included the latter activities in standards which we discuss below. His reworded rule was:

Utilities which are not otherwise listed in Rules x to x¹⁷⁵

217. We consider that Mr Barr may have unintentionally narrowed the scope of this rule in re-arranging the rules in his Reply version. While we agree with his approach, we recommend that the rule continue to apply to all utilities not otherwise provided for, as well as buildings associated with utilities.

218. We note also, that in recommending amendments to make the chapter consistent with the NESTF 2016, Mr Barr and Mr McCallum-Clark added a proviso to clarify that the catch-all status was subject to the regulations contained in the NESTF 2016¹⁷⁶. We agree that clarification is helpful.

219. In our re-arrangement of the rules we have relocated the rule to make it clear that it apply to all utilities not otherwise provided for, and have numbered it 30.5.1.8. With the additional clarification, we recommend it reads:

Utilities and Buildings (associated with a Utility) which are not:

30.5.8.1 provided for in any National Environmental Standard;

OR

30.5.8.2 otherwise listed in Rules 30.5.1.1 to 30.5.1.7, 30.5.3.1 to 30.5.3.5, 30.5.5.1 to 30.5.5.8, or 30.5.6.1 to 30.5.6.13

5.14. Rule 30.4.9

220. This rule classified “minor upgrading” as a permitted activity. The only submissions¹⁷⁷ on the rule sought its retention.

221. It is appropriate to consider the definition of “minor upgrading” at this point so that the implications of the rule are fully understood. As notified, that definition read:

Minor upgrading Means maintenance, replacement and upgrading of existing conductors or lines and support structures provided they are of a similar character, intensity and scale to the existing conductors or line and support structures and shall include the following:

¹⁷⁴ Paragraph 4.17

¹⁷⁵ We presume he intended the relevant rules indicated by “x to x” to be the remainder in the same table, being his amended numbers 30.4.2 to 30.4.8

¹⁷⁶ Joint Witness Statement at paragraph 2.1(b).

¹⁷⁷ Submissions 251, 635 and 805

- *Replacement of existing support structure poles provided they are less or similar in height, diameter and are located within 1 metre of the base of the support pole being replaced;*
- *Addition of a single service support structure for the purpose of providing a service connection to a site, except in the Rural zone;*
- *The addition of up to three new support structures extending the length of an existing line provided the line has not been lengthened in the preceding five year period, except in the Rural Zone;*
- *Replacement of conductors or lines provided they do not exceed 30mm in diameter or the bundling together of any wire, cable or similar conductor provided that the bundle does not exceed 30mm in diameter;*
- *Re-sagging of existing lines;*
- *Replacement of insulators provided they are less or similar in length; and*
- *Addition of lightning rods, earth-peaks and earth-wires.*

222. Seven submissions¹⁷⁸ sought amendments to this definition. Mr Barr discussed these submissions in his Section 42A Report¹⁷⁹, noting that the majority of the relief sought was consistent with definitions used in other district plans¹⁸⁰. He recommended accepting the following components:
- a. the addition of lines;
 - b. removing diameter requirements¹⁸¹;
 - c. introduction of re-sagging and bonding of conductors;
 - d. the replacement of insulators with more efficient ones; and
 - e. the removal of three additional support structures as a minor upgrade.
223. Ms Justice¹⁸² largely supported Mr Barr's proposed amendments, but sought the additional inclusion of:
- a. provision for replacement of poles in defined circumstances;
 - b. replacement of lines or bundling of lines provided they do not exceed 30cm in diameter; and
 - c. replacement of equipment of similar intensity and scale.
224. Ms Justice also noted that the ODP contained a practical provision that allowed a replacement pole to be erected prior to removal of an existing pole, and suggested this should be retained.
225. Ms Dowd¹⁸³ considered that the definition as notified would require utility companies to obtain unnecessary consents. She largely supported Mr Barr's revised definition, but also sought an additional clause to allow for the increase in height of support structures of up to 15% where required to maintain compliance with NZECP 34:2001, and the retention of the clause allowing for an extension of line length, but for up to four new support structures.

¹⁷⁸ Submissions 179 (supported by FS1121 and FS1301, opposed by FS1132), 191 (supported by FS1121 and FS1301, opposed by FS1132), 251, 421, 635 (supported by FS1301, opposed by FS1132), 781 (supported by FS1121 and FS1342) and 805

¹⁷⁹ Paragraphs 9.41 to 9.43

¹⁸⁰ He gave the examples of Wellington City District Plan and the Tauranga City District Plan

¹⁸¹ Noting that he considered these too difficult to monitor, and there is a requirement for minor upgrades to be of a similar scale and intensity.

¹⁸² Megan Justice, EIC, paragraphs 4.10 to 4.15

¹⁸³ Joanne Dowd, EIC, paragraphs 31-36

226. Ms McLeod considered Mr Barr's redraft was satisfactory, with the one exception being that she considered the same clause regarding additional height Ms Dowd sought be included, be added to the definition. Ms McLeod noted that such increases in height provide for health and safety of the community, and that the clause mirrors similar regulations in the NESETA 2012.
227. Mr Barr reconsidered the definition in detail in his Reply Statement¹⁸⁴ and recommended acceptance of most of the points raised in the evidence discussed. In particular, he accepted that replacement support structures should be allowed within 2 metres of the existing structure, rather than the 5 m sought by Aurora, and that lines may be extended by up to three new support structures, rather than the 4 sought by Aurora, within any 5 year period, including within the Rural Zone.
228. We agree with Mr Barr's reasoning and recommend to the Stream 10 Panel that the definition of "minor upgrading" be as follows:

Minor upgrading Means an increase in the carrying capacity, efficiency or security of electricity transmission and distribution or telecommunication lines utilising the existing support structures or structures of a similar character, intensity and scale, and includes the following:

- a. Addition of lines, circuits and conductors;
- b. Reconducting of the line with higher capacity conductors;
- c. Re-sagging of conductors;
- d. Bonding of conductors;
- e. Addition or replacement of longer or more efficient insulators;
- f. Addition of electrical fittings or ancillary telecommunications equipment;
- g. Addition of earth-wires which may contain lightning rods, and earth-peaks;
- h. Support structure replacement within the same location as the support structure that is to be replaced;
- i. Addition or replacement of existing cross-arms with cross-arms of an alternative design; and
- j. Replacement of existing support structure poles provided they are less or similar in height, diameter and are located within 2 metres of the base of the support pole being replaced;
- k. Addition of a single support structure for the purpose of providing a service connection to a site, except in the Rural Zone;
- l. The addition of up to three new support structures extending the length of an existing line provided the line has not been lengthened in the preceding five year period.

229. With that understanding as to what Rule 30.4.9 is permitting, we recommend it remain as notified. As part of our re-arrangement of the rules, we have separated the various types of utility activities. The consequence of this is that the rule is repeated as 30.5.3.1 for the National Grid, 30.5.5.1 for electricity distribution, and 30.5.6.1 for telecommunications and other communication activities.

5.15. Rule 30.4.10

230. This rule classified as permitted activities, buildings, other than those for National Grid Sensitive Activities, structures and earthworks within the National Grid Corridor, provided they complied with standards in Rules 30.5.10 and 30.5.11.

¹⁸⁴ Paragraphs 14.4-14.9

231. Aurora¹⁸⁵ sought amendments to this rule as part of its submission seeking special provision for parts of its network. We have already given our reasons for not accepting that submission so discuss it no further here.
232. Transpower¹⁸⁶ sought a complete rewrite of this rule and the associated standards to create a single rule containing all the conditions to be met for an activity to be permitted.
233. To understand both the effect of this rule, and what was being sought by Transpower, it is appropriate to consider it in conjunction with the relevant standards: Rules 30.5.10 and 30.5.11. Rule 30.5.10 set the following standards for buildings and structures within the National Grid Corridor, and set non-compliance with the standards a non-complying activity:
- 30.5.10.1 A non-conductive fence located 5m or more from any National Grid Support Structure and no more than 2.5m in height.*
- 30.5.10.2 Any utility within a transport corridor or any part of electricity infrastructure that connects to the National Grid.*
- 30.5.10.3 Any new non-habitable building less than 2.5m high and 10m² in floor area.*
- 30.5.10.4 Any non-habitable building or structure used for agricultural activities provided that they are:*
- a. less than 2.5m high*
 - b. Located at least 12m from a National Grid Support Structure*
 - c. Not a milking shed/dairy shed (excluding the stockyards and ancillary platforms), or a commercial glasshouse.*
 - d. Alterations to existing buildings that do not alter the building envelope less than 2.5m high*
 - e. Located at least 12m from a National Grid Support Structure*
 - f. Not a milking shed/dairy shed (excluding the stockyards and ancillary platforms), or a commercial glasshouse.*
- 30.5.10.5 Alterations to existing buildings that do not alter the building envelope.*
234. Rule 30.5.11 set standards for earthworks within the National Grid Yard and made non-compliance with those standards a discretionary activity. The standards as notified were:
- 30.5.11.1 Earthworks within 2.2 metres of a National Grid pole support structure or stay wire shall be no deeper than 300mm.*
- 30.5.11.2 Earthworks between 2.2 metres to 5 metres of a National Grid pole support structure or stay wire shall be no deeper than 750mm.*
- 30.5.11.3 Earthworks within 6 metres of the outer visible edge of a National Grid Transmission Tower Support Structure shall be no deeper than 300mm.*
- 30.5.11.4 Earthworks between 6 metres to 12 metres from the outer visible edge of a National Grid Transmission Tower Support structure shall be no deeper than 3 metres.*

¹⁸⁵ Submission 635

¹⁸⁶ Submission 805

30.5.11.5 *Earthworks shall not create an unstable batter that will affect a transmission support structure.*

30.5.11.6 *Earthworks shall not result in a reduction in the existing conductor clearance distance below what is required by the New Zealand Electrical Code of Practice 34:2001.*

235. Rule 30.5.11 also listed the following exemptions from this rule:

30.5.11.7 *Earthworks undertaken in the course of constructing or maintaining utilities*

30.5.11.8 *Earthworks undertaken as part of agricultural activities or domestic gardening*

30.5.11.9 *Repair sealing, resealing of an existing road, footpath, farm track or driveway*

236. As notified, the PDP also contained definitions for National Grid Corridor, National Grid Yard, National Grid Sensitive Activities and Sensitive Activities – Transmission Corridor, each of which is relevant to these rules.

237. The submissions on these three rules and the four definitions are all inter-related and need to be considered together.

238. Federated Farmers sought the retention of Rules 30.5.10 and 30.5.11¹⁸⁷. Aurora¹⁸⁸ sought minor amendments for clarification to Rule 30.5.10, but otherwise supported it, and supported Rule 30.5.11. Transpower¹⁸⁹ sought the replacement of both rules in section 30.5 so that they were consistent with its approach to managing activities in close proximity to the National Grid.

239. The Council¹⁹⁰ sought clarification as to whether the definitions of National Grid Sensitive Activities and Sensitive Activities – Transmission Corridor were both necessary. Arcadian Triangle Ltd¹⁹¹ sought the review and amendment of all definitions related to the National Grid. Transpower sought the deletion of the definition of Sensitive Activities – Transmission Corridor and amendments to the definitions of National Grid Corridor and National Grid Yard. Transpower also sought the inclusion of the following new definitions related to these provisions:

- a. Artificial crop protection structure;
- b. Crop support structure;
- c. Earthworks within the National Grid Yard;
- d. National Grid; and
- e. Protective canopy.

240. Mr Barr considered the new definitions proposed by Transpower in his Section 42A Report. He only supported the inclusion of the National Grid definition. Mr Barr agreed with the Arcadian Triangle submission and recommended amendments to the definitions to increase consistency. He also recommended the amendment sought to the title of National Grid Corridor, changing it to National Grid Subdivision Corridor, to make it clear that corridor

¹⁸⁷ Submission 600, supported by FS1209, opposed by FS1034

¹⁸⁸ Submission 635

¹⁸⁹ Submission 805

¹⁹⁰ Submission 383

¹⁹¹ Submission 836

applied only to subdivision activities, while the National Grid Yard applied to all activities. Mr Barr also recommended acceptance of the amendment to 30.5.10 sought by Aurora.

241. Ms McLeod identified a series of differences between the relief sought by Transpower and the rules as recommended by Mr Barr¹⁹². In her view, the rule framework should clearly establish that activities sensitive to the National Grid are not provided for in the National Grid Yard because such an approach is firmly directed by NPSET 2008 Policy 11¹⁹³. She also explained why various setbacks she proposed were appropriate. She concluded this part of her evidence by suggesting a single rule for “Buildings, Structures and National Grid Sensitive Activities within the National Grid Yard”¹⁹⁴. This rule made all such activities non-complying, except for a list of exceptions in the rule, which would be permitted. In the same paragraph, as a separate rule, she recommended that all earthworks in the National Grid Yard that complied with rule 30.5.11 be permitted.
242. Ms McLeod took us in detail through her concerns with the standards for earthworks in Rule 30.5.11 and suggested a replacement set of standards¹⁹⁵.
243. Mr Barr, in his Reply Statement, generally accepted the changes proposed by Ms McLeod¹⁹⁶, although he did not agree with the rule structure she proposed.
244. We agree with the recommendation of Mr Barr that the activities in relation to the National Grid be contained in their own two tables: one relating to activities, the second to standards. Given that there was no real difference in opinion between Mr Barr and Ms McLeod by the end of the hearing, we accept their reasoning as to the standards to be achieved and the relevant activity classifications. We also note that there was no real difference between Mr Barr and Ms McLeod as to the definitions to be included, nor how those terms were defined. Additionally, we note that although Transpower sought that the term National Grid Corridor be rephrased National Grid Subdivision Corridor, Ms McLeod did support that wording change. We accept her evidence on that point.
245. As a result, we recommend that (noting that items b. to g. are recommendations to the Stream 10 Hearing Panel):
- a. Rules 30.4.10, 30.5.10 and 30.5.11 be replaced with Rules 30.5.3.2, 30.5.3.3, 30.5.4.1 and 30.5.4.2 as set out below;
 - b. The definition of Sensitive Activities – Transmission Corridor be deleted;
 - c. The definition of National Grid set out below be included;
 - d. The definition of National Grid Corridor refer to the diagram referred to next;
 - e. The diagram illustrating the dimensions of the National Grid Corridor and National Grid Yard, plus the setback distances from various poles and tower structures be replaced with that included below;
 - f. The definition of National Grid Yard remain unaltered; and
 - g. The definition of National Grid Sensitive Activities be amended to read as set out below.

Rules:

30.5.3.2 *Buildings, structures and activities that are not National Grid sensitive activities within the National Grid Corridor – Permitted activities*

¹⁹² Ainsley McLeod, EiC, paragraph 50

¹⁹³ *ibid*, paragraph 51

¹⁹⁴ *ibid*, paragraph 59

¹⁹⁵ *ibid*, paragraphs 71-80

¹⁹⁶ Craig Barr, Reply, Section 9

Subject to compliance with Rules 30.5.4.1 and 30.5.4.2

30.5.3.3 Earthworks within the National Grid Yard – Permitted activities

Subject to compliance with Rule 30.5.4.2

30.5.4.1 Buildings and Structures permitted within the National Grid Yard:

30.5.4.1.1 *A non-conductive fence located 5m or more from any National Grid Support Structure and no more than 2.5m in height.*

30.5.4.14.2 *Any network utility within a transport corridor or any part of electricity infrastructure that connects to the National Grid, excluding a building or structure for the reticulation and storage of water for irrigation purposes.*

30.5.4.1.3 *Any new non-habitable building less than 2.5m high and 10m² in floor area and is more than 12m from a National Grid Support Structure.*

30.5.4.1.4 *Any non-habitable building or structure used for agricultural activities provided that they are:*

- a. less than 2.5m high*
- b. Located at least 12m from a National Grid Support Structure*
- c. Not a milking shed/dairy shed (excluding the stockyards and ancillary platforms), or a commercial glasshouse, or a structure associated with irrigation, or a factory farm.*

30.5.4.1.5 *Alterations to existing buildings that do not alter the building envelope.*

30.5.4.1.6 *An agricultural structure where Transpower has given written approval in accordance with clause 2.4.1 of NZECP34:2001.*

Note – Refer to the Definitions for illustration of the National Grid Yard.

246. Non-compliance with this standard would require consent as a non-complying activity.

30.5.4.2 Earthworks permitted within the National Grid Yard:

30.5.4.2.1 *Earthworks within 6 metres of the outer visible edge of a National Grid Transmission Support Structure must be no deeper than 300mm.*

30.5.4.2.2 *Earthworks between 6 metres to 12 metres from the outer visible edge of a National Grid Transmission Support structure must be no deeper than 3 metres.*

30.5.4.2.3 *Earthworks must not create an unstable batter that will affect a transmission support structure.*

30.5.4.2.4 *Earthworks must not result in a reduction in the existing conductor clearance distance below what is required by NZECP34:2001.*

The following earthworks are exempt from the rules above:

30.5.4.2.5 *Earthworks undertaken by network utility operators in the course of constructing or maintaining utilities providing the work is not associated with buildings or structures for the storage of water for irrigation purposes.*

30.5.4.2.6 *Earthworks undertaken as part of agricultural activities or domestic gardening*

30.5.4.2.7 *Repair sealing, resealing of an existing road, footpath, farm track or driveway*

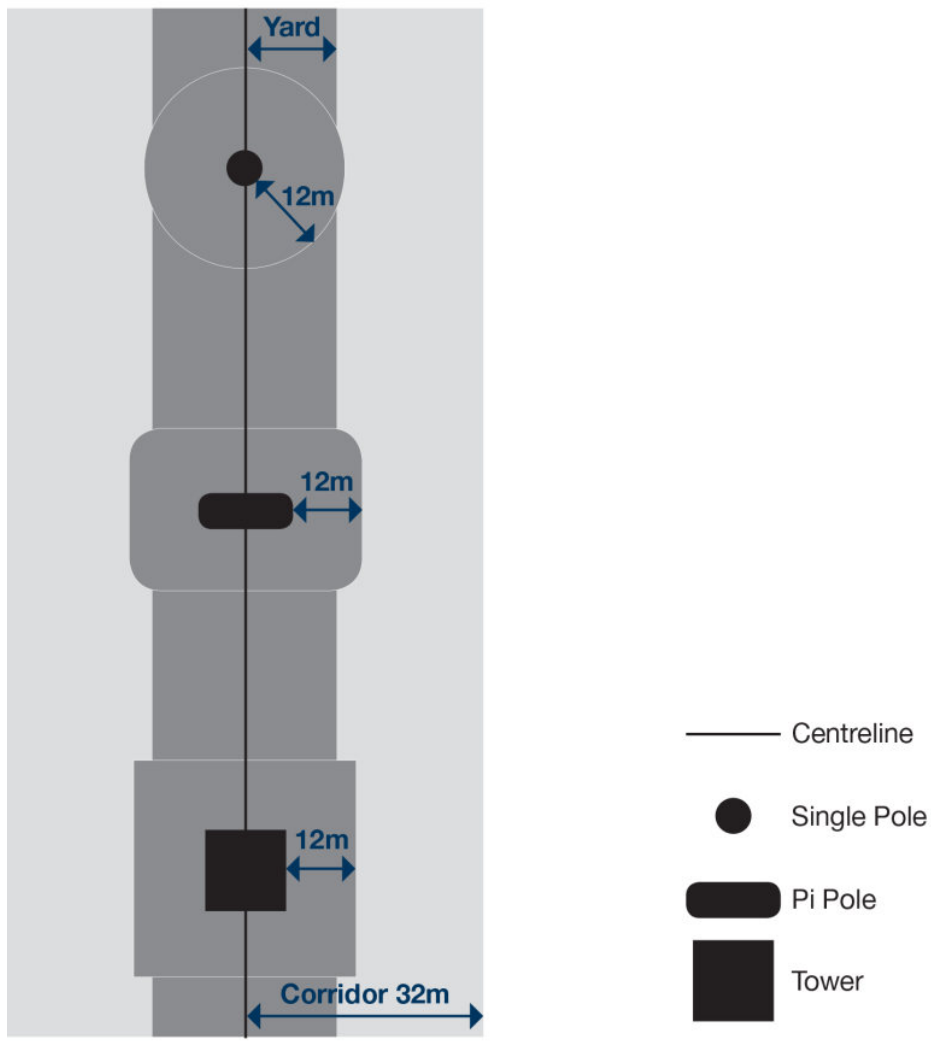
Note – Refer to the Definitions for illustration of the National Grid Yard.

