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

3 STRATEGIC DIRECTION

QUEENSTOWN LAKES DISTRICT COUNCIL

3.1 Purpose

This chapter sets out the over-arching strategic direction for the management of growth, land use and development in a manner that ensures sustainable management of the Queenstown Lakes District's special qualities:

a. dramatic alpine landscapes free of inappropriate development;

b. clean air and pristine water;

c. vibrant and compact town centres;

d. compact and connected settlements that encourage public transport, biking and walking;

e. diverse, resilient, inclusive and connected communities;

f. a district providing a variety of lifestyle choices;

g. an innovative and diversifying economy based around a strong visitor industry;

h. a unique and distinctive heritage;

i. distinctive Ngāi Tahu values, rights and interests.

The following issues need to be addressed to enable the retention of these special qualities:

a. Issue 1: Economic prosperity and equity, including strong and robust town centres, requires economic diversification to enable the social and economic wellbeing of people and communities.

b. Issue 2: Growth pressure impacts on the functioning and sustainability of urban areas, and risks detracting from rural landscapes, particularly its outstanding landscapes.

c. Issue 3: High growth rates can challenge the qualities that people value in their communities.

d. Issue 4: The District's natural environment, particularly its outstanding landscapes, has intrinsic qualities and values worthy of protection in their own right, as well as offering significant economic value to the District.

e. Issue 5: The design of developments and environments can either promote or weaken safety, health and social, economic and cultural wellbeing.

f. Issue 6: Tangata Whenua status and values require recognition in the District Plan.

This chapter sets out the District Plan's strategic Objectives and Policies addressing these issues. High level objectives are elaborated on by more detailed objectives. Where these more detailed objectives relate to more than one higher level objective, this is noted in brackets after the objective. Because many of the policies in Chapter 3 implement more than one objective, they are grouped, and the relationship between individual policies and the relevant strategic objective(s) identified in brackets following each policy. The objectives and policies in this chapter are further elaborated on in Chapters 4 – 6. The principal role of Chapters 3 - 6 collectively is to provide direction for the more detailed provisions related to zones and specific topics contained elsewhere in the District Plan. In addition, they also provide guidance on what those more detailed provisions are seeking to achieve and are accordingly relevant to decisions made in the implementation of the Plan.

3.2 Strategic Objectives

3.2.1 The development of a prosperous, resilient and equitable economy in the District. (addresses Issue 1)

3.2.1.1 The significant socioeconomic benefits of well designed and appropriately located visitor industry facilities and services are realised across the District.

3.2.1.2 The Queenstown and Wanaka town centres[1] are the hubs of New Zealand's premier alpine visitor resorts and the District's economy.

3.2.1.3 The Frankton urban area functions as a commercial and industrial service centre, and provides community facilities, for the people of the Wakatipu Basin.

3.2.1.4 The key function of the commercial core of Three Parks is focused on large format retail development.

3.2.1.5 Local service and employment functions served by commercial centres and industrial areas outside of the Queenstown and Wanaka town centres [2], Frankton and Three Parks, are sustained.

3.2.1.6 Diversification of the District's economic base and creation of employment opportunities through the development of innovative and sustainable enterprises.

3.2.1.7 Agricultural land uses consistent with the maintenance of the character of rural landscapes and significant nature conservation values are enabled. (also elaborates on SO 3.2.4 and 3.2.5 following)

3.2.1.8 Diversification of land use in rural areas beyond traditional activities, including farming, provided that the character of rural landscapes, significant nature conservation values and Ngāi Tahu values, interests and customary resources, are maintained. (also elaborates on S.O.3.2.5 following)

3.2.1.9 Infrastructure in the District that is operated, maintained, developed and upgraded efficiently and effectively to meet community needs and to maintain the quality of the environment. (also elaborates on S.O. 3.2.2 following)

[1] Defined by the extent of the Town Centre Zone in each case
[2] Defined by the extent of the Town Centre Zone in each case

3.2.2 Urban growth is managed in a strategic and integrated manner. (addresses Issue 2)

3.2.2.1 Urban development occurs in a logical manner so as to:

a. promote a compact, well designed and integrated urban form;

b. build on historical urban settlement patterns;

c. achieve a built environment that provides desirable, healthy and safe places to live, work and play;

d. minimise the natural hazard risk, taking into account the predicted effects of climate change;

e. protect the District's rural landscapes from sporadic and sprawling development;

f. ensure a mix of housing opportunities including access to housing that is more affordable for residents to live in;

g. contain a high quality network of open spaces and community facilities; and.

h. be integrated with existing, and planned future, infrastructure.

(also elaborates on S.O. 3.2.3, 3.2.5 and 3.2.6 following)

3.2.3 A quality built environment taking into account the character of individual communities. (addresses Issues 3 and 5)

3.2.3.1 The District's important historic heritage values are protected by ensuring development is sympathetic to those values.

3.2.4 The distinctive natural environments and ecosystems of the District are protected. (addresses Issue 4)

3.2.4.1 Development and land uses that sustain or enhance the life-supporting capacity of air, water, soil and ecosystems, and maintain indigenous biodiversity.

3.2.4.2 The spread of wilding exotic vegetation is avoided.

3.2.4.3 The natural character of the beds and margins of the District's lakes, rivers and wetlands is preserved or enhanced.

3.2.4.4 The water quality and functions of the District's lakes, rivers and wetlands are maintained or enhanced.

3.2.4.5 Public access to the natural environment is maintained or enhanced.

3.2.5 The retention of the District's distinctive landscapes. (addresses Issues 2 and 4)

3.2.5.1 The landscape and visual amenity values and the natural character of Outstanding Natural Landscapes and Outstanding Natural Features are protected from adverse effects of subdivision, use and development that are more than minor and/or not temporary in duration.

3.2.5.2 The rural character and visual amenity values in identified Rural Character Landscapes are maintained or enhanced by directing new subdivision, use or development to occur in those areas that have the potential to absorb change without materially detracting from those values.

3.2.6 The District's residents and communities are able to provide for their social, cultural and economic wellbeing and their health and safety. (addresses Issues 1 and 6)

3.2.7 The partnership between Council and Ngāi Tahu is nurtured. (addresses Issue 6).

3.2.7.1 Ngāi Tahu values, interests and customary resources, including taonga species and habitats, and wahi tupuna, are protected.

3.2.7.2 The expression of kaitiakitanga is enabled by providing for meaningful collaboration with Ngāi Tahu in resource management decision making and implementation.

3.3 Strategic Policies

Visitor Industry

3.3.1 Make provision for the visitor industry to maintain and enhance attractions, facilities and services within the Queenstown and Wanaka town centre areas and elsewhere within the District's urban areas and settlements at locations where this is consistent with objectives and policies for the relevant zone. (relevant to S.O. 3.2.1.1 and 3.2.1.2)

Town Centres and other Commercial and Industrial Areas

3.3.2 Provide a planning framework for the Queenstown and Wanaka town centres that enables quality development and enhancement of the centres as the key commercial, civic and cultural hubs of the District, building on their existing functions and strengths. (relevant to S.O. 3.2.1.2)

3.3.3 Avoid commercial zoning that could undermine the role of the Queenstown and Wanaka town centres as the primary focus for the District's economic activity. (relevant to S.O. 3.2.1.2)

3.3.4 Provide a planning framework for the Frankton urban area that facilitates the integration of the various development nodes. (relevant to S.O. 3.2.1.3)

3.3.5 Recognise that Queenstown Airport makes an important contribution to the prosperity and resilience of the District. (relevant to S.O. 3.2.1.3)

3.3.6 Avoid additional commercial zoning that will undermine the function and viability of the Frankton commercial areas as the key service centre for the Wakatipu Basin, or which will undermine increasing integration between those areas and the industrial and residential areas of Frankton. (relevant to S.O. 3.2.1.3)

3.3.7 Provide a planning framework for the commercial core of Three Parks that enables large format retail development. (relevant to S.O. 3.2.1.4)

3.3.8 Avoid non-industrial activities not ancillary to industrial activities occurring within areas zoned for industrial activities. (relevant to S.O. 3.2.1.3 and 3.2.1.5)

3.3.9 Support the role township commercial precincts and local shopping centres fulfil in serving local needs by enabling commercial development that is appropriately sized for that purpose. (relevant to S.O. 3.2.1.5)

3.3.10 Avoid commercial rezoning that would undermine the key local service and employment function role that the centres outside of the Queenstown and Wanaka town centres, Frankton and Three Parks fulfil. (relevant to S.O. 3.2.1.5)

3.3.11 Provide for a wide variety of activities and sufficient capacity within commercially zoned land to accommodate business growth and diversification. (relevant to S.O. 3.2.1.1, 3.2.1.2, 3.2.1.5, 3.2.1.6 and 3.2.1.9)

Climate Change

3.3.12 Encourage economic activity to adapt to and recognise opportunities and risks associated with climate change.

Urban Development

3.3.13 Apply Urban Growth Boundaries (UGBs) around the urban areas in the Wakatipu Basin (including Jack's Point), Wanaka and Lake Hawea Township. (relevant to S.O. 3.2.2.1)

3.3.14 Apply provisions that enable urban development within the UGBs and avoid urban development outside of the UGBs. (relevant to S.O. 3.2.1.8, 3.2.2.1, 3.2.3.1, 3.2.5.1 and 3.2.5.2)

3.3.15 Locate urban development of the settlements where no UGB is provided within the land zoned for that purpose. (relevant to S.O. 3.2.1.8, 3.2.2.1, 3.2.3.1, 3.2.5.1 and 3.2.5.2)

Heritage

3.3.16 Identify heritage items and ensure they are protected from inappropriate development. (relevant to S.O. 3.2.2.1, and 3.2.3.1)

Natural Environment

3.3.17 Identify areas of significant indigenous vegetation and significant habitats of indigenous fauna, as Significant Natural Areas on the District Plan maps (SNAs). (relevant to S.O. 3.2.1.7, 3.2.1.8, 3.2.4.1, 3.2.4.3 and 3.2.4.4)

3.3.18 Protect SNAs from significant adverse effects and ensure enhanced indigenous biodiversity outcomes to the extent that other adverse effects on SNAs cannot be avoided or remedied. (relevant to S.O. 3.2.1.7, 3.2.1.8, 3.2.4.1, 3.2.1.2, 3.2.4.3 and 3.2.4.4)

3.3.19 Manage subdivision and / or development that may have adverse effects on the natural character and nature conservation values of the District's lakes, rivers, wetlands and their beds and margins so that their life-supporting capacity and natural character is maintained or enhanced. (relevant to S.O. 3.2.1.8, 3.2.4.1, 3.2.4.3, 3.2.4.4, 3.2.5.1 and 3.2.5.2)

Rural Activities

3.3.20 Enable continuation of existing farming activities and evolving forms of agricultural land use in rural areas except where those activities conflict with significant nature conservation values or degrade the existing character of rural landscapes. (relevant to S.O. 3.2.1.7, 3.2.5.1 and 3.2.5.2)

3.3.21 Recognise that commercial recreation and tourism related activities seeking to locate within the Rural Zone may be appropriate where these activities enhance the appreciation of landscapes, and on the basis they would protect, maintain or enhance landscape quality, character and visual amenity values. (relevant to S.O. 3.2.1.1, 3.2.1.8, 3.2.5.1 and 3.2.5.2)

3.3.22 Provide for rural living opportunities in areas identified on the District Plan maps as appropriate for rural living developments. (relevant to S.O. 3.2.1.7, 3.2.5.1 and 3.2.5.2)

3.3.23 Identify areas on the District Plan maps that are not within Outstanding Natural Landscapes or Outstanding Natural Features and that cannot absorb further change, and avoid residential development in those areas. (relevant to S.O. 3.2.1.8 and 3.2.5.2)

3.3.24 Ensure that cumulative effects of new subdivision and development for the purposes of rural living does not result in the alteration of the character of the rural environment to the point where the area is no longer rural in character. (relevant to S.O. 3.2.1.8, 3.2.5.1 and 3.2.5.2)

3.3.25 Provide for non-residential development with a functional need to locate in the rural environment, including regionally significant infrastructure where applicable, through a planning framework that recognises its locational constraints, while ensuring maintenance and enhancement of the rural environment. (relevant to S.O. 3.2.1.8, 3.2.1.9 3.2.5.1 and 3.2.5.2)

3.3.26 That subdivision and / or development be designed in accordance with best practice land use management so as to avoid or minimise adverse effects on the water quality of lakes, rivers and wetlands in the District. (relevant to S.O. 3.2.1.8, 3.2.4.1 and 3.2.4.3)

3.3.27 Prohibit the planting of identified exotic vegetation with the potential to spread and naturalise unless spread can be acceptably managed for the life of the planting. (relevant to S.O.3.2.4.2)

3.3.28 Seek opportunities to provide public access to the natural environment at the time of plan change, subdivision or development. (relevant to S.O.3.2.4.6)

Landscapes

3.3.29 Identify the District's Outstanding Natural Landscapes and Outstanding Natural Features on the District Plan maps. (relevant to S.O.3.2.5.1)

3.3.30 Avoid adverse effects on the landscape and visual amenity values and natural character of the District's Outstanding Natural Landscapes and Outstanding Natural Features that are more than minor and or not temporary in duration. (relevant to S.O.3.2.5.1)

3.3.31 Identify the District's Rural Character Landscapes on the District Plan maps. (relevant to S.O.3.2.5.2)

3.3.32 Only allow further land use change in areas of the Rural Character Landscapes able to absorb that change and limit the extent of any change so that landscape character and visual amenity values are not materially degraded. (relevant to S.O. 3.2.19 and 3.2.5.2)

Cultural Environment

3.3.33 Avoid significant adverse effects on wāhi tūpuna within the District. (relevant to S.O.3.2.7.1)

3.3.34 Avoid remedy or mitigate other adverse effects on wāhi tūpuna within the District. (relevant to S.O.3.2.7.1)

3.3.35 Manage wāhi tūpuna within the District, including taonga species and habitats, in a culturally appropriate manner through early consultation and involvement of relevant iwi or hapū. (relevant to S.O.3.2.7.1 and 3.2.7.2)

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan
Report 3
Report and Recommendations of Independent Commissioners Regarding
Chapter 3, Chapter 4 and Chapter 6

Commissioners
Denis Nugent (Chair)
Lyal Cocks
Cath Gilmour
Trevor Robinson
Mark St Clair

PART B - CHAPTER 3

2. OVERVIEW/HIGHER LEVEL PROVISIONS

66. As notified, Chapter 3 contained a Statement of Purpose (in 3.1) and then seven subsections (3.2.1-3.2.7 inclusive) each with its own "*goal",* one or more objectives under the specified goal and in most but not all cases, one or more policies to achieve the stated objective. The specified goals are as follows:

> *"3.2.1 Goal Develop a prosperous, resilient and equitable economy;*
> *3.2.2 Goal The strategic and integrated management of urban growth;*
> *3.2.3 Goal A quality built environment taking into account the character of individual communities;*
> *3.2.4 Goal The protection of our natural environment and ecosystems;*
> *3.2.5 Goal Our distinctive landscapes are protected from inappropriate development;*
> *3.2.6 Goal Enable a safe and healthy community that is strong, diverse and inclusive for all people.*
> *3.2.7 Goal Council will act in accordance with the principles of the Treaty of Waitangi and in partnership with Ngāi Tahu."*

67. The initial question which requires determination is whether there should be a strategic chapter at all. UCES[125] sought that some aspects be shifted out of Chapter 3 into other chapters, but otherwise that the entire chapter should be deleted. We note in passing that in terms of collective scope, this submission would put virtually all relief between Chapter 3 as notified and having no strategic chapter, within scope.

68. As Mr Haworth explained it to us, the UCES submission forms part of a more general position on the part of the Society that, with some specified changes, the format and context of the ODP should remain unchanged. At the core of his argument, Mr Haworth contended that the ODP was generally working well and should simply be rolled over, certainly as regards the management of the rural issues of interest to UCES. He appeared to put this in part on the basis of the character of the PDP process as a review of the ODP and in part on his own, and UCES's, experience of the ODP in operation. He referred specifically, however, to a Council's monitoring report[126], quoting it to the effect that "*Council should consider carefully before setting about any comprehensive overhaul".*

69. We note that the quotations Mr Haworth extracted from the 2009 monitoring report were somewhat selective. He omitted mention of what was described[127] as the major qualification, a concern that the Plan may not be effective in avoiding cumulative adverse effects on the landscape and in preventing urban style expansion in some areas.

70. Nor do we think there is anything in this being a *'review'* of the ODP. The discretion conferred by section 79 is wide, and in this case the Council has considered whether changes are required and determined that a different approach, employing a greater degree of strategic direction, is needed. That said, where submissions (such as those of UCES) seek reversion to the

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125 Submission 145: Opposed in FS1162, FS1254, FS1313

126 District Plan Monitoring Report: Monitoring the Effectiveness and Efficiency of the Rural General Zone, QLDC April 2009

127 At page 3

structure and/or content of the ODP, section 32 requires that we consider that as a possible alternative to be recommended.

71. In that regard, Mr Haworth also drew attention to the increased complexity of management of rural subdivision and development which, under the PDP as notified, is split between Chapter 3, Chapter 6 and Chapter 21. He also criticised the content of those provisions which provided, as he saw it, a weakening of the ability to protect landscape values in the rural environment, but we regard that as a different point, which needs to be addressed in relation to the provisions of the respective chapters.

72. While there is much that can be learned from the decisions that gave rise to the ODP, equally, it needs to be recognised that those decisions are now more than 15 years old. The evidence of the Council on the extent of growth in the District over that period is clear. While the Environment Court remarked on those trends in its 1999 decision, particularly in the Wakatipu Basin, the District is now significantly further along the continuum towards an optimal level of development (some might say it is already sub-optimal in some locations). Mr Haworth himself contended that there is more pressure on the ONLs of the District.

73. Case law has also advanced. The Supreme Court's decision in *King Salmon* in particular, provides us with guidance that was not available to the Environment Court in 1999.

74. Lastly, the jurisdiction of the Environment Court was constrained by the document that was the result of Council decisions, and the scope of the appeals before it. We do not know if the Environment Court would have entertained a strategic directions chapter in 1999. It does not appear to have had that option available to it, and the Court's decisions do not record any party as having sought that outcome.

75. We also accept Mr Paetz's evidence that there is a need for a greater level of strategic direction than the ODP provided to address the challenging issues faced by the District[128].

76. In summary, we do not recommend complete deletion of Chapter 3 as sought by UCES. While, as will be seen from the discussion following, there are a number of aspects of Chapter 3 that might be pared back, we think there is value in stating strategic objectives and policies that might be fleshed out by the balance of the PDP. Put in section 32 terms, we believe that this is the most appropriate way to achieve the purpose of the Act in this District at this time. Similarly, while we do not recommend complete substitution of the ODP for the existing strategic chapters, there are aspects of the ODP that can usefully be incorporated into the strategic chapters (including Chapter 3). We discuss which aspects in the body of our report.

77. If Chapter 3 is to be retained, as we would recommend, the next question is whether its structuring is appropriate. Queenstown Park Limited[129] sought that the strategic direction section be revised "*so that the objectives and policies are effects based, and provide a forward focussed, strategic management approach".* Those two elements might arguably be seen as mutually contradictory, but the second half of that relief supports a view that we would agree with, that there needs to be a focus on whether what is provided is indeed forward looking and genuinely *'strategic'*. Put another way, the guidance it provides needs to be pitched at a high level, and not focus on minutiae.

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128 Most of the other planners who gave evidence appeared to take the desirability of having one or more 'strategic' chapters as a given. Mr Tim Williams, however, explicitly supported the concept of having higher order provisions (at paragraph 10 of his evidence).

129 Submission 806

78. In terms of general structuring, the submission of Real Journeys Limited[130] that provisions should be deleted where they duplicate or repeat other provisions might be noted. We agree that where provisions are duplicated, that duplication should generally be removed. The challenge is of course to identify where that has occurred.

79. The telecommunication companies[131] sought that the relationship of the goals, objectives and policies with the other Chapters of the Plan be defined and that the goals be deleted but retained as titles. Another variation on the same theme was provided by Darby Planning LP[132], which sought that the goals be deleted and incorporated into the relevant objective.

80. Remarkables Park Limited[133] and Queenstown Park Limited[134] also sought deletion of the goal statements "*to remove confusion as to their status and relationship to objectives and policies".*

81. We think that the starting point when looking at the structuring of Chapter 3, both internally and with respect to the balance of the PDP, is to decide what the goals are, and what purpose they serve. When counsel for the Council opened the hearing on 7 March 2016, he suggested that the goals were a mixture of objectives and issues, or alternatively a mixture of issues and anticipated environmental results. Consistent with that view, in his reply evidence, Mr Paetz stated:

"The goals are more than the description of an issue, having the aspirational nature of an objective."

82. He opposed, however, relabelling them as objectives as that would potentially create structural confusion with objectives sitting under objectives. In Mr Paetz's view, the use of the term "*goal"* is commonly understood by lay people and he saw no particular problem with retaining them as is.

83. We do not concur.

84. As Mr Paetz noted, lay people have a reasonably clear understanding what a goal is. However, as counsel for Darby Planning LP pointed out to us, that understanding is that a goal is an objective (and vice versa)[135]. It is inherently unsatisfactory to have quasi-objectives with no certainty as their role in the implementation of the PDP. Objectives have a particular role in a District Plan. Other provisions are tested under section 32 as to whether they are the most appropriate way to achieve the objectives. As Mr Chris Ferguson[136] noted, they also have a particular legal significance under section 104D of the Act. Accordingly, it is important to know what is an objective and what is not. We recommend that the goals not remain stated as *'goals'*.

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130 Submission 621

131 Submissions 179, 191, 781: Opposed in FS1132; Supported in FS1121

132 Submission 608: Opposed in FS1034

133 Submission 807

134 Submission 806

135 *Ngati Kahungunu Iwi Inc v Hawkes Bay Regional Council* [2015] NZEnvC50 at [42] citing the Concise Oxford Dictionary

136 Planning witness appearing for Darby Planning LP, Soho Ski Area Ltd, Treble Cove Investors, Hansen Family Partnership

85. There appear to be at least four alternative options. They could be deleted or alternatively converted to titles for the respective subsections, as the telecommunication submitters suggest. The problem with the goals framed as titles is that they would then add little value and would not reflect the process by which the objectives and policies were developed, which as we understand it from the evidence of Council, reflected those goals.

86. That would be still more the case if they were simply deleted, as Remarkables Park Ltd and Queenstown Park Ltd seek.

87. They could be incorporated into the objectives, as Darby Planning LP suggests. That would preserve the work that went into their formulation, but the submission does not identify how exactly the objectives should be revised to achieve that result[137].

88. Logically there are two ways in which the goals might be incorporated into the objectives. The first is if the wording of the goals were melded with that of the existing objectives. We see considerable difficulties with that course. On some topics, there are a number of objectives that relate back to a single goal. In other cases, a single objective is related to more than one goal. It is not clear to us how the exercise could be undertaken without considerable duplication, and possibly an unsatisfactory level of confusion.

89. The alternative is to reframe the *'goals'* as higher-level objectives, each with one or more focused objectives explicitly stated to be expanding on the higher-level objective. This avoids the problem of excessive duplication noted above, and the fact that some of the existing objectives relate back to more than one *'goal'* can be addressed by appropriate cross-referencing. It also addresses the problem Mr Paetz identified of potential confusion with objectives under objectives. We recommend this approach be adopted and Chapter 3 be restructured accordingly. We will discuss the wording of each goal/higher-level objective below.

90. One problem of expressing the goals as higher-level objectives is that they fail to express the issues the strategic objectives seek to address[138]. The result is something of a leap in logic; the high-level objectives come 'out of the blue' with little connection back to the special qualities identified in section 3.1.

91. The reality is, as the section 32 report for this aspect of the Plan makes clear[139], that the *'goals'* were themselves derived from a series of issues, worded as follows:

> *"1. Economic prosperity and equity, including strong and robust town centres;*
> *2. Growth pressures impacting on the functionality and sustainability of urban areas, and risking detracting from rural landscapes;*
> *3. High growth rates can challenge the qualities that people value in their communities;*
> *4. Quality of the natural environment and ecosystems;*
> *5. The District's outstanding landscapes offer both significant intrinsic and economic value for the District and are potentially at threat of degradation given the District's high rates of growth;*
> *6. While median household incomes in the District are relatively high, there is significant variation in economic wellbeing. Many residents earn relatively low wages, and the cost of living in the district is high – housing costs, heating in winter, and transport. This affects the social and*

137 Mr Chris Ferguson, giving planning evidence on the point, supported this relief (see his paragraph 109) but similarly did not provide us with revised objectives illustrating how this might be done.

138 A role both counsel for the Council and Mr Paetz identified, the goals as having, as above.

139 Section 32 Evaluation Report – Strategic Direction at pages 5-11

economic wellbeing of some existing residents and also reduces the economic competitiveness of the District and its ability to maximise productivity. The design of developments and environments can either promote or deter safety and health and fitness.

7. *Tangata whenua status and values require recognition in the District Plan, both intrinsically in the spirit of partnership (Treaty of Waitangi), but also under Statutes;"*

92. These issues have their faults. There is an undesirable level of duplication between them. The fourth issue is not framed as an issue. The sixth issue is in fact two discrete points, the first of which, as well as being extremely discursive, is actually an aspect of the first issue.

93. Even given these various faults, however, we consider a modified version of the section 32 report issues would add value as part of the background information in Section 3.1, explaining the link between the special qualities it identifies and the objectives set out in Section 3.2. Unlike the objectives, the issues have no legal status or significance and we regard them as merely clarifying the revised higher-level objectives by capturing part of what was previously stated in the *'goals'*.

94. We will revert to how the *'issues'* might be expressed in the context of our more detailed discussion of Section 3.1.

95. More generally in relation to the structuring of Chapter 3, we have formed the view that the overlaps between goals, and the separation of each subsection of Chapter 3 into a goal, followed by one or more objectives, with many of those objectives in turn having policies specific to that objective, has created a significant level of duplication across the chapter. In our view, this duplication needs to be addressed.

96. We are also concerned that there has been a lack of rigour in what has been regarded as *'strategic'*, which has in turn invited suggestions from some submitters that Chapter 3 ought to be expanded still further [140].

97. We recommend that the best way to approach the matter is to collect together the strategic objectives in one section and the strategic policies in a separate section of Chapter 3. Objectives and policies duplicating one another are then no longer required and can be deleted.

98. It is recognised that it is still important to retain the link between objectives and policies, but this can be done by insertion of internal cross referencing. As previously discussed, we consider it is helpful to set out the issues that have generated the higher-level objectives, and we suggest a similar cross referencing approach to the links between the issues and the higher-level objectives. The revised PDP Chapter 3 attached to this report shows how we suggest this might best be done.

99. We also concur with the suggestion in the telecommunication submissions that there is a need for clarification as to the relationship between Chapter 3 and the balance of the PDP initially, and then the relationship of Part Two[141] with the balance of the Plan. The apparent intent (as set out in Mr Paetz's Section 42A Report) is that they should operate as a hierarchy with

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140 Counsel for DJ and EJ Cassells, Bulling Family and M Lynch and Friends of Wakatipu Gardens and Reserves for instance suggested to us that this was required to provide balance

141 Comprising Chapters 3-6 inclusive

Chapter 3 at the apex, but the PDP does not actually say that. The potential confusion is enhanced by the fact that the ODP was drafted with the opposite intent[142].

100. The last paragraph of Section 3.1 is the logical place for such guidance. Mr Chris Ferguson[143] suggested we might utilise a similar paragraph to that which the independent Hearing Panel for the Replacement Christchurch District Plan approved – stating explicitly that Chapter 3 has primacy over all other objectives and policies in the PDP, which must be consistent with it. That wording, however, reflected the unique process involved there, with the Strategic Directions Chapter released before finalisation of the balance of the Plan, and we think a more tailored position is required for the PDP to recognise that we are recommending revisions to the whole of Stage 1 of the PDP to achieve an integrated end product. Combining this concept with the need to explain the structure of the revised chapter, we recommend that it be amended to read as follows:

"This Chapter sets out the District Plan's high-level objectives and policies addressing these issues. High level objectives are elaborated on by more detailed objectives. Where these more detailed objectives relate to more than one higher level objective, this is noted in brackets after the objective. Because many of the policies in Chapter 3 implement more than one objective, they are grouped, and the relationship between individual policies and the relevant strategic objective(s) identified in brackets following each policy. The objectives and policies are further elaborated on in Chapters 4-6. The principal role of Chapters 3-6 collectively is to provide the direction for the more detailed provisions related to zones and specific topics contained elsewhere in the District Plan. In addition, they also provide guidance on what those more detailed provisions are seeking to achieve, and are accordingly relevant to decisions made in the implementation of the Plan."

2.1. Section 3.1 - Purpose

101. With the exception of clarification of the relationship between the different elements of Chapter 3 and the balance of the PDP, as above, the submissions seeking amendments to the Statement of Purpose in Section 3.1[144] appear to be seeking to incorporate their particular aspirations as to what might occur in future, rather than stating the special qualities the District currently has, which is what Section 3.1 sets out to do. Accordingly, we do not recommend any change to the balance of Section 3.1.

102. We note that the amendments sought in Submission 810 was withdrawn when the submitter appeared at the Stream 1A hearing.

103. To provide the link between the specified special qualities and the high-level objectives in Section 3.2, we recommend the issues set out in the section 32 report be amended.

104. As discussed above, the sixth issue is effectively two issues with the first part an overly discursive aspect of the first issue. Looking both at the first part of sixth issue and the explanation of it in the section 32 report, the key point being made is that not all residents are able to provide for their social economic wellbeing due to a low wage structure and a high cost of living. The concept of an equitable economy in the first issue captures some of those issues,

142 C180/99 at [126]

143 Planning witness for Darby Planning LP

144 Submission 238: Opposed in FS1107, FS1157, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248, FS1299; and Submission 598: Supported in FS1287

but it also suggests a need to highlight both the need for greater diversification of the economy[145] and for enhanced social and economic prosperity.

105. The second, fourth and fifth issues refer variously to rural landscapes, the natural environment and outstanding landscapes. There is significant overlap between these elements. The outstanding landscapes of the District are generally rural landscapes. They are also part of the natural environment. The fourth issue also separates ecosystems from the natural environment when in reality, ecosystems are part of the natural environment. It is also not framed as an issue. Clearly outstanding landscapes require emphasis, given the national importance placed on their protection, but we recommend these three issues be collapsed into two.

106. Lastly, the reference to the reasons why Tangata Whenua status and values require recognition is unnecessary in the statement of an issue and can be deleted without losing the essential point.

107. In summary, we recommend that the following text be inserted into Section 3.1 to provide the linkage to the objectives and clarification we consider is necessary:

a. *"Issue 1: Economic prosperity and equity, including strong and robust town centres, requires economic diversification to enable the social and economic wellbeing of people and communities.*
b. *Issue 2: Growth pressure impacts on the functioning and sustainability of urban areas, and risks detracting from rural landscapes, particularly its outstanding landscapes.*
c. *Issue 3: High growth rates can challenge the qualities that people value in their communities.*
d. *Issue 4: The District's natural environment, particularly its outstanding landscapes, has intrinsic qualities and values worthy of protection in their own right, as well as offering significant economic value to the District.*
e. *Issue 5: The design of developments and environments can either promote or weaken safety, health and social, economic and cultural wellbeing.*
f. *Issue 6: Tangata Whenua status and values require recognition in the District Plan."*

2.2. Section 3.2.1 – Goal – Economic Development

108. The goal for this subsection is currently worded:

"Develop a prosperous, resilient and equitable economy".

109. Submissions specifically on this first goal (apart from those supporting it in its current form) sought variously that it be amended by a specific reference to establishment of education and research facilities[146] and that the word "*equitable"* be deleted[147].

110. As part of UCES's more general opposition to Chapter 3, Mr Haworth opposed Goal 1 on the basis that it was not required because the economy was already flourishing, and elevating recognition of the economy conflicted with the emphasis given to the importance of protecting the environment in a manner that is likely to threaten landscape protection.

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145 Submission 115 sought that the first goal refer specifically to establishment of education and research facilities to generate high end jobs which we regard as an example of economic diversification

146 Submission 115

147 Submission 806

111. Mr Paetz did not recommend any amendment to this goal.

112. The RPS contains no over-arching objective related to the economy that bears upon how this goal is expressed. We should note, however, Policy 1.1.2 of the Proposed RPS which reads:

"Provide for the economic wellbeing of Otago's people and communities by enabling the use and development of natural and physical resources only if the adverse effects of those activities on the environment can be managed to give effect to the objectives and policies of the Regional Policy Statement."

113. This is in the context of an objective[148] focussing on integrated management of resources to support the wellbeing of people and communities.

114. If the restructuring we have recommended is accepted, so that each goal is expressed as a high-level objective expanded by more focussed objectives, we believe that the concerns underlying the submissions on this goal would largely be addressed. Thus, if Goal 1 has what is currently Objective 3.2.1.3 under and expanding it, the Plan will recognise the diversification that Submission 115 seeks, albeit more generally than just with reference to education and research facilities.

115. Similarly, while we can understand the concern underlying Submission 806, that reference to equity could be read a number of different ways, provision of a series of more focused objectives to flesh out this goal assists in providing clarity.

116. We do not accept Mr Haworth's contentions either that a high-level objective focussing on economic wellbeing is unnecessary or that it threatens environmental values, including landscape values. The evidence we heard, in particular from Mr Cole[149], indicates to us that economic prosperity (and social wellbeing) are not universally enjoyed in the District. We also intend to ensure that it is clear in the more detailed provisions expanding on this broad high-level objective that while important, economic objectives are not intended to be pursued without regard for the environment (reflecting the emphasis in the Proposed RPS quoted above).

117. In summary, therefore, the only amendments we recommend to the wording of Section 3.2.1 are to express it as an objective and to be clear that it is the economy of this district which is the focus, as follows:

"*The development of a prosperous, resilient and equitable economy in the District."*

118. We consider a higher-level objective to this effect is the most appropriate way to achieve the purpose of the Act.

2.3. Section 3.2.1 – Objectives – Economic Development

119. As notified, Section 3.2.1 had five separate objectives. The first two (3.2.1.1 and 3.2.1.2) focus on the economic contribution of central business areas of Queenstown and Wanaka and the commercial and industrial areas outside those areas respectively. The other three objectives focus on broader aspects of the economy.

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148 Proposed RPS Objective 1.1

149 For Queenstown Lakes Community Housing Trust.

120. A common feature of each of the objectives in Section 3.2.1 is that they commence with a verb: recognise, develop and sustain; enable; recognise; maintain and promote.

121. Nor is Section 3.2.1 alone in this. This appears to be the drafting style employed throughout Chapters 3, 4 and 6 (and beyond). Moreover, submitters have sought to fit in with that drafting style, with the result that almost without exception, the amendments sought by submitters to objectives would be framed in a similar way[150].

122. We identified at the outset an issue with objectives drafted in this way. Put simply, they are not objectives because they do not identify "*an end state of affairs to which the drafters of the document aspire"*[151].

123. Rather, by commencing with a verb, they read more like a policy – a course of action[152] (to achieve an objective).

124. We discussed the proper formulation of objectives initially with Mr Paetz and then with virtually every other planning witness who appeared in front of us. All agreed that a properly framed objective needed to state an environmental end point or outcome (consistent with the *Ngati Kahungunu* case just noted). At our request, Mr Paetz and his colleague Mr Barr (responsible for Chapter 6) produced revised objectives for Chapters 3, 4 and 6, reframing the notified objectives to state an environmental end point or outcome. Counsel for the Council filed a memorandum dated 18 March 2016 producing the objectives of Chapters 3, 4 and 6 reframed along the lines above. As previously noted, the Chair directed that the Council's memorandum be circulated to all parties who had appeared before us (and those who were yet to do so) to provide an opportunity for comment.

125. We note that because the task undertaken by Mr Paetz and Mr Barr was merely to reframe the existing objectives in a manner that explicitly stated an environmental end point or outcome, rather than (as previously) just implying it, we do not regard this is a scope issue[153], or as necessitating (to the extent we accepted those amendments) extensive evaluation under section 32.

126. Similarly, to the extent that submitters sought changes to objectives, applying the drafting style of the notified plan, we do not regard it as a scope issue to reframe the relief sought so as to express objectives so that they identify an environmental end point or outcome. We have read all submissions seeking amendments to objectives on that basis.

127. As notified, Objective 3.2.1.1 read:

"Recognise, develop and sustain the Queenstown and Wanaka central business areas as the hubs of New Zealand's premier alpine resorts and the Districts economy."

128. The version of this objective ultimately recommended by Mr Paetz and attached to counsel's 18 March 2016 Memorandum read:

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150 Submission 761 (Orfel Ltd) was a notable exception in this regard, noting that a number of Chapter 3 objectives are stated as policies, and seeking that they be reframed as aspirational outcomes to be achieved.

151 *Ngati Kahungunu Iwi Incorporated v Hawkes Bay Regional Council* [2015] NZEnvC50 at [42]

152 *Auckland Regional Council v North Shore City Council* CA29/95 at page 10

153 Quite apart from the scope provided by Submission 761 for a number of the '*objectives'* in issue.

"The Queenstown and Wanaka town centres are the hubs of New Zealand's premier alpine resorts and the District's economy."

129. We think that substituting reference to Queenstown and Wanaka town centres is preferable to referring to their "*central business areas"* because of the lack of clarity as to the limits of what the latter might actually refer to. Although the evidence of Dr McDermott for the Council suggested that he had a broader focus, the advantage of referring to town centres is because the PDP maps identify the Town Centre zones in each case. Mr Paetz agreed that a footnote might usefully confirm that link, and we recommend insertion of a suitably worded footnote.

130. NZIA suggested that rather than referring to central business areas, the appropriate reference would be to the Queenstown and Wanaka waterfront. While that may arguably be an apt description for the central area of Queenstown, we do not think that it fits so well for Wanaka, whose town centre extends well up the hill along Ardmore Street and thus we do not recommend that change.

131. The focus of other submissions was not so much on the wording of this particular objective but rather on the fact that the focus on the Queenstown and Wanaka town centres failed to address the increasingly important role played by commercial and industrial development on the Frankton Flats[154], the role that the Three Parks commercial development is projected to have in Wanaka[155], and the role of the visitor industry in the District's economy, facilities for which are not confined to the Queenstown and Wanaka town centres[156]. In his Section 42A Report, Mr Paetz recognised that the first and third of these points were valid criticisms of the notified PDP and recommended amended objectives to address them.

132. Turning to the RPS to see what direction we get from its objectives, the focus is on a generally expressed promotion of sustainable management of the built environment[157] and of infrastructure[158]. The policies relevant to these objectives are framed in terms of promoting and encouraging specified desirable outcomes[159], minimising adverse effects of urban development and settlement[160], and maintaining and enhancing quality of life[161]. As such, none of these provisions appear to bear upon the objectives in this part of the PDP, other than in a very general way.

133. The Proposed RPS gets closer to the point at issue with Objective 4.5 seeking effective integration of urban growth and development with adjoining urban environments (among other things). The policies supporting that objective do not provide any relevant guidance as to how this might be achieved. Policy 5.5.3, however, directs management of the distribution of commercial activities in larger urban areas "*to maintain the vibrancy of the central business district and support local commercial needs"* among other things by "*avoiding unplanned*

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154 E.g. Submission 238: Supported in FS1097 and FS1117; Opposed in FS1107, FS1157, FS1226, FS1239, FS1241, FS1242, FS1248, FS1249; Submission 806: Supported in FS1012; Submission 807

155 Submission 249: Supported in FS1117

156 E.g. Submission 615: Supported in FS1105, FS1137; Submission 621: Supported in FS1097, FS1117, FS1152, FS1333, FS1345; Submission 624; Submission 677; Supported in FS1097, FS1117; Opposed in FS1035, FS1074, FS1312, FS1364; Submission 716: Supported in FS1097, FS1117, FS1345

157 RPS Objective 9.4.1

158 RPS Objective 9.4.2

159 RPS Policies 9.5.2 and 9.5.3

160 RPS Policy 9.5.4

161 RPS Policy 9.5.5

extension of commercial activities that has significant adverse effects on the central business district and town centres."

134. We read this policy as supporting the intent underlying this group of objectives, while leaving open how this might be planned.

135. Addressing each objective suggested by Mr Paetz in turn, the version of his recommended Frankton objective presented with his reply evidence reads:

"The key mixed use function of the Frankton commercial area is enhanced, with better transport and urban design integration between Remarkables Park, Queenstown Airport, Five Mile and Frankton Corner".

136. This is an expansion from the version of the same objective recommended with Mr Paetz's Section 42A Report reflecting a view (explained by Mr Paetz in this reply evidence[162]) that the Frankton area should be viewed as one wider commercial locality, comprising a network of several nodes, with varying functions and scales.

137. Dr McDermott gave evidence for the Council, supporting separate identification of the Frankton area on the basis that its commercial facilities had quite a different role to the town centres of Wanaka and Queenstown and operated in a complimentary manner to those centres.

138. We also heard extensive evidence from QAC as to the importance of Queenstown Airport to the District's economy[163].

139. We accept that Frankton plays too important a role in the economy of the District for its commercial areas to be classed in the 'other' category, as was effectively the case in the notified Chapter 3. We consider, however, that it is important to be clear on what that role is, and how it is different to that of the Queenstown and Wanaka town centres. That then determines whether a wider or narrower view of what parts of the Frankton area should be the focus of the objective.

140. The term Dr McDermott used to describe Frankton was "mixed use" and Mr Paetz recommended that that be how the Frankton area is described.

141. The problem we had with that recommendation was that it gives no sense of the extent of the *'mix'* of uses. In particular, "*mixed use*" could easily be taken to overlap with the functions of the Queenstown town centre. Dr McDermott described the latter as being distinguished by the role it (and Wanaka town centre) plays in the visitor sector, both as destinations in their own right and then catering for visitors when they are there[164]. By contrast, he described Frankton as largely catering for local needs although when he appeared at the hearing, he emphasised that local in this sense is relative, because of the role of the Frankton retail and industrial facilities in catering for a wider catchment than just the immediate Frankton area. While Dr McDermott took the view that that wider catchment might extend as far as Wanaka, his opinion in that regard did not appear to us to be based on any hard evidence. However, we accept that Frankton's role is not limited to serving the immediate '*local'* area.

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162 At paragraph 5.7

163 In particular, the evidence of Mr Mark Edghill

164 Dr P McDermott, EiC at 2.1(c).

142. Mr Chris Ferguson suggested to us that because of the overlapping functions between commercial centres, referring to *"the wider Frankton commercial area"* confused the message[165].

143. Evidence we heard, in particular from the NZIA representatives, took the same point further, suggesting that Frankton's importance to the community was not limited to its commercial and industrial facilities, and that it had an important role in the provision of educational, health and recreation facilities as well. We accept that point too. This evidence suggests a need to refer broadly to the wider Frankton area than just to specific nodes or elements, and to a broader range of community facilities.

144. The extent to which this objective should focus on integration was also a matter in contention. The representatives for QAC opposed reference to integration for reasons that were not entirely clear to us and when he reappeared on the final day of hearing, Mr Kyle giving evidence for QAC, said that he was ambivalent on the point.

145. For our part, we regard integration between the various commercial and industrial nodes of development on the Frankton Flats (including Queenstown Airport), and indeed its residential areas[166], as being important, but consider that this is better dealt with as a policy. We will come back to that.

146. In summary, we recommend that Mr Paetz's suggested objective largely be accepted, but with the addition of specific reference to its focus on visitors, to provide a clearer distinction between the roles of Queenstown and Wanaka town centres and Frankton and Three Parks respectively.

147. Accordingly, we recommend that the wording of Objective 3.2.1.1 (renumbered 3.2.1.2 for reasons we will shortly explain) be amended so read:

"The Queenstown and Wanaka town centres[167] are the hubs of New Zealand's premier alpine visitor resorts and the District's economy."

148. We further recommend that a new objective be added (numbered 3.2.1.3) as follows:

"The Frankton urban area functions as a commercial and industrial service centre, and provides community facilities, for the people of the Wakatipu Basin."

149. The case for recognition of the Three Parks commercial area is less clear, While, when the development is further advanced, it will be a significant element of the economy of the Upper Clutha Basin, that is not the case at present.

150. Mr Dippie appeared before us and made representations on behalf of Orchard Road Holdings Limited[168] and Willowridge Developments Limited[169] advocating recognition of Three Parks in the same way that the Frankton commercial areas were proposed (by Council staff) to be

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165 C Ferguson, EiC at paragraph 103

166 A key issue for QAC is how Queenstown airport's operations might appropriately be integrated with further residential development in the wider Frankton area

167 Defined by the extent of the Town Centre Zone in each case.

168 Submission 91/Further Submission 1013

169 Submission 249/Further Submission 1012

recognised, but was reasonably non-specific as to exactly how that recognition might be framed.

151. Dr McDermott's evidence in this regard suffered from an evident unfamiliarity with the Wanaka commercial areas and was therefore not particularly helpful. However, we were assisted by Mr Kyle who, although giving evidence for QAC, had previously had a professional role assisting in the Three Parks development. In response to our query, he described the primary function of the Three Parks commercial area as being to provide more locally based shopping, including provision for big box retailing. He thought there was a clear parallel between the relationship between Frankton and Queenstown town centre.

152. Mr Paetz recommended in his reply evidence that the Three Parks area be recognised in its own objective as follows:

"The key function of the commercial core of the Three Parks Special Zone is sustained and enhanced, with a focus on large format retail development'.

153. We do not regard it is appropriate for the objective related to Three Parks to provide for "*sustaining and enhancing*" of the function of the commercial part of the Three Parks area; that is more a policy issue. Similarly, saying that the Three Parks Commercial Area should be focussed on large format retail development leaves too much room, in our view, for subsidiary focusses which will erode the role of the Wanaka town centre. Lastly, referring to the Three Parks *'Special Zone'* does not take account of the possibility that there may not be a *'Special Zone'* in future.

154. Ultimately, though, we recommend that the Three Parks Commercial Area be recognised because it is projected to be a significant element of the economy of the Upper Clutha Basin over the planning period covered by the PDP.

155. To address the wording issues noted above, we recommend that the objective (numbered 3.2.1.4) be framed as follows:

"The key function of the commercial core of Three Parks is focussed on large format retail development".

156. The only submission seeking amendment to the notified Objective 3.2.1.3, sought that it be reworded as an aspirational outcome to be achieved, rather than as a policy[170]. In his reply evidence, the version of this objective suggested by Mr Paetz (addressing this point) read:

"Development of innovative and sustainable enterprises that contribute to diversification of the District's economic base and create employment opportunities."

157. Although only an issue of emphasis, we see the environmental outcome as being related to the District's economic base. Development of enterprises contributing to economic diversity and employment are a means to that end.

158. Accordingly, we recommend that the objective (renumbered 3.2.1.6) be reframed as follows:

[170] Submission 761

"Diversification of the District's economic base and creation of employment opportunities through the development of innovative and sustainable enterprises."

159. As already noted, a number of submissions raised the need for specific recognition of the visitor industry outside the Queenstown and Wanaka town centres.

160. The objective recommended by Mr Paetz in his reply evidence to address the failure of the notified plan to recognise the significance of the visitor industry to the District economy in this context was framed as follows:

"The significant socioeconomic benefits of tourism activities across the District are provided for and enabled."

161. While we accept the need for an objective focused on the contribution of the visitor industry outside the Queenstown and Wanaka town centres to the District's economy, including but not limited to employment, the phraseology of Mr Paetz's suggested objective needs further work. Talking about the benefits being provided for does not identify a clear outcome. The objective needs to recognise the importance of the visitor industry without conveying the impression that provision for the visitor industry prevails over all other considerations irrespective of the design or location of the visitor industry facilities in question. Policy 5.3.1(e) of the Proposed RPS supports some qualification of recognition for visitor industry facilities – it provides for tourism activities located in rural areas "*that are of a nature and scale compatible with rural activities"*. Similarly, one would normally talk about enabling activities (that generate benefits) rather than enabling benefits. Benefits are realised. Lastly, we prefer to refer to the visitor industry rather than to tourism activities. Reference to tourism might be interpreted to exclude domestic visitors to the District. It also excludes people who visit for reasons other than tourism.

162. In summary, we recommend that a new objective be inserted worded as follows:

"The significant socioeconomic benefits of well designed and appropriately located visitor industry facilities and services are realised across the District."

163. Given the importance of the visitor industry to the District's economy and the fact that the other objectives addressing the economy are more narrowly focused, we recommend that it be inserted as the first objective (fleshing out the revised goal/higher-level objective stated in Section 3.2.1) and numbered 3.2.1.1.

164. Objective 3.2.1.2 was obviously developed to operate in conjunction with 3.2.1.1. As notified, it referred to the role played by commercial centres and industrial areas outside the Wanaka and Queenstown central business areas.

165. Many of the submissions on this objective were framed around the fact that as written, it would apply to the Frankton Flats commercial and industrial areas, and to the Three Parks commercial area. As such, if our recommendations as above are accepted, those submissions have effectively been overtaken, being addressed by insertion of specific objectives for those areas.

166. In Mr Paetz's reply evidence, the version of this objective he recommended read:

"Enhance and sustain the key local service and employment functions served by commercial centres and industrial areas outside of the Queenstown and Wanaka town centres and Frankton."

167. Starting with two verbs, this still reads more like a policy than an objective. Mr Paetz's suggested objective also fails to take account of his recommendation (which we accept) that the commercial area of Three Parks be the subject of a specific objective. Lastly, and as for renumbered Objective 3.2.1.2, it needs clarity as to the extent of the *'town centres'*.

168. Addressing these matters, we recommend that this objective (renumbered 3.2.1.5) be amended to read as follows:

"Local service and employment functions served by commercial centres and industrial areas outside of the Queenstown and Wanaka town centres[171], Frankton, and Three Parks are sustained."

169. Objective 3.2.1.4 as notified read:

"Recognise the potential for rural areas to diversify their land use beyond the strong productive value of farming, provided a sensitive approach is taken to rural amenity, landscape character, healthy ecosystems, and Ngai Tahu values, rights and interests."

170. This objective attracted a large number of submissions querying the reference to farming having a "*strong productive value"*[172]with many of those submissions seeking that the objective refer to "*traditional"* land uses. Some submissions[173] sought that the objective be more overtly *'enabling'*. One submission[174] sought to generalise the objective so that it does not mention the nature of current uses, but rather focuses on enabling *"tourism, employment, recreational, and residential based activities"* and imports a test of *"functional need to be located in rural areas."* Mr Carey Vivian, giving evidence both for this submitter and a further submitter opposing the submission[175], suggested to us that a *'functional need'* test would ensure inappropriate diversification does not occur. Mr Chris Ferguson supported another submission[176] that suggested a functional need test[177], but did not comment on how that test should be interpreted. We are not satisfied that Mr Vivian's confidence is well founded. As we will discuss later in this report in relation to suggestions that activities relying on the use of rural resources should be provided for, these seem to us to be somewhat elastic concepts, potentially applying to a wide range of activities.

171. Many submissions also sought deletion of the reference to a *"sensitive*" approach[178].

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171 Defined by the extent of the Town Centre Zone in each case

172 See e.g. Submissions 343, 345, 375, 407, 437, 456, 513, 522, 532, 534, 535, 537, 696, 806, 807; Supported in FS1097, FS1192, FS1256, FS1286, FS1322; Opposed in FS1004, FS1068, FS1071, FS1120, FS1282, FS1322.

173 E.g. Submission 621

174 Submission 519; Supported in FS1015 and FS1097; Opposed in FS1356

175 Further Submission 1356

176 Submission 608-Darby Planning LP

177 As part of a revised version of the objective that has similarities to that sought in Submission 519, but also some significant differences discussed further below.

178 See e.g. Submissions 519, 598, 600, 791, 794, 806, 807; Supported in FS1015, FS1097, FS1209; Opposed in FS1034, FS1040, FS1356

172. Suggestions varied as to how potential adverse effects resulting from diversification of land uses might be addressed. One submitter[179] suggested adverse effects on the matters referred to be taken into account, or alternatively that an *'appropriate'* approach be taken to adverse effects. Mr Vivian, giving planning evidence on the point, suggested as a third alternative, an *'effects-based'* approach. Another submitter[180] suggested that potential adverse effects be avoided, remedied or mitigated. Mr Jeff Brown supported the latter revision in his planning evidence[181], on the basis that he preferred the language of the Act. Yet another submission[182], supported by the planning evidence of Mr Chris Ferguson, suggested that reference to adverse effects be omitted (in the context of a reframed objective that would recognise the value of the natural and physical resources of rural areas to enable specified activities and to accommodate a diverse range of activities).

173. By Mr Paetz's reply evidence, he had arrived at the following recommended wording:

"*Diversification of land use in rural areas providing adverse effects on rural amenity, landscape character, healthy ecosystems and Ngai Tahu values, rights and interests are avoided, remedied or mitigated."*

174. Looking to the RPS for direction, we note that Objective 5.4.1 identifies maintenance and enhancement of the primary production capacity of land resources as an element of sustainable management of those resources. Policy 5.5.2 is also relevant, promoting retention of the primary productive capacity of high class soils. We did not hear any evidence as to whether any, and if so, which, soils would meet this test in the District, but Policy 5.5.4 promotes diversification and use of the land resource to achieve sustainable land use and management systems. While generally expressed, the latter would seem to support the outcome the PDP objective identifies, at least in part.

175. The Proposed RPS focuses on the sufficiency of land being managed and protected for economic production[183]. This is supported by policies providing, inter alia, for enabling of primary production and other activities supporting the rural economy and minimising the loss of significant soils[184]. This also supports recognition of the primary sector.

176. We accept that the many submissions taking issue with the reference to the strong productive value of farming have a point, particularly in a District where the visitor industry makes such a large contribution to the economy, both generally and relative to the contribution made by the farming industry[185]. Nor is it obvious why, if the effects-based tests in the objective are met, diversification of non-farming land uses is not a worthwhile outcome.

177. The alternative formulation of the objective suggested by Darby Planning LP, and supported by Mr Ferguson, would side-step many of the other issues submissions have focussed on, but ultimately, we take the view that stating rural resources are valued for various specified purposes does not sufficiently advance achievement of the purpose of the Act. Put simply, it invites the query: so what?

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179 Submission 519; Supported in FS1015 and FS1097; Opposed in FS1356

180 Submission 806

181 At paragraph 4.7

182 Submission 608; Supported in FS1097, FS1117, FS1155, FS1158; Opposed in FS1034

183 Proposed RPS, Objective 5.3

184 Proposed RPS, Policy 5.3.1

185 We note in particular the evidence of Mr Ben Farrell (on behalf of Real Journeys Ltd in relation to this point).

178. Reverting to Mr Paetz's recommendation, in our view, it is desirable to be clear what the starting point is; diversification from what? Accordingly, we recommend the submissions seeking that reference be to traditional land uses in rural areas be accepted. Clearly farming is one such traditional land use and we see no issue with referring to that as an example. We do not accept that a *'functional need'* test would add value, because of the lack of clarity as to what that might include.

179. We also agree that the reference in a notified objective to a sensitive approach requires amendment because it gives little clarity as to the effect of the sensitive approach on the nature and extent of adverse effects. We do not, however, recommend that reference be made to adverse effects being avoided, remedied or mitigated. For the reasons discussed above, this gives no guidance as to the desired level of adverse effects on the matters listed. The suggestions that the objective refer to adverse effects being taken into account, or that an appropriate approach be taken to them. would push it even further into the realm of meaninglessness[186]. Those options are not recommended either.

180. Some submissions[187] sought to generalise the nature of the adverse effects required to be managed, deleting any reference to any particular category of effect.

181. In our view, part of the answer is to be clearer about the nature of adverse effects sought to be controlled, combined with being clear about the desired end result. We consider that rural amenity is better addressed through objectives related to activities in the rural environment more generally. Reference to healthy ecosystems in this context is, in our view, problematic. The health of the ecosystems does not necessarily equate with their significance. In addition, why are adverse effects on healthy ecosystems more worthy of protection from diversified land uses than unhealthy ecosystems? One would have thought it might be the reverse.

182. The PDP contains an existing definition of "nature conservation values". When counsel for the Council opened the hearing, we queried the wording of this definition which incorporated policy elements and did not actually fit with the way the term had been used in the PDP. Counsel agreed that it needed amendment and in Mr Paetz's reply evidence he suggested the following revised definition of nature conservation values:

"The collective and interconnected intrinsic values of the indigenous flora and fauna, natural ecosystems and landscape."

183. We regard the inclusion of a generalised reference to landscape as expanding nature conservation values beyond their proper scope. Landscape is relevant to nature conservation values to the extent that it provides a habitat for indigenous flora and fauna and natural ecosystems, but not otherwise.

184. Objective 21.2.1 of the PDP refers to ecosystem services as a value deserving of some recognition. The term itself is defined in Chapter 2 as the resources and processes the environment provides. We regard it as helpful to make it clear that when natural ecosystems are referred to in the context of nature conservation values, the collective values of ecosystems include ecosystem services.

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186 As indeed would the further alternative suggested by Mr Vivian

187 E.g. Submissions 806 and 807

185. Accordingly, we recommend to the Stream 10 Hearing Panel that the definition of nature conservation values be amended to read:

"The collective and interconnected intrinsic values of indigenous flora and fauna, natural ecosystems (including ecosystem services), and their habitats."

186. Given this revised definition, nature conservation values is a concept which, in our view, could be utilised in this objective. However, given the breadth of the values captured by the definition, it would not be appropriate to refer to all nature conservation values. Some qualitative test is required; in this context, we recommend that the focus be on 'significant' nature conservation values.

187. Lastly, consequential on the changes to the Proposed RPS discussed in Report 2, and to the recommendations of that Hearing Panel as to how Objective 3.2.7.1 is framed, the reference to Ngāi Tahu values, **rights** and interests needs to be reviewed.

188. In summary, therefore, we recommend that the objective (renumbered 3.2.1.8) read as follows:

"Diversification of land use in rural areas beyond traditional activities, including farming, provided that the character of rural landscapes, significant nature conservation values and Ngāi Tahu values, interests and customary resources are maintained."

189. While we agree with Mr Paetz's recommendation that reference to the strong productive value of farming (in the context of notified Objective 3.2.1.4) be deleted, deletion of that reference, and amending the objectives to refer to realisation of the benefits from the visitor industry and diversification of current land uses leaves a gap, because it fails to recognise the economic value of those traditional farming activities. We accept that ongoing farming also provides a collateral benefit to the economy through its contribution to maintenance of existing rural landscape character, on which the visitor industry depends[188]. Mr Ben Farrell gave evidence suggesting, by contrast, that farming has had adverse effects on natural landscapes and that those *'degraded'* natural environments had significant potential to be restored[189]. We accept that farming has extensively modified the natural (pre-European settlement) environment. However, the expert landscape evidence we heard (from Dr Read) is that large areas of farmed landscapes are outstanding natural landscapes and section 6(b) requires that those landscapes be preserved. Cessation of farming might result in landscapes becoming more natural, but we consider that any transition away from farming would have to be undertaken with great care.

190. Continuation of the status quo, by contrast, provides greater surety that those landscapes will be preserved. As already noted, recognition of existing primary production activities is also consistent both with the RPS and the Proposed RPS. The notified Objective 3.2.5.5. sought to address the contribution farming makes to landscape values, as follows:

"Recognise that agricultural land use is fundamental to the character of our landscapes."

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188 The relationship between landscape values and economic benefits was recognised by the Environment Court as long ago as *Crichton v Queenstown Lakes District Council*. W12/99 at page 12. Dr Read gave evidence that this remains the position – see Dr M Read, EiC at 4.2.

189 B Farrell, EiC at [111] and [116]

191. That objective attracted a large number of submissions, principally from tourist interests and parties with an interest in residential living in rural environments, seeking that it recognise the contribution that other activities make to the character of the District's landscapes[190]. This prompted Mr Paetz to recommend that the focus of the objective be shifted to read:

"The character of the District's landscapes is maintained by ongoing agricultural land use and land management."

192. We agree with the thinking underlying Mr Paetz's recommendation, that as many submitters suggest, agricultural land uses are not the only way that landscape character is maintained.

193. However, we have a problem with that reformulation, because not all agricultural land use and land management will maintain landscape character[191].

194. We are also wary of any implication that existing farmers should be locked into farming as the only use of their land, particularly given the evidence we heard from Mr Phillip Bunn as to the practical difficulties farmers have in the Wakatipu Basin continuing to operate viable businesses. The objective needs to encourage rather than require farming of agricultural land.

195. The suggested objective also suffers from implying rather than identifying the desired environmental end point. To the extent the desired end point is continued agricultural land use and management (the implication we draw from the policies seeking to implement the objective), landscape character values are not the only criterion (as the policies also recognise – referring to significant nature conservation values).

196. We therefore recommend that Objective 3.2.5.5 be shifted to accompany the revised Objective 3.2.1.4, as above, and amended to read as follows:

"Agricultural land uses consistent with the maintenance of the character of rural landscapes and significant nature conservation values are enabled."

197. Logically, given that agricultural land uses generally represent the status quo in rural areas, this objective should come before the revised Objective 3.2.1.4 and so we have reordered them, numbering this Objective 3.2.1.7.

198. The final objective in Section 3.2.1, as notified, related to provision of infrastructure, reading:

"Maintain and promote the efficient operation of the District's infrastructure, including designated Airports, key roading and communication technology networks."

199. A number of submissions were lodged by infrastructure providers[192] related to this objective, seeking that its scope be extended in various ways, discussed further below. We also heard a substantial body of evidence and legal argument regarding the adequacy of treatment for

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190 Submissions 343, 345, 375, 407, 437, 456, 513, 515, 522, 531, 534, 535, 537, 598, 807; Supported in FS1097, FS1056, FS1086, FS1287, FS1292, FS1322; Opposed in FS1068, FS1071, FS1091, FS1120 and FS1282

191 Mr Dan Wells suggested to us the introduction of pivot irrigators for instance as an example of undesirable agricultural evolution from a landscape character perspective).

192 Submissions 251, 433, 635, 719, 805; Supported in FS1077, FS1092, FS1097, FS1115, FS1117, FS1159, FS1340; Opposed in FS1057, FS1117, FS1132

infrastructure in this regard, and elsewhere. We were reminded by Transpower New Zealand Limited[193] that we were obliged to give effect to the NPSET 2008.

200. Other submissions[194] sought deletion of an inclusive list. Submission 807 argued that the *'three waters'* are essential and should be recognised. That submission also sought that the objective emphasise timely provision of infrastructure. Submission 806 sought that the objective recognise the need to minimise adverse effects by referring to the importance of maintaining the quality of the environment.

201. Another approach suggested was to clarify/expand the description of infrastructure[195]

202. Mr Paetz recommended that we address these submissions by inserting a new goal, objective and policy into Chapter 3.

203. We do not agree with that recommendation. It seems to us that while important at least to the economic and social wellbeing of people and communities (to put it in section 5 terms), infrastructure needs (including provisions addressing reverse sensitivity issues) are ultimately an aspect of development in urban and rural environments so as to achieve a prosperous and resilient economy (and therefore squarely within the first goal/high-level objective), rather than representing a discrete topic that should be addressed with its own goal/high-level objective.

204. That does not mean, however, that this is not an appropriate subject for an objective at the next level down. Reverting then to the notified objective, we consider the submissions opposing the listing of some types of infrastructure have a point. Even though the list is expressed to be inclusive, it invites a '*me too*' approach from those infrastructure providers whose facilities have not been listed[196] and raises questions as to why some infrastructure types are specifically referenced, and not others. The definition of 'infrastructure' in the Act is broad, and we do not think it needs extension or clarification.

205. The essential point is that the efficient operation of infrastructure is a desirable outcome in the broader context of seeking a prosperous and resilient District economy. Quite apart from any other considerations, Objective 9.4.2 of the RPS (promoting the sustainable management of Otago's infrastructure[197]) along with Policy 9.5.2 (promoting and encouraging efficiency and use of Otago's infrastructure) would require its recognition. We regard that as an appropriate objective, provided that outcome is not pursued to the exclusion of all other considerations; in particular, without regard to any adverse effects on the natural environment that might result.

206. It follows that we accept in principle the point made in Submission 806, that adverse effects of the operation of infrastructure need to be minimised as part of the objective.

207. As regards the submissions seeking extension of the scope of the objective, we accept that this objective might appropriately be broadened to relate to the provision of infrastructure, as well

193 Submission 805

194 Submissions 806 and 807; Opposed in FS1077

195 Submissions 117 and 238: Supported in FS1117; Opposed in FS1107, FS1157, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248 and FS1249

196 Accepting that submissions of this ilk were not limited to infrastructure providers- NZIA sought that bridges be added to the list.

197 See Objective 4.3 of the Proposed RPS to similar effect

as its operation. Submitters made a number of suggestions as to how a revised objective might be framed to extend it beyond infrastructure *'operation'*. Variations included reference to:

a. Infrastructure *'development'*[198]
b. '*Provision'* of infrastructure[199]
c. *'Maintenance development and upgrading'* of infrastructure[200], wording that we note duplicates Policy 2 of the NPSET 2008.

208. In terms of how infrastructure should be described in the objective, again there were a number of suggestions. Some submissions sought that infrastructure provision be *'effective'*[201], again reflecting wording in the NPSET 2008. Submission 635 also suggested that reference be made to safety. Lastly, and as already noted, submission 807 sought that reference be made to the timing of the infrastructure provision.

209. Mr Paetz recommended the following wording:

"Maintain and promote the efficient and effective operation, maintenance, development and upgrading of the District's existing infrastructure and the provision of new infrastructure to provide for community wellbeing."

210. We do not regard Mr Paetz's formulation as satisfactory. Aside from the absence of an environmental performance criterion and the fact that it is not framed as an outcome, the suggested division between existing and new infrastructure produces anomalies. Existing infrastructure might be operated, maintained and upgraded, but it is hard to see how it can be developed (by definition, if it exists, it has already been developed). Similarly, once provided, why should new infrastructure not be maintained and upgraded? The way in which community wellbeing is referenced also leaves open arguments as to whether it applies to existing infrastructure, or just to new infrastructure.

211. We also think that *'community wellbeing'* does not capture the true role of, or justification for recognising, infrastructure. Submissions 806 and 807 suggested that reference be to infrastructure "*that supports the existing and future community"*, which is closer to the mark, but rather wordy. We think that reference would more appropriately be to meeting community needs.

212. The RPS is too generally expressed to provide direction on these issues, but we take the view that the language of the NPSET 2008 provides a sensible starting point, compared to the alternatives suggested, given the legal obligation to implement the NPSET. Using the NPSET 2008 language and referring to *'effective'* infrastructure also addresses the point in Submission 807 – effective infrastructure development will necessarily be timely. Lastly, while safety is important, we regard that as a prerequisite for all development, not just infrastructure.

213. Taking all of these considerations into account, we recommend that Objective 3.2.1.5 be renumbered 3.2.1.9 and revised to read:

"Infrastructure in the District that is operated, maintained developed and upgraded efficiently and effectively to meet community needs and which maintains the quality of the environment".

198 Submission 251; Supported in FS1092, FS1097, FS1115, FS1117; Opposed in FS1132
199 Submissions 635, 806, 807; Supported in FS 1159, Opposed in FS1077
200 Submission 805
201 Submissions 635, 805; Supported in FS1159

214. Having recommended an objective providing generically for infrastructure, we do not recommend acceptance of the New Zealand Fire Service Commission submission[202] that sought a new objective be inserted into Section 3.2.1 providing for emergency services. While important, this can appropriately be dealt with in the more detailed provisions of the PDP.

215. In summary, having considered all of the objectives in its proposed Section 3.2.1, we consider them individually and collectively to be the most appropriate way in which to achieve the purpose of the Act as it relates to the economy of the District.

2.4. Section 3.2.2 Goal – Urban Growth Management

216. The second specified *'goal'* read:

"The strategic and integrated management of urban growth".

217. A number of submissions supported this goal in its current form. One submission in support[203] sought that it be expanded to cover all growth within the district, not just urban growth.

218. One submission[204] sought its deletion, without any further explanation. Another submission[205] sought in relation to this goal, an acknowledgement that some urban development might occur outside the UGB.

219. A number of other submissions sought relief nominally in respect of the Section 3.2.2 goal that in reality relate to the more detailed objectives and policies in that section. We consider them as such.

220. Mr Paetz did not recommend any amendment to this goal.

221. The focus of the RPS previously discussed (on sustainable management of the built environment) is too generally expressed to provide direction in this context. The Proposed RPS focuses more directly on urban growth under Objective 4.5 (*"Urban growth and development is well-designed, reflects local character and integrates effectively with adjoining urban and rural environments"*). Policy 4.5.1 in particular supports this goal – it refers specifically to managing urban growth in a strategic and coordinated way.

222. Reverting to the submissions on it, we do not regard it as appropriate that this particular goal/high-level objective be expanded to cover all growth within the District. Growth within rural areas raises quite different issues to that in urban areas.

223. Nor do we accept Submission 807. The goal is non-specific as to where urban growth might occur. The submitter's point needs to be considered in the context of the more detailed objectives and policies fleshing out this goal.

224. Accordingly, the only amendment we would recommend is to reframe this goal more clearly as a higher-level objective, as follows:

"Urban growth managed in a strategic and integrated manner."

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202 Submission 438; Supported in FS1160

203 Submission 471; Supported in FS1092

204 Submission 294

205 Submission 807

225. We consider that a high-level objective in this form is the most appropriate way to achieve the purposes of the Act as it relates to urban growth.

2.5. Section 3.2.2 Objectives – Urban Growth Management

226. Objective 3.2.2.1 is the primary objective related to urban growth under what was goal 3.2.2. As notified it read:

"Ensure urban development occurs in a logical manner:
a. To promote a compact, well designed and integrated urban form;
b. To manage the cost of Council infrastructure; and
c. To protect the District's rural landscapes from sporadic and sprawling development."

227. Submissions on this objective sought variously:
a. Its deletion[206];
b. Recognition of reverse sensitivity effects on significant infrastructure as another aspect of logical urban development[207];
c. Deletion of reference to logical development and to sporadic and sprawling development, substituting reference to "urban" development[208];
d. Removal of the implication that the only relevant infrastructure costs are Council costs[209];
e. Generalising the location of urban development ("*appropriately located*") and emphasising the relevance of efficiency rather than the cost of servicing[210].

228. The version of this objective recommended by Mr Paetz in his reply evidence accepted the point that non-Council infrastructure costs were a relevant issue, but otherwise recommended only minor drafting changes.

229. In our view, consideration of this objective needs to take into account a number of other objectives in Chapter 3:

"3.2.2.2: Manage development in areas affected by natural hazards."[211]
3.2.3.1 Achieve a built environment that ensures our urban areas are desirable and safe places to live, work and play;
3.2.6.1 Provide access to housing that is more affordable;
3.2.6.2 Ensure a mix of housing opportunities.
3.2.6.3 Provide a high quality network of open spaces and community facilities."

230. Submissions on the above objectives sought variously:
a. Deletion of Objective 3.2.2.2[212];

206 Submission 806
207 Submissions 271 and 805; Supported in FS1092, FS1121, FS1211, FS1340; Opposed in FS 1097 and FS1117
208 Submission 608; Opposed in FS1034
209 Submission 635
210 Submissions 806 and 807
211 Although this could be read to apply to non-urban development in isolation, in the context of an urban development goal and a supporting policy focussed on managing higher density urban development, that is obviously not intended.
212 Submission 806

b. Amendment of 3.2.6.1 so that it is more enduring and refers not just to housing, but also to land supply for housing[213];
c. Addition of reference in 3.2.6.1 to design quality[214];
d. Collapsing 3.2.6.1 and 3.2.6.2 together[215];
e. Amendment of 3.2.6.2 to refer to housing densities and typologies rather than opportunities[216];
f. Amendment to 3.2.6.3 to refer to community activities rather than community facilities if the latter term is not defined to include educational facilities[217].

231. Remarkably, for this part of the PDP at least, Objective 3.2.3.1 does not appear to have been the subject of any submissions, other than to the extent that it is caught by UCES's more general relief, seeking that Chapter 3 be deleted.

232. Mr Paetz did not recommend substantive changes to any of these objectives, other than to rephrase them as seeking an environmental outcome.

233. We have already noted some of the provisions of the RPS relevant to these matters. As in other respects, the RPS is generally expressed, so as to leave ample leeway in its implementation, but Policy 9.5.5 is worthy of mention here – it directs maintenance and where practicable enhancement of the quality of life within the build environment, which we regard as supporting Objective 3.2.3.1.

234. The Proposed RPS contains a number of provisions of direct relevance to this group of objectives. We have already noted Objective 4.5, which supports a focus on good design and integration, both within and without existing urban areas. Aspects of Policy 4.5.1 not already mentioned focus on minimising adverse effects on rural activities and significant soils, maintaining and enhancing significant landscape or natural character values, avoiding land with significant risk from natural hazards and ensuring efficient use of land. These provisions provide strong support for the intent underlying many of the notified objectives.

235. In our view, the matters covered by the group of PDP objectives we have quoted are so interrelated that they could and should be combined in one overall objective related to urban growth management.

236. In doing so, we recommend that greater direction be provided as to what outcome is sought in relation to natural hazards. Mr Paetz's recommended objective suggests that development in areas affected by natural hazards "*is appropriately managed*". This formulation provides no guidance to decision makers implementing the PDP. While the RPS might be considered equally opaque in this regard[218], the proposed RPS takes a more directive approach. Policy 4.5.1, as noted, directs avoidance of land with significant natural hazard risk. Objective 4.1 of the Proposed RPS states:

"Risk that natural hazards pose to Otago's communities are minimised."

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213 Submissions 513, 515, 522, 528, 531, 532, 534, 535, 537: Supported in FS1256, FS1286, FS1292, FS1322; Opposed in FS1071 and FS1120

214 Submission 238: Opposed in FS1107, FS1157, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248, FS1249

215 Submission 806

216 Submission 608: Opposed in FS1034

217 Submission 524

218 Refer Objective 11.4.2 and the policies thereunder

237. Having regard to these provisions (as we are bound to do), we recommend that the focus on natural hazard risk in relation to urban development similarly be on minimising that risk.

238. It is also relevant to note that the Proposed RPS also has an objective[219] seeking that Otago's communities "*are prepared for and are able to adapt to the effects of climate change"* and a policy[220] directing that the effects of climate change be considered when identifying natural hazards. While the RPS restricts its focus on climate change to sea-level rise[221], which is obviously not an issue in this District, this is an area where we consider the Proposed RPS reflects a greater level of scientific understanding of the potential effects of climate change since the RPS was made operative[222].

239. As above, submissions focus on the reference to logical development. It is hard to contemplate that urban development should be illogical (or at least not intentionally so), but we recommend that greater guidance might be provided as to what is meant by a logical manner of urban development. Looking at Chapter 4, and the areas identified for urban development, one obvious common feature is that they build on historical urban settlement patterns (accepting that in some cases it is a relatively brief history), and we recommend that wording to this effect be inserted in this objective.

240. Lastly, consistent with our recommendation above, reference is required in this context to the interrelationship of urban development and infrastructure. Mr Paetz's suggested formulation (manages the cost of infrastructure) does not seem to us to adequately address the issue. First, the concept that costs would be managed provides no indication as to the end result – whether infrastructure costs will be high, low, or something in between. Secondly, while obviously not intended to do so (Mr Paetz suggests a separate objective and policy to deal with it), restricting the focus of the objective to the costs of infrastructure does not address all of the reverse sensitivity issues that both QAC and Transpower New Zealand Limited emphasised to us, the latter with reference to the requirements of the NPSET 2008.

241. The suggestion by Remarkables Park Ltd and Queenstown Park Ltd that the focus be on efficiency of servicing, while an improvement on '*managing'* costs, similarly does not get close to addressing reverse sensitivity issues.

242. We accordingly recommend that reference should be made to integration of urban development with existing and planned future infrastructure. While this is still reasonably general, the recommendations following will seek to put greater direction around what is meant.

243. We regard reference to community housing as being too detailed in this context and do not agree with the suggestion that sprawling and sporadic development is necessarily *'urban'* in character[223]. Mr Chris Ferguson[224], suggested as an alternative to the relief sought, that the objective refer to "*urban sprawl development",* which from one perspective, would restrict the ambit of the protection the objective seeks for rural areas still further. Mr Ferguson relied on

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219 Objective 4.2.2

220 Policy 4.1.1(d)

221 Policy 8.5.8

222 As well as reflecting the legislative change to add section 7(i) to the Act

223 Depending of course on how 'urban development' is defined. This is addressed in much greater detail below.

224 Giving planning evidence on the submission of Darby Planning LP

the fact that Mr Bird's evidence referred to sprawling development, but not to sporadic development, in his evidence. However, Mr Bird confirmed in answer to our question that he regarded sporadic development in the rural areas as just as concerning as sprawling development. Accordingly, we do not accept Mr Ferguson's suggested refinement of the relief the submission sought.

244. We likewise do not accept the alternative relief sought in Submission 529. We consider that the role of educational facilities is better dealt with in the definition section, as an aspect of community facilities, than by altering the objective to refer to community activities. Such an amendment would be out of step with the focus of the objective on aspects of urban development.

245. Finally, we consider all objectives and policies will be more readily understood (and more easily referred to in the future) if any lists within them are alphanumeric lists rather than bullet points. Such a change is recommended under Clause 16(2) and all our recommended objectives and policies reflect that change.

246. In summary, we recommend that Objective 3.2.2.1 be amended to read:

"Urban development occurs in a logical manner so as to:

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

247. We consider that an objective in this form is the most appropriate way to expand on the high-level objective and to achieve the purpose of the Act as it relates to urban development.

2.6. Section 3.2.3 – Goal – Urban Character

248. As notified, the third goal read:

"A quality built environment taking into account the character of individual communities."

249. A number of submissions supported this goal. One submission[225] sought its deletion.

250. Mr Paetz did not recommend any change to this goal.

251. Recognition of the character of the built environment implements the generally expressed provisions of the RPS related to the built environment (Objective 9.4 and the related policies) already noted. A focus on local character is also consistent with objective 4.5 of the Proposed RPS.

[225] Submission 807

252. While Mr Haworth's criticism of it in his evidence for UCES (as being "*a bit waffly"* and *"obvious")* is not wholly unjustified, we consider that there is a role for recognition of urban character as a high-level objective that is expanded on by more detailed objectives. The goal as notified is already expressed in the form of an objective. Accordingly, we recommend its retention with no amendment as being the most appropriate way to achieve the purpose of the Act.

2.7. Section 3.2.3 – Objectives – Urban Character

253. We have already addressed Objective 3.2.3.1 as notified and recommended that it be shifted into Section 3.2.2.

254. Objective 3.2.3.2 as notified, read:

"Protect the District's cultural heritage values and ensure development is sympathetic to them."

255. The submissions on this objective either seek its deletion[226], or that protection of cultural heritage values be "*from inappropriate activities"*[227]*.*

256. Mr Paetz's reply evidence recommended that the objective be framed as:

"Development is sympathetic to the District's cultural heritage values."

257. Reference to cultural heritage includes both Maori and non-Maori cultural heritage. The former is, however, already dealt with in Section 3.2.7 and we had no evidence that non-Maori cultural heritage expands beyond historic heritage, so we recommend the objective be amended to focus on the latter.

258. Historic heritage is not solely an urban development issue, and so this should remain a discrete objective of its own, if retained, rather than being amalgamated into Objective 3.2.3.1.

259. Consideration of this issue comes against a background where Policy 9.5.6 of the RPS directs recognition and protection of Otago's regionally significant heritage sites through their identification in consultation with communities and development of means to ensure they are protected from inappropriate subdivision, use and development. Both the language and the intent of this policy clearly reflects section 6(f) of the Act, requiring that the protection of historic heritage from inappropriate subdivision, use and development be recognised and provided for, without taking the provisions of the Act much further.

260. The Proposed RPS provides rather more direction with a policy[228] that the values and places and areas of historic heritage be protected and enhanced, among other things by avoiding adverse effects on those values that contribute to the area or place being of regional or national significance, and avoiding significant adverse effects on other values of areas and places of historic heritage.

261. Taking the provisions of the RPS and the Proposed RPS on board, deletion of this objective, at least as it relates to historic heritage, clearly cannot be recommended. The guidance from *King Salmon* as to the ordinary natural meaning of "*inappropriate"* in the context of a provision

226 Submission 806

227 Submissions 607, 615, 621 and 716: Supported in FS1105, FS1137 and FS1345

228 Policy 5.2.3

providing for protection of something inappropriate from subdivision use and development means that the objective, with or without reference to inappropriate development, would go further (be more restrictive) than implementation of the RPS or consistency with the Proposed RPS would require. However, we do not think that Mr Paetz's suggested wording referring to sympathetic development (on its own) is clear enough to endorse.

262. In summary, we recommend that the objective be reworded as follows:

"The District's important historic heritage values are protected by ensuring development is sympathetic to those values."

263. Taking account of the objectives recommended to be included in Section 3.2.2, we consider that this objective is the most appropriate way to achieve the purpose of the Act as it relates to urban character.

2.8. Section 3.2.4 – Goal – Natural Environment

264. As notified, this goal read:

"The protection of our natural environment and ecosystems".

265. A number of submissions supported this goal. Two submissions opposed it[229]. Of those, Submission 806 sought its deletion (along with the associated objectives and policies).

266. Mr Paetz did not recommend any amendment to this goal.

267. Even as a high-level aspirational objective, the protection of all aspects of the natural environment and ecosystems is unrealistic and inconsistent with Objective 3.2.1. Nor does the RPS require such an ambitious overall objective - Objective 10.4.2 for instance seeks protection of natural ecosystems (and primary production) "*from significant biological and natural threats".* Objective 10.4.3 seeks the maintenance and enhancement of the natural character of areas "*with significant indigenous vegetation and significant habitats of indigenous fauna".*

268. The Proposed RPS addresses the same issue in a different way, focussing on the "values" of natural resources (and seeking they be maintained and enhanced[230]).

269. We consider it would therefore be of more assistance if some qualitative test were inserted so as to better reflect the direction provided at regional level (and Part 2 of the Act). Elsewhere in the PDP, reference is made to *'distinctive'* landscapes and this is an adjective we regard as being useful in this context. The more detailed objectives provide clarity as to what might be considered '*distinctive'* and the extent of the protection envisaged.

270. Accordingly, we recommend that this goal/high-level objective be reframed as follows:

"The distinctive natural environments and ecosystems of the District are protected."

271. We consider this is the most appropriate way to achieve the purpose of the Act in the context of a high-level objective related to the natural environment and ecosystems.

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229 Submissions 806 and 807

230 Proposed RPS, Objective 3.1

2.9. Section 3.2.4 – Objectives – Natural Environment

272. Objective 3.2.4.1 as notified, read as follows:

"Promote development and activities that sustain or enhance the life supporting capacity of air, water, soils and ecosystems."

273. The RPS has a number of objectives seeking maintenance and enhancement, or alternatively safeguarding of life supporting capacity of land, water and biodiversity[231], reflecting the focus on safeguarding life supporting capacity in section 5 of the Act. In relation to fresh water and aquatic ecosystems, the NPSFM 2014 similarly has that emphasis. The Proposed RPS, by contrast, does not have the same focus on life supporting capacity, or at least not directly so. The combination of higher order provisions, however, clearly supports the form of this objective.

274. The only submissions on the objective either support the objective as notified[232], or seek that it be expanded to refer to maintenance of indigenous biodiversity[233].

275. Mr Paetz recommended that the latter submission be accepted and reframing the objective to pitch it as environmental outcome, his version as attached to his reply evidence reads as follows:

"Ensure development and activities maintain indigenous biodiversity, and sustain or enhance the life supporting capacity of air, water, soil and ecosystems."

276. So framed, the objective still starts with a verb and therefore, arguably, states a course of action (policy) rather than an environmental outcome.

277. It might also be considered that shifting the '*policy'* from promoting an outcome to ensuring it occurs is a significant substantive shift that is beyond the scope of the submissions as above.

278. We accordingly recommend that this objective be reframed as follows:

"Development and land uses that sustain or enhance the life-supporting capacity of air, water, soil and ecosystems, and maintain indigenous biodiversity."

279. Objective 3.2.4.2 as notified read:

"Protect areas with significant Nature Conservation Values".

280. Submissions on this objective included requests for:
    a. Expansion to apply to significant waterways[234];
    a. Substitution of reference to the values of Significant Natural Areas[235];
    b. Amendment to protect, maintain and enhance such areas[236];

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231 RPS, Objectives 5.4.1, 6.4.3, 10.4.1..

232 Submissions 600, 755: Supported in FS1209; Opposed in FS1034 – noting the discussion above regarding the efficacy of further submissions opposing submissions that support the notified provisions of the PDP

233 Submissions 339, 706: Opposed in FS1097, FS1162 and FS1254

234 Submission 117

235 Submission 378: Opposed in FS1049 and FS1095

236 Submission 598: Supported in FS1287; Opposed in FS1040

c. Addition of reference to appropriate management as an alternative to protection[237].

281. The version of this objective recommended by Mr Paetz in his reply evidence is altered only to express it as an environmental outcome.

282. Objective 10.4.3 of the RPS, previously noted, might be considered relevant to (and implemented by) this objective[238].

283. As above, we recommend that the definition of '*Nature Conservation Values'* be clarified to remove policy elements and our consideration of this objective reflects that revised definition. We do not consider it is necessary to specifically state that areas with significant nature conservation values might be waterways. We likewise do not recommend reference to *'appropriate management'*, since that provides no direction to decision-makers implementing the PDP.

284. However, we have previously recommended that maintenance of significant Nature Conservation Values be part of the objective relating both to agricultural land uses in rural areas and to diversification of existing activities. As such, we regard this objective as duplicating that earlier provision and unnecessary. For that reason[239], we recommend that it be deleted.

285. Objective 3.2.4.3 as notified (and as recommended by Mr Paetz) read:

"Maintain or enhance the survival chances for rare, endangered or vulnerable species of indigenous plant or animal communities".

286. Submissions specifically on this point included:
a. Seeking that reference to be made to significant indigenous vegetation and significant habitats of indigenous fauna rather than as presently framed[240];
b. Support for the objective in its current form[241];
c. Amendment to make the objective subject to preservation of the viability of farming in rural zones[242].

287. The reasons provided in Submission 378 are that the terminology used should be consistent with section 6 of the RMA.

288. While, as above, we do not regard the terminology of the Act[243] as a panacea, on this occasion, the submitter may have a point. While significant areas of indigenous vegetation and significant habitats of indigenous fauna are matters the implementation of the PDP can affect (either positively or negatively), the survival chances of indigenous plant or animal communities will likely depend on a range of factors, some able to be affected by the PDP, and some not. Moreover, any area supporting rare, endangered, or vulnerable species will, in our view, necessarily have significant nature conservation values, as defined. Accordingly, for the same reasons as in relation to the previous objective, this objective duplicates provisions we

237 Submission 600: Supported in FS1097 and FS1209; Opposed in FS1034, FS1040 and FS1080
238 See also the Proposed RPS, Policy 3.1.9, which has a 'maintain or enhance' focus.
239 Consistent with the Real Journeys submission noted above
240 Submission 378: Supported in FS1097; Opposed in FS1049 and FS1095
241 Submissions 339, 373, 600 and 706: Opposed in FS1034, FS1162, FS1209, FS1287 and FS1347
242 Submission 701: Supported in FS1162
243 Or indeed of the RPS, which uses the same language at Objective 10.4.3

have recommended above. It might also be considered to duplicate Objective 3.2.4.1, as we have recommended it be revised, given that maintenance of indigenous biodiversity will necessarily include rare, endangered, or vulnerable species of indigenous plant or animal communities.

289. For these reasons, we recommend that this objective be deleted.

290. Objective 3.2.4.4 as notified, read:

"Avoid exotic vegetation with the potential to spread and naturalise."

291. Submissions on it varied from:
   a. Support for the wording notified[244];
   b. Amendment to refer to avoiding or managing the effects of such vegetation[245];
   c. Amendment to "*reduce wilding tree spread"*[246].

292. Submission 238[247] approached it in a different way, seeking an objective focussing on promotion of native planting.

293. The thrust of the submissions in the last two categories listed above was on softening the otherwise absolutist position in the notified objective and Mr Paetz similarly recommended amendments to make the provisions less absolute.

294. The version of the objective he recommended with his reply evidence read:

"Avoid the spread of wilding exotic vegetation to protect nature conservation values, landscape values and the productive potential of land."

295. We have already noted the provisions of the RPS and the Proposed RPS which, in our view, support the intent underlying this objective. Policy 10.5.3 of the RPS (seeking to reduce and where practicable eliminate the adverse effects of plant pests) might also be noted[248].

296. The section 32 report supporting Chapter 3[249] records that the spread of wilding exotic vegetation, particularly wilding trees, is a significant problem in this District. In that context, an objective focusing on reduction of wilding tree spread or *'managing'* its effects appears an inadequate objective to aspire to.

297. We agree that the objective should focus on the outcome sought to be addressed, namely the spread of wilding exotic vegetation, rather than what should occur instead. However, we see no reason to complicate the objective by explaining the rationale for an avoidance position. Certainly, other objectives are not written in this manner.

298. Lastly, we recommend rephrasing the objective in line with the revised style recommended throughout. The end result (renumbered 3.2.4.2) would be:

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244 Submissions 289, 373: Opposed in FS1091 and FS1347

245 Submission 590 and 600: Supported in FS1132 and FS 1209; Opposed in FS1034 and FS1040

246 Submission 608; Opposed in FS1034

247 Opposed in FS1107, FS1157, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248 and FS1249

248 Refer also Proposed RPS, Policy 5.4.5 providing for reduction in the spread of plant pests.

249 Section 32 Evaluation Report- Strategic Direction at page 9

"The spread of wilding exotic vegetation is avoided."

299. Objective 3.2.4.5 as notified read:

"Preserve or enhance the natural character of the beds and margins of the District's lakes, rivers and wetlands."

300. A number of submissions sought that the effect of the objective be softened by substituting "*maintain"* for "*preserve"*[250]*.*

301. Some submissions sought that reference to biodiversity values be inserted[251].

302. Some submissions sought deletion of reference to enhancement and inclusion of protection from inappropriate subdivision, use and development[252].

303. Mr Paetz did not recommend any change to the notified objective.

304. The origins of this objective are in section 6(a) of the Act which we are required to recognise and provide for and which refers to the '*preservation'* of these areas of the environment, and the protection of them from inappropriate subdivision, use and development.

305. Objective 6.4.8 of the RPS is relevant on this aspect – it has as its object: "*to protect areas of natural character…and the associated values of Otago's wetlands, lakes, rivers and their margins".*

306. By contrast, Policy 3.1.2 of the proposed RPS refers to managing the beds of rivers and lakes, wetlands, and their margins to maintain or enhance natural character.

307. The combination of the RPS and proposed RPS supports the existing wording rather than the alternatives suggested by submitters. While section 6(a) of the Act would on the face of it support insertion of reference to inappropriate subdivision, use and development, given the guidance we have from the Supreme Court in the *King Salmon* litigation as to the meaning of that phrase, we do not consider that either regional document is inconsistent with or fails to recognise and provide for the matters specified in section 6(a) on that account. We also do not consider that reference to biodiversity values is necessary given that this is already addressed in recommended Objective 3.2.4.1.

308. The RPS (and section 6(a) of the Act) would also support (if not require) expansion of this objective to include the water above lake and riverbeds[253], but we regard this as being addressed by Objective 3.2.4.6 (to the extent it is within the Council's functions to address).

309. Accordingly, the only recommended amendment is to rephrase this as an objective (renumbered 3.2.4.3), in line with the style adopted above, as follows:

"The natural character of the beds and margins of the District's lakes, rivers and wetlands is preserved or enhanced."

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250 See e.g. Submissions 607, 615, 621, 716: Supported in FS 1097, FS1105, FS 1137 and FS1345

251 Submissions 339, 706: Opposed in FS 1015, FS1162, FS1254 and FS 1287

252 Submissions 519, 598: Supported in FS 1015 and FS1287: Opposed in FS1356

253 See also the Water Conservation (Kawarau) Order 1997, to the extent that it identifies certain rivers in the District as being outstanding by reason of their naturalness.

310. Objective 3.2.4.6 as notified read:

"Maintain or enhance the water quality and function of our lakes, rivers and wetlands."

311. A number of submissions supported the objective as notified. The only submission seeking a substantive amendment, sought to delete reference to water quality[254].

312. A focus on maintaining or enhancing water quality is consistent with Objective A2 of the NPSFM 2014, which the Council is required to give effect to. While that particular objective refers to overall quality, the decision of the Environment Court in *Ngati Kahungunu Iwi Authority v Hawkes Bay Regional Council*[255] does not suggest that any great significance can be read into the use of the word 'overall'.

313. Similarly, while the policies of the NPSFM 2014 are directed at actions to be taken by Regional Councils, where land uses (and activities on the surface of waterways) within the jurisdiction of the PDP, impinge on water quality, we think that the objectives of the NPSFM 2014 must be given effect by the District Council as well.

314. One might also note Objective 6.4.2 of the RPS, that the Council is also required to give effect to, and which similarly focuses on maintaining and enhancing the quality of water resources.

315. Accordingly, we do not recommend deletion of reference to water quality in this context. The only amendment that is recommended is stylistic in nature, to turn it into an objective (renumbered 3.2.4.4) as follows:

"*The water quality and functions of the District's lakes, rivers and wetlands is maintained or enhanced."*

316. Objective 3.2.4.7 as notified read:

"Facilitate public access to the natural environment."

317. Submissions on this objective included:
   a. Support for the objective as is[256];
   b. Seeking that "*maintain and enhance"* be substituted for "*facilitate"* and emphasising public access *'along'* rivers and lakes[257];
   c. Inserting a link to restrictions on public access created by a subdivision or development[258];
   d. Substituting "*recognise and provide for"* for "*facilitate"*[259].

318. Mr Paetz in his reply evidence recommended no change to this particular objective.

319. To the extent that there is a difference between facilitating something and maintaining or enhancing it (any distinction might be seen to be rather fine), the submissions seeking that

254 Submission 600: Supported in FS1209; Opposed in FS1034 and FS1040.
255 [2015] NZEnvC50
256 Submissions 378, 625, 640: Opposed in FS1049, FS1095 and FS1347
257 Submissions 339, 706: Supported in FS1097, Opposed in FS1254 and FS1287
258 Submission 600: Supported in FS1209, Opposed in FS1034
259 Submission 806

change were on strong ground given that Objective 6.4.7 of the RPS (and section 6(d) of the Act) refers to maintenance and enhancement of public access to and along lakes and rivers. We do not think, however, that specific reference is required to lakes and rivers, since they are necessarily part of the natural environment.

320. We reject the suggestion that the objective should "*recognise and provide for"* public access, essentially for the reasons set out above[260].

321. In addition, while in practice, applications for subdivision and development are likely to provide the opportunity to enhance public access to the natural environment, we do not think that the objective should be restricted to situations where subdivision or development will impede existing public access. Any consent applicant can rely on the legal requirement that consent conditions fairly and reasonably relate to the consented activity[261] to ensure that public access is not sought in circumstances where access has no relationship to the subject-matter of the application.

322. Lastly, the objective requires amendment in order that it identifies an environmental outcome sought.

323. In summary, we recommend that this objective (renumbered 3.2.4.5) be amended to read:

"Public access to the natural environment is maintained or enhanced."

324. Objective 3.2.4.8 as notified read:

"Respond positively to Climate Change".

325. Submissions on it included:
a. General support[262];
b. Seeking its deletion[263];
c. Seeking amendment to focus more on the effects of climate change[264].

326. Mr Paetz recommended in his reply evidence that the objective remain as notified.

327. As already noted, the RPS contains a relatively limited focus on climate change, and might in that regard be considered deficient given the terms of section 7(i) of the Act (added to the Act after the RPS was made operative). The Proposed RPS contains a much more comprehensive suite of provisions on climate change and might, we believe, be regarded as providing rather more reliable guidance. The focus of the Proposed RPS, consistently with section 7(i), is clearly on responding to the effects of climate change. As the explanation to Objective 4.2 records, *"the effects of climate change will result in social, environmental and economic costs, and in some circumstances benefits".* The Regional Council's view, as expressed in the Proposed RPS, is that that change needs to be planned for.

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260 Paragraph 58ff above

261 Refer *Newbury District Council v Secretary of State for the Environment* [1981] AC 578 and the many cases following it in New Zealand

262 Submissions 117, 339, 708: Opposed in FS 1162

263 Submission 807

264 Submissions 598, 806 and 807 (in the alternative): Supported in FS1287; Opposed in FS1034

328. Against that background, we had difficulty understanding exactly what the outcome is that this objective is seeking to achieve. The sole suggested policy relates to the interrelationship of urban development policies with greenhouse gas emission levels, and their contribution to global climate change. As such, this objective appears to be about responding positively to the causes of global climate change, rather than responding to its potential effects.

329. At least since the enactment of the Resource Management (Energy and Climate Change) Amendment Act 2004, the focus of planning under the Act has been on the effects of climate change rather than on its causes.

330. It also appeared to us that to the extent that the PDP could influence factors contributing to global climate change, other objectives (and policies) already address the issue.

331. Accordingly, as suggested by some of the submissions noted above, and consistently with both the Proposed RPS and section 7(i) of the Act, the focus of District Plan provisions related to climate change issues should properly be on the effects of climate change. The most obvious area[265] where the effects of climate change are relevant to the final form of the District Plan is in relation to management of natural hazards. We have already discussed how that might be incorporated into the high level objectives of Chapter 3. While there are other ways in which the community might respond to the effects of climate change, these arise in the context of notified Policy 3.2.1.3.2. We consider Objective 3.2.4.8 is unclear and adds no value. While it could be amended as some submitters suggest, to focus on the effects of climate change, we consider that this would duplicate other provisions addressing the issues more directly. In our view, the better course is to delete it.

332. In summary, we consider that the objectives recommended for inclusion in Section 3.2.4 are individually and collectively the most appropriate way to achieve the purpose of the Act as it relates to the natural environment and ecosystems.

2.10. Section 3.2.5 Goal – Landscape Protection

333. As notified, this goal read:

"Our distinctive landscapes are protected from inappropriate development."

334. A number of submissions supported this goal.

335. Submissions seeking amendment to it sought variously:
   a. Amendment to recognise the operational and locational constraints of infrastructure[266].
   a. Substitution of reference to the values of distinctive landscapes[267].
   b. Substitution of reference to the values of '*outstanding'* landscapes and insertion of reference to the adverse effects of inappropriate development on such values[268].

336. A number of submissions also sought deletion of the whole of Section 3.2.5.

337. Mr Paetz did not recommend any amendment to this goal.

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265 See Submission 117 in this regard

266 Submissions 251, 433: Supported in FS1029, FS1061 and FS1085

267 Submission 807

268 Submission 806

338. The RPS focuses on outstanding landscapes[269], reflecting in turn the focus of section 6(b) of the Act. The Proposed RPS, however, has policies related to both outstanding and highly valued landscapes, with differing policy responses depending on the classification, within the umbrella of Objective 3.2 seeking that significant and highly-valued natural resources be identified, and protected or enhanced.

339. Like the Proposed RPS, the subject matter of Section 3.2.5 is broader than just the outstanding natural landscapes of the District. Accordingly, it would be inconsistent to limit the higher-level objective to those landscapes.

340. For the same reason, a higher-level objective seeking the protection of both outstanding natural landscapes and lesser quality, but still distinctive, landscapes goes too far, even with the qualification of reference to inappropriate development. As discussed earlier in this report, given the guidance of the Supreme Court in *King Salmon* as to the correct interpretation of qualifications based on reference to inappropriate subdivision use and development, it is questionable whether reference to inappropriate development in this context adds much. To that extent, we accept the point made in legal submissions for Trojan Helmet Ltd that section 6 and 7 matters should not be conflated by seeking to protect all landscapes.

341. The suggestion in Submissions 806 and 807 that reference might be made to the values of the landscapes in question is one way in which the effect of the goal/higher-level objective could be watered down. But again, this would be inconsistent with objectives related to outstanding natural landscapes, which form part of Section 3.2.5.

342. We recommend that these various considerations might appropriately be addressed if the goal/higher order objective were amended to read:

"The retention of the District's distinctive landscapes."

343. We consider that this is the most appropriate way to achieve the purpose of the Act in the context of a high-level objective related to landscapes.

2.11. Section 3.2.5 Objectives - Landscapes

344. Objective 3.2.5.1 as notified read:

"Protect the natural character of Outstanding Natural Landscapes and Outstanding Natural Features from subdivision, use and development."

345. This objective and Objective 3.2.5.2 following it (related to non-outstanding rural landscapes) attracted a large number of submissions, and evidence and submissions on them occupied a substantial proportion of the Stream 1B hearing. The common theme from a large number of those submitters and their expert witnesses was that Objective 3.2.5.1 was too protective of ONLs in particular, too restrictive of developments in and affecting ONLs, and would frustrate appropriate development proposals that are important to the District's growth[270].

346. Some suggested that the objective as notified would require that all subdivision use and development in ONLs and ONFs be avoided.[271] If correct, that would have obvious costs to the

269 RPS, Objectives 5.4.3, 6.4.8

270 See e.g. Mr Jeff Brown's evidence at paragraph 2.3.

271 E.g. Ms Louise Taylor, giving evidence for Matukituki Trust

District's economy and to future employment opportunities that would need to be carefully considered.

347. As already noted, a number of submissions sought the deletion of the entire Section 3.2.5[272]. As regards Objective 3.2.5.1, many submitters sought reference be inserted to "*inappropriate"* subdivision, use and development[273].

348. One submitter combined that position with seeking that adverse effects on natural character of ONLs and ONFs be avoided, remedied or mitigated, as opposed to their being protected[274].

349. Another suggestion was that the objective be broadened to refer to landscape values and provide for adverse effects on those values to be avoided, remedied or mitigated[275].

350. The Council's corporate submission sought specific reference to indigenous flora and fauna be inserted into this objective[276].

351. Submission 810[277] sought a parallel objective (and policy) providing for protection and mapping of wāhi tupuna.

352. The more general submissions[278] seeking provision for infrastructure also need to be kept in mind in this context.

353. In his Section 42A Report, Mr Paetz sought to identify the theme underlying the submissions on this objective by recommending that it be amended to read:

"Protect the quality of the Outstanding Natural Landscapes and Outstanding Natural Features from subdivision, use and development."

354. His reasoning was that a focus solely on the natural character of ONLs and ONFs was unduly narrow and not consistent with "*RMA terminology".* He did not, however, recommend acceptance of the many submissions seeking insertion of the word '*inappropriate'* essentially because it was unnecessary – "*in saying 'Protect the quality of the outstanding natural landscapes and outstanding natural features from subdivision, use and development', the 'inappropriate' test is implicit i.e. Development that does not protect the quality will be inappropriate."*[279]

355. By his reply evidence, Mr Paetz had come round to the view that the submitters on the point (and indeed many of the planning witnesses who had given evidence) were correct and that the word '*inappropriate'* ought to be added. He explained his shift of view on the basis that

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272 E.g. Submissions 632, 636, 643, 669, 688, 693, 702: Supported in FS1097; Opposed in FS1219, FS1252, FS1275, FS1283 and FS1316

273 E.g. Submissions 355, 375, 378, 502, 519, 581, 598, 607, 615, 621, 624, 716, 805: Supported in FS1012, FS1015, FS1097, FS1117, FS1137, FS1282 and FS1287; Opposed in FS1049, FS1095 FS1282, FS1320 and FS1356

274 Submission 519: Supported in FS1015, FS1097 and FS1117; Opposed in FS1282 and 1356

275 Submissions 806 and 807

276 Submission 809: Opposed in FS1097

277 Supported in FS1098; Opposed in FS1132

278 Submissions 251 and 433: Supported in FS1029, FS1061 and FS1085

279 Section 42A Report at 12,103

that amendment would enable applicants "*to make their case on the merits in terms of whether adverse impacts on ONFs or ONLs, including component parts of them, is justified"*[280].

356. Mr Paetz's Section 42A Report reflects the decision of the Supreme Court in the *King Salmon* litigation previously noted. His revised stance in his reply evidence implies that the scope of appropriate subdivision, use and development in the context of an objective seeking protection of ONLs and ONFs from inappropriate subdivision, use and development is broader than that indicated by the Supreme Court.

357. The legal basis for Mr Paetz's shift in position is discussed in the reply submissions of counsel for the Council. Counsel's reply submissions[281] emphasize the finding of the Supreme Court that section 6 does not give primacy to preservation or protection and draws on the legal submissions of counsel for the Matukituki Trust to argue that a protection against '*inappropriate*' development is not necessarily a protection against any development, but that including reference to it allows a case to be made that development is appropriate.

358. This in turn was argued to be appropriate in the light of the extent to which the district has been identified as located within an ONL or ONF (96.97% based on the notified PDP maps).

359. Although not explicitly saying so, we read counsel for the Council's reply submissions as supporting counsel for a number of submitters who urged us to take a '*pragmatic*' approach to activities within or affecting ONLs or ONFs[282].

360. Counsel for Peninsula Bay Joint Venture[283] argued also [284] that Objective 3.2.5.1 failed to implement the RPS because the relevant objective in that document[285] refers to protection of ONLs and ONFs "*from inappropriate subdivision, use and development".*

361. We agree that the objectives and policies governing ONFs and ONLs are of critical importance to the implementation of the PDP. While as at the date of the Stream 1B hearing, submissions on the demarcation of the ONLs and ONFs had yet to be heard, it was clear to us that a very substantial area of the district would likely qualify as either an ONL or an ONF. Dr Marion Read told us that this District was almost unique because the focus was on identifying what landscapes are not outstanding, rather than the reverse. As above, Council staff quantified the extent of ONLs and ONFs mapped in the notified PDP as 96.97%[286].

362. Given our recommendation that there should be a strategic chapter giving guidance to the implementation of the PDP as a whole, the objective in the strategic chapter related to activities affecting ONLs and ONFs is arguably the most important single provision in the PDP.

363. For precisely this reason, we consider that this objective needs to be robust, in light of the case law and the evidence we heard, and clear as to what outcome is being sought to be achieved.

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280 M Paetz, Reply Evidence at 5.23.

281 At 6.6

282 Mr Goldsmith for instance (appearing for Ayrburn Farms Ltd, Bridesdale Farms Ltd, Mt Cardrona Station) observed that elements of the existing planning regime for ONL's exhibited a desirable level of pragmatism.

283 Submission 378

284 Written submissions at paragraph 32

285 Objective 5.4.3

286 See QLDC Memorandum Responding to Request for Further Information Streams 1A & 1B, Schedule 3

364. The starting point is that, as already noted, the Supreme Court in *King Salmon* found that:

> *"We consider that where the term 'inappropriate' is used in the context of protecting areas from inappropriate subdivision, use or development, the natural meaning is that "inappropriateness" should be assessed by reference to what it is that is sought to be protected*.[287]"

365. When we discussed the matter with Mr Gardner-Hopkins, at that point acting as counsel for Kawarau Jet Services, he agreed that we were duty bound to apply that interpretation, but having said that, in his submission, the point at which effects tip into being inappropriate takes colour from the wider policy framework and factual analysis.

366. That response aligns with the Environment Court's decision in *Calveley v Kaipara DC*[288] that Ms Hill[289] referred us to. That case concerned both a resource consent appeal and an appeal on a plan variation. In the context of the resource consent appeal, the Environment Court emphasised that when interpreting the meaning of "*inappropriate subdivision, use and development"* in a particular plan objective, it was necessary to consider the objective in context (in particular in the context of the associated policy seeking to implement it). In that case, the policy supported an interpretation of the objective that was consistent with the natural and ordinary meaning identified by the Supreme Court in *King Salmon,* as above. However, as the Environment Court noted, neither the objective nor the policy suggested that subdivision development inevitably must be inappropriate. The Court found[290] that both the objective and policy recognised the potential for sensitively designed and managed developments to effectively protect ONL values and characteristics.

367. In that regard, it is worth noting that the Supreme Court in *King Salmon* likewise noted that a protection against '*inappropriate'* development is not necessarily protection against *'any'* development, but rather it allows for the possibility that there may be some forms of *'appropriate'* development[291]. That comment was made in the context of the Supreme Court's earlier finding as to what inappropriate subdivision, use and development was, as above.

368. Ultimately, though, we think that the *Calveley* decision is of peripheral assistance because the issue we have to confront is whether this particular objective should refer to protection of ONLs and ONFs from inappropriate subdivision, use and development. The wording of the policy seeking to implement the objective is necessarily consequential on that initial recommendation. Accordingly, while we of course accept the Environment Court's guidance that a supporting policy might assist in the interpretation of the objective, the end result is somewhat circular given that we also have to recommend what form the supporting policy(ies) should take.

369. We should note that Ms Hill also referred us to the Board of Inquiry decision on the Basin Bridge Notice of Requirement, but we think that the Board of Inquiry's decision does not particularly assist in our inquiry other than to the extent that the Board recorded its view that

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287 [2016] NZSC38 at [101]

288 [2014] NZEnvC 182

289 Counsel for Ayrburn Farm Estate Limited, Bridesdale Farm Developments Limited, Shotover Country Limited, Mt Cardrona Station Limited

290 At [132]

291 *King Salmon* at [98]

it was obliged by the Supreme Court's decision to approach and apply Part 2 of the Act having regard to the natural meaning of "*inappropriate"* as above[292].

370. Objective 5.4.3 of the RPS that the PDP is required to implement (absent invalidity, incompleteness or ambiguity) seeks:

"To protect Otago's outstanding natural features and landscapes from inappropriate subdivision, use and development."

371. Objective 5.4.3 is expressed in almost exactly the same terms as section 6(b) of the Act. There is accordingly no question (in our view) that the RPS is completely consistent with Part 2 of the Act in this regard. It also means that cases commenting on the interpretation of section 6(b), and indeed the other subsections using the same phraseology, are of assistance in interpreting the RPS. In that regard, while, as the Environment Court in *Calveley* has noted, the term "*inappropriate"* might take its meaning in plans from other provisions that provide the broader context, in the context of both RPS Objective 5.4.3 and section 6, 'inappropriate' should clearly be interpreted in the manner that the Supreme Court has identified[293].

372. As counsel for the Council noted in their reply submissions, the Supreme Court stated that section 6 does not give primacy to preservation or protection. We think however, that Counsel's submissions understate the position, because what the Supreme Court actually said was:

"Section 6 does not, we agree, give primacy to preservation or protection; it simply means that provision must be made for preservation and protection as part of the concept of sustainable management."[294]

373. The Supreme Court went on from that statement to say that a Plan could give primacy for preservation or protection and in the Court's view, that was what the NZCPS policies at issue had done.

374. The point that has troubled us is how in practice one could make provision for the protection, in this case of ONLs and ONFs, whether as part of the concept of sustainable management (or as implementing Objective 5.4.3), without actually having an objective seeking that ONLs and ONFs be protected. We discussed this point with Mr Gardner-Hopkins[295] who submitted that while there has to be an element of protection and preservation of ONLs in the PDP, we had some discretion as to where to set the level of protection. Mr Gardner-Hopkins noted that the Supreme Court had implied that there were environmental bottom lines in Part 2, but that they were somewhat "*saggy"* in application.

375. We think that counsel may have been referring in this regard to the discussion at paragraph [145] of the Supreme Court's decision in which the Court found that even in the context of directive policies requiring avoidance of adverse effects, it was improbable that it would be necessary to prohibit an activity that has a minor or transitory adverse effect, even where the natural character sought to be preserved was outstanding.

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292 *Final report and decision of the Board of Inquiry into the Basin Bridge Proposal* at paragraph [188](c)

293 As the Basin Bridge Board of Inquiry found

294 *King Salmon* at [149]

295 At this point appearing for the Matukituki Trust

376. We think, therefore, that we would be on strong ground to provide in Objective 3.2.5.1, that ONLs and ONFs should be protected from adverse effects that are more than minor and/or not temporary in duration[296]. This approach would also meet the concern of a number of parties that the objective should not indicate or imply that all development in ONLs and ONFs is precluded[297].

377. Based on our reading of the Supreme Court's decision in *King Salmon* however, if the adverse effects on ONLs and ONFs are more than minor and/or not temporary, it is difficult to say that the ONL or ONF, as the case may be, is being protected. Similarly, if the relevant ONL or ONF is not being protected, it is also difficult to see how any subdivision, use or development could be said to be '*appropriate'.*

378. Even if we are wrong, and *King Salmon* is not determinative on the ambit of '*inappropriate subdivision use and development',* we also bear in mind the general point we made above, based on the guidance of the Environment Court in its ODP decision C74/2000 at paragraph [10] that it was not appropriate to leave these policy matters for Council to decide on a case by case basis.

379. We do not accept the argument summarised above that was made for Peninsula Bay Joint Venture that because the RPS objective refers to inappropriate subdivision, use and development, so too must Objective 3.2.5.1. The legal obligation on us is to give effect to the RPS[298]. The Supreme Court decision in *King* Salmon confirms that that instruction means what it says. The Supreme Court has also told us, however, that saying that ONL's must be protected from inappropriate subdivision, use and development does not create an open-ended discretion to determine whether subdivision, use and development is 'appropriate' on a case-by-case basis. By contrast, it has held that any discretion is tightly controlled and must be referenced back to protection of the ONL or ONF concerned. Accordingly, omitting reference to inappropriate subdivision, use and development does not in our view fail to give effect to the RPS, because it makes no substantive difference to the outcome sought.

380. The Proposed RPS approaches ONLs and ONFs in a slightly different way. Policy 3.2.4 states that outstanding natural features and landscapes should be protected by, among other things, avoiding adverse effects on those values that contribute to the significance of the natural feature or landscape.

381. The Proposed RPS would certainly not support an open-ended reference to inappropriate subdivision, use and development. It does, however, support Mr Paetz's recommendation that the focus not be solely on the natural character of ONLs and ONFs. While we had some concerns as to the ambiguity that might result if Mr Paetz's initial recommendation (in his Section 42A Report) were accepted, and reference be made to the quality of ONLs and ONFs, we think he was on strong ground identifying that natural character is not the only quality of ONLs and ONFs. We note that the planning witness for Allenby Farms Limited and Crosshill Farms Limited, Mr Duncan White, supported the reference in the notified objective to natural character as being "*the significant feature of ONLs and ONFs"*[299].

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296 Mr White, planning witness for Allenby Farms Ltd and Crosshill Farms Ltd, supported that approach.

297 This was a rationale on which Mr Dan Wells, for instance, supported addition of the word 'inappropriate' to the notified objective.

298 Section 75(3)(c) of the Act

299 D White, EiC at 3.2

382. Mr White, however, accepted that the so-called *Pigeon Bay* criteria for landscapes encompassed a wide variety of matters, not just natural character.

383. Mr Carey Vivian suggested to us that the objective might refer to "*the qualities"* of ONLs and ONFs, rather than "*the quality"* as Mr Paetz had recommended. It seems to us, however, that broadening the objective in that manner would push it too far in the opposite direction.

384. In our view, some aspects of ONLs and ONFs are more important than others, as the Proposed RPS recognises. Desirably, one would focus on the important attributes of the particular ONL and ONF in question[300]. The PDP does not, however, identify the particular attributes of each ONL or ONF. The ODP, however, focuses on the landscape values, visual amenity values and natural character of ONLs in the Wakatipu Basin, and we recommend that this be the focus of the PDP objective addressing ONLs and ONFs more generally – accepting in part a submission of UCES that, at least in this regard, there is value in rolling over the ODP approach.

385. Identifying the particular values of ONLs and ONFs of most importance also responds to submissions made by counsel for Skyline Enterprises Ltd and others that the restrictive provisions in the notified plan had not been justified with reference to the factors being protected.

386. An objective seeking no more than minor effects on ONLs and ONFs would effectively roll over the ODP in another respect. That is the policy approach in the ODP for ONLs in the Wakatipu Basin and for ONFs.

387. The structure of the ODP in relation to ONLs and ONFs is to have a very general objective governing landscape and visual amenity values, supported by separate policies for ONLs in the Wakatipu Basin, ONLs outside the Wakatipu Basin and ONFs. Many of the policies for the Wakatipu Basin ONLs and ONFs are identical. At least in appearance, the policies of the ODP are more protective of ONLs in the Wakatipu Basin than outside that area. The key policies governing subdivision and development outside the Wakatipu Basin focus on the capacity of the ONLs to absorb change, avoiding subdivision and development in those parts of the ONLs with little or no capacity to absorb change and allowing limited subdivision and development in those areas with a higher potential to absorb change. We note though that capacity to absorb change will be closely related to the degree of adverse effects when landscape and visual amenity values are an issue and so the difference between the two may be more apparent than real.

388. Submitters picked up on the different approach of the PDP from the ODP in this regard. UCES supported having a common objective and set of policies for ONLs across the district, utilising the objectives, and policies (and assessment matters and rules) in the ODP that apply to the ONLs of the Wakatipu Basin. When he appeared before us in Wanaka, counsel for Allenby Farms Limited, Crosshill Farms Limited and Mt Cardrona Station Limited, Mr Goldsmith, argued that when the Environment Court identified in its Decision C180/99 the desirability of a separate and more restricted policy regime for the Wakatipu Basin ONLs, it had good reason for doing so (based on the greater development pressures in the Wakatipu Basin, the extent of existing development activity and the visibility of the ONLs from the Basin floor). Mr Goldsmith submitted that there is no evidence that those factors do not still apply, and that accordingly the different policy approaches for Wakatipu Basin ONLs, compared to the ONL's in the balance of the District should be retained.

