QUEENSTOWN LAKES DISTRICT COUNCIL

Queenstown Lakes District Proposed District Plan – Stage 1

Section 42A Hearing Report
For Hearing commencing: 10 October 2016

Report dated: 14 September 2016

Report on submissions and further submissions

Chapter 9 High Density Residential Zone (HDRZ)

File Reference: Chp. 9 S42A

Contents:

I also have referred to, and relied on the following evidence filed alongside this section 42A report:

Mr Garth Falconer, Urban Design – statement dated 14 September 2016.
Dr Stephen Chiles, Acoustic Specialist – statement dated 14 September 2016.
Mr Philip Osborne, Economist – statement dated 14 September 2016.

1. EXECUTIVE SUMMARY

1.1. The framework, structure and majority of the provisions in the Proposed District Plan (**PDP**) High Density Residential Zone (**HDRZ**) Chapter 9 should be retained as notified and as supported in the section 32 (s32) assessment (**Appendix 3**).

1.2. A number of changes are considered appropriate, and these are shown in the Revised Chapter attached as **Appendix 1** (**Revised Chapter**) to this evidence. These include revisions to the rules for building heights on both flat and sloping sites, including removal of the Homestar and Green Star building incentives; and re-introducing site specific rules of the ODP applying to the HDRZ at Kawarau Bridge and the height restriction above Frankton Road. New and amended provisions have been incorporated to address reverse sensitivity from road noise, and more explicit reference to supporting active and public transport.

1.3. I consider that the provisions as recommended are more effective and efficient than the Operative District Plan (**ODP**) and more effective and efficient than the changes pursued by submitters that I have rejected, and better meet the purpose of the Resource Management Act 1991 (**RMA**).

2. INTRODUCTION

2.1. My Name is Kimberley Anne Banks. I am employed by the Queenstown Lakes District Council (**Council**) as a Senior Policy Planner. I hold the qualifications of Bachelor of Science (Geography) and a Masters in Planning (MPlan) from the University of Otago. I have been employed in planning and development roles in local authorities and private practice since 2009. I have been employed by the Council since 2015.

2.2. I am not the principal author of the notified HDRZ Chapter.

3. CODE OF CONDUCT

3.1. Although this is a Council hearing, I confirm that I have read the Code of Conduct for Expert Witness contained in the Environment Court Practice Note 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. I am authorised to give this evidence on the Council's behalf.

4. SCOPE

4.1. My evidence addresses the submissions and further submissions received on the notified HDRZ chapter, and I discuss the issues raised by those submissions under broad topics. Where I recommend substantive changes to provisions I have assessed those changes in terms of section 32AA of the RMA (see **Appendix 4**). The Table in **Appendix 2** outlines whether individual submissions are accepted, accepted in part, rejected, considered to be out of scope or transferred to another hearing stream.

4.2. My evidence also addresses some of the submissions and further submissions received on other chapters which are also of relevance to the HDRZ. These include:

a. Chapter 2 – Definitions; and

b. Chapter 27 – Subdivision and Development.[1]

4.3. Although this evidence is intended to be a stand-alone document and also meet the requirements of s42A of the RMA, a more in-depth understanding can be obtained from reading the 'Section 32 Evaluation Report – High Density Residential' (**Appendix 3**). The s32 report contains links to further appendices and these, along with Monitoring reports can be found on the Council's website at www.QLDC.govt.nz.

4.4. Numerous submissions have been received seeking a rezoning to or from HDRZ. These submission points have been transferred to the future hearing(s) on mapping. These transfers are shown in the summary of submissions attached as **Appendix 2**. This report does not undertake an assessment nor make recommendations on the appropriateness of the zonings, as this will be undertaken for the rezoning hearings. However for information purposes, the relevant planning maps indicating the extent and location of the notified HDRZ are attached in **Appendix 7**.

4.5. The notified provisions within the HDRZ for visitor accommodation were withdrawn from the PDP by Council resolution on 23 October 2015.[2] Consequently, submission points relating to the notified visitor accommodation provisions have been marked in **Appendix 2** as being out of scope (as there is now no provision for which they can be "on").

1 Mr Bryce's section 42A report transferred these submissions to the Residential hearing.

2 The withdrawal is attached to the Council's opening submissions for the Strategic Directions hearing dated 4 March 2016, as Schedule 2.

4.6. A number of submissions also relate to the area of the operative HDRZ within the Plan Change 50 (**PC50**) area.[3] The geographic area of land to which PC50 relates was withdrawn from the PDP review by resolution of Council on 29 October 2015. As such, these submissions on the HDRZ located within the PC50 area are out of scope and have not been considered further.

4.7. I also acknowledge the submission by Robins Road Limited (366) which seeks the rezoning of land between Fryar Street to Robins Road. This rezoning submission is out of scope due to being located in a geographic area of land which not part of Stage 1 of the review. However, the content of the submission as it relates to the heights of the notified HDRZ have been considered and addressed.

4.8. The content of submissions 7, 193, 363, as they relate to the provisions of the notified HDRZ generally, have been considered and addressed. These submissions as far as they seek a rezoning from HDRZ to Low Density Residential (**LDRZ**) will be heard in the rezoning hearings.

5. BACKGROUND – STATUTORY AND NON-STATUTORY DOCUMENTS

5.1. On pages 2 to 5 of the s32 Report a detailed overview of the higher order planning documents applicable to the HDRZ is provided. I summarise here the documents that have been considered in the preparation of this chapter and this evidence.

5.2. **The RMA** – In particular the purpose and principles in Part 2, which emphasise the requirement to sustainably managing the use, development and protection of the natural and physical resources for current and future generations, taking into account the 'four well beings' (social, economic, cultural and environmental).

5.3. The **Local Government Act 2002** – In particular section 14, Principles relating to local authorities. Sub-sections 14(c), (g) and (h) emphasise a strong intergenerational approach, considering not only current environments, communities and residents but also those of the future. They demand a future focussed policy approach, balanced with considering current needs and interests. Like the RMA, the provisions also emphasise the need to take into account social, economic and cultural matters in addition to environmental ones.

[3] C&L Holt (786), Maximum Mojo Holdings Limited (548), Queenstown Park Limited (QPL, FS1097), Remarkables Park Limited (RPL, FS 1117).

5.4. **Iwi Management Plans** – when preparing or changing a district plan, Section 74(2A)(a) of the RMA states that Council's must "*take into account*" any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district. Two iwi management plans are relevant:

a. *The Cry of the People, Te Tangi a Tauira*: Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 (MNRMP 2008); and
b. *Käi Tahu ki Otago* Natural Resource Management Plan 2005 (KTKO NRMP 2005).

5.5. **Proposed National Policy Statement on Urban Development Capacity (Proposed NPS)**

The Minister for the Environment notified the Proposed NPS for public consultation on 2 June 2015, with submissions closing on 15 July 2016. The proposed NPS has the overall intent to require councils that have medium and high growth urban areas within their jurisdiction, to provide sufficient residential and business land capacity to meet demand. In accordance with the definitions of the Proposed NPS, Queenstown is identified as a 'High Growth Urban Area'.

5.6. The proposed NPS attempts to connect development economics and planning, and sets the policy framework to require local authorities to undertake detailed assessments to determine capacity versus demand for residential and business land. Where the evidence base or monitoring indicates that zoned or plan enabled development capacity is not provided for, local authorities must respond by providing "sufficient" development capacity. "Sufficient" capacity requires provision of an additional margin of 20% over and above the projected short and medium-term residential business demand, and 15% over and above the projected long term residential and business demand.

5.7. The following objectives of the proposed NPS are of relevance to the HDRZ:

i. *OA1 – To support effective and efficient urban areas that enable people and communities to provide for their social, economic and cultural wellbeing.*
ii. *OA2 – To provide sufficient residential and business development capacity to enable urban areas to meet residential and business demand.*
iii. *OA3 – To enable ongoing development and change in urban areas.*
iv. *OB1 – To ensure plans and regional policy statements are based on a robust, accurate and frequently-updated evidence base.*
v. *OC1 – To promote coordination within and between local authorities and infrastructure providers in urban areas, consistent planning decisions, integrated land use and infrastructure planning, and responsive planning processes.*

vi. *OD1 – To ensure that planning decisions enable urban development in the short, medium and long-terms.*

vii. *OD2 – To ensure that in the short and medium terms local authorities adapt and respond to market activity.*

5.8. While the Proposed NPS was not released at the time the HDRZ provisions were developed or assessed under section 32 of the RMA, its direction for increasing plan enabled development capacity is relevant to the outcomes promoted in the notified version of the PDP, in addition to the recommendations of this report. There is however, no legal test in the RMA relating to a proposed national policy statement. The Proposed NPS is one of a suite of measures proposed by the government to implement the outcomes of the Productivity Commission's inquiry into "Using Land for Housing". This inquiry and the June 2015 draft report[4] provided a significant basis to the section 32 analysis for the HDRZ.

5.9. Once the NPS is no longer proposed, the Council must amend its proposed plans and plans, if the national policy statement directs so, to include specific objectives and policies set out in the statement, or so that objectives and policies specified in the plans give effect to the objectives and policies specified in the national policy statement. Such changes must be made without using the process in Schedule 1 of the RMA.

5.10. **Operative Otago Regional Policy Statement 1998 (Operative RPS)** – Section 75(3) of the RMA requires that a district plan prepared by a territorial authority must "*give effect to*" any regional policy statement. The RPS contains objectives and policies relating to the sustainable management of the built environment. In particular:

a. Objective 9.4.1 seeks to promote sustainable management of the built environment to provide for amenity values and conserve and enhance the environmental and landscape quality while recognising and protecting heritage values.

b. Objective 9.4.2 seeks to promote the sustainable management of infrastructure to meet present and future needs.

c. Objective 9.4.3 relates to avoiding degradation of Otago's natural and physical resources from land-use activities and the protection of the outstanding natural features and landscapes of the region.

d. Policy 9.5.5 seeks to maintain and enhance quality of life through promoting the identification and provision of a level of amenity which is acceptable to the community.

4 Using Land for Housing Draft Report (June 2015), New Zealand Productivity Commission, available online at http://www.productivity.govt.nz/inquiry-content/2060?stage=3

5.11. These objectives and policies highlight the importance of providing a sustainable urban environment that meets the needs of the community, whilst protecting amenity and landscape values. They provide the basis for the management of activities which have the potential to contribute to community wellbeing, but also those with the potential to give rise to adverse effects.

5.12. **Proposed Otago Regional Policy Statement 2015 (PRPS)** – Section 74(2) of the RMA requires that a district plan prepared by a territorial authority shall *"have regard to"* any proposed Regional Policy Statement. The PRPS was notified for public submissions on 23 May 2015, and contains the following objectives and policies relevant to the HDRZ provisions:

> *Objective 3.7 – Urban areas are well designed, sustainable and reflect local character.*
> *Policy 3.7.1 – Using the principles of good urban design*
>
> *Objective 3.8 – Urban growth is well designed and integrates effectively with adjoining urban and rural environments.*
> *Policy 3.8.1 Managing for urban growth*
> *Policy 3.8.2 Controlling growth where there are identified urban growth boundaries or future urban development areas*

5.13. In relation to Objective 3.7, the RPS states: "The quality of our urban environment can affect quality of life and community viability. We need built environments that relate well to their surroundings…". Objective 3.7 and Policy 3.7.1 highlight the value of the urban environment and built form to community wellbeing, and the need to ensure retention of quality environments that integrate with their surroundings.

5.14. In relation to Objective 3.8 and Policy 3.8.1, the PRPS highlights the need to ensure there is sufficient land capacity to cater for demand, land is used efficiently, and that urban growth should be coordinated with infrastructure development in an efficient and effective way. Policy 3.8.1 (g) also refers to "giving effect to the principles of good urban design".

5.15. The hearing of submissions for the PRPS was held in November 2015 and, at the time of preparing this evidence, that hearing panel are deliberating the submissions. A decision on the submissions has not yet been issued. However, these provisions of the PRPS set the basis for the efficient use of urban land to provide for growth demands, ensuring the efficient use and provision of infrastructure, while achieving quality urban design outcomes.

5.16. **The Queenstown HDRZ Zone Monitoring Report (2011)** – This report identified a number of issues for further consideration in the review of the District Plan, as outlined below:

a. To what extent is there a loss of character and amenity in the zone;
b. The need to clearly differentiate the desired outcomes for the zone, as compared to low density neighbourhoods;
c. The ODP uses terms such as "High amenity value" and "High standard" that are unclear for applicants;
d. Whether the cumulative effect of developments will enhance or undermine the character and amenity of the zone;
e. Investigate the level of intensification occurring in the Low Density Residential Zones and whether HDRZ rules could be altered to attract that development to the HDRZ;
f. 'Section 7 Residential Areas' of the ODP should be reorganised such that the objectives, policies and rules pertaining to the HDRZ are clear and distinct from the LDRZ.