247. Non-compliance with this standard would require consent as a non-complying activity.

Definitions:

National Grid *Means the same as in the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009.*

Diagram relevant to the definitions of National Grid Corridor and National Grid Yard:



National Grid Sensitive Activities Means those activities within the National Grid Corridor that are particularly sensitive to the risks associated with electricity transmission lines because of either the potential for prolonged exposure to the risk or the vulnerability of the equipment or population that is exposed to the risk. Such activities include buildings or parts of buildings used for, or able to be used for the following purposes:

- Day Care facility;
- Educational facility;
- Healthcare facility;
- Papakainga;
- Any residential activity; or
- Visitor accommodation.

5.16. New Utility Rule

248. Transpower¹⁹⁷ sought a new rule making it a restricted discretionary activity for any building or intensive development to locate within 150m of the National Grid substation so as to protect the substation from reverse sensitivity effects.

¹⁹⁷ Submission 805

249. Mr Barr did not consider another reverse sensitivity rule was justified¹⁹⁸. At the hearing, we heard from Mr Renton, Senior Principal Engineer at Transpower. He outlined in detail for us the risks associated with substations¹⁹⁹. Applying his experience in dealing with such risks, he detailed how he considered they could be managed at the Frankton substation²⁰⁰. Mr Renton helpfully described to us at the hearing the nature of the risks: noise and voltage surge. He also identified that it was how the activities occurred within the 45m setback that was more important than necessarily excluding them.
250. In her pre-lodged evidence, based on Mr Renton's evidence, Ms McLeod concluded that the provisions recommended in the Section 42A Report would be inadequate to protect the Frankton substation. She considered that a 45m setback and restricted discretionary consent required for buildings, hazardous facility or sensitive activity to establish with the set back²⁰¹.
251. At the hearing, following Mr Renton's explanation of the nature of the limitations that would actually be required on an adjoining property, we explored with Ms McLeod whether this could not be dealt with through the notice of requirement process. She agreed that was an option, but maintained her position that it was a matter that should be managed through the resource consent process. However, she did concede that, based on Mr Renton's evidence, that the matter could be managed through a controlled activity. She offered to draft a proposed rule, which was submitted by memorandum of counsel on 16 September 2016. Ms McLeod considered this rule would be better located in the relevant zone provisions rather than the Utilities Chapter, and counsel advised that Transpower supported the rule's inclusion in the Rural Zone, Medium Density Residential zone and the Frankton Flat Special Zone rules.
252. At this point we note that, following receipt of this memorandum containing Ms McLeod's redrafted rule, the Hearing Panel received a memorandum from counsel for Peter and Mary Arnott, who were the registered proprietors of a property immediately adjoining the Frankton substation. Counsel suggested there was no jurisdiction for the Panel to consider the rules proposed by Ms McLeod as there was no submission or further submission seeking such rules.
253. We agree with counsel that there are no submissions or further submissions seeking the inclusion of such a rule in the Rural, Medium Density Residential or Frankton Flats Special Zones. However, we are satisfied that the controlled activity rule is within the scope of the submission of Transpower seeking a restricted discretionary activity applying to a wider area and, thus, we are able to consider this rule for inclusion in Chapter 30.
254. Having heard Mr Renton's helpful evidence and having had a useful discussion with Ms McLeod concerning the regulatory options available, we have concluded that the controlled activity rule drafted by Ms McLeod provides a careful balance of ensuring neighbours' safety without unduly restricting the use of their land. We note that this circumstance is distinguishable from the Aurora request discussed above in that the purpose of the rule is not to restrict buildings and other structures, or to alert Transpower that a building or structure is proposed, but rather ensure the form and method of construction do not cause safety issues. We recommend the rule be included, reading as follows:

30.5.3.4 Buildings, structures and National Grid sensitive activities in the vicinity of the Frankton Substation

¹⁹⁸ Craig Barr, Section 42A Report, paragraphs 14.41 and 14.42

¹⁹⁹ Andrew Renton, EiC, paragraphs 55 to 66

²⁰⁰ *ibid*, paragraphs 72 to 77

²⁰¹ Ainsley McLeod, EiC, paragraphs 69 to 70

Any building, structure or National Grid sensitive activity within 45m of the designated boundary of Transpower New Zealand Limited's Frankton Substation. Control is reserved to:

- a. the extent to which the design and layout (including underground cables, services and fencing) avoids adverse effects on the on-going operation, maintenance, upgrading and development of the substation;*
- b. the risk of electrical hazards affecting public or individual safety, and the risk of property damage; and*
- c. measures proposed to avoid or mitigate potential adverse effects.*

Controlled activity.

5.17. **Rules 30.4.11 and 30.4.12**

255. As notified, Rule 30.4.11 provided that lines and support structures be a controlled activity. The rule limited the lines to:

A conductor line, or support structure for overhead lines, to convey electricity (at a voltage of equal to or less than 110kV at a capacity of equal to or less than 100MVA); or overhead lines for any other purpose including telecommunications.

256. Control was reserved to: location; route; height; appearance, scale and visual effects; and *Where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: an assessment by a suitably qualified person is provided that addresses the nature and degree of risk the hazard(s) pose to people and property, whether the proposal will alter the risk to any site, and the extent to which such risk can be avoided or sufficiently mitigated¹.*

257. Three submissions sought amendments to this rule²⁰². PowerNet sought to distinguish the overhead lines provided for in this rule from underground lines. Aurora sought amendments to exclude minor upgrading from this rule, and to delete the final two matters of control. Transpower sought to include a permitted activity provision, with non-compliance with the standards triggering a controlled activity consent.

258. Mr Barr recommended amendments to this rule, relying on the submissions of the Telecommunication Companies, to clarify it and amending the matter of control relating to natural hazards consistent with his recommendations on Rule 30.4.15²⁰³. In his Section 42A Report he explained why he disagreed with the removal of the matter of control "Appearance, scale and visual effects" sought by Aurora²⁰⁴. In response to PowerNet's submission, he recommended a rule making underground lines/cables a permitted activity²⁰⁵.

259. In her evidence, Ms Dowd queried why there was a distinction between the provisions for overhead lines for telecommunications and those for electricity²⁰⁶. She also set out the reasons Aurora was concerned with the control in respect of appearance, scale and visual effects²⁰⁷.

²⁰² Submissions 251, 635 and 805 (supported by FS1121)

²⁰³ Sought by Submission 383

²⁰⁴ Section 42A Report, paragraph 11.9

²⁰⁵ Section 42A Report version rule 30.4.22

²⁰⁶ Joanne Dowd, EIC, paragraph 30

²⁰⁷ *ibid*, paragraph 31

260. Ms McLeod considered that the overall approach of Chapter 30, which did not provide for electricity lines, at any scale, without the need for a resource consent to not:
- a. *Give effect to Policy 2 of the NPSET 2008;*
 - b. *Have regard to Policy 3.6.4208 of the Proposed RPS;*
 - c. *Give effect to various policies within Chapter 30.209*
261. Mr Barr, in his Reply Statement, discussed this issue mainly in relation to how the activities (along with other telecommunications activities) would be controlled in the Rural Zone²¹⁰. He recommended the rules for electricity lines and telecommunication lines be located in separate tables. Within those tables, he recommended lines and support structures within “formed legal road”²¹¹ and underground cables²¹² be permitted activities. Finally, Mr Barr recommended the deletion of the matter of control related to natural hazards²¹³.
262. We consider Mr Barr’s revised version of this rule, along with the addition permitted activity rules and separating the rules for electricity lines and telecommunication lines, achieves the right balance between the competing objectives and policies, both in the PDP and in the superior statutory instruments, seeking to provide for utilities on one hand, while minimising adverse effects on the environment on the other.
263. Turning to Rule 30.4.12, as notified this provided for lines and supporting structures as discretionary activities where it involved any of 5 conditions. Those conditions read:
- 30.4.12.1 *Erecting any lattice towers for overhead lines to convey electricity in all zones.*
 - 30.4.12.2 *Erecting any support structures for new overhead lines to convey electricity (at a voltage of more than 110kV with a capacity over 100MVA) in all zone.*
 - 30.4.12.3 *Erecting any support structures for overhead lines to convey electricity (at a voltage of equal to or less than 110kV at a capacity of equal to or less than 100MVA); or overhead lines for any other purposes including telecommunications in any Outstanding Natural Feature or Outstanding Natural Landscape or Significant Natural Areas.*
 - 30.4.12.4 *Utilising any existing support structures for the erection of cable television aerials and connections.*
 - 30.4.12.5 *Erecting any support structures for overhead lines for any purpose in the area in Frankton known as the “Shotover Business Park”, except where any new poles are solely for the purpose of providing street lighting.*

²⁰⁸ Policy 4.4.4 in the Decisions Versions of the proposed RPS

²⁰⁹ Ainsley McLeod, EiC, paragraph 44

²¹⁰ Craig Barr, Reply Statement, Section 11

²¹¹ Reply Version rules 30.4.32 and 30.4.42

²¹² Reply version rules 30.4.33 and 30.4.43

²¹³ Craig Barr, Reply Statement, Section 12

264. Two submissions²¹⁴ sought the retention of this rule, one²¹⁵ sought that clause 3 contain an exclusion for minor upgrading, and one sought that the activity status be changed to controlled²¹⁶.
265. Without any specific discussion in his Section 42A Report but relying on the general Telecommunications Companies submission, Mr Barr recommended two changes to this rule²¹⁷:
- a. Deleting 30.4.12.1 and inserting the words “lines, lattice towers or” immediately before “support structures” in 30.4.12.2;
 - b. Deleting 30.4.12.4.
266. Ms McLeod confirmed her support for the Transpower relief²¹⁸, but did not discuss the rule in any detail.
267. Again there was no discussion of this rule by Mr Barr in his Reply Statement, but he recommended various changes to it in Appendix 1 attached to the reply:
- a. Deleting 30.4.12.2, but transferring it to the National Grid Table;
 - b. Deleting “including telecommunications” from 30.4.12.3, but creating a new equivalent rule in the telecommunications table with the same activity standard;
 - c. Deleting 30.4.12.5.
268. We do not think the changes made by Mr Barr cause any change to the regulatory effect of the rule, but do assist in understanding how lines are controlled in particular circumstances. We also note that we consider the deletion of 30.4.12.5 appropriate as that provision only applied to a zone which is not part of Stage 1 of the PDP. Thus it was of nugatory effect.
269. Amendments recommended by Mr Barr and Mr McCallum-Clark to ensure consistency with the NESTF 2016 involved minor wording changes with little effect on meaning. The only substantive change recommended was providing that new lines on existing structures be permitted in all instances²¹⁹.
270. The overall effect of the changes recommended to Rules 30.4.11 and 30.4.12 are:
- a. The National Grid is a permitted activity in the National Grid Corridor;
 - b. Any new high voltage (over 110kV with a capacity over 100MVA) line is a discretionary activity in all zones;
 - c. Underground electricity cables are a permitted activity in all zones, subject to ground surface re-instatement;
 - d. Electricity lines and supporting structures within the reserves of formed roads are permitted activities;
 - e. Electricity lines, other than high voltage lines, are a controlled activity provided they are not located with an ONL, on an ONF, or within a Significant Natural Area;
 - f. Electricity lines (including new high voltage lines by virtue of b. above) located with an ONL, on an ONF, or within a Significant Natural Area are discretionary activities;
 - g. Underground telecommunication lines are permitted activity in all zones, subject to ground surface re-instatement;

²¹⁴ Submissions 251 (supported by FS1085) and 580

²¹⁵ Submission 635

²¹⁶ Submission 805

²¹⁷ In Appendix 1 to the Section 42A Report

²¹⁸ Ainsley McLeod, EiC, paragraph 46

²¹⁹ Joint Witness Statement, 25 September 2017, at paragraph 2.1(h)

- h. New telecommunication lines and supporting structures within the reserves of formed roads along with new lines on existing structures are permitted activities;
- i. New telecommunication lines and supporting structures outside formed road reserve are a controlled activity provided they are not located within an ONL, on an ONF, or within a Significant Natural Area; and
- j. New telecommunication lines and supporting structures located within an ONL, on an ONF, or within a Significant Natural Area are discretionary activities.

271. We recommend that this arrangement be adopted for the reasons set out above. Rather than repeat all the relevant rules here, we will just list the relevant rule numbers from our recommended version of Chapter 30 set out in Appendix 1 to this report. The relevant rules (in the same order as above) are:

- a. Rule 30.5.3.2;
- b. Rule 30.5.3.5;
- c. Rule 30.5.5.3;
- d. Rule 30.5.5.2;
- e. Rule 30.5.5.6;
- f. Rule 30.5.5.7;
- g. Rule 30.5.6.3;
- h. Rule 30.5.6.2;
- i. Rule 30.5.6.4; and
- j. Rule 30.5.6.5.

5.18. **Rules 30.4.13 and 30.4.14**

272. As notified these two rules applied to “Telecommunication Facility and Radio communication Facilities Navigation, Metrological Facilities” (Rule 30.4.13, slightly different grammar in rule 30.4.14). By Rule 30.4.13 these activities were controlled activities where they involved erecting:

30.4.13.1 *Within the Rural Zone any mast greater than 8m but less than or equal to 15m in height.*

30.4.13.2 *Within the Town Centre Zones any mast greater than 8m but less than or equal to 10m in height.*

30.4.13.3 *in zones with a maximum building height of less than 8m (except for the Business and Industrial Zones), a mast greater than the maximum height permitted for buildings of the zone or activity area in which it is located.*

30.4.13.4 *If circular shaped an antenna greater than 1.2m in diameter but less than 2.4m in diameter. If another shape, an antenna greater than 1.2m in length or breadth but less than 2.4m in length and breadth.*

273. Control was reserved to:

- a. *Site location*
- b. *External appearance*
- c. *Access and parking*
- d. *Visual amenity impacts*
- e. *Where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: an assessment by a suitably qualified person is provided that addresses the nature and degree of risk the hazard(s) pose to people and property,*

*whether the proposal will alter the risk to any site, and the extent to which such risk can be avoided or sufficiently mitigated*¹**Error! Bookmark not defined.**

274. Rule 30.4.14 provided that the following activities were discretionary activities:
- 30.4.14.1 *Erecting any mast, or erecting any antenna greater than 1.2m in diameter (if circular in shape) or 1.2m in length or breadth (if another shape) in:*
- *Any Outstanding Natural Landscape or Outstanding Natural Feature*
 - *Significant Natural Area*
 - *The Arrowtown Residential Historic Management Zone.*
 - *Any open space and landscape buffer areas identified on any of the Special Zone structure plans*
 - *Town Centre Special Character Areas*
 - *Heritage Features and Landscapes.*
- 30.4.14.2 *Erecting antenna greater than 2.4m in diameter or 3m in length or breadth, except omni directional (or “whip) antenna which shall not exceed 4m length, in the following zones: Residential (other than the Arrowtown Residential Historic Management Zone), Rural Lifestyle, Rural Residential, Township, Resort, Airport Mixed Use, Visitor, Town Centre, Corner Shopping Centre, Bendemeer, Penrith Park and Business Zones.*
- 30.4.14.3 *Erecting any antenna greater than 2.4m in diameter length or breadth and/or 4m in length if a whip antenna, in the Rural Zone.*
- 30.4.14.4 *Erecting a mast which is over 15m in height in the Rural Zone.*
- 30.4.14.5 *In all other zones including the Town Centre Zones with a maximum building height of less than 8m (except the Business and Industrial Zones) and erecting a mast which is over 10m in height.*
- 30.4.14.6 *In the Business and Industrial Zones, and in all other zones with a maximum building height of 8m or greater, erecting a mast which exceeds the maximum height of buildings in the zone it is located by more than 5m.*
275. Two submissions²²⁰ sought amendments to Rule 30.4.13.4 to increase the diameter of circular shaped antenna and to exclude earthworks associated with such facilities. The Telecommunication Companies²²¹ sought a complete rewrite such that most telecommunications poles, masts, antenna and ancillary equipment were permitted activities up to greater heights than provided for in Rule 13.4.13. The companies sought that erecting masts in the sensitive locations specified in rule 30.4.14.1 be a restricted discretionary activity, as would be larger antenna and masts at heights greater than provided for in their permitted activity rule. There were no other submissions on Rule 30.4.14.
276. In his Section 42A Report Mr Barr identified that the Telecommunication Companies’ submissions were lodged in anticipation of the (then) proposed NESTF 2016. At that stage, while noting that the PDP could not be more lenient than an NES, Mr Barr was only prepared to recommend minor changes. The changes proposed permitted activity status for facilities

²²⁰ Submissions 607 and 615 (supported by FS1105 and FS1137)

²²¹ Submissions 179, 191, 421 and 781

up to specified heights, controlled activity status to a higher specified height, and full discretionary status in the sensitive locations.

277. Following conferencing between Mr Barr and Mr McCallum on ensuring consistency between the PDP rules and the NESTF 2016, the one area of disagreement between Mr Barr and Mr McCallum-Clark related to the application of Regulation 47 of the NESTF 2016 as it related to the height of poles in the Rural Zone outside of an ONL or ONF. Regulation 47 reads:

47 Visual amenity landscapes

- a. *This regulation applies to a regulated activity if it is carried out at a place identified in the relevant district plan or proposed district plan as being subject to visual amenity landscape rules.*
- b. *This regulation is complied with if the regulated activity is carried out in accordance with the visual amenity landscape rules that apply in that place.*
- c. *In this regulation, visual amenity landscape rules means district rules about the protection of landscape features (such as view shafts or ridge lines) identified as having special visual amenity values (however described).*

278. The Joint Witness Statement explained the issue as follows:²²²

Rule 30.4.6, as drafted in the Council's recommended Reply version, limits the height of poles in the Rural Zone (outside of an ONF or ONL) to 15 metres in height. The NESTF 2-16 permits poles in these areas up to 25 metres in height, except where Regulation 47 is applicable and the rules in the District Plan prevail.

279. Mr Barr's position was based on the findings of the landscape reports which formed the basis for the section 32 analysis for the Rural Zone; in particular, the finding that rural land not otherwise identified as an ONL or ONF was a visual amenity landscape in terms of section 7 of the Act²²³. Thus, in his view, in those parts of the Rural Zone identified as Rural Character Landscape²²⁴ are subject to visual amenity landscape rules in terms of Regulation 47 of the NESTF 2016.

280. It was Mr McCallum-Clark's view that clause 3 of Regulation 47 set out a higher bar than a general rural amenity protection rule²²⁵. It was his view that while Regulation 47 would apply to an ONL, it would not apply to the Rural Character Landscape portions of the Rural Zone.

281. We do not think Mr McCallum-Clark is correct to suggest that an ONL would qualify under Regulation 47. Regulation 50 specifically provides for the application of ONL and ONF provisions to regulated activities. In our view, Regulation 47 must, therefore, be aimed at a lower order of landscape significance.

282. On the other hand, we consider Mr Barr's interpretation to take too broad a view of what Regulation 47(3) defines as visual amenity landscape rules. That regulation states that such rules are to be for the protection of landscape features having special visual amenity values. Strategic Objective 3.2.5.2 refers to the values of Rural Character Landscapes being "*rural character and visual amenity values*" and the relevant Strategic Policies in Chapter 3, as well as the policies in Chapter 6, do not suggest that the Rural Character Landscapes have any more

²²² C Barr & M McCallum-Clark, Joint Witness Statement dated 25 September 2017, at paragraph 3.3

²²³ *ibid*, at paragraph 3.4

²²⁴ The term we are recommending replace Rural Landscapes Classification.

²²⁵ C Barr & M McCallum-Clark, Joint Witness Statement dated 25 September 2017, at paragraph 3.5

than general visual amenity value, albeit that parts may have higher visual amenity value than others. Notably, the PDP does not specifically identify any landscape feature within the district that is not within an ONL or ONF.