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300 Refer the recommendations of Report 16

389. This relief was not sought by Mr Goldsmith's clients in their submissions and so we have regarded it as an example of a submitter (or in this case three submitters) seeking to rely on the collective scope provided by other unspecified submissions (i.e. the point discussed earlier in this report). In this particular case, the argument Mr Goldsmith pursued arguably falls within the jurisdiction created by the submissions already noted seeking deletion of the whole of Section 3.2.5 and we have accordingly considered it on its merits.

390. Discussing the point with us, Mr Goldsmith agreed that the Environment Court's key findings were based on evidence indicating a need for stringent controls on the Wakatipu Basin and a lack of evidence beyond that. While he agreed that the lack of evidence before the Environment Court in 1999 should not determine the result in 2016 (when we heard his submissions), Mr Goldsmith submitted that there was no evidence before us that the position has changed materially. We note, however, that Mr Haworth suggested to us that the contrary was the case, and that development pressure had increased significantly throughout the District since the ODI was written[301]. Mr Haworth provided a number of examples of residential development having been consented in the ONLs of the Upper Clutha and also drew our attention to the tenure review process having resulted in significant areas of freehold land becoming available for subdivision and development within ONLs.

391. In addition, the Environment Court's decision in 1999 reflected the then understanding of the role of section 6(b) of the Act in the context of Part 2 as a whole[302]. That position has now been overtaken by the Supreme Court's decision in *King Salmon,* that we have discussed extensively already. The Supreme Court's decision means that we must find a means to protect ONLs and ONFs as part of the implementation of the RPS and, in consequence, the sustainable management of the District's natural and physical resources. In that context, we think that a different policy regime between ONLs in different parts of the district might be justified if they varied in quality (if all of them are outstanding, but some are more outstanding than others). But no party sought to advance an argument (or more relevantly, called expert evidence) along these lines.

392. We accordingly do not accept Mr Goldsmith's argument. We find that it is appropriate to have one objective for the ONLs and ONFs of the District and that that objective should be based upon protecting the landscape and visual amenity values and the natural character of landscapes and features from more than minor adverse effects that are not temporary in nature.

393. We do not consider that reference is required to wāhi tupuna given that this is addressed in section 3.2.7.

394. We record that we have considered the submission of Remarkables Park Limited[303] and Queenstown Park Limited[304] that, in effect, a similar approach to that in the ODP should be taken, with a very general objective supported by more specific policies. The structure of the PDP is, at this strategic level, one objective for ONLs and ONFs, and another objective for other rural landscapes. We regard that general approach as appropriate. Once one gets to the point of determining that there should be an objective that is specific to ONLs and ONFs, it is not

301 J Haworth, Submissions and Evidence at page 16
302 Refer C180/99 at paragraph [69]
303 Submission 806
304 Submission 807

appropriate, for the reasons already canvassed, that the outcome aspired to is one which provides for avoiding, remedying or mitigating adverse effects[305].

395. The last point that we need to examine before concluding our recommendation is whether an objective that does not provide for protection of ONLs and ONFs from inappropriate subdivision, use and development fails to provide for critical infrastructure and/or fails to give effect to the NPSET 2008.

396. QAC expressed concern that an overly protective planning regime for ONLs and ONFs would constrain its ability to locate and maintain critical meteorological monitoring equipment that must necessarily be located at elevated locations around Queenstown Airport which are currently classified as ONLs or ONFs. QAC also noted that Airways Corporation operates navigational aids on similar locations which are critical to the Airport's operations[306]. QAC did not provide evidence though that suggested that the kind of equipment they were talking about would have anything other than a minor effect on the ONLs or ONFs concerned.

397. Transpower New Zealand also expressed concern about the potential effect of an overly protective regime for ONLs on the National Grid. The evidence for Transpower was that, there is an existing National Grid line into Frankton through the Kawarau Gorge and while the projected population increases would suggest a need to upgrade that line within the planning period of the PDP, the nature of the changes that would be required would be barely visible from the ground. The Transpower representatives who appeared before us accepted that that would be in the category of "*minor"* adverse effects. They nevertheless emphasised the need to provide for currently unanticipated line requirements that would necessarily have to be placed in ONLs given that the Wakatipu Basin is ringed with ONLs (assuming the notified plan provisions in this regard remain substantially unchanged). Counsel for Transpower, Ms Garvan, and Ms Craw, the planning witness for Transpower, drew our attention to Policy 2 of the NPSET 2008, which reads:

"In achieving the purpose of the Act, decision-makers must recognise and provide for the effective operation, maintenance, upgrading and development of the electricity transmission network.[307]"

398. They also emphasised the relevance of Policy 8 of the NPSET 2008, which reads as follows:

"*In rural environments, planning and development of the transmission system should seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character and areas of high recreation value and amenity and existing sensitive activities."*

399. Ms Craw also referred us to the provisions of the Proposed RPS suggesting that the PDP is inconsistent with the Proposed RPS. We note in this regard that Policy 4.3.3 of the Proposed RPS reads:

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305 We note the planning evidence of Mr Tim Williams in this regard: Mr Williams was of the opinion (stated at his paragraph 14) that high-level direction for protection and maintenance of the District's nationally and internationally revered landscapes was appropriate.

306 Consideration of such equipment now needs to factor in the provisions in the Proposed RPS indicating that it is infrastructure, whose national and regional significance should be recognised (Policy 4.3.2(e)).

307 The NPSET 2008 defines the electricity transmission network to be the National Grid.

*"*Minimise *adverse effects from infrastructure that has national or regional significance, by all of the following:*

…

*(b) Where it is not possible to avoid locating in the areas listed in (a) above [*which includes outstanding natural features and landscapes*], avoiding significant adverse effects on those values that contribute to the significant or outstanding nature of those areas;…"*

400. We tested the ambit of the relief Transpower was contending might be required to give effect to the NPSET 2008, by suggesting an unlikely hypothetical example of a potential new national grid route[308] and inviting comment from Transpower's representatives as to whether the NPSET 2008 required that provision be made for it. Counsel for Transpower accepted that the PDP was not required to enable the National Grid in every potential location, but rejected any suggestion that the PDP need only provide for Transpower's existing assets and any known future development plans[309].

401. We enquired of counsel whether, if the NPSET 2008 requires the PDP to enable the National Grid in circumstances where that would have significant adverse effects on ONLs or ONFs, the NPSET 2008 might itself be considered to be contrary to Part 2 and therefore within one of the exceptions that the Supreme Court noted in *King Salmon* to the general principle that a Council is not able to circumvent its obligation to give effect to a relevant National Policy Statement by a reference to an overall broad judgement under section 5.

402. We invited Counsel for Transpower New Zealand Limited to file further submissions on this point.

403. Unfortunately, the submissions provided by Counsel for Transpower did not address the fundamental point, which is that the Supreme Court expressly stated that:

"…. If there was an allegation going to the lawfulness of the NZCPS, that would have to be resolved before it could be determined whether a decision-maker who gave effect to the NZCPS as it stood was necessarily acting in accordance with pt 2."[310]

404. To the extent that counsel for Transpower relied on a recent High Court decision addressing the relevance of the NPSFM 2011 to a Board of Inquiry decision[311], we note that the consistency or otherwise of the NPSFM 2011 with Part 2 of the Act was not an issue in that appeal. Rather, the point of issue was whether the Board of Inquiry had correctly given effect to the NPSFM 2011.

405. More recently, the High Court in *Transpower New Zealand Ltd v Auckland Council*[312] has held that national policy statements promulgated under section 45 of the Act (like the NPSET) are not an exclusive list of relevant matters and do not necessarily encompass the statutory purpose. The High Court found specifically[313] that the NPSET is not as all-embracing of the Act's purpose set out in section 5 as is the New Zealand Coastal Policy Statement and that a decision-maker can properly consider the Act's statutory purpose, and other Part 2 matters,

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308 From Frankton to Hollyford, via the Routeburn Valley

309 Addendum to legal submissions on behalf of Transpower New Zealand Limited dated 21 March 2016 at paragraph 2.

310 *King Salmon* at [88]

311 *Hawke's Bay and Eastern Fish and Game Council v Hawke's Bay RC* [2015] 2 NZLR 688

312 [2017] NZHC 281

313 Ibid at [84]

as well as the NPSET, when exercising functions and powers under the Act. As the Court observed, that does not mean we can ignore the NPSET; we can and should consider it and give it such weight as we think necessary.

406. Ultimately, we do not think we need to reach a conclusion as to whether the NPSET 2008 is consistent with Part 2 of the Act for the purposes of this report, because the NPSET 2008 does not expressly say that Transpower's development and expansion of the national grid may have significant adverse effects on ONLs or ONFs. Policy 8 says that Transpower must seek to avoid adverse effects, but gives no guidance as to how rigorously that policy must be pursued. Similarly, Policy 2 gives no indication as to the extent to which development of the National Grid must be provided for. It might also be considered that a contention that Transpower should be able to undertake developments with significant adverse effects on ONLs would be contrary to the Proposed RPS policy Ms Craw relied on (given that a significant adverse effect on ONLs will almost certainly be a significant adverse effect on the values that make the landscape outstanding).

407. In circumstances where Transpower did not present evidence suggesting any compelling need to provide for significant adverse effects of the National Grid on ONLs and ONFs, we do not think that the primary objective of the PDP should be qualified to make such provision.

408. We accept Mr Renton, giving evidence for Transpower, did suggest that there might be cause to route a National Grid line up the Cardrona Valley and over the Crown Range Saddle. However, he did not present this as anything more than a hypothetical possibility.

409. We note that the Environment Court came to a similar conclusion when considering the relevance of the NPSET 2008 to objectives and policies governing protection of indigenous biodiversity in the Manawatu-Wanganui Region, commenting[314]:

"As with the NPSREG, we do not find that the NPSET gives electricity transmission activities so special a place in the order of things that it should override the regime that applies to indigenous biodiversity. In any case, we were not persuaded that this regime would present insurmountable obstacles to continuing to operate and expand the electricity transmission network to meet the needs of present and future generations."

410. In summary, while we think that there does need to be additional provision for infrastructure, including, but not limited to, the National Grid, in the more specific policies in Chapter 6 implementing this objective, we recommend that Objective 3.2.5.1 be amended to read as follows:

"The landscape and visual amenity values and the natural character of Outstanding Natural Landscapes and Outstanding Natural Features are protected from adverse effects of subdivision, use and development that are more than minor and/or not temporary in duration."

411. Turning to non-outstanding landscapes, Objective 3.2.5.2 as notified read:

"Minimise the adverse landscape effects of subdivision, use or development in specified Rural Landscapes."

412. A large number of submissions sought to amend this objective so as to create a greater range of acceptable adverse effects. Suggestions included:

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314 *Day et al v Manawatu-Wanganui* RC [2012] NZEnvC 182 at 3-127

a. Substituting recognition of rural landscape values in conjunction with making provision for management of adverse effects[315];
b. Providing for recognition of those values with no reference to adverse effects[316];
c. Providing for management, or alternatively avoiding, remedying or mitigating of adverse effects[317];
d. Inserting reference to inappropriate subdivision use and development[318];
e. Shifting the focus from adverse landscape effects to adverse effects on natural landscapes[319];
f. Incorporating reference to the potential to absorb change, among other things by incorporating current Objective 3.2.5.3 as a policy under this objective[320].

413. In his Section 42A Report, Mr Paetz expressed the view that while the word '*minimise'* was utilised in this objective to provide greater direction, that level of direction might not be appropriate in rural areas not recognised as possessing outstanding landscape attributes. He recommended alternative wording that sought to maintain and enhance the landscape character of the Rural Landscape Classification, while acknowledging the potential "*for managed and low impact change"*. When Mr Paetz appeared to give evidence, we discussed with him whether the two elements of his suggested amended objective (*'maintain and enhance'* v *'managed and low impact change'*) were internally contradictory[321].

414. In his reply evidence, Mr Paetz returned to the point[322]. He acknowledged that there is at least probably, some tension or ambiguity introduced by the combination of terms and revised his recommendation so that if accepted, the objective would read:

"The quality and visual amenity values of the Rural Landscapes [the amended term for the balance of rural areas that Mr Paetz recommended] *are maintained and enhanced."*

415. The common feature of the relief sought by a large number of the submissions summarised above is that, if accepted, they would have the result that the objective for non-outstanding rural landscapes would not identify any particular outcome against which one could test the success or otherwise of the policies seeking to achieve the objective.

416. We have discussed earlier the need for the PDP objectives to be meaningful and to identify a desired environmental outcome. Many of the submissions on this objective, if accepted, would not do that.

417. Accordingly, we do not recommend that those submissions be accepted, other than that they might be considered to be 'accepted in part' by our recommendation below.

418. The starting point for determining the appropriate objective for non-outstanding rural landscapes is to identify the provisions in the superior documents governing this issue. As

315 Submissions 437, 456, 513, 522, 532, 534, 537, 608; Supported in FS1071, FS1097, FS1256, FS1286, FS1292, FS1322 and FS1349; Opposed in FS1034 and FS1120
316 Submission 515, 531
317 Submissions 502, 519, 598, 607, 615, 621, 624, 696, 716, 805: Supported in FS1012, FS1015, FS10976, FS1105 and FS1137; Opposed in FS 1282 and FS1356
318 Submissions 502, 519, 696: Supported in FS1012, FS1015 and FS1097; Opposed in FS1282 and FS1356
319 Submissions 502, 519: Supported in FS1012, FS1015 and FS1097; Opposed in FS1282 and FS1356
320 Submission 806
321 As Ms Taylor, giving planning evidence for Matukituki Trust, suggested to us was the case.
322 M Paetz, Reply Evidence at 5.25

already discussed, the RPS focuses principally on protection of ONLs and ONFs. The only objectives applying to the balance of landscapes and features are expressed much more generally, with non-outstanding landscapes considered as natural resources (degradation of which is sought to be avoided, remedied or mitigated[323]) or land resources (the sustainable management of which is sought to be promoted[324]). In terms of the spectrum between more directive and less directive higher other provisions identified by the Supreme Court in *King Salmon*[325], these objectives provide little clear direction, and consequently considerable flexibility in their implementation.

419. The national policy statements likewise do not determine the general objective for non-outstanding landscapes, although both the NPSET 2008 and the NPSREG 2011, in particular need to be borne in mind.

420. The Proposed RPS is of rather more assistance. As previously noted, the Proposed RPS has policies both for ONLs and ONFs, and for highly valued (but not outstanding) natural features and landscapes, under the umbrella of an objective[326] seeking that significant and highly-valued natural resources be "*identified, and protected or enhanced".*

421. Policy 3.2.5 clarifies that "*highly-valued"* natural features and landscapes are valued for their contribution to the amenity or quality of the environment.

422. Policy 3.2.6 states that highly-valued features and landscapes are protected or enhanced by "*avoiding significant adverse effects on those values which contribute to the high value of the natural feature* [or] *landscape"* and avoiding, remedying or mitigating other adverse effects.*"*.

423. The approach of the Proposed RPS to identification of "*highly-valued"* natural features and landscapes appears consistent with the relevant provisions in Part 2 of the Act. The first of these is section 7(c) pursuant to which we are required to have particular regard to "*the maintenance and enhancement of amenity values".*

424. The second is section 7(f) of the Act, pursuant to which, we are required to have particular regard to "*maintenance and enhancement of the quality of the environment"*.

425. These provisions were the basis on which the Environment Court determined the need to identify "*visual amenity landscapes",* which were separate from and managed differently to "*other rural landscapes"* in 1999. The Environment Court did not, however, identify which landscapes were in which category. In fact, it found that it had no jurisdiction to make a binding determination (for example, which might be captured on the planning maps[327]). In an earlier decision[328], however, the Court observed that an area had to be of sufficient size to qualify as a '*landscape'* before it could be classed as an ORL. It pointed to the Hawea Flats area as the obvious area most likely to qualify as an other rural landscape (ORL) and indicated that the area now known as the Hawthorn Triangle in the Wakatipu Basin might do so[329].

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323 RPS Objective 5.4.2

324 RPS Objective 5.4.1

325 *King Salmon* at [127]

326 Proposed RPS, Objective 3.2

327 *Wakatipu Environmental Society Incorporated and Ors v Queenstown Lakes District Council* C92/2001

328 *Lakes District Rural Landowners Society Incorporated and Ors v Queenstown Lakes District Council* C75/2001

329 Refer paragraph [27]

426. We should address here an argument put to us by counsel for GW Stalker Family Trust and others that section 7(b) operates, in effect, as a counterweight to section 7(c).

427. Section 7(b) requires that we have particular regard, among other things, to "*the efficient use and development of natural and physical resources*". Mr Goldsmith characterised section 7(b) as encouraging an enabling regime allowing landowners to develop their land in order to generate social and economic benefits, and section 7(c) as acting as a brake on such development.

428. We do not accept that to be a correct interpretation either of section 7(b), or of its inter-relationship with section 7(c), or indeed with the other subsections of section 7.

429. Our understanding of efficiency and of efficient use and development of natural and physical resources is that it involves weighing of costs and benefits of a particular proposal within an analytical framework. The Environment Court has stated that consideration of efficiency needs to take account of all relevant resources and desirably quantify the costs and benefits of their use, development and protection[330]. Quantification of effects on non-monetary resources like landscape values may not be possible[331] and the High Court has held that it is not necessary to quantify all benefits and costs to determine a resource consent application[332]. We do not understand, however, the Court to have suggested that non-monetary costs are thereby irrelevant to the assessment of the most efficient outcome.

430. In a Proposed Plan context, we have the added direction provided by section 32 that quantification of costs and benefits is required if practicable. Irrespective of whether the relevant costs and benefits are quantified, though, we think it is overly simplistic to think that it is always more efficient to enable development of land to proceed. One of the purposes of the inquiry we are engaged upon is to test whether or not this is so.

431. It follows that the weighting given to maintenance and enhancement of amenity values in section 7(c) forms part of the weighing of costs and benefits, not a subsequent step to be considered once one has an initial answer based on a selective weighing of costs and benefits, so as potentially to produce a different conclusion.

432. In its earlier decision[333], the Court emphasised the need to identify what landscapes fall within particular categories, as an essential first step to stating objectives and policies (and methods) for them[334]. We adopt that approach. While we acknowledge that the submissions on mapping issues are being resolved by a differently constituted Panel, we take the approach of the notified PDP as the appropriate starting point. In the Upper Clutha Basin, rural areas south of Lakes Hawea and Wanaka were generally (the Cardrona Valley is an exception) identified as RLC. Within the Wakatipu Basin (including the Crown Terrace), there are ONF's identified, but the bulk of the rural areas of the Basin are identified as Rural Land Classification (or RLC) on the PDP maps as notified.

433. The evidence of Dr Marion Read was that farming is the dominant land management mechanism in the rural areas of the District, but that there is an observable difference between the Wakatipu Basin and the Upper Clutha Basin; the latter is much more extensive farming

330 *Lower Waitaki River Management Society Inc v Canterbury RC* C80/2009

331 Or not with any certainty

332 *Meridian Energy Ltd v Central Otago DC* CIV 2009-412-000980

333 C180/99

334 See in particular paragraphs [57] and [97]

than intensive. Dr Read was careful to emphasise that her description of the Wakatipu Basin as being "*farmed"* did not imply that landholdings were being operated as economically viable farming enterprises. Rather, it was a question of whether the land use involved cropping, stocking, or other farming activities.

434. For this reason, she did not believe that her evidence was materially different from that of Mr Baxter, who was the only other landscape expert that we heard from. Mr Baxter's concern was to emphasise the extent to which rural living now forms part of the character of the Wakatipu Basin, but when we asked whether the Basin was still rural in character, he confirmed that his opinion was that it retained its pastoral character notwithstanding the extent of rural living developments. He also agreed that the balance of open space in the Basin was essential, drawing our attention in particular to the need to protect the uninterrupted depth of view from roads.

435. The evidence we heard from Dr Read and Mr Baxter also needs to be read in the light of the findings of the Environment Court in the chain of cases leading to finalisation of the ODP.

436. Even in 1999, the Environment Court clearly regarded rural living developments as having gone too far in some areas of the Wakatipu Basin. It referred to "*inappropriate urban sprawl"* on Centennial Road in the vicinity of Arrow Junction and along parts of Malaghan Road on its south side[335]. It concluded in relation to the non-outstanding landscapes of the Basin:

"In the visual amenity landscape (inside the outstanding natural landscape) structures can be built, with appropriate remedial work or mitigation down to some kind of density limit <u>that avoids inappropriate domestication</u>" [emphasis added]

437. We should note that a footnote linked to remedial work in the passage quoted states as an example of appropriate remedial work, removal of inappropriate houses in the adjoining natural landscape.

438. Elsewhere[336] the Court described '*urban sprawl*' as a term referring to undesirable domestication of a landscape. The Court referred to domestication as being evidenced, among other things, by the chattels or fixtures (e.g. clothes lines/trampolines) that accumulate around dwelling houses.

439. The Court returned to this point in a subsequent decision[337], agreeing with one of the expert witnesses who had given evidence before it that a stretch of the south side of Malaghan Road some 900 metres long containing 11 residential units within a rectangular area containing 22 hectares constituted "*inappropriate over-domestication"*. The Court stated that future development on this and other rural scenic roads, that form a ring around the Basin needed to be "*tightly controlled"*.

440. Dr Read gave evidence that since then, a substantial number of building platforms have been consented in the Wakatipu Basin, and to a lesser extent in the Upper Clutha Basin, suggesting to us an even greater need for clear direction as to the environmental outcomes being sought by the PDP[338].

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335 See 180/99 at [136]

336 C180/99 at Paragraph [155]

337 C186/2000 at [38]

338 We note also the information to similar effect supplied under cover of counsel for the Council's memorandum dated 18 March 2016

441. Picking up on the Court's identification of over-domestication as the outcome that is not desired in rural areas, we think that the emphasis of the objective needs to be on rural character and amenity values, rather than as Mr Paetz suggested, the quality and visual amenity values so that it is directed at the aspects of environmental quality that are highly valued (employing the Proposed RPS test) and which are potentially threatened by further development.

442. Turning to the desired outcome, we have some concern that Policy 3.2.5 is both internally contradictory (combining a *'protect and enhance*' focus with avoidance only of significant adverse effects) and inconsistent with sections 7(e) and 7(f) of the Act that support retention of a maintenance and enhancement outcome, notwithstanding the evidence we heard suggesting that this would pose too high a test.[339]

443. Put more simply, we think that the objective needs to be that rural areas remain rural in character. We note that rural character is mainly an issue of appearance, but not solely so[340].

444. Policy 5.3.1 of the Proposed RPS supports that approach with its focus on enabling farming, minimising the loss of productive soils and minimising subdivision of productive rural land into smaller lots.

445. The need to provide greater direction suggests to us that there is merit in Queenstown Park Ltd's submission that Objective 3.2.5.3 might be incorporated as a component of Objective 3.2.5.2. The precise relief sought is that it be a policy but for reasons that will be apparent, we think that it might provide more value as an element of the Objective itself. As notified, Objective 3.2.5.3 read:

"Direct new subdivision, use or development to occur in those areas which have potential to absorb change without detracting from landscape and visual amenity values."

446. Most of the submissions on this objective were focussed on the word '*direct*', seeking that it be softened to '*encourage'*[341]. Mr Chris Ferguson suggested in his planning evidence that should be "*encourage and enable",* but we could not identify any submission that would support that extension to the relief sought in submissions[342] and so we have not considered that possibility further.

447. One submitter[343] sought that the ambit of this objective be limited to urban use or development.

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339 E.g. from Mr Jeff Brown who supported a "recognise and manage" approach that in our view, would not clearly signal the desired outcome.

340 Mr Tim Williams suggested to us that spaciousness, peace and quiet and smell were examples of landscape values going beyond the visual, albeit that he was of the view that the visual values were the key consideration.

341 Submissions 513, 515, 519, 522, 528, 531, 532, 534, 535, 537, 608: Supported in FS1015, FS1097, FS1256, FS1286, FS1292 and FS1322; Opposed in FS1034, FS1068, FS1071, FS1120, FS1282 and FS1356

342 Mr Ferguson did not himself identify any submission he was relying on.

343 Submission 600: Supported in FS1209, Opposed in FS1034

448. Another submitter[344] sought that the extent to which adverse effects were controlled be qualified by inserting reference to *'significant'* detraction from landscape and visual amenity values.

449. Some submissions[345] suggested deleting reference to detraction from the identified values, substituting the words *"while recognising the importance of".*

450. Another suggestion[346] was to explicitly exempt development of location-specific resources.

451. Mr Paetz recommended acceptance of the submission that would limit the focus of the objective to urban activities. In his Section 42A Report Mr Paetz expressed the view that rural subdivision and development could be contemplated on more of a case by case, effects-based perspective, whereas it was more appropriate for urban development to be directed to particular locations "*with a firmer policy approach taken on spatial grounds'*.

452. For the reasons already expressed, we do not agree that subdivision, use and development should be the subject of a case by case merits assessment with little direction from the PDP. As Dr Read noted in her evidence before us, there is a problem with cumulative effects from rural living developments, particularly in the Wakatipu Basin. We consider that it is past time for the PDP to pick up on the Environment Court's finding in 1999 that there were areas of the Wakatipu Basin that required careful management, because they were already at or very close to the limit at which over domestication would occur.

453. Dr Read's report dated June 2014[347] referenced in the section 32 analysis supporting Chapter 6 identifies the rural areas within the Wakatipu Basin where, in her view, further development should be avoided, as well as where increased development might be enabled, on a controlled basis.

454. The Hearing Panel considering submissions on the Rural Chapters (21-23) requested that the Council consider undertaking a structure planning exercise to consider how these issues might be addressed in greater detail. The Council agreed with that suggestion and the end result is a package of provisions forming part of the Stage 2 Variations providing greater direction on subdivision, use and development in the non-outstanding rural areas of the Wakatipu Basin. As at the date of our finalising this report, submissions had only just been lodged on those provisions and so it is inappropriate that we venture any comment on the substance of those provisions. However, we note that hearing and determination of those submissions will provide a mechanism for management of the adverse cumulative effects we have noted, even if the shape the provisions take is not currently resolved.

455. One side-effect of the rezoning of rural Wakatipu Basin land is that there now appears to be no non-outstanding Rural Zoned land in the Basin. Although some provisions of Chapter 6 (as notified) have been deleted or amended, our reading of key policies that remain (as discussed in Part D of this report) is that the landscape categories still only apply in the Rural Zone. We have not identified any submission clearly seeking that this position be changed so that the categorisations would apply more broadly.

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344 Submission 643

345 Submissions 513, 515, 522, 528, 531, 532, 534, 535, 537: Supported in FS1097, FS1256, FS1286, FS1292 and FS1322; Opposed in FS1068, FS1071, FS1120

346 Submissions 519, 598: Supported in FS1015, FS1287; Opposed in FS1091, FS1282 and FS1356

347 Read Landscapes Ltd, *'Wakatipu Basin Residential Subdivision and Development Landscape Assessment'*

456. It follows that this particular objective, together with other strategic objectives and policies referring to (as we recommend below they be described) Rural Character Landscapes, does not apply in practice in the Wakatipu Basin. If this is not what the Council intends, we recommend it be addressed in a further variation to the PDP.

457. Lastly, we agree with Submission 643 (and the planning evidence of Mr Wells) that some qualification is required to ensure that this is not a '*no development*' objective. That would not be appropriate in a non-outstanding rural environment.

458. Providing a complete exemption for location-specific resources would, however, go too far in the opposite direction. A provision of this kind could perhaps be justified with respect to use and development of renewable energy resources, relying on the NPSREG 2011, but we heard no evidence of any demand for such development in the non-outstanding rural areas of the District. In any event, the submission that such provision be made was advanced on behalf of mining interests who were clearly pursuing a different agenda.

459. Because the focus of this objective is on rural character and the landscapes in question are only a relatively small subset of the rural landscapes of the district, we recommend that the term utilised on the planning maps and in the PDP generally for these landscapes is '*Rural Character Landscapes'.*

460. In summary, for all of these reasons, we recommend that Objectives 3.2.5.2 and 3.2.5.3 be combined in an amended Objective 3.2.5.2 reading as follows:

"The rural character and visual amenity values in identified Rural Character Landscapes are maintained or enhanced by directing new subdivision, use or development to occur in those areas that have the potential to absorb change without materially detracting from those values."

461. Objective 3.2.5.4 as notified read as follows:

"Recognise there is a finite capacity for residential activity in rural areas if the qualities of our landscapes are to be maintained."

462. Most of the focus of submissions on this objective was on the word "*finite*". The issue, as it was put by Mr Tim Williams[348] to us, is that without an identification of what that finite capacity is, and where current development is in relation to that capacity, the objective serves little purpose. Mr Williams supported greater direction as to which areas have capacity to absorb further development, and which areas do not[349]. Many of the submissions also sought that the objective provide for an appropriate future capacity for residential activity.

463. In his reply evidence, Mr Paetz recommended that this objective be revised to read:

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348 Giving planning evidence for Skyline Enterprises Ltd, Totally Tourism Ltd, Barnhill Corporate Trustee Ltd & DE, ME Bunn & LA Green, AK and RB Robins & Robins Farms Ltd

349 As did Ms Robb, counsel for the parties Mr Williams was giving evidence for, and Mr Goldsmith, counsel for GW Stalker Family Trust and Others

"The finite capacity of rural areas to absorb residential development is considered so as to protect the qualities of our landscapes."

464. As restated, we do not consider the objective adds any value that is not already captured by our recommended revised Objective 3.2.5.2/3.

465. We recommend that it be deleted.

466. In summary, we consider that the objectives recommended are individually and collectively the most appropriate way to achieve the purpose of the Act as it relates to landscapes in the District.

2.12. Section 3.2.6 – Community Health and Safety

467. As notified, this goal read:

"Enable a safe and healthy community that is strong, diverse and inclusive for all people."

468. A number of submissions supported this goal.

469. Submission 197 opposed it on the basis that large employers in the District should be responsible for providing affordable accommodation for their employees.

470. Submission 806 sought removal of unnecessary repetition. The reasons provided for the submission suggest that the area of repetition referred to is in relation to urban development.

471. Submission 807 sought that the whole of Section 3.2.6 should be deleted, or in the alternative the number of objectives and policies should be significantly reduced.

472. Mr Paetz did not recommend any change to this goal.

473. The focus of the RPS (Objective 9.4.1) is on sustainable management of built environment as a means, among other things, to meet people's needs. This is both extremely general and more narrowly directed than the PDP goal. Policy 9.5.5 gets closer, with a focus on maintaining, and where practicable enhancing, quality of life, albeit that the means identified for doing so are generally expressed.

474. The Proposed RPS has a chapter entitled "*Communities in Otago are resilient, safe and healthy*"[350]. The focus of objectives in the chapter is on natural hazards, climate change, provision of infrastructure and the supply of energy, management of urban growth and development, and of hazardous substances. The following chapter is entitled "*People are able to use and enjoy Otago's natural and built environment"*, with objectives focussing on public access to the environment, historic heritage resources, use of land for economic production and management of adverse effects.

475. Policy 1.1.3 of the Proposed RPS focuses more directly on provision for social and cultural wellbeing and health and safety, albeit in terms providing flexibility as to how this is achieved, except in relation to human health (significant adverse effects on which must be avoided).

476. We regard the higher level focus of these chapters as supporting the intent of this goal, and Policy 1.1.3 as providing guidance as to how it might be framed.

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350 Proposed RPS, Chapter 4

477. At present, this goal is framed as a policy, commencing with a verb.

478. Looking at what outcome is being sought here and the capacity of the District Plan to achieve that outcome, we take the view that this particular higher-level objective is better framed in section 5 terms; emphasis is therefore required on people in communities providing for their social, cultural and economic well being and their health and safety. As above, this is also the direction Policy 1.1.3 of the Proposed RPS suggests.

479. So stated, there is an area of overlap with Goal/Objective 3.2.2 (as Submission 806 observes), but we nevertheless regard this as a valuable high-level objective, particularly for the non-urban areas of the District.

480. Accordingly, we recommend that this goal/high-level objective be reframed to read:

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

481. We regard this, in conjunction with the other high-level objectives it has recommended, to be the most appropriate way to achieve the purpose of the Act.

2.13. Section 3.2.6 – Additional Objectives

482. We have already addressed Objectives 3.2.5.5, 3.2.6.1, 3.2.6.2 and 3.2.6.3, recommending that they be amalgamated into what was 3.2.2.1.

483. Objective 3.2.6.4 as notified read:

"Ensure planning and development maximises opportunities to create safe and healthy communities through subdivision and building design."

484. While the submissions on all of these objectives were almost universally in support, we view these matters, to the extent that they are within the ability of the PDP to implement[351], as being more appropriately addressed in the context of Chapter 4. We therefore accept the point made in Submission 807 summarised above, that the objectives in this section might be significantly pared back.

485. Although this leaves the higher-level objective without any more focused objectives unique to it, we do not regard this as an unsatisfactory end result. To the extent the goal/high-level objective relates to non-urban environments, these matters can be addressed in the more detailed plan provisions in other chapters. In summary, therefore, we are satisfied both the amendments and the relocation of the objectives in Section 3.2.6 we have recommended are the most appropriate way to achieve the purpose of the Act.

2.14. Section 3.2.7 – Goal and Objectives

486. Lastly in relation to Chapter 3 objectives, we note that the goal in Section 3.2.7 and the two objectives under that goal (3.2.7.1 and 3.2.7.2) are addressed in the Stream 1A Hearing Report (Report 2).

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[351] Provision of community facilities is more a Local Government Act issue than a matter for the PDP.

487. The revised version of these provisions in the amended Chapter 3 attached to this Report as Appendix 1 shows the recommendations of that Hearing Panel for convenience.

2.15. Potential Additional Goals and Objectives

Before leaving the strategic objectives of the PDP, we should note submissions seeking entirely new goals and/or objectives. We have already addressed some of those submissions above.

488. A number of submitters[352] sought insertion of a 'goal' specifically related to tourism, generally in conjunction with a new strategic objective and policy. We have already addressed the submissions related to objectives and policies for tourism. While important to the District, ultimately we consider tourism is an aspect of economic development and therefore covered by (now) higher order objective 3.2.1. We therefore recommend rejection of these submissions.

489. The Upper Clutha Tracks Trust[353] sought insertion of a new goal worded as follows:

"*A world class network of trails that connects communities."*

490. The submitter also sought a new objective to sit under that goal as well as a series of new policies.

491. The submitter did not appear so as to provide us with any evidential foundation for such change. In the absence of evidence, we do not regard the relief sought by the submitter as so obviously justified as a high-level objective of the PDP that it would recommend such amendments.

492. NZIA[354] likewise sought insertion of a new goal, worded as follows:

"Demand good design in all development."

493. Mr Paetz did not recommend acceptance of this submission. While we acknowledge that good design is a worthwhile aspiration, we see it as an aspect of development that might more appropriately be addressed in more detailed provisions that can identify what good design entails. We will return to the point in the context of Chapter 4 rather than as a discrete high-level objective of its own. Accordingly, we do not recommend acceptance of this submission.

494. Slopehill Properties Limited[355] sought a new objective (or policy) to enable residential units to be constructed outside and in addition to approved residential building platforms with a primary use of the increased density is to accommodate family. Mr Farrell gave planning evidence on this submission, supported by members of the Columb family who own property between Queenstown and Arthurs Point. Clearly, a case can be made to address situations like that of the Columb family where different generations of the same family seek to live in close proximity. The difficulty we see with an objective in the District Plan (or indeed a policy) providing for this situation is that there appears to be no safeguard against it being used on a large scale to defeat the objective seeking to retain the rural character of land outside existing

352 Submissions 607, 615, 621, 677: Supported in FS1097, FS1105, FS1117, FS1137, FS1152, FS1153, FS1330 and FS1345; Opposed in FS1035, FS1074, FS1312 and FS1364

353 Submission 625: Supported in FS1097; Opposed in FS1347

354 Submission 238: Opposed in FS1107, FS1157, FS1226, FS1234, FS1239, FS1242, FS1248 and FS1249

355 Submission 854: Supported in FS1286; Opposed in FS1349

urban areas. Certainly, Mr Farrell was not able to suggest anything to us. Nor was Mr Farrell able to quantify the potential implications of such an objective for the District more broadly.

495. In summary, while we accept that the Columbs' personal situation is meritorious, we cannot recommend acceptance of their submission against that background.

496. In summary, having reviewed the objectives we have recommended, we consider that individually and collectively, they are the most appropriate way to achieve the purpose of the Act within the context of strategic objectives, for the reasons set out in this report.

3. POLICIES

497. Turning to the policies of Chapter 3, given the direction provided by section 32, the key reference point of our consideration of submissions and further submissions is whether they are the most appropriate means to achieve the objectives we have recommended.

3.1. Policy 3.2.1.1.3 – Visitor Industry

498. Consistent with our recommendation that the objectives should be reordered with the initial focus on the benefits provided by the visitor industry, we recommend that what was Policy 3.2.1.1.3 be the first policy.

499. As notified, that policy read:

"Promote growth in the visitor industry and encourage investment in lifting the scope and quality of attractions, facilities and services within the Queenstown and Wanaka central business areas."

500. The submissions on this policy all sought to expand its scope beyond the Queenstown and Wanaka central areas. Many submissions have sought that the focus be district-wide. One submission[356] sought to link the promotion of visitor industry growth to maintenance of the quality of the environment.

501. When Real Journeys Limited appeared at the hearing, its representatives emphasised the need for provision for visitor accommodation facilities, not all of which could practically be located within the two town centres. They also took strong exception to the implication of Policy 3.2.1.1.3 that the quality of existing attractions, facilities and services for visitors (as distinct from their scope) needed improvement.

502. Mr Paetz recommended that the submissions be addressed by a minor amendment to the existing policy (to refer to Queenstown and Wanaka town centres rather than to their central business areas) consistent with his recommended objective, and a new policy framed as follows:

"Enable the use and development of natural and physical resources for tourism activity where adverse effects are avoided, remedied or mitigated".

503. We accept the thrust of the submissions and evidence we heard on this aspect of the PDP, that attractions, facilities and services for visitors are not and should not be limited to the Queenstown and Wanaka town centres. We also accept the logic of Mr Paetz's suggested

356 Submission 806

approach of providing for the visitor industry more broadly, but are concerned with the open-ended nature of the suggested broader policy.

504. In his Section 42A Report, Mr Paetz acknowledged that his recommending a policy focus on adverse effects being avoided, remedied or mitigated was not consistent with the general approach of the PDP seeking to minimise the use of that phrasing. He considered it appropriate in this context because the policy is not specific to the environmental effects it is concerned with. In Mr Paetz's view, a higher bar would be set in more sensitive landscapes or environments by other objectives and policies.

505. While this may be so, we consider that greater direction is required that this is the intention.

506. It seems to us that part of the issue is that visitor industry developments within the '*urban*' areas of the district outside the Queenstown and Wanaka town centres raise a different range of issues to visitor industry developments in rural areas. In the former, the objectives and policies for the zones concerned provide more detailed guidance. In the latter, the strategic objectives and policies focused on landscape quality and rural character provide guidance. Policy 5.3.1(e) of the Proposed RPS might also be noted in this context – it supports provision for tourism activities in rural areas "*of a nature and scale compatible with rural activities".* It is apparent to us that while some specific provision is required for visitor industry developments in rural areas, this is better located alongside other strategic policies related to the rural environment. We return to the point in that context.

507. We also identify some tension between a policy that seeks to '*promote growth'* in the visitor industry with recommended issues and objectives seeking to promote diversification in the District's economy. Consequently, we recommend that this wording be softened somewhat.

508. In summary, we recommend that Policy 3.2.1.1.3 be renumbered 3.3.1 as follows and amended to read as follows:

"Make provision for the visitor industry to maintain and enhance attractions, facilities and services within the Queenstown and Wanaka town centre areas and elsewhere within the District's urban areas and settlements at locations where this is consistent with objectives and policies for the relevant zone."

509. We consider that this policy, operating in conjunction with the other policies it will recommend, is the most appropriate way to achieve Objectives 3.2.1.1 and 3.2.1.2 as recommended above.

3.2. Policies 3.2.1.1.1 and 3.2.1.1.2 – Queenstown and Wanaka Town Centres

510. As notified these two policies read:

"3.2.1.1.1 Provide a planning framework for the Queenstown and Wanaka central business areas that enables quality development and enhancement of the centres as the key commercial hubs of the District, building on their existing functions and strengths.

3.2.1.1.2 Avoid commercial rezoning that could fundamentally undermine the role of the Queenstown and Wanaka central business areas as the primary focus of the District's economic activity."

511. Submissions on these policies reflected the submissions on Objective 3.2.1.1 discussed above, seeking to expand its scope to recognise the role of Frankton's commercial areas in relation to

Queenstown, and Three Parks in relation to Wanaka. Willowridge Developments Ltd[357] sought to confine both policies to a focus on the business and commercial areas of Queenstown and Wanaka. Queenstown Park Limited[358] also sought to soften Policy 3.2.1.1.2 so that it was less directive. NZIA[359] sought recognition that the Queenstown and Wanaka town centres play a broader role than just as commercial hubs.

512. In his reply evidence, Mr Paetz recommended:
   a. Consequential changes in the wording based on his recommended objective, to refer to Queenstown and Wanaka town centres;
   b. Amending Policy 3.2.1.1.1 to refer to the civic and cultural roles of the two town centres;
   c. Deletion of the word '*fundamentally*' from Policy 3.2.1.1.2;
   d. Addition of four new policies recognising the role of Frankton commercial areas and the importance of Queenstown Airport, and a further policy focused on Three Parks.

513. Addressing first the suggested amendments to Policies 3.2.1.1.1 and 3.2.1.1.2, we agree with Mr Paetz's recommendations with only a minor drafting change. NZIA make a good point regarding the broader role of the town centres. Similarly, the word '*fundamentally*' is unnecessary. Testing whether additional zoning could '*undermine*' the role of the existing town centres already conveys a requirement for a substantial adverse effect.

514. We also agree that, provided the separate roles of the Frankton and Three Parks are addressed, a strong policy direction is appropriate.

515. As a result, we recommend that Policies 3.2.1.1.1. and 3.2.1.1.2 be renumbered and amended to read as follows:

> *"3.3.2 Provide a planning framework for the Queenstown and Wanaka town centres that enables quality development and enhancement of the centres as the key commercial, civic and cultural hubs of the District, building on their existing functions and strengths.*
>
> *3.3.3 Avoid commercial rezoning that could undermine the role of the Queenstown and Wanaka town centres as the primary focus for the District's economic activity."*

516. We note that the provisions of the RPS related to management of the built environment[360] are too high level and generally expressed to provide direction on these matters. Policy 5.3.3 of the Proposed RPS, however, supports provisions which avoid "*unplanned extension of commercial activities that has significant adverse effects on the central business district and town centres, including on the efficient use of infrastructure, employment and services."*

517. As regards the new policies suggested by Mr Paetz for Frankton and Three Parks, we agree with the recommendations of Mr Paetz with five exceptions.

518. We recommend that reference to Frankton not be limited to the commercial areas of that centre because existing industrial areas play an important local servicing role (as recognised by the revised recommended objective above) and Queenstown Airport has a much broader role than solely "*commercial"*. We also consider that reference to "mixed-use' development

357 Submission 249: Opposed in FS1097

358 Submission 806: Supported in FS1012

359 Submission 238: Supported in FS1097 and FS1117; Opposed in FS1107, FS1157, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248, FS1249

360 RPS, Section 9.4

nodes is unnecessary. Having broadened the policy beyond commercial areas, the uses are obviously "mixed".

519. Secondly, Mr Paetz recommended that recognition of Queenstown Airport refer to its "*essential"* contribution to the prosperity and "*economic"* resilience of the District.

520. While Queenstown Airport plays an extremely important role, we take the view that categorising it as "*essential"* would imply that it prevailed over all other considerations. Given the competing matters that higher order documents require be recognised and provided for (reflecting in turn Part 2 of the Act), we do not regard that as appropriate.

521. We have also taken the view that the nature of the contribution Queenstown Airport makes is not limited to its economic contribution. The evidence for QAC emphasised to us that Queenstown Airport is a lifeline utility under the Civil Defence Emergency Management Act 2002 with a key role in planning and preparing for emergencies, and for response and recovery in the event of an emergency. We accordingly recommend that the word "*economic"* be deleted from Mr Paetz's suggested policy.

522. In addition, we have determined that greater direction is required (consistent with the objective we have recommended) regarding the function of the Frankton commercial area in the context of Mr Paetz's suggested policy that additional commercial rezoning that would undermine that function be avoided.

523. It follows that we do not accept the suggestion of Mr Chris Ferguson in his evidence that the new Frankton policy should only constrain additional zoning within Frankton. Mr Paetz confirmed in response to our question that his intention was that the policy should extend to apply to areas outside Frankton – most obviously Queenstown itself – and we agree that this is appropriate.

524. Lastly, we do not think it necessary to refer to "*future"* additional commercial rezoning given that any additional rezoning will necessarily be in the future.

525. In summary, we recommend four new policies numbered 3.3.4-3.3.7 and worded as follows:

"Provide a planning framework for the Frankton urban area that facilitates the integration of the various development nodes.

Recognise that Queenstown Airport makes an important contribution to the prosperity and resilience of the District.

Avoid additional commercial rezoning that will undermine the function and viability of the Frankton commercial areas as the key service centre for the Wakatipu Basin, or which will undermine increasing integration between those areas and the industrial and residential areas of Frankton.

Provide a planning framework for the commercial core of Three Parks that enables large format retail development."

526. We are satisfied that collectively these policies are the most appropriate way, in the context of high-level policies, to achieve Objectives 3.2.1.2-4 that we have recommended.

3.3. Policies 3.2.1.2.1 – 3 – Commercial and Industrial Services

527. Policy 3.2.1.2.3 as notified read:

"Avoid non-industrial activities occurring within areas zoned for industrial activities."

528. Submissions on this policy sought to soften its effect in various ways. Mr Paetz recommended that Submission 361 be accepted with the effect that non-industrial activities related to or supporting industrial activities might occur within industrial zones, but otherwise that the policy not be amended.

529. Policy 5.3.4 of the Proposed RPS is relevant on this point. It provides for restriction of activities in industrial areas that, among other things, may result in inefficient use of industrial land.

530. We accept in principle that, given the guidance provided by the Proposed RPS, the lack of land available for industrial development, and the general unsuitability of land zoned for other purposes for industrial use, non-industrial activities in industrial zones should be tightly controlled.

531. The more detailed provisions governing industrial zones are not part of the PDP, being scheduled for consideration as part of a subsequent stage of the District Plan review. At a strategic level, we recommend acceptance of Mr Paetz's suggested amendment with the effect that this policy (renumbered 3.3.8) would read:

"Avoid non-industrial activities not ancillary to industrial activities occurring within areas zoned for industrial activities."

532. We consider that this policy is the most appropriate way, in the context of high-level policies, to achieve the aspects of Objectives 3.2.1.3 and 3.2.1.5 related to industrial activities.

533. Policies 3.2.1.2.1 and 3.2.1.2.2 need to be read together. As notified, they were worded as follows:

"Avoid commercial rezoning that would fundamentally undermine the key local service and employment function role that the larger urban centres outside of the Queenstown and Wanaka Central Business Areas fulfil.

Reinforce and support the role that township commercial precincts and local shopping centres fulfil in serving local needs."

534. Submissions on Policy 3.2.1.2.1 sought either its deletion[361] or significant amendment to focus it on when additional commercial rezoning might be enabled[362]. Submissions on Policy 3.2.1.2.2 sought recognition of the role of industrial precincts in townships and broadening the focus beyond townships to commercial, mixed use and industrial zones generally, and to their role in meeting visitor needs[363].

535. Mr Paetz recommended relatively minor amendments to these policies, largely consequential on his recommendation that the role of Frankton be recognised with a separate policy regime.

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361 Submission 608: Opposed in FS1034

362 Submission 806

363 Submissions 726 and 806

536. Policy 5.3.3. of the Proposed RPS, already referred to in the previous section of our report, needs to be noted in this context also.

537. Logically, these policies should be considered in reverse order, addressing the positive role of township commercial precincts and local shopping centres first. We do not consider that it is necessary to both "*reinforce and support"* that role. These terms are virtually synonyms. We take the view, however, that greater direction is required in how such precincts and centres might be supported. We recommend reference to enabling commercial development that is appropriately sized for the role of those precincts and centres.

538. That is not to say that those areas do not have other roles, such as in meeting resident and visitor needs, and providing industrial services, but in our view, those are points of detail that can be addressed in the more detailed provisions of the PDP.

539. Mr Paetz suggested revision to Policy 3.2.1.2.1, to remove reference to the Queenstown and Wanaka town centres, would mean that there is an undesirable policy gap for centres within the Queenstown and Wanaka urban areas, but outside the respective town centres (apart from Frankton and Three Parks).

540. In summary, we recommend that these policies be renumbered 3.3.9 and 3.3.10, and amended to read:

"Support the role township commercial precincts and local shopping centres fulfil in serving local needs by enabling commercial development that is appropriately sized for that purpose.

Avoid commercial rezoning that would undermine the key local service and employment function role that the centres outside of the Queenstown and Wanaka town centres, Frankton and Three Parks fulfil."

541. We consider that these policies are the most appropriate way, in the context of high-level policies, to achieve objective 3.2.1.5.

3.4. Policies 3.2.1.3.1-2 – Commercial Capacity and Climate Change

542. As notified, these policies read:

"3.2.1.3.1 Provide for a wide variety of activities and sufficient capacity within commercially zoned land to accommodate business growth and diversification;

3.2.1.3.2 Encourage economic activity to adapt to and recognise opportunities and risks associated with climate change and energy and fuel pressures."

543. Submissions on Policy 3.2.1.3.1 either supported the policy as is[364] or sought that it be more overtly enabling[365]. One submission[366] sought amendment to remove reference to capacity and to insert reference to avoiding, remedying or mitigating adverse effects.

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364 Submissions 608: Opposed in FS1034

365 Submissions 615, 621, 716 and 807: Supported in FS1097, FS1105, FS1117, FS1137, FS1145

366 Submission 806

544. Submissions on 3.2.1.3.2 either supported the policy as is[367] or sought to delete reference to opportunities, and to energy and fuel pressures[368].

545. Mr Paetz recommended that the policies remain as notified.

546. We regard the current form of Policy 3.2.1.3.1 as appropriate. If it were amended to be more enabling, then reference would have to be made to management of adverse effects. Simply providing for avoiding, remedying or mitigating adverse effects on the environment, as suggested by Queenstown Park Limited, would provide insufficient direction for the reasons discussed already. The existing wording provides room for the nature of the provision referred to be fleshed out in more detailed provisions. We therefore recommend that Policy 3.2.1.3.1 be retained as notified other than to renumber it 3.3.11.

547. Turning to notified Policy 3.2.1.3.2, we have already discussed the provisions of both the RPS and the Proposed RPS related to climate change. While the former provides no relevant guidance, the Proposed RPS clearly supports the first part of the policy. While Policy 4.2.2(c) talks of encouraging activities that reduce or mitigate the effects of climate change, the reasons and explanation for the objective and group of policies addressing climate change as an issue note that it also provides opportunities. We therefore recommend rejection of the submission seeking deletion of reference to opportunities in this context.

548. We heard no evidence, however, of energy and fuel pressures such as would suggest that they need to be viewed in the same light as the effects of climate change.

549. Accordingly, we recommend renumbering Policy 3.2.1.3.2 as 3.3.12 and amending it to read:

"Encourage economic activity to adapt to and recognise opportunities and risks associated with climate change."

550. We consider that recommended Policies 3.3.11 and 3.3.12 are the most appropriate way, in the context of a package of high level policies, to achieve objectives 3.2.1.1, 3.2.1.2, 3.2.1.5, 3.2.1.6 and 3.2.1.9.

3.5. Policies 3.2.2.1.1 – 7 – Urban Growth

551. As notified, these policies provided for fixing of Urban Growth Boundaries (UGBs) around identified urban areas and detailed provisions as to the implications of UGBs both within those boundaries and outside them. In his Section 42A Report, Mr Paetz recommended that all of these policies be deleted from Chapter 3 because of the duplication they created with the more detailed provisions of Chapter 4. By his reply evidence, Mr Paetz had reconsidered that position and recommended that the former Policy 3.2.2.1.1 be reinserted, reading as follows:

"Apply Urban Growth Boundaries (UGBs) around the urban areas in the Wakatipu Basin (including Jacks Point), Arrowtown and Wanaka".

552. This policy also needs to be read with Mr Paetz's recommended amended Policy 3.2.5.3.1 reading:

"Urban development will be enabled within Urban Growth Boundaries and discouraged outside them."

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367 Submission 806

368 Submission 598: Supported in FS1287

553. The effect of the suggested Policy 3.2.5.3.1 is to materially amend the notified Policy 3.2.2.1.2 which sought avoidance of urban development outside of the UGBs.

554. We agree with Mr Paetz's underlying recommendation that most of the policies formerly in Section 3.2.2 should be shifted and amalgamated with the more detailed provisions in Chapter 4, both to avoid duplication and to better focus Chapter 3 on genuinely '*strategic*' matters.

555. We also agree with Mr Paetz's recommendation that the decision as to whether there should be UGBs and the significance of fixing UGBs for urban development outside the boundaries that are identified, are strategic matters that should be the subject of policies in Chapter 3.

556. Submissions on Policies 3.2.2.1.1 and 3.2.2.1.2 covered the range from support[369] to seeking their deletion[370].

557. One outlier is the submission from Hawea Community Association[371] seeking specific reference to a UGB for Lake Hawea Township. Putting aside Lake Hawea Township for the moment, within the extremes of retention or deletion, submissions sought softening of the effect of UGBs[372] or seeking to manage urban growth more generally, without boundaries on the maps[373].

558. The starting point, but by no means the finishing point, is that the ODP already contains a policy provision enabling the fixing of UGBs and the UGB has been fixed for Arrowtown after a comprehensive analysis of the site-specific issues by the Environment Court[374]. It is also relevant that Policy 4.5.1 of the Proposed RPS provides for consideration of the need for UGBs to control urban expansion, but does not require them.

559. The evidence for Council supported application of UGBs on urban design grounds (from Mr Bird) and in terms of protection of landscape and rural character values (Dr Read). The Council also rested its case on UGBs on infrastructure grounds and Mr Glasner's evidence set out the reasons why infrastructure constraints and the efficient delivery of infrastructure might require UGBs. However, his answers to the written questions that we posed did not suggest that infrastructure constraints (or costs) were actually an issue either in the Wakatipu Basin or the Upper Clutha Basin, where the principal demand for urban expansion exists. Specifically, Mr Glasner's evidence was that the only areas where existing or already planned upgrades to water supply and sewerage systems would not provide sufficient capacity for projected urban growth would be in Gibbston Valley and at Makarora. To that extent, Mr Glasner's responses tended to support the submissions we heard from Mr Goldsmith[375]. Mr Glasner did say, however, that the UGBs would be a key tool for long term planning, in terms of providing certainty around location, timing, and cost of infrastructure investments. We heard no expert evidence that caused us to doubt Mr Glasner's evidence in this regard.

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369 Submission 719

370 Submission 806

371 Submission 771, see also Submission 289 to the same effect

372 Submission 807 seeking in the alternative provision for "limited and carefully managed opportunities for urban development outside the Urban Growth Boundary": Opposed in FS1346

373 Submission 608 – although at the hearing, counsel for Darby Planning LP advised it had withdrawn its opposition to UGBs: Opposed in FS1034

374 See *Monk v Queenstown-Lakes District Council* [2013] NZEnvC12

375 On this occasion, when appearing for Ayrburn Farm Estate Ltd, Bridesdale Farm Developments Ltd, Shotover Country Ltd and Mt Cardrona Station Ltd.

560. Mr Paetz also sought to reassure us that the areas within the currently defined UGBs are more than sufficient to provide for projected population increases[376]. Ultimately, however, that evidence goes more to the location of any UGBs (and to satisfying us that the NPSUDC 2016 is appropriately implemented) rather than the principle of whether there should be any at all (and is therefore a matter for the mapping hearings).

561. The evidence from submitters we heard largely either supported or accepted the principle of UGBs. Mr Dan Wells[377] was a clear exception. He emphasised that unlike the historic situation in Auckland where the metropolitan limits have previously been "*locked in"* by being in the Regional Policy Statement, UGBs in a District Plan do not have the same significance, because they can be altered by future plan changes (including privately initiated plan changes). Mr Wells also expressed the view that a resource consent process was just as rigorous as a plan change and there was no reason why the PDP should preclude urban expansion by resource consent. Mr Wells noted, however, that both processes had to be addressing development at a similar scale for this to be the case. In other words, a resource consent application for a one or two section development would involve must less rigorous analysis than a Plan Change facilitating development of one hundred sections.

562. To us, the most pressing reason for applying UGBs is that without them, the existing urban areas within the District can be incrementally expanded by a series of resource consent applications at a small scale, each of which can be said to have minimal identifiable effects relative to the existing environment.

563. This is of course the classic problem of cumulative environmental effects and while a line on a map may be somewhat arbitrary, sometimes lines have to be drawn to prevent cumulative effects even when they cannot be justified on an "effects basis" at the margin[378].

564. The other thing about a line on a map is that it is clear. While, in theory, a policy regime might have the same objective, it is difficult to achieve the necessary direction when trying to describe the scope of acceptable urban expansion beyond land which is already utilised for that purpose. It is much clearer and more certain if the policy is that there be no further development, which is why we regard it as appropriate in relation to urban creep in the smaller townships and settlements of the District, as discussed further below.

565. In summary, we conclude that UGBs do serve a useful purpose (in section 32 terms they are the most appropriate way in the context of a package of high-level policies to implement the relevant objective, (3.2.2.1), as we have recommended it be framed.

566. Accordingly, we recommend that with one substantive exception, and one drafting change discussed shortly, Policy 3.2.2.1.1 be retained.

567. The substantive exception arises from our belief that it is appropriate to prescribe a UGB around Lake Hawea Township. The Hawea Community Association[379] sought that outcome and the representatives of the Association described the extent of consultation and community consensus to us on both imposition of a UGB and its location when they appeared

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376 M Paetz, Reply Evidence at section 7

377 Giving evidence for Millbrook Country Club, Bridesdale Farm Developments and Winton Partners Fund

378 Compare *Contact Energy Limited v Waikato Regional Council* CIV2006-404-007655 (High Court – Woodhouse J) at [69]-[83] in the context of setting rules around water quality limits

379 Submission 771

before us. They also emphasised that their suggested UGB provided for anticipated urban growth.

568. No submitter lodged a further submission opposing that submission and we recommend that it be accepted.

569. The more minor drafting change is that Policy 3.2.2.1.1 as recommended by Mr Paetz refers both to the urban areas in the Wakatipu Basin and to Arrowtown. Clearly Arrowtown is within the Wakatipu Basin. It is not in the same category as Jacks Point that is specifically mentioned for the avoidance of doubt. We recommend that specific reference to Arrowtown be deleted.

570. Accordingly, we recommend that this policy be renumbered (as 3.3.13) and amended to read:

"Apply Urban Growth Boundaries (UGBs) around the urban areas in the Wakatipu Basin (including Jacks Point), Wanaka, and Lake Hawea Township."

571. The second key question is how the PDP treats urban development outside the defined UGBs. There are two sides to this point. The first relates to the smaller townships and settlements of the District, where no UGB is proposed to be fixed. Putting aside Lake Hawea Township which we have recommended be brought within the urban areas defined by UGBs, these are Glenorchy, Kingston, Cardrona, Makarora and Luggate.

572. Policy 3.2.2.1.7 as notified related to these communities and provided:

"That further urban development of the District's small rural settlements be located within and immediately adjoining those settlements."

573. NZIA[380] sought that urban development be confined to within the UGBs. Queenstown Park Limited[381] sought amendment of the policy to ensure its consistency with other policies related to UGBs.

574. Mr Paetz recommended that the policy provision in this regard sit inside Chapter 4 and be worded:

"Urban development is contained within existing settlements."

575. As notified, Policy 4.2.1.5 was almost identical to Policy 3.2.1.7. In that context, NZIA was the only submitter seeking amendment to the Policy; that it simply state:

"Urban development is contained."[382]

576. Clearly Mr Paetz is correct and the duplication between these two policies needs to be addressed[383]. We consider, however, that the correct location for this policy is in Chapter 3 because it needs to sit alongside the primary policy on UGBs. Secondly, it needs to be clear that this is a complementary policy. As recommended by Mr Paetz, the policy is in fact

380 Submission 238: Opposed in FS1097, FS1107, FS1157, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248 and FS1249

381 Submission 806

382 Opposed in FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248 and FS1249

383 Refer the Real Journeys Submission noted on the more general point of duplication

inconsistent with 3.2.2.1 because in the urban areas with UGBs, provision is made to varying degrees for further urban development outside the existing settled areas.

577. In summary, we recommend that the policy be renumbered (as 3.3.15) and read:

"Locate urban development of the settlements where no UGB is provided within the land zoned for that purpose."

578. We accept that there is an element of circularity in referring to the existing zone provisions in this regard, but we regard this as the most appropriate way to achieve Objectives 3.2.1.8, 3.2.2.1, 3.2.3.1, 3.2.5.1 and 3.2.5.2 (as those objectives bear upon the point) given that the Township Zone provisions are a matter assigned to a subsequent stage of the District Plan review.

579. The last substantive issue that needs to be addressed under this heading is the extent to which urban development is provided for outside UGBs (and outside the other existing settlements).

580. The starting point is to be clear what it is the PDP is referring to when policies focus on "*urban development".*

581. The definition of urban development in the PDP as notified reads:

"Means any development/activity within any zone other than the rural zones, including any development/activity which in terms of its characteristics (such as density) and its effects (apart from bulk and location) could be established as of right in any zone; or any activity within an urban boundary as shown on the District Planning maps."

582. At first blush, this definition would suggest that any development within any of the many special zones of the PDP constitute "*urban development"* since they are not rural zones and the qualifying words in the second part of the definition do not purport to apply to all urban development. Similarly, no development of any kind within the rural zones is defined to be urban development. Given that one of the principal purposes of defining urban growth boundaries is to constrain urban development in the rural zones, the definition would gut these policies of any meaning.

583. This definition is largely in the same terms as that introduced to the Operative Plan by Plan Change 50. The Environment Court has described it, and the related definition of "*Urban Growth Boundary"* in the following terms[384]:

"A more ambivalent and circular set of definitions would be hard to find."

584. The Court found that urban development as defined means:

"… any development/activity which:
- *a. Is of an urban type, that is any activity of a type listed as permitted or controlled in a residential, commercial, industrial or other non-rural zone; or*
- *b. Takes place within an "Urban Growth Boundary"* as shown on the District's Planning Maps."

384 *Monk v Queenstown-Lakes District Council* [2013] NZEnvC12 at [20]

585. The Court also commented that a definition is not satisfactory if it relies on an exercise of statutory interpretation[385].

586. We entirely agree.

587. When counsel for the Council opened the Stream 1A and 1B hearing, we asked Mr Winchester to clarify for us what the definition really meant. He accepted that it was unsatisfactory and undertook to revert on the subject. As part of the Council's reply, both counsel and Mr Paetz addressed the issue. Mr Paetz suggested, supported by counsel, that a revised definition adapted from the definition used in the Proposed Auckland Unitary Plan (as notified) should be used, reading as follows:

"Means development that by its scale, intensity, visual character, trip generation and/or design and appearance of structures, is of an urban character typically associated with urban areas. Development in particular special zones (namely Millbrook and Waterfall Park) is excluded from the definition."

588. This recommendation is against a background of a submission from Millbrook Country Club[386] seeking that the definition be revised to:

"Means develop and/or activities which:
a. Creates or takes place on a site of 1500m² or smaller; and
b. Is connected to reticulated Council or community water and wastewater infrastructure; and
c. Forms part of ten or more contiguous sites which achieve both (a) and (b) above; but
d. Does not includes resort style development such as that within the Millbrook Zone."

589. We also note MacTodd's submission[387] seeking that the definition be amended in accordance with the Environment Court's interpretation of the existing definition, as above.

590. Although counsel for Millbrook referred to the Proposed Auckland Unitary Plan definition of urban activities (as notified[388]) as part of his submissions[389], it appears that Millbrook's formal submission had been drafted with an eye to the definition in the then Operative Auckland Regional Policy Statement that reads:

"Urban development – means development which is not of a rural nature. Urban development is differentiated from rural development by its scale, density, visual character, and the dominance of built structures. Urban development may also be characterised by a reliance on reticulated services (such as water supply and drainage), by its generation of traffic and includes activities (such as manufacturing), which are usually provided for in urban areas."

591. We also had the benefit of an extensive discussion with counsel for Millbrook, Mr Gordon, assisted by Mr Wells who provided planning evidence in support of the Millbrook submission, but not on this specific point.

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385 See paragraph [24]

386 Submission 696

387 Submission 192

388 Noting that the Independent Hearing Panel recommended deletion of that definition, apparently on the basis that it did no more than express the ordinary and natural meaning of the term, and Auckland Council accepted that recommendation in its decisions on the Proposed Plan

389 As did counsel for Ayrburn Farm Estate Ltd and Others

592. A large part of that discussion was taken up in trying to identify whether the Millbrook development is in fact urban development, and if not, why not. Mr Gordon argued that Millbrook was something of a special case because it provides for activities that are neither strictly urban nor rural. He distinguished Jacks Point, which is contained within an existing UGB because it has provision in its structure planning for facilities like childcare, kindergartens, schools, convenience stores and churches, as well as being of a much larger scale than Millbrook.

593. We also had input from counsel for Darby Planning LP, Ms Baker-Galloway, on the point. She submitted that the definition should not be a quantitative approach, e.g. based on density, but should rather be qualitative in nature. Beyond that, however, she could not assist further.

594. We agree that quantitative tests such as those suggested by Millbrook are not desirable. Among other things, they invite developments that are designed around the quantitative tests (in this case, multiple 9 section developments or developments on sites marginally over 1500m²). We also note the example discussed in the hearing of houses on 2000-3000m² sites in Albert Town that are assuredly urban in every other respect.

595. We also have some difficulties with the definition suggested by Mr Paetz because some types of development are typically associated with urban areas, but also commonly occur in rural areas, such as golf courses and some industries. We think that there is value in the suggestion from Millbrook (paralleled in the referenced Operative Auckland Regional Policy Statement definition in this regard) that reference might be made to connections to water and wastewater infrastructure, but we do not think they should be limited to Council or community services. It is the reticulation that matters, rather than the identity of its provider. Jacks Point, for instance, has its own water and wastewater services, whereas Millbrook is connected to Council water supply and wastewater services.

596. Insofar as Millbrook sought an exclusion for "*resort style development",* that rather begs the question; what is a resort?

597. Having regard to the submissions we heard from Millbrook, we think that the key characteristics of a resort are that it provides temporary accommodation (while admitting of some permanent residents) with a lower average density of residential development than is typical of urban environments, in a context of an overall development focused on on-site visitor activities. Millbrook fits that categorisation, but Jacks Point does not, given a much higher number of permanent residents, the geographical separation of the golf course from the balance of the development and the fact that the overall development is not focussed on on-site visitor activities. It is in every sense a small (and growing) township with a high-quality golf course.

598. The last point we have to form a view on is whether, as Mr Paetz recommends, the Waterfall Park Zone should similarly be excluded from the definition of urban development. Mr Paetz's reply evidence accepted that the density of a permitted development within the Waterfall Park Zone would be closer to urban development and made it clear that the entire Waterfall Park Zone is an anomaly; in his words:

"The sort of sporadic and ad hoc urban intensity zoning in the middle of the countryside that Council is looking to discourage through the PDP"[390]*.*

[390] M Paetz, Reply Evidence at 6.16

599. The Waterfall Park Zone has not been implemented. We have no evidence as to the likelihood that it will be implemented and form part of the 'existing' environment in future. Certainly, given Mr Paetz's evidence, we see no reason why a clearly anomalous position should drive the wording of the PDP policies on urban development going forward.

600. For these reasons, we do not consider special recognition of Waterfall Park is required.

601. A separate Hearing Panel (Stream 10) will consider Chapter 2 (Definitions)of the PDP. That Hearing Panel will need to form a view on the matters set out above and form a final view in the light of the submissions and evidence heard in that stream, what the recommendation to Council should be.

602. For our part, however, we recommend to the Stream 10 Hearing Panel that the definition of urban development be retained to provide clarity on the appropriate interpretation of the PDP[391] and amended to read:

"Means development that is not of a rural character and is differentiated from rural development by its scale, intensity, visual character and the dominance of built structures. Urban development may also be characterised by a reliance on reticulated services such as water supply, wastewater and stormwater and by its cumulative generation of traffic. For the avoidance of doubt, a resort development in an otherwise rural area does not constitute urban development".

We further recommend that a new definition be inserted as a consequence of our recommendation as above:

"Resort" – means an integrated and planned development involving low average density of residential development (as a proportion of the developed area) principally providing visitor accommodation and forming part of an overall development focussed on on-site visitor activities."

603. We have proceeded on the basis that when the objectives and policies we have to consider use the term 'urban development', it should be understood as above.

604. Turning then to the more substantive issue, whether urban development, as defined, should be avoided or merely discouraged outside the UGBs and other existing settlements, Mr Paetz's recommendation that Policy 3.2.5.3.1 be amended to provide the latter appears inconsistent with his support for Policy 4.2.2.1 which reads:

"Urban Growth Boundaries define the limits of urban growth, ensuring that urban development is contained within those identified boundaries, and urban development is avoided outside of those identified boundaries."

605. Mr Paetz did not explain the apparent inconsistency, or indeed, why he had recommended that Policy 3.2.5.3.1 should be amended in this way.

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391 The need for clarity as to the classification of Millbrook and other similar resorts that might be established in future causes us to take a different view on the need for a definition than that which the Auckland Independent Hearings Panel came to.

606. Ultimately, we view this as quite a simple and straightforward question. Mr Clinton Bird, giving urban design evidence for the Council, aptly captured our view when he told us that you have either got an urban boundary or not. If you weaken the boundary, you just perpetuate urban sprawl.

607. This is the same approach that is taken in the Proposed RPS, which provides[392] that where UGBs are identified in a District Plan, urban development should be avoided beyond the UGB.

608. It follows that we favour a policy of avoidance of urban development outside of the UGB's, as provided for in the notified Policy 3.2.2.1.2. Our view is that any urban development in rural areas should be the subject of the rigorous consideration that would occur during a Plan Change process involving extension of existing, or creation of new, UGBs.

609. The revised definition we have recommended to the Stream 10 Panel provides for resort-style developments as being something that is neither urban nor rural and therefore sitting outside the intent of this policy.

610. In summary, and having regard to the amendments recommended to relevant definitions, we recommend retention of Policy 3.2.2.1.2 as notified (but renumbered 3.3.14) as being the most appropriate way, in the context of a package of high-level policies, in which to achieve Objectives 3.2.1.8, 3.2.2.1, 3.2.3.1, 3.2.5.1 and 3.2.5.2.

3.6. Section 3.2.2.2. Policies – Natural Hazards

611. As notified, policy 3.2.2.2.1 read:

"Ensure a balanced approach between enabling higher density development within the District's scarce urban land resource and addressing the risks posed by natural hazards to life and property."

612. The sole submission specifically on it[393] sought its deletion or in the alternative, amendment "*for consistency with the RMA"*. The word "*addressing"* was the subject of specific comment – the submitter sought that it be replaced by "*mitigated"*.

613. Although Mr Paetz recommended that this Policy be retained in Chapter 3 as notified, for the same reasons we have identified that the relevant objective should be amalgamated with other objectives relating to urban development, we think that this policy should be deleted from Chapter 3, and the substance of the issue addressed as an aspect of urban development in Chapter 4. We think this is the most appropriate way in the context of a package of high-level policies to achieve the objectives of the plan related to urban development.

3.7. Section 3.2.3.1 Policies – Urban Development

614. The policies all relate to a quality and safe urban development. As such, while Mr Paetz recommends that they remain in Chapter 3, for the same reasons as the more detailed urban development policies have been deleted and their subject matter addressed as part of Chapter 4, we recommend that the three policies in Section 3.2.3.1 all be deleted, and their subject matter be addressed as part of Chapter 4, that being the most appropriate way to achieve the objectives of the plan related to urban development.

3.8. Section 3.2.3.2 Policy – Heritage Items

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392 Proposed RPS, Policy 4.5.2

393 Submission 806

615. Policy 3.2.3.2.1 as notified read:

"Identify heritage items and ensure they are protected from inappropriate development."

616. Three submitters on this policy[394] sought that the policy should be amended to state that protection of identified heritage items should occur in consultation with landowners and tenants.

617. Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou, Te Rūnanga o Moeraki, Hokonui Rūnanga [395] sought that the policy be expanded to refer to wāhi Tūpuna as well as heritage items.

618. Mr Paetz did not recommend any amendment to this policy.

619. The RPS has an objective identifying recognition and protection of heritage values as part of the sustainable management of the built environment[396]. The policy supporting this objective, however, focuses on identification and protection of "*regionally significant heritage sites"* from inappropriate subdivision, use and development. The RPS predates addition of section 6(f) of the Act[397]. The upgrading of historic heritage as an issue under Part 2 means, we believe, that the RPS cannot be regarded as authoritative on this point.

620. The Proposed RPS has a suite of policies supporting Objective 5.2, which seeks an outcome whereby historic heritage resources are recognised and contribute to the region's character and sense of identity. Policy 5.2.3, in particular, seeks that places and areas of historic heritage be protected and enhanced by a comprehensive and sequential set of actions. Those provisions include recognition of archaeological sites, wāhi tapu and wāhi taoka (taonga), avoidance of adverse effects, remedying other adverse effects when they cannot be avoided, and mitigating as a further fallback.

621. Unlike the previous policies, heritage items are not solely found in urban environments and therefore it is not appropriate to shift this policy into Chapter 4.

622. We do not recommend any amendments to it (other than to renumber it 3.3.16) for the following reasons:
   a. While consultation with landowners is desirable, this is a matter of detail that should be addressed in the specific chapter governing heritage;
   b. Addition to refer to wāhi tupuna is not necessary as identification and protection of wāhi tupuna is already governed by Section 3.2.7 (generally) and the more specific provisions in Chapter 5.
   c. While the reference to inappropriate development provides limited guidance, the submissions on this policy do not provide a basis for greater direction as to the criteria that should be applied to determine appropriateness, for instance to bring it into line with the Proposed RPS approach.

623. In summary, given the limited scope for amendment provided by the submissions on this policy, we consider its current form is the most appropriate way to achieve Objectives 3.2.2.1 and 3.2.3.1 in the context of a package of high-level policies.

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394 Submissions 607, 615 and 621: Supported in FS1105, FS1137 and FS1345

395 Submission 810: Supported in FS1098

396 RPS Objective 9.4.1(c)

397 And corresponding deletion of reference to historic heritage from section 7.

3.9. Section 3.2.4.2 Policies – Significant Nature Conservation Values

624. As notified, the two policies under this heading read:

> *"3.2.4.2.1 Identify areas of significant indigenous vegetation and significant habitats of indigenous fauna, referred to as Significant Natural Areas on the District Plan maps and ensure their protection.*
>
> *3.2.4.2.2 Where adverse effects on nature conservation values cannot be avoided, remedied or mitigated, consider environmental compensation."*

625. Submissions on 3.2.4.2.1 either sought acknowledgement that significant natural areas might be identified in the course of resource consent application processes[398] or sought to qualify the extent of their protection[399].

626. Submissions on Policy 3.2.4.2.2 sought variously:
   a. A clear commitment to avoidance of significant adverse effects and an hierarchical approach ensuring offsets are the last alternative considered[400];
   b. Amendment to make it clear that offsets are only considered as a last alternative to achieve no net loss of indigenous biodiversity and preferably a net gain[401];
   c. To draw a distinction between on-site measures to avoid, remedy or mitigate adverse effects and environmental compensation "*as a mechanism for managing residual effects"*[402];

627. Mr Paetz recommended no change to Policy 3.2.4.2.1, but that Policy 3.2.4.2.2. be deleted. His reasoning for the latter recommendation was partly because he accepted the points for submitters that Policy 3.2.4.2.2 was inconsistent with the more detailed Policy 33.2.1.8, but also because, in his view, the policy was too detailed for the Strategic Chapter[403].

628. Mr Paetz cited a similar concern (that the relief sought is too detailed) as the basis to reject the suggestion that identification of significant natural areas might occur through resource consent processes.

629. The Department of Conservation tabled evidence noting agreement with Mr Paetz's recommendations.

630. Ms Maturin appeared to make representations on behalf of Royal Forest and Bird Protection Society. She maintained the Society's submission on Policy 3.2.4.2.1, arguing that the Policy was in fact inconsistent with more detailed policy provisions indicating that such areas would be identified through resource consent applications, and that the failure to note that would promote confusion, if not mislead readers of the PDP. She supported, however, Mr Paetz's recommendation that the following policy be deleted.

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398 Submissions 339, 373, 706: Supported in FS1040; Opposed in FS1097, FS1162, FS1254, FS1287, FS1313, FS1342 and FS1347

399 Submissions 600 and 805: Supported in FS1209; Opposed in FS1034 and FS1040

400 Submission 339, 706: Supported in FS1313; Opposed in FS1015, FS1097, FS1162, FS1254 and FS1287

401 Submission 373: Supported in FS1040; Opposed in FS1015, FS1097, FS1254, FS1287, FS1342 and FS1347

402 Submission 598: Supported in FS1287; Opposed in FS1040

403 Section 42A Report at 12.89-12.90

631. In response to a question from us, Ms Maturin advised that the Society viewed any reference to environmental compensation or offsets as problematic and expressed the view that an applicant should provide a nationally significant benefit before offsets should even be considered.

632. Consideration of the submissions and evidence is against a background of the RPS having three objectives bearing on biodiversity issues:

a. Objective 10.4.1:

"*To maintain and enhance the life-supporting capacity of Otago's biota."*

b. Objective 10.4.2:

"To protect Otago's natural ecosystems and primary production from significant biological and natural threats."

c. Objective 10.4.3:
"To maintain and enhance areas with significant habitats of indigenous fauna."

633. Policy 10.5.2 should also be noted, providing for maintenance and where practicable enhancement of the diversity of Otago's significant indigenous vegetation and significant habitats of indigenous fauna meeting one of a number of tests (effectively criteria for determining what is significant).

634. Policy 3.2.2 of the Proposed RPS takes a more nuanced approach than does the RPS, following the same sequential approach as for landscapes (in Policy 3.2.4, discussed above). Policy 5.4.6, providing for consideration of offsetting of indigenous biological diversity meeting a number of specified criteria, also needs to be noted.

635. We agree with Mr Paetz's recommendation on Policy 3.2.4.2.1. The reality is if the Strategic Chapters have to set out every nuance of the more detailed provisions, there is no point having the more detailed provisions. We do not regard the fact that the more detailed provisions identify that significant natural areas may be identified through resource consent processes as inconsistent with Policy 3.2.4.2.1. Similarly, given the terms of the RPS and the Proposed RPS (and section 6(c) of the Act, sitting in behind them) we consider the policy is correctly framed, looking first and primarily to protection.

636. We are concerned, however, that the effect of Mr Paetz's recommendation that Policy 3.2.4.2.2 be deleted is that it leaves the protection of Significant Natural Areas as a bald statement that the more detailed provisions in Chapter 33 might be considered to conflict with.

637. In addition, none of the submissions on this specific point sought deletion of Policy 3.2.4.2.2. While the much more general UCES submission referred to already. provides scope to delete any provision of Chapter 3 (since it seeks deletion of the entire chapter) we prefer that the policies state more clearly the extent of the protection provided, and the circumstances when something less than complete protection might be acceptable, in line with the approach of the Proposed RPS.

638. Having said that, we take on board Ms Maturin's caution that this particular area is a veritable minefield for the unwary and that any policy has to be framed quite carefully.

639. The first point to make is that given the terms of the higher order documents, we think the submitters seeking a policy direction that significant adverse effects on Significant Natural Areas are not acceptable are on strong ground.

640. Secondly, submitters are likewise on strong ground seeking that it be clear that the first preference for non-significant adverse effects is that they be avoided or remedied. We are not so sure about referring to mitigation in the same light[404].

641. While the High Court has provided guidance as to the distinction between mitigation and environmental offsets/environmental compensation[405], we recommend that the policy sidestep any potential debate on the distinction to be drawn between the two.

642. Thirdly, the submission seeking a requirement for no net loss in indigenous biodiversity and preferably a net gain is consistent with the Proposed RPS (Policy 5.4.6(b)) and this also needs to be borne in mind.

643. Lastly, we recommend that the division between the two policies be shifted so that Policy 3.2.4.2.1 relates to the identification of Significant Natural Areas and Policy 3.2.4.2.2 outlines how those areas will be managed.

644. In summary, we recommend that the policies as notified be renumbered 3.3.17 and 3.3.18 and amended to read:

"Identify areas of significant indigenous vegetation and significant habitats of indigenous fauna as Significant Natural Areas on the District Plan maps (SNAs);

Protect SNAs from significant adverse effects and ensure enhanced indigenous biodiversity outcomes to the extent that other adverse effects on SNAs cannot be avoided or remedied."

3.10. Section 3.2.4.3 – Rare Endangered and Vulnerable Species

645. Policy 3.2.4.3.1 suggests a general requirement that development not adversely affect survival chances of rare, endangered or vulnerable species. Submissions sought variously:
   a. Expansion of the policy to cover development *"and use"*[406];
   b. Qualifying the policy to limit *"significant"* adverse effects[407];
   c. Qualifying the policy to make it subject to the viability of farming activities not being impacted[408]; and
   d. Retaining the policy as notified.

646. Given that we see these policies as the means to achieve recommended Objective 3.2.4.1, we do not consider it necessary or appropriate to insert an additional policy on maintenance of biodiversity as sought in submission 339 and 706[409].

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404 Although accepting that the Proposed RPS does so at Policy 5.4.6(a)

405 Refer *Royal Forest & Bird Protection Society of New Zealand Inc v Buller District Council* [2013] NZHC 1346

406 Submissions 339 and 706: Opposed in FS1162

407 Submission 600: Supported in FS1209; Opposed in FS1034 and FS1040

408 Submission 701: Supported in FS1162

409 Opposed in FS1132, FS1162, FS1254 and FS1287

647. We have recommended the objective that this policy seeks to implement be deleted on the basis that it duplicates protection of areas with significant nature conservation values and the emphasis given elsewhere to maintenance of indigenous biodiversity.

648. Similar reasoning suggests that this policy is unnecessary. Any area which is relevant in any material way to the survival chances of rare, endangered or vulnerable species will necessarily be a significant natural area, as that term is defined. Consistently with that position, in the RPS policy discussed above (10.5.2), the fact that a habitat supports rare, vulnerable or endangered species is one of the specified criteria of significance. If any area falling within that description is not mapped as a SNA, then it should be so mapped so as to provide greater certainty both that the relevant objective will be achieved and for landowners, as to their ability to use land that is not mapped as a SNA. Accordingly, on the same basis as for the objective, we recommend that this policy be deleted, as being the most appropriate way, in combination with Policies 3.3.17 and 3.3.18, to achieve Objectives 3.2.1.7, 3.2.18, 3.2.4.1 and 3.2.4.3-4 inclusive as those objectives relate to indigenous biodiversity.

3.11. Section 3.2.4.4 Policies – Wilding Vegetation

649. As notified, policy 3.2.4.4.1 read:

"That the planting of exotic vegetation with the potential to spread and naturalise is banned."

650. A number of submissions sought retention or minor drafting changes to this policy. Federated Farmers[410] however sought that the effect of the policy be softened to refer to appropriate management and reduction of risks.

651. In his Section 42A Report, Mr Paetz recognised that the policy might be considered too absolute. He recommended that it be revised to read:

"Prohibit the planting of identified exotic vegetation with the potential to spread and naturalise."

652. As discussed in relation to Objective 3.2.4.4, wilding vegetation is a significant issue in the District. It is also quite a discrete point, lending itself to strategic direction[411]. We recommended that the objective aspired to is avoidance of wilding exotic vegetation spread. Management and reduction of risk would not achieve that objective, without a clear statement as to the outcome of management and/or the extent of risk reduction.

653. On the other hand, a prohibition of planting of exotic vegetation described only by the characteristic that it has potential to spread and naturalise would go too far. The public are unlikely to be able to identify all the relevant species within this very general description. Mr Paetz suggested limiting the prohibition to identified species[412], but we think there also needs to be greater guidance as to what the extent of the '*potential'* for spread needs to be to prompt identification, to ensure that the costs of a prohibition are not excessive, relative to the benefits and to make the suggested prohibition practicable, in terms of RPS Policy 10.5.3. We note in this regard the submissions on behalf of Federated Farmers by Mr Cooper that some wilding species are important to farming in the District at higher altitudes. For the same

410 Submission 600: Supported in FS1091 and FS1209; Opposed in FS1034 and FS1040

411 A combination of circumstances which leads us to reject the suggestion of Mr Farrell that this issue does not justify having a high-level policy addressing it.

412 Identified in this case meaning identified in the District Plan

reason, we consider there is room for a limited qualification of the policy prohibition, but only if wilding species can be acceptably managed for the life of the planting.

654. Accordingly, we recommend that Policy 3.2.4.4.1 be renumbered 3.3.27 and worded:

"Prohibit the planting of identified exotic vegetation with the potential to spread and naturalise unless spread can be acceptably managed for the life of the planting."

655. We consider that this policy wording is the most appropriate way to achieve Objective 3.2.4.2 in the context of a high-level policy,

3.12. Section 3.2.4.5 Policies – Natural Character of Waterways

656. Policy 3.2.4.5.1 as notified read:

"That subdivision and/or development which may have adverse effects on the natural character and nature conservation values of the District's lakes, rivers, wetlands and their beds and margins be carefully managed so that life-supporting capacity and natural character is maintained or enhanced."

657. The only amendments sought to this policy sought that reference be added to indigenous biodiversity[413].

658. Mr Paetz did not recommend any change to the policy as notified.

659. Objectives 6.4.3 and 6.4.8 of the RPS require consideration in this context. Objective 6.4.3 seeks to safeguard life supporting capacity through protecting water quality and quantity. Objective 6.4.8 seeks to protect areas of natural character and the associated values of wetlands, lakes, rivers and their margins. While these objectives are strongly protective of natural character and life-supporting capacity values, the accompanying policies are rather more qualified. Policy 6.5.5 promotes a reduction in the adverse effects of contaminant discharges through, in effect, a *'maintain and enhance'*, approach but with the rider "*while considering financial and technical constraints".* Policy 6.5.6 takes a similarly qualified approach to wetlands with an effective acceptance of adverse effects that are not significant or where environmental 'compensation' (what we would now call off-setting) is provided. Lastly Policy 6.5.6 takes an avoid, remedy or mitigate approach to use and development of beds and banks of waterways, but poses maintenance (and where practicable enhancement) of life-supporting capacity as a further test.

660. As previously noted, the RPS predates the NPSFM 2014 and therefore, its provisions related to freshwater bodies must therefore be treated with some care. While the NPSFM 2014 is principally directed at the exercise of powers by regional councils[414], its general water quality objectives[415], seeking among other things, safeguarding of life supporting capacity and maintenance or improvement of overall water quality need to be noted. Objective C1 is also relevant, seeking improved integrated management of fresh water and use and development of land. From that perspective, we do not regard there being any fundamental inconsistency between the RPS and the subsequent NPSFM 2014, such as would require implementation of a different approach to that stated in the RPS.

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413 Submissions 339 and 706: Opposed in FS1015, FS1162, FS1254 and FS1287

414 The policies are almost all framed in terms of actions regional councils are required to take

415 Seeking among other things, safeguarding of the life supporting capacity and maintenance or improvement of overall water quality

661. The Kawarau WCO has a different focus to either RPS (operative or proposed) or the NPSFM 2014. It identifies the varying characteristics that make different parts of the catchment outstanding and for some parts of the catchment, directs their preservation as far as possible in their natural state, and for the balance of the catchment[416], directs protection of the characteristics identified as being present. The Kawerau WCO is principally targeted at the exercise of the regional council's powers. To the extent it is relevant to finalisation of the PDP, its division of the catchment, with different provisions applying to different areas, does not lend itself to being captured in a general policy applying across the District.

662. Lastly Policies 3.1.1 and 3.1.2 of the Proposed RPS take a *'maintain and enhance"* position for the different characteristics of water and the beds of waterways, respectively, in the context of an objective [417] seeking that the values of natural resources are *"recognised, maintained or enhanced"*.

663. Against this background, we regard the adoption of the *'maintain or enhance'* test in the PDP policy as being both consistent with and giving effect to the relevant higher order documents.

664. An amendment to refer to indigenous biodiversity in this context would not reflect the form of the objective recommended, and so we do not support that change.

665. We do, however, recommend minor drafting amendments so that the policy be put more positively. We also do not consider that the word "*carefully"* adds anything to the policy since one would hope that all of the policies in the PDP will be implemented carefully.

666. Accordingly, we recommend that Policy 3.2.4.5.1 be renumbered 3.3.19 and amended to read:

"Manage subdivision and/or development that may have adverse effects on the natural character and nature conservation values of the District's lakes, rivers, wetlands and their beds and margins so that their life-supporting capacity and natural character is maintained or enhanced."

667. We consider that this policy is the most appropriate way in the context of a high-level policy to achieve the objectives of this chapter related to natural character and life supporting capacity of waterways and their margins (3.2.1.7, 3.2.4.1-4 inclusive, 3.2.5.1 and 3.2.5.2).

3.13. Section 3.2.4.6 Policies – Water Quality

668. As notified, policy 3.2.4.6.1 read:

"That subdivision and/or development be designed so as to avoid adverse effects on the water quality of lakes, rivers and wetlands in the District."

669. Submissions on the policy sought variously:
   a. Provision for remediation or mitigation of adverse effects on water quality[418];
   a. Restriction to urban development[419];

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416 Excluding the lower Dart River, the lower Rees River, and the lower Shotover River that have provisions permitting road works and flood protection works.

417 Proposed RPS, Objective 3.1

418 Submission 598: Supported in FS1287; Opposed in FS1040

419 Submission 600: Supported in FS1209; Opposed in FS1034

b. Avoidance of significant adverse effects[420];
c. Provision for remediation or mitigation where avoidance is not possible[421];
d. Avoidance of significant adverse effects on water quality where practicable and avoidance, remediation or mitigation of other adverse effects[422];
e. Insert reference to adoption of best practice in combination with designing subdivision development and/or to avoid, remedy or mitigate adverse effects[423].

670. Mr Paetz did not recommend any amendment to the policy as notified.

671. The same provisions of the RPS, the NPSFM 2014 and the Proposed RPS as were noted in relation to the previous policy are relevant in this context. We note in particular the qualifications inserted on the management of contaminant discharges in Policy 6.5.5 of the RPS.

672. The RPS also states[424] a policy of minimising the adverse effects of land use activities on the quality and quantity of water resources.

673. We accept the general theme of the submissions seeking some qualification of the otherwise absolute obligation to avoid all adverse effects on water quality, irrespective of scale or duration, given that the practical mechanisms to manage such effects (riparian management and setbacks, esplanade reserves, stormwater management systems and the like) are unlikely to meet such a high hurdle, even if that could be justified on an application of section 32 of the Act.

674. We think there is value in the minimisation requirement the RPS directs in combination with a best land use management approach (accepting the thrust of Submission 807 in this regard) so as to still provide clear direction. We do not accept, however, that the policy should be limited to urban development given that the adverse effects of development of land on water quality are not limited to urban environments.

675. While a minimisation policy incorporates avoidance, if avoidance is practically possible, we consider there is value in emphasising that avoidance is the preferred position.

676. In summary therefore, we recommend that Policy 3.2.4.6 be renumbered 3.3.26 and amended to read:

"That subdivision and/or development be designed in accordance with best practice land use management so as to avoid or minimise adverse effects on the water quality of lakes, rivers and wetlands in the District."

677. We consider that this policy is the most appropriate way in the context of a high-level policy to achieve the objectives of this chapter related to water quality (3.2.1.8, 3.2.4.1 and 3.2.4.4).

3.14. Section 3.2.4.7 Policies – Public Access

678. Policy 3.2.4.7.1 as notified read:

420 Submission 768
421 Submission 805
422 Submission 635: Supported in FS1301
423 Submission 807
424 RPS, Policy 5.5.5

"Opportunities to provide public access to the natural environment are sought at the time of plan change, subdivision or development."

679. One submission seeking amendment to this policy[425] sought to emphasise that any public access needs to be *'safe'* and would substitute the word "*considered"* for "*sought"*.

680. Another submission[426] sought that specific reference be made to recreation opportunities.

681. Mr Paetz does not recommend any amendment to this policy.

682. Policy 6.5.10 of the RPS targets maintenance and enhancement of public access to and along the margins of water bodies. This is achieved through "*encouraging"* retention and setting aside of esplanade strips and reserves and access strips and identifying and providing for other opportunities to improve access. There are a number of exceptions specified in the latter case[427], but the thrust of the policy is that exceptional reasons are required to justify restriction of public access.

683. Objective 5.1 of the Proposed RPS seeks maintenance and enhancement of public access of all areas of value to the community. Policy 5.1.1, supporting that objective, takes a similar approach to the RPS, directing maintenance and enhancement of public access to the natural environment unless one of a number of specified criteria apply.

684. Neither of the higher order documents require that all opportunities for enhancing public access be seized.

685. While reference to public safety would be consistent with both the RPS and the Proposed RPS, we do not consider that the amendments sought in Submission 519[428]are necessary. The policy as it stands does not require public access, it suggests that public access be sought. Whether this occurs will be a matter for decision on a case by case basis, having regard as appropriate, to the regional policy statement operative at the time. The provisions of both the RPS and the Proposed RPS would bring a range of matters into play at that time, not just health and safety.

686. Similarly, we do not consider specific reference to recreational opportunities is required. Public access to the natural environment necessarily includes the opportunity to recreate, once in that environment (or that part of the natural environment that is publicly owned at least). If the motive underlying the submission is to enable commercial recreation activities then in our view, it needs to be addressed more directly, as an adjunct to provision for visitor industry activities, as was sought by Kawarau Jet Services Ltd[429] in the form of a new policy worded:

"Provide for a range of appropriate Recreational and Commercial Recreational activities in the rural areas and on the lakes and rivers of the District."

687. The suggested policy does not identify what might be an appropriate range of activities, or how issues of conflict between commercial operators over access to the waterways of the

425 Submission 519: Supported in FS1015; Opposed in FS1356
426 Submission 836: Supported in FS1097, FS1341 and FS1342
427 Including health and safety
428 Supported by the evidence of Mr Vivian
429 Submission 307: Supported in FS1097, FS1235, FS1341

District (previously an issue in a number of Environment Court cases) might be addressed. For all that, the suggested policy has merit. We will discuss shortly the appropriate policy response to commercial recreation activities in rural areas generally. We think the more specific issue of commercial recreation activities on the District's waterways is more appropriately addressed in Chapter 6 and we will return to it there.

688. We therefore recommend only a minor drafting change to put the policy (renumbered 3.3.28) more positively as follows:

"Seek opportunities to provide public access to the natural environment at the time of plan change, subdivision or development."

689. We consider that this wording in the context of a high-level policy is the most appropriate way to achieve objective 3.2.4.5.

3.15. Section 3.2.4.8 – Policies – Climate Change

690. The sole policy under this heading read as notified:

"Concentrate development within existing urban areas, promoting higher density development that is more energy efficient and supports public transport, to limit increases in greenhouse gas emissions in the District".

691. Submissions seeking changes to this policy sought variously:
   a. To be less directive, seeking encouragement where possible and deletion of reference to greenhouse gas emissions[430];
   b. Retaining the existing wording, but deleting the connection to greenhouse gas emissions[431];
   c. Opposed it generally on the basis that suggested policy does not implement the objective[432].

692. Mr Paetz did not recommend any amendment to the policy.

693. We see a number of problems with this policy. As Submission 519 identified, not all development is going to be within existing urban areas. Quite apart from the fact that the UGBs provide for controlled growth of the existing urban areas, non-urban development will clearly take place (and is intended to take place) outside the UGBs.

694. If the policy were amended to be restricted to urban development, as we suspect is the intention, it would merely duplicate the UGB policies and be unnecessary.

695. In summary, we recommend that the most appropriate way to achieve the objectives of this chapter is if Policy 3.2.4.8.1 is deleted.

696. That is not to say that the PDP has no role to play in relation to climate change. We have already discussed where and how it might be taken into account in the context of Objective 3.2.4.8.

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430 Submission 519: Supported in FS1015; Opposed in FS1356

431 Submissions 519 and 598: Supported in FS1015 and FS1287; Opposed in FS1356

432 Submission 798

697. Submission 117 sought a new policy to be applied to key infrastructure and new developments, relating to adaption to the effects of climate change. The submission specifically identified hazard management as the relevant adaptation.

698. We have already recommended specific reference to the need to take climate change into account when addressing natural hazard issues in the context of Objective 3.2.2.1.

699. We view further policy provision for adaption to any increase in natural hazard risk associated with climate change better dealt with as an aspect of management of development in both urban and rural environments rather than more generally. Accordingly, we will return to it in the context of our Chapter 4 and 6 reports.

700. We note that notified Policy 3.2.1.3.2 related to adaptation to climate change in other respects. We discuss that policy below.

3.16. Section 3.2.5 Policies - Landscape

701. As notified, Policy 3.2.5.1.1 related both to identification of ONLs and ONFs on the District Plan maps and to their protection.

702. In his Section 42A Report, Mr Paetz recommended that the policy be deleted on the basis that it duplicated matters that were better addressed in Chapter 6.

703. By his reply evidence, Mr Paetz had reconsidered that view and recommended that the first part of the policy, providing for identification of ONLs and ONFs on the plan maps, be reinstated.

704. Submissions on the policy as notified sought variously:
   a. Either deletion of the ONL and ONF lines from the planning maps or alteration of their status so that they were indicative only[433];
   b. Qualifying the extent of protection to refer to inappropriate subdivision, use and development[434];
   c. Qualifying the reference to protection, substituting reference to avoiding, remedying or mitigating adverse effects, or alternatively management of adverse effects[435].

705. The argument that ONLs and ONFs should not be identified on the planning maps rested on the contention (by Mr Haworth for UCES) that the lines as fixed are not credible. The exact location of any ONL and ONF lines on the planning maps is a matter for another hearing. However, we should address at a policy level the contention that there is an inadequate basis for fixing such lines and that establishing them will be fraught and expensive.

706. Dr Marion Read gave evidence on the work she and her peer reviewers undertook to fix the ONL and ONF lines. While Dr Read properly drew our attention to the fact that the exercise she had undertaken was not a landscape assessment from first principles, she clarified that qualification when she appeared before us. In Dr Read's view, the impact of not having worked from first principles was very minor in terms of the robustness of the outcome.

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433 Submission 145: Supported in FS1097; Opposed in FS1162 and FS1254

434 Submissions 355, 519, 598, 600, 805: Supported in FS1015, FS1117, FS1209 and FS1287; Opposed in FS1034, FS1097, FS1282, FS1320 and FS1356

435 Submissions 519, 607, 615, 621, 624, 716: Supported in FS1015, FS1097, FS1105 and FS1137; Opposed by FS1282 and FS1356

707. That may well be considered something of an understatement given that Dr Read explained that she had gone back to first principles for all of the new ONL and ONF lines she had fixed. The areas where there might be considered a technical deficiency for failure to go back to first principles were where she had relied on previous determinations of the Environment Court.

708. We think it was both pragmatic and sensible on Dr Read's part that where the Environment Court had determined the location of an ONL or ONF line she took that as a given rather than reinventing that particular wheel. We asked a number of the parties who appeared before us if it was appropriate to rely on Environment Court decisions in this regard, and there was general agreement that it was[436].

709. In summary, we do not accept the submission that the ONL and ONF lines are not credible. That is not to say that we accept that they are correct in every case and at every location. As above, that is a matter for differently constituted hearing panels to consider, but we are satisfied that the process that has been undertaken for fixing them is robust and can be relied upon unless and until credible expert evidence calls the location of those lines into question.

710. So far as the question of costs and benefits is concerned, Dr Read accepted in evidence before us that the process for confirming the lines set out in the planning maps will likely be fraught and expensive but as she observed, the current process where the status of every landscape (as an ONL, ONF, VAL or ORL) has to be determined as part of the landscape assessment for the purposes of a resource consent application is fraught and expensive. She did not know how one would go about trying to quantify and compare the relative costs of the two and neither do we.

711. What we do know is that the Environment Court found in 1999 that one could not properly state objectives and policies for areas of outstanding natural landscape unless they had been identified[437]. In that same decision, it is apparent that the Court approached the appeals on what ultimately became the ODP with considerable frustration that with certain notable exceptions, the parties appearing before it (including the Council) had not identified what they contended to be the boundaries of ONLs or ONFs. It appears[438] that the only reason that the Court did not fix lines at that point was the amount of effort and time that it would take to undertake a comprehensive assessment of the District. We are not in that position. The assessment has been undertaken by Dr Read and her peer reviewers to arrive at the lines currently on the maps. All the parties who have made submissions on the point will have the opportunity to call expert evidence to put forward a competing viewpoint in the later hearings on mapping issues.

712. Most importantly, at the end of the process, the Council will have recommendations as to where those lines should be based on the best available evidence.

713. We accept that even after they are fixed, it will still be open to parties to contend that a landscape or feature not currently classified in the plan as an ONL or ONF is nevertheless outstanding and should be treated as such for the purposes of determination of a future

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436 Mr Goldsmith for instance expressed that view (for Allenby Farms Ltd, Crosshill Farms Ltd and Mt Cardrona Station Ltd). We note however that some parties sought to draw a distinction between lines that had been drawn by the Court after a contested hearing of landscape experts and those that were the result of consent orders and/or where the issue was not contested.

437 C180/99 at [97]

438 From paragraph [99]

resource consent process[439]. Nevertheless, we think there is value in the PDP providing direction in this regard.

714. We also note that Policy 3.2.3 of the Proposed RPS directs that areas and values, among other things, of ONLs and ONFs be identified. We are required to have regard to that policy and that is exactly what the PDP does. It defines areas of ONLs and ONFs. We note the submission of Otago Regional Council in this regard[440], supporting the identification of ONLs and ONFs, reflecting in turn the policies of the Proposed RPS directing identification of outstanding and highly-valued features and landscapes we have previously discussed[441].

715. In summary, we do not accept the UCES submission that the ONL/ONF lines should be deleted, or alternatively tagged as being indicative only.

716. The secondary question is whether if, as we would recommend, Policy 3.2.5.1.1 is retained, it, or a subsequent strategic policy in this part of Chapter 3, should specify what course of action is taken consequential on that identification or whether, as Mr Paetz recommends, those matters should be dealt with in Chapter 6.

717. In summary, we recommend that a separate policy be inserted following what was Policy 3.2.5.1.1 stating in broad terms that the policy is for management of activities affecting ONLs and ONFs. Quite simply, we see this as part of the strategic direction of the Plan. While Chapter 6 contains more detailed provisions, Chapter 3 should state the overall policy.

718. We have already discussed at some length the appropriate objective for ONLs and ONFs, considering as part of that analysis, the relevant higher order provisions, and concluding that the desired outcome should be that the landscape and visual amenity values and natural character of ONLs and ONFs are protected against the adverse effects of subdivision use and development that are more than minor and/or not temporary in duration.

719. To achieve that objective, we think it is necessary to have a high-level policy addressing the need to avoid more than minor adverse effects on those values and on the natural character of ONLs and ONFs that are not temporary in duration.

720. We have had regard to the many submissions we received at the hearing emphasising the meaning given to the term "*avoid"* by the Supreme Court in *King Salmon* (not allow or prevent the occurrence of[442]).

721. It was argued for a number of parties that an avoidance policy in relation to ONLs and ONFs would create a '*dead hand*' on all productive economic activities in a huge area of the District.

722. A similar '*in terrorem'* argument was put to the Supreme Court in *King Salmon* which rejected the contention that the interpretation they had given to the relevant policies of the NZCPS would be unworkable in practice[443]. The Court also drew attention to the fact that use and development might have beneficial effects rather than adverse effects.

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439 Refer Unison Networks Limited v Hastings District Council CIV2007-485-896

440 Submission 798

441 Proposed RPS, Policies 3.2.3 and 3.2.5

442 [2014] NZSC38 at [93]

443 See [2014] NZSC38 at [144]-[145]

723. The evidence we heard was that many of the outstanding landscapes in the District are working landscapes. Dr Read's evidence is that the landscape character reflects the uses currently being made of it and in some cases, the character of the landscapes is dependent on it. Clearly continuation of those uses is not inconsistent with the values that lead to the landscape (or feature) in question being categorised as outstanding.

724. Our recommendation makes it clear that minor and temporary effects are not caught by this policy. That will permit changes to current uses that are largely consistent with those same values. If a proposal would have significant adverse effects on an ONL or an ONF, in our view and having regard to the obligation on us to recognise and provide for the preservation of ONLs and ONFs, that proposal probably should not gain consent.

725. In summary therefore, we recommend that there be two policies in relation to ONLs and ONFs in Chapter 3 (numbered 3.3.29 and 3.3.30) reading as follows:

"Identify the District's Outstanding Natural Landscapes and Outstanding Natural Features on the District Plan maps."

"Avoid adverse effects on the landscape and visual amenity values and natural character of the District's Outstanding Natural Landscapes and Outstanding Natural Features that are more than minor in extent and or not temporary in duration."

726. We consider that these policies are the most appropriate way to achieve Objective 3.2.5.1, in the context of the package of high-level policies recommended in this report.

727. Turning to non-outstanding landscapes, Policy 3.2.5.2.1 as notified read:

"Identify the district's Rural Landscape Classification on the District Plan maps, and minimise the effects of subdivision, use and development on these landscapes."

728. With the exception of UCES[444], who submitted (consistently with its submission on Policy 3.2.5.1.1) that there should be no determinative landscape classifications on planning maps, most submitters accepted the first half of the policy (identifying the Rural Landscape Classification on the maps) and focussed on the consequences of that identification. Many submitters sought that adverse effects on these landscapes be avoided, remedied or mitigated either by amending the policy or by adding a stand-alone policy to that effect[445]. Some of those submitters also sought reference to inappropriate subdivision, use and development.

729. Another option suggested was to substitute '*manage'* for '*minimise'*[446].

730. Mr Paetz recommended that the policy be deleted on the basis that both aspects of the policy were better addressed in Chapter 6.

731. We do not concur. Consequential on the recommendation as above, that the policies for ONLs and ONFs should state both the intention to identify those landscapes and features on the planning maps and separately and in broad terms, the course of action proposed, we consider

444 Submission 145: Supported in FS1097; Opposed in FS1162

445 Submissions 437, 456, 513, 515, 522, 531, 532, 534, 535, 537, 608, 643, 696, 805: Supported in FS1097, FS1256, FS1286, FS1292, and FS1322; Opposed in FS1034, FS1068, FS1071 and FS1120

446 Submission 519, 598: Supported in FS1015, FS1117 and FS1292; Opposed in FS1282 and FS1356

that it follows that Chapter 3 should also follow the same format for non-outstanding landscapes.

732. It is also consequential on the recommendations related to the ONL and ONF policies that that we do not recommend that the UCES submission be accepted. Having identified ONLs and ONFs on the planning maps, there seems to be little point in not identifying the balance of the rural landscape.

733. Accordingly, the only suggested changes are minor drafting issues and a change of terminology, consequential on the recommendation as above that these balance rural landscapes be termed Rural Character Landscapes so that the renumbered Policy 3.3.31 would read:

"Identify the District's Rural Character Landscapes on the District Plan Maps."

734. Turning to the consequences of identification, a number of the submitters on this policy noted the need for it to reflect the terminology and purpose of the Act. This is an example of the general point made at an earlier part of this report, where utilising the terminology of the Act provides no direction or guidance as to the nature of the course of action to be undertaken.

735. This is still more the case with those submissions seeking that adverse effects be managed.

736. For these reasons, we do not recommend acceptance of the relief sought in these submissions.

737. We do, however, accept that the focus on minimising adverse effects is not entirely satisfactory.

738. While we do not accept the opinion of Mr Ben Farrell (that a policy of minimising adverse effects is ambiguous), the relevant objective we have recommended seeks that rural character and amenity values in these landscapes be maintained and enhanced by directing new subdivision, use and development to occur in appropriate areas – areas that have the potential to absorb change without materially detracting from those values.

739. We also have regard to notified Policy 6.3.5.1 which states that subdivision and development should only be allowed "*where it will not degrade landscape quality or character, or diminish identified visual amenity values."*

740. We think that particular policy goes too far, seeking no degradation of landscape quality and character and diminution of visual amenity values and needs to have some qualitative test inserted[447], but the consequential effect of aligning the policy with the objective together with incorporating elements from Policy 6.3.5.1 is that the policy addressing activities in Rural Character Landscapes should be renumbered 3.3.32 and read:

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

741. We consider that the recommended Policies 3.3.31 and 3.3.32 are the most appropriate way to achieve Objectives 3.2 1.9 and 3.2.5.2, in the context of the package of high-level policies recommended in this report.

[447] To that extent we accept the substance of Submissions 456, 598 and 806 on Policy 6.3.5.1.

3.17. Section 3.2.5.3 – Policies – Urban Development

742. As notified, this policy read:

> *"Direct urban development to be within urban growth boundaries (UGBs) where these apply, or within the existing rural townships."*

743. Mr Paetz recommended that this policy be amended to provide both for urban development within and outside UGBs.

744. Either in its notified form or as Mr Paetz has recommended it be amended, this policy entirely duplicates the policies discussed above related to urban development (the recommended revised versions of Policies 3.2.2.1.2 and 3.2.2.1.6).

745. Accordingly, we recommend that the most appropriate way to achieve the objectives of this chapter related to urban development is that it be deleted, consistent with the Real Journeys' submission that duplication generally be avoided.

3.18. Section 3.2.5.4 Policies – Rural Living

746. As notified, these two policies addressed provision for rural living as follows:

> "3.2.5.4.1 *Give careful consideration to cumulative effects in terms of character and environmental impact when considering residential activity in rural areas.*
>
> *3.2.5.4.2 Provide for rural living opportunities in appropriate locations."*

747. There were two submissions on Policy 3.2.5.4.1, one seeking its deletion on the basis that it may conflict with case law related to weighting of cumulative effects, the permitted baseline and the future environment[448] and the other seeking more effective guidance on how much development is too much[449].

748. Most of the submissions on Policy 3.2.5.4.2 supported the policy in its current form. One submitter[450] sought that the Council should continue with its plans to rezone land west of Dalefield Road to Rural Lifestyle or Rural Residential, but did not seek any specific amendment to the policy. Mr Paetz did not recommend any change to the wording of these policies.

749. While we do not support the submission seeking that Policy 3.2.5.4.1 be deleted, the submitter has a point in that the policy is expressed so generally that it may have consequences that cannot currently be foreseen. Notwithstanding that, clearly cumulative effects of residential activity is an issue requiring careful management, as we heard from Dr Read. The problem is that a policy indicating that cumulative effects will be given "*careful consideration"* is too non-specific as to what that careful consideration might entail. As Submission 806 suggests, greater clarity is required as to how it will operate in practice.

750. The policies of Section 6.3.2 (as notified) give some sense of what is required (acknowledging the finite capacity of rural areas to accommodate residential development, not degrading landscape character and visual amenity, taking into account existing and consenting

448 Submission 519: Supported in FS1015; Opposed in FS1356

449 Submission 806: Supported in FS1313

450 Submission 633

subdivision or development). We recommend that some of these considerations be imported into policy 3.2.5.4.1 to confine its ambit, and thereby address the submitter's concern.

751. One issue in contention was whether the description in the ODP of rural non-outstanding landscapes as being *"pastoral (in the poetic and picturesque sense rather than the functional sense) or Arcadian landscapes"*[451] should be retained. Mr Goldsmith[452] argued that this description, which was coined by the Environment Court[453], should be retained if circumstances have not changed.

752. The evidence of Dr Read was that this description has proven confusing, and has been interpreted as a goal, rather than as a description. Her June 2014 Report[454] fleshed this out, suggesting that neither lay people nor professionals have had a clear understanding of what an arcadian landscape is, and that a focus on replicating arcadia has produced an English parkland character in some areas of the Wakatipu Basin that, if continued, would diminish the local indigenous character.

753. Dr Read also emphasised the need to acknowledge the differences between the character of the Upper Clutha Basin and the Wakatipu Basin.

754. Mr Goldsmith acknowledged those differences but suggested to us that the PDP treated the Wakatipu Basin as if it were the Hawea Flats, whereas his description of the ODP was that it did the reverse (i.e. treated the Hawea Flats as they were the Wakatipu Basin)[455].

755. We take his point and have accordingly looked for a broader description that might exclude ONL's and ONF's (where the focus is necessarily on protection rather than enabling development), but capture both areas, while allowing their differences (and indeed the differences in landscape character within the Wakatipu Basin that Mr Goldsmith sought recognition for) to be taken into account.

756. Mr Jeff Brown[456] suggested to us that the ultimate goal is met if the character of an area remains '*rural'*[457], and therefore the test should be if the area retains a rural '*feel'.* While this comes perilously close to a test based on the '*vibe'*[458]*,* we found Mr Brown's evidence helpful and have adapted his suggested approach to provide a more objective test.

757. The interrelationship with Policy 3.2.5.4.2 also needs to be noted. Better direction as to what a careful consideration of cumulative effects means, requires, among other things, identification of where rural living opportunities might be appropriate. As Submission 633 notes, one obvious way in which the PDP can and does identify such appropriate locations is through specific zones. Another is by providing greater direction of areas within the Rural Zone

451 ODP 4.2.4(3)

452 Addressing us on this occasion on behalf of GW Stalker Family Trust and others

453 In C180/99

454 '*Wakatipu Basin Residential Subdivision and Development: Landscape Character Assessment*'

455 Legal Submissions for GW Stalker and others at 6.3(c)

456 Giving evidence on behalf of Ayrburn Farms Ltd, Bridesdale Farms Developments Ltd, Shotover Park Ltd and Trojan Helmet Ltd

457 NZIA's Submission 238 makes a similar point

458 Refer the film, 'The Castle' (1997)

where rural living developments are not appropriate[459]. We agree that a greater level of direction would assist plan users in this regard.

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

"Provide for rural living opportunities in areas identified on the District Plan maps as appropriate for rural living developments.

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

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

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

760. It is appropriate at this point that we address the many submissions we had before us from infrastructure providers seeking greater recognition of the needs of infrastructure.

761. Objective 3.2.1.9 discussed above is the reference point for any additional policies on infrastructure issues.

762. In the rural environment, the principal issue for determination is whether infrastructure might be permitted to have greater adverse effects on landscape values than other development, and if so, in what circumstances and to what extent. Consideration also has to be given as to whether recognition needs to be given at a strategic level to reverse sensitivity effects on infrastructure in the rural environment.

763. Among the suggestions from submitters, new policies were sought to enable the continued operation, maintenance, and upgrading of regionally and nationally significant infrastructure and to provide that such infrastructure should where practicable, mitigate its impacts on ONLs and ONFs [460].

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459 Mr Goldsmith (on this occasion when appearing for GW Stalker Family Trust and Others) suggested to us that specific areas might be identified and nominated the north side of Malaghans Road and a portion of Speargrass Flat Road as potential areas that could be specifically identified as being unable to absorb further development, rather than relying on generic policies. Mr Ben Farrell similarly supported what he termed a finer grained approach to management of the Wakatipu Basin. We note that PDP Chapter 24 notified as part of the Stage 2 Variations seeks to provide greater guidance to development within the Wakatipu Basin

460 Submissions 251, 433: Supported in FS1077, FS1092, FS1097, FS1115, FS1121 and FS1211; Opposed in FS1040 and FS1132

764. Transpower New Zealand Limited[461] sought the inclusion of a new definition for regionally significant infrastructure which would include:

a. "Renewable electricity generation facilities, where they supplied the National Electricity Grid and local distribution network; and
b. The National Grid; and
c. The Electricity Distribution Network; and
d. Telecommunication and Radio Community facilities; and
e. Road classified as being of national or regional importance; and
f. Marinas and airports; and
g. Structures for transport by rail".

765. Transpower's focus on nationally and regionally significant infrastructure is consistent with Policy 4.3.2 of the Proposed RPS, which now reads:

a. "Recognise the national and regional significance of all of the following infrastructure:
b. Renewable electricity generation activities, where they supply the national electricity grid and local distribution network;
c. Electricity transmission infrastructure;
d. Telecommunication and radiocommunication facilities;
e. Roads classified as being of national or regional importance;
f. Ports and airports and associated navigation infrastructure;
g. Defence facilities;
h. Structures for transport by rail."

766. This policy wording differs from the corresponding policy (3.5.1) in the notified version of the Proposed RPS that was the relevant document at the date of hearing[462] in the following material respects:
a. (a) now applies to renewable electricity generation "activities", rather than facilities;
b. Reference to associated navigation infrastructure has been added to (e);
c. Recognition of defence facilities is new.

