

**BEFORE THE HEARINGS PANEL
FOR THE QUEENSTOWN LAKES PROPOSED DISTRICT PLAN**

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of Hearing Stream 14:
Wakatipu Basin
hearing and
transferred Stage 1
submissions related to
Arrowtown and Lake
Hayes

**REBUTTAL EVIDENCE OF MARCUS HAYDEN LANGMAN
ON BEHALF OF QUEENSTOWN LAKES DISTRICT COUNCIL**

PLANNING: WAKATIPU BASIN – REZONING SUBMISSIONS

27 June 2018

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TABLE OF CONTENTS

| | |
|---|----|
| 1. INTRODUCTION..... | 1 |
| 2. SCOPE..... | 1 |
| | |
| LCU 1 MALAGHANS VALLEY | 4 |
| 3. JEFFREY BROWN FOR MCGUINNESS (#2292)..... | 4 |
| | |
| LCU 2 FITZPATRICK BASIN | 5 |
| 4. AMANDA LEITH AND TONY MILNE FOR HAMILTON AND HAYDEN (#2422) ... | 5 |
| 5. CAREY VIVIAN FOR BROOMFIELD AND WOODLOT PROPERTIES LIMITED (#2276)..... | 7 |
| 6. CAREY VIVIAN FOR WAKATIPU INVESTMENTS LIMITED (#2275)..... | 8 |
| | |
| LCU 4 TUCKER BEACH | 8 |
| 7. MIDDLETON FAMILY TRUST (#2332)..... | 8 |
| | |
| LCU 6 WHAREHAUNUI HILLS | 15 |
| 8. JEFFREY BROWN FOR DONALDSON (#2229)..... | 15 |
| 9. JOHN EDMONDS, ANDREW CRAIG AND BERNARD O'MALLEY FOR MILLBROOK COUNTRY CLUB (#2295 AND #2605) | 16 |
| 10. REBECCA HADLEY FOR HADLEY (FS2772)..... | 19 |
| | |
| LCU 8 SPEARGRASS FLAT..... | 21 |
| 11. BEN FARRELL FOR WAKATIPU EQUITIES LIMITED (#2479/FS2750)..... | 21 |
| 12. LOUISE TAYLOR FOR X-RAY TRUST LIMITED AND AVENUE TRUST (#2619) 23 | |
| 13. WATERFALL PARK DEVELOPMENTS LIMITED (#2388) | 25 |
| | |
| LCU 9 HAWTHORN TRIANGLE | 30 |
| 14. JEFFREY BROWN FOR L MCFADGEN (#2296) | 30 |
| | |
| LCU 11 SLOPE HILL 'FOOTHILLS' | 31 |
| 15. BEN FARRELL FOR BURGESS (#2591) AND SMITH (#2500)..... | 31 |
| 16. JEFFREY BROWN FOR SLOPE HILL VENTURE (#2475)..... | 35 |
| | |
| LCU 13 LAKE HAYES SLOPES | 36 |
| 17. JEFFREY BROWN FOR UNITED ESTATES RANCH (#2126) | 36 |
| 18. BENJAMIN ESPIE FOR ROBINS AND CALLAGHAN (#2104) ET AL – MORVEN HILL AND MARTIN DOHERTY AND FERGUS (#2517) | 38 |
| 19. CHRISTOPHER FERGUSON AND BENJAMIN ESPIE FOR LAKE HAYES CELLAR LTD (#2378)..... | 39 |

| | | |
|-----|---|----|
| 20. | JEFFREY BROWN FOR DUNCAN (#2319) | 42 |
| 21. | JEFFREY BROWN AND BENJAMIN ESPIE FOR LAKE HAYES INVESTMENTS LTD (#2291), C BATCHELOR (#2318) | 45 |
| 22. | JEFFREY BROWN AND BENJAMIN ESPIE FOR DAYMAN (#2315) | 46 |
| | | |
| | LCU 15 HOGANS GULLY | 46 |
| 23. | HOGANS GULLY FARM LIMITED (#2313) | 46 |
| | | |
| | LCU 18 MORVEN FERRY EASTERN FOOTHILLS | 50 |
| 24. | MORVEN FERRY LIMITED (#2276) AND BARNHILL CORPORATE TRUSTEE LIMITED AND ORS (#2509) | 50 |
| | | |
| | LCU 22 THE HILLS | 54 |
| 25. | TROJAN HELMET LIMITED (#2387) | 54 |
| | | |
| | LCU 23 MILLBROOK | 58 |
| 26. | CAREY VIVIAN FOR ARCHIBALD (#2501) AND UNDERDOWN TRUST NEE GRIFFIN (#2580) | 58 |
| 27. | AMANDA LEITH AND NICOLA SMETHAM SPRUCE GROVE TRUST (#2512 and #2513) AND BOUNDARY TRUST (#2444) | 60 |
| 28. | JEFFREY BROWN FOR WILLS AND BURDEN (#2320) | 65 |
| | | |
| | LCU 10 LADIES MILE | 67 |
| 29. | NICHOLAS GEDDES FOR LADIES MILE CONSORTIUM (#2489) AND FELZAR PROPERTIES LIMITED (#229) | 67 |

Appendix A: Annotations/comments on the Proposed Ayrburn Zone

Appendix B: Annotations/comments on the Proposed Hogans Gully Zone

Appendix C: Annotations/comments on Proposed The Hills Resort Zone

1. INTRODUCTION

- 1.1** My full name is Marcus Hayden Langman. I am a private planning consultant engaged by the Queenstown Lakes District Council to provide planning evidence on behalf of the Council on submissions for rezoning in the Wakatipu Basin (excluding Arrowtown and Ladies Mile).
- 1.2** My qualifications and experience are set out in my s42A Report dated 30 May 2018.
- 1.3** I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014 and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise except where I state that I am relying on the evidence of another person.

2. SCOPE

- 2.1** My rebuttal evidence is provided in response to the following evidence filed on behalf of various submitters:
- (a) Mr Jeff Brown for McGuinness (#2292);
 - (b) Mr Carey Vivian for Broomfield and Woodlot (#2276);
 - (c) Ms Amanda Leith for Hamilton and Hayden (#2422);
 - (d) Mr Nick Geddes and Mr Michael Copeland for Middleton Family Trust (#2322);
 - (e) Mr Brown for Donaldson (#2229);
 - (f) Mr John Edmonds for Millbrook Country Club (#2295 and #2605);
 - (g) Ms Rebecca Hadley for Hadley (FS2772);
 - (h) Mr Ben Farrell for Wakatipu Equities (#2479 and #2750);
 - (i) Ms Louise Taylor for X Ray Trust Limited and Avenue Trust (#2619);
 - (j) Mr Brown for Waterfall Park Developments Limited (#2388);
 - (k) Mr Brown for McFadgen (#2296);

- (l) Mr Farrell for Smith (#2500), Harris (#2535) and Burgess (#2591 and #2712);
- (m) Mr Brown for Slope Hill Joint Venture (#2475);
- (n) Mr Farrell for Wakatipu Equities Limited (#2479);
- (o) Mr Brown for United Estates Ranch Limited (#2126);
- (p) Mr Ferguson for Lake Hayes Limited (#2377);
- (q) Mr Ferguson for Lake Hayes Cellars (#2378);
- (r) Mr Brown for Duncan (#2319);
- (s) Mr Brown for Lake Hayes Investments Limited and Ors (#2291, #2314, #2315);
- (t) Mr Brown for Hogans Gully Farm (#2313);
- (u) Mr Scott Freeman for Morven Ferry Limited (#2449);
- (v) Mr Brown, Mr Fraser Colegrave, and Mr Stephen Peakall for Trojan Helmet Limited (#2397);
- (w) Mr Vivian for Griffin (#2580) and Archibald (#2501);
- (x) Ms Leith and Ms Smetham for Spruce Grove Trust (#2512) and Boundary Trust (#2444);
- (y) Mr Brown for Wills and Burdon (#2320);
- (z) Mr Vivian for Wakatipu Investments Limited (#2275); and
- (aa) Mr Geddes for Ladies Mile Consortium (#2489) and Felzar (#229).

2.2 I also confirm that I have read the following statements of evidence and consider that no response is needed, or that the matter is covered by the rebuttal of another expert witness:

- (a) Mr Chris Fergusson for Crown Investment Trust (CIT) (#2307);
- (b) Mr Tony Milne for Hamilton and Hayden (#2422);
- (c) Mr Jason Bartlett, Mr Mike Copeland and Mr Ben Espie for Middleton Family Trust (#2332);
- (d) Mr Vivian for Williamson (#2272);
- (e) Mr Patrick Baxter for Waterson (#2308);
- (f) Mr Ben O'Malley and Mr Andrew Craig for Millbrook Country Club (#2295 and #2605);
- (g) Mr Brown, Mr James Hadley and Mr Anthony Penny for Boxerhill Trust (#2385);

- (h) Mr Stephen Skelton for Wakatipu Equities Limited (#2479 and #2750);
- (i) Mr Anthony Steel, Mr Graham Salt and Mr Philip Blakely for X Ray Trust Limited and Avenue Trust (#2619);
- (j) Mr Baxter, Mr Andy Carr, Ms Ruth Goldsmith, Mr Ciaran Keogh, Ms Alexis Patrylak, Ms Jayne Richards, and Mr Skelton for Waterfall Park Developments Limited (#2388) ;
- (k) Mr Skelton for Burgess (#2591 and #2712);
- (l) Mr Skelton for Wakatipu Equities Limited (#2479);
- (m) Mr Espie for Robins and Ors (#2104, #2104, #2517, # 2378, #2318, #2319, #2291, #2314, #2315, #2316, #2317, #2389);
- (n) Mr Jason Bartlett, Mr Baxter, Mr Ryan Brandenburg, Mr Greg Turner, Mr Glenn Davis and Mr Adam Vale for Hogans Gully Farm Limited (#2313);
- (o) Mr Bartlett, Mr Hadley, Dr Shane Galloway and Mr Espie for Morven Ferry Limited (#2449) and Barnhill Corporate Trustee Limited, Bunn, Bunn & Green (#2509);
- (p) Mr Brendan Allen, Mr James Hadley, Ms Emma Hill and Mr Anthony Penny for Trojan Helmet Limited (#2387);
- (q) Mr Baxter for Meehan (#526);
- (r) Mr Espie for McQuilkin (#459);
- (s) Mr Vivian for McDonald and Anderson (#451/#454);
- (t) Mr Julian Haworth for Upper Clutha Environmental (#2016);
- (u) Mr Matthew Gatenby and Mr Anthony MacColl for New Zealand Transport Agency (#2538); and
- (v) Mr Brown for Crosby Developments Limited (#2526 and #2527) and Robertson (#2321).

2.3 My evidence has the following attachments:

- (a) **Appendix A:** Annotations/comments on the Proposed Ayrburn Zone;
- (b) **Appendix B:** Annotations/comments on the Proposed Hogans Gully Zone; and
- (c) **Appendix C:** Annotations/comments on Proposed The Hills Resort Zone

- 2.4 Although the rebuttal filing date for submission #2513 is 4 pm Friday, 29 June, and the filing date for submission #2387 is 4pm, Wednesday 4 July, I have included my response to those submitters' evidence in this rebuttal statement.
- 2.5 A separate rebuttal statement will be filed for submissions #2386 and #2400.

LCU 1 MALAGHANS VALLEY

3. JEFFREY BROWN FOR MCGUINNESS (#2292)

- 3.1 Mr Brown has filed planning evidence on behalf of McGuinness, as contained within his grouped evidence on behalf of **Lakes Hayes Investments et al.**¹
- 3.2 The 4.9ha site is zoned both Wakatipu Basin Amenity Zone (**Amenity Zone**) (Landscape Character Unit (**LCU**) 1) and Wakatipu Basin Lifestyle Precinct (**Precinct**) (LCU 5 and LCU 6), and is located at the northern extent of Dalefield Road.
- 3.3 Mr Brown provides no site-specific evidence as to the appropriateness, or otherwise of the relief, which is that the site that was notified as Amenity Zone in Stage 2 is rezoned as Precinct, in conjunction with the deletion of recognition of the Landscape Feature. That relief would also be tempered by Mr Brown's support for, amongst other amendments, a minimum 4,000m² minimum lot size, retaining the 1ha average.
- 3.4 Mr Brown has not referred to any landscape evidence in support of his recommendations. His evidence also does not address the removal of the Landscape Feature.
- 3.5 Ms Gilbert's evidence in chief identifies that the overall LCU contains a relatively low area of rural development; that the use of cadastral

1 Lake Hayes Investments Limited (#2291); Stoneridge Estate Limited (#2314); D Duncan (#2319); R Dayman (#2315); Crosby Developments (#2526); Crosby Developments (#2527); L McFadgen (#2296); Slopehill Joint Venture (#2475); R & M Donaldson (#2229); United Estates Ranch Limited (#2126); M McGuinness (#2292); Robertson (#2321), Trojan Helmet Limited (#2387), Hogans Gully Farm Limited (#2313), Burden & Wills (#2320), Boxer Hills Trust (#2387) P Chittock (#2787)

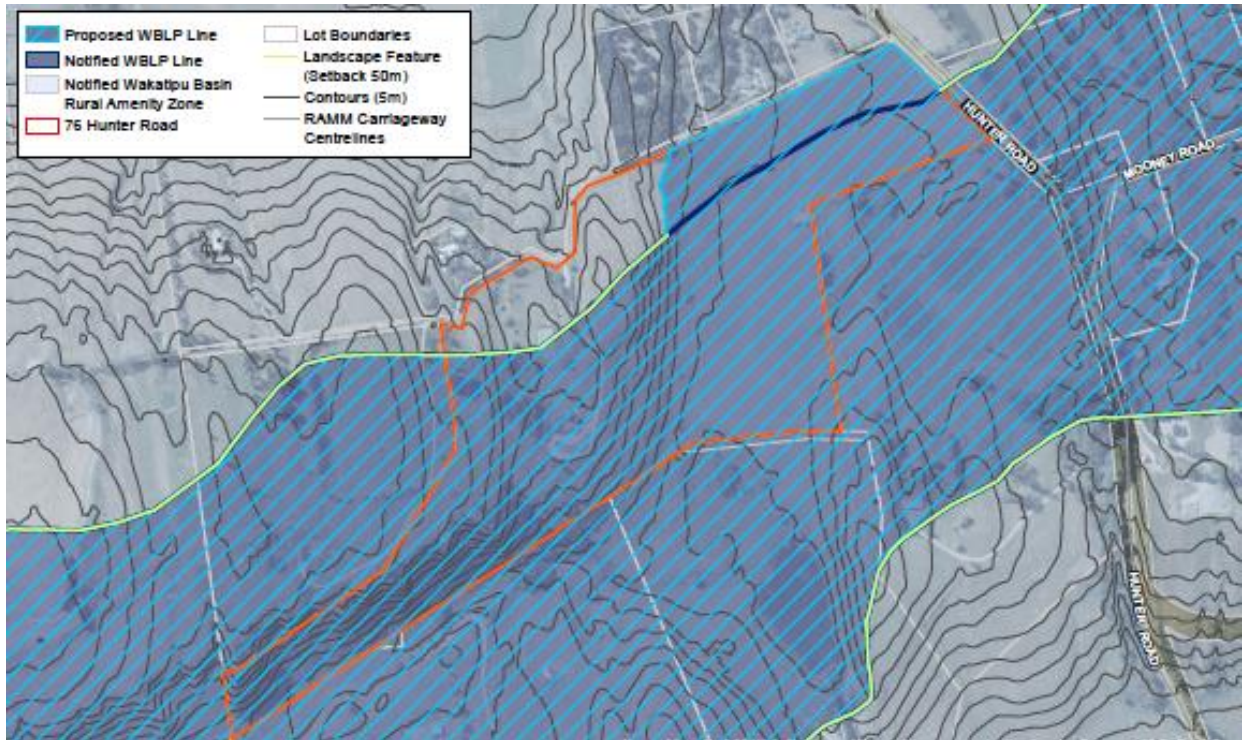
boundaries to define the Precinct zone would undermine the LCU delineation methodology, and that the landscape feature is considered necessary to ensure the amenity and character values of LCU1 are retained.

- 3.6** Accordingly, my views, as set out in section 9 of my s42A report have not changed.

LCU 2 FITZPATRICK BASIN

4. AMANDA LEITH AND TONY MILNE FOR HAMILTON AND HAYDEN (#2422)

- 4.1** Ms Amanda Leith has filed planning evidence and Mr Tony Milne has filed landscape evidence in support of the submission from Hamilton and Hayden.
- 4.2** Ms Gilbert has reviewed the evidence of Mr Milne. Her rebuttal evidence is that there is a legible geomorphological boundary in the central portion of the property boundary and that the Precinct boundary in that part should remain as notified. However, Ms Gilbert does agree that the Precinct boundary at the eastern end of the northern boundary can be relocated. She also considers that the Landscape Feature line in this location can be removed.
- 4.3** Ms Gilbert has recommended the boundary be amended as follows:



4.4 Taking into account Ms Gilbert’s agreement to the amended location of the Precinct boundary based on the analysis of Mr Milne and Ms Leith’s evidence, I consider the amended boundary is the most appropriate for achieving the objectives and policies of Chapter 24, in particular, that landscape character and visual amenity values will be maintained as a result of the amended zone boundary.

4.5 For the reasons set out in Ms Gilbert’s evidence, I do not consider that it is appropriate to amend the boundary to the full extent as requested by the submitter. As Ms Gilbert has set out, the Precinct and Landscape Feature line would be positioned up to 100m beyond the crest of the ridgeline, on the (downhill) Malaghans Valley side, suggesting visibility from the Malaghans corridor and negating the mitigation benefits of the 50m Landscape Feature Setback. She considers such an outcome to be inappropriate given the Very Low absorption capability rating of LCU 1 Malaghans Valley (and despite the landscape driven Precinct assessment criteria).

5. CAREY VIVIAN FOR BROOMFIELD AND WOODLOT PROPERTIES LIMITED (#2276)

- 5.1** Mr Vivian has filed evidence in relation to the submission of Broomfield and Woodlot Properties Limited in support of the submitters' request to extend Precinct zoning above the 400m contour line.
- 5.2** Mr Vivian has noted that Stage 1 mapping has been used in the aerial photograph shown at Figure 9 in my s42A report. By way of explanation, the Figure is an extract from the Wakatipu Basin Land Use Study. Ms Gilbert explains in her evidence in chief the reason for using the maps to provide context at paras 4.2-4.5. I have relied on Ms Gilbert's explanations of the methodology for the mapping to inform my response.
- 5.3** Mr Vivian has correctly pointed out a drafting error in my assessment summarising Ms Gilbert's evidence. Para 14.2 in my s42A report is withdrawn, and Ms Gilbert's evidence is correctly summarised at para 14.6 of my s42A report.
- 5.4** At para 2.17 of his evidence, Mr Vivian considers that the statement that the 400m contour encompasses the *majority* (my emphasis) of the existing and consented development on Ferry Hill is in my view incorrect. Mr Vivian has provided evidence on this matter, including additional consent RM130386, which approves 8 residential building platforms, of which 1 appears to be above the 400m contour, as shown in Appendix 1 to Mr Vivian's evidence.
- 5.5** In relation to Ms Gilbert's earlier assessment regarding the contour encompassing the majority of the development on Ferry Hill, I consider this is a fair and accurate statement, notwithstanding the additional building platforms identified.
- 5.6** Ms Gilbert has considered Mr Vivian's evidence and responded in her rebuttal evidence. She agrees that it is difficult to provide a solution to determining a boundary when there is no clear geomorphological feature. She considers that using a boundary to 'capture' consented development is more arbitrary than the use of the contour line method

that she has preferred in this location. It appears that providing for the boundary as Mr Vivian has sought, would allow the development of Lot 8, which has already been considered through the consent process and withdrawn on landscape grounds. The consent decision acknowledges that the area is at the limit of what can be absorbed while maintaining the character of the Rural General and Rural Lifestyle Zones (and I acknowledge that these will become legacy zones once the PDP becomes operative).

5.7 Ms Gilbert remains opposed to the submission. I rely on Ms Gilbert's expert evidence on this matter, noting that no other landscape evidence has been put forward. It is my opinion that the consent provides further context that further development in this location is at capacity. In this respect, moving the Precinct boundary further up Ferry Hill and providing for additional building platforms is less likely to achieve protection of landscape character in the vicinity. As such, the boundary as notified, will in my view better implement the objectives of the PDP.

6. CAREY VIVIAN FOR WAKATIPU INVESTMENTS LIMITED (#2275)

6.1 Mr Vivian prepared evidence in relation to the submission of Wakatipu Investments Limited. Regarding the issue raised by Mr Vivian regarding the mapping layers used for my s42A report, this is addressed in para 5.2 of my rebuttal. Given the submitter's support for the notified zoning, no further analysis is necessary.

LCU 4 TUCKER BEACH

7. MIDDLETON FAMILY TRUST (#2332)

7.1 A number of briefs of evidence have been filed in support of the Middleton Family Trust submission as set out below:

- (a) Mr Geddes – planning;
- (b) Mr Copeland – economics;
- (c) Mr Espie – landscape;
- (d) Mr Bartlett – transport; and

(e) Mr Hansen – infrastructure.

7.2 The subject site relates to some 56ha adjoining Tuckers Beach Rd, enclosed by Hansen Road to the east, Shotover River to the north, Queenstown Hill to the west and upper slopes leading to Lake Johnson to the south.

7.3 The site has a notified Amenity Zone (LCU 4). My s42A report concluded that the residential precinct sought in the submission, was the less appropriate zoning to achieve the strategic objectives and policies of the PDP. In particular, it would not promote a compact, integrated and well design urban form (Objective 4.2.1, Policy 4.2.1.3), and Strategic Objective 3.2.5 related to maintaining rural character and amenity, and Policies 3.3.29 to 3.3.32 as to impacts on ONF/Ls.

7.4 The relief contained in the evidence of Mr Geddes and Mr Espie is as follows:

- (a) application of Precinct to that area at the eastern end of the site as notified, and introduction of additional Precinct on that terraced land on the north-western extent of the landholding;
- (b) application of a Tucker Beach Residential Precinct (**TBRP**) on the balance land with residential densities² to 600m², interspaced with 'no build Escarpment Protection area (**EPA**) on the steep and more exposed part of the area' (Geddes, Sheet 1 : Appendix 1).
- (c) rules in the TBRP relating to building massing: setbacks (2m internal and 4.5m frontage); height (6m); permeability (30%); coverage (40%);
- (d) rules in the TBRP relating to design of buildings are a controlled activity; and
- (e) a proposed 'Trail' providing cycling and walking access via easement to Lake Johnson, which at its northern extent is not publicly accessible.

² Based on the densities identified by Mr Espie at para 4.2, Mr Geddes [Rule 27.5.1, Appendix 3] noting inconsistency with his proposed Rule 24.5.20 which seeks a minimum density of 450m² as a non-complying activity.

- 7.5** Overall, the relief would yield some 200 residential units and 9 Precinct allotments.³
- 7.6** The evidence of Mr Bartlett identifies traffic flows of 1,400 (vpd) with peak flows of 160 (vph). He identifies that flows will be 'noticeable', but concludes subject to intersection improvements at Tucker Beach Road / State Highway 6, these flows could be absorbed by the network. He identifies intersection works may be required for the intersection with Ferry Hill Drive to improve the layout, safety and increase the intersections operational capacity. He concludes by acknowledging that further assessments would be needed at the time of subdivision consent. Mr Smith has reviewed Mr Bartlett's evidence, but considers that no rebuttal evidence is required.
- 7.7** Mr Hansen provided infrastructure evidence for the Trust and concludes that additional installation of bulk infrastructure is necessary, but this can be met by the imposition of headworks fees at the time of connection. Ms Jarvis has reviewed the evidence of Mr Hansen. She concludes that he has not addressed the capacity of the wastewater reticulation between the requested zone and the Shotover Treatment Plan, and that modelling to confirm availability of supply for the water network has not been undertaken. In addition, I note that the Possible Reservoir Site identified in section 7.5 of Appendix 1 to Mr Hansen's evidence is located in an ONL area identified as part of the decisions in Stage 1. Mr Espie has not addressed the reservoir in his evidence including in particular how the necessary consents might be obtained under the PDP ONL framework.
- 7.8** The evidence of Mr Geddes seeks to introduce into Chapter 24 a TBRP, which has as its foundation in the Lower Density Residential Zone (**LDRZ**) provisions of the PDP (now the Lower Density Suburban Residential Zone in the PDP decisions).
- 7.9** He acknowledges that the initial relief, to introduce a Low Density Residential zone through Stage 1 (#338) was rejected and that

³ Evidence in chief of Mr Bartlett at para 9.

furthermore Chapter 24 as notified does not introduce any residential zoning.

7.10 Mr Barr in his s42A report identifies that the land contained under Chapter 24 is not an Urban Environment as defined in the NPS-UDC.⁴

7.11 Despite these acknowledgements, Mr Geddes is not of the view that the proposal troubles the Urban Growth Boundaries (**UGB**), as he seeks an extension of the UGB to cover the TBRP portion of the site.

7.12 As I have set out in my rebuttal evidence for Waterfall Park Development Limited (#2388), the relevant provisions of Chapter 3 and 4 do not support Mr Geddes' approach. I do not agree with his conclusion at paras 4.27 and 4.35. In my opinion, the proposed residential zoning and expansion to the UGB will not be the most appropriate in terms of:

- (a) *Promoting a compact, well designed and integrated urban form* (Objective 3.2.2.1(a));
- (b) *Protect the District's rural landscapes from sporadic and sprawling development* Objective 3.2.2.1(a)), as based on the evidence of Ms Gilbert;
- (c) defining an *Urban Growth Boundary to identify the areas that are available for the growth of the main urban settlements* (Policy 4.2.1.1), and that urban development should be on land within and at selected locations *adjacent* to the existing larger urban settlements (Policy 4.2.1.2); and
- (d) the proposal is not the more appropriate in terms of achieving Strategic Policies 3.3.12-15, which seek that urban development is contained within an urban growth boundary.

7.13 Mr Geddes relies on the evidence of Mr Espie, that the proposed development can be readily absorbed at the western end of LCU 4.

7.14 Ms Gilbert has evaluated the evidence of Mr Espie. She has concluded that, on its face the flat topography of the site makes it relatively well-

⁴ S42A Barr at para 5.33 and 5.34

suited to absorb additional development, and that the confinement of the TBRP is sympathetic so as to avoid adverse effects on the adjacent ONL. She also advises consistency of approach with her recommendations of a boundary landscape buffer as associated with the proposed walkway / cycleway.