5.17. The monitoring report for the Queenstown HDRZ suggests that the Council continue to research effectiveness of various tools that could improve achievement of the desired outcomes, such as:

a. Plot ratio/floor area ratio to manage built floor area, rather than only site density;
b. How further statutory weight can be given to good urban design;
c. Provide certainty to a proposal that achieves the desired built form outcomes, and limit uncertainty to proposals that do not achieve the outcomes; and
d. Align subdivision and resource consent density provisions to improve certainty of outcome.

5.18. **The Wanaka HDRZ Zone Monitoring Report (2011)** – This report discusses the following issues with the Wanaka HDRZ under the ODP:

a. The need to investigate methods to encourage more intensification within the zone, noting development outcomes were more consistent with the LDRZ;
b. The possibility of the integrity of the zone being compromised by non-residential development;
c. Desired outcomes for the zone in Wanaka are unclear, and lack separation from low density zone outcomes;
d. The need for a clear purpose for the zone;
e. Conflicts between objectives for compact urban form and maintaining low density residential environments; and
f. Possibility for low density development occurring within the HDRZ.

5.19. Overall the monitoring report identified that a clear purpose was needed for the Wanaka HDRZ, supported by a rule framework that encourages high density development forms to locate in the zone.

6. BACKGROUND – OVERVIEW OF THE ISSUES

6.1. The section 32 report for HDRZ identifies that the PDP seeks to facilitate higher density development in order to:

a. Provide greater housing supply to respond to strong demand for centrally located housing;
b. Provide for a greater diversity of housing;
c. Place less pressure on the District's road transport network by providing housing close to town centres where walking and cycling to the centres as places of employment, retail and entertainment is readily achievable;
d. Reduce pressure for residential development on the urban fringes and beyond; and
e. Provide for more visitor accommodation development close to town centres, where the demand is typically strongest and is predicted to grow significantly.

6.2. It is identified that whilst the ODP may share some or all of these objectives, the provisions are not sufficiently enabling of the density achievable, and the development process is often overly complex and costly. Issues were also identified in the ODP with the separation of the HDRZ into three separate subzones, each having different rules and adding to the complexity of the plan.

6.3. The key resource management issues identified by the section 32 report for the HDRZ include:

a. The desire to enable a compact urban form, in close proximity to services and amenities;
b. The relationship of development capacity, land supply and housing affordability, and the effects of land banking;
c. Significant pressure for residential and visitor accommodation, contributing to accommodation shortfalls and overcrowding;
d. The desire to enable feasible/realistic development capacity;
e. The impact of height, recession plane, private open space and other development controls on housing supply and urban growth management objectives; and
f. Achieving good quality urban design, and balancing more enabling provisions with a reasonable degree of amenity protection in terms of private, localised adverse effects.

7. ANALYSIS OF SUBMISSIONS – OVERVIEW

7.1. 458 points of submission were received on the notified HDRZ chapter.

7.2. The RMA, as amended in December 2013, no longer requires a report prepared under section 42A, or the Council decision, to address each submission point but instead requires a summary of the issues raised in the submissions. Some submissions contain more than one issue, and will be addressed where they are most relevant within this evidence.

7.3. The following key issues have been raised in the submissions, identified by the order they are addressed in this report:

a. Issue 1 – Design and amenity

- Urban design panel;
- Urban Design Assessment Criteria;
- Pounamu Hotel and Development Rights of 'Lot 5';

b. Issue 2 – Building height

- Building height on flat sites with recession planes
  - (i) Floor area ratio;
  - (ii) Policy 9.2.2.7;
- Building height on sloping sites;
- Building height in Wanaka;
- Incentives for Homestar/Green star design;
- Height at Kawarau Falls HDRZ;
- Height along Frankton Road;

c. Issue 3 – Other standards: Building coverage, Density and Floor Area Ratio

- Building coverage – notified Rule 9.5.4;
- Eave exceptions to boundary setbacks;
- Continuous Building length;
- Parks and reserves;

d. Issue 4 – Transport and Infrastructure

- Public and active transport;
- Parking and access;
- State highway – reverse sensitivity;
- Setbacks from the State Highway;
- Other infrastructure;

e. Issue 5 – Non-residential uses

- Community activities;
- Commercial activities;

f. Issue 6 – Non-notification

g. Issue 7 – Other matters

- Minimum lot size;

h. Issue 8 – Definitions

7.4. I note that a large number of the submission points[5] received on the HDRZ are submitted by land/business owners within the HDRZ. Many submission points also relate specifically to height limits of the Pounamu Hotel and the adjoining 'Lot 5' (the previous Hilton Hotel site) at 94 to 130 Frankton Road, as determined by consent order ENV-2007-CHC-191 (*Pounamu Hotel Nominees Limited v Queenstown Lakes District Council*) and referred to by the Pounamu Body Corporate Committee (**PBCC**), Trustees – Panorama Trust (64) and Bevan and Aderianne Campbell (184). Submissions of the PBCC are opposed in most instances by Lakes Edge Development Limited (**LEDL**) (FS1279), and Plaza Investments Limited (**PIL**) (FS1231).

7.5. A summary of submission points received and a recommendation on whether the submission is recommended to be rejected, accepted, accepted in part or transferred to a future hearing is attached as **Appendix 2**. I have read and considered all submissions, including further submissions.

7.6. Where a provision has not been submitted on, or where a submission is without any coherent basis, the provision or submission point is not likely to have been discussed (although a recommendation for the latter is set out in **Appendix 2**).

5 182 (Millenium & Copthorne Hotels NZ Ltd); 208 (Pounamu Body Corporate Committee); 551 (Plaza Investments Ltd); 410 (Alps Investment Ltd); 612 (Skyline Enterprises); FS1260 (Dato Tan Chin Nam); 731 (Mulwood Investments Ltd); 208 (Pounamu Body Corporate Committee); (FS1279) Lakes Edge Development Ltd.

8. ISSUE 1 – Design and Amenity

Urban Design Panel

8.1. Queenstown Playcentre (470), PBCC (208), and NZIA (238) (opposed by FS1107; FS1226, FS1234, FS1239, FS1241, FS1242, FS1248, FS1249) seek retention of the ODP provisions related to the use of the Urban Design Panel.

8.2. The Urban Design Panel is a non-statutory, non-compulsory process currently offered by the Council and provides applicants with independent urban design advice on development proposals, prior to an application for resource consent being lodged. The process is not mandatory, however is used where individual applicants have voluntarily requested this service or may be recommended by Council where the development has the potential to significantly affect the quality of urban design in the area. The process forms a means to consider an application against the assessment criteria of the ODP, particularly those listed under ODP 7.7.2 (xiii) 'Urban Design Protocol'; and additionally some limited areas of the zone may utilise non notification clauses if a letter of support is received from the panel.

8.3. The Urban Design Panel process is beneficial to an applicant in potentially addressing urban design concerns and amenity effects prior to the application being lodged, and may result in efficiencies in processing the consent application. The procedure for use of the Urban Design Panel is outlined in the 'Urban Design Panels for the Queenstown Lakes District, Terms of Reference' (2008) attached as **Appendix 6**.

8.4. The PDP does not propose to change this service that the Council offers, and use of the panel under the new rules of the PDP will still be available (although I note some procedural changes to the terms of reference may be needed). Therefore, I accept the submissions of NZIA and Queenstown Playcentre in part, as I agree the Urban Design Panel offers a beneficial service. However, I do not consider that this process should be included within the Rules of the HDRZ as mandatory, as it results in some costs, and may not be efficient or effective for permitted development proposals of 3 units or less.

8.5. I note that Mr Garth Falconer in his evidence (at paragraph 5.13) recommends the Urban Design Panel should be mandatory for developments of 6 units or more, and also incorporated through the use of non-notification incentives.[6] I disagree with this view, as I consider the current process will still be available. In addition, the Urban Design Panel does not always assess all aspects of a development, which may consequently necessitate notification. I consider that the determination of notification requirements is best undertaken

6 Statement of Evidence of Mr Garth Falconer dated 14 September 2016

by Council under sections 95A-95D of the RMA, in assessing all aspects of a development, and not limited to urban design.

8.6. For these reasons, no changes are recommended to the HDRZ provisions relating to the Rrban Design Panel. Nonetheless the service will still remain if a landowner chooses to seek the advice of the panel for such a development. Additionally, if design guidelines were to be developed (discussed below) these could be incorporated into the terms of reference for the Urban Design Panel.

Urban Design Assessment Criteria

8.7. The PBCC (208) oppose the removal of urban design assessment matters that are in the ODP, from the PDP. I acknowledge that assessment matters have been removed from the PDP, in lieu of more direct objectives, policies and standards. I note that Mr Garth Falconer considers (at paragraph 5.8 of his evidence) that the objectives and policies of the notified HDRZ are appropriate in supporting good urban design outcomes.[6] Therefore I do not support the addition of urban design assessment matters in the PDP.

8.8. However, I note that Mr Falconer is also of the view that urban design guidelines would be useful for the zone (at his paragraph 5.9)[6] Urban design guidelines have not yet been developed, although it is possible that the Council will develop guidelines for the HDRZ and will notify these as part of Stage 2 of the PDP. If this is the case, It is likely that any guidelines would be incorporated by reference within the HDRZ chapter and a variation would be required. Any decisions as to notification of provisions / guidelines in Stage 2, is however one to be made by full Council.

8.9. The notified objectives and policies, in particular notified Objective 9.2.3acknowledges that some adverse effects on amenity are anticipated as the zone becomes increasingly intensified under more enabling development standards. I consider that reference to "amenity" in the context of notified Objective 9.2.3 relates more to impacts to neighbouring sites; and is not discounting quality urban design. The provisions highlight the need for quality urban design – and this is reflected through the Purpose statement, notified Objective 9.2.2 and notified Policies 9.2.2.1 to 9.2.2.7. Submitter NZIA (238) submitted that notified Objective 9.2.2 should be amended to include reference to "high quality urban design". I accept this submission in part, however I consider that use of the word "high" does not provide clarity and is ambiguous to interpret. I therefore support amendments to include the words "quality urban design". This change is shown in the Revised Chapter at **Appendix 1**.

8.10. I agree with the need for quality urban design outcomes in the zone, and the benefits this can have to social, economic and cultural wellbeing. However, I do consider that mandatory

compliance with design guidelines may act as a deterrent to realising development in the zone and may encourage land banking if the planning process is perceived to be overly complex. As discussed in the section 32 report, restrictive planning systems increase cost and time in the planning process and can limit the supply of land and housing.[7] My view on urban design guidelines is that for these to be effective, they should state clear outcomes and provide practical design options for applicants to utilise, and not add a layer of regulation which creates uncertainty, and impacts upon the realisation of re-development in the zone.

8.11. The use of design guidelines may also be beneficial as a non-statutory method, to be incorporated into the terms of reference for the Urban Design Panel. By this means, compliance with guidelines is not mandatory, but would be encouraged through the efficiency benefits to be gained through using the Urban Design Panel.

Pounamu Hotel and Development Rights of 'Lot 5'

8.12. PBCC (208) opposes the HDRZ chapter generally, and has submitted to amend the majority of the notified provisions. PBCC's submission points are primarily concerned with the development rights potentially enabled under the PDP on 'Lot 5' to the rear of the existing Pounamu Hotel complex, being the previous proposed site for the Hilton Hotel now located at Kawarau Bridge. I firstly note that the submissions of PBCC are therefore site specific, and the submitter does not consider or analyse the application of their suggested amendments across the zone, or the effects these may have on the achievement of environmental outcomes of the zone, as expressed in the purpose statement at 9.1. The submission points of PBCC are in all cases opposed by other landowners in the zone.[8] The Panorama Trust (64)) also requests the 7m height limit be enforced, and that full notification is necessary for any proposals above 7m in height.

8.13. I acknowledge that the basis of PBCC's submission is primarily concerned with the Pounamu Hotel's loss of outdoor living space, which would have occurred when the Hilton Hotel was constructed. Whilst I have some sympathy to this, I am also of the view that the HDRZ provisions as notified provide for a variety of accommodation options important for the current and future needs of the community. Mr Philip Osborne in his evidence (at paragraph 3.16) refers to the significant role of land trading within the housing market, resulting in the lack of provision for housing in lieu of the trading of vacant land. I consider this evidence of land trading further highlights the need for urban markets to provide for a range of development

7 Section 32 Evaluation Report – High Density Residential (page 6); Using land for housing, Draft Report, June 2015 (New Zealand Productivity Commission, available online at http://www.productivity.govt.nz/inquiry-content/2060?stage=4)

8 Plaza Investments Limited (1231), Anthony and Ruth Stokes (1242), Lakes Edge Development (1279).

options, as in brownfield areas such as the existing HDRZ, infill housing may be seen as more favourable to the trading of land.