In addition, the term *'electricity transmission infrastructure'* is now defined to mean the National Grid (adopting the definition in the NPSET 2008).

767. The submission of Aurora Energy Limited[463] suggested a different definition of regionally significant infrastructure that varied from both that suggested by Transpower and the Proposed RPS, but included among other things, electricity distribution networks, community water supply systems, land drainage infrastructure and irrigation and stock water infrastructure. Aurora also sought the inclusion of an additional definition for *'critical electricity lines'*[464].

768. Mr Paetz's Section 42A Report largely adopted the *'definition'* of regionally significant infrastructure in the notified version of the Proposed RPS with the following changes:

461 Submission 805: Supported in whole or in part in FS1077, FS1106, FS1121, FS1159, FS1208, FS1211, FS1253 and FS1340
462 And that obviously formed the basis of the relief sought in the Transpower submission
463 Submission 635: Supported in whole or in part in FS1077, FS1097 and FS1211; Opposed in FS1132
464 Opposed in FS1301 and FS1322

a. Mr Paetz recommended that renewable electricity generation facilities qualify where they are operated by an electricity operator (a defined term under the Electricity Act 1992) so as to exclude small and community-scale electricity generators;
b. He suggested reference to '*designated*' airports;
c. He deleted reference to ports, there being none in a landlocked District;
d. He deleted reference to rail structures, there being no significant rail lines within the District.

769. This recommendation produced considerable discussion and debate during the course of the hearing.

770. QAC pointed out that Glenorchy is a designated airport, but one would struggle to regard it as regionally significant. QAC agreed that reference might appropriately be limited to Queenstown and Wanaka airports.

771. Transpower New Zealand Limited expressed considerable concern that the National Grid was not specifically mentioned. We found this a little puzzling since the NPSET uses the term *'electricity transmission infrastructure'* and the National Grid clearly comes within that term (the NPSET 2008 in fact defines them to be one and the same thing). Also, quite apart from the NPSET 2008, no one could seriously contend that the National Grid was not regionally and nationally significant.

772. The discussion we had with representatives of Transpower did however, highlight an issue at the other end of the spectrum. While the Decisions Version of the Proposed RPS now puts it beyond doubt (by adopting the NPSET 2008 definition), the general term *'electricity transmission infrastructure'* could be argued to include every part of the electricity transmission network, down to individual house connections, which while extremely important to the individuals concerned, could not be considered regionally significant.

773. We invited the representative of Aurora Energy, Ms Dowd, to come back to us with further information on those parts of Aurora's electricity distribution network that might properly be included within the term regionally significant infrastructure. She identified those parts of the Aurora Network operating at 33kV and 66kV and four specific 11kV lines servicing specific communities. Ms Dowd also drew our attention to the fact that a number of other Regional Policy Statements and District Plans have a focus on "*critical infrastructure"*.

774. In Mr Paetz's reply evidence, he suggested a further iteration of this definition to limit electricity transmission infrastructure to the National Grid (necessarily excluding any electricity transmission lines in the Aurora network), add reference to key centralised Council infrastructure, and refer only to Queenstown and Wanaka airports.

775. Having regard to the Proposed RPS, as we are bound to do, we take the view that the focus should primarily be on regionally significant infrastructure (not some more broad ranging description such as '*critical*' infrastructure).

776. Secondly, identification of '*regionally*' significant infrastructure is primarily a matter for the Regional Council, except where the Proposed RPS might be considered ambiguous or inapplicable.

777. We therefore agree with Mr Paetz that reference to ports and rail structures might be deleted.

778. We cannot recommend acceptance of Mr Paetz's suggestion that key Council infrastructure should be included. While it would satisfy the Aurora test of critical infrastructure, the Regional Council has not chosen to identify it as regionally significant and while critical to the District, it is difficult to contend that it has significance beyond the District boundaries.

779. For similar reasons, we do not recommend identifying particular aspects of the Aurora distribution network. Again, while they would meet a test of critical infrastructure from the District's perspective, the Regional Council has not identified them as *'regionally significant'* – in the Decisions Version of the Proposed RPS, the Regional Council has explicitly excluded electricity transmission infrastructure that does not form part of the National Grid. Mr Farrell's contention that tourism infrastructure should be included within *'regionally significant infrastructure'* fails for the same reasons.

780. We also think that the reference to roads of national or regional significance can be simplified. These are the state highways.

781. Reference to Airports can, as QAC suggested, be limited to Queenstown and Wanaka Airports, but as a result of the amendment in the Proposed RPS to the relevant policy, reference should be made to associated navigation infrastructure.

782. We do not consider, however, that reference needs to be made to defence facilities. NZ Defence Force did not seek that relief in its submission[465] which is limited to relief related to temporary activities (in Chapter 35), from which we infer the Defence Force has no permanent facilities in the District. Certainly, we were not advised of any.

783. Lastly, the representatives of Transpower New Zealand Limited advised us that there are no electricity generation facilities supplying the National Grid in the District. The Roaring Meg and Wye Creek hydro generation stations are embedded in the Aurora line network and the Hawea Control Structure stores water for the use of the large hydro generation plants at Clyde and Roxburgh (outside the District) but does not generate any electricity of its own. We think that having regard to Policy A of the NPSREG 2011, this aspect of the definition needs to be amended to recognise the national significance of those activities.

784. In summary, we recommend that the Stream 10 Hearing Panel consider a definition of regionally significant infrastructure for insertion into the PDP as follows:

"Regionally significant infrastructure – means:

a. Renewable electricity generation activities undertaken by an electricity operator; and
b. The National Grid; and
c. Telecommunication and radiocommunication facilities; and
d. State highways; and
e. *Queenstown and Wanaka Airports and associated navigation infrastructure."*

785. This then leaves the question of the extent to which recognition of regionally significant infrastructure is required in the PDP.

786. Mr Paetz did not recommend an enabling approach to new infrastructure given the potential conflicts with section 6(a) and (b) of the Act.

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465 Submission 1365

787. We appreciate his point. The Proposed RPS would not require that and in the extensive discussion earlier regarding the inter-relationship between significant infrastructure, in particular the National Grid, and the objective related to ONLs and ONFs, we concluded that the NPSET 2008 did not require provisions that would permit development of the National Grid in ways that would have significant adverse effects on ONLs and ONFs.

788. We do think, however, that it would be appropriate to provide some recognition to the locational constraints that infrastructure can be under.

789. Nor are locational constraints solely limited to infrastructure. The District has a number of examples of unique facilities developed for the visitor industry in the rural environment that by their nature, are only appropriate in selected locations. We have also already discussed submissions on behalf of the mining industry seeking to provide for the location-specific nature of mining[466].

790. As with infrastructure, provisions providing for such developments cannot be too enabling, otherwise they could conflict with the Plan's objectives (and the relevant higher order provisions) related to the natural character of waterways, ONLs and ONFs and areas of indigenous vegetation and significant habitats of indigenous fauna. However, we consider that it is appropriate to make provision for such facilities.

791. Accordingly, we recommend that the following policy (numbered 3.3.25) be inserted:

"Provide for non-residential development with a functional need to locate in the rural environment, including regionally significant infrastructure where applicable, through a planning framework that recognises its locational constraints, while ensuring maintenance and enhancement of the quality of the rural environment."

792. So far as regionally significant (and other) infrastructure in rural areas is concerned, this general recognition will need to be augmented by more specific policies. We will return to the point in the context of Chapter 6.

793. We have also considered the separate question, as to whether specific provision needs to be made for reverse sensitivity effects on infrastructure (regionally significant or otherwise) at a strategic level, in the rural environment. Clearly the Proposed RPS (Policy 4.3.4) supports some policy provision being made and we accept that this is an issue that needs to be addressed. The only issue is where it is best covered. We have concluded that this is a matter that can properly be left for the Utilities and Subdivision Chapters of the PDP.

794. This leaves open the question of provision for infrastructure in urban environments. We have taken the view that with limited exceptions, the high-level policy framework for urban development should be addressed in an integrated manner in Chapter 4. Consistent with that position, we will return to the question of infrastructure in that context.

795. It follows that we consider that recommended Policy 3.3.25 is the most appropriate way to achieve Objectives 3.2.1.8, 3.2.1.9, 3.2.5.1 and 3.2.5.2 as they relate to locationally-constrained developments, supplemented by more detailed policies in Chapters 4, 27 and 30.

3.19. Section 3.2.5.5 Policies – Ongoing Agricultural Activities

796. As notified there are two related policies on this subject that read as follows:

[466] Policy 5.3.5 of the Proposed RPS also supports recognition of mining in this context

"3.2.5.5.1 *Give preference to farming activity in rural areas except where it conflicts with significant nature conservation values;*

3.2.5.5.2 Recognise that the retention of the character of rural areas is often dependent on the ongoing viability of farming and that evolving forms of agricultural land use which may change the landscape are anticipated."

797. These policies attracted a number of submissions.

798. Some submissions sought deletion of Policy 3.2.5.5.1[467].

799. Many other submissions sought that Policy 3.2.5.5.1 be broadened to refer to "*other activities that rely on rural resources."*[468]

800. Some submissions sought deletion of the qualification referring to significant nature conservation values[469].

801. Many of the same submitters sought that Policy 3.2.5.5.2 be broadened, again to refer to activities that rely on rural resources, and to expand the reference to agricultural land use to include "*other land uses"*[470]*.*

802. Other more minor changes of emphasis were also sought.

803. Consideration of these policies takes place against a background of evidence we heard from Mr Philip Bunn of the challenges farmers have in continuing to operate in the District, particularly in the Wakatipu Basin.

804. The theme of many of the submitters who appeared before us was to challenge the preference given to farming over other land uses. As such, this formed part of the more general case seeking recognition of non-farming activities in the rural environment, particularly visitor industry related activities and rural living, but also including recreational use[471].

805. We discussed with the counsel and expert planners appearing for those submitters the potential ambit of a reference to activities *"relying on rural resources"*. From the answers we received, this is a somewhat elastic concept, depending on definition. Some counsel contended, for instance, that rural living (aka houses) would satisfy the test of being reliant on rural resources[472].

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467 Submissions 598, 608, 696: Supported in FS1097 and FS1287; Opposed in FS1034, FS1091, and FS1132

468 Submissions 345, 375, 437, 456, 513, 515, 522, 531, 532, 534, 535, 537: Supported in FS1097, FS1256, FS1286 and FS1322; Opposed in FS1068, FS1071, FS1120 and FS1282

469 Submissions 701 and 784: Supported in FS1162

470 Submissions 343, 345, 375, 437, 456, 515, 522, 531, 532, 534, 535: Supported in FS1097, FS1292 and FS1322; Opposed in FS1068, FS1071 and FS1282. See also Submissions 607, 615, 643; Supported in FS1097, FS1105and FS1077 to like effect

471 See e.g. submission 836

472 For example, Ms Wolt advanced that position, appearing for Trojan Helmet Ltd, and supported by Mr Jeff Brown's evidence. Mr Tim Williams, giving planning evidence for Skyline Enterprises Ltd, Totally Tourism Ltd, Barnhill Corporate Trustee Ltd & DE, ME Bunn & LA Green, AK & RB Robins & Robins Farm Ltd, Slopehill JV, expressed the same opinion from a planning perspective. By contrast Chris Ferguson, the planning witness for Darby Planning LP and Hansen Family Partnership, suggested that a slightly different test (functional need) would be met by rural contracting depots but not by '*rural living*'.

806. We have made recommendations above as to how use of rural land for rural living should be addressed at a strategic policy level. We therefore do not consider that changes are necessary to these policies to accommodate that point, particularly given the potential ambiguities and definitional issues which might arise.

807. Turning to use of rural land by the visitor industry, Policy 6.3.8.2 provides wording that in our view is a useful starting point. As notified, this policy read:

"Recognise that commercial recreation and tourism related activities locating within the rural zones may be appropriate where these activities enhance the appreciation of landscapes, and on the basis that they would protect, maintain or enhance landscape quality, character and visual amenity values."

808. This wording would respond to the evidence of Mr Jeff Brown on behalf of Kawarau Jet Services Limited supporting specific reference to commercial recreational activities in recreational areas and on lakes and rivers in the district[473]. We do not think that specific reference needs to be made to lakes and rivers in this context, as, with the exception of Queenstown Bay, they are all within the Rural Zone. As discussed above, any unique issues arising in relation to waterways can more appropriately be addressed in Chapter 6.

809. Policy 6.3.8.2 was supported by Darby Planning LP[474], but a number of other submissions with interests in the visitor industry sector sought amendments to it. Some submissions[475] sought that the policy refer only to managing adverse effects of landscape quality, character and visual amenity values. Others sought that the policy be more positive towards such activities. Real Journeys Limited[476] for instance sought that the policy be reframed to encourage commercial recreation and tourism related activities that enhanced the appreciation of landscapes. Submissions 677[477] and 696[478] suggested a "*recognise and provide for"* type approach, combined with reference only to appreciation of the District's landscapes. Lastly, Submission 806 sought to remove any doubt that recreational and tourism related activities are appropriate where they enhance the appreciation of landscapes and have a positive influence on landscape quality, character and visual amenity values, as well as provision of access to the alpine environment.

810. Mr Barr did not recommend any change to this policy in the context of Chapter 6 and we were left unconvinced as to the merits of the other amendments sought in submissions. In particular, converting the policy merely to one which states the need to manage adverse effects does not take matters very far.

811. Similarly, appreciation of the District's landscapes is a relevant consideration, but too limited a test, in our view, for the purposes of a policy providing favourably for the visitor industry.

812. We have already discussed the defects of a "*recognise and provide for"* type approach in the context of the District Plan policies.

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473 J Brown, EiC at 4.11

474 Submission 608: Opposed in FS1034

475 Submissions 610, 613: Supported in FS1097.

476 Submission 621: Supported in FS1097

477 Supported in FS1097; Opposed in FS1312

478 Supported in FS1097

813. Lastly, incorporation of provision of access to the alpine environment as being a precondition for appropriateness would push the policy to far in the opposite direction, excluding visitor industry activities that enable passive enjoyment of the District's distinctive landscapes.

814. In summary, we recommend that Policy 6.3.8.2 be shifted into Chapter 3, renumbered 3.3.21 but otherwise not be amended.

815. Reverting to farming activities in rural areas, we accept that the policy of giving preference to farming might go too far, particularly where it is not apparent what the implications are of that preference. Mr Paetz recommended that these two policies be amended to read:

"3.2.5.5.1 Enable farming activity in rural areas except where it conflicts with significant nature conservation values;

3.2.5.5.2 Provide for evolving forms of agricultural land use."

816. We agree that an enabling focus better expresses the underlying intent of the first policy (as well as being consistent with Policy 5.3.1 of the Proposed RPS), but we also think that some reference is required to landscape character, since as already discussed, not all farming activities are consistent with maintenance of existing landscape character.

817. We also think that while it is appropriate to enable changing agricultural land uses (to address the underlying issue of lack of farming viability), reference to landscape character has been lost, and that should be reinserted, along with reference to protection of significant nature conservation values.

818. We also see the opportunity for these two policies to be combined. We recommend one policy replace Policies 3.2.5.5.1 and 2, numbered 3.3.20 and worded as follows:

"Enable continuation of existing farming activities and evolving forms of agricultural land use in rural areas except where those activities conflict with significant nature conservation values or degrade the existing character of rural landscapes."

819. We are satisfied that recommended Policy 3.3.20 is the most appropriate way to achieve Objectives 3.2.1.1, 3.2.1.7, 3.2.1.8, 3.2.4.1, 3.2.5.1 and 3.2.5.2 in the context of a package of high-level policies and taking account of the additional policies we recommend for Chapter 6.

3.20. Section 3.2.6.3 Policies – Urban Development

820. Policies 3.2.6.3.1 and 3.2.6.3.2 related to the location and design of open spaces and community facilities. While Mr Paetz recommended that these policies remain as is, for similar reasons as above, we recommend that these are more appropriately deleted from Chapter 3 and their subject matter addressed in the context of Chapter 4.

3.21. Overall Conclusion on Chapter 3 Policies

821. We have considered all the of the policies we have recommended for this chapter. We are satisfied that individually and collectively, they are the most appropriate way to achieve the Chapter 3 policies at this high level, taking account of the additional policies we recommend for Chapters 4 and 6. We note that the revised version of Chapter 3 annexed as Appendix 1 contains three additional policies we have not discussed (3.3.33-35 inclusive). These policies are discussed in the Stream 1A Report and included in our revised Chapter 3 for convenience,

in order that the chapter can be read as a whole. Lastly, we consider that understanding of the layout of the policies would be assisted by insertion of headings to break up what would otherwise be a list of 35 policies on diverse subjects. We have therefore inserted headings intended to capture the various groupings of policies.

4. PART B RECOMMENDATIONS

822. Attached as Appendix 1 is our recommended Chapter 3.

823. In addition, as discussed in our report, we recommend to the Stream 10 Hearing Panel that the following new and amended definitions be included in Chapter 2:

***"Nature Conservation Values** – means the collective and interconnected intrinsic values of indigenous flora and fauna, natural ecosystems (including ecosystem services), and their habitats.*

***Regionally significant infrastructure** - means:*

a. Renewable electricity generation activities undertaken by an electricity operator; and
b. The National Grid; and
c. Telecommunication and radio communication facilities; and
d. State Highways; and
e. Queenstown and Wanaka airports and associated navigation infrastructure.

***Urban Development** – means development which is not of a rural character and is differentiated from rural development by its scale, intensity, visual character and the dominance of built structures. Urban development may also be characterised by a reliance on reticulated services such as water supply, wastewater and stormwater and by its cumulative generation of traffic. For the avoidance of doubt, a resort development in an otherwise rural area does not constitute urban development.*

***Resort-** means an integrated and planned development involving low average density of residential development (as a proportion of the developed area) principally providing temporary visitor accommodation and forming part of an overall development focused on on-site visitor activities."*

824. Lastly, as discussed in the context of our consideration of Objective 3.2.5.2, if the Council intends that provisions related to the Rural Character Landscape apply in the Wakatipu Basin, and more generally, outside the Rural Zone, we recommend Council notify a variation to the PDP to make that clear.

4 URBAN DEVELOPMENT

QUEENSTOWN LAKES DISTRICT COUNCIL

4.1 Purpose

The purpose of this Chapter is to set out the objectives and policies for managing the spatial location and layout of urban development within the District. This chapter forms part of the strategic intentions of this District Plan and will guide planning and decision making for the District's major urban settlements and smaller urban townships. This chapter does not address site or location specific physical aspects of urban development (such as built form) - reference to zone and District wide chapters is required for these matters.

The District experiences considerable growth pressures. Urban growth within the District occurs within an environment that is revered for its natural amenity values, and the District relies, in large part for its social and economic wellbeing on the quality of the landscape, open spaces and the natural and built environment. If not properly controlled, urban growth can result in adverse effects on the quality of the built environment, with flow on effects to the impression and enjoyment of the District by residents and visitors. Uncontrolled urban development can result in the fragmentation of rural land; and poses risks of urban sprawl, disconnected urban settlements and a poorly coordinated infrastructure network. The roading network of the District is under some pressure and more low density residential development located remote from employment and service centres has the potential to exacerbate such problems.

The objectives and policies for Urban Development provide a framework for a managed approach to urban development that utilises land and resources in an efficient manner, and preserves and enhances natural amenity values. The approach seeks to achieve integration between land use, transportation, services, open space networks, community facilities and education; and increases the viability and vibrancy of urban areas.

Urban Growth Boundaries are established for the key urban areas of Queenstown-Frankton, Wanaka, Arrowtown and Lake Hawea Township, providing a tool to manage anticipated growth while protecting the individual roles, heritage and character of these areas. Specific policy direction is provided for these areas, including provision for increased density to contribute to more compact and connected urban forms that achieve the benefits of integration and efficiency and offer a quality environment in which to live, work and play.

4.2 Objectives and Policies

4.2.1 Objective - Urban Growth Boundaries used as a tool to manage the growth of larger urban areas within distinct and defendable urban edges. (from Policies 3.3.12 and 3.3.13)

Policies

4.2.1.1 Define Urban Growth Boundaries to identify the areas that are available for the growth of the main urban settlements.

4.2.1.2 Focus urban development on land within and at selected locations adjacent to the existing larger urban settlements and to a lesser extent, accommodate urban development within smaller rural settlements.

4.2.1.3 Ensure that urban development is contained within the defined Urban Growth Boundaries, and that aside from urban development within existing rural settlements, urban development is avoided outside of those boundaries.

4.2.1.4 Ensure Urban Growth Boundaries encompass a sufficient area consistent with:

a. the anticipated demand for urban development within the Wakatipu and Upper Clutha Basins over the planning period assuming a mix of housing densities and form;

b. ensuring the ongoing availability of a competitive land supply for urban purposes;

c. the constraints on development of the land such as its topography, its ecological, heritage, cultural or landscape significance; or the risk of natural hazards limiting the ability of the land to accommodate growth;

d. the need to make provision for the location and efficient operation of infrastructure, commercial and industrial uses, and a range of community activities and facilities;

e. a compact and efficient urban form;

f. avoiding sporadic urban development in rural areas;

g. minimising the loss of the productive potential and soil resource of rural land.

4.2.1.5 When locating Urban Growth Boundaries or extending urban settlements through plan changes, avoid impinging on Outstanding Natural Landscapes or Outstanding Natural Features and minimise degradation of the values derived from open rural landscapes

4.2.1.6 Review and amend Urban Growth Boundaries over time, as required to address changing community needs.

4.2.1.7 Contain urban development of existing rural settlements that have no defined Urban Growth Boundary within land zoned for that purpose.

4.2.2A Objective - A compact and integrated urban form within the Urban Growth Boundaries that is coordinated with the efficient provision and operation of infrastructure and services.

4.2.2B Objective - Urban development within Urban Growth Boundaries that maintains and enhances the environment and rural amenity and protects Outstanding Natural Landscapes and Outstanding Natural Features, and areas supporting significant indigenous flora and fauna. (From Policy 3.3.13, 3.3.17, 3.3.29)

Policies

4.2.2.1 Integrate urban development with the capacity of existing or planned infrastructure so that the capacity of that infrastructure is not exceeded and reverse sensitivity effects on regionally significant infrastructure are minimised.

4.2.2.2 Allocate land within Urban Growth Boundaries into zones which are reflective of the appropriate land use having regard to:

a. its topography;

b. its ecological, heritage, cultural or landscape significance if any;

c. any risk of natural hazards, taking into account the effects of climate change;

d. connectivity and integration with existing urban development;

e. convenient linkages with public transport;

f. the need to provide a mix of housing densities and forms within a compact and integrated urban environment;

g. the need to make provision for the location and efficient operation of regionally significant infrastructure;

h. the need to provide open spaces and community facilities that are located and designed to be safe, desirable and accessible;

i. the function and role of the town centres and other commercial and industrial areas as provided for in Chapter 3 Strategic Objectives 3.2.1.2 - 3.2.1.5 and associated policies; and

j. the need to locate emergency services at strategic locations.

4.2.2.3 Enable an increased density of well-designed residential development in close proximity to town centres, public transport routes, community and education facilities, while ensuring development is consistent with any structure plan for the area and responds to the character of its site, the street, open space and surrounding area.

4.2.2.4 Encourage urban development that enhances connections to public recreation facilities, reserves, open space and active transport networks.

4.2.2.5 Require larger scale development to be comprehensively designed with an integrated and sustainable approach to infrastructure, buildings, street, trail and open space design.

4.2.2.6 Promote energy and water efficiency opportunities, waste reduction and sustainable building and subdivision design.

4.2.2.7 Explore and encourage innovative approaches to design to assist provision of quality affordable housing.

4.2.2.8 In applying plan provisions, have regard to the extent to which the minimum site size, density, height, building coverage and other quality controls have a disproportionate adverse effect on housing affordability.

4.2.2.9 Ensure Council-led and private design and development of public spaces and built development maximises public safety by adopting "Crime Prevention Through Environmental Design".

4.2.2.10 Ensure lighting standards for urban development avoid unnecessary adverse effects on views of the night sky.

4.2.2.11 Ensure that the location of building platforms in areas of low density development within Urban Growth Boundaries and the capacity of infrastructure servicing such development does not unnecessarily compromise opportunities for future urban development.

4.2.2.12 Ensure that any transition to rural areas is contained within the relevant Urban Growth Boundary.

Wakatipu Basin Specific Policies

4.2.2.13 Define the Urban Growth Boundary for Arrowtown, as shown on the District Plan Maps that preserves the existing urban character of Arrowtown and avoids urban sprawl into the adjacent rural areas.

4.2.2.14 Define the Urban Growth Boundaries for the balance of the Wakatipu Basin, as shown on the District Plan Maps that:

a. are based on existing urbanised areas;

b. identify sufficient areas of urban development and the potential intensification of existing urban areas to provide for predicted visitor and resident population increases over the planning period;

c. enable the logical and sequenced provision of infrastructure to and community facilities in new areas of urban development;

d. avoid Outstanding Natural Features and Outstanding Natural Landscapes;

e. avoid sprawling and sporadic urban development across the rural areas of the Wakatipu Basin.

4.2.2.15 Ensure appropriate noise boundaries are established and maintained to enable operations at Queenstown Airport to continue and to expand over time.

4.2.2.16 Manage the adverse effects of noise from aircraft on any Activity Sensitive to Aircraft Noise within the airport noise boundaries while at the same time providing for the efficient operation of Queenstown Airport.

4.2.2.17 Protect the airport from reverse sensitivity effects of any Activity Sensitive to Aircraft Noise via a range of zoning methods.

4.2.2.18 Ensure that Critical Listening Environments of all new buildings and alterations and additions to existing buildings containing an Activity Sensitive to Aircraft Noise within the Queenstown Airport Air Noise Boundary or Outer Control Boundary are designed and built to achieve appropriate Indoor Design Sound Levels.

4.2.2.19 Manage the adverse effects of noise from Queenstown Airport by conditions in Designation 2 including a requirement for a Noise Management Plan and a Queenstown Airport Liaison Committee.

4.2.2.20 Ensure that development within the Arrowtown Urban Growth Boundary provides:

a. an urban form that is sympathetic to the character of Arrowtown, including its scale, density, layout and legibility, guided by the Arrowtown Design Guidelines 2016;

b. opportunity for sensitively designed medium density infill development in a contained area closer to the town centre, so as to provide more housing diversity and choice and to help reduce future pressure for urban development adjacent or close to Arrowtown's Urban Growth Boundary;

c. a designed urban edge with landscaped gateways that promote or enhance the containment of the town within the landscape, where the development abuts the urban boundary for Arrowtown;

d. for Feehley's Hill and land along the margins of Bush Creek and the Arrow River to be retained as reserve areas as part of Arrowtown's recreation and amenity resource;

e. recognition of the importance of the open space pattern that is created by the inter-connections between the golf courses and other Rural Zone land.

4.2.2.21 Rural land outside of the Urban Growth Boundaries is not used for urban development until further investigations indicate that more land is needed to meet demand for urban development in the Wakatipu Basin and a change to the Plan amends the Urban Growth Boundary and zones additional land for urban development purposes.

Upper Clutha Basin Specific Policies

4.2.2.22 Define the Urban Growth Boundaries for Wanaka and Lake Hawea Township, as shown on the District Plan Maps that:

a. are based on existing urbanised areas;

b. identify sufficient areas of urban development and the potential intensification of existing urban areas to provide for predicted visitor and resident population increases in the Upper Clutha Basin over the planning period;

c. have community support as expressed through strategic community planning processes;

d. utilise the Clutha and Cardrona Rivers and the lower slopes of Mt. Alpha as natural boundaries to the growth of Wanaka; and

e. avoid sprawling and sporadic urban development across the rural areas of the Upper Clutha Basin.

4.2.2.23 Rural land outside of the Urban Growth Boundaries is not used for urban development until further investigations indicate that more land is needed to meet demand for urban development in the Upper Clutha Basin and a change to the Plan amends the Urban Growth Boundary and zones additional land for urban development purposes.

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan
Report 3
Report and Recommendations of Independent Commissioners Regarding
Chapter 3, Chapter 4 and Chapter 6

Commissioners
Denis Nugent (Chair)
Lyal Cocks
Cath Gilmour
Trevor Robinson
Mark St Clair

PART C - CHAPTER 4

5. OVERVIEW

825. The stated purpose of this chapter is to set out the objectives and policies for managing the spatial location and layout of urban development within the District. It is closely linked to Objectives 3.2.2.1 and 3.2.3.1 and to the policies relating to those objectives. The reader is referred to the discussion of those provisions in Part B of this report.

826. Consideration of the submissions on Chapter 4 necessarily occurs against the background of the recommendations we have already made in relation to those higher-level provisions, among other things:
   a. That urban growth boundaries (UGBs) should be defined for the existing urban areas of the Wakatipu Basin, Wanaka and Lake Hawea Township:
   b. That urban development, as defined, should occur within those urban growth boundaries and within the existing zoned areas for smaller settlements, and avoided outside those areas;
   c. That many of the existing policies in Chapter 3 should be deleted and that the matters addressed by those policies be amalgamated with the existing policies of Chapter 4 in a way that avoids unnecessary duplication.

827. It follows that submissions seeking that Chapter 4 should be entirely or almost entirely deleted from the Plan, or alternatively that reference to urban growth boundaries should be deleted[479] must necessarily be rejected. As with similarly broad submissions on Chapter 3, seeking its deletion, such submissions however set an outer limit of the *'collective scope'* of submissions (and the jurisdiction for our recommendations).

828. We note also that suggestions that the possibility of urban development occurring outside UGBs be acknowledged[480] are inconsistent with the recommendations we have already made.

829. Submitter 335 raised a slightly different point, suggesting that it needs to be made clear that UGBs are not a permanent fixture.

830. Our view is that this point is already addressed in the policies related to UGBs – see in particular Policy 4.2.2.5.

831. We also note another general submission[481] that Chapter 4 should be amended to avoid repetition with Chapter 3. We agree with that submission in principle, while noting that in some cases a degree of repetition may provide context for the more detailed policies in Chapter 4. To an extent, this has already been addressed by our recommendations to delete a number of policies in Chapter 3 addressing urban growth issues[482], but this will be a matter for review on a provision by provision basis.

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479 Submissions 414, 653, 807, 842: Supported in FS1255; Opposed in FS1071

480 E.g. Submission 806: Supported in FS1313

481 Submission 806

482 This also addresses the suggestion by Mr Nicholas Geddes, giving evidence for Clark Fortune McDonald and Associates, that if Chapter 3 achieves the desired outcome, there is no merit in having Chapter 4.

832. Mr Dan Wells, giving planning evidence for Bridesdale Farm Developments Ltd and Winton Partners Funds Management (No 2) Ltd suggested to us that Chapter 4 might be clarified and cut down[483]. While our recommendation that some of the urban development policies of Chapter 3 be imported into Chapter 4 will necessarily have the opposite effect, we agree in principle with that suggestion also and will keep it in mind in the discussion that follows.

6. CHAPTER 4 TEXT

6.1. Section 4.1 – Purpose

833. The initial statement of purpose in Chapter 4 attracted a limited number of submissions. QAC[484] sought inclusion of specific recognition of airport related issues. NZIA[485] sought reference to ecological responsiveness and the quality of the built environment as additional matters on which the District relies together with a change to the last line of section 4.1 to refer to the legibility of compact and connected urban forms enhancing identity and allowing for diversity and adaptability.

834. Transpower[486] sought specific reference to the benefits of well-planned urban growth and land use for regionally significant infrastructure such as the national grid, as well as more detailed wording changes.

835. Mr Paetz did not recommend any changes to the Statement of Purpose.

836. This is a very general introduction focussing on the key aspects of Chapter 4. We do not see the need to refer specifically either to Queenstown Airport or to other regionally significant infrastructure in this context, given that they are addressed already in Chapter 3, and will be addressed in the policies of Chapter 4.

837. We accept that the term '*environmental image'* is neither particularly clear nor helpful. However, we do not regard the alternative wording suggested by NZIA ('*ecological responsiveness and quality of the built* environment') as entirely satisfactory either. We are unsure what it means to be ecologically responsive, but agree that some reference could usefully be made both to the natural environment (which includes all relevant aspects of *'ecology')* and the built environment.

838. Similarly, the benefits of a more compact and connected urban form need, in our view, to link back both to the previous paragraphs which refer to the issues uncontrolled urban development has for infrastructure and the roading network, and to the strategic objectives and policies in Chapter 3, which we have recommended. The latter focus on a built environment that among other things provides "*desirable and safe places to live, work and play"*[487]. Reference could also usefully be made to the quality of the built environment for contributing to that outcome. The same sentence refers to *'specific policy'*. This would more clearly and correctly refer to *'policy direction'* given that there is more than one policy addressing the point.

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483 The submissions Mr Wells was addressing took a somewhat broader approach, seeking deletion of Section 4.1, Objectives 4.2.2-4.2.4 and the related policies

484 Submission 433: Supported in FS1077; Opposed in FS1097 and FS1117

485 Submission 238: Opposed in FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248 and FS1249

486 Submission 805: Supported in FS1211

487 Recommended new Objective 3.2.2.1

839. The text requires consequential amendment to recognise our Chapter 3 recommendations as regards the greater recognition given to the Frankton area as a discrete urban centre and the addition of a UGB for Lake Hawea Township. The reference to urban centres also requires amendment to avoid confusion with the Chapter 3 objectives focussing on the role of town centres.

840. As regards other aspects of detail, however, we regard the existing text of Section 4.1 as being fit for purpose.

841. In summary, we recommend that "*the natural and built environment"* be substituted for "*environmental image"* in the second paragraph and that the last paragraph of 4.1 be amended to read:

"Urban Growth Boundaries are established for the key urban areas of Queenstown-Frankton-Jacks Point, Wanaka, Arrowtown and Lake Hawea Township, providing a tool to manage anticipated growth while protecting the individual roles, heritage and character of these areas. Specific policy direction is provided for these areas, including provision for increased density to contribute to more compact and connected urban forms that achieve the benefits of integration and efficiency, and offer a quality built environment in which to live, work and play."

But that otherwise, no further amendments are required.

6.2. Section 4.2 – Objectives and Policies – Ordering and Layout

842. The format of Chapter 4 as notified was that it had six objectives, of which two (4.2.1 and 4.2.3) related to the manner in which urban development would occur, one (4.2.2) related to the use of UGBs, and three objectives (4.2.4-4.2.6) related to location specific urban growth issues for Queenstown, Arrowtown and Wanaka respectively.

843. Reflecting the logic of Chapter 3, we regard the establishment of UGBs as the first point for consideration, followed by management of urban growth more generally. Accordingly, we propose that what was Objective 4.2.2 should be the first objective in Chapter 4 and the discussion following adopts that approach.

6.3. Objective 4.2.2 and related policies – Urban Growth Boundaries

844. As notified, Objective 4.2.2. read:

"Urban Growth Boundaries are established as a tool to manage the growth of major centres within distinct and defendable urban edges".

845. Submissions seeking changes to this objective principally sought its deletion (as part of a broader opposition to the use of UGBs)[488]. For the reasons stated above, these submissions must necessarily be rejected given our earlier recommendations.

846. Other submissions sought acknowledgement of potential for extensions to the UGB, or alternatively urban activities outside the UGB[489].

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488 Submission 608 for instance sought its deletion, along with Policies 4.2.2.1-5: Opposed in FS1034

489 Submission 807: Supported in FS1324, FS1244 and FS1348

847. A related but more specific submission[490] sought specific recognition of the outer growth boundary for Wanaka as established by the Wanaka 2020 structure planning process as providing a longer-term limit on urban growth in that community. We will come back to Submission 773 in the context of the objectives and policies related to the Wanaka UGB.

848. Addressing the general propositions advanced in Submission 807, the potential for amendments to UGBs is a matter for future decision makers considering plan changes. Notified Policy 4.2.2.5 already addressed the point of concern to the submitter, and as we will discuss in a moment, we accept other submissions suggesting that the rationale for the UGBs that have been defined needs to be specified with greater particularity in order to provide a reference point for such future Plan Change decisions. We do not think, therefore, that amendment is required to the objective on this account. The request for acknowledgement of the potential for urban development outside UGBs is, however, inconsistent with the recommendations discussed above and must necessarily be rejected.

849. Mr Paetz did not recommend any amendments to this objective. In summary, the only amendments we recommend to Objective 4.2.2 are those consequential on earlier recommendations:

a. With recommended Policy 3.3.12 addressing establishment of UGBs, the complementary role of this objective is to speak to the outcome from their use;
b. With the expansion of UGBs to include Lake Hawea Township, the description of them as managing growth of "*major centres"* is no longer appropriate.

850. Accordingly, we recommend that the objective be numbered 4.2.1 and amended to read:

"Urban Growth Boundaries used as a tool to manage the growth of larger urban areas within distinct and defendable urban edges."

851. We regard this formulation as the most appropriate way to achieve the purpose of the Act in relation to managing urban growth, having regard to our recommendations on amendments to the provisions in Chapter 3.

852. Turning to the policies related to this objective, notified Policy 4.2.2.1 read:

"Urban Growth Boundaries define the limits of urban growth, ensuring that urban development is contained within those identified boundaries, and urban development is avoided outside of those identified boundaries."

853. Putting aside the general submissions seeking deletion of all provisions in Chapter 4 related to UGBs, which have been addressed already, the only submission specifically on this policy sought its retention.

854. Mr Paetz did not recommend any amendment to it.

855. We consider that the policy would be better expressed if it started with a verb rather than, as at present, being more framed as an outcome (i.e. objective).

856. As a matter of formatting, we consider that the policies would flow more logically if the first policy stated the proposed course of action (defining UGBs) more succinctly and that a second policy captured in greater detail how that proposed course of action would be pursued.

490 Submission 773

Accordingly, we recommend that the second half of Policy 4.2.2.1 be transferred into a new policy.

857. Addressing the first limb of the policy then, it appears to us to be too broadly stated. UGBs provide the limits of urban development for the settlements where they are defined. While the bulk of urban development will occur in those settlements, some urban development will occur in the smaller settlements with no UGB.

858. In summary, we recommend that Policy 4.2.2.1 be renumbered 4.2.1.1 and amended to read:

"Define Urban Growth Boundaries to identify the areas that are available for the growth of the main urban settlements."

859. Before addressing the exact wording of the proposed new policy, we consider notified Policy 4.2.1.1, which relates to the location of urban development and as such is more appropriately considered under this objective at this point. As notified, it read:

"Land within and adjacent to the major urban settlements will provide the focus for urban development, with a lesser extent accommodated within smaller rural townships."

860. Aside from the general submissions already noted and addressed, the only submission specifically on this policy was that of NZIA[491] seeking to delete reference to land '*adjacent to*' major urban settlements and any reference to urban development in the smaller townships.

861. Mr Paetz recommended acceptance of the first element of the NZIA submission but not the second.

862. We have already observed that the UGBs are drawn in a way that provides for urban growth in selected locations within the UGB adjacent to existing built up areas. While submissions on the maps (and therefore the exact location of the UGBs) are the subject of later hearings, it would be inappropriate to exclude reference to land adjacent to those settlements given the need (as discussed shortly) for UGBs to provide for future growth of urban areas. Having said that, it also needs to be clear that existing urban settlements cannot grow outwards in all directions. In the case of Queenstown, for instance, the topography and the outstanding landscape values of much of the surrounding land effectively preclude that as an option.

863. In addition, as with the previous policy, we consider it would be better reframed to commence with a verb so as not to be stated as an outcome, and the same consequential amendment is required (to broaden the reference to major urban settlements).

864. Lastly, and for consistency, we consider the reference should be to smaller rural *'settlements'*. We also recommend some minor amendments to the language at the end of the policy so it reads more easily.

865. In summary, we recommend that the second half of Policy 4.2.1.1 be relocated, renumbered 4.2.1.2, and amended to read:

"Focus urban development on land within and at selected locations adjacent to the existing larger urban settlements, and to a lesser extent, accommodate urban development within smaller rural settlements."

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491 Submission 238: Opposed in FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248, and FS1249

866. Reverting to our desire to capture the purpose of UGB's, the first point is that it needs to start with a verb and project a course of action. The second point is that given that the recommended Policy 4.2.2.1 (renumbered 4.2.1.1) refers to defining UGBs, the same language should be employed. Lastly the exception provided for in Chapter 3 (urban growth within smaller rural settlements) needs to be acknowledged as a consequential change.

867. The end result is a new policy numbered 4.2.1.3 that would read:

"Ensure that urban development is contained within the defined Urban Growth Boundaries, and that aside from urban development within existing rural settlements, urban development is avoided outside of those boundaries."

868. It is acknowledged that this policy largely repeats Policies 3.3.14 and 3.3.15, but we regard that as helpful in this context, so that the policies can be read in a logical way without reference back to Chapter 3.

869. Accordingly, we recommend a new policy worded as above, be inserted.

870. The next logical issue to address is to identify the general considerations that bear on identification of the location of UGBs. A number of policies in the PDP are relevant to this including:

> *"4.2.2.2 Urban Growth Boundaries are of a scale and form which is consistent with the anticipated demand for urban development over the planning period, and the appropriateness of the land to accommodate growth.*
>
> *4.2.2.4 Not all land within Urban Growth Boundaries will be suitable for urban development such as (but not limited to) land with ecological, heritage or landscape significance; or land subject to natural hazards. The form and location of urban development shall take account of site specific features or constraints to protect public health and safety.*
>
> *4.2.1.6 Avoid sporadic urban development that would adversely affect the natural environment, rural amenity or landscape values; or compromise the viability of a nearby township.*
>
> *4.2.1.7 Urban development maintains the productive potential and soil resource of rural land."*

871. Addressing each of these in turn, the only submission specifically on Policy 4.2.2.2[492] supports the provision. Submissions seeking its deletion as part of a broader submission seeking deletion of all of the policies in this section[493] do, however, need to be noted, since they set the outer limits of the jurisdiction for any changes we might recommend.

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492 Submission 238. While a number of Further Submissions oppose this submission, they provide no jurisdiction for any alternative policy for the reasons discussed in Section 1.7 of this Report.

493 Such as submission 608: Opposed in FS1034

872. The only submission specifically seeking an amendment to Policy 4.2.2.4 is that of Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou, Te Rūnanga o Moeraki, Hokonui Rūnanga [494], seeking reference to the significance of land to Manawhenua.

873. Policy 4.2.1.6 was the subject of four substantive submissions. The first[495] sought that it be limited to avoiding sporadic urban development. The second[496] sought its deletion. The last two[497] sought recognition of the adverse effects of uncontrolled and sporadic urban development on public transport and other infrastructure.

874. Policy 4.2.1.7 attracted two substantive submissions seeking its amendment. The first[498] sought that it be amended to refer to minimising the loss of high value soils within rural areas. The second[499] sought either deletion of the policy or its amendment to delete reference to "*productive"* potential and "*soil"* resources.

875. Mr Paetz recommended three changes to these policies. The first was to insert reference to intensification of urbanisation in Policy 4.2.2.4. The second was to recognise potential adverse effects of sporadic urban development on the efficiency and functionality of infrastructure in Policy 4.2.1.6. The third suggested amendment was to insert reference in Policy 4.2.1.7 to the location of urban development, so that it maintains the productive potential and soil resource of rural land.

876. We also note the planning evidence of Mr Jeff Brown[500] suggesting the need for criteria for expansion of UGBs including:
   a. Efficient provision of development capacity;
   b. Feasible, efficient and cost-effective provision of infrastructure;
   c. Support for public transport, walking and cycling;
   d. Avoidance of areas with significant landscape, ecological or cultural values or with significant hazard risks;
   e. Avoidance, remediation or mitigation of urban/rural conflicts; and
   f. Boundaries aligning with landscape boundaries or topographical features or with roads, electricity lines/corridors or aircraft flight paths.

877. While the focus of Mr Brown's evidence was on Policy 4.2.2.5, which we will discuss shortly, we regard his evidence as pulling together criteria that might equally be relevant to the initial location of UGBs, as to their future expansion.

878. We also note the guidance provided by the higher order documents. The RPS provisions related to the built environment[501] are expressed too generally to be of any great assistance. Policy 4.5.1 of the Proposed RPS, however, has rather more concrete provisions on how urban growth and development should be managed, including:

   *a. "*Ensuring *there is sufficient residential, commercial and industrial land capacity, to cater for the demand for such land, over at least the next 20 years;*

494 Submission 810
495 Submission 238: Opposed in FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, S1248 and FS1249
496 Submission 608: Opposed in FS1034
497 Submissions 719 and 798
498 Submission 608: Opposed in FS1034
499 Submission 836
500 J Brown, EiC at [5.4]
501 See in particular RPS Policy 9.5.5

b. Coordinating *urban growth and development in the extension of urban areas with relevant infrastructure development programmes, to provide infrastructure in an efficient and effective way;*

c. Identifying future growth areas and managing the subdivision, use and development of rural *land outside these areas to achieve all of the following:*

i. Minimise adverse effects on rural activities and significant soils;
ii. Minimise competing demands for natural resources;
iii. Maintain or enhance significant biological diversity, landscape or natural character values;
iv. Maintain important cultural or historic heritage values;
v. Avoid land with significant risk from natural hazards;

d. Considering *the need for urban growth boundaries to control urban expansion;*
e. Ensuring *efficient use of land;*
f. Encouraging *the use of low or no emission heating systems;*
g. Giving *effect to the principles of good urban design in Schedule 5;*
h. Restricting *the location of activities that may result in adverse sensitivity effects on existing activities."*

879. The RPS and the Proposed RPS must now be read in the light of the NPSUDC 2016. We have approached the NPSUDC 2016 on the basis[502] that while not totally clear, both Queenstown and Wanaka are *"urban environments"* as defined in the NPSUDC 2016, and that all objectives and policies of the document apply, because Queenstown is a *"high-growth area"*.

880. The view expressed by counsel for the Council is that at a general level, the objectives and policies of the NPSUDC 2016 are given effect by the provision of the PDP. Counsel's Memorandum did not discuss the extent to which the strategic chapters, as opposed to the balance of the PDP, do so, but did identify that the objectives and policies of the NPSUDC 2016 are pitched at a relatively high level – *"direction setting"* as she put it. We agree with that general description. The objectives and policies of the NPSUDC are a long way from the prescriptive NZCPS provisions considered by the Supreme Court in *King Salmon*, or even the relatively prescriptive provisions of the NPSET 2008[503].

881. Even so, Objectives OA1 and OA2 clearly bear upon consideration of the policies of the PDP set out above:

"OA1: Effective and efficient urban environments that enable people and communities and future generations to provide for their social, economic, cultural and environmental wellbeing;

OA2 Urban environments that have sufficient opportunities for the development of housing and business land to meet demand, and which provide choices that will meet the needs of people and communities and future generations for a range of dwelling types and locations, working environments and places to locate businesses."

882. Policy PA1 is an exception to the relative generality of the NPSUDC, requiring that local authorities ensure that sufficient housing and business land development capacity is feasible

502 As advised by counsel for the Council in her memorandum of 3 March 2017

503 Adopting the High Court's description of Policy 10 discussed below in Section 6.4

and zoned to meet demand over the short to medium term (10 years from now)[504]. The policy provides further that land development capacity sufficient to meet demand over the long term (10-30 years) is "*identified"* in relevant plans.

883. There are obvious overlaps between the matters identified in both the Proposed RPS Policy 4.5.1 and the NPSUDC 2016 objectives and policies, and between those provisions and Mr Brown's suggested criteria. Although, having determined that we would support the notified proposal for identification of UGBs, some of the matters identified are in our view better dealt with in the policies governing the form of development within UGBs.

884. Taking all of these matters into account, we are of the view that the four policies noted above need to be collapsed into one comprehensive policy. All relate to the process for fixing UGBs in various ways, although we accept that Policy 4.2.2.4 (and Mr Paetz's suggested amendment to add reference to intensification) also relates to the nature of urban development within UGBs once they are fixed.

885. Starting with Policy 4.2.2.2, it is currently framed as an outcome (i.e. objective) rather than a policy. It needs to commence with a verb. The purpose of the policy is to state the criteria that will determine where UGBs should be. That sense needs to come through.

886. We also regard a statement that UGBs should be of a "*scale and form"* to meet anticipated demand as over-complicating the issue. UGBs are lines on a map. They have no scale and form. The land within them has scale and form, and in this regard, the UGBs have to encompass a sufficient area of suitable land to give effect to the NPSUDC 2016. Again, we think that the policy should be simplified and clarified in this regard.

887. Another obvious point is that the policy talks of meeting demand without saying where the demand might be located. The reality is that all the UGBs are either in the Wakatipu Basin or the Upper Clutha Basin and the evidence we heard was that that was where the demand for urban development is also. It would be pointless as well as impractical to provide for large-scale urban development at Kingston, for instance, in order to meet demand in Queenstown over the planning period. The policy should acknowledge that practical reality.

888. It also appears clear to us that fixing UGBs in order to meet anticipated demand necessarily requires an assumption as to the density of development that will occur within those boundaries. One of the policies we have recommended be deleted from Chapter 3, by reason of the overlap/duplication with Chapter 4 policies, is Policy 3.2.2.1.5, which as notified, read: *"Ensure UGBs contain sufficiently suitable zoned land to provide for future growth and a diversity of housing choice."*

889. Another policy we have recommended be deleted from Chapter 3 is Policy 3.2.4.8.1, which as notified, read:

"Concentrate development within existing urban areas, promoting higher density development that is more energy efficient and supports public transport, to limit increases in greenhouse gas emissions in the District."

890. A third policy, we have recommended be deleted from Chapter 3 is Policy 3.2.6.2.1, reading:

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504 The Policy has provisions relating to provision of infrastructure that are matters for Council to address in its other capacities

"Promote mixed densities of housing in new and existing urban communities."

891. Yet another related Chapter 3 policy is 3.2.2.1.6:

"*Ensure that zoning enabled effective market competition through distribution of potential housing supply across a large number and range of ownerships, to reduce the incentive for land banking in order to address housing supply and affordability."*

892. Submissions on Policy 3.2.2.1.5 varied between seeking its deletion[505], seeking greater clarity as to the relationship between UGBs and zoning[506] and seeking reference to community activities and facilities as well as to housing[507]. Consideration of this policy now also has to take the requirements of the NPSUDC 2016 into account.

893. Submissions on Policy 3.2.4.8.1 ranged from seeking to soften the extent of direction[508], delete reference to greenhouse gas emissions[509] and challenging the relationship drawn between a positive response to climate change and concentration of future development within existing urban areas[510].

894. There were no submissions specifically on Policy 3.2.6.2.1, but a number of submissions sought deletion of Policy 3.2.2.1.6[511]. We read those submissions as reacting to the implied criticism of land developers in the District. As Submission 91 observed, owners of land can defer development, or decide not to develop it at all for a variety of perfectly valid reasons.

895. Having said that, whatever the motivation for land remaining undeveloped, planning for future growth needs to take account of it and seek to mitigate its influence on land supply and demand dynamics by ensuring competition in the supply of land.

896. The theme of these four policies is that development within UGBs should desirably be compact, energy efficient, involve a mix of housing densities and housing forms, and be enabled by a competitive land supply market. We agree with the point made in Submission 524 that the focus cannot solely be on housing needs and recommend that all these considerations be imported into the combined Policy 4.2.1.6/4.2.1.7/4.2.2.2/4.2.2.4.

897. The notified Policy 4.2.2.2 refers to the relevance of the appropriateness of the land to accommodate growth without saying what matters might be relevant to determining appropriateness in this context.

898. Policy 4.2.2.4 provides greater guidance as to what matters are likely to be relevant. In that regard, we think that Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou, Te Runanga o Moeraki and Hokonui Runanga have a valid point suggesting that cultural constraints need to be borne in mind at this point (as Mr Brown acknowledged and Proposed RPS Policy 4.5.1 provides for) and we recommend that the combined policy reflect that (but not using the term Manawhenua, given the submitter's advice in the Stream 1A hearing that that is no longer

505 Submissions 608 and 807: Opposed in FS1034
506 Submission 806
507 Submission 524: Supported in FS1059
508 Submission 519: Supported in FS1015; Opposed in FS1356
509 Submissions 519, 598: Supported in FS1015 and FS1287; Opposed in FS1356
510 Submission 798
511 Submissions 91, 249, 608 and 807: Opposed in FS1034

sought). In addition, while an obvious constraint on urban development in the Queenstown context, in particular, it is worth making reference to the topography as a relevant factor.

899. Policy 4.2.1.6 seeks to avoid sporadic urban development for a range of reasons, many of which overlap with considerations identified in Policy 4.2.2.4. The inter-relationship between fixing UGBs and the efficient provision and operation of infrastructure is, however, an additional matter worthy of noting (as Mr Brown accepted, and Mr Paetz recommended).

900. Turning to the relevance of the matters currently covered in Policy 4.2.1.7, we think that Submission 628 has a point, seeking to soften the focus on not losing productive rural land and the accompanying soil resource. The reality is that if all soil resources/productive rural land were to be preserved, no urban development on rural land would be possible. We accept, therefore, that minimising the loss of productive soils and the soil resource is an appropriate focus. It is also consistent with the suggested approach in Policy 4.5.1 of the Proposed RPS.

901. Stitching all these various policy elements together in one coherent policy, we recommend that Policies 3.2.2.1.5, 3.2.2.1.6, 3.2.4.8.1, 3.2.6.4.1, 4.2.1.6, 4.2.1.7, 4.2.2.2 and 4.2.2.4 be combined in one policy numbered 4.2.1.4 to read as follows:

"Ensure urban growth boundaries encompass a sufficient area consistent with:

a. *the anticipated demand for urban development within the Wakatipu and Upper Clutha Basins over the planning period assuming a mix of housing densities and form;*
b. *ensuring the ongoing availability of a competitive land supply for urban purposes;*
c. *the constraints on development of the land such as its topography, its ecological, heritage, cultural or landscape significance; or the risk of natural hazards limiting the ability of the land to accommodate growth;*
d. *the need to make provision for the location and efficient operation of infrastructure, commercial and industrial uses, and a range of community activities and facilities;*
e. *a compact and energy efficient urban form;*
f. *avoiding sporadic urban development in rural areas;*
g. *minimising the loss of the productive potential and soil resource of rural land."*

902. Although our suggested policy, as above, notes the relevance of landscape issues as a potential constraint on urban development, we consider that this is deserving of more specific guidance, given the significance of landscape values both for their own sake and as a contributor to the economic prosperity of the District.

903. Notified Policy 6.3.1.7 read:

"When locating urban growth boundaries or extending urban settlements through plan changes, avoid impinging on Outstanding Natural Landscapes or Outstanding Natural Features and minimise degradation of the values derived from open rural landscapes."

904. Given that this policy relates to UGBs and urban growth generally, we regard it as more appropriately located in Chapter 4.

905. The submissions on it sought variously its deletion[512], or alternatively, that the policy provide for avoiding, remedying or mitigating the effects of any impingement on ONLs or ONFs[513].

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512 Submission 806

513 Submission 378: Supported in FS1097; Opposed in FS1049, FS1095 and FS1282

906. Mr Duncan White, giving planning evidence for Allenby Farms Ltd and Crosshill Farms Ltd initially suggested that reference to ONFs should be deleted from this policy, given that there are existing examples of ONFs within UGBs.

907. However, he accepted in discussions with us that his suggested relief did not follow from that inconsistency, and withdrew that aspect of his evidence.

908. Mr Wells was on rather stronger ground supporting Mr Goldsmith's legal argument that protection for ONFs (and ONLs) is conferred by other provisions in the PDP and that UGBs served a different purpose – in effect to fix the outer limits of urban development. As Mr Wells noted, there are existing examples of ONFs sitting within the mapped UGBs. While some of those apparent inconsistencies may yet be resolved, that does suggest that the wording of this policy needs to be reconsidered. Having said that, given the strategic objective we have recommended related to ONLs and ONFs (3.2.5.1), clearly deletion of this policy would be inappropriate. Moreover, it is difficult to conceive that urban development could have anything other than a more than minor adverse effect if located on ONLs or ONFs and accordingly, in our view, an avoid, remedy or mitigate policy would similarly be inappropriate (quite apart from the lack of direction it provides).

909. In our view, the solution is to link the fixing of a UGB more clearly to the extent and location of urban development.

910. Accordingly, we recommend that notified Policy 6.3.1.7 be shifted into this part of Chapter 4, renumbered 4.2.1.5 and be amended to read;

"When locating Urban Growth Boundaries or extending urban settlements through plan changes, avoid urban development impinging on Outstanding Natural Landscapes or Outstanding Natural Features and minimise degradation of the values derived from open rural landscapes."

911. Policy 4.2.2.5, as notified read:

"Urban Growth Boundaries may need to be reviewed and amended over time to address changing community needs."

912. The only submission specifically on it[514] supported the provision. Mr Paetz recommended no amendment to it.

913. Mr Goldsmith[515] submitted to us that this policy undermines the whole concept of UGBs and that it is difficult to know what it achieves. We think the first point is not correct – it merely acknowledges the practical reality that future plan changes have the ability to alter UGBs. There is more to the second point given that the policies in the Plan do not and cannot constrain future plan changes, but providing clearer criteria for fixing the location of UGBs both generally, as above, and at a more site specific basis[516], will provide a better starting point for such future processes. We think therefore that there is a role for this policy.

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514 Submission 238: Opposed in FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, S1248 and FS1249

515 On this occasion, when representing Ayrburn Farm Estates Ltd, Bridesdale Farm Developments Ltd, Shotover Country Ltd and Mt Cardrona Station Ltd

516 As Mr Goldsmith in fact urged on us, when appearing for a different group of submitters

914. At present, this policy is not framed as a course of action. It does not commence with a verb. It is more framed as a statement of fact, although the course of action it envisages is reasonably obvious and therefore reinstating it as a course of action is a minor change. We therefore recommend that this Policy be renumbered 4.2.1.6 and reframed to the same effect as follows:

"Review and amend Urban Growth Boundaries over time as required to address changing community needs."

915. Lastly under this objective, we note Policy 4.2.1.5 which as notified read:

"Urban development is contained within or immediately adjacent to existing settlements."

916. The only submission on this policy seeking amendment to it[517] sought that the submission state simply:

"Urban development is contained."

917. Mr Paetz recommended that the words "*or immediately adjacent to"* be deleted from the policy.

918. To the extent that this policy could be read as applying to those urban settlements for which a UGB has been defined, it simply duplicates Policy 4.2.1.1 (renumbered 4.2.1.2). We regard it as having a role in guiding urban development within the smaller rural settlements, but agree with Mr Paetz that describing such development as being possible in areas "*immediately adjacent to"* existing rural settlements is not satisfactory. At one level, it is too confining (read literally) and at another, insufficiently clear, because it does not give any guidance as to where an existing rural settlement might be considered to end.

919. We do not regard the relief sought in Submission 238 as being particularly helpful. It would be even less clear, if adopted.

920. The Policy we have recommended in Chapter 3 related to development of the smaller rural settlements is to direct that urban development be located within the land zoned for that purpose (recommended Policy 3.3.15). We recommend that this be the basis for revision of Policy 4.2.1.5. While involving a level of duplication, again, we regard this as appropriate in this context, so that Chapter 4 does not have holes in it that have to be filled by a reference back to Chapter 3.

921. In summary, therefore, we recommend that Policy 4.2.1.5 be renumbered 4.2.1.7 and amended to read:

"Contain urban development in existing rural settlements that have no defined Urban Growth Boundary within land zoned for that purpose."

922. We have reviewed the policies recommended in this section and consider that individually and collectively they are the most appropriate way to achieve Objective 4.2.1.1.

6.4. Objectives 4.2.1 and 4.2.3 and related policies – Urban Development and Urban Form

923. We consider that these two objectives need to be considered together. As notified, they read:

[517] Submission 238: Opposed in FS1107, FS1226, FS1234, FS1239, FS1242, FS1248 and FS1249

"4.2.1 Urban development is coordinated with infrastructure and services and is undertaken in a manner that protects the environment, rural amenity and outstanding natural landscapes and features.

4.2.3 Within Urban Growth Boundaries, provide for a compact and integrated urban form that limits the lateral spread of urban areas, and maximises the efficiency of infrastructure operation and provision."

924. Submissions seeking amendments to Objective 4.2.1 included as relief:
   a. Deletion of Section 4.2.1 entirely[518];
   a. Seeking provision that infrastructure development either be sized for all foreseeable growth or be able to be adapted to meet same and that people in residential zones should be within a given distance to key amenities[519];
   b. Restricting the objective to focus solely on coordination with infrastructure and services[520];
   c. Amending reference to protecting aspects of the environment and substituting "*maintains or enhances"*[521]*;*
   d. Amending the reference to protecting aspects of the environment and substituting "*maintains and where appropriate enhances",* along with limiting the focus further to just adjoining land[522];
   e. Substituting "*integrated"* for "*coordinated"*[523]*;*
   f. Adding reference to urban growth as well as urban development and including reference to protection of infrastructure[524];
   g. Including reference to indigenous flora and fauna[525].

925. The only amendment recommended by Mr Paetz is to substitute "*integrated"* for "*co-ordinated"*.

926. Turning to Objective 4.2.3, submissions seeking amendment to the objective were limited to a request to refer to urban areas rather than UGBs[526] and an amendment to refer to development, operation and use of infrastructure[527].

927. Mr Paetz did not recommend any amendment to this objective.

928. We consider that the overlap in the focus of both of these objectives on infrastructure and services means that they should be revised to separate out infrastructure considerations in one objective, and other relevant points in a second objective.

929. Looking first at aspects that might be drawn from Objective 4.2.1 we do not understand there to be any meaningful difference between the words "*integrated*" and "*co-ordinated"*. While

518 Submission 285
519 Submission 117
520 Submission 608: Opposed in FS1034
521 Submission 378: Supported in FS1097; Opposed in FS1044 and FS1095
522 Submission 635
523 Submission 719
524 Submission 805
525 Submission 809
526 Submission 608: Opposed in FS1034
527 Submission 635

there is some merit in consistency of terminology[528], an objective referring to integration with infrastructure would read awkwardly when combined with reference to *"a compact and integrated urban form",* drawn from Objective 4.2.3.

930. We consider that the submitters focussing on the extent of protection for the environment and rural amenity have a point. It would be more appropriate if some of those aspects were maintained and enhanced[529], in line with recommended Objective 3.2.5.2, but protection is appropriate for ONLs and ONFs given the terms of recommended Objective 3.2.5.1.

931. We do not accept the suggestion that this objective refer to protection of all indigenous flora and fauna, as sought by Submission 809. Consistent with Proposed RPS Policy 4.5.1 (and indeed section 6(c) of the Act), the focus should be on significant areas and habitats.

932. In terms of those aspects of infrastructure and services urban development needs to coordinate/integrate with, we consider that Objective 4.2.3 correctly focuses on the efficient provision and operation of infrastructure and services. We do not see any meaningful difference between that and the relief sought in Submission 635 (development, operation and use).

933. Lastly, given the recommended terms of Objective 4.2.2 (now renumbered 4.2.1) and the related policies, urban development will necessarily occur within UGBs. Accordingly, we consider that the focus might more appropriately be on a compact and integrated urban form, as per Objective 4.2.3.

934. Combining these various considerations in objectives that are framed as environmental outcomes, we recommend that the replacement objectives for 4.2.1 and 4.2.3 be worded as follows:

"A compact and integrated urban form within the Urban Growth Boundaries that is coordinated with the efficient provision and operation of infrastructure and services.

Urban development within the Urban Growth Boundaries that maintains and enhances the environment and rural amenity, and protects Outstanding Natural Landscapes, Outstanding Natural Features and areas supporting significant indigenous flora and fauna."

935. We consider that collectively, these two objectives are the most appropriate way to achieve the purpose of the Act.

936. Because the policies that follow seek to achieve both of these objectives, we have numbered them 4.2.2A and 4.2.2B, to make that clear.

937. Policy 4.2.1.2 as notified read:

"Urban development is integrated with existing public infrastructure, and is designed and located in a manner consistent with the capacity of existing networks."

938. Submissions on it included:
a. Seeking its deletion[530];

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528 As Mr MacColl suggested to us, giving evidence for NZTA

529 As Ms Taylor, giving evidence for Peninsula Bay JV, suggested

530 Submission 238: Opposed in FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248 and FS1249

b. Amending it to include reference to reverse sensitivity effects on significant infrastructure[531];
c. Adding reference to planned expansion of infrastructure networks[532];
d. Deleting the requirement that infrastructure must necessarily be public in nature[533];
e. Support for it as currently proposed[534].

939. Mr Paetz did not recommend any change to this policy.

940. We recommend that this policy be reframed so it commences with a verb and therefore identifies a clear course of action, rather, than as at present, being stated as an environmental outcome/objective.

941. We accept the point made in Submission 635. Not all relevant infrastructure is public infrastructure. The evidence we heard was that some existing urban areas were serviced by private infrastructure (Jacks Point). Similarly, the local electricity line network is not "*public"* infrastructure. Nor is it obvious why it should matter who owns any relevant infrastructure. In our view, the policy should not constrain development by reference to the capacity of *'public'* infrastructure.

942. Similarly, Submission 608 makes a valid point suggesting that urban development might take account of planned infrastructure enhancements.

943. Given our recommendation as to the wording of the objective sought to be implemented by this policy, we also agree that some reference to reverse sensitivity effects on infrastructure, particularly regionally significant infrastructure, is appropriate. We do not, however, accept that all adverse effects on regionally significant infrastructure should be avoided given the interpretation of a policy focus on *'avoiding'* adverse effects in *King Salmon*. While the High Court has described Policy 10 of the NPSET as "*relatively prescriptive*[535]*,* it does not purport to require avoidance in all cases. (Policy 10 refers to managing activities to avoid reverse sensitivity effects "*to the extent reasonably possible").* As the High Court noted, where development already exists, it will not generally be possible to avoid reverse sensitivity effects. It may, however, be reasonably possible to avoid further compromising the position.

944. The Proposed RPS likewise does not provide for avoidance of all reverse sensitivity effects on regionally significant infrastructure. Policy 4.3.4 has a tiered approach, providing for avoidance of significant adverse effects and avoiding, remedying or mitigating other effects. To the extent there is a difference between the two higher order documents, we consider that we should take our lead from the NPSET 2008, that being the document we are required to give effect to.

945. We therefore consider that adverse effects on infrastructure should be minimised – this being the extent of restriction we consider to be *"reasonably possible".*

946. Consideration of Policy 4.2.1.2 also needs to take account of Policy 4.2.3.4 which as notified, read:

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531 Submission 271 and 805: Supported in FS1121, FS1211 and FS1340: Opposed in FS1097 and FS1117
532 Submission 608: Opposed in FS1034
533 Submission 635
534 Submission 719
535 Transpower New Zealand Ltd v Auckland Council NZHC 281 at [85]

"Urban development occurs in locations that are adequately serviced by existing public infrastructure, or where infrastructure can be efficiently upgraded."

947. Submissions on this Policy varied from those seeking its deletion[536], amendment to delete the requirement for infrastructure to be '*public*'[537] and amendment to make reference to potential adverse effects on regionally significant infrastructure[538]. Mr Paetz did not recommend any change to this policy.

948. Policy 4.2.3.4 almost entirely overlaps and duplicates Policy 4.2.1.2. We do not consider that two policies are required to say the same thing.

949. Notified Policy 4.2.3.5 also relates to the inter-relationship between urban development and infrastructure. It read:

"For urban centres where Urban Growth Boundaries apply, new public infrastructure networks are limited exclusively to land within defined Urban Growth Boundaries."

950. Submissions on this policy ranged from support[539] to seeking its deletion[540]. On this occasion, there was no middle ground.

951. Mr Paetz did not recommend any change to the Policy.

952. This Policy seems to us to be misconceived. While it might work as intended in Wanaka, where the UGB defines a single urban area, working out from the existing township, the urban areas defined by UGBs in the Wakatipu Basin are in fact a series of geographically separated areas and infrastructure (both public and private) must necessarily connect those separate geographical areas and therefore be located outside the UGBs. We would not wish to preclude expansion of existing infrastructure merely because it is not located within a UGB. We see that as being counterproductive, potentially defeating expansion of urban development into appropriate new areas.

953. We should note at this point the emphasis in Policy 4.5.2 of the Proposed RPS on staging development or releasing land sequentially where UGBs have been defined. While staging of development would promote greater efficiency of land use and infrastructure, we do not have the evidence, nor, we think, the jurisdiction to recommend how it might be provided for in any systematic way within the defined UGBs[541]. Accordingly, we can take it no further.

954. In summary, we recommend Policies 4.2.3.4 and 4.2.3.5 be deleted and Policy 4.2.1.2 be renumbered 4.2.2.1 and amended to read:

"Integrate urban development with existing or planned infrastructure so that the capacity of that infrastructure is not exceeded and reverse sensitivity effects on regionally significant infrastructure are minimised."

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536 Submission 807

537 Submission 635

538 Submission 805: Supported in FS1211

539 Submission 238: Opposed in FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, S1248 and FS1249

540 Submissions 805 and 807

541 This is a different concept to the suggestion discussed elsewhere that the outer urban boundary identified in the Wanaka Structure Plan might be recognised in the PDP

955. Policy 4.2.2.3 as notified, read:

"Within Urban Growth Boundaries, land is allocated into various zones which are reflective of the appropriate land use."

956. The only submissions on this policy supported its current form and Mr Paetz did not recommend any further amendments.

957. Aside from the need to reformulate the policy so it commences with a verb and more clearly states a proposed course of action, we have no particular issue with this policy, so far as it goes. The problem with it is that it leaves at large the identification of considerations that would determine what land uses are appropriate. We have already referred to a number of policies that have a dual role, guiding the location of UGBs and the nature of the urban development that might occur within them.

958. Policy 4.2.3.1 is relevant in this context. As notified, it read:

"Provide for a compact urban form that utilises land and infrastructure in an efficient and sustainable manner, ensuring:

a. Connectivity and *integration;*
b. The sustainable use of public infrastructure;
c. Convenient linkages *to the public and active transport network; and*
d. Housing development does not compromise opportunities for commercial or community facilities in close *proximity to centres."*

959. Submissions on it included:

a. Support while querying the meaning of the fourth bullet point[542];
b. Seeking addition of provision to ensure reverse sensitivity effects on significant infrastructure is avoided[543];
c. Broadening of the reference to infrastructure so it is not limited to public infrastructure[544];
d. Amendment to refer to connectivity and integration "*of land use and transport"*[545]*;*
e. Amendment to the reference to public infrastructure, substituting regionally significant infrastructure, and making specific provision for the national grid[546].

960. Mr Paetz did not recommend any change to this policy.

961. We view many aspects of Policy 4.2.3.1 as already subsumed within other policies. The query in Submission 238 as to the meaning of the fourth bullet point raises a fair point given the emphasis in Policy 4.2.3.2 on enabling an increased density of residential development close to town centres, community and education facilities. They do not appear to be consistent.

962. However, it is desirable to retain specific reference to connectivity and integration, and to linkages with public transport. NZTA's submission suggests though that reference to the first needs to be refined so it is clearer that connectivity and integration relates to the links between existing developed areas and new areas of urban development generally, not just to

542 Submission 238: Opposed in FS1107, FS1226, FS1234, FAS1239, FS1241, FS1242, FS1248 and FS1249
543 Submission 271
544 Submission 635: Supported in FS1121; Opposed in FS1097 and FS1117
545 Submission 719: Supported in FS1097
546 Submission 805: Supported in FS1211

transport (the latter being addressed by what was the third bullet of Policy 4.2.3.1). We recommend deletion of reference in this context to linkages to active transport networks, since that is addressed separately by notified policy 4.2.1.4., discussed further below. The other aspect of Policy 4.2.3.1 that we consider deserves specific reference is the interrelationship between land zoning and infrastructure. As some of the submitters on the policy note, the policy is not focussed on reverse sensitivity effects and we consider that some reference is required to such effects.

963. Some commentary is also required on the role of zoning for open spaces. Open spaces (and community facilities) are addressed in two closely related policies in Section 3.2.6.3 that we have recommended be deleted from Chapter 3. As notified they read:

"3.2.6.3.1 Ensure that open spaces and community facilities are accessible for all people;

3.2.6.3.2 That open spaces and community facilities are located and designed to be desirable, safe, accessible places."

964. The submissions specifically on these policies variously supported their retention[547], sought that reference be inserted to multiple use[548], or sought (in the alternative) that '*community activities'* be substituted for *'community facilities"* [549]. The purpose of the latter change was to ensure that the policy is read to include educational facilities. To the extent there is any ambiguity, we think (as the submitter sought as their primary relief) that this is better dealt with in the definition of community facility given that the policies are about places rather than activities. We therefore refer that point for the consideration of the Stream 10 Hearing Panel.

965. In the context of defining what land uses are appropriate, clearly desirable, safe, and accessible open spaces and community facilities ought to be on that list. We therefore recommend that the substance of these policies be retained, amended to fit that altered context. The altered context also means, in our view, that it is not necessary to refer to multiple use of open space areas generally, or use for the purposes of infrastructure, which was the point of submission 805.

966. Policy 4.2.2.4 also needs to be considered in this context. While the matters it covers are important, in our view, we agree with the evidence we heard from Ms Louise Taylor that health and safety is not the only consideration for determining the appropriate form and location of urban development; those matters need to be factored into the consideration of a broader range of matters determining the appropriateness of the form urban development takes. As discussed above, while implicit, it is worth making specific reference to the topography, which is both an obvious constraint on urban development and a defining feature of the local environment. As discussed earlier, in the context of our consideration of Objective 3.2.4.8 and Policy 3.2.4.8.1, the inter-relationship between natural hazards and climate change also needs to be noted[550].

967. We also bear in mind the strategic objectives and policies related to the function and role of the town centres and other commercial and industrial areas. We consider that those objectives and policies likewise need to be brought to bear in identifying appropriate land uses.

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547 Submissions 378 and 806: Opposed in FS1049 and FS1095

548 Submission 805

549 Submission 524

550 Accepting the substance of the relief sought in Submission 117.

968. Aside from the submission for Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou, Te Runanga o Moeraki and Hokonui Runanga [551]that we have already commented on, we also reflect on the evidence we heard from the New Zealand Fire Service Commission[552] regarding provision for emergency services. In our report on Chapter 3 issues, we recommended rejection of a submission by the Fire Service that a new objective be inserted into Section 3.2.1 providing for emergency services on the basis that this was more appropriately dealt with in the more detailed provisions[553]. In our view, this is the appropriate location for that recognition.

969. In summary, we recommend that Policy 4.2.2.3 be renumbered 4.2.2.2 and expanded to amalgamate material from other policies (in particular 3.2.3.6.1, 3.2.6.3.2, 4.2.1.6, 4.2.2.4 and 4.2.3.1) to read as follows:

"Allocate land within Urban Growth Boundaries into zones that are reflective of the appropriate land use having regard to:

a. its topography;
b. its ecological, heritage, cultural or landscape significance, if any;
c. any risk of natural hazards, taking into account the effects of climate change;
d. connectivity and integration with existing urban development;
e. convenient linkages to public transport;
f. the need to provide a mix of housing densities and form within a compact and integrated urban environment;
g. the need to provide open spaces and community facilities that are located and designed to be safe, desirable and accessible;
h. the function and role of the town centres and other commercial and industrial areas as provided for in Chapter 3 strategic objectives 3.2.1.2 – 3.2.1.5 and associated policies;
i. the need to make provision for the location and efficient operation of regionally significant infrastructure;
j. the need to locate emergency services at strategic locations."

970. We regard this reformulated policy as appropriately addressing the request in the Council's corporate submission[554] for a new policy targeting optimisation of ecosystem services.

971. Policy 4.2.3.2 as notified read:

"Enable an increased density of residential development in close proximity to town centres, public transport routes, community and education facilities."

972. This policy needs also to be considered against the background of Policy 4.2.1.3, which read:

"Encourage a higher density of residential development in locations that have convenient access to public transport routes, cycle ways or are in close proximity to community and education facilities."

551 Submission 810
552 Submission 438: Supported in FS1160
553 Refer paragraph 213 above
554 Submission 383

973. Submissions on Policy 4.2.3.2 sought either its deletion[555] or recognition of the need to avoid, remedy or mitigate the adverse effects of increased density[556].

974. Submitter 208 made the same submission in relation to Policy 4.2.1.3. The only other submissions on that policy supported its current form.

975. Mr Paetz did not recommend any amendment to either of these policies.

976. When the representatives of Submitter 208 appeared before us, they elaborated on this submission, clarifying their concern that increased density of residential development might be out of step with the existing character of residential areas, leading to a loss of residential amenity. The submitter's concern in this regard overlaps with its submission on Policy 3.2.3.1.1., which usefully might be considered in this context. As notified it read:

"Ensure development responds to the character of its site, the street, open space and surrounding area, whilst acknowledging the necessity of increased densities and some change in the character in certain locations."

977. Submissions on it sought variously that reference to good design be included[557], that acceptance of change be qualified to limit situations where it is appropriate and where adverse effects can be avoided, remedied or mitigated[558], and that it be deleted (along with the Objective 3.2.3.1 and the other policies supporting it)[559].

978. As we have already noted, Mr Walsh who provided a brief of planning evidence for this submitter, was unable to appear before us but provided answers in writing to a series of questions that we posed to tease out aspects of his evidence. Mr Walsh agreed with Mr Clinton Bird, who provided evidence for the Council, that Queenstown's surrounds are the dominant feature of the character of the area, but also considered that the buildings of Queenstown urban area have an influence on the appreciation of those surroundings. Mr Walsh also emphasised the value of good urban design[560].

979. We think that these are valid points, but where Mr Walsh's evidence suffered was in being somewhat elusive as to what exactly the character of Queenstown's residential areas was, and how it might be adversely affected by more intensive development, other than in a very general way. Expert opinion on these issues was mixed[561], but we accept both that good design will assist in minimising adverse effects from increased densities and that urban character needs to be given some policy recognition to ensure that to the extent there is an identifiable local character, it is taken into account.

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555 Submission 807

556 Submission 208

557 Submission 238: Opposed in FS1107, FS1157, FS1226, FS1234, FS1239, FS1241, FS1244, FS1248 and FS1249

558 Submission 208

559 Submissions 806 and 807

560 A point also made by the representatives of NZIA who appeared at the Stream 1B hearing

561 Mr Bird was rather dismissive of the architectural merit of existing development in Queenstown and Frankton, and regarded that of Wanaka as having even less to recommend it. The representatives of NZIA by contrast emphasised the intensity of urban development in Queenstown and Wanaka as creating a character of its own, particularly in the town centres. We also note the submissions made on behalf of DJ and EJ Cassells, The Bulling Family, the Bennett family, M Lynch and Friends of Wakatipu Gardens and Reserves that the urban area adjacent to the Gardens has a special character and that it and other areas with special character or heritage values deserve policy recognition.

980. We therefore recommend that elements of Policy 3.2.3.1.1 (which we have recommended be deleted from Chapter 3) be incorporated into this policy.

981. We also note the evidence we heard from Mr Nicholas Geddes addressing a related point on behalf of Clark Fortune McDonald. Mr Geddes drew attention to the apparent inconsistency between a policy focus on increased density of residential development and the basis on which the Jacks Point development had proceeded. We think that Mr Geddes likewise made a valid point and that these policies need to acknowledge that in areas governed by existing structure plans, increased density of residential development may not be appropriate.

982. That said, clearly Policies 4.2.1.3 and 4.2.3.2 need to be collapsed together. There is significant overlap between the two and the matters they cover can be captured in one policy.

983. In summary, therefore, we recommend one combined policy numbered 4.2.2.3 to replace what was formerly Policies 4.2.1.3, 4.2.3.2 and 3.2.3.1.1, reading as follows:

"Enable an increased density of well-designed residential development in close proximity to town centres, public transport routes, community and education facilities, while ensuring development is consistent with any structure plan for the area and responds to the character of its site, the street, open space and surrounding area."

984. Policy 4.2.1.4 as notified, read:

"Development enhances connections to public recreation facilities, reserves, open space and active transport networks."

985. The only submissions specifically on this policy supported its continued inclusion. Mr Paetz did not recommend any amendment to it.

986. For our part we have no difficulty with the substance of the policy. At present, however, it is stated as an outcome/objective. It needs to commence with a verb. Further, in the context of a policy to achieve an urban development objective, it ought to be clear that what it is talking about is indeed urban development. Lastly, the scope for urban development to achieve this policy will depend on the scale and location. Small scale development may have no opportunity to enhance connectivity in the urban environment. The policy needs to recognise that practical reality.

987. For these reasons, we recommend that this policy be renumbered 4.2.2.4 and amended to read:

"Encourage urban development that enhances connections to public recreation facilities, reserves, open space and active transport networks."

988. Picking up on the point made above, while small scale urban development may have little scope to achieve the PDP's strategic aspirations, large scale development has much greater opportunity to make a positive contribution to achievement of those strategic objectives. Policy 3.2.3.1.2 sought to recognise that, providing:

"That larger scale development is comprehensively designed with an integrated and sustainable approach to infrastructure, buildings, street, trail and open space design."

989. Submissions on it sought variously its deletion[562], and that reference be inserted to comprehensive design "*according to best practice design principles"*[563].

990. We do not regard a generalised reference to best practice design principles as being particularly helpful without some indication as to what those principles are, or where they may be found enunciated, but do think this policy is valuable in this context for its emphasis on comprehensive planning of larger-scale development. The Proposed RPS goes further, suggesting that specified principles of good urban design be given effect[564]. However, this is one of many aspects of the Proposed RPS that is the subject of appeal and thus it is unclear at present whether we can rely on the currently specified principles of good urban design or even that there will continue to be a schedule specifying such principles (in order that they might then be cross referenced in the PDP - which would be the obvious way to give substance and clarity to the relief NZIA sought). Accordingly, we recommend that Policy 3.2.3.1.2 be shifted into Chapter 4 and renumbered 4.2.2.5, only amended to commence it with a verb, so that it indicates more clearly the proposed course of action, as follows:

"Require larger scale development to be comprehensively designed with an integrated and sustainable approach to infrastructure, buildings, street, trail and open space design.".

991. The NZIA submission did, however, highlight the need for the District Plan to provide additional guidance in terms of identifying best practice design guidelines that should be employed. NZIA also reminded us that the Council is a signatory to the NZ Urban Design Protocols. We note also Council's own submission[565] promoting development of a Residential Design Guide to help reinforce design expectations. As the Council submission noted, incorporation of a design guide may require a variation to the PDP and we note that a variation to include design guidelines for Arrowtown now forms part of the PDP. For our part, we think that there is value in such design guides and recommend that the Council progress development of design guides for the other urban areas of the District in order that they might be incorporated into the PDP by future variations/plan changes. If the Proposed RPS, when finalised, still has a schedule of good urban design principles, then obviously that schedule should be drawn on as the basis for such guidelines.

992. In the interim, Policy 3.2.3.1.3 has the potential to provide some guidance in this area. As notified, it read:

"Promote energy and water efficiency opportunities, waste reduction and sustainable building and subdivision design."

993. Aside from Submissions 806 and 807, seeking that all the policies under Objective 3.2.3.1 be deleted, there were no submissions seeking its amendment. Submission 806 queried, in the alternative, the effectiveness of all three policies and whether they might be better addressed within specific zones.

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562 Submissions 806 and 807

563 Submission 238: Opposed in FS1107, FS1157, FS1226, FS1234, FS1239, FS1241, FS1244, FS1248 and FS1249

564 Proposed RPS, Policy 4.5.1(g), cross referencing Schedule 5 to the Proposed RPS. See also Policy 4.5.3 encouraging the use of the specified good urban design principles more directly.

565 Submission 383

994. We take the view that while generally expressed, this particular policy does add value to implementation of the Chapter 4 objectives we have recommended. It is also consistent with Policies 4.5.4 and 4.5.5 of the Proposed RPS, encouraging use of low impact design principles and that subdivision and development be designed to reduce the effect of the region's colder climate. Given that no alternative wording has been suggested for its consideration, we recommend Policy 3.2.3.1.3 be shifted to Chapter 4 and renumbered 4.2.2.6, but otherwise not be amended.

995. We have already discussed a number of policies formerly located in Chapter 3 that, in our view, are more appropriately located in Chapter 4. At this point, we should discuss three further such policies. The first is Policy 3.2.6.2.3, which, as notified, read:

"Explore and encourage innovative approaches to design to provide access to affordable housing."

996. The only submissions specifically on this policy supported its continued inclusion. Once again though, this policy along with the balance of Section 3.2.6, is the subject of a more general submission seeking the deletion of the entire section, or a significant reduction in the number of objectives and policies[566].

997. Mr Paetz recommended that the word "*provide"* be substituted by "*help enable"*. The point of Mr Paetz's recommendation is to make the obvious point that design can only make a contribution to provision of affordable housing. We also note a theme of the NZIA submissions, reinforced when its representatives appeared before us, that affordable housing did not need to be, and should not be, of substandard quality. We accept that point also. With those qualifications, however, and with a little grammatical tweaking to make it read more easily, we consider that this is a policy that adds some value to the package of urban development policies we are considering.

998. In summary, we recommend that Policy 3.2.6.2.3 be shifted from Chapter 3 into this part of Chapter 4, renumbered 4.2.2.7, and be amended to read:

"Explore and encourage innovative approaches to design to assist provision of quality affordable housing."

999. The second policy notified in Chapter 3 that we consider is more appropriately located at this point of Chapter 4 is Policy 3.2.6.1.2. As notified, that policy read:

"In applying plan provisions, have regard to the extent to which minimum size, density, height, building coverage and other controls influence Residential Activity affordability."

1000. The only submission specifically on this policy[567] sought addition of reference to utilisation of community land by the Council for housing development to deliver quality affordable housing.

1001. Mr Paetz did not recommend any amendment to this policy.

1002. We recognise that the NZIA submission makes some valid points. Reducing the cost of housing construction does not ensure the availability of affordable housing, and a focus solely on affordability may risk a series of low quality developments creating slum-like conditions. The

566 Submission 807

567 Submission 238: Opposed in FS1107, FS1157, FS1226, FS1234, FS1241, FS1242, FS1248 and FS1249

potential for affordability issues to be addressed by use of community land is, however, a matter for Council to consider under the Local Government Act. As regards the broader issues raised by NZIA, in terms of the functions of the territorial authority under this Act, and the role of the District Plan, we regard it as being important to have regard to the impact regulation has on affordability, while not losing sight of desirability of not allowing concerns about affordability to be used as an excuse to promote poor quality developments. Both considerations have to be balanced against one another. We recommend that this tension be captured in this context with appropriate policy wording.

1003. The NZIA submission referred to *'housing'* rather than *'residential activity'*. We view the former as identifying the subject matter more clearly and simply than the notified policy.

1004. Accordingly, we recommend that Policy 3.2.6.1.2 be shifted and relocated to this part of Chapter 4, renumbered 4.2.2.8 and amended to read:

"In applying plan provisions, have regard to the extent to which the minimum site size, density, height, building coverage and other quality controls have a disproportionate adverse effect on housing affordability."

1005. The third policy in Chapter 3 that we consider would add value if relocated into this context is Policy 3.2.6.4.1 which as notified, read:

"Ensure Council-led and private design and development of public spaces and built development maximises public safety by adopting "Crime Prevention Through Environmental Design."

1006. This policy was not the subject of any submission seeking its amendment and Mr Paetz did not recommend any amendment to it.

1007. Accordingly, we recommend that Policy 3.2.6.4.1 be relocated to this part of Chapter 4 and renumbered 4.2.2.9 but not otherwise amended.

1008. We have reviewed the other policies related to urban development that we have recommended be deleted from Chapter 3. The level of overlap if not duplication between the existing and amended policies we have recommended for Chapter 4 and the balance of deleted Chapter 3 policies means that we do not consider that they would add value in implementing our recommended Objectives 4.2.2A and 4.2.2B.

1009. We should, however, note submissions seeking recognition of the maintenance of the ability to view and appreciate the naturalness of the night sky and to avoid unnecessary light pollution in Chapter 3[568]. While we do not consider that this matter passes the rigorous requirement for inclusion in the overarching strategic chapter, we think this is matter that might appropriately be considered in the context of new urban development, as an aspect of maintaining and enhancing the environment. Clearly, protection of the night sky cannot be pressed too far - the evidence for QAC emphasised the importance of navigation lights for its operations - but the submission focussed on avoiding unnecessary light pollution, which we consider, strikes the right balance. In section 32 terms, it is the most appropriate way to achieve the relevant objective.

[568] Submissions 340 and 568.

1010. Accordingly, we recommend a new policy be inserted into Chapter 4, renumbered 4.2.2.10, and worded as follows:

"Ensure lighting standards for urban development avoid unnecessary adverse effects on views of the night sky."

1011. The same point arises also in the rural environment, and so we address it also in our Chapter 6 report.

1012. Proposed Policy 4.2.3.3 as notified read:

"Low density development does not compromise opportunities for future urban development."

1013. The only submission specifically on this policy[569] sought clarification as to how it would operate.

1014. Mr Paetz recommended that this policy be deleted in his Section 42A Report. Although Mr Paetz's report did not explain his reasoning, when we discussed it with him, he explained that where land has been zoned for a certain intensity he thought it problematic to allow subsequent reconsideration of that position, notwithstanding the apparent inefficiency in land use. Mr Paetz emphasised that it was important to recognise that within the defined UGBs, there is a variable demand for residential development. In his words, it is not all about high density.

1015. While Mr Paetz's recommendation could not be considered out of scope given more general submissions seeking deletion of the whole of Chapter 4, we consider that the policy does have a valid role in ensuring efficient use of the limited amount of land identified as appropriate for urban development. We agree with Mr Paetz that once low density development has occurred, it is problematic to impose intensification requirements. That is why, in fact, this policy is required, to ensure that where low density development occurs within UGBs, it is designed with an eye to subsequent potential infill development. The key aspects of design that determine the ability to accommodate infill development are the location of building platforms and the capacity of infrastructure (including roading), and we consider that these aspects should be referred to, to provide the clarification that NZIA seeks. Having said that, there is a practical limit to the extent future options can be preserved that needs to be acknowledged.

1016. In addition, as originally framed, the policy is expressed too broadly. It should apply only within UGBs, otherwise it might be read as constraining development of rural areas by reference to the demands of urban development that the PDP (as we recommend it be amended) seeks to avoid and that may well never occur.

1017. Lastly, the policy as notified was framed as an outcome/objective. It needs to start with a verb to state a course of action that will be followed.

1018. In summary, we recommend that Policy 4.2.3.3 be retained, renumbered 4.2.2.11, and clarified as sought by Submission 238 as follows:

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[569] Submission 238: Opposed in FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248 and FS1249

"Ensure that the location of building platforms in areas of low density development within Urban Growth Boundaries and the capacity of infrastructure servicing such development do not unnecessarily compromise opportunities for future urban development."

1019. Following that theme, Policy 4.2.3.7 as notified read:

"The edges of Urban Growth Boundaries are managed to provide a sensitive transition to rural areas."

1020. This Policy attracted a number of submissions ranging from seeking its deletion[570], support for the Policy as proposed[571], detailed amendments to more clearly identify what adverse effects are being managed at the interface of urban/rural areas[572], and lastly, seeking recognition that a sensitive transition may not be appropriate[573]. The last submission drew attention to experience of rural residential zoning being based around the edge of urban areas in this district, and then failing to withstand development pressure. This submission suggests that in many cases, a hard urban edge is a better and more defendable approach.

1021. Mr Paetz recommended that this policy be retained but qualified to make it clear that the desired transition be addressed within UGBs. That suggested amendment reflected the discussion we had with both Mr Paetz and with Mr Bird as to where the transition needed to occur. Both agreed that if one accepted the principle of UGBs, the desired transition should occur within those boundaries.

1022. We agree in principle with Mr Paetz's recommendation, largely for the practical reasons that Submission 836 draws attention to.

1023. We consider, however, that Submission 836 is correct in another respect. There are existing situations where it is impractical to contemplate a sensitive transition from urban to rural activities. Much of the existing urban area of inner Queenstown township is already built hard up to the UGB as it is, with the land (or water - Lake Wakatipu is the boundary for much of the town) on the rural side of the boundary being classified as an ONL. That position is not going to change and nor should it in our view. The policy therefore has to accommodate the fact that there will not be a sensitive transition in all cases. On the other hand, further development of Wanaka township towards the Cardrona Valley invites an appropriate transition from urban to rural activities.

1024. Lastly, while we think that the changes sought in Submission 608 would put too much detail around this policy, we regard the word '*sensitive'* as somewhat problematic because of the lack of clarity as to what exactly it might mean in any given case.

1025. In summary, we recommend that Policy 4.2.3.7 be renumbered 4.2.2.12 and amended to read:

"Ensure that any transition to rural areas is contained within the relevant Urban Growth Boundary".

1026. Policy 4.2.3.8 as notified read:

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570 Submission 238 and 807: Supported in FS1097; Opposed in FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248 and FS1249

571 Submission 600: Supported in FS1209: Opposed in FS1034

572 Submission 608: Opposed in FS1034

573 Submission 836

"Land Use within the Air Noise Boundary or Outer Control Boundary of the Queenstown Airport is managed to prohibit or limit the establishment of Activities Sensitive to Aircraft Noise."

1027. Submissions on this policy ranged from supporting the policy in whole or in part[574], seeking its deletion[575] and seeking amendment to soften its effect[576].

1028. We heard extensive evidence on the significance of Queenstown Airport, and on the terms of Plan Change 35 (to the ODP and that, as at the date of our hearing, it was nearing finalisation) that address management of reverse sensitivity effects on the airport. Mr Winchester submitted for the Council that while we are not bound by the outcome of the Plan Change 35 process, we should give it careful consideration given the amount of work that went into it and the very recent nature of the Environment Court's consideration of these issues. We agree with that submission.

1029. Mr Paetz recommended that this particular policy be deleted and replaced by more specific policies under the heading of Objective 4.2.4, which relates to urban growth within the Queenstown UGB. We agree that this is the more logical place to provide for reverse sensitivity issues associated with Queenstown Airport.

1030. Accordingly, we recommend that Policy 4.2.3.8 be deleted. We will return to Queenstown Airport Issues as part of our consideration of Objective 4.2.4 and the policies related to it.

1031. In summary, we consider that the policies we have recommended are the most appropriate way to implement Objectives 4.2.2A and 4.2.2B, given they will be supplemented by the area specific policies discussed below.

6.5. Area Specific Objectives and Policies – Sections 4.2.4 – 4.2.6

1032. As notified, Chapter 4 provided three objectives outlining the outcomes sought in Queenstown, Arrowtown and Wanaka respectively:

> *"4.2.4 Manage the scale and location of urban growth in the Queenstown urban growth boundary;*
>
> *4.2.5 Manage the scale and location of urban growth in the Arrowtown urban growth boundary;*
>
> *4.2.6 Manage the scale and location of urban growth in the Wanaka urban growth boundary."*

1033. Many of the submissions on these objectives related to the location of the UGB in each case and have been considered in the appropriate mapping hearings. Submissions made on Objective 4.2.4 specifically sought that the first word be *'confine'* rather than *'manage'*[577], its

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574 Submissions 238, 271 and 433: Supported in FS1077, Opposed in FS1097, FS1107, FS1117, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248 and FS1249

575 Submission 807

576 Submission 751: Supported in FS1061; Opposed in FS1061 and FS1340

577 Submission 238: Supported in FS1097 and FS1117; Opposed in FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248 and FS1249

amendment to refer to the Queenstown urban area rather than the Queenstown UGB[578] and the deletion of the objective (and the associated policies)[579].

1034. A number of submissions on Objective 4.2.5 likewise focused on the location of the UGB and will need to be considered in the mapping hearings. We note specifically Submission 285 seeking that the UGB for Arrowtown (4.2.5.1), be deleted. Most other submissions supported retention of the objective in its current form.

1035. Submissions on Objective 4.2.6 followed a similar pattern. Submission 608 sought reference to the Wanaka urban area rather than the Wanaka UGB[580].

1036. We note also the submission by that submitter that the diagrams identifying the UGBs for Wanaka and Queenstown should be deleted.

1037. Mr Paetz did not recommend any change to these three objectives.

1038. For our part, we regard these three objectives as adding no value to the PDP. Currently they are all framed as policies (courses of action) rather than objectives, but more importantly, they provide no clear outcome against which policies can be managed other than that there will be a UGB at each location; something which is not necessary given the terms of Objective 4.2.2 (renumbered 4.2.1).

1039. We recommend that these three objectives might appropriately be deleted.

1040. We also recommend acceptance of Submission 608, that the diagrams showing the UGBs should likewise be deleted. The diagrams are at too large a scale to be useful and merely duplicate the much more detailed and useful information provided by the planning maps. Although Submission 608 was limited to the Wanaka and Queenstown UGB diagrams, we recommend deletion of the Arrowtown diagram as well for consistency. As above, the diagram duplicates information on the planning maps and therefore falls within the category of duplication that the Real Journeys' submission sought to be removed.

1041. Policy 4.2.4.1 as notified read:

"Limit the spatial growth of Queenstown so that:

a. The natural environment is protected from encroachment by urban development;
b. Sprawling of residential suburbs into rural areas is avoided;
c. Residential settlements become better connected through the coordinated delivery of infrastructure and community facilities;
d. Transport networks are integrated and the viability of public and active transport is improved;
e. The provision of infrastructure occurs in a logical and sequenced manner;
f. The role of Queenstown Town Centre as a key tourism and employment hub is strengthened;
g. The role of Frankton in providing local, commercial and industrial services is strengthened."

1042. That might be compared with the comparable policy for Arrowtown (4.2.5.1), which read:

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578 Submission 608: Opposed in FS1034

579 Submission 807

580 Opposed in FS1034

"Limit the spatial growth of Arrowtown, so that:

a. *Adverse effects of development outside the Arrowtown urban growth boundary are avoided;*
b. *The character and identity of the settlement, and its setting within the landscape is preserved or enhanced."*

1043. Lastly, one might also have regard to Policy 4.2.6.1 which read:

"Limit the spatial growth of Wanaka so that:

a. *The rural character of key entrances to the town is retained and protected, as provided by the natural boundaries of the Clutha River and Cardrona River;*
b. *A distinction between urban and rural areas is maintained to protect the quality and character of the environment and visual amenity;*
c. *Ad hoc development of rural land is avoided;*
d. *Outstanding Natural Landscapes and Outstanding Natural Features are protected from encroachment by urban development."*

1044. The submissions specifically on Policy 4.2.4.1 included:

a. Support for the policy, with suggested changes to expand on the description of Queenstown Town Centre and to make additional reference to Frankton as a separate township with its own identity[581];
b. Amendment to refer to the outward expansion of the Queenstown urban area into the surrounding rural environment (rather than spatial growth), and to narrow reference to the natural environment[582];
c. Amendment of the reference to infrastructure to focus on where the cost burden falls[583];
d. Amendment to refer to integration of both land use and transport networks[584];
e. Amendment to provide that development should enable the efficient use of public transport services[585].

1045. Policy 4.2.5.1 is not the subject of any submission specifically seeking amendment to it.

1046. Policy 4.2.6.1 is the subject of submissions seeking that the reference to protection of ONLs and ONFs from encroachment by urban development is replaced by a focus on avoiding, remedying or mitigating the effects of urban development within those areas[586], focusing the policy on outward expansion of the Wanaka urban area into the surrounding rural environment (rather than on spatial growth) and removal of reference to ad hoc development of rural land[587].

1047. These specific submissions also need to be read against the background of more general submissions seeking that Chapter 4 be deleted in whole or in large part[588].

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581 Submission 238: Supported in FS1097 and FS1117; Opposed in FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248 and FS1249

582 Submission 608: Opposed in FS1034

583 Submission 608: Opposed in FS1034

584 Submission 719: Supported in FS1079

585 Submission 798

586 Submission 378: Supported in FS1097; Opposed in FS1049 and FS1095

587 Submission 608; Opposed in FS1034

588 Submissions 414, 653, 807 842: Supported in FS1255; Opposed in FS1071

1048. The only amendment to these three policies Mr Paetz recommended was the addition of reference to integration of land use and transport networks in Policy 4.2.4.1, as sought in Submission 719.

1049. When he appeared before us, Mr Goldsmith[589] critiqued these policies focussing on their largely generic nature and what he asserted to be a lack of evidence to support key points. He argued that the urban settlement patterns of Wanaka and the Wakatipu Basin were quite different and that the policies governing urban growth needed to reflect those differences.

1050. In relation to Wanaka, Mr Goldsmith argued that a more robust site specific policy regime would acknowledge and reference the extent of Wanaka Community Planning processes that has been undertaken identifying the actual threat of urban growth that Wanaka faces, identify any structural constraints relevant to a Wanaka UGB, reference any specific adjoining ONL that requires additional protection, identify the time period being planned for and identify intended or desirable limitations on extension of the Wanaka UGB during the identified planning period.

1051. His critique of Policy 4.2.4.1 argued there was a lack of evidence to support the different elements of policy, particularly those related to provision of infrastructure. He also drew attention to the apparent lack of connection between the last two bullet points (focussing on the role of Queenstown and Frankton respectively) on the location of a UGB.

1052. In relation to Policy 4.2.5.1, Mr Goldsmith queried what the first bullet point quoted above actually meant, but accepted that the second bullet point correctly identifies the real (and in his submission, probably the only) reason for the Arrowtown UGB.

1053. We note in passing that none of Mr Goldsmith's clients lodged submissions or further submissions on these policies. His argument in relation to them was presumably premised on the *'collective scope'* argument provided, in particular, by general submissions seeking deletion of all of Chapter 4. For this reason, we have considered his submissions on their merits.

1054. We consider there is merit in some (but not all) of Mr Goldsmith's criticisms of Policies 4.2.4.1, 4.2.5.1 and 4.2.6.1. They do suffer from being excessively generic, and therefore provide little guidance as to the basis on which the existing UGBs have been determined or on which future plan changes considering amendment to the UGBs (or identification of new UGBs) might be undertaken.

1055. We also take the view that the area specific policies might be better compartmentalised into Wakatipu Basin specific policies and Upper Clutha Basin specific policies. This would have two benefits. The first is that while Arrowtown has discrete issues and a clear rationale for its UGB, that policy needs to be put in the context of the urban growth policies applied to the balance of the Wakatipu Basin. As Mr Goldsmith drew to our attention, the Arrowtown UGB does not purport to provide for the level of anticipated population growth that might occur in the absence of a UGB. Rather, the intention is that the UGBs provided in the balance of the Wakatipu Basin will meet the anticipated demand for housing across the Basin. Similarly, broadening the focus of what is currently Policy 4.2.6.1 is a necessary consequence of the

589 Initially in his capacity as counsel for Allenby Farms Limited (Submission 502) Crosshill Farm Limited (Submission 531) and Mt Cardrona Station Limited (Submission 407) and then as counsel for Ayrburn Farm Estate Limited (Submission 430), Bridesdale Farm Developments Limited (655), Shotover Country Limited (528) and Mt Cardrona Station Limited (Submission 407)

recommendation we have made that Lake Hawea Township should be defined by a UGB, given the interrelationship of the economy of that township and the Wanaka Township.

1056. To make that division clear, we recommend that appropriate headings be placed in this part of Chapter 4 to differentiate Wakatipu Basin specific policies from the Upper Clutha Basin specific policies.

1057. Turning to the content of the Wakatipu Basin-specific policies, we start with Arrowtown. Policy 4.2.5.1 seeks to avoid adverse effects of development outside the Arrowtown UGB. As Mr Goldsmith observed, this leaves it open to speculation as to what sort of adverse effects the policy is focussed on.

1058. In the context of defining a UGB, the adverse effects in question are those of uncontrolled urban sprawl. We think the policy should say that. The second limb of the policy, emphasising the desire to retain the character and identity of the Arrowtown settlement is clearly well accepted. We consider it might be stated more simply and clearly, but this is an issue of drafting rather than substance.

1059. Lastly, while we have recommended that the UGB diagrams be deleted, in favour of just relying on the planning maps to identify the location of UGBs, it would be helpful to the readers of Chapter 4 if they were directed to the District Plan maps to find the relevant UGB.

1060. We therefore recommend a cross reference be inserted in the policy.

1061. In summary, we recommend a new policy intended to state more clearly the course of action Policy 4.2.5.1 seeks to implement, worded as follows:

"Define the urban growth boundary for Arrowtown, as shown on the District Plan Maps, that preserves the existing character of Arrowtown and avoids urban sprawl into the adjacent rural areas."

1062. Turning to the balance of the Wakatipu Basin, it is apparent that the areas defined by UGBs are based on existing or consented areas of urban development. Policy 4.2.4.1's focus on avoidance of sprawling developments into rural areas is likewise an obvious issue.

1063. The existing focus on protecting the natural environment from encroachment by urban development needs clarification. In the context of the Wakatipu Basin, it is not all of the natural environment, but rather ONLs and ONFs that are the focus.

1064. Also, a key, but currently unacknowledged, rationale for the UGBs that have been defined, is making sufficient provision both within existing developed areas and future greenfield areas to accommodate predicted population increases over the planning period. As above, this is a key differentiating feature as between Arrowtown and the balance of the Wakatipu Basin. This is broader than just providing for sufficient areas of new housing to accommodate residential needs. The NPSUDC 2016 emphasises the need for a broader focus, including in particular, on working environments. Community well-being also requires provision of community (including recreation) facilities.

1065. We agree, however, with Mr Goldsmith's submission that policies seeking to recognise and protect the role of Queenstown and Frankton town centres are not relevant to the fixing of UGBs.

1066. Mr Goldsmith also argued that there was no evidence that infrastructure constraints were relevant to the fixing of UGBs. We have already noted[590] that the answers Mr Glasner provided to our written questions tended to support that contention, but that his evidence also identified that the ability to identify where urban growth would occur (and when) is a key determinant in the efficient rollout of Council infrastructure. That evidence supports recognition of the desirability of a logical and sequenced provision of infrastructure as currently provided for in Policy 4.2.3.1[591]. We agree with that position in principle, but we consider that the way it is framed needs to be reframed to recognise that while planning for urban growth can make the efficient provision of the infrastructure easier to accomplish, it cannot ensure that it occurs.

1067. The reference in the existing policy to coordination of infrastructure and community facilities (so as to promote better connected residential areas) raises the same issue.

1068. We recommend that these considerations be combined in a single policy linking the definition of UGBs in the Wakatipu Basin with enabling logical and sequenced provision both of infrastructure and community facilities.

1069. Lastly, although the emphasis given to integration of transport networks was supported by a number of submissions, the current pattern of urban development (and UGBs) in the balance of the Wakatipu Basin, with a series of geographically separated residential areas, does not lend itself to integrated transport planning. Nor is it obvious how UGBs would be relevant to achieving such integration, or to improving public and active transport viability, other than by precluding further sporadic development – which in our view is better addressed more directly via other policies we have recommended (see Policies 4.2.1.2, 4.2.2.14 and 4.2.2.22).

1070. Similarly, while it is desirable that these separated residential settlements become better connected, the relevance of the UGBs to that outcome was not apparent to us.

1071. In summary, we recommend that the appropriate policy to implement the objectives in Chapter 3 and 4 related to urban development in the Wakatipu Basin other than Arrowtown is numbered 4.2.2.14 and reads as follows:

"Define the urban growth boundaries for the balance of the Wakatipu Basin, as shown on the District Plan Maps, that:

a. *are based on existing urbanised areas;*
b. *provide sufficient areas of urban development and the potential intensification of existing urban areas to accommodate predicted visitor and resident population increases over the planning period;*
c. *enable the logical and sequenced provision of infrastructure to and community facilities in new areas of urban development.*
d. *avoid Outstanding Natural Features and Outstanding Natural Landscapes;*
e. *avoid sprawling and sporadic urban development across rural areas of the Wakatipu Basin."*

1072. Policy 4.2.4.2 as notified read:

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590 See the Chapter 3 (Part B)section of our report at [555]

591 We note that although Darby Planning LP (Submission 608) sought to amend that aspect of the Policy, Mr Ferguson giving evidence for the submitter noted his acceptance of Mr Glasner's evidence on this point.

"Ensure the development within the Queenstown Urban Growth Boundary:

a. Provides a diverse supply of residential development to cater for the needs of residents and *visitors;*

b. Provides *increased density and locations close to key public transport routes and with convenient access to the Queenstown town centre;*

c. Provides *an urban form that is sympathetic to the natural setting and enhances the quality of the built environment;*

d. Provides *infill development as a means to address future housing demand;*

e. Provides *a range of urban land uses that cater for the foreseeable needs of the community;*

f. Maximises *the efficiency of the existing infrastructure networks and avoids expansion of networks before it is needed for urban development;*

g. Supports *the co-ordinated planning for transport, public open space, walkways and cycleways and community facilities;*

h. Does *not diminish the qualities of significant landscape features."*

1073. Submissions on this policy were largely supportive, but seeking specific amendments:

a. To provide more emphasis on existing urban character and require that adverse effects of intensification be avoided, remedied or mitigated[592];

b. To achieve a high quality urban environment responsive to the context of its surroundings, is respectful of view shafts, enhances and promotes Horne Creek and does not diminish the quality of other significant landscape features[593];

c. To avoid reverse sensitivity effects on significant infrastructure[594];

d. That refer to coordinated planning of education facilities[595];

e. To delete reference to the UGB[596];

f. To provide a more enabling approach to expansion of infrastructure networks[597];

g. To add reference to wāhi tupuna[598].

1074. The problem we have with Policy 4.2.4.2 is the extent of overlap and duplication with the policies in what is now Section 4.2.2. It also appears to us that Policy 4.2.4.2 over reaches in seeking to ensure a series of positive outcomes that at most, the District Plan can only encourage through an enabling zone and rule framework. From our perspective, the more general policies of what is now Section 4.2.2 better recognise the functions of the Council and the extent to which the District Plan can facilitate positive outcomes.

1075. We note also that the evidence of Mr Glasner did not support policies focussed on avoiding expansion of infrastructure networks within existing areas earmarked for urban development.

1076. In summary, we recommend that Policy 4.2.4.2 be deleted as not adding value to implementation of the relevant objectives (renumbered 4.2.2A and 4.2.2B).

1077. Policy 4.2.4.3 and 4.2.4.4 relate to Queenstown Airport issues. As notified, those policies read:

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592 Submission 208

593 Submission 238: Opposed in FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248 and FS1249

594 Submissions 271 and 805: Supported in FS1097 and FS1117; Opposed in FS1079 and FS1211

595 Submission 524

596 Submission 608: Opposed in FS1034

597 Submission 635

598 Submission 810

"4.2.4.3. Protect the Queenstown Airport from reverse sensitivity effects, and maintain residential amenity, through managing the effects of aircraft noise within critical listening environments or new or altered buildings within the Air, Noise, Boundary or Outer Control Boundary.

4.2.4.4 Manage the adverse effects of noise from Queenstown Airport by conditions in Designation 2 including the requirement for a Noise Management Plan and a Queenstown Airport Liaison Committee."

1078. We also recall that notified Policy 4.2.3.8 addressed Queenstown Airport related to noise issues and we have recommended that be addressed at this juncture.

1079. Submissions on these policies ranged from querying whether they were expressed too strongly in favour of the airport[599], seeking that the effect of the policies be strengthened[600], to seeking to differentiate existing residential areas from rural and industrial areas and to add a new objective and policies on the subject[601].

1080. These provisions were the subject of extensive evidence and submission. Representatives of QAC emphasised to us that the Environment Court has only just resolved the final form of Plan Change 35 addressing these issues (as at the conclusion of the Stream 1 hearing, there was one issue only outstanding[602]) and counsel argued that the PDP ought not to deviate substantively from the result of Plan Change 35. The planning evidence from both Mr Kyle and Ms O'Sullivan for QAC suggested that there were substantive differences in meaning and outcome between Plan Change 35 and the PDP, both as notified, and as recommended by Council staff in the Section 42A Report.

1081. While, as counsel for the Council noted in his submissions, we are not legally bound by the outcome of the Plan Change 35 process, there is obvious sense in our being guided by the Environment Court as to how best to deal with reverse sensitivity effects on the airport's operations in the absence of cogent evidence justifying an alternative approach. By contrast, Council staff appearing before us indicated that while they recommended changes from the wording of Plan Change 35, there was no intention for the end result to be substantively different. As already noted, we sought to reduce the issues in contention by directing expert caucusing.

1082. By the end of the hearing, Mr Paetz recommended a suite of objectives and policies addressing the issue and reflecting his discussions with the representatives of QAC and other stakeholders. The objectives recommended by Mr Paetz were in fact policies, not specifying an environmental outcome. We do not think objectives are necessary in this context given our recommendation that the objective governing urban development within UGBs is that it be integrated with provision and operation of infrastructure and services, of which Queenstown Airport is obviously one example.

1083. We accept, however, the policies that Mr Paetz recommended, renumbered 4.2.3.15-18 inclusive, with minor wording changes as follows:

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599 Submission 238: Opposed in FS1077, FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248 and FS1249

600 Submission 271: Opposed in FS1097,FS1117 and FS1270

601 Submission 433: Supported in FS1077; Opposed in FS1097 and FS1117

602 As at the date of our finalising this report, the Council's website noted that it was still under appeal.

"Ensure appropriate noise boundaries are established and maintained to enable operations at Queenstown Airport to continue and to expand over time.

Manage the adverse effects of noise from aircraft on any Activity Sensitive to Aircraft Noise within the airport noise boundaries while at the same time providing for the efficient operation of Queenstown Airport.

Protect the airport from reverse sensitivity effects of any Activity Sensitive to Aircraft Noise via a range of zoning methods.

Ensure that Critical Listening Environments of all new buildings and alterations and additions to existing buildings containing an Activity Sensitive to Aircraft Noise within the Queenstown Airport Air Noise Boundary or Outer Control Boundary are designed and built to achieve appropriate Indoor Design Sound Levels."

1084. Mr Paetz did not recommend retention of existing Policy 4.2.4.4. Although the policy does no more than record the terms of the QAC designation, we consider that it provides a useful role for stakeholders reading the provisions related to Queenstown Airport to highlight the relevance of those designation provisions. Accordingly, we recommend that it be renumbered 4.2.2.19, but otherwise be retained unamended.

1085. Policy 4.2.5.2 provides guidance as to the nature of development within the Arrowtown UGB. Unlike Policy 4.2.4.2, the policy is quite detailed as to what it is seeking to achieve and Arrowtown-specific.

1086. The only submission specifically on this policy sought reference to coordinated planning for transport, public open space, walkways and cycleways, and community and education facilities[603].

1087. Mr Paetz did not recommend any amendment to this policy. Subsequent to the hearing, the Council resolved to amend this policy[604] to update the reference to the Arrowtown Design Guidelines to reflect notification of revised Design Guidelines in 2016 (Variation 1 to the PDP) and the recommendations on that variation are set out in Report 9B[605]. We consider that as amended, this is an appropriate policy to assist implementation of recommended Objectives 4.2.2A and 4.2.2B, subject only to correction of a cross reference to the Rural General zone, renumbering it 4.2.2.20 and some minor drafting changes. We do not recommend the amendments sought in submission 524 which are generic in nature and would largely duplicate recommended Policy 4.2.2.2. As a result, the wording recommended is:

"Ensure that development within the Arrowtown Urban Growth Boundary provides:

a. an urban form that is sympathetic to the character of Arrowtown, including its scale, density, layout and legibility, guided by the Arrowtown Design Guidelines 2016;

b. opportunity for sensitively designed medium density infill development in a contained area closer to the town centre, so as to provide more housing diversity and choice and to help reduce future pressure for urban development adjacent or close to Arrowtown's Urban Growth Boundary;

603 Submission 524: Supported in FS1061

604 Pursuant to Clause 16(2)

605 Section 6.1 in that Report

c. *a designed urban edge with landscaped gateways that promote or enhance the containment of the town within the landscape, where the development abuts the urban boundary for Arrowtown;*
d. *for Feehley's Hill and land along the margins of Bush Creek and the Arrow River to be retained as reserve areas as part of Arrowtown's recreation and amenity resource; and*
e. *recognition of the importance of the open space pattern that is created by the inter-connections between the golf courses and other Rural Zone land."*

1088. We note in passing that if the changes proposed in the Stage 2 Variations remain substantively as at present, Policy 4.2.2.2(e) will require consequential amendment.

1089. Lastly, in relation to policies governing urban development in the Wakatipu Basin, we recommend a new policy be inserted to clarify the role of UGBs and the process for providing for additional urban development land.

1090. As will be seen shortly, notified Policy 4.2.6.2 provides such guidance for development of rural land outside of the Wanaka UGB. We consider that exactly the same considerations would apply to development of rural land outside the UGBs of the Wakatipu Basin.

1091. The need for such a policy is consequential on our recommendation that urban development outside of UGBs be avoided.

1092. We recommend that this issue be addressed by Policy 4.2.2.21, reading:

"Rural land outside of the Urban Growth Boundaries is not used for urban development until further investigations indicate that more land is needed to meet demand for urban development in the Wakatipu Basin and a change to the Plan amends the Urban Growth Boundary and zones additional land for urban development purposes."

1093. We regard this as largely implicit in the objectives and policies we have recommended as above, but for similar reasons to other policies, we feel that providing this guidance would assist stakeholders reading Chapter 4 as a standalone guide to urban-development.