283. Consequently, we do not agree with Mr Barr's recommendation. We recommend the relevant rule provide for poles in the Rural Zone to have a maximum height of 25 m as a permitted activity. With that amendment, we agree with the approach recommended by Mr Barr in his Reply Statement, notably replacing notified rules 30.4.13 and 30.4.14 with a permitted regime for poles to a certain height, thence discretionary. We recommend these rules read (incorporating amendments to ensure consistency with the NESTF 2016):

30.5.6.6 Poles

With a maximum height no greater than:

- 25m Rural Zone;*
- 15m in the Business Mixed Use Zone (Queenstown);*
- 18m in the High Density Residential (Queenstown – Flat Sites), Queenstown Town Centre, Wanaka Town Centre (Wanaka Height Precinct) or Airport Mixed Use zones;*
- 13m in the Local Shopping Centre, Business Mixed Use (Wanaka) or Jacks Point zones;*
- 11m in any other zone; and*
- 8m in any identified Outstanding Natural Landscape.*

Where located in the Rural Zone within the Outstanding Natural Landscape or Rural Landscape Classification, poles must be finished in colours with a light reflectance value of less than 16%.

Permitted activity.

30.5.6.7 Poles

Exceeding the maximum height for the zones identified in Rule 30.5.6.6 OR any pole located in

- a. any identified Outstanding Natural Feature;*
- b. the Arrowtown Residential Historic Management Zone;*
- c. Arrowtown Town Centre;*
- d. Queenstown Special Character Area;*
- e. Significant Natural Area;*
- f. Sites containing a Heritage Feature; and*
- g. Heritage Overlay Areas.*

Discretionary activity.

5.19. **Antennas**

284. As notified, the PDP provided rules for antennas in Rules 30.4.13 and 30.4.14. Although not discussed within his Section 42A Report, Mr Barr did recommend in Appendix 1 to that report three new rules be included providing for antennas:
- a. Providing for smaller antennas as a permitted activity (his Rule 30.4.19);
 - b. Medium scale antennas as a controlled activity (his Rule 30.4.20); and
 - c. Larger antennas and those located sensitive areas as discretionary activities (his Rule 30.4.21).

285. Mr Barr relied on the Telecommunication Companies' submissions for scope to include these. In addition, they were in part drawn from notified Rules 30.4.13 and 30.4.14.
286. Mr McCallum-Clark described these recommended rules as a rather historically-based set of dimensions which did not enable technological changes to be easily adopted²²⁶. He suggested amended provisions based on the surface area of the antennas, again split into permitted, controlled and discretionary activities.
287. In large part, in his Reply Statement, Mr Barr accepted the suggestions of Mr McCallum-Clark. In addition, in his re-arrangement to separate Electricity Distribution Activities from Telecommunication Activities, he recommended separate rules for antennas under each group of activities (being Reply Rules 30.4.36, 30.4.37, 30.4.38, 30.4.48, 30.4.49 and 30.4.50).
288. Following the conferencing of Mr Barr and Mr McCallum-Clark, they recommended minor amendments to Reply Rules 30.4.48, 30.4.49 and 30.4.50 so as to align them with Regulations 29 and 31 of NESTF 2016²²⁷.
289. The result of the various permutations the rules have gone through is that we have two sets of slightly different rules relating to antennas: those recommended by Mr Barr in his Reply in the Electricity Distribution Activities table; and those recommended by Mr Barr and Mr McCallum-Clark in the Telecommunications, Radio Communication, Navigation or Metrological Communication activities table. We did not understand that antennas would be used for electricity distribution. Rather, we understood the purpose of including the rules in that table was because electricity distributors rely in part on radio and telecommunication activities to maintain their operations. It seems to us that the rules describe the activities, not the operators, so it is irrelevant whether the user of an antenna is an electricity distributor or a telecommunications company, the rule relates to the telecommunication or radio communication (which are the same thing in reality) ability of the antenna. We conclude that these rules only need be located in the Telecommunications table.
290. We agree with the evidence of Mr Barr and Mr McCallum-Clark regarding the structure of the rules relating to antennas. We recommend the following three rules be included:

30.5.6.8 Antennas, and ancillary equipment

Provided that for panel antennas the maximum width is 0.7m and for all other antenna types the maximum surface area is no greater than 1.5m² and for whip antennas, less than 4m in length.

Where located in the Rural Zone within the Outstanding Natural Landscape or Rural Landscape Classification, antennas must be finished in colours with a light reflectance value of less than 16%.

Permitted activity.

30.5.6.9 Antennas, and ancillary equipment

Subject to Rule 30.5.6.10, provided that for panel antennas the maximum width is between 0.7m and 1.0m and for all other antenna types the surface

²²⁶ M McCallum-Clark, EiC at paragraph 36

²²⁷ Joint Witness Statement at paragraph 2.1(k) and Appendix 1

area is between 1.5m² and 4m² and for whip antennas, more than 4m in length.

Control is reserved to:

- a. Location
- b. appearance, colour and visual effects

Controlled activity.

30.5.6.10 Any antennas located in the following:

- a. any identified Outstanding Natural Feature;
- b. the Arrowtown Residential Historic Management Zone;
- c. Arrowtown Town Centre;
- d. Queenstown Special Character Area;
- e. Significant Natural Areas; and
- f. Heritage, Features and Heritage Overlay Areas.

Discretionary activity.

5.20. **Rules 30.4.15 and 30.4.16**

291. These rules, as notified, related to buildings larger than 10m² in area and 3m in height associated with utilities, other than masts for telecommunication and radio facilities, navigation or meteorological communication facility or supporting structures for lines. Under Rule 30.4.15 such buildings were a controlled activity with control reserved to:

- Location
- External appearance and visual effects
- Associated earthworks
- Parking and access
- Landscaping
- Where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: an assessment by a suitably qualified person is provided that addresses the nature and degree of risk the hazard(s) pose to people and property, whether the proposal will alter the risk to any site, and the extent to which such risk can be avoided or sufficiently mitigated.

292. Rule 30.4.16 classified such buildings as discretionary activities where they were located in: any significant natural area; the Arrowtown Residential Historic Management Zone; or the Remarkables Park Zone. Both rules contained the following clause:

However, this rule shall not apply where the provisions of the underlying zone or a District Wide matter specify a more restrictive activity status.

293. Three submissions²²⁸ sought amendments to Rule 30.4.15, while two²²⁹ sought amendments to Rule 30.4.16. PowerNet sought that Rule 30.4.15 apply to structures as well as buildings, and, along with Aurora, sought the deletion of the provision quoted in the previous paragraph applying more restrictive zone standards. PowerNet also sought that it be clarified that smaller buildings were permitted. Ms Chin and Mr Vautier sought that such buildings be permitted where the zone provisions provided for similar scale buildings to be permitted.

²²⁸ Submissions 251, 368 and 635

²²⁹ Submissions 251 (supported by FS1117, FS1121 and FS1097) and 635

294. PowerNet sought the deletion of the application of more restrictive zone provisions from Rule 30.4.16, while Aurora sought that electricity cabinets and kiosks be exempt from this rule.
295. Although he did not specifically discuss these two rules in his Section 42A report, Mr Barr did recommend the deletion of the clause applying more restrictive provisions, from each rule. He also recommended that a permitted activity provision be included for buildings smaller than those covered by these rules, as well as some amendments to the natural hazard matter of control under Rule 30.4.15.
296. Ms Justice²³⁰ considered that the additional permitted activity rule satisfied PowerNet's concerns. Ms Dowd provided us with photographic examples of the types of equipment Aurora wanted exempted from Rule 30.4.16. It was her opinion that such equipment could be considered as controlled activities²³¹.
297. In his Reply Statement, Mr Barr continued to recommend the three rules he recommended in the Section 42A Report with only minor amendments. He deleted the matter of control relating to natural hazards consistent with his treatment of other rules, and he deleted the reference to the Remarkables Park Zone in Rule 30.4.16²³² and, as a result of him accepting that provision should be made for wind electricity generation discussed above, he included an exclusion of wind electricity generation masts from these rules.
298. We are largely in agreement with the rules as presented by Mr Barr in his reply. We do not consider that providing for utility buildings of the type proposed by Aurora, even as controlled activities, in significant natural areas or the Arrowtown Residential Historic Management Zone would be consistent with the objectives and policies in the strategic chapters of this Plan, nor with the relevant provisions of s.6 of the Act.
299. The one matter where we disagree with Mr Barr is in relation to his inclusion of wind electricity masts in the rules. The rules explicitly state that they only relate to buildings associated with a utility. Electricity generation does not fall within the definition of utility. It is only equipment and lines for the transmission and distribution of electricity that fall within that definition. Thus, in our view his inclusion is unnecessary. If it were necessary, we would have also included an exemption for free-standing solar electricity generation and solar water heating.
300. Mr Barr and Mr McCallum-Clark agreed that to ensure consistency with the NESTF 2016, the exclusions should be rather more clearly expressed in each rule. We agree and have incorporated those changes.
301. Consequently, subject to some minor grammatical changes for clarification purposes, we recommend the following three rules replace Rules 30.4.15 and 30.4.16:

30.5.1.1 Buildings associated with a Utility

Any building or cabinet or structure of 10m² or less in total footprint and 3m or less in height which is not located in the areas listed in Rule 30.5.1.4.

This rule does not apply to:

- a. Masts or poles for navigation or meteorology;*

²³⁰ Megan Justice, EiC, paragraph 4.16

²³¹ Joanne Dowd, EiC, paragraph 42

²³² As this zone has been formally excluded from the PDP by the Council its deletion was automatic in any event

- b. Poles, antennas, and associated cabinets (cabinets up to 10m² in area and 3m in height, exclusive of any plinth or other foundation), for any telecommunication and radio communication;
- c. Lines and support structures.

Permitted activity

30.5.1.3 Buildings associated with a Utility

The addition, alteration or construction of buildings greater than 10m² in total footprint or 3m in height, other than buildings located in the areas listed in Rule 30.5.1.4.

This rule does not apply to:

- a. Masts or poles for navigation or meteorology;
- b. Poles, antennas, and associated cabinets (cabinets up to 10m² in area and 3m in height, exclusive of any plinth or other foundation), for any telecommunication and radio communication;
- c. Lines and support structures.

Control is reserved to:

- a. location;
- b. external appearance and visual effects;
- c. associated earthworks;
- d. parking and access;
- e. landscaping.

Controlled activity.

30.5.1.4 Buildings associated with a utility

The addition, alteration or construction of buildings in:

- a. Any Significant Natural Area
- b. The Arrowtown Residential Historic Management Area.

This rule does not apply to:

- c. Masts or poles for navigation or meteorology;
- d. Poles, antennas, and associated cabinets (cabinets up to 10m² in area and 3m in height, exclusive of any plinth or other foundation), for any telecommunication and radio communication;
- e. Lines and support structures.

Discretionary activity.

5.21. **Rules 30.4.17 and 30.4.18**

302. As notified, these rules provided for flood protection works. Rule 30.4.17 was a permitted activity described as follows:

Flood Protection Works for the maintenance, reinstatement, repair or replacement of existing flood protection works for the purpose of:

- maintaining the flood carrying capacity of water courses and/or maintaining the integrity of existing river protection works
- fill works undertaken within Activity Area 1f of the Shotover Country Special Zone

303. Rule 30.4.18 classified all other flood protection works as a discretionary activity.
304. Two submissions²³³ on Rule 30.4.17 both sought that the rule simply state: **Flood Protection Works** for the maintenance, reinstatement, repair or replacement of existing flood protection works. The sole submission on Rule 30.4.18 noted that the definition of utility did not include flood protection works and queried the location of the rule.
305. Mr Barr neither mentioned these rules, nor recommended any change to them, in his Section 42A Report, and we heard no evidence on them. Mr Barr did respond to submission 806 and recommend including flood protection works within the definition of utility²³⁴. The only amendment recommended by Mr Barr in his reply was to clarify the relationship between the two rules.
306. We have considered the amendments sought to Rule 30.4.17. It is clear that the rule only applies to existing flood protection works, and while the term “maintenance, reinstatement, repair or replacement” could be said to encompass the condition “maintaining the flood carrying capacity of water courses and/or maintaining the integrity of the existing river protection works”, we consider the purpose of the condition is to limit the scope of permitted works, and is therefore necessary. However, we do not understand how the second condition is relevant to this rule. It relates to an area in a zone which has not been notified in Stage 1 of the PDP, and there is no evidence that the zone will ever become part of the PDP. We agree with the submitters that it should be deleted.
307. We note that Shotover Country Limited²³⁵ opposed Submission 615 on the basis that there was no jurisdiction to remove the part of the rule related to the Shotover Country Special Zone as that zone had not been included in Stage 1 of the Review. We find that logic rather unusual. As we have explained above, we consider the reverse to be correct. The rule should not have been included in the PDP in the first place.
308. We recommend these rules be adopted as notified with the exception that the phrase “fill works undertaken within Activity Area 1f of the Shotover Country Special Zone” be deleted from Rule 30.4.17, and that the rules be renumbered 30.5.1.2 and 30.5.1.5 respectively.
- 5.22. **Rules 30.4.19, 30.4.20 and 30.4.21**
309. There were no submissions on Rules 30.4.19 and 30.4.20. The only submission²³⁶ on Rule 30.4.21 sought its deletion.
310. Mr Barr recommended the deletion of Rule 30.4.21 in his Reply Version. We agree with that recommendation and note that as the Council has withdrawn the Remarkables Park Zone from the PDP²³⁷, this rule has automatically been removed.
311. We recommend that Rules 30.4.19 and 30.4.20 be adopted without alteration subject to being renumbered 30.5.1.6 and 30.5.1.7 respectively.

²³³ Submissions 607 and 635 (supported by FS1105 and FS1137, opposed by FS1294)

²³⁴ Section 42A report, paragraph 9.53. Also note Submission 383 also sought the inclusion of flood protection works in the definition of utility.

²³⁵ Further submission 1294

²³⁶ Submission 251

²³⁷ Minutes of full Council, 25 May 2017

5.23. Rule 30.5.6

312. This standard required that where a utility was a building, it needed to be set back from internal and road boundaries in accordance with the setback requirements for accessory buildings in the relevant zone. Non-compliance required consent as a discretionary activity.
313. There were three submissions on this rule, one seeking its retention²³⁸. PowerNet²³⁹ sought that the non-compliance status changed to restricted discretionary activity. Ms Chin and Mr Vautier²⁴⁰ sought that the rule take account of building platforms, although it was unclear how it was intended this occur.
314. Mr Barr made no comments or recommendations in respect of this rule, other than changing its number in the re-arrangement proposed in the Reply Version. Ms Justice maintained her view that restricted discretionary activity status was appropriate and suggested a matter of discretion that she considered would be suitable²⁴¹. Unfortunately, as Ms Justice did not attend the hearing, we were unable to discuss her proposal with her, nor explore with her whether it covered all the matters that may be relevant.
315. Mr Barr and Mr McCallum-Clark recommended²⁴² that, to ensure consistency with the NESTF 2016, the rule should explicitly exclude:
- a. Poles, antennas, and associated cabinets (up to 10m² in area and 3m in height) for telecommunication and radio communication; and
 - b. Lines and support structures for telecommunications.
316. We agree with that recommendation.
317. In the absence of clear evidence on how the rule could be changed and still implement the relevant policies, we recommend it be adopted as notified subject to amending “shall” to “must”, inserting the exclusions recommended by Mr Barr and Mr McCallum-Clark, and changing the rule number to 30.5.2.1.

5.24. Rule 30.5.7

318. This standard set a maximum building size of 10m² in area and 3m in height for all utility buildings in ONLs and on ONFs. Non-compliance required a discretionary activity consent.
319. The four Telecommunication Companies²⁴³ sought that the rule be deleted, while PowerNet²⁴⁴ sought that it be retained.
320. Mr Barr discussed in detail the issue of utilities locating in ONLs and on ONFs in his Section 42A Report²⁴⁵. While this discussion covered the relevant objectives and policies, and several of the rules, he did not refer to this rule directly. It was not referred to by any of the other witnesses we heard from either.

²³⁸ Submission 635

²³⁹ Submission 251

²⁴⁰ Submission 368

²⁴¹ Megan Justice, EiC, paragraph 4.20

²⁴² Joint Witness Statement, dated 25 September 2017, at paragraph 2.1(k)

²⁴³ Submissions 179, 191, 421 (supported by FS1121) and 781

²⁴⁴ Submission 251, supported by FS1121

²⁴⁵ Issue 4, Section 11

321. In his Reply Statement, Mr Barr discussed the issue of utilities locating in ONLs and on ONFs again, and recommended a series of rule amendments which he considered provided appropriate management of utilities while still providing safeguards to manage the adverse effects of them, particularly where matters under section 6 of the Act were at issue²⁴⁶. His conclusion in respect of this rule was to amend it only by excluding masts and supporting structures for lines, for which he was recommending separate controls.
322. We agree with Mr Barr's reasoning and largely accept his recommendation regarding this rule. Mr Barr and Mr McCallum-Clark also recommended²⁴⁷ amending the exclusions consistent with Rules 30.5.1.1 [notified 30.4.15] and 30.5.1.3 [notified 30.4.16]. We agree with those amendments also.
323. We recommend some minor wording changes consistent with our wording of other rules in this chapter, such that it reads:

30.5.2.2 Buildings associated with a Utility in Outstanding Natural Landscapes (ONL) and Outstanding Natural Features (ONF)

Any building within an ONL or ONF must be less than 10m² in area and less than 3m in height.

This rule does not apply to:

- a. masts or poles for navigation or meteorology;*
- b. poles, antennas, and associated cabinets (cabinets up to 10m² in area and 3m in height, exclusive of any plinth or other foundation), for any telecommunication and radio communication;*
- c. lines and support structures.*

Non-compliance requires a discretionary activity consent.

5.25. Rule 30.5.8

324. This rule provided that all buildings and structures, other than masts and antennas, had to comply with the relevant maximum height limits of the zone they were located in. Non-compliance required consent as a discretionary activity.
325. Five submissions sought the deletion of this rule²⁴⁸, and two sought amendments²⁴⁹. The submissions seeking amendments both sought exclusion of line supporting structures from the rule.
326. Mr Barr did not discuss this rule in his Section 42A Report and did not recommend any changes to it. While Mr McCallum-Clark recommended deletion of the rule, he did not clearly set out in his evidence reasons in support of that deletion. Ms Justice²⁵⁰ explained that, in terms of support structures, the Electricity Industry Standards and Regulations set out minimum safety separation distances which control the height of support structures, and that no utility provider would use support structures higher than necessary.
327. Mr Barr did not discuss this in his Reply Statement and the only amendment he recommended was a re-ordering of the exemption wording in the rule.

²⁴⁶ Craig Barr, Reply Statement, Section 11

²⁴⁷ Joint Witness Statement dated 25 September 2017 at paragraph 2.1(d)

²⁴⁸ Submissions 179, 191, 368, 421 (supported by FS1121) and 781 (supported by FS1342)

²⁴⁹ Submissions 251 and 638

²⁵⁰ Megan Justice, EIC, paragraph 4.21

328. We agree with PowerNet and Aurora that support structures should be exempt from this rule in the same way that masts and antennas are. We note, in coming to this conclusion, that as there is no underlying zoning of roads, there is effectively no height limit on line support structures when they are located in the road reserve due to the operation of s.9 of the Act. It would seem inconsistent to provide that support structures within the road reserve have no height restriction, but if they need to locate outside of the road reserve they need to reduce height to that applying to buildings in the relevant zone (or obtain a consent). We also agree that achieving appropriate safety separation distances for electricity lines is important, and that electricity lines companies are unlikely to use support structures taller than necessary.
329. Mr Barr and Mr McCallum-Clark recommended²⁵¹ the exclusion be worded consistent with that recommended for the previous rule. We agree that such consistency is appropriate.
330. For those reasons we recommend this rule read:

30.5.2.3 Height

All buildings or structures must comply with the relevant maximum height provisions for buildings of the zone they are located in.

This rule does not apply to:

- a. masts or poles for navigation or meteorology;*
- b. poles, antennas, and associated cabinets (cabinets up to 10m² in area and 3m in height, exclusive of any plinth or other foundation), for any telecommunication and radio communication;*
- c. lines and support structures.*

Non-compliance requires a discretionary activity consent.