8.14. Mr Philip Osborne also highlights the need to provide 'choice' in the market to facilitate competition and overcome artificially constructed dwelling price growth (at paragraph 6.5). I do not consider it to be appropriate for changes to rules to be justified on the basis of failed development arrangements, and I believe the opportunities provided by the notified provisions will encourage re-development and 'choice' within the HDRZ.

8.15. I also note that the submission of PBCC refers to an easement which runs through the centre of 'Lot 5' and provides access between the four apartment buildings (Refer figure below). This easement is a legal instrument and could continue to be utilised for access and provision of outdoor living. I also note any development on Lot 5 is likely to be, at minimum, a restricted discretionary (**RD**) activity due to the number of units. A minimum of 20% landscaped permeable surface would be required (as per notified Rule 9.5.7 [redrafted Rule 9..5.6 (i.e. approximately 2456m^2). A crude indication of the extent of this area is provided in the image below, and I consider this to be a sufficient area of open space within the site. The matters of discretion under redrafted Rule 9.4.4 also allow for consideration of "The extent to which landscaped areas are well integrated into the design of the development and contribute meaningfully to the amenity of the development".

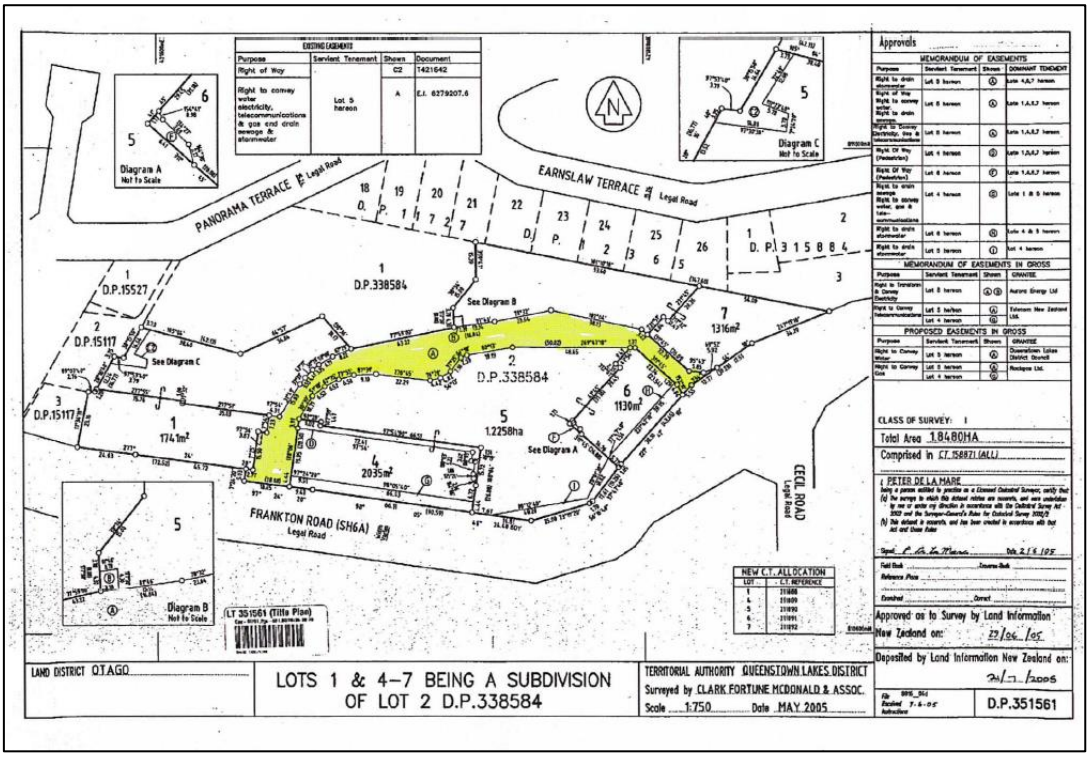

Figure 1 - Easement through 'Lot 5' which provides access between the Pounamu Apartment blocks (referenced by submitter 208).

Figure 2 - Aerial view of the Pounamu Hotel site, and 'Lot 5' to the rear.

8.16. The Pounamu Hotel site enjoys the outlook of the lake. Whilst the site may not benefit from outdoor living space on the ground floor, its occupants are able to enjoy an appreciation of openness from the orientation of buildings towards the lake and uninterrupted views. Properties south of Frankton Road are located within the LDRZ in the PDP, and are therefore subject to a 7m height limit and reduced site density. It is also relevant that the 1m height restriction above Frankton road rule is recommended to be reinserted into the HDRZ (which is discussed later in this report) and the LDRZ[9]. This will place further control on building height in this area. For these reasons, I consider outdoor living standards to be appropriately provided for, and I do not recommend any changes to the HDRZ for this purpose.

8.17. Submitter PBCC opposes the "*removal of specific urban design considerations, assessment criteria, and the urban design review process*". The submitter makes reference to the urban design review provisions introduced as part of Plan Change 10 ('Improving Amenity in the High Density Residential Zones'), and seeks that these be retained in the PDP. Plan Change 10 was made operative in 2010 and aimed to improve the amenity values of the HDRZ to address dissatisfaction with the standard of developments occurring in the zone. It resulted in the inclusion of a range of new provisions within the ODP, including objectives and policies, new sub-zones, changes to activity status, introduction of new rules, changes to bulk and location standards, and introduced the New Zealand Urban Design Protocol as an assessment matter (7.7.2 xiii of the ODP).

9 Please refer to the Low Density Residential Zone section 42A report dated 14 September 2016.

8.18. However, while some optional clauses referencing use of the panel were included (such as non-notification clauses under 7.5.4 of the ODP), no mandatory urban design review provisions were inserted (with the exception of rules for the Outline Development Plan, Peninsula Bay, Wanaka). I have previously discussed in this report how the urban design review process operates under the ODP and the basis to which I recommend it to operate under the PDP framework.

8.19. Where proposals require resource consent, applicants are encouraged to use the urban design panel. The Urban Design Panel has been operational since 2004, and the development community are generally familiar with its offering. Council encourages use of this process, early in the project design phase, through funding the cost of the panel where the project is at concept stage (pre-working drawings).

8.20. I acknowledge that in the PDP HDRZ the specific assessment criteria for urban design have been removed in lieu of more direct objectives and policies. I note that the urban design assessment criteria of the ODP are non-statutory, and largely provide guidance to applicants only. Mr Garth Falconer, in paragraph 5.8 of his evidence, considers the PDP objectives and policies to be sufficient in achieving good design outcomes. He also considers (paragraph 5.9) that urban design guidelines may be beneficial for the zone (discussed above), and that the use of the Urban Design Panel could be further encouraged through these design guidelines (paragraph 5.13). For these reasons, I do not support inclusion of any references to the Urban Design Panel in the PDP, nor any specific assessment matters.

8.21. I now consider the points raised by PBCC that the "downgrading of controls" will result in far more significant adverse amenity effects, including *"loss of daylight, privacy and outlook, and development that is overbearing and dominant"*.

8.22. Overall, I acknowledge the HDRZ is more enabling and some provisions have been amended to better encourage development within the zone, and to discourage land banking. The costs and benefits of infill development are varied, and are outlined in the evidence of Mr Osborne (at section 4). At paragraph 6.11 he acknowledges the lack of more diverse lower cost housing options, and that the provision of increased areas for increased densities can provide for greater choice to this subset of the market. Further he notes that a key purpose of planning is to produce the most efficient use of an economies land resource, and increasing the level of activity on a given quantum of land provides for the protection or use for other land (such as Outstanding Natural Landscapes). Lot 5 comprises an area of approximately 1.2ha (12,282m^2) and if developed could contribute considerably to either the supply of housing, or visitor accommodation. In light of Mr Osborne's evidence, maximising the opportunities available to a significant land resource is important in improving efficient land

use in other areas. Regarding visitor accommodation, the Colliers 'Regional Hotel Market Analysis and Forecasting (May 2016)' report, states that:

> *the Queenstown hotel market will reach "critical capacity status" as early as the summer of 2016/2017. Queenstown may need as many as 2,100 new hotel rooms by 2025… it is estimated that only 679 rooms will be built over the next 10 years, which leaves a potential shortfall of up to 1,421 rooms.*

8.23. I consider that, as stated within the s32 report, the HDRZ should encourage and enable high intensity development within the zone to address current and potentially worsening housing and accommodation shortages. Such a large and prominent site, in close proximity to the services and amenities of the town centre, contributes considerably to these aims. Mr Osborne at his paragraph 6.4 refers to the benefits to be realised through "agglomeration" and "symbiotic efficiencies" in providing intensification opportunities within close proximity to a centre or activity hub, including benefits to economic and social wellbeing.

8.24. I reiterate that any development on a site of the scale of Lot 5 will require a resource consent, during which such amenity matters as *"loss of daylight, privacy and outlook, and development that is overbearing and dominant"* (208) can be considered under the listed matters of discretion. I note however that a new matter of discretion has been recommended to redrafted Rule 9.4.4 to address the maintenance of visual privacy of adjoining lots. As discussed later in this report, I recommend deletion of the incentives for Homestar/Green Star design, and its replacement with an RD status for buildings of up to 15m in height. In addition, I consider a new non-notification clause should be inserted to ensure developments of this height, either flat or sloping, can be notified on a limited basis. This will partly address the concerns of PBCC as there is no longer the 'incentive' offered for this height to be achieved on a permitted basis, without any notification.

8.25. Recession planes will also apply at all site boundaries (for flat sites), and while these have been liberalised under the PDP[10] (compared to the ODP which was 25º at a height of 2.5m on all boundaries), all non-north facing boundaries of Lot 5 adjoining the Pounamu Hotel would be subject to the strongest control of 45º. Areas assessed to be sloping, while not subject to recession planes, are also subject to lower height limits.

8.26. PBCC seeks specific reflection of the "existing character of neighbouring properties and neighbourhoods" within a new policy and that "the character of the surrounding area" is also referred to within the matters of discretion for notified Rule 9.4.4. I consider that this is too fine

10 Notified Rule 9.5.6 [redrafted 9.5.5] contains the rules for recession planes. For Flat Sites from 2.5 metres above ground level a 45 degree recession plane applies to all boundaries, other than the northern boundary of the site where a 55 degree recession plane applies. No recession plane for sloping sites.

grained, as 'character' is not created or defined by individual sites/developments but rather a collection of features that together build the "character" of an area. Additionally, I do not consider that the HDRZ has a defined character, or that the character that exists is one which should be protected. In the context of a zone which is transitioning to greater intensification and changing character, seeking protection of what is existing could compromise the achievement of good quality urban design (which is contrary to other submission points made by PBCC)[11]. I therefore do not support such provisions.

8.27. For all of these reasons, the majority of the submission points of PBCC are rejected, and these are addressed individually in **Appendix 2**. However, I do support (in part) the request for specific reference to access to sunshine within the matters of discretion under redrafted Rule 9.4.4, as this matter was not explicit in this rule, although "sunshine and light access" was referred to in redrafted Policy 9.2.3.1. I also support (in part) changes to redrafted Policy 9.2.2.7 to state that breaches to height limits are appropriate only where adverse effects can be avoided, remedied or mitigated. These changes are reflected in **Appendix 1** and analysed in the section 32AA in **Appendix 4**.

9. ISSUE 2 – BUILDING HEIGHT

Building height on flat sites with recession planes

9.1. Several submissions seek changes to the maximum height limits for flat sites. In support of notified height limits, or seeking increases to the permitted level are Alps Investment Limited (410), Erna Spijkerbosch (FS1059) Mount Crystal Limited (FS1331) , NZIA (238), Dato Tan Chin Nam (FS1260) . In opposition to notified heights or seeking decreases are PBCC (208) Karen Boulay (159), Nigel Sadlier (68), Robins Road Limited (366). A range of amendments are proposed, from retaining heights of the ODP (PBCC, 208) to 10 to 15m heights as permitted (NZIA, 238).

9.2. I do not support any reduction in the permitted height levels below that in notified Rules 9.5.1 and Rule 9.5.2 (redrafted Rules 9.5.1, 9.5.2 and 9.5.3), as I consider (at minimum) three storey development forms to be anticipated within the HDRZ. Reducing heights to the limits of the ODP would compromise the achievement of the zone purpose, and not support the aims of promoting intensification to meet housing and visitor accommodation demand. These submission points are therefore rejected. However in this report I consider whether it is necessary to maintain the notified height limits, or if these should be increased.

11 Para. 8 of Introduction to submission; reasons and relief sought on notified policy 9.2.3.2; notified Rule 9.4.4; notified rule 9.4.9.