1094. Turning to the Upper Clutha area, we accept Mr Goldsmith's submission that Policy 4.2.6.1 needs to be more closely directed towards the specific situation in Wanaka (and now Lake Hawea Township, given our recommendation that a UGB be defined for that township). We also accept that a key feature of the Upper Clutha Basin is that long standing strategic community planning processes, identifying the boundaries to both Wanaka and Lake Hawea Township, have occurred and have widespread community support. We note in passing that we do not accept the criticism of Mr Dan Wells giving planning evidence for Bridesdale Farm Developments Ltd and Winton Partners Funds Management (No 2) Ltd, regarding the efficacy of community based structure plans as an expression of local opinion.

1095. In the case of Wanaka, we also consider that specific reference should be made to the natural boundaries provided by the Clutha and Cardrona Rivers, and Mount Alpha. Policy 4.2.6.1 refers to the rural character of the key entrances provided by the two rivers. We think that Mr Goldsmith's critique of that particular provision is well founded but we also agree with him that these key natural features (along with Mount Alpha) do have an important role – just not the role currently identified in the policy.

1096. As with Wakatipu Basin UGBs, it is clear that the existing UGB for Wanaka and that proposed by submitters for Lake Hawea are based on the existing urbanised area and are drawn with the intention of meeting anticipated population growth over the planning period. The policy should say that, and that the UGB has a role in avoiding sprawling and sporadic urban development across rural areas.

1097. In summary, we recommend the following policy, numbered 4.2.2.22, to replace existing Policy 4.2.6.1:

"Define the urban growth boundaries for Wanaka and Lake Hawea Township, as shown on the District Plan Maps, that:

a. *are based on existing urbanised areas;*
b. *provide sufficient areas of urban development and the potential intensification of existing urban areas to accommodate the predicted visitor and resident population increases in the Upper Clutha Basin over the planning period;*
c. *have community support as expressed through strategic community planning processes;*
d. *utilise the Clutha and Cardrona Rivers and the lower slopes of Mount Alpha as natural boundaries to the growth of Wanaka; and*
e. *avoid sprawling and sporadic urban development across the rural areas of the Upper Clutha Basin."*

1098. Policy 4.2.6.2 contains provisions seeking to guide development within the Wanaka UGB. As with the comparable policy for Queenstown (4.2.4.2) the suggested policy largely duplicates the more general policies we have recommended in 4.2.2.1 – 4.2.2.12. Hence, while submissions specifically on this policy are largely supportive, we do not view it as adding any great value to implementation of recommended Objective 4.2.2. and recommend that it be deleted.

1099. Lastly, existing Policy 4.2.6.2 reads:

"Rural land outside of the urban growth boundaries is not developed until further investigations indicate that more land is needed to meet demand."

1100. Submissions vary from seeking that this aspect of the policy be expressed with greater finality (that rural land should not be developed irrespective of demand[606]) to submissions seeking that it be deleted[607].

1101. We also bear in mind submissions seeking that the UGB should not be regarded as being set in stone[608] and in the case of Wanaka should specifically identify the Outer Growth Boundary identified in the Wanaka 2020 structure plan process as the longer-term limit on urban sprawl[609].

1102. We do not regard it as necessary to explicitly incorporate the Outer Growth Boundary at this time given the proposed recognition of the relevance of strategic community planning processes to fixing of the Wanaka UGB. We also consider that it is unrealistic to close the door on urban growth irrespective of demand in Wanaka. The situation is different to that in

606 Submission 69 and 795: Opposed in FS1012
607 Submission 608: Opposed in FS1034
608 Submission 335
609 Submission 773

Arrowtown, where a confined urban settlement pattern is sought to be preserved for reasons of urban character and the amenity that results from that character.

1103. Having said that, we regard it as important that the process by which the UGBs now being fixed might be changed should be clear. Accordingly, we recommend the same wording as for the comparable Wakatipu Basin Policy, numbered 4.2.2.23 and reading as follows:

"Rural land outside of the Urban Growth Boundaries is not used for urban development until further investigations indicate that more land is needed to meet demand for urban development in the Upper Clutha Basin and a change to the Plan amends the Urban Growth Boundary and zones additional land for urban development purposes."

1104. We consider that the area-specific policies we have recommended individually, and collectively with the policies in the balance of Section 4.2.2 ,are the most appropriate way to achieve Objectives 4.2.2A and 4.2.2B.

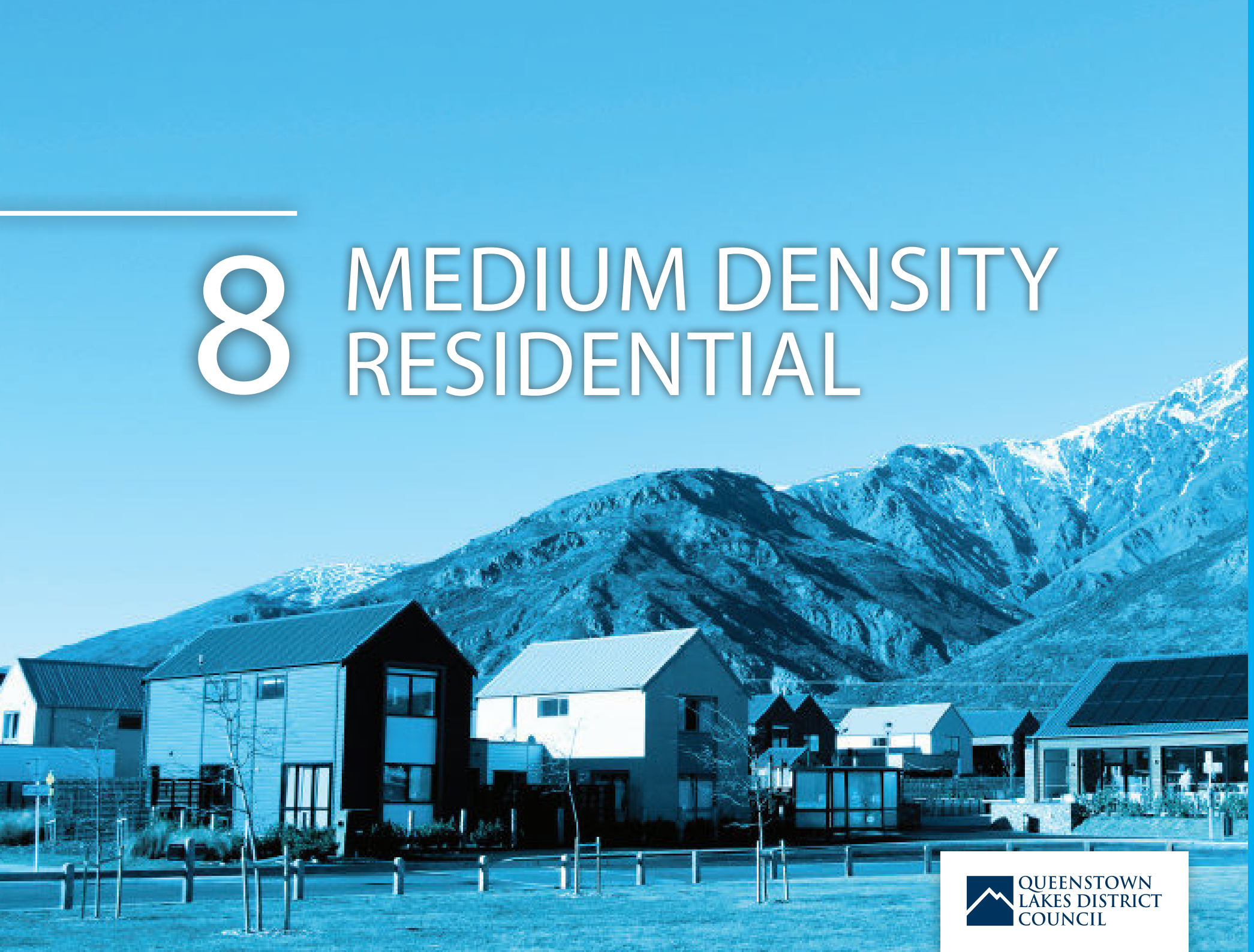
7. PART C - RECOMMENDATIONS

1105. We have set out in Appendix 1 the objectives and policies we are recommending for Chapter 4.

1106. We also draw the Council's attention to our recommendation[610] that it develop urban design guidelines for the balance of the Wakatipu Basin, Wanaka and Lake Hawea Township, drawing on any guidance in the Proposed RPS following resolution of the appeals on that document, and introduce those guidelines into the PDP by variation/plan change.

[610] At paragraph [985] above

8 MEDIUM DENSITY RESIDENTIAL



QUEENSTOWN LAKES DISTRICT COUNCIL

8.1 Zone Purpose

The Medium Density Residential Zone has the purpose of providing land for residential development at greater density than the Lower Density Suburban Residential Zone. In conjunction with the High Density Residential Zone and Lower Density Suburban Residential Zone, this zone will play a key role in minimising urban sprawl and increasing housing supply. The zone will primarily accommodate residential land uses, but may also support limited non-residential activities where these enhance residential amenity or support an adjoining Town Centre, and do not impact on the primary role of the zone to provide housing supply.

The zone is situated in locations in Queenstown, Frankton, Arrowtown and Wanaka that are within identified urban growth boundaries, and easily accessible to local shopping zones, town centres or schools by public transport, cycling or walking. The Medium Density Residential Zone provides for an increased density of housing in locations that are supported by adequate existing or planned infrastructure.

The zone will enable a greater supply of diverse housing options for the District. The main forms of residential development anticipated are terrace housing, semi-detached housing and detached townhouses on small sites of 250m^2 or greater. The zone will undergo changes to existing densities and built from characteristics over time to provide for the social, economic, cultural and environmental wellbeing of the District's community. In particular, the zone will provide a greater diversity of housing options for smaller households including single persons, couples, small young families and older people seeking to downsize. It will also enable more rental accommodation for the growing population of transient workers in the District.

While providing for a higher density of development than is anticipated in the Lower Density Suburban Residential Zone, the zone incorporates development controls to ensure that the reasonable maintenance of amenity values is maintained. Building height will be generally two storeys.

Development will be required to achieve high standards of urban design, providing site responsive built forms and utilising opportunities to create vibrant public spaces and active transport connections (walking and cycling). In Arrowtown, where a resource consent is required, consideration will need to be given to the town's special character, and the design criteria identified by the Arrowtown Design Guidelines 2016.

Community activities are anticipated given the need for such activities within residential areas and the high degree of accessibility of the zone for residents.

8.2 Objectives and Policies

8.2.1 Objective - Medium density development occurs close to employment centres which encourage travel via non-vehicular modes of transport or via public transport.

Policies

8.2.1.1 Provide opportunities for medium density housing close to town centres, local shopping zones, activity centres and public transport routes.

8.2.1.2 Provide for compact development forms that encourage a diverse housing supply and contribute toward containing the outward spread of residential growth away from employment centres.

8.2.1.3 Enable increased densities where they are located within easy walking distance of employment centres and public transport routes, subject to environmental constraints including local topography, stability and waterways, that may justify a limitation in density or the extent of development.

8.2.1.4 Enable medium density development through a variety of different housing forms including terrace, semi-detached, duplex, townhouse, or small lot detached housing.

8.2.2 Objective - Development contributes to the creation of a new, high quality built character within the zone through quality urban design solutions which positively respond to the site, neighbourhood and wider context.

Policies

8.2.2.1 Ensure buildings address streets and other adjacent public space with limited presentation of unarticulated blank walls or facades to the street(s) or public space(s).

8.2.2.2 Require visual connection with the street through the inclusion of windows, outdoor living areas, low profile fencing or landscaping.

8.2.2.3 Ensure street frontages are not dominated by garaging through consideration of their width, design and proximity to the street boundary.

8.2.2.4 Ensure developments reduce visual dominance effects through variation in facades and materials, roof form, building separation and recessions or other techniques.

8.2.2.5 Ensure landscaped areas are well designed and integrated into the design of developments, providing high amenity spaces for residents, and to soften the visual impact of development, with particular regard to any street frontage(s).

8.2.3 Objective - Development provides high quality living environments for residents and provides reasonable maintenance of amenity values enjoyed on adjoining sites taking into account the changed future character intended within the zone.

Policies

8.2.3.1 Apply permitted activity and resource consent requirements based on recession plane, building height, setbacks and site coverage controls as the primary means of ensuring reasonable maintenance of neighbours' privacy and amenity values.

8.2.3.2 Where a resource consent is required for new development, reasonably minimise the adverse effects of the new development on the amenity values enjoyed by occupants of adjoining sites, and have particular regard to the maintenance of privacy for occupants of the development site and neighbouring sites through the application of setbacks, offsetting of habitable room windows from one another, screening or other means.

8.2.3.3 Ensure development along the western side of Designation 270[1] has the least possible impact on views from the formed walkway to the west toward Lake Wanaka and beyond, and generally limit development on land immediately adjoining the western side of Designation 270[1] to the permitted building height, recession plane, site coverage and setback limits (including between units) to achieve this.

[1] Running south from Aubrey Road, Wanaka

8.2.4 Objective - In Arrowtown medium density development occurs in a manner compatible with the town's character.

Policies

8.2.4.1 Ensure development, including infill housing, community activities and commercial development is of a form that is compatible with the existing character of Arrowtown guided by the Arrowtown Design Guidelines 2016 with particular regard given to:

a. building design and form;

b. scale, layout and relationship of buildings to the street frontage(s);

c. materials and landscape response(s) including how landscaping softens the building mass relative to any street frontage(s).

8.2.4.2 Avoid flat roofed dwellings in Arrowtown.

8.2.5 Objective - Development efficiently utilises existing infrastructure and minimises impacts on infrastructure networks.

Policies

8.2.5.1 Ensure access and vehicle parking is located and designed to optimise safety and efficiency of the road network and minimise adverse effects on on-street vehicle parking.

8.2.5.2 Ensure development is designed consistent with the capacity of existing infrastructure networks and where practicable incorporates low impact approaches to stormwater management and efficient use of potable water.

8.2.5.3 Integrate development with all transport networks and in particular, and where practicable, improve connections to public transport services and active transport networks (tracks, trails, walkways and cycleways).

8.2.6 Objective - Community activities serving the needs of people within the zone locate within the zone on sites where adverse effects are compatible with residential amenity values.

Policies

8.2.6.1 Enable the establishment of community activities where adverse effects on residential amenity values including noise, traffic, lighting, glare and visual impact can be avoided or mitigated.

8.2.6.2 Ensure any community activities occur in areas which are capable of accommodating traffic, parking and servicing to a level which maintains residential amenity values.

8.2.6.3 Ensure any community activities are of a design, scale and appearance compatible with a residential context.

8.2.7 Objective - Commercial development is small scale and generates minimal adverse effects on residential amenity values.

Policies

8.2.7.1 Provide for commercial activities, including home occupation activities, that directly serve the day-to-day needs of local residents, or enhance social connection and vibrancy of the residential environment, provided these do not undermine residential amenity values or the viability of any nearby Town Centre.

8.2.7.2 Ensure that any commercial development is of low scale and intensity, and does not undermine the local transport network or availability of on-street vehicle parking for non-commercial use.

8.2.7.3 Ensure that the noise effects from commercial activities are compatible with the surrounding environment and residential amenity values.

8.2.7.4 Ensure that commercial development is of a design, scale and appearance that is compatible with its surrounding residential context.

8.2.8 Objective - The development of land fronting State Highway 6 (between Hansen Road and Ferry Hill Drive) provides a high quality residential environment which is sensitive to its location at the entrance to Queenstown, minimises traffic impacts to the State Highway network, and is appropriately serviced.

Policies

8.2.8.1 Encourage a low impact stormwater design that utilises on-site treatment and storage / dispersal approaches.

8.2.8.2 Avoid the impacts of stormwater discharges on the State Highway network.

8.2.8.3 Provide a planting buffer along the State Highway frontage to soften the view of buildings from the State Highway network.

8.2.8.4 Provide for a safe and legible transport connections that avoid any new access to the State Highway, and integrates with the road network and public transport routes on the southern side of State Highway 6.

Note: Attention is drawn to the need to consult with the New Zealand Transport Agency (NZTA) prior to determining an internal and external road network design under this policy.

Note: Attention is drawn to the need to obtain a Section 93 notice from the NZ Transport Agency for all subdivisions on State Highways which are declared Limited Access Roads. The NZ Transport Agency should be consulted and a request made for a notice under Section 93 of the Government Roading Powers Act 1989.

8.2.8.5 Require that the design of any road or vehicular access within individual properties is of a form and standard that accounts for long term traffic demands for the area between Hansen Road and Ferry Hill Drive, and does not require the need for subsequent retrofitting or upgrade.

8.2.8.6 Require the provision of a safe and legible walking and cycle environment with links to the other internal and external pedestrian and cycle networks and destinations on the southern side of State Highway 6 along the safest, most direct and convenient routes.

8.2.8.7 Require the provision of an internal road network that ensures road frontages are not dominated by vehicular access and parking.

8.2.8.8 Ensure coordinated, efficient and well-designed development by requiring, prior to, or as part of subdivision and development, construction of the following to appropriate Council standards:

a. a 'fourth leg' off the Hawthorne Drive/State Highway 6 roundabout;

b. all sites created in the area to have legal access to either Hansen Road or the Hawthorne Drive/State Highway 6 roundabout; and

c. new and safe pedestrian connections between Hansen Rd and the southern side of SH6, and the Hawthorne Drive/State Highway 6 roundabout, Ferry Hill Drive and the southern side of State Highway 6.

8.2.8.9 Encourage the creation of a legal internal road between Hansen Rd and Ferry Hill Drive.

8.2.9 Objective – Non-residential developments which support the role of the Town Centre and are compatible with the transition to residential activities are located within the Wanaka Town Centre Transition Overlay.

Policies

8.2.9.1 Enable non-residential activities to establish in a discrete area of residential-zoned land adjoining the Wanaka Town Centre, where these activities suitably integrate with and support the role of the Town Centre.

8.2.9.2 Require non-residential and mixed use activities to provide a quality built form which activates the street, minimises the visual dominance of parking and adds visual interest to the urban environment.

8.2.9.3 Ensure the amenity values of adjoining residential properties outside of the Wanaka Town Centre Transition Overlay are maintained through design and the application of setbacks.

8.2.10 Objective – Manage the development of land within noise affected environments to ensure mitigation of noise and reverse sensitivity effects.

Policies

8.2.10.1 Require as necessary all new and altered buildings for Activities Sensitive to Road Noise located close to any State Highway to be designed to provide protection from sleep disturbance and to otherwise maintain reasonable amenity values for occupants.

8.2.10.2 Require all new and altered buildings containing an Activity Sensitive to Aircraft Noise (ASAN) located within the Queenstown Airport Air Noise Boundary or Outer Control Boundary to be designed and built to achieve an internal design sound level of 40 dB Ldn.

8.3 Other Provisions and Rules

8.3.1 District Wide

Attention is drawn to the following District Wide chapters.

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

8.3.2 Interpreting and Applying the Rules

8.3.2.1 A permitted activity must comply with all the rules listed in the Activity and Standards tables, and any relevant district wide rules, otherwise a resource consent will be required.

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

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

8.3.2.4 Additional activities are provided for in the Wanaka Town Centre Transition Overlay and apply in addition to the other activities provided for throughout the zone. In the event of any inconsistency arising, the more specific Wanaka Town Centre Transitional Overlay rules shall prevail.

8.3.2.5 Proposals for development resulting in more than one (1) residential unit per site shall demonstrate that each residential unit is fully contained within the identified net area for each unit.

8.3.2.6 Each residential unit may include a single residential flat and any other accessory buildings.

8.3.2.7 The following abbreviations are used within this Chapter.

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

8.4 Rules - Activities

Table 1	Activities located in the Medium Density Residential Zone	Activity Status
8.4.1	Commercial activities in the Wanaka Town Centre Transition Overlay	P
8.4.2	Community activities in the Wanaka Town Centre Transition Overlay	P
8.4.3	Home occupations	P
8.4.4	Informal airports for emergency landings, rescues and fire fighting	P
8.4.5	In the Wanaka Town Centre Transition Overlay, Licenced Premises for the consumption of alcohol on the premises between the hours of 8am and 11pm, and also to: a. any person who is residing (permanently or temporarily) on the premises; b. any person who is present on the premises for the purpose of dining up until 12am.	P
8.4.6	Residential Unit 8.4.6.1 One (1) per site in Arrowtown (see Rule 8.4.10.1). 8.4.6.2 For all locations outside of Arrowtown, three (3) or less per site. Note: Additional rates and development contributions may apply for multiple units located on one site.	P
8.4.7		
8.4.8	Buildings in the Wanaka Town Centre Transition Overlay Discretion is restricted to: a. external design and appearance including the achievement of a development that is compatible with the town centre transitional context, integrating any relevant views or view shafts; b. the external appearance of buildings, including that the use of stone, schist, plaster or natural timber be encouraged; c. privacy for occupants of the subject site and neighbouring sites; d. street activation; e. where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: i. the nature and degree of risk the hazard(s) pose to people and property; ii. whether the proposal will alter the risk to any site; and iii. the extent to which such risk can be avoided or sufficiently mitigated.	P

Table 1	Activities located in the Medium Density Residential Zone	Activity Status
8.4.9	Commercial Activities in Queenstown, Frankton or Wanaka:100m^2 or less gross floor area Discretion is restricted to all of the following: a. benefits of the commercial activity in servicing the day-to-day needs of local residents; b. hours of operation; c. parking, traffic and access; d. noise; e. design, scale and appearance; f. where a site is subject to any natural hazard and the proposal results in an increase in gross floor area; i. the nature and degree of risk the hazard(s) pose to people and property; ii. whether the proposal will alter the risk to any site; and iii. the extent to which such risk can be avoided or sufficiently mitigated.	RD

Table 1	Activities located in the Medium Density Residential Zone	Activity Status
8.4.10	Residential Unit 8.4.10.1 One (1) or more per site within the Arrowtown Historic Management Transition Overlay Area. 8.4.10.2 Two (2) or more per site in Arrowtown. 8.4.10.3 For all locations outside of Arrowtown, four (4) or more per site. Discretion is restricted to: a. location, external appearance, site layout and design of buildings and fences and how the development addresses its context to contribute positively to the character of the area; b. building dominance relative to neighbouring properties and public spaces including roads; c. how the design advances housing diversity and promotes sustainability either through construction methods, design or function; d. privacy for occupants of the subject site and neighbouring sites; e. in Arrowtown, consistency with Arrowtown's character, utilising the Arrowtown Design Guidelines 2016 as a guide; f. street activation; g. parking and access layout: safety, efficiency and impacts on on-street parking and neighbours; h. design and integration of landscaping; i. for land fronting State Highway 6 between Hansen Road and the Shotover River: i. safe and effective functioning of the State Highway network; ii. integration with other access points through the zone to link up to Hansen Road, the Hawthorne Drive/State Highway 6 roundabout and/or Ferry Hill Drive; and iii. integration with pedestrian and cycling networks, including to those across the State Highway. j. where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: i. the nature and degree of risk the hazard(s) pose to people and property; ii. whether the proposal will alter the risk to any site; and iii. the extent to which such risk can be avoided or sufficiently mitigated.	RD
8.4.11		
8.4.12	Commercial recreation	D
8.4.13	Commercial activities	D
8.4.14	Retirement villages	D
8.4.15	Activities which are not listed in this table	NC
8.4.16	Commercial Activities greater than 100m^2 gross floor area	NC
8.4.17		

Table 1	Activities located in the Medium Density Residential Zone	Activity Status
8.4.18	Airports not otherwise defined	PR
8.4.19	Bulk material storage	PR
8.4.20	Factory farming	PR
8.4.21	Fish or meat processing	PR
8.4.22	Forestry	PR
8.4.23	Manufacturing and/or product assembling activities	PR
8.4.24	Mining	PR
8.4.25	Panel beating, spray painting, motor vehicle repair or dismantling, fibre glassing, sheet metal work, bottle or scrap storage, motor body building	PR
8.4.26	Any activity requiring an Offensive Trade Licence under the Health Act 1956	PR

8.5 Rules - Standards

	Standards for activities located in the Medium Density Residential Zone	Non-compliance status
8.5.1	Building Height (for flat and sloping sites) 8.5.1.1 Wanaka and Arrowtown: A maximum of 7 metres. 8.5.1.2 All other locations: A maximum of 8 metres.	NC
8.5.2	Sound insulation and mechanical ventilation Any residential buildings, or buildings containing an activity sensitive to road noise, and located within 80m of a State Highway shall be designed to achieve an Indoor Design Sound Level of 40Db LAeq24h. Compliance with this rule can be demonstrated by submitting a certificate to Council from a person suitably qualified in acoustics stating that the proposed construction will achieve the Indoor Design Sound Level.	NC
8.5.3	Development on land north of State Highway 6 between Hansen Road and Ferry Hill Drive shall provide the following: 8.5.3.1 Transport, parking and access design that: a. ensures connections to the State Highway network are only via Hansen Road, the Hawthorne Drive/State Highway 6 Roundabout, and/or Ferry Hill Drive; b. there is no new vehicular access to the State Highway Network. 8.5.3.2 Where a site adjoins State Highway 6, landscaping planting buffer fronting State Highway 6 as follows: a. Ribbonwood (Plagianthus regius); b. Corokia cotoneaster; c. Pittosporum tenuifolium; d. Grisilinea; e. Coprosma propinqua; f. Olearia dartonii. Once planted these plants are to be maintained in perpetuity.	NC

	Standards for activities located in the Medium Density Residential Zone	Non-compliance status
8.5.4	Building Coverage A maximum of 45%.	RD Discretion is restricted to the following: a. external appearance, location and visual dominance of the building(s) as viewed from the street(s) and adjacent properties; b. external amenity values for future occupants of buildings on the site; c. effects on views, sunlight and shading on adjacent properties; d. parking and access layout: safety, efficiency and impacts on on-street parking and neighbours; e. in Arrowtown, consistency with Arrowtown's character, as described within the Arrowtown Design Guidelines 2016.
8.5.5	Density The maximum site density shall be one residential unit per 250m^2 net site area.	RD Discretion is restricted to: a. external appearance, location and visual dominance of the building(s) as viewed from the street(s) and adjacent properties; b. internal and external amenity values for future occupants of buildings on the site; c. privacy for occupants of the subject site and neighbouring sites, including cumulative privacy effects resulting from several household units enabling overlooking of another unit or units; d. parking and access layout: safety, efficiency and impacts on on-street parking and neighbours; e. noise; f. servicing including waste storage and collection; g. in Arrowtown, consistency with Arrowtown's character, as described within the Arrowtown Design Guidelines 2016.

	Standards for activities located in the Medium Density Residential Zone	Non-compliance status
8.5.6	Recession planes: a. On flat sites applicable to all buildings; b. On sloping sites only applicable to accessory buildings. 8.5.6.1 Northern boundary: 2.5m and 55 degrees. 8.5.6.2 Western and eastern boundaries: 2.5m and 45 degrees. 8.5.6.3 Southern boundaries: 2.5m and 35 degrees. 8.5.6.4 Gable end roofs may penetrate the building recession plane by no more than one third of the gable height. 8.5.6.5 Recession planes do not apply to site boundaries adjoining a Town Centre Zone, fronting the road, or a park or reserve.	RD Discretion is restricted to: a. any sunlight, shading or privacy effects created by the proposal on adjacent sites and/or their occupants; b. effects on any significant public views (based on an assessment of public views undertaken at the time of the proposal, in addition to any specified significant public views identified within the District Plan); c. external appearance, location and visual dominance of the building(s) as viewed from the street(s) and adjacent properties; d. in Arrowtown, consistency with Arrowtown's character, as described within the Arrowtown Design Guidelines 2016.
8.5.7	Landscaped permeable surface At least 25% of site area shall comprise landscaped permeable surface.	RD Discretion is restricted to: a. stormwater related effects including flooding and water nuisance; b. visual amenity and the mitigation of the visual effects of buildings and any vehicle parking areas, particularly in relation to any streets or public spaces; c. in Arrowtown, consistency with Arrowtown's character, as described within the Arrowtown Design Guidelines 2016.

	Standards for activities located in the Medium Density Residential Zone	Non-compliance status
8.5.8	Minimum Boundary Setback a. road boundary setback: 3m minimum, except for: i. State Highway boundaries, where the setback shall be 4.5m minimum; ii. garages, where the setback shall be 4.5m minimum; b. all other boundaries: 1.5m. Exceptions to setback requirements other than any road boundary setback. Accessory buildings for residential activities may be located within the setback distances, where they do not exceed 7.5m in length, there are no windows or openings (other than for carports) along any walls within 1.5m of an internal boundary, and they comply with rules for Building Height and Recession Plane.	RD Discretion is restricted to: a. external appearance, location and visual dominance of the building(s) as viewed from the street(s) and adjacent properties; b. streetscape character and amenity; c. any sunlight, shading or privacy effects created by the proposal on adjacent sites and/or their occupants; d. effects on any significant public views (based on an assessment of public views undertaken at the time of the proposal, in addition to any specified significant public views identified within the District Plan); e. parking and access layout: safety, efficiency and impacts on on-street parking and neighbours; f. in Arrowtown, consistency with Arrowtown's character, as described within the Arrowtown Design Guidelines 2016.
8.5.9	Building Length The length of any building facade above the ground floor level shall not exceed 24m.	RD Discretion is restricted to: a. external appearance, location and visual dominance of the building(s) as viewed from the street(s) and adjacent properties; b. in Arrowtown, consistency with Arrowtown's character, as described within the Arrowtown Design Guidelines 2016.
8.5.10	Waste and Recycling Storage Space 8.5.10.1 Residential activities shall provide, as a minimum, space for a 120 litre residential wheelie bin and 240 litres recycling wheelie bin per residential unit. 8.5.10.2 All developments shall suitably screen waste and recycling storage space from neighbours, a road or public space, in keeping with the building development or provide space within the development that can be easily accessed by waste and recycling collections.	NC

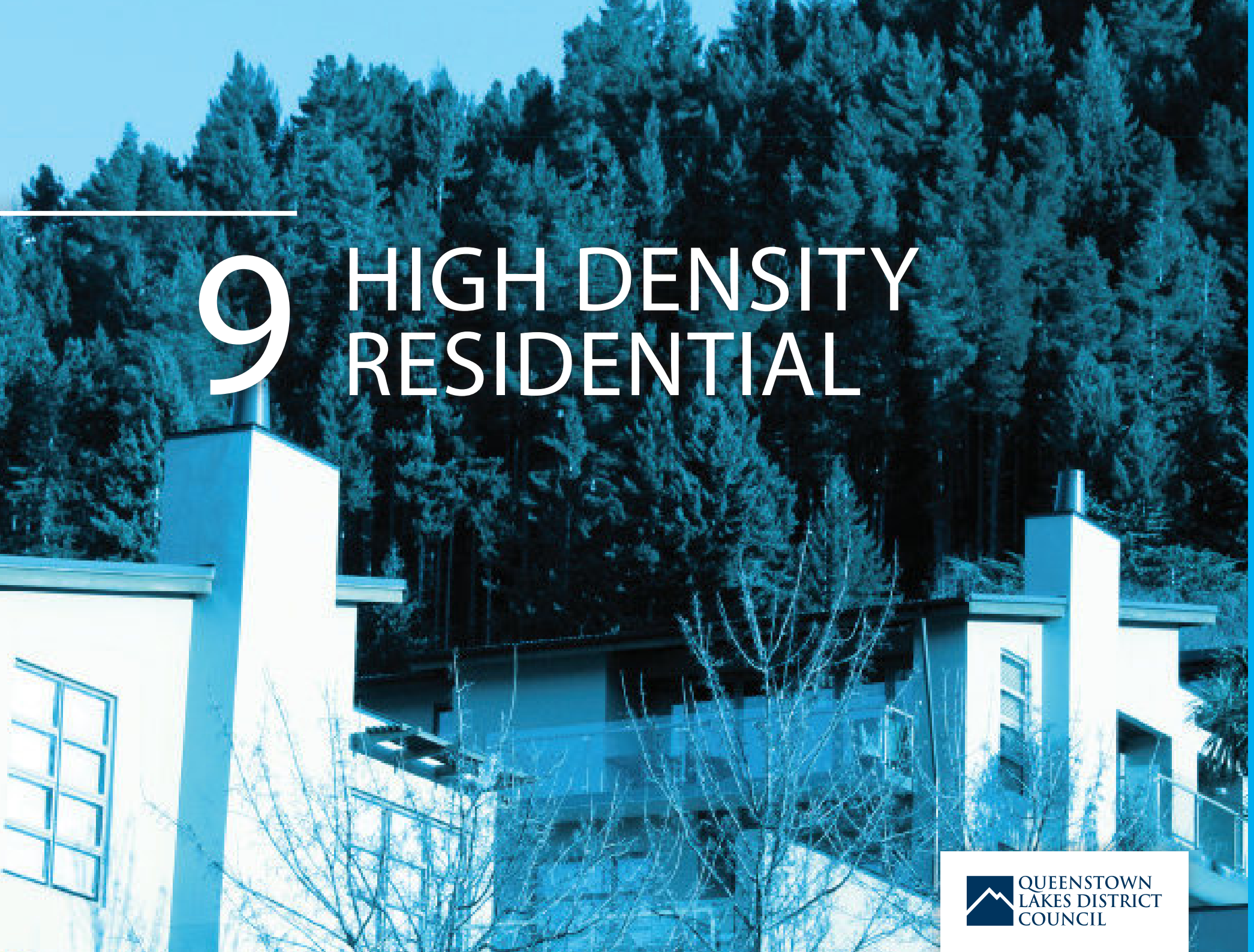
	Standards for activities located in the Medium Density Residential Zone	Non-compliance status
8.5.11	Glare 8.5.11.1 All exterior lighting shall be directed downward and away from the adjacent sites and roads. 8.5.11.2 No activity on any site shall result in greater than a 3.0 lux spill (horizontal or vertical) of lights onto any other site measured at any point inside the boundary of the other site.	NC
8.5.12	Setback of buildings from water bodies The minimum setback of any building from the bed of a river, lake or wetland shall be 7m.	RD Discretion is restricted to: a. indigenous biodiversity values; b. visual amenity values; c. landscape character; d. open space and the interaction of the development with the water body; e. environmental protection measures (including landscaping and stormwater management); f. whether the waterbody is subject to flooding or natural hazards and any mitigation to manage the location of the building.
8.5.13	Setbacks from electricity transmission infrastructure National Grid Sensitive Activities are located outside of the National Grid Yard.	NC
8.5.14	Garages Garage doors and their supporting structures (measured parallel to the road) shall not exceed 50% of the width of the front elevation of the building which is visible from the street.	D
8.5.15	Home Occupation 8.5.15.1 No more than 1 full time equivalent person from outside the household shall be employed in the home occupation activity. 8.5.15.2 The maximum number of two-way vehicle trips shall be: a. heavy vehicles: none permitted; b. other vehicles: 10 per day. 8.5.15.3 Maximum net floor area of 60m^2. 8.5.15.4 Activities and storage of materials shall be indoors.	D

	Standards for activities located in the Medium Density Residential Zone	Non-compliance status
8.5.16	Building Restriction Area No building shall be located within a building restriction area as identified on the District Plan Maps.	NC
8.5.17		
8.5.18		

8.6 Rules - Non-Notification of Applications

8.6.1 The following Restricted Discretionary activities shall not require the written approval of affected persons and shall not be notified or limited notified except where vehicle crossing or right of way access on or off a State Highway is sought.

8.6.1.1 Residential units which comply with Rule 8.4.10 and all of the standards in Rule 8.5.



9 HIGH DENSITY RESIDENTIAL

QUEENSTOWN LAKES DISTRICT COUNCIL

9.1 Zone Purpose

The High Density Residential Zone provides for efficient use of land within close proximity to town centres that is easily accessible by public transport, cycle and walk ways. In conjunction with the Medium Density Residential Zone, the zone plays a key planning role in minimising urban sprawl and consolidating growth in existing urban areas.

In Queenstown, the High Density Residential zone enables taller buildings than in the other residential zones, subject to high design quality. In Wanaka, lower building heights are anticipated, accounting for its distinctive urban character, however relatively high densities are still achievable. Such development will result in a greater diversity of housing supply, help support the function and vibrancy of town centres, and reduce reliance on private transport. Over time, low-rise apartments and terraced housing are envisaged to become commonplace within the zone.

Development in the zone will facilitate effective non-vehicular connections and access to high quality public open space.

Development controls provide minimum protections for existing amenity values, and are otherwise prioritised towards enabling the community's wellbeing by promoting growth and development. Given the focus on intensification, moderate to substantial change is anticipated including to both public and private views as the character of land within the zone develops into one that is characteristically urban.

Small scale commercial activities are enabled, either to support larger residential developments, or to provide low impact local services.

Small scale community facilities are anticipated, given the need for community activities within residential areas. However, large scale community facilities are not anticipated as this will reduce the effectiveness of the zone at its primary purpose of accommodating housing.

9.2 Objectives and Policies

9.2.1 Objective – High density housing development occurs in urban areas close to town centres, to provide greater housing diversity and respond to expected population growth.

Policies

9.2.1.1 Provide sufficient high density zoned land that enables diverse housing supply and visitor accommodation close to town centres.

9.2.1.2 Promote high density development close to town centres to reduce private vehicle movements, maximise walking, cycling and public transport patronage and reduce the need for capital expenditure on infrastructure.

9.2.2 Objective - High density residential development provides a positive contribution to the environment through quality urban design.

Policies

9.2.2.1 Require that development within the zone responds to its context, with a particular emphasis on the following essential built form outcomes:

a. achieving high levels of visual interest and avoiding blank or unarticulated walls or facades;

b. achieving well-overlooked, activated streets and public open spaces, including by not visually or spatially dominating street edges with garaging, parking or access ways;

c. achieving a variation and modulation in building mass, including roof forms;

d. use landscaped areas to add to the visual amenity values of the development for on-site residents or visitors, neighbours, and the wider public.

9.2.2.2 Support greater building height where development is designed to achieve an exemplary standard of quality, including its environmental sustainability.

9.2.3 Objective – High density residential development maintains a minimum of existing amenity values for neighbouring sites as part of positively contributing to the urban amenity values sought within the zone.

Policies

9.2.3.1 Apply recession plane, building height, yard setback and site coverage controls as the primary means of ensuring a minimum level of neighbours' outlook, sunshine and light access, and privacy will be maintained, while acknowledging that through an application for land use consent an outcome superior to that likely to result from strict compliance with the controls may well be identified.

9.2.3.2 Ensure the amenity values of neighbours are adequately maintained.

9.2.3.3 Ensure built form achieves privacy for occupants of the subject site and neighbouring residential sites and units, including through the use of building setbacks, offsetting habitable windows from one another, screening, or other means.

9.2.4 Objective – Small-scale community activities are provided for where they are best located in a residential environment close to residents.

Policies

9.2.4.1 Enable the establishment of small-scale community activities where adverse effects on residential amenity values such as noise, traffic and visual impact can be avoided or mitigated.

9.2.5 Objective – Commercial development is small-scale and generates minimal amenity value impacts.

Policies

9.2.5.1 Ensure that any commercial development is of low scale and intensity, and does not undermine the local transport network or availability of on-street vehicle parking for non-commercial use.

9.2.5.2 Ensure that any commercial development is of a design, scale and appearance compatible with its surrounding context.

9.2.6 Objective - High density residential development will efficiently utilise existing infrastructure and minimise impacts on infrastructure and transport networks.

Policies

9.2.6.1 Require development to provide or enhance connections to public places and active transport networks (walkways, trails and cycleways) where appropriate.

9.2.6.2 Require development to provide facilities to encourage walking and cycling where appropriate.

9.2.6.3 Ensure access and parking is located and designed to optimise the connectivity, efficiency and safety of the district's transport networks, including the consideration of a reduction in required car parking where it can be demonstrated that this is appropriate.

9.2.6.4 Require the site layout and design of development provides low impact approaches to stormwater management through providing permeable surface areas on site and the use of a variety of stormwater management measures.

9.2.6.5 A reduction in parking requirements may be considered in Queenstown and Wanaka where a site is located within 800m of a bus stop or the edge of a Town Centre Zone.

9.2.7 Objective – Manage the development of land within noise affected environments to ensure mitigation of noise and reverse sensitivity effects.

Policies

9.2.7.1 Require as necessary all new and altered buildings for Activities Sensitive to Road Noise located close to any State Highway to be designed to provide protection from sleep disturbance and to otherwise maintain reasonable amenity values for occupants.

9.3 Other Provisions and Rules

9.3.1 District Wide

Attention is drawn to the following District Wide chapters.

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

9.3.2 Interpreting and Applying the Rules

9.3.2.1 A permitted activity must comply with all the rules listed in the Activity and Standards tables, and any relevant district wide rules, otherwise a resource consent will be required.

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

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

9.3.2.4 Each residential unit may include a single residential flat and any other accessory buildings.

9.3.2.5 The following abbreviations are used within this Chapter.

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

9.4 Rules - Activities

	Activities located in the High Density Residential Zone	Activity Status
9.4.1	Commercial activities comprising no more than 100m^2 of gross floor area	P
9.4.2	Home occupation	P
9.4.3	Residential Unit comprising three (3) or less per site	P
9.4.4		
9.4.5	Residential Unit comprising four (4) or more per site Discretion is restricted to: a. location, external appearance, site layout and design of buildings and fences and how the development addresses its context to contribute positively to the character of the area; b. building dominance and sunlight access relative to neighbouring properties and public spaces including roads; c. how the design advances housing diversity and promotes sustainability either through construction methods, design or function; d. privacy for occupants of the subject site and neighbouring sites; e. street activation; f. parking and access layout: safety, efficiency and impacts on on-street parking and neighbours; g. design and integration of landscaping; h. where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: i. the nature and degree of risk the hazard(s) pose to people and property; ii. whether the proposal will alter the risk to any site; and iii. the extent to which such risk can be avoided or sufficiently mitigated.	RD
9.4.6		
9.4.7	Commercial recreation	D
9.4.8	Community activities	D
9.4.9	Retirement village	D
9.4.10	Activities which are not listed in this table	NC
9.4.11	Commercial Activities not otherwise identified	NC
9.4.12	Panel beating, spray painting, motor vehicle repair or dismantling, fibre glassing, sheet metal work, bottle or scrap storage, motor body building.	PR
9.4.13	Manufacturing and/or product assembling activities	PR

	Activities located in the High Density Residential Zone	Activity Status
9.4.14	Mining	PR
9.4.15	Factory Farming	PR
9.4.16	Fish or meat processing	PR
9.4.17	Forestry	PR
9.4.18	Any activity requiring an Offensive Trade Licence under the Health Act 1956	PR
9.4.19	Airports other than the use of land and water for emergency landings, rescues and fire fighting	PR
9.4.20	Bulk material storage	PR

9.5 Rules - Standards

	Standards for activities located in the High Density Residential Zone	Non- compliance Status
9.5.1	Building Height – Flat Sites in Queenstown 9.5.1.1 A height of 12 metres except where specified in Rules 9.5.1.2, 9.5.1.3 or 9.5.1.4.	RD Discretion is restricted to: a. building design and appearance, including roof form articulation and the avoidance of large, monolithic building forms; b. building dominance and sunlight access relative to neighbouring properties and public spaces including roads; c. how the design advances housing diversity and promotes sustainability either through construction methods, design or function; d. privacy for occupants of the subject site and neighbouring sites; e. effects on significant public views (based on an assessment of public views undertaken at the time of the proposal, in addition to any specified significant public views identified within the District Plan); f. the positive effects of enabling additional development intensity within close proximity to town centres.
	9.5.1.2 In the High Density Residential Zone immediately west of the Kawarau Falls Bridge the maximum building height shall be 10m provided that in addition no building shall protrude above a horizontal line orientated due north commencing 7m above any given point along the required boundary setbacks at the southern zone boundary.	D
	9.5.1.3 Within the area specified on the planning maps on the south side of Frankton Road (SH6A), the highest point of any building shall not exceed the height above sea level of the nearest point of the road carriageway centreline.	D
	9.5.1.4 Maximum building height of 15m.	D

	Standards for activities located in the High Density Residential Zone	Non- compliance Status
9.5.2	Building Height – Flat Sites in Wanaka 9.5.2.1 A height of 8m except where specified in Rule 9.5.2.2.	RD Discretion is restricted to: a. building design and appearance, including roof form articulation and the avoidance of large, monolithic building forms; b. building dominance and sunlight access relative to neighbouring properties and public spaces including roads; c. how the design advances housing diversity and promotes sustainability either through construction methods, design or function; d. privacy for occupants of the subject site and neighbouring sites; e. effects on significant public views, in particular from Lismore Park (based on an assessment of public views undertaken at the time of the proposal, in addition to any specified significant public views identified within the District Plan); f. the positive effects of enabling additional development intensity within close proximity to town centres.
	9.5.2.2 Maximum building height of 10m.	D

	Standards for activities located in the High Density Residential Zone	Non- compliance Status
9.5.3	Building Height – Sloping sites in Queenstown and Wanaka 9.5.3.1 A height of 7m, except as specified in Rules 9.5.3.2, 9.5.3.3 and 9.5.3.4	RD Discretion is restricted to: a. building design and appearance, including roof form articulation and the avoidance of large, monolithic building forms; b. building dominance and sunlight access relative to neighbouring properties and public spaces including roads; c. how the design advances housing diversity and promotes sustainability either through construction methods, design or function; d. how the design responds to the sloping landform so as to integrate with it; e. privacy for occupants of the subject site and neighbouring sites; f. effects on significant public views, in particular from Lismore Park (based on an assessment of public views undertaken at the time of the proposal, in addition to any specified significant public views identified within the District Plan); g. the positive effects of enabling additional development intensity within close proximity to town centres.
	9.5.3.2 Immediately west of the Kawarau Falls Bridge the maximum building height shall be 10m provided that in addition no building shall protrude above a horizontal line orientated due north commencing 7m above any given point along the required boundary setbacks at the southern zone boundary.	D
	9.5.3.3 Within the area specified on the planning maps on the south side of Frankton Road (SH6A), the highest point of any building shall not exceed the height above sea level of the nearest point of the road carriageway centreline.	D
	9.5.3.4 Maximum building height of 10m.	D
9.5.4	Building Coverage A maximum of 70% site coverage. Exclusions: a. building coverage does not include any veranda over public space and does not apply to underground structures, which are not visible from ground level and which are landscaped to appear as recreational or planted (including grassed) areas.	NC

	Standards for activities located in the High Density Residential Zone	Non- compliance Status
9.5.5	Recession plane (applicable to all buildings, including accessory buildings) 9.5.5.1 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. 9.5.5.2 No recession plane for sloping sites Exclusions: a. gable end roofs may penetrate the building recession plane by no more than one third of the gable height; b. recession planes do not apply to site boundaries adjoining a Town Centre Zone fronting a road, or adjoining a park or reserve.	RD – for boundaries where the High Density Residential zone applies on each side of the boundary. Discretion is restricted to: a. any sunlight, shading or privacy effects created by the proposal on adjacent sites and/or their occupants; b. effects on any significant public views (based on an assessment of public views undertaken at the time of the proposal, in addition to any specified significant public views identified within the District Plan); c. external appearance, location and visual dominance of the building(s) as viewed from the street(s) and adjacent properties. NC – for boundaries where there is a change of zone other than as specified in the exclusions.
9.5.6	Landscaped permeable surface coverage At least 20% of site area shall comprise landscaped (permeable) surface.	NC
9.5.7	Building Length The length of any building facade above the ground floor level shall not exceed 30m.	RD Discretion is restricted to the following: a. external appearance, location and visual dominance of the building(s) as viewed from the street(s) and adjacent properties.
9.5.8	Minimum Boundary Setbacks 9.5.8.1 All boundaries 2 metres except for State Highway road boundaries where the minimum setback shall be 4.5m. 9.5.8.2 Garages shall be at least 4.5m back from a road boundary. Exceptions to setback requirements other than any road boundary setbacks: Accessory buildings for residential activities may be located within the setback distances, where they do not exceed 7.5m in length, there are no windows or openings (other than for carports) along any walls within 1.5m of an internal boundary, and comply with rules for Building Height and Recession Plane.	RD Discretion is restricted to: a. external appearance, location and visual dominance of the building(s) as viewed from the street(s) and adjacent properties; b. streetscape character and amenity; c. any sunlight, shading or privacy effects created by the proposal on adjacent sites and/or their occupants; d. effects on any significant public views (based on an assessment of public views undertaken at the time of the proposal, in addition to any specified significant public views identified within the District Plan).

	Standards for activities located in the High Density Residential Zone	Non- compliance Status
9.5.9	Waste and Recycling Storage Space 9.5.9.1 Residential activities of three units or less shall provide, as a minimum, space for a 120 litre residential wheelie bin and 240 litres recycling wheelie bin per unit. 9.5.9.2 All developments shall screen waste and recycling storage space from neighbours, a road or public place, in keeping with the building development or, provide space within the development that can be easily accessed by waste and recycling collections.	NC
9.5.10	Glare 9.5.10.1 All exterior lighting shall be directed downward and away from the adjacent sites and roads. 9.5.10.2 No activity on any site shall result in greater than a 3.0 lux spill (horizontal or vertical) of lights onto any other site measured at any point inside the boundary of the other site.	NC
9.5.11	Sound Insulation and Mechanical Ventilation For buildings located within 80m of a State Highway. Any residential buildings, or buildings containing an Activity Sensitive to Road Noise, and located within 80m of a State Highway shall be designed to achieve an Indoor Design Sound Level of 40dB LAeq24h. Compliance with this rule can be demonstrated by submitting a certificate to Council from a person suitably qualified in acoustics stating that the proposed construction will achieve the internal design sound level.	NC
9.5.12	Building Restriction Area No building shall be located within a building restriction area as identified on the District Plan Maps.	NC
9.5.13	Flood Risk The construction or relocation of buildings with a gross floor area greater than $20m^2$ and having a ground floor level less than: 9.5.13.1 RL 312.0 masl at Queenstown and Frankton. 9.5.13.2 RL 281.9 masl at Wanaka.	PR
9.5.12		
9.5.13		

9.6 Rules - Non-Notification of Applications

9.6.1 The following Restricted Discretionary activities shall not require the written approval of affected persons and shall not be notified or limited notified except where vehicle crossing or right of way access on or off a State Highway is sought:

9.6.2.1 Residential development involving the development of 4 or more residential units where the standards in Rule 9.5 are complied with.

9.6.2 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:

9.6.2.1 Restricted Discretionary building height and recession plane contraventions.

9.6.2.2 Boundary setback contraventions of up to 0.6m into the required setback depth of the yard (for unlimited length of the boundary).

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report 9A

Report and Recommendations of Independent Commissioners Regarding
Chapter 7, Chapter 8, Chapter 9, Chapter 10 and Chapter 11

COMMISSIONERS
Denis Nugent (Chair)
Mel Gazzard
Ian Munro

CONTENTS

Attachments

PART A: INTRODUCTORY MATTERS

1. PRELIMINARY MATTERS

1.1. Terminology in this Report

1. Throughout this report, we use the following abbreviations:

Act	Resource Management Act 1991 as it was prior to the enactment of the Resource Legislation Amendment Act 2017, unless otherwise stated
ANB	Airport Noise Boundary
ARHMZ	Arrowtown Residential Historic Management Zone
BARNZ	Board of Airline Representatives New Zealand Incorporated
Clause 16(2)	Clause 16(2) of the First Schedule to the Resource Management Act 1991
Council	Queenstown Lakes District Council
NPSET 2008	National Policy Statement for Electricity Transmission 2008
NPSREG 2011	National Policy Statement for Renewable Electricity Generation 2011
NPSFM 2011	National Policy Statement for Freshwater Management 2011
NPSFM 2014	National Policy Statement for Freshwater Management 2014
NZIA	NZIA Southern and Architecture + Women Southern
OCB	Outer Control Boundary
ODP	The Operative District Plan for the Queenstown Lakes District as at the date of this report
ONF	Outstanding Natural Feature(s)
ONL	Outstanding Natural Landscape(s)
PDP	Stage 1 of the Proposed District Plan for Queenstown Lakes District as publicly notified on 26 August 2015
Proposed RPS	The Proposed Regional Policy Statement for the Otago Region Decisions Version dated 1 October 2016, unless otherwise stated
QAC	Queenstown Airport Corporation

Reply version	The revised / changed version of the S.42A version of the relevant PDP chapter(s) recommended in the Council's reply at the conclusion of the hearing
RMA	Resource Management Act 1991 as it was prior to the enactment of the Resource Legislation Amendment Act 2017, unless otherwise stated
RPS	The Operative Regional Policy Statement for the Otago Region dated October 1998
S.42A version	The revised / changed version of the relevant PDP chapter(s) recommended in response to the submissions and further submissions by the Council through its Section 42A Reports to us
Stage 2 variations	The variations, including changes to the existing text of the PDP, notified by the Council on 23 November 2017.
Stream 6	The hearings group that included submissions to PDP chapters 7, 8, 9, 10 and 11
Stream 6A	The hearings that considered submissions to Variation 1
UGB	Urban Growth Boundary
Variation 1	Variation 1 to the PDP as publicly notified on 20 July 2016.

1.2. Topics Considered

2. The subject matter of Stream 6 was Chapters 7, 8, 9, 10 and 11 of the PDP (Hearing Stream 6). These are, collectively, the residential chapters of the PDP. It is noted that residential activities are proposed to be provided for, and have been also considered in, the hearings and reports relating to the Business and Rural zones. Hearing Stream 6A (Variation 1 – Arrowtown Design Guideline) was heard concurrently with Stream 6 but is the subject of a separate report (Report 9B).

3. The differentiation between the "residential" Chapters 7, 8, 9, 10 and 11 of the PDP and other chapters where residential activities are also provided for, is that within the residential zones, residential activities are intended to be the principal and predominant ones that eventuate. Non-residential activities are proposed, broadly, to be restricted to those that are compatible with and bring direct benefits to adjacent residents.

4. Chapter 7 seeks to manage development within the "Low Density Residential zone". It contains objectives, policies and methods that would apply to the use and development of resources within that zone (to be spatially confirmed in subsequent mapping hearings). The notified version of Chapter 7 included the following in its explanation of the zone purpose[1]:

"Fundamentally the zone provides for traditional suburban densities and housing forms. Houses will typically be detached and set on sections between 450 and 1000 square metres in area. However, the zone will also support some increased density, whether through smaller

[1] Page 7-1, PDP.

scale and low rise infill development, or larger comprehensively designed proposals, to provide more diverse and affordable housing options."

5. Chapter 8 seeks to manage development within the "Medium Density Residential zone". It contains objectives, policies and methods that would apply to the use and development of resources within that zone (to be spatially confirmed in subsequent mapping hearings). The notified version of Chapter 8 included the following in its explanation of the zone purpose[2]:

"The zone will enable a greater supply of diverse housing options for the District. The main forms of residential development anticipated are terrace housing, semi-detached housing and detached townhouses on smaller sections. The zone will realise changes to density and character over time to provide for the social, economic, cultural and environmental wellbeing of the District. In particular, the zone will provide a greater diversity of housing options for smaller households including single persons, couples, small young families and older people seeking to downsize. It will also enable more rental accommodation for the growing population of transient workers in the District.

While providing for a higher density of development than is possible in the Low Density Residential Zone, the zone utilises development controls to ensure reasonable amenity protection is maintained. Importantly, building height will be generally limited to two storeys."

6. Chapter 9 seeks to manage development within the "High Density Residential zone". It contains objectives, policies and methods that would apply to the use and development of resources within that zone (to be spatially confirmed in subsequent mapping hearings). The notified version of Chapter 9 included the following in its explanation of the zone purpose[3]:

"The High Density Residential Zone will provide for more intensive use of land within close proximity to town centres that is easily accessible by public transport, cycle and walk ways. In conjunction with the Medium Density Residential Zone, the zone will play a key planning role in minimising urban sprawl and consolidating growth in existing urban areas.

In Queenstown, buildings greater than two storeys in height are anticipated, subject to high design quality and environmental performance. In Wanaka, buildings of two storeys in height are anticipated, accounting for its less urban character, however relatively high densities are achievable. Such development will result in a greater diversity of housing supply, provide for the visitor accommodation required to respond to projected growth in visitor numbers, help support the function and vibrancy of town centres, and reduce reliance on private transport."

7. Chapter 10 seeks to manage development within the ARHMZ. It contains objectives, policies and methods that would apply to the use and development of resources within that zone (to be spatially confirmed in subsequent mapping hearings). The notified version of Chapter 10 included the following in its explanation of the zone purpose[4]:

"The purpose of this zone is to allow for the continued sensitive development of the historic area of residential Arrowtown in a way that will protect and enhance those characteristics that make it a valuable part of the town for local residents and for visitors attracted to the town by its historic associations and unique character.

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2 Page 8-1, PDP.

3 Page 9-1, PDP.

4 Page 10-1, PDP.

In particular the zone seeks to retain the early subdivision pattern and streetscape, and ensure future development is of a scale and design sympathetic to the present character."

8. Chapter 11 seeks to manage development within the "Large Lot Residential zone". It contains objectives, policies and methods that would apply to the use and development of resources within that zone (to be spatially confirmed in subsequent mapping hearings). The notified version of Chapter 11 included the following in its explanation of the zone purpose[5]:

"The Large Lot Residential Zone provides low density living opportunities within defined Urban Growth Boundaries. The zone also serves as a buffer between higher density residential areas and rural areas that are located outside of Urban Growth Boundaries.

The zone generally provides for a density of one residence every 4000m². Identified areas have a residential density of one residence every 2000m² to provide for a more efficient development pattern to utilise the Council's water and wastewater services while maintaining opportunities for a variety of housing options, landscaping and open space."

9. As is evident from the above summary, the PDP has approached the management of residential-predominant development by way of a cascade or tier of specialised land use zones. It seems no coincidence that this is similar to the approach taken in the ODP and it thus enjoys a high level of familiarity with the community. This probably also explains the lack of submissions challenging this fundamental way of managing different types of residential activity.

10. The relevance of this approach as it relates to our decisions and recommendations is that each zone is only intended to provide for a specified range of residential activities. To this end a number of matters relating to what zone is the "best fit" for properties across the District were of recurrent interest to submitters we heard from, but are not addressed in the Stream 6 hearings. They sit properly in the separate mapping hearings and the justifications relating to the resultant zone allocation will be provided in those reports.

11. The focus of Stream 6 was therefore the 'toolbox' of zone provisions that would apply to each residential zone but not the spatial extent or location of those zones (nonetheless we considered the PDP zone distribution relevant to our analysis of the PDP and submissions received especially, as will be explained later, in respect of the Large Lot Residential zone at Wanaka).

12. It is also noted that subdivision activities would relate very closely with the development outcomes provided for in the land use (residential) zones. The subdivision chapter of the PDP has been addressed in a separate report (Report 7), although through the Stream 6 hearings we were mindful of the relationship between the proposed land use and subdivision provisions, and considered them throughout our deliberations.

1.3. Hearing Arrangements

13. Stream 6 matters were heard on 10 and 11 October 2016 in Queenstown, 12 October 2016 in Wanaka, and 25-27 October 2016 in Queenstown. The hearing combined all of Chapters 7, 8, 9, 10 and 11 and in consequence we heard evidence from submitters across all of the zones at the same time.

14. The parties heard from on Stream 6 matters were:

[5] Page 11-1, PDP.

Queenstown Lakes District Council

- Sarah Scott, Legal Counsel
- Ulrich Glasner, Engineer
- Stephen Chiles, Acoustician
- Philip Osborne, Economist
- Garth Falconer, Urban Designer
- Amanda Leith, Planner and author of the Section 42A Reports for Chapters 7, 8, and 11
- Kimberly Banks, Planner and author of the Section 42A Report for Chapter 9
- Rachel Law, Planner and author of the Section 42A Report for Chapter 10

David Barton[6]

- Ian Greaves, Planner

Plaza Investments Ltd[7]

- Ian Greaves, Planner

Varina Propriety Ltd[8]

- Ian Greaves, Planner

New Zealand Transport Agency[9]

- Tony MacColl, Planner

Matt Suddaby[10] and **C Hughes and Associates Ltd**[11]

- Matt Suddaby, Surveyor

Peter Bullen[12]

Loris King[13]

Nic Blennerhassett[14], **Blennerhassett Family Trust**[15]

- Nic Blennerhassett

Universal Developments Ltd[16]

- Dan Curly
- Tim Williams, Planner and Urban Designer
- Warwick Goldsmith, Counsel

Land and Infrastructure Management Ltd[17]

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6 Submission 269
7 Submission 551
8 Submission 591
9 Submission 719
10 Submission 33
11 Submission 448
12 Submission 47
13 Submission 230
14 Submission 335/Further Submission 1285
15 Submission 487
16 Submission 177
17 Submission 812

- Duncan White, Planner

Nick Mills[18], **Bridget Rennie**[19], **Myffie James**[20], **Jo Mills**[21], **Anna Mills**[22], and **John Coe**[23]
- Duncan White, Planner

MR & SL Burnell Trust[24]
- Julie Rickman

Pounamu Body Corporate Committee[25]
- Rebecca Wolt, Counsel
- Tim Walsh, Planner

Panorama Trust / Gordon Sproule (Trustee)[26]
- Gordon Sproule

Southern District Health Board[27]
- Warren Taylor
- Julie McMinn, Planner

Willum Richards Consulting Ltd[28] and **Deborah Richards**[29]
- Willum Richards

Queenstown Airport Corporation)[30]
- Rebecca Wolt, Counsel
- John Kyle, Planner

Otago Foundation Trust Board[31]
- Alyson Hutton, Planner

Arcadian Triangle Ltd[32]
- Warwick Goldsmith, Counsel

New Zealand Fire Service[33]
- Keith McIntosh
- Ainsely McLeod, Planner

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18 Further Submission 1332
19 Further Submission 1207
20 Further Submission 1198
21 Further Submission 1140
22 Further Submission 1126
23 Further Submission 1110
24 Submission 427
25 Submission 208/Further Submission 1148
26 Submission 64
27 Submissions 649 and 678
28 Submission 55
29 Submission 92
30 Submission 433/Further Submission 1340
31 Submission 408
32 Submission 836
33 Submission 438/Further Submission 1125

Middleton Family Trust[34]
- Nicholas Geddes, Planner

Body Corporate 22362[35], **Sean and Jane McLeod**[36]
- Sean McLeod

Lynn Campbell[37]

Sue Knowles, Angela Waghorn and Diane Dever[38]

Board of Airline Representatives New Zealand Incorporated[39]
- Gill Chappell, Counsel
- John Beckett
- Eric Morgan, Aviation Consultant

Antony and Ruth Stokes[40]
- Antony Stokes

Estate of Normal Kreft[41]; **Wanaka Trust**[42]
- Vanessa Robb, Counsel
- Jane Rennie, Urban Designer

Scott Freeman & Bravo Trustee Company Ltd[43]
- Scott Freeman

Erna Spijkerbosch[44]

NZIA Southern and Architecture + Women[45]
- Gillian McLeod

DJ and EJ Cassells, **The Building Family**, **The Bennett Family**, **M Lynch**[46]; **Friends of Wakatipu Gardens and Reserves**[47]
- Rosie Hill, Counsel
- Jay Cassells

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34 Submission 336
35 Submission 389
36 Submission 391
37 Submission 420
38 Submissions 7, 76, 77, and 193
39 Submission 271/ Further Submission 1077
40 Submission 575
41 Submission 512/Further Submission 1300
42 Submission 536
43 Submission 555
44 Submission 392/Further Submission 1059
45 Submission 238
46 Submission 503/Further Submission 1265
47 Submission 506

Mount Crystal Ltd[48]

- Sean Dent, Planner
- Tim Williams, Planner and Urban Designer

15. In addition, the following parties tabled evidence but did not appear at the hearing:
    - Coherent Hotels Ltd[49]
    - Fritz and Heather Kaufmann[50]
    - Sue Wilson[51]

16. A substantial number of written submissions and further submissions were also made on the various residential chapters and have also been considered in our deliberations.

17. We note that a number of the above attendees presented information that on occasion related to the separate mapping hearings. These submitters were advised that they would have opportunity to present their arguments in support of the relief they sought during those hearings.

1.4. Procedural Steps and Issues

18. The hearing of Stream 6 proceeded on the basis of the general pre-hearing directions made in the memoranda summarised in the Introductory Report. We note that these directions were generally followed.

19. Due to the pre-circulated evidence, the Council's experts had the opportunity in discussion with us to provide further analysis or comments. On this basis, some experts called by submitters used their time before us to provide supplementary or additional commentary. The most explicit such analysis came from Sean Dent and Tim Williams on behalf of Mount Crystal Ltd[52]. We accepted this further discussion as it was helpful to narrow down areas of disagreement or technical assumption between experts.

20. We refer readers of this report to the Council website which has full written copies and electronic recordings of the hearings. All information presented to us, including the answers provided by attendees and expert witnesses to our questions, are available. We also refer to the minutes and decisions associated with the mapping hearings, which included discrete matters proposed within the residential zones that were deferred to those hearings.

1.5. Stage 2 Variations

21. On 23 November 2017 the Council notified the Stage 2 variations. This included provisions relating to visitor accommodation to be included in each zone, plus Chapters 25 (Earthworks), 29 (Transport) and 31 (Signs), being part of Stage 2 of the District Plan Review.

22. As, in terms of Clause 16B of the First Schedule to the Act, the variations are merged with the PDP from the date of notification, we have incorporated the relevant provisions into text appended to this recommendation report. In each case we have shown the amendments in italics to distinguish them from our recommended text. These amendments do not form part of our recommendations.

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48 Submission 150

49 Submission 699/Further Submission 1172

50 Submission 68

51 Submission 58

52 Submission 150

2. STATUTORY CONSIDERSATIONS

23. The Hearing Panel's Report 1 contains a general discussion of the statutory framework within which submissions and further submissions on the PDP have to be considered, including matters that have to be taken into account, and the weight to be given to those matters. We have had regard to that report when approaching our consideration of submissions and further submissions on the matters before us.

24. While the legal obligations discussed in Report 1 are on the Council in its capacity as the decision maker on the final form of the PDP, we have put ourselves in the Council's shoes, as if we were subject to those same obligations, when determining what recommendations we should make to Council. Our report is framed on that basis, both for convenience, and to avoid confusion regarding the various roles the Council has in the process.

25. The Section 42A Reports provided us with a general overview of the matters of relevance to our deliberations, including summaries of the provisions of the RPS and the Proposed RPS. Planning witnesses appearing on behalf of submitters were also asked questions in respect of the statutory considerations relevant to their client(s) that we should consider.

26. Two particularly important sections of the Act relevant to our work are sections 32 and 32AA. These set out requirements for the analysis and reporting of our evaluation of planning options. In Report 1 we set out our overall approach to these sections. In summary, for the residential sections we have taken the Council's reports, all submissions and further submissions, and associated evidence provided to us at the hearings including the Council's right of reply, as part of the body of section32 analysis and evaluation.

27. While the commentary that follows in this report will provide our overall findings and reasons, we refer to the body of information we received in its totality as evidence of the work undertaken to identify the most appropriate objectives to achieve the purpose of the act, and the most appropriate policies and methods (including rules) to implement the objectives.

3. COMMENTARY ON SUBMISSIONS, EVIDENCE AND ISSUES RAISED

28. We heard submitters on the basis of their availability and time needs. We did not hear all submissions relevant to each chapter sequentially.

29. The Section 42A Reports formed the basis for our approach to and consideration of the submissions and further submissions as a whole. Each of Chapters 7, 8, 9, 10 and 11 had a different Section 42A Report prepared. Each Section 42A Report had an analysis and discussion of submissions and further submissions with reference to the additional conclusions of subject matter experts as required, recommended decisions, and of key note a track-change version of the notified chapter with recommended text changes (these formed Appendix 1 to all of the Section 42A Reports). The reports also included section 32 and section 32AA analysis to support, in the view of the Section 42A Report authors, their recommendations. In turn, the commentary and evidence provided to us via pre-circulation and at the hearings responded to the Section 42A Report and in particular what we have termed the 'S.42A version' of the PDP.

30. We also acknowledge that at the conclusion of the hearing the Council provided a written reply. The reply included further recommendations to us including further section 32AA analyses. We have referred to this as the 'Reply version' of the PDP.

31. The S.42A and Reply versions of the provisions do not have the statutory status of the notified PDP provisions, however given the extent of renumbering and new provisions proposed by the Council to us across the hearings we have found it necessary to make these distinctions so that users can track our analysis and findings. To complete this matter, we lastly note our distinction of the provisions and numbering we recommend as 'our recommended version' of the PDP provisions. These are the provisions attached to this notice as **Appendices 1**, **2**, **3**, **4** and **5**.

32. We note at the outset that we heard from, in the context of the PDP and its significance, a very small number of submitters. The overall tenor of the written submissions and the submitters that attended the hearings, was one of general acceptance or agreement with the PDP approach to the residential zones. There was limited reference to case law or other legal argument put to us; most technical debate was related to potential effects and opinions on grammatical preference. We surmised that because the PDP is a Plan review, rather than attempt to 'reset' a new plan from scratch (such as occurred recently with the Auckland Unitary Plan), the fundamental principle of residential zones was regarded as working well and not in need of fundamental overhaul.

33. The issues raised in the written submissions and at the hearings were, on the whole, issue-specific or site-specific, and often provision-specific. In this respect, we record our appreciation to the submitters for being so explicit.

34. The relevance of this is to note that the absence of a serious challenge to the fundamental residential zone framework (Chapters 7, 8, 9, 10 and 11 as a whole), or evidence that the proposed framework was defective or missing anything significant, were key factors in our deliberations and the conclusions we ultimately reached.

35. The closest consistent potential omission raised was whether or not the PDP residential zones, notably the medium and high density residential zones, should include development design guidelines. Our findings on that matter will be discussed below, but even on this issue we consider that the question raised was not whether or not the PDP had or had not identified all relevant resource management issues and environmental effects through the proposed policy framework; it was a question of whether the proposed methods to implement the framework were the most appropriate. That is ultimately a matter of, at most, refinement to the PDP's core direction rather than one of fundamental reconsideration. We note on this particular matter that the Council has advised us that it intends to introduce design guideline provisions to the Residential zones by way of a separate Variation.

36. We also made inquiries relating to the Council's withdrawal of visitor accommodation provisions (particularly in relation to the written submission of Totally Tourism Ltd[53]), however the consequence of this for the PDP was helpfully clarified by the Council in its written reply at the conclusion of the hearing. We note that the Council has now introduced visitor accommodation provisions to the residential zones by way of the Stage 2 variations.

37. But overall, our approach to the residential chapters became one of largely editing and balancing the discrete issues raised by the individual submitters than of weighting a more fundamental issue of supporting or opposing the broad framework.

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53 Submission 571

38. Our first principal finding is therefore that we accept and agree that the Plan should contain a series of chapters providing for and managing tiers or groupings of residential-predominant activities on the basis of a Large Lot Residential, Low Density, Medium Density, High Density, and Arrowtown Residential Historic Management zone framework proposed by the Council, but subject to individual refinements set out below. We find that the Council's justification for this approach is well-grounded in the ODP and will most appropriately enable people and communities to provide for their social, economic and cultural wellbeing and for their health and safety.

39. We find that the lack of concerted or consistent opposition to this fundamental framework for managing the residential areas of the District (including the question of whether there should even be residential-predominant areas or dedicated land use zones within the district) reflects a high degree of community acceptance with the Council's approach.

3.1. Scope of Submissions

40. The written submissions and further submissions made on Chapters 7, 8, 9, 10 and 11 varied substantially in terms of comprehensiveness, explicitness, and detail. Some submissions identified specific provisions of concern and proposed specific changes to those provisions. Others addressed more generalised effect categories or principles either without direct reference to particular provisions, or without being limited to just the provisions identified as examples.

41. We have considered how to address the question of scope for us to recommend changes to the provisions in response to the submissions and further submissions. The demands of natural justice and accepted principles for determining scope require us to consider whether or not a reasonably informed person could anticipate the extent of changes that could result to the PDP provisions as a result of a submission or further submission. But we find that this would be too rigidly and inappropriately interpreted as only allowing changes to provisions that were explicitly identified within a submission or further submission. We are also mindful that it would be unreasonable, and exclusionary in a manner that would not be consistent with the promotion of sustainable management, to expect each submitter to be able to articulate sophisticated resource management expertise as a pre-requisite to participation.

42. In the context of a whole-of-Plan review, where all submitters are plainly informed of the opportunity for any and all aspects of the Plan to be revisited, we find that submissions and further submissions that identify general but clear issues and/or outcomes sought but do not identify explicit provisions that should be changed or explicit changes to those provisions, have given us scope to make consequential or other changes to the notified provisions on the basis of our analysis of the facts and evidence before us.

43. We have applied this on a case by case basis and there are a number of instances where we have identified a lack of scope for us to make the changes we would have otherwise recommended.

44. We also acknowledge that many recommendations we have made do not relate to specific submissions, but are minor and can be made under Clause 16(2). These recommendations are, for the most part, necessary clarifications to improve the consistency and coherence of the Plan provisions.

45. Where we recommend a change that would qualify under either or both of the scope of submissions or further submissions, or Clause 16(2), we have identified each authority. This is

on the basis of our finding that a notified Plan provision can be justified simultaneously for each of these reasons rather than only requiring or being allowed by either one.

3.2. Background to Residential Zones

46. As noted earlier, the ODP contains a number of residential zones that manage different 'tiers' of residential-predominant development largely on the basis of dwelling density and spatial location within broader settlement patterns. A hallmark of the ODP is the principle of a low density, medium density and high density zone framework to manage the majority of dwellings in the district (measured primarily by dwelling numbers, not necessarily land area). The distribution of these zones adheres generally to the "centres-based" approach to urban planning predominant in all of the major urban areas of New Zealand. This approach underpins the PDP, although as noted earlier the specific spatial allocation of the different zones was not the purpose of this stream of hearings.

47. The PDP has been quite clearly premised on a 'revise and streamline' approach to the ODP (our words), and in our view this is a reasonable approach given how much of the proposed residential zones relate to land that has already been subject to residential development. Changing the planning basis on which the majority of the population has already adapted to and made significant household investment decisions on should be approached with some caution as we see the section 5 goal of helping people to provide for their social and economic wellbeing. One could liken it to the principle of pulling the rug from under one's feet.

48. The planning witnesses called on behalf of the Council and who wrote the Section 42A Reports (and subsequent Council reply recommendations), namely Ms Amanda Leith (Chapters 7, 8, and 11), Ms Kimberly Banks (Chapter 9) and Ms Rachel Law (Chapter 10) were not involved in the drafting of the PDP. While this limited their ability to describe to us the rationale or assumptions behind many of the proposed provisions we found that this did not significantly impair our ability to make decisions on the submissions. We also appreciate that their lack of previous involvement gave them a possibly greater degree of separation and impartiality than might have otherwise been the case when they considered the merits of submissions to change the notified provisions. In that regard we found Ms Leith's approach particularly, and very helpfully, fresh.

3.3. Format of Our Report

49. As we explain below, there is a commonality of section numbering, and of objectives, policies and rules across all five chapters. Rather than considering each chapter separately, in this Report we consider the matters before us section by section, and within each section, by chapter. This enables us, when the same provision occurs in more than one chapter, to ensure and demonstrate a consistent approach across all chapters, unless the context requires a different approach.

50. The attached Appendices include our recommended chapters (Appendices 1 to 5) and a list of submission and further submission points with our recommendations.

PART B: CHAPTERS 7, 8, 9, 10 AND 11 – OVERVIEW

4. PURPOSE AND POLICY FRAMEWORK

51. Chapters 7, 8, 9, 10 and 11 follow a common drafting template, which we understand is to provide consistency and aid the interpretation and use of the Plan. As will be seen in the detail of many of our recommendations, we have found that the certainty and reliability benefits that consistent and horizontally integrated zone chapters provide the community are substantial.

52. As notified, Chapters 7, 8, 9, 10 and 11 contain a Zone Purpose (in X.1, where 'X' is a placeholder for 7.1, 8.1, 9.1, 10.1 and 11.1 respectively). From there, section X.2 sets out the objectives and supporting policies for each chapter. The PDP has organised policies against individual objectives rather than as a collective set. The objectives and policies are followed at X.3 by reference to other rules and chapters of the PDP relevant to development within each zone.

5. RESOURCE CONSENT RULES

53. Notified Chapter X.4 sets out "activity rules", which amounts to an allocation of resource consent activity status (pursuant to section 77A of the Act) for different land use activity categories. The number of such rules varies between the chapters. For controlled and restricted discretionary activities, the rules include, as appropriate, reservations of control and matters of discretion.

54. Chapter X.5 then sets out "activity standards" whereby in general a parameter for permitted activities is provided, such as maximum building height, followed by a resource consent activity status where the standard is proposed to be contravened. For controlled and restricted discretionary activities, the rules include, as appropriate, reservations of control and matters of discretion. Chapter X.6 lastly provides rules governing non-notification of specified activities.

55. Unlike many 'generation 1' resource management plans, the notified Chapters 7, 8, 9, 10, and 11 propose to dispense with numerous explanations, assessment matters or criteria to help guide the consideration of resource consent applications. We have no inherent view on this and note that while the Act specifies the instruments of objectives, policies and rules, nowhere does it mention 'assessment criteria' (or any variant). We understand that the Council's intent has been to craft objectives, policies, reservations of control and matters of discretion that are sufficiently clear and focused that applications can be considered directly against them without the need for an additional tier of guidance.

56. Overall, the structure and content of each zone is otherwise unremarkable. While specific to the District, the notified provisions strike a familiar note with how many other district plans have been constructed.

PART C: SECTIONS 7.1, 8.1, 9.1, 10.1 AND 11.1 – ZONE PURPOSE

6. PREAMBLE

57. The zone purpose, which is similar to that provided at the start of every PDP chapter, is effectively a form of explanation summarising the objectives, policies and rules that follow. The purpose statements do not, as far as we can ascertain, have any resource management status as either an objective, policy, or rule; and are subordinate to those provisions that follow. The key consequence of this is that the content of the zone purpose statements should change dependent on and to match the content of the objectives, policies and/or rules we find most appropriate – not the other way around.

58. The zone purpose therefore amounts to an administrative aid for plan users akin to an advice note that summaries the key role(s) played by each zone in the context of the Plan as a whole. The purpose statements could be considered in a regulatory sense (but we suspect only to a very limited extent), under the broad umbrella of s.104(1)(b) when considering the merit of resource consent applications for discretionary and non-complying activities – but not s. 104D(1)(b) in respect of the latter status. But overall, we find that the zone purpose summaries must be treated as an "other method" for the purposes of a section 32 and section 32AA analysis. One consequence of this is that we must consider the zone purpose statements in terms of the extent to which they achieve the Plan's objectives (and policies) - not the extent to which they achieve the purpose of the Act. To that end, although this report has been written to follow the front-to-back sequence of each chapter, we considered the zone purpose for each zone after we had concluded our consideration of objectives, policies and rules.

59. We accept that a short summary outlining what the zone is seeking to achieve is helpful to plan users. Although not a requirement within district plans under Part 5 of the Act, we agree that in consideration of each chapter and its place within a broader and complex planning document, the zone purpose section is an appropriate inclusion. They also help plan users very quickly ascertain the key differences between the residential zones without having to dwell on what may at times be subtle nuances of activity status or technical rule requirement between those zones. We find that including the purpose statements, provided that they accurately and evenly summarise the outcomes enabled in each zone, will make administration of the District Plan more effective and efficient primarily through enhanced ease of use and simplicity. We emphasise the direct consequence of our previous sentence: the zone purpose statements should describe the outcomes that the provisions enable, not what may characterise the existing environment today.

60. We lastly note that very few submissions related to the proposed zone purpose statements.

7. Section 7.1 Purpose

61. In Ms. Leith's Section 42A Report, she agreed with points made by Southern District Health Board[54] and the Ministry of Education[55] in terms of clarifying the phrase "community activities and facilities" to simply state "community activities" (on the basis that the word 'activities' inherently includes facilities). This was a matter that flowed through the objectives and policies also.

[54] Submission 678
[55] Submission 524

62. The only other change to the purpose recommended by Ms Leith was a clarification, changing the word "sections" to "sites".

63. In our evaluation of the zone purpose we find that the changes recommended by Ms Leith are logical improvements to the notified text and we agree with them. We also consider that the final sentence in the section, which is a note advising that rule 7.5.14 has immediate legal effect (from the date the draft plan was notified), should not sit in the zone purpose as it is not related to the zone purpose. But in any event, when the notified Plan becomes an operative Plan, the sentence would become redundant and should be removed.

64. We had some difficulty, across all of the residential zones, appreciating what was meant by the phrase "low density", given that it has been used to describe the Chapter 7 zone but also the Large Lot Residential zone (Chapter 11)[56]. Ms Leith's response through the Council's reply was to propose removing reference to 'low density' from the Chapter 11 zone purpose and replacing it with 'peri-urban'[57], and leaving the Low Density Residential zone wording as it stood on the matter in Chapter 7.

65. We do not agree that the densities provided for within the Chapter 7 Low Density Residential zone can in many cases be factually described as what a typical and reasonably informed person would associate with "low density". Through the zone's proposed consent pathways densities similar to that proposed to be enabled by the Medium Density Residential zone would be possible. For example, notified Rule 7.5.6 provides for individual dwelling densities of 1 unit per 300 square metres. While that rule has exceptions, it is still a general rule that would apply across the zone; it cannot be interpreted as being intended to only apply to a small minority of sites within the zone or otherwise be a 'special case'.

66. Furthermore, the interrelationship with the recommended subdivision controls (Chapter 27) is that if a land use consent was first granted for such a 300 square metre site density, then subdivision around that smaller site area was a relatively straight forward process[58]. In addition, on those potential 300 square metre sites, the PDP also enables an additional residential flat (although subject to exceptions). While not subdividable from the residential unit, such residential flats could accommodate a compact 2-bedroom unit that could be independently occupied. This would achieve a net household density of up to 1:150 square metres within a subdivision title density of 1:300 square metres. To reiterate, we do not agree that this outcome can be reasonably said to be a low density outcome. To that end we consider that the notified zone purpose incorrectly references the typical densities of the existing environment that predominates today rather than the wider range of outcomes the zone provisions seek to enable over the life of the Plan. This is not helpful from the point of view of soundly administering the new Plan.

67. We accept that there is an intended striation between the three 'principal' residential zones, being the Low Density, Medium Density and High Density zones, and that the Low Density zone provides for, overall, the lowest densities of these. On consideration of how the Plan can be understood and administered by the community, we have come to the view that the most appropriate outcome would be for the zone to be re-named to more accurately depict the outcomes that it is intended to accommodate (also being mindful of the "low density" promoted separately in the Large Lot Residential zone, and which we do consider can and should be described as "low density").

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56 See the notified zone purpose for the Large Lot Residential zone at chapter 11.1

57 See the Reply version of chapter 11 text, chapter 11.1

58 See subdivision Rule 27.7.14.1

68. We find that on the basis of the provisions we find are most appropriate, the zone should be re-named "Lower Density Suburban Residential zone". This is a more accurate depiction of the full range of outcomes the zone is intended to provide for or manage. The word "lower" has a relativistic dimension that the more absolute word "low" did not in comparison to the other zones, and which allows the relatively higher density outcomes enabled within the zone to still be respected within the purpose. The word "suburban" in our view helps give a context to what "lower" might refer to (compared to the uniformly low density Large Lot Residential zone), and in our view relates well to the everyday description of the existing predominantly detached dwellings the zone enables. We find that this change qualifies as a Clause 16(2) change and needs no further justification. This follows through to changes to the first and second paragraphs becoming necessary and we have made these changes to ensure the explanation is consistent in reflecting both the existing and future environment enabled within the zone.

69. In overall consideration of the zone purpose, we find that on the basis of the above, the third and fourth paragraphs are suitable and no further changes are justified other than a minor correction that the zone does not "discourage" commercial activity; it enables residential-compatible, small-scale outcomes that help residents meet their daily needs.

70. Our recommended changes to the zone purpose are:

The Lower Density Suburban Residential Zone is the largest residential zone in the District. The District Plan includes such zoning that is within the urban growth boundaries, and includes land that has already been developed as well as areas that will continue to be developed over time.

Fundamentally the zone provides for both traditional and modern suburban densities and housing forms. Houses will typically be one to two storeys in height, detached and set on sites between 450 and 1000 square metres in area. In addition, and to help meet the needs of the community, the zone also enables increased density by allowing sites down to 300 square metres in area and larger comprehensively designed developments. In addition, non-subdividable residential flats that can be occupied by an independent household are enabled. The overall range of net household densities (including residential flats) could be as high as 1 unit per 150 square metres or as low as 1 unit per 1,000 square metres (or even less). The zone will help to provide a more diverse and affordable housing stock within the District.

Community activities are anticipated in the zone provided adverse effects can be suitably addressed, as these activities are often best located within the residential communities they serve. Home occupations are also provided for.

Commercial activities are generally not anticipated other than those that are residential-compatible and small-scale, however may be accommodated where necessary to address a demonstrated local need provided residential amenity is not compromised.

71. We find that the changes to the notified and S.42A versions of the section described above will be the most appropriate overall way to 'set the scene' for the statutory provisions that follow.

8. Section 8.1 Purpose

72. In Ms. Leith's Section 42A Report, limited changes to the notified zone purpose were recommended. These related to submissions made from Reddy Group Ltd[59], P Roberts[60], R Jewell[61], P Winstone[62], D & V Caesar[63], M Lawton[64], Dato Tan Chin Nam[65], and Hurtell Holdings Ltd, Landeena Holdings Ltd, and Shellmint Proprietary Ltd[66]. In summary, the changes amounted to a removal from the purpose of a sentence relating to environmental performance and sustainable design; a change in emphasis on urban design outcomes from "adhering" to "achieving" (intended to remove emphasis on rule compliance without removing the proposed policy emphasis); and to recognise planned infrastructure networks in addition to those that may exist at the time of a development.

73. In our consideration of the zone purpose, and taking into account the changes we have determined are most appropriate to the objectives, policies and rules that follow, we find that the changes proposed by Ms Leith are the most appropriate on the basis that they better reflect the content of the objectives, policies and rules and are hence more administratively effective.

74. We have furthermore recommended other minor text changes to better highlight the outcomes enabled by the zone. We have also recommended reference be made to the re-named Chapter 7 for consistency. We have recommended these changes as Clause 16(2) clarifications.

75. Of note, we have recommended changing the fourth paragraph. As notified and proposed to remain unchanged in Ms Leith's S.42A version, the Plan described that development controls were used in the zone to, amongst other things, "*ensure reasonable amenity protection is maintained*."[67] We find that this is a muddled statement that is not factual. The zone rules provide for the reasonable maintenance of amenity values for users of neighbouring properties around a development site, with any rule contraventions to be tested by way of an application for land use consent. We find that the word "protect" (even when prefaced by the undefined quantifier "reasonable") strongly implies that new development will have very limited or no adverse effects on the amenity values currently enjoyed by neighbours and is in this respect likely to lead to administrative uncertainty.

76. The rules, policies and objectives we have found are the most appropriate provide for substantial change on sites within the zone. For neighbours adjacent to sites undergoing this change, and in potentially many cases, there will be a diminishment of the amenity values enjoyed by those neighbours today, and which those neighbours will often perceive as being adverse. This in turn places too great an emphasis on the meaning of the word "reasonable" when a Plan administrator is seeking to identify exactly what qualities should be "protected" (which then becomes close to a requirement that adverse effects be avoided or substantially mitigated) in the face of change.

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59 Submission 699
60 Submission 172
61 Submission 300
62 Submission 264
63 Submission 651
64 Submission 117
65 Submission 61
66 Submission 97
67 Notified PDP Chapter 8.1

77. The word "protect" should be limited to circumstances where the degree of change anticipated by the Plan is negligible such that the existing environment is intended to be conserved.

78. We have recommended these changes as Clause 16(2) clarifications. We are otherwise in agreement with Ms Leith's Section 42A Report recommendation that the balance of the zone purpose statement is suitable.

79. Our recommended changes to the zone purpose are:

The Medium Density Residential Zone has the purpose of providing land for residential development at greater density than the Lower Density Suburban Residential Zone. In conjunction with the High Density Residential Zone and Lower Density Suburban Residential Zone, this zone will play a key role in minimising urban sprawl and increasing housing supply.

The zone will primarily accommodate residential land uses, but may also support limited non-residential activities where these enhance residential amenity or support an adjoining Town Centre, and do not impact on the primary role of the zone to provide housing supply.

The zone is situated in locations in Queenstown, Frankton, Arrowtown and Wanaka that are within identified urban growth boundaries, and easily accessible to local shopping zones, town centres or schools by public transport, cycling or walking. The Medium Density Residential Zone provides for an increased density of housing in locations that are supported by adequate existing or planned infrastructure.

The zone will enable a greater supply of diverse housing options for the District. The main forms of residential development anticipated are terrace housing, semi-detached housing and detached townhouses on small sites of 250m^2 or greater. The zone will undergo changes to existing densities and built form characteristics over time to provide for the social, economic, cultural and environmental wellbeing of the District's community. In particular, the zone will provide a greater diversity of housing options for smaller households including single persons, couples, small young families and older people seeking to downsize. It will also enable more rental accommodation for the growing population of transient workers in the District.

While providing for a higher density of development than is anticipated in the Lower Density Suburban Residential Zone, the zone incorporates development controls to ensure that the reasonable maintenance of amenity values is maintained. Building height will be generally two storeys.

Development will be required to achieve high standards of urban design, providing site-responsive built forms and utilising opportunities to create vibrant public spaces and active transport connections (walking and cycling). In Arrowtown, particular consideration will need to be given to the town's special character, and the design criteria identified by the Arrowtown Design Guidelines 2016.

Community activities are anticipated, given the need for such activities within residential areas and the high degree of accessibility of the zone for residents.

80. We find that the changes to the notified and S.42A versions of the section described above will be the most appropriate overall way to 'set the scene' for the statutory provisions that follow.

9. Section 9.1 Purpose

81. In Ms Banks' S.42A version, no changes to the zone purpose statement were proposed (noting that text in the notified version relating to visitor accommodation had been removed by way of Council withdrawal of those provisions[68]). However, throughout her Section 42A Report reference was made in the evaluation of submissions to the zone's "purpose".

82. We wish to comment on the phrasing used by Ms Banks in her s. 42A report. In numerous cases her analysis[69] described how changes to the provisions sought by submitters could result in the "zone purpose" being compromised. As has been previously discussed, the zone purpose statements are not objectives or policies or rules for each zone and cannot as such be literally "compromised". We have interpreted from the overall content of Ms Banks' analysis that where she has made such comments, she is referring to outcomes that would undermine the zone objectives and policies as a whole, rather than the zone purpose statement at Section 9.1.

83. Notwithstanding Ms Banks' recommendation that the Chapter 9 zone purpose remain unchanged, we have identified a number of changes that would improve the directness and clarity of the statement. For example, a sentence in the notified third paragraph states that:

"*development in the zone will facilitate good non-vehicular connections and access to high quality public open space*"[70]. We do not find the word "good" to be useful and recommend it be replaced with "effective".

84. We also consider it necessary to bring the statement into line with the other residential zones by being clearer in its description of the higher-density types of housing enabled within the zone (notably low-rise apartments and terraced housing).

85. Our recommended changes to the zone purpose are:

The High Density Residential Zone provides for the efficient use of land within close proximity to town centres that is easily accessible by public transport, cycle and walk ways. In conjunction with the Medium Density Residential Zone, the zone plays a key planning role in minimising urban sprawl and consolidating growth in existing urban areas.

In Queenstown, the High Density Residential zone enables taller buildings than in the other residential zones, subject to high design quality. In Wanaka, lower building heights are anticipated, accounting for its distinctive character, however relatively high densities are still achievable. Such development will result in a greater diversity of housing supply, provide for the visitor accommodation required to respond to projected growth in visitor numbers, help support the function and vibrancy of town centres, and reduce reliance on private transport. Over time, low-rise apartments and terraced housing are envisaged to become commonplace within the zone.

Development in the zone will facilitate effective non-vehicular connections and access to high quality public open space.

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68 On 25 November 2015

69 For example, at paragraph 9.2 of the s.42A report

70 Notified PDP Chapter 9.1

Development controls provide minimum protections for existing amenity values, and are otherwise prioritised towards enabling the community's wellbeing by promoting growth and development. Given the focus on intensification, moderate to substantial change is anticipated including to both public and private views as the character of land within the zone develops into one that is characteristically urban.

Small scale commercial activities are enabled, either to support larger residential and visitor accommodation developments, or to provide low impact local services.

Small-scale community facilities are anticipated, given the need for community activities within residential areas. However, large scale community facilities are not anticipated as this will reduce the effectiveness of the zone at its primary purpose of accommodating housing.

86. Our justification for the changes above is that for the zone purpose statements to be effective it is imperative that they are correct in summarising the essence of the objectives, policies and rules. We find that the changes we recommend are necessary to ensure that this occurs. We also, therefore, find that the changes to the notified and S.42A versions of Section 9.1 identified above will be the most appropriate overall way to 'set the scene' for the statutory provisions that follow.

87. We have recommended these changes as Clause 16(2) clarifications.

10. Section 10.1 Purpose

88. In Ms Law's Section 42A Report she recommended no changes to the notified zone purpose (noting that notified visitor accommodation provisions had been removed by way of Council withdrawal[71]). Our review of the submissions is that the zone purpose was not the focus of any submission and was accepted by the substantial majority of submitters as appropriate.

89. We find that given the specialised nature of this zone the notified purpose is largely adequate. We have however recommended changes to the fourth paragraph to be clearer about the role of residential flats within the zone on the basis of changes proposed by the Council to provide for these as a 'sub-activity' inherently part of a residential unit.

90. Our recommended changes to the zone purpose are:

This zone covers the older part of the residential settlement of Arrowtown. The area has a distinctive character and atmosphere which has evolved from the development pattern set at the time of early gold mining in the District.

The purpose of this zone is to allow for the continued sensitive development of the historic area of residential Arrowtown in a way that will protect and enhance those characteristics that make it a valuable part of the town for local residents and for visitors attracted to the town by its historic associations and unique character.

In particular the zone seeks to retain the early subdivision pattern and streetscape, and ensure future development is of a scale and design sympathetic to the present character.

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[71] On 25 November 2015

Unlike other residential zones, infill housing is not anticipated. However, as with the remainder of the District's residential zones, Residential Flats are provided for as a fundamental part of a standard residential unit to increase the diversity of residential accommodation in the zone as well as recognise the diverse household types and preferences within the District.

The Town Centre Transition Overlay provides for limited expansion of commercial activities in an identified location adjoining the town centre. Any modifications to existing buildings or properties are expected to retain the historical character and qualities of the Old Town Residential Area.

91. We have recommended these changes as Clause 16(2) clarifications that do not change the meaning or consequence of the provisions or Plan. We find that the changes to the notified and S.42A versions of the section identified above will be the most appropriate overall way to 'set the scene' for the statutory provisions that follow.

11. Section 11.1 Purpose

92. In Ms Leith's S.42A version, the notified zone purpose was proposed to remain largely intact. She recommended deletion of the third paragraph, which discussed opportunities to achieve higher density outcomes where it would 'fit in' with existing development and infrastructure network capacity. On the basis of the changes to the zone framework to be discussed later, we find that the paragraph should be deleted. This is primarily on the basis that the rules do not provide any such framework for higher density in specific locations. The land use density provisions we have come to recommend are based on environmental characteristics, allow for the efficient use of all land within the zone, and will allow individuals to seek consent for higher density outcomes on the basis of the merit of each individual proposal.

93. We also find that the note included at the conclusion of the zone purpose statement "*pursuant to Section 86(b)(3) of the RMA, Rule 11.5.5 has immediate legal effect*" should be deleted.

94. We have otherwise reached our own conclusions on the zone provisions and in light of this the zone purpose should be changed to simplify it as well as reinforce what we consider to be the more defendable approach to density, including through the evidence of the Council's urban design expert Mr Falconer[72] and a number of submissions seeking a minimum lot size of 2,000 square metres be the norm rather than the notified 4,000 square metres minimum[73]. In summary, the zone should enable development at a density of 1 unit per 2,000 square metres site area except where environmental characteristics justify a lower density of 1 unit per 4,000 square metres (such as we find is the case at Mr Iron in Wanaka). These changes are consequential to our findings on the matters raised by submissions (discussed below) and otherwise qualify as Clause 16(2) corrections or clarifications.

95. Our recommended changes to the zone purpose are:

The Large Lot Residential Zone provides low density living opportunities within defined Urban Growth Boundaries. The zone also serves as a buffer between higher density residential areas and rural areas that are located outside of Urban Growth Boundaries.

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72 Verbal responses of Mr Garth Falconer to Commissioner questions, Stream 6 hearing.

73 Submissions 322 (supported by FS1110, FS1126, FS1140, FS1198, FS1207 and FS1332), 687 (supported by FS1111 and FS1207), 166 (supported by FS1110, FS1111, FS1126, FS1140, FS1198, FS1207 and FS1332), 293 (supported by FS1110, FS1111, FS1126, FS1140, FS1198, FS1207, FS1332;), 299, 335 and 812 (supported by FS1110, FS1111, FS1126, FS1140, FS1198, FS1207, FS1332)

The zone generally provides for a density of one residence every 2000m² to provide for a more efficient development pattern to utilise the Council's water and wastewater services while maintaining opportunities for a variety of housing options, landscaping and open space. Identified areas have a residential density of one residence every 4000m² reflecting landscape or topographical constraints such as around Mt Iron in Wanaka. The potential adverse effects of buildings are controlled by bulk and location, colour and lighting standards and, in respect of the lower density (4,000m^2) part of the zone, design and landscaping controls imposed at the time of subdivision.

Community activities and low intensity forms of visitor accommodation may be appropriate provided the low-density development character and amenity for residents is maintained and there is a demonstrated need to locate in the zone.

While development is anticipated in the zone, some areas are subject to natural hazards and, where applicable, it is anticipated that development will recognise and manage the risks of natural hazards at the time of subdivision.

96. We find that the changes to the notified and S.42A versions of the section identified above will be the most appropriate overall way to 'set the scene' for the statutory provisions that follow.

PART D: SECTIONS 7.2, 8.2, 9.2, 10.2 AND 11.2 – OBJECTIVES AND POLICIES

12. CHAPTER 7 OBJECTIVES AND POLICIES

12.1. Objective 7.2.1 and Policies 7.2.1.1 and 7.2.1.2

97. The notified objective is worded:

> *"Objective - The zone provides for low density residential living within the District's urban areas."*

98. The notified policies are worded:

> *"7.2.1.1 Low density zoning and development is located in areas that are well serviced by public infrastructure, and is designed in a manner consistent with the capacity of infrastructure networks.*
>
> *7.2.1.2 The zone is suburban in character and provides for a low density housing development on larger urban allotments primarily comprising dwellings up to two storeys in height.*
>
> *7.2.1.3 The zone may support low intensity forms of visitor accommodation (such as peer to peer accommodation) to meet anticipated visitor demand, where this can be sensitively integrated with existing residential premises."*

99. Subsequent to public notification of the PDP, the provisions relating to visitor accommodation within the residential zones were withdrawn by the Council[74]. For these provisions, this had the effect of deleting proposed policy 7.2.1.3, and we have given no further consideration to the matter.

100. In Ms Leith's Section 42A Report a reasonably substantial re-wording of the objective was proposed, however the justification for this was to make the original intent clearer and simpler rather than on the basis of a submission seeking a change of tone or emphasis.

101. She recommended minimal changes to the two policies, reflecting only administrative changes or corrections.

102. In terms of the fundamental outcomes to be enabled within the zone, Ms Leith summarised that there were submissions received that were in support or partial support[75], and opposition or partial opposition[76] to the increased density proposed within this zone. Ms Leith herself was not in complete agreement with the notified provisions on the basis that she interpreted the analysis and section 32 report as promoting a more limited increase in density (what she described as an intention for "gentle" density down to 300 square metre sites[77]). Having read the section 32 report, we disagree with Ms Leith's conclusion.

103. We find the analysis undertaken by the Council, including the evidence prepared by Mr Philip Osborne, convincing in terms of the housing issues facing the District. We find that there is effectively no reliable evidence before us that there is not a serious housing issue facing the

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74 25 November 2015

75 Submissions 32, 33, 34, 335, FS1251, 110, 144, 169, 371, 372, 374, 435, 206, 358, 501, 72, FS1352

76 Submissions 9, FS1012, 309, 159, 230, 89, 202, 752

77 For example at paragraph 9.23 of the Chapter 7 Section 42A Report

District and that there is a reasonably urgent need for more houses of all types - with a particular need for more affordable houses. We also accept the assumption that the existing proportion of vacant sites and second or holiday homes is likely to continue into the reasonably foreseeable future, and that this places further pressure on housing supply.

104. Our agreement with Mr Osborne leads us to favour the increased density promoted within the zone (compared to its equivalent in the ODP) as notified. To that end, the focus then becomes how to ensure that the amenity and character values within the zone and in particular the areas within it that have already been developed can be maintained. In this respect, we are in general agreement with the urban design evidence of Mr Falconer that provided that the design, scale and form of development can be managed, subdivided lots down to 300 square metres, and effective or net densities of 1:150 square metres once residential flats are taken into account, will be appropriate. In reaching this conclusion, and although we accept that issues of amenity values involve an inherently subjective element of personal opinion and taste, we received no expert evidence that opposed the densities proposed (as will be discussed later, there was however wide support for an increased use of design guidelines to help manage this and other design issues within the zone).

105. As will become clearer as we move into the activity and development control rules, we find that the proposed approach to density is fundamentally correct and indeed necessary. We find that Ms Leith's conservative interpretation of the Council's intent based on her reading of the s.32 report does not lead to the most appropriate outcome for the District and, in agreement with the submissions that support the densities notified, we prefer the policy framework give a more balanced representation of the need to accommodate more housing within the zone.

106. Turning to the changes we have determined for the objective and policies, we have identified a number of changes that should be made. We have found that the changes we prefer, as with the earlier zone purpose, are focused on making the provisions plainer and more accurate depictions of the outcomes that are sought. These are:

7. 2.1 Objective
Development within the zone provides for a mix of compatible suburban densities and a high amenity living environment for residents as well as users of public spaces within the zone.

Policies

7.2.1.1 Ensure the zone and any development within it is located in areas that are well serviced by public infrastructure, and is designed in a manner consistent with the capacity of infrastructure networks.

7.2.1.2 Encourage an intensity of development that maximises the efficient use of the land in a way that is compatible with the scale and character of existing suburban residential development, and maintains suburban residential amenity values including predominantly detached building forms, and predominantly one to two storey building heights.

107. Overall, we consider that the changes we have recommended will make administration of the Plan more effective and efficient. On this basis, we find the objective will most appropriately implement Part 2 of the Act and the policies will most appropriately implement this and the other zone objectives.

12.2. Objective 7.2.2 and Policies 7.2.2.1 and 7.2.2.2

108. The notified objective is worded:

"Objective – Ensure protection of amenity values in recognition of the zone's lower intensity character, whilst providing for subtle and low impact change."

109. The notified policies are worded:

"7.2.2.1 Enable residential development on allotments of a size consistent with a low density character, which are typically larger than 450 square metres, but enable infill development at a higher density where it is low scale and discrete, and relates well to existing land use.

7.2.2.2 Apply height, building coverage, and bulk and location controls as the primary means of retaining the lower intensity character of the zone and ensuring protection of amenity values in terms of privacy, access to sunlight, and impacts arising from building dominance."

110. In Ms Leith's S.42A version of the zone, she recommends deleting the objective and policy 1, and (with amendments) attaching policy 7.2.2.2 to objective 7.2.1 as a new policy 7.2.1.3 for that objective.

111. The reasons for this follow on from the discussion made around objective 7.2.1. The changes recommended by Ms Leith have been made to reduce unnecessary repetition within the notified provisions as well as simplify and clarify them.

112. We find that the key issue that Ms Leith has struggled with, having agreed with the general thrust of the PDP to provide higher density development within both new and the existing suburban areas of Queenstown, is to reconcile within the policy framework the maintenance and enhancement of existing residential amenity values with the need to accommodate higher density development than has often occurred on the land.

113. We agree with Ms Leith insofar as objective 7.2.2 is not necessary in light of the other proposed objectives. We also agree with the deletion of policy 7.2.2.1 and, with modifications, the retention of policy 7.2.2.2 as policy 7.2.1.3.

114. Turning to the modifications to be made to policy 7.2.2.2, we note that the changes recommended by Ms Leith have the effect of changing the notified policy from being purely 'administrative' (our term) to being 'outcome' focussed. The notified policy simply directed that there would be development control rules as the primary means of enabling appropriate development. The shortcoming of that approach is that the policy would have no assessment value when considering applications for consent to contravene any of those standards. Ms Leith's proposed changes would allow the policy to:
- Still justify the use of rules for permitted activities;
- Reduce the presumption that the 'rules were always right' by giving less emphasis on their role as the "primary means" of managing development effects; and
- Be used to help assess the appropriateness of applications for consent based on bulk and location rule contraventions.

115. We find that the approach taken by Ms Leith is more effects-based, effective and efficient than the notified policy and we support it. However, we consider that the wording used by Ms Leith can be further simplified. We also disagree with her use of the word "protect" relative to

neighbours' amenity values as this is not at all compatible with the overall provisions of the zone to enable additional development than now exists; the zone plainly promotes change across the zone and in many cases substantial change is proposed to be a permitted activity.

116. Ms Leith also agreed with the submission of Pounamu Body Corporate Committee[78] in proposing to add "views" to the amenity values that in her view should be protected. Notwithstanding our disagreement with her word "protect", we disagree that existing views are a relevant matter at a policy level within a development zone where, subject to yard and other bulk and location controls, buildings are anticipated to locate relatively closely to one another. This is not compatible with the practical retention of existing views (which tend to rely on (often privately owned) vacant land between the viewer and the view). While we accept that visual amenity is a matter relevant to amenity values, we consider that views should not be promoted as highly as Ms Leith has preferred. We also note that when we heard from Pounamu Body Corporate Committee, it presented no evidence to support or justify Ms Leith's position as a zone-wide proposition.

117. For these reasons, we recommend that the policy be worded as set out below, relying on Clause 16(2) and those submissions referred to earlier that discussed the importance of amenity and character values within the zone.

> 7.2.1.3 Ensure that the height, bulk and location of development maintains the suburban-intensity character of the zone, and maintains the amenity values enjoyed by users of neighbouring properties, in particular, privacy and access to sunlight."

118. We also find that the revised policy 7.2.2.2 can sit comfortably under objective 7.2.1 as proposed by Ms Leith as policy 7.2.1.3, because 7.2.1 is directly focused on the issue of the scale, form and density of development within the zone.

119. Overall, we find that the revised S.42A version of these provisions set out above is the most appropriate.

12.3. Objective 7.2.3 and Policies 7.2.3.1, 7.2.3.2 and 7.2.3.3

120. The notified objective is worded:

"Objective - Allow higher housing densities than typical in the zone provided that it retains a low rise built form and responds appropriately and sensitively to the context and character of the locality."

121. The notified policies are worded:

> *"7.2.3.1 Ensure any higher density residential development is planned and designed to fit well within its immediate context, paying particular attention to the way the development:*
> - *Relates to neighbouring properties, through employing larger setbacks, sensitive building orientation and design, and landscaping to mitigate dominance and privacy impacts*
> - *Avoids large continuous building facades that are not articulated or broken down into smaller elements*
> - *Provides street activation through connection between front doors and the street.*

[78] Submission 208

7.2.3.2 Landscaped areas shall be well designed and integrated into the design of developments, providing high amenity spaces for recreation and enjoyment, with particular regard to the street frontage of developments.

7.2.3.3 Encourage initiatives to reduce water demand and water use, such as roof rain water capture and use and greywater recycling."

122. Ms Leith's Section 42A Report proposed substantial change to these provisions on the basis of specific submissions as well as her interpretation of the general intent of the PDP through its s.32 report and more general submissions on the topics of growth and development within the zone. Of note, based on her other recommendations, the objective would be re-numbered 7.2.2.

123. These provisions focus on the higher density provisions proposed for the zone and provide a more focused and issue-specific fleshing out of the general policy framework set out through objectives 7.2.1.

124. Before discussing the details of these provisions, there are several issues related to increased density that we must consider first.

12.4. Airport Noise Boundary and Outer Control Boundary

125. The matter of additional residential development and density within the Queenstown ANB or OCB was of keen interest to QAC[79] and BARNZ[80]. They each presented evidence and legal submissions to us, with the primary planning witness called by QAC being Mr Kyle, an experienced planner who has worked on airport-related matters previously in the District. In summary, the evidence presented by and on behalf of QAC and BARNZ, which the Council's witnesses agreed with, was that the matter of how to best manage the land around the airport was to effectively limit further development rights to those conferred by the previously completed Plan Change 35 to the ODP. That Plan Change, we were told, included a lengthy stakeholder conversation and widely-accepted compromise position.

126. We also heard from a local resident, Mr Scott Freeman[81] (an experienced planner who submitted as a resident and, we note, very professionally volunteered that he was not appearing as an expert witness). Mr Freeman advised us that he had been involved on behalf of residents in working with QAC and BARNZ on this and related issues to the airport's ongoing operation. Although Mr Freeman might benefit from additional development rights for his land, he further reiterated to us the history of this topic around the airport and why he effectively agreed with what was a generally uniform position between QAC, BARNZ and the Council.

127. While this amounted to, overall, a consistent and convincing position, we were mindful that Plan Change 35, for all of its merit, did not appear to have been prepared in the context of a housing problem as pronounced as we now find it. We are also mindful that the PDP Chapter 7 provisions are intended to give effect to the objectives and policies of the PDP's district-wide priorities, not the ODP ones.

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79 Submission 433 and Further submission 1340

80 Submission 271

81 Submission 555

128. In our consideration of the matter there were two critical issues to be addressed. The first was to understand the nature of the environment within the ANB and OCB not only as it is today but in the reasonably foreseeable future. The second related to the significance of the land within the ANB / OCB and its potential for accommodating future growth to help address housing issues.

129. In terms of the former, we accept the evidence that the Queenstown airport is very busy today, but is predicted and has been planned to become significantly busier within the reasonably foreseeable future (the order of 30 years). We understand that the ODP and PDP provisions for the airport both provide for those predicted changes to occur. While the operating environment today may not be overtly hostile to residential amenity within the ANB and OCB, it is likely that in the future it will not be a comfortable environment to live or spend time in, including when outdoors. We consider that one direct consequence of this is that the Plan should make this high likelihood explicit.

130. We also accept the evidence presented by experts on behalf of both QAC and BARNZ, specifically Mr Kyle[82] (QAC) and in particular Mr Morgan[83] (BARNZ) regarding New Zealand Standard 6805:1992. This standard is relevant insofar as it gives guidance on how to best manage the development of activities sensitive to aircraft noise. The thrust of this aspect of the submitters' case was that people living close to the airport and subject to high levels of aircraft noise could be subject to unacceptable noise levels relative to their health and wellbeing. This has been a contributor to our findings on the most appropriate extent of further development that should be enabled close to the airport.

131. In terms of the latter, we find that although the District has a very challenging geography for settlement planning and growth, there are a number of alternatives available where any growth prevented from occurring within the ANB or OCB could adequately locate. In this respect, we accept Mr Kyle's verbal evidence to us on this point[84] and acknowledge his experience and familiarity with the District made him reasonably authoritative on the matter. We also note that, while the calculations of the different witnesses varied, the maximum additional development potential of the land within the ANB and OCB is not significant and very likely to be less than 50 new residential units maximum (were we to find the zone's general density allowances should apply)[85].

12.5. Density and Residential Flat

132. Related to this matter of density was the question of residential flats. In the PDP, residential flats were provided for as permitted activities. The Council through its section 42A process has sought to retain this but shift the 'home' of the residential flat rule into the definition of residential unit. This would have the effect of meaning that the definition of a residential unit included both a principal unit and an additional flat without need for a separate activity rule. This is in our view an unusual means of providing for residential flats and we remain unclear on why the Council seeks to do this rather than maintain a simple and clear rule for residential flats within the residential zones. We note that there are also potentially troubled waters with the principle of using definitions to provide development rules (for instance the approach of providing for family flats in a definition removes the opportunity for a clear consent path to be provided should the terms of the definition not be met – such as through an oversized residential flat). Our understanding is that if a residential flat cannot meet the terms specified

82 J Kyle, EiC

83 E Morgan, EiC

84 J Kyle, response to Commissioner questions at the Stream 6 hearing

85 E Morgan, EiC

in the proposed definition, it would fall to be considered as a second principal dwelling on the site (we are not convinced that activity rule 7.4.1 (activities not otherwise provided for) would apply given that residential units, including more than one per site, are provided for in the 7.4 rule table.

133. In our view, residential flats have been well justified by the growth and development data provided to us by the Council and should be provided for as permitted activities within the zone. We note our general comfort with the parameters for family flats proposed by the Council, irrespective of whether they form part of a definition or a stand-alone rule.

12.6. Density and Development Quality

134. Completing our discussion related to density within the zone it is also appropriate to summarise a discussion shared with numerous submitters regarding the adequacy of the proposed (and varied S.42A version) provisions to ensure an appropriate design quality would eventuate. This was of greatest importance for the High and Medium Density Residential zones, but was also relevant to us in terms of the proposed wording of policies supporting objective 7.2.3, and the management of the densities to be enabled in the zone.

135. We record that there was widespread support and agreement for the use of design guidelines incorporated into the Plan to help guide the design of development. Theoretically a guideline could apply to permitted activities via a permitted activity condition requiring developers to have (unsupervised) regard to any guidelines. But it is more likely that any guidelines would mostly apply to proposals needing resource consent as an additional matter of consideration. We were helped in our understanding of how any future design guidelines may work with the Plan through the Variation 1 process, which was to add a guideline to the Plan for the purpose of Arrowtown's unique historic heritage.

136. We discussed potential guidelines with design experts that appeared before us on behalf of a number of submitters including Mr Garth Falconer (for the Council) Mr Tim Williams (for Universal Developments Ltd[86] and Mount Crystal Ltd[87]), Ms Rennie (for Estate of Normal Kreft[88] and Wanaka Trust[89]), and Ms McLeod (for NZIA[90]). Interrelated with the issue was a suggestion for design professionals to have a greater influence in resource consent decision making (this included the role of the Urban Design Panel, which by all accounts provides a well-regarded and respected service to the District) to, in summary, account for the limitations of non-designers working under the Act. We must record that several submitters and some of the design advocates supporting design guidelines seemed unclear on how any guidelines would work and be applied, including the role or standing of design advisors in the resource consent decision making process. This was in our view indicative of a deeper, and problematic misunderstanding of the Act and consent process by those parties and experts. The inability of any advocate of design guidelines to coherently advise us exactly how the PDP was deficient; or what the guidelines would contain, how they would be administered (including weighting compared to other provisions), what specific objectives or policies they would implement, how they were superior to other methods (such as the retention of assessment matters such as are within the ODP), and what costs and benefits they might bring with them, proved fatal to us finding in support of the various relief sought. It also reduced the strength of some arguments to superficial moral principle rather than logic or factual evidence.

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86 Submission 177

87 Submission 150

88 Submission 512/Further Submission 1300

89 Submission 536

90 Submission 238

137. We asked questions of those submitters promoting greater involvement of designers to test how reliable such a designer-led process might be at improving alleged shortcomings in the resource management planning process. From the hearing venue we were able to take in views of a recently completed construction adjoining the historic Eichardt's Private Hotel in Queenstown. Widely reported in the media at the time of the hearing was also a proposal for a contemporary "Olive Leaf" building in Arrowtown adjacent to the existing Church of St Patrick. We received very mixed responses from designers and design advocates regarding the merit of each example described above and, in particular, whether a design-led Plan would promote or prevent such outcomes in the future.

138. Ultimately we were left with the impression that the district's design community lacks a shared or even majority position on what constitutes good or successful design, including who should police it or how. This substantially eroded our confidence in what was communicated as a "designers know best" message, especially once we considered the tension whereby, in acknowledgement that landscape architecture, architecture and urban design are different fields of expertise, it may be possible that a proposal could be exemplary in one field of design (for instance landscape architecture), but badly defective in another (for instance urban design).

139. We were not convinced that design guidelines would be as reliable or necessary as their advocates believed and we struggled to understand the legal basis that the non-statutory Urban Design Panel or other bodies such as the Arrowtown Planning Advisory Group might rely on if encouraged to become more involved as quasi or full decision makers on resource consents. We lastly note our rejection of the principle that a resource consent activity status or a decision on an application for resource consent can be mandated to the support of a design body, group, or institution including the Council's Urban Design Panel.

140. We also note that we have substantial doubts as to whether or not the current Urban Design Panel could be readily up-scaled to provide a substantially expanded role in the district, including whether or not there are sufficient qualified, skilled, independent and amenable design experts available to sit on it.

141. Lastly, we address the submissions made by Pounamu Body Corporate Committee[91] seeking that the existing design criteria within the ODP be retained in the new Plan. Assessment criteria within plans are akin to guidelines inasmuch as they lack the legal force of rules that must be complied with. They must be considered to the extent specified within a Plan's rules but there is no expectation that all or even a majority of them must be satisfied before a consent could be granted. We see practical challenges in design-based assessment criteria, especially if they seek to show 'acceptable solutions' rather than just list potentially relevant considerations. If very aspirational or idealised outcomes were represented, there is a likelihood that many applicants will fail to meet them and the criteria could be discredited as unrealistic. If more practical or pragmatic design outcomes were represented, applicants that could do better might settle for the lower-bar implied as adequate within the Plan's criteria. Criteria that seek to cover off every possible eventuality might become so unworkably extensive as to create significant user inefficiencies and administrative ineffectiveness. These concerns are in our view serious, and the evidence provided to us through the hearings did little to address them.