5.26. Rule 30.5.9

331. This rule required that all utilities' development comply with NZS4404:2011. Non-compliance required consent as a discretionary activity.
332. Four submissions sought that rule be deleted²⁵², while PowerNet²⁵³ sought that the consent required for non-compliance be changed to restricted discretionary activity.
333. Although not discussed in his Section 42A Report, Mr Barr recommended deletion of the rule. It is our understanding that the relevant standard applies to earthworks related to subdivision²⁵⁴. There does not seem to be any direct relationship to utilities' development. We agree with the QLDC submission²⁵⁵ that compliance with such standards, to the extent it is required, would be achieved through other legislation.
334. We recommend the rule be deleted.

5.27. New Rules Relating to Telecommunications

335. The evidence provided by the Telecommunications Companies²⁵⁶ was that the changing technology of telecommunications, combined with the increasing demand for mobile services,

²⁵¹ Joint Witness Statement dated 25 September 2017 at paragraph 2.1(d)

²⁵² Submissions 179, 191, 383, 421 (supported by FS1121) and 781

²⁵³ Submission 251

²⁵⁴ Reasons given in Submissions 179, 191, 421 and 781

²⁵⁵ Submission 383.

²⁵⁶ G McCarrison and C Clune, Joint EiC, and M McCallum-Clark, EiC at paragraph 34

meant there was a move to small and microcells. Mr McCallum-Clark identified that if specific provision was not made for such infrastructure there was a risk that it would default to discretionary status, which, he considered, would be inappropriate.

336. Mr McCallum-Clark proposed two new activity rules²⁵⁷:
- a. Permitted activity status for small cells with a volume of no greater than 0.11m³; and
 - b. Controlled activity status for cells with a volume of between 0.11m³ and 2.5m³, with control reserved to appearance, colour and visual effects.
337. Mr Barr largely agreed with Mr McCallum-Clark's proposal²⁵⁸, although he considered that such cells should require a discretionary activity consent when located within a heritage precinct. His proposed rules²⁵⁹ also provided that any small cell with a volume exceeding 2.5m³ would require discretionary activity consent.
338. Following caucusing, Mr Barr and Mr McCallum-Clark recommended further changes to these rules²⁶⁰. First, they recommended that the permitted activity refer to "small cell unit" consistent with the use of the term in the NESTF 2016 (Regulation 38), and that a definition of "small cell unit" the same as that in the NESTF 2016 be included in the PDP. They also recommended that the reference to "small cell" in the other two rules be changed to "microcell".
339. We agree with the reasoning of Mr McCallum-Clark and Mr Barr in respect of these three proposed rules and the proposed definition, with one exception. Mr Barr's reply version provided that small cell units (as defined in the NESTF 2016) would be a discretionary activity when located within a heritage precinct. That is consistent with Regulations 38 and 46 of the NESTF 2016. However, the wording changes proposed in the Joint Witness Statement, although described as being "a minor clarification"²⁶¹ have the effect of making small cell units a permitted activity in heritage precincts. Given the lack of explanation for this change in the Joint Witness Statement we do not consider that was intended, nor do we consider it appropriate as it does not give effect to the objectives and policies of the PDP as they apply to heritage precincts.
340. Consequently we recommend the following three new rules be inserted:

30.5.6.11 Small Cell Units

Provided that the small cell unit is not located within a Heritage Precinct

Permitted activity

30.5.6.12 Microcells

A microcell and associated antennas with a volume of between 0.11m³ and 2.5m³.

Provided that the microcell is not located within a Heritage Precinct

Control is reserved to:

- a. appearance;*
- b. colour; and*

²⁵⁷ Proposed Rules 30.4.28 and 30.4.29 in the amended version of Chapter 30 attached to his EIC

²⁵⁸ C Barr, Reply Statement at paragraph 10.1

²⁵⁹ C Barr, Reply Statement, Appendix 1, Rules 30.4.51, 30.4.52 and 30.4.53

²⁶⁰ Joint Witness Statement dated 25 September 2017, at paragraphs 2.1(l), 2.1(m), 2.1(n) and 2.1(o)

²⁶¹ *ibid* at paragraph 2.1(o)

c. *visual effects*

Controlled activity

30.5.6.13 **Small Cell Units and Microcells**

30.5.13.6.1 *A microcell and associated antennas with a volume more than 2.5m³*

OR

30.5.6.13.2 *A small cell unit or microcell located within a Heritage Precinct*

Discretionary activity

341. We also recommend to the Stream 10 Hearing Panel that a new definition of “small cell unit”, as defined in the NESTF 2016, be included in Chapter 2.

5.28. **Rule 30.6**

342. This rule set out the situations in which resource consent applications for activities that would not require written consent of other person and not be notified or limited notified.

343. There were two submissions on this rule. One submission²⁶² sought that where it applied to small and community scale distributed electricity generation, it only apply to proposals having a rated capacity of less than 3.5kW. The second²⁶³ sought that notification occur for renewable energy systems over 1.2m in height.

344. Mr Barr discussed this in detail in his Section 42A Report. He noted that stand alone power systems and small and community scale distributed electricity generation are to be controlled through a series of performance standards. Non-compliance with those performance standards could have adverse effects on neighbours. He recommended deleting stand-alone power systems and small and community scale distributed electricity generation from this rule, leaving the circumstances of each application to determine whether an application be notified or not.

345. We agree with Mr Barr. We add that the proposed location of such activities in one of the sensitive locations listed in [notified] Rule 30.4.3 may also justify public notification, depending upon the circumstances of the proposal. We note that the further submission by Queenstown Park Limited opposing Submission 20 gave as its reasons that applications for utilities should generally not be notified. The activities the submission refers to are not utilities, rather they are renewable electricity generation activities.

346. In his Reply Statement, Mr Barr recommended two exceptions to the proposed rule (30.6.1.3) exempting controlled activity applications from notification, both related to activities near the National Grid. The additional wording recommended by Mr Barr read:

... except for applications when within the National Grid Corridor or within 45 m of the designated boundary of Transpower New Zealand Limited’s Frankton substation.

347. We understood from Mr Renton, as we have discussed above in Section 5.16, that Transpower preferred to work with landowners to ensure buildings and structures close to the Frankton

²⁶² Submission 383

²⁶³ Submission 20 opposed by FS1097.

Substation could be erected. It was the nature of materials and way buildings and structures were erected that was critical. From that understanding, we agree that applications under our recommended Rule 30.5.3.4 not be exempt from notification. There is value in Transpower having the ability to be involved in any such application.

348. The exemption is relation to applications in the National Grid Corridor recommended by Mr Barr is superfluous as there are no rules that we are recommending that are controlled activities in that corridor. Under recommended Rules 30.5.3.2 and 30.5.3.3 certain activities are permitted. Activities not meeting the standards applicable to those permitted activities requires consent as a non-complying activity (Rules 30.5.4.1 and 30.5.4.2).
349. Consequently, we recommend that 30.6.1.1 and 30.6.1.2 be deleted from Rule 30.6 and the remaining two clauses be renumbered, and what is now 30.6.1.1 read:

Controlled activities except for applications when within 45 m of the designated boundary of Transpower New Zealand Limited's Frankton substation.

5.29. Summary of Conclusions on Rules

350. We have set out in full in Appendix 1 the rules we recommend the Council adopt. For all the reasons set out above, we are satisfied that these rules are the most effective and efficient means of implementing the policies so as to achieve the objectives of Chapter 30, and those in the Strategic Directions chapters. Where we have recommended rules not be included, that is because, as our reasons above show, we do not consider them to be efficient or effective.

6. CHANGES SOUGHT TO DEFINITIONS

6.1. Introduction

351. Submitters on this Chapter also lodged submissions on a number of notified definitions and also sought the inclusion of several new definitions. In accordance with the Hearing Panel's directions in its Second Procedural Minute dated 5 February 2016, we heard evidence on these definitions and have considered them in the context of the rules which apply them. However, to ensure a consistent outcome of consideration of definitions, given the same definition may be relevant to a number of hearing streams, our recommendations in this part of the report are to the Hearing Stream 10 Panel, who have overall responsibility for recommending the final form of the definitions to the Council. As the recommendations in this section are not directly to the Council, we have listed the wording we are recommending for these definitions in Appendix 5.
352. We note that we have already dealt with the following definitions relevant to the rules relating to the National Grid in Section 5.15 above:
- a. National Grid Corridor;
 - b. National Grid Yard;
 - c. National Grid Sensitive Activities;
 - d. Sensitive Activities – Transmission corridor;
 - e. Artificial crop protection structure;
 - f. Crop support structure;
 - g. Earthworks within the National Grid Yard; and
 - h. Protective canopy.

We do not discuss those further.

353. In Section 5.14 above we dealt with the definition of “minor upgrading”.
354. Transpower²⁶⁴ lodged submissions supporting the definitions of “amenity” and “structure”. As both are terms defined in s.2 of the Act we consider no further discussion of these submissions is warranted. We recommend the submissions be accepted.
355. Aurora²⁶⁵ lodged a submission supporting the definition of “development”. In the context of this chapter, we recommend that submission be accepted.
356. The Telecommunication Companies²⁶⁶ lodged submissions supporting the definition of “height” and sought its retention. In the context of this chapter, we recommend those submissions be accepted.
357. Two of the definitions sought by Aurora²⁶⁷ were directly related to its submission seeking rules to impose setbacks from certain of its lines. We discussed this part of Aurora’s submission in detail in Section 2.2 above and recommended that it not be adopted. As the two definitions would only need to be included in the PDP if we had accepted that submission, we recommend that the submission seeking the inclusion of definitions for “critical electricity lines” and “electricity distribution line corridor” be rejected.

6.2. Building

358. As notified, this was defined as:

Building *Shall have the same meaning as the Building Act 2004, with the following exemptions in addition to those set out in the Building Act 2004:*

- *Fences and walls not exceeding 2m in height.*
- *Retaining walls that support no more than 2 vertical metres of earthworks.*
- *Structures less than 5m² in area and in addition less than 2m in height above ground level.*
- *Radio and television aerials (excluding dish antennae for receiving satellite television which are greater than 1.2m in diameter), less than 2m in height above ground level.*
- *Uncovered terraces or decks that are no greater than 1m above ground level.*
- *The upgrading and extension to the Arrow Irrigation Race provided that this exception only applies to upgrading and extension works that involve underground piping of the Arrow Irrigation Race.*
- *Flagpoles not exceeding 7m in height.*
- *Building profile poles, required as part of the notification of Resource Consent applications.*
- *Public outdoor art installations sited on Council-owned land.*
- *Pergolas less than 2.5 metres in height either attached or detached to a building.*
- *Notwithstanding the definition set out in the Building Act 2004, a building shall include:*

²⁶⁴ Submission 805

²⁶⁵ Submission 635

²⁶⁶ Submissions 179, 181, 421 and 781

²⁶⁷ Submission 635

- *Any vehicle, trailer, tent, marquee, shipping container, caravan or boat, whether fixed or moveable, used on a site for residential accommodation for a period exceeding 2 months.*

359. The Telecommunication Companies²⁶⁸ sought that this be amended to refer to the Building Act 2004 definition. Their submission was that the inclusion of a number standards in the definition caused confusion and that such standards should be included in the rules rather than the definition. Transpower²⁶⁹ supported the notified definition.

360. Mr Barr agreed with the further submission by Arcadian Triangle Ltd²⁷⁰ that the definition had been used in the ODP for at least 20 years and that it was preferable to have the exemptions listed in one place, rather than scattered repeatedly through the rules. Mr McCallum-Clark did not address this issue in his evidence and omitted this definition from his list of recommended changes to definitions²⁷¹.

361. In the absence of any evidence in support of this definition being amended, we recommend the submissions of the Telecommunication Companies and the further submissions in support be rejected, and Transpower’s submission and the further submissions in opposition by Arcadian Triangle Ltd be accepted.

6.3. Telecommunications Facility

362. As notified, this read:

Telecommunications Facility *Means devices, such as aerials, dishes, antennae, wires, cables, casings, tunnels and associated equipment and support structures, and equipment shelters, such as towers, masts and poles, and equipment buildings and telephone boxes, used for the transmitting, emission or receiving of communications.*

363. The Telecommunication Companies²⁷² sought minor amendments to the wording of this definition. Mr Barr noted²⁷³ that with the replacement of the word ‘facilities’ with the word ‘mast’ in the relevant rules, this definition becomes redundant and should be deleted.

364. We agree with Mr Barr’s assessment and recommend the definition be deleted.

6.4. Utility

365. As notified, this read:

Utility *Means the systems, services, structures and networks necessary for operating and supplying essential utilities and services to the community including but not limited to:*

- *transformers, lines and necessary and incidental structures and equipment for the transmissions and distribution of electricity;*
- *pipes and necessary incidental structures and equipment for transmitting and distributing gas;*

²⁶⁸ Submissions 179 (supported by FS1097, opposed by FS1255), 191 (supported by FS1097, opposed by FS1255), 421 (opposed by FS1117 and FS1097) and 781

²⁶⁹ Submission 805

²⁷⁰ FS1255

²⁷¹ Matthew McCallum-Clark, EiC, Appendix

²⁷² Submissions 179, 191, 421 and 781 (supported by FS1342)

²⁷³ C Barr, Reply Statement, paragraph 14.1

- *storage facilities, pipes and necessary incidental structures and equipment for the supply and drainage of water or sewage;*
- *water and irrigation races, drains, channels, pipes and necessary incidental structures and equipment (excluding water tanks);*
- *structures, facilities, plant and equipment for the treatment of water;*
- *structures, facilities, plant, equipment and associated works for receiving and transmitting telecommunications and radio communications (see definition of telecommunication facilities);*
- *structures, facilities, plant, equipment and associated works for monitoring and observation of meteorological activities and natural hazards;*
- *structures, facilities, plant, equipment and associated works for the protection of the community from natural hazards.*
- *structures, facilities, plant and equipment necessary for navigation by water or air;*
- *waste management facilities; and*
- *Anything described as a network utility operation in s166 of the Resource Management act 1991*
- *Utility does not include structures or facilities used for electricity generation, the manufacture and storage of gas, or the treatment of sewage.*

366. Seven submissions on this definition sought the following changes:
- a. Add “flood protection works”²⁷⁴;
 - b. Include “substations”²⁷⁵;
 - c. Include “temporary emergency generators” by excluding them from the exclusion of electricity generation facilities²⁷⁶;
 - d. Add “antennas, lines (including cables)” to the 6th bullet point²⁷⁷ or alternatively delete the definition and replace with the definition of “infrastructure” from the Act; and
 - e. Add “structures for transport on land by cycleways, rail, roads, walkway, or any other means”²⁷⁸.
367. Transpower²⁷⁹ supported the definition but sought a minor grammatical change to refer to transmission of electricity in the singular.
368. In his Section 42A Report²⁸⁰, Mr Barr recommended that substations and flood protection works be included in the definition, but that other submissions be rejected. Mr MacColl, appearing for NZTA, disagreed with Mr Barr’s assessment that structures for land transport were not utilities²⁸¹. He noted that NZTA was a network utility operator and thus its roading network, through the inclusion in the definition of anything described as a network utility operation by the Act, was a utility. Queenstown Park Ltd supported the NZTA amendment

²⁷⁴ Submission 383

²⁷⁵ Submission 635 supported by FS1301

²⁷⁶ Submission 635

²⁷⁷ Submissions 179 (opposed by FS1132), 191 (supported by FS1121, FS1097), 421 and 781 (supported by FS1342)

²⁷⁸ Submission 719 supported by FS1097

²⁷⁹ Submission 805

²⁸⁰ Craig Barr, Section 42A Report, paragraphs 9.53 to 9.57

²⁸¹ Anthony MacColl, EiC, paragraphs 21 to 22

provided it included gondolas²⁸². Mr Fitzpatrick appeared in support of this further submission and Mr Young filed written legal submissions.

369. In his Reply Statement, Mr Barr expressed the concern that the definition of utilities was potentially too enabling, as it could allow any person to apply the utility chapter to their activities, irrespective of whether it was an essential service to the community. He considered that the definition should simply confirm that the chapter applies only to network utility operators²⁸³. Otherwise, he did not recommend any further amendments to the definition.
370. We have some sympathy with the concerns expressed by Mr Barr in his Reply Statement. When looked at closely, for the most part the definition repeats, although with different wording, the activities described in s.166 of the Act which are undertaken by network utility operators. There are some additional activities included such as works for protection from natural hazards, waste management facilities, and facilities for meteorological activities. However, the phrase used to include reference to s.166 actually refers to the operations listed, and is not limited to network utility operators. This means, for instance, that the private operation of a road would be deemed a utility for the purposes of Chapter 30. It is exemplified by the submissions of Queenstown Park Limited suggesting that a gondola proposal of the company's should be considered a utility because it would offer a form of land transport.
371. We agree with Mr Barr that there is no scope to modify the definition to deal with this matter. We do recommend that the Council review this definition and consider, in the context of the provisions of Chapter 30 as we are recommending them, whether it is actually providing for the operations they expect it to be providing for.
372. As for the definition itself, we agree with Mr Barr that flood protection works and substations should be included. We do not consider it necessary to exclude temporary emergency generators from the exclusion as we have recommended rules in the Energy Section of the chapter to provide for such activities as generation activities. We do not consider the inclusion the NZTA sought is necessary. Rather, we consider retaining their operations through the wording of s.166 is preferable to widening it in the way the NZTA submission sought.
373. We consider the addition sought by the Telecommunication companies to be a "belts and braces" approach. The definition of Telecommunication Facilities includes those terms. It would actually be cleaner to just replace the entire 6th bullet point with the term Telecommunication Facilities, but we do consider there to be scope to make such a change.
374. We additionally note, however, for the reasons discussed in Section 4.3 above, that in our view the Council should initiate a variation to exclude airport activities and airport related activities occurring within the Airport Mixed Use zone from the definition of Utility.
375. For all of those reasons we recommend the definition of utility be as follows²⁸⁴:

Utility *Means the systems, services, structures and networks necessary for operating and supplying essential utilities and services to the community including but not limited to:*

- a. substations, transformers, lines and necessary and incidental structures and equipment for the transmissions and distribution of electricity;*

²⁸² Further submission 1097

²⁸³ Craig Barr, Reply Statement, paragraphs 14.11 to 14.13

²⁸⁴ We have changed the bullet points to an alphabetic list for ease of future reference

- b. pipes and necessary incidental structures and equipment for transmitting and distributing gas;
- c. storage facilities, pipes and necessary incidental structures and equipment for the supply and drainage of water or sewage;
- d. water and irrigation races, drains, channels, pipes and necessary incidental structures and equipment (excluding water tanks);
- e. structures, facilities, plant and equipment for the treatment of water;
- f. structures, facilities, plant, equipment and associated works for receiving and transmitting telecommunications and radio communications (see definition of telecommunication facilities);
- g. structures, facilities, plant, equipment and associated works for monitoring and observation of meteorological activities and natural hazards;
- h. structures, facilities, plant, equipment and associated works for the protection of the community from natural hazards.
- i. structures, facilities, plant and equipment necessary for navigation by water or air;
- j. waste management facilities;
- k. flood protection works; and
- l. Anything described as a network utility operation in s166 of the Resource Management act 1991
- m. Utility does not include structures or facilities used for electricity generation, the manufacture and storage of gas, or the treatment of sewage.

6.5. Energy Activities

376. QLDC²⁸⁵ sought the inclusion of a new definition of energy activities to read:

Energy Activities

- *Small and Community-Scale Distributed Electricity Generation and Solar Water Heating*
- *Renewable Electricity Generation*
- *Non-renewable Electricity Generation*
- *Wind Electricity Generation*
- *Solar Electricity Generation*
- *Solar Water Heating*
- *Stand-Alone Power Systems (SAPS)*
- *Biomass Electricity Generation*
- *Hydro Generation Activity*
- *Mini and Micro Hydro Electricity Generation*

377. Mr Barr recommended inclusion of this submission so as to provide clarity on which activities would be intended covered by the rules on energy activities, and that it would limit the possibility for unintended activities to be applicable²⁸⁶. There were no further submissions and no other evidence on this submission.