7.15 Ms Gilbert's rebuttal evidence is that if the Hearings Panel is of mind to approve the proposal, the EPA on the western and southern edge of the Precinct should be widened to provide a minimum 20m planted buffer. Regardless of the Panel's decision, she agrees with Mr Espie's amendments to Schedule 24.8 LCU 4 and these are set out at para 4.38 of Ms Gilbert's rebuttal evidence and in the chapter attached to Mr Barr's rebuttal evidence; which I agree with.

7.16 Overall, Ms Gilbert concludes in her rebuttal evidence that the proposal represents material adverse effects in terms of visual amenity and urban design:

- (a) There will be a moderate-low to high adverse effect associated primarily with the incongruous and distinctly urban built form, contrasting with the relatively spacious and overwhelmingly undeveloped rural and mountain setting, from that outlook from the catchment to the north.
- (b) For users of the Shotover River and associated public spaces the development will read as an almost continuous line of residential buildings, and result in a distinctly jarring outcome. Further, urban development along the edge of the elevated terrace would detract from the scale and impression of the ONL behind. These adverse visual effects are concluded as being high.
- (c) For views from the west, Ms Gilbert concludes that the proposal results in discordant landscape patterns, with the massing associated with the more urban TBRP contrasting with more spacious and landscaped allotments present along Tucker Beach Road. These adverse visual effects are also considered as high.

- (d) There is general agreement with Mr Espie as to the views to the north east for that catchment associated with Domain Road and Slope Hill.

7.17 Ms Gilbert raises substantial concerns associated with the proposal, principally given the establishment of a significant residential urban enclave, separated by a reasonable distance to the nearest urban zoned residential area. This promotes a fragmented pattern of urban development.

7.18 I concur with the evidence of Ms Gilbert, and consider that the proposal does not promote compact and integrated urban forms (Policy 3.2.2.1(a)), nor protects the District's landscapes from sporadic development (Policy 3.2.2.1(e)), nor is adjacent⁵ to existing larger urban settlements; and given the Rural zoning incumbent in Chapter 24 would not achieve Policy 3.3.24 which states:

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.

7.19 Mr Copeland in his evidence does not appear to assess what he terms as infrastructure and transport externalities. These are however dismissed '*as the development is not expected to give rise to such costs*'. This is despite Ms Jarvis raising concerns related to the area not being connected to wastewater or water supply and outside the scheme boundaries. At para 5.3, Mr Copeland identifies that bringing forward the installation of bulk infrastructure capacity will present such costs, but doesn't attempt any indication of their scale or relevance.

7.20 Mr Copeland does not identify or assess any further externalities, such as costs associated with implications of the development on rural character and landscape values. Concerns raised as to risks associated with double counting landscape effects assessed by Mr Espie should at least be raised, given Mr Copeland's conclusion that

5 Defined in the Oxford Dictionary as 'next door to, abutting, close to, and bordering'.

enabling *'residential development (on this site) will give rise to net economic benefits'*.

- 7.21** Mr Copeland's references to the National Policy Statement on Urban Development Capacity (2016) (**NPS-UDC**) are, in my view, mis-directed.
- 7.22** The NPS-UDC is intended to apply to urban environments.⁶ As clearly stated in the s42A report of Mr Barr at para 5.34, the land identified within the Wakatipu Basin zone is not an urban environment as defined in the NPS-UDC.
- 7.23** Mr Copeland acknowledges rezoning this site to residential would be in excess of projected demand. Accordingly I consider that the benefits he ascribes to the proposal are overstated given that sufficient capacity is already zoned.
- 7.24** Mr Copeland's commentary around increased competition, application of NPS-UDC Policy PA3 which seeks to provide for residential and business choices, and NPS-UDC Policy PC1, given they are raised outside of their legislative context can, in my view, be afforded little weight.
- 7.25** Regardless, it is understood that the concept of competition, as identified at para 4.1, is by no means accepted as promoting economically efficient outcomes, especially in terms of determining public benefits.
- 7.26** In this instance, Mr Copeland appears to be conflating increased competition with providing endless opportunities for development. Even were the NPS-UDC relevant it does not, in my view, embody a mandate where the continual rezoning for residential land represents the most economically efficient outcome.

6 Defined within the NPS-UDC as meaning "an area of land containing, or intended to contain, a concentrated settlement of 10,000 people or more and any associated business land, irrespective of local authority or statistical boundary."

- 7.27** Ultimately, I am of the view that Mr Copeland's evidence can largely be disregarded. The evidence is, for the most part, very high level and generic and could be applied to nearly any request for residential rezoning. The very firm statement that the proposal to enable residential development will give rise to economic benefits, is not balanced with any attempt to quantify any costs associated with the proposition.
- 7.28** The evidence does not assist in determining whether the approach is the more efficient or appropriate in terms of considering the different approaches, and associated provisions, objectives, policies, rules, and costs and benefits as required under s 32 RMA.
- 7.29** Given that I consider that the UGB is inappropriate in this location. The proposal is not the most appropriate to achieve the Strategic Directions outlined above, particularly in relation to Urban Growth (Objective 3.2.2) and Rural Landscapes (Objective 3.2.5.2). Neither is the approach considered the most appropriate and I consider that the relief does not achieve Policy 4.2.1.2. I therefore retain my recommendation at para 13.13 of my S42A evidence. The zoning as notified is the more appropriate (i.e. Part Amenity Zone and part Precinct).

LCU 6 WHAREHAUNUI HILLS

8. JEFFREY BROWN FOR DONALDSON (#2229)

- 8.1** The subject site was notified as Precinct in Stage 2. Mr Brown advises in his evidence that submitter Donaldson and Millbrook Council Club have entered an agreement for site-specific development controls, and that the terms of that agreement have been registered as a private covenant. Mr Brown has noted that the submitter is happy to volunteer the covenant as a site specific rule as follows:

| | Zone and Location Specific Rules | Activity Status |
|----------------------|---|------------------------|
| <u>27.7.X</u> | <p><u>Lot 3 DP20693 (south of Ishii Lane, Millbrook):</u></p> <p><u>Minimum lot area 2500m² provided that:</u></p> <ul style="list-style-type: none"> - <u>no more than 15 lots in total are created;</u> - <u>no more than 5 lots shall be located west of the existing water race on the property;</u> - <u>any building platform shall be no less than 15m from the external boundary of Lot 3 DP20693;</u> - <u>the 15m open space margin adjoining the periphery of Lot 3 DP20693 shall be landscaped where necessary to further soften the appearance of buildings when viewed from the Golf Activity Areas of the Millbrook Resort Zone Structure Plan.</u> | <u>NC</u> |

8.2 It is my opinion that inclusion of such a rule is not supported by evidence, nor a section 32AA evaluation. I also note that minimum lot size does not accord with that being supported for the Precinct Zone.

8.3 In addition to this, my view is that such a rule provides unnecessary complexity to the plan, which duplicates a private agreement. For these reasons, I consider that the rule proposed by Mr Brown is rejected, and the notified zone is retained as requested in the primary submission.

9. JOHN EDMONDS, ANDREW CRAIG AND BERNARD O'MALLEY FOR MILLBROOK COUNTRY CLUB (#2295 AND #2605)

9.1 Mr Edmonds has filed planning evidence on behalf of Millbrook Country Club. Ms Gilbert has also considered the evidence of Mr Craig in relation to landscape matters. I have also read the evidence of Mr O'Malley in relation to Millbrook Resort.

9.2 Mr Edmonds' evidence was helpful in that it provided the correct density over the Millbrook development, including the addition of Dalglish Farm land of approximately 1 dwelling per 6000m². I accept Mr Edmond's correction of the figure in my s42A report, which referred to a density of approximately 1 dwelling per hectare.

9.3 At para 111 of his evidence, Mr Edmonds has included the Stage 1 decisions definition of "resort". On reflection, I consider that this

definition is useful context when considering the potential inclusion of land in the Millbrook Resort Zone. I consider that for land to be included in the resort zone, it should meet the requirements as set out in the definition. That is, it should:

- (a) be an integrated and planned development;
- (b) involve low average density of residential development (as a proportion of the development area); and
- (c) principally provide visitor accommodation forming part of an overall development focussed on on-site visitor activities.

Archibald (#2501) and Underdown Trust nee Griffin (#2580)

9.4 Mr Edmonds sets out at para 36 that Millbrook, and submitters Archibald and Griffin, have reached separate agreement that, subject to certain limitations, two new Residential Activity Areas (19 & 20) would be acceptable. Mr Edmonds considers that in his view such building would need to be subject to the design guidelines that sit outside the rules. He acknowledges that there is a blurring of private agreements and public policy and sets out some bottom lines that he considers would need to be fulfilled to be included as part of the Resort Zone, including:

- (a) use of existing formal Millbrook roads for access;
- (b) registration of Millbrook's standard Memorandum of Encumbrance;
- (c) adoption of the design guidelines; and
- (d) agreement to a maximum density.

9.5 I consider that Mr Edmonds has very clearly and accurately set out the complex nature of bringing external properties into the fold of the Millbrook Resort Zone. On one hand, it is straightforward for the Council to zone the land and provide for a certain level of development within that land based on capacity of that land with regard to surrounding amenity, infrastructure capacity and roading. On the other hand, integration with the visitor based activities on a social and amenity level (as perceived by Millbrook Country Club, its owners,

residents and visitors) are necessary from its perspective, requiring the use of private agreements.

- 9.6** In relation to the request by Archibald and Griffin to be included in the Millbrook Resort Zone, I consider that this better implements the policies and objectives of the plan, particularly given the isolated nature of the sites being fully enclosed in the Millbrook Resort, and their discrete size. With the exception of density, I consider that the remaining matters with which Millbrook Country Club are concerned are best addressed by way of private agreements and not included in the plan. If agreement has been reached between the submitters, it would assist if an agreed amended version of the Chapter 43 provisions were tabled for the Panel. I note that there is no scope to amend any matter that was already decided as part of Stage 1, but that amendments to provisions that apply to the submitter's land only will be within scope (ie. site specific provisions).

Spruce Grove Trust Malagans Road (#2513)

- 9.7** Mr Edmonds has generally agreed with my evidence in relation to this submission. I have reviewed Mr Edmond's evidence on this area and remain of the opinion that Amenity Zone is the most appropriate zoning for the site, recognising the existing approved consent.

Egerton and Ors (#2419, #2413, #2444, #2512)

- 9.8** Mr Edmonds has generally agreed with my evidence in relation to these submissions (referred to as Egerton and Ors⁷ in my s42A report), and elaborated further on these submissions. I accept Mr Edmond's evidence on these submissions at this stage.

Waterfall Park Developments Limited (#2388)

- 9.9** Mr Edmonds raises a number of concerns regarding the proposed new Ayrburn Zone, and/or Waterfall Parks Zones at para 64-80 of his evidence. In relation to provisions relating to the 'wedge' that is sought

⁷ Referring to the submissions of J Egerton & Cook Allan Gibson Trustee Company Limited (#2419), M & K Campbell (#2413), Boundary Trust (#2444) and Spruce Grove Trust (Butel Road) (#2512)

to be rezoned, Mr Edmonds considers that areas identified as O/P should have a non-complying status for buildings. Such a request would appear to be out of scope (unless the non-complying activity status applied only in relation to the Wedge, or any new extended area of Waterfall Park Zone), as the O/P notation in the Structure Plan and associated activities were decided in Stage 1. In relation to the other matters raised, while I consider them relevant, my position is still that the request to extend Waterfall Park Zone or development of a new Ayrburn Zone be rejected (and I address this later in my rebuttal statement). If the Panel were minded to approve the Ayrburn Zone, the matters raised by Mr Edmonds may require further scrutiny.

Donaldson (#2229), X-Ray Trust Limited and Avenue Trust (#2619) and Williamson (#2272, #499)

- 9.10** Mr Edmonds has correctly identified an error in my report, being the first sentence of para 18.4 of s42A report. That sentence can be replaced as follows:

The submitter is seeking that Precinct zoning be adopted over submitter's land located at Mooney's Road, legally described as Lot 2 DP 360366, Lot 2 DP 27602, Lot 1 and 2 DP 27112, Lot 1 and 2 DP 319853, Lot 1 and 2 DP 313306, Lot 2 DP 310422.

- 9.1** In relation to these matters raised in the evidence of Mr Edmonds, I continue to rely on the evidence of Ms Gilbert in relation to these. The submissions are also addressed later in my rebuttal.

10. REBECCA HADLEY FOR HADLEY (FS2772)

- 10.1** No planning evidence has been provided in relation to this submission, however it is noted that the further submission was not addressed in full in my s42A report, nor was it addressed in Ms Gilbert's evidence in chief. Ms Rebecca Hadley, a landscape architect, has provided evidence in support of the submission. Her evidence recognises her personal interest in the subject matter and does not purport to be expert evidence.

10.2 Ms Gilbert has addressed Ms Hadley's further submission and evidence in her rebuttal. Ms Hadley supported the submissions of Clarke (#2234), Andersson (#2167), Shaping Our Future (#2511), Beadle (#2430) and Hart (#2101). She opposed the submission of Waterfall Park Developments Limited (#2388) in its entirety, including the Ayrburn Zone or an alternative extension of the Waterfall Park Zone.

10.3 Ms Hadley also makes comments in her evidence supporting the submissions of Doyle (#2030) and Trojan Helmet (#2387), and opposing X Ray Trust Limited and Avenue Trust Limited (#2619). In relation to those submissions, no further submission appears to have been filed in relation to them. I have not considered Ms Hadley's evidence in relation to this group of submissions.

10.4 Ms Gilbert's evidence can be summarised as follows:

- (a) fundamental to the point of difference is that she considers the eastern end of Speargrass Flat to have capacity to absorb further development and that it displays a rural living character;
- (b) the absence of a defensible edge on the northern side of existing development in conjunction with a legible boundary nearby means that she considers it a matter of time before development is consented in this area; and
- (c) proximity to the established land at Lake Hayes and a strong defensible boundary, combined with a relatively contained and discrete area points towards a location that is suited to absorbing additional rural residential development, and the road setback will maintain a perception of "breathing space".

10.5 I accept Ms Gilbert's evidence on this matter in relation to the Speargrass Flat Precinct zoning. Ms Gilbert has recommended amending the boundary of Precinct in this area to ensure that it follows a defensible line, and addresses the requirement for a setback from the Queenstown Trail. I note that in relation to the Ayrburn Special Zone (or extension of the Waterfall Park Zone) as requested by Waterfall Park Developments Limited, I generally oppose this for the

reasons set out in my s42A report, and therefore I support this aspect of Ms Hadley's evidence and further submission.

LCU 8 SPEARGRASS FLAT

11. BEN FARRELL FOR WAKATIPU EQUITIES LIMITED (#2479/FS2750)

11.1 Mr Farrell has provided planning evidence supporting the submission of Wakatipu Equities Limited (**WEL**). WEL sought that its land be zoned as requested in Stage 1 (Rural Lifestyle Zone), or alternatively as Precinct.

11.2 I note that Mr Farrell has recommended that little weight be given to objectives and policies from Stage 1 that are potentially subject to appeal. This appears to be a misapplication of the concept of weighting. Although I accept that the objectives and policies are potentially not settled (I do not know the extent of Environment Court appeals lodged at the time of filing this evidence), they have been subject to hearings, an independent recommendation that was subsequently adopted by Council and issued as a decision of the Council under clause 10 of Schedule 1 of the RMA. The decisions version of the Strategic Chapters now forms part of the PDP. Whether the objectives are settled goes instead to the ability (or requirement in this instance) to go to an intermediate higher level document (the ORPS), and Part 2 of the RMA.

11.3 Mr Farrell states that there are no directive provisions in the operative Regional Policy Statement that might trump or strongly influence the evaluation of the relief sought in submissions. I disagree with Mr Farrell's statement. In my s42A report, I set out objectives that are important for consideration of the plan framework, to which the PDP must give effect. That included Objectives 9.4.1 and 9.4.3 which are referred to in my s42A report. Policy 9.5.5 implements each of those objectives. It states:

9.5.5 To maintain and, where practicable, enhance the quality of life for people and communities within Otago's built environment through:

- (a) *Promoting identification and provision of a level of amenity which is acceptable to the community; and*
- (b) *Avoiding, remedying or mitigating the adverse effects on community health and safety resulting from the use, development and protection of Otago's natural and physical resources; and*
- (c) *Avoiding, remedying or mitigating the adverse effects of subdivision, land use and development on landscape values.*

11.4 Method 9.6.10 notes that methods which may be used by territorial authorities include:

9.6.10 Provide [ing] the means to protect significant landscapes within their district from inappropriate subdivision, use and development where those landscapes contribute to the quality of life for those within the built environment.

11.5 I consider the objectives, policy and methods suite to strongly influence the evaluation of relief sought.

11.6 In relation to Mr Farrell's statement that the Council is not *required* to protect ONF/Ls from inappropriate subdivision use and development, but that it must recognise and provide for the protection of ONF/Ls, I struggle to understand the difference between the two. Both seek strong, positive action. If the Council did not recognise and provide for the protection of ONF/Ls (from inappropriate subdivision, use and development), it would be neglecting its functions under s6, which forms one of the principles of the Act.

11.7 The Variation is targeted at avoiding, remedying or mitigating adverse effects of subdivision, land use and development on landscape values. By doing this, it seeks to achieve maintenance and enhancement of the quality of life for those in the built environment. Amenity landscapes such as those in the Wakatipu Basin are a finite resource. If the value of those landscapes are continually eroded, this will not provide for the wellbeing of current and future generations and come at a cost (including the loss of natural capital benefits associated with amenity landscapes).

11.8 Ms Gilbert has addressed the evidence of Mr Skelton in her rebuttal. In summary, Ms Gilbert remains of the view that the potential prominence of rural residential development on WEL land together with the existing visibility of established rural residential development along Slope Hill Road, the Queenstown Trail and Threepwood runs the risk of tipping the balance such that the overall landscape character unit reads as being dominated by rural residential development, undermining its role as a buffer between the intensive rural residential development at Hawthorn Triangle and the northern end of Lake Hayes. Ms Gilbert considers that a consent process might consider some level of further development, but that needs to be addressed by way of a site specific proposal.

11.9 It is my opinion that in order to do so, the application of the s104D gateway tests provide a high bar to be met to ensure that any such development is appropriate and will be of minor effect and/or maintain or enhance the landscape character and amenity values of the LCU (in accordance with the objectives and policies of Chapter 24). The Hearing Panel in its Stage 1 decisions considered this approach to be appropriate, and is referenced in my s42A report at para 5.7(j), which applies those matters that should be applied when considering rezoning requests.

11.10 Turning to the matters addressed in Mr Farrell's evidence, I consider that Mr Farrell has undervalued the potential cost of loss of amenity (which is an unquantifiable cost) as a result of the requested rezoning. While the short term economic gain for the landowner is acknowledged, as a whole, I consider when weighed against the potential loss of amenity, the notified Amenity Zone is more appropriate than either a return to Rural Lifestyle as requested in Stage 1, or Precinct zoning for WEL's site. This is supported by Ms Gilbert's landscape evidence.

12. LOUISE TAYLOR FOR X-RAY TRUST LIMITED AND AVENUE TRUST (#2619)

12.1 Ms Taylor has provided a clear brief of planning evidence in support of the submission by X-Ray Trust Limited and Avenue Trust. The submission has been refined by way of introduction of a new Arrowburn

Structure Plan (**ASP**), whereby the meadows part of the submitter's sites is identified as Precinct with residential clusters as managed in accordance with the ASP, with the remaining balance of the site zoned as Amenity Zone (noting that this includes rezoning the 'Plateau' from the notified Precinct). My rebuttal evidence below addresses both areas that are located in LCU 6 (the Plateau) and LCU 8 (area affected by the ASP Precinct Zone sought by the submitter).

- 12.2** I note that the area where the proposed clustered development is to take place is an area that is currently devoid of development. Ms Gilbert has reviewed the landscape evidence of Mr Blakely in relation to the effects of Precinct on the Plateau area, which is located in LCU 6, and the ASP located on Speargrass Flats in LCU 8.
- 12.3** Ms Gilbert considers that the introduction of the Landscape Feature setback of 50m from the ridgeline combined with the assessment criteria for subdivision are sufficient to provide appropriate protection of the landscape on the Plateau. Ms Gilbert notes the support of submitter Donaldson for Precinct zoning of that submitter's land, and the presence of two large rural residential dwellings on the Plateau, as well as the urban [type] development in the residential clusters at Millbrook.
- 12.4** In relation to that land proposed to be rezoned Precinct, with the ASP overlay, Ms Gilbert notes that the proposed lot sizes in the clustered arrangement is a significant departure from the rural residential development located along the south side of Speargrass Flat Road.
- 12.5** I accept Ms Gilbert's evidence that cluster development is typically suited to locations where the groups of buildings enable the retention of key landscape features, such as landforms, wetlands, gullies and vegetation. Relying on Ms Gilbert's evidence, I consider that the cluster formation in an open setting is incongruous to the existing rural residential development to the south and east, and results in a negative landscape outcome. This is compared to the alternative arrangement where development can be located on the Plateau area, and set back from the escarpment landscape feature. I disagree with Ms Taylor's

evidence⁸ and reliance on Mr Blakely's evidence that the proposed zoning will not generate significant adverse effects overall on the landscape values of the site. I am also concerned that were the zoning to be granted, this would significantly weaken the edge of the Precinct land with little or no defensible boundary.

- 12.6** If the Panel was minded to agree to rezoning the flats as Precinct, it is my opinion that the clustered approach sought by the submitter through the ASP be avoided, and that it not agree to the inclusion of the ASP. Given Ms Gilbert's landscape evidence, I consider that there could be alternative ways to achieve a better outcome rather than the clustered approach sought by the submitter. Such a pattern is still achievable through a consent process, and without the need to adhere to a strict framework as set out in the ASP if it were to be included in the plan. I consider this would provide more flexibility for responsive design and mitigation through the application of the subdivision assessment criteria, and consideration of the Precinct objectives and policies.
- 12.7** In relation to infrastructure, Ms Jarvis has reviewed the evidence of Mr Steel and Ms Taylor. Ms Jarvis has noted that this does not change her position set out in her evidence in chief. She does not oppose the change in zoning, and recognises that the sites can be serviced privately onsite.
- 12.8** For these reasons, and those set out in s42A report, I consider that the zoning as notified is more appropriate for achieving the objectives of the PDP (as set out in s42A report).

13. WATERFALL PARK DEVELOPMENTS LIMITED (#2388)

- 13.1** The following briefs of evidence have been filed in relation to Waterfall Park Developments Limited's request for the Ayburn Zone and associated movement of the UGB and alternative relief:
- (a) Mr Brown – planning;
 - (b) Mr Carr – transport;

8 At para 8.11

- (c) Ms Richards – infrastructure;
- (d) Ms Goldsmith – ecology;
- (e) Mr Baxter and Mr Skelton – landscape;
- (f) Mr Keogh – contaminated land; and
- (g) Ms Patrylak – stormwater and flooding.

13.2 The evidence in relation to contaminated land, and stormwater and flooding has not been rebutted by the Council.

13.3 Mr Smith has evaluated the evidence of Mr Carr and provided a response. Mr Smith also provides some clarification of his evidence in chief. He remains of the view that further intensification in the network is opposed, on the basis of cumulative effects on the wider network, in particular the Shotover Bridge.

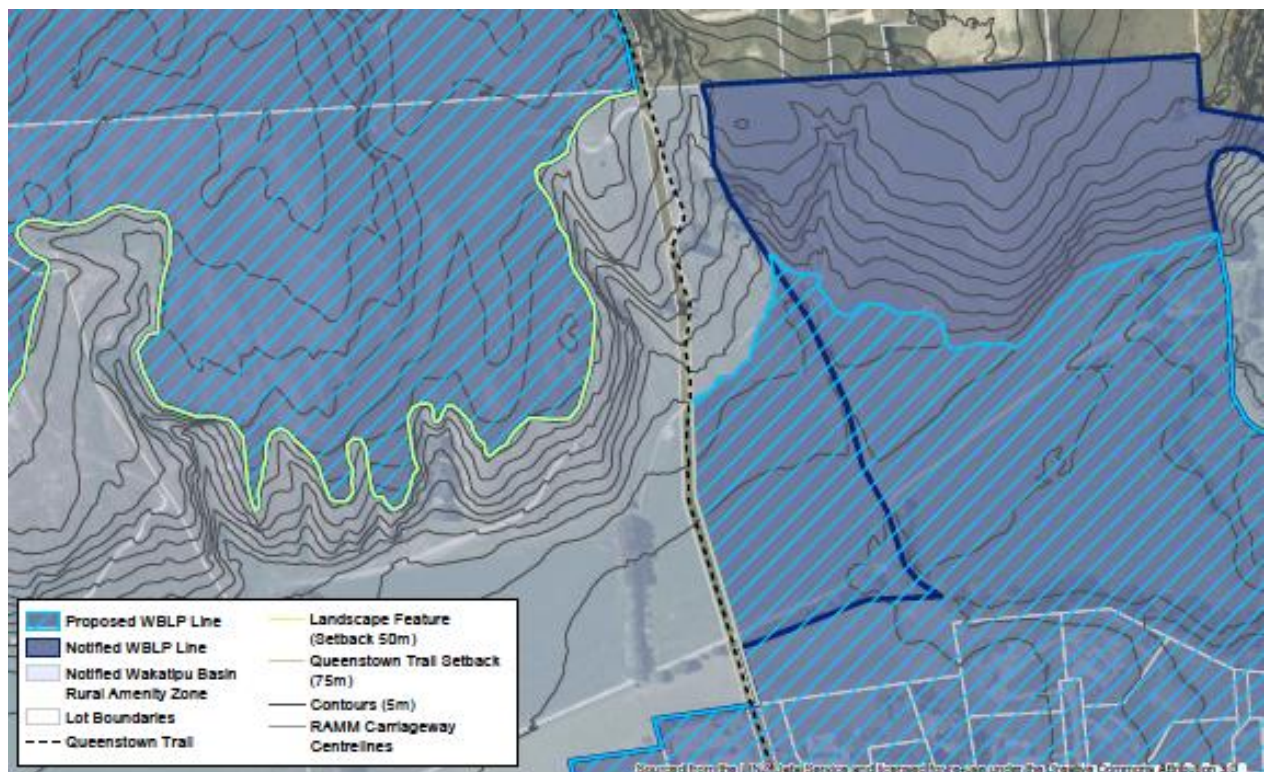
13.4 Mr Crowther has provided rebuttal evidence regarding Ms Richard's infrastructure evidence. Mr Crowther accepts that all infrastructure requirements of the development can be met by existing and new infrastructure. However Mr Crowther maintains his view expressed in his evidence in chief that no evidence has been provided regarding whether infrastructure will be privately owned or vested in Council, or would not generate ongoing servicing costs that fall on the wider community. He remains opposed to the rezoning.