91 Submission 208

142. All of the above issues would need to be compellingly addressed before a shift to a more designer-centric planning regime could be taken any further.

143. We instead prefer the more studied analysis of Mr Falconer, who supported the addition of design guidelines in the future on the basis that they are a "nice to have, not a must have"[92]. In our view Mr Falconer demonstrated a sound understanding of the Act and the resource consent process, and saw a design guideline as a support reference that could help give developers practical ideas rather than a form part of a paint-by-numbers 'rule book' detailing a 'Queenstown style' to be complied with. He remained of the view that the S.42A version of the Plan (for all residential zones) had sufficient design requirement and guidance that, with skilled expert input as is typically provided by both applicants and the Council, developments would achieve an adequate design quality.

12.7. Findings

144. We find that clear outcome-focused objectives and policies remain the superior resource management instruments to ensure high quality design outcomes eventuate in a manner that can be enforced by way of the refusal of consent where necessary.

145. We are comfortable that we can recommend approval of the PDP without design guidelines, and have no opinion on what material might go into any potential future design guideline or why. On design matters more generally, we strongly prefer that the Plan continue a pragmatic non-regulatory approach given the subjectivity of the matter and obvious disagreement surrounding which sub-group of local design experts should have their preferred aesthetic endorsed in a regulatory sense.

146. On the basis of the evidence we received and our own analysis, we find that there is a sound and desirable basis to limit development within the ANC / ONB further than would otherwise be the case (which includes the opportunity to establish residential flats). In this respect, we fundamentally agree with the position set out within Ms Leith's Section 42A Report to enable residential flats but otherwise limit additional density within land very close to the airport. We disagree with QAC and BARNZ that any further changes are necessary to integrate PC35's main points into the PDP, subject to the changes we have outlined in this decision and introduced below that give greater clarity around land close to the airport. We also refer to complementary subdivision Rule 27.7.14.2, which would exclude from the area within the Queenstown Airport Air Noise Boundary and Outer Control Boundary provision for subdivision of lots smaller than 450 square metres.

147. The Council, through its own submission[93], sought additions to these provisions to explicitly acknowledge privacy between units and sites. Ms Leith agreed with this relief and her s. 42A recommendations included this as part of the suite of revisions she put forward. There was limited analytical evidence to substantiate the nature of the privacy problem that needed to be rectified.

148. Turning to the provisions themselves, we find that the issue of development around the airport should be the subject of its own objective and policies, and we find that using the now-vacant 7.2.2 place holder is the most appropriate location. The principal reason for doing this is that we consider the Plan would be clearer and simpler if the long-term constraint on development that the airport creates was better acknowledged.

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92 G Falconer, Verbal responses to Commissioner questions, Stream 6 hearing

93 Submission 383

149. We also consider that, of the remaining provisions, the wording put forwards by Ms Leith is appropriate however we find that additional reference to the reduced building height of 5.5m that the Council seeks to require in the higher density outcomes of the zone should be more clearly justified in the zone policies. We also consider some minor wording changes remain desirable and recommend these changes under Clause 16(2).

150. In terms of policies 7.2.3.1 and 7.2.3.2, we have preferred the word "encourage" to commence the policies rather than "ensure" as proposed by Ms Leith, primarily because the rules provide for permitted activity outcomes that would not allow the Council any consent requirement or opportunity to "ensure" particular design outcomes favoured by the Council eventuated. We are satisfied that potential effects can be managed through Council encouragement, such as by way of development guidelines that we were told the Council is seeking to add to the Plan by way of future variation. We have preferred "limit" to commence policy 7.2.3.2 because there is a proposed rule that requires this (notified rules 7.5.1 and 7.5.2).

151. Our recommended changes to these provisions are:

7.2.3 Objective
Encourage higher density development where it responds sensitively to the context and character of the locality and is designed to maintain local amenity values.

Policies

7.2.3.1 *Encourage densities higher than 1:450 square metres per residential unit where this is designed to fit well with the immediate context, with particular significance attached to the way the development:*

- *a. Manages dominance effects on neighbours, through measures such as deeper boundary setbacks, sensitive building orientation and design, use of building articulation, and landscaping.*
- *b. Achieves a reasonable level of privacy between neighbours through measures such as deeper boundary setbacks, offsetting habitable room windows that face each other, or the use of screening devices or landscaping.*
- *c. Provides activation of streets through the placement of doors, windows and openings that face the street.*

7.2.3.2 *Limit building height on sites smaller than 900 square metres that are proposed to be developed for two or more principal units (i.e. excluding residential flats) so as to mitigate a reduction in spaciousness around and between buildings that otherwise forms part of suburban residential amenity values.*

7.2.3.3 *Encourage landscaped areas to be well-designed and integrated into the development layout and design, providing high amenity spaces for recreation and enjoyment, having particular regard to the visual amenity of streets and street frontages.*

152. Overall, we find that the recommended wording above will be the most appropriate having regard to the importance of additional density within the zone, the limitations of the land affected by airport noise and operations to accommodate additional density, and the need for the Plan to be clear on the form and scale that additional density should take. We note that further changes to these notified provisions have also been recommended as a result of our findings on proposed objective 7.2.10, later in this report.

12.8. Objective 7.2.4 and Policy 7.2.4.1

153. The notified objective is worded:

"Objective - Allow low rise, discrete infill housing as a means of providing a more diverse and affordable housing stock.

154. The notified policy is worded:

"Policies

7.2.4.1 Provide for compact, low rise infill housing that does not fundamentally compromise the integrity of the zone's low density character and amenity values."

155. In her Section 42A Report, Ms Leith recommended deleting this objective on the basis that it was unnecessary and repetitive. We agree; it is not necessary given objective 7 2.3.

156. Ms Leith also sought to revise the wording of and retain policy 7.2.4.1, but renumber it and attach it to Objective 7.2.3 (as policy 7.2.3.4)[94]. On consideration of the revised policy, we note that it seeks to restrict building height so as to ensure infill development is compatible with local character and amenity zones. We consider that policy 7.2.1.3 (as per our previous recommendations) already provides guidance as to when building height should be limited. While we have agreed with a specific policy relating to higher density development on sites smaller than 900 square metres, this is on the basis of rules that provide a lower height limit than the zone standard. In the case of infill housing, there is no such requirement.

157. On this basis, we recommend deleting Policy 7.2.4.1 (proposed in the S.42A version to be renumbered as 7.2.2.3).

158. Ms Leith has also sought, in general recognition of the submissions that support additional development choice and opportunity, to add a new policy, that would sit under Objective 7.2.3. It would generally encourage development that promotes housing diversity and affordability. We do not agree with this policy, especially given that Ms Leith has proposed no parameters around when the Council might not wish to encourage choice and opportunity (such as if proposed units were likely to result in significant adverse effects due to a severe lack of user amenity). Hence it could be used by any applicant seeking to contravene any relevant zone rules and expect the Council to encourage that development on the basis of the policy.

159. We find that the plan policy framework sufficiently promotes housing diversity and affordability (notably through Objective 7.2.3), and that no additional policy steer is justified or appropriate.

160. In conclusion, we recommend that these provisions be deleted.

12.9. Objective 7.2.5 and Policies 7.2.5.1, 7 2.5.2 and 7.2.5.3

161. The notified objective is worded:

"Objective - In Arrowtown residential development responds sensitively to the town's character"

162. The notified policies are worded:

"Policies

[94] Section 42A Report for Chapter 7

7.2.5.1 Development is of a form that is sympathetic to the character of Arrowtown, including its building design, scale, layout and building form in accordance with the Arrowtown Design Guidelines 2006.

7.2.5.2 Flat roofed housing forms are avoided.

7.2.5.3 Infill housing development responds sensitively to the existing character of the area."

163. In Ms Leith's Section 42A Report she recommended a number of changes to these provisions, but only one change related to a submission (NZTA[95]). Other changes related to editorial changes she identified on the basis of guidance from the Panel to the Council and submitters[96].

164. The most material change proposed was to change the Arrowtown Design Guidelines 2006 to the Variation 1 edition dated 2016. While our decision on Variation 1 is contained in a separate report, we note at this point our agreement that for the purposes of Objective 7.2.5 reference should be made to the 2016 guidelines. Our decision on Variation 1 contains details on our findings in relation to the 2016 guidelines (Report 9B).

165. Overall and subject only to very minor Clause 16(2) changes, we have agreed with Ms Leith's Section 42A Report recommendations and consider that they are the most appropriate provisions. Of note, we consider that proposed Policy 7.2.5.3 largely repeats 7.2.5.1 and on that basis can be deleted, with reference to infill housing added to 7 2.5.1.

166. We find that subject to the further revisions to the S.42A version outlined below, (noting that 7.2.5 now becomes 7.2.4), the provisions will be simpler and more effective than the notified text, and will as such be the most appropriate. The recommended text is:

7.2.4 Objective
Residential development in Arrowtown is compatible with the town's existing character.

Policies

7.2.4.1 Ensure development, including infill housing, community activities and commercial development is of a form that is compatible with the existing character of Arrowtown, and as described within the Arrowtown Design Guidelines 2016, with particular regard given to:
- *a. Building design and form*
- *b. Scale, layout and relationship of buildings to the street frontage(s)*
- *c. Materials and landscape response(s)*

7.2.4.2 Avoid flat-roofed dwellings in Arrowtown.

12.10. Objective 7.2.6 and Policies 7.2.6.1, 7.2.6.2 and 7.2.6.3

167. The notified objective is worded:

"7.2.6 Objective - Provide for community activities and facilities that are generally best located in a residential environment close to residents.

168. The notified policies are currently worded:

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95 Submission 719

96 The Panel's 4th Procedural Minute, dated 8 April 2016

"Policies

7.2.6.1 Enable the establishment of community facilities and activities where adverse effects on residential amenity values such as noise, traffic, lighting, glare and visual impact can be avoided or mitigated.

7.2.6.2 Ensure any community uses occur in areas which are capable of accommodating traffic, parking and servicing to a level which maintains residential amenity.

7.2.6.3 Ensure any community uses or facilities are of a design, scale and appearance compatible with a residential context."

169. In Ms Leith's Section 42A Report, she recommended minimal changes to these provisions. Editorial changes were recommended on the basis of the Panel's 4th Procedural Minute, and changes discussed previously relating to the submissions of Southern District Health Board[97] and Ministry of Education[98] seeking the phrase "community facilities and activities" to be renamed "community activities". We accept this change for the same reason we changed the phrase in the zone purpose at Section 7.1 (and in the other residential zones).

170. We find that it is necessary to enable community activities within the zone and note the lack of material objection to this from submitters. Community activities enable the social, economic and cultural wellbeing of communities in a way that is convenient and accessible due to those activities being located within residential areas. While there are some community activities that, due to their scale or operating requirements, may not be appropriate for co-location within the zone, we find that the provisions are generally appropriate and on a case by case basis resource consents can be sought to determine these acceptable operational limits.

171. The text changes we recommend are:

7.2.5 Objective

Community activities serving the needs of people within the zone locate within the zone on sites where adverse effects are compatible with residential amenity values.

Policies

7.2.5.1 Enable the establishment of community activities where adverse effects on residential amenity values including noise, traffic, lighting, glare and visual impact can be avoided or mitigated.

7.2.5.2 Ensure any community activities occur in areas which are capable of accommodating traffic, parking and servicing to a level which maintains residential amenity values.

7.2.5.3 Ensure any community activities are of a design, scale and appearance compatible with a residential context.

172. We find that the amended wording outlined above is the most appropriate means of enabling community activities within the zone (noting that 7.2.6 now becomes 7.2.5). We have adopted the words proposed by Ms Leith in her Section 42A Report subject to minor Clause 16(2) improvements. These will be the most appropriate provisions on the basis of being clearer and more readily administrable.

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97 Submission 678

98 Submission 524

12.11. Objective 7.2.7 and Policies 7.2.7.1, 7.2.7.2 and 7.2.7.3

173. The notified objective is worded:

"Objective - Ensure development efficiently utilises existing infrastructure and minimises impacts on infrastructure and roading networks.

174. The notified policies are worded:

"Policies

7.2.7.1 Access and parking is located and designed to optimise efficiency and safety and minimise impacts to on-street parking.

7.2 7.2 Development is designed consistent with the capacity of existing infrastructure networks and seeks low impact approaches to storm water management and efficient use of potable water supply.

7.2.7.3 Development is integrated with, and improves connections to, public transport services and active transport networks (tracks, trails, walkways and cycleways)."

175. In her Section 42A Report, Ms Leith recommended minimal changes, subject only to editorial improvements based on the Panel's 4th Procedural Minute and a change to policy 7.2.5.3 in agreement with the submission from NZTA[99] clarifying that development should integrate with all transport networks.

176. In consideration of these provisions we accept that optimising the transport network is a key issue for districts like Queenstown. Not only is the physical space to accommodate networks constrained by geographical and landscape issues, the seasonal population surge places a peak period pressure on transport and other systems. Related to this, we accept that development within the district, at both the individual and cumulative levels, has the potential to significantly affect the transport network. These effects include safety (our paramount concern), ecological effects related to noise, emissions and storm water, and the admittedly theoretical, but in our view probable economic costs related to travel time (especially for work-related trips).

177. In terms of other infrastructure networks, we accept that there are fundamental health and safety issues arising from development proceeding in a way that is not coordinated with infrastructure. For the Council's part (and also the Regional Council) under the Local Government Act, it is responsible for an ongoing planning and provision role and, other than acknowledging this, we have no further comment.

178. Although the spatial extent of the zone will be determined having regard to infrastructure capacity, it is possible that through applications for resource consent, proposals are made that may be beyond local capacity to manage and it is appropriate that the Plan recognises this.

179. We find that Ms Leith's proposed S.42A version amendments are largely appropriate and subject to minor Clause 16(2) clarifications we adopt them. These provisions will in our view be the most appropriate. Our preferred text is outlined below (noting that 7.2.7 now becomes 7.2.6).

[99] Submission 719

7.2.6 Objective

Development efficiently utilises existing infrastructure and minimises impacts on infrastructure networks

Policies

7.2.6.1 Ensure access and vehicle parking is located and designed to optimise safety and efficiency of the road network and minimises impacts on on-street vehicle parking.

7.2.6.2 Ensure development is designed consistent with the capacity of existing infrastructure networks and, where practicable, incorporates low impact approaches to storm water management and efficient use of potable water.

7.2.6.3 Integrate development with all transport networks and in particular, and where practicable, improve connections to public transport services and active transport networks (tracks, trails, walkways and cycleways).

12.12. Objective 7.2.8 and Policies 7.2.8.1, 7.2.7.2 and 7.2.7.3

180. These provisions were withdrawn from the PDP by the Council on 25 November 2015. We have given them no further consideration, although we have considered the submissions relevant to visitor accommodation, particularly that of Totally Tourism Ltd[100] relating to the activity status of visitor accommodation, as appropriate elsewhere in this report.

12.13. Objective 7.2.9 and Policies 7.2.9.1, 7.2.9.2, 7.2.9.3 and 7.2.9.4

181. The notified objective is worded:

"Objective - Generally discourage commercial development except when it is small scale and generates minimal amenity impacts."

182. The notified policies are worded:

"Policies

7.2.9.1 Commercial activities that directly serve the day-to-day needs of local residents, or enhance social connection and vibrancy of the residential environment may be supported, provided these do not undermine residential amenity or the viability of a nearby centre.

7.2.9.2 Ensure any commercial development is low scale and intensity (100m2 or less gross floor area) and does not adversely affect the local transport network and the availability of on-street parking.

7.2.9.3 Commercial activities that generate adverse noise effects are not supported in the residential environment.

7.2.9.4 Ensure any commercial development is of a design, scale and appearance compatible with its surrounding residential context."

183. We find that there is an appropriate, and desirable, role for commercial activities within the zone for the same basic reasons that we support community activities within the zone.

184. These provisions attracted some interest from submissions. Ms Leith's Section 42A Report proposed relative modest changes, in response to the Panel's 4th Procedural Minute and also

[100] Submission 571

submitter Dave Barton[101]. Mr Barton sought clarity around how resource consent applications for commercial activities would be assessed, including a stronger position on the generation of noise effects. Ms Leith agreed with Mr Barton in respect of a change to Policy 7.2.9.2 (to remove reference to 100 square metres of commercial activity gross floor area), but only agreed in part with Mr Bartons's other request that the policy framework discourage commercial activities that generated *any* adverse noise effects.

185. We find that the policy framework is sufficiently broad to justify rules enabling home occupations, but consider that this should be made clearer. To that end under Clause 16(2) we have added such.

186. We also find that the Council's Reply version of these provisions is generally appropriate, but we have determined that for clarity, reference to the word "amenity" such as in the objective, should be changed to "amenity values" given that the latter is a statutory term supported by a definition within the Act.

187. The recommended text for these provisions (noting also that 7.2.9 becomes 7.2.7) is outlined below. We find that the above provisions will be the most appropriate means of providing for commercial activity within the zone, particularly because they better relate to the key amenity values effects of concern.

7.2.7 Objective
Commercial development in the zone is small scale and generates minimal amenity value impacts.

Policies
7.2.7.1 Provide for commercial activities, including home occupation activities, that directly serve the day-to-day needs of local residents, or enhance social connection and vibrancy of the residential environment, provided these do not undermine residential amenity values or the viability of any nearby centre.
7.2.7.2 Ensure that any commercial development is of low scale and intensity, and does not undermine the local transport network or availability of on-street vehicle parking for non-commercial use.
7.2.7.3 Ensure that the noise effects from commercial activities are compatible with the surrounding environment and residential amenity values.
7.2.7.4 Ensure that commercial development is of a design, scale and appearance that is compatible with its surrounding residential context.

12.14. Objective 7.2.10 and Policies 7.2.10.1, 7.2.10.2 and 7.2.10.3

188. The notified objective is worded:

"Objective - Ensure residential amenity is maintained through pleasant living environments within which adverse effects are minimised while still providing the opportunity for community needs."

189. The notified policies are worded:

"Policies
7.2.10.1 Require, as necessary, mechanical ventilation of any Critical Listening Environment within new and alterations and additions to existing buildings containing an

[101] Submission 269

Activity Sensitive to Aircraft Noise within the Queenstown Airport Outer Control Boundary.

7.2.10.2 Require, as necessary, sound insulation and mechanical ventilation for any Critical Listening Environment within any new and alterations and additions to existing buildings containing an Activity Sensitive to Aircraft Noise within the Queenstown Airport Air Noise Boundary."

190. In Ms Leith's Section 42A Report, and primarily in response to the submissions made by QAC[102] and NZTA[103,] a reasonably substantial change was recommended. She proposed further recommendations in the Reply version including creating a new objective (Reply version Objective 7.2.7B). We note that the submission of BARNZ[104] also addressed reverse sensitivity effects relative to the operation of Queenstown Airport.

191. QAC and NZTA both operate strategic infrastructure that generates noise and could in turn be subjected to potential reserve sensitivity effects. We agree that the planning framework should recognise this, in two respects. The first is that the Plan should recognise that these parts of the environment will become increasingly unpleasant to live near into the future (especially the airport) as the intensity of use, and inherently the noise generated, increases in line with the operative designations both have in place within the ODP. The second is that development should in consequence be subjected to appropriate limitation so as to avoid or mitigate the potential effects that may arise.

192. Reverse sensitivity effects are problematic to manage inasmuch as that to occur in reality, a neighbour or other parties must first complain about the effects of a lawfully operating activity (the probability of which is difficult to predict), and then the activity being complained about must in turn be pressured to make a change in their activity that results in a material but ultimately unjustified loss of utility. We have used the term 'material loss' because we consider that a reasonable adaptation to one's activity (possibly including a reduction in site utility) for the purposes of simply being neighbourly falls under the general duty imposed on all parties by s.17 of the Act to avoid, remedy or mitigate adverse effects, whether or not those effects are provided for in a Plan rule or a resource consent. So in that respect a reverse sensitivity effect must involve a level of constraint on a party over and above what it should be reasonably imposing on itself to meet the purposes of the Act (and any other Acts). This is not a straight forward line to define. The consequence of this is that we consider any provisions that seek to manage reserve sensitivity effects must not have the unintended purpose of preventing operators of activities from still having to meet the requirements of s. 17, and any other relevant sections, of the Act relative to their neighbours or the community in general.

193. At this time, there is no evidence of a reverse sensitivity effect having occurred in Queenstown relative to either the Queenstown Airport of NZTA's strategic roads. We find that we are considering potential future reverse sensitivity effects and are in essence being asked to predetermine the likelihood of (a) complaints, and (b) an inability to resist those by either or both of the QAC or NZTA. We find that, in general, the mere prospect that a party or parties may complain at some point in the future being a basis to restrict the opportunity for those parties to use or develop their own land in the first instance is speculative and, ultimately, weak. In that respect, we consider that no complaints-type covenants are ably sufficient to

102 Submission 433 / Further submission 1340

103 Submission 719

104 Submission 271

address any actual reverse sensitivity effects from occurring. We are comfortable that the QAC and NZTA have clear legal permission to undertake the activities they do and we find it improbable that their lawfully established operations would be easily curtailed as a result of baseless complaints. We also find that there is no limitation under any New Zealand legislation that prevents either NZTA or QAC proactively using market mechanisms to achieve an outcome satisfactory to either (such as by purchasing at un-doctored market prices any adjacent property they wish).

194. Overall, we find the arguments made by QAC and NZTA before us in support of their need to be protected from reverse sensitivity effects to be poorly substantiated; there is no convincing evidence in support of their concern and ultimately, although not being presented in this way, their respective cases are each ultimately a combination of moral utilitarianism and largely theoretical risk. Most lacking was evidence that there was a history of high-volume unreasonable complaints, examples of curtailed operations, or a track record of the Council investigating alleged operations beyond the terms of a designation, resource consent, or other authorisation in Queenstown without any factual basis. The evidence presented in fact achieved the opposite; that the agencies – especially the QAC – have developed very constructive working groups and other relationships with the Council and community, and that these are proving effective at informing and including neighbours[105].

195. However, and despite our dissatisfaction with the arguments presented to us in support of additional restrictions, we find that the concerns of QAC and NZTA that the community could be harmed by disruption to their activities by way of reserve sensitivity effects are not so far-fetched as to be fanciful. Although we consider the risk of an actual reverse sensitivity effect eventuating for either the QAC or NZTA to be remotely low, we accept that the potential social and economic effects that could result could be especially and disproportionately severe. Effects of a low probability but a high severity are a category that is expressly defined in s.3 of the Act in the definition of "effect".

196. Having accepted that there is a legitimate resource management issue to be managed, we have then considered the burden proposed to be transferred from the QAC, NZTA (and wider community) onto those landowners in proximity to the Queenstown Airport or a state highway by way of restricted development rights compared to other landowners. We find that the proposed provisions would still enable reasonable use of all private land and will, overall, most appropriately promote the sustainable management of natural and physical resources for the whole community.

197. Turning to the wording and structure of the Council reply-version provisions, we find that there is no need for the new objective 7.2.7B. Reverse sensitivity effects can be managed by way of policies sitting under existing objectives.

198. All matters pertaining to Queenstown Airport should be re-located to Objective 7.2.2 (as amended earlier in this report), with additional policies added as 7.2.2.2 and 7.2.2.3.

199. In terms of the balance of the provisions, we find that there is insufficient need for the objective. It repeats the content of previous objectives and serves no purpose other than to provide a 'home' for the remaining one Policy (7.2.7.3). We find that our revised Objective 7.2.1, which includes policies addressing amenity values within the zone as well as infrastructure capacity, is capable of accommodating Policy 7.2.7.3 and we have made this change accordingly.

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105 S Freeman, Verbal responses to Commissioner questions at the Stream 6 hearing

200. On this basis, proposed Policy 7.2.7.3 (introduced through the Section 42A Report), should be renumbered 7.2.1.4 . We set out the wording of those policies below:

7.2.2 Objective
Development is limited within the Queenstown Airport Air Noise Boundary and Outer Control Boundary in recognition of the severe amenity (noise) constraints now and also likely in the foreseeable future as a result of its increasing intensity of operation and use.

Policies
7.2.2.1 Discourage the creation of any new sites or infill development for Activities Sensitive to Aircraft Noise within the Air Noise Boundary and between the Air Noise Boundary and the Outer Control Boundary on land around Queenstown Airport.
7.2.2.2 Require, as necessary, mechanical ventilation of any Critical Listening Environment within new buildings, relocated buildings, and any alterations and additions to existing buildings that contain an Activity Sensitive to Aircraft Noise within the Queenstown Airport Outer Control Boundary.
7.2.2.3 Require, as necessary, sound insulation and mechanical ventilation of any Critical Listening Environment within new buildings, relocated buildings, and any alterations and additions to existing buildings that contain an Activity Sensitive to Aircraft Noise within the Queenstown Airport Air Noise Boundary.
7.2.1.4 Require, as necessary, all new buildings, relocated buildings and additions and alterations to existing buildings that contain an Activity Sensitive to Road Noise located adjacent to a State Highway to be designed to maintain internal residential amenity values and, in particular, to provide protection to sleeping occupants from road noise.

201. We find that the above changes to the plan will make it more efficient and administratively simple. We find that they will be the most appropriate means of managing health and wellbeing in relation to the Queenstown Airport and state highways.

202. We have also considered the extent to which the overall framework of objectives and policies will promote the sustainable management of natural and physical resources. We find that the provisions we have recommended in **Appendix 1** are more coherent and comprehensive than the notified provisions and will, overall, be the most appropriate to manage the use and development of resources and the resulting environmental effects.

13. Chapter 8 Objectives and Policies

13.1. Objective 8.1 and Policies 8.2.1.1, 8.2.1.2, 8.2.1.3, 8.2.1.4 and 8.2.1.5

203. The notified objective is as follows:

"Objective - Medium density development will be realised close to town centres, local shopping zones, activity centres, public transport routes and non-vehicular trails in a manner that is responsive to housing demand pressures."

204. The notified policies are as follows:

"8.2.1.1 The zone accommodates existing traditional residential housing forms (dwelling, residential flat), but fundamentally has the purpose to provide land close to town centres, local shopping zones, activity centres and public transport routes that is appropriate for medium density housing or visitor accommodation uses.

8.2.1.2 Medium density development is anticipated up to two storeys in varying building forms including terrace, semi-detached, duplex, townhouse and small lot detached housing.

8.2.1.3 More than two storeys may be possible on some sloping sites where the development is able to comply with all other standards (including recession planes, setbacks, density and building coverage).

8.2.1.4 The zone provides compact development forms that provide a diverse housing supply and contain the outward spread of residential areas.

8.2.1.5 Higher density development is incentivised to help support development feasibility, reduce the prevalence of land banking, and ensure greater responsiveness of housing supply to demand."

205. This objective and its policies are intended to govern the distribution of the zone across the District, although the policies also cross over into the built form outcomes that are envisaged (we consider this to be problematic, as will be discussed later). In her Section 42A Report and recommendations, Ms. Leith proposed substantial changes to the notified provisions largely on the basis of Clause 16(2) clarifications to improve the text.

206. In terms of submissions, the key submitter was Reddy Group Ltd[106]. Reddy Group Ltd sought a number of changes on the basis that alternative wording could result in clearer and more effective promotion of medium density housing. For this and other provisions, Ms Leith stated of her own recommendations: "I have adopted much of the amended wording recommended by submitter 699"[107]. Other submitters to these provisions included M Lawton[108], P Roberts[109], R Jewell[110], P Winstone[111], and D & V Caesar[112]. We find in agreement with Ms Leith that Reddy Group Ltd, and other submitters, have proposed numerous improvements to the notified text.

207. We found the Council's urban design expert, Mr Falconer, and its economic advisor, Mr Osborne, especially helpful in our consideration of the Medium Density Residential Zone provisions and in particular this objective and its policies. Mr Osborne confirmed to us the severity of Queenstown's growth issues and this, in our view, directly relates to the ability of the community to provide for its social, economic and cultural wellbeing as described in s. 5 of the Act.

208. Mr Falconer described to us the need for this particular zone as a key means of accommodating growth in comparison to alternatives. Of particular interest to Mr Falconer was the economics of development and that in many cases medium density housing could strike a 'sweet spot' (our paraphrasing) in terms of development scale, cost and risk, that high density housing could struggle to match. As one example, we discussed with him the differences between timber-construction terraced housing with parking 'at grade' beside or behind the units, and concrete-construction low-rise apartments including elevators and car parking in an excavated

106 Submission 699
107 Section 42A Report for Chapter 8, page 85
108 Submission 117
109 Submission 172
110 Submission 300
111 Submission 264
112 Submission 651

basement. In his view, the medium density housing solution would often be more viable for a developer and more affordable (for purchasers) despite resulting in less units on the site. We accept his analysis that, in the absence of a very significant difference in unit yield achievable to overcome what could be substantial cost differentials (such as by way of additional building height), the Medium Density Residential zone may over time prove more effective in providing much needed affordable housing than the High Density Residential zone. We note that across all of the evidence we heard in the Stream 6 hearing, we heard nothing that came close to rebutting Mr Falconer's analysis.

209. We also note here that this discussion had reasonably obvious ramifications on our conclusions for the High Density Residential zone, to be outlined later.

210. Mr Falconer's support of the Medium Density Residential Zone went as far as him identifying that it was likely to be more significant than the more constrained (in terms of locational distribution) High Density Residential zone in addressing the District's housing issues. Although much of his commentary remains more applicable to the separate mapping hearings, we find that the need to provide for greater housing intensification including change to the existing character of some neighbourhoods to be both desirable and necessary.

211. In this respect, we recognise the extent of submissions made addressing medium density housing and higher densities generally (see paragraphs 9.21 and 9.22 of the Section 42A Report for a summary). We record our finding that there is a very compelling resource management basis to 'up zone' land when appropriate to enable more intensive and efficient use of land and, as is the case for the District, to address what has become a serious social and economic problem. We also find that opposition to such 'up zoning' requires convincing counter-argument based on the issues being addressed. Few submissions seeking a retention of previous lower density and more restrictive land use management controls offered such analysis and this weakened the case against the Medium Density Residential zone.

212. In summary, the principal argument in support of limiting intensification within existing developed areas relates to a loss of amenity values for existing residents, as well as various other adverse environmental effects including noise, shading, traffic and a loss of openness or views. We accept that these adverse effects could at times be substantial on those residents. The principal argument in support of enabling intensification within existing developed areas relates to the needs of new residents; the efficiencies of concentrating development in well-serviced and located areas; the inferiority of alternative locations to accommodate new growth; and the adverse effects that could eventuate from such an alternative settlement pattern (landscape effects, transport effects, social dislocation amongst others). We accept that the adverse effects of not enabling appropriate intensification could also be substantial on new residents and the environment. Although our above summary risks oversimplifying many nuances of the arguments on each side, we do find that there is an inevitable need to balance the interests of current residents against those of new and future residents when considering urban intensification.

213. We also note that wherever new growth is located it is likely to cause offence to some existing residents who feel they are losing some aspect of their quality of life and in this respect there is no 'silver bullet' for how and where future growth can be managed.

214. In terms of the objective, we find that the text can be substantially simplified to refer to employment centres on the basis that this will best promote non-vehicular travel (other than passenger transport). This best encapsulates the technical justification offered by the Council

for the zone and the need to limit opportunities for substantial intensification to where it can be accommodated such as by generating less demand for car travel on already busy roads. It also then better sets in train policy 8.2.1.1, which can describe in detail the locations most appropriate to implement the objective without being as repetitive as it had been when notified.

215. We find that the policies otherwise require substantial amendment, although mostly to make them clear and legible without changing their fundamental intent. In terms of policies 8.2.1.2 and 8.2.1.3 we find that these are not justified by the objective and should be removed given that different objectives and policies address the form and quality expected of development within the zone.

216. We find that policy 8.2.1.5 should be removed. The reference to incentivising higher density housing was inadequately substantiated and was not, in our view, reflected in any proposed rules. We also consider that incentivising higher density housing remains a matter that would be best promoted through non-Resource Management Act means, such as reduced development contributions or rates under the LGA, should the community determine to take such action.

217. The amended text we recommend is:

8.2.1 Objective
Medium density development occurs close to employment centres which encourage travel via non-vehicular modes of transport or via public transport.

Policies
8.2.1.1 Provide opportunities for medium density housing close to town centres, local shopping zones, activity centres and public transport routes.
8.2.1.2 Provide for compact development forms that encourage a diverse housing supply and contribute toward containing the outward spread of residential growth away from employment centres.
8.2.1.3 Enable increased densities where they are located within easy walking distance of employment centres and public transport routes, subject to environmental constraints including local topography, stability and waterways, that may justify a limitation in density or the extent of development.
8.2.1.4 Enable medium density development through a variety of different housing forms including terrace, semi-detached, duplex, townhouse, or small lot detached housing.

218. We find that the recommended text is clearer and more direct in its language than the notified version, although retains the key thrust of what had been proposed by the Council.

219. Policies 8.2.1.1 and 8.2.1.2 relate to the allocation of the land use zone. Policies 8.2.1.3 and 8.2.1.4 then relate to the land use outcomes, broadly, that should be enabled within the zone and which might otherwise be used to more directly guide applications for discretionary of non-complying activity resource consent.

220. We find that our recommended text is the most appropriate for reasons of administrative effectiveness and efficiency, and that as notified some of the policies (notably 8.2.1.2 and 8.2.1 3) were not convincingly drawn from the objective they purported to implement.

13.2. Objective 8.2.2 and Policies 8.2.2.1, 8.2.2.2, 8.2.2.3, 8.2.2.4, 8.2.2.5, 8.2.2.6 and 8.2.2.7

221. The notified objective is as follows:

"Objective - Development provides a positive contribution to the environment through quality urban design solutions which complement and enhance local character, heritage and identity."

222. The notified policies are as follows:

"8.2.2.1 Buildings shall address streets and provide direct connection between front doors and the street, with limited presentation of unarticulated blank walls or facades to the street.

8.2.2.2 Where street activation (by the methods outlined by the Policy above) is not practical due to considerations or constraints such as slope, multiple road frontages, solar orientation, aspect and privacy, as a minimum buildings shall provide some form of visual connection with the street (such as through the inclusion of windows, outdoor living areas, low profile fencing or landscaping).

8.2.2.3 Street frontages shall not be dominated by garaging, parking and accessways.

8 2.2.4 The mass of buildings shall be broken down through variation in facades and materials, roof form, building separation and recessions or other techniques to reduce dominance on streets, parks, and neighbouring properties.

8.2.2.5 Landscaped areas shall be well designed and integrated into the design of developments, providing high amenity spaces for recreation and enjoyment, and to soften the visual impact of development, with particular regard to the street frontage of developments.

8.2.2.6 Development must take account of any design guide or urban design strategy applicable to the area.

8.2.2.7 The amenity and/or environmental values of natural features (such as topography, geology, vegetation, waterways and creeks) are taken into account by site layout and design, and integrated as assets to the development (where appropriate)."

223. Complementing objective 8.2.1, this objective and its policies seek to focus on the built form and spatial qualities that development within the zone should achieve. It is clear that the Council has sought to enable intensification only where the quality of resultant development will be high. We find that this, at a very general level, resonated very positively amongst the submitters and enjoyed widespread support across all of the residential zones.

224. In Ms Leith's S.42A version, substantial changes were proposed, largely in response to alternative wording proposed by Reddy Group Ltd[113]. Other submitters were also interested in these provisions, including M Lawton[114], The Jandel Trust[115] and FII Holdings Ltd[116]. The changes were largely in terms of the language used so as to make the provisions clearer.

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113 Submission 699

114 Submission 117

115 Submission 717

116 Submission 847

225. In consideration of these provisions we have considered carefully the submissions made in opposition to the zone[117] and its potential density enablement – especially where the land is currently zoned for lesser intensity in the ODP. These submissions can be seen to focus on two key issues of concern. The first relates to infrastructure capacity and we will address that later. The second relates to amenity values and the adverse effects that medium density development could give rise to on the immediate locality.

226. While we have found broad support for the Medium Density Residential zone and, noting that the separate mapping hearings will consider site-specific submissions relating to what zone or zones should apply to land, we agree with those submissions that express concern that, if not well managed medium density housing may result in unacceptable adverse effects. To this end the proposed objective and its policies are an essential plank of the zone's justification.

227. We do not however accept that densification will inherently or necessarily lead to adverse environmental effects, nor do we consider that any adverse effects will be inherently unacceptable. But we consider that the potential for adverse effects is sufficient that the zone policy framework needs to be clear that a minimum level of quality is to be required.

228. Turning to the provisions themselves, we find that medium density development will often occur in or near neighbourhoods that have been historically developed to a lower density. To that end, we do not consider the blanket maintenance or enhancement of those existing character or amenity values to be justifiable (or achievable). Given that over time a different set of amenity values and built form character qualities will eventuate, the policy target should be that new development contributes to that new high quality character.

229. Our recommended wording for the objective further clarifies the direction we consider Ms Leith was aiming for in her S.42A version. In this respect, we find in agreement with those submissions that support medium density housing in the District[118] and the evidence of Mr Falconer on behalf of the Council.

230. In terms of the policies, we agree with Ms Leith and Mr Falconer that the emphasis of new built form character should be public spaces (streets and parks) and this has been made clearer in our recommended provisions. We recommend deletion of notified Policy 8.2.2.6 on the basis that, if the Council determines to progress with design guidelines for the residential zones, it can propose changes to the add policies as part of any future plan variation or change. We also recommend deleting Policy 8.2.2.7. We find that incorporating existing features on a site is not inherently necessary or required, especially if it leads to an inefficient use of land purposefully zoned to accommodate housing. Likewise, we have not been convinced that there is any inherent risk of adverse effects from environmental modification given how urban and modified the character of the zone ins planned to become. In this respect, we consider that the best means of considering very constrained sites where reduction in development

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117 Identified in Ms Leith's Section 42A Report as being Submissions 8 (opposed by FS1029, FS1061, FS1167, FS1189, FS1195, FS1270), 9, 19, 22, 25, 37, 61, 99, 132, 140 (opposed by FS1189 and FS1195), 154, 155, 164, 173 (opposed by FS1251), 181, 190, 199, 204, 210, 221, 244, 261, 264, 265, 269, 304, 317, 341, 423, 479 (opposed by FS1271), 503 (supported by FS1063, opposed by FS1315), 506 (opposed by FS1315 and FS1260, supported by FS1063), 569, 578, 597, 599 (supported by FS1265 and FS1268), 618, 646, 648, 717, 752, 814, 821 (supported by FS1265, FS1268 and FS1063), 824, 847, 130

118 Including submissions 88, 110 (with exception of Scurr Heights), 177 (supported by FS1061), 290 (supported by FS1061), 335, 445 (supported by FS1061), 470, 668 (opposed by FS1271 and 1331), 682, 737 (opposed by FS1276 and FS1251), 751, 773, C Ryan 290 (supported by FS1061), and also as further elaborated in A Leith, Chapter 8 Section 42A Report, Section 10

may be suitable is by way of land use zoning (i. e. to not apply a zone that then cannot be readily developed to its maximum).

231. Our recommended text changes are:

8.2.1 Objective
Development contributes to the creation of a new, high quality built character within the zone through quality urban design solutions which positively respond to the site, neighbourhood and wider context.

Policies
8.2.2.1 Ensure buildings address streets and other adjacent public spaces, with limited presentation of unarticulated blank walls or facades to the street(s) or public space(s).
8.2.2.2 Require visual connection with the street through the inclusion of windows, outdoor living areas, low profile fencing or landscaping.
8.2.2.3 Ensure street frontages are not dominated by garaging through consideration of their width, design and proximity to the street boundary.
8.2.2.4 Ensure developments reduce visual dominance effects through variation in facades and materials, roof form, building separation and recessions or other techniques.
8.2.2.5 Ensure landscaped areas are well designed and integrated into the design of developments, providing high amenity spaces for residents, and to soften the visual impact of development with particular regard any street frontage(s).

232. Referring to the amended text above, we find that our recommendations are the most appropriate. The provisions have been simplified and reinforce that a high-quality outcome is required of every medium density housing development within the zone. This will avoid the worst potential adverse effects likely from allowing medium density housing to occur close to lower density housing.

13.3. Objective 8.2.3 and Policies 8.2.3.1, 8.2.3.2 and 8.2.3.3

233. The notified objective is as follows:

"Objective - New buildings are designed to reduce the use of energy, water and the generation of waste, and improve overall comfort and health."

234. The notified policies are as follows:

"8.2.3.1 Enable a higher density of development and the potential for non-notification of resource consent applications where building form and design is able to achieve certification to a minimum 6-star level using the New Zealand Green Building Council Homestar™ Tool.

8.2.3.2 Encourage the timely delivery of more sustainable building forms through limiting the time period in which incentives apply for development which is able to achieve certification to a minimum 6-star level using the New Zealand Green Building Council Homestar™ Tool.

8.2.3.3 Development considers methods to improve sustainable living opportunities, such as through the inclusion of facilities or programs for efficient water use, alternative waste management, edible gardening, and active living."

235. These provisions sought to incentivise sustainable building practices by providing a variety of rule exemptions (most notably density) for applicants that could meet requirements.

236. Ms Leith, in her Section 42A Report and recommendations, proposed that these provisions be deleted. In support of this she referred to a number of submitters including P Roberts[119], R Jewell[120], P Winstone[121], D & V Caesar[122], M Lawton[123], Dato Tan Chin Nam[124], Shellmint Proprietary Ltd[125], Reddy Group Ltd[126], R & L Kane[127], and NZIA and Architecture + Women Southern[128].

237. We identified a number of concerns with these provisions and, in summary, support their deletion.

238. First, in terms of proposed Policy 8.2.3.1, we do not see the nexus between a Homestar rating and the potential environmental effects of a proposal, particularly on any affected parties (given the potential for non-notification identified in the policy). Second, we have been given no meaningful analysis or evidence to demonstrate what actual sustainability benefit would result if the provisions were put in place. Third, we accept and prefer the Council's strategic evidence, to the effect that the most sustainable possible land use pattern, of promoting higher density around nodes that can make a meaningful reduction in daily transport needs, remains the key strategy around which a less energy-intensive way of life could be achieved.

239. In her Section 42A Report, Ms Leith referred to a similar initiative proposed by Auckland Council as part of its Proposed Auckland Unitary Plan process (at her paragraphs 9.31 and 9.32). Whereas Ms Leith disagreed with some of the commentary made by the Auckland Independent Hearings Panel's finding (which was against inclusion of the Homestar tool within the AUP), we do not. Matters relating to the sustainability of construction including materials used and Homestar-type initiatives, sit properly under the Building Act.

240. We do accept and agree with the remaining analysis provided by Ms Leith in her Section 42A Report at paragraphs 9.27 to 9.34, including the concern of submitters that the Homestar incentive approach could unintentionally enable an inappropriate density within the zone, potentially undermining the role of the High Density Residential zone.

241. We consider that removal of these provisions is the most appropriate way of promoting sustainable management within the zone as a whole.

13.4. Objective 8.2.4 and Policies 8.2.4.1, 8.2.4.2 and 8.2.4.3

242. The notified objective is as follows:

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119 Submission 172
120 Submission 300
121 Submission 264
122 Submission 651
123 Submission 117
124 Submission 61
125 Submission 97
126 Submission 699
127 Submission 130
128 Submission 238

"Objective - Provide reasonable protection of amenity values, within the context of an increasingly intensified suburban zone where character is changing and higher density housing is sought."

243. The notified policies are as follows:

> *"8.2.4.1 Apply recession plane, building height, yard setback, site coverage, and window sill height controls as the primary means of ensuring reasonable protection of neighbours' privacy and amenity values.*
>
> *8.2.4.2 Ensure buildings are designed and located to respond positively to site context through methods to maximise solar gain and limit energy costs.*
>
> *8.2.4.3 Where compliance with design controls is not practical due to site characteristics, development shall be designed to maintain solar gain to adjoining properties."*

244. The purpose of these provisions is to provide a framework to allow intensification to occur while managing adverse effects on neighbours (although in this light policy 8.2.4.2 does not sit comfortably).

245. Ms Leith's Section 42A Report recommendations broadened the scope of the provisions to also include the amenity values of residents within medium density housing developments in addition to those of neighbours – which would amongst other things address the anomaly of Policy 8.2.4.2 identified above. In arriving at her conclusions, she agreed with points made by Reddy Group Ltd[129], NZIA and Architecture + Women Southern[130], The Jandel Trust[131], FII Holdings Ltd[132], and the Council[133].

246. In terms of the objective, we agree that the amenity values of neighbours and locals within the Medium Density Residential zone should be "reasonably maintained" rather than "reasonably protected" given the purpose of the zone to enable change in the built environment by way of intensification and more density. In our view an objective to "protect" is inherently restrictive and in favour of a status quo. We have also agreed with Ms Leith's use of the words "high quality living environments for residents", noting that "residents" includes those living in new developments *and* those living around them.

247. We have recommended substantial changes to the policies to make them more clearly focussed on applications for resource consent, and also added a new policy (8.2.3.3 in our Appendix 2, noting that notified Objective 8.2.4 has become 8.2.3 in our recommendations). That policy relates to a specific matter raised in submissions and discussed at the hearing, at Scurr Heights in Wanaka. That is a public access way (Designation 270 in the PDP) and submissions relating primarily to the development control rules (building height) that should apply were received from M Prescott[134], W Richards[135] and D Richards[136]. Their preferred relief would be to limit development on the land adjacent to the public walkway.

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129 Submission 699
130 Submission 238
131 Submission 717
132 Submission 847
133 Submission 383
134 Submission 73
135 Submission 55
136 Submission 92

248. The developer of the land in question, Universal Developments Ltd[137] called evidence from Mr Dan Curly and Mr Tim Williams, and legal submissions from Mr Warwick Goldsmith. In summary Universal Developments Ltd disagreed with Ms Leith's recommended height limitation and considered that there was no need for a restriction on building height.

249. Having considered the matter in light of all evidence, and having visited the most potentially affected part of the walkway ourselves, we find in agreement that development on land immediately adjoining Designation 270 could adversely detract from the very high quality public views down to and across Lake Wanaka in a manner that was not appropriate. To that end, it is not appropriate to introduce rules arbitrarily and instead the policy framework should be the key means of providing for the management of effects. We find that a policy is required to manage the amenity values (public view quality) of people using Designation 270. Having considered the alternative rules packages that might apply, we have determined that the basic zone development control rules are adequate to balance the efficient and reasonable use of Medium Density Residential zoned land with the public amenity and benefits of the walkway's views out over the township. Related to this, we find that the difference between the options we identified, including Ms Leith's and Mr Williams', was not significant once the undulating nature of the land was taken into account. None of the options convincingly addressed the matter of how any land use consent that sought to contravene any first-line rule would be managed (i. e. all suggestions ignored the scenario of development that did not comply with the rules being proposed), and this ultimately led to the need for a specific policy to govern the matter.

250. The text changes we recommend are:

8.2.3 Objective

Development provides high quality living environments for residents and provides reasonable maintenance of amenity values enjoyed on adjoining sites taking into account the changed future character intended within the zone.

Policies

8.2.3.1 Apply permitted activity and resource consent requirements based on recession plane, building height, setbacks and site coverage controls as the primary means of ensuring reasonable maintenance of neighbours' privacy and amenity values.

8.2.3.2 Where a resource consent is required for new development, reasonably minimise the adverse effects of the new development on the amenity values enjoyed by occupants of adjoining sites, and have particular regard to the maintenance of privacy for occupants of the development site and neighbouring sites through the application of setbacks, offsetting of habitable room windows from one another, screening or other means.

8.2.3.3 Ensure development along the western side of Designation 270[138] has the least possible impact on views from the formed walkway to the west toward Lake Wanaka and beyond, and generally limit development on land immediately adjoining the western side of Designation 270 to the permitted building height, recession plane, site coverage and setback limits (including between units) to achieve this.

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137 Submitter 177.

138 Running south from Aubrey Road, Wanaka

251. We find that the text proposed above is the most appropriate and will ensure that the maintenance of amenity values will be ensured within the zone and between new development and its neighbours in a way that still provides for change and new growth to occur, including in respect of Designation 270.

13.5. Objective 8.2.5 and Policies 8.2.5.1, 8.2.5.2, 8.2.5.3 and 8.2.5.4

252. The notified objective is as follows:

"Objective - Development supports the creation of vibrant, safe and healthy environments."

253. The notified policies are as follows:

"8.2.5.1 Promote active living through providing or enhancing connections to public places and active transport networks (walkways and cycleways).

8.2.5.2 Design provides a positive connection to the street and public places, and promotes ease of walkability for people of all ages.

8.2.5.3 Walking and cycling is encouraged through provision of bicycle parking and, where appropriate for the scale of activity, end-of-trip facilities (shower cubicles and lockers) for use by staff, guests or customers.

8.2.5.4 Public health and safety is protected through design methods to increase passive surveillance and discourage crime, such as through the provision of security lighting, avoidance of long blank facades, corridors and walkways; and good signage."

254. These provisions sought to promote walking and cycling, and that development integrates with public spaces.

255. In her Section 42A Report, Ms Leith proposed a relatively minor series of corrections and clarifications to the provisions, including additions in response to the submissions made by Varina Propriety Ltd[139] relating to non-residential activities.

256. We find that these provisions are unnecessary and duplicate matters specified elsewhere in the chapter. Specifically, Objective 8.2.2 and its policies relate to the visual integration and quality of development adjacent to public spaces. Policy 8.2.2.2 (our version) directly relates to the qualities that promote passive surveillance and positively connecting developments with streets.

257. Overall, we find that these provisions should be deleted from the Plan. Their imprecision and unnecessary repetition muddles the policy framework and would lead to inefficiencies in the District Plan's implementation. We also have doubt as to how the policies would function in practice, for example Policy 8 2.4.3 describes end-of-trip facilities such as shower cubicles. But there are no rules or general matters of discretion (or reservations of control) proposed that would ever require these, meaning they would function as an additional Council request or point of negotiation for discretionary or non-complying activity applications. This does not in our view seem effective.

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139 Submission 591

13.6. Objective 8.2.6 and Policies 8.2.6.1, 8.2.6.2 and 8.2.6.3

258. The notified objective is as follows:

"Objective - In Arrowtown medium density development responds sensitively to the town's character."

259. The notified policies are as follows:

"8.2.6.1 Notwithstanding the higher density of development anticipated in the zone, development is of a form that is sympathetic to the character of Arrowtown, including its building design and form, scale, layout, and materials in accordance with the Arrowtown Design Guidelines 2006.

8.2.6.2 Flat roofed housing forms are avoided.

8.2.6.3 Medium density housing development responds sensitively to the street and public spaces through the inclusion of landscaping (including small trees and shrubs) to soften increased building mass."

260. These provisions sought to ensure development in Arrowtown was compatible with the historic character values of the settlement.

261. Ms Leith recommended no changes to these provisions other than an updated reference from the 2006 Arrowtown Design Guidelines to the 2016 version.

262. While submissions were made to Chapter 10 (Arrowtown Residential Historic Management zone) and Variation 1 (Arrowtown Design Guidelines), no specific text-changes were identified in the submissions for these provisions, although P Winstone[140] did challenge whether or not the provisions would be adequate for Arrowtown (and elsewhere).

263. We find, in partial agreement with P Winstone, that these provisions should be clearer and in conjunction with Clause 16(2) clarifications we have proposed a number of changes to the objective and its policies. The effect of the changes we recommend is to make the provisions clearer that new development should be compatible with the town's existing character. We have also identified that as a part of this, Policy 8.2.6.1 (renumbered 8.2.4.1 in our recommendations) should place greater emphasis on building design and form, and the scale and layout of buildings relative to street frontages. We find that these changes do not materially change the notified provisions, but make them clearer in response to the concerns identified by P Winstone.

264. Our recommended text changes are included below (noting that 8.2.6 becomes 8.2.4). We find that these will be the most appropriate inasmuch as greater clarity in how to manage medium density housing in Arrowtown will result in more effective plan administration. Our recommended text changes are:

<u>8.2.4 Objective</u>
In Arrowtown medium density development occurs in a manner compatible with the town's existing character.

<u>Policies</u>

[140] Submission 264

8.2.4.1 Ensure development, including infill housing, community activities and commercial development is of a form that is compatible with the existing character of Arrowtown, and as described within the Arrowtown Design Guidelines 2016 with particular regard given to:

a. Building design and form
b. Scale, layout and relationship of buildings to the street frontage(s)
c. Materials and landscape response(s) including how landscaping softens the building mass
d. relative to any street frontage(s).

8.2.4.2 Avoid flat roofed dwellings in Arrowtown.

13.7. Objective 8.2.7 and Policies 8.2.7.1, 8.2.7.2, 8.2.7.3, 8.2.7.4 and 8.2.7.5

265. The notified objective is as follows:

"Objective - Ensure medium density development efficiently utilises existing infrastructure and minimises impacts on infrastructure and roading networks."

266. The notified policies are as follows:

"8.2.7.1 Medium density development is provided close to town centres and local shopping zones to reduce private vehicle movements and maximise walking, cycling and public transport patronage.

8.2.7.2 Medium density development is located in areas that are well serviced by public transport and infrastructure, trail/track networks, and is designed in a manner consistent with the capacity of infrastructure networks.

8.2.7.3 Access and parking is located and designed to optimise efficiency and safety and minimise impacts to on-street parking.

8.2.7.4 A reduction in parking requirements may be considered in Queenstown and Wanaka where a site is located within 400 m of either a bus stop or the edge of a town centre zone.

8.2.7.5 Low impact approaches to storm water management, on-site treatment and storage / dispersal approaches are enabled to limit demands on public infrastructure networks."

267. These provisions sought to promote the efficient use of infrastructure within the zone. A number of submitters sought changes to the provisions, including Reddy Group Ltd[141], JWA and DV Trust[142], NZTA[143], P Thoreau[144], P Fleming[145,] Otago Foundation Trust Board[146], and Ministry of Education[147].

141 Submission 699
142 Submission 505
143 Submission 719
144 Submission 668
145 Submission 599
146 Submission 408
147 Submission 524

268. Ms Leith's S.42A version included deleting outright Policies 8.2.7.1 and 8.2.7.4. We agree with this. In terms of Policy 8.2.7.1, it addresses and unnecessarily repeats the matters outlined in Objective 8.2.1 and its policies. In terms of Policy 8.2.7.4, we consider that this is a matter that, if appropriate, should sit in the District Plan's transportation provisions. As it stands, it is a policy that does not link to any rules or assessment matters within Chapter 8. In respect of the above, we find that the notified provisions are inefficient and ineffective.

269. For the balance of the provisions Ms Leith's analysis of the submissions led her to propose a number of clarifications and changes. We largely agree with her recommendations including the changes made in recognition of improvements identified by the submitters. However, we have recommended further modifications under Clause 16(2) to further improve their clarity.

270. Our recommended text changes are:

8.2.5 Objective
Development efficiently utilises existing infrastructure and minimises impacts on infrastructure networks.

Policies

8.2.5.1 *Ensure access and vehicle parking is located and designed to optimise safety and efficiency of the road network and minimise adverse effects on on-street vehicle parking.*

8.2.5.2 *Ensure development is designed consistent with the capacity of existing infrastructure networks and where practicable incorporates low impact approaches to storm water management and efficient use of potable water.*

8.2.5.3 *Integrate development with all transport networks and in particular, and where practicable, improve connections to public transport services and active transport networks (tracks, trails, walkways and cycleways).*

~~[~~

271. We find that the provisions we recommend above (noting that 8.2.7 is now to be renumbered as 8.2.5) will be both effective and efficient. Changes recommended to (re-numbered) Policies 8.2.5.2 and 8.2.5.3 now distinguish between requirements that are expected to be achieved, followed by proactive opportunities that may or may not be possible on a case by case basis. This in our view offers a balance between minimum acceptable baselines and the more sustainability-based regime supported by the Council. As such, we find that the provisions we recommend to be the most appropriate.

13.8. Objective 8.2 8 and Policies 8.2.8.1, 8.2.8.2 and 8.2.8.3

272. The notified objective is as follows:

"Objective - Provide for community activities and facilities that are generally best located in a residential environment close to residents."

273. The notified policies are as follows:

"8.2.8.1 *Enable the establishment of community activities and facilities where adverse effects on residential amenity in terms of noise, traffic, hours of operation, lighting, glare and visual impact can be suitably avoided or mitigated.*

8.2.8.2 Ensure any community uses or facilities are of limited intensity and scale, and generate only small volumes of traffic.

8.2.8.3 Ensure any community uses or facilities are of a design, scale and appearance compatible with a residential context."

274. These provisions seek to enable community activities within the zone. Key submitters with an interest in these included Ministry of Education[148], and Otago Foundation Trust Board[149]. As a result of these submissions and her own editorial suggestions using Clause 16(2), Ms Leith proposed minor changes to these provisions, consistent with those also recommended and discussed for Chapter 7 (see paragraphs 139-141 above).

275. We largely agree with Ms Leith's recommendation for the objective and first policy, although we recommend changing the ambiguous term "amenity" to "amenity values" given that is a term defined by the Act. In terms of the second policy, Ms Leith recommended deleting this, however we disagree. The policy forms a key means by which proposals for larger-scale community activities can be considered, based on the locality having the ability to absorb the activity and its operational effects. To that end, we recommend it be retained by re-wording it so as to achieve the relief sought by the Otago Foundation Trust Board[150], i. e. a recognition that some community activities within the zone may be neither of limited scale or generate a small amount of traffic, but still be appropriate. In terms of the third policy, we agree with Ms Leith's recommendation.

276. The text changes we recommend are:

8.2.6 Objective

Community activities serving the needs of people within the zone locate within the zone on sites where adverse effects are compatible with residential amenity values.

Policies

8.2.6.1 Enable the establishment of community activities where adverse effects on residential amenity values including noise, traffic, lighting, glare and visual impact can be avoided or mitigated.

8.2.6.2 Ensure any community activities occur in areas which are capable of accommodating traffic, parking and servicing to a level which maintains residential amenity values.

8.2.6.3 Ensure any community activities are of a design, scale and appearance compatible with a residential context.

277. Overall, we find that the provisions we recommend above (renumbered from 8.2.8 to 8.2.6) to be the most appropriate. They will be efficient inasmuch as they will enable the greatest possible diversity and (albeit by way of consent) opportunity for community activities to occur within the zone, and effective inasmuch as they will limit community activities based on local environmental constraints and adverse effects on residential amenity values.

13.9. Objective 8.2.9 and Policies 8.2.9.1, 8.2.9.2 and 8.2.9.3

278. These provisions were withdrawn from the PDP by the Council on 25 November 2015. We have given them no further consideration.

148 Submission 524

149 Submission 408

150 Ibid

13.10. Objective 8.2.10 and Policies 8.2.10.1, 8.2.10. 2, 8.2.10. 3, 8.2.10. 4, 8.2.10. 5 and 8.2.10.6

279. The notified objective is as follows:

> *"Objective - Provide for limited small-scale commercial activities where such activities:*
> - *contribute to a diverse residential environment;*
> - *maintain residential character and amenity; and*
> - *do not compromise the primary purpose of the zone for residential use."*

280. The notified policies are as follows:

> *"8.2.10.1 Commercial activities that directly serve the day-to-day needs of local residents, or enhance social connection and vibrancy of the residential environment may be supported, provided these do not undermine residential amenity, the viability of the zone or a nearby Town Centre.*
>
> *8.2.10.2 Ensure any commercial development is low scale and intensity and generates small volumes of traffic.*
>
> *8.2.10.3 Commercial activities which generate adverse noise effects are not supported in the residential environment.*
>
> *8.2.10.4 Commercial activities are suitably located and designed to maximise or encourage walking, cycling and public transport patronage.*
>
> *8.2.10.5 Commercial activities are located at ground floor and provide a quality built form which activates the street, and adds visual interest to the urban environment.*
>
> *8.2.10.6 Ensure any commercial development is of a design, scale and appearance compatible with its surrounding residential context."*

281. These provisions seek to enable commercial activities within the zone provided that they are able to be residentially-compatible and otherwise sit most appropriately within a residential, rather than a commercial centre, location.

282. Although the matter of residential amenity values was of interest to a significant number of submissions generally, few submitters sought specific changes to the proposed text of the objective or its policies. Key submitters were The Jandel Trust[151] and FII Holdings Ltd[152]. We also note that so some submitters, notably P Winstone[153], P Swale[154], and L King[155] considered that there should be no commercial activities enabled at all within the zone.

283. We find that commercial activities are appropriate for residential zones generally and the Medium Density Residential zone specifically. They are so commonplace that the idea of a 'corner dairy' or café is iconic and inherently forms a part of, in our view, the reasonable and every day conception of residential amenity values (along with periodic construction or traffic noise, visual change as properties are developed or redeveloped, and seasonal changes in

151 Submission 717
152 Submission 847
153 Submission 264
154 Submission 792
155 Submission 230

vegetation cover and shading from trees). We do not support those submissions that seek to effectively prohibit or exclude commercial activities entirely from the zone.

284. However, we qualify this by affirming our agreement with Ms Leith and the notified PDP provisions themselves that commercial activities, to be compatible with a residential scale, do need to be effectively managed including by limiting the scale and quantity of such activities.

285. Ms Leith recommended retention of the objective and all six policies, subject to numerous refinements and changes (most in response to Clause 16(2) clarifications and the Panel's own 4th Procedural Minute).

286. We find that the community's wellbeing will be best served by enabling commercial activities within the zone for the reasons that they will help make daily life easier and more convenient, provide local employment opportunities, promote social interaction between residents, and provide additional reasons for residents to walk and cycle in their neighbourhood (a public health benefit). We find that the benefits of appropriately located and scaled commercial activity within the zone are such that slight diminishment of some local amenity values, provided that the full balance of amenity values are, overall, maintained, would be acceptable.

287. To this end, we have considered the submissions, further submissions, notified provisions and Ms Leith's recommendations. We find that the proposed objective is too directive and includes matters that are in our view better suited to a policy level. We have therefore recommended simplifying the objective to focus on commercial activities being of small scale and otherwise having minimal adverse amenity value effects.

288. In terms of the policies, we agree with the first policy and have recommended only minor Clause 16(2) amendments, including the addition of a reference to home occupation activities given that they are a form of commercial activity provided for by the rules framework that should be governed by these provisions. In terms of the second policy we find that it is appropriate to limit the scale of commercial activity. We disagree with the proposed words "small volumes of traffic". This reflects in our view an example of a reasonably clear policy intention (to avoid problematic traffic effects on residential streets) but a use of words that is very ambiguous. For example, "small" could be measured in absolute terms of the number of vehicle trips likely to be generated by an activity, or in a relative sense – such as a "small" percentage of the number of vehicles typically using a given road (allowing a large number of vehicle trips to be generated if the commercial activity was located next to a busy road). Another complicating factor is if the commercial activity in question only generated a very small number of "new" vehicle trips, and otherwise relied on a large number of 'pass by' customers who were already making a vehicle trip elsewhere and hence already going to be using the road - the classic example being a commuter going to work who stops at a corner café to purchase a takeaway cup of coffee.

289. In our overall consideration of this problem we considered whether or not the proposed zone rules helped give meaning to what "small" might mean. No rules are proposed based on traffic generation.

290. We find that, using Clause 16(2) it is possible to clarify the policy, without changing its meaning, to better reflect the Council's intent. To that end we have recommended that the policy be re-worded to focus on the traffic and car parking effects of commercial activity rather than an undefined and difficult to administer benchmark.

291. In terms of the third policy, we find that noise effects from commercial activities are potentially very adverse and need to be well managed. To this end, we recommend further changes under Clause 16(2) to benchmark noise effects to be compatible with the locality and residential amenity values. We find that our recommended wording will be clearer than Ms Leith's more generic preference that commercial noise effects simply be mitigated. As such we also find our recommendations are closer to the notified policy wording than Ms Leith's amended version.

292. We do not support the fourth and fifth policies. These are not supported by any proposed rules and are, in our view unnecessary. In terms of Policy 8.2.10.4, we find that any operator looking to establish a commercial activity within a residential zone will inherently need to carefully consider location based on accessibility, exposure to passing traffic, and customer attraction so as to maximise the likelihood that they will be commercially successful. To this end, we consider the policy to be both ineffective and inefficient. In terms of Policy 8.2.10.5, we consider that this is, in part, repeating the visual and design quality expectations of Policy 8.2.10.6, and is otherwise unnecessary given that a commercial operator would always prefer the commercial advantage of a ground floor location unless, such as in a home occupation, the nature of the operation does not require regular customer access or public interaction. It is as such both repetitive and unnecessary.

293. We agree with the sixth policy as recommended by Ms Leith and find that it is essential in managing the majority of potential effects likely to be generated by commercial activity within the zone.

294. Overall, we therefore recommend simplifying the policies from six to four, and renumbering the objective from 8.2.10 to 8.2.7, all as set below.

8.2.7 Objective
Commercial development is small scale and generates minimal adverse effects on residential amenity values.

Policies

8.2.7.1 *Provide for commercial activities, including home occupation activities, that directly serve the day-to-day needs of local residents, or enhance social connection and vibrancy of the residential environment, provided these do not undermine residential amenity values or the viability of any nearby Town Centre.*

8.2.7.2 *Ensure that any commercial development is of low scale and intensity, and does not undermine the local transport network or availability of on-street vehicle parking for non-commercial use.*

8.2.7.3 *Ensure that the noise effects from commercial activities are compatible with the surrounding environment and residential amenity values.*

8.2.7.4 *Ensure that commercial development is of a design, scale and appearance that is compatible with its surrounding residential context.*

295. We find that the revised provisions above are the most appropriate from the point of view of enabling the community's wellbeing, focusing on the adverse effects that are of key potential concern, and ensuring a policy framework that avoids unnecessary repetition. As such, we find our recommended provisions are more effective and efficient than the notified and s. 42A recommended versions.

13.11. Objective 8.2.11 and Policies 8.2.11.1, 8.2.11. 2, 8.2.11. 3, 8.2.11. 4, 8.2.11. 5, 8.2.11.6 and 8.2.11.7

296. These provisions were deferred to the mapping hearings and were not considered further in Stream 6. The text recommended by the Stream 13 Panel is shown in Appendix 2.

13.12. Objective 8.2.12 and Policies 8.2.12.1, 8.2.12.2 and 8.2.12.3

297. These provisions were deferred to the mapping hearings and were not considered further in Stream 6. The text recommended by the Stream 12 Panel is shown in Appendix 2.

13.13. Objective 8.2.13 and Policies 8.2.13.1 and 8.2.13.2

298. The notified objective is as follows:

> *"Objective – Manage the development of land within noise affected environments to ensure mitigation of noise and reverse sensitivity effects."*

299. The notified policies are as follows:

> *"8.2.13.1 All new and altered buildings for residential and other noise sensitive activities (including community uses) located within 80 m of the State Highway shall be designed to meet internal sound levels of AS/NZ 2107:2000.*
>
> *8.2.13.2 Encourage all new and altered buildings containing an Activity Sensitive to Aircraft Noise (ASAN) located within the flight paths of the Queenstown Airport (identified by Figure 1 - Airport Approach and Protection Measures) to be designed and built to achieve an internal design sound level of 40 dB Ldn."*

300. These provisions sought to ensure that land likely to accommodate activities that would be subject to potentially loud noise was being managed so as to ensure the health and wellbeing of any site occupants. Key submissions were from Otago Foundation Trust Board[156], Universal Developments Ltd[157] and NZTA[158]. The issues raised in the submissions relates to the rules more than the policies, but are of note focused on the first policy proposed. We also record the assistance of Dr Chiles on behalf of the Council in helping us understand the different qualities of sound effects and acoustic transmission.

301. Ms Leith recommended changes to the first policy, and no changes to either the objective or second policy. Her recommended changes amounted to clarifications of the notified provisions.

302. We find that the objective is appropriate and we support it. In terms of the policies, we consider that both should be retained but be modified. In terms of the first policy and in light of the submitter concerns raised, we find that there is no basis to benchmark an 80m setback distance within the policy itself; that is properly the subject of a rule (proposed Rule 8.5.2 to be precise). We prefer "close to" within the policy itself. We also find that the words "maintain appropriate amenity" recommended by Ms Leith would be better expressed as "maintain reasonable amenity values for occupants", and have recommended this as a Clause 16(2) clarification. In terms of the second policy, we have recommended a number of minor Clause 16(2) clarifications to bring the language into line with that we have elsewhere determined to be the most appropriate.

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156 Submission 408

157 Submission 177

158 Submission 719

303. We have included our recommended text changes below (note that Objective 8.2.13 has been renumbered as 8.2.10). We find that these will be the most appropriate for the reasons that they are clearer and more direct than the notified text and will as such be more effective.

8.2.10 Objective
Manage the development of land within noise affected environments to ensure mitigation of noise and reverse sensitivity effects.

Policies
8 2.10.1 Require as necessary all new and altered buildings for Activities Sensitive to Road Noise located close to any State Highway to be designed to provide protection from sleep disturbance and to otherwise maintain reasonable amenity values for occupants.
8.2.10.2 Require all new and altered buildings containing an Activity Sensitive to Aircraft Noise (ASAN) located within the Queenstown Airport Air Noise Boundary or Outer Control Boundary to be designed and built to achieve an internal design sound level of 40 dB Ldn.

13.14. Overall Chapter 8 Objectives and Policies
304. We have lastly considered our recommended objectives and policies as a whole and confirm our finding that as a package they will be the most appropriate to promote sustainable management within the Medium Density Residential zone.

14. CHAPTER 9 OBJECTIVES AND POLICIES

14.1. Objective 9.2.1 and Policy 9.2.1.1
305. The notified objective is:

"Objective – High-density housing development and visitor accommodation will occur in urban areas close to town centres, to provide greater housing diversity and respond to strong projected growth in visitor numbers."

306. The notified policy is:

"9.2.1.1 Provide sufficient high density zoned land with the potential to be developed to greater than two storeys in Queenstown and two storeys in Wanaka to enable diverse housing supply and visitor accommodation close to town centres."

307. In Ms Banks' Section 42A Report, no changes were recommended to the provisions. Our own review of the submissions likewise identified no specific changes to the text notified by the Council. We note that those parts of the provisions relating to visitor accommodation were removed by function of Council withdrawal of all visitor accommodation provisions on 25 November 2015.

308. We find that it is desirable that the zone, like the other residential zones, commences with an objective and policies speaking to the distribution and allocation of the zone itself (akin to an instruction for any future plan changes).

309. Having considered the provisions, we propose minor amendments to clarify and improve both the objective and policy under Clause 16(2). Of note, we recommend removing reference from

the policy of the built form outcomes that are expected; that is the subject of different objectives.

310. We have also recommended moving proposed policy 9.2.6.1 and adding it to Objective 9.2.1 as new policy 9.2.1.2. This is because the policy addresses locational matters for high density housing and we consider the Plan would be more legible and administrable if like provisions were grouped together.

311. The changes we recommend are included below:

9.2.1 Objective
High density housing development occurs in urban areas close to town centres, to provide greater housing diversity and respond to expected population growth.

Policies
9.2.1.1 Provide sufficient high density zoned land that enables diverse housing supply and visitor accommodation close to town centres.
9.2.1.2 Promote high density development close to town centres to reduce private vehicle movements, maximise walking, cycling and public transport patronage and reduce the need for capital expenditure on infrastructure.

312. Overall, we find that the changes we have recommended will be the most appropriate.

14.2. Objective 9.2.2 and Policies 9.2.2.1, 9.2.2.2, 9.2.2.3, 9.2.2.4, 9.2.2.5, 9.2.2.6 and 9.2.2.7

313. The notified objective is:

"Objective - High-density residential and visitor accommodation development will provide a positive contribution to the environment through design that demonstrates strong urban design principles and seeks to maximise environmental performance."

314. The notified policies are:

"9.2.2.1 Buildings shall address streets and other public spaces with active edges with limited presentation of blank and unarticulated walls or facades.

9.2.2.2 Street edges shall not be dominated by garaging, parking and accessways.

9.2.2.3 Where street activation is not practical due to considerations or constraints such as slope, multiple road frontages, solar orientation, aspect and privacy, as a minimum buildings shall provide some form of visual connection with the street (such as through the inclusion of windows, outdoor living areas, low profile fencing or landscaping).

9.2.2.4 The mass of buildings shall be broken down through variation in facades and roof form, building separation or other techniques to reduce dominance impacts on streets, parks and neighbouring properties, as well as creating interesting building forms.

9.2.2.5 Ensure well designed landscaped areas are integrated into the design of developments and add meaningfully to the amenity of the development for residents, neighbours and the wider public.

9.2.2.6 Ensure buildings are designed and located to respond positively to site context through methods to maximise solar gain and limit energy costs.

9.2.2.7 Incentivise greater building height where development is designed to achieve a high environmental performance."

315. The above provisions seek to ensure that high density housing achieves a suitable level of urban design quality. Policy 9.2.2.7 addresses building sustainability and building height. As such, these provisions are particularly important in the context of ensuring the environmental effects of larger-scaled and higher-density buildings be suitably managed.

316. As has been the case in the other residential zones, the matter of quality and amenity values was of keen interest to submitters. Key submitters relevant to these proposed provisions were NZIA[159] and Pounamu Body Corporate Committee[160]. In Ms Banks' recommendations, the objective and seventh policy would be subject to minor modification; the remaining policies were left unchanged.

317. We refer at this juncture to paragraphs 131-140 earlier, detailing our analysis of submissions seeking a greater role for design guidelines, criteria and the Council's Urban Design Panel. This was a key issue of interest for submitters in the High Density Residential zone. In addition to that general discussion, in Ms Banks' Section 42A Report she provided her opinion on the recommendation of Mr Falconer that all proposals of 6 or more units be required to be presented to the Council's Urban Design Panel, with that Panel further supported by potential non-notification incentives for applications that have been to (and presumably are supported by) the Panel. Ms Banks did not agree with Mr Falconer.

318. We prefer Ms Banks' analysis on these matters although note that we have no opinion on what applications the Council may wish to present to its Urban Design Panel. We do not support a greater role for the Urban Design Panel at this time and note that we have received no useful evidence on the Panel's composition, expertise or training from the point of view of its ability to make resource management decisions instead of its current mandate.

319. In terms of the provisions, we find that the expectation that larger, higher density developments achieve a reasonably high standard of design quality, both visually and functionally, is well founded. It relates directly to the increased potential for problematic adverse effects that occurs when developments get larger, or the space between people reduced (or both). We also find that the locational quality of the High Density Residential zone, being closely associated with the District's town centres, is a further justification for design quality due to the likelihood that visitors will be exposed to developments within the zone and how that exposure will contribute to their perceptions of Queenstown and/or Wanaka. To this end, we endorse Ms Banks' agreement (in part) with NZIA[161] that design quality should be more explicitly set out within the provisions.

320. In terms of the policies, we consider that they can be substantially simplified and we have recommended that this occur relying on Clause 16(2). In essence, we find that the provisions should be clear on what design outcomes are required within the zone including landscaping, modulation and articulation of building forms, activation and visual interest along streets and open spaces, and managing garages and parking areas along frontages. We note however that

159 Submission 238

160 Submission 208

161 Submission 238

the above is limited to design qualities that need to be achieved; we find that the Plan should not go so far as to specify a required means to achieve those qualities.

321. We also agree with NZIA[162] in its submission that design quality should be a matter added to Policy 9.2.2.7 that could justify additional building height. In fact, we find that design quality is a more defendable and appropriate matter to relate with additional height (given the likelihood that environmental effects of each will directly relate to one another) than general environmental responsiveness. To this end, we recommend rewording the policy to reflect this. We also note our finding that the additional words "and effects can be avoided, remedied or mitigated" proposed by Ms Banks for the end of the policy in response to the Pounamu Body Corporate Committee[163] submission are not necessary. The Act already requires that adverse effects be avoided, remedied or mitigated and this is a key matter for consideration during the section 104 (and where applicable section 104D) tests that applications for resource consent are subjected to. There is in our view little need to repeat in the District Plan what the Act already requires, and, as discussed in other Reports, particularly Report 3 on the Strategic Chapters, it provides no assistance to a user of the Plan.

322. In terms of our recommendations, we have simplified the policies from seven to two, although have added four distinct matters to one of those. In our view the recommended changes have a similar effect to Ms Banks' S42A version but are clearer and simplified. We consider that due to that simplification they are the most appropriate. The recommended wording is included below:

9.2.2 Objective

High density residential development provides a positive contribution to the environment through quality urban design.

Policies

9.2.2.1 *Require that development within the zone responds to its context, with a particular emphasis on the following essential built form outcomes:*

- *Achieving high levels of visual interest and avoiding blank or unarticulated walls or facades.*
- *Achieving well-overlooked, activated streets and public open spaces, including by not visually or spatially dominating street edges with garaging, parking or access ways.*
- *Achieving a variation and modulation in building mass, including roof forms.*
- *Use landscaped areas to add to the visual amenity values of the development for on-site residents or visitors, neighbours, and the wider public.*

9.2.2.2 *Support greater building height where development is designed to achieve an exemplary standard of quality, including its environmental sustainability.*

14.3. Objective 9.2.3 and Policies 9.2.3.1 and 9.2.3.2

323. The notified objective is:

"Objective – A reasonable degree of protection of amenity values will be provided, within the context of an increasingly intensified and urban zone where character is changing."

324. The notified policies are:

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162 Submission 238

163 Submission 208

"9.2.3.1 Apply recession plane, building height, floor area ratio, yard setback and site coverage controls as the primary means of limiting overly intensive development and ensuring reasonable protection of neighbours' outlook, sunshine and light access, and privacy.

9.2.3.2 Ensure that where development standards are breached, impacts on the amenity values of neighbouring properties, and on public views (especially towards lakes and mountains), are no more than minor relative to a complying development scenario."

325. These provisions seek to ensure that the environmental effects of High Density Residential development will be managed as they relate to neighbouring sites. Key submitters included Pounamu Body Corporate Committee[164], Fred van Brandenburg[165], and the Council[166]. In response to the submissions, as well as the Panel's 4th Procedural Minute, Ms Banks recommended no changes to the objective, changes to the two policies, and addition of a new third policy.

326. We find that, as has been the case with the Low Density and Medium Density Residential zones, objectives and policies focused on managing the effects of development at its edges, including neighbours, is well-grounded and appropriate. However, our evaluation of these specific provisions has identified a number of concerns with the proposed text.

327. In terms of the objective, we find that there is an incompatibility between the protection of amenity values for existing neighbours and substantial change within the zone around them. This is analogous with the issue discussed in Chapter 8 around notified objective 8. 2. 4 (see paragraphs 241-250 above). "Protection" is furthermore undermined by the words "reasonable degree", which effectively means that "protection" in what we consider to be its plain and everyday meaning of the word is not what is actually sought from the objective.

328. We find that an alternative wording, as set out below, to be the clearer and more accurate depiction of what is sought.

<u>9.2.3 Objective</u>
High density residential development maintains a minimum level of existing amenity values for neighbouring sites as part of positively contributing to the urban amenity values sought within the zone.

329. Following on from this we find that the objective should be clearer that, in the zone, substantial change is anticipated and that as this change occurs a new urban character will be established. This will result in some amenity values being enhanced and others being diminished. We find that those being diminished should be safeguarded to a minimum acceptable level so as to maintain, overall, the amenity values of neighbours.

330. In terms of the first policy, we do not consider it has been correctly written. The Act provides for development control rules as means to differentiate different activity status categories. While it is possible to use rules to demarcate the limit of tolerable adverse effects we have been given no evidence to demonstrate that the proposed development control rules will

164 Submission 208
165 Submission 520
166 Submission 383

achieve this or how. We prefer the interpretation of the rules as an indicator of potential adverse effects, but primarily a means to determine what process should be followed to evaluate the merits of a development proposal by way of a permitted activity or a resource consent application.

331. We also consider that there is an inherent effects trade-off between the proposed rules. A deliberate contravention of, for instance, building height so as to achieve a much greater horizontal building setback than otherwise required, may result in a notably better outcome for a neighbour than simply designing to the rule with less height but buildings closer to boundaries. A policy approach that simply required rule compliance would not enable such a practical effects-based outcome.

332. For these reasons, we consider that 'effects based management' does not in any reliable way relate to 'rules based management'. To this end we have recommended a number of Clause 16(2) revisions to the policy so as to correctly cast it against the objective. These changes would recognise that while the development control rules are important to ensure a minimum acceptable level of amenity values are maintained for neighbours, they are not the only acceptable or even the best solution.

333. In terms of the second policy, we find that the policy should be substantially reworded. First, there is no need to refer to instances where rules are being breached; this is self-evident. Second, the overall requirement of "adequately mitigated" is very ambiguous in terms of how much "mitigation" is warranted (whereby 100% mitigation amounts to avoidance of any effect, and 1% mitigation amounts to a significant diminishment of the view in question). Lastly, the onus on height contraventions to be tested against public views, when this is not so in any of the other residential zones, is anomalous as well as unjustified in terms of the importance of the zone to accommodate substantial growth in the District. We find that where significant public views are worthy of recognition and possible retention, specific provisions should be in place for this such as has occurred in the Medium Density Residential zone in the context of Scurr Heights / Designation 270 (see paragraphs 241-250 above). We find that the policy should be revised to focus on its key message, being the need to ensure that the amenity values of neighbours (which could include a street or park and users of those) are adequately maintained.

334. In terms of the additional third policy recommended by Ms Banks, we find that there is a strong case for its inclusion given the purpose of the objective and how important privacy is to assure residential amenity values. However, we find that the recommended wording be revised to sharpen it (for example, privacy is ultimately a quality enjoyed by people, not 'sites' or 'units' generically).

335. Our recommended wording for the policies is set out below.

<u>Policies</u>

9.2.3.1 Apply recession plane, building height, yard setback and site coverage controls as the primary means of ensuring a minimum level of neighbours' outlook, sunshine and light access, and privacy will be maintained, while acknowledging that through an application for land use consent an outcome superior to that likely to result from strict compliance with the controls may well be identified.

9.2.3.2 Ensure the amenity values of neighbours are adequately maintained

9.2.3.3 Ensure built form achieves privacy for occupants of the subject site and neighbouring residential sites and units, including through the use of building

setbacks, offsetting habitable windows from one another, screening, or other means.

336. We find that they are the most appropriate inasmuch as they will ensure an adequate maintenance of amenity values is provided for in a way that will still support the primary purpose of the zone to accommodate substantial growth around the District's Town Centres.

14.4. Objective 9.2.4 and Policy 9.2.4.1

337. The notified objective is:

"Objective – Provide for community facilities and activities that are generally best located in a residential environment close to residents."

338. The notified policy is:

"9.2.4.1 Enable the establishment of community facilities and activities where adverse effects on residential amenity values such as noise, traffic and visual impact can be avoided or mitigated."

339. These provisions seek to provide for community activities within the zone. They were not the subject of any particular submission (although similar provisions on the (renamed) Lower Density Suburban Residential and Medium Density Residential zones were subject to submissions). In her Section 42A Report, Ms Banks recommended changes to the provisions on the basis of the Panel's 4th Procedural Minute, as well as a Clause 16(2) revision, to bring the provisions into alignment with what the reporting officers had recommended for the other residential zones.

340. We find that we have scope to make limited changes to these provisions on the basis of the general submissions made seeking that the zone's ability to accommodate growth be maximised, and also those submissions seeking changes to how community activities and facilities were treated in the (renamed) Lower Density Suburban Residential and Medium Density Residential zones.

341. In terms of the change from "community facilities and activities", we note that while the submissions made by Ministry of Education*167* and Otago Foundation Trust Board*168* made specific reference to the notified Low and Medium Density Residential zones, their submissions were cast more at how these activities should be classified in the Plan generally. We furthermore consider that Clause 16(2) can also be used to justify a change to "community activities" as a consequential clarification that does not change the practical meaning of the Plan's provisions.

342. Of greater substance, we have reflected on the open-ended nature of the provisions in light of the importance of the zone to accommodate high density residential development. We find that the provisions should specify "small scale" so as to reinforce that it is not anticipated, for instance, that a substantial community activity occupying most of a block should locate within the zone. We consider that this change, in the context of a blanket discretionary activity requirement for community activities, will better serve the zone and bring community activities into line with the same approach taken for commercial activities.

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167 Submission 524

168 Submission 408

343. We have included our recommended wording below. We find that it is the most appropriate for reasons of clarity, effectiveness and to support the broader zone framework of the Plan.

9.2.4 Objective
Small-scale community activities are provided for where they are best located in a residential environment close to residents.

Policies
9.2.4.1 Enable the establishment of small-scale community activities where adverse effects on residential amenity values such as noise, traffic and visual impact can be avoided or mitigated.

14.5. Objective 9.2.5 and Policies 9.2.5.1 and 9.2.5.2

344. The notified objective is:

"Objective – Generally discourage commercial development except when it is small scale and generates minimal amenity impacts."

345. The notified policies are:

"9.2.5.1 Ensure any commercial development is low scale, is of limited intensity, and generates small volumes of traffic.

9.2.5.2 Ensure any commercial development is of a design, scale and appearance compatible with its context."

346. The provisions seek to enable limited commercial activity within the zone. In her s. 42A report Ms Banks recommended no changes to the provisions on the basis of submissions, and a minor change to the objective arising from the Panel's 4th Procedural Minute.

347. We find that the provisions are generally appropriate however we have recommended minor rewording under Clause 16(2) to improve their clarity and bring them into line with similar provisions within the Medium Density Residential Zone (renumbered Objective 8.2.7 in our recommendations).

348. Our preferred wording is in included below. We find that it is the most appropriate on the basis that it improves the S.42A version and is more consistent with the approach recommended for the Medium Density Residential Zone.

9.2.5 Objective
Commercial development is small scale and generates minimal amenity value impacts.

Policies
9.2.5.1 Ensure that any commercial development is of low scale and intensity, and does not undermine the local transport network or availability of on-street vehicle parking for non-commercial use.
9.2.5.2 Ensure that any commercial development is of a design, scale and appearance compatible with its surrounding context.

14.6. Objective 9.2.6 and Policies 9.2.6.1, 9.2.6.2, 9.2.6.3, 9.2.6.4, 9.2.6.5, 9.2.6.6 and 9.2.6.7

349. The notified objective is:

"Objective - High-density residential development will efficiently utilise existing infrastructure and minimise impacts on infrastructure and roading networks."

350. The notified policies are:

"9.2.6.1 Promote high-density development close to town centres to reduce private vehicle movements, maximise walking, cycling and public transport patronage and reduce the need for capital expenditure on infrastructure.

9.2.6.2 Development supports active living through providing or enhancing connections to public places and active transport networks (walkways, trails and cycleways).

9.2.6.3 Development provides facilities to encourage walking and cycling, such as provision of bicycle parking spaces and, where appropriate for the scale of activity, end-of-trip facilities (shower cubicles and lockers).

9.2.6.4 Ensure access and parking is located and designed to optimise connectivity, efficiency and safety.

9.2.6.5 Enable development to provide a lower provision of on-site parking than would otherwise be anticipated, where the activity has characteristics that justify this, or travel plans can adequately demonstrate approaches that mitigate a lower parking provision.

9.2.6.6 Site layout and design provides low impact approaches to storm water management through providing permeable surface on site and the use of a variety of stormwater management measures.

9.2. 67 A reduction in parking requirements may be considered in Queenstown and Wanaka where a site is located within 400 m of a bus stop or the edge of a town centre zone."

351. The above provisions seek to ensure that development within the zone makes efficient use of network infrastructure and contributes to improvements (particularly to transport networks) where practicable. Key submissions relevant to the text were from Otago Regional Council[169], NZTA[170], E Spijkerbosch[171], P Greg[172], Villa Del Lago[173], and Transpower[174]. In response to the submissions, further submissions and Panel's Minutes, Ms Banks recommended changes be made to the objective and two of the policies.

352. As noted earlier, we find that Policy 9.2.6.1 relates better to Objective 9.2.1 and we have recommended relocating it. We also find that Policy 9.2.6.7 is not appropriate. It is not supported by any other provisions within the zone and while possibly justifiable within the Chapter 29 (Transport), we do not agree that it relates to the land use issues addressed in the High Density Residential zone. We also note that in the Medium Density Residential zone, Ms

169 Submission 798
170 Submission 719
171 Submission 1059
172 Submission 1288
173 Submission 380
174 Submission 805

Leith recommended deletion of a policy analogous to Policy 9.2.6.7 (notified Policy 8.2.7.4) and we agreed with that. It is in our view desirable to promote a consistent approach to like issues across a Plan and this is another factor that led us to not support Policy 9.2.6.7. However no submissions sought any changes to this policy. In addition, the Council proposes varying this policy in the Stage 2 variations to extend the distance within which parking requirement reductions may be considered. Thus we have left it unaltered, but renumbered.

353. In terms of the remaining provisions, we largely find in agreement with Ms Banks, although we recommend deleting policy 9.2.6.5 because it can be amalgamated with policy 9.2.6.4. We have however recommended minor editorial revisions to make the policies clearer.

354. Our recommended changes are included below. These represent what we find at the most appropriate provisions, subject to our comments on recommended Policy 9.2.6.5.

92.6 Objective
High density residential development will efficiently utilise existing infrastructure and minimise impacts on infrastructure and transport networks.

Policies

9.2.6.1 *Require development to provide or enhance connections to public places and active transport networks (walkways, trails and cycleways) where appropriate.*

9.2.6.2 *Require development to provide facilities to encourage walking and cycling where appropriate.*

9. 26.3 *Ensure access and parking is located and designed to optimise the connectivity, efficiency and safety of the district's transport networks, including the consideration of a reduction in required car parking where it can be demonstrated that this is appropriate. [*

9.2.6.4 *Require the site layout and design of development provides low impact approaches to storm water management through providing permeable surface areas on site and the use of a variety of stormwater management measures.*

9.2.6.5 *A reduction in parking requirements may be considered in Queenstown and Wanaka where a site is located within* 400[175] *m of a bus stop or the edge of a Town Centre Zone.*

14.7. Objective 9.2. 7 and Policy 9.2.7.1

355. Through the section 42A process, Ms Banks recommended addition of a new objective and policy relating to development within noise-affected environments in response to the submission of NZTA[176]. This is assessed in detail in paragraphs 11.11-11.15 in Ms Banks Section 42A Report.

356. We note that in the Medium Density Residential zone notified Objective 8.2.13 and its policies had an effect similar to that now recommended in the High Density Residential zone by Ms Banks.

357. We find that the new provisions are appropriate although we have recommended that the wording be amended to match what we determined was most appropriate for Policy 8.2.10.1 (our recommended numbering). These are set out below and are in our view the most appropriate for reasons or providing for the acoustic health, safety and amenity values of persons living close to State Highways.

175 Varied by Variation 2 and not part of our recommendation

176 Submission 719

9.2.7 Objective

Manage the development of land within noise affected environments to ensure mitigation of noise and reverse sensitivity effects.

Policies

9.2.7.1 Require as necessary all new and altered buildings for Activities Sensitive to Road Noise located close to any State Highway to be designed to provide protection from sleep disturbance and to otherwise maintain reasonable amenity values for occupants.

14.8. Overall Chapter 9 Objectives and Policies

358. We have lastly considered our recommended objectives and policies as a whole and confirm our finding that as a package they will be the most appropriate to promote sustainable management within the High Density Residential Zone.

15. CHAPTER 10 OBJECTIVES AND POLICIES

15.1. Objective 10.2.1 and policies 10.2.1.1, 10.2.1.2 and 10.2.1.3

359. The notified objective is:

"Objective – Ensure development retains or enhances the historic character of the zone, which is characterised by larger section sizes, low scale and single storey buildings, the strong presence of trees and vegetation and limited hard paving."

360. The notified policies are:

"10.2.1.1 Apply particular development controls around building location, scale and appearance, and landscaped areas, to ensure the special character of the area is retained or enhanced.

10.2.1.2 Ensure that any buildings are located and designed in a manner that complements and respects the character of the area and are consistent with the outcomes sought by the Arrowtown Design Guidelines 2006.

10.2.1.3 Control the subdivision of land and regulate density to ensure the character resulting from the existing large lot sizes and historical subdivision pattern is retained."

361. In Ms Law's Section 42A Report, no changes to the above provisions were recommended on the basis of submissions received. She recommended minor changes on the basis of the Panel's 4th Procedural Minute and to otherwise improve the clarity of Policy 10.2.1.1.

362. We find that Ms Law's recommendations are appropriate and subject to minor modification under Clause 16(2) we adopt them (including the addition of the words "amenity values" to the objective.) However, we also find that, as will be discussed later, Objective 10.25 is overly repetitive of this objective and should be deleted, with notified policies 10.5.2 and 10.2.5.3 relocated to sit under objective 10.2.1 as new policies 10.2.1.3 and 10.2.1.4. This is also the justification for adding the words "amenity values" to objective 10.2.1.

363. Our recommended text changes are:

10.2.1 Objective

Development retains or enhances the historic character and amenity values of the zone, which is characterised by larger site sizes, low scale and single storey buildings, the presence of trees and vegetation and limited hard paving.

Policies

10.2.1.1 Apply development controls around building location, scale and appearance, and landscaped areas, to ensure the special character of the area is retained or enhanced.

10.2.1.2 Ensure that buildings are located and designed in a manner that complements the character of the area, as described within the Arrowtown Design Guidelines 2016.

10.2.1.3 Control the subdivision of land and regulate density to ensure the character resulting from the existing large lot sizes and historical subdivision pattern is retained.

10.2.1.5 Ensure that any commercial and non-residential activities, including restaurants, maintain or enhance the amenity, quality and character of the zone and surrounding area.

10.2.1.6 Avoid non-residential activities that would undermine the amenity of the zone or the vitality of Arrowtown's commercial zone.

364. With reference to the provisions set out above, we find that the changes we recommend are the most appropriate. They will set out a framework that will ensure the character and amenity values that the Arrowtown community derives substantial wellbeing from will be maintained or enhanced.

15.2. Objective 10.2.2 and Policy 10.2.2.1

365. The notified objective is:

"Objective - Enable residential flats as a means of providing affordable housing while generating minimal adverse effects on amenity values."

366. The notified policy is:

"10.2.2.1 Provide for residential flats of a compact size that do not compromise the integrity of the zone's special character."

367. In Ms Law's Section 42A Report, she identified no relevant submissions on these provisions and recommended only a minor grammatical change in response to the Panel's 4th Procedural Minute. Our own review of the submissions has also not identified any submissions specific to residential flats within this particular zone (we discussed residential flats in the context of Chapter 7 earlier).

368. However, in consideration of the other residential zones, no other objectives or policies specific to residential flats are proposed and we have no information why the Arrowtown Residential Historic Management zone should. As is further discussed in the separate Definitions report (Report 14), the Council now proposes to provide for residential flats as an inherent part of the definition of a residential unit. On the basis that residential flats would therefore be provided for as a part of residential units, there is no need for separate objectives and policies addressing residential flats. We find that the objective and policy should be

deleted on the basis that the provisions have become obsolete, inefficient, and - due to a risk of creating user confusion, ineffective.

369. We consider the provisions can be deleted under Clause 16(2) as a consequential amendment to the recommendations made in the Stream 10 Report on definitions (Report 14), given that they do not change the actual meaning or effect of the Plan's provisions as a whole.

15.3. Objective 10.2.3 and Policy 10.2.3.1

370. The notified objective is:

"Objective - Provide for community activities and services that are generally best located in a residential environment close to residents."

371. The notified policy is:

"10.2.3.1 Enable the establishment of small scale community facilities and activities where adverse effects on the character and amenity values of the area in terms of noise, traffic and visual impact can be avoided or mitigated."

372. In Ms Law's Section 42A Report, she identified no relevant submissions on these provisions and recommended only a minor grammatical change in response to the Panel's 4th Procedural Minute. Our own review of the submissions has also not identified any submissions specific to community activities within this particular zone (we discussed the merits of "community facilities and activities" and "community activities" in the context of Chapter 7 and also Chapters 8 and 9 earlier).

373. We agree with Ms Law's recommendations and note our view that the Plan should be consistent in how it describes community activities. We find that these changes can be made under Clause 16(2) given that they do not materially change the District Plan's meaning or effect. Our recommended changes are proposed below (noting that notified Objective 10.2.3 becomes 10.2.2):

<u>10.2.2 Objective</u>
Community activities that are best suited to a location within a residential environment close to residents are provided for.

<u>Policies</u>
10.2.2.1 Enable the establishment of small scale community activities where adverse effects on the character and amenity values of the area in terms of noise, traffic and visual impact can be avoided or mitigated.

15.4. Objective 10.2.4 and Policies 10.2.4.1 and 10.2.4.2

374. The notified objective is:

"Objective - Ensure development efficiently utilises existing infrastructure and minimises impacts on infrastructure and roading networks."

375. The notified policies are:

"10.2.4.1 Ensure access and parking is located and designed to optimise efficiency and safety, and designed in sympathy with the character of the area.

10.2.4.2 Seek low impact approaches to storm water management."

376. In Ms Law's Section 42A Report, she identified no relevant submissions on these provisions and recommended only a minor grammatical change in response to the Panel's 4th Procedural Minute. Our own review of the submissions has also not identified any submissions specific to community activities within this particular zone (we discussed the merits of infrastructure efficiencies in similar objectives and policies previously in the context of Chapters 7, 8 and 9).

377. We largely agree with Ms Law although we have made further recommendations to simplify the text as well as bring it into line with text recommended in the other residential zones. We have of note recommended that the word "encourage" be added at the commencement of the second policy given that the notified word "seek" is ambiguous in terms of whether it is intended to have a meaning closer to "require", or one closer to "encourage". We have determined the latter given that there are no rules or assessment matters proposed that would require low impact solutions. On this basis, we consider that the change qualifies as a Clause 16(2) change and no further analysis is required. Our recommended changes are set out below (noting that Objective 10.2.4 would now become Objective 10.2.3).

10.2.3 Objective
Development efficiently utilises existing infrastructure and otherwise minimises impacts on infrastructure and road networks.

Policies
10.2.3.1 Ensure vehicle access and parking is located and designed to optimise efficiency and safety, and designed in sympathy with the character of the area.
10.2.3.2 Encourage low impact approaches to storm water management.

15.5. Objective 10.2 5 and Policies 10.2.5.1, 10.2 5.2 and 10.2.5.3

378. The notified objective is:

"Objective – Maintain residential character and amenity."

379. The notified policies are:

"10.2.5.1 The bulk, scale and intensity of buildings used for visitor accommodation activities are to be commensurate with the anticipated development of the zone and surrounding residential activities.

10.2.5.2 Ensure that any commercial and non-residential activities, including restaurants or visitor accommodation, maintain or enhance the amenity, quality and character of the zone and surrounding area.

10.2.5.3 Avoid non-residential activity that would undermine the amenity of the zone or the vitality of Arrowtown's commercial zone."

380. In Ms Law's Section 42A Report, she identified no relevant submissions on these provisions and recommended only a minor grammatical change in response to the Panel's 4th Procedural Minute. Our own review of the submissions has also not identified any submissions specific to these provisions, although we do acknowledge those more general submissions emphasising the importance of historic heritage, built character and amenity values within

Arrowtown. We note that Policy 10 2.5.1 was withdrawn by the Council on 25 November 2015 as part of its general withdrawal of Visitor Accommodation provisions. We have given that notified policy no further consideration.

381. We find that the objective substantially overlaps with objective 10.2.1 to the point that it is unnecessarily repetitious. As discussed earlier, we recommend merging this objective with Objective 10.2.1 and as part of this relocating its two remaining policies to also sit under Objective 10.2.1. These changes, set out earlier in paragraph 362 and in Appendix 4, will make the Plan more administratively efficient and concise. On that basis, we find they will be the most appropriate.

15.6. Objective 10.2.6 and Policies 10.2.6.1, 10.2.6.2 and 10.2.6.3

382. The notified objective is:

"Objective - The Arrowtown Town Centre Transition Overlay provides for non-residential activities that provide local employment and commercial services to support the role of the Town Centre Zone."

383. The notified policies are:

"10.2.6.1 Provide for commercial activities that are compatible with the established residential scale, character and historical pattern of development within the Arrowtown Town Centre Transition Overlay.

10.2.6.2 Limit retailing in the Town Centre Transition Overlay to ensure that the Town Centre Zone remains the principal focus for Arrowtown's retail activities.

10.2.6.3 Development is sympathetic to the historical pattern of development and building scale."

384. In Ms Law's Section 42A Report, she identified no relevant submissions on these provisions and recommended no changes to the text. Our own review of the submissions has also not identified any submissions specific to these provisions, although we do acknowledge those more general submissions emphasising the importance of historic heritage, built character and amenity values within Arrowtown.

385. We find that the provisions are appropriate however the third policy unnecessarily repeats the first and on that basis it should be deleted as a Clause 16(2) clarification. As we have effectively adopted the Council's recommendation for these provisions, no further analysis under section 32AA is required.

386. Our recommended text changes are below (noting that notified Objective 10.2.6 becomes Objective 10.2.4 in our recommendations).

10.2.4 Objective
The Arrowtown Town Centre Transition Overlay provides for non-residential activities that provide local employment and commercial services to support the role of the Town Centre Zone.

Policies

10.2.4.1 Provide for commercial activities that are compatible with the established residential scale, character and historical pattern of development within the Arrowtown Town Centre Transition Overlay.

10 2 4.2 Limit retailing in the Town Centre Transition Overlay to ensure that the Town Centre Zone remains the principal focus for Arrowtown's retail activities.

15.7. Overall Chapter 10 Objectives and Policies

387. We have lastly considered our recommended objectives and policies as a whole and confirm our finding that as a package they will be the most appropriate to promote sustainable management within the Arrowtown Residential Historic Management Zone.

16. CHAPTER 11 OBJECTIVES AND POLICIES

16.1. Objective 11.2.1 and Policies 11.2.1.1, 11.2.1.2, 11.2.1.3, 11.2.1.4 and 11.2.1.5

388. The notified objective is:

"Objective - High levels of residential amenity within the Large Lot Residential Zone."

389. The notified policies are:

"11.2.1.1 Maintain character and amenity through minimum allotment sizes, with particular emphasis on maintaining the character and amenity of established areas.

11.2.1.2 Recognise opportunities for infill and subdivision to higher densities providing the amenity, open character and privacy of established neighbourhoods are not degraded and opportunities for garden and landscape plantings are retained.

11.2.1.3 Maintain and enhance residential character and high amenity values by controlling the colour, scale, location and height of buildings, and in certain locations or circumstances require landscaping and vegetation controls.

11.2.1.4 Control lighting to avoid glare to other properties, roads, public places and the night sky.

11.2.1.5 Have regard to fire risk from vegetation and the potential risk to people and buildings, when assessing subdivision, development and any landscaping."

390. The above provisions sought to ensure that the amenity values of the zone were maintained through enabling a management framework based on development requirements.

391. As discussed earlier at the zone purpose, a number of submitters sought a reasonably substantial change to the zone by way of a change to the required minimum lot size from 4,000 square metres to 2,000 square metres[177]. Our discussions with the Council's witnesses identified that the urban design expert Mr Falconer agreed with this change primarily on the basis that it would most efficiently utilise the land within the zone in a way that would still achieve the character and amenity values that were in his view sought[178]. In her Section 42A

[177] Submissions 322 (supported by FS1110, FS1126, FS1140, FS1198, FS1207 and FS1332), 687 (supported by FS1111 and FS1207), 166 (supported by FS1110, FS1111, FS1126, FS1140, FS1198, FS1207 and FS1332), 293 (supported by FS1110, FS1111, FS1126, FS1140, FS1198, FS1207, FS1332), 299, 335, 812 (supported by FS1110, FS1111, FS1126, FS1140, FS1198, FS1207, FS1332)

[178] G Falconer, Verbal answers to the Panel, Stream 6 Hearing.

Report and recommendations, Ms Leith did not agree with this change, and instead recommended that the zone could be split into two sub-zones.

392. We agree with Ms Leith's sub-zone method but find that the balance of evidence supports the 'principal' zone standard should be 2,000m^2 minimum area per site (sub-zone 'Area A'), with the larger 4,000m^2 minimum applying to those parts of the zone subject to particular environmental constraints (sub-zone 'Area B'). The disposition of the two sub-zones is shown on the recommended Planning Maps.

393. This has allowed us to retain the framework proposed by Ms Leith subject to necessary revisions to 'switch' the emphasis she had recommended. We have also recommended a number of other refinements under Clause 16(2) to simplify the provisions. Notified Policy 11.2.1.2 is recommended for deletion on the basis that our preferred Area A sub-zone inherently provides this outcome in a more effective and efficient manner.

394. Our recommended provisions are outlined below:

11.2.1 Objective
A high quality of residential amenity values are maintained within the Large Lot Residential Zone.

Policies
11.2.1.1 Maintain low density residential character and amenity values primarily through minimum allotment sizes that efficiently utilise the land resource and infrastructure (Area A), and require larger allotment sizes in those parts of the zone that are subject to significant landscape and/or topographical constraints (Area B).
11.2.1.2 Maintain and enhance residential character and high amenity values by controlling the colour, scale, location and height of buildings, and, in Area B, require landscaping and vegetation controls.
11.2.1.3 Control lighting to avoid glare to other properties, roads, public places and views of the night sky.
11.2.1.4 Have regard to hazards and human safety, including fire risk, from vegetation and the potential risk to people and buildings, when assessing subdivision, development and any landscaping in Area B.

395. We find that the recommended provisions above will be the most appropriate including because they will enable the most efficient possible use of land within the zone in a way that will maintain amenity values and the integrity of the 'centres-centric' (our term) residential zone framework set out within the PDP.

16.2. Objective 11.2.2 and Policies 11.2.2.1, 11.2.2.2, 11.2.2.3, 11.2.2.4 and 11.2.2.5

396. The notified objective is:

"Objective - Ensure the predominant land uses are residential and where appropriate, community and recreational activities."

397. The notified policies are:

"11.2.2.1 Provide for residential and home occupation as permitted activities, and recognise that depending on the location, scale and type, community activities may be compatible with and enhance the environment.

11.2.2.2 Commercial development located on the periphery of residential and township areas shall avoid undermining the integrity of the town centres, urban rural edge and where applicable, the Urban Growth Boundaries.

11.2.2.4 Ensure that any commercial and non-residential activities, including restaurants or visitor accommodation maintain or enhance the amenity, quality and character of the Large Lot Residential Zone and surrounding areas.

11.2.2.5 Avoid non-residential activity that would undermine the viability of the District's commercial zones."

398. The purpose of these provisions is to manage land use activities within the zone. They propose the encouragement of residential activity and restrict non-residential activities. In Ms Leith's S.42A version, changes were recommended only in respect of the Panel's 4th Procedural Minute and a consequential re-numbering arising out of the Council's 25 November 2015 withdrawal of the Visitor Accommodation provisions Policies 11.2.2.3 and 11.2.2.4 (of which we note we have given no regard to).

399. In our evaluation of the provisions, we find that Policy 11.2.2.5 should be deleted, with the words "non-residential activity" added to Policy 11.2.2.2. This effectively merges the two policies together and is a more efficient means of implementing the objective.

400. We have otherwise recommended a number of revisions under Clause 16(2) to simplify the policies. Our recommended provisions are included below.

11.2.2 Objective
Predominant land uses are residential. Where appropriate, community and recreational activities also occur.

Policies
11.2.2.1 Provide for residential and home occupations as permitted activities, and recognise that, depending on the location, scale and type, community activities may be compatible with and enhance the zone's amenity values.
11.2.2.2 Commercial or other non-residential activity located on the periphery of residential and township areas shall avoid undermining the integrity of the town centres, urban rural edge and where applicable, the Urban Growth Boundaries.
11.2.2.3 Ensure that any commercial and non-residential activities, including restaurants, maintain or enhance the amenity, quality and character of the zone.

16.3. Overall Chapter 11 objectives and policies

401. We have lastly considered our recommended objectives and policies as a whole and confirm our finding that as a package they will be the most appropriate to promote sustainable management within the Large Lot Residential Zone.

17. OVERALL EVALUATION OF CHAPTERS 7, 8, 9, 10 and 11 OBJECTIVES AND POLICIES

402. Having considered the objectives and policies in notified Chapters 7, 8, 9, 10 and 11 of the PDP we have also considered the residential zone framework as a whole in terms of the District-wide provisions. We find that overall:

a. Our recommended objectives in Chapters 7, 8, 9, 10 and 11 will be the most appropriate to achieve the purpose of the Act.
b. Our recommended objectives in policies 7, 8, 9, 10 and 11 will also be the most appropriate to implement the District-wide objectives of the District Plan recommended in Decision Reports 2 and 3, and beyond that Part 2 of the Act.
c. Our recommended policies in Chapters 7, 8, 9, 10 and 11 will be the most appropriate to implement the objectives we have recommended for Chapters 7, 8, 9, 10 and 11 respectively.
d. Our recommended provisions are horizontally integrated inasmuch as they reinforce each other as part of a specific 'residential' sub-set of land use zones.
e. Our recommended provisions, as a whole, reflect a simplified, more consistent and rational framework for managing development within the residential zones. They are both more effective and efficient than the notified PDP provisions and will be easier to administer.

PART E
SECTIONS 7.3, 8.3, 9.3, 10.3 and 11.3 – OTHER PROVISIONS AND RULES

18. SECTION 7.3

18.1. 7.3.1 District Wide

403. Following on from the objectives and policies is a cross reference table drawing plan users' attention to the other relevant chapters of the Plan that should be considered. Through the submissions, Section 42A Reports, and hearings process, no discussion or changes to this rule have been sought. However, the Council in its reply has proposed some minor clarifications in response to comments and questions we asked of its staff and through our procedural minutes.

404. We agree that it is helpful to include such a cross reference, however we find that it contains a number of minor errors that we have corrected under Clause 16(2). These are set out in **Appendix 1** which contains our recommended provisions for Chapter 7. For convenience, it is also reproduced below. We have also incorporated reference to the chapters included in the PDP by the Stage 2 variations and show those in italics.

7.3.1 District Wide
Attention is drawn to the following District Wide chapters.

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

18.2. 7.3.2 Interpreting and Applying the Rules

405. Rule 7.3.2 outlines a number of additional provisions which have been unhelpfully titled "clarification" followed by the title "advice notes". We find that this should be re-titled "interpreting and applying rules" to make it clear to users that they are administrative or procedural requirements to be followed (including by the Council). We have also made a number of Clause 16(2) corrections and clarifications to the rule and its clauses. These are set out below:

7.3.2 Interpreting and Applying the Rules

7.3.2.1 A permitted activity must comply with all the rules listed in the activity and standards tables, and any relevant district wide rules, otherwise a resource consent will be required.

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

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

7.3.2.4 Proposals for development resulting in more than one (1) residential unit per site shall demonstrate that each residential unit is fully contained within the identified net area for each unit.

7.3.2.5 Each residential unit may include a single residential flat and any other accessory buildings.

7.3.2.6 The following abbreviations are used within this Chapter.

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

406. We find that the above changes are necessary to maintain the integrity of the Plan including coherent cross references and consistent chapter numbering. They are the most appropriate planning provisions and no further analysis is required.

19. SECTIONS 8.3, 9.3, 10.3 and 11.3

407. These sections mirror the content of Section 7.3 and we have made changes that correspond accordingly in **Appendices 2**, **3**, **4** and **5** for the purposes of plan consistency and efficient administration. Given how similar they are to the above recommended provisions for 7.3.1 and 7.3.2 of Chapter 7, they have not been reproduced here.

408. Overall, we find that the changes made to Sections 7.3, 8.3, 9.3, 10.3 and 11.3 are the most appropriate inasmuch as they enable correct and ready administration of the Plan. Providing cross references between plan chapters serves to help assure horizontal integration across the Plan.

PART F: RULES 7.4, 8.4, 9.4, 10.4 and 11.4 – RULES FOR ACTIVITIES

20. RULE 7.4

409. Rule 7.4 is a table that contains three columns: rule reference numbers, the names of activities to be subjected to management by way of an activity status under s.77A of the Act, and the activity status for each activity. Pursuant to s.77B of the Act, the table also includes, for controlled and restricted discretionary activities, reservations of control and matters of discretion respectively.

410. First and most fundamentally, we accept and agree with the nature of this method and find that it is necessary to implement the objectives and policies of the zone. Our consideration is focused on the contents of the table, namely the activities to be controlled and the activity status' proposed.

411. There were relatively few submissions seeking explicit changes to this table, with most submitter interest related to commercial activities, community activities, and development close to the airport. This reflected, overall, the tenor of submissions made to the objectives and policies.

412. Section 9 of the Act is often described as being inherently permissive inasmuch as the use of land for any purpose is, as a presumption, generally a permitted activity unless a rule in a plan requires a resource consent to be obtained. However, there is nothing in the Act to suggest that Councils should limit such rules. Many plans in practice operate on a fundamentally restrictive manner insofar as permitted activities are strictly prescribed, with all other activities requiring resource consent. This comes as a consequence of policy frameworks that typically emphasise existing amenity values and other constraints, as is the case with the Queenstown ODP and PDP.

413. The proposed framework, in contradistinction to the ODP, is that a catch-all activity status for activities that are not otherwise provided for is a non-complying activity. We do not see this as indicative of an inherent antagonism between such activities and the proposed policy framework, nor that such non-complying activities should be seen as inherently inferior or less desirable than those activities that are otherwise provided for in Rule 7.4. We find that it reflects that there are a number of activities that can be reasonably well anticipated and provided for through the zone policy framework, and many others that may or may not be appropriate but which cannot be efficiently catered to by such a customised, one-by-one fashion. We find that the proposed non-complying activity catch-all simply acts as a safeguard by requiring any such activities that may be proposed to be subject to all of the tests of a discretionary activity and in addition the tests of section 104D of the Act. These are, in summary, that an application can only be considered on its merits under sections 104 and 104B of the Act if either its adverse effects on the environment are no more than minor; or it is not contrary to the objectives and policies of the Plan. We find that this will still enable reasonable use by those wishing to undertake activities that have not been expressly enabled within the policy framework. This is consistent with the view of the Hearing Panel that heard the 'whole of plan' submissions (Report 14), where overall default status was considered.

414. We consider that this approach appears to be accepted inasmuch as we received no submissions seeking to change this, other than one by Totally Tourism Ltd[179]. The submitter

[179] Submission 571

sought, in its written submission, that the default non-complying activity status that would apply in the absence (since the Council withdrawal) of visitor accommodation activities (notably Rules 7.4.21 and 7.4.22) was not appropriate. The submitter sought a discretionary activity status. The Council has now notified a variation to address visitor accommodation in the residential zones.

415. Relying on the rationale we have outlined above, we find that the catch-all non-complying activity rule that may apply to any visitor accommodation activities caught in the time lag between the PDP becoming operative and the additional visitor accommodation activity provisions also becoming operative, will not be prejudicial or onerous. In making this decision we have disregarded what we see as a faulty preconception that we interpreted commonly from the submissions that the Act's activity status hierarchy is indicative of activity appropriateness or potential adverse effects. It is not; it is a mechanism to identify the appropriate process that should be followed to consider an application for resource consent for a given activity based on a wider consideration of the community's needs and how to best promote sustainable management. It is entirely silent on the question of case-by-case merit. Consequently, we find that many permitted activities within the PDP create or contribute to substantial adverse effects, and likewise that many potential non-complying activities that could be sought as a result of the PDP framework will likely create or contribute negligible problematic adverse effects. That is not the primary purpose or point of allocating different activity status. As such we have rejected the submission by Totally Tourism Ltd.

416. Rules 7.4.2 (informal airports for emergency landings, rescues and fire fighting), 7.4.3 (airports not otherwise listed), 7.4.5 (bulk material storage), 7.4.7 (commercial recreation), 7.4.12 (factory farming), 7.4.13 (fish or meat processing), 7.4.14 (forestry), 7.4.17 (retirement village), 7.4.19 (manufacturing and/or product assembling activities), 7.4.20 (mining), 7.4.23 (panel beating, spray painting, motor vehicle repair or dismantling, fibre glassing, sheet metal work, bottle or scrap storage, motor body building) and 7.4.24 (any activity requiring an Offensive Trade License under the Health Act 1956), were not subject to any explicit submission and are not proposed to be changed by the Council as a result of correction or procedural clarification. We find that these rules are the most appropriate means to implement the zone objectives and policies, and no further analysis is required.

417. In terms of rule 7 4.5 (bulk material storage), we note our observation to the Council that the rule may – unintentionally we surmise – prevent construction materials being deposited on construction sites (such as brick or timber stacks, roof tiles etc.). The Council could consider a future variation to clarify the distinction between general bulk material storage and the necessary deposition of construction materials on construction sites.

418. Rules 7.4 4 (buildings within a Building Restriction Area), 7.4.15 (home occupations within specified limits) and 7.4.16 (other home occupations) were subject to change or deletion in Ms Leith's S42A version and/or the Reply version of the provisions, on the basis of correction or clarification including as a result of the Panel's administrative minutes. We have considered these in terms of Clause 16(2) as well as those more general submissions that encourage the Plan to be as streamlined, direct and efficient as possible. We agree with the changes proposed to these rules in the Reply version and consider they will be the most appropriate to implement the zone objectives and policies. However, we record at this point our disagreement with the home occupation limits identified in the Plan for Chapters 7, 8 and 11 (they are absent from Chapters 9 and 10), however as no submitter expressly sought their deletion we are unable to recommend that. The limits do not relate to any definitively or inappropriate adverse effects but bring with them clear social and economic limitations. We

recommend the Council consider a variation to reconsider its position on home occupations, and otherwise bring the residential zones into alignment, one way or the other.