9.3. To illustrate possible built form outcomes under a 12m permitted height versus a 15m permitted height, modelling of a number of scenarios has been undertaken by Boffa Miskell (**Appendix 5**). I note that the outcome of this modelling is based on a number of assumptions, and these are outlined in the report. Comparison of scenario 1 and 2 illustrate a possible built form outcome at building heights of 12m and 15m, including use of the Floor Area Ration (**FAR**) rule which is discussed below. Scenario 3 and 4 illustrate the built form outcome at 12m and 15m, without a FAR constraint. However, I note that I recommend that the FAR (notified rule 9.5.5) is deleted. Therefore, in the context of building height, I refer to Scenario 3 and 4 only here, as illustrated in the figure below (which is extracted from the modelling report in **Appendix 5**).

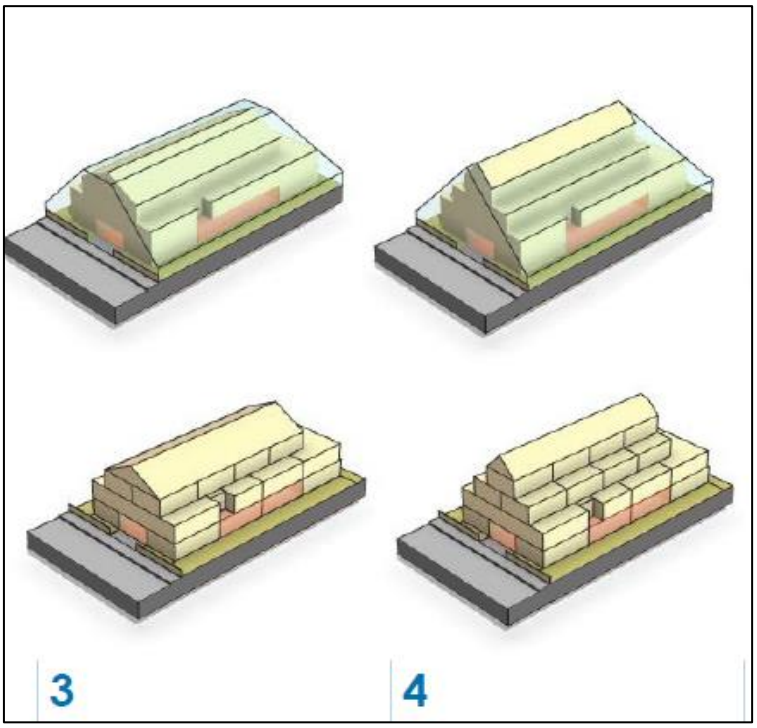

Figure 3- Scenario 3 and 4, derived from the 'Modelling of Proposed High Density Residential Zone' document attached at Appendix 3. For a 1000m2 flat site (subject to recession planes) Scenario 3 depicts a possible built form outcome at 12m height, and Scenario 4 depicts the possible built form outcome at 15m height.

9.4. The modelling above illustrates that for a site of 1000m2 in size, practical use of the increased height (to 15m) is limited by the recession planes [at redrafted Rule 9.5.5] which control the buildable envelope. The result of increasing the permitted height to 15m may prove of little benefit, as although the additional 3m height allowance allows a fourth storey, due to recession planes the width of the fourth level may be narrow and result in little additional yield. I also note that as this example comprises 12 units (as outlined in the modelling report) the scale of the development modelled would require RD consent under notified Rule 9.4.4,

as it comprises more than three units. I therefore consider it unnecessary to raise permitted heights to 15m. I recommend however that 15m (four storeys) be applied as a RD height limit, with a NC status for anything above this height. A 15m RD height rule will enable greater opportunities for larger developments (more than 4 units) on larger sites, noting that recession planes will still provide a level of control to ensure a sensitive built form.

9.5. These changes are included in **Appendix 1** and analysed in **Appendix 4** (**s32AA**).

Floor area ratio (FAR)

9.6. Related to the review of height limits are submissions on the FAR, which was introduced for flat sites as a "compensatory measure" for the protection of amenity. PBCC oppose the rule and definition and seek that it is deleted. Bruce McLeod (166) seeks for the meaning of the rule to be clarified. As stated in the s32 report, "to build four storeys rather than two storeys, a lower site coverage will be required eg. 50% rather than 70%"[12]. However, as noted in the evidence of Mr Falconer at paragraphs 5.26 to 5.29 "*FAR controls have generally been developed for use in tall building situations in tight downtown urban areas of large cities. The existing provisions of recession planes, site coverage and setback controls are more accurate and useful as controls in the lower height context and one with neighbouring sensitivities*".

9.7. As reflected in the modelling undertaken by Boffa Miskell to illustrate possible built form typologies for a 1000m^2 site, the FAR makes little difference to the built form outcome, as recession planes control the buildable envelope. This effect is illustrated through comparison of scenarios 1 to 4, illustrated below (which is extracted from the modelling report in **Appendix 5**).

12 s32 Evaluation Report – High Density Residential, page 22.

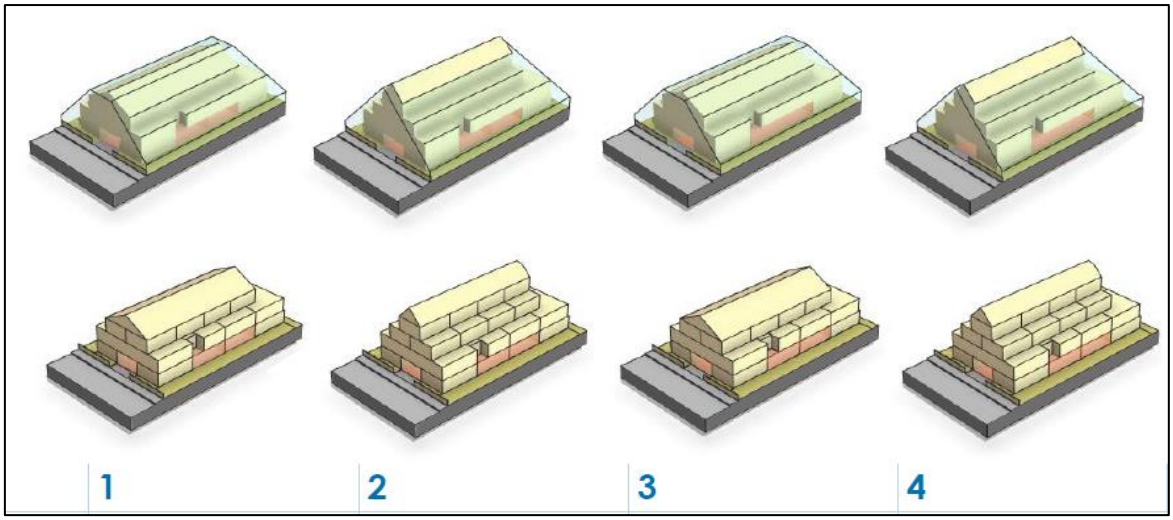

Figure 4 - Scenario 1 to 4, derived from the 'Modelling of Proposed High Density Residential Zone' document attached at Appendix 3. For a 1000m^2 flat site (subject to recession planes) Scenario 1 depicts a possible built form outcome at 12m height (with FAR); Scenario 2 depicts the possible built form outcome at 15m height (with FAR); Scenario 3 depicts the possible built form outcome at 12m height (without FAR); Scenario 4 depicts the possible built form outcome at 15m (without FAR)

9.8. The results of the modelling (**Appendix 5**) demonstrate that:

a. Where height is maximised, scenario 1 and 2 achieve the same built form outcome as 3 and 4, regardless of FAR;

b. A 15m high building with an FAR (scenario 2) creates an additional storey, but reduced yield due to recession planes limiting the width of the fourth storey; and

c. A 12m high building, maximising the height does not max out the FAR of 2.0 (scenario 1).

9.9. These results suggest that if building height were reduced below the maximum permitted, use of the FAR tool may potentially result in lower profile and broader buildings. I have concerns that the rule may result in unintended consequences whereby buildings may be designed to be lower profile but with greater site coverage, as this may be more appealing to optimise construction costs. Conversely, if building height was maximised, then site coverage may be compromised. While reduced site coverage may have compensatory benefits to amenity as noted in the s32 analysis[13], it may also result in reduced yield of units and less efficient land use. I therefore consider the FAR not to be necessary in the Queenstown context, where recession planes apply to limit building bulk. I therefore recommend that notified Rule 9.5. is deleted, this is shown in **Appendix 1** and analysed in **Appendix 4** in terms of section 32AA.

13 Section 32 Evaluation Report – High Density Residential (Page 22).

Policy 9.2.3.2

9.10. Fred van Brandenburg (520) seeks an amendment to notified Policy 9.2.3.2 to better reflect the wording and terminology of the RMA. Notified Policy 9.2.3.2 relates to the Homestar/Green Star building height incentives (which I recommend to be deleted – as discussed later in this report) and refers to effects being "no more than minor relative to a complying development scenario". I consider this statement is unnecessary, as it relates to a permitted baseline argument which is inherent in section 95D of the RMA. I therefore support deletion of this part of the notified Policy 9.2.3.2 and accept the amended wording proposed by the submitter, as indicated within redrafted Policy 9.2.3.2 at **Appendix 1**. This change is analysed in **Appendix 4** in terms of section 32AA.

Building Heights on Sloping Sites

9.11. Several submissions seek changes to the maximum height limits for sloping sites. In support of notified height limits, or seeking increases to the permitted level are Firestone Investments Ltd (722), , NZIA (238), (187) , Hurtell Proprietary Limited and others (FS1271) , Erna Spijkerbosch (392). In opposition to notified heights are PBCC (208), Bevan & Aderianne Campbell (184), and Philippe, Jean Berton and Foster (846). The largest permitted height requested is 14m (Nicholas Kiddle, 187). Nicholas Kiddle (187) and Hurtell Proprietary Limited and others (FS 1271) seek that RD heights are increased to 20m.

9.12. There are no submissions seeking reduction in the notified building heights, although PBCC seeks reflection of the ODP provisions. Bevan & Aderianne Campbell (184), Philippe & Jean Berton & Foster (846) and PBCC (208) oppose the RD status above 7m (notified 9.5.3). Again, I do not support any reduction in the permitted height levels below that notified. Reflection of the ODP rules and removal of the RD status for 10m heights would compromise achievement of the zone purpose, and not support the aims of promoting intensification to meet housing and visitor accommodation demand. These submission points are therefore rejected. However I consider whether it is necessary to maintain the notified height limits, or if these should be increased below.

9.13. I refer to the outcomes of scenario 6 and 7 modelled by Boffa Miskell (**Appendix 5**) for a 1375m^2 site[14].

[14] 1375m^2 was modelled for sloping sites, as a larger site area was determined to be necessary to maximise height to 10m (Scenario 7) without overshadowing the floor below.

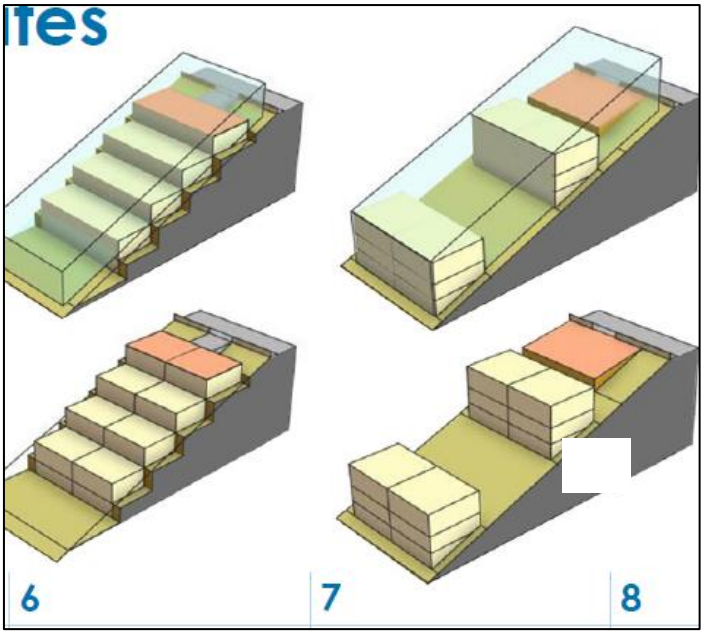

Figure 7. derived from the 'Modelling of Proposed High Density Residential Zone' document attached at Appendix 5. For a 1375m^2 sloping site, Scenario 6 depicts the possible built form outcome under a 7m maximum building height; and Scenario 7 illustrates the possible built form outcome under a 10m maximum building height.

9.14. Scenario 6 illustrates that for the stepped type of built form common in the zone, the maximum height of 7m is not achieved (5.8m above natural ground level is realised), as to maximise height to 7m may cause overshadowing of upper storeys to levels below.

9.15. Scenario 7 illustrates that in order to achieve a 10m height at this scale, two separate buildings are required to avoid overshadowing caused under stepped building configurations. This results in a large area of open space within the centre of the site. As the site is sloping, this remaining open space may not be of high quality and limited in use. I also note that comparison of these scenarios illustrates for the additional height, only 210m² of additional Gross Floor Area (**GFA**) is achieved, with site coverage at only 31%. Such a development form would be of greater impact to neighbouring sites for little increased yield, and may also result in reduced amenity for buildings within the site. This is because the three levels are stacked on top of one another, as opposed to the stepped scenario which may result in increased light access within buildings both within and adjoining the site.