13.5 Mr Davis has considered the ecological evidence of Ms Goldsmith. He concludes that care will need to be taken regarding the management of stormwater, but does not oppose the development of land at Waterfall Park.

13.6 Ms Gilbert has evaluated the landscape evidence of Mr Baxter and Mr Skelton. Mr Skelton has provided landscape evidence in relation to the rezoning sought as a whole, while a statement of evidence relating to consenting of the road on the site has been filed in addition to this. Ms Gilbert has evaluated the adverse effects generated by the revised Ayrburn Zone Structure Plan (**AZSP**) proposal as set out in the evidence of Mr Brown and Mr Skelton.

13.7 Ms Gilbert considers that the adverse visual effects of the zone in relation to views from roads will be low, but moderate to high in relation to neighbouring properties, and high in relation to views from the Queenstown Trail. She considers that the AZSP presents a high risk of urban creep westwards, notwithstanding the building restrictions proposed. Ms Gilbert considers that the AZSP will be experienced as a jarring contrast with the leafy and relatively low key rural residential development that dominates the northern end of Lake Hayes. Ms Gilbert opposes the AZSP sought by the submitter. Ms Gilbert has also set out in her rebuttal that she opposes the amended Precinct zoning as requested by the submitter for rural residential development at 4000m².

13.8 Ms Gilbert has, however, recognised the submitter’s request to amend the Precinct boundary on the site. She recommends that the use of the Queenstown Trail provides a defensible edge to the Precinct zone land. Her recommendation includes a building setback from the Queenstown Trail, which is reflected in the rebuttal evidence of Mr Barr. The amendment is set out below:



13.9 Turning to the evidence of Mr Brown, he has set out an evaluation against the rezoning principles referred to in my s42A report. I consider that his evaluation has fallen short in relation to the evaluation of the objectives and policies under Chapter 3 and Chapter 4. Objectives 3.2.2.1 seeks that:

Urban development occurs in a logical manner so as to:

- (a) promote a compact, well designed and integrated urban form;*
- (b) build on historical urban settlement patterns;*
- (c) achieve a built environment that provides desirable, healthy and safe places to live, work and play;*
- (d) minimise the natural hazard risk, taking into account the predicted effects of climate change;*
- (e) protect the District's rural landscapes from sporadic and sprawling development;*
- (f) ensure a mix of housing opportunities including access to housing that is more affordable for residents to live in;*
- (g) contain a high quality network of open spaces and community facilities; and.*
- (h) be integrated with existing, and planned future, infrastructure.*

13.10 The proposed AZSP and associated Ayrburn Zone may provide for a compact urban area, but it is not integrated with existing development and does not build on historical urban settlement patterns. Rather, the zone is in my view an urban tack on to the Waterfall Park Zone, which is a resort zone. By definition in the Hearing Panel's decisions on Stage 1, resort zoning is not to be considered as urban development. Ms Gilbert addresses the issue of defensible boundaries. It is my view that the proposal for urban development in this area does not protect the District's rural landscapes from sporadic and sprawling development. On the contrary, it is my view that new urban development in this location would promote sporadic and sprawling development.

13.11 Mr Brown, in his evaluation of the Stage 1 Decisions version of Chapter 4 at 5.5 of his evidence, does not address the objectives and policies of Chapter 4 directly.

13.12 Objective 4.2.1 provides that UGBs are used as a tool to manage the growth of *larger urban areas* within distinct and defensible boundaries. The area subject to the proposed Ayrburn Zone is not a larger urban area or main urban settlement.

13.13 Although the inclusion of a UGB is proposed by Mr Brown, it is contrary to the application of the objective, and associated Policy 4.2.1.1, which states:

*Define Urban Growth Boundaries to identify the areas that are available for the growth of the **main urban settlements** [my emphasis].*

13.14 Ayrburn and Waterfall Park are not connected to a main urban settlement.

13.15 Given that I consider a UGB is inappropriate in this location due to the guidance of the Objectives and Policies of Chapter 4, I consider there is a very high threshold to be met in terms of delivering urban development to a completely new location in the Basin. Noting that I do not think a UGB is appropriate under Chapter 4, it is my opinion also that the proposal is contrary to Strategic Policies 3.3.12-15, as the proposal will be for urban development that is not within an urban growth boundary.

13.16 If the Panel is minded to consider agreeing to urban zoning on the site, I have provided additional notes as **Appendix A** to my statement against the provisions.

13.17 I note the following key issues with the proposed Ayrburn Zone:

- (a) The objectives of the zone are relatively 'light' in relation to how a contained and integrated urban form is to be achieved, and how future urban creep is to be avoided.
- (b) The policies do not contain much guidance as to how discretionary or non-complying activities will be considered (in particular those listed in proposed rules 47.3 and 47.4).

- (c) It is my opinion that infringement of setbacks at 47.4.1 and residential capacity at 47.4.2 should both be identified as non-complying activities.
- (d) The Structure Plan should show at least indicative roading arrangements and greater detail as to the urban form of the development, given the request is for an urban zoning.
- (e) A number of technical drafting issues have been identified in the evidence of Mr Edmonds for Millbrook Country Club at paras 72-78.

13.18 I am not aware of any reason, at this stage, why the 'wedge' shouldn't be included in the Waterfall Park Zone. I recommend that the changes sought for the wedge should be shown by the submitter in the context of updated provisions for the Waterfall Park Zone in Chapter 42 and tabled for the Hearings Panel. I note that any updated (ie. new/site specific) provisions can only apply to the land that is added in Stage 2, and that any general amendments to Stage 1 provisions will be out of scope. I accept that, based on the evidence of Mr Skelton, Mr Brown and Ms Gilbert, that the Precinct for the site be amended as set out in the figure above.

LCU 9 HAWTHORN TRIANGLE

14. JEFFREY BROWN FOR L MCFADGEN (#2296)

- 14.1** Mr Jeffrey Brown has filed planning evidence on behalf of L McFadgen, as contained within his grouped evidence on behalf of Lakes Hayes Investments et al.⁹
- 14.2** Mr Brown provides no further evidence on the appropriateness of the relief as applied to the site (some 5ha). That relief was for the application site, as zoned Precinct (LUC 9) to enable minimum allotments to 4,000m², as zoned 'Precinct A'.
- 14.3** Mr Brown's wider evidence evolves the relief from a 'Precinct A' to amending the minimum allotment size in the Precinct zone from

6,000m² to 4,000m², retaining a 1ha average, and various consequential amendments.

- 14.4** That wider relief, as applied across the Precinct is discussed in the Rebuttal evidence of Mr Barr.
- 14.5** Mr Brown has not referred to any Landscape evidence in support of his recommendations as to application to this site.
- 14.6** In the absence of any further assessment Mr Brown, I consider that the recommendation as set out in section 33.9 in my s42A report, remains the more appropriate. In this I accept Ms Gilbert's evidence in chief that nothing sets this property apart from the balance of LCU 9, and accept the evidence of Mr Barr and Ms Gilbert that a minimum density of 4,000m² will diminish rural character and amenity as applied to the Precinct zone.

LCU 11 SLOPE HILL 'FOOTHILLS'

15. BEN FARRELL FOR BURGESS (#2591) AND SMITH (#2500)

- 15.1** Mr Farrell has filed planning evidence in support of Burgess (#2591) and Smith (#2500). He is reliant on the landscape evidence of Mr Skelton. The submissions relate to that land east of Lower Shotover Road, notified in Stage 2 as Amenity Zone (LCU11).
- 15.2** In the Stage 1 notification, the area was notified as Rural Lifestyle with an average 2ha allotment size. Mr Farrell supports the Stage 1 zoning, and seeks Precinct zone on the basis of Mr Skelton's evidence that the site should be considered as LCU9.
- 15.3** The Burgess (#2591) property is an 8.0ha site located on the north-eastern corner of Lower Shotover Road and Slopehill Road. The Smith (#2500) property is a 5.7ha site located on the south-eastern corner of Lower Shotover Road and Slopehill Road.
- 15.4** There are no infrastructure or ecology matters of concern.

15.5 Mr Smith for the Council in his evidence in chief opposed the rezoning on the basis of cumulative effects on the transport network.

15.6 I disagree with Mr Farrell who states at para 32 that:

...there are no objectives or policies in Proposed District Plan Chapters 3 or 27 (Subdivision or Development) directing that subdivision and land use should not occur because of insufficient infrastructure.

15.7 I refer to:

- (a) Decisions Objective 3.2.1.9, which seeks that infrastructure is maintained, developed and operated to efficiently and effectively meet community needs and maintain environmental quality; and
- (b) Proposed Objective 24.2.4, which seeks to ensure the efficient provision of infrastructure, and associated Policy 24.2.4.4, which seeks that development does not generate infrastructure costs that fall on the wider community.

15.8 Mr Farrell appears to, incorrectly in my view, overstate PRPS Policy 4.3.4(b) and (c), and yet draws no conclusions with regard to PRPS Policy 4.5.7(c).¹⁰ Based on Mr Smith's evidence in chief, the Precinct proposed by Mr Farrell would be the less appropriate zone in terms of locating development in areas with sufficient transport capacity, having regard to the PRPS.¹¹

15.9 A substantial theme of Mr Farrell's evidence is support for the Stage 1 process, and the absence of submissions opposing the rural lifestyle rezoning.

15.10 That material provides context but does not overcome the duties imposed by the statutory requirements for consideration of proposed

¹⁰ Policy 4.5.7(c) specifically requires that development is to be located within area that have sufficient infrastructure capacity, or where these can be efficiently upgraded.

¹¹ S 74(2)(a)(i) RMA

District Plans, as referred to in the evidence in chief of Mr Barr at para 5.2 from *Colonial Vineyard Limited v Marlborough District Council*.¹²

- 15.11** Mr Farrell's central theme is that the Council's landscape assessment and s32 is inadequate as to the extent by which the landscape of this site can absorb further development, and that he relies on the evidence of Mr Skelton.
- 15.12** A synopsis of Mr Skelton's evidence in chief, is that Lower Shotover Road is an artificial (socio-physical) boundary to demarcate the boundary of Precinct and Amenity Zones. The subject site, with its capacity to absorb further development (some 60 additional residential units are identified by Mr Farrell at para 37(f)) should be zoned Precinct.
- 15.13** Accordingly, as I concur with the evidence in chief and rebuttal of Ms Gilbert, the matter turns on the landscape evidence. In this I concur:
- (a) that the delineation suggested by Mr Skelton (his Attachment G) does not represent a defensible geomorphological boundary.¹³ Furthermore, the use of a road boundary to demarcate between Precinct and Amenity zones, is an orthodox zoning approach, and provides greater clarity¹⁴ as to the boundaries between zones than the alternative reliance on a 400m contour north of Slope Hill Road;
 - (b) the clearly articulated change in development density, from the west of Lower Shotover Road (LCU9), and to the east of Lower Shotover Road (LCU11),¹⁵ are also apparent in Attachment G to Mr Skelton's evidence in chief; and
 - (c) there is not uniform capacity to absorb further development in the manner conveyed by Mr Skelton, especially at the southern extent abutting the Slope Hill ONF,¹⁶ and that rural residential development on the green flank to Slope Hill would

12 [2014] NZ EnvC 55

13 Rebuttal Gilbert [13.12]

14 Section 18A RMA

15 Rebuttal Gilbert [13.17]

16 Rebuttal Gilbert [13.23]

detract from the legibility, visual integrity and scenic qualities of the ONF.¹⁷

- 15.14** Mr Farrell has deliberately conflated my s42A report as this relates to defining the boundaries of LCUs and capacity to absorb development, my paras 5.14 and 20.10 respectively. I believe the genesis of Mr Farrell's statement in this regard is his reliance on a geographic boundary (a 400m contour line) and an ability of the area below that contour to absorb further development, as has been recommended by Mr Skelton.
- 15.15** By contrast, Lower Shotover Road provides a tangible and certain boundary between the Precinct and Amenity Zone, based on the distinguishable LCUs as outlined by Ms Gilbert. In addition, LCU 11 does not contain the same ability to absorb further development as in LCU 9, and accordingly, an Amenity Zone remains the more appropriate.
- 15.16** In addition, Mr Farrell implies that the proposed Strategic Directions provisions are uncertain, implying that they should not be given much weight. I disagree; as set out earlier Objective 3.2.5.2 and Policy 3.3.23 are particularly relevant.
- 15.17** I retain my recommendation as set out in section 35 of my s42A report. Precinct is the less appropriate method to achieve the relevant policies and objectives of the Plan, including those related to infrastructure, as well as PRPS Policy 4.5.7(c) in a wider sense.
- 15.18** If the Hearing Panel forms the alternative view, a regulatory framework will need to be developed to support Mr Farrell's proposal for a 50m building road setback, and development and subdivision restraint above the 400m contour line as a Restricted Discretionary Activity.

17 Rebuttal Gilbert [13.26]

16. JEFFREY BROWN FOR SLOPE HILL VENTURE (#2475)

- 16.1** Mr Jeffrey Brown has filed planning evidence contained within his grouped evidence on behalf of Lakes Hayes Investments et al.
- 16.2** The subject site of Slope Hill Venture (#2457) was notified in Stage 2 as Amenity Zone (LUC11). The submissions sought Precinct. Mr Brown does not advance an application of Precinct to the site, in his evidence.
- 16.3** Mr Brown at section 11 of his evidence seeks, in conjunction with his evidence for Crosby Developments (#2527) and Robertson (#2321), to advance the replacement of the 80ha minimum lot size and non-complying activity status in the Amenity Zone, with a 'discretionary regime'. The submissions relating to Crosby Developments (#2527) and Robertson (#2321) do not have a specific spatial context.
- 16.4** Discussion as to the status and minimum allotment size for subdivisions in the Amenity zone is contained in the evidence in chief and rebuttal evidence of Mr Barr. I agree with his conclusions. For my part, and as applied to Slope Hill Venture (#2475), I note the following:
- (a) the site is 8.44ha, and Ms Gilbert in her evidence in chief has identified that from a landscape perspective there is nothing that distinguishes this property from the wider LCU;
 - (b) Ms Gilbert identifies that the area is sensitive to landscape change, and a cautious approach is warranted; and
 - (c) the 80ha minimum / non-complying status does not prohibit opportunities for considerations of subdivision below an 80ha minimum, where those matters identified by Mr Brown, such as indigenous protection and regeneration can be further considered under s104. As outlined by Mr Barr, the relevant objective and policy provisions do not foreclose well-conceived further development within the Amenity zone.
- 16.5** Mr Barr has concluded in both his evidence in chief and rebuttal evidence that the retention of the 80ha minimum / non-complying

status is the more appropriate response in terms of the provisions implementing and achieving the objectives.

- 16.6** Accordingly, given the notified provisions represent an integrated, wide ranging and concise planning regime for development within the Amenity zone, I consider that the alternative 'discretionary' approach with no minimum as advanced by Mr Brown as applied to the Slope Hill Venture (#2457) site is less appropriate.

LCU 13 LAKE HAYES SLOPES

17. JEFFREY BROWN FOR UNITED ESTATES RANCH (#2126)

- 17.1** Mr Jeffrey Brown has filed planning evidence on behalf of United Estates Ranch (#2126), as contained within his grouped evidence on behalf of Lakes Hayes Investments et al.
- 17.2** The submission sought the application of a 'Wakatipu Basin Rural Residential Precinct' (Rural Residential Precinct) for an area of some 100ha, as shown in Figure 37 of my s42A report. Within that area, the submission then sought a 4,000m² minimum allotment size, and no average allotment size.
- 17.3** The subject area, immediately to the northern extent of Lake Hayes, is zoned Precinct (LCU 12).
- 17.4** This submission was discussed in section 40 of my s42A report.
- 17.5** I recommended that the relief be rejected. I advised that there were no material ecology matters, and that while onsite wastewater disposal systems would be required on sites of 4,000m² with secondary treatment, there was no material Infrastructure impediments. Mr Smith raised the concern of cumulative transport effects in his evidence in chief.
- 17.6** My recommendation for rejection was because the Rural Residential Precinct and 4,000m² minimum allotment size would appreciably diminish remaining character and amenity, relying on the evidence of

Ms Gilbert. Resultant intensification would come at the expense of existing vegetation, which provides considerable softening of existing built form, and in many instances such landscaping and building platforms were requirements of existing consents.

- 17.7** Accordingly, the relief sought by the submitter was not the more appropriate in achieving the relevant policies and objectives as set out in my s42A report.
- 17.8** Mr Brown, at section 10 of his evidence now seeks a minimum allotment size of 4,000m², but with an average density of one residential unit per 6,000m². He does not advance the proposition of a Wakatipu Basin Rural Residential Precinct.
- 17.9** I generally agree with Mr Brown's analysis of current cadastral boundaries; the densification of this area is more pronounced than other parts of the Basin.
- 17.10** However, while Mr Brown's conclusion is that a finer grained density of development could be enabled in this area, Ms Gilbert concludes that the area has little further propensity to absorb densification.
- 17.11** I rely on the evidence of Ms Gilbert, and recommend retention of the Precinct Zone, with a consenting approach (6,000m² minimum and 1ha average) that provides for consideration of landscape and landform integrity. This extends to consideration of the existing vegetation framework, and consented building platforms.
- 17.12** Such an approach is the more appropriate in retaining character and amenity values, as set out in Objectives 24.2.1 and 24.2.5; and associated Policies 24.2.1.3, 24.2.1.5, 24.2.1.8, 24.2.1.9, 24.2.5.1. These objectives and policies seek to protect, maintain and enhance landscape and visual amenity values, including providing for activities where they protect, maintain or enhance landscape values.

18. BENJAMIN ESPIE FOR ROBINS AND CALLAGHAN (#2104) ET AL – MORVEN HILL AND MARTIN DOHERTY AND FERGUS (#2517)

18.1 Mr Espie has filed landscape evidence within the Lakes Hayes Slopes bundle for AJ Robins an HJM Callaghan (#2104) and others. There is no specific planning evidence for this party.

18.2 For the avoidance of doubt, the evidence of Mr Espie also relates to sites within LCU13, zoned Amenity Zone and categorised as follows:

South State Highway 6 – east of Arrowtown Lake Hayes Junction

- (a) Harrison (#2163), some 0.5ha, located at 61 Jean Robins Drive;
- (b) Monk (#2281), some 0.6ha, located at 74 Jean Robins Drive;
- (c) Waterfall Park Developments Limited (#2389), wider Morven Hill as zoned Amenity;
- (d) Morven Residents Association (#2490), wider Morven Hill as zoned Amenity;

South State Highway 6 – west of Arrowtown Lake Hayes Junction

- (e) Tui Trustees Ltd (#2316) and Mandeville Trust (#2317), of some 2.2ha located at 16 Wilding Road; and

Arrowtown Lake Hayes Road – north of State Highway 6 Junction

- (f) Martin, Doherty and Fergus (#2517), of 4.3ha at 20 Arrowtown Lakes Hayes Road. The map appended to this submission seeks a Low Density Residential zone for the front 75m of the site.

18.3 For those sites located on the lower slopes of Morven Hills as associated with #2163, #2281, #2389, #2490, #2104, #2316 and #2317, I retain my recommendation that the Amenity Zone is the more appropriate, for those reasons set out at para 42.10 of my s42A report, and as stated above in relation to Duncan (#2319).

18.4 In my view the approach sought by Mr Espie is not the most effective or efficient in terms of achieving the relevant provisions of the PDP. The approach would apply Precinct to this area and enable allotments

to a minimum of 4,000m². Such an approach would not maintain rural amenity and character.

18.5 The approach would also likely come at the expense of the larger lots fronting State Highway 6 on the lower slopes of Morven Hill; the landscaping, topography, and greater sense of openness associated with these larger sites as proximate to the State Highway assist to soften the more exposed development further up Morven Hill.

18.6 Appendix 1 to Mr Espie's evidence is consistent with the views of Ms Gilbert in relation to the Martin, Doherty and Fergus (#2517) submission. There is agreement between the landscape witnesses, at least for this site, that it is unable to absorb further development. Accordingly, the recommendation in my s42A report for retention of the Amenity Zone remains.

19. CHRISTOPHER FERGUSON AND BENJAMIN ESPIE FOR LAKE HAYES CELLAR LTD (#2378)

19.1 Mr Chris Ferguson has filed planning evidence in support of Lakes Hayes Cellar Ltd (#2378).

19.2 Mr Espie has filed landscape evidence within the Lakes Hayes Slopes bundle for Robins and HJM Callaghan (#2104) and others, inclusive of Lake Hayes Cellar (#2378). He concludes at his Appendix 1 that the Lake Hayes Cellar site be excluded from that area where he supports application of the Precinct.

19.3 Mr Ferguson seeks to rezone the land as follows:

- (a) Rural Residential as subject to a singular commercial overlay; or (in the alternative)
- (b) amend to a Lake Hayes Cellar Precinct, and systematically amend or insert relevant provisions as part of the wider relief, and amend the provisions of Chapter 24 Amenity Zone to recognise and provide for commercial activities undertaken in the commercial overlay.

- 19.4** The site was notified as Amenity Zone under Stage 2 and is within LCU 13.
- 19.5** Mr Ferguson identifies that the amendments would provide for the enablement of additional commercial activities undertaken on the 1.6863ha site. The site currently contains buildings, structures and commercial activities, including a winery (RM970591) and restaurant (RM020982).
- 19.6** Mr Ferguson relies on the Stage 1 evidence of Ms Pflüger. That evidence supports a commercial overlay and is critical of the broad level assessment in the Council's s42A material.
- 19.7** Ms Gilbert in her rebuttal evidence concurs with the evidence of Ms Pflüger in that the site does not exhibit landscape characteristics generally associated with the Rural zone. She considers that the current level of development is sympathetic to its setting. I agree.
- 19.8** Ms Gilbert, expresses concern that the provisions for the overlay, if applied as expressed in the evidence of Mr Ferguson [Appendix 3], could lead to substantial massing on the site with a combined building footprint of some 4,000m². Such an outcome would be detrimental within the context of the s7(c) amenity landscape and viewpoints. I agree with Ms Gilbert, and therefore disagree with Mr Ferguson [167] where he states:
- The purpose of the Lake Hayes Cellar Precinct is not to facilitate building of any significant scale.*
- 19.9** My s42A report at paragraph 42.8 recommended that the approach amounted to spot zoning, and was not the most appropriate way to deal with landscape values in an integrated manner.
- 19.10** Based on the rebuttal evidence by Ms Gilbert, I remain of the view that the level of development enabled by the proposal could materially detract from rural character and visual amenity values (Objective 3.2.5.2, Policy 24.2.1.2).

- 19.11** I am not opposed to spot zoning as a plan mechanism per se, but if applied to all such single site activities as proposed it would not assist in terms of the clarity or conciseness of the Plan,¹⁸ in particular where a consent path provides for an integrated approach for the activity with its surroundings.
- 19.12** I acknowledge that arguments about the sameness or similarity of character, intensity and scale in terms of s 10 RMA rights can be challenging,¹⁹ and that where a cohesive plan framework can be established to recognise and provide for the extent of existing built form, that it should.
- 19.13** However, in this instance, the proposal would result in a micro-level zoning for a very specific commercial activity in association with objectives, policies and rules in for the management of activities within a single 1.68ha site.
- 19.14** Such an approach would result in complexity of considering a range of interacting effects, and uncertainty given the necessity to achieve compatibility with amenity at the interface with rural activities to the north, south and east.
- 19.15** As outlined by Ms Gilbert, the permitted activity status recommended by Mr Ferguson to provide for 25% building coverage in Rule 24.5.1; and Council's control for activities limited to design and traffic generation in Rule 24.4.30 could give rise to adverse amenity and landscape effects.
- 19.16** For these reasons, I maintain my recommendation in my s42A report. The proposal outlined by Mr Ferguson does not represent the most appropriate way to achieve the relevant objectives and policies of the Plan, specifically those identified above in relation to establishing an integrated approach to landscape management, and not detracting from rural character and visual amenity.

18 S 18A RMA

19 Ferguson [177(a) and (b)], [178]

19.17 The application of the Amenity Zone and recognition of Objective 24.2.2 and associated policies, specifically Policy 24.2.2.1 in my view provide the more appropriate response in relation to land use development for this site.

19.18 Should an alternative view be reached, and a commercial overlay be established, I consider that the controls outlined by Mr Ferguson should as a minimum be restricted discretionary, including the ability to decline of extent of massing between that currently permitted by Rule 24.5.1, and that suggested by Mr Ferguson at 25% of the net site area (approx. 4,200m² ground floor area).

20. JEFFREY BROWN FOR DUNCAN (#2319)

20.1 Mr Jeffrey Brown has filed planning evidence on behalf of Duncan (#2319), as contained within his grouped evidence on behalf of Lakes Hayes Investments et al.

20.2 Mr Ben Espie has filed Landscape Evidence on behalf of Duncan (#2319) as contained within his grouped evidence on behalf of AJ Robins and HM Callaghan et al (**Lakes Hayes Slopes**²⁰).

20.3 The subject site to the east of Lake Hayes is zoned Amenity (LCU13). The sites, as legally described as Lots 1 DP372803, Lot 2 DP372803 and Lot 3 DP415165 have a combined area of 4.68ha, and are accessed off Wilding Road.

20.4 The submission, which sought application of the Precinct 'B' (#2314, Plan A) or in the alternative retaining the Rural Residential /Rural Lifestyle zone; construction of new buildings as a controlled activity; a building site coverage of up to 1,000m²; and densities in 'Precinct B' to a 4,000m² minimum, and 1ha average.

20.5 My s42A report at section 42, recommended rejection of the submission. This view was based on the evidence in chief of Ms Gilbert, the area was already the subject of unsympathetic

20 AJ Robins and HJM Callaghn and Others (#2104, #2163, #2281, #2291, # 2314, #2315, #2316, #2317, #2318, #2319, #2378, #2389, #2490, #2517)

development, which had detracted from the areas amenity and character values, and that the LCU did not have ability to absorb additional development.²¹

20.6 At section 8 of his evidence, Mr Brown advances a Precinct zoning and the proposition that a 4,000m² minimum lot size should be applied to the site. Evidence on a Precinct B, or other matters raised in the Duncan submission are not advanced.

20.7 Mr Brown's proposition is that the area is modified to the extent that a non-rural zoning is the more appropriate; and therefore the existing character of the area has the potential to absorb additional residential development:²²

... the legacy zoning of these areas have created the environment and the character is already altered to the point where the area of the zones is no longer rural, and maintaining the zoning through the WBLP is appropriate.

20.8 I disagree that the area has been modified to the extent that it is no longer rural. I consider his reliance on Strategic Directions 3.3.22 and 3.3.24 therefore misplaced.