419. Rules 7.4.6 (commercial activities), 7.4.9 (dwelling units), 7.4.10 (dwelling units), and 7.4.11 (dwelling units) are subject to change in Ms Leith's S.42A version and/or the Reply version of the provisions, on the basis of agreement or partial agreement with submitters. We have considered the merits of these and find as follows:

420. In terms of Rule 7.4.6 (commercial activities), Ms Leith recommended introducing a first-instance limit of 100 square metres of gross floor area for commercial activities within the zone. Such activities of 100 or less square metres would be a restricted discretionary activity, with activities larger than this becoming a non-complying activity. To support the proposed restricted discretionary activity status, Ms Leith proposed matters of discretion as required by s.77B of the Act. This recommendation came as a consequential response to the issues raised in the submission of David Barton[180]. Mr Barton sought changes to the policies to remove reference to 100 square metres which had been notified (in Policy 7.2.9.2).

421. We previously described our agreement that notified policy 7.2.9.2 should not include a quantitative threshold. In consideration of the notified rule, we agree with Ms Leith that requiring all commercial activities to be non-complying activities will not implement the policy framework and the reference to 100 square metres gross floor area should sit in the rule framework to give effect to what we have re-numbered Policy 7.2.7.

422. We have recommended further refinement of the matters of discretion proposed by Ms Leith. In particular we have revised the matter of discretion relating to natural hazards so that it administratively functions as a matter of discretion rather than an information requirement rule.

423. We consider that providing for commercial activities up to 100 square metres gross floor area as a restricted discretionary activity will most appropriately implement the zone objectives and policies. It will ensure that all relevant effects are considered but do so in a way that will not discourage or inefficiently (in an administrative sense) burden applications.

424. In terms of Rules 7.4.9, 7.4.10 and 7.4.11, these work collectively to manage dwellings depending on the quantity and/or location proposed. As notified, Rule 7.4.9 set out the standards for permitted activities. Rule 7.4.10 set a higher threshold for restricted discretionary activities and included matters of discretion. Rule 7.4.11 set out the requirements for non-complying activities (limited spatially to the Queenstown Airport's Air Noise Boundary). A number of changes were proposed by Ms Leith, including through the Reply version of the provisions. Many changes were proposed to correct drafting errors or to clarify the provisions under Clause 16(2) and we generally agree with these.

425. Of most substance, Ms Leith recommended that Rule 7.4.11 be deleted, with more than one dwelling per site in the Queenstown Airport Air Noise Boundary remaining a non-complying activity as a consequence of changes proposed to Rules 7.4.9 and 7.4.10, in reliance on Rule 7.4.1. We agree that this is the more efficient approach.

180 Submission 269

426. Relevant to these rules, the Council[181] and Arcadian Triangle[182] had both submitted that the notified approach to residential units and residential flats should be changed but that the essence of the rules should remain. This was different from Aurum Survey Consultants[183], which sought a simpler and more permissive approach: 1 unit per 300m^2 as a permitted activity and density higher than this as a controlled activity. The submitter did not present any evidence at the hearing in support of its submission, nor did it provide convincing analysis to substantiate the relief sought in terms of s.32AA of the Act.

427. We find that the Council's Section 42A / Reply version approach is the most appropriate framework. The basic rule of permitting one unit per 450 square metres of site area is a compatible fit with the existing developed part of the zone, and development down to 300 square metres can be appropriately managed as a restricted discretionary activity. We accept the evidence of Ms Leith and Mr Falconer that densities higher than this do create the potential for a variety of inappropriate adverse effects and the non-complying activity requirement of Rule 7.4.1 would ensure that any such applications are carefully scrutinised. While there will be some instances where such densities may be suitable, we find that in general this is unlikely to be the case and that such densities are more compatible with the medium density zone provisions. We also refer to our earlier discussion on residential flats and development within the airport noise boundary.

428. We therefore find that Rules 7.4.9 and 7.4.10 should be subject of minor redrafting, with rule 7.4.11 deleted. These changes reflect the most appropriate means of implementing the zone objectives and policies on the basis that they are simpler to use and administer, and more effective at achieving the outcomes described within the zone policy framework than alternatives including that identified by Aurum Survey Consultants[184].

429. We note that we can understand the Council's desire for simplification by removing reference to residential flat within these rules, given that the definition of residential unit includes a residential flat. However, we consider that to assist the ordinary plan user, rather than expert users, an additional provision be included in Section 7.3.2 clarifying that each residential unit may contain a residential flat and also have accessory building associated with it. We consider this to be a non-substantive change that can be made under Clause 16(2). We have set the wording out above in Section 18.2 and also recommend it be inserted in each of the other residential chapters for the same reason.

430. For the purposes of administrative simplicity, we have re-ordered and where appropriate re-numbered the activity table by activity status, commencing with permitted activities and concluding with prohibited activities. The changes we recommend are set out below. We have included spaces in the table for the provisions inserted by the Stage 2 variations in the location we consider appropriate given our discussion above about rule order. These are shown in italics and do not form part of our recommendations.

	Activities located in the Low Density Residential Zone	**Activity status**
7.4.1	**Home occupations**	P

181 Submission 383
182 Submission 836
183 Submission 166
184 Submission 836

	Activities located in the Low Density Residential Zone	Activity status
7.4.2	**Informal airports for emergency landings, rescues and fire fighting**	P
7.4.3	**Residential units, where the density of development does not exceed one residential unit per 450m^2 net area.**	P
7.4.4		
7.4.5		
7.4.6	**Commercial activities – 100m^2 or less gross floor area** Discretion is restricted to: a. Benefits of the commercial activity in servicing the day-to-day needs of local residents; **b.** Hours of operation; **c.** Parking, traffic and access; **d.** Noise; **e.** Design, scale and appearance; f. In Arrowtown, consistency with Arrowtown's character, as described within the Arrowtown Design Guidelines 2016; and g. Where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: i. the nature and degree of risk the hazard(s) pose to people and property; ii. whether the proposal will alter the risk to any site; and iii. the extent to which such risk can be avoided or sufficiently mitigated.	RD

	Activities located in the Low Density Residential Zone	Activity status
7.4.7	**Residential Units, where the density of development exceeds one residential unit per 450m^2 net area but does not exceed one residential unit per 300m^2 net area, excluding sites located within the Air Noise Boundary or located between the Air Noise Boundary and Outer Control Boundary of Queenstown Airport.** Discretion is restricted to: a. How the design advances housing diversity and promotes sustainability either through construction methods, design or function b. Privacy for occupants of the subject site and neighbouring sites c. In Arrowtown, consistency with Arrowtown's character, as described within the Arrowtown Design Guidelines 2016 d. Street activation e. Building dominance f. Parking and access layout: safety, efficiency and impacts on on-street parking and neighbours g. Design and integration of landscaping h. Where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: i. the nature and degree of risk the hazard(s) pose to people and property; ii. whether the proposal will alter the risk to any site; and iii. the extent to which such risk can be avoided or sufficiently mitigated Note – Additional rates and development contributions may apply for multiple units located on one site.	RD
7.4.8	**Commercial recreation**	D
7.4.9	**Community activities**	D
7.4.10	**Retirement villages**	D
7.4.11	**Activities which are not listed in this table**	NC
7.4.12	**Commercial activities – greater than 100m^2 gross floor area**	NC
7.4.13		
7.4.14	**Airports not otherwise listed in this Table**	PR
7.4.15	**Bulk material storage**	PR
7.4.16	**Factory Farming**	PR
7.4.17	**Fish or meat processing**	PR

	Activities located in the Low Density Residential Zone	Activity status
7.4.18	**Forestry**	PR
7 4.19	**Manufacturing and/or product assembling activities**	PR
7 4.20	**Mining**	PR
7.4.21	**Panel beating, spray painting, motor vehicle repair or dismantling, fibre glassing, sheet metal work, bottle or scrap storage, motor body building**	PR
7.4.22	**Any activity requiring an Offensive Trade Licence under the Health Act 1956**	PR

431. We have furthermore considered the amended provisions recommended above and also in **Appendix 1** in light of the Council's original section 32 report, the section 32AA analysis provided by Ms Leith and through the information provided by the submitters (both through the written submissions and the hearings process). Overall, and as a package, we find that the provisions we recommend will be the most appropriate including by being the most effective and efficient means of addressing the matters raised in the zone objectives and policies.

21. RULE 8.4

432. The notified Chapter 8 had 29 activity rules, with 3 applying only to the proposed Wanaka Town Centre Transition Overlay. In Ms Leith's S.42A version and subsequent Reply version these were proposed to be reduced to 24, largely due to the Council's withdrawal of Visitor Accommodation provisions. Ms Leith recommended that, subject to renumbering, 18 of the rules should remain as notified. Of those recommended to be changed, 3 are on the basis of Plan clarification reasons and the remaining 3 on the basis of submissions received.

433. We find that, as we have recommended in the other residential chapters, the activity rules should be grouped by way of activity status. This results in a substantial re-numbering. Related to this, we have recommended not including a separate table for the proposed Wanaka Town Centre Transition zone on the basis that the nature of the additional rules lends themselves to being integrated into Table 1. However, our consideration of the Wanaka Town Centre Transition zone stopped at that point on the basis that it had been deferred to the mapping hearings.

434. Having considered the submissions and further submissions we find that the Council's recommendations are generally the most appropriate from the alternatives we identified and we have agreed with them except as follows.

435. For notified Rule 8.4.4 (relating to buildings within a Building Restriction Area) we recommend it be re-located to sit in Rule 8.5. We have recommended this change for the other residential zones. We find that this change is an improvement to the Plan's consistency and structure, and can be undertaken under Clause 16(2).

436. For notified Rule 8.4.5 (relating to bulk material storage) (our recommended Rule 8.4.16), we do not support the officer recommendation to change "Bulk material storage" to "Outdoor storage". As discussed earlier in Chapter 7 for notified Rule 7.4.5, we find that this change

would have potentially significant ramifications that must be undertaken by way of a Plan Variation or Change.

437. For notified Rule 8.4.9 (relating to community facilities and activities) (our recommended Rule 8.4.11), we agree that the rule should be simplified from "Community facilities and/or activities" to "Community activities" in agreement with Ms Leith and the submission from Otago Foundation Trust Board[185]. This is in line with recommendations we have made for the other residential zones, and will make the Plan simpler.

438. For notified Rule 8.4.10 (relating to dwellings, residential units and residential flats) (our recommended Rule 8.4.6), we recommend that the rule be simplified to be named "Residential unit" in line with the other residential zones and for the reasons outlined in the Chapter 7 recommendation above. We also recommend further revisions to simplify the rule and make it clearer. These are recommended under Clause 16(2) and on the basis of scope given by submissions including those from Arcadian Triangle Ltd[186], the Council[187], C Douglas[188], S Clark[189], P Winstone[190], N Ker[191], and D Clarke[192].

439. For notified rule 8.4.11 (relating to dwellings, residential units and residential flats) (our recommended 8.4.9), we note that this rule attracted considerable submitter interest. Ms Leith's recommendation was to change the rule and, extensively, the matters of discretion. This was in support of a number of submissions including those from Arcadian Triangle Ltd[193], the Council[194], C Douglas[195], S Clark[196], P Winstone[197], N Ker[198], and D Clarke[199].

440. We agree with the thrust of the changes recommended by Ms Leith. However, we find that the matters of discretion are still unnecessarily convoluted. We have recommended further simplification of the matters of discretion, also in part to establish a more consistent expression of restrictions across this zone and between it and the other residential zones. These further simplifications are recommended under Clause 16(2).

441. For notified Rules 8.4.15 and 8.4.16 (both relating to home occupations), Ms Leith recommended shifting the proposed limitations on home occupations from Rule 8.4.15 into Rule 8.5, and deleting Rule 8.4.16 on the basis that it could also be provided for in Rule 8.5. Ms Leith's recommendation is in line with the one she made for Chapter 7 (notified Rules 7.4.15 and 7.4.16), and we agree with her for the same reasons. We have renumbered Rule 8.4.15 as 8.4.3, and deleted Rule 8.4.16, although note our general disagreement with the proposed home occupation limits (no submissions explicitly sought their deletion). We note our recommendation that the Council consider a variation to remove these limits on the basis

185 Submission 408.
186 Submission 836
187 Submission 383
188 Submission 199
189 Submission 306
190 Submission 264
191 Submission 180
192 Submission 26
193 Submission 836
194 Submission 383
195 Submission 199
196 Submission 306
197 Submission 264
198 Submission 180
199 Submission 26

that they do not reliably or definitively relate to any inappropriate adverse effects, and have social and economic restrictions that seem unjustifiable.

442. For notified Rule 8.4.25 (relating to buildings) (our recommended Rule 8.4.7), we have recommended revising the matters of discretion. As notified and recommended to us, subject to issues raised in the submissions of N Blennerhassett[200] and the Council[201], the restrictions were worded too close to specific assessment criteria than we felt was justifiable. Our recommendations re-frame Ms Leith's recommended wording as more neutral statements against which the Council's discretion would be restricted.

443. For notified Rules 8.4.26 (relating to buildings) and 8.4.27 (relating to commercial activities) and 8.4.29 (relating to community activities), we recommend adding the words "in the Wanaka Town Centre Transition Overlay" for reasons of clarification and simplification. However, we otherwise left consideration of these rules to the mapping hearings as set out in the Panel's Minutes. The Stream 12 Hearing Panel recommended no changes to any of the provisions relating to the Wanaka Town Centre Transition Overlay. Thus we include them as notified, albeit renumbered and reformatted to be consistent with the remaining provisions.

444. Our recommended text is included below and in Appendix 2. We find that the recommended provisions are the most appropriate inasmuch as they are more efficient than the alternatives and provide for a more consistent use of language and rule structure.

445. We have inserted spaces for the provisions inserted by the Stage 2 variations in the location we consider appropriate given our discussion above about rule order. These do not form part of our recommendations.

Table 1	**Activities located in the Medium Density Residential Zone**	**Activity status**
8.4.1	Commercial activities in the Wanaka Town Centre Transition Overlay	P
8.4.2	Community activities in the Wanaka Town Centre Transition Overlay	P
8.4.3	**Home occupations**	P
8.4.4	**Informal airports for emergency landings, rescues and fire fighting**	P
8.4.5	In the Wanaka Town Centre Transition Overlay, Licenced Premises for the consumption of alcohol on the premises between the hours of 8am and 11pm, and also to: a. any person who is residing (permanently or temporarily) on the premises. b. any person who is present on the premises for the purpose of dining up until 12am.	P

200 Submission 335

201 Submission 383

Table 1	Activities located in the Medium Density Residential Zone	Activity status
8.4.6	**Residential Unit** 8.4.6.1 One (1) per site in Arrowtown 8.4.6.2 For all locations outside of Arrowtown, three (3) or less per site	P
8.4.7		
8.4.8	**Buildings in the Wanaka Town Centre Transition Overlay** Discretion is restricted to: a. External design and appearance including the achievement of a development that is compatible with the town centre transitional context, integrating any relevant views or view shafts, b. The external appearance of buildings, including that the use of stone, schist, plaster or natural timber be encouraged c. Privacy for occupants of the subject site and neighbouring sites d. Street activation e. Where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: i. the nature and degree of risk the hazard(s) pose to people and property; ii. whether the proposal will alter the risk to any site; and iii. the extent to which such risk can be avoided or sufficiently mitigated.	RD

Table 1	Activities located in the Medium Density Residential Zone	Activity status
8.4.9	**Commercial Activities** in Queenstown, Frankton or Wanaka:100m^2 or less gross floor area Discretion is restricted to: a. Benefits of the commercial activity in servicing the day-to-day needs of local residents. b. Hours of operation c. Parking, traffic and access d. Noise e. Design, scale and appearance f. Where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: i. the nature and degree of risk the hazard(s) pose to people and property; ii. whether the proposal will alter the risk to any site; and iii. the extent to which such risk can be avoided or sufficiently mitigated	RD

Table 1	Activities located in the Medium Density Residential Zone	Activity status
8.4.10	**Residential Unit** 8.4.10.1 One (1) or more per site within the Arrowtown Historic Management Transition Overlay Area 8.4.10.2 Two (2) or more per site in Arrowtown 8.4.10.3 For all locations outside of Arrowtown, four (4) or more per site Discretion is restricted to: a. Location, external appearance, site layout and design of buildings and fences and how the development addresses its context to contribute positively to the character of the area b. Building dominance relative to neighbouring properties and public spaces including roads c. How the design advances housing diversity and promotes sustainability either through construction methods, design or function d. Privacy for occupants of the subject site and neighbouring sites e. In Arrowtown, consistency with Arrowtown's character, as described within the Arrowtown Design Guidelines 2016 f. Street activation g. Parking and access layout: safety, efficiency and impacts on on-street parking and neighbours h. Design and integration of landscaping i. For land fronting State Highway 6 between Hansen Road and the Shotover River: i. safe and effective functioning of the State Highway network; ii. integration with other access points through the zone to link up to Hansen Road, the Hawthorne Drive/State Highway 6 roundabout and/or Ferry Hill Drive; and iii. integration with pedestrian and cycling networks, including to those across the State Highway. j. Where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: i. the nature and degree of risk the hazard(s) pose to people and property; ii. whether the proposal will alter the risk to any site; and iii. the extent to which such risk can be avoided or sufficiently mitigated	RD
8.4.11		
8.4.12	**Commercial recreation**	D

Table 1	Activities located in the Medium Density Residential Zone	Activity status
8.4.13	**Community activities**	D
8.4.14	**Retirement villages**	D
8.4.15	**Activities which are not listed in this table**	NC
8.4.16	**Commercial Activities** greater than 100m^2 gross floor area	NC
8.4.17		
8.4.18	**Airports not otherwise defined**	PR
8.4.19	**Bulk material storage**	PR
8.4.20	**Factory Farming**	PR
8.4.21	**Fish or meat processing**	PR
8.4.22	**Forestry**	PR
8.4.23	**Manufacturing and/or product assembling activities**	PR
8.4.24	**Mining**	PR
8.4.25	**Panel beating, spray painting, motor vehicle repair or dismantling, fibre glassing, sheet metal work, bottle or scrap storage, motor body building.**	PR
8.4.26	**Any activity requiring an Offensive Trade Licence under the Health Act 1956**	PR

22. RULE 9.4

446. The notified Chapter 9 had 26 activity rules. In Ms Banks' S.42A version and subsequent Reply version these were proposed to be reduced to 20, largely due to the Council's withdrawal of Visitor Accommodation provisions. Ms Banks recommended that, subject to renumbering, 17 of the rules should remain as notified. Of those recommended to be changed, the majority were based on clarifications or corrections. Issues raised by submitters were identified as a reason to change rules only in the case of notified Rules 9.4.3 and 9.4.4 (both relating to dwellings, residential units and residential flats).

447. We find that, as we have recommended in the other residential chapters, the activity rules should be grouped by way of activity status. This results in a substantial re-numbering.

448. Having considered the submissions and further submissions we find that the Council's recommendations are generally the most appropriate from the alternatives we identified and we have agreed with them except as follows.

449. For notified Rule 9.4.2 (relating to building within a Building Restriction Area) we find that this rule sits more appropriately in Rule 9.5. We have recommended this change for the other residential zones. We find that this change is an improvement to the Plan's consistency and structure, and can be undertaken under Clause 16(2).

450. For notified Rule 9.4.4 (relating to dwellings, residential units and residential flats) (our recommended Rule 9.4.4), we find that the recommended matters of discretion should be

further simplified and this can occur as a Clause 16(2) change although we also record our agreement with those submissions supporting high qualities of urban design in the zone, and which influenced our preferred wording.

451. For notified Rule 9.4.6 (relating to commercial activities) (our recommended Rule 9.4.1) re recommend that the rule be simplified to only relate to a 100m^2 maximum GFA limit. We can find no support for the linkage to 20 or more units in the objectives and policies we have determined are most appropriate, and find that small scale ground level shops could very successfully contribute to the urban design qualities sought within the zone (including safe and well overlooked, activated streets). Our recommendation is on the basis of Clause 16(2) and those submissions seeking high levels of urban design quality within the zone.

452. For notified Rule 9.4.15 (relating to community facilities and activities) (our recommended Rule 9.4.6), we recommend that this rule be simplified to state "Community Activities" in line with the other residential zones. To justify this, we have drawn scope from those submissions seeking that change in the other zones (notably Southern District Health Board[202] and Ministry of Education[203]), which in our view sought to change how the Plan managed community activities generally and was not restricted to some zones but not others.

453. For notified Rule 9.4.22 (relating to flood risk) we recommend that this be relocated to Rule 9.5 on the basis that it relates to an activity standard rather than an activity rule. We find that this relocation can be undertaken as a Clause 16(2) clarification as it will make the Plan more coherent.

454. For notified Rule 9.4.26 (relating to bulk material storage), we do not support the officer recommendation to change "Bulk material storage" to "Outdoor storage". As discussed earlier in Chapter 7 in relation to notified Rule 7.4.5, we find that this change would have potentially significant ramifications that must be undertaken by way of a Plan Variation or Change.

455. Our recommended text is included below and in Appendix 3. We find that the recommended provisions are the most appropriate inasmuch as they are more efficient than the alternatives while maintaining a high and effective level of recognition of the sensitive amenity and character values within the zone.

456. We have included space for the provisions inserted by the Stage 2 variations in the location we consider appropriate given our discussion above about rule order. These do not form part of our recommendations.

	Activities located in the High Density Residential Zone	**Activity Status**
9.4.1	**Commercial activities** comprising no more than 100m^2 of gross floor area.	P
9.4.2	**Home occupation**	P
9.4.3	**Residential Unit** comprising three (3) or less per site	P
9.4.4		

202 Submission 671

203 Submission 524

	Activities located in the High Density Residential Zone	Activity Status
9.4.5	**Residential Unit** comprising four (4) or more per site Discretion is restricted to: a. Location, external appearance, site layout and design of buildings and fences and how the development addresses its context to contribute positively to the character of the area b. Building dominance and sunlight access relative to neighbouring properties and public spaces including roads c. How the design advances housing diversity and promotes sustainability either through construction methods, design or function d. Privacy for occupants of the subject site and neighbouring sites e. Street activation f. Parking and access layout: safety, efficiency and impacts on on-street parking and neighbours g. Design and integration of landscaping h. Where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: i. the nature and degree of risk the hazard(s) pose to people and property; ii. whether the proposal will alter the risk to any site; and iii. the extent to which such risk can be avoided or sufficiently mitigated	RD
9.4.6		
9.4.7	**Commercial recreation**	D
9.4.8	**Community activities**	D
9.4.9	**Retirement village**	D
9.4.10	**Activities which are not listed in this table**	NC
9.4.11	**Commercial Activities** not otherwise identified	NC
9.4.12	**Panel beating, spray painting, motor vehicle repair or dismantling, fibre glassing, sheet metal work, bottle or scrap storage, motor body building.**	PR
9.4.13	**Manufacturing and/or product assembling activities**	PR
9.4.14	**Mining**	PR
9.4.15	**Factory Farming**	PR
9.4.16	**Fish or meat processing**	PR
9.4.17	**Forestry**	PR

	Activities located in the High Density Residential Zone	Activity Status
9.4.18	**Any activity requiring an Offensive Trade Licence under the Health Act 1956**	PR
9.4.19	**Airports other than the use of land and water for emergency landings, rescues and fire fighting**	PR
9.4.20	**Bulk material storage**	PR

457. We note however that unlike Chapters 7, 8 and 11, the provisions for home occupations in Chapter 9 (and Chapter 10) specify no limits to the scale allowable for home occupations (our recommended Rule 9.4.2). We have no information to justify why such limitations have not been included within Chapters 9 and 10 although we support the proposal. We lack submissions or scope to introduce such a rule in Chapter 9 (or to remove it from Chapters 7, 8 and 11) and for this reason note to the Council that it may wish to review its approach to home occupations and consider a Plan Variation or Change if it deems it appropriate.

23. RULE 10.4

458. The notified Chapter 10 had 20 activity rules, although these were distributed across the Arrowtown Residential Historic Management zone itself and also a proposed Arrowtown Town Centre Transition overlay. We note that the notified Table 1 was not well drafted to delineate between these. In Ms Law's S.42A version and subsequently the Reply version of the provisions, these were proposed to be reduced to 14 activities, largely due to the Council's withdrawal of Visitor Accommodation provisions. Ms Law's recommended changes largely reflected clarifications and corrections.

459. We find that it is appropriate to split Table 1 into two tables reflecting the differentiation between the underlying zone and the Town Centre Transition Overlay. We also find that, as we have recommended in the other residential chapters, the activity rules should be grouped by way of activity status. This results in a substantial re-numbering.

460. Having considered the submissions and further submissions we find that the Council's recommendations are generally the most appropriate from the alternatives we identified and we have agreed with them except as follows.

461. Notified Rule 10.4.1 is potentially ambiguous. We recommend redrafting this and placing it in each Table so as to make it clear that in the part of the zone outside of the Town Centre Transition Overlay, any activity not listed in Table 1 is a non-complying activity (our Rule 10.4.9), and within the Transition Overlay, the non-complying activity rule applies to any activity not in either Table (our Rule 10.4.18).

462. For notified Rule 10.4.2 (relating to dwellings, residential units and residential flats) (our recommended Rule 10.4.4), we agree that the rule should be simplified to refer only to "Residential Unit" on the basis of submissions from Arcadian Triangle Ltd[204] and the Council[205], and as we have recommended for the other residential zones.

[204] Submission 836
[205] Submission 383

463. For notified Rule 10.4.4 (relating to the construction or alteration of any buildings) (our recommended Rule 10.4.6), we recommend that this rule be revised so as to be clearer and more administrable. We are concerned that the text recommended by the Council was onerous and unintentionally included internal alterations that would have no effect on any of the matters described within the policy framework we determined would be most appropriate, or any of the rule's own proposed matters of discretion. For that reason we recommend adding the word "external" into the rule. We also recommend substantial simplification of the matters of discretion including a clearer reference to the Arrowtown Design Guidelines 2016. Our recommendations are made in terms of Clause 16(2).

464. For notified Rule 10.4.13 (relating to building within a Building Restriction Area), Ms Law recommended removing this rule from 10.4 and relocating it to Rule 10.5. We agree with this, for the reasons set out in respect of the other residential zones.

465. For notified Rule 10.4.16 (relating to retail activities) (our recommended 10.4.17) we recommend simplifying the rule to make it clearer. This change is recommended under Clause 16(2).

466. Our recommended text is included below and in Appendix 4. We find that the recommended provisions are the most appropriate inasmuch as they are more efficient than the alternatives while maintaining a high and effective level of recognition of the sensitive amenity and character values within the zone.

467. We have included space for the provisions inserted by the Stage 2 variations in the location we consider appropriate given our discussion above about rule order. These d do not form part of our recommendations.

Table 1	**Activities located in the Arrowtown Residential Historic Management Zone**	**Activity Status**
10.4.1	**Home occupation.**	P
10.4.2	**Minor Alterations and Additions to a Building.**	P
10.4.3	**Recreational Activity.**	P
10.4.4	**Residential Unit.** Note: Refer to Rule 10.4.6 for construction of new and alterations and additions to existing buildings.	P
10.4.5		

Table 1	Activities located in the Arrowtown Residential Historic Management Zone	Activity Status
10.4.6	**The Construction or external alteration of any buildings.** This rule does not apply to Minor Alterations and Additions to a Building provided for by Rule 10.4.2. Discretion is restricted to the following, with the Arrowtown Design Guidelines 2016 being the principal tool to be used in considering the merit of proposals (within the matters of discretion): a. How new or altered buildings make a positive contribution to the heritage character of the zone b. Building form, appearance, scale and layout including the height to the eaves, ridge, roof shape and pitch. c. Exterior materials and colour. d. Landscaping and fencing. e. Where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: i. the nature and degree of risk the hazard(s) pose to people and property; ii. whether the proposal will alter the risk to any site; and iii. the extent to which such risk can be avoided or sufficiently mitigated The following additional matter of discretion also applies within the Arrowtown Town Centre Transition Overlay: f. Retention and enhancement of pedestrian linkages between Buckingham Street and Romans Lane	RD
10.4.7		
10.4.8	**Community activities.**	D
10.4.9	**Any Activity not listed in Table 1.**	NC
10.4.10	**Commercial activities.**	NC
10.4.11		
10.4.12	**Panel beating, spray painting, motor vehicle repair or dismantling, fibre glassing, sheet metal work, bottle or scrap storage, motor body building**.	PR

Table 2	Activities located in the Arrowtown Town Centre Transition Overlay Additional to or in Place of those in Table 1	Activity Status
10.4.13	**Commercial activities** (except where specified for retail activities).	P
10.4.14	**Community Activities.**	P
10.4.15	**Licensed Premises.** Premises licensed for the consumption of alcohol on the premises between the hours of 8am and 11pm.	P

Table 2	Activities located in the Arrowtown Town Centre Transition Overlay Additional to or in Place of those in Table 1	Activity Status
10.4.16	**Licensed Premises.** Premises licensed for the consumption of alcohol on the premises between the hours of 11pm and 8am, provided that this rule shall not apply to the sale of liquor: a. to any person who is residing (permanently or temporarily) on the premises; b. to any person who is present on the premises for the purpose of dining up until 12am. Discretion is restricted to: a. The scale of the activity. b. Car parking and traffic generation. c. Effects on amenity values. d. Noise. e. Hours of operation. f. Where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: i. the nature and degree of risk the hazard(s) pose to people and property; ii. whether the proposal will alter the risk to any site; and iii. the extent to which such risk can be avoided or sufficiently mitigated	RD
10.4.17	**Retail Activities.** Retailing restricted to goods manufactured on site and ancillary products, and comprising no more than 10% of the gross floor area.	D
10.4.18	**Any Activity not listed in either Table 1 or Table 2.**	NC

468. We note however that unlike Chapters 7, 8 and 11, the provisions for home occupations in Chapter 10 (and Chapter 9) specify no limits to the scale allowable for home occupations (our recommended Rule 10.4.1). We have no information to justify why such limitations have not been included within Chapters 9 and 10 although we support the proposal. We lack submissions or scope to introduce such a rule in Chapter 10 (or to remove it from Chapters 7, 8 and 11) and for this reason note to the Council that it may wish to review its approach to home occupations and consider a Plan Variation or Change if it deems it appropriate.

24. RULE 11.4

469. The notified Chapter 11 had 12 activity rules. In Ms Leith's S.42A version this had been reduced to 9 rules as a result of the Council's withdrawal of Visitor Accommodation provisions. She also recommended changing Rule 11.4.2 from "Dwelling, residential unit, residential flat" to "residential unit", relying on submitters Arcadian Triangle Ltd[206] and the Council[207]; and as also

206 Submission 836
207 Submission 383

recommended in the other residential chapters. Ms Leith also recommended relocating Rule 11.4.11 (relating to buildings within a Building Restriction Area) into the activity standards Rule 11.5, which we agree with for the same reasons that applied in respect of Chapter 7.

470. We find, as discussed in the context of Rule 7.4, that the table should be re-ordered by activity status for ease of use. We also recommend changing Rule 11.4.10 "community recreation" to "community recreational activity" under Clause 16(2).

471. Otherwise, we find that the activity rules proposed by the Council and proposed to be modified by Ms Leith are the most appropriate. In making this recommendation we repeat the observation made in respect of the other residential chapters that there were limited submitter requests relating to the proposed activity status.

472. Our recommended text is included below and in Appendix 5, which sets out our recommended provisions.

473. We have included space for the provisions inserted by the Stage 2 variations in the location we consider appropriate given our discussion above about rule order. These do not form part of our recommendations.

Table 1	**Activities located in the Large Lot Residential Zone**	**Activity Status**
11.4.1	Residential Unit	P
11.4.2	Recreational Activity	P
11.4.3	Home occupation.	P
11.4.4		
11.4.5		
11.4.6	**Community activities**	D
11.4.7	**Commercial recreational activity**	D
11.4.8	**Any other activity not listed in Table 1**	NC
11.4.9	**Licensed Premises**	NC
11.4.10		
11.4.11	**Panel beating, spray painting, motor vehicle repair or dismantling, fibre glassing, sheet metal work, bottle or scrap storage, motor body building**.	PR

PART G: RULES 7.5, 8.5, 9.5, 10.5 and 11.5 – STANDARDS FOR ACTIVITIES

25. RULES 7.5

25.1. Overview

474. As notified, there were 15 rules intended to manage the scale, intensity, and location of development. Generally, the rules are proposed to provide a permitted activity threshold based on enabling reasonable use of residential zoned sites, with development beyond those thresholds requiring a resource consent, with activity status and associated provisions as required under sections 77A and 77B of the Act also specified on a rule-by rule basis.

475. We note that the PDP rule thresholds are generally analogous with those set out within the ODP.

476. As has been previously canvassed in our decisions above, the key issues raised within the submissions related to managing density, commercial activity, and development in proximity to the airport and state highways.

477. We note that as a result of our deliberations, the numbering of rules has in some cases been proposed to change. This has arisen largely as a result of looking to group like rules together.

25.2. Rules 7.5.5, 7.5.7, 7 5.12, 7.5.13, and 7.5.14

478. In the Reply version of the rules, 7.5.5 (building coverage), 7.5.7 (landscaped permeable surface coverage), 7.5.12 (waste and recycling storage space, 7.5.13 (glare), and 7.5.14 (setback from water bodies) were not proposed to be changed from the notified version (although the rules would be renumbered as a result of other proposed changes).

479. We agree with the Ms Leith's recommendation in respect of Rule 7.5.5, and furthermore note that permitted site coverage greater than this would create potential conflict with the outcomes sought within the policy framework once other rules for site size / density (including provision for residential flats ancillary to a principal residential unit or dwelling) and bulk and location are considered. Building coverage greater than 40% is likely to lead to development with a more urban characteristic that is intended to be managed by the Medium and High Density Residential Zones.

480. In terms of Rule 7.5.7, we find that we have no scope to change the notified rule, however note our support for the non-complying activity status for contraventions. This rule will be a key means to implementing the policy framework we determined was most appropriate, including through reinforcing building height and site density requirements seeking to enable higher densities in a way that maintained suburban, predominantly detached-house amenity values and the presence of visually obvious planting and vegetation between and around buildings.

481. In terms of Rule 7.5.12, we find that we have no scope to change the notified rule, however we have not been convinced, including with reference to other residential zones where this rule has not been proposed, that Rule 7.5.12.1, which specifies a waste storage space to be provided is relevant or required. We recommend the Council undertake a variation to delete it on the basis that it is unnecessary and hence inefficient and ineffective.

482. In terms of Rules 7.5.13, and 7.5.14, we find that we have no scope to change the notified rules, and there is no reason to change Rule 7.5.13. However, we do recommend the Council

undertake a variation to change the contravention status of Rule 7.5.13 from non-complying to restricted discretionary. This is because we cannot see any basis for requiring a non-complying activity status, and likewise consider potential effects to be so specific they could be readily identified as matters of discretion.

483. We similarly recommend a variation to change the 7m setback distance specified within Rule 7.5.14 to 20m. Twenty metres is relevant inasmuch as it is the default width of an esplanade reserve requirement that is triggered once a subdivision application that adjoins or includes the bed of a river, lake or wetland. While at the land use consent stage a subdivision for an esplanade reserve may not be being sought, retaining the 20m setback will not foreclose future subdivision in light of the significance attached to public access to and along waterbodies within the Act (see section 6(a) and (d)). While we accept that esplanade requirements do not apply in all cases (primarily when a stream is less than 3m wide), we are satisfied that a 20m rule requirement instead of 7m would overall be the more appropriate.

484. Our recommended text for Rules 7.5.5 (building coverage), 7.5.7 (landscaped permeable surface coverage) 7.5.12 (waste and recycling storage space, 7.5.13 (glare), and 7.5.14 (setback from water bodies) are set out below.

7.5.5	**Building Coverage** A maximum of 40%.	D
7.5.6	**Landscaped permeable surface coverage** At least 30% of the site area shall comprise landscaped (permeable) surface.	NC
7.5.12	**Waste and Recycling Storage Space** 7.5.12.1 Residential and Visitor Accommodation activities shall provide, as a minimum, space for a 120 litre residential wheelie bin and 240 litres recycling wheelie bin per residential unit. 7.5.12.2 All developments shall suitably screen waste and recycling storage space from the road or public space, in keeping with the building development, or provide space within the development that can be easily accessed by waste and recycling collections.	NC
7.5.13	**Glare** 7.5.13.1 All exterior lighting shall be directed downward and away from the adjacent sites and roads. 7.5.13.2 No activity on any site shall result in greater than a 3.0 lux spill (horizontal or vertical) of lights onto any other site measured at any point inside the boundary of the other site.	NC

7.5.14	**Setback of buildings from water bodies** The minimum setback of any building from the bed of a river, lake or wetland shall be 7m.	RD Discretion is restricted to: a. Indigenous biodiversity values; b. Visual amenity values c. Landscape character; d. Open space and the interaction of the development with the water body; e. Environmental protection measures (including landscaping and stormwater management); f. Whether the waterbody is subject to flooding or natural hazards and any mitigation to manage the location of the building.

25.3. Rules 7.5.1 and 7.5.2

485. Rules 7.5.1 and 7.5.2 (both relating to building height) have been proposed by Ms Leith to be largely retained although re-structured to be clearer for readers. These rules attracted a number of submissions, including particular interest on proposed additional controls on building height on sites smaller than 900m^2 proposed to accommodate more than 1 residential unit. The clearest submission in opposition to the Council's approach was from Aurum Survey Consultants[208], which was concerned with the Council's over-complicated and over-controlling proposal.

486. Ms Leith agreed with a number of the points made by the submitters and proposed to change the status of more than 1 residential unit on sites smaller than 900m^2 a discretionary, rather than non-complying activity. A key part of her justification for retaining the essence of the proposed approach was her interpretation of the phrase "gentle density".

487. As discussed previously, we did not agree with Ms Leith's eventually discarded phrase "gentle density", or Ms Leith's interpretation of that as an important outcome for the zone. We are supportive of Mr Falconer's view that the zone anticipates one to two storey units and consider that a clearer rules framework be in place to implement (our recommended) Objective 7.2.3 and its policies.

488. We find that contravention of proposed Rule 7.5.1.3 (an additional height restriction for higher density developments) should be a discretionary activity provided that the total height does not contravene the limits of Rules 7.5.1 or 7.5. 2 (the general zone height limits for flat or sloping sites respectively) as the case may be. Height above the limits of Rules 7.5.1 and 7.5.2 for the purposes of Rule 7.5.3 would then be a non-complying activity to avoid creating a reverse incentive for additional building height on the smallest sites.

[208] Submission 166

489. We find that the most appropriate provisions to address the policy framework we recommend are as set out below. This in summary is to accept the Reply version that there should be three height rules (for flat sites, for sloping sites, and for more than 1 dwelling on a site 900m^2 or smaller) subject only to our own minor amendments using Clause 16(2). Separating the density-related height control from the other two also makes the plan simpler.

7.5.1	**Building Height (for flat sites)** 7.5.1.1 Wanaka: Maximum of 7 metres. 7.5.1.2 Arrowtown: Maximum of 6. 5 metres. 7.5.1.3 All other locations: Maximum of 8 metres.	NC
7.5.2	**Building Height (for sloping sites)** 7.5.2.1 Arrowtown: Maximum of 6 metres. 7.5.2.2 In all other locations: Maximum of 7 metres.	NC
7 5.3	**In addition to Rules 7.5.1 and 7.5.2, where a site is less than 900m^2 net area and more than 1 residential unit will result per site, the following height provisions apply:** a. Where residential units are proposed in addition to an existing residential unit, then the additional residential unit(s) shall not exceed 5.5m in height; b. Where no residential units exist on the site, or where an existing residential unit is being demolished to provide for 2 or more new residential units on the site, then all proposed residential units shall not exceed 5.5m in height; c. Items (a) and (b) above do not apply where a second residential unit is being created within an existing residential unit that is taller than 5.5m.	D

25.4. Rules 7.5.3 and 7.5.4

490. In terms of Rules 7.5.3 (airport noise) and 7.5 4 (airport noise), the key submission was from QAC[209]. We have previously discussed the resource management issues relevant to residential development within close proximity to the Queenstown Airport and our agreement with the need to manage development in light of very likely, and very adverse, future noise and amenity effects.

491. Ms Leith, through the Reply, proposed that rule 7.5.4 could be deleted and its substance rolled into an amended rule 7.5.3. We agree with this and consider it will make the plan more administratively efficient. We do note that Ms Leith's Reply version needs a minor amendment to remove any ambiguity as to which buildings this rule applies to.

[209] Submission 433

492. Overall, we find that subject to the amendments set out in the Reply version Rule 7.5.3 (renumbered to 7.5.4), including our clarification, is the most appropriate means of implementing the objectives and policies we identified earlier, in particular objective 7.2.2 and its policies. It is included below.

7.5.4	**Airport Noise – Queenstown Airport (excluding any non-critical listening environments)** 7.5.4.1 Buildings Within the Outer Control Boundary and Air Noise Boundary Buildings and alterations and additions to existing buildings containing an Activity Sensitive to Aircraft Noise (ASAN) shall be designed to achieve an Indoor Design Sound Level of 40 dB Ldn within any Critical Listening Environment, based on the 2037 Noise Contours. 7.5.4.2 Compliance Within the Air Noise Boundary (ANB) Compliance shall be demonstrated by either adhering to the sound insulation requirements in Rule 36.6.1 and installation of mechanical ventilation to achieve the requirements in Rule 36.6.2, or by submitting a certificate to the Council from a person suitably qualified in acoustics stating that the proposed construction will achieve the Indoor Design Sound Level with the windows open. 7.4.5.3 Compliance Between the Outer Control Boundary (OCB) and the Air Noise Boundary (ANB) Compliance shall be demonstrated by either installation of mechanical ventilation to achieve the requirements in Rule 36.6.2 or by submitting a certificate to the Council from a person suitably qualified in acoustics stating that the proposed construction will achieve the Indoor Design Sound Level with the windows open. Note – Refer to Chapter 2 Definitions for a list of activities sensitive to aircraft noise (ASAN)	NC

25.5. Rule 7.5.6

493. In terms of Rule 7.5.6 (density), the notified rule limited density to one residential unit (inclusive of any ancillary residential flat) per 300 square metres of net site area, with an exclusion for an area identified as the Queenstown Heights Overlay Area. This rule was proposed to be deleted in Ms Leith's Section 42A Report and this recommendation was carried over to the Council's reply.

494. A number of submissions addressed the matter of residential density, both for and against. This has been discussed previously, and our findings in respect of the objectives and policies (to enable and encourage additional density compatible with local amenity values) is referred to.

495. We consider that deletion of this rule has not been substantiated, and we do not agree with it. The proposed subdivision rule acts as the 'first step' in limiting development density with its minimum site requirement of 450 square metres. This applies in the case of a fee-simple vacant lot development. Where development is proposed first, or if no subdivision is actually sought (such as a developer constructing a number of units to maintain as rental properties in

one ownership), the Chapter 7 land use rules apply. If this rule were to be deleted, then the only other density control would be the height rule at 7.5.3 (introduced through the Council's reply but agreed with in our evaluation above), which would limit densities greater than 1:450 square metres only insofar as building height would be in the first instance limited. No other density controls would apply, amounting to an unlimited density in the zone, with residential flats additional to this again.

496. We find that a land use density control is desirable and necessary to implement the objectives and policies we have determined as most appropriate, notably Objective 7.2.1, and in particular Objective 7.2.3, and their policies. We consider that the 1 unit per 300 square metres control is a helpful and relevant intermediary. Given that it is more generous than the basic subdivision control, it has the effect of offering a regulatory incentive for comprehensive "land use + subdivision" planning, which we consider is more effects based and in line with the optimal enablement of community wellbeing. We also consider that the notified non-complying activity status for contravention of this rule is the most appropriate, particularly the requirements of section 104D that would apply given the potential for unacceptable adverse effects and policy conflicts that densities higher than 1 per 300 square metres could give rise to.

497. In reaching this decision, we also note our view that a density of 1 (independently disposable) unit per 300 square metres, with an independently habitable residential flat as well, will deliver a maximum effective household density of 1 unit per 150 square metres. We find that this is approaching the absolute limit that can be described by the lower density, suburban residential character that the zone objectives and policies enable. Beyond this, we consider that the medium and high density zones become more appropriate.

498. Our recommended text, included below, includes the retained Rule 7.5.6 as notified, inasmuch as it relates to the 300 square metres minimum net site area.

7.5.11	**Density** The maximum site density shall be one residential unit or dwelling per 300m^2 net site area.	NC

499. Turning to the Queenstown Heights Overlay Area, and in terms of the evidence presented by The Middleton Family Trust[210], we note that this particular matter was dealt with by the Stream 13 Panel which is recommending deletion of the Overlay Area and the more restrictive density rule. This deletion is reflected above and in Appendix 1.

25.6. Rule 7.5.8

500. In terms of Rule 7.5.8 (recession plane), the key submission was from the Council[211], which sought clarifications around the applicability of the rule on flat and sloping sites. Ms Leith, in her Section 42A Report and through the Council reply, agreed with the change sought. The recommended rule would see the plane apply on flat sites to all buildings, and on sloping sites only for accessory buildings.

501. We find that the recession plane is a critical control in the zone, as it helps to shape development along a predominantly detached, suburban character. In so doing, it also maintains the amenity values of adjacent sites by limiting building height close to boundaries where it would be most likely to impede sun and daylight, and result in visual privacy

210 Submission 336

211 Submission 383

(overlooking) effects on or between neighbours. It complements the building height, and density controls already addressed and for that reason we also support the non-complying activity status proposed to apply to any contravention(s) of the rule so that the controls remain operating as an integrated package in support of the policy framework.

502. Our recommended text has been included below. We have made further refinements using Clause 16(2).

7.5.7	**Recession planes:** **On flat sites applicable to all buildings;** **On sloping sites only applicable to accessory buildings.** 7.5.7.1 Northern boundary: 2.5m and 55 degrees. 7.5.7.2 Western and eastern boundaries: 2.5m and 45 degrees. 7.5.7.3 Southern boundary: 2.5m and 35 degrees. Exemptions: a. Gable end roofs may penetrate the building recession plane by no more than one third of the gable height. b. Recession planes do not apply to site boundaries adjoining a Town Centre Zone, or fronting a road, or a park or reserve.	NC

25.7. Rule 7.5.9

503. In terms of Rule 7.5.9 (minimum boundary setbacks), Ms Leith recommended a number of additions to the rule (effectively all exclusions) through her Section 42A Report and also the Council's reply, in agreement with issues raised by submitters NZIA[212] and Aurum Survey Consultants Ltd[213]. The effect of the amendments recommended to us would be to provide for minor parts of buildings, including eaves, all subject to specified limits, to extend into a setback area on the basis that it would bring greater benefits to the community, including visual design quality and weathertightness, and add negligible further adverse effects on the environment.

504. We agree with the submitters and Ms Leith, and find that Rule 7.5.9 as notified be changed as proposed in the Reply version of the provisions, subject only to our own further Clause 16(2) clarifications. Our recommended text is included below.

7.5.8	**Minimum Boundary Setbacks** 8.1.1.1 Road boundary: 4.5m 8.1.1.2 All other boundaries: 2.0m Exceptions to boundary setbacks: a. Accessory buildings for residential activities may be located within the boundary set back distances (other than from road boundaries), where they do not exceed 7. 5m in length, there are no windows or openings (other than for carports) along any walls within 1. 5m of an internal boundary, and they comply with rules for Building Height and Recession Plane;	D

212 Submission 238

213 Submission 166 / Further Submission 1202

	b. Any building may locate within a boundary setback distance by up to 1m for an area no greater than $6m^2$ provided the building within the boundary setback area has no windows or openings; c. Eaves may be located up to 600mm into any boundary setback distance along eastern, western and southern boundaries; d. Eaves may be located up to 1m into any boundary setback distance along northern boundaries.	

25.8. Rule 7.5.10

505. In terms of Rule 7.5.10 (building separation within sites), Ms Leith recommended to us through her Section 42A Report and the Reply version of the provisions that the rule threshold should reduce from 6m to 4m, and that contravention should elevate to a full discretionary activity rather than the notified restricted discretionary activity status.

506. The key submitters to this rule included Aurum Survey Consultants Ltd[214], Sean McLeod[215] and Sean and Jane McLeod[216]. The principal argument in support of a reduced rule threshold from 6m to 4m was that this was equivalent to what two buildings on adjoining sites could result in, based on the 2.0m minimum yard requirement in (notified) Rule 7.5.9. Ms Leith agreed with this but considered the uncertainty of effects to be such that a full discretionary activity should be required to contravene that reduced standard.

507. We find that it is appropriate that the separation between residential units on a single site be managed by the rules. This directly relates to the scale, intensity and character of buildings within the zone and the identified priority of maintaining a suburban level of amenity values therein. We find that the requirement for separation should, on the basis of like-for-like environmental effects, be equivalent to what would be required for buildings separated by a legal boundary.

508. We therefore disagree with Ms Leith. That 4m is the effective separation that permitted activities on adjoining sites are proposed to enjoy, without any supervision, is difficult to reconcile with a potential for adverse effects arising from that same width being achieved between buildings on the same site. We find that the restricted discretionary status should remain, however disagree with T Proctor[217] that an additional matter of discretion relating to ground level changes is appropriate.

509. We also find, relying on the submission of J Harrington[218] that an additional matter of discretion that should be added relating to, for development within Arrowtown only, consistency with the Arrowtown Design Guidelines 2016.

510. Our recommended text is included below (including Clause 16(2) clarifications).

214 Submission 166
215 Submission 389
216 Submission 391
217 Submission 169
218 Submission 309

7.5.9	**Building Separation Within Sites** For detached residential units on the same site, a minimum separation distance of 4m between the residential units within the development site applies. Note: this rule does not apply to attached dwellings.	RD Discretion is restricted to: a. Whether site constraints justify an alternative separation distance; b. Whether an overall better amenity values outcome is being achieved, including for off-site neighbours; c. Design of the units, with particular regard to the location of windows and doors so as to limit the potential for adverse effects on privacy between units; d. In Arrowtown, consistency with Arrowtown's character, as described within the Arrowtown Design Guidelines 2016

25.9. Rule 7.5.11

511. In terms of Rule 7.5.11 (continuous building length), Ms Leith explained to us in her Section 42A Report that this rule has something of a genesis in the ODP[219]. We were told that the operative rule is cumbersome and difficult to use, despite numerous explanatory diagrams being made available by the Council.

512. Key submitters to this rule were NZIA[220] and Aurum Survey Consultants[221]. These submitters did not oppose the rule, but sought clarifications. On analysis of these submissions, Ms Leith concluded that wording changes would be sufficient to make the rule clear, and that diagrams (sought by NZIA) were not necessary.

513. We find that Ms Leith's recommendations are sound and we agree with them. We disagree that interpretative diagrams are necessary and as a general principle of rule drafting, we consider that if a diagram is required to make a rule legible then there is something amiss with the rule. On that basis, we have considered Ms Leith's recommended text, consider it is legible and straight-forward, and recommend it be adopted.

514. Our recommended text is included below.

219 A Leith, Chapter 7 Section 42A Report, paragraphs 10.15-10.19

220 Submission 238

221 Submission 166

7.5.10	**Continuous Building Length** The length of any building facade above the ground floor level shall not exceed 16m.	RD Discretion is restricted to: a. External appearance, location and visual dominance of the building(s) as viewed from the street(s) and adjacent properties; b. In Arrowtown, consistency with Arrowtown's character, as described within the Arrowtown Design Guidelines 2016.

25.10. Rule 7.5.15

515. In terms of Rule 7.5.15 (parking – residential flat), Ms Leith, in her Section 42A Report, agreed with submitter Aurum Survey Consultants Ltd[222] that parking standards should reside in the District Plan's transport chapter. We see no justification for this notified rule in the zone policy framework, and find in agreement that the rule should be deleted from this section.

25.11. New Rules Proposed to be Introduced by the Section 42A Report and/or Council Reply

516. Ms Leith, through her Section 42A Report, proposed to add two additional rules (road noise – state highway, and height restrictions along Frankton Road), and then through the Reply version two more were proposed (building restriction area, and home occupation).

517. In terms of proposed Rule 7.5.15: road noise state highway, this arose in response to Ms Leith agreeing with the submission of New Zealand Transport Agency[223]. Our analysis is that the rule is appropriate to implement Objective 7.2.1 and its Policy 7.2.1.4 (our recommended numbering) and we recommend this rule's inclusion.

518. In terms of proposed Rule 7.5.16: height restrictions along Frankton Road, this rule was proposed by Ms Leith, however by the time of the Council's Reply she had reversed this view and recommended it be deleted. Given that this rule was not notified, and has not enjoyed any section 32 or section 32AA analysis other than by Ms Leith, we are inclined to agree with her that the rule is not necessary or appropriate. We have further considered the submission of Pounamu Body Corporate Committee[224] and find that there is insufficient justification to include a new height restriction.

519. In terms of recommended Rule 7.5.16: building restriction area, this was proposed by Ms Leith as an administrative clarification through the Reply version inasmuch as an equivalent rule was notified in Rule 7.4 (land use activities). We agree with Ms Leith that it is more appropriate that this rule sit in Rule 7.5 and find that it should be included as a Clause 16(2) clarification.

520. In terms of recommended Rule 7.5.17: home occupation, this was also proposed by Ms Leith as a clarification through the Council's reply for what was originally proposed within Rule 7.4. We agree with Ms Leith and find that the rule should be added to Rule 7.5 as a Clause 16(2) clarification.

222 Submission 166

223 Submission 719

224 Submission 208

521. Our recommended text for new rules relating to highway noise, buildings within a Building Restriction Area, and home occupations, are included below.

7.5.15	**Road Noise – State Highway** Any new residential buildings or buildings containing Activities Sensitive to Road Noise, located within: a. 80 metres of the boundary of a State Highway that has a speed limit of 70km/h or greater; or b. 40 metres of the boundary of a State Highway that has a speed limit less than 70km/h; shall be designed, constructed and maintained to ensure that the internal noise levels do not exceed 40dB $L_{Aeq(24h)}$ for all habitable spaces including bedrooms.	NC
7.5.16	**Building Restriction Area** Where a building restriction area is shown on the District Planning Maps, no building shall be located within the restricted area	NC
7.5.17	**Home Occupation** 7.5.16.1 No more than 1 full time equivalent person from outside the household shall be employed in the home occupation activity. 7.5.16.2 The maximum number of two-way vehicle trips shall be: a. Heavy vehicles: none permitted; b. Other vehicles: 10 per day. 7.5.16.3 Maximum net floor area of 60m^2. 7.5.16.4 Activities and storage of materials shall be indoors.	D

25.12. Overall Analysis

522. In terms of the above development rules, we record our finding that they, individually and collectively, are the most appropriate means of implementing the zone objectives and policies. We find that they will be more efficient and effective than the notified rules, and are soundly based on the management of effects and outcomes promoted within the zone policy framework.

26. RULE 8.5

26.1. Overview

523. In the notified PDP, there were 14 activity standards. In Ms Leith's Section 42A Report and subsequent Reply version she recommended increasing this to 16. She recommended a number of other changes on the basis of submissions and her own suggested clarifications.

26.2. Notified Rule 8.5.1 and Reply Version Rule 8.5.15

524. In terms of notified Rule 8.5.1 (the maximum height rule), Ms Leith recommended adding a height restriction on land adjacent to Designation 270, on the basis of submissions from M Prescott[225], W Richards[226], D Richards[227], and Universal Developments Ltd[228]. By the time of

225 Submission 73
226 Submission 55
227 Submission 92
228 Submission 177

the Council reply, Ms Leith instead recommended that this be removed and be the subject of its own additional rule at 8.5.15 of the Reply version.

525. For the reasons outlined in our consideration of Policy 8.2.3.3 (our recommended numbering), our analysis of the issue and likely environmental effects led us to prefer the default zone rules applying to manage the maintenance of reasonable public views from Designation 270, taking into account its undulating landform and 20m width. Because of this, we agree with the Reply version of notified rule 8.5.1, but do not agree with Ms Leith's (Reply version) additional Rule 8.5.14.

526. Notified Rule 8.5.1 is also numbered 8.5.1 in our recommendations. Our recommended text is provided below.

8.5.1	**Building Height (for flat and sloping sites)** 8.5.1.1 Wanaka and Arrowtown: A maximum of 7 metres. 8.5.2.2 All other locations: A maximum of 8 metres.	NC

26.3. Notified Rules 8.5.2 and 8.5.3

527. Rule 8.5.3 (development fronting State Highway 6 between Hansen Road and Ferry Hill Road) has been dealt with in the mapping hearings and we have not considered it. We have included in Appendix 2 Rule 8.5.3 as recommended by the Stream 13 Hearing Panel.

528. In terms of Rule 8.5.2 (sound insulation and mechanical ventilation), Ms Leith recommended a number of clarifications to this rule on the basis of the submission from NZTA[229]. We find that Rule 8.5.2 is appropriate. Subject to our own further recommended Clause 16(2) simplifications it should be adopted and no further analysis beyond Ms Leith's is required.

529. Notified Rule 8.5.2 is also numbered 8.5.2 in our recommendations and it is included below.

8.5.2	**Sound insulation and mechanical ventilation** Any residential buildings, or buildings containing an Activity Sensitive to Road Noise, and located within 80m of a State Highway shall be designed to achieve an Indoor Design Sound Level of 40dB L_{Aeq24h}. Compliance with this rule can be demonstrated by submitting a certificate to Council from a person suitably qualified in acoustics stating that the proposed construction will achieve the Indoor Design Sound Level.	NC

26.4. Notified Rules 8.5.4, 8.5.5, 8.5.6, 8.5.7 and 8.5.8

530. Rule 8.5.4 relates to building coverage. Rule 8.5.5 relates to density. Rule 8.5.6 relates to recession plane setbacks. Rule 8.5.7 relates to landscaped permeable surface. Rule 8.5.8 relates to minimum boundary setbacks.

531. In the Reply version, Ms Leith recommended, based on submissions from the Estate of Norma Kreft[230], and Wanaka Trust[231] and the evidence presented at the hearing by their expert Ms Rennie, that contraventions of these rules should be a restricted discretionary activity rather

229 Submission 719
230 Submission 512
231 Submission 536

than a full discretionary activity. She also recommended new matters of discretion and otherwise proposed clarifications and simplification in response to issues raised, on a rule-by-rule basis, by other submitters.

532. We find that the objectives and policies of the zone will be most appropriately served by enabling greater design flexibility within the zone and we agree with the evidence given by Ms Rennie at the hearing. Providing for restricted discretionary activities will provide greater encouragement to design outcomes based on the realities of development sites rather than to maximise rule compliance. We also note that as a restricted discretionary activity consent applications can still be refused. On the basis that the recommended restrictions are suitable to address all actual or potential environmental effects of concern we find that the changes will still ensure environmental effects bottom-lines are safeguarded.

533. We agree with and accept Ms Leith's rationale for changing the rules that was explained in the reply she gave to us on the Council's behalf. We have however made further recommendations under Clause 16(2) of the Act to simplify the matters of discretion and provide greater consistency between the rules such that the same categories of effects are subject to the same restrictions.

534. The notified rule numbers are unchanged in our recommendations, and are included below.

8.5.4	**Building Coverage** A maximum of 45%.	RD Discretion is restricted to: a. External appearance, location and visual dominance of the building(s) as viewed from the street(s) and adjacent properties b. External amenity values for future occupants of buildings on the site c. Effects on views, sunlight and shading on adjacent properties d. Parking and access layout: safety, efficiency and impacts on on-street parking and neighbours e. In Arrowtown, consistency with Arrowtown's character, as described within the Arrowtown Design Guidelines 2016
8.5.5	**Density** The maximum site density shall be one residential unit per 250m^2 net site area.	RD Discretion is restricted to: a. External appearance, location and visual dominance of the building(s) as viewed

		from the street(s) and adjacent properties b. Internal and external amenity values for future occupants of buildings on the site c. Privacy for occupants of the subject site and neighbouring sites, including cumulative privacy effects resulting from several household units enabling overlooking of another unit or units d. Parking and access layout: safety, efficiency and impacts on on-street parking and neighbours e. Noise f. Servicing including waste storage and collection g. In Arrowtown, consistency with Arrowtown's character, as described within the Arrowtown Design Guidelines 2016
8.5.6	**Recession planes:** **<u>On flat sites applicable to all buildings;</u>** **<u>On sloping sites only applicable to accessory buildings.</u>** 8.5.6.1 Northern boundary: 2.5m and 55 degrees. 8.5.6.2 Western and eastern boundaries: 2.5m and 45 degrees. 8.5.6.3 Southern boundaries: 2.5m and 35 degrees. 8.5.6.4 Gable end roofs may penetrate the building recession plane by no more than one third of the gable height. 8.5.6.5 Recession planes do not apply to site boundaries adjoining a town centre zone, fronting the road, or a park or reserve.	RD Discretion is restricted to: a. Any sunlight, shading or privacy effects created by the proposal on adjacent sites and/or their occupants b. Effects on any significant public views (based on an assessment of public views undertaken at the time of the proposal, in addition to any specified significant public views identified within the District Plan) c. External appearance, location and visual dominance of the building(s) as viewed from the street(s) and adjacent properties

		d. In Arrowtown, consistency with Arrowtown's character, as described within the Arrowtown Design Guidelines 2016
8.5.7	**Landscaped permeable surface** At least 25% of site area shall comprise landscaped permeable surface.	RD Discretion is restricted to: a. Storm water-related effects including flooding and water nuisance b. Visual amenity and the mitigation of the visual effects of buildings and any vehicle parking areas, particularly in relation to any streets or public spaces c. In Arrowtown, consistency with Arrowtown's character, as described within the Arrowtown Design Guidelines 2016
8.5.8	**Minimum Boundary Setback** Road boundary setback: 3m minimum, except for: a. State Highway boundaries, where the setback shall be 4.5m minimum; b. Garages, where the setback shall be 4.5m minimum; All other boundaries: 1.5m. Exceptions to setback requirements other than any road boundary setback: Accessory buildings for residential activities may be located within the setback distances, where they do not exceed 7.5m in length, there are no windows or openings (other than for carports) along any walls within 1.5m of an internal boundary, and they comply with rules for Building Height and Recession Plane.	RD Discretion is restricted to: a. External appearance, location and visual dominance of the building(s) as viewed from the street(s) and adjacent properties b. Streetscape character and amenity c. Any sunlight, shading or privacy effects created by the proposal on adjacent sites and/or their occupants d. Effects on any significant public views (based on an assessment of public views undertaken at the time of the proposal, in addition to any specified significant public views identified within the District Plan) e. Parking and access layout: safety, efficiency

		and impacts on on-street parking and neighbours f. In Arrowtown, consistency with Arrowtown's character, as described within the Arrowtown Design Guidelines 2016

26.5. Notified Rule 8.5.9

535. This rule relates to continuous building length. In Ms Leith's Section 42A Report, she recommended simplifying the continuous building length rule and changing its threshold from 16m length to 24m length. She also recommended simplifications to the matters of discretion. These changes were recommended on the basis of submissions from NZIA[232], and Reddy Group Ltd[233].

536. After the hearing, Ms Leith had come to accept points made by submitters D Clarke[234], S Zuschlag[235], and M Kramer[236] and recommended addition of a matter of discretion relating to the Arrowtown Design Guideline 2016 (in Arrowtown only).

537. We find that the rule should be changed from a maximum 16m length to the 24m length sought by the submitters. We also support inclusion of a reference, in Arrowtown, to the Arrowtown Design Guidelines 2016 in this and all other (restricted discretionary) activity standards. In respect of the latter, we find that the submissions in support of the Arrowtown Design Guideline have expressed that support across the whole zone, not solely in respect to a particular rule or rule sub-set.

538. We have however recommended simplifying the matters of discretion under Clause 16(2) so as to be clearer and more focused.

539. The notified rule number is unchanged in our recommendations, and is included below.

8.5.9	**Building Length** The length of any building facade above the ground floor level shall not exceed 24m.	RD Discretion is restricted to: a. External appearance, location and visual dominance of the building(s) as viewed from the street(s) and adjacent properties b. In Arrowtown, consistency with Arrowtown's character, as described within the

232 Submission 238
233 Submission 699
234 Submission 26
235 Submission 304
236 Submission 268

		Arrowtown Design Guidelines 2016

26.6. Notified Rule 8.5.10

540. This rule related to minimum window sill heights. In response to consistent submitter opposition[237], Ms Leith recommended deletion of this rule.

541. We agree; although we can see how the rule relates to the policy framework in terms of both amenity values for residents (privacy) and activation of street edges, the rule is overly and unjustifiably prescriptive. We find that the suitability of a window shape that is visible from the street requires consideration beyond sill height and set back distance. Issues such as the window's horizontal extent and the room or internal use behind it are equally relevant in determining whether a design outcome is successful or adverse. We therefore recommend that the rule be deleted.

26.7. Notified Rules 8.5.11, 8.5.12, 8.5.13, 8.5.14

542. Rule 8.5.11 related to waste and recycling storage space. Rule 8.5.12 related to glare. Rule 8.5.13 related to building setbacks from water bodies. Rule 8.5.14 related to building setbacks from electricity transmission infrastructure. In her Section 42A Report Ms Leith recommended largely retaining these rules as notified, subject to relatively minor renumbering or other refinement. Of note, Ms Leith relied on the submission of Aurum Survey Consultants Ltd[238] to change Rule 8.5.14 (setbacks from electricity transmission infrastructure) so as to confirm that contravention would be a non-complying activity.

543. We find that we have no scope to delete Rule 8.5.11 but recommend the Council consider a variation that does such for the same reasons we disagreed with the equivalent rule in Chapter 7 (notified Rule 7.5.12). In summary, we disagree that the proposed waste storage rule has been adequately justified across the District. Similarly, we recommend the Council consider a variation to Rules 8.5.12 (changing a non-complying status for rule contravention to restricted discretionary status) and 8.5.13 (retaining a 20m setback opportunity) for the same reasons as we have presented in respect of notified Rules 7.5.13 and 7.5.14 respectively.

544. Overall however, we find that the rules are generally appropriate subject to our own minor renumbering and text changes to Rule 8.5.12 so as to bring it into line with its equivalent in the other residential zones.

545. In our recommendations Rule 8.5.11 becomes 8.5.10; Rule 8.5.12 becomes 8.5.11; Rule 8.5.13 becomes 8.5.12; and Rule 8.5.14 becomes 8.5.13. Our recommended text is provided below.

8.5.10	**Waste and Recycling Storage Space** 8.5.10.1 Residential and Visitor Accommodation activities shall provide, as a minimum, space for a 120 litre residential wheelie bin and 240 litres recycling wheelie bin per residential unit. 8.5.10.2 All developments shall suitably screen waste and recycling storage space from neighbours, a road or public space, in	NC

[237] Submissions included those from NZIA (238), Jandel Trust (717) and Fll Holdings Ltd (847)

[238] Submission 166

	keeping with the building development or provide space within the development that can be easily accessed by waste and recycling collections.	
8.5.11	**Glare** 8.5.11.1 All exterior lighting shall be directed downward and away from the adjacent sites and roads. 8.5.11.2 No activity on any site shall result in greater than a 3. 0 lux spill (horizontal or vertical) of lights onto any other site measured at any point inside the boundary of the other site.	NC
8.5.12	**Setback of buildings from water bodies** The minimum setback of any building from the bed of a river, lake or wetland shall be 7m.	RD Discretion is restricted to: a. Indigenous biodiversity values b. Visual amenity values c. Landscape character d. Open space and the interaction of the development with the water body e. Environmental protection measures (including landscaping and stormwater management) f. Whether the waterbody is subject to flooding or natural hazards and any mitigation to manage the location of the building.
8.5.13	**Setbacks from electricity transmission infrastructure** National Grid Sensitive Activities are located outside of the National Grid Yard.	NC

26.8. Reply Version Rule 8.5.14

546. Ms Leith relied on the submission from M Lawton[239] to add new Rule 8.5.14 (as in her recommendations the notified 8.5.14 became 8.5.13) relating to the dominance effects of garage doors. In the Reply, Ms Leith then recommended changing her Section 42A text so as to make the rule clearer.

[239] Submission 117

547. We find that this rule is appropriate and directly implements the policy framework seeking high quality, safe and attractive street edges. We support it and recommend it be adopted.

548. In our recommendations, this rule is also numbered 8.5.14 and is included below.

8.5.14	**Garages** Garage doors and their supporting structures (measured parallel to the road) shall not exceed 50% of the width of the front elevation of the building which is visible from the street.	D

26.9. Reply Version Rule 8.5.16

549. Ms Leith recommended transferring the home occupation permitted activity standard from Rule 8.4 into Rule 8.5. We have discussed this previously and record our agreement with this structural change to the Plan. We also record our dissatisfaction with the limitations proposed, as has been previously identified. In our recommendations, this rule has been renumbered as Rule 8.5.15 and is included below.

8.5.15	**Home Occupation** 8.5.15.1 No more than 1 full time equivalent person from outside the household shall be employed in the home occupation activity. 8.5.15.2 The maximum number of two-way vehicle trips shall be: a. Heavy vehicles: none permitted b. Other vehicles: 10 per day 8.5.15.3 Maximum net floor area of 60m2 8.5.15.4 Activities and storage of materials shall be indoors	D

26.10. New Rule 8.5.16

550. We lastly note comments made previously to relocate the 'Building restriction area' activity rule notified as Rule 8.4.4 into Rule 8.5 and we have added this as a new rule on the basis of a Clause 16(2) clarification that makes the plan more coherent. It is included below.

8.5.16	**Building Restriction Area** No building shall be located within a building restriction area as identified on the District Plan Maps.	NC

26.11. Overall

551. Overall, the provisions we recommend are set out within our recommended provisions as part of **Appendix 2**. We find that they are the most appropriate to implement the settled objectives and policies and of note mediate the accommodation of substantial population growth in a way that will adequately maintain existing amenity and character values.

27. RULE 9.5

27.1. Overview

552. In the notified PDP, there were 11 activity standards. In Ms Banks' Section 42A Report she recommended increasing this to 12. She recommended a number of other changes on the basis of submissions and her own suggested clarifications.

27.2. Notified Rule 9.5.1

553. As notified this rule provided for building height on flat sites within Queenstown and Wanaka. For Queenstown (with exceptions), it was proposed through the Section 42A Report to make extensive changes to the notified rule on the basis of several submissions[240]. Through the Council's reply at the conclusion of the hearing, Ms Banks proposed further refinements and clarifications. In summary Ms Banks recommended changes were to:

a. Delete reference to the New Zealand Green Building Homestar Tool.
b. Provide for building height up to 12m as a permitted activity.
c. Provide for building height between 12m and 15m as a restricted discretionary activity.
d. Provide for building height above 15m as a non-complying activity.
e. Propose matters of discretion for the new restricted discretionary activity
f. Undertake other text simplifications, corrections and refinements.

554. The proposed height limits were of substantial submitter interest and became inseparable from related submissions focusing on urban design and visual quality, and general amenity values within the zone.

555. On consideration of the issue we accepted the evidence made by those submitters supporting greater development potential within the zone, and the Council's experts Ms Falconer and Mr Osborne. We find that the growth needs of the District, and the unique capability of residential zoned land close to the major town centres to sustainably accommodate this, to be a very compelling resource management priority.

556. However we accept that there needs to be a reasonable recognition given to existing residents and their amenity values; a carte-blanche growth approach would no better serve sustainable management than a conservation-centric adherence to the status quo.

557. We find as follows:

a. Rule 9.5.1 should be split into two different rules, one for flat sites in Queenstown (our recommended 9.5.1) and one for flat sites in Wanaka (our recommended 9.5.2). This is in accordance with Ms Banks' S.42A version. It reflects that these are very different environments and the notified rule itself was unnecessarily lengthy because of this split.
b. In Queenstown, height should be permitted to 12m, then to 15m as a restricted discretionary activity then a discretionary activity above that. We were not convinced that a non-complying activity status was necessary or appropriate.
c. In Wanaka, height should be limited to 8m as a permitted activity, then up to 10m as a restricted discretionary activity, then a discretionary activity above 10m.
d. For both Queenstown and Wanaka restricted discretionary activities, the matters of discretion require substantial simplification and revision, and we have done this on the basis of the input from the submissions and under Clause 16(2) of the Act.
e. For both Queenstown and Wanaka, a number of exclusions apply and we have simplified these under Clause 16(2) of the Act to make the rules as a whole as concise as is reasonably achievable given the importance of the issue.
f. With the incorporation of the above changes, the rules will most appropriately balance the enablement of high density housing that can maximise the benefits of being very close to town centres, in a way that will still safeguard the minimum acceptable amenity values for existing residents. On an overall balance however, we find that the rules should tip slightly in favour of the needs of future generations than the current one inasmuch as the amenity value protections we agree with will still provide for substantial change within the zone.

[240] Including Submissions 410, FS1059, FS1331, 238, FS1260, 208 and 520

558. In the Section 42A Report, Ms Banks also proposed to exceptions to the 12m height limit. The first, in the HDRZ immediately west of the Kawarau Falls Bridge, responded to a submission by Lakes Edge Development Ltd[241] which sought to retain a bespoke solution reached in the ODP. We agree with Ms Banks' reasoning and include that as Rule 9.5.1.2.

559. The second exception responded to submissions by Pounamu Body Corporate[242] and Fred van Brandenburg[243] which sought to protect views of the lake from along Frankton Road (SH6A). Mr Falconer agreed that such a restriction would be beneficial to ensure views of the lake could be maintained, but he and Ms Banks had concerns with the rules as proposed by the submitters. We accept their reasoning and have included this exception as Rule 9.5.1.3 (with some minor drafting improvements) and identified on the Planning Maps the stretch of road to which it applies.

560. Our recommended rules are included below and also in **Appendix 3**.

9.5.1	**Building Height – Flat Sites in Queenstown** 9.5.1.1 A height of 12 metres except where specified in Rules 9.5.12, 9.5.1.3 or 9.5.1.4.	RD Discretion is restricted to: a. Building design and appearance, including roof form articulation and the avoidance of large, monolithic building forms b. Building dominance and sunlight access relative to neighbouring properties and public spaces including roads c. How the design advances housing diversity and promotes sustainability either through construction methods, design or function d. Privacy for occupants of the subject site and neighbouring sites e. Effects on significant public views (based on an assessment of public views undertaken at the time of the proposal, in addition to any specified significant public views identified within the District Plan) f. The positive effects of enabling additional development intensity

241 Submission 529

242 Submission 208

243 Submission 520

			within close proximity to town centres
	9.5.1.2	In the High Density Residential Zone immediately west of the Kawarau Falls Bridge the maximum building height shall be 10m provided that in addition no building shall protrude above a horizontal line orientated due north commencing 7m above any given point along the required boundary setbacks at the southern zone boundary	D
	9.5.1.3	Within the area specified on the planning maps on the south side of Frankton Road (SH6A), the highest point of any building shall not exceed the height above sea level of the nearest point of the SH6A carriageway centreline.	D
	9.5.1.4	Maximum building height of 15m	D
9.5.2	**Building Height – Flat Sites in Wanaka**		RD
	9.5.2.1	A height of 8m except where specified below.	Discretion is restricted to: a. Building design and appearance, including roof form articulation and the avoidance of large, monolithic building forms b. Building dominance and sunlight access relative to neighbouring properties and public spaces including roads c. How the design advances housing diversity and promotes sustainability either through construction methods, design or function d. Privacy for occupants of the subject site and neighbouring sites e. Effects on significant public views, in particular from Lismore Park (based on an assessment of public views undertaken at the time of the proposal, in

		addition to any specified significant public views identified within the District Plan) f. The positive effects of enabling additional development intensity within close proximity to town centres
	9.5.2.2 Maximum building height of 10m	D

27.3. Notified Rules 9.5.2 and 9.5.3

561. Rules 9.5.2 and 9.5.3 related to building height on sloping sites. The sloping height rule intends to manage building bulk on sites that have different characteristics and potential for adverse effects than flat sites. In the notified PDP, Rule 9.5.2 provided for permitted heights up to 7m, then heights up to 10m as a restricted discretionary activity. Rule 9.5.3 then specified that heights above 10m would be a non-complying activity.

562. The rule attracted a number of submissions, including from Lakes Edge Development Ltd[244], Pounamu Body Corporate Committee[245], and Fred van Brandenburg[246].

563. In her S.42A version and subsequent Reply version, Ms Banks effectively supported the notified approach however recommended a number of clarifications including condensing notified Rules 9.5.2 and 9.5.3 into one rule (Rule 9.5.3 in both the S.42A and Reply versions).

564. We find that the Reply version of the rule is largely sound, however we have recommended a number of further clarifications and simplifications under Clause 16(2). Of greatest note, we find that a non-complying activity for building height above 10m is not appropriate, and that a discretionary activity is the more efficient and effective given the balance of policy direction for the zone in favour of growth and intensification.

565. In our recommendations, notified Rules 9.5.2 and 9.5.3 become Rule 9.5.3. Our recommended text is included below. Rules 9.5.3.2 (building height West of Kawarau Falls Bridge) and 9.5.3.3 (building height on the south side of Frankton Road) have been included for the same reasons we recommended they be included in Rule 9.5.1.

9.5.3	**Building Height – Sloping sites in Queenstown and Wanaka** 9.5.3.1 A height of 7m, except as specified below.	RD Discretion is restricted to: a. Building design and appearance, including roof form articulation and the avoidance of large,

244 Submission 529
245 Submission 208
246 Submission 520

			monolithic building forms b. Building dominance and sunlight access relative to neighbouring properties and public spaces including roads c. How the design advances housing diversity and promotes sustainability either through construction methods, design or function d. How the design responds to the sloping landform so as to integrate with it e. Privacy for occupants of the subject site and neighbouring sites f. Effects on significant public views, in particular from Lismore Park (based on an assessment of public views undertaken at the time of the proposal, in addition to any specified significant public views identified within the District Plan) g. The positive effects of enabling additional development intensity within close proximity to town centres
	9.5.3.2	Immediately west of the Kawarau Falls Bridge the maximum building height shall be 10m provided that in addition no building shall protrude above a horizontal line orientated due north commencing 7m above any given point along the required	D

		boundary setbacks at the southern zone boundary.	
	9.5.3.3	Within the area specified on the planning maps on the south side of Frankton Road (SH6A), the highest point of any building shall not exceed the height above sea level of the nearest point of the road carriageway centreline.	D
	9.5.3.4	Maximum building height of 10m	D

27.4. Notified Rules 9.5.4, 9.5.6, 9.5.7, 9.5.8, 9.5.9, 9.5.10 and 9.5.11

566. Rule 9.5.4 related to building coverage. Rule 9.5.6 related to recession plane setbacks. Rule 9.5.7 related to landscaped permeable surface coverage. Rule 9.5.8 related to continuous building length. Rule 9.5.9 related to minimum boundary setbacks. Rule 9.5.10 related to waste and recycling storage space. Rule 9.5.11 related to glare. These rules were the subject of minimal recommendation in Ms Banks' Section 42A Report or the Reply.

567. Key recommended changed from Ms Banks were:
   a. Changing notified Rule 9.5.4 (building coverage) to express a building coverage limit of 70% for both flat and sloping sites (relying on the submissions of Pounamu Body Corporate Committee[247], Alps Investment Ltd[248], Hurtell Proprietary Ltd[249] and Mount Crystal Ltd[250]).
   b. Clarifying notified Rule 9.5.8 (continuous building length) based on the submission of NZIA[251] and to otherwise make the rule's matters of discretion consistent with the equivalent rule in Chapter 8 (Reply version Rule 8.5.9).
   c. Changing Rule 9.5.9 (minimum boundary setbacks) to require a minimum 4.5m setback for any state highway boundary on the basis of the submission of NZTA[252].

568. We agree with the rules as recommended by Ms Banks in the Reply version although have recommended further changes to their structure, numbering and in particular the wording of matters of discretion under Clause 16(2) of the Act. This is to make the rules simpler and otherwise ensure they are consistent with equivalent rules in other residential zones. We make the following comments in respect of each individual rule:
   a. We recommend adding a requirement to the building coverage exclusion in rule 9.5.4 that any underground structures being exempted are to be landscaped on their top so as to not appear to the viewer as a building. We have drawn scope for this change on the basis of the many submissions made emphasising the need for high quality and landscape amenity within the zone. In our recommendations, notified rule 9.5.4 remains so numbered. Our recommended text is included below.

247 Submission 551
248 Submission 612
249 Further submission 1271
250 Further submission 1331
251 Submission 238
252 Submission 719

9.5.4	**Building Coverage** A maximum of 70% site coverage Exclusions: • Building coverage does not include any veranda over public space and does not apply to underground structures, which are not visible from ground level and which are landscaped to appear as recreational or planted (including grassed) areas.	NC

b. We recommend changing Rule 9.5.6 so that contravention of the recession plane shall be a restricted discretionary activity for boundaries where the adjoining land is also within the zone. We agree that, where the adjoining land is of a different zone and is not listed within the rule's exclusions, a non-complying activity status should apply. We have also recommended the addition of matters of discretion, based on those recommended for the MDRZ Rule 8.5.6 (our recommended version). We have found scope for this change on the basis of those submissions seeking high quality design-based outcomes, and within which, a consistent emphasis on the need for the Plan provisions to not punitively discourage design innovation, was convincing, most directly from Ms Rennie on behalf of Estate of Normal Kreft[253]; and Wanaka Trust[254]. Although Ms Rennie's evidence was presented in respect of Chapter 8 rules, her evidence and the submissions she spoke to were plainly expressed as more general principles applicable to all zones. Notified Rule 9.5.6 is numbered 9.5.5 in our recommendations. Our recommended text is included below.

9.5.5	**Recession plane** (applicable to all buildings, including accessory buildings) 9.5.5.1 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. 9.5.5.2 No recession plane for sloping sites Exclusions: a. Gable end roofs may penetrate the building recession plane by no more than one third of the gable height b. Recession planes do not apply to site boundaries adjoining a Town Centre Zone, fronting a road, or adjoining a park or reserve.	RD – for boundaries where the High Density Residential zone applies on each side of the boundary Discretion is restricted to: a. Any sunlight, shading or privacy effects created by the proposal on adjacent sites and/or their occupants b. Effects on any significant public views (based on an assessment of public views undertaken at the time of the proposal, in addition to any specified significant public views identified within the District Plan) c. External appearance, location and visual dominance of the building(s) as viewed from

253 Submission 512/Further Submission 1300

254 Submission 536

		the street(s) and adjacent properties. NC – for boundaries where there is a change of zone other than as specified in the exclusions.

c. We recommend retaining a non-complying activity status for contraventions of the landscaped coverage rule notified as 9.5.7. Notwithstanding our general agreement with the benefits of a restricted discretionary activity status in terms of encouraging more innovative design solutions, we see the landscaping requirement as a critical bottom line to assure amenity value outcomes within the zone given the scale and intensity of buildings that are being otherwise enabled. Notified Rule 9.5.7 is renumbered as 9.5.6 in our recommendations. Our recommended text is included below.

9.5.6	**Landscaped permeable surface coverage** At least 20% of site area shall comprise landscaped (permeable) surface.	NC

d. We recommend changing notified Rule 9.5.8 so as to further simplify the rule and bring it into line with the equivalent rules in Chapters 7 (our recommended Rule 7.5.10) and 8 (our recommended Rule 8.5.9). In our recommendations notified Rule 9.5.8 becomes 9.5.7. Our recommended text is included below.

9.5.7	**Building Length** The length of any building facade above the ground floor level shall not exceed 30m.	RD Discretion is restricted to: a. External appearance, location and visual dominance of the building(s) as viewed from the street(s) and adjacent properties

e. We recommend changing the contravention status of notified Rule 9.5.9 from full discretionary to restricted discretionary. We find that the potential effects relating to boundary setbacks can be very reliably predicted and on that basis adequate matters of discretion can be stated. We find that this will make the plan more efficient and is likely to encourage design innovation as previously discussed. We also find that garages should be set back a minimum of 4.5m from any road boundary to help implement the policy framework and allow a vehicle to park safely in front of a garage (Mr Falconer confirmed to us verbally[255] that a 4.5m setback would be sufficient given that footpaths within a road reserve were not typically placed directly at the boundary line but 1m or more into the road reserve). We find we have scope to make this addition on the basis of the many submitters that sought high design quality within the zone. In our recommendations notified rule 9.5.9 becomes 9.5.8. Our recommended text is included below.

[~~9.5.9~~] 9. 5. 8	**Minimum Boundary Setbacks**	RD Discretion is restricted to:

[255] Verbal response of Garth Falconer to Commissioner questions at the Stream 6 hearing

	9.5.8.1 All boundaries 2 metres except for state highway road boundaries where the minimum setback shall be 4.5m. 9.5.8.2 Garages shall be at least 4. 5m back from a road boundary Exceptions to setback requirements other than any road boundary setbacks: Accessory buildings for residential activities may be located within the setback distances, where they do not exceed 7.5m in length, there are no windows or openings (other than for carports) along any walls within 1.5m of an internal boundary, and comply with rules for Building Height and Recession Plane.	a. External appearance, location and visual dominance of the building(s) as viewed from the street(s) and adjacent properties b. Streetscape character and amenity c. Any sunlight, shading or privacy effects created by the proposal on adjacent sites and/or their occupants d. Effects on any significant public views (based on an assessment of public views undertaken at the time of the proposal, in addition to any specified significant public views identified within the District Plan) e. Parking and access layout: safety, efficiency and impacts on on-street parking and neighbours

f. We accept notified Rule 9.5.10 although as identified elsewhere we have struggled to see the justification or need for this rule and recommend the Council consider a Plan Variation or Change to delete it. In our recommendations notified Rule 9.5.10 becomes 9.5.9. Our recommended text is included below.

9.5.9	**Waste and Recycling Storage Space** 9.5.9.1 Residential activities of three units or less shall provide, as a minimum, space for a 120 litre residential wheelie bin and 240 litres recycling wheelie bin per unit. 9.5.9.2 All developments shall screen waste and recycling storage space from neighbours, a road or public place, in keeping with the building development or, provide space within the development that can be easily accessed by waste and recycling collections.	NC

g. We recommend minor clarification of notified Rule 9.5.11 on the basis of Clause 16(2), and as we have recommended for the other residential zones. In our recommendations, notified Rule 9.5.11 becomes 9.5.10. Our recommended text is included below. We note

again our recommendation that this rule be the subject of a variation to change the contravention activity status from non-complying to restricted discretionary.

9.5.10	**Glare**		NC
	9 5.10.1	All exterior lighting shall be directed downward and away from the adjacent sites and roads,	
	9.5.10.2	No activity on any site shall result in greater than a 3. 0 lux spill (horizontal or vertical) of lights onto any other site measured at any point inside the boundary of the other site	

27.5. Notified Rule 9.5.5

569. This rule was for a floor area ratio control (flat sites only). It was opposed by Aurum Survey Consultants Ltd[256]. Ms Banks agreed with the submitter and recommended in her Section 42A Report that the rule be deleted.

570. We agree, and consider the control to have no justification or demonstrable need in light of the other activity standards and design-based matters of discretion already recommended within the zone. As a consequential amendment we also recommend deleting the phrase "floor area ratio" from Policy 9.2.3.1 to ensure consistency between the policies and the rules.

27.6. Reply Version Rule 9.5.11

571. First introduced in Ms Banks Section 42A Report, new Rule 9.5.11 has arisen in response to the submission of NZTA[257] which sought sound insulation and mechanical ventilation requirements for development close to a state highway. We agree with and accept this rule, and note we have supported similar rules in Chapters 7 and 8. In our recommendations Reply version Rule 9.5.11 remains so numbered. Our recommended text is included below.

9.5.11	**Sound Insulation and Mechanical Ventilation** For buildings located within 80 m of a State Highway. Any residential buildings, or buildings containing an Activity Sensitive to Road Noise, and located within 80m of a State Highway shall be designed to achieve an Indoor Design Sound Level of 40dB LA_{eq24h}. Compliance with this rule can be demonstrated by submitting a certificate to Council from a person suitably qualified in acoustics stating that the proposed construction will achieve the internal design sound level.	NC

27.7. Reply Version Rule 9.5.12

572. In the her Reply statement, Ms Banks sought to introduce a rule specifying limits for home occupations, based on those proposed and which we have accepted with in Chapters 7 (our recommended Rule 7.5.16), 8 (our recommended Rule 8.5.15) and 11 (our recommended Rule 11.5.7). We have been unable to find scope to allow this change and in any event do not support it. For Chapters 9 and 10 the Council has notified home occupation provisions with unlimited parameters and this is, in our view, the most appropriate means of balancing the enabling aspect of each zone's policy framework with that part focused on amenity and

256 Submission 166

257 Submission 719

character values. We find rules limiting activities within dwellings that have imperceptible external effects (especially the floor area limitation) difficult to justify. Because of this, and in addition to our support for the lack of home occupation limitations notified by the Council in Chapters 9 and 10, we recommend the Council undertake a variation to revise the Chapter 7, 8 and 11 home occupation rules to bring them into alignment with the Chapter 9 and 10 equivalents.

27.8. New rules 9.5.12 and 9.5.13

573. We recommend the addition of new Rules 9.5.12 and 9.5.13. These are relocations of notified Rules 9.4.2 and 9.4.22 respectively, which we find sit more appropriately in Rule 9.5. We recommend this change under Clause 16(2). Our recommended text for these rules is included below.

9.5.12	**Building Restriction Area** No building shall be located within a building restriction area as identified on the District Plan Maps.	NC
9.5.13	**Flood Risk** The construction or relocation of buildings with a gross floor area greater than 20m2 and having a ground floor level less than: RL 312.0 masl at Queenstown and Frankton. RL 281.9 masl at Wanaka.	PR

27.9. Overall

574. Overall, the provisions we recommend are set out within our recommended provisions as part of **Appendix 3**. We find that they are the most appropriate to implement the settled objectives and policies and, of note, mediate the accommodation of substantial growth in a way that will adequately maintain existing amenity and character values.

27.10. Other Matters

575. Ms Banks referred us to a submission[258] seeking the removal of the minimum lot size set by notified Rule 27.5.1[259]. She referred us to Mr Falconer's evidence that the lot size in this zone should be larger than the 450m^2 minimum set by Rule 27.5.1 to enable adequate space for landscaping, access and carparking requirements.

576. We accept that evidence and note that in this zone the activity rules are designed to enable multiple residential units on a site, rather than the single residential unit per site that could be expected in the Lower Density Suburban Residential Zone or the Large Lot Residential Zone.

28. RULE 10.5

28.1. Overview

577. In the notified PDP, there were 7 activity standards. In Ms Law's Section 42A Report she recommended increasing this to 8 on the basis of relocating proposed Rule 10.4.13 (as has been the case in the other residential zones). She recommended a number of other changes on the basis of submissions and her own suggested clarifications.

258 Submission 166

259 K Banks, Section 42A Report, section 14

28.2. Rules 10.5.1, 10.5.2, 10.5.3, 10.5.4, and 10.5.7

578. Rule 10.5.1 related to building height. Rule 10.5.2 related to density. Rule 10.5.3 related to building coverage. Rule 10.5.4 related to combined building coverage and hard (impermeable) surface coverage. Rule 10.5.7 related to glare.

579. After considering the submissions, Ms Law recommended retaining Rules 10.5.1, 10.5.2, 10.5.3, 10.5 4 and 10.5.7 as notified. The key submitter relevant to Rules 10.5.1, 10.5.3 and 10.5.4 was the New Zealand Fire Service[260]. It sought exemptions for its fire station operations. We agree with Ms Law that there is no justifiable basis to provide the relief sought in light of the potential adverse environmental effects that could result. We consider that a land use consent remains the most appropriate means of accommodating fire stations, and their operational requirements, within the zone.

580. In terms of these proposed rules, we have considered them against the submissions and further submissions, and the settled objectives and policies. We agree that Rules 10.5.1 and 10.5.2 are the most appropriate and should not be subject to any further change.

581. However, for Rules 10.5.3, 10.5.4 and 10.5.7 we consider that minor rewording to bring the wording into line with our preferred text across the residential zones is required. These changes can occur under Clause 16(2).

582. The text we recommend is set out below and as part of **Appendix 4**.

10.5.1	**Building Height** A maximum height limit of 5 metres.	NC
10.5.2	**Density** Not more than one Residential Unit per 650 square metres of net site area.	NC
10.5.3	**Building Coverage** The Maximum building coverage shall be 30% of the net site area.	NC
10.5.4	**Combined Building Coverage and Impervious Surfaces** The total area covered by building coverage and impervious surfaces on any site shall not exceed 35% of the net site area.	NC
10.5.7	**Glare** a. All exterior lighting shall be directed downward and away from the adjacent sites and roads. b. No activity on any site shall result in greater than a 3. 0 lux spill (horizontal or vertical) of lights onto any other site measured at any point inside the boundary of the other site.	NC

583. We find that the provisions as worded above will be the most appropriate to implement the settled (our recommended) objectives and policies.

28.3. Rules 10.5.5 and 10.5.6

584. Rule 10.5.5 related to road (front) boundary setbacks. Rule 10.5.6 related to side and rear yard boundary setbacks.

[260] Submission 438

585. Ms Law recommended retaining the rules as notified but rewording the matters of discretion. In the Reply version she further recommended that a reference to the Arrowtown 2016 guideline be added as a clarification to Rule 10.5.5 but, anomalously in our view, not also for Rule 10.5.6.

586. We find that the notified matters of discretion require substantial revision and we have recommended this below and in **Appendix 4**, under Clause 16(2) of the Act. We largely accept Ms Law's recommendations but consider more direct and concise language is possible and desirable. We also consider that reference to the 2016 Arrowtown Guideline is appropriate for both rules.

10.5.5	**Road Boundary Setbacks** Where existing buildings (other than accessory buildings) are already located on the site - the shortest distance from the road boundary to the building (other than an accessory building) measured at right angles to the front boundary; or Where no existing buildings (other than accessory buildings) are located on the site the mean of the setback of any buildings (other than accessory buildings) located on the immediately adjoining lots or 6. 0m, whichever is the greater.	RD Discretion is restricted to the following, with the Arrowtown Design Guidelines 2016 being the principal tool to be used in considering the merit of proposals (within the matters of discretion): a. Streetscape character and amenity values, including the extent to which the building(s) sit compatibly with neighbours to the side and across the street. b. Building dominance on neighbouring properties and the street c. Landscaping d. Parking and manoeuvring
10.5.6	**Side and Rear Boundary Setbacks** 10.5.6.1 Side and rear boundary setbacks: 3.0m 10.5.6.2 Exceptions to side and rear boundary setbacks: a. Accessory buildings for residential activities are permitted within the setback distance, providing they do not exceed 7. 5m in length and comply with the recession plane of 2.5m vertical measured at the boundary, and a 35 degree plane inward. b. Gable end roofs may penetrate the above building recession plane by no more than one third of the gable height.	RD Discretion is restricted to the following, with the Arrowtown Design Guidelines 2016 being the principal tool to be used in considering the merit of proposals (within the matters of discretion): a. Effects on open space, privacy, sunlight access and amenity values of neighbouring properties. b. Building dominance.

	c. Recession planes do not apply to site boundaries fronting the street or a reserve. **Note:** Refer to the recession planes interpretive diagram in Chapter 2 Definitions.	

28.4. Rule 10.5.8

587. To accommodate Rule 10.4.13 into Rule 10.5, Ms Law recommended inserting it as a new Rule 10.5.5, consequentially renumbering the notified Rules 10.5.5, 10.5.6 and 10.5.7 as 10.5.6, 10.5.7 and 10.5.8 respectively.

588. We find that the relocation should occur for the same reasons that we have supported it in the other residential zones. However, we see no reasons to justify the unnecessary disruption of inserting it into the middle, rather than at the end, of the notified rule table. For this reason we recommend that notified Rule 10.4.13 become a new Rule 10.5.8. This is included below for convenience.

10.5.8	**Building Restriction Area** No building shall be located within a building restriction area as identified on the District Plan Maps.	NC

28.5. Overall analysis

589. In respect of the above analysis, we find that the simplification and revision of rules set out above and in **Appendix 4** are appropriate as Clause 16(2) clarifications, or otherwise as responses to matters raised within submissions to the PDP.

590. We also find that they reflect the most appropriate means of implementing the objectives and policies we have identified earlier including by way of making the plan more readily administrable. We also find that a more consistent reference to the Arrowtown Guidelines 2016 will better provide for the maintenance and enhancement of amenity values within the zone.

29. RULE 11.5

29.1. Overview

591. In the notified PDP, there were 11 proposed activity standards. By the time of the Reply version this was proposed by the Council to be increased by 1, being relocated Rule 11.4.11 (Building Restriction Area) discussed previously in respect of Chapters 7, 8, 9 and 10.

29.2. Rules 11.5.2, 11.5.4, 11.5.5, 11.5.7, 11.5.8, and 11.5.11

592. Rule 11.5.2 related to building coverage. Rule 11.5.4 related to building setbacks from road (front) boundaries. Rule 11.5.5 related to building setbacks from waterbodies. Rule 11.5.7 related to home occupations. Rule 11.5.8 related to glare. Rule 11.5.11 related to recession plane setbacks. By the time of the Council's reply, proposed Rules 11.5.2, 11.5.4, 11.5.7, 11.5.8 and 11.5.11 were proposed to be retained unchanged from the notified version.

593. In terms of Rule 11.5.2, we agree with the rule although have recommended simplifications to the matters of discretion to make them clearer and also more consistent with matters we have

recommended elsewhere within this chapter and the other residential chapters. Our recommended text is included below.

11.5.2	**Building Coverage** The maximum building coverage shall be 15% of the net site area.	RD Discretion is restricted to: a. The effect on openness and spaciousness b. Effects on views and outlook from neighbouring properties c. Visual dominance of buildings d. Landscaping

594. In terms of Rule 11.5.4, we are in agreement with the rule and recommend no further changes. Our recommended text is included below.

11.5.4	**Setback from roads** The minimum setback of any building from a road boundary shall be 10m.	NC

595. In terms of Rule 11.5.5, we agree with the rule although recommend the addition of "and public access" to the restriction "open space" given that the purpose of the rule relates to waterbodies and in turn section 6(d) of the Act. We find that this change is a reasonable clarification under Clause 16(2) given that it clarifies the purpose of a matter of discretion, and does not create a new development standard or development imposition. Our recommended text is included below.

11.5.5	**Setback of buildings from water bodies** The minimum setback of any building from the bed of a river, lake or wetland shall be 20m.	RD Discretion is restricted to: a. Any indigenous biodiversity values b. Visual amenity values c. Landscape character d. Open space including public access e. Whether the waterbody is subject to flooding or natural hazards and any mitigation to manage the location of the building

596. In terms of Rule 11.5.7, we agree with the rule although have recommended minor reformatting to bring the rule's construction into line with the balance of rules in the chapter. We refer to earlier comments made in respect of our encouragement to the Council to reconsider the necessity of this particular rule in Chapters 7, 8 and 11 through a Plan Variation. Our recommended text is below.

11.5.7	**Home Occupation** Home occupation activities shall comply with the following: 11.5.7.1 No more than 1 full time equivalent person from outside the household shall be employed in the home occupation activity 11.5.7.2 The maximum number of vehicle trips shall be: • Heavy Vehicles: 2 per week • Other vehicles: 10 per day 11.5.7.3 Maximum net floor area of not more than 60m² 11.5.7.4 Activities and the storage of materials shall be indoors	D

597. In terms of Rule 11.5.8, we agree with the rule although have recommended minor rewording to simplify the wording under Clause 16(2). Our recommended text is included below.

11.5 8	**Glare** a. All exterior lighting shall be directed downward and away from the adjacent sites and roads. b. No activity on any site shall result in greater than a 3. 0 lux spill (horizontal or vertical) of lights onto any other site measured at any point inside the boundary of the other site.	D

598. In terms of Rule 11.5.11, we agree with this rule although have recommended minor rewording under Clause 16(2) to the reference to Chapter 2 Definitions in the rule's supporting note. Our recommended text is included below.

11.5.11	**Recession Plane** The following applies to all sites with a net site area less than 4000m²: 11.5.11.1 Northern boundary: 2.5m and 55 degrees. 11.5.11.2 Western and eastern boundaries: 2.5m and 45 degrees. 11.5.11.3 Southern boundary: 2. m and 35 degrees. Exemptions a. Gable end roofs may penetrate the building recession plane by no more than one third of the gable height. b. Recession planes do not apply to site boundaries fronting a road or a reserve.	NC

29.3. Rule 11.5.1

599. In terms of the maximum height rule, Ms Leith recommended changing Rule 11.5.1.3 from 5 metres to 5.5 metres, when above a floor level of 283 metres reduced level (RL), in response to The Anzac Trust[261]. This sub-rule applies only to 361 Beacon Point Road, Wanaka and the submitter seeks that the rule align with a decision of the Environment Court (decision RMA 1090/00 and which has resulted in the same requirement being imposed as a Consent Notice on the property's title). We agree with Ms Leith that the rule should be so modified. We consider the wording of Rule 11.5.1.1 can be improved under Clause 16(2) but otherwise find that no further analysis is required.

600. In terms of the remainder of the height rule, we find that it is the most appropriate for the zone and its policy framework seeking for a low density residential character. In reaching this

261 Submission 142

view we agree with Ms Leith's analysis that the New Zealand Fire Service[262] submission seeking a height exemption for fire station drying towers should be rejected. Such towers could have unacceptable adverse amenity value effects and should be determined through a site-specific resource consent process. Our recommended text is included below.

11.5.1	**Building Height** 11.5.1.1 Except where limited by Rules 11.5.1.2 or 11.5.1.3, a maximum height limit of 8 metres. 11.5.1.2 A maximum height of 7 metres: 11.5.1.2.1 on sites located between Beacon Point Road and the margins of Lake Wanaka; and 11.5.1.2.2 on sites located between Studholme Road and Meadowstone Drive. *11.5.1.3* A maximum height of 5. 5 metres above a floor level of 283 masl on the site(s) located at the northern end of Beacon Point Road (as identified on the District Plan maps).	NC NC NC

29.4. Rule 11.5.3

601. In terms of setbacks from internal boundaries, Ms Leith recommended changing this rule to differentiate between the sub zone areas A and B she recommended (that we have discussed previously). On the basis that we 'reversed' Ms Leith's preferred approach[263], this rule requires revision and we have recommended this. We have also recommended simplifying the matters of discretion under Clause 16(2) so as to use consistent phrases and ensure efficient Plan administration. We also find scope for our changes from the submission of N Blennerhassett[264] who sought a 4m setback requirement on 2,000m^2 sites (which we agree with). Our recommended text is included below.

11.5.2	**Setback from Internal Boundaries** 11.5.3.1 Large Lot Residential Area A: the minimum setback of any building from internal boundaries shall be 4 metres 11.5.3.2 Large Lot Residential Area B: the minimum setback of any building from internal boundaries shall be 6 metres.	RD Discretion is restricted to: a. The effect on openness and spaciousness b. Effects on privacy, views and outlook from neighbouring properties c. Visual dominance of buildings d. Landscaping

29.5. Rule 11.5.6

602. In terms of the continuous building length rule, Ms Leith recommended a number of revisions on the basis of a submission from N Blennerhassett[265] seeking the rule to be more restrictive. Ms Leith agreed with the submission in part inasmuch as she recommended changes to the

262 Submission 348

263 Ms Leith favoured a standard minimum lot size of 4,000m^2 with exceptions down to 2,000m^2; we favour a standard of 2,000m^2 with exceptions up to 4,000m^2

264 Submission 335

265 Submission 335

matters of discretion so as to make them more consistent with other matters of discretion within the zone and also the other residential zones.

603. We find that the rule is generally sound and we disagree with N Blennerhassett[266] that the rule should be more restrictive as there is no justification to reduce the notified building length allowance, given the site sizes provided for within the zone and the likely separation between viewers and buildings that will result. We also note that in the zone, larger, usually single-storey houses, are commonplace. On that basis, the rule threshold as notified will allow the more efficient use of land that will enable greater house design choice to developers, while appropriately maintaining amenity values for neighbours and the public. We do, however, recommend that the rule be revised so as to be clearer, including simplifying the matters of discretion. We find that our recommendations are possible under Clause 16(2). Our recommended text is included below.

11.5.6	**Building Length** The length of any facade above the ground floor level shall not exceed 20m:	RD Discretion shall be restricted to: a. External appearance, location and visual dominance of the building(s) as viewed from the street(s) and adjacent properties

29.6. Rule 11.5.9

604. This rule related to density. Ms Leith recommended through this rule to introduce the key control to differentiate the Area A and B sub-zones. She also recommended changing the non-compliance status from Discretionary to Non-Complying.

605. As has been previously discussed in respect of the zone policies, we agree with the sub-zone approach and have detailed our findings in that regard. In terms of the rule, we have recommended retaining the notified Discretionary activity status for non-compliance as it has not been demonstrated that a Non-Complying status is required. We have otherwise recommended changes to implement the Area A / 2,000m^2 and Area B / 4,000m^2 requirements we have settled on. We record our agreement with submitter Aurum Survey Consultants Ltd[267] that the rule should not directly reference Studholme Road and Meadowstone Drive in the context of where a 2,000m^2 minimum is appropriate; our recommendations render that restriction redundant. Our recommended text is included below.

11.5.9	**Residential Density** 11.5.9.1 Large Lot Residential Area A: a maximum of one residential unit per 2000m² net site area. 11.5.9.2 Large Lot Residential Area B: a maximum of one residential unit per 4000m^2 net site area.	D

266 Ibid

267 Submission 166

606. We also recommend, as a consequential amendment, that recommended Rule 27.6.1 set the minimum lot areas for subdivision in this zone as 2,000m^2 for Area A and 4,000m^2 for Area B.

29.7. Rule 11.5.10

607. This rule related to restrictions on building materials and colours. Ms Leith recommended retaining the rule as notified but changing the matters of discretion on the basis that they have been poorly worded, resembling assessment matters.

608. On the basis of the zone framework we have determined is most appropriate, this rule can only be justified within the more sensitive Area B (4,000m^2 minimum area) sub-zone and we have recommended this as a consequential change arising from our wider recommendations. We have also further revised the matters of discretion under Clause 16(2) to make them simpler and more consistent with like restrictions we have determined for other rules including in the other residential chapters. Our recommended text is included below.

11.5.10	**Building Materials and Colours** For sites within Large Lot Residential Area B: a. All exterior surfaces shall be coloured in the range of black, browns, greens or greys; b. Pre-painted steel, and all roofs shall have a reflectance value not greater than 20%; c. Surface finishes shall have a reflectance value of not greater than 30%.	RD Discretion is restricted to: a. Landscape and visual effects, including the extent to which the physical scale of the building(s) make a proposed building's materials and colours more or less visually prominent.

29.8. Rule 11.5.12

609. This rule related to buildings within a Building Restriction Area. In the Reply version, Ms Leith recommended relocating notified Rule 11.4.11 to Rule 11.5. We have discussed this previously in terms of Chapters 7, 8, 9 and 10 and reiterate our agreement with this relocation. Our recommended text is included below.

11.5.12	**Building Restriction Area** No building shall be located within a building restriction area as identified on the District Plan Maps.	NC

29.9. Overall Analysis

610. In respect of the above analysis, we find that the simplification and revision of rules set out and also in **Appendix 5** are appropriate as Clause 16(2) clarifications, or otherwise as responses to matters raised within submissions to the PDP.

611. We also find that they reflect the most appropriate means of implementing the objectives and policies we have identified earlier including by way of making the plan more readily administrable. We also find that by simplifying the rules we have made the plan both more effective and efficient (such as by way of the introduction of sub-zone Areas A and B).

PART H: RULES 7.6, 8.6, 9.6, 10.6 and 11.6 – NON NOTIFICATION OF APPLICATIONS

30. RULE 7.6

612. As notified, this rule would have precluded from public notification or limited notification any controlled activity or, somewhat ambiguously titled, restricted discretionary activities for "residential development".

613. We have understood from notified Rule 7.6.2.1 that any restricted discretionary consent matter under rules 7.4 or 7.5 triggered by a residential development would be non-notified.

614. Key submitters were New Zealand Transport Agency[268] and Arcadian Triangle Ltd[269]. Arcadian Triangle submitted that there was no definition of the term "residential development", and to that end Ms Leith recommended tying the rule to notified activity Rule 7.4.10 (which provided for more than one residential unit per site). NZTA was interested in ensuring that any development requiring vehicle access from a state highway was required to be served notice on NZTA as an affected party.

615. We find that as notified "residential development" was an administratively unhelpful term and it should be replaced. We accept Ms Leith's recommendation. Turning to the submission from NZTA, we agree that for the purposes of any reasonable notification decision it is likely that NZTA would be considered an adversely affected party if a development of multiple units sought to gain a new or materially different use of an existing vehicle crossing to a state highway given the potential safety and road management effects that could arise. On this basis, there is a sound rationale for a rule that requires this step rather than incurring the time and cost of notification decisions that will result in limited notification anyways.

616. On that basis, we partially accept the recommendation of Ms Leith (subject to our own Clause 16(2) clarification of the proposed wording). We consider the appropriate rule is to identify that where the proposal involves access from a state highway, the Council will need to apply the provisions of sections 95A to 95E of the Act inclusive. To specify NZTA as an affected party would be to hinder the Council's discretion under those sections of the Act. We have applied this approach to Chapters 8 and 9 also.

617. Our recommended text is included below.

7.6.1 The following Restricted Discretionary activities shall not require the written approval of affected persons and shall not be notified or limited-notified:

7.6.1.1 Residential units pursuant to Rule 7.4.7, except where vehicle crossing or right of way access on or off a State Highway is sought.

31. RULE 8.6

618. As notified Rule 8.6 has 2 sub-rules: 1 for controlled activities and 1 for specified restricted discretionary activities. In her Section 42A Report Ms Leith recommended deleting the

[268] Submission 719
[269] Submission 836

controlled activity rule on the basis of a submission by P Swale[270] and her own judgement that with no controlled activities left in the zone due to the Council's withdrawal of Visitor Accommodation provisions there was no justification for the rule. We agree, and note that insofar as it relates to the other residential chapters, we have also relied on P Swale's submission as a more general point that we agree with.

619. Ms Leith also recommended changing the restricted discretionary rule on the basis of a number of submissions. First, she recommended removing the notified reference to the Homestar rating tool (as previously discussed, we agree that this has no place in the District Plan). The submitters who sought this removal (or opposed the Homestar tool being included within the Plan more generally) included C Douglas[271], Universal Developments Ltd[272], P Thoreau[273], P Winstone[274], Wakatipu Gardens and Reserves Incorporated[275], P & J Sanford[276], and M Lynch[277]. Having determined that Rule 8.6.2.1 should be deleted, it follows that Rule 8.6.2.2 also needs to be deleted as it is inherently linked and subordinate to Rule 8.6.1.1.

620. Ms Leith finally sought addition of a new non notification provision being for residential units that can comply with rule 8.4.11 and all of the standards in Rule 8.5. This clause arose as a result of submissions from Otago Foundation Trust Board[278] (supported by further submissions from Hansen Family Partnership[279)], C Douglas[280], Universal Developments Ltd[281], P Thoreau[282], and P Winstone[283]. We find that this new rule is appropriate and we support it. Compliance with the activity standards will very likely mean that any environmental effects will be manageable without the need for further public commentary. This will in turn make the enablement of medium density housing more efficient through reduced risk, uncertainty and consent processing time / cost.

621. Overall, our recommended provisions are set out below and in Appendix 2. We find that they will be the most appropriate means of implementing the settled objectives and policies.

8.6.1 The following Restricted Discretionary activities shall not require the written approval of affected persons and shall not be notified or limited-notified except where vehicle crossing or right of way access on or off a State Highway is sought:

8.6.1.1 Residential units which comply with Rule 8.4.10 and all of the standards in Rule 8.5.

32. RULE 9.6

622. The notified plan identified this rule as 9.7, although this was a simple numbering error and the Council recommended it be changed to 9.6. We agree with this.

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270 Submission 792
271 Submission 199
272 Submission 177
273 Submission 362
274 Submission 264
275 Submission 506
276 Submission 676
277 Submission 503
278 Submission 408
279 Further submission 1270
280 Submission 199
281 Submission 177
282 Submission 362
283 Submission 264

623. The notified rule provides three categories: 1 for controlled activities, 1 for restricted discretionary activities (no notification or limited notification), and 1 for restricted discretionary activities (no notification but potential limited notification). Ms Banks recommended retaining but revising all of these.

624. In terms of Rule 9.6.1, Ms Banks sought to include reference to NZTA where access to a State Highway was proposed as an exclusion to the blanket non notification rule. This was in response to NZTA's request[284] for that outcome.

625. We find that, like the other residential zones, this rule should be removed from the Plan on the basis that there are no controlled activities within the zone that would ever trigger the rule[285]. We find retention as proposed by Ms Banks to be ineffective and inefficient.

626. In terms of Rule 9.6.2, Ms Banks recommended including the same exclusion from non-notification in favour of NZTA that she recommended for Rule 9.6.1. She also recommended changing the wording of the rule as a consequential amendment to a change in wording of "residential unit" across the residential zones proposed by the Council.

627. As we noted in relation to Rule 7.6 above, we find that NZTA would be inherently affected by new connections to its state highway network and would, in any event under its own legislation, need to provide approval to any new connections or material changes to existing connections to a state highway. However, this rule needs to be framed so as to not hinder the Council's future exercise of its discretion.

628. We also find that Rule 9.6.2.1 requires clarification that residential developments of 4 or more units (as per Rule 9.4) will only be subjected to non-notification where compliance has been achieved with all of the relevant standards in Rule 9.5. Otherwise, unlimited height control contraventions would be non-notified. We find that this is a plain and unintended error in plan drafting and can be corrected as a Clause 16(2) correction (i.e. the rule was only intended to relate to section 9.4 of the Plan, not 9.5 as well). In reaching this position we also refer to the approach taken in Chapter 8 by Ms Leith in a like circumstance (Rule 8.6.1), and we reiterate that we see consistency between the residential chapters in like circumstances to be an important outcome.

629. In terms of rule 9.6.3, Ms Banks recommended a number of changes in response to submissions from Fred van Brandenburg[286] and Aurum Survey Consultants Ltd[287]. The effect of the changes was to remove 'restricted discretionary' from the rule (so that in theory it could apply to any activity type specified in the sub-rules), and provide for boundary setbacks up to 0.6m to also be non-notified (but potentially limited notified).

630. We find that these changes are appropriate subject to text revisions to make them clearer. We also find that contraventions of the recession plane should also be subject to the rule on the basis that the effects of recession plane contraventions raise the same potential environmental effects as building height. We consider this is an acceptable Clause 16(2) amendment to clarify that the Plan seeks to manage like effects (especially on affected parties) on a like basis.

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284 Submission 719

285 Due to the Council's withdrawal of Visitor Accommodation provisions on 25 November 2015.

286 Submission 520

287 Submission 166

631. Our recommended provisions are set out below and in Appendix 3. We find that they are the most appropriate to implement the settled objectives and policies.

~~[9.7.1~~]

9.6.1 The following Restricted Discretionary activities shall not require the written approval of affected persons and shall not be notified or limited-notified except where vehicle crossing or right of way access on or off a State Highway is sought:

9.6.1.1 Residential development involving the development of 4 or more residential units where the standards in Rule 9.5 are complied with.

9.6.2 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:

9.6.2.1 Restricted Discretionary building height and recession plane contraventions.

9.6.2.2 Boundary setback contraventions of up to 0.6m into the required setback depth of the yard (for an unlimited length of the boundary).

33. RULE 10.6

632. The notified PDP provided for non-notification of controlled activities. However within the notified Chapter 10 the only controlled activities were visitor accommodation under activity rules 10.4.8 and 10.4.20. Visitor Accommodation provisions were withdrawn by the Council on 25 November 2015 meaning that there were no controlled activities within the zone to which rule 10.6 would apply.

633. In the Council's reply Ms Law confirmed a recommendation that the rule be deleted.

634. We find that the rule has no place in the scheme of a Plan that has no controlled activities and for this reason we consider it would be confusing and unjustifiable to retain the notified rule. We agree that it should be deleted and that this can be undertaken as a Clause 16(2) correction.

34. RULE 11.6

635. The notified PDP provided for non-notification of controlled activities. However within the notified Chapter 11 the only controlled activities were visitor accommodation under activity rule 11.4.6. Visitor Accommodation provisions were withdrawn by the Council on 25 November 2015 meaning that there were no controlled activities within the zone to which Rule 11.6 would apply.

636. In the Council's reply Ms Leith confirmed a recommendation that the rule be deleted.

637. We find that the rule has no place in the scheme of a Plan that has no controlled activities and for this reason we consider it would be confusing and unjustifiable to retain the notified rule. We agree that it should be deleted and that this can be undertaken as a Clause 16(2) correction.

PART I: DEFINITIONS – RECOMMENDATIONS TO STREAM 10 PANEL

35. Preliminary

638. Several submissions on definitions relevant to the subject matter of this Hearing Stream were heard consistent with our directions in the Second Procedural Minute. Having heard those submissions and further submissions we make recommendations on them to the Stream 10 Panel to enable that Panel to consider any conflicting evidence or recommendations.