378. We agree with Mr Barr’s reasoning, but note that in his suggested wording he has added “Includes the following” before the list of activities. Those words undermine his rationale for

²⁸⁵ Submission 383

²⁸⁶ Craig Barr, Section 42A Report, paragraphs 9.24 and 9.25

the definition by allowing for other non-listed activities to be included. We also doubt that there is scope to widen the definition in that way. We agree the definition needs some introductory words but consider that such words should limit the term “energy activities” to those in the list and no others. Therefore, we recommend the definition read:

Energy Activities means the following activities:

- a. Small and Community-Scale Distributed Electricity Generation and Solar Water Heating;
- b. Renewable Electricity Generation;
- c. Non-renewable Electricity Generation;
- d. Wind Electricity Generation;
- e. Solar Electricity Generation;
- f. Solar Water Heating;
- g. Stand-Alone Power Systems (SAPS);
- h. Biomass Electricity Generation;
- i. Hydro Generation Activity;
- j. Mini and Micro Hydro Electricity Generation.

6.6. Electricity Distribution

379. Aurora²⁸⁷ sought the inclusion of a new definition of electricity distribution to read as follows:

Electricity Distribution Means the conveyance of electricity via electricity distribution lines, cables, support structures, substations, transformers, switching stations, kiosks, cabinets and ancillary buildings and structures, including communication equipment, by a network utility operator. For the avoidance of doubt, this includes, but is not limited to Aurora Energy Limited assets shown on the planning maps.

380. Mr Barr noted that Federated Farmers opposition was to the critical lines network provisions we dealt with earlier in this report, and they did support the notion of clarifying the lines which were not part of the national grid. Transpower supported the submission for similar reasons. Mr Barr supported the inclusion of a definition to achieve that distinction and recommended the Aurora definition be adopted, subject to deletion of the last sentence. We heard no other evidence on this definition.

381. We agree that it would be useful for the PDP to include a definition distinguishing those electricity lines that do not form part of the national grid. We recommend the definition, as modified by Mr Barr, be adopted.

6.7. Regionally Significant Infrastructure

382. Two submissions²⁸⁸ sought the inclusion of a definition of regionally significant infrastructure. Each definition was different so we do not repeat them here.

383. Mr Barr identified that this definition had been considered in the Stream 1B hearing²⁸⁹. He adopted the definition recommended by Mr Paetz in that hearing, but modified it to include reference to the sub-transmission network (Mr Barr’s term for Aurora’s “critical electricity lines”).

384. The only submissions in relation to this definition were from Mr Young on behalf of Queenstown Park Ltd. He submitted that if the gondola QPL intends to construct proceeded,

²⁸⁷ Submission 635 supported by FS1301, opposed by FS1132

²⁸⁸ Submissions 635 (supported by FS1077, FS1211, FS1097, opposed by FS1132) and 805 (supported by FS1121, FS1159, FS1340, FS1077, FS1106, FS1208, FS1211, FS1253)

²⁸⁹ Craig Barr, Section 42A Report, paragraphs 9.2 to 9.8.

it would be a significant addition to Queenstown’s tourist offering. However, we cannot see how that, nor the connection of the Remarkables Park Zone to the Remarkables ski field as referred to by Mr Young, are regionally significant. In our view, for infrastructure to be regionally significant it must do more than just serve this district.

385. We have considered the Recommendation Report of the Stream 1B Panel and agree with that Panel’s conclusion²⁹⁰ that the identification of regionally significant infrastructure is primarily a matter for the Regional Council, except where the proposed RPS might be considered ambiguous or inapplicable. We adopt that Panel’s reasoning and recommend the definition be worded as that Panel recommended.

6.8. Support Structure

386. Aurora²⁹¹ sought the inclusion of a definition of support structure reading as follows:

***Support Structure** Means a utility pole or tower that forms part of the electricity distribution network or National Grid that supports conductors as part of an electricity distribution line or transmission line. This includes any ancillary equipment, such as communication equipment or transformers, used in the conveyance of electricity.*

387. Mr Barr agreed that adding this definition would add clarity to the rules as the term is used in several places²⁹². He also considered whether it should be limited to electricity lines and concluded that as telecommunication lines have their own definition such a limitation would be satisfactory. He did recommend some minor word changes of a non-substantive nature.

388. The difficulty that we can see with the inclusion of the definition as recommended is that the term “support structures” is, as Mr Barr noted, used in the definition of telecommunication facility. The inclusion of this definition would mean that the reference in telecommunication facility would be limited to electricity lines, which is not what is intended. If “support structure” is to have a definition in the PDP it must be a definition which can be applied every time the term “support structure” is used.

389. We have examined our recommended text of Chapter 30 and related definitions and found that “support structure” is used both in relation to electricity lines and telecommunication lines, as well as other telecommunication facilities. We do not think that a satisfactory definition could be created to encompass all the actual uses of the term that would improve on the ordinary natural meaning of the words. We therefore recommend that this submission be rejected.

6.9. Reverse Sensitivity

390. Transpower²⁹³ sought the inclusion of a definition of reverse sensitivity worded as follows:

***Reverse Sensitivity:** is the legal vulnerability of an established activity to complaint from a new land use. It arises when an established use is causing adverse environmental impact to nearby land, and a new, benign activity is proposed for the land. The ‘sensitivity’ is this: if the new use is permitted, the established use may be required to restrict its operations or mitigate its effects so as not to adversely affect the new activity.*

²⁹⁰ Recommendation Report 3, paragraph 768

²⁹¹ Submission 635, supported by FS1301, opposed by FS1132

²⁹² Craig Barr, Section 42A Report, paragraphs 9.26 to 9.27

²⁹³ Submission 805, supported by FS1211, opposed by FS1077

391. Mr Barr was hesitant to recommend this definition as it essentially stated caselaw from a 2008 Environment Court decision and could be subject to further refinement by the courts²⁹⁴.
392. Ms McLeod accepted Mr Barr's opinion and did not consider the definition was necessary²⁹⁵. The New Zealand Defence Force²⁹⁶ tabled a letter accepting the recommendations in the Section 42A Report.
393. We accept that agreement between the parties and recommend that Transpower's submission seeking the reverse sensitivity definition be rejected.

6.10. Small Cell Unit

394. We have explained our reasons for including this new definition in Section 5.27 above. We agree with Mr Barr and Mr McCallum-Clark²⁹⁷ that scope for the inclusion of this definition is provided by the submissions of the Telecommunications Companies²⁹⁸. We recommend that the definition read:

Small Cell Unit means a device:

- a. *that receives or transmits radiocommunication or telecommunication signals; and*
- b. *the volume of which (including any ancillary equipment, but not including any cabling) does not exceed 0.11m³.*

²⁹⁴ Craig Barr, Section 42A Report, paragraphs 9.35 to 9.37

²⁹⁵ Ainsley McLeod, EiC, p.29

²⁹⁶ Further Submission FS1211

²⁹⁷ Joint Witness Statement dated 25 September 2017 at paragraph 2.1(o)

²⁹⁸ Submissions 179, 191, 421 and 781

36 NOISE

36.1 Purpose

The purpose of this chapter is to manage the effects of noise in the District. Noise is part of the environment. While almost all activities give rise to some degree of noise, noise can cause adverse effects on amenity values and the health and wellbeing of people and communities. Adverse effects may arise where the location, character, frequency, duration, or timing of noise is inconsistent or incompatible with anticipated or reasonable noise levels.

The Resource Management Act 1991 (RMA) requires every occupier of land and every person carrying out an activity to adopt the best practicable option to ensure noise does not exceed a reasonable level. The RMA also defines noise to include vibration. "Reasonable" noise levels are determined by the standard of amenity and ambient noise level of the receiving environment and the Council provides direction on this through the prescription of noise limits for each Zone. Noise is also managed by the Council through the use of relevant New Zealand Standards for noise. Land use and development activities, including activities on the surface of lakes and rivers, should be managed in a manner that avoids, remedies or mitigates the adverse effects of noise to a reasonable level.

In most situations, activities should consider the control of noise at the source and the mitigation of adverse effects of noise on the receiving environment. However, the onus on the reduction of effects of noise should not always fall on the noise generating activity. In some cases it may be appropriate for the noise receiver to avoid or mitigate the effects from an existing noise generating activity, particularly where the noise receiver is a noise sensitive activity.

Overflying aircraft have the potential to adversely affect amenity values. The Council controls noise emissions from airports, including take-offs and landings, via provisions in this District Plan, and Designation conditions. However, this is different from controlling noise from aircraft that are in flight. The RMA which empowers territorial authorities to regulate activities on land and water affecting amenity values, does not enable the authorities to control noise from overflying aircraft. Noise from overflying aircraft is controlled under section 29B of the Civil Aviation Act 1990.

With the exception of ventilation requirements for the Queenstown and Wanaka town centres contained in Rule 36.7, and noise from water and motor-related noise from commercial motorised craft within the Queenstown Town Centre Waterfront Sub-Zone (which is subject to Rule 36.5.13) noise received within town centres is not addressed in this chapter, but rather in the Queenstown, Wanaka and Arrowtown Town Centre Zone chapters. This is due to the town centre-specific complexities of noise in those zones, and its fundamental nature as an issue that inter-relates with all other issues in those zones. Noise generated in the town centres but received outside of the town centres is managed under this chapter, except that noise from music, voice and loudspeakers in the Wanaka and Queenstown Town Centres (excluding the Queenstown Town Centre Transition Sub-Zone), need not meet the noise limits set by this chapter.

36.2 Objectives and Policies

36.2.1 Objective - The adverse effects of noise emissions are controlled to a reasonable level to manage the potential for conflict arising from adverse noise effects between land use activities.

- Policies
- 36.2.1.1 Avoid, remedy or mitigate adverse effects of unreasonable noise from land use and development.
 - 36.2.1.2 Avoid, remedy or mitigate adverse noise reverse sensitivity effects.

36.3.1 District Wide

Attention is drawn to the following District Wide Chapters.

1 Introduction	2 Definitions	3 Strategic Direction
4 Urban Development	5 Tangata Whenua	6 Landscapes and Rural Character
25 Earthworks	26 Historic Heritage	27 Subdivision
28 Natural Hazards	29 Transport	30 Energy and Utilities
31 Signs	32 Protected Trees	33 Indigenous Vegetation
34 Wilding Exotic Trees	35 Temporary Activities and Relocated Buildings	37 Designations
Planning Maps		

36.3.2 Interpreting and Applying the Rules

- 36.3.2.1 Any activity that is not Permitted requires resource consent. Any activity that does not specify an activity status for non-compliance but breaches a standard, requires resource consent as a Non-complying activity.
- 36.3.2.2 Sound levels shall be measured and assessed in accordance with NZS 6801:2008 Acoustics - Measurement of Environmental Sound and NZS 6802:2008 Acoustics - Environmental Noise, except where another Standard has been referenced in these rules, in which case that Standard should apply.
- 36.3.2.3 Any activities which are Permitted, Controlled or Restricted Discretionary in any section of the District Plan must comply with the noise standards in Tables 2, 3, 4 and 5 below, where that standard is relevant to that activity.
- 36.3.2.4 In addition to the above, the noise from the activities listed in Table 1 shall be Permitted activities in all zones (unless otherwise stated). For the avoidance of doubt, the activities in Table 1 are exempt from complying with the noise standards set out in Table 2.
- 36.3.2.5 Notwithstanding compliance with Rules 36.5.13 (Helicopters) and 36.5.14 (Fixed Wing Aircraft) in Table 3, informal airports shall also be subject to the rules in the chapters relating to the zones in which the activity is located.
- 36.3.2.6 Sound from non-residential activities, visitor accommodation activities and sound from stationary electrical and mechanical equipment must not exceed the noise limits in Table 2 in each of the zones in which sound from an activity is received. The noise limits in Table 2 do not apply to assessment locations within the same site as the activity.
- 36.3.2.7 The noise limits contained in Table 2 do not apply to sound from aircraft operations at Queenstown Airport or Wanaka Airport.

- 36.3.2.8 Noise standards for noise received in the Queenstown, Wanaka and Arrowtown Town Centre, Local Shopping and Business Mixed Use zones are not included in this chapter. Please refer to Chapters 12, 13, 14, 15 and 16. The noise standards in this chapter still apply for noise generated within these zones but received in other zones, except that noise from music, voices, and loud speakers in the Wanaka and Queenstown Town Centres (excluding the Queenstown Town Centre Transition Sub-Zone) need not meet the noise limits set by this chapter.
- 36.3.2.9 The standards in Table 3 are specific to the activities listed in each row and are exempt from complying with the noise standards set out in Table 2.
- 32.3.2.10 The following abbreviations are used in the tables:

P	Permitted	C	Controlled	RD	Restricted Discretionary
D	Discretionary	NC	Non-Complying	PR	Prohibited

36.4 Rules - Activities

Table 1 - Permitted Activities

Rule Number	Permitted Activities	Activity Status
36.4.1	Sound from vehicles on public roads or trains on railway lines (including at railway yards, railway sidings or stations).	P
36.4.2	Any warning device that is activated in the event of intrusion, danger, an emergency or for safety purposes, provided that vehicle reversing alarms are a broadband directional type.	P
36.4.3	Sound arising from fire stations (including rural fire stations), fire service appliance sirens and call-out sirens for volunteer brigades.	P
36.4.4	Sound from temporary military training activities.	P
36.4.5	In the Rural Zone and the Gibbston Character Zone, sound from farming and forestry activities, and bird scaring devices, other than sound from stationary motors and stationary equipment.	P
36.4.6	Sound from telecommunications cabinets in road reserve.	P
36.4.7	Sound from emergency and backup electrical generators: <ul style="list-style-type: none"> a. operating for emergency purposes or; b. operating for testing and maintenance for less than 60 minutes each month during a weekday between 0900 and 1700. For the purpose of this rule backup generators are generators only used when there are unscheduled outages of the network (other than routine testing or maintenance provided for in (b) above).	P

36.5

Rules - Standards

Table 2 - General Standards

Rule Number	General Standards				Non-compliance Status
	Activity or sound source	Assessment location	Time	Noise Limits	
36.5.1	Rural Zone (Note: refer 36.5.14 for noise received in the Rural Zone from the Airport Zone - Queenstown). Gibbston Character Zone Airport Zone - Wanaka	Any point within the notional boundary of a residential unit.	0800h to 2000h	50 dB L _{Aeq(15 min)}	NC
			2000h to 0800h	40 dB L _{Aeq(15 min)} 75 dB L _{AFmax}	NC
36.5.2	Low, Medium, and High Density and Large Lot Residential Zones (Note: refer 36.5.14 for noise received in the Residential Zones from the Airport Zone - Queenstown). Arrowtown Residential Historic Management Zone Rural Residential Zone Rural Lifestyle Zone Waterfall Park Zone Millbrook Resort Zone - Residential Activity Areas only Jacks Point Zone- Residential Activity Areas only	Any point within any site.	0800h to 2000h	50 dB L _{Aeq(15 min)}	NC
			2000h to 0800h	40 dB L _{Aeq(15 min)} 75 dB L _{AFmax}	NC
36.5.3	Airport Zone - Queenstown	At any point within the zone.	Any time	No limit	P
36.5.4	Jacks Point Zone - Village Activity Area only	Any point within any site.	0800h to 2200h	60 dB L _{Aeq(15 min)}	NC
			2200h to 0800h	50 dB L _{Aeq(15 min)} 75 dB L _{AFmax}	NC

Table 3 - Specific Standards

Rule Number	Specific Standards				Non-compliance Status	
	Activity or sound source	Assessment location	Time	Noise Limits		
36.5.5	<p>Certain Telecommunications Activities in Road Reserve</p> <p>The Resource Management (National Environmental Standards for Telecommunications Facilities “NESTF”) Regulations 2008 provide for noise from telecommunications equipment cabinets located in the road reserve as a permitted activity, subject to the specified noise limits.</p> <p>The noise from the cabinet must be measured in accordance with NZS 6801: 2008 Acoustics – Measurement of environmental sound, the measurement must be adjusted in accordance with NZS 6801: 2008 Acoustics – Measurement of environmental sound to a free field incident sound level, and the adjusted measurement must be assessed in accordance with NZS 6802: 2008 Acoustics – Environmental noise.</p>	36.5.5.1	<p>Where a cabinet located in a road reserve in an area in which allows residential activities, the noise from the cabinet must be measured and assessed at 1 of the following points:</p> <ul style="list-style-type: none"> a. if the side of a building containing a habitable room is within 4 m of the closest boundary of the road reserve, the noise must be measured: <ul style="list-style-type: none"> i. at a point 1 m from the side of the building; or ii. at a point in the plane of the side of the building; b. in any other case, the noise must be measured at a point that is: <ul style="list-style-type: none"> i. at least 3 m from the cabinet; and ii. within the legal boundary of land next to the part of the road reserve where the cabinet is located. 	0700h to 2200h	50 dB $L_{Aeq(5 \text{ min})}$	Refer NESTF
				2200h to 0700h	40 dB $L_{Aeq(5 \text{ min})}$	
				2200h to 0700h	65 dB L_{AFmax}	
		Any time	60 dB $L_{Aeq(5 \text{ min})}$			
		36.5.5.2	<p>Where a cabinet is located in a road reserve in an area in which does not allow residential activities, the noise from the cabinet must be measured and assessed at 1 of the following points:</p> <ul style="list-style-type: none"> a. if the side of a building containing a habitable room is within 4 m of the closest boundary of the road reserve, the noise must be measured: <ul style="list-style-type: none"> i. at a point 1 m from the side of the building; or ii. at a point in the plane of the side of the building; b. in any other case, the noise must be measured at a point that is: <ul style="list-style-type: none"> i. at least 3 m from the cabinet; and ii. within the legal boundary of land next to the part of the road reserve where the cabinet is located. 	2200h to 0700h	65 dB L_{AFmax}	

Rule Number	Specific Standards				Non-compliance Status
	Activity or sound source	Assessment location	Time	Noise Limits	
36.5.6	<p>Wind Turbines</p> <p>Wind farm sound must be measured and assessed in accordance with NZS 6808:2010 Acoustics - Wind Farm Noise</p>	At any point within the notional boundary of any residential unit.	Any time	40 dB $L_{A90(10 \text{ min})}$ or the background sound level $L_{A90(10 \text{ min})}$ plus 5 dB, whichever is higher	NC
36.5.7	<p>Audible Bird Scaring Devices</p> <p>The operation of audible devices (including gas guns, audible avian distress alarms and firearms for the purpose of bird scaring, and excluding noise arising from fire stations).</p> <p>In relation to gas guns, audible avian distress alarms and firearms no more than 15 audible events shall occur per device in any 60 minute period.</p> <p>Each audible event shall not exceed three sound emissions from any single device within a 1 minute period and no such events are permitted during the period between sunset and sunrise the following day.</p> <p>The number of devices shall not exceed one device per 4 hectares of land in any single land holding, except that in the case of a single land holding less than 4 hectares in area, one device shall be permitted.</p>	36.5.7.1 At any point within a Residential Zone or the notional boundary of any residential unit, other than on the property in which the device is located.	Hours of daylight but not earlier than 0600h	65 dB L_{AE} shall apply to any one event	NC
		36.5.7.2 In any public place.	At any time	90 dB L_{AE} is received from any one noise event	
36.5.8	<p>Frost fans</p> <p>Sound from frost fans.</p>	At any point within the notional boundary of any residential unit, other than residential units on the same site as the activity.	At any time	55 dB $L_{A_{\text{aeg}}}$ (15 min)	NC

Rule Number	Specific Standards				Non-compliance Status
	Activity or sound source	Assessment location	Time	Noise Limits	
36.5.9	<p>Vibration</p> <p>Vibration from any activity shall not exceed the guideline values given in DIN 4150-3:1999 Effects of vibration on structures at any buildings on any other site.</p>	On any structures or buildings on any other site.	Refer to relevant standard	Refer to relevant standard	NC
36.5.10	<p>Helicopters</p> <p>Sound from any helicopter landing area must be measured and assessed in accordance with NZ 6807:1994 Noise Management and Land Use Planning for Helicopter Landing Areas.</p> <p>Sound from helicopter landing areas must comply with the limits of acceptability set out in Table 1 of NZS 6807.</p> <p>In assessing noise from helicopters using NZS 6807: 1994 any individual helicopter flight movement, including continuous idling occurring between an arrival and departure, shall be measured and assessed so that the sound energy that is actually received from that movement is conveyed in the Sound Exposure Level (SEL) for the movement when calculated in accordance with NZS 6801: 2008.</p> <p>For the avoidance of doubt this rule does not apply to Queenstown Airport and Wanaka Airport.</p> <p>Advice Note: See additional rules in Rural Zone Chapter at 21.10.1 and 21.10.2.</p>	<p>At any point within the notional boundary of any residential unit, other than residential units on the same site as the activity.</p> <p>*Note: The applicable noise limit in this rule and in rule 36.5.11 below for informal airports/landing strips used by a combination of both fixed wing and helicopters shall be determined by an appropriately qualified acoustic engineer on the basis of the dominant aircraft type to be used.</p>	At all times	50 dB L _{dn}	NC
36.5.11	<p>Fixed Wing Aircraft</p> <p>Sound from airports/landing strips for fixed wing aircraft must be measured and assessed in accordance with NZS 6805:1992 Airport Noise Management and Land Use Planning.</p> <p>For the avoidance of doubt this rule does not apply to Queenstown and Wanaka Airports.</p> <p>Advice Note: See additional rules in Rural Zone Chapter at 21.10.1 and 21.10.2.</p>	<p>At any point within the notional boundary of any residential unit and at any point within a residential site other than residential units on the same site as the activity.</p> <p>*Note: The applicable noise limit in this rule and in rule 36.5.10 above for informal airports/landing strips used by a combination of both fixed wing and helicopters shall be determined by an appropriately qualified acoustic engineer on the basis of the dominant aircraft type to be used.</p>	At all times	55 dB L _{dn}	NC

Rule Number	Specific Standards				Non-compliance Status
	Activity or sound source	Assessment location	Time	Noise Limits	
36.5.12	<p>Construction Noise</p> <p>Construction sound must be measured and assessed in accordance with NZS 6803:1999 Acoustics - Construction Noise. Construction sound must comply with the recommended upper limits in Tables 2 and 3 of NZS 6803. Construction sound must be managed in accordance with NZS 6803.</p>	At any point within any other site.	Refer to relevant standard	Refer to relevant standard	D
36.5.13	<p>Commercial Motorised Craft</p> <p>Sound from motorised craft must be measured and assessed in accordance with ISO 2922:2000 and ISO 14509-1:2008.</p>	25 metres from the craft.	0800 to 2000h 2000h to 0800h	77 dB L _{ASmax} 67 dB L _{ASmax}	NC
36.5.14	Sound from the Airport Zone - Queenstown received in the Residential Zones, and the Rural Zone, excluding sound from aircraft operations that are subject to the Queenstown Airport Designation No.2.	At any point within the Residential Zone and at any point within the notional boundary in the Rural Zone.	0700h to 2200h 2200h to 0700h	55 dB _{Aeq(15 min)} 45 dB _{Aeq(15 min)} 70 dB _{AFmax}	RD Discretion is restricted to the extent of effects of noise generated on adjoining zones.