20.9 The area retains rural character and amenity values as identified in the rebuttal evidence of Ms Gilbert, although she acknowledges that existing disjointed development generally detracts from those values. At para 4.3(iv) Mr Espie appears to agree that "*some of the existing development within the LCU currently appears somewhat unsympathetic*".

20.10 Mr Brown then supports a planning framework that advances, what Ms Gilbert and Mr Espie have described as resulting in examples of unsympathetic development on the Lakes Hayes Slopes (LCU13), as being the more appropriate in achieving Strategic Objective 3.3.24. I reach the opposite view. That objective states:

²¹ S 42A Report at para 42.2(a) – (e)

²² At [8.6].

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.

- 20.11** Ultimately, this matter turns on landscape evidence.
- 20.12** Mr Espie, outlines in his evidence (Appendix 1) that area of LCU13 that could in his view *'absorb rural living development with a minimum lot size of 4,000m²'*.
- 20.13** He contends, and I agree, that further intensification within those areas identified on his Appendix 1, to a minimum allotment size of 4,000m² would create a legible and strong edge to the rural living area. That area would be of a distinct and different rural character and amenity to the broader rural land.
- 20.14** In terms of the statutory tests, Mr Espie does acknowledge that such an approach would not maintain rural character and amenity. He identifies that the approach *'would only slightly exacerbate the effects of existing elements and patterns in the landscape'* and *'would not sully the character of the Wakatipu Basin as a whole'*. That admission goes to the effectiveness of achieving relevant provisions that seek:
- (a) diversification of land use in rural areas, provided the character of rural landscapes is maintained (Objective 3.2.1.8);
 - (b) manage the cumulative effects of subdivision to maintain a rural character (Policy 3.3.24);
 - (c) further land use change in Rural Character Landscapes, where this is able to absorb change without materially degrading landscape character and visual amenity values (Policy 3.3.32); and
 - (d) Objective 24.2.1, 24.2.5 and associated policies which seek to maintain landscape character and visual amenity values.
- 20.15** I concur with the evidence of Ms Gilbert in her evidence in chief, that while the nature and extent of the environment is important in terms of an appropriate zoning response, it is in itself not determinative.

20.16 As outlined by Ms Gilbert, LCU 13 has a diminished capability to absorb further development without significant adverse effects on amenity values and character. The Precinct and 4,000m² minimum allotment size advanced by Mr Brown and Mr Espie are not in my view the most appropriate in terms of achieving Strategic Objective 3.2.1.8 and Policy 3.3.24, Objectives 24.2.1 and 24.2.5 and associated policies.

20.17 I remain of the view that the Amenity Zone is the most appropriate for the site.

21. JEFFREY BROWN AND BENJAMIN ESPIE FOR LAKE HAYES INVESTMENTS LTD (#2291), C BATCHELOR (#2318)

21.1 Mr Jeffrey Brown has also filed planning evidence on behalf of Lakes Hayes Investments Ltd (#2291)²³ and C Batchelor (#2318). Mr Espie has also provided landscape evidence as contained within his Lakes Hayes Slopes bundle.

21.2 The submissions relate to two sites located at 180 and 198 Lake Hayes-Arrowtown Road. Those site are recorded as 17,443m² and 7387m² respectively. As above, the site is zoned Amenity Zone (LCU 13).

21.3 A Precinct and 4,000m² minimum allotment size is proposed by Mr Brown.

21.4 Mr Brown considers this site, in association with the wider area on the eastern slopes of Lake Hayes in section 10 of his evidence. There is no evidence specific to the sites from Mr Brown or Mr Espie, and my conclusions to the Duncan submission above are applicable. I remain of the view that the Amenity Zone is the most appropriate for this area.

²³ Within the bundle containing: Lake Hayes Investments Limited (Submitter 2291); Stoneridge Estate Limited (2314); D Duncan (2319); R Dayman (2315); Crosby Developments (2526); Crosby Developments (2527); L McFadgen (2296); Slopehill Joint Venture (2475); R & M Donaldson (2229); United Estates Ranch Limited (2126); M McGuinness (2292); Robertson (2321), Trojan Helmet Limited (2387), Hogans Gully Farm Limited (2313), Burden & Wills (2320), Boxer Hills Trust (2387) P Chittock (2787).

22. JEFFREY BROWN AND BENJAMIN ESPIE FOR DAYMAN (#2315)

- 22.1** Mr Jeffrey Brown has filed planning evidence on behalf of R Dayman (#2315) within the Lakes Hayes Investments bundle. Mr Espie has filed landscape evidence within the Lakes Hayes Slopes bundle.
- 22.2** Appendix 1 to Mr Espie's evidence identifies a dense cluster of building platforms within this area. Allotment sizes are typically around 6,000m², although larger allotments abut State Highway 6.
- 22.3** The submission is the same as that for Stone Ridge Estate Ltd (#2314). The submission seeks application of a Precinct 'A' (#2315, Plan A) or alternative; construction of new buildings as a controlled activity; a building site coverage of up to 1,000m²; and densities in 'Precinct A' to a 4,000m² minimum, with no average density.
- 22.4** As with my consideration of Duncan (#2319) above, this matter turns on landscape evidence. However, for this area I further note that any further densification would likely come at the expense of the larger lots fronting State Highway 6.
- 22.5** Accordingly, and relying on the evidence of Ms Gilbert, I consider that the relief proposed is not the most appropriate to achieve the relevant objectives and retain my view as set out in my s42A report.

LCU 15 HOGANS GULLY

23. HOGANS GULLY FARM LIMITED (#2313)

- 23.1** The following briefs of evidence have been filed in relation to Hogans Gully Farm Limited's request for a Hogan's Gully Zone:
- (a) Mr Brown – planning;
 - (b) Mr Bartlett – transport;
 - (c) Mr Baxter– landscape;
 - (d) Mr Ryan Brandenburg – golf and tourism;
 - (e) Mr Greg Turner – golf course design;
 - (f) Mr Simon Beales – ecology; and

(g) Mr Adam Vale – infrastructure.

- 23.2** Mr Crowther has reviewed Mr Vale’s evidence in relation to infrastructure. Mr Vale has allayed Mr Crowther’s concerns in relation to infrastructure and Mr Crowther no longer opposes the proposal from an infrastructure perspective.
- 23.3** Mr Smith has generally opposed further intensification in the Basin, but did not address the Hogan’s Gully Farm submission directly in his evidence in chief. In Mr Smith’s rebuttal evidence, he comments on aspects of Mr Bartlett’s evidence, with an emphasis on the impacts on the Shotover Bridge, drawing support from the evidence of Mr McColl and Mr Gatenby. Mr Smith does not change his position in his rebuttal evidence.
- 23.4** Ms Mellsop has provided rebuttal evidence in relation to Mr Baxter’s landscape evidence. While Ms Mellsop is supportive and acknowledges the potential of positive effects on the natural character of the site as a result of revegetation, she remains of the opinion that the extent of proposed residential and golf course development outweigh the positive effects.
- 23.5** No rebuttal evidence is provided in relation to the evidence of Mr Beales, Mr Turner or Mr Brandenburg, however their evidence provides very useful insight into the importance and value of golfing facilities, their contribution to tourism and the economy, including job prospects. This is an important element in the consideration of the requirements under s32 and s32AA.
- 23.6** Mr Brown’s evidence, similar to that provided for the Ayrburn Zone, focuses on the application of the zoning principles that the Hearing Panel applied to zoning requests in Stage 1. It is my view that Mr Brown has focused very much on the zoning of the site within the boundaries, rather than looking at a strategic view of the basin as a whole, made up of a combination of areas that contribute to the Basin’s landscape character, with areas of open space punctuated with areas of rural residential living.

- 23.7** While Mr Brown acknowledges that an existing consent has been applied for, he has not considered the golf course and associated visitor accommodation in the context of being provided for as specified activities within the Amenity Zone.
- 23.8** Under Rule 24.4.15, the Amenity Zone provides for commercial recreational activities involving 12 people or less in any one group as a permitted activity. Where that number is exceeded, the status is discretionary. Visitor accommodation and cafes and restaurants are provided for, as discretionary activities. All buildings require a restricted discretionary consent in accordance with Rule 24.5.XC as proposed in Mr Barr's evidence. The issue really comes down to the ability to subdivide for residential use. This is a non-complying activity in the Amenity Zone if the density exceeds more than 1 residential unit per 80 hectares. However, such consent can be applied for as a non-complying activity, so long as the effects are no more than minor, and/or the proposal is not contrary to the objectives and policies of the zone. The balancing of competing considerations can be undertaken through the resource consent process, and as the current consent is pursued, there is no doubt in my mind that the development sought by Hogans Gully Farm will have a very thorough assessment as its appropriateness.
- 23.9** A clear benefit of assessing such activity under the Chapter 24 Wakatipu Basin provisions (i.e. Amenity Zone) is one of consistency. It requires a detailed assessment against the landscape character and amenity value framework that has been developed in Schedule 24.8.
- 23.10** In relation to Mr Brown's evaluation against the rezoning principles, I make the following comments. I have focussed on those areas where I disagree.
- 23.11** At para 5.3 (b), Mr Brown focuses on the fact that the Amenity Zone effectively disables the achievement of benefits that might arise from the zone. I approach this assessment with caution; either the activity is consentable, or if it is not consentable, then this will be driven by the objectives and policies of the Amenity Zone, or the scale of adverse effects. If Mr Brown's argument is that the land can absorb change

without materially affecting the rural character of the local and wider area, again, this is a factor that would weigh in favour of granting consent for a comprehensive development.

23.12 Mr Brown considers that the Amenity Zone only appears to enable continuation of farming of the property. This has slanted his evaluation throughout the assessment, including the evaluation of costs and benefits at section 8. Given the activities provided for as discussed in 13.8 above, I disagree with Mr Brown's proposition. In particular, I note supportive Rebuttal Policy 24.2.2.1:

Support commercial, recreation and tourism related activities that rely on the rural land resource and where these activities protect, maintain or enhance the landscape character and visual amenity values.

23.13 I note that at 7.1, Mr Brown accepts that the objectives and policies of the Amenity Zone can be implemented on the land. An amended set of objectives and policies are provided and referenced at 7.2 of Mr Brown's evidence. The policies do not, in my view, set out a very clear picture of the effects of the development that are to be avoided, or mitigated. On the other hand, the objectives and policies proposed in the Amenity Zone are comprehensive, and address a much wider range of issues that are not touched on by the proposed Hogans Gully Zone (**HGZ**). As an example, nowhere is any reference made to earthworks, which will be a significant issue for both roading and golf course construction. In this respect, having regard to their comprehensive nature, the Amenity Zone objectives and policies are far superior to those proposed as part of the HGZ, which are general in nature. Given the comprehensive nature of the policies of the Amenity Zone, I consider they are far more likely to achieve and implement the strategic objectives than those proposed for the HGZ. In particular, I consider that the outcomes that are sought through the objectives, and guidance in relation to the policies, will better address the effects of activities that are likely to arise from the development of the site, in particular providing guidance for discretionary and non-complying activities.

23.14 Finally, Mr Brown considers that principle j is not relevant to this particular request for rezoning. Principle j states:

(j) rezoning in lieu of resource consent approvals, where a portion of a site has capacity to absorb development does not necessarily mean another zone is more appropriate

23.15 My understanding of that statement may differ from Mr Brown's interpretation. I understand that to mean that rezoning is not necessary, just because a resource consent is required. In relation to the current proposal, I understand that resource consent currently is being sought and the principle is highly relevant. It is my view that there are sufficient 'teeth' in the objectives and policies of Chapter 24 to ensure that any resource consent proposal is thoroughly assessed.

23.16 As a result of my evaluation above, I still maintain that Amenity Zone is more appropriate than the HGZ. If the Panel is minded to consider agreeing to urban zoning on the site, I have provided additional notes as **Appendix B** against the provisions, and I would make the following key recommendations:

- (a) a gap analysis is undertaken against those objectives and policies contained in Chapter 24 to identify a more comprehensive suite for the MGZ;
- (b) the use of a restricted discretionary status for buildings, along with appropriate assessment criteria, to ensure that landscaping is incorporated with the development;
- (c) the incorporation of protective covenants relating to vegetation established as part of Rule 45.5.10; and
- (d) consideration of the extent to which open space covenants protecting the land are provided in relation to golf course and open space areas, as part of subdivision.

LCU 18 MORVEN FERRY EASTERN FOOTHILLS

24. MORVEN FERRY LIMITED (#2276) AND BARNHILL CORPORATE TRUSTEE LIMITED AND ORS (#2509)

24.1 The following briefs of evidence have been filed in relation to the submissions of Morven Ferry Limited and Barnhill Corporate Trustee Limited and Ors:

- (a) Mr Freeman – planning;
- (b) Mr Bartlett – transport;
- (c) Mr Espie – landscape;
- (d) Mr Galloway – recreation; and
- (e) Mr Hadley – infrastructure.

24.2 Mr Smith has considered the traffic and transport evidence of Mr Bartlett. Mr Smith takes the same position as that set out earlier in relation to Hogan’s Gully Farm; that is that he remains concerned as to the cumulative traffic generation effects, in particular on the Shotover Bridge. Mr Smith continues to oppose rezoning of the sites.

24.3 Ms Jarvis has read the evidence of Mr Hadley and considers that no rebuttal is necessary.

24.4 Ms Mellsop has reviewed the evidence of Mr Espie and provided a rebuttal statement.

24.5 For the area sought to be rezoned Precinct, Ms Mellsop has highlighted the removal of that 4000m² average in favour of a 1ha average with a 4000m² minimum site size. She and Mr Espie agree that the character at that size can be considered ‘large-lot residential’. Mr Espie acknowledges the change to rural character and moderate changes to visual amenity in his evidence, with Ms Mellsop noting that this is dismissed on the basis that the area is relatively isolated and infrequently accessed. Ms Mellsop considers this is at odds with Strategic Objective 3.2.5.2, which seeks to direct new development into areas that have potential to absorb change without materially detracting from rural character and visual amenity values.

24.6 In relation to the Rural Visitor Zone proposed, Ms Mellsop considers that the amendments proposed by the submitters substantially reduce the potential landscape and visual effects of the proposed rezoning, however she remains concerned with the 8 metre maximum height limit and that a 6 metre height limit. She also considers that landscape outcomes need to be worked into the assessment matters for buildings.

Overall, Ms Mellsop considers that activities in the Rural Visitor Zone could be undertaken by way of consent in the Amenity Zone.

24.7 In relation to both the Precinct request and the Rural Visitor Zone Request, Ms Mellsop considers that from a landscape perspective, Amenity Zone remains the most appropriate zoning.

24.8 Mr Freeman has provided planning evidence in relation to the proposal. At the outset, it is worth noting that the Rural Visitor Zone is an Operative District Plan (**ODP**) zone. The Panel has addressed the inclusion of ODP zones in a number of minutes and stage 1 decisions. This is well summarised in report 17.1 of the Hearings Panel at paras 47-50. The principles are reproduced here:

If a submitter seeks to zone the land using a set of provisions that are not one of the Stage 1 zones, that submitter would need to show how those provisions fit within the overall strategic directions chapters of the PDP. If the provisions do not give effect to and implement the strategic directions chapters, it would likely be difficult to conclude that they were the most appropriate way to achieve the objectives in those chapters.

Where a submitter has chosen to identify an ODP zoning, such as the Rural Visitor Zone, as the set of provisions as being appropriate, that test of giving effect to and implementing the strategic directions chapters remains relevant. In addition, there are two matters that submitters need to consider in seeking the implementation of an ODP zone. First, there is no evidence that those ODP zones will become part of the PDP. Second, the Hearing Panel would need to understand the entire objective, policy and rule framework proposed so the Panel can understand what actual and potential effects on the environment the rezoning would have and whether that was consistent with the overall objectives and policies of the PDP. I can foresee difficulties in this regard if a submitter seeks to rely on ODP provisions unaltered, as the entire structure of the PDP is different.

This approach means that is open to submitters to seek to apply a zone that is not in those presently part of Stage 1 of the PDP, but they must provide a solution that fits within the PDP. It also means that it is not open to the Council to say that the submission cannot be

considered because an ODP zone is sought, at least not at the s.42A report stage. If a submitter fails to file evidence showing how the provisions sought fit within the PDP and relies solely on ODP zone provisions, then the Council is fully entitled to adduce rebuttal evidence identifying aspects of those provisions that do not give effect to and implement the PDP higher order objectives and policies.

- 24.9** Mr Freeman has provided an evaluation of the proposed Rural Visitor Zone against Chapter 3. In doing so, he has also taken into account the evidence in chief of Ms Mellsop, with amendments made to the provisions in the proposed zone. However, the changes proposed still appear in Appendix 3 to his evidence as a modification of the Operative District Plan provisions. Given that these are now superseded it is unclear why a new planning framework has not been developed solely relating this site. In its current form, I consider that it could not be incorporated into the PDP.
- 24.10** As with a number of other requests for spot zonings throughout the Basin, the Rural Visitor Zone objectives and policies lack the comprehensive objective and policy suite that is proposed in Chapter 24 for the Amenity Zone. In addition to this, Mr Freeman hasn't acknowledged the ability in the Amenity Zone to undertake a number of the activities sought for the RVZ by way of consent. In my view, this is a far more efficient means of achieving visitor accommodation and a café or restaurant than retrofitting an entire zone from the ODP.
- 24.11** As noted in relation to Hogans Gully Farm above, I consider the consent path has been overlooked. A consent assessed under the Chapter 24 Amenity Zone provisions will get a much more thorough assessment than under the provisions proposed by the submitter. In doing so, the values of the wider basin and impacts on the landscape character unit will properly be considered.
- 24.12** For the reasons set out above and contained in my s42A report, I maintain my position that the most appropriate zoning for implementing the objectives and policies of the plan is Amenity Zone, rather than the combination of RVZ and Precinct as sought by the submitter.

LCU 22 THE HILLS

25. TROJAN HELMET LIMITED (#2387)

25.1 The following briefs of evidence have been filed in relation to the submission of Trojan Helmet Limited seeking The Hills Resort Zone (THRZ):

- (a) Mr Brown – planning;
- (b) Ms Pflüger – landscape;
- (c) Mr Allen – golf course management;
- (d) Ms Chin – architect;
- (e) Mr Colegrave – economics;
- (f) Mr Hadley – infrastructure;
- (g) Ms Hill – submission background;
- (h) Mr Peakall – acoustic engineering;
- (i) Mr Penny – transport; and
- (j) Mr Tyler – masterplanning.

25.2 Mr Smith’s rebuttal evidence to Mr Penny’s, includes identifying that an increase in traffic generation on the site to 1500 vehicle movements per day will result if the relief were granted. Mr Smith considers that an assessment of the efficiency and safety of the intersection of Arrowtown-Lake Hayes Road / McDonnell Road / Malaghans Road should be undertaken. The assessment should also consider potential growth in traffic from development accessing the wider network from Malaghans Road.

25.3 Mr Penny has suggested that rules could be implemented limiting development until upgrades are provided for, but no such rules are proposed by Mr Brown. Mr Smith’s rebuttal evidence is that a preferable approach is to undertake an integrated planning process that effectively addresses cumulative traffic effects on the network. Mr Smith has reconsidered his view (given in his EIC) that, when considered in isolation, the rezoning request will have a significant impact on the efficiency of the Shotover River bridge, however he does still consider that the request will negatively impact on the performance

of the network when considered in the context of cumulative effects of development in the Basin.

25.4 Ms Jarvis has reviewed the evidence from Mr Hadley, and considered no response was needed in her rebuttal evidence. Her position in her evidence in chief was that she did not oppose the submission from an infrastructure perspective, given that the proposal suggested either connection to the existing infrastructure, or as an alternative for wastewater, disposal on site.

25.5 Ms Gilbert has reviewed the evidence of Ms Pflüger, Mr Tyler, Ms Chin and Mr Brown, undertaken a further site visit, and provided rebuttal evidence.

25.6 Fundamentally, Ms Gilbert is concerned that the scale or extent of the landscape change associated with the THRZ will result in a significant alteration in the identity and sense of place throughout the north eastern portion of the Basin, tipping the balance to a landscape that is dominated by urban parkland. For this reason, she remains opposed to the proposal from a landscape perspective.

25.7 In terms of the specific provisions, if they were accepted by the Panel, Ms Gilbert is concerned with three aspects:

- (a) Building activity status;
- (b) Timing for the provision of the public walkway; and
- (c) Visibility of Homes Sites 4 and 5.

25.8 Ms Gilbert is of the view that in the context of an amenity landscape, notwithstanding an early iteration of design guidelines as attached to the evidence of Ms Chin, that restricted discretionary activity status for buildings is appropriate. Such a regulatory regime ensures that, regardless of future ownership, sufficient discretion is provided to the Council to consider appropriate design. Ms Gilbert prefers a two-tier approach as used elsewhere, where the internal review (by the resort) takes place prior to lodgement of consent. I agree with Ms Gilbert on this matter and address it further below.

- 25.9** Ms Gilbert notes that the provisions do not require a walkway to be constructed until such time as 40 dwellings have been constructed for the resort. If this is to be considered a benefit to the proposal, Ms Gilbert considers that it should be implemented from the outset. I concur with Ms Gilbert on this matter, as no benefit accrues unless the development threshold is reached. No resource management reasons are given in Mr Brown's evidence as to why such a rule is required to delay the implementation of the walkway. If development levels are kept below 40 dwellings, no public walkway will be provided at all.
- 25.10** I have considered the evidence of Mr Brown, Mr Colegrave, Mr Tyler, Mr Peakall and Mr Brown.
- 25.11** I note that in Mr Peakell's evidence, he has only assessed the impacts of helicopter noise on sites outside of the proposed THRZ. However, the zone itself will be made up of a large number of residential receiving sites, which will be subdivided and, I understand, under separate ownership. I understand from Mr Peakall's evidence that the exemptions under NZS 6807:1994 only applies exemptions to residential units on the same site as the activity. No modelling appears to have been undertaken on the impacts of noise generation from taking off and landing of helicopters on those sites.
- 25.12** I note that the noise impacts are modelled estimates only, and that there is no limit proposed on the number of movements (although I note the modelled number of movements for the purpose of the Stage 1 submission 437 was 12 movements (6 return flights) in any 7 day period), with 20 movements (10 return flights) per day for special events. The flight movements are not controlled by any rules, so there is no certainty that the noise levels modelled will be met.
- 25.13** Mr Colegrave has provided a summary of the economic benefits of the proposal. His evidence does not address any costs associated with the proposal that might arise from increased infrastructure demand (roading, water, wastewater), nor does it recognise or acknowledge in any meaningful way non-quantifiable costs that might arise, such as loss of landscape character, or impacts on amenity.

25.14 His evidence does provide an insight into the value able to be attained by developing the site, however he also indicates that high end golf courses are seldom financially viable. In my view, this presents a risk that, once the development potential is exhausted, or the development on-sold and value extracted, the remaining golf course will still remain in a position where it will only break even (or be financially viable), resulting in future pressure for further development.

25.15 In relation to Mr Brown's evidence, his evidence is very much the same as that provided for Hogans Gully Farm Limited. For that reason, my response is largely the same as set out in paragraphs 23.7-23.16 of my rebuttal evidence above.

25.16 I note that at paragraph 104 of his evidence, Mr Brown states that:

On the contrary, the amenities of the Basin would at least be maintained, because the development enabled by THRZ is largely invisible from the surrounding roads, so there is no significant change to what people can see. If the problem he perceives is that some people looking down on the Zone from elevated positions (eg Tobins Track, the Crown Range zig zag) will see new development, then that needs to be considered in the context of the design and landscaping controls that will mitigate the potential adverse effects from that elevated view.

25.17 Such consideration is not recognised in the policies, and the provisions in the submitter's proposed Chapter are very permissive and do not take into account landscape matters (refer proposed Rule 44.4.6 and the associated matters of control). Notwithstanding this, Mr Brown would appear to perhaps be agreeing that consenting development under the Amenity Zone, albeit non-complying, might be achievable. In my view the benefit of such an approach is that it enables a comprehensive view of the wider landscape and those values that are set out in Chapter 24, in particular Schedule 24.8.

25.18 As a result of my evaluation above, I still maintain that Amenity Zone is more appropriate than THRZ. However, if the Panel was minded to find in favour of THRZ, I have provided additional comments on the proposed provisions as **Appendix C**.

25.19 I would also make the following key recommendations:

- (a) a gap analysis is undertaken against those objectives and policies contained in Chapter 24 to identify a more comprehensive suite of objectives and policies for THRZ;
- (b) removal of the permitted activity status for earthworks;
- (c) the use of a restricted discretionary status for buildings, along with appropriate assessment criteria, to ensure that landscaping is incorporated with the development;
- (d) greater control is required over *both* residential units and visitor accommodation – any limit on numbers should apply to both;
- (e) inclusion of site coverage provisions to retain internal amenity;
- (f) consideration of the impacts of helicopter movements on residential sites within the THRZ, and whether a limit on the number of movements is required to ensure that modelled noise levels are not breached; and
- (g) consideration of the extent to which open space covenants protecting the land are provided in relation to golf course and open space areas, as part of subdivision.

LCU 23 MILLBROOK

26. CAREY VIVIAN FOR ARCHIBALD (#2501) AND UNDERDOWN TRUST NEE GRIFFIN (#2580)

26.1 Mr Carey Vivian has filed planning evidence in support of Archibald (#2501) and Underdown (nee Griffin, #2580). These sites are 1.523ha and 1.675ha in turn. The evidence, while sparse focuses on application of the Millbrook Resort Zone (**MRZ**).

26.2 Section 58 of my s42A report identifies that there are no ecology, infrastructure, or landscape recommendations opposing the relief. Transport concerns were not site specific.

- 26.3** There is no dispute that an Amenity Zone as notified does not represent the most appropriate method for achieving the provisions of the Plan for the site.
- 26.4** In my s42A Report I recommended a 'Precinct' zone, as this reflected the capability of this land, which is surrounded on all sides by MRZ, and as recommended by Ms Gilbert could absorb additional demand as either MRZ or Precinct.
- 26.5** Mr Vivian has provided little evidence as to the appropriateness or otherwise of the application of the MRZ to the Archibald and Underdown areas, apart from conclusion that this '*has merit and is logical from a planning perspective*'²⁴. He has however, identified amendments to Chapter 43, including a Structure Plan at 43.7 to introduce the sites as R20. Amendments to Rule 43.5.4 'Density' and Rule 43.5.5 provide for 8 residential units on the identified Residential R20 Activity Area.
- 26.6** It appears that, in both the evidence of Mr Vivian and Mr Edmonds, that agreement for the two sites to be included in the MRZ has been reached. I consider this important from the view of achieving an integrated resort zone development.
- 26.7** I recommend that the MRZ be applied to the Archibald and Underdown (nee Griffin) sites, as set out in the evidence of Mr Vivian at para 2.9, with the exception that the introduction of the area to the wider MRZ warrants a higher level of discretion as to Residential Buildings, and accordingly Rule 43.4.11 should apply to new buildings on the site to ensure cohesion with the wider MRZ context.
- 26.8** The rule could be structured as follows:

| | Activities – Millbrook | Activity Status |
|----------------|--|------------------------|
| 43.4.11 | Buildings a. R14, R15 and R16, and R20 (Archibald (2501) and Underdown (nee Griffin, 2580)) of the Residential Activity Area | RD |

24 Vivian [2.8]

| | | |
|--|--|--|
| | Discretion is restricted to the following: i. The appearance of the building ii. Associated landscaping controls iii. The effects on visual and landscape amenity values of the area including coherence with the surrounding buildings | |
|--|--|--|

26.9 Ms Gilbert has identified in her evidence in chief that the subject site is low lying and visually discreet and that development would effectively read as part of the resort.