639. We make it clear that where we make recommendations below (with a single exception), those recommendations are to the Stream 10 Hearing Panel, not the Council. The exception is the recommendation made in relation to notes in certain rules defining how flat and sloping sites are determined discussed below in Section 37.1.

640. Submissions were received in respect of the following definitions:
   a. Activities Sensitive to Aircraft Noise;
   b. Building;
   c. Character of Arrowtown;
   d. Community Activity;
   e. Community Facility;
   f. Day Care Facility;
   g. Dwelling;
   h. Educational Activity;
   i. Educational Facility;
   j. Emergency Service Facilities;
   k. Floor Area Ratio;
   l. Ground level;
   m. Minor Alterations and Additions to a Building;
   n. Residential Activity;
   o. Residential Flat;
   p. Residential Unit.

36. Submissions Concerning Notified Definitions

36.1. Activities Sensitive to Aircraft Noise

641. Submissions on this definition sought:
   - Include outdoor spaces associated with residential, visitor accommodation, community and day care facilities[288];
   - Include educational classrooms, educational buildings and educational playgrounds[289];
   - Delete "community activity' with respect to the submitter's site[290].

642. Ms Leith considered to include outdoor spaces within the definition could potentially render all the land in the LDRZ incapable of development as outdoor spaces could not be insulated in the same way indoor spaces can[291]. She considered the definition of 'community activity'

288 Submission 243
289 Submission 271
290 Submission 408, supported by FS1270, FS1097, opposed by FS1167, FS1340, FS1077
291 A Leith, Chapter 7 Section 42A Report, pages 60-61

covered the use of land for education purposes, and thus the relief sought by Submission 271 was already provided for[292].

643. None of the submitters provided any evidence on this definition. Based on the evidence we received, being that of Ms Leith, we recommend these three submissions be deleted.

644. As a consequential amendment, Ms Leith recommended that this definition also apply to road noise sensitive activities[293]. We recommend that amendment be made for the reasons provided by Ms Leith.

36.2. Building

645. Submission 170 sought that the final bullet point in the notified definition of Building be deleted.

646. Ms Leith explained to us the reasons she considered that provision to be an important part of the definition[294]. The submitter did not appear or provide any additional evidence.

647. We agree with Ms Leith's reasoning and recommend this submission be rejected.

36.3. Character of Arrowtown

648. Submission 752 sought that a definition of the 'Character of Arrowtown" be included. Mr Farrier did not attend the hearing or provide any evidence beyond his original submission.

649. Ms Law considered that the Arrowtown Design Guidelines 2016 provided a comprehensive statement regarding the character of Arrowtown and that a definition was unnecessary[295].

650. We agree with Ms Law for the reasons she provided and recommend this submission be rejected.

36.4. Community Activity and Community Facility

651. These two definitions need to be considered together. The Ministry of Education sought the deletion of 'community facility' and the retention of 'community activity' with that definition including the term 'education activities'[296]. Southern District Health Board supported the definition of 'community activity' and sought the deletion of 'community facility'[297]. New Zealand Fire Service supported the definition of 'community activity'[298].

652. Ms Leith concurred with the submitters that the definition of 'community facility' was unnecessary in the context of the residential chapters, but considered the definition should remain in the PDP in case 'community facility sub-zones' were to be included in the Plan.

653. Our view is that if a term is not defining something in the PDP it need not be included in the definitions. It is always open to the Council to include a new defined term by way of variation or plan change at the time a provision requiring that defined term is included in the Plan[299].

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292 Ibid, page 61
293 ibid
294 Ibid, pages 59-60
295 R Law, Chapter 10 Section 42A Report, page 13
296 Submission 524, supported by FS1061, opposed by FS1117
297 Submission 678
298 Submission 438
299 A Leith, Chapter 7 Section 42A Report, paragraph 11.16

We agree with those submitters seeking the deletion of the definition of "community facility' and recommend it be deleted.

654. Ms Leith, having recommended that a new definition of 'education activity' be included (see below), further recommended that the definition of 'community activity' be amended to include that term[300]. In her Reply Statement, Ms Leith also recommended the inclusion of 'day care facilities' in this definition as that term was excluded from the definition of education activity[301].

655. Her recommended wording was[302]:

Community Activity	Means the use of land and buildings for the primary purpose of health, welfare, care, safety, education, culture and/or spiritual well being. Excludes recreational activities. A community activity includes ~~schools~~ day care facilities, education activities, hospitals, doctors surgeries and other health professionals, churches, halls, libraries, community centres, police stations, fire stations, courthouses, probation and detention centres, government and local government offices.

656. For the reasons Ms Leith provided, we recommend the definition of 'community activity' be amended as recommended by Ms Leith in her Reply Statement.

36.5. Day Care Facility, **Education Activity** and **Education Facility**

657. The Ministry of Education sought:
   a. Deletion of the term 'education facility';
   b. Inclusion of a definition of 'education activity'; and
   c. the definition of 'day care facility' be amended to specifically exclude early childhood education facilities[303].

658. The Ministry's proposed definition of 'education facility' was:

Education Activity	Means the use of land and buildings for the primary purpose of regular instruction or training including early childhood education, primary, intermediate and secondary schools, tertiary education and including ancillary administrative, cultural, recreational, health, social and medical services (including dental clinics and sick bays) and commercial facilities.

659. Ms Leith considered this to be a more encompassing definition than that provided for 'education facility', and one that provided for more certainty. She recommended that the definition of 'education activity' replace the definition of 'education facility' in Chapter 2[304].

660. Ms Leith did not consider there was any need to amend the definition of 'day care facility'[305]. In her Reply Statement, Ms Leith recommended an amendment to the definition of 'community activity' to ensure day care facilities providing for the aged were not excluded from that definition, but she did not reconsider the definition of 'day care facility'[306].

300 A Leith, Chapter 7 Section 42A Report, Appendix 1
301 A Leith, Reply Statement, paragraph 22.2
302 Ibid, Appendix 1
303 Submission 524, opposed by FS1117
304 A Leith, Chapter 7 Section 42A Report, paragraph 11.23
305 Ibid, paragraph 11.24
306 A Leith, Reply Statement, paragraph 22.2

661. We received no evidence from the Ministry and no representative attended the hearing.

662. We agree with Ms Leith's recommendation in respect of 'education activity' and 'education facility' for the reasons she gave, and recommend the new definition of 'education activity' be inserted in the terms set out above, and that the definition of 'education facility' be deleted.

663. We cannot understand the point of the Ministry's submission on the definition of 'day care centre'. The submission states as the reason for the submission that the definition did not include 'Early Childhood Education', but the relief sought seems to attempt to reinforce that absence. We recommend this submission be rejected as it accepting it would be of no apparent benefit to the PDP.

36.6. Dwelling

664. One submission[307] sought the deletion of this term as it was more appropriate to use the term 'residential unit', which was the term used in the ODP.

665. Ms Leith agreed as she considered that use of the terms 'residential activity', 'residential unit' and 'residential flat' were adequate to describe and regulate the provision of residential accommodation[308]. We agree and recommend the definition be deleted.

36.7. Emergency Service Facilities

666. The New Zealand Fire Service sought the inclusion of a definition of 'emergency service facilities' as follows: '*means the facilities of authorities that are responsible for the safety and welfare of people and property in the community, and includes fire stations, ambulance stations, police stations and emergency coordination facilities*'[309].

667. Ms Leith did not consider this definition was necessary as the activities encompassed where provided for in the definition of 'community activity'[310]. Ms McLeod, the planning witness for the Fire Service, considered the definition was not essential. She did note, however, that the proposed RPS included a definition of 'emergency services', and considered there could be sufficient benefits in terms of consistency, clarity and ease of use of the PDP, to justify the inclusion of a similar definition in the PDP.

668. On the basis that both experts agreed that the definition sought by the submitter was unnecessary, we recommend this submission be rejected. In terms of the proposed RPS definition, we consider that if ensuring the PDP gives effect to the proposed RPS when it is beyond challenge, the Council can initiate a variation to include such a definition.

36.8. Floor Area Ratio

669. One submission sought the deletion of this definition[311].

670. Ms Banks undertook an extensive analysis of the effect on building form using the proposed floor area ratio rule (notified Rule 9.5.5) in the PDP[312]. She concluded that the potential outcomes were not as satisfactory as those resulting from the use of alternate rules. She

307 Submission 836
308 A Leith, Chapter 7 Section 42A Report, page 64
309 Submission 438
310 A Leith, Chapter 7 Section 42A Report, paragraph 11.25
311 Submission 208
312 K Banks, Chapter 9 Section 42A Report, pages 19-23

recommended that rule be deleted from Chapter 9. Her consequential amendment was the deletion of the definition of 'floor area ratio'.

671. We have agreed with Ms Banks' recommendation to delete notified Rule 9.5.5. This definition is therefore redundant and can be deleted.

36.9. Ground Level

672. The one submission on this definition referred to us sought that this definition be retained[313]. We recommend that submission be accepted.

36.10. Minor Alterations and Additions to a Building

673. Arcadian Triangle Ltd[314] sought that this definition be reconsidered. The submission questioned some of the precise language used in respect of exterior decks, and the imprecision of language.

674. Ms Law agreed with the submitter and recommended the definition read:

Minor Alterations and Additions to a Building	Means any of the following: • Constructing an uncovered deck ~~of natural or dark stained timber. The deck must comply with the applicable rules and standards for activities~~. • ~~Changing or putting in~~ Replacing windows or doors in an existing building that have the same profile, trims and external reveal depth as the existing. • Changing existing materials or cladding with other materials or cladding of the same texture, profile, ~~materials~~ and colour.

675. We agree with Ms Law and recommend this definition be amended as set out above.

36.11. Residential Activity, **Residential Flat** and **Residential Unit**

676. Submissions on these definitions sought:
- Retain the definitions of 'residential activity' and 'residential unit' as notified[315];
- Rewrite all definitions to clarify whether they refer to the use or the building[316];
- Delete 'including a dwelling' from the definition of 'residential unit'[317];
- Amend the definition of 'residential flat' to clarify that the activity is limited to one per unit or site[318];
- Amend the definition of 'residential flat' by:
  - Replace 70m2 with 35% GFA;
  - Delete reference to leasing;
  - Delete notes or make clear not part of definition[319].

677. At the hearing the Chair transferred consideration of the definition of 'residential flat' to the Stream 10 Panel. We therefore do not discuss submissions on that definition any further.

313 Submission 68
314 Submission 836
315 Submission 433, opposed by FS1117, FS1097
316 Submission 243, opposed by FS1224
317 Submission 836
318 Submission 433, opposed by FS1117, FS1097
319 Submission 836

678. Ms Leith considered that the definitions of 'residential activity' and 'residential unit' were clear. Ms Byrch did not appear in support of her submission.

679. We agree with Ms Leith. Subject to the deletion of the term 'includes a dwelling' from the definition of 'residential unit', which is a consequential amendment resulting from the deletion of the definition of 'dwelling', we recommend these two definitions be adopted as notified.

37. Proposed New Definitions

37.1. Flat and Sloping Sites

680. As notified, Rules 7.5.1, 7.5.2, 9.5.1, 9.5.2, 9.5.4 and 9.5.5 each contained a note stating:
Ground slope in relation to building height shall be determined by measurement over the extremities of each building elevation. Sloping sites are where the ground slope is greater than 6 degrees (i.e. greater than 1 in 9.5). 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).

681. Submission 166 sought that this note/definition be removed from Rule 9.5.4. In her Section 42A Report, Ms Banks concluded that the most appropriate response to this submission was to insert definitions of 'flat site' and 'sloping site' in Chapter 2 and delete the notes from each of the relevant rules[320]. The definitions she recommended were:

Flat site	A flat site is 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	A sloping site is 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.

682. As can be seen, these were derived directly from the terms used in the notified PDP.

683. At the hearing NZIA[321] highlighted an error in the proposed definitions (and also in the notes) in that the relevant rules would be applied on every elevation, with the potential for different elevations of the same building being classified both flat and sloping. Ms Banks explained that the intention of the definitions was to distinguish on a site by site basis whether they were flat or sloping[322]. Ms Banks' solution was to amend the definitions such that, if any elevation had a ground slope of greater than 6 degrees, the site would be classified as sloping. A flat site needed to have all elevations with a slope equal to or less than 6 degrees.

684. We consider the changes proposed by Ms Banks are changes which properly fall within the purview of Clause 16(2). The subtle change proposed in Ms Banks' Reply Statement to avoid the multiple outcome possibility falls, in our view, into the category of error correction. It will not make a substantive difference to the application of rules where distinguishing between flat and sloping sites is required.

685. We consider that moving the definitions from the explanatory notes in the six rules listed above into Chapter 2 as definitions is of no substantive effect, but is more efficient and

320 K Banks, Chapter 9 Section 42A Report, page 46
321 Submission 238
322 K Banks, Reply Statement, paragraph 8.2

removes the need for duplicating the provision in every instance that it is relevant. Consequently, we recommend to the Stream 10 Panel that the following two additional definitions be included in Chapter 2:

Flat site	A flat site is 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. Where all elevations indicate a ground slope equal to or less than 6 degrees (i.e. equal to or less than 1 in 9.5), rules applicable to flat sites will apply.
Sloping site	A sloping site is 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. Where any elevation indicates a ground slope of greater than 6 degrees (i.e. greater than 1 in 9.5), rules applicable to sloping sites will apply.

686. Finally, we recommend to the Council that notes in recommended Rules 7.5.1, 7.5.2, 9.5.1, 9.5.2 and 9.5.4 be deleted (We are recommending Rule 9.5.5 be deleted in total) as a Clause 16(2) consequential change.

PART J: OVERALL RECOMMENDATIONS

38. SECTION 32AA ANALYSIS

687. We have considered the above objectives, policies, and rules individually and collectively in terms of s.32AA of the Act. Having undertaken an additional assessment, the key details of which have been interspersed into our discussion above, we are satisfied that the provisions we recommend for Chapters 7, 8, 8, 10 and 11 are the most appropriate. Key findings relevant to s.32AA are that:

a. The objectives will implement Part 2 of the Act, and the policies and rules will implement the objectives.
b. The provisions will promote economic development and employment through a combination of commercial activity enabled within the zone, and the construction potential enabled by a higher density and further development on most sites (even if limited to an additional residential flat).
c. The provisions are more effective and efficient than the notified, s. 42A and Reply versions (as a whole) due to being simpler, clearer, more consistent and more concise.

39. CONSIDERATION OF PLAN VARIATIONS

688. On the basis of our evaluation and recommendations above, we consider a number of Plan Variations should be considered by the Council. They have been identified throughout our analysis and recommendations, however by way of overall summary they are:

a. The limitations on home occupations (especially the limitation on internal floor area) should be reviewed in Chapters 7, 8 and 11. On the basis of the evidence we received, there has been no justification for these limitations either in terms of likely adverse environmental effects or in terms of conflict with the applicable policy frameworks.
b. The required building setback from water bodies should be reconsidered. Where a setback requirement is less than 20m, a land use consent for an activity could be granted in such a manner that a subsequent subdivision around that activity could not achieve the 20m esplanade reserve setback intended within the Act (as esplanade reserves can only be considered as part of a subdivision consent).
c. The glare rules trigger a non-complying activity consent that in our view should instead be a restricted discretionary activity on the basis that the likely environmental effects should be clearly predictable and be able to be expressed simply as matters of discretion.
d. We consider the waste and recycling storage requirements have been very poorly justified. In terms of Chapters 7, 10 and 11 the site sizes likely would clearly provide sufficient space for onsite storage and waste areas. In terms of Chapters 8 and 9 the higher densities provided for could result in a justification for waste collection areas and a justified restriction on the placement of these areas. However in any event, we consider a non-complying activity status for non-compliance to be overly onerous and unnecessary.
e. In terms of the bulk material storage rules in the zones, we are concerned by the applicable prohibited activity status. This may unintentionally make it impossible for any development to occur on the basis of building materials (such as bricks or roof tiles) being placed on the development site. It may be advisable to clarify that construction materials being used on the site are excluded from the ban on bulk material storage.

40. Detailed Recommendations

689. For the reasons we have set out above, we recommend to the Council that:

a. Chapter 7, in the form set out in Appendix 1, be adopted;
b. Chapter 8, in the form set out in Appendix 2, be adopted;
c. Chapter 9, in the form set out in Appendix 3, be adopted;
d. Chapter 10, in the form set out in Appendix 4, be adopted;
e. Chapter 11, in the form set out in Appendix 5, be adopted; and
f. The relevant submissions and further submissions be accepted, accepted in part or rejected as set out in Appendix 6.

690. We recommend to the Stream 10 Hearing Panel that the definitions listed in Appendix 7 be included in Chapter 2 for the reasons set out in Part I above.

691. We further recommend that the Council consider initiating variations to deal with the matters set out in Section 39 above.

For the Hearing Panel

Denis Nugent, Chair
Date: 29 March 2018

16 BUSINESS MIXED USE

QUEENSTOWN LAKES DISTRICT COUNCIL

16.1 Purpose

The intention of this zone is to provide for complementary commercial, business, retail and residential uses that supplement the activities and services provided by town centres. Higher density living opportunities close to employment and recreational activities are also enabled. Significantly greater building heights are enabled in the Business Mixed Use Zone in Queenstown, provided that high quality urban design outcomes are achieved.

16.2 Objectives and Policies

16.2.1 Objective – An area comprising a high intensity mix of compatible residential and non-residential activities is enabled.

Policies

16.2.1.1 Accommodate a variety of activities while managing the adverse effects that may occur and potential reverse sensitivity.

16.2.1.2 Enable a range and mix of compatible business, residential and other complementary activities to achieve an urban environment that is desirable to work and live in.

16.2.1.3 Avoid activities that have noxious, offensive, or undesirable qualities from locating within the Business Mixed Use Zone to ensure that a high quality urban environment is maintained.

16.2.1.4 For sites adjoining Gorge Road in Queenstown, discourage the establishment of high density residential and visitor accommodation activities at ground floor level, except where commercial and/or business activities continue to have primacy at the interface with the street.

16.2.1.5 Provide appropriate noise limits to minimise adverse noise effects received within the Business Mixed Use Zone and by nearby properties.

16.2.1.6 Ensure that residential development and visitor accommodation provide acoustic insulation over and above the minimum requirements of the Building Code to limit the potential for reverse sensitivity effects.

16.2.1.7 Ensure that the location and direction of lights does not cause significant glare to other properties, roads and public places and promote lighting design that mitigates adverse effects on views of the night sky and provide a safe and well-lit environment for pedestrians.

16.2.1.8 Ensure that outdoor storage areas are appropriately located and screened to limit any adverse visual effects on public places and adjoining residential zones.

16.2.1.9 Minimise opportunities for criminal activity through incorporating Crime Prevention Through Environmental Design (CPTED) principles as appropriate in the design of lot configuration and the street network, carparking areas, public and semi-public spaces, accessways/pedestrian links/lanes, and landscaping.

16.2.2 Objective – New development achieves high quality building and urban design outcomes that minimises adverse effects on adjoining residential areas and public spaces.

Policies

16.2.2.1 Require the design of buildings to contribute positively to the visual quality, vitality, safety and interest of streets and public spaces by providing active and articulated building frontages, and avoid large expanses of blank walls fronting public spaces.

16.2.2.2 Require development close to residential zones to provide suitable screening to mitigate adverse visual effects, loss of privacy, and minimise overlooking and shading effects to residential neighbours.

16.2.2.3 Require a high standard of amenity, and manage compatibility issues of activities within and between developments through site layout, landscaping and design measures.

16.2.2.4 Utilise and, where appropriate, link with public open space nearby where it would mitigate any lack of open space provision on the development site.

16.2.2.5 Incorporate design treatments to the form, colour or texture of buildings to add variety, moderate their scale and provide visual interest from a range of distances.

16.2.2.6 Where large format retail is proposed, it should be developed in association with a variety of integrated, outward facing uses to provide reasonable activation of building facades.

16.2.2.7 Allow buildings between 12m and 20m heights in the Queenstown Business Mixed Use Zone in situations when:

a. the outcome is of high quality design;

b. the additional height would not result in shading that would adversely impact on adjoining Residential zoned land and/or public space; and

c. the increase in height would facilitate the provision of residential activity.

16.2.2.8 Apply consideration of the operational and functional requirements of non-residential activities as part of achieving high quality building and urban design outcomes.

16.2.2.9 Encourage the layout and design of new buildings and landscaping to integrate with Horne Creek where feasible.

16.2.3 Objective – The development of land north of State Highway 6 (between Hansen Road and Ferry Hill Drive) provides a high quality environment which is sensitive to its location at the entrance to Queenstown, minimises traffic impacts to the State Highway network, and is appropriately serviced.

Policies

16.2.3.1 Encourage a low impact stormwater design that utilises on-site treatment and storage / dispersal approaches.

16.2.3.2 Avoid the impacts of stormwater discharges on the State Highway network.

16.2.3.3 Provide a planting buffer along the State Highway frontage to soften the view of buildings from the State Highway network.

16.2.3.4 Provide for safe and legible transport connections that avoid any new access to the State Highway, and integrates with the road network and public transport routes on the southern side of State Highway 6.

Note: Attention is drawn to the need to consult with the New Zealand Transport Agency (NZTA) prior to determining an internal and external road network design under this policy.

Note: Attention is drawn to the need to obtain a Section 93 notice from the NZ Transport Agency for all subdivisions on State Highways which are declared Limited Access Roads. The NZ Transport Agency should be consulted and a request made for a notice under Section 93 of the Government Roading Powers Act 1989.

16.2.3.5 Require that the design of any road or vehicular access within individual properties is of a form and standard that accounts for long term traffic demands for the area between Hansen Road and Ferry Hill Drive, and does not require the need for subsequent retrofitting or upgrade.

16.2.3.6 Provide a safe and legible walking and cycle environment that links to the other internal and external pedestrian and cycle networks and destinations on the southern side of State Highway 6 along the safest, most direct and convenient routes.

Note: Attention is drawn to the need to consult with the New Zealand Transport Agency (NZTA) to determine compliance with this policy.

16.2.3.7 Require the provision of an internal road network that ensures road frontages are not dominated by vehicular access and parking.

16.2.3.8 Ensure coordinated, efficient and well-designed development by requiring, prior to, or as part of subdivision and development, construction of the following to appropriate Council standards:

a. A 'fourth leg' off the Hawthorne Drive/SH6 roundabout;

b. All sites created in the area to have legal access to either Hansen Road or the Hawthorne Drive/SH6 roundabout; and

c. New and safe pedestrian connections between the Hawthorne Drive/SH6 roundabout, Ferry Hill Drive and the southern side of SH6.

16.2.3.9 Encourage the creation of a legal internal road between Hansen Rd and Ferry Hill Drive.

16.3 Other Provisions and Rules

16.3.1 District Wide

Attention is drawn to the following District Wide chapters.

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

16.3.2 Interpreting and Applying the Rules

16.3.2.1 A permitted activity must comply with all the rules listed in the Activity and Standards tables.

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

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

16.3.2.4 The following abbreviations are used within this Chapter.

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

16.4 Rules - Activities

	Activities located in the Business Mixed Use Zone	Activity Status
16.4.1	Activities which are not listed in this table and comply with all standards	P
16.4.2		
16.4.3	Visitor Accommodation Control is reserved to: a. the location, provision, and screening of access and parking and traffic generation; b. landscaping; c. the location, nature and scale of visitor accommodation and ancillary activities relative to one another within the site and relative to neighbouring uses; d. the location and screening of bus and car parking from public places; and e. where the site adjoins a residential zone: i. noise generation and methods of mitigation; and ii. hours of operation, in respect of ancillary activities.	C

	Activities located in the Business Mixed Use Zone	Activity Status
16.4.4	Buildings Discretion is restricted to: a. building materials; b. glazing treatment; c. symmetry; d. vertical and horizontal emphasis; e. location of storage; f. signage platforms; g. landscaping; h. where residential units are proposed as part of a development, provision made for open space on site whether private or communal; i. where applicable, integration of the development with Horne Creek, including site layout and landscaping; and j. where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: i. the nature and degree of risk the hazard(s) pose to people and property; ii. whether the proposal will alter the risk to any site; and iii. the extent to which such risk can be avoided or sufficiently mitigated. Assessment matters relating to buildings: a. the impact of the building on the streetscape including whether it contributes positively to the visual quality, vitality, safety and interest of streets and public places by providing active and articulated street frontages and avoids large expanses of blank walls fronting public spaces; b. whether the design of the building blends well with and contributes to an integrated built form and is sympathetic to the surrounding natural environment.	RD
16.4.5	Licensed Premises Premises licensed for the consumption of alcohol on the premises between the hours of 11pm and 8am, provided that this rule shall not apply to the sale of liquor: This rule shall not apply to the sale and supply of alcohol: a. to any person who is residing (permanently or temporarily) on the premises; and/or b. to any person who is present on the premises for the purpose of dining up until 12am. Discretion is restricted to consideration of the following: a. the scale of the activity; b. car parking and traffic generation; c. effects on amenity (including that of adjoining residential zones and public reserves); d. the configuration of activities within the building and site (e.g. outdoor seating, entrances); e. noise issues; and f. hours of operation.	RD

	Activities located in the Business Mixed Use Zone	Activity Status
16.4.6	Daycare Facilities Discretion is restricted to: a. the compatibility of the development with respect to existing land uses on the subject site and nearby properties; b. potential reverse sensitivity issues; c. traffic, parking and access limitations; and d. noise.	RD
16.4.7	Warehousing, Storage & Lock-up Facilities (including vehicle storage) and Trade Suppliers except as provided for by Rule 16.4.18 Discretion is restricted to: a. the impact of buildings on the streetscape and neighbouring properties in terms of dominance impacts from large, utilitarian buildings; b. the provision, location and screening of access, parking and traffic generation; and c. landscaping.	RD
16.4.8	Industrial Activities not otherwise provided for in this Table	NC
16.4.9	Service Stations	NC
16.4.10	Panelbeating, spray painting, motor vehicle repair or dismantling.	NC
16.4.11	Fibreglassing, sheet metal work, bottle or scrap storage, motorbody building or wrecking.	PR
16.4.12	Fish or meat processing (excluding that which is ancillary to a retail premises such as a butcher, fishmonger or supermarket).	
16.4.13	Factory Farming	PR
16.4.14	Mining Activities	PR
16.4.15	Forestry Activities	PR
16.4.16	Airport	PR
16.4.17	Activities Sensitive to Aircraft Noise within the Queenstown Airport Outer Control Boundary	PR
16.4.18	Warehousing, Storage & Lock-up Facilities (including vehicle storage) and Trade Suppliers in the zone at Frankton North	PR

16.5 Rules - Standards

	Standards for activities located in the Business Mixed Use Zone	Non- compliance Status
16.5.1	Setbacks and sunlight access – sites adjoining a Residential zone or separated by a road from a Residential zone 16.5.1.1 Buildings on sites adjoining, or separated by a road from, a Residential zone shall not project beyond a recession line constructed at the following angles inclined towards the site from points 3m above the Residential zone boundary. a. 45º applied on the northern boundary; and b. 35º applied on all other boundaries 16.5.1.2 Where a site adjoins a Residential Zone all buildings shall be set back not less than 3m.	RD Discretion is restricted to: a. the visual effects of the height, scale, location and appearance of the building, in terms of visual dominance and loss of residential privacy on adjoining properties and any resultant shading effects.
16.5.2	Storage Outdoor storage and storage of waste and recycling shall be screened from public places and adjoining Residential zones.	RD Discretion is restricted to: a. the effects on visual amenity; b. the location relative to the public realm and adjoining residential properties; c. consistency with the character of the locality; and d. whether pedestrian and vehicle access is compromised.
16.5.3	Residential and visitor accommodation activities All residential activities and visitor accommodation activities on sites adjoining Gorge Road in Queenstown located within 10m of the boundary adjoining Gorge Road shall be restricted to first floor level or above, with the exception of foyer and stairway spaces at ground level to facilitate access to upper levels.	RD Discretion is restricted to: a. the effects of residential and visitor accommodation activities at ground floor level on surrounding buildings and activities; b. the location of residential and visitor accommodation activities at ground floor level relative to the public realm; c. the maintenance of active and articulated street frontages.
16.5.4	Building Coverage Maximum building coverage of 75%.	D

	Standards for activities located in the Business Mixed Use Zone	Non- compliance Status
16.5.5	Acoustic insulation For all residential development and visitor accommodation the following shall apply: 16.5.5.1 A mechanical ventilation system shall be installed for all critical listening environments in accordance with Table 5 in Chapter 36; and 16.5.5.2 All elements of the façade of any critical listening environment shall have an airborne sound insulation of at least 40 dB R_w+C_{tr} determined in accordance with ISO 10140 and ISO 717-1.	D
16.5.6	Fencing A solid fence of 1.8m shall be erected on the boundary of any Residential Zone.	D
16.5.7	Discretionary Building Height (Queenstown Only) In Queenstown the discretionary maximum building height shall be 12m.	RD Discretion is restricted to: a. the design and quality of the building, including the use of articulated facades, active street frontages and the treatment of corner sites; b. modulated roof forms, including screening of plant and services; c. material use and quality; d. the avoidance of large monolithic buildings; e. the impact on the street scene; f. privacy and outlook for residential uses; g. sunlight access to adjoining Residential zoned land and/or public space; h. Crime Prevention Through Environmental Design (CPTED) considerations; i. where appropriate, the integration of Horne Creek into the development and landscaping; and j. facilitation of the provision of residential activities.
16.5.8	Maximum building height 16.5.8.1 The absolute maximum building height shall be: a. Queenstown - 20m b. Wanaka - 12m 16.5.8.2 Any fourth storey (excluding basements) and above shall be set back a minimum of 3m from the building frontage.	NC

	Standards for activities located in the Business Mixed Use Zone	Non- compliance Status
16.5.9	Noise 16.5.9.1 Sound* from activities shall not exceed the following noise limits at any point within any other site in this zone: a. Daytime (0800 to 2200hrs) 60 dB $L_{Aeq(15\ min)}$ b. Night-time (2200 to 0800hrs) 50 dB $L_{Aeq(15\ min)}$ c. Night-time (2200 to 0800hrs) 75 dB L_{AFmax} *measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008 Exemptions: a. the noise limits in rule 16.5.8.1 shall not apply to construction sound which shall be assessed in accordance and comply with NZS 6803:1999. Note: Sound from activities in this zone which is received in another zone shall comply with the noise limits set out in Chapter 36 standards for that zone.	NC
16.5.10	Glare 16.5.10.1 All exterior lighting installed on sites or buildings shall be directed away from adjacent sites, roads and public places, except footpath or pedestrian link amenity lighting and directed downward so as to limit the effects on views of the night sky. 16.5.10.2 No activity shall result in a greater than 10 lux spill (horizontal or vertical) of light onto any adjoining property within the Business Mixed Use Zone, measured at any point inside the boundary of any adjoining property. 16.5.10.3 No activity shall result in a greater than 3 lux spill (horizontal or vertical) of light onto any adjoining property which is in a Residential Zone measured at any point more than 2m inside the boundary of the adjoining property. 16.5.10.4 External building materials shall either: a. be coated in colours which have a reflectance value of between 0 and 36%; or b. consist of unpainted wood (including sealed or stained wood), unpainted stone, unpainted concrete, or copper. Except that: a. architectural features, including doors and window frames, may be any colour; and roof colours shall have a reflectance value of between 0 and 20%.	NC

	Standards for activities located in the Business Mixed Use Zone	Non- compliance Status
16.5.11	Development on land north of State Highway 6 between Hansen Road and Ferry Hill Drive shall provide the following: 16.5.11.1 Transport, parking and access design that: Ensures connections to the State Highway network are only via Hansen Road, the Hawthorne Drive/SH6 Roundabout, and/or Ferry Hill Drive. There is no new vehicular access to the State Highway Network. 16.5.11.2 Where a site adjoins State Highway 6, landscaping provides a planting buffer fronting State Highway 6 as follows: a. a density of two plants per square metre located within 4m of the State Highway 6 road boundary selected from the following species: i. Ribbonwood (Plagianthus regius) ii. Corokia cotoneaster iii. Pittosporum tenuifolium iv. Grisilinea v. Coprosma propinqua vi. Olearia dartonii b. once planted these plants are to be maintained in perpetuity.	NC

16.6 Rules - Non -Notification of Applications

16.6.1 Applications for Controlled activities shall not require the written approval of other persons and shall not be notified or limited-notified.

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

16.6.2.1 Buildings.

16.6.2.2 Building Heights between 12m and 20m in the Business Mixed Use Zone in Queenstown.

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

16.6.3.1 Setbacks and sunlight access – sites adjoining, or separated by a road from a Residential zone.

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report 11

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

Commissioners
Denis Nugent (Chair)
Paul Rogers

PART F – CHAPTER 16 BUSINESS MIXED USE

41. PRELIMINARY

41.1. General Submissions

1328. There were 95 submission points received from 29 submitters, and 188 further submissions received. Two submitters[922] submitted in general support of the whole chapter, with one[923] submitting that the objective, policies and rule framework of the zone would provide a "*compatible mix of activities with appropriate built form controls*."

1329. Ledge Properties Ltd and Edge Properties Ltd[924] (Ledge) submitted in support of the general direction proposed for the BMUZ, stating that in their view the Gorge Road BMUZ has an important strategic role to play in supporting the town centre with complementary activities and allowing people to live and stay close to the town centre. Further with appropriate emphasis on the quality of design, development in Gorge Road could reinforce the compact, vibrant character of central Queenstown.

1330. Ross & Judith Young Family Trust[925] submitted in general support of the provisions of Chapter 16 and sought confirmation of the provisions and zoning of the BMUZ in Anderson Heights.

1331. We have reviewed all submissions and expert evidence presented in relation to this chapter and have recommended amendments where we consider it is appropriate. The amended version of Chapter 16 that we are recommending is contained in Appendix 5. Our specific recommendations on submissions are in Appendix 7.

42. SECTION 16.1 – ZONE PURPOSE

1332. There were several submissions[926] in support of the zone purpose as notified but with no substantive comment explaining the reasons for that submission. Identical submission points from Skyline Enterprises Ltd[927] and Trojan Holdings Ltd[928] noted their agreement with the overarching purpose of the BMUZ as this zoning structure would allow the regeneration of the commercial area along Gorge Road with an appropriate mix of compatible commercial and residential activities.

1333. NZIA[929] requested a name change to "Mixed Use", however Ms Bowbyes disagreed with this submission, explaining that the zone would evolve from a business zone to a mixed use zone and the name "*Business Mixed Use*" reflected this. We agree with Ms Bowbye's reasoning.

1334. Downtown QT[930] submitted in support of the BMUZ along Gorge Road, as they sought to encourage additional residential accommodation close to where residents work and play. That aligns with the purpose of this zone.

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922 Submissions 223 and 591 (opposed by FS1059)
923 Submission 591
924 Submission 700
925 Submission 704
926 Submissions 30, 102 (supported by FS1059, FS1118), 329 (supported by FS1288, FS1059, FS1059)
927 Submission 556
928 Submission 634, opposed by FS1059
929 Submission 238, opposed by FS1314, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249, FS1242.
930 Submitter 630, opposed by FS1043

1335. Feldspar Capital Management[931] requested that residential accommodation be provided for in Andersons Height as well as Gorge Road, and that there be provision for lower cost residential developments suitable for rentals. Ms Bowbyes pointed out that residential activities were provided for in both BMUZs and as such no change was required.[932] Although the BMUZ does not specifically require lower cost developments, Ms Bowbyes was of the view that apartments are encouraged due to the building heights enabled.[933] We do not consider any amendments are required to recognise this submission point.

1336. We recommend there be no amendments to the zone purpose that it be adopted as notified.

43. 16.2 OBJECTIVES AND POLICIES

43.1. Objective 16.2.1 and Policies 16.2.1.1 - 16.2.1.9

1337. As notified, Objective 16.2.1 and its accompanying policies read:

16.2.1 Objective
An area comprising a high intensity mix of compatible residential and non-residential activities is enabled.

Policies

16.2.1.1 *Accommodate a variety of activities while managing the adverse effects that may occur and potential reverse sensitivity.*

16.2.1.2 *To enable a range and mix of compatible business, residential and other complementary activities and to achieve an urban environment that is desirable to work and live in.*

16.2.1.3 *Avoid activities that have noxious, offensive, or undesirable qualities from locating within the Business Mixed Use Zone to ensure that appropriate levels of amenity are maintained.*

16.2.1.4 *Residential and visitor accommodation activities are enabled, while acknowledging that there will be a lower level of amenity than residential zones due to the mix of activities provided for.*

16.2.1.5 *For sites fronting Gorge Road in Queenstown, discourage the establishment of high density residential and visitor accommodation activities at ground floor level, except where commercial and/or business activities continue to have primacy at the interface with the street.*

16.2.1.6 *Provide appropriate noise limits to minimise adverse noise effects received within the Business Mixed Use Zone and by nearby properties.*

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

931 Submission 136
932 A Bowbyes, Section 42A Report, Appendix 2 at p1
933 ibid.

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

16.2.1.9 Ensure that outdoor storage areas are appropriately located and screened to limit any adverse visual effects and to be consistent with the appropriate levels of amenity.

1338. Four submissions supported Objective 16.2.1 in full[934]. Ms Spijkerbosch[935] also submitted in support of Objective 16.2.1, but submitted strongly to exclude visitor accommodation from the BMUZ.

1339. NZIA[936] sought to amend Objective 16.2.1 to include visitor accommodation, requesting the following underlined additional wording:

An area comprising a high intensity mix of compatible residential, visitor accommodation and non-residential activities is enabled within a high quality urban environment.

1340. Ms Bowbyes did not consider that Objective 16.2.1 required any rewording. In her view, as visitor accommodation was specifically excluded from the definition of "residential", it fell within the category of non-residential activities. She explained that she did not see any reason to warrant singling visitor accommodation out and therefore recommended retaining the objective as notified.[937]

1341. We questioned Ms Bowbyes on this matter, as to whether including the words "*visitor accommodation*" would cause any harm, or would it in fact improve legibility for the reader.

1342. Ms Bowbyes responded in her Reply, that she remained of the view that the Objective did not require any changes.

1343. In her view there was no uncertainty as to the status of visitor accommodation. If there was any uncertainty, Ms Bowbyes said, this was easily resolved by referring the plan user to the definitions, where visitor accommodation was excluded from residential activities.

1344. Ms Bowbyes also opined that singling out one activity that, in her view, fell under the broad category of "*non-residential*" activities, would be confusing and was not warranted.

1345. We note that Policies 16.2.1.4, 16.2.1.5 and 16.2.1.7 explicitly provide for visitor accommodation as an activity distinct from residential. We are satisfied that when the objectives and policies are read together, as they should be, it is clear that provision is made for visitor accommodation in this zone.

1346. The NZIA suggested amendment also sought to include "*within a high quality urban environment*." We are satisfied that Objective 16.2.1 is concerned with achieving a compatible mix of activities, while Objective 16.2.2 seeks to achieve "*high quality design outcomes*". Therefore there is no need to duplicate the wording here.

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934 Submissions 237, 380, 556 and 634

935 Submission 392, supported by FS1059

936 Submission 238, opposed by FS1314, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249, FS1242

937 A Bowbyes, Section 42A Report at [9.3].

1347. There were no submissions received on 16.2.1.1 and only one submission in support of 16.2.1.2, by NZIA[938].

1348. NZIA supported notified Policy 16.2.1.3 with some suggested amendments as shown below:

Avoid activities that have noxious, offensive or undesirable qualities from locating within the ~~business~~ mixed use zone to ensure that ~~appropriate levels of amenity are maintained~~ a high quality urban environment is maintained.

1349. The NZIA submission stated that "*amenity is a difficult word to assess*" and that the emphasis of the policy should be on the desired outcomes. Ms Bowbyes agreed with this submission and reasoning in part and recommended the additional wording "*a high quality urban environment is maintained*" be included.

1350. We accept Ms Bowbyes reasoning for amending the latter part of this policy, as we consider it will be more effective in achieving the objective. We have already set out our reasons for retaining the zone name unaltered. We recommend Policy 16.2.1.3 be amended to read as follows:

Avoid activities that have noxious, offensive or undesirable qualities from locating within the Business Mixed Use Zone to ensure that a high quality urban environment is maintained.

1351. Ledge[939] submitted that as notified, Policy 16.2.1.4 would invite applications for and approvals of poor building designs. Recognising that there would be a different level of amenity in a mixed use environment, Ledge suggested the following wording as underlined:

Residential and visitor accommodation activities of a nature consistent with a mixed use environment are enabled, while acknowledging that there will be a lower level of amenity than residential zones due to the mix of activities provided for.

1352. NZIA[940] questioned why there would be a lower level of amenity, and submitted that a higher level of amenity should be sought in high density environments. They sought that notified policy 16.2.1.4 be removed and replaced with the following:

A high level of amenity will be achieved by creating an interesting vibrant street life by bringing together a diverse range of people and activities.

1353. Ms Bowbyes was of the view that notified Policy 16.2.1.4 sought to acknowledge that residents of the BMUZ could not expect the same amenity that might be expected in a residential zone.[941] She did, however, consider the wording to be problematic as it contained no explanation as to what a "*lower level*" was and would, as drafted, contradict Policy 16.2.2.3 which required that a high standard of amenity be achieved. We agree with Ms Bowbyes and accordingly we recommend that Policy 16.2.1.4 is deleted, accepting in part both the Ledge and the NZIA submissions.

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

939 Submission 700, opposed by FS1059, FS1314

940 Submission 238, opposed by FS1314, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249, FS1242

941 A Bowbyes, Section 42A Report at [9.18].

1354. The NZIA[942] also sought that notified Policy 16.2.1.5 be removed and replaced with the following wording:

For sites fronting Gorge Road (and other main streets) avoid residential activities on the ground floor.

1355. While Ms Bowbyes considered the notified wording more appropriate, she did recommend a small change to the policy – removing the reference to *'high density'* residential, thus ensuring that the policy applied to any form of residential and visitor accommodation activities.[943]

1356. Further to discussion at the hearing and evidence presented by Mr Freeman[944], Ms Bowbyes reconsidered the wording in this policy. In his evidence, Mr Freeman raised concern with the use of the word "*fronting*". In his opinion this term was "*open to interpretation*"[945] and he suggested that the better approach was to include a specific setback distance for ground floor residential or visitor accommodation activities that fronted Gorge Road.

1357. In response to this Ms Bowbyes proposed rewording[946] the policy further by replacing the word *fronting* with *adjoining*.

1358. In our view, Mr Freeman raises some valid concerns with "*fronting*". Replacing "*fronting*" with "*adjoining*" will mean more certainty and clarity for plan users and therefore we recommend Policy 16.2.1.5 be renumbered and amended to read:

For sites <u>adjoining</u> Gorge Road in Queenstown, discourage the establishment of residential and visitor accommodation activities at ground floor level, except where commercial and/or business activities continue to have primacy at the interface with the street.

1359. The only submission on Policy 16.2.1.6 was in support[947]. Subject to renumbering, we recommend it be adopted as notified.

1360. NZIA[948] sought that notified Policy 16.2.1.7 be amended to set out the noise thresholds to be achieved to avoid reverse sensitivity. It must be pointed out that notified Rule 16.5.8 set out the noise thresholds and Ms Bowbyes explained in her Section 42A Report that this approach was consistent with the other business zones of the PDP.[949] In her view, putting the thresholds in the policy would remove any flexibility for applications that breached the noise thresholds to be approved. However at the rule level, such breaches would be a non-complying activity.

1361. We agree with Ms Bowbyes and further note that no explanation or evidence was provided by the submitter as to why thresholds should be provided at a policy level in addition to the rule level.

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942 Submission 238, supported by FS 1059, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248, FS1249

943 A Bowbyes, Section 42A Report at [10.23].

944 Providing planning evidence in support of Submissions 542, 545, 550, 556 and 634.

945 S Freeman, EiC, at [36].

946 A Bowbyes, Reply Statement at [6.3].

947 Submission 238, opposed by FS1059, FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248, FS1249

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

949 A Bowbyes, Section 42A Report at [13.6].

1362. We also asked Ms Bowbyes to consider the use of the word "*avoid*" and whether that was the true intent of the policy or should the wording be amended. Ms Bowbyes agreed with our comments that this policy did need rewording however she did not consider there was scope to do so as no submissions were made to amend the policy.[950]

1363. In our view, the word "*avoid*" should be replaced with "*limit the potential for reverse sensitivity effects*" which we think is more achievable and also more practical in its application. We consider this wording would more effectively achieve the objective, and recommend the Council initiate a variation to amend the policy.

1364. NZIA[951] sought that notified Policy 16.2.1.8 be amended to include the following underlined wording:

Ensure that the location and direction of street lights does not cause significant glare to other properties roads and public places and promote lighting design that mitigates adverse effects on the night sky, and provide a safe well lit environment for pedestrians.

1365. The submission noted that while the night sky was largely irrelevant in Gorge Road, good lighting was a priority for safety. Ms Bowbyes considered that because this amendment incorporated CPTED principles it was appropriate. She took this a step further by recommending a new policy that required CPTED principles to be incorporated in site design in response to this submission.[952]

1366. We agree with the submitter and Ms Bowbyes that safety provided by lighting is important, and that it is appropriate that the importance of incorporating CPTED principles is reflected in a standalone policy. We also recommend that the policy be amended to make it clear that it is views of the night sky that are to be protected, consistent with wording we have recommended in other chapters.

1367. Consequently, we recommend renumbered Policies 16.2.1.7 and 16.2.19 be adopted wording as follows:

Ensure that the location and direction of street lights does not cause significant glare to other properties roads and public places and promote lighting design that mitigates adverse effects on views of the night sky, and provide a safe well-lit environment for pedestrians.

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

1368. NZIA also sought the inclusion of a policy requiring the undergrounding of all overhead wires to enable a successful streetscape to evolve. Ms Bowbyes considered this to be outside the scope of matters to be considered by the BMUZ, as it related to activities within the roading

950 A Bowbyes, Reply Statement at [3.1].

951 Submission 238, supported by FS1059, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248, FS1249 ort at [13.2].

951 A Bowbyes, Section 42A Report

952 A Bowbyes, Section 42A Report at [13.2].

corridor, which was not within the BMUZ.[953] We agree with this view and note that this was a matter considered in Hearing Stream 5 in relation to the rules applying to utilities.

1369. NZIA[954] questioned use of the phrase "*appropriate levels of amenity"* in Policy 16.2.1.9. Ms Bowbyes agreed with the submitter that the phrasing created uncertainty due to its subjective nature.[955]

1370. Ms Bowbyes recommended removing the words "*to be consistent with the appropriate levels of amenity*" as sought, and additionally rewording the policy to tie it to the effects that outdoor storage could have on public places and residential zones.

1371. We agree with Ms Bowbyes assessment. The recommended wording creates more certainty uses similar phrasing to that used in Rule 16.5.2. We recommend adopting the wording below with consequential renumbering:

Ensure that outdoor storage areas are appropriately located and screened to limit any adverse visual effects <u>on public places and adjoining residential zones</u>.

1372. Our recommended wording of Objective 16.2.1 and Policies 16.2.1.1 to 16.2.1.9 inclusive as amended and renumbered are set out in Appendix 5.

43.2. Objective 16.2.2 and Policies 16.2.2.1 - 16.2.1.7

1373. As notified, Objective 16.2.2 and its accompanying policies read:

<u>16.2.2 Objective</u>
New development achieves high quality design outcomes that minimises adverse effects on adjoining residential areas.

<u>Policies</u>

16.2.2.1 Require the design of buildings to contribute positively to the visual quality, vitality, safety and interest of streets and public spaces by providing active and articulated building frontages, and avoid large expanses of blank walls fronting public spaces.

16.2.2.2 Require development close to residential zones to provide suitable screening to mitigate adverse visual effects, loss of privacy, and minimise overlooking and shading effects to residential neighbours.

16.2.2.3 Require a high standard of amenity, and manage compatibility issues of activities within and between developments through site layout and design measures.

16.2.2.4 Utilise and, where appropriate, link with public open space nearby where it would mitigate any lack of open space provision on the development site.

16.2.2.5 Incorporate design treatments to the form, colour or texture of buildings to add variety, moderate their scale and provide visual interest from a range of distances.

953 A Bowbyes, Section 42A Report at [9.11].
954 Submission 238, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248, FS1249
955 A Bowbyes, Section 42A Report at [11.38].

16.2.2.6 Where large format retail is proposed, it should be developed in association with a variety of integrated, outward facing uses to provide reasonable activation of building facades.

16.2.2.7 Provide for significantly taller development above the permitted height limit in the Business Mixed Use Zone in Queenstown, subject to high design quality.

1374. Four submissions supported the objective[956]. NZIA[957] sought amendments to the objective to encourage a positive urban outcome.

1375. Ms Bowbyes agreed with the NZIA submission, in that there was a strong emphasis on urban design throughout the policies and rules. She recommended accepting in part the relief sought by NZIA to reword the objective.[958] We agree and think that the proposed changes will make the objective clearer in its intent. Several of the policies that support this objective implement urban design treatments. As these consider the impact on the public realm it is important for the objective to reflect this intention also. With this in mind, we recommend Objective 16.2.2 be adopted as follows:

New development achieves high quality <u>building and urban</u> design outcomes that minimise adverse effects on adjoining residential areas <u>and public spaces.</u>

1376. There were no submissions on Policies 16.2.2.1, 16.2.2.2, 16.2.2.4, 16.2.2.5 and 16.2.2.6. We recommend they be adopted as notified.

1377. Ms Spijkerbosch[959] sought landscaping of 2m (for example) along the street frontage to soften the appearance of taller buildings on either side. Ms Bowbyes noted that although the notified BMUZ, in Policy 16.2.2.3 has emphasis on high quality building design and a high standard of amenity, there was no minimum requirement for landscaping at the '*rule*' level.[960]

1378. Ms Bowbyes considered that due to the emphasis on providing a high quality environment in the BMUZ, landscaping should be considered further. As such, she asked Mr Church to provide expert advice.

1379. Mr Church addressed this question in his evidence at length. He described that landscape strips are "effective in helping to unify a potentially disparate and intensive mix of uses, while also helping to soften the scale of development and generally improving the visual amenity of the zone."[961] He went on to say that "Landscape strips can also be effective in screening and mitigating the visual impact of car parking, service and storage areas, although these should be discouraged along more pedestrian orientated corridors."*[962]*

1380. Mr Church did note that the BMUZ was silent on any requirement for landscaping, other than as a matter of discretion for buildings. As such he recommended a rule requiring a minimum

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956 Submissions 380, 392, 556 and 634

957 Submission 238, opposed by FS1314, FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248, FS1249

958 A Bowbyes, Section 42A Report at [9.14-9.16].

959 Submission 392.

960 A Bowbyes, Section 42A Report at [9.38].

961 T Church, EiC at [35.3]

962 ibid at [35.6]

of 10% landscaping, which he considered had the potential to contribute to achieving a higher amenity and more unifying approach to the street frontage.

1381. We discuss the matter of a rule later in this report.

1382. Returning to Policy 16.2.2.3, Ms Bowbyes recommended that it be amended to specifically include landscaping.[963] We agree with this, and recommend that Ms Spijkerbosch's submission be accepted in part by adopting Policy 16.2.2.3 as worded below:

Require a high standard of amenity, and manage compatibility issues of activities within and between developments through site layout, landscaping and design measures.

1383. Notified Policy 16.2.2.7 aimed to provide for significantly taller development in the BMUZ, subject to design quality. That was a reflection of the purpose for the zone which specifically stated that "*significantly greater building heights are enabled*".

1384. This policy attracted one submission[964] supporting the provision for height increase subject to high design quality. Notified Rule 16.5.7.1 provided the standards for activities with regard to their height and attracted submissions. Mr Church discussed this rule in his expert urban design evidence. In her Section 42A Report, Ms Bowbyes also identified the higher order provisions that she considered relevant to the issue of building heights and capacity in the BMUZ.

1385. After taking all this into consideration, Ms Bowbyes concluded[965]:
   a. *The BMUZ is consistent with the strategic direction to encourage intensification within existing urban areas that are close to town centres*
   b. *When a high quality design bar, such as that of the BMUZ is met, enabling taller buildings significantly increases the zone's capacity. The Gorge Road area of the BMUZ is strategically located and, in my view, is an appropriate location for taller buildings. The landscape values of our District pose constraints on the ability for intense forms of development to be provided*
   c. *The BMUZ is consistent with the strategic direction to enable a mix of housing typologies close to town centres. Providing the opportunity for taller buildings in the BMUZ would assist with realising this goal due to the increased capacity that height enables.*

1386. Ms Bowbyes recommended rewording notified Policy 16.2.2.7 and further amendments to notified Rule 16.5.7 which we discuss later in this report. Ms Bowbyes' redrafted Policy 16.2.2.7 contains qualifiers that are more directive and provide for consideration of sunlight access, which is a key effect on neighbouring residential and/or public spaces. We consider the redrafted policy to be more targeted and to provide guidance and clarity to those preparing proposals in the BMUZ. The policy would provide further guidance to landowners as to the type of development anticipated in the BMUZ. We consider it is very clear from the amended wording of the policy that while buildings of a greater height are to be enabled, that can only occur when a high quality design outcome is be achieved.

1387. We recommend Policy 16.2.2.7 be worded as follows:

963 A Bowbyes, Section 42A Report at [9.46].

964 Submission 321, supported by FS1059

965 A Bowbyes, Section 42A Report at [11.18]

~~*Provide for significantly taller development above the permitted height limit*~~ *Allow buildings between 12m and 20m heights in the Queenstown Business Mixed Use Zone in* ~~*Queenstown, subject to*~~ *situations when:*

a. *The outcome is of high* ~~*design*~~ *quality design*
b. *The additional height would not result in shading that would adversely impact on adjoining residential-zoned land and/or public space and*
c. *The increase in height would facilitate the provision of residential activity.*

1388. The BMUZ contemplates a mix of residential and non-residential activities. Bunnings[966], however, considered that the framework was weighted towards facilitating residential activities and did not achieve a complementary integration of both non-residential and residential activities as set out in the purpose of the BMUZ. They sought that the urban design-related matters for restricted discretion on all buildings (Rule 16.4.2) be *'de-tuned'* to allow for flexible built form for non-residential activities.

1389. Bunnings also proposed an additional policy in order to recognise the requirements for business, worded as follows:

Ensure that the operational and functional requirements of non-residential activities are recognised and provided for.

1390. Bunnings submitted their proposed policy wording to be included under Objective 16.2.1, however Ms Bowbyes considered that as the subject relates to design, that inclusion under Objective 16.2.2 would be more appropriate.[967] She proposed inclusion of a new Policy 16.2.2.8 with wording as follows:

Apply consideration of the operational and functional requirements of non-residential activities as part of achieving high quality building and urban design outcomes.

1391. We agree with the inclusion of this policy as it reflects a more pragmatic, flexible and zone appropriate approach. We also think this new policy supports the zone purpose.

1392. We recommend a new Policy 16.2.2.8 be included worded as recommended by Ms Bowbyes (shown above).

1393. Ms Bowbyes recommended a new policy and matters of discretion with regard to encouraging the naturalisation and daylighting of Horne Creek.

1394. NZIA[968], in those parts of its submission relating to Rule 16.4, sought that consideration be given to "*opening up Horne Creek*". Ms Bowbyes was of the view that Horne Creek would provide a source of local amenity and warranted specific consideration.[969] We note that Horne Creek runs through private land, and also receives stormwater discharges.

966 Submission 746
967 A Bowbyes, Section 42A Report at [9.6].
968 Submission 238, opposed by FS1314, FS1059, FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248, FS1249
969 A Bowbyes, Section 42A Report at [9.29].

1395. In her Section 42A Report, Ms Bowbyes stated that she consulted with the QLDC Property and Infrastructure Team and they advised that daylighting of the Creek could assist with water attenuation.[970] Ms Bowbyes also sought the opinion and advice of Mr Church on this issue.

1396. Mr Church, in his evidence, stated that it was his understanding that it was best practice to daylight streams and that a number of environmental benefits would arise from this practice.[971] He concluded that it would be appropriate that "*public access, daylighting and remediation of Horne Creek be incentivised through the consenting process*."[972]

1397. Whilst accepting Mr Church's opinion, Ms Bowbyes also noted that Horne Creek flows through a number of sites on the eastern side of Gorge Road. With this in mind, she recorded her reluctance in her Section 42A Report to require that daylighting be achieved in every instance, as imposing such a requirement on these properties would severely limit the ability for development.[973]

1398. As such, Ms Bowbyes, took a more pragmatic approach and recommended a new policy that provided a level of flexibility in those instances where daylighting of Horne Creek may not be appropriate.

1399. In response to Ms Bowbye's proposed policy, Mr Freeman[974] highlighted some concerns, including uncertainty of interpretation and application of the policy as drafted by Ms Bowbyes.. He proposed that the daylighting of Horne Creek should be subject to a separate process outside of the PDP process[975].

1400. Additional concerns were raised by Mr Ridd, on behalf of Ms Spijkerbosch[976]. In particular he queried how outdoor living space could be integrated with the stream, unless ground floor residential or visitor accommodation activities were proposed.

1401. Ms Macdonald[977] questioned whether opening up Horne Creek was a matter for the District Council, or whether it fell under the jurisdiction of the Otago Regional Council.[978]

1402. These concerns led to Ms Bowbyes' reconsidering the wording of policy 16.2.2.9 within her Reply[979]. She proposed a simplified wording that removed references to daylighting.

1403. We have reviewed Ms Bowbyes recommended policy in the light of the evidence and submissions received. While we can see value in recognising the creek as a natural feature, and recognising that Section 6 of the Act and higher order objectives and policies seek to protect natural waterways, we consider if this policy is to be included in this zone, it should not conflict with other policies in the zone. Policy 16.2.1.4 discourages ground floor residential and visitor accommodation activities. Given that policy direction, we consider it would be inappropriate to be encouraging outdoor living spaces integrating with Horne Creek in this

970 ibid at [9.31].
971 T Church, EiC at [31.4]
972 ibid at [2.26].
973 A Bowbyes, Section 42A Report at [9.33]
974 In expert evidence in support of Submissions 542, 545, 550, 556 and 634
975 S Freeman, EiC at paragraphs 52 - 61
976 Submission 392
977 Appearing for Submission 545 (High Peaks Limited) and 634 (Trojan Holdings Limited)
978 J Macdonald, Legal Submissions at p2.
979 A Bowbyes, Reply Statement at [5.1-5.8].

policy. We also agree that the policy should not require daylighting of Horne Creek, but do not think that possibility should be excluded.

1404. Taking all those matters into account, we recommend that a new Policy 16.2.2.9 be included reading:

Encourage the layout and design of new buildings and landscaping to integrate with Horne Creek where feasible.

43.3. New Objective and Policies

1405. The Stream 13 Hearing Panel is recommending the zoning of an area of land at Frankton North as Business Mixed Use. Part of that recommendation is the insertion of a specific objective and policies and rules applying to that area. We agree with the reasoning of the Stream 13 Panel and recommend the following objective and policies be inserted:

16.2.3 ***Objective - The development of land north of State Highway 6 (between Hansen Road and Ferry Hill Drive) provides a high quality environment which is sensitive to its location at the entrance to Queenstown, minimises traffic impacts to the State Highway network, and is appropriately serviced.***

Policies

16.2.3.1 *Encourage a low impact stormwater design that utilises on-site treatment and storage / dispersal approaches.*

16.2.3.2 *Avoid the impacts of stormwater discharges on the State Highway network.*

16.2.3.3 *Provide a planting buffer along the State Highway frontage to soften the view of buildings from the State Highway network.*

16.2.3.4 *Provide for safe and legible transport connections that avoid any new access to the State Highway, and integrates with the road network and public transport routes on the southern side of State Highway 6.*
Note: *Attention is drawn to the need to consult with the New Zealand Transport Agency (NZTA) prior to determining an internal and external road network design under this policy.*
Note: *Attention is drawn to the need to obtain a Section 93 notice from the NZ Transport Agency for all subdivisions on State Highways which are declared Limited Access Roads. The NZ Transport Agency should be consulted and a request made for a notice under Section 93 of the Government Roading Powers Act 1989.*

16.2.3.5 *Require that the design of any road or vehicular access within individual properties is of a form and standard that accounts for long term traffic demands for the area between Hansen Road and Ferry Hill Drive, and does not require the need for subsequent retrofitting or upgrade.*

16.2.3.6 *Provide a safe and legible walking and cycle environment that links to the other internal and external pedestrian and cycle networks and destinations on the southern side of State Highway 6 along the safest, most direct and convenient routes.*

Note: Attention is drawn to the need to consult with the New Zealand Transport Agency (NZTA) to determine compliance with this policy.

16.2.3.7 Require the provision of an internal road network that ensures road frontages are not dominated by vehicular access and parking.

16.2.3.8 Ensure coordinated, efficient and well-designed development by requiring, prior to, or as part of subdivision and development, construction of the following to appropriate Council standards:

a. A 'fourth leg' off the Hawthorne Drive/SH6 roundabout;

b. All sites created in the area to have legal access to either Hansen Road or the Hawthorne Drive/SH6 roundabout; and

c. New and safe pedestrian connections between the Hawthorne Drive/SH6 roundabout, Ferry Hill Drive and the southern side of SH6.

16.2.3.9 Encourage the creation of a legal internal road between Hansen Rd and Ferry Hill Drive

43.4. Summary

1406. There are some substantive changes recommended for the objectives and policies of Chapter 16. We recommend also recommend some minor limited amendments to those objectives and policies. We are satisfied that once these amendments have been incorporated, the objectives will be the most appropriate to achieve the purpose of the Act, and the policies will be effective and efficient at implementing the objectives. We also consider they will be consistent with the higher order policies in Chapters 3 and 4.

44. 16.3 OTHER PROVISIONS AND RULES

44.1. 16.3.1 District Wide Rules

1407. We recommend this section be amended under Clause 16(2) for the reasons set out in Section 1.10 of Report 1.

1408. The recommended layout is shown at Appendix 5.

44.2. 16.3.2 Clarification

1409. As with the previous section, we recommend renaming and amending provisions in the section under Clause 16(2) for the reasons set out in Section 1.10 of Report 1.

1410. We set out in Appendix 5 our recommended layout of this section.

45. 16.4 RULES – ACTIVITIES

1411. The table at rule 16.4 prescribes the activity status of activities located in the BMUZ. Two submissions were received in general support of Section 16.4[980].

[980] Submissions 30 and 237

45.1. Rule 16.4.1 Activities not listed in this table and comply with all standards

1412. This rule effectively provides a default permitted activity status to any activity that complies with all standards and is not otherwise listed in Activity Table 16.1. Bunnings[981] sought this Rule be retained.

1413. We questioned the need for this rule, and requested further consideration from the Section 42A Officers. This matter is discussed further in Chapter 12, with regard to Ms Scott's legal submissions and the reasons for inclusion of a default rule.

1414. Again we thank the Council and the Section 42A authors for their consideration of this issue and we accept their collective view that inclusion of a default rule is necessary and there are no changes considered necessary.

1415. We recommend Rule 16.4.1 be adopted as notified.

45.2. Rule 16.4.2 Buildings

1416. As notified, Rule 16.4.2 provided a restricted discretionary activity status for all new buildings in the BMUZ.

1417. Several submitters[982] requested that notified Rule 16.4.2 be amended to shift the activity status of buildings from restricted discretionary to controlled. Coronet Property Investments Limited[983] requested that the activity status of the establishment of, and alteration to, buildings be amended to controlled rather than restricted discretionary. Submission 344 sought an amendment to Rule 16.4.2 such that it would be a controlled activity to establish a building or trade supplier up to 1000m^2 GFA.

1418. The Section 32 Evaluation Report appended to the Section 42A Report was thorough and set out the reasoning as to why buildings in the BMUZ had the status of restricted discretionary, rather than controlled. Ms Bowbyes considered this carefully, concluding that in her view the restricted discretionary status to be more appropriate.[984]

1419. We agree with this. Restricted discretionary buildings would proceed on a non-notified basis, which would reduce uncertainty, time and cost, whilst also providing for achieving the high quality design outcomes as sought by the zone purpose and objective 16.2.2. By attributing a status of restricted discretionary to buildings, it means the Council would have the ability to decline any resource consent application that was not achieving the objectives and policies of the zone.

1420. Therefore we recommend these submissions be rejected and the activity status remain restricted discretionary.

1421. NZIA[985] requested additional information and assessment criteria in this rule. The submission noted outside spaces, urban amenity, promoting the use of urban design panel and Horne Creek with regard to hazard-flood issues as matters that should be considered.

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981 Submission 746

982 Submissions 556, 634, 542, 545 and 550.

983 Submission 321, supported by FS1059

984 A Bowbyes, Section 42A Report at [12.3-12.5].

985 Submission 238, opposed by FS1314, FS1059, FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248, and FS1249

1422. As discussed earlier, Ms Spijkerbosch raised the idea of landscaping in order to soften the appearance of tall buildings and contribute to the amenity of the zone. In response to this submission and the redrafted policies that place a strong emphasis on urban design, Ms Bowbyes recommended including additional matters of discretion, including landscaping, in Rule 16.4.2.986

1423. We questioned whether these, as notified, were in fact assessment matters, rather than matters of discretion. We asked Ms Bowbyes to consider this and this resulted in her rephrasing the provisions to reflect that they were assessment matters. This is consistent with the other parts of the Plan and also much clearer for the reader when trying to understand what the relevant considerations are.

1424. Daylighting of Horne Creek has been discussed earlier in this report and we apply the same rationale to the matters of discretion for buildings in the BMUZ. Rather than requiring daylighting of the Creek, the matter to be considered is integration of the development with Horne Creek with regard to site layout and landscaping.

1425. The Ledge submission987 expressed concern regarding the practicality of meeting the requirements of the matter of discretion pertaining to natural hazards in this rule. The submission suggested that there needed to be exemptions for small consents and minor natural hazards.

1426. As notified, the relevant matter of discretion for Rule 16.4.2 at bullet-point 5 stated:

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.

1427. Ms Bowbyes agreed that as worded, the notified version would place a burdensome requirement on applicants proposing minor developments, or for instances where the risk posed by the natural hazard is low. In her view, this was a partial mix of an assessment matter and a matter of discretion.[988]

1428. Whilst Ms Bowbyes recommended the matter of discretion remains, she did recommend removing the requirement for an assessment by a suitably qualified person which provides consistency with Notified Policy 28.3.2.3. That policy provided further guidance as to information requirements and does not contain a requirement for all hazard assessments to be completed by a suitably qualified person.[989]

1429. We consider that the changes recommended by Ms Bowbyes will provide a level of flexibility for the assessment to be proportionate to the level of risk posed. This is also consistent with the approach in other chapters and the provisions of Chapter 28 as recommended.

1430. We have made further changes to Ms Bowbyes recommended wording of this rule. We do not think it is necessary to specify that integration with Horne Creek only relates to the Gorge

986 A Bowbyes, Section 42A Report at [9.41-9.42].
987 Submission 700
988 A Bowbyes, Section 42A Report at [12.22].
989 ibid at [12.23].

Road area. We consider it would be better to make the matter relevant "where applicable". It will not be applicable on every site in Gorge Road.

1431. We also consider the matter of discretion relating to open space for residential development still reads somewhat akin to an assessment matter. We have simplified this further to make it clearly a matter of discretion.

1432. We recommend Rule 16.4.2 be adopted with the wording set out below (we have not used a underline/strike-out format as that format was too difficult to follow):

16.4.2	**Buildings** Discretion is restricted to: a. Building materials b. Glazing treatment c. Symmetry d. Vertical and horizontal emphasis e. Location of storage f. Signage platforms g. Landscaping h. Where residential units are proposed as part of a development, provision made for open space on site, whether private or communal i. Where applicable, integration of the development with Horne Creek including site layout and landscaping and j. Where a site is subject to any natural hazard and the proposal will result in an increase in gross floor area: i. the nature and degree of risk the hazard(s) pose to people and property; ii. whether the proposal will alter the risk to any site; and iii. the extent to which such risk can be avoided or sufficiently mitigated. Assessment matters relating to buildings: a. The impact of the building on the streetscape including whether it contributes positively to the visual quality, vitality, safety and interest of streets and public places by providing active and articulated street frontages and avoids large expanses of blank walls fronting public spaces b. Whether the design of the building blends well with and contributes to an integrated built form and is sympathetic to the surrounding natural environment.	RD

45.3. Rule 16.4.3 Licenced Premises

1433. There were no submissions received in relation to this Rule and Ms Bowbyes recommended only a minor non-substantive change utilising Clause 16(2) in respect of grammatical changes for consistency.

1434. The content however of this rule, was the subject of discussion at the hearing. With reference to evidence presented by Ms Swinney, Team Leader Alcohol Licensing for the Council, we did

not consider it appropriate to include a matter of discretion as "Any relevant Council alcohol policy or bylaw".

1435. Ms Swinney told us that there are no current alcohol policies in place and that breach of any bylaw could result in enforcement action being required.[990]

1436. Ms Bowbyes recognised the merits of this, and noted her agreement with the comments of Ms Swinney. We also agree that this matter of discretion should be removed as shown below with strikeout as follows:

16.4.3	**Licensed Premises** Premises licensed for the consumption of alcohol on the premises between the hours of 11pm and 8am, provided that this rule shall not apply to the sale of liquor: This rule shall not apply to the sale and supply of alcohol: a. to any person who is residing (permanently or temporarily) on the premises and/or b. to any person who is present on the premises for the purpose of dining up until 12am. ~~*~~Discretion is restricted to ~~consideration of all of the following~~: a. The scale of the activity b. Car parking and traffic generation c. Effects on amenity (including that of adjoining residential zones and public reserves) d. The configuration of activities within the building and site (e.g. outdoor seating, entrances) e. Noise issues and f. Hours of operation~~; and~~ ~~Any relevant Council alcohol policy or bylaw.~~	RD~~*~~

45.4. Rule 16.4.4 Visitor Accommodation

1437. Notified Rule 16.4.4 provided for visitor accommodation in the BMUZ as a restricted discretionary activity.

1438. Several submissions[991] were received seeking to change the activity status from restricted discretionary to controlled for visitor accommodation. The submissions also considered that the notified matters of discretion would be appropriate as the matters of control.

1439. Ms Bowbyes compared the matters for discretion listed in the notified rule and noted that they were very similar to the visitor accommodation rules of QTCZ[992], WTCZ[993] and ATCZ[994] which all provided for visitor accommodation as a controlled activity. The LSCZ however, provided for visitor accommodation as a restricted discretionary activity.

990 S Swinney, EiC at [5.32].
991 Submissions 542 (supported by FS 1059), 550, 556, 571, 634 (opposed by FS1059) and 1366
992 Notified Rule 12.4.2
993 Notified Rule 13.4.3
994 Notified Rule 14.4.3

1440. Neither the submissions nor the Section 32 analysis provided much discussion as to the benefits of a controlled activity versus a restricted discretionary. However Ms Bowbyes recommended that due to the close proximity of the BMUZ to the Queenstown and Wanaka Town Centres that it was appropriate for visitor accommodation to have a controlled status.[995] Further, Ms Bowbyes considered that the notified matters of discretion were appropriate matters of control.

1441. We agree. The Queenstown and Wanaka town centres are the main centres for tourism and therefore it is appropriate to encourage visitor accommodation in close proximity to those centres. The BMUZ is within walking distance of these town centres, and visitor accommodation in such close proximity would be enabled through controlled status. Controlled status is both consistent with and would achieve the zone purpose.

1442. Therefore we recommend that these submissions be accepted and visitor accommodation is amended to have controlled activity status. In addition to minor grammatical changes for consistency and clarity, we recommend that rule be relocated to 16.4.2 with consequential renumbering. The recommended wording is as follows:

16.4.2	**Visitor Accommodation** ~~*Discretion is restricted to consideration of all of the following:~~ Control is reserved to: a. The location, provision, and screening of access and parking and traffic generation; b. Landscaping; c. The location, nature and scale of visitor accommodation and ancillary activities relative to one another within the site and relative to neighbouring uses; d. The location and screening of bus and car parking from public places; and e. Where the site adjoins a residential zone: i. Noise generation and methods of mitigation; and ii. Hours of operation, in respect of ancillary activities.	~~RD~~C~~*~~

45.5. Rule 16.4.5 Daycare Facilities

1443. There were no submissions received regarding this rule. Ms Bowbyes recommended that wording in the final matter of discretion be deleted to clarify the matter. We agree that the simplified wording is less likely to be misinterpreted, and that it is a non-substantive change.

1444. We recommend that Rule 16.4.5 be adopted with that modification and the other minor non-substantive changes consistent with our recommendations throughout this report, as worded below:

995 A Bowbyes, Section 42A Report at [10.19].

16.4.5	**Daycare Facilities** ~~*~~Discretion is restricted to ~~consideration of all of the following~~: a. The compatibility of the development with respect to existing land uses on the subject site and nearby properties; b. Potential reverse sensitivity issues; c. Traffic, parking and access limitations; and d. Noise ~~associated with the activity on the subject site~~.	RD~~*~~

45.6. Rule 16.4.6 Warehousing, Storage & Lock-up Facilities (including vehicle storage) and Trade Suppliers

1445. As notified, Rule 16.4.6 provided for Warehousing, Storage & Lock-up Facilities (including vehicle storage) and Trade Suppliers as a restricted discretionary activity.

1446. Bunnings[996] sought deletion of notified Rule 16.4.6, or as an alternative that the rule be amended to delete reference to "*trade suppliers*" on the grounds that it was not defined in the PDP. Fletcher Distribution Ltd and Mico Ltd[997] also made reference to the fact that trade supplier was not included in the definitions of notified Chapter 2. These submitters requested amendments to the definition of building supplier to remove the reference to Three Parks and the Industrial B Zone.

1447. Ms Bowbyes did not recommend any amendments in respect of the rule itself, however she did consider it was appropriate to amend the definitions relating to this rule.[998] This included the addition of a definition for "*Trade Suppliers*" and some amendments to "*Building Suppliers*". In Ms Bowbyes view, those amendments would sufficiently address the matters included in the submissions and provide an appropriate degree of certainty as to the activities captured by 16.4.6. We discuss these definitions further at the end of this report.

1448. We agree with Ms Bowbyes that the changes sought to the rule by Bunnings would make the rule inconsistent with the objectives and policies of the zone. Consequently, we recommend the standard minor amendments, and that the rule be adopted with the wording set out below:

16.4.6	**Warehousing , Storage & Lock-up Facilities (including vehicle storage) and Trade Suppliers** ~~*~~Discretion is restricted to ~~consideration of all of the following~~: a. The impact of buildings on the streetscape and neighbouring properties in terms of dominance impacts from large, utilitarian buildings; b. The provision, location and screening of access, parking and traffic generation; and c. Landscaping.	RD~~*~~

996 Submission 746

997 Submission 344, supported by FS1164 and opposed by FS1314

998 A Bowbyes, Section 42A Report at [12.12 -12.19].

45.7. Rule 16.4.7 Industrial Activities not otherwise provided for in this Table; Rule 16.4.8 Service Stations; Rule 16.4.9 Panelbeating, spray painting, motor vehicle repair or dismantling.

1449. There were no submissions received relating to these rules, nor any comment or discussion by Ms Bowbyes.

1450. However, Ms Bowbyes did note in her Section 42A Report, that the shift in the zone purpose from that in the ODP could result in uncertainty for existing activities within the BMUZ[999] resulting from the change of the default status to non-complying when it was permitted under the ODP.

1451. The HW Richardson Group submission[1000] requested that the Allied Concrete site at 105 Gorge Road be either rezoned to a zone that permitted service and industrial activities or, in the alternative, requested that the BMUZ be amended to provide for those activities on that site as permitted. The rezoning component of the submission was heard in Hearing Stream 13.

1452. The site at 105 Gorge Road was a rear site on the eastern side of the road, with access located opposite the entrance to Sawmill Road.[1001] It was therefore centrally located within the Gorge Road area of the BMUZ.

1453. Ms Bowbyes explained that, in her view, enabling industrial activities in the BMUZ could result in effects that would not achieve the levels of amenity consistent with a mixed use environment.[1002] She was concerned that the relief sought by HW Richardson would not assist with achieving notified Objectives 16.2.1 and 16.2.2, nor would it assist with the implementation of notified Policies 16.2.1.1, 16.2.1.2, 16.2.1.3, proposed Policy 16.2.1.5, and notified Policy 16.2.2.3. She therefore recommended that the changes to the BMUZ provisions sought by the HW Richardson Group be rejected.[1003]

1454. At the hearing, we asked Ms Bowbyes to provide us more information regarding the industrial activities currently operating within the Gorge Road area of the BMUZ. Ms Bowbyes addressed this in her Reply[1004], noting that she had carried out a site visit and based on this she considered there to be three activities operating[1005] that would be captured by the PDP definition of industrial activity, one of which was Allied Concrete.

1455. We also requested site areas for these activities, however Ms Bowbyes said these occupied only part of the sites where they are situated, and as such it was hard to determine site areas with confidence.[1006] She did however note, that they were established in a cluster on the eastern side of Gorge Road.[1007] This demonstrated that there was very little industrial activity in the zone and we are satisfied that the rules as notified with regard to industrial activities were appropriate for this zone, because the existing industrial activities were so limited in extent.

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999 A Bowbyes, Section 42A Report at [10.9].

1000 Submission 252

1001 A Bowbyes, Section 42A Report at [10.7].

1002 ibid at [10.10].

1003 ibid at [10.11].

1004 A Bowbyes, Reply Statement at [12.1-12.3].

1005 Rockgas: 119 Gorge Road; Otago Southland Waste Services: 121 Gorge Road; and Allied Concrete: 105 Gorge Road.

1006 A Bowbyes Right of Reply at [12.4].

1007 Ibid.

1456. We also consider that as the zone further develops into a mixed use zone, it is unlikely that existing industrial activities located within the zone would seek to expand. We also think it unlikely that new industrial activities would seek to locate within the BMUZ as the PDP will provide more suitable zones for industrial activities. We note that the new Coneburn Industrial Zone recommended by Hearing Stream 13 would be a more appropriate location for industrial activities of the type presently found in Gorge Road.

1457. The Stream 13 Hearing Panel has recommended a minor change to Rule 16.4.7 so as to exclude Warehousing, Storage & Lock-up Facilities and Trade Suppliers from the Frankton North BMUZ. This is in association with the insertion of a new Rule 16.4.18 which classifies such activities as prohibited in the Frankton North BMUZ. We agree with that Panel's reasoning and recommend those changes be made.

1458. Consequently, we recommend:
a. Rules 16.4.8, 16.4.9 be adopted as notified;
b. Rule 16.4.7 be adopted as notified with the insertion of the following wording after "Trade Suppliers" – "except as provided for by Rule 16.4.18"; and
c. The insertion of a new Rule 16.4.8 which reads:

16.4.18	**Warehousing, Storage & Lock-up Facilities (including vehicle storage) and Trade Suppliers** in the zone at Frankton North	PR

45.8. Rule 16.4.10 Fibreglassing, sheet metal work, bottle or scrap storage, motorbody building or wrecking, fish or meat processing (excluding that which is ancillary to a retail premises such as a butcher, fishmonger or supermarket), or any activity requiring an Offensive Trade Licence under the Health Act 1956.

1459. Although there were no submissions received or comment by the reporting officer in her Section 42A Report; in her reply Ms Bowbyes recommended amending the layout of this rule, by splitting the activities in notified rule 16.4.10 for consistency and improved legibility.[1008]

1460. We agree this is a minor non-substantive amendment and recommend the following three rules be adopted:

16.4.10	**Fibreglassing, sheet metal work, bottle or scrap storage, motorbody building or wrecking~~, fish or meat processing (excluding that which is ancillary to a retail premises such as a butcher, fishmonger or supermarket), or any activity requiring an Offensive Trade Licence under the Health Act 1956.~~**	PR
16.4.11	**Fish or meat processing (excluding that which is ancillary to a retail premises such as a butcher, fishmonger or supermarket).**	
16.4.12	**Any activity requiring an Offensive Trade Licence under the Health Act 1956.**	

[1008] A Bowbyes Section 42A Report, Appendix 1 at p16-7.

45.9. Rule 16.4.11 Factory Farming; Rule 16.4.12 Mining Activities; Rule 16.4.13 Forestry Activities; Rule 16.4.14 Airport

1461. There were no submissions relating to these notified rules. We recommend these rules be renumbered and adopted as notified, as shown in Appendix 5.

45.10. New Rule – Activities Sensitive to Aircraft Noise

1462. The Stream 13 Hearing Panel has recommended the insertion of a new Rule 16.4.17 prohibiting the establishment of Activities Sensitive to Aircraft Noise within the Outer Control Boundary of Queenstown Airport. This is consequential on that Panel recommending the rezoning of an area at Frankton North as BMUZ. We agree with the reasoning of that Panel and recommend the new rule be included as set out in Appendix 5.

46. 16.5 RULES – STANDARDS

46.1. 16.5.1 Setbacks and sunlight access – sites adjoining a Residential zone or separated by a road from a Residential zone

1463. In addition to a 3m setback, notified Rule 16.5.1 required that buildings on sites adjoining, or separated by a road from, a Residential Zone shall not project beyond a recession line constructed at an angle of 35 degrees inclined towards the site from points 3m above the Residential Zone boundary.

1464. Five submissions[1009] sought a relaxation of the angle for the recession line to 45 degrees. Mr Church[1010] provided his opinion as to whether the relief sought in these submissions was appropriate to achieve Objective 16.2.2 and whether the height recession and setbacks would be effective in limiting the impact of building heights on adjoining residential zoned land.

1465. Mr Church explained in his evidence that he undertook modelling of both the 35 degree and 45 degree scenarios. He supported the relief sought insofar as it applies to the northern boundary of a site.[1011] In his view, the 35 degree recession plane should be retained on the southern, eastern and western boundaries. He further suggested adding the terms "*visual dominance*" and "*residential privacy*" to provide specificity to the matters of discretion within Rule 16.5.1, and the addition of "*screen planting*" as a further matter of discretion.[1012]

1466. The second element of notified Rule 16.5.1 was that buildings on sites adjoining a residential zone be set back no less than 3m. Three submissions[1013] supported this rule. In the absence of any opposition, we recommend Rule 16.5.1.2 be retained as notified.

1467. With regard to the recession lines, we agree with Mr Church and Ms Bowbyes. We consider relaxing the recession plane applied at the northern boundary would provide additional flexibility for site development. Retaining the 35 degree recession plane at all other boundaries would ensure that issues such as visual dominance and residential privacy continue to be appropriate.

1468. We have considered the changes Mr Church has recommended be made to the matters of discretion. We consider the inclusion of 'visual' and 'residential' to be minor changes which make the provision more certain. However, we consider the addition of 'screen planting' as

1009 Submissions 556, 634, 550, 542, 545
1010 T Church, EiC at paragraph 34.2.
1011 ibid at paragraphs 34.6, 34.8.
1012 ibid at paragraphs 34.13 – 34.15.
1013 Submissions 565, 634 and 344 (supported by FS1059)

matter of discretion to be beyond scope. No submission sought that inclusion and it would add a potential limitation on applicants which the public have not had the opportunity to comment on.

1469. Taking into account our standard recommended changes to standards, we recommend the rule is adopted with the wording shown below:

16.5.1	**Setbacks and sunlight access – sites adjoining a Residential zone or separated by a road from a Residential zone** *16.5.1.1 Buildings on sites adjoining, or separated by a road from, a Residential zone shall not project beyond a recession line constructed at ~~an~~ the following angles ~~of 35º~~ inclined towards the site from points 3m above the Residential zone boundary:* a. 45º applied on the northern boundary; and b. c. 35º applied on all other boundaries *16.5.1.2 Where a site adjoins a Residential Zone all buildings shall be set back not less than 3m.* ~~*Discretion is restricted to consideration of all of the following:~~ ~~the visual effects of the height, scale, location and appearance of the building, in terms of dominance and loss of privacy on adjoining properties and any resultant shading effects~~.	**RD~~*~~** Discretion is restricted to: a. the visual effects of the height, scale, location and appearance of the building, in terms of visual dominance and loss of residential privacy on adjoining properties and any resultant shading effects.

46.2. 16.5.2 Storage

1470. There were no submissions received regarding this rule.

1471. Accordingly, we recommend adopting this rule with our standard recommended amendments, as follows:

16.5.2	**Storage** Outdoor storage and storage of waste and recycling shall be screened from public places and adjoining Residential zones. ~~*Discretion is restricted to consideration of all of the following:~~ ~~a. the effects on visual amenity;~~ ~~b. the location relative to the public realm and adjoining residential properties;~~ ~~c. consistency with the character of the locality; and~~ ~~d. whether pedestrian and vehicle access is compromised.~~	**RD~~*~~** Discretion is restricted to: a. the effects on visual amenity b. the location relative to the public realm and adjoining residential properties c. consistency with the character of the locality and d. whether pedestrian and vehicle access is compromised.

46.3. 16.5.3 Residential activities and visitor accommodation located on sites fronting Gorge Road in Queenstown

1472. Notified Rule 16.5.3 required that all residential and visitor accommodation activities on sites fronting Gorge Road be at first floor level or above. Non-compliance required consent as a restricted discretionary activity.

1473. NZIA[1014] requested some changes relating to outdoor living requirements, use of the urban design panel and opening up of Horne Creek. To a large extent these points have been discussed throughout this report.

1474. As discussed with regard to notified Policy 16.2.1.5, Mr Freeman[1015] highlighted his concern with the potential misinterpretation arising from the word "*fronting*" and questioned what constitutes "*fronting*"" in terms of location or proximity to Gorge Road for residential or visitor accommodation activities.

1475. Mr Freeman suggested that it was more appropriate to prescribe a setback for ground floor residential and visitor accommodation. He explained this by reference to the example of a residential building with residential activities on the ground floor could be set back 50m (a significant distance in an urban environment) on the Wakatipu High School site and still deemed to front Gorge Road.[1016] He suggested that in order to achieve the goals of Policy 16.2.1.5, Rule 16.5.3 should include a specific setback distance (i.e. 10 m) for the allowance of ground floor residential or visitor accommodation activities that front Gorge Road.

1476. Taking this evidence into consideration, Ms Bowbyes recommended replacing the word *"fronting"* with *"adjoining*" and also adopting Mr Freeman's suggestion of a 10 m setback.[1017] She considered this 10m setback to be appropriate to add, so that the rule only applies to residential and visitor accommodation activities at ground floor level located within 10m of

1014 Submission 238, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248, and FS1249

1015 On behalf of submitters G H and P J Hensman (542), High Peaks Limited (545), Ngai Tahu Property Limited (550), Skyline Enterprises Limited (556) and Trojan Holdings Limited (634).

1016 S Freeman, EiC at [36].

1017 A Bowbyes, Summary of Evidence at [6].

the site boundary adjoining Gorge Road.[1018] We noted that Mr Freeman confirmed that he supported this approach at the hearing.[1019]

1477. We agree that as notified there was potential for misinterpretation, and that both notified Policy 16.2.1.4 and Rule 16.5.3 require rewording. Ms Bowbyes' recommended changes ensure that the outcome sought by the Policy is implemented by Rule 16.5.3(a) without placing unintended restrictions on residential and visitor accommodation activities establishing on sites adjoining Gorge Road. We consider that the additional wording proposed by Ms Bowbyes is effective in providing greater certainty regarding the application of redrafted Policy 16.2.1.4.

1478. Ms Bowbyes, relying on Mr Church's evidence, also recommended the imposition of a 2m landscaping strip on all sites in the zone where residential activities occurred at ground floor level[1020]. For scope she relied on Submission 392. We have examined this submission. We consider it clear that the submitter was only seeking that a landscaping strip be imposed where taller buildings were allowed (as a restricted discretionary activity). In our view, that would only apply to notified Rule 16.5.7.1(b). We consider that persons reading Submission 392 could not anticipate that it would lead to the imposition of a 2 m landscaping strip in the BMUZ in Wanaka, for instance. We do not accept Ms Bowbyes' recommendation on this point.

1479. Ms Bowbyes also recommended clarification in regard to the matters for discretion by adding additional wording[1021], which we agree with in as matters that can be adopted pursuant to Clause 16(2).

1480. Ms Bowbyes recommended inclusion of a fourth matter of discretion worded: "*the effects on privacy for occupants and visual amenity.*" Again she referenced Submission 392 as scope for this addition. We consider there is no scope to be found in that submission for this addition and do not accept that recommendation.

1481. Consequently, taking into account our own standard amendments, we recommend Rule16.5.3 be adopted with the following wording:

1018 A Bowbyes, Reply Statement at [6.3].

1019 S Freeman, Supplementary Evidence at [3].

1020 A Bowbyes, Section 42A Report, at paragraph 9.41

1021 A Bowbyes Section 42A Report, Appendix 1 at p16-9.

16.5.3	**Residential ~~activities~~ and visitor accommodation activities ~~located on sites fronting Gorge Road in Queenstown~~** All residential activities and visitor accommodation activities on sites adjoining Gorge Road in Queenstown located within 10m of the boundary adjoining Gorge Road shall be restricted to first floor level or above, with the exception of foyer and stairway spaces at ground level to facilitate access to upper levels. ~~*Discretion is restricted to consideration of all of the following:~~ ~~a. the effects on surrounding buildings and activities;~~ ~~b. location relative to the public realm; and~~ ~~c. the maintenance of active and articulated street frontages~~	**RD~~*~~** Discretion is restricted to: a. the effects of residential and visitor accommodation activities at ground floor level on surrounding buildings and activities; b. location of residential and visitor accommodation activities at ground floor level relative to the public realm; and c. the maintenance of active and articulated street frontages.

46.4. 16.5.4 Building Coverage

1482. As notified, Rule 16.5.4 stated that maximum building coverage in the BMUZ was 75%, and any proposal that did not comply would be a discretionary activity.

1483. The sole submission on this rule sought that it be retained[1022].

1484. We recommend that Rule 16.5.4 be adopted as notified.

46.5. 16.5.5 Acoustic Installation; 16.5.6 Fencing

1485. There were no submissions received on these rules nor any comment by the reporting officer.

1486. We recommend adopting these rules as notified.

46.6. Proposed Rule - Landscaping

1487. Ms Bowbyes recommended a new standard be included that would require a minimum landscaped coverage of 10%, relying on Mr Church's evidence[1023].

1488. While this may be a laudable outcome, there was no scope within the submissions for such a rule. Consequently we do not recommend it be adopted.

1489. If the Council wishes to include specific provisions requiring landscaping, it will need to initiate a variation.

1022 Submission 344, supported by FS1059

1023 A Bowbyes, Section 42A Report at [9.46].

46.7. 16.5.7 Maximum Building Height

1490. Notified Rule 16.5.7 provides for buildings up to 12m as a permitted activity in both the Gorge Road and the Anderson heights areas. Buildings between 12m to 20m in Gorge Road are anticipated through the use of the restricted discretionary activity status. The notified matters of discretion are:

a. the design and quality of the building, including the use of articulated facades and active street frontages

b. The avoidance of large monolithic buildings and

c. The impact on the street scene.

1491. Notified Rule 16.5.7.1 also stipulates that buildings exceeding 20m height in the Gorge Road area of the BMUZ would require resource consent for a non-complying activity, as would buildings exceeding 12m height in the Anderson Heights area under notified Rule 16.5.7.2.

1492. This rule was supported by Placemakers[1024], and Coronet Property Investments Limited.[1025]

1493. Ms Spijkerbosch [1026], opposed notified Rule 16.5.7 insofar as it applied to Gorge Road, submitting that the 20m restricted discretionary height should only apply on the eastern side of Gorge Road, and that up to 25m heights should be '*allowed*' at the eastern edge of the BMUZ, and finally building heights should be staggered to a height of 12m at the Gorge Road frontage. She also considered that proposed buildings above 12m should be notified, unless they are on the eastern side of Gorge Road. In addition, she considered a 2m landscaping strip should be imposed to soften the impact of taller buildings.

1494. Mr Church provided urban design evidence on the suitability of enabling the restricted discretionary heights across the entire Gorge Road BMUZ. This including modelling and illustrations appended to his evidence. He supported the retention of the 12m to 20m restricted discretionary heights on the eastern side of Gorge Road, with the exception of two areas at the northern and southern ends of the eastern side of Gorge Road.[1027]

1495. These two sites were described in Mr Church's evidence[1028] as:

a. Gorge Road Centre – site of an existing low rise business park at the very northern end of Gorge Road (east), beyond Bush Creek reserve and to the west of Matakauri Park; and

b. Caltex Service Station – a site at the corner of Gorge Road and Hallenstein Street.

1496. Mr Church considered that these two sites should have a lower permitted and/or RD height range because, in his view tall buildings on these two sites could potentially obstruct view shafts up and down the Gorge, and visual connections to the steep rock walls at the top of the Gorge.[1029]

1497. In addition to keeping these heights lower, Mr Church was concerned with the possibility of a "visually dominant band of tall buildings stretching across the valley floor and potentially

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1024 Submission 344, supported by FS1059

1025 Submission 321

1026 Submission 392, supported by FS1288, FS1059, opposed FS1216, FS1228, FS1238, FS1246

1027 T Church, EiC, at paragraphs 31.34 — 31.35

1028 ibid at paragraph 31.34.

1029 Ibid at [31.35].

extend up the lower slopes of Ben Lomond."[1030] He supported Ms Spijkerbosch's submission to keep the building heights lower on the western side of Gorge Road.[1031]

1498. Mr Church explained that in his view the PDP represents a "significant change to the character in this section of the gorge and it will need to be developed in a way that the community can readily adapt to and accept this change. Provisions need to ensure sufficient quality design to appropriately integrate with the gorge context and, where possible, maintain and enhance the experience of living and working in Queenstown."[1032]

1499. Mr Church also supported the provision for a stepped frontage to enable simple building forms while creating a more comfortable human scale at street level and managing other effects along the Gorge Road corridor.[1033] He referenced the fact that Auckland City have introduced a similar provision into its mixed use zone, creating a podium-type development.[1034]

1500. Ms Bowbyes considered Mr Church's views, however she noted the importance of balancing these considerations against other matters.[1035] Taking the concerns of Mr Church, Ms Bowbyes drafted a rule that she believed responded to these concerns, by including them as matters to be considered in the consenting process.[1036]

1501. Ms Bowbyes considered the Gorge Road BMUZ to provide a significant opportunity for brownfield development within walking distance of the Queenstown town centre, which is the District's principal hub for commercial activities, employment, and tourism.[1037] She referenced the Section 32 Evaluation Report which states the additional residential capacity enabled within the BMUZ would assist with supplying more land zoned for residential uses.[1038] Building heights would be an important component in considering the capacity of the zone, given that most residential activities would be provided for above street level.

1502. Ms Bowbyes stated her view that "the restricted discretionary status of buildings between 12m and 20m and the accompanying policy framework, which sets a high expectation for the design of buildings, would achieve the 'strict design rules' that the submitter seeks."[1039] Height recession planes would apply for sites adjoining residential-zoned properties, limiting the ability of sites adjoining a residential zone to be built above the permitted 12m threshold.

1503. For these reasons, she did not consider it necessary to apply a different height range to the west of Gorge Road, as suggested by Mr Church to be 12m-15m as RD status. Any proposal for development above 12m would require a resource consent, which would require consideration of the matters of discretion as part of the decision-making process.

1504. The matters of discretion proposed by Ms Bowbyes to address the urban design matters raised by Mr Church, were:

1030 ibid at [31.37].
1031 Ibid at [31.36].
1032 Ibid at [31.22].
1033 Ibid at [33.2].
1034 Ibid at [33.2]
1035 A Bowbyes Section 42A Report at [11.8].
1036 Ibid at [11.20].
1037 Ibid at [11.9].
1038 Ibid at [11.10].
1039 ibid16 at [11.13].

a. *the design and quality of the building, including the use of articulated facades, active street frontages and the treatment of corner sites*
b. *modulated roof forms, including screening of plant and services*
c. *material use and quality*
d. *the avoidance of large monolithic buildings*
e. *the impact on the street scene*
f. *privacy and outlook for residential uses*
g. *sunlight access to adjoining residential zoned land and/or public space*
h. *Crime Prevention Through Environmental Design (CPTED) considerations*
i. *where appropriate, the integration of Horne Creek into the development and landscaping and*
j. *facilitation of the provision of residential activities.*

1505. In addition to these matters, Policy 16.2.2.7 also would provide guidance as to when buildings between 12-20m would be appropriate in the BMUZ.

1506. It is clear to us that Ms Bowbyes has considered this rule in great detail, with regard to its application in Gorge Road. In addition to considering the expert opinion of Mr Church, Ms Bowbyes has balanced this with the relevant higher order goals, objectives and policies of the Strategic Directions Chapter and the Urban Development Chapter. Her views are recorded above in the discussion pertaining to Policy 16.2.2.7 and we do not seek to repeat them here.

1507. In addition to rewording Policy 16.2.2.7, Ms Bowbyes recommended adding additional matters of discretion which will give effect to the changes at policy level.[1040] She also recommended accepting Ms Spijkerbosch's submission in part, by including a rule requiring stepped frontage of buildings from the fourth storey and above in Gorge Road.[1041]

1508. However with regard to the request to taper the heights to 12m at the Gorge Road frontage, Ms Bowbyes did not consider this necessary.[1042] The evidence of Mr Church also supported the retention of the 12m-20m restricted discretionary height range on the east of Gorge Road[1043]; and in practice anything above 20m would require resource consent for a non-complying activity.

1509. With regard to Anderson Heights, Mr Church supported the permitted 12m height limit, within a generally smaller scale context and a more open, rolling landscape. He did not consider heights up to 20m would be appropriate in that context.[1044] We think the context of Anderson Heights is very different to Gorge Road, and as such we agree with and adopt Mr Church's views to retain the 12m maximum permitted height, with anything above this attracting the status of non-complying.

1510. We note the detailed assessment completed by Mr Church in response to questions posed by Ms Bowbyes regarding building heights. This assessment, and indeed the further discussion completed by Ms Bowbyes, was very informative for us and provided an efficient level of detail to enable us to consider the issues and make our recommendation.

1040 A Bowbyes Section 42A Report at [11.19].
1041 Ibid at [11.20].
1042 Ibid at [11.21].
1043 T Church, EiC at [2.27].
1044 Ibid at [32.6]

1511. We agree with Ms Bowbyes' recommended additional discretion matters and the additional provision requiring steeped frontage in Gorge Road (recommended Rule 16.5.9.3) and the recommendation to retain the maximum building heights as notified. Increasing the height limit from the ODP limits will increase the development capacity of sites within the zone, which, in turn, will enhance the zone's viability. We are satisfied the enhanced building height opportunity in Queenstown reflects the ability of Gorge Road to absorb taller built forms, taking into account Mr Church's expert opinion.

1512. We consider it appropriate that the matters for discretion will act to limit the impact of any buildings between 12m and 20m, and ensure high-quality design which, we think, will be more effective in implementing the relevant objectives and policies. As such, we recommend adopting the wording as set out above for Rule 16.5.8.

1513. We did however request that Ms Bowbyes consider amending redraft Rule 16.5.8 to make the format of the rule consistent with that of Rules 12.5.9 and 12.5.10 of the Queenstown Town Centre Chapter. Ms Bowbyes did not think this was necessary, however we disagree.[1045] We recommend rewording this rule and separating it into two separate standards of differing activity status, which is not only consistent with Chapter 12, but also easier for the reader to understand.

1514. Taking account of that, and including our standard amendments, we recommend Rule 16.5.7 be split into Rules 16.5.7 and Rule 16.5.8, with the wording set out below:

[1045] Ms Bowbyes Right of Reply at [11.2].

16.5.7	**Discretionary Building Height (Queenstown Only)** In Queenstown the discretionary maximum building height shall be 12 m ~~Discretion is restricted to consideration of all of the following:~~ ~~a. the design and quality of the building, including the use of articulated facades, active street frontages;~~ ~~b. modulated roof forms, including screening of plant and services~~ ~~c. material use and quality;~~ ~~d. the avoidance of large monolithic buildings; and~~ ~~e. the impact on the street scene~~	**RD** Discretion is restricted to: a. the design and quality of the building, including the use of articulated facades, active street frontages and the treatment of corner sites; b. modulated roof forms, including screening of plant and services c. material use and quality; d. the avoidance of large monolithic buildings; ~~and~~ e. the impact on the street scene~~.~~; f. privacy and outlook for residential uses g. sunlight access to adjoining residential zoned land and/or public space; h. Crime Prevention Through Environmental Design (CPTED) considerations; i. where appropriate, the integration of Horne Creek into the development and landscaping; and **j.** facilitation of the provision of residential activities.
16.5.8	**Maximum building height** 16.5.8.1 The absolute maximum building height shall be: a. Queenstown - 20m b. Wanaka – 12m 16.5.8.2 Any fourth storey (excluding basements) and above shall be set back a minimum of 3m from the building frontage.	**NC**

46.8. 16.5.8 Noise

1515. Notified Rule 16.5.10 set out the noise thresholds for activities within the BMUZ.

1516. There were no submissions received regarding this rule. Ms Bowbyes recommended a minor change to clarify the provision.

1517. We recommend further amendment for clarification to the "*note*" by including the words "*in this zone*" to demonstrate that the note relates to sound from activities in this zone. We recommend these changes be made under Clause 16(2) of the First Schedule, and the rule be consequently renumbered, so it reads as follows:

16.5.~~8~~ 9	**Noise** *16.5.~~8~~9.1 Sound* from activities shall not exceed the following noise limits at any point within **any other site in this zone**:* a. Daytime (0800 to 2200hrs) **60 dB $L_{Aeq(15\ min)}$** b. night-time (2200 to 0800hrs) **50 dB $L_{Aeq(15\ min)}$** c. night-time (2200 to 0800hrs) **75 dB L_{AFmax}** *measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008 Exemptions: a. The noise limits in rule 16.5.8.1 shall not apply to construction sound which shall be assessed in accordance and comply with NZS 6803:1999. Note: Sound from activities in this zone which is received in another zone shall comply with the noise limits set out in Chapter 36 for that zone.	**NC**

46.9. 16.5.9 Glare

1518. There were no submissions received on this rule, however much like the other Chapters in this Stream, the rule generated discussion in relation to the effects of lighting on the night sky. Ms Bowbyes considered that the reference to limiting the effects on the night sky provided too much discretion and subjectivity when considering whether an activity is compliant. She further noted, the rule is considered *ultra vires* and should therefore be deleted. However as there were no submissions received she did not consider there was scope to make this recommendation.[1046]

1519. We asked Ms Bowbyes to reconsider this position, having regard to submissions that specifically referred to the effects of lighting on views of the night sky. Ms Bowbyes considered two submissions, being 568 and 340, and concluded that these did not provide scope to delete the phrase.[1047]

1520. This was further considered in the Council's closing submissions, where Ms Scott submitted that uncertainty makes the standard *ultra vires*, and therefore should be deleted.[1048]

1521. We however consider there is another option and that is to amend the wording to be consistent with Policy 16.2.1.7, which seeks to mitigate any adverse effects on views of the night sky by directing the lighting downward.

1046 A Bowbyes, Section 42A Report, Appendix 1 at p16-11.

1047 A Bowbyes, Reply Statement at [9.1-9.5].

1048 Legal Submissions (Right of Reply) of Ms Scott dated 13 December 2016 at [3.7-3.8]

1522. This is discussed further in Chapter 12[1049], and we recommend adopting the same approach in this chapter to maintain consistency across the stream. Furthermore, we think this phrase and is more certain although we accept it remains subjective.

1523. We prefer amending the wording to Ms Scott's suggestion to delete the phrase, as this rule will support the implementation of Policy 16.2.1.7.

1524. Consequently, we recommend Rule 16.5.9 be renumbered and amended under Clause 16(2) of the First Schedule so it reads as follows:

16.5.~~9~~10	**Glare** 16.5.~~9~~*10*.1 All exterior lighting installed on sites or buildings shall be directed away from adjacent sites, roads and public places, except footpath or pedestrian link amenity lighting, and directed downward so as to limit the effects on views of the night sky. 16.5.~~9~~*10*.2 No activity shall result in a greater than 10 lux spill (horizontal or vertical) of light onto any adjoining property within the Business Mixed Use Zone, measured at any point inside the boundary of any adjoining property. 16.5.~~9~~*10*.3 No activity shall result in a greater than 3 lux spill (horizontal or vertical) of light onto any adjoining property which is in a Residential Zone measured at any point more than 2m inside the boundary of the adjoining property. 16.5.~~9~~*10*.4 External building materials shall either: a. Be coated in colours which have a reflectance value of between 0 and 36%; or b. Consist of unpainted wood (including sealed or stained wood), unpainted stone, unpainted concrete, or copper; Except that: • Architectural features, including doors and window frames, may be any colour; and roof colours shall have a reflectance value of between 0 and 20%.	**NC**

46.10. New Standard to Apply at Frankton North

1525. Associated with their recommendation to rezone part of the land at Frankton North as BMUZ, the Stream 13 Hearing Panel has recommended a new standard the same as that recommended for the MDRZ to deal traffic access and landscaping along State Highway 6. We agree with that Panel's reasoning and recommend the following standard be included as Rule 16.5.11:

[1049] For discussion regarding scope for amendment and reasoning see Chapter 12, Rule 12.5.14 Glare

16.5.11	**Development on land north of State Highway 6 between Hansen Road and** Ferry Hill Drive shall provide the following: 16.5.13.1 Transport, parking and access design that: Ensures connections to the State Highway network are only via Hansen Road, the Hawthorne Drive/SH6 Roundabout, and/or Ferry Hill Drive There is no new vehicular access to the State Highway Network. 16.5.13.2 Where a site adjoins State Highway 6, landscaping provides a planting buffer fronting State Highway 6 as follows: a. A density of two plants per square metre located within 4m of the State Highway 6 road boundary selected from the following species: i. Ribbonwood (Plagianthus regius) ii. Corokia cotoneaster iii. Pittosporum tenuifolium iv. Grisilinea v. Coprosma propinqua vi. Olearia dartonii b. Once planted these plants are to be maintained in perpetuity.	NC

46.11. 16.6 Rules – Non-notification of Applications

1526. There were several submissions received in support of this section[1050]. We recommend the section be adopted as notified.

47. FURTHER RECOMMENDATIONS OF THE PANEL

1527. We have included this section in order to identify matters that we think warrant consideration but are out of scope.

47.1. Redraft Rule 16.5.11 Glare

1528. As identified earlier, Redraft Rule 16.5.10 (Notified Rule 16.5.9) includes the requirement that:

16.5.10.4 External building materials shall either:
a. be coated in colours which have a reflectance value of between 0 and 36% or
b. consist of unpainted wood (including sealed or stained wood), unpainted stone, unpainted concrete, or copper.

Except that:
a. architectural features, including doors and window frames, may be any colour; and

[1050] Submissions 30, 321 (supported by FS1059), 392 (supported by FS1288, FS1059), 556, 634

b. Roof colours shall have a reflectance value of between 0 and 20%.

1529. We agree with the view of Ms Bowbyes. This rule as notified is very onerous and the same provisions (12.5.14.4 and 13.5.11.4) have been removed in the decision report for Chapter 12 and Chapter 13.

1530. There was no submission relating to this, however we recommend removing the requirement in Rule 16.5.11.4 in the interests of consistency and in order to make the rule more workable. As it is, and based on the discussion in Chapter 12 and Ms Bowbyes' view, it would be very onerous on any development in the MBUZ.

47.2. Comprehensive Development

1531. We must also make mention of Comprehensive Development in the BMUZ. It was pointed out to us by both Ms Bowbyes and Mr Church that the notified BMUZ does not include a requirement for development of large sites to provide a Comprehensive Development Plan.[1051]

1532. Ms Bowbyes was of the opinion that introducing this requirement would give effect to Strategic Direction Policy 3.2.3.1.2 which seeks that development on large sites is undertaken in a comprehensive manner.[1052] Ms Bowbyes mentioned that a rule akin to Rule 12.4.6.2 in the QTCZ which she thinks would be an appropriate addition to this zone.[1053]

1533. Mr Church recommended that the Council prepare non-statutory design guidance relating to the anticipated design outcomes and common mitigation approaches between uses to give more direction and certainty to applicants and Plan administrators.[1054]

1534. We agree with these comments, and recommend to the Council that they consider, in particular, Mr Church's suggestion of Design Guidelines for the BMUZ.

48. RECOMMENDATIONS TO STREAM 10 PANEL

1535. As discussed above, with reference to Rule 16.4.6, Bunnings[1055] and Fletcher Distribution Ltd (trading as Placemakers) and Mico Ltd (Placemakers and Mico)[1056] highlighted the fact that this chapter referred to "trade supplier" however notified Chapter 2: Definitions did not provide a definition for this activity. Placemakers and Mico summarised the issue clearly in their submission, stating that:

Given building suppliers are typically a subset of trade suppliers, it would be helpful to provide a definition for Trade Suppliers to create some distinction between the uses and to reduce confusion within the Plan.

1536. In order to implement notified Rule 16.4.6 with efficiency and certainty, Ms Bowbyes recommended this term be defined. We agree with that recommendation.

1537. Placemakers and Mico included a suggested definition in their submission for consideration. In considering this suggested definition, Ms Bowbyes undertook a search of the notified Plan

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1051 A Bowbyes, Section 42A Report at [13.14] and T Church, EiC at [29.10].
1052 A Bowbyes, Section 42A Report at [13.15].
1053 Ibid
1054 T Church, EiC at [29.13].
1055 Submission 746
1056 Submission 344, supported by FS1164, opposed by FS1314.

to identify where these terms arise.[1057] She explained in her Section 42A Report that the term Building Supplier does not occur in any notified Chapter (aside from notified Chapter 2: Definitions), and the term Trade Supplier only occurs in the BMUZ.[1058]

1538. Ms Bowbyes also provided her view that the list of activities included in the suggested definition were appropriate.[1059]

1539. Ms Bowbyes noted that the definition would result in Building Suppliers becoming a subset of Trade Suppliers, meaning that the activities listed within the Building Suppliers definition would also be subject to notified Rule 16.4.6.[1060] This is considered appropriate in the context of the BMUZ as, the activities listed in the Building Suppliers definition warrant the restricted discretionary activity status prescribed by notified Rule 16.4.6.

1540. We therefore recommend the relief sought by submission 344.11 be accepted, and the following definition is included:

Trade Supplier
means a business engaged in sales to businesses and institutional customers and may also include sales to the general public, and wholly consists of suppliers of goods in one or more of the following categories:

a. *automotive and marine suppliers*
b. *building suppliers*
c. *catering equipment suppliers*
d. *farming and agricultural suppliers*
e. *garden and patio suppliers*
f. *hire services (except hire or loan of books, video, DVD and other similar home entertainment items)*
g. *industrial clothing and safety equipment suppliers and*
h. *office furniture, equipment and systems suppliers.*

1541. Submissions[1061] were received requesting the removal of "*Three Parks and Industrial B Zones*" from the Building Supplier definition.

1542. Placemakers and Mico submitted that Placemakers and Mico would fit within the notified definition of Building Supplier, however as notified, the definition was limited in its application. As this could result in inconsistencies with the application of the term "*building suppliers*", we consider this relief is appropriate and necessary to reduce the scope for varied interpretation.

1543. Therefore we recommend accepting the Placemakers and Mico submission, and the Bunnings submission insofar as it requested deleting the reference to Three Parks and Industrial B Zones. Bunnings also requested the addition of "*garden and patio suppliers*" to be added to the list of goods sold under the definition of building supplier. This has been included under the definition of "*trade supplier*" as noted above, and therefore we do not consider it appropriate to duplicate, and recommend this element of the relief is rejected.

1544. The definition recommended reads as follows:

1057 A Bowbyes, Section 42A Report at [12.13].
1058 ibid
1059 ibid.
1060 ibid.
1061 Submission Point 344.10 supported by FS1314.9 and Submission Point 746.5

Building Supplier

Means a business primarily engaged in selling goods for consumption or use in the construction, modification, cladding, fixed decoration or outfitting of buildings and without limiting the generality of this term, includes: glaziers; locksmiths; and suppliers of:

a. awnings and window coverings
b. bathroom, toilet and sauna installations
c. electrical materials and plumbing supplies
d. heating, cooling and ventilation installations
e. kitchen and laundry installations, excluding standalone appliances
f. paint, varnish and wall coverings
g. permanent floor coverings
h. power tools and equipment
i. safes and security installations and
j. timber and building materials

1545. We consider that the amendments to the above definitions will improve the clarity and consistency of the Plan.

1546. Consequently, with regard to the definitions discussed above, we recommend that the Stream 10 Hearings Panel:

a. Accept the recommended definitions as set out in Appendix 8; and
b. The submissions be accepted, accepted in part, or rejected as set out in Appendix 9.

49. CONCLUSION

1547. For the reasons advanced through this report, we conclude that the recommended amendments support the zone purpose and enable the objectives of the chapter to be achieved and are more effective and efficient than the notified chapter and further changes sought by submitters that we recommend rejecting.

1548. We consider that the amendments will improve the clarity and consistency of the Plan; contribute towards achieving the objectives of the District Plan and Strategic Direction goals in an effective and efficient manner and give effect to the purpose and principles of the RMA.

1549. Consequently, we recommend that:

a. Chapter 16 be adopted as set out in Appendix 5;
b. The submissions be accepted, accepted in part, or rejected as set out in Appendix 7;
c. The Council initiate a variation to amend recommended Rule 16.5.11; and
d. The Council give consideration to Mr Church's recommended Design Guidance for the BMUZ.

27 SUBDIVISION & DEVELOPMENT

QUEENSTOWN LAKES DISTRICT COUNCIL

27.1 Purpose

Subdivision and the resultant development enables the creation of new housing and land use opportunities, and is a key driver of the District's economy. The council will support subdivision that is well designed, is located in the appropriate locations anticipated by the District Plan with the appropriate capacity for servicing and integrated transportation.

All subdivision requires resource consent unless specified as a permitted activity. It is recognised that subdivisions will have a variable nature and scale with different issues to address. Good subdivision design, servicing and the appropriate management of natural hazards are underpinned by a shared objective to create healthy, attractive and safe places.

Good subdivision can help to create neighbourhoods and places that people want to live or work within, and should also result in more environmentally responsive development that reduces car use, encourages walking and cycling, and maximises access to sunlight.

Good subdivision design will be encouraged by the use of the QLDC Subdivision Design Guidelines 2015. The QLDC Subdivision Design Guidelines includes subdivision and urban design principles and outcomes that give effect to the objectives and policies of the Subdivision and Strategic Directions Chapters, in both designing and assessing subdivision proposals in urban areas. Proposals at odds with this document are not likely to be consistent with the policies of the Subdivision and Strategic Directions chapters, and therefore, may not achieve the purpose of the Act. Some aspects of the Subdivision Design Guidelines may be relevant to rural subdivisions.

The QLDC Land Development and Subdivision Code of Practice provides assistance in the design of subdivision and development infrastructure in the District and should also be considered by subdivision applicants.

The Council uses its Development Contributions Policy set out in its 10 Year Plan to fix the contributions payable by subdividers for infrastructure upgrades. That policy operates in parallel with the provisions of this chapter and should also be referred to by subdivision consent applicants.

The subdivision chapter is the primary method to ensure that the District's neighbourhoods are quality environments that take into account the character of local places and communities.

27.2 Objectives and Policies - District Wide

27.2.1 Objective - Subdivision that will enable quality environments to ensure the District is a desirable place to live, visit, work and play.

Policies

27.2.1.1 Require subdivision infrastructure to be constructed and designed so that it is fit for purpose, while recognising opportunities for innovative design.

27.2.1.2 Enable urban subdivision that is consistent with the QLDC Subdivision Design Guidelines 2015, recognising that good subdivision design responds to the neighbourhood context and the opportunities and constraints of the application site.

27.2.1.3 Require that allotments are a suitable size and shape, and are able to be serviced and developed for the anticipated land use under the applicable zone provisions.

27.2.1.4 Discourage non-compliance with minimum allotment sizes. However, where minimum allotment sizes are not achieved in urban areas, consideration will be given to whether any adverse effects are mitigated or compensated by providing:

a. desirable urban design outcomes;

b. greater efficiency in the development and use of the land resource;

c. affordable or community housing.

27.2.1.5 Recognise that there is an expectation by future landowners that the key effects of and resources required by anticipated land uses will have been resolved through the subdivision approval process.

27.2.1.6 Ensure the requirements of other relevant agencies are fully integrated into the subdivision development process.

27.2.1.7 Recognise there will be certain subdivision activities, such as boundary adjustments, that will not require the provision of services.

27.2.2 Objective - Subdivision design achieves benefits for the subdivider, future residents and the community.

Policies

27.2.2.1 Ensure subdivision design provides a high level of amenity for future residents by aligning roads and allotments to maximise sunlight access.

27.2.2.2 Ensure subdivision design maximises the opportunity for buildings in urban areas to front the road.

27.2.2.3 Locate open spaces and reserves in appropriate locations having regard to topography, accessibility, use and ease of maintenance, while ensuring these areas are a practicable size for their intended use.

27.2.2.4 Urban subdivision shall seek to provide for good and integrated connections and accessibility to:

a. existing and planned areas of employment;

b. community facilities;

c. services;

d. trails;

e. public transport; and

f. existing and planned adjoining neighbourhoods, both within and adjoining the subdivision area.