36.6

Airport Noise

36.6.1 Sound Insulation Requirements for the Queenstown and Wanaka Airport - Acceptable Construction Materials (Table 4).

The following table sets out the construction materials required to achieve appropriate sound insulation within the airport Air Noise Boundary (ANB) as shown on the planning maps.

Table 4

Building Element	Minimum Construction	
External Walls	Exterior Lining	Brick or concrete block or concrete, or 20mm timber or 6mm fibre cement
	Insulation	Not required for acoustical purposes
	Frame	One layer of 9mm gypsum or plasterboard (or an equivalent combination of exterior and interior wall mass)
Windows/Glazed Doors	Double-glazing with 4 mm thick panes separated by a cavity at least 12 mm wide	
Pitched Roof	Cladding	0.5mm profiled steel or masonry tiles or 6mm corrugated fibre cement
	Insulation	100mm thermal insulation blanket/batts
	Ceiling	1 layer 9mm gypsum or plaster board
Skillion Roof	Cladding	0.5mm profiled steel or 6mm fibre cement
	Sarking	None Required
	Insulation	100mm thermal insulation blanket/batts
	Ceiling	1 layer 1mm gypsum or plasterboard
External Door	Solid core door (min 24kg/m2) with weather seals	

Note: The specified construction materials in this table are the minimum required to meet the Indoor Design Sound Level. Alternatives with greater mass or larger thicknesses of insulation will be acceptable. Any additional construction requirements to meet other applicable standards not covered by this rule (e.g. fire, Building Code etc.) would also need to be implemented.

36.6.2 Ventilation Requirements for the Queenstown and Wanaka Airport

The following applies to the ventilation requirements within the airport Outer Control Boundary (OCB) and Air Noise Boundary (ANB).

Critical Listening Environments must have a ventilation and cooling system(s) designed, constructed and maintained to achieve the following:

- a. an outdoor air ventilation system. The ventilation rate must be able to be controlled by the occupant in increments as follows:
 - i. a low air flow setting that provides air at a rate of between 0.35 and 0.5 air changes per hour. The sound of the system on this setting must not exceed 30dB LAeg(30s) when measured 2m away from any grille or diffuser;
 - ii. a high air flow setting that provides at least 5 air changes per hour. The sound of the system on this setting must not exceed 35 dB LAeg(30s) when measured 2m away from any grille or diffuser.

- b. the system must provide, either by outdoor air alone, combined outdoor air and heating/cooling system or by direct room heating / cooling:
 - i. cooling that is controllable by the occupant and can maintain the temperature within the Critical Listening Environment at no greater than 25°C; and
 - ii. heating that is controllable by the occupant and can maintain the temperature within the Critical Listening Environment at no less than 18°C ;and
 - iii. the sound of the system when in heating or cooling mode must not exceed 35 dB $L_{Aeq(30s)}$ when measured 2m away from any grille or diffuser.
- c. a relief air path must be provided to ensure the pressure difference between the Critical Listening Environments and outside is never greater than 30Pa;
- d. if cooling is provided by a heat pump then the requirements of (a)(ii) and (c) do not apply.

Note: Where there is an existing ventilation, heating and/or cooling system, and/or relief air path within a Critical Listening Environment that meets the criteria stated in the rule, the existing system may be utilised to demonstrate compliance with the rule.

36.7 Ventilation Requirements for other Zones (Table 5)

The following table (Table 5) sets out the ventilation requirements in the Wanaka and Queenstown Town Centre Zones, the Local Shopping Centre Zone and the Business Mixed Use Zone.

Table 5

Room Type	Outdoor Air Ventilation Rate (Air Changes Room Type per Hour, ac/hr)	
	Low Setting	High Setting
Bedrooms	1-2 ac/hr	Min. 5 ac/hr
Other Critical Listening Environments	1-2 ac/hr	Min. 15 ac/hr
Noise from ventilation systems shall not exceed 35 dB $L_{Aeq(1 min)}$ on High Setting and 30 dB $L_{Aeq(1 min)}$ on Low Setting. Noise levels shall be measured at a distance of to 2 m from any diffuser.		
Each system must be able to be individually switched on and off and when on, be controlled across the range of ventilation rates by the occupant with a minimum of 3 stages.		
Each system providing the low setting flow rates is to be provided with a heating system which, at any time required by the occupant, is able to provide the incoming air with an 18 °C heat rise when the airflow is set to the low setting. Each heating system is to have a minimum of 3 equal heating stages.		
If air conditioning is provided to any space then the high setting ventilation requirement for that space is not required.		

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report 8

Report and Recommendations of Independent Commissioners Regarding
Chapter 30, Chapter 35 and Chapter 36

Commissioners

Denis Nugent (Chair)

Calum MacLeod

Mark St Clair

PART D: CHAPTER 36 - NOISE

13. PRELIMINARY

13.1. Stage 2 Variations

558. On 23 November 2016 the Council notified Stage 2 of the PDP and variations. That proposed the inclusion of new rules in this chapter providing noise controls for the Wakatipu Basin Zone and the Open Space and Recreation Zones.

559. We have left space for these rules in locations we consider appropriate for the respective rules. The rules do not form part of our recommendations and we discuss them no further.

13.2. General Submissions

560. Two submissions³⁸⁸ generally supported this Chapter. As we recommend changes to this Chapter, we recommend those submissions be accepted in part.

561. Submission 115 stated that the landscape values of the District can be spoilt by noise from motor boats and lawnmowers. The submitter sought that the Plan institute a quiet day each week. Ms Evans considered that the PDP provisions set appropriate standards for the receipt of noise in a way that managed amenity standards³⁸⁹. We agree with Ms Evans' opinion. We also consider it would be both impractical and inconsistent with the general expectations of the people of the District to impose a noise ban on a weekly basis. We recommend this submission be rejected.

562. Submission 159 was concerned with noise from late night parties and sought increased monitoring. We agree with Ms Evans' analysis that the noise standards provide a basis for monitoring and enforcement³⁹⁰. The PDP cannot do any more than that. We recommend this submission be rejected.

13.3. 36.1 –Purpose

563. There were four submissions in relation to this section. These sought:

- a. the retention of the section unaltered³⁹¹;
- b. the retention of the third paragraph³⁹²;
- c. amendment to exclude application of this chapter to the Town Centre Zone³⁹³; and
- d. amend to apply appropriate and consistent terminology³⁹⁴.

564. Ms Evans agreed with the wording changes sought by the Southern District Health Board³⁹⁵ for the reasons given in the submission³⁹⁶. She did not agree that the Chapter did not relate to the Town Centre Zones, noting that rules in Chapter 36 imposed restrictions on noise generated in that zone and received in residential zones, as well as imposing ventilation requirements in the Queenstown and Wanaka Town Centre zones. As a result, she recommended a series of minor word changes to the purpose statement in her Section 42A

³⁸⁸ Submissions 19 and 21

³⁸⁹ Ruth Evans, Section 42A Report, page 28

³⁹⁰ *ibid*, page 28

³⁹¹ Submission 433, supported by FS1211, opposed by FS1097 and FS1117

³⁹² Submission 1365

³⁹³ Submission 714

³⁹⁴ Submission 649

³⁹⁵ Submission 649

³⁹⁶ Ruth Evans, Section 42A Report, page 11

Report. The only substantive change she recommended in her Reply Statement was to amend the reference to the Civil Aviation Act to refer to the correct section.

565. We agree with Ms Evans (and the Southern District Health Board) that the amendments she has proposed to this section improve clarity and understanding of the purpose of the chapter. We also agree with her that the amendments she has proposed that are outside of the scope of the submissions lodged are minor with no substantive effect, or improve grammar, and therefore can be made under Clause 16(2).
566. The Stream 8 Hearing Panel has recommended to us³⁹⁷ a further amendment to clarify that certain forms of noise (from music, voices and loudspeakers) generated in the Queenstown and Wanaka Town Centres are not managed under this Chapter. We recommend that change be made for the reasons given by the Stream 8 Panel.
567. We recommend the Section 36.1 be adopted as worded in Appendix 3 to this report, and the submissions be accepted in part.

14. 36.2 – OBJECTIVES AND POLICIES

14.1. Objective 36.2.1 and Policies

568. As notified, these read:

Objective *Control the adverse effects of noise emissions to a reasonable level and manage the potential for conflict arising from adverse noise effects between land use activities.*

36.2.1.1 Manage subdivision, land use and development activities in a manner that avoids, remedies or mitigates the adverse effects of unreasonable noise.

36.2.1.2 Avoid, remedy or mitigate adverse noise reverse sensitivity effects.

569. The submissions on these sought:

- a. Retain all as notified³⁹⁸;
- b. Retain the objective³⁹⁹;
- c. Retain Policy 2⁴⁰⁰;
- d. Amend Policy 2 to discourage noise sensitive activities establishing in the vicinity of consented or existing noise generating activities.⁴⁰¹

570. In her Section 42A Report, Ms Evans recommended minor changes to the objective to make it more outcome focussed. Following our questioning at the hearing, she recommended further changes to the objective and Policy 1 in her Reply Statement.

³⁹⁷ Report 11, Section 8.11

³⁹⁸ Submissions 197, 649 (supported by FS1211) and 1365

³⁹⁹ Submissions 717 (supported by FS1211 and FS1270, opposed by FS1029), 719 and 847 (supported by FS1207)

⁴⁰⁰ Submission 719

⁴⁰¹ Submissions 717 (supported by FS1211 and FS1270, opposed by FS1029) and 847 (supported by FS1207)

571. Ms Evans considered the submissions seeking amendments to Policy 2 and concluded that the policy did not need to be altered as it does not distinguish between new or established noise sensitive activities leading to reverse sensitivity effects⁴⁰².
572. The only evidence we heard on these provisions was from Mr MacColl⁴⁰³ who supported Policy 2 as notified and agreed with Ms Evans' conclusions in respect of that policy.
573. We do not think Policy 2 provides any guidance as to how to achieve the objective, but we consider the wording proposed by Submitters 717 and 847 does not particularly assist. Without evidence we are not inclined to amend this policy.
574. We consider the word changes recommended by Ms Evans to the objective and Policy 1 improve their clarity without altering the meaning. We agree that those changes are minor non-substantive amendments that the Council can make under Clause 16(2).
575. We note that Policy 1 fails to provide any guidance as to how to it is to achieve the objective, in the same manner as Policy 2.
576. We recommend that the Council amend the objectives and policies under Clause 16(2) so that they read:
Objective *The adverse effects of noise emissions are controlled to a reasonable level to manage the potential for conflict arising from adverse noise effects between land use activities.*
- 36.2.1.1 *Avoid, remedy or mitigate adverse effects of unreasonable noise from land use and development.*
- 36.2.1.2 *Avoid, remedy or mitigate adverse noise reverse sensitivity effects.*
577. We also recommend that the Council review the two policies with a view to providing clearer guidance as to how the objective is to be achieved. We do not consider that parroting s.5(2)(c) of the Act assists.

15. 36.3 – OTHER PROVISIONS

15.1. 36.3.1 – District Wide

578. There were no submissions on this section. The only changes we recommend to it are to make it consistent with the same section in other chapters. We consider this to be a minor amendment that can be made under Clause 16(2).
579. We recommend the Council amend this section as shown in Appendix 3 as a minor, non-substantive amendment under Clause 16(2).

15.2. 36.3.2 – Clarification

580. As notified this section contained 10 clauses, the first two of which, consistent with other chapters, described when a consent was required and the abbreviations used in the tables. The following eight clauses read:
 36.3.2.3 *Sound levels shall be measured and assessed in accordance with NZS 6801:2008 Acoustics - Measurement of Environmental Sound and NZS 6802:2008 Acoustics -*

⁴⁰² Ruth Evans, Section 42A Report, page 12

⁴⁰³ Anthony MacColl, EiC, page 7

Environmental Noise, except where another Standard has been referenced in these rules, in which case that Standard should apply.

- 36.3.2.4 *Any activities which are Permitted, Controlled or Restricted Discretionary in any section of the District Plan must comply with the noise standards in Tables 2, 3, 4 and 5 below, where that standard is relevant to that activity.*
- 36.3.2.5 *In addition to the above, the noise from the following activities listed in Table 1 shall be Permitted activities in all zones (unless otherwise stated). For the avoidance of doubt, the activities in Table 1 are exempt from complying with the noise standards set out in Table 2.*
- 36.3.2.6 *Notwithstanding compliance with Rules 36.5.13 (Helicopters) and 36.5.14 (Fixed Wing Aircraft) in Table 3, informal airports shall be subject to the rules in the applicable zones.*
- 36.3.2.7 *Sound from non-residential activities, visitor accommodation activities and sound from stationary electrical and mechanical equipment must not exceed the noise limits in Table 2 in each of the zones in which sound from an activity is received. The noise limits in Table 2 do not apply to assessment locations within the same site as the activity.*
- 36.3.2.8 *The noise limits contained in Table 2 do not apply to sound from aircraft operations at Queenstown Airport.*
- 36.3.2.9 *Noise standards for Town Centre, Local Corner Shopping and Business Mixed Use zones are not included in this chapter. Please refer to Chapters 12, 13, 14, 15 and 16.*
- 36.3.2.10 *The standards in Table 3 are specific to the activities listed in each row and are exempt from complying with the noise standards set out in Table 2.*

581. Submissions on this section sought the following:

- a. Support the provisions⁴⁰⁴;
- b. Amend 36.3.2.7 so as to exclude the temporary operation of emergency and backup generators from the noise limits⁴⁰⁵;
- c. Include reference to Wanaka Airport in 36.3.2.8⁴⁰⁶;
- d. Include an additional clarification stating that activities in the Rural Zone established at the time of the Review will be administered for noise purposes in accordance with the rules at the time the activity was established or consented⁴⁰⁷.

582. Ms Evans agreed that reference to Wanaka Airport should be included in 36.3.2.8. Ms Evans also noted that the noise of aircraft at that airport, as for Queenstown Airport, is controlled by the designation⁴⁰⁸. We agree with that conclusion.

⁴⁰⁴ Submissions 649 (supported by FS1211) and 1365

⁴⁰⁵ Submission 635

⁴⁰⁶ Submission 433, opposed by FS1097 and FS1117

⁴⁰⁷ Submissions 717 (supported by FS1270, opposed by FS1029) and 847 (supported by FS1270).

⁴⁰⁸ Ruth Evans, Section 42A Report, page 13

583. Ms Evans considered that the additional clarification sought (item (d)) was unnecessary as provision was made in the Act to protect lawfully established existing uses⁴⁰⁹. We agree with her assessment. We heard no evidence from the submitters so our understanding of their reasoning is that contained in the submission. That reasoning is clearly focussed on restating existing use provisions from the Act in the PDP. We cannot understand why, if such provisions were to be included, they should be limited to the Rural Zone. We recommend those submissions be rejected.
584. The submission by Aurora concerning the temporary operation of emergency and backup generators included a proposal to include such operations in Table 1 as a permitted activity. It is appropriate to consider both parts of the submission together.
585. Dr Chiles assessed this submission⁴¹⁰. It was his opinion that, in terms of emergency generators, people are prepared to tolerate the noise of them because it is an emergency, and by definition, temporary. He also noted that where emergency generators are fixed installations they need to be tested regularly. He recommended that emergency generators be provided for as a permitted activity in Table 1, along with an allowance for testing. He considered that amendment to 36.3.2.7 was unnecessary as 36.3.2.5 already identified that the activities in Table 1 were exempt from compliance with Table 2 standards. Ms Evans adopted Dr Chiles evidence and recommended changes to Table 1 consistent with his opinion.
586. Ms Dowd, appearing for Aurora, supported this proposed rule⁴¹¹.
587. In response to our questioning, Ms Evans further refined the rule in Table 1 in her Reply Statement so as to clarify the circumstances when it applied to backup generation⁴¹².
588. We accept the advice of Dr Chiles for the reasons he set out and recommend that a new permitted activity be included in Table 1, modified as proposed by Ms Evans in her Reply Statement subject to replacing “grid” with “network” so that the wording is consistent with that used in Chapter 30. We agree that it is unnecessary to make provision in 36.3.2.7 for an activity that listed in Table 1.
589. Ms Evans recommended some minor changes to 36.3.2.9 to properly identify the zones it applied to, and to note that activities in those zones were still required to meet the noise standards for noise received in other zones. The Stream 8 Panel has further recommended that this provision be amended to make it clear that noise from music, voices and loud speakers in the Wanaka and Queenstown Town Centre Zones (excluding the Queenstown town Centre Transition Sub-Zone) need not meet the noise standards set in this chapter.⁴¹³
590. Ms Evans also recommended minor changes to 36.3.2.1 to clarify the meaning and remove unnecessary words.
591. We agree that those amendments are helpful in providing clarity to the meaning of the relevant provision. We consider them to be minor changes that can be made under Clause 16(2). We recommend the amendments recommended by the Stream 8 Panel be adopted for the reasons that Panel has given.