26.10 A yield of 8 residential units would represent a density close to 2.5 units per hectare, which is high for the MRZ, but development of this site would be consistent with the R11 Residential Activity Area to the west which is of a similar scale (3ha) and density (8 units), and the area would remain surrounded by large open spaces (Activity Area G) to the north, south and east.

26.11 Overall, in my view application of an MRZ zone would better ensure that development on this site is integrated and avoids sensitive parts of the site (Objective 43.2.1 and associated policies 43.2.1.1).

27. AMANDA LEITH AND NICOLA SMETHAM SPRUCE GROVE TRUST (#2512 and #2513) AND BOUNDARY TRUST (#2444)

27.1 The following briefs of evidence have been filed in relation to the Spruce Grove Trust (#2512 and #2513), referred to in evidence as the 'Malaghans Area' (9.1681ha); and Boundary Trust (#2444) referred to as the 'Arrowtown Lake-Hayes area' (5.389 ha):

- (a) Ms Leith – planning; and
- (b) Ms Smethem – landscape.

27.2 Ms Leith seeks the application of MRZ to these properties. She is reliant on the evidence of Ms Smethem as to the ability of these sites to absorb the level of development proposed.

27.3 Section 59 of my s42A report identifies that there are no site-specific ecology, infrastructure, traffic or landscape recommendations opposing the submissions.

- 27.4** The Malaghan submission was recommended to be rejected in my s42A report (supplementary, dated 1 June 2018). The prescribed rezoning was not, in my view, consistent with the provisions of the Millbrook Resort Zone.
- 27.5** I considered that the form of development proposed was not well integrated and compatible with that of the MRZ; departed considerably from the form of development and associated mitigation consented under RMA180570; and concluded that the Amenity Zone remained the more appropriate zoning.
- 27.6** For the 'Arrowtown-Lake Hayes' area I considered that the proposed zoning would establish a residential density more akin to residential, and essentially represented an urban extension of Arrowtown.
- 27.7** The relief has been amended by Ms Leith:
- (a) Density proposed remains at 1 residential unit or accommodation unit / 500m² (amendments to Rule 43.5.4). As has been clarified elsewhere in my rebuttal statement in relation to the evidence of Millbrook Country Club, the average density for the MRZ is approximately 1 / 6000m².
 - (b) Open space, landscape and building and design controls are complex, and prescribed through a suite of controls. In chief through the application of Residential Activity Areas (R20(a) to (e) as associated with Arrowtown – Lakes Hayes; Malaghans Area R21(21(a) to (b)²⁵; an RDA applied to new buildings (Rule 43.4.11); 50% maximum building coverage (Rule 43.5.11) although there are no specific assessment matters provided; and a discretionary activity status to seek that no building is visible from Malaghans Road for the Malaghans area Rule 43.5.5).

25 Noting that R20 and R21 have been inadvertently swapped in the evidence of Ms Leith [44].

- 27.8** Ms Gilbert identified the two sites in her evidence in chief as ‘two ‘cut outs’ of the MRZ, a fact which is reiterated repeatedly by Ms Leith at para 80.
- 27.9** The thrust of Ms Leith’s evidence is that these two sites represent a ‘spot zone’ in a more cohesive application of the MRZ, and that the application of the Amenity zone is incongruous with the intent of that zoning. I agree so far as the Malaghan site, in that the inclusion of this site as MRZ would represent a contiguous land use character, subject to provisions to provide continuity with the development and density of the adjoining R5 Activity Area, and the retention of open space and the northern face of the roche moutonee. This is tempered, however, by the need to show that the zoned area is truly an integrated part of the Millbrook Resort.
- 27.10** I disagree with the contention of Ms Leith at para 59-61, and Ms Smethem at paras 36 and 38, where they suggest that the landscape character is predisposed to adjoining Residential Activity Areas with densities of between 200m² to 1,200m². Such a comparison is misleading in the absence of recognition of Decision Rule 43.5.11, which applies a maximum site coverage of 5% across the MRZ. In addition to this, it also does not recognise that overall, the MRZ provides for much lower density of development than that proposed by the submitter.
- 27.11** Ms Leith is seeking that the rule regarding site coverage not apply to the Malaghans or Arrowtown Lakes-Hayes Area, and is replaced with a 50% maximum site coverage requirement (RDA).
- 27.12** I have identified in my rebuttal evidence for Millbrook Country Club (#2295 and #2605), that I consider that additional areas would need to be integrated with the resort, in order to meet both the definition, and the purpose for the resort zone which is set out in Chapter 43. Unless a submitter is able to show they are integrated with the resort and the activities, they should remain Amenity Zone.
- 27.13** However, if the Hearing Panel concludes differently, as based on the amended relief, Ms Leith’s evidence is largely concurred with in terms

of the Malaghans Road site only (Spruce Grove Trust (#2513)). This is also consistent with Ms Smethan's view expressed in her evidence at para 12 that inclusion of the sites provides a legible and defensible boundary to the MRZ, and not detract from neighbouring ONL or ONF areas.

- 27.14** While the density of development on the Malaghans Road site would be greater than that consented (for four units on sites of between 2,258m² to 3,047m²), I consider that the proposed Structure Plan (Smethem Appendix 7), subject to appropriate density controls that reflect the balance of the zone, could retain the visual amenity conveyed by the northern face of the roche moutonee but provide for residential activity in a manner that can be absorbed as compatible with the adjoining Millbrook residential enclave and golf course setting.
- 27.15** A density of 1 unit per 800m² is seen as the more appropriate²⁶ to ensure greater compatibility with the prescribed density of the adjoining R5 area. However, the potential yield of some 55 units over the 4.73ha of Activity Area would not be consistent with the built form of the MRZ. Accordingly, were the Panel to accept this relief an amendment to Rule 43.5.5 Residential density is recommended to limit the yield to 15 residential units.
- 27.16** Such a density would retain the same ratio of units to open space present within the MRZ as set out in the evidence of Mr Edmonds. Such a density would be offset by the retained open space elements on its site as present in the Structure Plan in Ms Smethem's evidence, as well as the adjoining golf course, and would represent an enclave in open rural countryside.
- 27.17** Decision Objective 43.2.1 of the MRZ and associated Policies 43.2.11 seek that development is integrated and avoids sensitive parts of the site, which in my view could be achieved through the Smethem Structure Plan and provisions, subject to the modifications set out above.

26 Ms Leith's recommended density of 1 unit per 500m² provides for some 88 units.

27.18 Strategic Objectives 3.2.1.8 and 3.2.5.2 recognise the diversification beyond rural activities, provided rural character and amenity is maintained. While I acknowledge the amended proposal would represent intensification, it would not in my view be to the extent where the cumulative effects identified in Policy 3.3.2.4 alter the MRZ in a collective sense, including the Malaghans Area.

27.19 Accordingly, if the Hearings Panel were of the view that an MRZ is the more appropriate, and that it can be demonstrated that the area can be properly integrated with the resort, I consider that the provisions attached as Annexure 2 in Ms Leith's evidence and the Malaghan Road Proposed Structure Plan attached as Appendix 7 to Ms Smethems evidence in chief, are appropriate. I note for clarity that there is no scope to change provisions that have otherwise been decided in Stage 1, and that these provisions can only apply to the land notified in Stage 2. I would recommend three amendments:

- (a) inserting Rule 43.5.5 limiting the number of units to 15;
- (b) amendments to proposed Rule 43.5.15 which seeks:

"No part of any building located within the R21a activity area is to be visible from Malaghans Road. Methods to achieve this may include restrictions on building height, mounding and landscaping".

It is considered that the term 'visible from' is not clear and concise²⁷, and Ms Leith is asked to consider a more certain rule provision; and

- (c) amendments to Rule 43.4.11 specifically for R21(a) – (b) relating to ensuring fencing along the southern boundary adjoining the Golf Course is compatible with the treatment for the remainder of the golf course.

27.20 For the Arrowtown – Lakes Hayes Area Boundary Trust (#2444) I retain my recommendation to retain the Amenity Zone. At a density of 1 residential or visitor unit per 500m², there is little material difference to

the 450m² net area densities²⁸ provided in the Arrowtown Low Density Suburban Residential zone to the east of McDonnell Rd.

27.21 The proposal, with a potential yield of some 90 residential units over a 4.78ha Activity Area would essentially 'leak' a low urban density across Lake Hayes Road, and not be consistent with providing a tangible urban boundary for Arrowtown.

27.22 I note, as has Ms Leith that a cohesive and integrated development as based on the rules proposed and Structure Plan (Smethem, Appendix 6) could not be comprehensively achieved.

27.23 Overall, I conclude that the proposed rezoning would not represent the most appropriate method for achieving the objectives and policies of the plan. The rezoning would not be the more appropriate in terms of achieving Decisions Objective 43.2.1 and associated Policies 43.2.1.1 that seek that development is integrated, and Decisions Policy 3.3.2.4 given that the development would 'read' as an expansion of the Arrowtown urban area.

28. JEFFREY BROWN FOR WILLS AND BURDEN (#2320)

28.1 Mr Jeffrey Brown has filed planning evidence on behalf of Wills and Burden (#2320) within the Lakes Hayes Investments bundle. There is no accompanying landscape evidence.

28.2 The site was notified as Amenity Zone. The site is within LCU23 which is predominantly zoned MRZ. There are no ecological or infrastructure issues raised. Mr Smith's concerns in terms of cumulative transport effects are not specific to this site.

28.3 Section 60 of my s42A report recommended, based on the evidence of Ms Gilbert, that the Amenity Zone as notified in Stage 2 be retained for the highly visible sloping hillside on the southern side. The retention of the Amenity Zone coincides with 347 Arrowtown Lake Hayes Road (Lot 3 DP27422 and Lot 1 DP507367), as were included in Figure 1 of the

submission (#2320). An Amenity Zone is retained for the balance area either side of Waterfall Park Road, as not raised in the submission.

28.4 Precinct is more appropriate as applied to the upper slopes adjoining the MRZ, which coincides with the properties at 367, 395 and 397 Arrowtown Lake Hayes Road. Based on the evidence of Ms Gilbert, these areas retain some capacity to absorb additional development. Figure 63 of my s42A report identifies the recommended Precinct zoning.

28.5 Mr Brown has not provided any evidence on my recommendations. At para 8.4 he extends Mr Espie's landscape evidence, which is specific to the Lake Hayes Slopes and LCU13 to this area. He states:

I also consider that this (4,000m² minimum allotment size) density is appropriate for the block of properties further north, between Arrowtown-Lake Hayes Road and Waterfall Park Zone (under the Wills and Burden submission), which already contains a number of small rural residential properties.

28.6 In the absence of anything more specific in his evidence, I assume that Mr Brown is seeking application of his 4,000m² as subject to a Restricted Discretionary activity status across the entirety of the subject site.

28.7 As identified by Mr Barr and Ms Gilbert, a 4,000m² minimum allotment size for the Precinct zone is detrimental to landscape character and amenity values, and is not the most effective provision in terms of achieving (s32) and implementing (s75(1)(c)) the relevant policies and objectives.

28.8 In terms of the application of the Precinct across the entirety of the site, I do not have contrasting evidence to that of Ms Gilbert.

28.9 She is of the view that an Amenity Zone for the vegetated sloping hillside to the south is the more appropriate in terms of an inability of this landscape to absorb further development. Such development would be detrimental to the existing landform and vegetation integrity, and that the Amenity zone is the more appropriate in terms of maintaining the character of neighbouring landscapes.

28.10 I concur with that opinion. I also consider that the retention of the balance of the site as Amenity Zone is contiguous with the landform to the east across Arrowtown Lake Hayes Road which then extends west adjoining Waterfall Park Road which retains an Amenity zone.

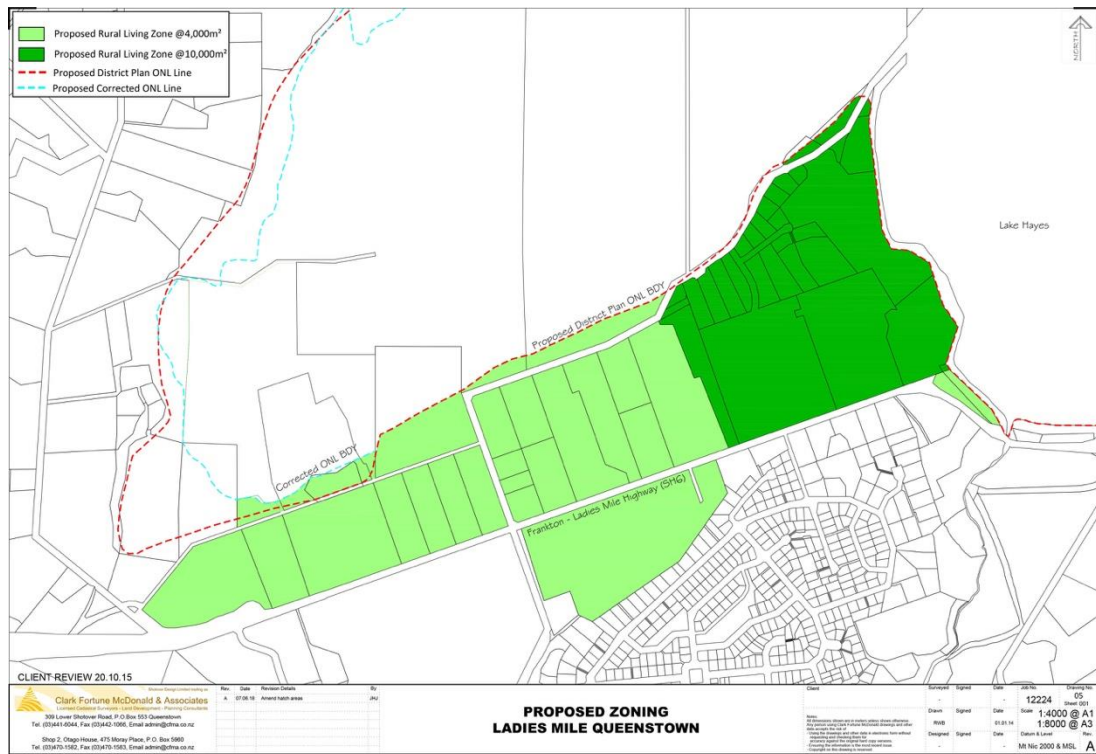
28.11 Accordingly, for those reasons I maintain my conclusions as outlined in my s42A report.

LCU 10 LADIES MILE

29. NICHOLAS GEDDES FOR LADIES MILE CONSORTIUM (#2489) AND FELZAR PROPERTIES LIMITED (#229)

29.1 Mr Geddes has provided planning evidence in relation to the submissions of Ladies Mile Consortium and Felzar Properties Limited. Ms Anita Vanstone has addressed that part of the submission only notified in Stage 1, while I address the rezoning request in relation to that part of the site that was notified as part of the Variation in Stage 2, in particular that area at the eastern end of the sites extending down to Lake Hayes and known as Threepwood. The area was zoned Amenity Zone as part of the Stage 2 Variation.

29.2 The land is identified in the area shown in dark green below:




29.3 No landscape evidence has been provided in relation to the submission, except that of Ms Mellsoy for Council.

29.4 Ms Mellsoy has considered the planning evidence of Mr Geddes from a landscape perspective in her rebuttal evidence. Ms Mellsoy did not support Rural Lifestyle Zone in relation to the eastern part of the land, and this was addressed in her evidence in chief in relation to submission #688. Rural Lifestyle Zone has a minimum lot size of 1 ha, with a minimum average of 2 ha. Mr Geddes has requested that the area provide for subdivision down to 1 ha. Ms Mellsoy maintains her view that even at the Rural Lifestyle Zone density, that such a zoning would compromise the natural character and scenic values of the lake.

29.5 I accept Ms Mellsoy's position set out in her rebuttal statement. There is no landscape evidence that can be relied on to the contrary.

29.6 Given this, it is my opinion that the area remain Amenity Zone as notified, and that such zoning will achieve the objectives of the PDP. In particular, the relevant provisions are s42A Objectives 24.2.1 and 24.2.5; and associated policies 24.2.1.3, 24.2.1.5, 24.2.1.8, 24.2.1.9, 24.2.5.1. These objectives and policies seek to protect, maintain and enhance landscape and visual amenity values, including providing for

activities where they protect, maintain or enhance landscape values of the character units in Schedule 24.8.

A handwritten signature in blue ink, appearing to read 'Marcus Langman', with a long horizontal flourish extending to the right.

Marcus Langman

27 June 2018

APPENDIX A

ANNOTATIONS ON THE AYRBURN ZONE – PROVISIONS

APPENDIX B

ANNOTATIONS ON THE HOGANS GULLY ZONE – PROVISIONS

45 Hogans Gully Zone

45.1 Zone Purpose

The purpose of the Zone to enable a golf course-based resort. The Zone provides for the golf course development, with clubhouse, driving range, maintenance facilities, and associated commercial activities, along with limited residential and visitor accommodation activities to support the golf course. The Zone promotes development that is absorbed into and is subservient to the surrounding landscape and rural context by providing for large open space and landscape protection areas, ecological enhancement, and building location and design controls.

45.2 Objectives and Policies

45.2.1 Objective – Commercial recreational, residential, and visitor accommodation activities that are sensitive to the landscape, amenity and nature conservation values of the rural environment.

Policies

- 45.2.1.1 Provide for a high-quality golfing experience with associated clubhouse, commercial, residential, visitor accommodation, and maintenance activities and facilities in a comprehensive master-planned environment.
- 45.2.1.2 Require development to be in accordance with a Structure Plan to ensure development is appropriately located and does not adversely affect the landscape, recreational, and ecological values and opportunities of the Zone.
- 45.2.1.3 Protect and enhance the ecological values through enhancement planting and other protection measures.
- 45.2.1.4 Require built development to be subservient to the landscape of the Zone and the wider rural environment by managing external materials and colours of all buildings.
- 45.2.1.5 Promote open space and farming activities as the backdrop to the golf course and to maintain landscape values, while avoiding reverse sensitivity effects through appropriate location of activities.
- 45.2.1.6 Provide the opportunity for sustainable water, stormwater, wastewater collection, treatment and disposal practises.

45.2.1.7 Require that landscaping contributes to the ecological diversity and enhancement of the Zone.

45.2.1.8 Provide for public walkway and cycleway access linkages.

45.3 Other Provisions and Rules

45.3.1 District Wide

Attention is drawn to the following District Wide Chapters. All provisions referred to are within Stage 1 of the Proposed Plan, unless marked as Operative District Plan (ODP).

| | | |
|---------------------|-----------------------|------------------------|
| 1 Introduction | 2 Definitions (& ODP) | 3 Strategic Directions |
| 4 Urban Development | 5 Tangata Whenua | 6 Landscapes |

- The policy framework is relatively silent on managing the effects of commercial and helicopter activities on amenity.
- The policy framework is light on managing effects so as to maintain and enhance landscape values and visual amenity.
- The policy framework only seeks to address landscape effects beyond the zone through management of external materials and colours of buildings. This makes the zone vulnerable to future plan changes and incremental creep.
- A gap analysis against the objectives and policies of Chapter 24 would be useful. A gap analysis would identify where particular topics/adverse effects arising from development are addressed in Chapter 24, but not addressed by the proposed chapter. For example, there are no policies related to earthworks.

| | | |
|-----------------------------------|-------------------------------|---|
| 24 Signs (ODP) | 25 Earthworks (ODP) | 26 Historic Heritage |
| 27 Subdivision | 28 Natural hazards | 29 Transport (ODP) |
| 30 Utilities and Renewable Energy | 31 Hazardous Substances (ODP) | 32 Protected Trees |
| 33 Indigenous Vegetation | 34 Wilding Exotic trees | 35 Temporary Activities and Related Buildings |
| 36 Noise | 37 Designations | Planning Maps |

45.3.2 Clarification

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

The following abbreviations are used within this Chapter:

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

45.4 Rules – Activities

| | Activities – Hogans Gully Zone | Status |
|--------|--|--------|
| 45.4.1 | Any activity which complies with the rules for permitted activities and is not listed as a controlled, discretionary, non-complying or prohibited activity. | P |
| 45.4.2 | Farming - In the Landscape Protection Area | P |
| 45.4.3 | Buildings – In the following activity areas: Activity Areas R3, R4, R5, R6 provided they meet the standards in Rule 45.5.2. | P |
| 45.4.4 | Farm Buildings in all activity areas aside from the Landscape Protection Area. Council shall exercise control over effects on landscape values. | C |

- Rule 45.4.1 permits activities not otherwise permitted, which is not consistent with the non-complying default status for the other Resort Zones supported by Mr Brown (Trojan Helmet and Ayrburn). There is no explanation/justification for the different approach. Rule 45.4.6 provides for retail activity. However, it should also be specifically listed as an activity. By way of example, Rule 45.4.20 makes the landing and take-off of helicopters a controlled activity in the Clubhouse Activity Area, however because helicopter landing and take-off is not specified elsewhere these activities are permitted throughout the remainder of the zone.
- Rule 45.4.4 is not supported – If the purpose of the Zone is for golf course-based resort, there may not be sufficient justification for farm buildings at all. Particularly where the reason for making farm building permitted or controlled is to recognise the economic benefits of productive farming.

| | | |
|--------|---|---|
| 45.4.5 | <p>Licensed Premises in the Clubhouse Activity Area</p> <p>Premises licensed for the consumption of alcohol on the premises between the hours of 10pm and 8am, provided that this rule shall not apply to the sale and supply of alcohol:</p> <ol style="list-style-type: none"> a. To any person who is residing (permanently or temporarily) on the premises; b. To any person who is present on the premises for the purposes of dining up to 12am. <p>With the exercise of Council's control limited to:</p> <ol style="list-style-type: none"> i. The scale of the activity ii. Effects on amenity (including that of adjoining residential zones and public reserves) iii. The configuration of activities with the building and the site (e.g, outdoor seating, entrances). iv. Noise and hours of operation. | C |
| 45.4.6 | <p>Buildings in:</p> <ol style="list-style-type: none"> a. Residential Activity Areas R1, R2, R7, R8, R9 and R10 b. Clubhouse Activity Area c. Maintenance Activity Area <p>With the exercise of the Council's control limited to:</p> <ol style="list-style-type: none"> i. The external appearance of the building including the use of natural materials. ii. The location of access, car parking and curtilage areas | C |

| Activities – Hogans Gully Zone | | Status |
|---------------------------------------|--|--------|
| | <ol style="list-style-type: none"> iii. Landscaping associated with the development and the extent to which landscaping contributes to the integration of the golf course amenities, ecological enhancement, and the amenities of the development areas. iv. Provision of infrastructure | |
| 45.4.7 | <p>Buildings in the Pastoral / Golf Course Activity Area, the Landscape Protection Activity Area and the Ecology / Golf Activity Area except for utilities, service and accessory buildings for farming or golf purposes up to 40m² in gross floor area.</p> | NC |

- Rule 45.4.5: The matters of control are the scale and effects, noise and hours of operation, these effects may not be able to be substantively managed by controlled activity and restricted discretionary may be more appropriate. It could be argued that retail activities are permitted because while retail fits within the definition of 'commercial activity' it is also separately defined.
- All rules with controlled activity – given the certainty offered by the structure plan, many activities could be permitted subject to standards, or if a greater degree of oversight is required then the activity status ought to be restricted discretionary so as to ensure the landscape outcomes supported by the submitter's evidence will be fulfilled. Although different zones in nature, by way of example, Stage 1 of the PDP moved away from controlled activity status in the Business Mixed Use and Local Shopping Centre zones for buildings as if an application is fundamentally flawed, it is extremely difficult for a condition to result in a better outcome. Subdivision is supported as a controlled activity as long as there is a structure plan with a sufficient level of detail to provide certainty.
- Rule 45.4.7. The ability to build utility buildings and farm buildings up to 40m² may not be appropriate given the assurances that areas shall remain open. As stated above, the zone may not justify farm buildings.

| | | |
|-----------------|---|----|
| 45.4.8 | Residential activity in the Maintenance Area, Pastoral / Golf Course Activity Area, Landscape Protection Activity Area, Ecology / Golf Activity Area | NC |
| 45.4.9 | Visitor Accommodation including Residential Visitor Accommodation and Homestays in all Residential Activity Areas and the Clubhouse Activity Area | P |
| 45.4.10 | Commercial and Community Activities , except for: <ul style="list-style-type: none"> a. Commercial recreation activities; or b. Offices and administration activities directly associated with the management and development of the resort or ancillary to other permitted or approved activities located within the Maintenance Activity Area and Clubhouse Activity Area; or c. Bars, restaurants in the Clubhouse Activity Area | D |
| 45.4.11 | Commercial Recreation Activities , except for: <ul style="list-style-type: none"> a. Golf courses and related ancillary commercial activities | D |
| 45.4.11A | Golf Tournaments With the exercise of the Council's control limited to: <ul style="list-style-type: none"> a. Traffic and pedestrian management and safety within the site and on the local roading network; b. Temporary use by helicopters c. Waste management and disposal, sanitation d. Number of events per year e. Timing of set up and pack down for each event | C |
| 45.4.12 | Mining | NC |
| 45.4.13 | Service Activities , except for: <ul style="list-style-type: none"> a. activities directly related to other approved or permitted activities within the Zone; and b. located within the Maintenance Activity Area; or c. located within the Pastoral / Golf Activity Area and where any buildings have a gross floor area of no more than 40m² | NC |
| 45.4.14 | Industrial Activities ; except for: <ul style="list-style-type: none"> a. activities directly related to other approved or permitted activities within the Zone; and b. activities undertaken in the Maintenance Activity Area | NC |

- Rules 45.4.8 and 45.4.9 provide the certainty expected from zones that rely on structure plans.
- Rules 45.4.10 and 45.4.11. Because of the certainty and types of land uses provided for in the Structure Plan, the discretionary activity status may not be appropriate, and casts doubt over the integrity of the structure plan and reliance on this. There is no guidance in the policies as to scale or management of effects of those activities.
- Rule 45.4.9 has the potential to permit more intensive visitor accommodation resort activities and these may be a different scale and nature to that assessed and supported by the submitter in the Home site areas.