9.16. Therefore I do not recommend increasing the permitted height for sloping sites, as I note that permitted development can only occur for three units or less regardless. Unintended consequences may result for 3 units or less if heights are increased, as on smaller sites it may incentivise such built form as that shown by Scenario 7.

Building height in Wanaka

9.17. The NZIA (238) submit that increased heights to 12m may be appropriate for Wanaka. Terry Drayron (9) opposes any increase to heights in Wanaka.

9.18. I do not consider it necessary to increase the permitted maximum heights on flat sites in Wanaka to 12m (from 8m as per notified Rule 9.5.1.2 (redrafted 9.5.3), as it is likely that much of the zone would be considered a sloping site. Furthermore, given the flatter topography of Wanaka when compared to Queenstown, enabling consistent rules may result in adverse amenity effects. There also is not the same pressure for intensification in Wanaka as currently exists in Queenstown. However, because I recommend deletion of the Homestar/ Green star provision (refer below) and conversion of the 15m height limit to an RD height limit for Queenstown; I consider a consequential amendment is necessary to separate building height in Wanaka from the redrafted provisions for Queenstown. As such, I recommend insertion of new rule (redrafted) 9.5.2.

9.19. I consider separation of the new rule for Wanaka does not result in any substantive change to the rules apply to Wanaka, however it improves clarity for plan users.

Incentives for Homestar / Green Star design

9.20. Notified Rule 9.5.1 [and notified Policy 9.2.2.7 includes provisions which allow increased height to 15m (4 storeys) on the basis of compliance with a minimum 6 star Homestar rating, or a Green Star rating of at least 4 stars. Both of these are rating tools encouraged by the New Zealand Green Building Council, used to rate the sustainability and efficiency of buildings.[15] Green Star applies to commercial building projects including office, education, industrial buildings, and interior fit-outs. A Green Star rating of 4 stars is considered to reflect "New Zealand Excellence".[15] Homestar rates typical residential homes using a scale from 1 to 10. A Homestar rating of 3 or 4 generally translates to compliance with the Building Code, and 6 stars generally represents homes with better warmth and energy efficiency.

9.21. The NZIA (238) have concerns over the use of these tools as height incentives, and consider that high urban design standards should be used instead. NZIA consider the Urban Design Panel should instead be used as a tool/incentive for additional building height.

9.22. Although unrelated to the PDP, I note that the Auckland Council in the preparation of the proposed Auckland Unitary Plan recommended that all new residential buildings achieve a

15 More information on the Homestar and Green Star rating tools can be found at https://www.nzgbc.org.nz/

minimum 6 star Homestar rating or comply with a number of standards relating to double glazing, ceiling, wall and floor insulation, extraction ventilation, water efficiency ratings, light fittings and building materials. However, the Auckland Unitary Plan Independent Hearings Panel in their Sustainable Design report to Auckland Council dated July 2016[16] have recommended that all references to sustainable design be deleted from the plan for reasons which include:

> *the Panel considers that controls on internal aspects of buildings under the Resource Management Act 1991, to the extent that they are appropriate at all, cannot exceed the requirements for such controls set by the Building Code."*
>
> *"the Unitary Plan can control the location of the building on a site, or the overall height of the building so as to address the adverse effects of that location of height on the environment. However it should not be controlling the manner in which a building is constructed. This type of controls addresses the function of the building rather than its effects on the environment around it and is not appropriate to be included in a district plan which is concerned with land use planning.*

9.23. I consider the above reasoning to be narrow and disagree that the efficiency of a development is only about function and not effects on the environment. The performance of a development can reduce the effects on the environment via achievements such as reduced energy requirements, less particulate emissions, reduced greenhouse gas emissions and the like. These are relevant considerations under Part 2 of the RMA (including s7(b); s7(ba), s7(f), s7(g); s7(i)).

9.24. Notwithstanding the above, I concur with the issues raised by the NZIA. The incentive was crafted as a means of encouraging re-development within the zone and discouraging landbanking. However, I also consider that the effects to be managed by the rule as notified (i.e. environmental performance) are not directly related to the incentive offered. For example, increased environmental performance does not necessarily mitigate the effects of the increased height enabled.

9.25. Therefore, I recommend that the height incentive for Homestar or Green Star buildings is removed from the HDRZ, and as a consequence I recommend that the 15m height that is provided for under notified Rule 9.5.1 [redrafted Rule 9.5.1] be converted to a RD building height, similar to the approach for sloping sites. I consider this is appropriate as a consent

16 http://www.aucklandcouncil.govt.nz/EN/planspoliciesprojects/plansstrategies/unitaryplan/Documents/ihprecommendations/ihp077sustainabledesign.pdf

process is necessary to achieve this height, and through that process effects can be considered. As exists for sloping sites, I recommend that the limited notification clause under redrafted Rule 9.6.3.1 be amended to apply to both RD building height for flat and sloping sites. An RD status provides a balance between enabling additional height and intensification, with the need to assess and manage any effects. It also provides consistency with notified Rule 9.4.4, recognising that a development of 15m in height is also likely to comprise 4 units or more.

9.26. The PBCC seek that notified Policy 9.2.2.7 be amended so that increased building height is incentivised "*only where effects on nearby properties can be avoided, remedied or mitigated".* I support the submission of PBCC in part. As I recommend deletion of Homestar and Green Star incentives under Redrafted Rule 9.5.1, a consequential amendment is necessary to remove the word "incentivise" from notified Policy 9.2.2.7. However I consider the policy is relevant to maintain, and may be considered in the assessment of NC proposals which seek to breach height limits. However my view is that avoiding, remedying or mitigating effects is relevant not only to effects on neighbours, but effects to the environment generally. For these reasons, I accept the submissions of PBCC and NZIA in part, and recommend the following amendment to notified Policy 9.2.2.7

> *(Redrafted Policy 9.2.2.7) - Breaches to the permitted maximum building heights may be appropriate where development is of quality urban design ~~that designed to~~ achieves a high environmental performance, and effects can be avoided, remedied or mitigated.*

Building height at Kawarau Falls HDRZ

9.27. LEDL (529) seeks retention of the ODP rules for building height, which apply to the HDRZ at Kawarau Falls Bridge. The ODP rules state the following:

> ***7.5.5.3***
>
> ***(a) Flat sites where the ground slope is equal to or less than 6 degrees (i.e. equal to or less than 1 in 9.5)….***
>
> *…(v) The maximum height for buildings in the HDRZ Zone located immediately west of the Kawarau Falls Bridge shall be 10 metres and in addition no building shall protrude through a horizontal line drawn due north commencing at 7 metres above any given point along the required boundary setbacks at the southern zone boundary.*
>
> ***(b) Sloping sites where the ground slope is greater than 6 degrees (i.e greater than 1 in 9.5)***

> *…(iv) The maximum height for buildings in the HDRZ Zone located immediately west of Kawarau Falls Bridge shall be 10 metres and in addition no building shall protrude through a horizontal line drawn due north commencing at 7 metres above any given point along the required boundary setbacks at the southern zone boundary.*

9.28. It is understood these rules came about via submissions on the ODP. I consider that reintroducing this rule, in part, into the HDRZ is necessary to maintain the status quo for height that has been previously determined to be appropriate for the site (under the ODP), and that has also been partially implemented. I note that under the PDP, the area of the HDRZ identified as 'sloping', would be subject to a 7m (permitted) height limit according to redrafted Rule 9.5.3. Redrafted Rule 9.5.3 does allow for buildings up to 10m in height, although a RD resource consent is necessary to achieve this. Therefore, retention of a permitted 10m height limit is recommended for this area of the zone, and has been included within redrafted Rules 9.5.1 and 9.5.3.

9.29. I acknowledge that the HDRZ west of the Kawarau Falls Bridge differs in characteristics to that of the Queenstown or Wanaka HDRZ. The possibility of buildings 7m in height or more, at the southern zone boundary immediately fronting Peninsula Road, may result in overbearing and dominance effects, when viewed from the LRDZ south of the site, from Peninsula Road and in the context of the slope of the land towards the river. The landform seen from the southern boundary is comparatively different to the HDRZ in Queenstown central for example, which has the backdrop of Queenstown Hill and where increased heights are able to integrate with this landscape behind. Therefore, because the RD maximum height has been recommended to be increased under redrafted Rules 9.5.1 and 9.5.3 to 10m (as discussed above) it is necessary to limit height to 7m at this southern boundary. In his evidence Mr Garth Falconer supports this view, noting that a lower height limit of 7m is appropriate at this southern boundary (at paragraph 5.35).

Height along Frankton Road

9.30. PBCC (208) and Fred van Brandenburg (520) have submitted on the HDRZ chapter generally, with the aim of limiting the height of developments along Frankton Road to maintain views to Lake Wakatipu. The submitters seek updates to the PDP provisions to replicate the requirements under the ODP Site Rule 7.5.5.2(xix)(a) which states:

> *"No building or building element on the south side of Frankton Road (SH6A) shall rise above the nearest point of the roadway centreline, except for the intrusion of a single building element of no more than one story in height above the nearest point of the roadway centreline and limited to a cumulative length parallel to the road of not more*

than 10% of the length of the road frontage (to a maximum of 16 metres), used solely for access, reception and lobby uses related to the predominant use of the site.

This Rule applies to those properties from Cecil Road (Paper Road) to, and including, Lot 1 DP 12665."

9.31. The wording of this rule in the ODP is overly complex and lengthy, particularly relating to the exception for an intrusion of a single building element. Furthermore, monitoring compliance with the provision is difficult as it requires survey analysis; and the rule also appears to favour visitor accommodation or commercial uses, with the 10% exemption applying to reception and lobby uses.

9.32. In his evidence Mr Falconer states (at paragraph 3.19) that land along Frankton Road has valued views of the lake, and restricting the height of buildings to below that of the centre line of the road ensures that lake views can be obtained. However, Mr Falconer also notes at paragraph 5.42 that the 10% exception for access, reception and lobby uses complicates and compromises the intent of the rule in maintaining a free unobstructed view from the road across to the lake. I concur with Mr Falconer's evidence in this regard and have inserted the rule into redrafted Rules 9.5.1 and 9.5.3.

9.33. The inclusion of this rule also requires a consequential amendment to the matters of discretion under redrafted Rule 9.5.2 and 9.5.3 for RD building height for sloping sites.

10. ISSUE 3 – OTHER STANDARDS: BUILDING COVERAGE, DENSITY AND FLOOR AREA RATIO

Building coverage – Notified Rule 9.5.4

10.1. Notified Rule 9.5.4 requires a maximum 70% coverage for flat sites, and 65% for sloping sites. Plaza Investments Limited (551), Skyline Enterprises Ltd (612) (supported by Hurtell Proprietary Limited and others (FS1271), Mount Crystal Limited (FS1331); opposed by PBCC (208) and PBCC (FS1148)) seek that site coverage for sloping sites be increased from 65% to 70%. Antony and Ruth Stokes (575) seek that building coverage for sloping sites could be increased to 75%, "*because the ability to use sloping site land for outdoor amenities is somewhat limited…and it would be better to create outdoor amenities within a building structure in the form of courtyards and decks*". PBCC (208) seeks that site coverage for sloping sites is maintained at 65%.

10.2. I note that these submissions to increase maximum building coverage are by landowners within the HDRZ (not new rezoning submissions). I consider that it is appropriate to increase

the building coverage to provide a consistent rule for both flat and sloping sites. I do not consider a 5% reduction in building coverage for sloping sites will achieve practical benefit in terms of mitigation of amenity effects, particularly as sloping sites are constrained in achieving height and providing usable outdoor space.

10.3. I note that 65% would maintain the ODP rules for site coverage, which applies for both flat and sloping sites under Rule 7.5.5.2(i) within the ODP HDR Subzone A. This was increased for flat sites under the notified PDP to 70%. First, I acknowledge that building coverage was increased for flat sites under the PDP as one of a range of amendments to enable redevelopment and intensification in the zone (as reflected in the s32 report on page 22). Sloping sites are however potentially better able to accommodate increased site coverage. As reflected by the modelling undertaken by Boffa Miskell (**Appendix 5**), for a 1375m^2 site, maximising heights on sloping sites may be less commercially appealing as it may require separation into two buildings to get above 2 storeys in height. Hence I consider that built forms of up to two storeys are likely to be more common on sloping sites. Stepped buildings of two storeys in height may have reduced effects, and because height above two storeys is more difficult to achieve, I consider an additional allowance for building coverage to 70% may be more enabling of development.