⁴⁰⁹ *ibid*, page 12

⁴¹⁰ Dr Stephen Chiles, EIC, pages 9-10

⁴¹¹ Joanne Dowd, EIC, page 6

⁴¹² Ruth Evans, Reply Statement, paragraph 2.4

⁴¹³ Report 11, Section 8.11

592. We also recommend moving 36.3.2.2 to the end of the list so it more clearly relates to the tables that follow. As a consequence it becomes renumbered as 36.3.2.10 and clauses 3 to 10 are consequentially renumbered.
593. The Stream 13 Hearing Panel has recommended an amendment to notified 36.3.2.6 under Clause 16(2) to clarify the relationship of Rules 36.5.13 and 36.5.14 and the rules in the relevant zone chapters. We adopt their recommendation and include the amendment to recommended Rule 36.3.2.5 in Appendix 3.
594. For those reasons we recommend that Section 36.3.2 be titled “Rules – Explanation” and that clauses 1, 8 (renumbered as 7) and 9 (renumbered as 8) be amended to read as follows:
- 36.3.2.1 *Any activity that is not Permitted requires resource consent. Any activity that does not specify an activity status for non-compliance, but breaches a standard, requires resource consent as a Non-complying activity.*
- 36.3.2.7 *The noise limits contained in Table 2 do not apply to sound from aircraft operations at Queenstown Airport or Wanaka Airport.*
- 36.3.2.8 *Noise standards for noise received in the Queenstown, Wanaka and Arrowtown Town Centre, Local Shopping and Business Mixed Use zones are not included in this chapter. Please refer to Chapters 12, 13, 14, 15 and 16. The noise standards in this chapter still apply for noise generated within these zones but received in other zones, except that noise from music, voices, and loud speakers in the Wanaka and Queenstown Town Centres (excluding the Queenstown Town Centre Transition Sub-Zone) need not meet the noise limits set by this chapter.*
595. We also recommend, as discussed above, that a new permitted activity be inserted in Rule 36.4 Table 1 to read as follows:
- Sound from emergency and backup generators:*
- a. *Operating for emergency purposes; or*
 - b. *Operating for testing and maintenance for less than 60 minutes each month during a*
 - c. *weekday between 0900 and 1700.*

For the purpose of this rule, backup generators are generators only used when there are unscheduled outages of the network (other than routine testing or maintenance provided for in (b) above).

16. 36.4 – RULES – ACTIVITIES

16.1. Table 1

596. As notified, this rule listed the following as permitted activities (exempt from the standards in Table 2):
- 36.4.1 *Sound from vehicles on public roads or trains on railway lines (including at railway yards, railway sidings or stations).*
- 36.4.2 *Any warning device that is activated in the event of intrusion, danger, an emergency or for safety purposes, provided that vehicle reversing alarms are a broadband directional type.*

36.4.3 *Sound arising from fire stations (including rural fire stations), fire service appliance sirens and call-out sirens for volunteer brigades.*

36.4.4 *Sound from temporary military training activities.*

36.4.5 *In the Rural Zone and the Gibbston Character Zone, sound from farming and forestry activities, and bird scaring devices, other than sound from stationary motors and stationary equipment.*

36.4.6 *Sound from aircraft movements within designated airports.*

36.4.7 *Sound from telecommunications cabinets in road reserve.*

597. Apart from the Aurora submission dealt with in the previous section, the submissions on this rule sought:

- a. Retain the rules⁴¹⁴;
- b. Retain Rule 36.4.3⁴¹⁵;
- c. Retain Rule 36.4.4⁴¹⁶;
- d. Delete Rule 36.4.6⁴¹⁷;
- e. Add new rule exempting noise from vessels⁴¹⁸.

598. Ms Evans agreed that Rule 36.4.6 could be deleted as such aircraft noise was covered by the designations, and deleting it was consistent with the amended 36.3.2.7 above⁴¹⁹. We agree with that analysis and recommend the submission be accepted and Rule 36.4.6 be deleted.

599. Dr Chiles provided detailed evidence on the noise effects of motorised craft⁴²⁰. We heard no contrary expert noise evidence on this issue. It was Dr Chiles' opinion that sound from motorised craft has the potential to cause significant adverse noise effects in terms of degradation of amenity and disturbance. Consequently, he did not consider it appropriate to provide a blanket permitted activity status for noise from motorised craft.

600. We accept Dr Chiles assessment and recommend the submissions seeking the inclusion of this rule be rejected.

601. In summary, therefore, we recommend that Rule 36.4.6 be deleted, Rule 36.4.7 be renumbered 36.4.6, and, as we recommended above, a new Rule 36.4.7 be inserted for emergency and backup electrical generators. For clarity purposes, we recommend the Table be titled "Permitted Activities". The revised Table 1 is set out in Appendix 3.

17. 36.5 – RULES – STANDARDS

17.1. Table 2 : General Standards

602. As notified, this table set out the noise standards that applied to all activities, other than those specifically exempted, when measured in the receiving environment. Non-compliance with the set standards were non-complying, except in two cases as discussed below.

⁴¹⁴ Submissions 649 (supported by FS1211) and 719

⁴¹⁵ Submissions 438 and 708

⁴¹⁶ Submission 1365

⁴¹⁷ Submission 433, opposed by FS1097 and FS1117

⁴¹⁸ Submissions 607 (supported by FS1097) and 621

⁴¹⁹ Ruth Evans, Section 42A Report, page 14

⁴²⁰ Dr Stephen Chiles, EiC, section 7

603. Ms Evans identified an error in the labelling of the table as notified⁴²¹. The second column heading as notified was “Activity or sound source”. Ms Evans advised that it should have been headed “Zones sound is received in” and she recommended it be so amended as a minor Clause 16(2) amendment. As the various standards do not make sense if the notified heading is applied, we agree with Ms Evans that it should be corrected. We do not consider such a change to be anything other than minor as any person reading the standards would immediately see that the column did not list activities or sound sources (except for Rule 36.5.2 which we discuss below). We recommend this change be made as a correction under Clause 16(2).
604. As noted, Rule 36.5.2 applied different standards in the residential zones and the Rural Zone for sound generated in the Queenstown Airport Mixed Use Zone. Rule 36.5.2 had the effect of allowing more noise to be generated within the Queenstown Airport Mixed Use Zone than could be generated by any other activity, where the noise was received in a residential zone or the Rural Zone. Non-compliance with this more generous standard required consent as a restricted discretionary activity.
605. The second situation where non-compliance was not specified as “Non-complying” was Rule 36.5.5, which set no limit for noise received in the Queenstown Airport Mixed Use Zone. Although the non-compliance column stated “permitted”, logically it was not possible to not comply with that standard.
606. The other matter in respect of this table we need to point out at the outset is that it included standards for a large number of zones which were not in Stage 1 of the Review, but are, rather, zones in the ODP. We note in this respect that a submission by Real Journeys Limited seeking to change the standard applying to the Rural Visitor Zone was identified by the reporting officer as being “out of scope”⁴²². We also note that by resolution of the Council the geographic areas of several of these have been withdrawn from the PDP⁴²³. As of the date of that resolution those zones (or parts of zones) have been removed from this rule.
607. We also note that, as notified, Rule 27.3.3.1 explicitly stated that the zones listed were not part of the PDP: Stage 1, and Rule 27.3.3.2 explicitly stated that all the Special Zones in Chapter 12 of the ODP other than Jacks Point, Waterfall Park and Millbrook, were excluded from the PDP subdivision chapter.
608. Ms Scott addressed this matter in her Reply Submissions. It was her submission that the provisions of Chapter 36 were, at notification, intended to apply district-wide, even to zones not included in Stage 1. She submitted that we could take a “flexible and pragmatic approach as to whether submissions are “on” Stage 2 matters, when they relate to types of activities addressed through one of the district-wide chapters”⁴²⁴.
609. We have previously advised the Council that we have serious concerns with the approach it has taken regarding the suggestion that provisions in the PDP:Stage 1 apply to land which does

⁴²¹ Ruth Evans, Section 42A Report, Paragraph 8.24

⁴²² Ruth Evans, Section 42A Report, Appendix 2, page 7

⁴²³ Resolution of the Council dated 25 May 2017 to withdraw the geographic areas of the following ODP zones from the PDP: Frankton Flats B, Remarkables Park, Shotover Country Estate, Northlake Special, Ballantyne Road Industrial and Residential (Change 46), Queenstown Town Centre extension (Change 50), Peninsula Bay North (Change 51), Mount Cardrona Station

⁴²⁴ Council Reply Submissions, paragraph 2.4

not have a Stage 1 zoning⁴²⁵. In this chapter, what have been listed in the rules are, in addition to the Stage 1 zones, ODP zones. Ms Scott submitted that it would be appropriate for us to direct that those provisions be transferred to Stage 2⁴²⁶.

610. There is no information before us to suggest that any of these zones (in the terms used in these rules) will become part of the PDP. While the geographic areas those ODP zones apply to may become part of the PDP in due course, it is not axiomatic that those areas will have the same ODP zones applied.
611. We also note that the only submission⁴²⁷ on these rules referring to the zones listed in Ms Scott's submissions sought the deletion of "Industrial Zones" on the basis that those zones were not in Stage 1 and should not, therefore, be included in the rule at this stage. This raises the question for us as to whether the public understood that the Council was expecting the submission period in 2015 to be the one time a submission could be lodged in respect of noise received in any of these zones. We also have a concern that, if we were simply to direct that they be transferred to Stage 2, that would not automatically confer any submission rights in respect of these rules at Stage 2. Such submission rights will only be conferred if the Stage 2 process involves a change to the PDP to include such areas or zones.
612. We note at this point that the Stream 13 Hearing Panel is recommending the inclusion of the Coneburn Industrial Zone in the PDP. No noise limits were proposed within this zone, but the policies proposed included:

*To minimise the adverse effects of noise, glare, dust and pollution.*⁴²⁸

613. It may be that the submitter assumed that the provisions in Chapter 36 would apply, both within and outside the zone. On the face of it, the inclusion of the Coneburn Industrial Zone within the PDP would support the retention of notified Rule 36.5.7 as it applies to Industrial Zones. However, when the rule is examined, it only sets limits within Activity Areas 2, 2a, 3, 4, 5, 6, 7 and 8. It is unclear what this specification relates to, but it is clear that the rule as notified would not apply in the Coneburn Industrial Zone even if Rule 36.5.7 remained in the District Plan.. We do note that activities in the Coneburn Industrial Zone, while not needing to meet noise limits within the zone, would still need to meet the standards for noise received in the adjoining Rural Zone, or the nearby Jacks Point Zone.
614. Given the above, including the position the Council took in the reply, we have come to the conclusion that listing of the following zones in Rule 36.5 is an error:
- a. Township Zones;
 - b. Rural Visitor Zones;
 - c. Quail Rise Special Zone;
 - d. Meadow Park Special Zone;
 - e. Ballantyne Road Special Zone;
 - f. Penrith Park Special Zone;
 - g. Bendemeer Special Zone;
 - h. Kingston Village Special Zone;
 - i. Industrial Zones.

⁴²⁵ Minute Concerning Annotations on Maps, dated 12 June 2017

⁴²⁶ Council Reply Submissions, paragraph 4.1

⁴²⁷ Submission 746

⁴²⁸ Proposed Policy 18.2.1.5 in Revised Chapter 18 provided with Joint Witness Statement on 15 September 2017

615. Consequently, we recommend all references to those zones be deleted from Rule 36.5 to correct this error. In terms of item (i) Industrial Zones, we recommend accepting Submission 746. The remainder we consider can be deleted as errors requiring correction with no substantive effect under Clause 16(2). We also consider that without deleting these references, the Council may inadvertently deprive persons with land in geographic area covered by those zones the opportunity to submit on the noise rules which would affect them when those geographic areas are brought into the PDP.
616. We consider the proper course for the Council to follow in the future is, when a variation or plan change is initiated to include an additional geographic area in the PDP, where applicable, references to the zones applied can be included in these rules as appropriate. Obviously, if that land has a PDP zone applied, such a change would not be necessary.
617. Two submissions generally supported the entire rule⁴²⁹. We recommend those submissions be accepted in part.
618. There were no submissions on Rule 36.5.1 which sets the standards for noise received in the Rural and Gibbston Character Zones. We recommend this rule be adopted as notified.
619. There were no submissions on Rule 36.5.4, other than that by Real Journeys Limited⁴³⁰ which the Council identified as being out of scope. With our recommended amendments to this rule to correct the error of including references to ODP zones, the area that submission related to is no longer affected by the rule. We recommend that Rule 36.5.4 be adopted in the revised form shown in Appendix 3. We note that recommendations we make below will further amend this rule.
620. Following the Council's withdrawal of the geographic areas covered by the Shotover Country Special Zone and Mount Cardrona Special Zone, Rule 36.5.6 only applied to the Ballantyne Road Special Zone. Our recommendation that the error of including that zone in this rule be corrected by its deletion, would have the effect of deleting this rule, but Ms Evans has recommended the inclusion of other provisions within it. We will deal with that matter below.
- 17.2. **Rule 36.5.2**
621. Rule 36.5.2, which as we explained above, allowed a higher level of noise to emanate from the Queenstown Airport than from other activities, was subject to one submission⁴³¹ which sought that this rule be deleted and replaced with notified Rule 17.5.6. We note that the only substantive difference between those rules was that the night-time L_{max} was 5dB lower under Rule 17.5.6.
622. We were concerned these two rules were inconsistent with the general approach to managing noise in the District and there appeared to be no policy support for such a difference. Dr Chiles considered these limits to be inconsistent also, and it was his opinion that the inconsistencies undermine the level of amenity provided in surrounding locations by district wide noise limits⁴³².

⁴²⁹ Submissions 52 and 649

⁴³⁰ Submission 621

⁴³¹ Submission 433, opposed by FS1097 and FS1117

⁴³² Dr Stephen Chiles, EIC, paragraph 8.3

623. Mr Day did not address this inconsistency in his evidence. When questioned by the Panel, he answered that the residential areas around the airport are generally exposed to higher noise levels anyway.
624. Ms Evans, in her Reply Statement, noted that the noise limits were the same as in the ODP in respect of the Residential Zones, but have been extended to the Rural Zone also in the PDP. She recommended moving the standard to Table 3, which relates to specific noise sources, with a minor alteration to the wording to clarify the activities affected by the rule.
625. We agree with Dr Chiles that a separate and less onerous noise standard for Queenstown Airport is both inconsistent with the standards generally applied and undermines the amenity values the PDP is generally protecting in close-by residential areas. We also can find no basis for this differentiation in the objectives and policies of the PDP. However, with no submissions seeking the complete deletion of the standard, we cannot recommend its deletion. If there were a submission that sought such relief we would have recommended that submission be accepted. As it is, we largely agree with Ms Evans' proposed rule subject to two changes:
- a. clarification that it does not apply to sound from aircraft operations that are subject to Designation 2; and
 - b. Changing the night-time L_{AFmax} to 70dB as it was notified in Rule 17.5.6.
626. For the reasons set out, we recommend to the Stream 8 Hearing Panel that Rule 17.5.6 (as notified) be deleted, and recommend to the Council that Rule 36.5.2 be moved to become Rule 36.5.15 with the wording as set out in Appendix 3. We add that we cannot confirm that this rule meets the statutory tests of s.32AA.

17.3. [Rule 36.5.3](#)

627. This rule applies standards for noise received in the residential parts of the Jacks Point and Millbrook Resort Zones. We note that the former zone was incorrectly named in the rule, being termed a resort zone. We recommend that the zone name be changed by deleting "Resort" from "Jacks Point Resort Zone" so it has the zone name applied in the PDP. We consider this to be a minor correction under Clause 16(2).
628. Two submissions were received seeking:
- a. Include the Village Activity Area in the assessment locations⁴³³; and
 - b. Exclude the Village and EIC Activity Areas from column 2, and create a new rule making it a restricted discretionary activity for sounds from the Village and EIC Activity Areas to exceed the limits⁴³⁴.
629. We note that since hearing Stream 5, submitters on the Jacks Point Zone have sought the removal of the EIC Activity Area from that zone, and the Hearing Stream 9 Panel is recommending that change be accepted. Thus, we will not address that Activity Area further.
630. Ms Evans attempted to reconcile these two seemingly opposing submissions⁴³⁵. Dr Chiles was concerned that imposing the residential noise standards on the Village Activity Area would hinder the development of activities such as cafes with patrons sitting outside⁴³⁶. Ms Evans recommendation was to move both the Millbrook and Jacks Point provisions from Rule 36.5.3 to 36.5.4 on the basis that the standards would be the same for residential areas, and to

⁴³³ Submission 632, opposed by FS1219, FS1252, FS1275, FS1277, FS1283, FS1316

⁴³⁴ Submission 762, opposed by FS1316

⁴³⁵ Ruth Evans, Section 42A Report, paragraphs 8.28 to 8.31 inclusive

⁴³⁶ Dr Stephen Chiles, EIC, Section 9

include the Jacks Point Zone Village Activity Area in Rule 36.5.6 which provides for higher levels of received noise.

631. Mr Ferguson supported these changes but raised two matters:
- a. Clarification of how the noise standards are applied between the stipulated assessment locations and the zone or activity areas within it is received; and
 - b. The status of any breach of the noise standards⁴³⁷.
632. Mr Ferguson’s first point was that the heading to Column 2 (as amended) referred to receiving zones, whereas in Jacks Point Zone at least, it was only within part of the zone that it applied. We consider this can be dealt with by amending the additional words after each zone to say “Residential (or Village) Activity Areas only” to make it clear it is only part of the zone within which the relevant rule controls the receipt of noise.
633. We have considered Mr Ferguson’s opinion that non-compliance with the rules applicable to the Village Activity Area should require consent as a restricted discretionary activity. In our view the point of noise standards is to establish a bottom line for amenity values which should not be breached. The standards themselves, and the forms of measurement, provide for the rare or momentary exceedance of any fixed level. If an activity is proposing to create a level of noise that will always or regularly exceed the standard, then we consider it appropriate for the Council, on a resource consent application, to be able to firstly consider whether that activity meets the thresholds of s.104D, and if so, to undertake a full evaluation of the proposal under s.104. We agree with Ms Evans’ evaluation of this matter in her Reply Statement.
634. In summary, we recommend that Rule 36.5.3 be deleted and the following be inserted in Column 2 of Rule 36.5.4 (consequently renumbered 36.5.2):
- Millbrook Resort Zone – Residential Activity Areas only*
Jacks Point Zone – Residential Activity Areas only
635. We additionally recommend that the following be inserted in Column 2 of Rule 36.5.6 (now renumbered 36.5.4):
- Jacks Point Zone – Village Activity Area only*
- 17.4. **Rule 36.5.5**
636. The only submission on this rule sought its retention⁴³⁸. As noted above, and agreed by Ms Evans⁴³⁹, there is no possibility of not complying with this rule, so the appropriate thing is to leave the Non-compliance Status Column blank. With that change, we recommend the rule be adopted.
- 17.5. **Table 3**
637. This table sets standards for noise from specified activities, including identifying any applicable special considerations. One submitter⁴⁴⁰ supported all of the rules in this table subject to amendments to Rule 36.5.11 which we deal with below. There were no other submissions on Rules 36.5.8, 36.5.9, 36.5.10, 36.5.12 and 36.5.17.
638. The only other submission⁴⁴¹ on Rule 36.5.15 sought that it be retained.

⁴³⁷ Christopher Ferguson, EiC, page 5

⁴³⁸ Submission 433, opposed by FS1097, FS1117

⁴³⁹ Ruth Evans, Reply Statement, Appendix 1

⁴⁴⁰ Submission 649

⁴⁴¹ Submission 580

639. Ms Evans recommended that Rule 36.5.17 be transferred to Chapter 41 as a rule applying to Jacks Point Zone. We agree with that recommendation and refer that rule to the Stream 9 Hearing Panel.

640. Subject to renumbering and altering the reference in Rule 36.5.8 to the NESTF 2016, we recommend that Rules 36.5.8, 36.5.9, 36.5.10, 36.5.12 and 36.5.15 be adopted as notified.

17.6. Rule 36.5.11

641. This rule controls noise from frost fans. The sole submission⁴⁴² sought that the L_{AFmax} limit failed to account for increased annoyance where there are special audible characteristics present. It sought that the limit be changed to 55 dB $L_{Aeq(15\ min)}$.

642. Dr Chiles⁴⁴³ agreed that the 85 dB L_{AFmax} would not adequately control noise effects. He considered that proposed in the submission to be adequate, although significantly more lenient than the general night-time noise limit of 40 dB $L_{Aeq(15\ min)}$. Ms Evans accepted Dr Chiles advice and recommended amending this rule as requested.

643. On the basis of that evidence we recommend that Rule 36.5.11 (renumbered as 36.5.8) be amended to set a noise limit of 55 dB $L_{Aeq(15\ min)}$.