| | | |
|----------------|---|----|
| 45.4.15 | <p>Licensed Premises outside of the Clubhouse Activity Area</p> <p>Premises licensed for the consumption of alcohol on the premises between the hours of 11pm and 8am, provided that this rule shall not apply to the the sale and supply of alcohol:</p> <ol style="list-style-type: none"> to any person who is residing (permanently or temporarily) on the premises; to any person who is present on the premises for the purpose of dining up until 12am. | NC |
|----------------|---|----|

| | Activities – Hogans Gully Zone | Status |
|----------------|---|--------|
| 45.4.16 | Panelbeating, spray painting, motor vehicle repair or dismantling except for activities directly related to other approved or permitted activities within the Zone and located within the Maintenance Activity Area. | NC |
| 45.4.17 | Forestry Activities | NC |
| 45.4.18 | Fibreglassing, sheet metal work, bottle or scrap storage, motorbody building or wrecking, fish or meat processing (excluding that which is ancillary to a retail premises such as a butcher, fishmonger or supermarket), or any activity requiring an Offensive Trade Licence under the Health Act 1956. | PR |
| 45.4.19 | Factory Farming | PR |
| 45.4.20 | <p>Landing and taking off of helicopters within the Clubhouse Activity Area</p> <p>With the exercise of the Council's control limited to:</p> <ol style="list-style-type: none"> The number of trips Noise effects on properties outside the Zone The flight path to and from the landing location. | C |

| 45.5 | Standards – Hogans Gully Zone | Non-compliance status |
|-------------|--------------------------------------|------------------------------|
| | | |

- Rule 45.4.18: references to supermarket are not likely to be appropriate.
- Rule 45.4.20 will be meaningless as a controlled activity in order to be able to manage adverse effects.
- Rule 45.4.17 is controlled under the NES-PF and will be a controlled activity.

| | | |
|--------|--|----|
| 45.5.1 | <p>Building materials, colours and landscaping</p> <p>All buildings, including any structure larger than 5m2, new, relocated, altered, reclad or repainted, are subject to the following in order to ensure that they are visually recessive within the surrounding landscape:</p> <p>Exterior colours of buildings:</p> <ol style="list-style-type: none"> a. All exterior surfaces (excluding roofs and fittings such as guttering) shall be dark timbers or locally sourced schist. b. Pre-painted steel, and all roofs shall have a reflective value of not greater than 20% c. Surface finishes shall have a reflective value of not greater than 30% <p>Discretion is restricted to all of the following:</p> <ol style="list-style-type: none"> i. Whether the building will be visually prominent, especially in the context of the wider landscape, rural environment and as viewed from neighboring properties ii. Where the proposed colour is appropriate given the existence of established screening or in the case of alterations, if the proposed colour is already present on a long established building iii. The size and height of the building where the subject the colours would be applied. iv. The extent of landscaping undertaken to soften all buildings. | RD |
| 45.5.2 | <p>Residential / visitor accommodation density</p> <p>The maximum number of residential / visitor accommodation units within the Zone shall be 96.</p> | NC |
| 45.5.3 | <p>Building Height</p> <ol style="list-style-type: none"> a. All residential dwellings shall be restricted to single story building forms, no higher than 3.75 metres in height, measured from floor slab to the highest point of the roof form. b. Flat roofs only are permitted as the primary roof form. c. Splits in architectural forms are permitted however only 3.75 metres of visible building form is permitted above finished ground level. | D |

- Rule 45.5.1: compare to Chapters 21-24 of the PDP and the other Resort Zones requested. ie. Rule 44.5.2 of the requested Hills Resort Zone.
- Rule 45.5.3: Limb (b) is not related to building height. This should be a separate standard.

| 45.5 | Standards – Hogans Gully Zone | Non-compliance status |
|--------|---|-----------------------|
| | d. Roof features and light well features may extend 1.2 metres above roof forms and shall be no more than 1.2m x 1.2m in plan dimension. | |
| 45.5.4 | <p>Glare</p> <p>a. All fixed lighting shall be directed down and away from adjacent roads and properties.</p> <p>b. Any building or fence that can be viewed from a public place that is constructed or clad in metal, or material with reflective surfaces shall be painted or otherwise coated with a non-reflective finish.</p> <p>c. No activity shall result in a greater than 3.0 lux spill, horizontal and vertical, of light onto any property located outside of the Zone, measured at any point inside the boundary of the adjoining property.</p> | |
| 45.5.5 | <p>Nature and Scale of Activities</p> <p>Except within the Clubhouse and Maintenance Activity Areas:</p> <p>a. No goods, materials or equipment shall be stored outside a building, except for vehicles associated with the activity parked on the site overnight.</p> <p>b. All manufacturing, altering, repairing, dismantling or processing of any materials, goods or articles shall be carried out within a building</p> | |
| 45.5.6 | <p>Retail Sales</p> <p>No goods or services shall be displayed, sold or offered for sale from a site except:</p> <p>a. goods grown, reared or produced on the site; or</p> <p>b. goods and services associated with, and ancillary to the recreation activities taking place (within buildings associated with such activities) within the Clubhouse Area; or</p> <p>c. within the Clubhouse Activity Area.</p> | NC |
| 45.5.7 | <p>Maximum Total Site Coverage</p> <p>The maximum site coverage shall not exceed 5% of the total area of the Zone. For the purposes of this Rule, site coverage includes all buildings, accessory, utility and service buildings but excludes weirs, filming towers, bridges and roads and parking areas.</p> | NC |

- Rules 45.5.4 and 45.5.5 are missing their respective activity status.
- Rule 45.5.5 may be at odds with the specific nature of the location of activities for a zone that is supported by a structure plan.
- Rule 45.5.6: limb (b) may be difficult to regulate if the recreation activity taking place is permitted. Limb (c) permits retail activity within the clubhouse Activity Area. The size of the Clubhouse Activity Area is estimated to be 1.58 ha. There are not any restrictions on the scale and this could result in a range of retail activities that are not anticipated by the PDP's policy framework.
- Rule 45.5.7. This rule appears arbitrary, 5% of the 129ha size of the zone as indicated on the structure plan is 6.45ha. Taking into account the areas where buildings are precluded, it may result in intensive overdevelopment of the Residential and Clubhouse areas. This rule would better if it was articulated by way of the maximum coverage provided for in each Activity Area.

| | | |
|--------|---|----|
| 45.5.8 | Fire Fighting A fire fighting reserve of water shall be maintained. The storage shall meet the New Zealand Fire Service Firefighting Water Supplies Code of Practice 2008. | NC |
| 45.5.9 | Atmospheric Emissions There shall be no indoor solid fuel fires, except for: <ul style="list-style-type: none"> a. feature open fireplaces in the clubhouse and other communal buildings including bars and restaurants. Note – Council bylaws and Regional Plan rules may also apply to indoor and outdoor fires. | NC |

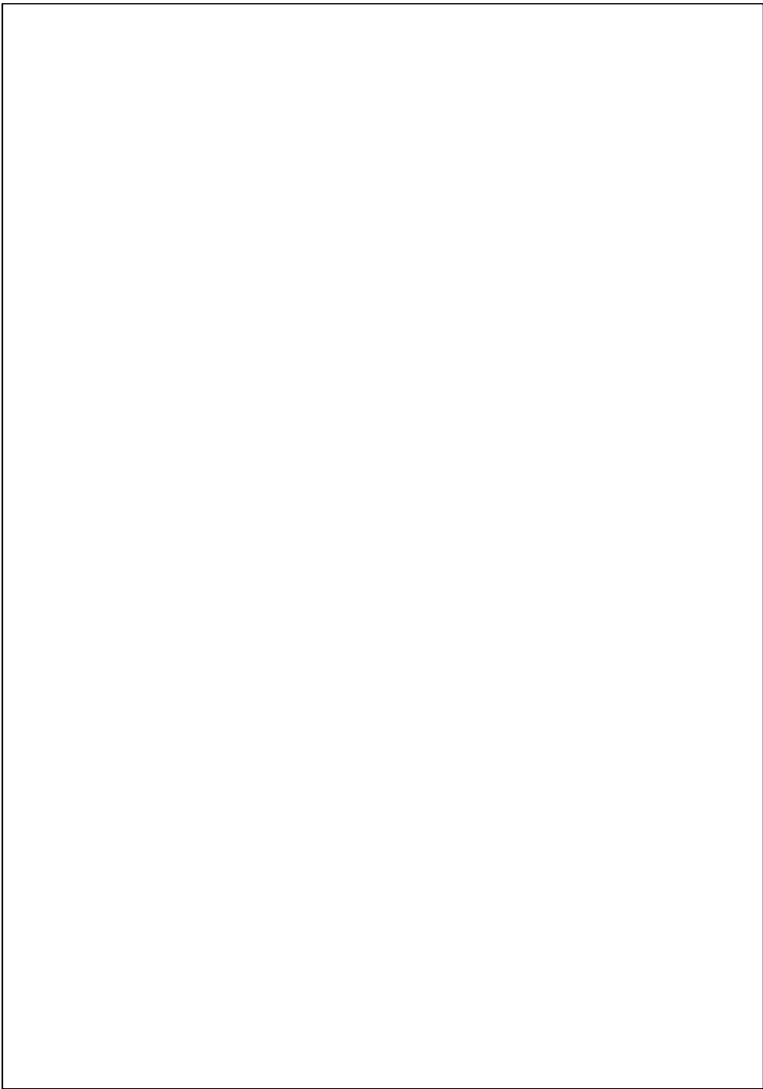
| | | |
|------|-------------------------------|-----------------------|
| 45.5 | Standards – Hogans Gully Zone | Non-compliance status |
|------|-------------------------------|-----------------------|

- Rule 45.5.8 applies to the zone, each activity thereafter will need to ensure compliance with firefighting as it applies to the zone. Clarification may be required if it is intended that the initial development will provide firefighting for all activities. Reliance on the New Zealand Fire Service Firefighting Water Supplies Code of Practice 2008 to achieve permitted activity is discouraged because the document does not provide enough certainty. Compliance is better achieved through the matters of discretion or control for each activity.
- Rule 45.5.9 is a regional council function.

| | | |
|-----------------------|--|-----------|
| <p>45.5.10</p> | <p>Buildings in Activity Areas R1, R2, R3, R4, R5, R6, R7, R8, R9, and R10 constructed prior to completion of the following ecological protection and enhancement works in the areas labelled Ecological Restoration Planting and Ecological Protection and Enhancement on Plan []:</p> <ol style="list-style-type: none"> 1. A <i>Hogans Gully Ecological Management Plan and Revegetation Strategy</i> shall be submitted to the Council for approval. The purpose of the <i>Hogans Gully Ecological Management Plan and Revegetation Strategy</i> is to achieve viable indigenous habitats that can support a variety of indigenous fauna. The <i>Strategy</i> shall set out the programme of and detail of the specific works required in 2 – 11 below. 2. The areas shall be rabbit fenced and where necessary stock fenced to permanently exclude grazing animals from these areas. 3. All woody weeds and wilding species including but not limited to willows, briar, hawthorn, broom and wilding conifers shall be removed and shall not be replanted. 4. Pest species shall be controlled. 5. No indigenous vegetation shall be removed except where necessary for restoration purposes or for the replacement of diseased or dying vegetation. 6. New indigenous vegetation shall be: <ul style="list-style-type: none"> • planted at a maximum of 1.2 m centres; • planted within a protective shelter; • planted with fertiliser, • of revegetation grade and eco-sourced. 7. Restoration of dryland communities should consist of a combination of indigenous species that represent the pre-human plant diversity within the Wakatipu Basin and provide for vegetation complexity (e.g. kowhai, <i>Olearia</i>'s, <i>Coprosma</i>, hebes and native broom). Species selected shall increase plant diversity and provide a food source for invertebrates, lizards and birds within these areas. 8. Restoration of wetlands and riparian areas shall occur using native species such as <i>Carex</i>, <i>Juncus</i>, toetoe and flax and supported by shrubland species tolerant of periodic saturation such as <i>Coprosma propinqua</i>, <i>Olearia lineata</i>, and kowhai. 9. All indigenous vegetation within the dryland areas shall be supported by irrigation for at least 3 years following the installation of the plantings. 10. Twice yearly maintenance (Autumn and Spring) of ecological plantings shall occur for the first five years. | <p>NC</p> |
|-----------------------|--|-----------|

- Rule 45.5.10 should be linked to subdivision and should be restricted discretionary activity status to ensure the outcome of the purpose of the zone can be achieved. Standard 13 may not provide sufficient certainty as to the timing and completion of works.

| | | |
|--|--|--|
| | <p>11. An annual audit shall be undertaken to assess the performance of the ecological plantings for the first 3 years of the project and subsequently on a biennial basis. An audit report shall be submitted to council documenting the findings of the audit. The audit report shall address pest and weed control programs undertaken throughout the year, any replacement planting required, the overall plant losses and percentage survival of the plantings and proposed amendments to the <i>Hogans Gully Ecological Management Plan and Revegetation Strategy</i>.</p> <p>12. Completion of the works in 2 – 11 above will be when all the plantings, irrigation and rabbit and stock proof fencing has been installed for a period of 12 months and the first audit report finds the performance metrics and objectives of the <i>Hogans Gully Ecological Management Plan and Revegetation Strategy</i> have been achieved.</p> | |
|--|--|--|



| 45.5 | Standards – Hogans Gully Zone | Non-compliance status |
|---------|--|-----------------------|
| | 13. The revegetation works required in 2 – 11 above may be undertaken in stages. Buildings in any one of Activity Areas R1, R2, R3, R4, R5, R6, R7, R8, R9, and R10 may be constructed provided a commensurate area of revegetation, to be shown on a revegetation works staging plan, is completed in accordance with 12 above. | |
| 45.5.11 | All landscaping and gardens associated with the residential development, clubhouse and lodge/hotel shall contain no less than 70% indigenous vegetation. | NC |
| 45.5.12 | Any earthworks within 20m of any water body (stream or wetland) Discretion is restricted to: <ul style="list-style-type: none"> a. The methods for managing the works to avoid any adverse effects of sediment runoff into wetlands or streams; b. The revegetation of the works to maintain stability and enhance the indigenous habitat of the water body and its margins, and the integration, where practical, of the revegetation required in 45.5.11 above. | RD |

45.6 Non-Notification of Applications

45.6.1 Except as provided for by the Act, all applications for controlled activities and restricted discretionary activities will be considered without public notification or the need to obtain the written approval of or serve notice on affected persons.

Chapter 27 – Subdivision

Consequential amendment to Chapter 27 – Subdivision

(a) Modify Chapter 27 to provide for subdivision as a Controlled Activity in the Hogans Gully Zone:

27.4.4 (new) The following shall be controlled activities:

(a) Subdivision in the development areas in the Hogans Gully Zone Structure Plan.

Control is limited to the following:

- (i) Lot size and dimensions, including whether the lot is of sufficient size and dimensions to effectively fulfil the intended purpose of the land use;
- (ii) Property access and roading;
- (iii) Natural hazards;
- (iv) Fire fighting water supply;
- (v) Water supply;
- (vi) Stormwater disposal;
- (vii) Sewage treatment and disposal;
- (viii) Energy supply and telecommunications;
- (ix) Easements.

(b) Modify Table 27.5.1 as follows:

35

There does not appear to be any link between the provisions setting out the maximum number of dwellings in or the structure plan in each of the Activity Areas as set out in Rule 45.5.2, and the subdivision rules. I consider that RD is a more appropriate consent status, and that the matters of discretion widened to include considering the extent to which open space areas in the resort are protected by covenants in favour of the Council, and extent to which ecological and restoration planting is provided (as referred to in Rule 45.5.10).

27.5.1 No lots to be created by subdivision, including balance lots, shall have a net site area or where specified, average, less than the minimum specified.

| Zone | Minimum Lot Area |
|--------------------------|-------------------|
| ... | ... |
| Hogans Gully Zone | No minimum |
| ... | |

27.7 Zone – Location Specific Rules

Add a new section in the Table as follows:

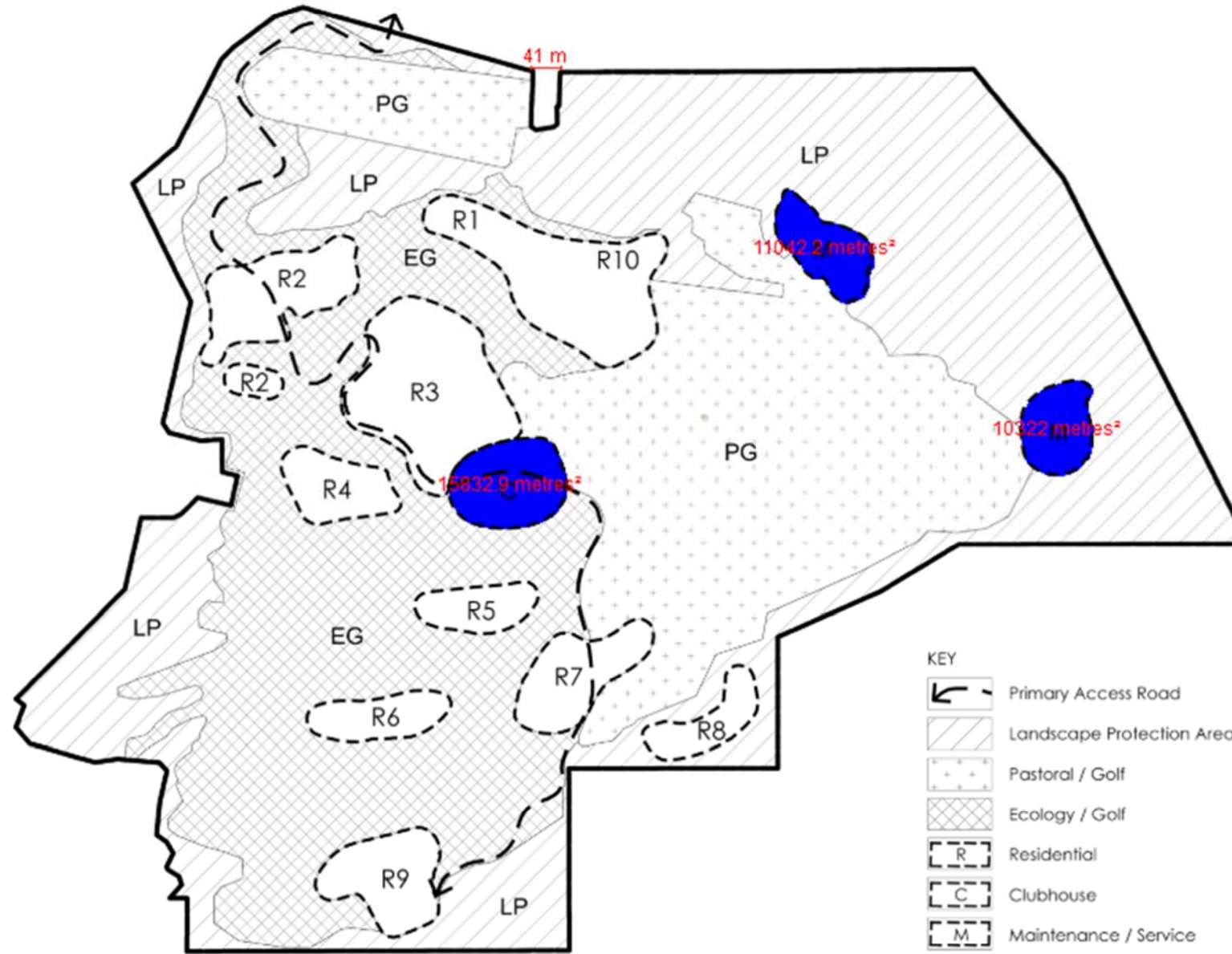
| | Zone and Location Specific Rules | Activity Status |
|-----|----------------------------------|-----------------|
| ... | ... | ... |

| | | |
|---------|---|----|
| 27.7.11 | <p><u>Hogans Gully Zone</u></p> <p><u>27.7.11.1</u> Any subdivision that is inconsistent with the Hogans Gully Zone Structure Plan contained in Section 27.13</p> | NC |
| | <p><u>27.7.11.2</u> <i>Subdivision failing to comply with any of the following:</i></p> <p>(a) <u>Any subdivision of land that does not require, by condition of consent, the following to be registered as a consent notice on the titles of any land within the R areas on the Structure Plan:</u></p> <p>(i) <u>That no building shall be constructed prior to completion of the works required by Standard 47.5.11 in the Hogans Gully Zone.</u></p> <p>(ii) <u>That any building shall be in accordance with the Hogans Gully Building and Landscaping Design Controls.</u></p> | NC |

27.13 Structure Plans

Add a new section as follows:

27.13.8 Structure Plan: Hogans Gully Zone



- The Structure plan does not have a useful scale bar, which makes it difficult to scale. The structure plan has been scaled using the outline of distinctive parcels.
- The Structure plan does not reflect the existing unformed road that bisects the proposed zone. Indicative roading should be included.
- The Maintenance Activity Areas appear relatively large for their overall function in the Zone, measured at 1.1 and 1.0ha each.



47 Ayrburn Zone

Chapter 47: Ayrburn Zone provisions

Purpose

The purpose of the Ayrburn Zone is to provide for the development of residential, retirement and visitor activities and facilities, sympathetic to the natural setting. The site is bordered by a high quality scenic environment which includes the Millbrook Zone and the Waterfall Park Zone.

The focus of the zone is Mill Creek which flows through the centre of the zone, and the heritage features of the Ayrburn Homestead and Stone Farm Buildings. Development limits are imposed in the zone given its scenic and environmental qualities. Development is to complement and enhance the natural and scenic values contained within the zone.

47.1 Objectives and Policies

Objective – Residential, recreation and visitor facilities and activities developed in an integrated manner with particular regard for the natural and scenic values of the setting.

Policies

- 47.1.1.1 Ensure that the external appearance of buildings and other structures are appropriate to the location with particular regard to the site's natural and scenic values.
- 47.1.1.2 Enable retirement living to be developed in association with a variety of residential densities in an integrated manner.
- 47.1.1.3 Facilitate the complementary development of activities in association with the adjoining Waterfall Park Zone.

Comment

The comments in the following text boxes are on the requested Ayrburn Zone Chapter as sought by Waterfall Park Developments Limited (#2388).

No changes have been made to the requested chapter text, which is derived from Mr Jeffery Brown's evidence dated 13 June 2018.

The provisions have been converted from Adobe PDF to Microsoft Word, and there could be inconsistency with the formatting or characters. In the case of any differences, the version attached to Mr Brown's evidence is the correct version.

Any references to plans or provisions being included in the District Plan are on the basis the Panel accept in part or all the rezoning. My overall recommendation is to reject the submission as set out in my Rebuttal.

My views/comments on the requested Ayrburn Zone Chapter include:

- Objective 47.1 does not sufficiently address s7(c) of the RMA in that the end outcome would not maintain or enhance amenity values.
- Policy 47.1.1.3 does not sufficiently articulate what the scale, nature and intensity of 'complementary development activities' are.

- 47.1.1.4 Require all development to be located in accordance with the Structure Plan.
- 47.1.1.5 Protect and enhance the important natural features on the site.
- 47.1.1.6 Enable and encourage access for the public to and through the zone to enjoy the natural attributes within the zone and the adjoining Waterfall Park Zone.
- 47.1.1.7 Protect and enhance the important heritage features of the site.
- 47.1.1.8 Avoid or mitigate adverse effects on the amenities of properties adjoining the Zone using building setbacks, landscaping controls and retention of mature vegetation.
- 47.1.2 Objective – Protection and enhancement of the ecological values of Mill Creek.**

Policies

- 47.1.2.1 Ensure that wastewater and water supply services and stormwater treatment are provided and managed so as not to adversely impact on water quality within or downstream of the site.
- 47.1.2.2 Prevent stock from accessing Mill Creek and ensure riparian planting along the banks of Mill Creek.

47.2 Other Provisions and Rules

47.2.1 District Wide

Attention is drawn to the following District Wide chapters. All provisions referred to are within Stage 1 of the Proposed District Plan, unless marked as Operative District Plan (ODP).

| | | |
|-----------------------------------|----------------------------------|-----------------------|
| 1 Introduction | 2 Definitions | 3 Strategic Direction |
| 4 Urban Development | 5 Tangata Whenua | 6 Landscapes |
| 24 Signs (18 ODP) | 25 Earthworks (22 ODP) | 26 Historic Heritage |
| 27 Subdivision | 28 Natural Hazards | 29 Transport (14 ODP) |
| 30 Utilities and Renewable Energy | 31 Hazardous Substances (16 ODP) | 32 Protected Trees |

- Policy 47.1.1.4 contributes to providing sufficient certainty as to the outcomes promoted.
- Policy 47.1.1.5 should identify the important natural features. The reference should not be to the site, but zone.
- Policy 47.1.1.6 It is unclear how this is provided for through the structure plan.
- Policy 41.1.1.7: The important heritage features could be identified on the structure plan, and the reference should be to the zone, not a site.
- Policy 47.1.1.8 does not provide sufficient direction so as how to ensure activities maintain and enhance amenity values.
- Policy 47.1.2.1 may need to be redrafted so they relate more to the respective land uses and not the water quality itself, which is a regional council function.
- Policy 47.1.2.2 needs to be considered as to how it will be implemented. A rule in the Stage 1 notified PDP (Rule 21.5.7) excluded dairy grazing stock from waterbodies and including riparian margins and was deleted by the Hearings Panel in the decisions version due to duplication with regional council functions.
- The policy framework does not address landscape values, urban expansion or avoidance of effects in any meaningful way.
- A gap analysis against the objectives and policies of Chapter 24 would be useful. A gap analysis would identify where particular topics/adverse effects arising from development are addressed in Chapter 24, but not addressed by the proposed chapter. For example, there are no policies related to earthworks.

| | | |
|--------------------------|-------------------------|---|
| 33 Indigenous Vegetation | 34 Wilding Exotic Trees | 35 Temporary Activities and Relocated Buildings |
| 36 Noise | 37 Designations | Planning Maps |

47.2.2 Clarification

- 47.2.2.1 A permitted activity must comply with all the rules listed in the activity and standards tables, and any relevant district wide rules.
- 47.2.2.2 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. Where an activity breaches more than one Standard, the most restrictive status shall apply to the Activity.
- 47.2.2.3 The following abbreviations are used within this Chapter.