10.4. For a 1000m^2 site (such as that modelled by Boffa Miskell), a 65% building coverage equates to a GFA of 650m^2. This becomes 700m^2 with 70% site coverage (at a crude estimate only). In this scenario, a 50m^2 increase in GFA is relatively minor, and as noted by Antony and Ruth Stokes (575) may avoid the creation of outdoor space which is limited in practical use. I also acknowledge that parking, access, servicing and permeable surface requirements will likely have a large influence on the achievable site coverage.

10.5. This position is supported by Mr Falconer, as noted in paragraph 5.30 of his evidence. He considers that a difference of 5% for sloping sites makes little difference and is unnecessary. My view is also that, as reflected in the s32 report, restrictive planning regulation should be avoided where possible, particularly where the benefit of retaining it is unclear. Furthermore, the HDRZ is anticipated to accommodate intensive, high density land uses.

10.6. I therefore support these submissions by Plaza Investments Limited (551), Skyline Enterprises (612), Hurtell Proprietary Limited and others (FS1271) and (Mount Crystal Limited (FS1331), and recommend that site coverage for sloping sites be increased to 70%. This is reflected in redrafted Rule 9.5.4 in Appendix 1.

10.7. The New Zealand Fire Service (**NZFS**) (438) submit that fire stations be exempt from building coverage rules, on the basis that fire stations should not be subject to a control which they may not be able to comply with. I do not support this submission, as the HDRZ provisions

enable greater site coverage than any other zone (particularly with the recommended increase to 70% for sloping sites). A development that breaches site standards in my view warrants the same assessment of effects as for any other type of land use. I also note that a fire station would be considered a community activity as per the PDP definitions, and therefore would be a Discretionary activity according to notified Rule 9.4.15 (redrafted Rule 9.4.9), which is supported by the NZFS (438). It is not the primary intent of the HDRZ to provide for community activities as permitted uses. As a fire station would require resource consent in any event, exemptions from building coverage rules are irrelevant.

Eave exceptions to boundary setbacks

10.8. Submitter 166 seeks that an eave exception is added to notified Rule 9.5.9 (redrafted Rule 9.5.8) for boundary setbacks. I note that an eave exception exists under the combined Residential Zone rules of the ODP. However I consider that such provisions are more relevant to lower density environments, and for the reasons that follow I do not consider this exception is necessary for the HDRZ.

10.9. The built form of the HDRZ is less likely to have eaves, particularly where height limits are maximised. Also, given the increased height and density allowance for the zone under the PDP, I consider it necessary to maintain the 2m setbacks from boundaries. Maintaining a 2m setback from site boundaries will be beneficial not only to neighbours, but also for providing adequate amenity within the site, for example access, open space or landscaping around buildings. I note that developments of more than 3 units will require RD consent, and in this instance if eave exceptions were necessary to better utilise the site then this may be considered.

10.10. For these reasons, my view is that a 2m setback from boundaries is an appropriate permitted standard, and I reject Aurum Survey Consultant's (166) submission.

Continuous building length (notified Rule 9.5.8)

10.11. PBCC (208) (opposed by FS1242 and FS1279) requests retention of the ODP rule for continuous building length, to retain the 16m unbroken length, citing concerns over the potential for "*monotonous and dominant structures*". NZIA (238) supports the rule as notified, however they seek that an interpretive diagram be included to clarify how the rule would apply to a double level building. The submission of the NZIA is opposed (generally) by further submissions 1107, 1226, 1234, 1239, 1241, 1242, 1248, 1249.[17]

17 1107 (Man Street Properties Ltd), 1226 (Ngai Tahu Property Limited & Ngai Tahu Justice Holdings Limited), 1234 (Shotover Memorial Properties Limited & Horne Water Holdings Limited), 1239 (Skyline Enterprises Limited &

10.12. The ODP contains a rule under Site Standard 7.5.5.2(vii) relating to continuous building length, and states the following for the HDRZ:

Continuous Building Length in the HDRZ Zone

(a) No unbroken building length shall exceed 16m. Breaks in building length shall be a minimum of 2m in depth and 4m in width for the full height of the wall and shall include a discontinuous eave line and roofline at the break.

(b) The aggregate length along any true elevation of a building, including breaks, shall not exceed 30m

10.13. Consistent with other changes within the PDP which seek to better enable anticipated development in the zone and remove restrictive planning controls, this rule was amended under the PDP, as below:

9.5.8	**Continuous Building Length** The continuous length of any building facade above one storey shall not exceed 30m. Where a proposal exceeds this length, a Restricted Discretionary activity consent shall be required with discretion restricted to all of the following: • The extent to which variation in the form of the building including the use of projections and recessed building elements, varied roof form, and varied materials and textures, reduces the potential dominance of the building • The extent to which topography or landscaping mitigates any dominance impacts • The extent to which the height of the building influences the dominance of the building in association with the continuous building length. • Where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: an assessment by a suitably qualified person is provided that addresses the nature and degree of risk the hazard(s) pose to people and property, whether the proposal will alter the risk to any site, and the extent to which such risk can be avoided or sufficiently mitigated[1].	RD

10.14. The effectiveness of the ODP rule is not discussed in the relevant monitoring reports.[18] However, it is understood that difficulties have arisen in determining compliance with the dimensions of 'breaks'. I also consider that specifying the minimum depth and width of breaks can reduce flexibility in design outcomes and increase construction costs, sometimes with little additional benefit to amenity. However, I acknowledge that the rule attempts to place some control over the potential for monotonous buildings to be constructed in the zone, with adverse effects to character and amenity.

10.15. Arguably, the potential for such a 'monotonous' built form could be more incentivised and of greater effect to neighbours and the streetscape under the more enabling framework of the PDP (recognising liberalised recession planes, heights and setbacks). As such, I consider it is necessary to retain the rule, albeit in an amended form which attempts to balance amenity and development rights.

O'Connells Pavillion Limited), 1241 (Skyline Enterprises Limited & Accommodation and Booking Agents), 1242 (Antony & Ruth Stokes), 1248 (Trojan Holdings Limited & Beach Street Holdings Limited), 1249 (Tweed Development Limited)

18 The Wanaka HDRZ Zone Monitoring Report (QLDC, 2011), available online at http://www.qldc.govt.nz/planning/other-planning-information/monitoring/ ; The Queenstown HDRZ Zone Monitoring Report (QLDC, 2011), http://www.qldc.govt.nz/planning/other-planning-information/monitoring/

10.16. Notified Rule 9.5.8 limits the requirement for breaks in building façades above the first storey, recognising that bulk and dominance effects are unlikely to be experienced for single storey buildings where fence height mitigates visibility at this level. It also increases the permissible length of a continuous façade to 30m, above which RD consent is triggered.

10.17. I consider that incorporating the 16m length as specified in the ODP (as requested by PBCC) would not be efficient or effective, as development of up to three dwellings is Permitted in the HDRZ under redrafted Rule 9.4.3 (provided all other standards are met). Retention of a 16m building length standard (as requested by PBCC) would likely trigger consent, and result in the inability to realise permitted development in the zone. I therefore consider that a 30m length (as per notified Rule 9.5.8) is more appropriate, and better aligns with the possible length of a 2-3 unit development that is anticipated in the HDRZ.

10.18. However, after considering the submissions of PBCC and NZIA, I acknowledge that the rule could be improved to remove ambiguity and better achieve its intent. For example, the notified rule would provide the developer with discretion to provide 'breaks' in building façade, where the length of the building exceeds 30m, and therefore to potentially retain permitted activity status. Whilst this is certainty more enabling of development, difficulties may arise in using this standard to determine a permitted status, due to "continuous" being undefined, and the lack of methods to provide breaks or articulation to the façade. As discussed by Ms Amanda Leith in the s42A report for the LDRZ, it is also accepted that use of 'one storey' could be unclear as to what constitutes a 'storey'.[19]

10.19. I therefore recommend minor amendments to notified Rule 9.5.8 to give effect to these submissions, by removing the use of the word "continuous" and instead refer to "above ground level" rather than "storey". I do not consider that a diagram is necessary given these minor wording changes. The changes I propose clarify that the rule applies to the entire facade length rather than a single plane of an elevation through the removal of the word "continuous", and to state that the rule applies to all floors above the ground floor level rather than the current wording "above one storey". This amendment will have the effect that any building façade greater than 30m in length would trigger RD consent, recognising that a facade of this scale warrants consideration as to the methods used to reduce dominance in the HDRZ. These changes are also further analysed in **Appendix 4** (**s32AA**)

19 s42A Report – Low Density Residential Zone, dated 16 September 2016, page. 34

Parks and reserves

10.20. The Friends of the Wakatipu Gardens (506) have submitted on residential provisions of the PDP generally, seeking that "*Densification development should be done on the basis that additional public open spaces, reserves and public gardens are provided*".

10.21. The provision of parks and reserves is undertaken via the development contributions process, and outlined in the Councils 'Policy on Development Contributions & Financial Contributions' (2016-17). The Policy outlines in detail the basis for collection of reserve contributions, and notes that "*The Queenstown Lakes District currently has a publicly accessible park provision of approximately 1,813 hectares. This level of service is significantly higher than the national average*". Currently, reserve contributions are not collected for brownfield development, as these areas are considered to be well serviced, and reserve contributions are considered to be one of the barriers to realising affordable housing.

10.22. I do not support this submission; and consider that this is a matter separate to the provisions of the HDRZ.

11. ISSUE 4 – TRANSPORT AND INFRASTRUCTURE

Public and active transport

11.1. Notified Objective 9.2.6 requires that developments in the zone minimise impacts on infrastructure and roading, and subsequent policies encourage developments which provide or support public and active transport services.

11.2. Notified Objective 9.2.6 is supported by the NZ Transport Agency (719), E Spijkerbosch (1059), P Greg (1288) and Villa DelLago (380); and opposed by Transpower (805). The opposition by Transpower is discussed under 'other infrastructure' below.

11.3. The NZ Transport Agency (719) generally support notified provisions for alternative modes of transport, with the exception of clarification amendments to notified Policy 9.2.6.4 to clarify that this policy is intended to optimise the connectivity, efficiency and safety of *the transport network*, as opposed to 'roading' networks. This amendment will allow the objective to apply more broadly, and enable consideration of transport infrastructure other than simply roads. I consider this is appropriate and I therefore accept this submission. These changes are shown in **Appendix 1** and analysed in **Appendix 4** (**s32AA**).

11.4. The Otago Regional Council (**ORC**) (798) considers that the PDP needs to better provide for public and active transport services; and have the flexibility to adapt to changes in service

provision or routes as a result of population growth, tourism, and development. ORC also seeks inclusion of provisions for residential developments, particularly those large in scale, to provide for public transport services and infrastructure in the future. Furthermore, ORC considers that main road corridors in these areas should be retained to accommodate public transport services and infrastructure.

11.5. I agree with the views expressed by the ORC that the PDP should encourage and enable public transport and that it could be more explicit in this regard. As such I recommend amendment to include reference to public transport within redrafted Objective 9.2.6 as well as 9.2.6.2. These changes are shown in **Appendix 1**. In relation to corridor protection, I note that no specific locations or routes have been identified by the ORC, and consider that the designation process may be a more appropriate avenue for the protection of future transport corridors. Alternatively, if the submitter can provide more specific detail about locations or buffers to be protected, then this may be considered for inclusion in the PDP.

11.6. In relation to the ORC's submission for large scale residential developments to provide for public transport services, the specific public transport services intended within developments is not explained. However, I consider this is partly addressed by notified Policy 9.2.6.1 redrafted Policy 9.2.6.2 and notified Policy 9.2.6.3 which refer to public transport and encourage facilities for walking and cycling. Furthermore, the Transport chapter will be reviewed during Stage 2 of the District Plan review. I therefore reject this submission point.

Parking and access

11.7. Villa delLago (380) submitted on notified Objective 9.2.6, and noted their support for reduction in parking. However they also seek that "where parking is provided, "keep it within the building, underground and away from sight".

11.8. Standards for parking and access will be reviewed during Stage 2 of the District Plan review, and therefore the potential to incorporate rules such as this can be considered at that time. While I note that notified Policies 9.2.6.4 and 9.2.6.5 refer to parking and access, they do not set specific standards as to how or where it should be designed. I consider that the intent of this submission is partly addressed by notified Policy 9.2.2.2 which, in relation to desired amenity outcomes, states that "*street edges shall not be dominated by garaging, parking and accessways*". I therefore reject this submission.

11.9. NTZA (719) also submit that the matters of discretion (specifically the fourth bullet point) under notified Rule 9.4.4 (redrafted Rule 9.4.4) should be amended to specifically refer to the roading network, as follows:

"Parking and access arrangements and the safety and efficiency of the roading network"

11.10. Firstly, I consider reference to "roading" is inconsistent with the relief sought by NTZA under notified Objective 9.2.6 to refer to "transport" generally, and if the matter of discretion were to be amended it should also refer to the "transport network". However, the notified matter of discretion also relates to the safety and efficiency of internal access and parking, allowing assessment of these matters through the resource consent process. As such I reject this submission point.