17.7. Rule 36.5.13

644. This rule set the standard for noise from helicopters. Three submitters⁴⁴⁴ supported this rule. Other submissions sought:

- a. Delete the rule⁴⁴⁵;
- b. Measure L_{max} rather than L_{dn} ⁴⁴⁶;
- c. Delete the L_{dn} measurement⁴⁴⁷;
- d. Make non-compliance a discretionary activity⁴⁴⁸.

645. In addition, one submission sought the introduction of a separate rule for helicopters landing near the top of Skyline Access Road⁴⁴⁹.

646. It was Dr Chiles' evidence⁴⁵⁰ that the adverse effects of helicopters are related to both the sound level of individual helicopter movements, and also the frequency of movements. He noted that while there were some limitations with the use of an L_{dn} noise limit, it would control both factors. On the other hand, while a L_{AFmax} noise level would control the sound level, it would not control the number of movements. He also noted that there can be difficulty in obtaining reliable assessments of helicopter noise using the L_{AFmax} limit.

647. Dr Chiles also explained why he considered the L_{dn} control for helicopter noise in this rule, coupled with the additional controls on movement numbers in the Rural Zone, sets an appropriate noise limit to manage adverse noise effects. While he agreed that there was

⁴⁴² Submission 649

⁴⁴³ EIC, Section 12

⁴⁴⁴ Submissions 143 (opposed by FS1093), 433 (opposed by FS1097, FS1117) and 571

⁴⁴⁵ Submission 475, opposed by FS1245

⁴⁴⁶ Submissions 607, 626, 660, 713

⁴⁴⁷ Submission 243, opposed by FS1224, FS1245

⁴⁴⁸ Submission 607

⁴⁴⁹ Submission 574, opposed by FS1063

⁴⁵⁰ EIC, Section 13

justification for applying the noise limits recommended for commercial areas by NZS6807 to commercial areas in the PDP, as sought in Submission 574, he considered that limit not to be appropriate in the area specified in that submission. He advised us that a recent Environment Court decision⁴⁵¹ found that the commercial area noise limit from NZ6807 was not appropriate in that location. He advised us that in considering that application, the Court found that a helicopter noise limit of 60 dB L_{dn} in conjunction with a limit of four helicopter flights a day to be appropriate. He was unaware of justification to insert specific and different noise limits for this location into the PDP.

648. Mr Dent appeared in support of Submission 574. It was his opinion that NZ6807 was the appropriate standard for measuring helicopter noise. He explained that the ODP rules effectively have no applicable noise rules for helicopters. Turning to the specific issue of the Skyline helicopter pad, he considered there was value in making provision for a helicopter pad to locate in the vicinity of Bobs Peak with a noise limit of 60 dB L_{dn} (less than the 65 dB L_{dn} sought in the submission).
649. In response to this evidence, Ms Evans proffered the opinion that if the Council were to include specific controls for a specific consented activity, the PDP would be littered with such special provisions. She also advised that the Environment Court only granted consent for 5 years, to enable review, whereas if it became a rule in the PDP then it would not be subject to review until the PDP were reviewed, and would, potentially, be there for the life of the activity⁴⁵².
650. There are three issues for us to deal with in regard to this rule:
- a. Whether helicopter noise limits be set using NZS6807 or in the same manner as other noise is generally controlled in the District;
 - b. The activity status of a resource consent for non-compliance; and
 - c. Whether special provision should be made for helicopter landing at Skyline.
651. All the expert evidence we heard advised us that NZS6807 is the appropriate standard to use of the assessment and control of helicopter noise. As that standard is specifically designed to deal with helicopter noise, that is unsurprising. Mr Dent assisted us by setting out a number of local consent hearings where the hearing commissioners had agreed with expert noise evidence that concluded the ODP noise rules were ineffective, or unable to control, helicopter noise. We accept all that evidence and conclude that Rule 36.5.13 as notified is fundamentally sound. We also agree with Ms Evans' recommendation that the Advice Note should specify Queenstown and Wanaka Airports.
652. Our views on the non-compliance status of any breach of this rule is consistent with those we gave above in respect of Rule 36.5.3 above. As it was, we heard no evidence on this from the submitter.
653. The Stream 10 Hearing Panel has recommended that the final clause in the notified definition of noise in Chapter be inserted in this rule. We agree that is a more appropriate location and is a non-substantive change under Clause 16(2).
654. For those reasons we recommend that Rule 36.5.13 (renumbered 36.5.10) be adopted as notified, with the addition of the phrase from Chapter 2 and a minor amendment to the advice note.

⁴⁵¹ ZJV (NZ) Limited v Queenstown Lakes District Council & Skyline Enterprises Limited [2015] NZEnvC 205

⁴⁵² Ruth Evans, Reply Statement, Section 9

655. We also note that, in addition to this rule, other rules in the Rural Zone relating to informal airports restrict the frequency of flights and impose setback requirements in certain situations. The combination of those rules should go some way to address the concerns of those submitters who sought the deletion or modification of this rule.

656. Turning to the Skyline issue, we agree with Ms Evans that turning a resource consent into district plan rules, when that consent is subject to a time limitation because of the potential adverse effects, is fraught with issues. We consider it would be poor resource management practice to create such a rule as it would restrict the Council's ability to adjust the terms of the activity if monitoring disclosed adverse environmental effects beyond those foreseen. In our view, if Skyline wishes to choose a better site for helicopter landing, and it requires a resource consent, then they should follow that process. We recommend that submission be rejected.

17.8. Rule 36.5.14

657. This rule sets noise limits for fixed wing aircraft using NZS6805 as the means of measuring and assessing aircraft noise. One submission⁴⁵³ sought the retention of this rule, while two submissions⁴⁵⁴ sought its replacement with an L_{max} limit and changing the non-compliance status to discretionary.

658. Again this issue is whether a standard specifically designed to measure and assess aircraft noise (NZS6805) should be used as the basis for setting the limits in this rule, or the general provisions used elsewhere in the District. We heard no evidence in support of the submissions seeking to amend this rule and see no reason to for there to be a different approach to setting noise limits for fixed wing aircraft from that used for setting noise limits for helicopters.

659. We recommend that Rule 36.5.14 (renumbered 36.5.11) be adopted as notified, and the advice note be amended to specify Queenstown and Wanaka Airports.

17.9. Rule 36.5.16 and Rule 36.8

660. Rule 36.5.16 set a noise limit of 77 dB L_{ASmax} for commercial motorised craft operating on the surface of lakes and rivers. Rule 36.8 set out the methods of measurement and assessment of such noise.

661. One submission⁴⁵⁵ sought the retention of Rule 36.8. Other submissions sought:

- Lower the limit in Rule 36.5.16 and include live commentary on vessel as well⁴⁵⁶;
- Exempt low or moderate speed passenger service vessels from 36.8⁴⁵⁷;
- Set the limit for jet boats competing in jet boat race events at 92 dB L_{ASmax} ⁴⁵⁸.

662. We note in respect of item (b) above, the same submitter sought that such vessels be permitted activities in Table 1. We have deal with that matter above and recommended rejecting that submission.

663. Dr Chiles discussed the issues that have arisen with administering the noise rules relating to motorised craft under the ODP. He recommended that deletion of the testing methodology

⁴⁵³ Submission 433, supported by FS1345 and opposed by FS1097, FS1117

⁴⁵⁴ Submissions 607 and 621

⁴⁵⁵ Submission 649

⁴⁵⁶ Submission 243, opposed by FS1224, FS1245

⁴⁵⁷ Submission 621

⁴⁵⁸ Submission 758

in Rule 36.8 would partly address concerns raised in Submission 621. Ms Evans recommended a consolidation of Rules 36.5.16 and 36.8 which would include deletion of the testing methods.

664. Dr Chiles advised us that the level of 77 dB L_{ASmax} had operated successfully under the ODP. He considered that if it were reduced, it would restrict the ability of many vessels to operate on the surface of lakes and rivers in the District. He also considered it was not practicable to assess the sound of on-board commentary using the methods for assessing motorised craft. He considered the general noise standards (Rule 36.5.1 for instance) should apply to such noise.
665. It was Dr Chiles' opinion that the noise from jet boat racing should be assessed on a case by case basis via the resource consent process.
666. As alluded to above, Ms Evans recommended a consolidation of Rules 36.5.16 and 36.8. In doing this she incorporated Rule 36.8.1.2 into Rule 36.5.16. As notified, there was a potential conflict between these two rules, and, at minimum, an ambiguity. Rule 36.5.16 set a single noise limit, and in the "Time" Column stated "Refer 36.8". Rule 36.8.1.2 stated:
The measured sound pressure level shall not exceed a maximum A weighted level:
- 77 dB L_{ASmax} for vessels to be operated between the hours of 0800 and 2000;
 - 67 dB L_{ASmax} for vessels to be operated between the hours of 2000 and 0800.
667. In consolidating the rules, Ms Evans pulled the night-time level into Rule 36.5.16. We need to consider whether a plan user would have expected the night-time limits to apply given the notified version of Rule 36.5.16. As Ms Black's evidence, on behalf of Real Journeys Ltd, was concerned in part with the ability of her company's vessels to operate between 0700 and 0800, and 2000 and 2100, in accordance with the lower levels, we can be satisfied that submitters understood those lower limits to apply.
668. While Ms Black's evidence was mainly focussed on the permitted activity status sought, as discussed in an earlier section above, she did explain the nature of Real Journeys' vessel operations. We understood Dr Chiles' evidence to be that the PDP noise rules for vessels represented no change from those in the ODP for commercial vessels. There was nothing in Ms Black's evidence to suggest that meeting the ODP noise limits had been an issue for her company. For those reasons, we see no justification in altering the limits in Rule 36.5.16.
669. Mr McKenzie presented a statement on behalf of Jet Boating New Zealand Inc in respect of the request for a separate noise limit for jet boats taking part in jet boat race events. He attached to his evidence a noise report from 2005 for applications for a number of international jet boat races.
670. The fundamental difficulty this submitter has is that Rules 36.5.16 and 36.8 only relate to commercial vessels. We do not understand jet boats involved in jet boat races to fall into that category. In the absence of any other noise rules controlling vessels, non-commercial boating fall to be considered under the provisions of Table 2. Dr Chiles expressed the opinion that the same noise limits should apply to all motorised craft⁴⁵⁹. We agree and recommend that the Council initiate a variation to apply the noise limits in Rule 36.5.16 to all motorised craft. Jet Boating New Zealand Inc would have the opportunity to lodge a submission on such a variation if it considered it did not adequately provide for its members' activities.

⁴⁵⁹ Dr Stephen Chiles, EIC, paragraph 7.1

671. In summary, for the reasons set out above, we agree with the revised version of Rule 36.5.16 (renumbered 36.5.14) recommended by Ms Evans and recommend the Council adopt that version of the rule as set out in Appendix 3, and we recommend the deletion of Rule 36.8.

17.10. Rule 36.6

672. This rule contained provisions designed to protect nearby residents from the effects of airport noise. Rule 36.6.1 related specifically to a zone which was not part of PDP: Stage 1 – the Rural Visitor Zone. Rule 36.6.2 (Table 4) set the acceptable construction methods to meet the sound insulation requirements within the Air Noise Boundary of the Queenstown Airport. Rule 36.6.3 (Table 5) set out the ventilation requirements within the Outer Control Boundary and Air Noise Boundary of Queenstown and Wanaka Airports.

673. One submission supported the rules in full⁴⁶⁰, one supported Table 4 with a minor correction and replacement of Table 5⁴⁶¹, one sought amendments to address modern building solutions⁴⁶², and another sought that provision be made for requiring air conditioning⁴⁶³. Another submission⁴⁶⁴ was listed as being relevant to this rule, but on reading the submission we concluded it only related to the provision for informal airports in the rural chapters. We have taken no account of that submission and leave it to the Stream 2 Hearing Panel to deal with.

674. We consider Rule 36.6.1 creates the same issues as those we discussed above in relation to ODP zone names being listed in Rules 36.5.4, 36.5.6 and 36.5.7. In our view, for the purposes of the PDP, the Rural Visitor Zone does not exist. Thus, this rule is of no practical effect. We also note that this rule has not been mentioned in the Section 32 Report for Noise. In fact, that report does not mention the Rural Visitor Zone at all. We can only conclude that the inclusion of this rule is a mistake that should be corrected. For those reasons, we recommend Rule 36.6.1 be deleted as an error under Clause 16(2).

675. Dr Chiles provided useful evidence on the construction and ventilation requirements⁴⁶⁵. It was his advice that the glazing requirement in Table 4 be changed to double glazing with 4mm thick panes separated by a cavity at least 12mm wide. He also confirmed that ceiling plasterboard should be 9 mm, as sought in Submission 433.

676. In terms of ventilation, Dr Chiles advised that he had sought advice (for another client) on how ventilation rules could meet the aim of providing sufficient thermal comfort for occupants, so they have a free choice to leave windows closed if required to reduce adverse external sound. Based on that review, he recommended a specification that would replace Rule 36.6.3 (and also 36.7 which we deal with below). In his opinion, such a specification would give effect to Submission 80, but would only adopt the specification put forward in Submission 433 in part. Ms Evans redrafted Rule 36.6.3 based on Dr Chiles advice.

677. The only submitter heard from in respect of this rule was QAC. By the time of the hearing the only matters at issue related to Rule 36.6.3 – Table 5. These issues can be further narrowed to be, in essence:

- a. The appropriate standard for low rate ventilation;

⁴⁶⁰ Submission 649

⁴⁶¹ Submission 433, opposed by FS1097, FS1117

⁴⁶² Submission 383, opposed by FS1340

⁴⁶³ Submission 80, opposed by FS1077

⁴⁶⁴ Submission 310, opposed by FS1245

⁴⁶⁵ Dr Stephen Chiles, EIC, Section 14

- b. How many air changes per hour occurred at high setting on the ventilation system;
 - c. The need for passive relief venting; and
 - d. The measuring point for assessing the noise level of the ventilation system.
678. Mr Roberts provided expert ventilation evidence. He described the difficulties faced in implementing the ventilation system required by the notified rules. He also identified that some of the requirements, particularly that requiring 15 air changes per hour, were unnecessary in the Queenstown climate. His recommendation was that Table 5 should be amended so as to:
- a. *Reduce the high setting air changes so that there is no difference between Bedrooms and other Critical Listening Environments, for the purposes of rationalising the type, physical size and quantity of separate ventilation systems required to comply, and that those ventilation systems can readily achieve the difference between high and low setting air flow rates;*
 - b. *Provide the ability to use more modern and efficient plant, including heat pump air conditioning units; and*
 - c. *Simplify the system design in order that it can be readily designed to comply by local contractors.*⁴⁶⁶
679. In respect of the differences between the Council provisions and QAC provisions, he noted:
- a. The ventilation rates should not be linked to provisions of the NZ Building Code as those provisions are designed for different purposes;
 - b. While 6 air changes per hour proposed by the Council is very similar to the 5 air changes per hour he recommended, the extra change per hour would require an additional fan or complex air flow control system, with costs disproportionate to benefit;
 - c. High air change setting and cooling via heat pump cooling system could be provided as alternates;
 - d. The omission of a heating requirement from the Council proposal is possibly an error;
 - e. To ensure that combustion appliances can operate safely under the high air change requirement, additional passive relief venting is required;
 - f. There should be no need to duplicate heating, ventilation or cooling systems where they are already present and satisfy the requirements of the rule⁴⁶⁷.
680. Ms O’Sullivan attached a draft rule that, in her opinion, achieved the matters raised by Mr Roberts⁴⁶⁸.
681. The other outstanding matter was the point at which to measure the noise of the cooling system. The rule stated that noise levels were to be measure at a distance of 1 m to 2 m from any diffuser. Dr Chiles recommended that it be set at 1 m to remove ambiguity, while it was Mr Day’s evidence that this should be set at 2 m.
682. Ms Wolt submitted that there was no scope to set the measuring point at 1 m, while there was scope to set it at 2 m. In her Reply Statement, Ms Evans accepted that there may not be scope to set it at 1 m and recommended that it be set at 2 m, noting that it was likely that most persons measuring such noise would use the most lenient point.⁴⁶⁹

⁴⁶⁶ Scott Roberts, EiC, paragraph 17

⁴⁶⁷ *ibid*, paragraphs 28 - 38

⁴⁶⁸ Kirsty O’Sullivan, EiC, Appendix D

⁴⁶⁹ Ruth Evans, Reply Statement, paragraph 8.4

683. The evidence from the noise experts did not suggest that there was a difference between the ventilation rule options put to us in terms of protecting residents from aircraft noise. Given that lack of difference, we prefer the expert advice of Mr Roberts and accept that the rule drafted by Ms O'Sullivan, subject to minor amendments, is the most appropriate to include in the PDP. As amended, this rule explicitly provides for cooling as sought in Submission 80.
684. For those reasons, we recommend that Rule 36.6.3 (renumber 36.6.2) be adopted in the form shown in Appendix 3.

17.11. Rule 36.7

685. This rule provides ventilation requirements for critical listening environments in the Wanaka and Queenstown Town Centre Zones, the Local Shopping Zones and the Business Mixed Use Zone. There were no submissions on this rule and the Council, therefore, has no scope to change it other than by variation. It was Dr Chiles' evidence that it did need changing, even if only to correct the low setting from 1-2 ac/hr to 0.5 ac/hr. We recommend the Council obtain expert ventilation advice on appropriate standards for these zones and implement a variation to implement that advice if required.

17.12. Consequential Amendments Recommended by Other Hearing Streams

686. In addition to the amendments recommended by the Stream 8 Panel in relation to Section 36.1 and Rule 36.3.2.8 discussed above, that Panel has also recommended consequential amendments to recommended Rules 36.5.1, 36.5.3, 36.5.4 and 36.5.14.
687. The amendment to Rule 36.5.1 is consequential on the recommended rezoning of Wanaka Airport from Rural to Airport Zone. We agree that listing the Airport Zone – Wanaka in this rule will continue the notified noise regime for the land and therefore it can be made as a non-substantive change under Clause 16(2).
688. The remaining amendments are consequential on changing the name of the Airport Mixed Use Zone to Airport Zone. Again such changes are non-substantive changes under Clause 16(2).
689. We recommend those amendments, as shown in Appendix 3, are adopted.

17.13. Summary of Conclusions on Rules

690. We have set out in Appendix 3 the rules we recommend the Council adopt. For all the reasons set out above, we are satisfied that the rules are the most effective and efficient means of implementing the policies so as to achieve the objectives of Chapter 36, and those in the Strategic Directions chapters. Where we have recommended rules not be included, that is because, as our reasons above show, we do not consider them to be efficient or effective.

18. CHANGES SOUGHT TO DEFINITIONS

18.1. Introduction

691. Submitters on this Chapter also lodged submissions on a number of notified definitions and also sought the inclusion of several new definitions. In accordance with the Hearing Panel's directions in its Second Procedural Minute dated 5 February 2016, we heard evidence on these definitions and have considered them in the context of the rules which apply them. However, to ensure a consistent outcome of consideration of definitions, given the same definition may be relevant to a number of hearing streams, our recommendations in this part of the report are to the Hearing Stream 10 Panel, who have overall responsibility for recommending the final form of the definitions to the Council. As the recommendations in this section are not

directly to the Council, we have listed the wording we are recommending for these definitions in Appendix 5.

18.2. Noise

692. One submission⁴⁷⁰ sought that L_{dn} be deleted from the definition of noise. The submission suggests that it is only there to allow helicopters and no special provision should be made for noise from helicopters.

693. In discussing Rule 36.5.13 above we noted that expert noise evidence advised that the L_{dn} method is the best for measuring noise from helicopters. We recommend to the Stream 10 Hearing Panel that this submission be rejected.

18.3. Notional Boundary

694. The Southern District Health Board⁴⁷¹ recommended that “façade” in this definition be replaced by “any side” on the basis that in rural areas, where notional boundaries are used for noise measurement, it is all sides of the building that are important. Using the term façade may imply that it is only that facing the road which is relevant.

695. We agree with that logic and recommend to the Stream 10 Hearing Panel that the definition of notional boundary be amended to read:

***Notional boundary** means a line 20 m from any side of any residential unit or the legal boundary whichever is closer to the residential unit.*

⁴⁷⁰ Submission 243, opposed by FS1340

⁴⁷¹ Submission 649