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

47.3 Rules - Activities

| | Activities located in the Ayrburn Zone | Activity status |
|---------------|--|-----------------|
| 47.3.1 | Activities which are not listed in this table | NC |
| 47.3.2 | In the Residences Area (R) of the Structure Plan: Residential, Retirement Village, Community Activities | C |
| 47.3.3 | In the Village Area (V) of the Structure Plan: Visitor Accommodation (including ancillary facilities: licensed premises, conference, cultural and resort facilities, and office and administration) | C |

- Rule 47.3.1 is consistent with the approach to unspecified activities in the Rural Zones of the PDP.
- All rules with controlled activity – given the certainty offered by the structure plan, many activities could be permitted subject to standards, or if a greater degree of oversight is required then the activity status ought to be restricted discretionary so as to ensure the landscape outcomes supported by the submitter's evidence will be fulfilled. Although different zones in nature, by way of example, Stage 1 of the PDP moved away from controlled activity status in the Business Mixed Use and Local Shopping Centre zones for buildings as if an application is fundamentally flawed, it is extremely difficult for a condition to result in a better outcome. Subdivision is supported as a controlled activity as long as there is a structure plan with a sufficient level of detail to provide certainty.
- Rule 47.3.3 No evaluation has been provided as to the area of the Village Activity Area, and whether the nature and scale of these activities accord with the policy framework. Consideration should be given to whether the 'cultural, conference and resort' might be limited as to scale and intensity.

| | Activities located in the Ayrburn Zone | Activity status |
|---------------|--|------------------------|
| 47.3.4 | Residential, Retirement Village, Community Activities, Visitor Accommodation (including ancillary facilities: licensed premises, conference, cultural and resort facilities, and office and administration) not otherwise identified | NC |
| 47.3.5 | In all Structure Plan Activity Areas: Recreation Facilities (noting that in areas shown as O/BR on the Structure Plan recreation facilities shall not include buildings or structures) Administration activities for administering and servicing of other facilities within the zone, including storage, maintenance and depot facilities | C |

- Rule 47.3.4 provides certainty as to the location, scale and intensity of activities. However NC activities are not supported by a sufficiently directive or clear policy framework that ensures the scale and intensity of non-complying activities do not undermine other zones/centres or the Wakatipu Basin overall. The framework should provide management and oversight of non-complying activities in the event applications are made for such activities.
- Rule 47.3.5; Administration activities for storage, maintenance and depot facilities. The appropriateness of permitted storage, maintenance and depot, and other activities that are of a scale that require their own administration, is questioned.
- Rule 47.3.6; it appears as though relatively minor ‘administration’ activities would be subject to a wide range of matters of control. i.e. would every activity be required to provide internal walkways, cycle and pedestrian linkages, and if not, at what scale or stage of the development are the controlled activities subject to the full matters of control. It is noted that there is no consideration of the scale of activities as part of the matters of control. This results in significant uncertainty as to what may occur.
- The matters of control should be sitting with their respective rules, not as a separate ‘rule’ 47.3.6.
- Some of the matters of control may not be able to adequately address, and if necessary require substantial changes to the application or if necessary, declining the application. i.e. natural hazards.
- In relation to many of the matters of control, they are not able to be re-designed through the imposition of conditions.

| | | |
|--------|--|-----|
| 47.3.6 | <p>For the Controlled Activities in Rules 47.3.2, 47.3.3 and 47.3.5, control is reserved to all of the following:</p> <ul style="list-style-type: none"> • Location and external appearance of buildings • Setback from roads • Setback from internal boundaries • Vehicle access and street layout • Outdoor living space • Street scene including landscaping • Enhancement of ecological and natural values • Provision for internal walkways, cycle ways and pedestrian linkages • Noise • Vegetation within any O/BR area shown on the Structure Plan, including species location, and whether vegetation should be limited to pasture grass to ensure appropriate visual amenity outcomes. • Vegetation within the 15m wide O/BR area along the western boundary of the zone to create a vegetative buffer which partially screens built development as viewed from the Queenstown Trail while maintaining appropriate views from the Queenstown Trail. • 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. | C |
| 47.3.7 | Licensed Premises not otherwise identified | N/C |
| 47.3.8 | Manufacturing and/or product assembling activities | PR |
| 47.3.9 | Fish or meat processing | PR |

| | | |
|----------------|---|----|
| 47.3.10 | Fibreglassing, sheet metal work, bottle or scrap storage, motorbody building or wrecking, fish or meat processing (excluding that which is ancillary to a retail premises such as a butcher, fishmonger or supermarket), or any activity requiring an Offensive Trade Licence under the Health Act 1956. | PR |
| 47.3.11 | Factory Farming | PR |
| 47.3.12 | Any activity requiring an Offensive Trade Licence under the Health Act 1956 | PR |

47.4 Rules - Standards

| | Standards for activities located in the Ayrburn Resort Zone | Non-compliance Status |
|---------------|--|------------------------------|
| 47.4.1 | <p>Setbacks</p> <p>No building or structure shall be located within the areas marked O/BR on the Structure Plan, and no building shall be located closer than 7m from Mill Creek, provided this standard does not apply to bridges crossing Mill Creek.</p> | D |
| 47.4.2 | <p>Residential Capacity</p> <p>The maximum number of residential units within the Zone shall be limited to 200.</p> | D |
| 47.4.3 | <p>Building Height</p> <p>The maximum height of buildings shall be:</p> <ul style="list-style-type: none"> • Visitor Accommodation, (including facilities integrated with and ancillary to Visitor Accommodation) – 8 m • Residential buildings - 8m • All other buildings and structures - 4m | NC |

- Rule 47.3.8 introduces new terms that should be defined in Chapter 2, or amend these to industrial activities.
- Rule 47.3.10 should have the reference to supermarkets removed, this could be misconstrued that a supermarket is permitted in the Village Activity Area.
- Rule 47.4.2 as a Discretionary Activity creates significant uncertainty as to the effects of the zone.

| | | |
|---------------|--|----|
| 47.4.4 | <p>Glare shall comply with all of the following:</p> <ul style="list-style-type: none"> • All fixed lighting shall be directed away from adjacent roads and properties, and so as to limit effects on the night sky. • Any building or fence constructed or clad in metal, or material with reflective surfaces shall be painted or otherwise coated with a non-reflective finish. • No activity shall result in a greater than 3.0 lux spill, horizontal and vertical, of light onto any property located outside of the Zone, measured at any point inside the boundary of the adjoining property. | NC |
| 47.4.5 | <p>Maximum Total Site Coverage</p> <p>The maximum site coverage shall not exceed 5% of the total area of the Zone. For the purposes of this Rule, site coverage excludes bridges and roads and parking areas.</p> | NC |
| 47.4.6 | <p>Fire Fighting</p> <p>A fire fighting reserve of water shall be maintained of a capacity sufficient to service the Zone. The storage shall meet the New Zealand Fire Service Firefighting Water Supplies Code of Practice 2008.</p> | NC |

| | Standards for activities located in the Ayrburn Resort Zone | Non-compliance Status |
|---------------|---|------------------------------|
| 47.4.7 | <p>Atmospheric Emissions</p> <p>There shall be no indoor solid fuel fires, except for feature open fireplaces in communal buildings including bars and restaurants.</p> <p>Note – Council bylaws and Regional Plan rules may also apply to indoor and outdoor fires.</p> | NC |

- Rule 47.4.5; I question whether the site coverage limit of 5% is meaningful in the context of the area of the zone. The exemption provides uncertainty as to whether it is buildings or includes built/hard landscaping elements except those excluded. The site coverage alone is considered insufficient to manage the scale and intensity of the 3.27ha of retail activities in the Village Activity Area.
- Rule 47.4.6 applies to the zone, each activity thereafter will need to ensure compliance with firefighting as it applies to the zone. Clarification may be required if it is intended that the initial development will provide firefighting for all activities. Reliance on the New Zealand Fire Service Firefighting Water Supplies Code of Practice 2008 to achieve permitted activity is discouraged because the document does not provide enough certainty. Compliance is better achieved through the matters of discretion or control for each activity.
- Rule 47.4.7 is a Regional Council function.

| | | |
|----------------|--|----|
| 47.4.8 | <p>Retail sales</p> <p>No goods shall be displayed, sold or offered for sale from a site except:</p> <ul style="list-style-type: none"> • goods grown, reared or produced on the site; • goods retailed within a retirement village for the benefit of residents; • within those areas of the Structure Plan identified as Village. | NC |
| 47.4.9 | <p>Protection of Mill Creek</p> <p>No building shall be constructed within any area marked R or V on the Structure Plan until the following works have been completed:</p> <ol style="list-style-type: none"> a) The margins and banks along both sides of the full length of Mill Creek shall be planted in appropriate riparian species. The planting shall have a minimum width of 2m and an average width of 3m, including the upper and lower bank zones; b) Stock shall be prevented from accessing Mill Creek; c) A grass strip of minimum width 1m shall be provided between the riparian planting and any stock fencing; d) All planting carried out in fulfilment of this Rule shall be subject to a consent condition requiring that the planting is maintained in perpetuity. If any plant dies or becomes diseased it shall be replaced as soon as practicable. Maintenance shall include weed and pest control. | NC |
| 47.4.10 | <p>Public access</p> <ol style="list-style-type: none"> (a) A public walkway and cycleway trail shall be provided adjacent to and along the full length of Mill Creek, except where impractical due to any bridge; (b) A public walkway and cycleway trail shall connect the trail in (a) above with the Queenstown Trail which runs adjacent to the western boundary of the Zone. | NC |

- Rule 47.4.8 does not provide sufficient certainty, for instance the second limb is contingent upon the benefit of residents.
- Rule 47.4.8 permits retail activity with no limits and there is not any evidence that the unlimited retail activity in the Village Activity Area is appropriate in terms of the nature and scale of retail activities. There is no indication of the size of the V area/areas these provide for unrestricted retail....if the intent is for activities that serve local needs then it needs to state this. The structure plan is scaled at 1:4000 and the total area of the V/VR activity areas are estimated to be 3.27ha, which is significantly larger than many local shopping centre zones in the District, located within the UGBs. Including a generous setback for Mill Creek, probably greater than the 7m setback. Refer to annotated structure plan.
- Rule 47.4.9 is more stringent than notified PDP Rule 21.5.7 that was rejected by the Stage 1 IHP for being a duplication of functions with the regional council. If the activities are permitted, controlled or restricted discretionary, it is not clear how a condition of consent will be able to be imposed in relation to Rule 47.4.9(d). These are provisions that might be better suited to a consent notice on subdivision.
- Rule 47.4.10; what activity shall trigger the need for this, any and all subdivision or just the first, all land use activities?

| | | |
|----------------|---|---|
| 47.4.11 | <p>Vegetation</p> <p>(a) No vegetation which grows to greater than 2m in height at maturity shall be planted within 25m of the southern boundary of the Zone;</p> <p>(b) No vegetation other than pasture grass shall be planted within 25m of the eastern boundary of the Zone, provided that this standard does not apply to avenue trees along a vehicle access.</p> <p>(c) No vegetation other than pasture grass shall be planted within 130m of the northern boundary of the Zone.</p> <p>(d) Trees located within the Tree Protection Areas shown on the Structure Plan cannot be removed or trimmed, provided this standard does not apply to branches which extend outside the Tree Protection Areas.</p> | D |
|----------------|---|---|

47.5 Rules - Non-Notification of Applications

47.5.1 All applications for Controlled activities shall not require the written consent of other persons and shall not be notified or limited-notified.

47.6 Ayrburn Zone Structure Plan

4.3 Consequential amendment to Chapter 27 – Subdivision

- (a) Modify Chapter 27 to provide for subdivision as a Controlled Activity in the Ayrburn Zone:

27.4.4 The following shall be controlled activities:

(a) Subdivision in Ayrburn Zone. Control is limited to the following:

- No minimum lot size is not supported. This creates significant uncertainty as to the potential effects of the entire zone, particularly with Residential Capacity as a discretionary activity at Rule 47.4.2.

- (i) Lot size and dimensions, including the variety of lot sizes and whether the lot is of sufficient size and dimensions to effectively fulfil the intended purpose of the land use;
- (ii) Property access and roading;
- (iii) Natural hazards;
- (iv) Fire fighting water supply;
- (v) Water supply;
- (vi) Stormwater disposal;
- (vii) Sewage treatment and disposal;
- (viii) Energy supply and telecommunications;
- (ix) Easements;
- (x) The provision of open space areas, walkway and cycleway linkages, and their connectivity within the Zone and to the boundaries of the Zone;
- (xi) Vegetation within any O/BR area shown on the Structure Plan, including species, location and whether vegetation should be limited to pasture grass to ensure appreciate visual amenity outcomes.
- (xii) Vegetation within the 15m wide O/BR area along the western boundary of the Zone to create a vegetative buffer which partially screens built development as viewed from the Queenstown Trail while maintaining appropriate views from the Queenstown Trail.

(b) Modify Table 27.5.1 as follows:

27.5.1 No lots to be created by subdivision, including balance lots, shall have a net site area or where specified, average, less than the minimum specified.

| Zone | Minimum Lot Area |
|-----------------------|--------------------------|
| ... | ... |
| Millbrook | No minimum |
| Waterfall Park | No minimum |
| <u>Ayrburn</u> | <u>No minimum</u> |

27.7 Zone – Location Specific Rules

Add a new section in the Table as follows:

| | Zone and Location Specific Rules | Activity Status |
|---------|---|-----------------|
| ... | ... | ... |
| 27.7.10 | <p><u>Ayrburn Zone</u></p> <p><u>27.7.10.1 Any subdivision that is inconsistent with the Ayrburn Zone Structure Plan contained in Section 27.13</u></p> | <u>NC</u> |

9

| | | |
|--|---|-----------|
| | <p><u>27.7.10.2 Subdivision failing to comply with any of the following:</u></p> <p>(a) <u>Any subdivision of land containing any part of an O/BR area shown on the Structure Plan that does not require, by condition of consent, the following requirements to be registered in a consent notice on the relevant titles (to the extent that the following requirements apply to that land);</u></p> <p>(b) <u>No vegetation which grows to greater than 2m in height at maturity shall be planted within 25m of the southern boundary of the Zone;</u></p> <p>(c) <u>No vegetation other than pasture grass shall be planted within 25m of the eastern boundary of the Zone, provided that this standard does not apply to avenue trees along a vehicle access;</u></p> <p>(d) <u>No vegetation other than pasture grass shall be planted within 130m of the northern boundary of the Zone;</u></p> <p>(e) <u>Trees located within the Tree Protection Areas shown on the Structure Plan cannot be removed or trimmed, provided this standard does not apply to branches which extend outside the Tree Protection Areas;</u></p> <p>(f) <u>All planting carried out as required by Rule 47.4.9 (in relation to planting to protect the values of Mill Creek) shall be maintained in perpetuity. If any plant dies or becomes diseased it shall be replaced as soon as practicable. Maintenance shall include weed and pest control.</u></p> | <u>NC</u> |
|--|---|-----------|

27.13 Structure Plans

Add a new section as follows:

27.13.7 Structure Plan: Avrburn Zone



Millbrook Zone

Waterfall Park Zone

- The 'wedge' should not appear in the structure plan for the Ayrburn Zone if it is to be part of the Waterfall Park Zone.

Key:

 Access Road

 Mill Creek

(Ayrburn Zone)


 Open Space / Building Restriction

 Village

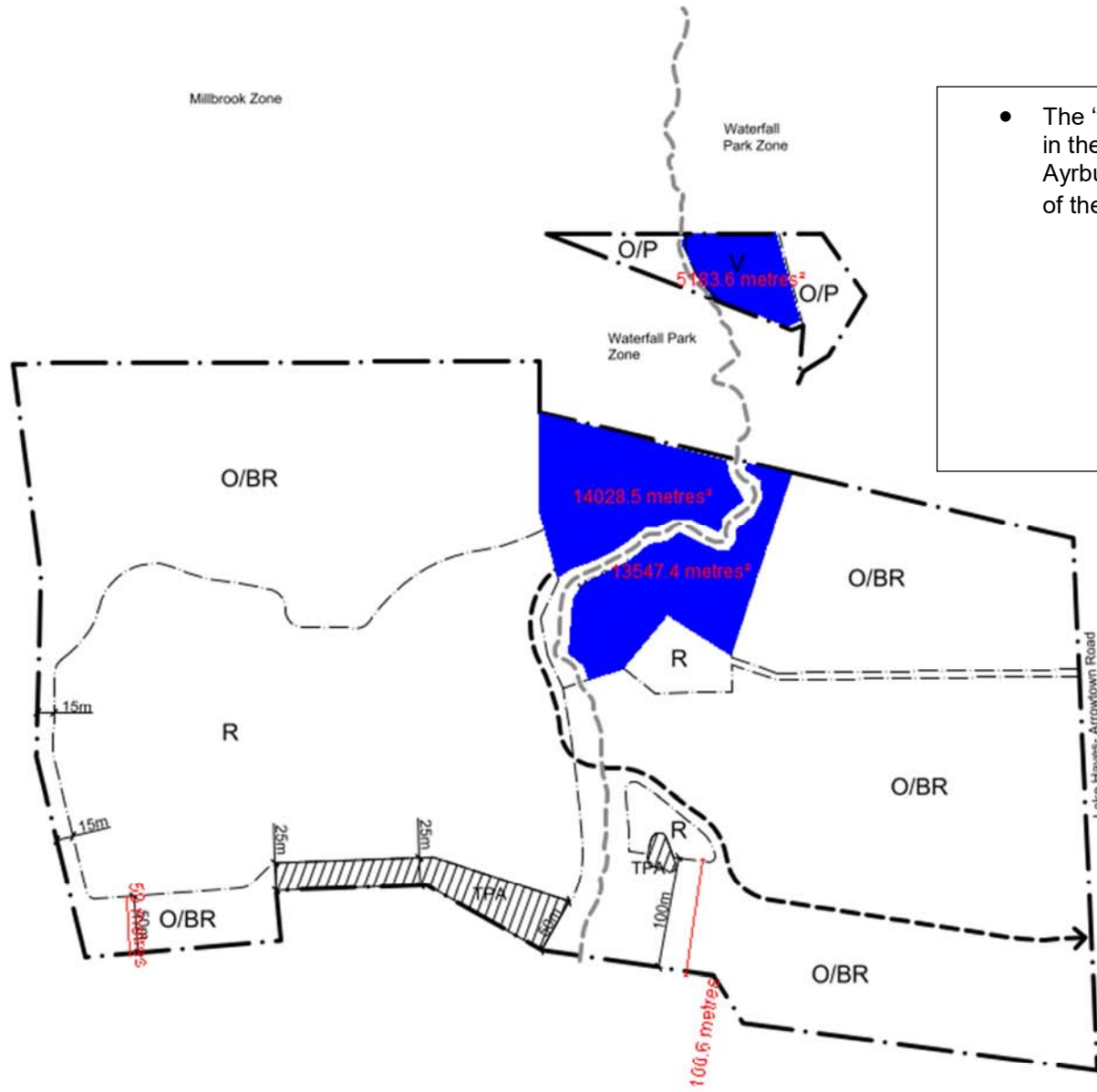
 Residential

 Tree Protection Area

(Waterfall Park Zone)

 Open Space

 Village



AYRBURN ZONE STRUCTURE PLAN

Scale 1:4000 @ A3

APPENDIX C

ANNOTATIONS ON PROPOSED THE HILLS RESORT ZONE – PROVISIONS

44 The Hills Resort Zone

44.1 Resort Zone Purpose

The purpose of the Zone is to enable high quality resort facilities. The Zone provides for outdoor recreation, including two golf courses (one being an 18-hole championship golf course), visitor accommodation and residential activities, a small commercial area and sculpture park, which all complement the amenities of the golf courses. A small area of staff accommodation is also provided.

A Structure Plan applies to the Zone, as well as standards for buildings and landscaping to ensure that the development is appropriately located and well integrated with the golf course and the local and wider landscape setting.

The Zone provides for development in appropriate areas and will be landscaped to mitigate the adverse effects of built form.

The Zone can also play host to national and international golfing events that showcase the District and contribute to the economy.

44.2 Objectives and Policies

44.2.1 Objective - A resort style development containing residential, visitor accommodation, commercial and commercial recreation activities, an evolving sculpture park, and ancillary worker staff accommodation, within the context of a premier golf course, while managing the effects of development on the landscape and on amenity values of the site and the surrounding environment.

Policies

- 44.2.1.1 Provide for the development, operation and maintenance of golf courses.
- 44.2.1.2 Provide for visitor accommodation and residential activities, including staff accommodation within identified areas.
- 44.2.1.3 Provide for an evolving sculpture park.
- 44.2.1.4 Provide for large scale golf-related temporary events that contribute to the District’s economy provided that effects are appropriately managed.
- 44.2.1.5 Provide for the take-off and landing of helicopters while ensuring that adverse effects on neighbours’ amenity are mitigated.
- 44.2.1.6 Provide for commercial activities within the Clubhouse Activity Area that are related to the purpose of the Zone.
- 44.2.1.7 Avoid other commercial, industrial and similar activities that are not related to the purpose of the Zone.
- 44.2.1.8 Require that all development be located in accordance with a Structure Plan so as to ensure that:
 - (a) Development integrates with the golf courses; and
 - (b) Development is located only where the landform has potential to absorb development, and

The comments in the following text boxes are on the requested The Hills Resort Zone Chapter sought by Trojan Helmet Limited (#2387)

No changes have been made to the requested chapter text, which is derived from Mr Jeffery Brown’s evidence dated 13 June 2018. Any mark-up and strike through is based on the submitters evidence.

The provisions have been converted from Adobe PDF to Microsoft Word, and there could be inconsistency with the formatting or characters. In the case of any differences, the version attached to Mr Brown’s evidence is the correct version.

Any references to plans or provisions being included in the District Plan are on the basis the Panel accept in part or all the rezoning. My overall recommendation is to reject the submission as set out in my Rebuttal Evidence.

My views/comments on the requested The Hills Resort Zone Chapter include:

- The policy framework provides for the activities but fails to provide sufficient direction for proposals that may not align with the Zone purpose, whether they be permitted activities but are of a scale and intensity or location that is outside what is contemplated, or for non-specified activities.
- The policy and rules overall should reconcile the differences (if any) in terms of effects between staff/worker accommodation, including for their families and residential activity.
- Policy 44.2.1.5 only relates to effects on directly neighbouring properties. Effects could be wider depending on the nature and scale of helicopter flights and should also address residential buildings on separate sites within the zone.
- Policy 47.1.1.5 should identify the important natural features. The reference should not be to the site, but zone.
- Policy 44.2.1.7 ‘similar’ activities is not considered a sufficiently certain phrase given the avoid stance on this policy.
- The policy framework is light on managing effects so as to maintain and enhance landscape values and visual amenity.

- (c) Any potential adverse effects on landscape and amenity values are avoided or appropriately mitigated.
- (d) Development is located where reverse sensitivities with any adjacent farming operations are avoided.

- 44.2.1.9 Require the establishment of Landscape Amenity Management Areas (LAMA) to ensure that mitigate the potential adverse effects of buildings are avoided or adequately mitigated and to contribute to the enhancement of the amenity of the Zone.
- 44.2.1.10 Require planting within the Zone to enhance the amenity of the Zone and to integrate with and complement the character of the surrounding environment.
- 44.2.1.11 Ensure that the character of the Zone and the wider landscape is maintained by managing building height, coverage, external appearance, and landscaping.
- 44.2.1.12 Facilitate the provision of walkway and cycleway access through the Zone.

44.3 Other Provisions and Rules

44.3.1 District Wide

Attention is drawn to the following District Wide Chapters.

| | | |
|--------------------------------|----------------------|--|
| Introduction | Definitions | Strategic Directions |
| Urban Development | Tangata Whenua | Landscapes |
| Signs (ODP) | Earthworks | Historic Heritage |
| Subdivision | Natural hazards | Transport |
| Utilities and Renewable Energy | Hazardous Substances | Protected Trees |
| Indigenous Vegetation | Wilding Exotic trees | Temporary Activities and Relocatable Buildings, except as provided for in this zone. |
| Noise | Designations | Planning Maps |

44.3.2 Clarification

Where an activity does not comply with a Standard listed in the Standards table at 44.5 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.

- Policy 44.2.1.8(c) seems light in the context if activities are located outside the identified areas on the structure plan.
- Policy 44.2.1.8 (d) may be of limited assistance because the structure plan should have identified where sensitive activities are unlikely to be compatible with other activities. This policy may not be necessary if the structure plan is appropriate in the first instance.
- Policy 44.2.11 should specify the type of character i.e. landscape character.
- The objective and policies do not seek to protect the open space values of the zone in the long term (for example by the use of protected covenants).
- There are no policies that seek to avoid the effects of development on the wider Basin, except to the extent of managing appearance of buildings and landscaping. This makes the Zone vulnerable to future plan changes.
- A gap analysis against the objectives and policies of Chapter 24 would be useful. For example, there are no policies related to earthworks.

The following abbreviations are used within this Chapter:

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

44.4 Rules – Activities

| | Activities –The Hills Resort Zone | Activity Status |
|---------------|--|------------------------|
| 44.4.1 | Any outdoor art installations not visible from McDonnell Road, Lake Hayes-Arrowtown Road, Hogans Gully Road – including those that are defined as a <i>Building</i> because of their size. | P |
| 44.4.2 | Any rural activities | P |
| 44.4.3 | Any Earthworks associated with the development of the golf courses, landscaping, water storage and reticulation for irrigation, the formation of internal roads, <u>trails</u> and access ways, or subdivision and development of home sites or activity areas, including the Clubhouse and Resort Services and Staff Accommodation areas. | P |
| 44.4.4 | <p>Structure Plan – Permitted Activities</p> <p>44.4.4.1</p> <p>In all activity areas as shown on the Structure Plan:</p> <ul style="list-style-type: none"> ■ Development, operation and maintenance of golf courses, including associated green keeping, driving ranges, administrative offices, sales and commercial instruction, and sheds for utilities, service and accessory buildings, or buildings associated with golf course management, operation | P |

- Rule 44.4.2 rural activity' is not defined. Consider the PDP definition of farming activity.
- Rule 44.4.3 Earthworks are provided for in Chapter 25. The rule permits a wide range of earthworks without any limits or qualification, and there is no indication how this is intended to work with the provisions in Chapter 25. The submitters evidence, proposed rules and structure plan does not sufficiently the effects of future activities to the extent that there is confidence in this rule. It is noted that the suggested threshold for Millbrook in Chapter 25 is 300m³. There are no objectives or policies that would justify that this rule is the most appropriate.
- Rule 44.4.4.1 may enable a proliferation of 50m² buildings. The Structure plan should provide sufficient certainty for all buildings, except very small buildings such as utility / pump housings.

| | Activities –The Hills Resort Zone | Activity Status |
|--|-----------------------------------|--------------------|
|--|-----------------------------------|--------------------|

- Rule 44.4.4.2 should be refined to be consistent with the phrasing and defined terms for visitor accommodation in the PDP. i.e. 'managed apartments' are residential visitor accommodation.
- Rule 44.4.4.4 permits a range of commercial activities within AA C. AA C is estimated to be 1.053ha in area. This area is/is not consistent with facilities associated with resort zones. Refer to annotated structure plan.
- Rule 44.4.4.3: Question whether permitted status for ancillary buildings is appropriate. There is no apparent limit as to scale.
- Rule 44.4.4.4 – no evidence appears to have been provided in relation to the impact of helicopter movements on residential houses within the Zone, which presumably will be on separate sites for the purpose of NZS6807:1994.

and maintenance of up to 50m2 in gross floor area.