State Highway – Reverse sensitivity and setbacks

11.11. The NZTA (719) seek that new provisions are added to manage reverse sensitivity effects of urban development adjoining the State Highway, including rules requiring all new and altered buildings within 80m of the State Highway to meet the internal sound levels of AS/NZ 2107:2000.

11.12. I refer to and rely on the evidence of Dr Stephen Chiles in which he considers that reference to AS/NZ 2107:2000 within the PDP would not be effective (at his paragraph 5.4), because it requires reference to an external document, and also because it does not contain specific noise criterions applicable for different spaces of a building. Dr Chiles considers that it would provide more certainty for rules to set the specific noise limits. Further, Dr Chiles considers that the internal noise levels proposed by the NZ Transport Agency are not appropriate, and for consistency with the Transport Agency published guidance[20], a criterion of 40 dB LAeq(24h) in all habitable spaces including bedrooms is recommended for all buildings (including visitor accommodation).

11.13. Dr Chiles (at his paragraph 8.1) refers to mapping of the NZ Transport Agency which identifies the extent of the State Highway network anticipated to experience effects from road noise (i.e. levels in excess of 57 dB LAeq(24h)), and the horizontal distance from the highway in which the effects are likely to occur.[21] I note that the 'effects area' indicated on this map covers a large extent of the HDRZ.

11.14. I therefore consider that acoustic insulation in the 'effects area' of the HDRZ is appropriate, for the purpose of improving the amenity of this zone. The costs associated with insulation requirements are likely to be minor, in the context of overall development costs. According to research undertaken by the NZTA, typical costs of acoustic treatment are in the order of

20 NZ Transport Agency, 2015, Guide to the management of effects on noise sensitive land use near to the state highway network, http://nzta.govt.nz/resources/effects-on-noise-sensitive-land/.

21 http://nzta.govt.nz/roads-and-rail/highways-information-portal/technical-disciplines/noise-and-vibration/planning/reverse-sensitivity-buffer-and-effects-areas.

$10,000 for a 3-bedroom dwelling (Dr Chiles, paragraph 7.2). The NZ Transport Agency has not investigated the costs for higher density development, however there are some reasons why the costs may be comparable, or less, than that identified for a 3-bedroom dwelling. As identified in the evidence of Stephen Chiles, costs may be reduced as apartment style developments generally have fewer facades with windows due to adjacent units, and it is more common for there to be mechanical ventilation/cooling systems (paragraph 7.3). Additionally, economies of scale should also benefit higher yield developments.

11.15. I therefore accept the submission of the NZ Transport Agency in part, subject to amended wording to give effect to the evidence of Dr Stephen Chiles. I also accept that the rules for acoustic insulation should apply for all developments within 80m of the State Highway. This results in the recommended addition of new Objective 9.2.7, Policy 9.2.7.1, and Rule 9.5.12, as illustrated in **Appendix 1** and analysed in **Appendix 4** (**S32AA**). The wording of these new provisions includes the terminology "activities sensitive to road noise". However, "activities sensitive to road noise" is not defined by the PDP. I therefore consider that the definition of ASAN (Activity Sensitive to Aircraft Noise) can be amended to apply to both road noise and airport noise. The recommended change is discussed in the Definitions section.

Setbacks from the State Highway

11.16. The NZ Transport Agency (719) seek increased setbacks of 4.5m from roads adjoining a state highway, for the purpose of increased amenity. This submission is opposed by the Hansen Family Partnership (FS1270) as the submitter considers that if acoustic treatment is required for buildings within 80m of the State highway, then increased setbacks are not necessary. I agree with the reasoning of the Hansen Family, as the requirement for acoustic treatment would apply whether the building was situated with a 2m setback or 4.5m as proposed by NZTA. However, I note the basis for this submission by NZTA was for amenity reasons, and therefore the submission (FS1270) is somewhat irrelevant.

11.17. I note that 4.5m is the current setback from road boundaries under the ODP. I consider that a 4.5m setback from the State highway would be appropriate both in supporting amenity outcomes, but also to give effect to relief sought by the ORC that the plan has the flexibility to adapt to changing requirements for transport, and that an increased setback may provide some buffer for this.

11.18. For these reasons, I support an increased setback to 4.5m adjoining state highways, as per redrafted Rule 9.5.8 in **Appendix 1** and analysed in **Appendix 4** (**s32AA**).

Other Infrastructure

11.19. Transpower (805) seek amendments to notified Objective 9.2.6 to specifically reference protection of the National Grid.

11.20. Transpower's opposition is on the basis that they seek that this objective is amended to provide specific protection of "regionally significant infrastructure", including the national grid and roading networks. I note that a definition of "regionally significant infrastructure" was recommended within Hearing Stream 01B – Strategic Direction,[22] and is recommended to be further amended through Hearing Stream 5.[23] Furthermore, various provisions of Chapter 30 – Energy and Utilities relate to the protection of the National Grid from activities which may compromise efficient use, upgrade and maintenance.

11.21. While I acknowledge the need to protect the National Grid, I do not consider that specific mention is necessary within the HDRZ provisions. Firstly, the National Grid comprises two assets within the Queenstown Lakes District, being the Cromwell – Frankton 110kV overhead transmission line, and the Frankton Substation. Neither of these assets are located within or in close proximity to the HDRZ. The redrafted Objective 9.2.6 refers to "infrastructure" in a broad sense, and as such can apply to consideration of effects on electricity networks being a type of "infrastructure" defined under Section 2 of the RMA. I also note that Transpower has made similar submissions on the Subdivision Chapter, in addition to Chapter 30 – Energy and Utilities; and these chapters are more appropriate for the inclusion of such provisions. Therefore I reject Transpower's submission.

12. ISSUE 5 – NON RESIDENTIAL USES

Community activities

12.1. The provisions of the HDRZ enable community and commercial uses to locate in the zone, where appropriate, to service the residential environment and are of a scale where adverse effects can be avoided or mitigated.

12.2. In relation to community facilities, the NZFS (438) has proposed a new definition of 'Emergency Service Facility'; and seeks that notified Objective 9.2.4 be amended to include reference to Emergency Service Facilities, for the purpose of enabling fire stations to be located in every zone. I note that the NZFS have also sought inclusion of a new definition of "Emergency Service Facility" to support this. As discussed in the s42A report for the LDRZ, a

22 Reply of Matthew David Paetz on behalf of Queenstown Lakes District Council, Strategic Direction and Urban Development Chapters, 7 April 2016
23 Section 42A Hearing Report, Chapter 30 Energy and Utilities, Report dated: 19th August 2016

definition of "Emergency Service Facility" has not been recommended.[24] I concur with the recommendation of Ms Amanda Leith on this matter.

12.3. I therefore reject this submission and consider that reference to "community activity" is sufficient to provide for such a use in the HDRZ. "Community Activity" is defined by the PDP to include "*the use of land and buildings for ….health, welfare, care, safety…*" and also specifically mentions police stations and fire stations.

12.4. The Ministry of Education (**MoE**) (524) (supported by NZFS) seeks that notified Rule 9.4.15 (redrafted Rule 9.4.9) is amended to change the activity status of community activities from Discretionary to Permitted. I note that MoE also seek the same amendments to the LDRZ and MDRZ. The reasons provided is that community activities are identified as being anticipated within the HDRZ, whereas the proposed Discretionary activity status will require every aspect of a new development to be considered, which is inconsistent with the objectives and policies of the zone.

12.5. As discussed in the s32 analysis on pages 20-21, the HDRZ does enable community activities in the zone, as needed to support the wellbeing of the community; and recognises that in some instance benefits can be realised from such services close to residences. However, the provisions also recognise that large scale facilities will need to be carefully scrutinised to ensure they are compatible with the environment the activity seeks to locate within. As such, the provisions do not provide support for community activities as of right.

12.6. I concur with the opinion of Ms Amanda Leith on this matter (as reflected in the S42A report for the MDRZ and LDRZ),[25] "*community activities can be highly varied in their scale and nature. For example, community activities can include schools, hospitals, churches, fire stations, detention centres and the like which are all very different from one another in terms of their scale and nature, have different operational requirements and potential effects*".

12.7. Although the relief sought by MoE (524) opens up the scope to consider any activity status between Permitted and Discretionary, I consider that a Discretionary activity status regime is appropriate to retain. In my opinion, limiting control or restricting discretion for community activities may not adequately capture the wide range of activities, facilities and importantly effects which may be associated with a community activity. Furthermore, although the zone provides for these activities within it, this is qualified by the need to demonstrate the community activity is best located in a residential environment (as per redrafted objective

24 s42A report for the LDRZ, dated 16 September 2016, page 50
25 s42A report for the LDRZ, dated 16 September 2016., paragraph 11.14, 14.15; s42A report for the MDRZ, dated 16 September 2016, paragraph 11.8.

9.2.4). I consider that a C or RD activity status may elevate this use such that the zone appears more enabling of it.

12.8. For these reasons, I reject the submission of MoE and recommend that the proposed Discretionary activity status remains.

12.9. N Mahon (628) seeks that the activity of a retirement village should be permitted in the HDRZ and the construction of buildings for a retirement village should be RD. I note that the submission of N Mahon also requests rezoning of land at Park Street from MDRZ to HDRZ. Although the outcome of this rezoning request will be considered in a later hearing stream, I infer that the proposed amendment to notified Rule 9.4.16 (redrafted 9.4.10) would seek to permit a retirement village on this land. I consider that the use of land within the HDRZ for a retirement village, and the design and layout of built form on that land for such a purpose warrant consideration via a resource consent process. I consider that the needs of persons occupying a retirement village (and the associated built form) differs from that typically anticipated in a high density environment which enables built form of 3 storeys or more. I also consider that a retirement village can often be a low density scale of development, and a land use of such density may compromise the intent of the HDRZ.

12.10. Similar to that discussed above, although the relief sought by N Mahon (628) opens up the scope to consider any activity status between Permitted and Discretionary, in my opinion, limiting control or restricting discretion for this activity may elevate this use such that the zone appears more enabling of it; and this may affect the efficient use of land within the zone for more intensive residential or visitor accommodation uses. As referred to in the evidence of Mr Osborne (at paragraph 6.15): "*A key purpose of planning is to produce the most efficient use of an economy's land resource. Planning regulations are designed to control private uses for this resource so as to produce a sustainable long-term outcome. Increasing the level of activity on a given quantum of land provides greater levels of land for other uses".* I consider that the sustainable long term desired outcomes of the HDRZ are better served by retaining a Discretionary status for this activity.

12.11. I therefore reject this submission and consider that Discretionary status for a retirement village is appropriate in this zone.

Commercial activities

12.12. In regards to commercial uses within the HDRZ, K Boulay (159) opposes notified Objective 9.2.5 and Rule 9.4.6; while Villa DelLago (380) supports notified Objective 9.2.5; and SEL (612) supports notified Rule 9.4.6. The NZ Transport Agency have sought amendments to

notified Rule 9.4.6 to alter the activity status of commercial activities to either Restricted Discretionary, or Discretionary.

12.13. Notified Rule 9.4.6 requires that commercial activity must be integrated with (on the same site as) a medium-large scale residential development of 20 units or more. This rule is intended to enable onsite commercial uses, either directly serving the needs of the residential development (such as a small office or shop) or may also enable a café or similar use which contributes to activation of the street. It may also enhance the vibrancy of the urban environment. The rule ensures the scale of such a commercial use is limited to 100m^2. Therefore, in terms of the NZ Transport Agency's concern regarding transport effects, I consider that these would be addressed as part of the needs of the overall development (which must be more than 20 units for the commercial use to be permitted under notified Rule 9.4.6). The appropriate rates of onsite parking provision for such a land use will be considered in Stage 2 of the review.

12.14. For these reasons, I support the submissions of Villa DelLago (380) and SEL (612) and recommend notified (and redrafted) Objective 9.2.5 and Rule 9.4.6 are retained. I reject the submissions of the NZ Transport Agency and K Boulay.

13. ISSUE 6 – NON NOTIFICATION

13.1. A number of submitters have sought changes to the non-notification clauses within notified section 9.6.

13.2. The NZ Transport Agency (719) seek recognition that the Agency should be notified as an affected party for any activity adjacent to the State highway. While I acknowledge the Agency's interest in land uses that could affect the operation of the State Highway network, I consider that the effects of the activity would need to be associated with the State highway, and not simply because a property *adjoins* the State highway and requires a resource consent. If the submitter was concerned with such development adjacent to the highway, then they would presumably also be concerned with the location of the zone – and this has not been indicated in their submission. I therefore recommend that the NZ Transport Agency be identified as an affected party, however only where a development requires a resource consent associated with *access to* the State Highway.