- Access ways as shown on the Structure plan (+/- 30m)

44.4.4.2

In Activity Areas A1 – A9 (Visitor accommodation / Residential) as shown on the Structure Plan:

- Residential activities,
- Managed Apartments, Timeshares, Lodges, Residential Visitor Accommodation (up to 365 nights per year with unlimited number of short- stay leases)
- Commercial Recreation Activities
- Metalwork and industrial activities for the purpose of creating art and sculpture in Activity Area A9
- Licensed premises
 - i. To any person who is residing (permanently or temporarily) in the Zone;
 - ii. Mini bars within Homestays and Residential Visitor Accommodation in the resort.

44.4.4.3

In Activity Area G (Golf Course, Open Space and Farming Activity Area) as shown on the Structure Plan:

- Open space and farming activities including ancillary buildings
- Art installations
- Art and Sculpture tours
- Temporary events
- Licensed Premises in association with temporary events

44.4.4.4

In Activity Area C (Clubhouse Activity Area) as shown on the Structure Plan:

- Golf Club houses, restaurants, bars, beauty spas, gymnasiums, theatres, pools and conference facilities, including ancillary office and administration activities
- Licensed premises
 - i. To any person who is residing (permanently or temporarily) on the resort;

| | | |
|--|--|--|
| | <p>ii. To any person who is present on the premises for the purposes of dining up to 12am;</p> <ul style="list-style-type: none"> ■ Commercial recreation activities ■ The takeoff and landing of helicopters. <p>44.4.4.5</p> <p>In Activity Area HS (Home Sites HS2-HS6) as shown on the Structure Plan:</p> <ul style="list-style-type: none"> ■ Single Residential units that can be used for Managed Apartments, Timeshares, Residential Visitor Accommodation (up to 365 nights per year with unlimited number of short-stay leases) ■ Lodges <p>In Activity Area HS1 (Existing lodge) as shown on the Structure Plan:</p> <ul style="list-style-type: none"> ■ Single residential units that can be used for Residential, Homestay, Lodges or Residential Visitor Accommodation (up to 365 nights per year with unlimited number of short-stay lets) activities. ■ Licensed premises <ul style="list-style-type: none"> iii. To any person who is residing (permanently or temporarily) in the Zone; iv. Mini bars within Homestays, Lodges and Residential Visitor Accommodation in the resort. <p>44.4.4.6</p> <p>In Activity Area S (Resort Services and Staff Accommodation Activity Area) as shown on the Structure Plan:</p> <ul style="list-style-type: none"> ■ Servicing activities related to the development, operation and maintenance of the resort or ancillary to approved or permitted activities within the zone | |
|--|--|--|

- All rules with controlled activity – given the certainty offered by the structure plan, many activities could be permitted subject to standards, or if a greater degree of oversight is required then the activity status ought to be restricted discretionary so as to ensure the landscape outcomes supported by the submitter’s evidence will be fulfilled. Although different zones in nature, by way of example, Stage 1 of the PDP moved away from controlled activity status in the Business Mixed Use and Local Shopping Centre zones for buildings as if an application is fundamentally flawed, it is extremely difficult for a condition to result in a better outcome. Subdivision is supported as a controlled activity as long as there is a structure plan with a sufficient level of detail to provide certainty.
- Rule 44.4.4.5, ‘single residential units’ is unclear. The definition of residential units includes residential flats up to 70m² or 150m². If the intention to exclude these, it should be specified.
- Rule 44.4.6 ‘S Activity Area’ permits service and staff accommodation activities within an estimated 7,393m² area.

| | Activities –The Hills Resort Zone | Activity Status |
|--------|--|-----------------|
| | <ul style="list-style-type: none"> ■ Staff accommodation for employees of the resort and their families | |
| 44.4.5 | <p>Landscape Amenity Landscape Area (LAMA)</p> <p>The establishment of LAMA identified on the Structure Plan. The exercise of the Council’s control is limited to:</p> <ul style="list-style-type: none"> (i) <u>Whether any existing vegetation within the LAMA provides adequate mitigation of and visual relief from buildings and development in the adjacent Activity Area or for any neighbouring properties.</u> (ii) The size, volume and batter of <u>any earthworks required</u> (iii) The mix and location of vegetation and its size at planting and maturity (iv) Requirements to ensure that the landscaping is provided for in perpetuity and replaced when diseased or damaged (v) Irrigation methods, including any reticulation (vi) The extent to which the earthworks are congruous with the landscape (vii) The extent to which the LAMA will provide mitigation of and visual relief from buildings and development in the adjacent <u>Activity Area</u> or for any neighbouring properties. | C |
| 44.4.6 | <p>Buildings in Activity Areas <u>A1</u>, A2, A3, A4, A5, A7, A8, A9, HS 5 and S where the adjacent LAMA has been established, and buildings in Activity Areas A1, A6, C and HS 1, HS 2, HS 3, HS 4 and HS 6, except those provided for under Rule 44.4.1.</p> <p>The exercise of the Council’s is control limited to:</p> <ul style="list-style-type: none"> (i) Infrastructure provision (ii) <u>Access</u> <p>For the purpose of this rule “will be established” means that planting and any earthworks will be approved and undertaken prior to, or at the same time as construction of the building.</p> | C |

- Rule 44.4.5: Query the extent to which the Council should be concerned with matters of control about irrigation and reticulation. Also question the Controlled activity status and heavy reliance placed on the ‘LAMA’ to mitigate effects. More appropriate activity status could be restricted discretionary.
- Rule 44.4.6: Controlled activity status with control restricted to access and servicing is either highly inefficient, and can be a permitted activity subject to standards, or excludes important matters to mitigate the effects of development, and in which case should be restricted discretionary.

| | | |
|--------|--|---|
| 44.4.7 | <p>Temporary events, including golf tournaments and concerts, provided that:</p> <ul style="list-style-type: none"> a. The event does not exceed 14 consecutive calendars days (excluding set up and pack down) b. The event does not operate outside the hours of 0600 to 2200. Set up and pack down outside of these hours is permitted, provided it complies with the noise limits for the Zone. c. There shall be no more than 10 temporary events per calendar year d. All structures and equipment is removed from the zone within 10 working days of the completion of the event e. For the purpose of this rule the relevant noise standards for the Zone shall not apply within the hours of 6am to 10pm f. A Traffic Management Plan is provided that details how traffic effects are to be managed g. An Operations Plan is provided that details how the event is to be managed h. Adequate sanitation for event attendees is provided i. Waste minimisation measures are implemented The exercise of the Council's control is limited to: <ul style="list-style-type: none"> (i) Traffic effects and the measures promoted in the Traffic Management Plan to manage these effects (ii) Waste minimisation and management measures (iii) Adequate sanitation for event attendees (iv) Operations Plan for the event to manage effects | C |
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- These provisions need to be compared with the PDP Chapter 35 Temporary Activities and relocated buildings, which provides for these as a permitted activity (Rule 35.4.4) but with limitations such as not more than 3 events per year. Query whether up to 140 days worth of temporary events should be provided for as a controlled activity that cannot be declined.

| | Activities –The Hills Resort Zone | Activity Status |
|---------|--|------------------|
| 44.4.8 | <p>Any outdoor art installations visible from McDonnell Road, Lake Hayes-Arrowtown Road, and Hogans Gully Road– including those that are defined as a <i>Building</i> because of their size.</p> <p>The exercise of the Council’s discretion is limited to:</p> <ul style="list-style-type: none"> (i) Siting of the art installation (ii) Colours and materials (iii) Traffic safety | RD |
| 44.4.9 | <p>Buildings where adjacent LAMA is not established - Where a building is proposed in Activity Area <u>A1</u>, A2, A3, A4, A5, A7, A8, A9, S and HS5 and the adjacent LAMA shown on the Structure Plan has not been established.</p> <p>For the purpose of this rule “will be established” means that planting and any earthworks will be approved and undertaken prior to, or at the same time as construction of the building”.</p> <p>The exercise of the Council’s discretion is limited to:</p> <p>The visual effects of buildings from viewpoints outside of the Zone</p> <p>Landscaping (existing or proposed) to mitigate the effects of the buildings</p> <p>For the purpose of this rule “established” means:</p> <ul style="list-style-type: none"> • <u>when the works required for the LAMA, as consented under Rule 44.4.5 and including any necessary planting, irrigation installation, the installation of stock and pest fencing, and any earthworks:</u> <ul style="list-style-type: none"> ○ <u>are physically completed; and</u> ○ <u>have been audited by the Council no sooner than 6 months following physical completion; and</u> ○ <u>have been certified as being complete by the Council.</u> | RD NC |
| 44.4.10 | <p>Buildings in Activity Area G (Golf Course, Open Space and Farming Activity Area) except for those provided for by Rule 44.4.4.1</p> | D NC |

- Rule 44.4.8 provides a reasonable degree of certainty.

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| 44.4.11 | Residential activity in Activity Area S (Resort Services and Staff Accommodation Activity Area) and Activity Area G (Golf Course, Open Space and Farming Activity Area), except for: <ul style="list-style-type: none"> ■ Staff accommodation as provided for by Rule 44.4.4.6 | D |
| 44.4.12 | Commercial Activities except for those provided for by Rule 44.4.4.1 | D |
| 44.4.13 | Commercial Recreation Activities , except for those provided for by Rule 44.4.4.1 and 44.4.4.4 | D |
| 44.4.14 | Mining | NC |
| 44.4.15 | Service Activities , except for those provided for by Rule 44.4.4 | NC |
| 44.4.16 | Any other activity in an activity area not provided for by any rule | NC |
| 44.4.17 | Industrial Activities ; except for those provided for by Rule 44.4.4. | NC |
| 44.4.18 | Panelbeating, spray painting, motor vehicle repair or dismantling except for activities directly related to other approved or permitted activities within the Zone and located within the Resort Services Activity Area. | PR |
| 44.4.19 | Forestry Activities | PR |
| 44.4.20 | Fibreglassing, sheet metal work, bottle or scrap storage, motorbody building or wrecking, fish or meat processing (excluding that which is ancillary to a | PR |

| Activities –The Hills Resort Zone | | Activity Status |
|-----------------------------------|--|-----------------|
| | retail premises such as a butcher, fishmonger or supermarket), or any activity requiring an Offensive Trade Licence under the Health Act 1956. | |
| 44.4.21 | Factory Farming | PR |

44.5 Standards – The Hills Resort Zone

| Standards – The Hills Resort Zone | | Non-compliance status |
|-----------------------------------|--|-----------------------|
| | | |

- Rule 44.4.11 needs to reconcile the differences between residential activity and staff accommodation.
- Rule 44.4.12 provides for commercial activities throughout the Zone as discretionary activities. While this is the same as PDP Chapter 24 and Chapter 21 (the latter, decisions version), the certainty offered by the structure plan for the zone should not provide for activities generally at all unless they are provided for in the structure plan.

Rules 44.4.13, 14, 15, 16, 17 are generally the same as Chapter 24.

- Rule 44.4.20: there is no evidence that references to supermarkets are appropriate.

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| 44.5.1 | <p>Setbacks</p> <p>No building or structure shall be located closer than 6m to the Zone boundary, and in addition:</p> <p>No building shall be located closer than 10m from McDonnell Road or the Arrowtown Lake Hayes Road</p> | RD |
| 44.5.2 | <p>Building Materials and Colours</p> <p>To ensure that they are visually recessive within the surrounding landscape all new, relocated, altered, reclad or repainted buildings, including any structure larger than 5m², are subject to the following:</p> <p>Exterior of buildings:</p> <p>44.5.1.1 All exterior surfaces materials (excluding windows) shall be coloured in the range of black, browns, greens or greys;</p> <p>44.5.1.2 Pre-painted steel, and all All roofs and vertical surfaces shall have a light reflective value of not greater than 35% 20%</p> <p>44.5.1.3 Surface Vertical surface finishes shall have a reflective value not greater than 30%</p> <p>44.5.1.3 Natural materials such as locally sourced schist and unstained cedar may be used</p> <p>Discretion is restricted to all of the following:</p> <ul style="list-style-type: none"> (i) Whether the building will be visually prominent, especially in the context of the wider landscape and as viewed from neighbouring properties (ii) Whether the proposed colour and/or material is appropriate given the existence of established or proposed screening or in the case of alterations, if the proposed colour and/or material is already present on an established building | RD |

| | | |
|---------------|---|------------------------------|
| | (iii) The size and height of the building where the proposed colours and/or materials would be used | |
| 44.5.3 | Residential Density The maximum number of residential units shall be 150 in the Zone. | NC |
| | Standards – The Hills Resort Zone | Non-compliance status |

- Rule 44.5.2, compare to Chapters 21-24 of the PDP and justify what 'vertical surfaces' are. No justification is provided as to why higher LRV values are justified.
- Rule 44.5.3 only addresses Residential Units. Visitor accommodation would appear to be unlimited. This compares to Hogan's Gully Zone where the density rules apply to both visitor accommodation and residential units.

| | | |
|--------|---|----|
| 44.5.4 | <p>Building Maximum Height and Roof Pitch</p> <p><u>No building shall protrude through the RL nor be higher than the height listed below:</u></p> <ul style="list-style-type: none"> - Activity Area A1 RL418.5 masl – 8m - Activity Area A2 RL416masl – 8m - Activity Area A3 RL421 masl – 8m - Activity Area A4 RL418 masl – 8m - Activity Area A5 RL419.5 masl -8m - Activity Area A6 RL419.5 masl- 8m - Activity Area A7 RL414 masl – 8m - Activity Area A8 RL402.5 masl – 6.7m - Activity Area A9 RL417.5 masl – 8m - Activity Area HS1 RL419 – 8m masl - Activity Area HS2 RL421.5 masl – 8m - Activity Area HS3 RL408 masl - 8m - Activity Area HS4 RL374.5 masl – 8m - Activity Area HS5 RL370 masl – 8m - Activity Area HS6 RL 4.3.7.5 masl– 5.5m - Filming towers 12m - Activity Area C (Clubhouse Activity Area) <u>RL 425.0 masl - 8m</u> - Activity Area S (Resort Services and Staff Accommodation Activity Area) <u>408.5 masl - 8m</u> - All other buildings and structures (except in Activity Areas A1-A9) 5.5m - Any building in Activity Areas A4 and A5 with a height limit above 6m shall have a roof pitch of a minimum of 30 degrees - All marquees and structures permitted as Temporary Events are exempt from these height restrictions. | NC |
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| <ul style="list-style-type: none"> • Rule 44.5.4: A datum or use of existing GL may be more appropriate. In addition, these heights are not specified on the structure plan so the RL could be difficult for future administration. |
|--|

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|--------|---|---|
| 44.5.6 | <p>Maximum Site Coverage – Activity Areas A4 and A5</p> <p>Maximum Site Coverage – 40%</p> <p>For the purpose of this rule the total areas of the Activity Areas are: AA4: Total area – 2.2ha</p> <p>AA5: Total area – 1.2ha</p> <p>No other Activity Areas or Home Sites have a maximum site coverage.</p> | D |
| 44.5.7 | <p>Glare</p> <p>44.5.4.1 All fixed lighting shall be directed away from adjacent roads and properties with low light spill to areas located outside of the Zone.</p> <p>44.5.4.2 Any building or fence that will be highly visible from a public road that is constructed or clad in metal, or material with reflective surfaces shall be painted or otherwise coated with a non-reflective finish. <u>No light shall spill over any property outside the Zone.</u></p> <p>44.5.4.3 No activity shall result in a greater than 3.0 lux spill, (horizontal and vertical), of light onto any property located outside of the Zone, as measured at any point inside the boundary of the adjoining property.</p> | D |

- Significant concern that regarding the impact on internal amenity if there are no maximum site coverage rules.
- Rule 44.5.4.2 (Note numbering reference error) is subjective in that it requires only buildings that a highly visible be subject to the rule.
- Rule 44.5.8 (b) would enable a supermarket. Convenience retail is considered too broad. In addition these activities require a maximum foot print and to be undertaken within identified areas for the benefits of the structure plan to be meaningful.

| | Standards – The Hills Resort Zone | Non-compliance status |
|--------|---|-----------------------|
| 44.5.8 | <p>Retail Sales</p> <p>Goods or services displayed, sold or offered for sale within the Zone shall be limited to:</p> <ol style="list-style-type: none"> Goods grown, reared or produced within the Zone; Delicatessen style or convenience retail for temporary or permanent residents, or visitors to the resort | NC |

| | | |
|----------------|---|----|
| | <p>c. Within Activity Area C (Clubhouse Activity Area), in addition to a. and b above, goods and services associated with, and ancillary to the permitted or approved activities</p> <p>d. Retail associated with a Temporary Activity (event) taking place.</p> | |
| 44.5.9 | <p>Fire Fighting</p> <p>A firefighting reserve of water shall be maintained. The storage shall meet the New Zealand Fire Service Firefighting Water Supplies Code of Practice 2008.</p> | NC |
| 44.5.10 | <p>Take off and Landing of Helicopters</p> <p>Noise from helicopter operations shall not exceed 50 dB L_{dn} at the notional boundary of any dwelling, The day night average noise level (L_{dn}) shall be averaged over any consecutive seven day period and shall not exceed 53 dB L_{dn} on any one day.</p> <p>Assessment should be undertaken in accordance with NZS 6807: 1994 "Noise Management and Land Use Planning for Helicopter Landing Areas"</p> | NC |
| 44.5.11 | <p>Provision of walkway / cycleway</p> <p>No more than 40 residential units in the Zone shall be constructed prior to construction of walkway / cycleway trail in the general location shown on the Structure Plan.</p> | NC |
| 44.5.12 | <p>Maximum number of residential units in Activity Areas:</p> <ul style="list-style-type: none"> - <u>Activity Area A1 12</u> - <u>Activity Area A2 12</u> - <u>Activity Area A3 5</u> - <u>Activity Area A4 30</u> - <u>Activity Area A5 16</u> - <u>Activity Area A6 12</u> - <u>Activity Area A7 6</u> | NC |

- Rule 44.5.9 applies to the zone, each activity thereafter will need to ensure compliance with firefighting as it applies to the zone. Clarification may be required if it is intended that the initial development will provide firefighting for all activities. Reliance on the New Zealand Fire Service Firefighting Water Supplies Code of Practice 2008 to achieve permitted activity is discouraged because the document does not provide enough certainty. Compliance is better achieved through the matters of discretion or control for each activity.
- Rule 44.5.10 Would the permitting of helicopter take-off and landings otherwise maintain amenity. The rule would be cumbersome to monitor to determine compliance. Given that there is no limit of helicopter movements, it is difficult to identify how noise has been, or would be, modelled to ensure compliance.
- Rule 44.5.11 'constructed' could be better defined, i.e. building consent code compliance certificate, or building consent approval, or relate back to land use rule (i.e. Rule 44.5.12). Noted that no benefits accrue until construction starts. No resource management reason set out for this.
- Rule 44.5.12 permits 148 residential units. Rule 44.5.3 permits 150. If there are two existing buildings within the zone they should be included in this standard.

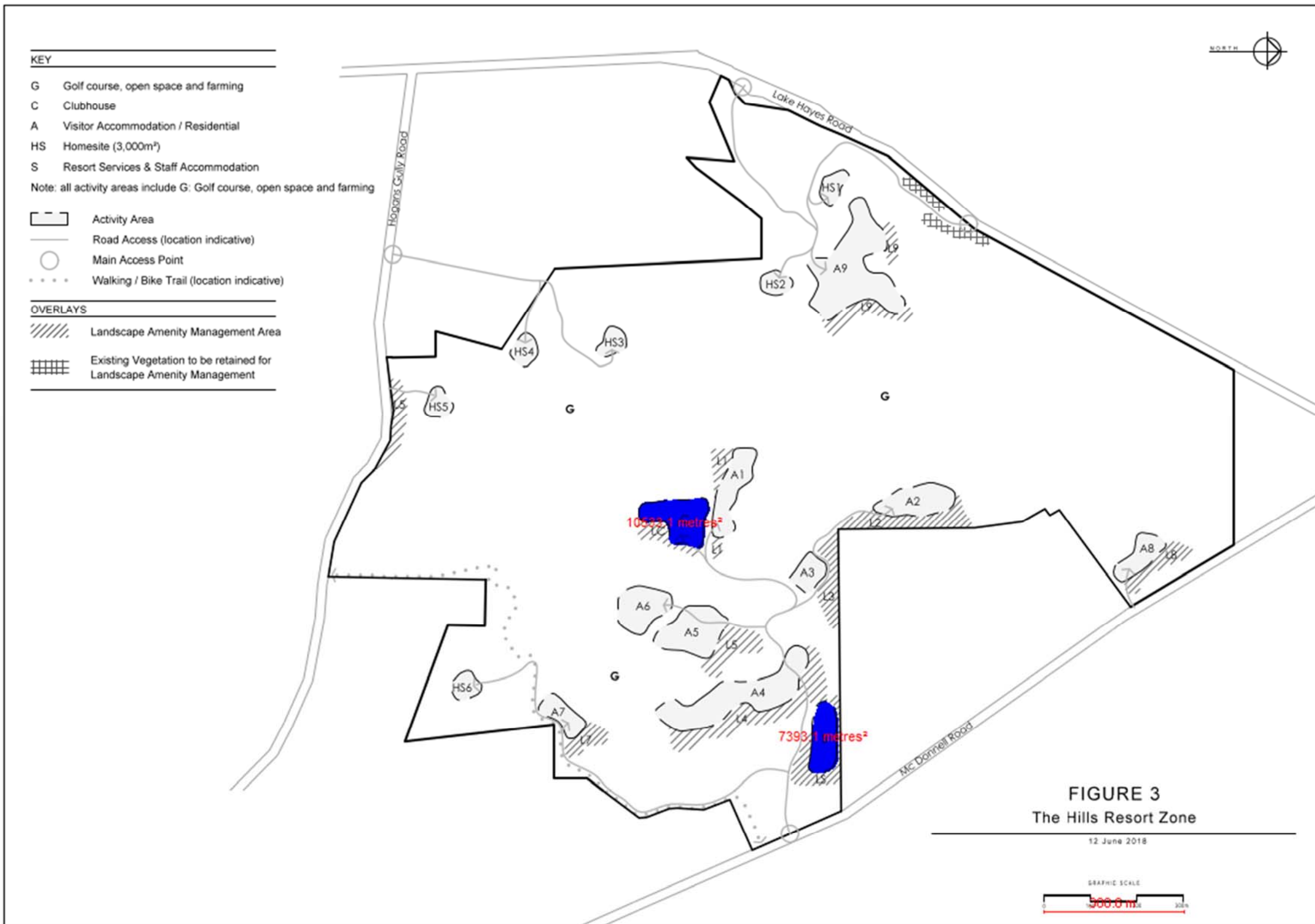
| | | |
|--|---|--|
| | <ul style="list-style-type: none">- <u>Activity Area A8 2</u>- <u>Activity Area A9 36</u>- <u>Activity Area HS1 1</u>- <u>Activity Area HS2 1</u>- <u>Activity Area HS3 1</u>- <u>Activity Area HS4 1</u>- <u>Activity Area HS5 1</u>- <u>Activity Area HS6 1</u>- <u>Service Area 11</u> | |
|--|---|--|

44.6 Non-Notification of Applications

44.6.1 Except as provided for by the Act, all applications for controlled activities and restricted discretionary activities will be considered without public notification or the need to obtain the written approval of or serve notice on affected persons.

THE HILLS RESORT ZONE 44

4.7 Hills Resort Zone Structure Plan



- Annotated Structure Plan illustrating the areas of AA C (Clubhouse).

THE HILLS RESORT ZONE 44

Make the following consequential amendments to other parts of the Proposed and Operative District Plans:

Chapter 36 – Noise

Add: The Hills Resort Zone” to Rule 36.5.3 so it reads as follows:

| Table 2 | General Standards | | | | Non Compliance Status |
|---------|------------------------------|--|----------------|----------------------|-----------------------|
| | Activity or Sounds Source | Assessment Location | Time | Noise Limits | NC |
| 36.5.3 | Millbrook Resort Zone | Any point within the Residences/Residential Activity Areas | 0800h to 2000h | 50 dB L Aeq (15 min) | |
| | Jacks Point Resort Zone | | 2000h to 0800h | 40 DB L Aeq (15 min) | |
| | (see also 36.5.17) | | | 75 dB L AFmax | |
| | <u>The Hills Resort Zone</u> | | | | |

Chapter 27 – Subdivision

Amend Chapter 27 to provide for subdivision as a Controlled Activity in The Hills Resort Zone, as follows:

4.4 (new) The following shall be controlled activities:

- a. Subdivision in the development areas in the Hills Resort Zone Structure Plan. Control is limited to the following:
 - (a) Lot sizes, averages and dimensions, including whether the lot is of sufficient size and dimensions to effectively fulfil the intended purpose of the land use;
 - (b) Property access and roading;

There does not appear to be any link between the provisions setting out the maximum number of dwellings in or the structure plan in each of the Activity Areas as set out in Rule 44.5.12, and the subdivision rules. I consider that RD is a more appropriate consent status, and that the matters of discretion widened to include considering the extent to which open space areas in the resort are protected by covenants in favour of the Council.

- (c) Natural hazards;
- (d) Fire fighting water supply;
- (e) Water supply;
- (f) Stormwater disposal;
- (g) Sewage treatment and disposal;
- (h) Energy supply and telecommunications;
- (i) Easements.

Add the following to Table 27.5.1

| Zone | | Minimum Lot Area |
|-----------------------|--|------------------|
| ... | | |
| The Hills Resort Zone | | No Minimum |
| ... | | |

BOX88560 6423199.1

THE HILLS RESORT ZONE 44

BOX88560 6423199.1

27.7 Zone – Location Specific Rules

Add a new section in the Table as follows:

| | Zone and Location Specific Rules | Activity Status |
|---------|---|-----------------|
| ... | ... | ... |
| 27.7.12 | <p>The Hills Resort Zone</p> <p>27.7.12.1 Any subdivision of Activity Area G that will create a new residential site.</p> | NC |

27.13 Structure Plans

Add a new section as follows:

27.13.8 Structure Plan: The Hills Resort Zone

[insert the new structure plan]