13.3. PBCC (208) seek that notified Rules 9.6.2.1 and 9.6.3.1 are deleted. The reasoning provided is to give effect to the remainder of their submission, and also as it is stated that it is inappropriate to preclude notification for multi-unit development in all instances. This submission is opposed by A and R Stokes (FS1242) and LEDL (FS 1279). As noted in the section 32 analysis, the provisions of the HDRZ aim to avoid restrictive planning regulation,

which can impact on housing supply and affordability, and also seeks to provide a better balance between development rights and amenity values, recognising that the purpose of the zone is to provide for 'high density' intensive developments. For this reason, non-notification clauses have been limited to those developments that are controlled or restricted discretionary (although I acknowledge a recommended new Rule 9.6.3.2 for minor setback breaches discussed below); recognising that where standards are breached and consequently the development becomes a more restrictive activity status, notification may then be reasonable. I consider that the PBCC does not consider these wider objectives, and that their submission is limited to advancing site specific interests for the Pounamu Hotel site. I therefore reject their submission and consider it is appropriate to retain notified 9.6 in the interests of enabling the desired development within the zone (with the exception of the NZ Transport Agency amendments discussed above).

13.4. Fred van Brandenburg (520) seeks retention of the non-notification clause from 7.5.4(viii) of the ODP, which enables applications involving breaches to site standards to progress non-notified, if they are accompanied by a report from the Urban Design Panel supporting the application. I do not consider that the HDRZ should mandate input from the Urban Design Panel, as already discussed. I note that the ODP non-notification rules apply only for specific land parcels within the zone, and for specified rule breaches. I note that the submitter's interest relates directly to the rule applicable to 595 Frankton Road (ODP 7.5.4viii). This site has a consented development for 99 apartments, and currently remains undeveloped.

13.5. I do not consider it efficient to retain such site specific rules in the PDP, as they currently require reference to legal land descriptions which are not transparent, and can change over time. I note that notified non-notification Rule 9.6.2 partly achieves the intent desired by the submitter as it provides for a development proposal for 4 units or more as RD; and further notified Rule 9.6.3 allows limited notification for height breaches. However, for other breaches to standards it would be impossible for the development to remain RD as many of the non-compliance status are either D or NC.

13.6. As an alternative means of achieving the submitter's sought relief, I consider it appropriate that a new rule is added to notified 9.6.3 (new Rule 9.6.3.2) to enable developments involving minor breaches to boundary setbacks up to 0.6m to progress with limited notification. This also partly supports the submission of Aurum Survey Consultants (166), who sought eave exceptions to boundary setbacks (which I do not support, discussed previously in this report). Given the rules of the PDP are more enabling in terms of site coverage and recession planes, I do not consider it appropriate for such activities to proceed non notified or limited notified, and a case by case assessment should be made for breaches to these standards. New Rule 9.6.3.2 is replicated below, and included in **Appendix 1**.

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

9.6.3 *Restricted Discretionary building height ~~for sloping sites.~~*

9.6.3.2 Boundary setback breaches up to 0.6m.

9.6.3.1

13.7. I also note a number of submitters (Sue Knowles (7), Erna Spijkerbosch (FS1059), Trustees - Panorama Trust (64), Pounamu Body Corporate Committee (FS1148), Body Corp 27490 9A,B,C and D York Street (364), Diane Dever (193)) seek that notification should be required for proposals breaching the 7m height limit for sloping sites. However notified Rule 9.6.3.1 states that "*restricted discretionary building height for sloping sites*" will require serving of notice on those persons considered to be adversely affected, if those persons have not given their written approval. I consider this level of notification to be appropriate.

14. ISSUE 7 – OTHER MATTERS

Minimum lot size (located in Subdivision Chapter 27)

14.1. Aurum Survey Consultants (166) submit that the minimum lot size for the HDRZ, as specified by 'Chapter 27 – Subdivision', is amended from 450m^2 (as per notified Rule 27.5.1), to state no minimum lot size. The submitter also questions why the zone has a minimum lot size of 450m^{2,} which is larger than that of the MDRZ.

14.2. I note that the HDRZ has a larger minimum lot size than the MDRZ because additional land area is necessary to provide for landscaping, access, servicing and parking requirements in this zone where density and height limits are greater. Reduced lot sizes, considered in the context of a possible 12m height limit (notified Rule 9.5.1) have the potential to create narrow buildings, reduced unit yields and poorly integrated built form outcomes.

14.3. I refer to the evidence of Mr Falconer (paragraph 5.43) in which he considers that a minimum lot size of 1000m^2 is more appropriate for the zone, as he states "*a large lot size is required to produce a building that can provide access and is well proportioned with the added height provision*".[26]

14.4. I also consider that achieving the maximum height limit and density for the zone would be more difficult to achieve with smaller lot sizes of reduced width, where recession planes control the height which can be achieved. I also consider that the purpose of the zone is to

26 Evidence of Mr Garth Falconer, statement dated 16 September.

enable intensive forms of development, at increased densities than the low and medium density residential zone. To enable lot sizes of 450m^2 may compromise achieving intensive development, and could encourage existing landowners to simply subdivide for a single residence, rather than to re-develop for integrated residential or visitor accommodation uses.

14.5. I consider that a minimum lot size is necessary to retain, as with a "no minimum" lot size, there is a risk of smaller lots being created with reduced yield, leading to inefficient land use within the zone and the creation of freehold sites without certainty that the anticipated development can have appropriate access and manoeuvring. I therefore reject the submission of Aurum Survey Consultants (166). However, I note that there is no scope to increase the minimum lot size, as this relief was not sought by the submitter. Therefore, I recommend that the notified minimum lot size (notified Rule 27.5.1) is retained as 450m^2.

Outdoor Living Space

14.6. Submitter NZIA (238) seeks that requirements for outdoor living space be reinserted into the HDRZ provisions. I do not support this new standard. I consider the removal of these provisions to be more enabling of development in the HDRZ, and allows for a market led response to the provision of balconies for example. Other controls such as setbacks, recession planes and permeable surface will, to some extent, enable sufficient provision of outdoor amenities. In the context of incorporating Urban Design Guidelines into this chapter, as recommended by Mr Falconer in his evidence,[27] I consider that such elements of built form could be considered addressed by any urban design guidelines, in addition to the use of the urban design panel.

Height exemption for Drying towers

14.7. The NZFS (438) seek to exempt drying towers associated with fire stations from the height requirements. I acknowledge the important role of community activities. However, I consider that the effects of their developments and activities should be assessed on a case by case basis in order to take into account the potential effects of the increased height upon the residential amenity of the surrounding properties. For this reason, I do not support the proposed exemptions to the height standards.

Privacy

14.8. QLDC's corporate submission (383), seeks an amendment to notified Rule 9.4.4 to include privacy as a matter of discretion and to add a new policy to this effect. PBCC (208) submit

27 Evidence of Mr Garth Falconer, statement dated 16 September, para 5.9

against notified Policy 9.2.3.1, 9.2.3.2, and Rule 9.4.4 with amended wording, which includes reference to "*sunshine and light access, outlook and privacy".* PBCC's submission refers to effects on neighbours and nearby properties, and achieving high quality developments.

14.9. I consider and concur with the evidence of Ms Amanda Leith (at para 10.67) in which she considers the effect of notified rule for window sill heights in the MDRZ. While not directly related, I consider the position of Ms Amanda Leith regarding the level of weight which should be afforded to privacy is appropriate to retain at the policy level and within matters of discretion, as opposed to being further specified by rules which may heighten the perceived sense of importance placed upon this matter. My view is that privacy is a relevant consideration for developments within the zone, in protecting amenity, security and wellbeing; however within the context of a zone which is anticipated to become increasingly intensified.

14.10. While I have accepted the submission of PBCC (208) relating to inclusion of sunshine and light access within the matters of discretion (discussed in para 8.27 of this evidence), I do not support the wording advanced by PBCC referring to "outlook and privacy" as I consider this wording to be too broad in application and subjective. Further, the resource management issue which is sought to be managed is the protection of adjoining properties from the loss of privacy (including security considerations), and not loss of 'outlook' which relates to loss of views, and not directly privacy. As such, I recommend that an additional policy relating to privacy be inserted under Objective 9.2.3 (new Policy 9.2.3.3) and an additional matter of discretion be inserted into notified Rule 9.4.4. As these provisions will not prescribe a privacy distance, the design of developments will need to ensure that privacy is considered in the design taking into account the site context.

15. ISSUE 8 – DEFINITIONS

ASAN/Activities sensitive to road noise

15.1. As a consequential amendment to the NZ Transport Agency's submission (719), I recommend the amendment to the definition of ASAN, as set out below.

> ***Activity Sensitive To Aircraft Noise (ASAN)/<u>Activities sensitive to road noise</u>*** *- Means any residential activity, visitor accommodation activity, community activity and day care facility activity as defined in this District Plan including all outdoor spaces associated with any educational facility, but excludes activity in police stations, fire stations, courthouses, probation and detention centres, government and local government offices.*

15.2. This change is necessary to aid implementation of the recommended new provisions for road noise effects. The change is necessary as new (redrafted) Objective 9.2.7, Policy 9.2.7.1, and Rule 9.5.11, include the terminology "activities sensitive to road noise", as set out within **Appendix 1**. However, "activities sensitive to road noise" is not defined by the PDP.

Flat and sloping sites

15.3. Submission 166 sought that the ground slope definition is removed from notified Rule 9.5.4 on the basis that it is irrelevant to the rule for building coverage. I support this view, as the note is not directly related to building coverage, however it is relevant to determining if the site is sloping or flat, as different building coverage standards are applied to each (notified 9.5.4.1 and 9.5.4.2).

15.4. Consideration to accepting the relief sought by this submission prompted the analysis of how ground slope (and in particular reference to flat and sloping sites) would be applied if the provision were removed. Ground slope, and specification to what is a flat and sloping site, is included within the relevant standards (rules) that require consideration to slope (i.e. notified Rules 9.5.1, 9.5.2, 9.5.3, 9.5.4, 9.5.5). This is also consistent with the approach used in the LDRZ and MDRZ chapters.

15.5. To accept the relief sought by the submitter, would require in the context of notified Rule 9.5.4 for building coverage, that flat and sloping sites are elsewhere defined. However, there is no definition of flat or sloping site in Chapter 2 (definitions), nor is it included within the definition of "height" or "ground level".

15.6. My view is that the terms under the umbrella of "height" or "ground level" would not be clear or obvious to plan users, and also may not be interpreted as being directly related to either of these defined terms. Therefore, I recommend that new definitions are added for each of "flat site" and "sloping site", as set out below; and that all reference to these terms within the standards table should be removed. I consider this change to be an immaterial consequential amendment to accepting the relief of submitter 166, and this is analysed in **Appendix 4** (s32AA).

> *Flat site - Flat sites are where the ground slope is equal to or less than 6 degrees (i.e equal to or less than 1 in 9.5). Ground slope in relation to building height shall be determined by measurement over the extremities of each building elevation.*
>
> *Sloping site - Sloping sites are where the ground slope is greater than 6 degrees (i.e greater than 1 in 9.5). Ground slope in relation to building height shall be determined by measurement over the extremities of each building elevation.*

16. Issue 11 – Officer recommendations

16.1. The changes below are recommended to the chapter provisions in order to ensure consistency with recommendations made with other chapters (LDRZ, LLR, MDRZ, ARHMZ).

a. simplifying redrafted Objective 9.2.4 and notified Policy 9.2.4.1 to remove reference to community facilities, as the definition of "community facility" is limited to activities within a community facility sub-zone and does not currently apply to the HDRZ.
b. Removing the term "dwelling" from notified Rules 9.4.3 and 9.4.4, 9.4.6, and 9.6.2.1 as the 'Residential Activity', 'Residential Unit' and 'Residential Flat' definitions are adequate to describe and regulate the provision of residential accommodation; and use of these terms is familiar to users of the ODP (as discussed in para 14.28 to 14.30 of the s42A report for LDRZ).
c. Amending "bulk material storage" (notified Rule 9.4.26) to "outdoor storage" (redrafted 9.4.20). As discussed in para. 14.31 of the s42 report for the LDRZ, as "bulk material storage" is not defined by the PDP.
d. Amendment to the matters of discretion for continuous building length, as discussed in para 10.62 of the s42 report for the MDRZ as they have been drafted as assessment criteria, rather than matters of discretion
e. Specifying that exceptions for accessory buildings for residential activities (under notified rule 9.5.9, redrafted 9.5.8) apply only within the side and rear setback distances (and not the road boundary).

16.2. As analysed in **Appendix 4 (s32AA),** I consider these changes to be of minor consequence and will benefit effective plan implementation:

17. CONCLUSION

17.1. On the basis of my analysis within this evidence, I recommend that the changes within the Revised Chapter in **Appendix 1** are accepted.

17.2. The changes will improve the clarity and administration of the Plan; contribute towards achieving the objectives of the Plan and Strategic Direction goals in an effective and efficient manner and give effect to the purpose and principles of the RMA.

Kimberley Banks
Senior Planner
14 September 2016