27.2.2.5 Urban subdivision design will integrate neighbourhoods by creating and utilising connections that are easy and safe to use for pedestrians and cyclists and that reduce vehicle dependence within the subdivision.

27.2.2.6 Encourage innovative subdivision design that responds to the local context, climate, landforms and opportunities for views or shelter.

27.2.2.7 Promote informal surveillance for safety in urban areas through overlooking of open spaces and transport corridors from adjacent sites and dwellings and by effective lighting.

27.2.2.8 Manage subdivision within the National Grid Corridor or near to electricity distribution lines to facilitate good amenity and urban design outcomes, while minimising potential adverse effects (including reverse sensitivity effects) on the National Grid and avoiding, remedying or mitigating potential adverse effects (including reverse sensitivity effects) on electricity distribution lines.

27.2.3 Objective - The potential of small scale and infill subdivision in urban areas is recognised and provided for while acknowledging their design limitations.

Policies

27.2.3.1 Accept that small scale subdivision in urban areas, (for example subdivision involving the creation of fewer than four allotments), and infill subdivision where the subdivision involves established buildings, might have limited opportunities to give effect to policies 27.2.2.4, 27.2.2.5 and 27.2.2.7.

27.2.3.2 While acknowledging potential limitations, encourage small scale and infill subdivision in urban areas to:

a. ensure lots are shaped and sized to allow adequate sunlight to living and outdoor spaces, and provide adequate on-site amenity and privacy;

b. where possible, locate lots so that they over-look and front road and open spaces;

c. avoid the creation of multiple rear sites, except where avoidance is not practicable;

d. where buildings are constructed with the intent of a future subdivision, encourage site and development design to maintain, create and enhance positive visual coherence of the development with the surrounding neighbourhood;

e. identify and create opportunities for connections to services and facilities in the neighbourhood.

27.2.4 Objective - Natural features, indigenous biodiversity and heritage values are identified, incorporated and enhanced within subdivision design.

Policies

27.2.4.1 Incorporate existing and planned waterways and vegetation into the design of subdivision, transport corridors and open spaces where that will maintain or enhance biodiversity, riparian and amenity values.

27.2.4.2 Ensure that subdivision and changes to the use of land that result from subdivision do not reduce the values of heritage features and other protected items scheduled or identified in the District Plan.

27.2.4.3 Encourage subdivision design to protect and incorporate archaeological sites or cultural features, recognising these features can contribute to and create a sense of place. Where applicable, have regard to Maori culture and traditions in relation to ancestral lands, water, sites, wāhi tapu and other taonga.

27.2.4.4 Encourage initiatives to protect and enhance landscape, vegetation and indigenous biodiversity by having regard to:

a. whether any landscape features or vegetation are of a sufficient value that they should be retained and the proposed means of protection;

b. where a reserve is to be set aside to provide protection to vegetation and landscape features, whether the value of the land so reserved should be off-set against the development contribution to be paid for open space and recreation purposes.

27.2.5 Objective - Infrastructure and services are provided to new subdivisions and developments.

Transport, Access and Roads

Policies

27.2.5.1 Integrate subdivision roading with the existing road networks in a safe and efficient manner that reflects expected traffic levels and the provision for safe and convenient walking and cycling.

For the purposes of this policy, reference to 'expected traffic levels' refers to those traffic levels anticipated as a result of the zoning of the area in the District Plan.

27.2.5.2 Ensure safe and efficient pedestrian, cycle and vehicular access is provided to all lots created by subdivision and to all developments.

27.2.5.3 Provide linkages to public transport networks, and to trail, walking and cycling networks, where useful linkages can be developed.

27.2.5.4 Ensure the physical and visual effects of subdivision and roading are minimised by utilising existing topographical features.

27.2.5.5 Ensure appropriate design and amenity associated with roading, vehicle access ways, trails and trail connections, walkways and cycle ways are provided for within subdivisions by having regard to:

a. the location, alignment, gradients and pattern of roading, vehicle parking, service lanes, access to lots, trails, walkways and cycle ways, and their safety and efficiency;

b. the number, location, provision and gradients of access ways and crossings from roads to lots for vehicles, cycles and pedestrians, and their safety and efficiency;

c. the standard of construction and formation of roads, private access ways, vehicle crossings, service lanes, walkways, cycle ways and trails;

d. the provision and vesting of corner splays or rounding at road intersections;

e. the provision for and standard of street lighting, having particular regard to siting and location, the provision for public safety and the avoidance of upward light spill adversely affecting views of the night sky;

f. the provision of appropriate tree planting within roads;

g. any requirements for widening, formation or upgrading of existing roads;

h. any provisions relating to access for future subdivision on adjoining land;

i. the provision and location of public transport routes and bus shelters.

Water supply, stormwater, wastewater

27.2.5.6 All new lots shall be provided with connections to a reticulated water supply, stormwater disposal and/or sewage treatment and disposal system, where such systems are available or should be provided for.

Water

27.2.5.7 Ensure water supplies are of a sufficient capacity, including fire fighting requirements, and of a potable standard, for the anticipated land uses on each lot or development.

27.2.5.8 Encourage the efficient and sustainable use of potable water by acknowledging that the Council's reticulated potable water supply may be restricted to provide primarily for households' living and sanitation needs and that water supply for activities such as irrigation and gardening may be expected to be obtained from other sources.

27.2.5.9 Encourage initiatives to reduce water demand and water use, such as roof rain water capture and use and greywater recycling.

27.2.5.10 Ensure appropriate water supply, design and installation by having regard to:

a. the availability, quantity, quality and security of the supply of water to the lots being created;

b. water supplies for fire fighting purposes;

c. the standard of water supply systems installed in subdivisions, and the adequacy of existing supply systems outside the subdivision;

d. any initiatives proposed to reduce water demand and water use.

Stormwater

27.2.5.11 Ensure appropriate stormwater design and management by having regard to:

a. any viable alternative designs for stormwater management that minimise run-off and recognises stormwater as a resource through re-use in open space and landscape areas;

b. the capacity of existing and proposed stormwater systems;

c. the method, design and construction of the stormwater collection, reticulation and disposal systems, including connections to public reticulated stormwater systems;

d. the location, scale and construction of stormwater infrastructure;

e. the effectiveness of any methods proposed for the collection, reticulation and disposal of stormwater run-off, including opportunities to maintain and enhance water quality through the control of water-borne contaminants, litter and sediments, and the control of peak flow.

27.2.5.12 Encourage subdivision design that includes the joint use of stormwater and flood management networks with open spaces and pedestrian/cycling transport corridors and recreational opportunities where these opportunities arise and will maintain the natural character and ecological values of wetlands and waterways.

Wastewater

27.2.5.13 Treat and dispose of sewage in a manner that:

a. maintain public health;

b. avoids adverse effects on the environment in the first instance; and

c. where adverse effects on the environment cannot be reasonably avoided, mitigates those effects to the extent practicable.

27.2.5.14 Ensure appropriate sewage treatment and disposal by having regard to:

a. the method of sewage treatment and disposal;

b. the capacity of, and impacts on, the existing reticulated sewage treatment and disposal system;

c. the location, capacity, construction and environmental effects of the proposed sewage treatment and disposal system.

27.2.5.15 Ensure that the design and provision of any necessary infrastructure at the time of subdivision takes into account the requirements of future development on land in the vicinity.

Energy Supply and Telecommunications

27.2.5.16 Ensure adequate provision is made for the supply and installation of reticulated energy, including street lighting, and communication facilities for the anticipated land uses while:

a. providing flexibility to cater for advances in telecommunication and computer media technology, particularly in remote locations;

b. ensure the method of reticulation is appropriate for the visual amenity and landscape values of the area by generally requiring services are underground, and in the context of rural environments where this may not be practicable, infrastructure is sited in a manner that minimises visual effects on the receiving environment;

c. generally require connections to electricity supply and telecommunications systems to the boundary of the net area of the lot, other than lots for access, roads, utilities and reserves.

Easements

27.2.5.17 Ensure that services, shared access and public access is identified and managed by the appropriate easement provisions.

27.2.5.18 Ensure that easements are of an appropriate size, location and length for the intended use of both the land and easement.

27.2.6 Objective - Esplanades created where opportunities arise.

Policies

27.2.6.1 Create esplanade reserves or strips where they would provide nature conservation, natural character, natural hazard mitigation, infrastructural or recreational benefits. In particular, Council will encourage esplanades where they:

a. are important for public access or recreation, would link with existing or planned trails, walkways or cycleways, or would create an opportunity for public access;

b. have high actual or potential value with regard to the maintenance of indigenous biodiversity;

c. comprise significant indigenous vegetation or significant habitats of indigenous fauna;

d. are considered to comprise an integral part of an outstanding natural feature or outstanding natural landscape;

e. would benefit from protection, in order to safeguard the life supporting capacity of the adjacent lake and river;

f. would not put an inappropriate burden on Council, in terms of future maintenance costs or issues relating to natural hazards affecting the land.

27.2.6.2 Use opportunities through the subdivision process to improve the level of protection for the natural character and nature conservation values of lakes and rivers, as provided for in Section 230 of the Act.

27.2.7 Objective - Boundary adjustments, cross-lease and unit title subdivision are provided for.

Policies

27.2.7.1 Enable cross-lease and unit title subdivision of existing units in urban areas without the need to obtain resource consent where there is no potential for adverse effects associated with the change in boundary location.

27.2.7.2 Ensure boundary adjustment, cross-lease and unit title subdivisions are appropriate with regard to:

a. the location of the proposed boundaries;

b. in rural areas, the location of boundaries with regard to approved residential building platforms, existing buildings, and vegetation patterns and existing or proposed accesses;

c. boundary treatment;

d. the location and terms of existing or proposed easements or other arrangements for access and services.

27.3 Location-specific objectives and policies

In addition to the district wide objectives and policies in Part 27.2, the following objectives and policies relate to subdivision in specific locations.

Peninsula Bay

27.3.1 Objective - Ensure effective public access is provided throughout the Peninsula Bay land.

Policies

27.3.1.1 Ensure that before any subdivision or development occurs within the Peninsula Bay Lower Density Suburban Residential Zone, a subdivision consent has been approved confirming easements for the purposes of public access through the Open Space Zone.

27.3.1.2 Within the Peninsula Bay site, to ensure that public access is established through the vesting of reserves and establishment of easements prior to any further subdivision.

27.3.1.3 Ensure that easements for the purposes of public access are of an appropriate size, location and length to provide a high quality, recreational resource, with excellent linkages, and opportunities for different community groups.

Kirimoko

27.3.2 Objective - A liveable urban environment that achieves best practice in urban design; the protection and incorporation of landscape and environmental features into the design of the area; and high quality built form.

Policies

27.3.2.1 Protect the landscape quality and visual amenity of the Kirimoko Block and preserve sightlines to local natural landforms.

27.3.2.2 Protect the natural topography of the Kirimoko Block and incorporate existing environmental features into the design of the site.

27.3.2.3 Ensure that urban development of the site is restricted to lower areas and areas of concealed topography, such as gullies and that visually sensitive areas such as the spurs are left undeveloped.

27.3.2.4 Ensure the provision of open space and community facilities that are suitable for the whole community and that are located in safe and accessible areas.

27.3.2.5 Develop an interconnected network of streets, footpaths, walkways and open space linkages that facilitate a safe, attractive and pleasant walking, cycling and driving environment.

27.3.2.6 Provide for road and walkway linkages to neighbouring developments.

27.3.2.7 Ensure that all roads are designed and located to minimise the need for extensive cut and fill and to protect the natural topographical layout and features of the site.

27.3.2.8 Minimise disturbance of existing native plant remnants and enhance areas of native vegetation by providing linkages to other open space areas and to areas of ecological value.

27.3.2.9 Design for stormwater management that minimises run-off and recognises stormwater as a resource through re-use in open space and landscape areas.

27.3.2.10 Require the roading network within the Kirimoko Block to be planted with appropriate trees to create a green living environment appropriate to the areas.

Large Lot Residential A Zone between Studholme Road and Meadowstone Drive.

27.3.3 Objective - Landscape and amenity values of the zone's low density character and transition with rural areas be recognised and protected.

Policies

27.3.3.1 Have regard to the impact of development on landscape values of the neighbouring rural areas and features of these areas, with regard to minimising the prominence of housing on ridgelines overlooking the Wanaka township.

27.3.3.2 Subdivision and development within land located on the northern side of Studholme Road shall have regard to the adverse effects of development and associated earthworks on slopes, ridges and skylines.

Bob's Cove Rural Residential Zone (excluding sub-zone)

27.3.4 Objective - The special character of the Bob's Cove Rural Residential Zone is recognised and provided for.

Policies

27.3.4.1 In order to maintain the rural character of the zone, any required street lighting shall be low in height from the ground, of reduced lux spill and directed downwards to avoid adverse effects on views of the night sky.

Ferry Hill Rural Residential Sub-Zone

27.7.6 Objective - Maintain and enhance visual amenity values and landscape character within and around the Ferry Hill Rural Residential Sub-Zone.

Policies

27.7.6.1 At the time of considering a subdivision application, the following matters shall be had particular regard to:

a. The subdivision design has had regard to minimising the number of accesses to roads;

b. the location and design of on-site vehicular access avoids or mitigates adverse effects on the landscape and visual amenity values by following the natural form of the land to minimise earthworks, providing common driveways and by ensuring that appropriate landscape treatment is an integral component when constructing such access;

c. the extent to which plantings with a predominance of indigenous species enhances the naturalness of the escarpment within Lots 18 and 19 as shown on the Concept Development Plan for the Ferry Hill Rural Residential sub-zone;

d. The extent to which the species, location, density, and maturity of the planting is such that residential development in the Ferry Hill Rural Residential sub-zone will be successfully screened from views obtained when travelling along Tucker Beach Road[1].

Wyuna Station Rural Lifestyle Zone

27.3.5 Objective - Provision for a deferred rural lifestyle zone on the terrace to the east of, and immediately adjoining, the Glenorchy Township.

Policies

27.3.5.1 Prohibit or defer development of the zone until such a time that:

a. the zone can be serviced by a reticulated wastewater disposal scheme within the property that services both the township and proposed zone. This may include the provision of land within the zone for such purpose; or

b. the zone can be serviced by a reticulated wastewater disposal scheme located outside of the zone that has capacity to service both the township and proposed zone; or

c. the zone can be serviced by an on-site (individual or communal) wastewater disposal scheme no sooner than two years from the zone becoming operative on the condition that should a reticulated scheme referred to above become available and have capacity within the next three years then all lots within the zone shall be required to connect to that reticulated scheme.

27.3.6 Objective - Subject to Objective 27.3.5, rural living development is enabled in a way that maintains the visual amenity values that are experienced from the Glenorchy Township, Oban Street and the Glenorchy-Paradise Road.

Policies

27.3.6.1 The subdivision design, identification of building platforms and associated mitigation measures shall ensure that built form and associated activities within the zone are reasonably inconspicuous when viewed from Glenorchy Township, Oban Street or the Glenorchy-Paradise Road. Measures to achieve this include:

a. prohibiting development over the sensitive areas of the zone via building restriction areas;

b. appropriately locating buildings within the zone, including restrictions on future building bulk;

c. using excavation of the eastern part of the terrace to form appropriate building platforms;

d. using naturalistic mounding of the western part of the terrace to assist visual screening of development;

[1]. Greyed out text indicates the provision is subject to variation and is therefore not part of the Hearing Panel's recommendations.

e. using native vegetation to assist visual screening of development;

f. the maximum height of buildings shall be 4.5m above ground level prior to any subdivision development.

27.3.6.2 Maintain and enhance the indigenous vegetation and ecosystems within the building restriction areas of the zone and to suitably and comprehensively maintain these areas into the future. As a minimum, this shall include:

a. methods to remove or kill existing wilding exotic trees and weed species from the lower banks of the zone area and to conduct this eradication annually;

b. methods to exclude and/or suitably manage pests within the zone in order to foster growth of indigenous vegetation within the zone, on an ongoing basis;

c. a programme or list of maintenance work to be carried out on a year to year basis on order to bring about the goals set out above.

Jacks Point Zone

27.3.7 Objective - Subdivision occurs consistent with the Jacks Point Structure Plan.

Policies

27.3.7.1 Ensure that subdivision and development achieves the objectives and policies located within Chapter 41.

27.3.7.2 Within the R(HD) Activity Areas, subdivision design shall provide for the following matters:

a. the development and suitability of public transport routes, pedestrian and cycle trail connections within and beyond the Activity Area;

b. mitigation measures to ensure that no building will be highly visible from State Highway 6 or Lake Wakatipu;

c. road and street designs;

d. the location and suitability of proposed open spaces;

e. commitments to remove wilding trees.

27.3.7.3 Within the R(HD-SH) Activity Areas, minimise the visual effects of subdivision and future development on landscape and amenity values as viewed from State Highway 6.

27.3.7.4 Within the R(HD) Activity Area, in the consideration of the creation of sites sized less than 550m^2, particular regard shall be given to the following matters and whether they should be given effect to by imposing appropriate legal mechanism of controls over:

a. building setbacks from boundaries;

b. location and heights of garages and other accessory buildings;

c. height limitations for parts of buildings, including recession plane requirements;

d. window locations;

e. building coverage;

f. roadside fence heights.

27.3.7.5 Within the OS Activity Areas shown on the Jacks Point Zone Structure Plan, implement measures to provide for the establishment and management of open space, including native vegetation.

27.3.7.6 Within the R(HD) A - E Activity Areas, ensure cul-de-sacs are straight (+/- 15 degrees).

27.3.7.7 In the Hanley Downs areas where subdivision of land within any Residential Activity Area results in allotments less than 550m2 in area:

a. such sites are to be configured:

i. with good street frontage;

ii. to enable sunlight to existing and future residential units;

iii. to achieve an appropriate level of privacy between homes;

b. parking, access and landscaping are to be configured in a manner which:

i. minimises the dominance of driveways at the street edge;

ii. provides for efficient use of the land;

iii. maximises pedestrian and vehicular safety; and.

iv. addresses nuisance effects such as from vehicle lights.

c. subdivision design should ensure:

i. public and private spaces are clearly demarcated, and ownership and management arrangements are proposed to appropriately manage spaces in common ownership.

d. consideration is to be given as to whether design parameters are required to be secured through an appropriate legal mechanism. These are height, building mass, window sizes and locations, building setbacks, fence heights, locations and transparency, building materials and landscaping.

Waterfall Park

27.3.8 Objective – Subdivision that provides for a range of visitor, residential and recreational facilities, sympathetic to the natural setting and has regard to location specific opportunities and constraints identified within the Waterfall Park Structure Plan.

Policies **27.3.8.1** Enable subdivision which provides for appropriate, integrated and orderly development in accordance with the Waterfall Park Structure Plan located within Section 27.13.

Millbrook

27.3.9 Objective – Subdivision that provides for resort development while having particular regard to landscape, heritage, ecological, water and air quality values.

Policies **27.3.9.1** Enable subdivision which provides for appropriate, integrated and orderly development in accordance with the Millbrook Structure Plan located within Section 27.13.

Coneburn Industrial

27.3.10 Objective - Subdivision that creates opportunities for industrial activities and Service activities to occur.

Policies **27.3.10.1** Enable subdivision which provides for a combination of lot sizes and low building coverage to ensure that this area is retained for yard based industrial and service activities as well as smaller scale industrial and service activities.

27.1.10.2 Require the establishment, restoration and ongoing maintenance of the open space areas (shown on the Coneburn Structure Plan located in Section 27.13) to:

a. visually screen development using the planting of native species;

b. retain existing native garden species unless they are wilding;

c. give effect to the Ecological Management Plan required by Rule 44.4.12 so its implementation occurs at the rate of development within the Zone.

27.10.4.3 Ensure subdivision works and earthworks results in future industrial and service development (buildings) being difficult to see from State Highway 6.

27.10.4.4 At the time of subdivision ensure that there is adequate provision for road access, onsite parking (staff and visitors) and loading and manoeuvring for all types of vehicle so as to cater for the intended use of the site.

27.10.4.5 Ensure subdivision creates lots and sites that are capable of accommodating development that meets the relevant zone standards for the Coneburn Industrial Zone.

27.10.4.6 Ensure that shared infrastructure (water, wastewater and stormwater) is provided, managed, and maintained if development cannot connect to Council services.

27.10.4.7 Require safe accesses to be provided from the State Highway into the Zone at the rate the Zone is developed.

West Meadows Drive

27.3.11 Objective - The integration of road connections between West Meadows Drive and Meadowstone Drive.

Policies

27.3.11.1 Enable subdivision at the western end of West Meadows Drive which has a roading layout that is consistent with the West Meadows Drive Structure Plan.

27.3.11.2 Enable variances to the West Meadows Drive Structure Plan on the basis that the roading layout results in the western end of West Meadows Drive being extended to connect with the roading network and results in West Meadows Drive becoming a through-road.

Frankton North

27.3.12 Objective - Subdivision of the Medium Density Residential and Business Mixed Use Zones on the north side of State Highway 6 between Hansen Road and Quail Rise enables development integrated into the adjacent urban areas while minimising traffic impacts on the State Highway.

Policies

27.3.12.1 Limit the roading access to Frankton North to Hansen Road, Ferry Hill Drive or the Hawthorne Drive/SH6 roundabout.

27.3.12.2 Ensure subdivision and development enables access to the roading network from all sites in the Frankton North Medium Density Residential and Business Mixed Use Zones and is of a form that accounts for long-term traffic demands without the need for subsequent retrofitting or upgrade.

27.3.12.3 Ensure subdivision and development in the Frankton North Medium Density Residential and Business Mixed Use Zones provides, or has access to, a safe and legible walking and cycling environment adjacent to and across the State Highway linking to other pedestrian and cycling networks.

27.4 Other Provisions and Rules

27.4.1 District Wide

The rules of the zone the proposed subdivision is located within are applicable. Attention is drawn to the following District Wide chapters.

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

27.4.2 Earthworks associated with subdivision

27.4.2.1 Earthworks undertaken for the development of land associated with any subdivision shall not require a separate resource consent under the rules of the District Wide Earthworks Chapter, but shall be considered against the matters of control or discretion of the District Wide Earthworks Chapter as part of any subdivision activity[2].

27.4.3 Natural Hazards

27.4.3.1 The Natural Hazards Chapter of the District Plan sets a policy framework to address land uses and natural hazards throughout the District. All subdivision is able to be assessed against a natural hazard through the provisions of section 106 of the RMA. In addition, in some locations natural hazards have been identified and specific provisions apply.

[2]. Greyed out text indicates the provision is subject to variation and is therefore not part of the Hearing Panel's recommendations.

27.5 Rules - Subdivision

27.5.1 All subdivision requires resource consent unless specified as a permitted activity. The abbreviations set out below are used in the following tables. Any activity which is not permitted (P) or prohibited. (PR) requires resource consent.

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

Where an activity falls within more than one rule, unless stated otherwise, its status shall be determined by the most restrictive rule.

	Boundary Adjustments	Activity Status
27.5.2	**An adjustment to existing cross-lease or unit title due to:** a. an alteration to the size of the lot by alterations to the building outline; b. the conversion from cross-lease to unit title; or c. the addition or relocation of an accessory building; providing the activity complies with all other provisions of the District Plan or has obtained a land use consent. Advice Note: In order to undertake such a subdivision a certificate of compliance (s139 of the Act) will need to be obtained (see s223(1)(b)).	P

	Boundary Adjustments	Activity Status
27.5.3	For boundary adjustment subdivision activities where there are two or more existing lots which each have separate Certificates of Title, new lots may be created by subdivision for the purpose of an adjustment of the boundaries between the existing lots, provided: a. in the case of the Rural, Gibbston Character and Rural Lifestyle Zones the building platform is retained in its approved location; b. no additional or relocated residential building platform is identified and approved as part of a boundary adjustment within Rural, Gibbston Character and Rural Lifestyle Zones; c. no additional separately saleable lots are created; d. the areas of the resultant lots either comply with the minimum lot size requirement for the zone (where applicable) or where any lot does not comply with an applicable minimum lot size requirement for the zone, the extent of such non-compliance is not increased; and e. lots must be immediately adjoining each other. Control is reserved to: a. the location of the proposed boundaries; b. boundary treatment; c. easements for existing and proposed access and services.	C
27.5.4	For boundary adjustments that either: a. involve any site that contains a heritage or any other protected item identified on the District Plan maps; or b. are within the urban growth boundary of Arrowtown; where there are two or more existing lots which each have separate Certificates of Title, new lots may be created by subdivision for the purpose of an adjustment of the boundaries between the existing lots, provided: a. no additional separately saleable lots are created; b. the areas of the resultant lots comply with the minimum lot size requirement for the zone; c. lots must be immediately adjoining each other; Discretion is restricted to: a. the impact on the heritage values of the protected item; b. the maintenance of the historic character of the Arrowtown Residential Historic Management Zone; c. the location of the proposed boundaries; d. boundary treatment; e. easements for access and services.	RD

	Unit Title or Leasehold Subdivision	Activity Status
27.5.5	Where land use consent is approved for a multi unit commercial or residential development, including visitor accommodation development, and a unit title or leasehold (including cross lease) subdivision is subsequently undertaken in accordance with the approved land use consent, provided: a. all buildings must be in accordance with an approved land use resource consent; b. all areas to be set aside for the exclusive use of each building or unit must be shown on the survey plan, in addition to any areas to be used for common access or parking or other such purpose; c. all service connections and on-site infrastructure must be located within the boundary of the site they serve or have access provided by an appropriate legal mechanism. Control is reserved to: a. the effect of the site design, size, shape, gradient and location, including existing buildings, manoeuvring areas and outdoor living spaces; b. the effects of and on infrastructure provision. This rule does not apply a subdivision of land creating a separate fee simple title. The intent is that it applies to subdivision of a lot containing an approved land use consent, in order to create titles in accordance with that consent.	C

	Subdivision Activities - District Wide	Activity Status
27.5.6	Any subdivision that does not fall within any rule in this section 27.5.	D

	Subdivision Activities - District Wide	Activity Status
27.5.7	All urban subdivision activities, unless otherwise provided for, within the following zones: 1. Lower Density Suburban Residential Zone; 2. Medium Density Residential Zone; 3. High Density Residential Zone; 4. Town Centre Zones; 5. Arrowtown Residential Historic Management Zone; 6. Large Lot Residential Zone; 7. Local Shopping Centre; 8. Business Mixed Use Zone; 9. Airport Zone - Queenstown. Discretion is restricted to: a. subdivision design and any consequential effects on the layout of lots and on lot sizes and dimensions; b. Internal roading design and provision, relating to access to and service easements for future subdivision on adjoining land, and any consequential effects on the layout of lots, and on lot sizes and dimensions; c. property access and roading; d. esplanade provision; e. the adequacy of on site measures to address the risk of natural and other hazards on land within the subdivision; f. fire fighting water supply; g. water supply; h. stormwater design and disposal; i. sewage treatment and disposal; j. energy supply and telecommunications, including adverse effects on energy supply and telecommunication networks; k. open space and recreation; l. ecological and natural values; m. historic heritage; n. easements. For the avoidance of doubt, where a site is governed by a Structure Plan, that is included in the District Plan, subdivision activities shall be assessed in accordance with Rule 27.7.1.	RD

	Subdivision Activities - District Wide	Activity Status
27.5.8	All subdivision activities, unless otherwise provided for, in the District's Rural Residential and Rural Lifestyle Zones Discretion is restricted to: a. in the Rural Lifestyle Zone, the location and size of building platforms and in respect of any buildings within those building platforms: i. external appearance; ii. visibility from public places; iii. landscape character; and iv. visual amenity. b. subdivision design and any consequential effects on the layout of lots and on lot sizes and dimensions; c. internal roading design and provision, relating to access and service easements for future subdivision on adjoining land, and any consequential effects on the layout of lots and on lot sizes and dimensions; d. property access and roading; e. esplanade provision; f. the adequacy of on site measures to address the risk of natural and other hazards on land within the subdivision; g. fire fighting water supply; h. water supply; i. stormwater disposal; j. sewage treatment and disposal; k. energy supply and telecommunications including adverse effects on energy supply and telecommunication networks; l. open space and recreation; m. ecological and natural values; n. historic heritage; o. easements.	RD
27.5.9		
27.5.10	Subdivision of land in any zone within the National Grid Corridor except where any allotment identifies a building platform to be located within the National Grid Yard. Discretion is restricted to: a. impacts on the operation, maintenance, upgrade and development of the National Grid; b. the ability of future development to comply with NZECP34:2001; c. the location, design and use of any proposed building platform as it relates to the National Grid transmission line.	RD
27.5.11	All subdivision activities in the Rural and Gibbston Character Zones and Airport Zone - Wanaka, unless otherwise provided for.	D

	Subdivision Activities - District Wide	Activity Status
27.5.12	The subdivision of land containing a heritage or any other protected item scheduled in the District Plan. This rule does not apply to boundary adjustments under Rule 27.5.4.	D
27.5.13	The subdivision of land identified on the planning maps as a Heritage Area.	D
27.5.14	The subdivision of a site containing a known archaeological site.	D
27.5.15	Subdivision that would alter, or create a new boundary within a Significant Natural Area scheduled in the District Plan.	D
27.5.16	A Unit Titles Act subdivision lodged concurrently with an application for building consent, or land use consent.	D
27.5.17	Within the Jacks Point Zone, subdivision that does not comply with the minimum lot areas specified in Part 27.6 and the zone and location specific rules in Part 27.7, excluding: a. in the R(HD) activity area, where the creation of lots less than 380m^2 shall be assessed under Rule 27.7.5.2 (as a restricted discretionary activity).	D
27.5.18	Within the Coneburn Industrial Zone Activity Area 2a, subdivision which does not comply with the minimum lot areas specified in Part 27.6.	D
27.5.19	Subdivision that does not comply with the minimum lot areas specified in Part 27.6 with the exception of the Jacks Point Zone which is assessed pursuant to Rule 27.5.17 and Coneburn Industrial Zone Activity Area 2a which is assessed pursuant to Rule 27.5.18.	NC
27.5.20	A subdivision under the Unit Titles Act not falling within Rules 27.5.5 or 27.5.16 where the building is not completed (meaning the applicable code of compliance certificate has not been issued), or building consent or land use consent has not been granted for the buildings.	NC
27.5.21	The further subdivision of an allotment that if undertaken as part of a previous subdivision would have caused that previous subdivision to exceed the minimum average density requirements for subdivision in the Rural Lifestyle Zone or the Rural Residential Zone.	NC
27.5.22	The subdivision of land resulting in the division of a building platform.	NC
27.5.23	The subdivision of a residential flat from a residential unit.	NC
27.5.24	Any subdivision of land in any zone within the National Grid Corridor, which does not comply with Rule 27.5.10.	NC
27.5.25	Subdivision that does not comply with the standards related to servicing and infrastructure under Rule 27.7.15.	NC

27.6 Rules - Standards for Minimum Lot Areas

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

Zone		Minimum Lot Area
Town Centres		No minimum
Local Shopping Centre		No minimum
Business Mixed Use		200m²
Airport		No minimum
Coneburn Industrial	Activity Area 1a	3000m²
	Activity Area 2a	1000m²
Residential	High Density	450m²
	Medium Density	250m²
	Lower Density Suburban	450m² Within the Queenstown Airport Air Noise Boundary and Outer Control Boundary: 600m²
	Arrowtown Residential Historic Management	800m²
	Large Lot Residential A	2000m²
	Large Lot Residential B	4000m²
Rural	Rural Gibbston Character	No minimum
Rural Lifestyle	Rural Lifestyle	One hectare providing the average lot size is not less than 2 hectares. For the purpose of calculating any average, any allotment greater than 4 hectares, including the balance, is deemed to be 4 hectares.
	Rural Lifestyle Deferred A and B[3]	No minimum, but each of the two parts of the zone identified on the planning map shall contain no more than two allotments.
	Rural Lifestyle Buffer[4]	The land in this zone shall be held in a single allotment.
Rural Residential	Rural Residential	4000m²
	Rural Residential Bob's Cove sub-zone	No minimum, providing the total lots to be created, inclusive of the entire area within the zone shall have an average of 4000m².
	Rural Residential Ferry Hill Subzone[5]	4000m² with no more than 17 lots created for residential activity.

[3, 4, 5] Greyed out text indicates the provision is subject to variation and is therefore not part of the Hearing Panel's recommendations.

Zone		Minimum Lot Area
	Rural Residential Camp Hill	4000m^2 with no more than 36 lots created for residential activity
Jacks Point	Residential Activity Areas	380m^2 In addition, subdivision shall comply with the average density requirements set out in Rule 41.5.8.
Millbrook		No minimum
Waterfall Park		No minimum

Advice Note:

Non-compliance with the minimum lot areas specified above means that a subdivision will fall under one of Rules 27.5.17-19, depending on its location.

27.6.2 Lots created for access, utilities, roads and reserves shall have no minimum size.

27.7 Zone - Location Specific Rules

	Zone and Location Specific Rules	Activity Status
27.7.1	Subdivision consistent with a Structure Plan that is included in the District Plan. Control is reserved to: a. subdivision design and any consequential effects on the layout of lots and on lot sizes and dimensions; b. internal roading design and provision, and any consequential effects on the layout of lots, and on lot sizes and dimensions; c. property access and roading; d. esplanade provision; e. the adequacy of on site measures to address the risk of natural and other hazards on land within the subdivision; f. fire fighting water supply; g. water supply; h. stormwater design and disposal; i. sewage treatment and disposal; j. energy supply and telecommunications, including adverse effects on energy supply and telecommunication networks; k. open space and recreation; and l. ecological and natural values; m. historic heritage; n. easements; o. any additional matters relevant to achievement of the objectives and policies in part 27.3 of this Chapter.	C
27.7.2	**Kirimoko** **27.7.2.1** In addition to those matters of control listed under Rule 27.7.1 when assessing any subdivision consistent with the principal roading layout depicted in the Kirimoko Structure Plan shown in part 27.13, the following shall be additional matters of control: a. roading layout; b. the provision and location of walkways and the green network; c. the protection of native species as identified on the structure plan as green network.	C

	Zone and Location Specific Rules	Activity Status
	27.7.2.2 Any subdivision that does not comply with the principal roading layout and reserve net-work depicted in the Kirimoko Structure Plan included in Part 27.13 (including the creation of additional roads, and/or the creation of access ways for more than 2 properties).	NC
	27.7.2.3 Any subdivision of land zoned Rural proposed to create a lot entirely within the Rural Zone, to be held in a separate certificate of title.	NC
	27.7.2.4 Any subdivision of land described as Lots 3 to 7 and Lot 9 DP300734, and Lot 1 DP 304817 (and any title derived therefrom) that creates more than one lot that has included in its legal boundary land zoned Rural.	NC
27.7.3	**Bob's Cove Rural Residential Sub-Zone** **27.7.3.1** Activities that do not meet the following standards: a. boundary planting – Rural Residential sub-zone at Bobs Cove: i. within the Rural Residential sub-zone at Bobs Cove, where the 15 metre building Restriction Area adjoins a development area, it shall be planted in indigenous tree and shrub species common to the area, at a density of one plant per square metre; and ii. where a building is proposed within 50 metres of the Glenorchy-Queenstown Road, such indigenous planting shall be established to a height of 2 metres and shall have survived for at least 18 months prior to any residential buildings being erected. b. development areas and undomesticated areas within the Rural Residential sub-zone at Bob's Cove: i. within the Rural Residential sub-zone at Bob's Cove, at least 75% of the zone shall be set aside as undomesticated area, and shown on the Subdivision Plan as such, and given effect to by consent notice registered against the title of the lots created, to the benefit of all lot holders and the Council; ii. at least 50% of the 'undomesticated area' shall be retained, established, and maintained in indigenous vegetation with a closed canopy such that this area has total indigenous litter cover. This rule shall be given effect to by consent notice registered against the title of the lot created, to the benefit of the lot holder and the Council; iii. the remainder of the area shall be deemed to be the 'development area' and shall be shown on the Subdivision Plan as such, and given effect to by consent notice registered against the title of the lots created, to the benefit of all holders and the Council; iv. the landscaping and maintenance of the undomesticated area shall be detailed in a landscaping plan that is provided as part of any subdivision application. This Landscaping Plan shall identify the proposed species and shall provide details of the proposed maintenance programme to ensure a survival rate of at least 90% within the first 5 years; and v. this area shall be established and maintained in indigenous vegetation by the subdividing owner and subsequent owners of any individual allotment on a continuing basis. Such areas shall be shown on the Subdivision Plan and given effect to by consent notice registered against the title of the lots; vi. any lot created that adjoins the boundary with the Queenstown-Glenorchy Road shall include a 15 metre wide building restriction area, and such building restriction area shall be given effect to by consent notice registered against the title of the lot created, to the benefit of the lot holder and the Council.	NC

	Zone and Location Specific Rules	Activity Status
27.7.4	**Ladies Mile** **27.7.4.1** Subdivision of land situated south of State Highway 6 ("Ladies Mile") and southwest of Lake Hayes that is zoned Lower Density Suburban Residential or Rural Residential as shown on the Planning Maps and that does not meet the following standards: a. the landscaping of roads and public places is an important aspect of property access and subdivision design. No subdivision consent shall be granted without consideration of appropriate landscaping of roads and public places shown on the plan of subdivision. b. no separate residential lot shall be created unless provision is made for pedestrian access from that lot to public open spaces and recreation areas within the land subject to the application for subdivision consent and to public open spaces and rural areas ad-joining the land subject to the application for subdivision consent.	NC
27.7.5	**Jacks Point** **27.7.5.1** Subdivision Activity failing to comply with the Jacks Point Structure Plan located within Section 27.13. For the purposes of interpreting this rule, the following shall apply: a. a variance of up to 120m from the location and alignment shown on the Structure Plan of the Primary Road, and their intersection with State Highway 6, shall be acceptable; b. Public Access Routes and Secondary Roads may be otherwise located and follow different alignments provided that any such alignment enables a similar journey; c. subdivision shall facilitate a road connection at each Key Road Connection shown on the Structure Plan to enable vehicular access to roads which connect with the Primary Roads, provided that a variance of up to 50m from the location of the connection shown on the Structure Plan shall be acceptable; d. Open Spaces are shown indicatively, with their exact location and parameters to be established through the subdivision process.	D

	Zone and Location Specific Rules	Activity Status
	27.7.5.2 Subdivision failing to comply with the 380m2 minimum lot size for subdivision within the Hanley Downs part of the Jacks Point Zone. Discretion is restricted to: a. subdivision design and any consequential effects on the layout of lots and on lot sizes and dimensions; b. internal roading design and provision, and any consequential effects on the layout of lots, and on lot sizes and dimensions; c. property access and roading; d. esplanade provision; e. the adequacy of on site measures to address the risk of natural and other hazards on land within the subdivision; f. fire fighting water supply; g. water supply; h. stormwater design and disposal; i. sewage treatment and disposal; j. energy supply and telecommunications, including adverse effects on energy supply and telecommunication networks; k. open space and recreation; and l. ecological and natural values; m. historic heritage; n. easements; o. location and height of buildings, or parts of buildings, including windows; p. configuration of parking, access and landscaping.	RD
	27.7.5.3 Subdivision within the OSR-North Activity Area of the Jacks Point Zone that does not, prior to application for subdivision consent being made: a. provide to the Council noise modelling data that identifies the 55dB Ldn noise contour measured, predicted and assessed in accordance with NZS 6805:1992 Airport Noise Management and Land Use Planning and NZS 6801:2008 Acoustics – Measurement of Environmental Sound, by a person suitably qualified in acoustics, based on any consented operations from the airstrip on Lot 8 DP443832; and b. register a consent notice on any title the subject of subdivision that includes land that is located between the 55 dB Ldn contour and the airstrip preventing any ASAN from locating on that land.	NC
27.7.6	**Millbrook Resort Zone** **27.7.6.1** Any subdivision of the Millbrook Resort Zone that is inconsistent with the Millbrook Resort Zone Structure Plan contained in Section 27.13.	D

	Zone and Location Specific Rules	Activity Status
27.7.7	**Coneburn Industrial**	
	27.7.7.1 Subdivision not in general accordance with the Coneburn Industrial Structure Plan located in Section 27.13. For the purposes of this rule: a. any fixed connections (road intersections) shown on the Structure Plan may be moved no more than 20 metres; b. any fixed roads shown on the Structure Plan may be moved no more than 50 metres in any direction; c. the boundaries of any fixed open spaces shown on the Structure Plan may be moved up to 5 metres.	NC
	27.7.7.2 Subdivision failing to comply with any of the following: a. consent must have been granted under Rule 44.4.10 for landscaping of the Open Space Area shown on the Structure Plan in accordance with an Ecological Management Plan prior to lodgement of the subdivision application; b. subdivision of more than 10%, in area, of the Activity Areas shown on the Structure Plan shall not occur unless the work required under the Ecological Management Plan consented under Rule 44.4.10 has been completed on not less than 25% of the Open Space Area shown on the Structure Plan; c. subdivision of more than 25%, in area, of the Activity Areas shown on the Structure Plan shall not occur unless the work required under the Ecological Management Plan consented under Rule 44.4.10 has been completed on not less than 50% of the Open Space Area shown on the Structure Plan; d. subdivision of more than 50%, in area, of the Activity Areas shown on the Structure Plan shall not occur unless the work required under the Ecological Management Plan consented under Rule 44.4.10 has been completed on not less than 100% of the Open Space Area shown on the Structure Plan.	NC
	27.7.7.3 Subdivision whereby prior to the issue of a s224(c) certification under the Act for any subdivision of any land within the zone: a. prior to the Northern Access Point being constructed as a Priority T Intersection (Austroads Guide to Road Design (Part 4A)) and being available for public use every subdivision of any land within the zone must contain a condition requiring that the Northern Access Point be constructed as a Priority T Intersection (Austroads Guide to Road Design (Part 4A)) and be available for public use prior to issue of a s.224(c) certificate; b. any subdivision of land within the Activity Areas 1a and 2a which, by itself or in combination with prior subdivisions of land within the zone, involves subdivision of more than 25% of the land area of Activity Areas 1a and 2a must include a condition requiring the construction of the Southern Access Point as a Priority T intersection (Austroads Guide to Road Design (Part 4A)) and that it be available for public use prior to issue of a s.224(c) certificate, unless the Southern Access Point has been constructed and is available for public use at the time the consent is granted.	NC

	Zone and Location Specific Rules	Activity Status
27.7.8	**West Meadows Drive** **27.7.8.1** Subdivision of lots zoned Lower Density Suburban Residential at the western end of West Meadows Drive identified in Section 27.13.6 which is consistent with the West Meadows Drive Structure Plan in Section 27.13. Control is reserved to: a. the matters of control listed under Rule 27.7.1; and b. roading layout.	C
	27.7.8.2 Subdivision of lots zoned Lower Density Suburban Residential at the western end of West Meadows Drive identified in Section 27.13.6 that is inconsistent with the West Meadows Drive Structure Plan in Section 27.13.	D
27.7.9	**Frankton North** **27.7.9.1** All subdivision activity in the Business Mixed Use Zone and Medium Density Residential Zone located north of State Highway 6 between Hansen Road and Ferry Hill Drive that complies with the following standards in addition to the requirements of Rule 27.5.7: a. access to the wider roading network shall only be via one or more of: i. Hansen Road; ii. Ferry Hill Drive; and/or iii. Hawthorne Drive/State Highway 6 roundabout. b. no subdivision shall be designed so as to preclude an adjacent site complying with clause a. Discretion is restricted to: a. safe and effective functioning of the State Highway network; b. integration with other access points through the zones to link up to Hansen Road, Ferry Hill Drive or the Hawthorne Drive/State Highway 6 roundabout; c. integration with pedestrian and cycling networks, including those across the State Highway.	RD
	27.7.9.2 Any subdivision activity in the Business Mixed Use Zone and Medium Density Residential Zone located north of State Highway 6 between Hansen Road and Ferry Hill Drive that does not comply with Rule 27.7.9.1.	NC

Ferry Hill Rural Residential sub-zone

27.8.6.1 Notwithstanding any other rules, any subdivision of the Ferry Hill Rural Residential sub-zone shall be in accordance with the subdivision design as identified in the Concept Development Plan for the Ferry Hill Rural Residential sub-zone.

27.8.6.2 Lots 18 and 19 as shown on the Concept Development Plan for the Ferry Hill Rural Residential sub-zone shall be retained for Landscape Amenity Purposes and shall be held in undivided shares by the owners of Lots 1-8 and Lots 11-15 as shown on the Concept Development Plan.

27.8.6.3 Any application for subdivision consent shall:

a. provide for the creation of the landscape allotments(s) referred to in rule 27.8.6.2 above;

b. be accompanied by details of the legal entity responsible for the future maintenance and administration of the allotments referred to in rule 27.8.6.2 above;

c. be accompanied by a Landscape Plan that shows the species, number, and location of all plantings to be established, and shall include details of the proposed timeframes for all such plantings and a maintenance programme. The landscape Plan shall ensure:

i. that the escarpment within Lots 18 and 19 as shown on the Concept Development Plan for the Ferry Hill Rural Residential sub-zone is planted with a predominance of indigenous species in a manner that enhances naturalness; and

ii. that residential development is subject to screening along Tucker Beach Road.

27.8.6.4 Plantings at the foot of, on, and above the escarpment within Lots 18 and 19 as shown on the Concept Development Plan for the Ferry Hill Rural Residential sub-zone shall include indigenous trees, shrubs, and tussock grasses.

27.8.6.5 Plantings elsewhere may include maple as well as indigenous species.

27.8.6.6 The on-going maintenance of plantings established in terms of rule 27.8.6.3 above shall be subject to a condition of resource consent, and given effect to by way of consent notice that is to be registered on the title and deemed to be a covenant pursuant to section 221(4) of the Act.

27.8.6.7 Any subdivision shall be subject to a condition of resource consent that no buildings shall be located outside the building platforms shown on the Concept Development Plan for the Ferry Hill Rural Residential sub-zone. The condition shall be subject to a consent notice that is registered on the title and deemed to be a covenant pursuant to section 221(4) of the Act.

27.8.6.8 Any subdivision of Lots 1 and 2DP 26910 shall be subject to a condition of resource consent that no residential units shall be located and no subdivision shall occur on those parts of Lots 1 and 2 DP 26910 zoned Rural General and identified on the planning maps as a building restriction area. The condition shall be subject to a consent notice that is to be registered and deemed to be a covenant pursuant to section 221(4) of the Act[6].

[6] Greyed out text indicates the provision is subject to variation and is therefore not part of the Hearing Panel's recommendations.

27.7.10 In the following zones, every allotment created for the purposes of containing residential activity shall identify one building platform of not less than 70m² in area and not greater than 1000m² in area.

a. Rural Zone;

b. Gibbston Character Zone;

c. Rural Lifestyle Zone;

27.7.11 The dimensions of lots in the following zones, other than for access, utilities, reserves or roads, shall be able to accommodate a square of the following dimensions:

Zone		Minimum Dimensions (m = Metres)
Residential	Medium Density	12m x 12m
	Large Lot	30m x 30m
	All others	15m x 15m
Rural Residential	Rural Residential (inclusive of sub-zones)	30m x 30m

27.7.12 Subdivision applications not complying with either Rule 27.7.10 or Rule 27.7.11 shall be non-complying activities.

27.7.13 Subdivision associated with infill development

The specified minimum allotment size in Rule 27.6.1, and minimum dimensions in Rule 27.11 shall not apply in the High Density Residential Zone, Medium Density Residential Zone and Lower Density Suburban Residential Zone where each allotment to be created, and the original allotment, all contain at least one established residential unit (established meaning a Building Code of Compliance Certificate has been issued or alternatively where a Building Code of Compliance Certificate has not been issued, construction shall be completed to not less than the installation of the roof).

27.7.14 Subdivision associated with residential development on sites less than 450m² in the Lower Density Suburban Residential Zone

27.7.14.1 In the Lower Density Suburban Residential Zone, the specified minimum allotment size in Rule 27.6.1 shall not apply in cases where the residential units are not established, providing;

a. a certificate of compliance is issued for a residential unit(s); or

b. a resource consent has been granted for a residential unit(s).

In addition to any other relevant matters pursuant to s221 of the Act, the consent holder shall register on the Computer Freehold Register of the applicable allotments:

a. that the construction of any residential unit shall be undertaken in accordance with the applicable certificate of compliance or resource consent (applies to the additional undeveloped lot to be created);

b. the maximum building height shall be 5.5m (applies to the additional undeveloped lot to be created).

c. there shall be not more than one residential unit per lot (applies to all lots).

27.7.14.2 Rule 27.7.14.1 shall not apply to the Lower Density Suburban Residential Zone within the Queenstown Airport Air Noise Boundary and Outer Control Boundary as shown on the planning maps.

27.7.15 Standards related to servicing and infrastructure

Water

27.7.15.1 Subject to Rule 27.15.3, all lots, other than lots for access, roads, utilities and reserves except where irrigation is required, shall be provided with a connection to a reticulated water supply laid to the boundary of the net area of the lot, as follows:

To a Council or community owned and operated reticulated water supply:

a. all Residential, Business, Town Centre, Local Shopping Centre Zones, and Airport Zone - Queenstown;

b. Rural Residential Zones at Wanaka, Lake Hawea, Albert Town, Luggate and Lake Hayes;

c. Millbrook Resort Zone and Waterfall Park Zone.

27.7.15.2 Where any reticulation for any of the above water supplies crosses private land, it shall be accessible by way of easement to the nearest point of supply.

27.7.15.3 Where no communal owned and operated water supply exists, all lots other than lots for access, roads, utilities and reserves, shall be provided with a potable water supply of at least 1000 litres per day per lot.

Telecommunications/Electricity

27.7.15.4 Electricity reticulation must be provided to all allotments in new subdivisions (other than lots for access, roads, utilities and reserves).

27.7.15.5 Telecommunication services must be available to all allotments in new subdivisions in the Rural Zone, Gibbston Character Zone and Rural Lifestyle Zone (other than lots for access, roads, utilities and reserves).

27.7.15.6 Telecommunication reticulation must be provided to all allotments in new subdivisions in zones other than the Rural Zone, Gibbston Character Zone and Rural Lifestyle Zone (other than lots for access, roads, utilities and reserves).

27.8 Rules - Esplanade Reserve Exemptions

27.8.1 Esplanade reserves or strips shall not be required where a proposed subdivision arises solely due to land being acquired or a lot being created for a road designation, utility or reserve or in the case of activities authorised by Rule 27.5.2.

27.9 Assessment Matters for Resource Consents

27.9.1 Boundary Adjustments

In considering whether or not to impose conditions in respect to boundary adjustments under Rule 27.5.3 and in considering whether or not to grant consent or impose conditions in respect to boundary adjustments under 27.5.4, the Council shall have regard to, but not be limited by, the following assessment criteria:

27.9.1.1 Assessment Matters in relation to Rule 27.5.3 (Boundary Adjustments)

a. whether the location of the proposed boundaries is appropriate, including in relation to their relationship to approved residential building platforms, existing buildings and vegetation patterns and existing or proposed accesses;

b. whether the site design, size, shape, gradient and location, including existing buildings, manoeuvring areas and outdoor living spaces:

   i. is able to accommodate development in accordance with the relevant district-wide and zone rules; and

   ii. the potential effects on the safety of pedestrians and cyclists and other users of the space or access;

c. whether any landscape features or vegetation, including mature forest, on the site are of a sufficient amenity value that they should be retained and if so, the proposed means for their protection;

d. the extent to which Policies 27.2.1.7, 27.2.3.2, 27.2.5.10, 27.2.5.11, 27.2.5.14 and 27.2.7.2 are achieved.

27.9.1.2 Assessment Matters in relation to Rule 27.5.4 (Boundary Adjustments involving Heritage Items and within Arrowtown's urban growth boundary)

a. whether the location of the proposed boundaries is appropriate, including in relation to their relationship to existing buildings and vegetation patterns and existing or proposed accesses;

b. whether the site design, size, shape, gradient and location, including existing buildings, manoeuvring areas and outdoor living spaces:

    i. is able to accommodate development in accordance with the relevant district-wide and zone rules; and

    ii. the potential effects on the safety of pedestrians and cyclists and other users of the space or access;

c. whether any landscape features or vegetation, including mature trees, on the site are of a sufficient amenity value that they should be retained and, if so, the proposed means for their protection;

d. the effect of subdivision on any places of heritage value including existing buildings, archaeological sites and any areas of cultural significance.

e. where lots are being amalgamated within the Medium Density Residential Zone and Lower Density Suburban Residential Zone, the extent to which future development will affect the historic character of the Arrowtown Residential Historic Management Zone;

f. the extent to which Policies 27.2.1.7, 27.2.3.2, 27.2.4.2, 27.2.4.4, 27.2.5.10, 27.2.5.11, 27.2.5.14 and 27.2.7.2 are achieved.

27.9.2 Controlled Unit Title and Leasehold Subdivision Activities

In considering whether or not to impose conditions in respect to unit title or leasehold subdivision under Rule 27.5.5, the Council shall have regard to, but not be limited by, the following assessment criteria:

27.9.2.1 Assessment Matters in relation to Rule 27.5.5 (Unit Title or Leasehold Subdivision)

a. whether all buildings comply with an approved resource consent;

b. whether the location of the proposed boundaries is appropriate, including in relation to their relationship to existing buildings and existing or proposed accesses;

c. whether the site design, size, shape, gradient and location, including existing buildings, manoeuvring areas and outdoor living spaces:

    i. is able to accommodate development in accordance with the relevant district-wide and zone rules; and

    ii. the potential effects the safety of pedestrians and cyclists and other users of the space or access;

d. the effects of and on infrastructure provision;

e. The extent to which Policies 27.2.1.7, 27.2.3.1, 27.2.3.2, 27.2.5.10, 27.2.5.11 and 27.2.5.14 are achieved.

27.9.3 Restricted Discretionary Activity Subdivision Activities

In considering whether or not to grant consent or impose conditions under Rules 27.5.7 and 27.5.8, the Council shall have regard to, but not be limited by, the following assessment criteria:

27.9.3.1 Assessment Matters in relation to Rule 27.5.7 (Urban Subdivision Activities)

a. whether lot sizes and dimensions are appropriate in respect of widening, formation or upgrading of existing and proposed roads and any provisions required for access for future subdivision on adjoining land;

b. consistency with the principles and outcomes of the QLDC Subdivision Design Guidelines;

c. whether any landscape features or vegetation, including mature forest, on the site are of a sufficient amenity value that they should be retained and the proposed means for their protection;

d. the effect of subdivision on any places of heritage value including existing buildings, archaeological sites and any areas of cultural significance;

e. whether the location, alignment, gradients and pattern of roading, service lanes, pedestrian accessways and cycle ways is appropriate, including as regards their safety and efficiency;

f. the extent to which the provision for open space and recreation is consistent with the objectives and policies of the District Plan relating to the provision, diversity and environmental effects of open spaces and recreational facilities;

g. whether the purposes for the creation of esplanade reserves or strips set out in section 229 of the Act are achieved;

h. whether services are to be provided in accordance with Council's Code of Practice for Subdivision

i. whether effects on electricity and telecommunication networks are appropriately managed;

j. whether appropriate easements are provided for existing and proposed access and services.

k. the extent to which Policies 27.2.1.1, 27.2.1.2, 27.2.1.3, 27.2.3.2, 27.2.4.4, 27.2.5.5, 27.2.5.6, 27.2.5.10, 27.2.5.11, 27.2.5.14, 27.2.5.16 and 27.2.6.1 are achieved.

27.9.3.2 Assessment Matters in relation to Rule 27.5.8 (Rural Residential and Rural Lifestyle Subdivision Activities)

a. the extent to which the design maintains and enhances rural living character, landscape values and visual amenity;

b. the extent to which the location and size of building platforms could adversely affect adjoining non residential land uses;

c. whether and what controls are required on buildings within building platforms to manage their external appearance or visibility from public places, or their effects on landscape character and visual amenity;

d. the extent to which lots have been orientated to optimise solar gain for buildings and developments;

e. whether lot sizes and dimensions are appropriate in respect of widening, formation or upgrading of existing and proposed roads and any provision required for access for future subdivision on adjoining land.

f. whether any landscape features or vegetation, including mature forest, on the site are of a sufficient amenity value that they should be retained and the proposed means for their protection;

g. the effect of subdivision on any places of heritage value including existing buildings, archaeological sites and any areas of cultural significance;

h. whether the location, alignment, gradients and pattern of roading, service lanes, pedestrian accessways and cycle ways is appropriate, including as regards their safety and efficiency;

i. the extent to which the provision for open space and recreation is consistent with the objectives and policies of the District Plan relating to the provision, diversity and environmental effects of open spaces and recreational facilities;

j. whether the purposes for the creation of esplanade reserves or strips set out in section 229 of the Act are achieved;

k. whether services are to be provided in accordance with Council's Code of Practice for Subdivision;

l. whether effects on electricity and telecommunication networks are appropriately managed;

m. whether appropriate easements are provided for existing and proposed access and services;

n. where no reticulated water supply is available, whether sufficient water supply and access to water supplies for firefighting purposes in accordance with the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008 is provided.

o. the extent to which Policies 27.2.1.2, 27.2.4.4, 27.2.5.4, 27.2.5.5, 27.2.5.10, 27.2.5.11, 27.2.5.14, 27.2.5.16 and 27.2.6.1 are achieved.

27.9.5 Restricted Discretionary Activity - Subdivision Activities within National Grid Corridor

In considering whether or not to grant consent or impose conditions in respect to subdivision activities under Rules 27.5.10, the Council shall have regard to, but not be limited by, the following assessment criteria:

27.9.5.1 Assessment Matters in relation to Rule 27.5.10. (National Grid Corridor)

a. whether the allotments are intended to be used for residential or commercial activity;

b. the need to identify a building platform to ensure future buildings are located outside the National Grid Yard;

c. the ability of future development to comply with NZECP34:2001;

d. potential effects of the location and planting of vegetation on the National Grid;

e. whether the operation, maintenance and upgrade of the National Grid is restricted;

f. the extent to which Policy 27.2.2.8 is achieved.

27.9.6 Controlled Subdivision Activities – Structure Plan

In considering whether or not to impose conditions in respect to subdivision activities undertaken in accordance with a structure plan under Rules 27.7.1 and 27.7.2.1, the Council shall have regard to, but not be limited by, the following assessment criteria:

27.9.6.1 Assessment Matters in relation to Rule 27.7.1

a. consistency with the relevant location specific objectives and policies in part 27.3;

b. the extent and effect of any minor inconsistency or variation from the relevant structure plan.

29.9.6.2 Assessment Matters in relation to Rule 27.7.2.1 (Kirimoko)

a. the assessment criteria identified under Rule 27.7.1;

b. the appropriateness of any earthworks required to create any road, vehicle accesses, of building platforms or modify the natural landform;

c. the appropriateness of the design of the subdivision including lot configuration and roading patterns and design (including footpaths and walkways);

d. whether provision is made for creation and planting of road reserves

e. whether walkways and the green network are provided and located as illustrated on the Structure Plan for the Kirimoko Block in part 27.13;

f. whether native species are protected as identified on the Structure Plan as green network;

g. The extent to which Policies 27.3.2.1 to 27.3.2.10 are achieved.

27.9.7 Restricted Discretionary Activity-Subdivision Activities within the Jacks Point Zone

In considering whether or not to grant consent or impose conditions in respect to subdivision activities under Rule 27.7.5.2, the Council shall have regard to, but not be limited by, the following assessment criteria:

27.9.7.1 Assessment Matters in relation to Rule 27.7.5.2 (Jacks Point)

a. the assessment criteria identified under Rule 27.7.1 as it applies to the Jacks Point Zone;

b. the visibility of future development from State Highway 6 and Lake Wakatipu;

c. the appropriateness of the number, location and design of access points;

d. the extent to which nature conservation values are maintained or enhanced;

e. the adequacy of provision for creation of open space and infrastructure;

f. the extent to which Policy 27.3.7.1 is achieved;

g. the extent to which sites are configured:

i. with good street frontage;

ii. to enable sunlight to existing and future residential units;

iii. to achieve an appropriate level of privacy between homes.

h. the extent to which parking, access and landscaping are configured in a manner which:

i. minimises the dominance of driveways at the street edge;

ii. provides for efficient use of the land;

iii. maximises pedestrian and vehicular safety;

iv. addresses nuisance effects such as from vehicle lights.

i. the extent to which subdivision design satisfies:

i. public and private spaces are clearly demarcated, and ownership and management arrangements are proposed to appropriately manage spaces in common ownership.

j. whether design parameters are required to be secured through an appropriate legal mechanism. These are height, building mass, window sizes and locations, building setbacks, fence heights, locations and transparency, building materials and landscaping.

27.9.8 Controlled Activity-Subdivision Activities on West Meadows Drive

In considering whether or not to impose conditions in respect to subdivision activities under Rule 2**7.7.8.1,** the Council shall have regard to, but not be limited by, the following assessment criteria:

27.9.8.1 Assessment Matters in relation to Rule 27.7.8.1

a. the assessment criteria identified under Rule 27.7.1 as they apply to the West Meadows Drive area.

b. the extent to which the roading layout integrates with the operation of West Meadows Drive as a through-road.

27.10 Rules - Non-Notification of Applications

Applications for all controlled and restricted discretionary activities shall not require the written approval of other persons and shall not be notified or limited notified except:

a. where the site adjoins or has access onto a State Highway;

b. where the Council is required to undertake statutory consultation with iwi;

c. where the application falls within the ambit of Rule 27.5.4;

d. where the application falls within the ambit of Rule 27.5.10 and the written approval of Transpower New Zealand Limited has not been obtained to the application.

27.11 Advice Notes

27.11.1 State Highways

27.11.1.1 Attention is drawn to the need to obtain a Section 93 notice from the New Zealand Transport Agency for all subdivisions with access onto state highways that are declared Limited Access Roads (LAR). Refer to the Designations Chapter of the District Plan for sections of state highways that are LAR as at August 2015. Where a subdivision will change the use, intensity or location of the access onto the state highway, subdividers should consult with the New Zealand Transport Agency.

27.11.2 Esplanades

27.11.2.1 The opportunities for the creation of esplanades are outlined in objective and policies 27.2.7. Unless otherwise stated, section 230 of the Act applies to the standards and process for creation of esplanade reserves and strips.

27.11.3 New Zealand Electrical Code of Practice for Electrical Safe Distances

27.11.3.1 Compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances ("NZECP34:2001") is mandatory under the Electricity Act 1992. All activities regulated by NZECP34, including any activities that are otherwise permitted by the District Plan must comply with this legislation.

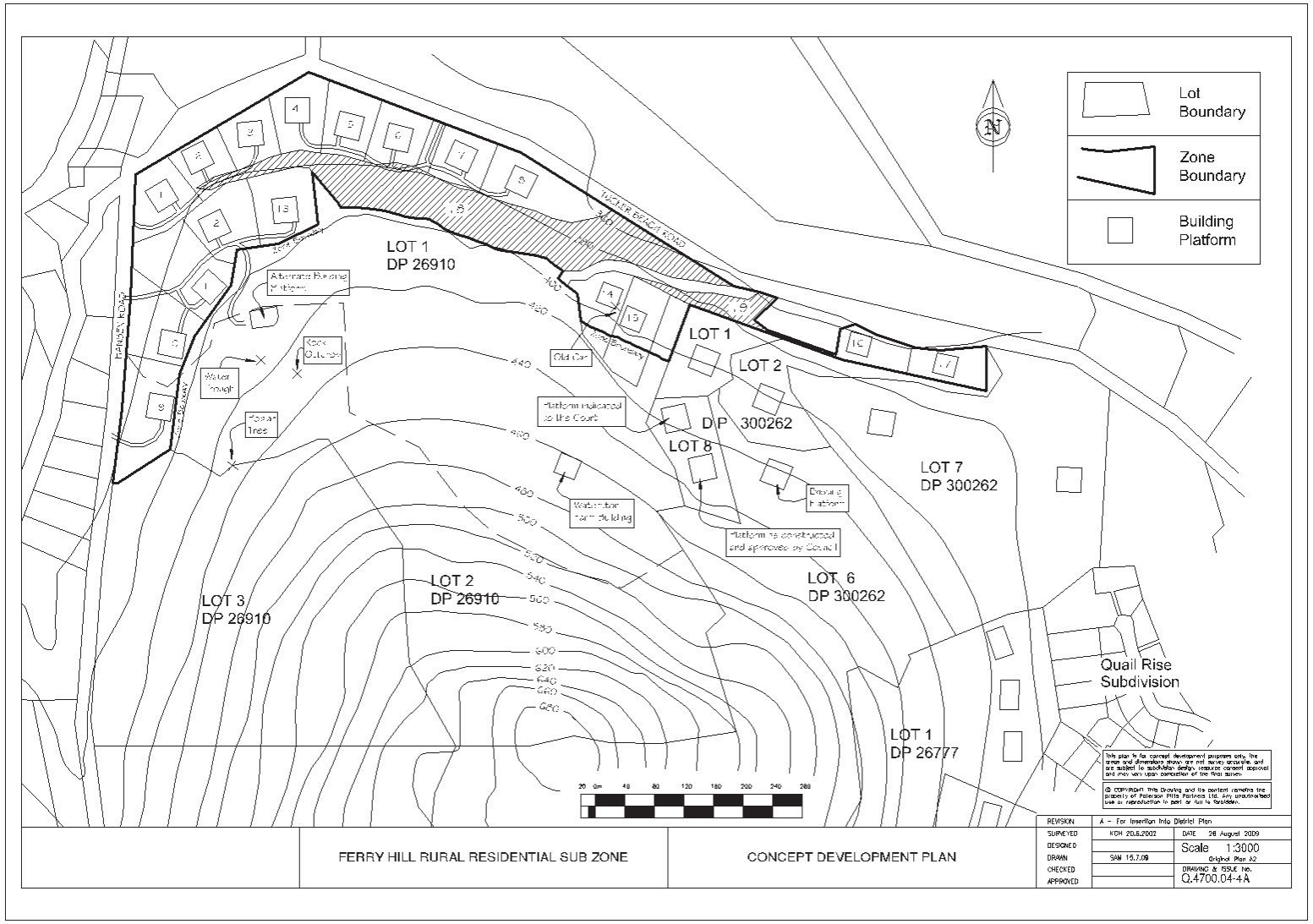
27.12 Financial Contributions

The Local Government Act 2002 provides the Council with an avenue to recover growth related capital expenditure from subdivision and development through development contributions. The Council forms a development contribution policy as part of its 10 Year Plan and actively imposes development contributions via this process.

The Council acknowledges that Millbrook Country Club has already paid financial contributions for water and sewerage for demand up to a peak of 5000 people. The 5000 people is made up of hotel guests, day staff, visitors and residents. Should demand exceed this then further development contributions will be levied under the Local Government Act 2002.

27.13 Structure Plans

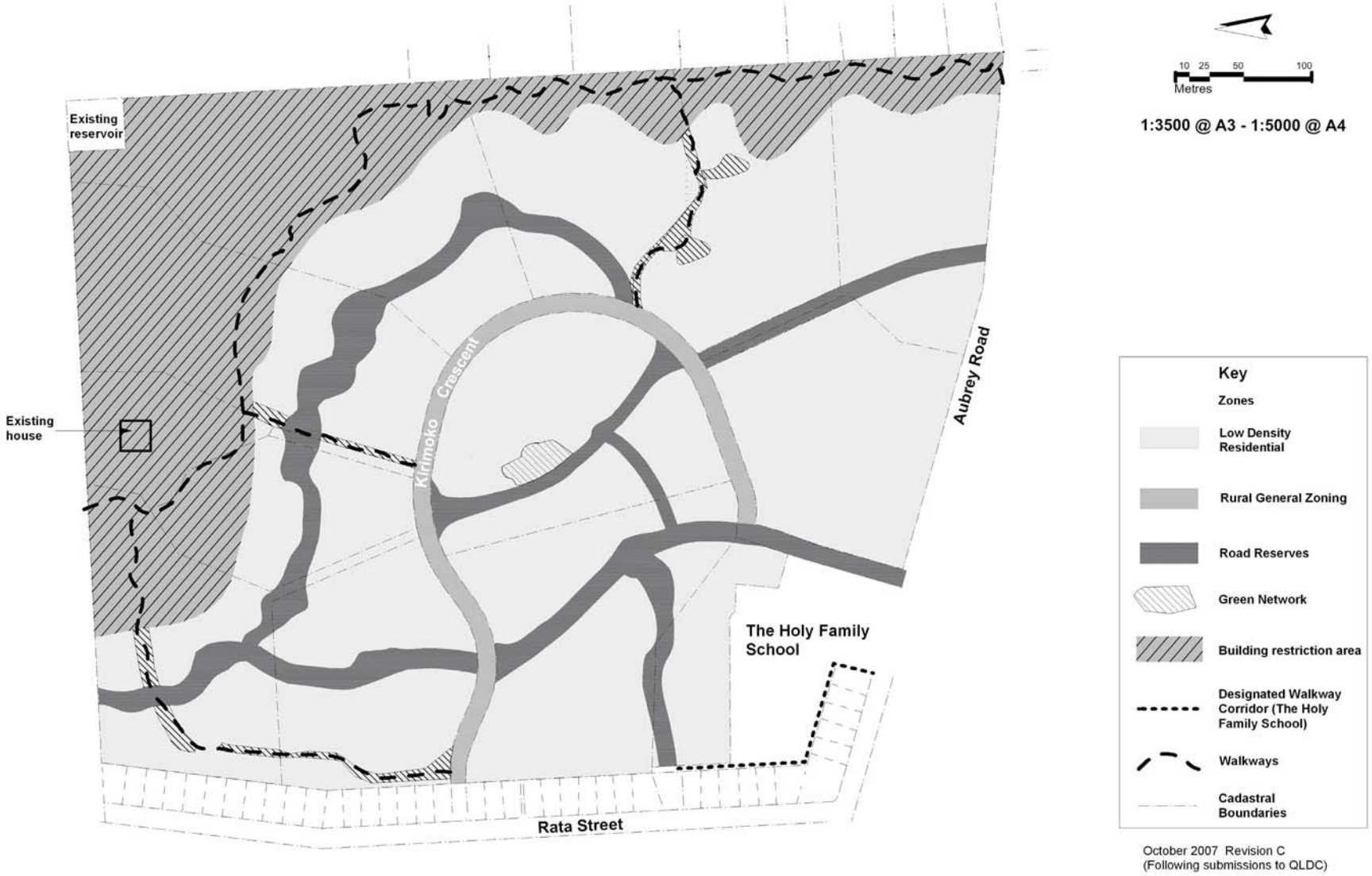
Ferry Hill Rural Residential Subzone[6]



[6] Greyed out text indicates the provision is subject to variation and is therefore is not part of the Hearing Panel's recommendations.

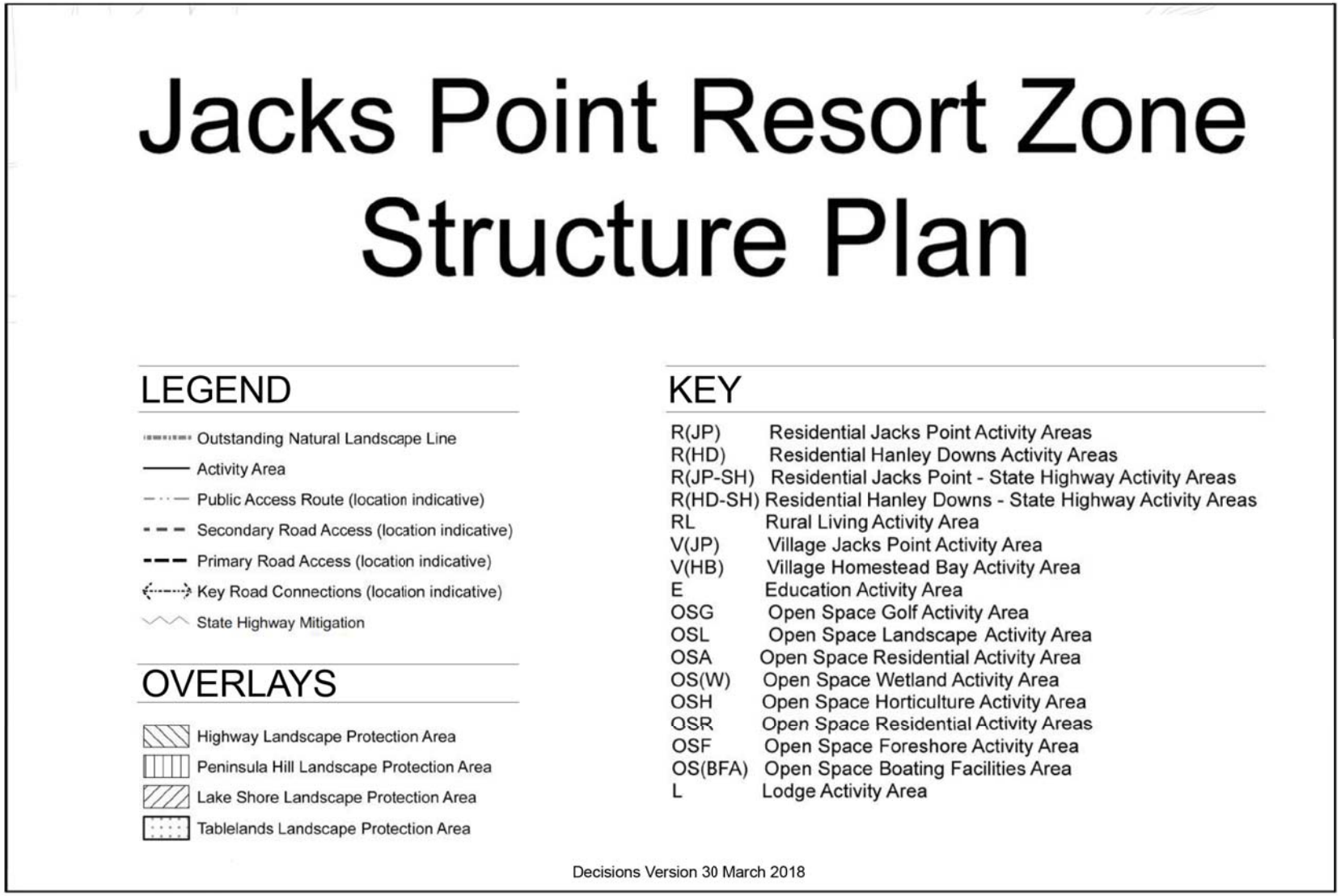
27.13.1 Kirimoko Structure Plan

Kirimoko Block - Wanaka - Structure Plan

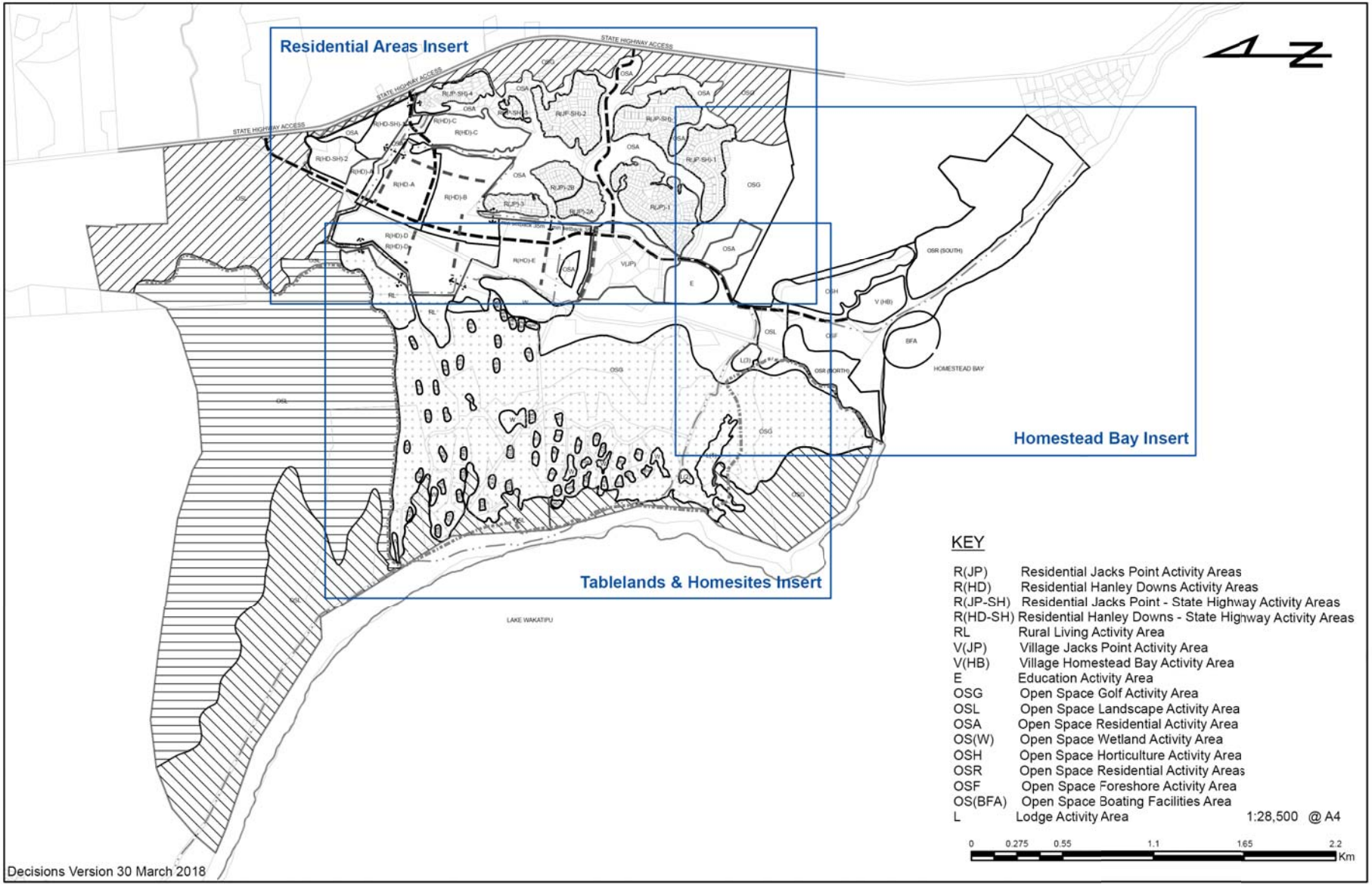


October 2007 Revision C
(Following submissions to QLDC)

27.13.2 Jacks Point Structure Plan

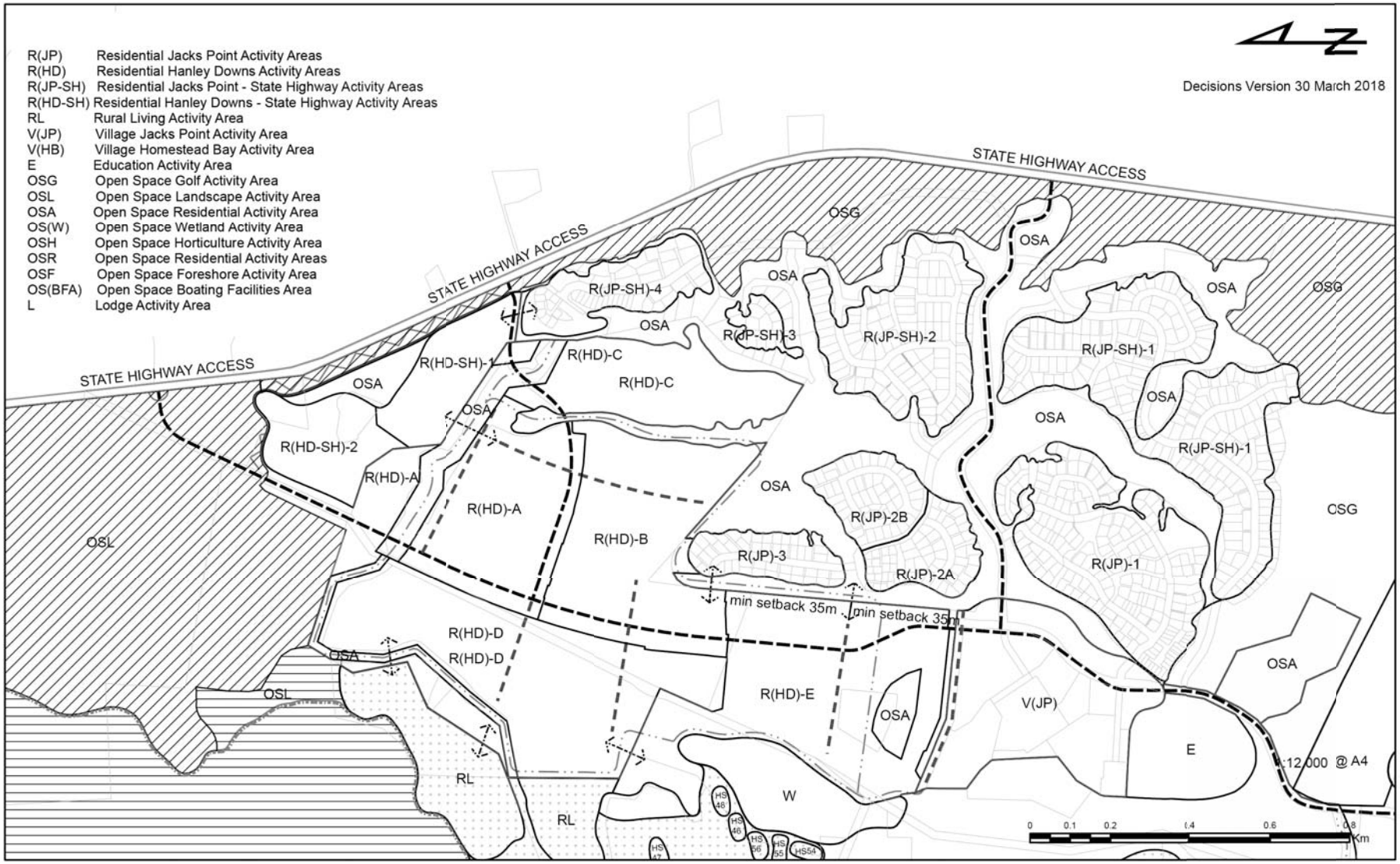


Jacks Point Resort Zone Structure Plan



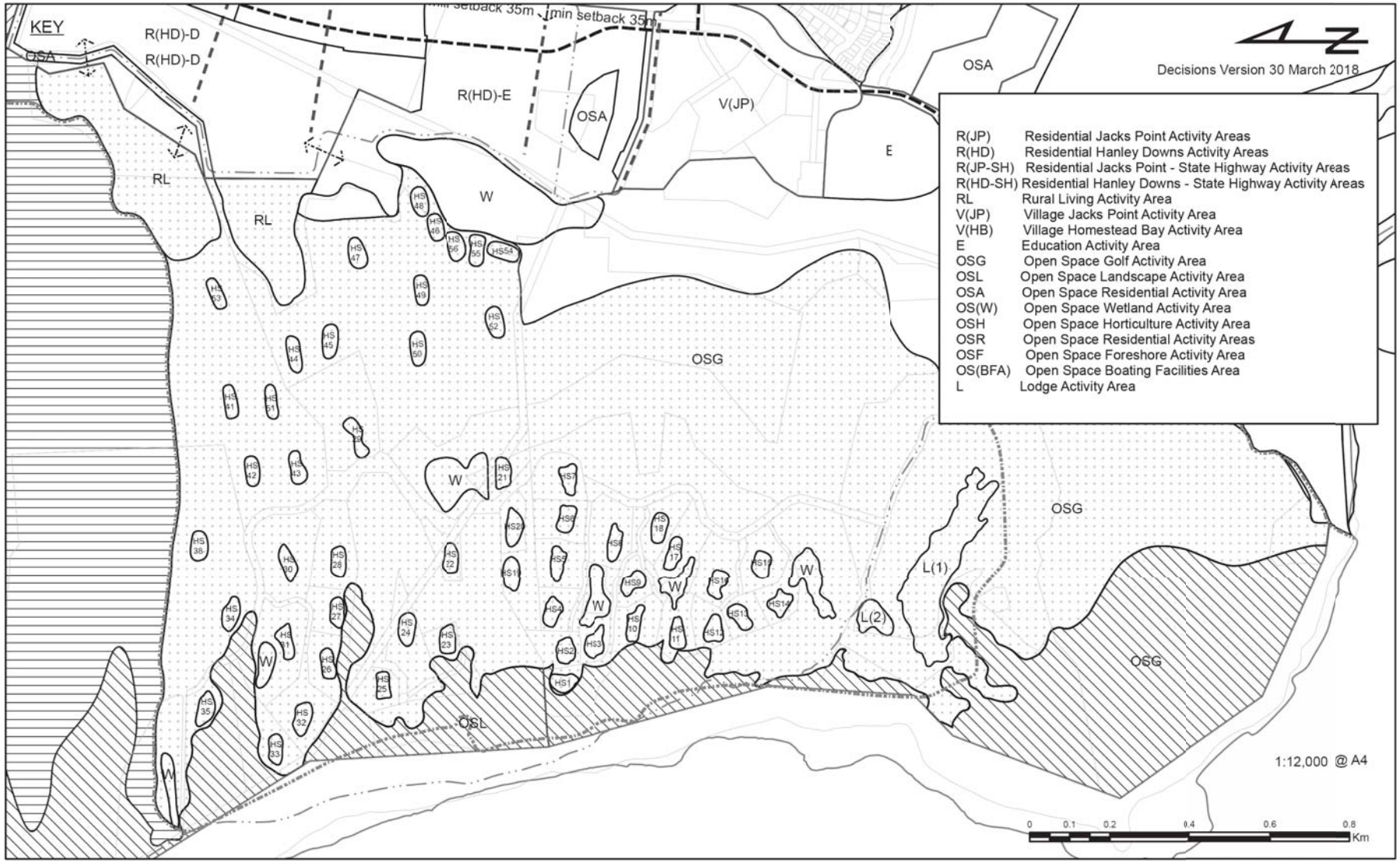
Jacks Point Resort Zone Structure Plan

Residential Areas Insert



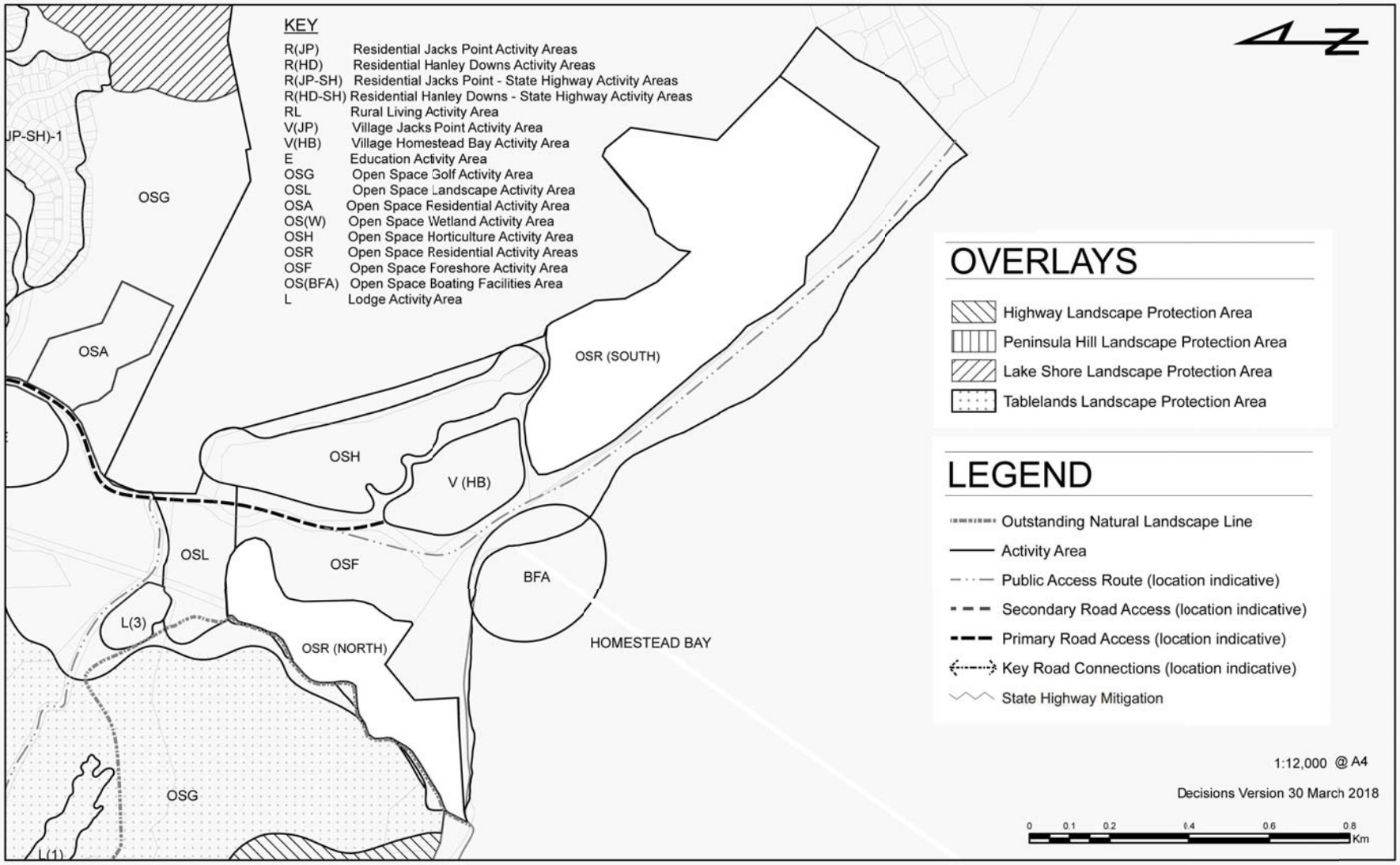
Jacks Point Resort Zone Structure Plan

Tablelands & Homesites Insert

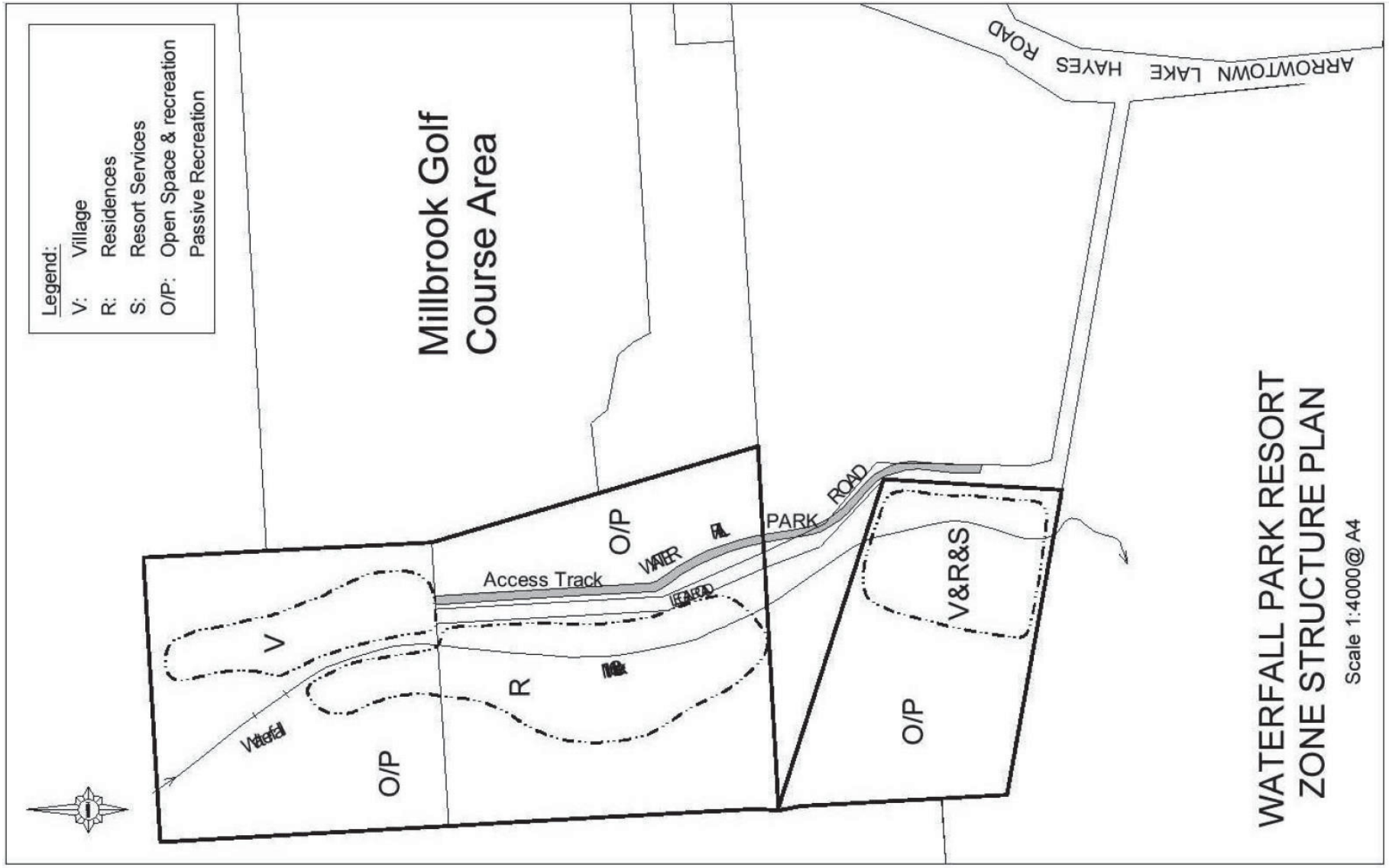


Jacks Point Resort Zone Structure Plan

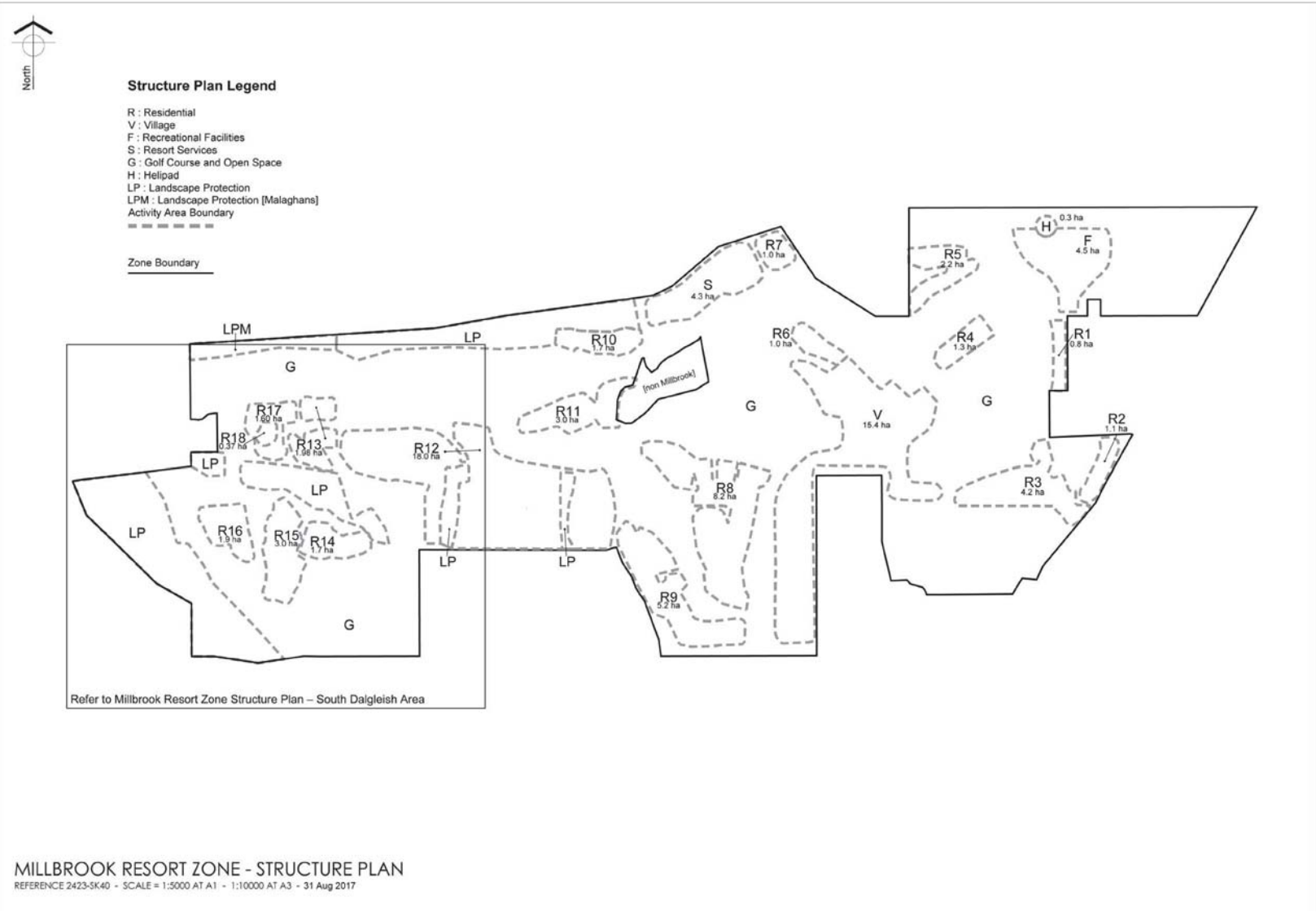
Homestead Bay Insert

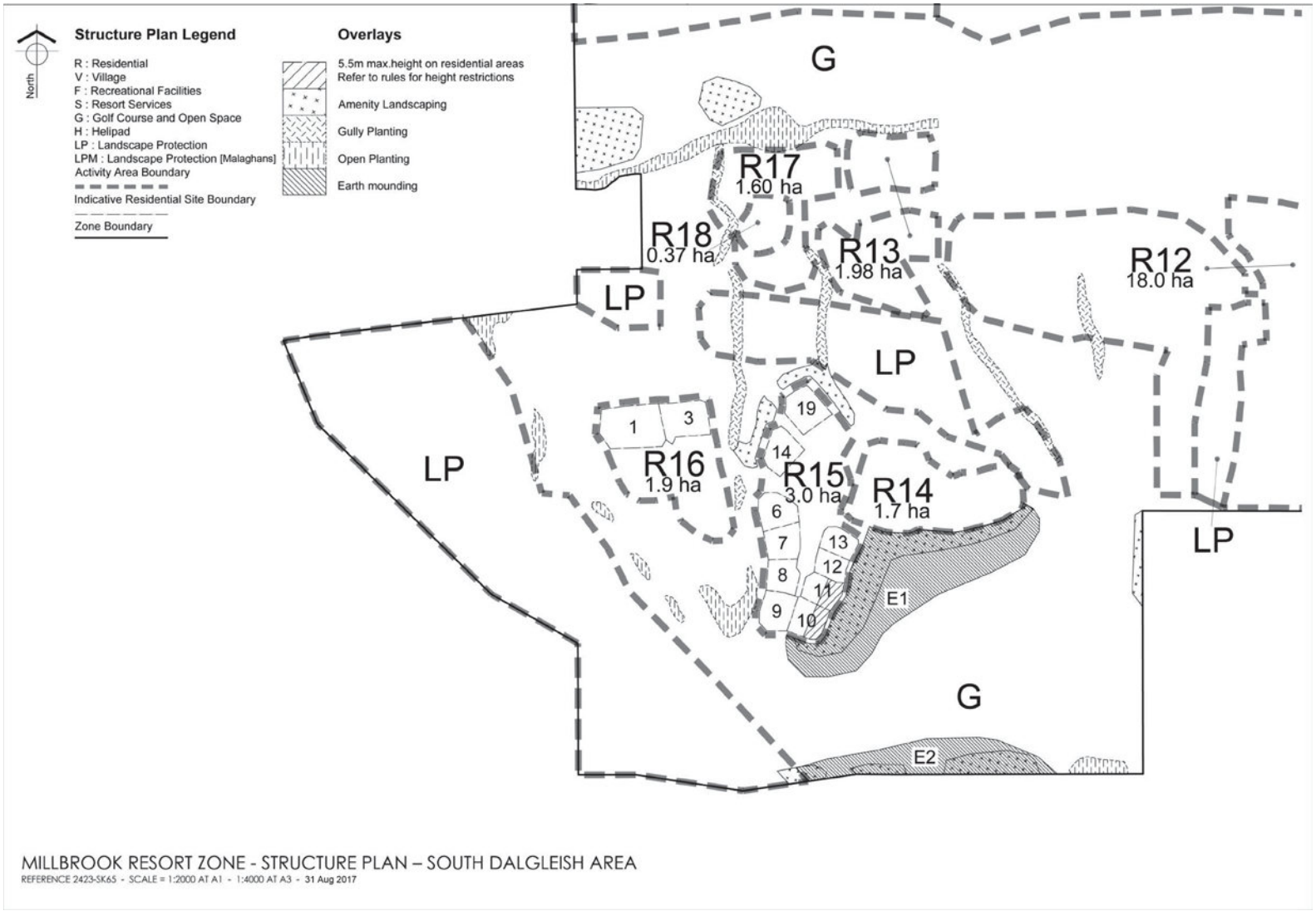


27.13.3 Waterfall Park Structure Plan

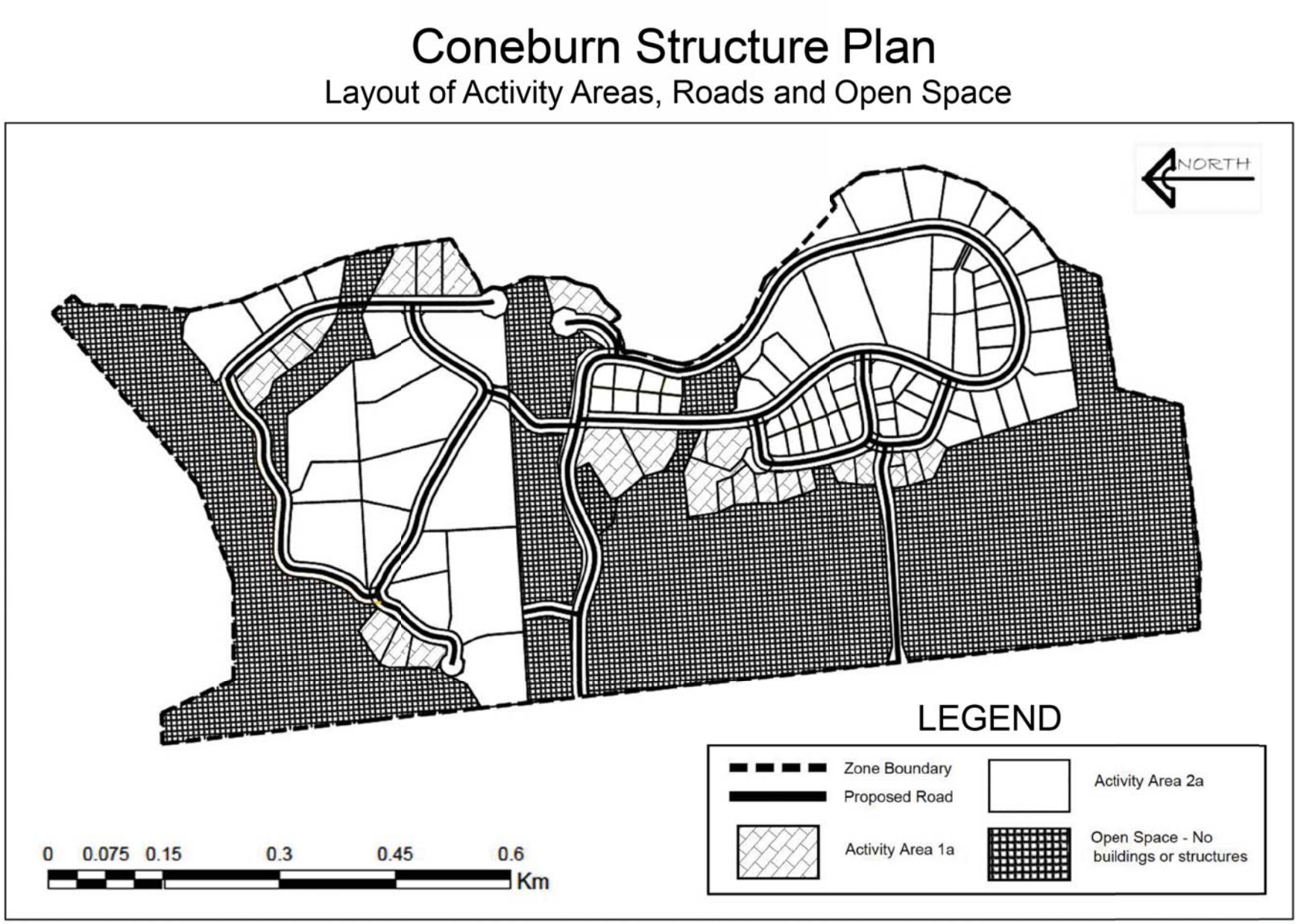


27.13.4 Millbrook Structure Plan



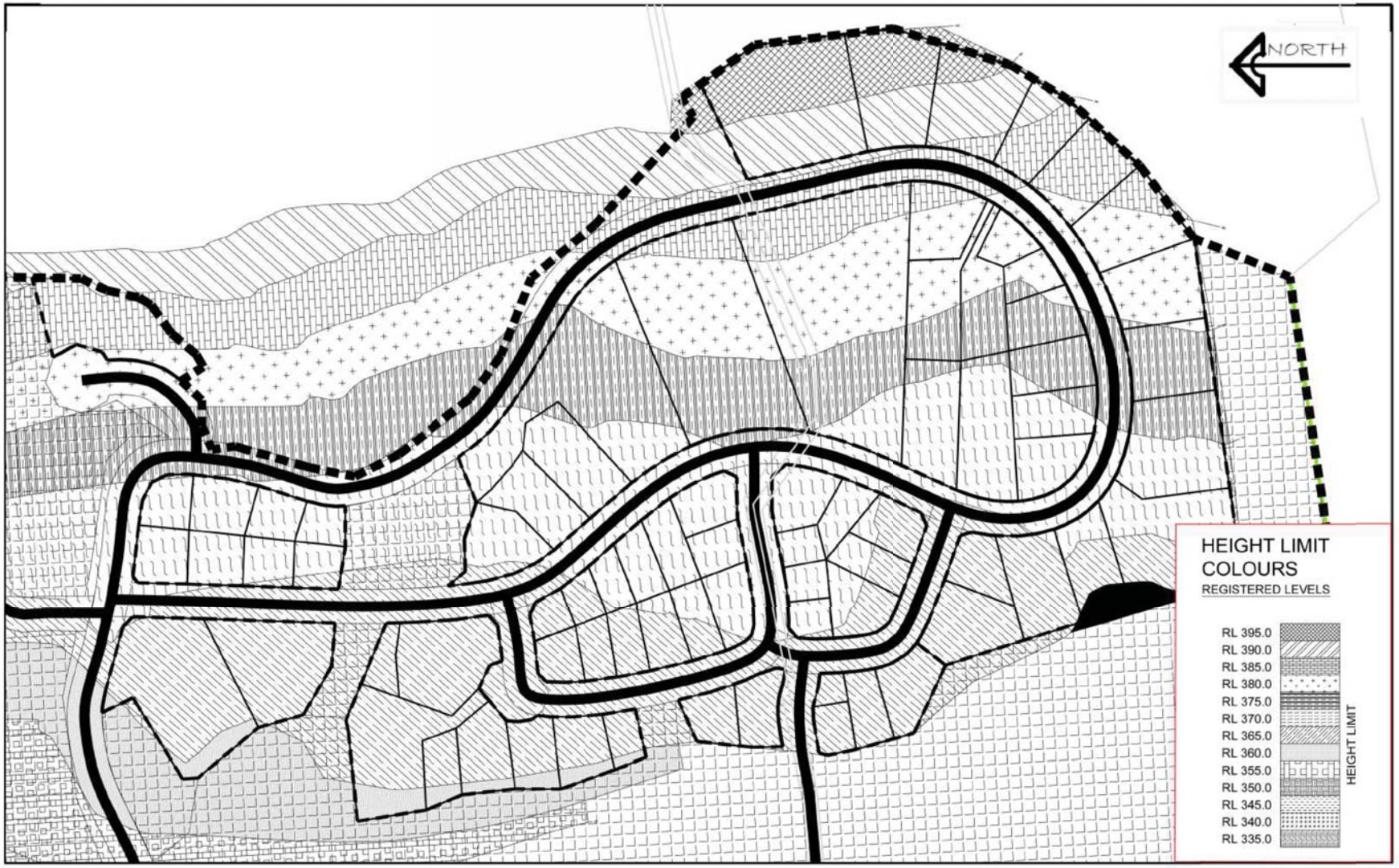

North
Structure Plan Legend
R : Residential
V : Village
F : Recreational Facilities
S : Resort Services
G : Golf Course and Open Space
H : Helipad
LP : Landscape Protection
LPM : Landscape Protection [Malaghans]
Activity Area Boundary
Indicative Residential Site Boundary
Zone Boundary
Overlays
5.5m max.height on residential areas
Refer to rules for height restrictions
Amenity Landscaping
Gully Planting
Open Planting
Earth mounding
G
R17
1.60 ha
R18
0.37 ha
R13
1.98 ha
R12
18.0 ha
LP
LP
LP
LP
1
3
19
14
R16
1.9 ha
R15
3.0 ha
R14
1.7 ha
6
7
8
9
10
11
12
13
E1
G
E2
MILLBROOK RESORT ZONE - STRUCTURE PLAN – SOUTH DALGLEISH AREA
REFERENCE 2423-SK65 - SCALE = 1:2000 AT A1 - 1:4000 AT A3 - 31 Aug 2017

27.13.5 Coneburn Industrial Structure Plan



Coneburn Structure Plan

Building Height Limits: Part 1

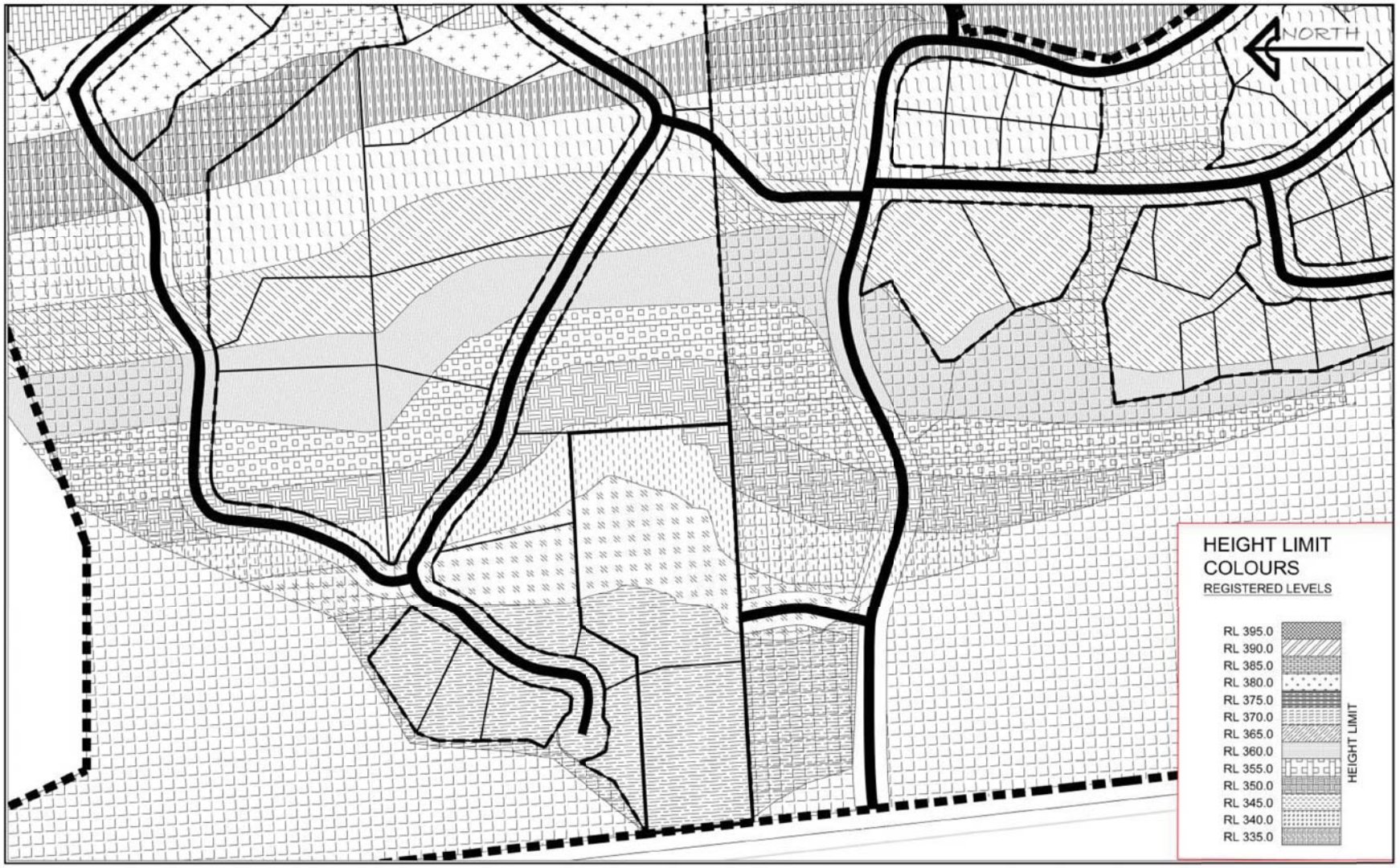


Coneburn Structure Plan

Building Height Limits: Part 2

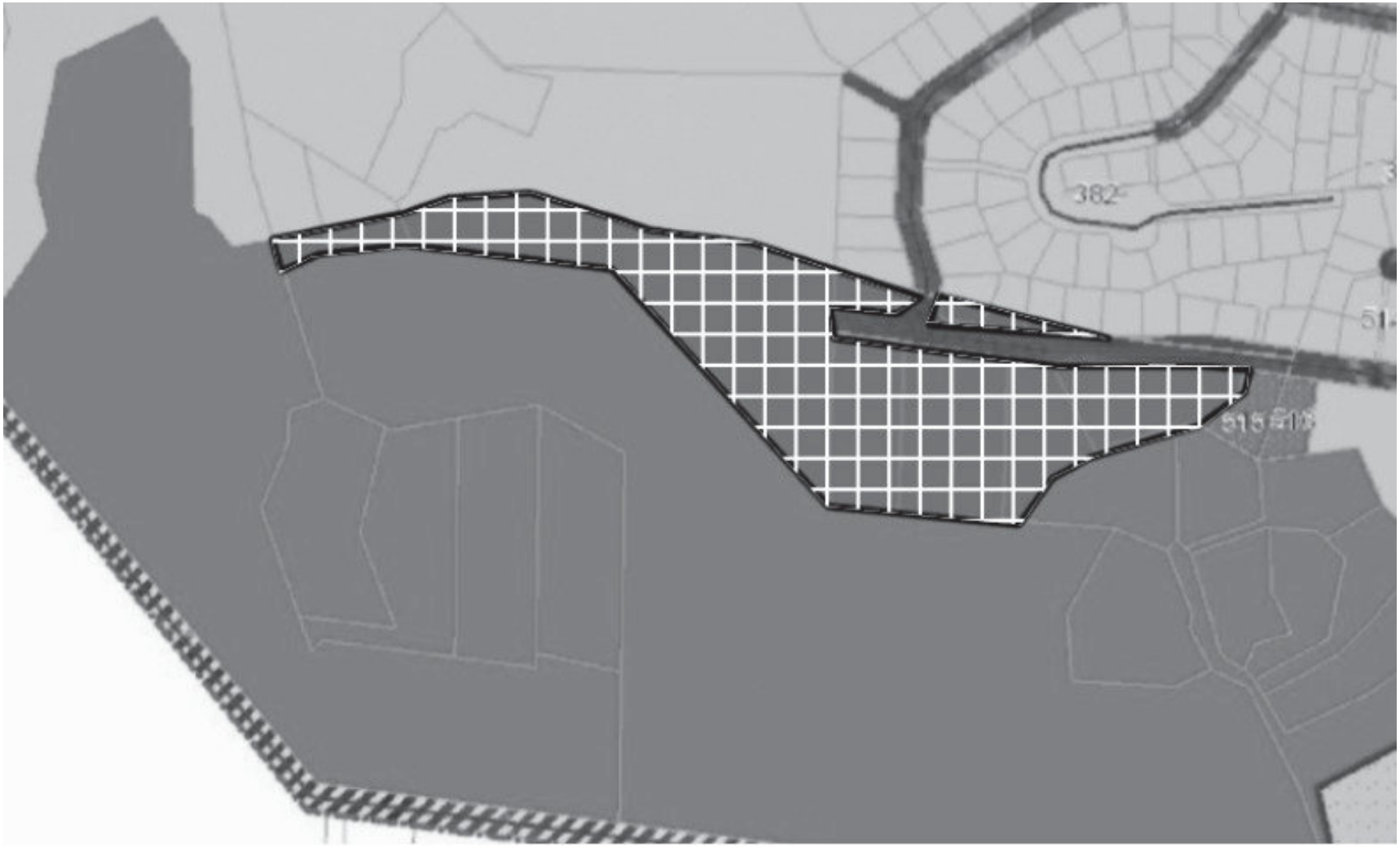
Coneburn Structure Plan

Building Height Limits: Part 3

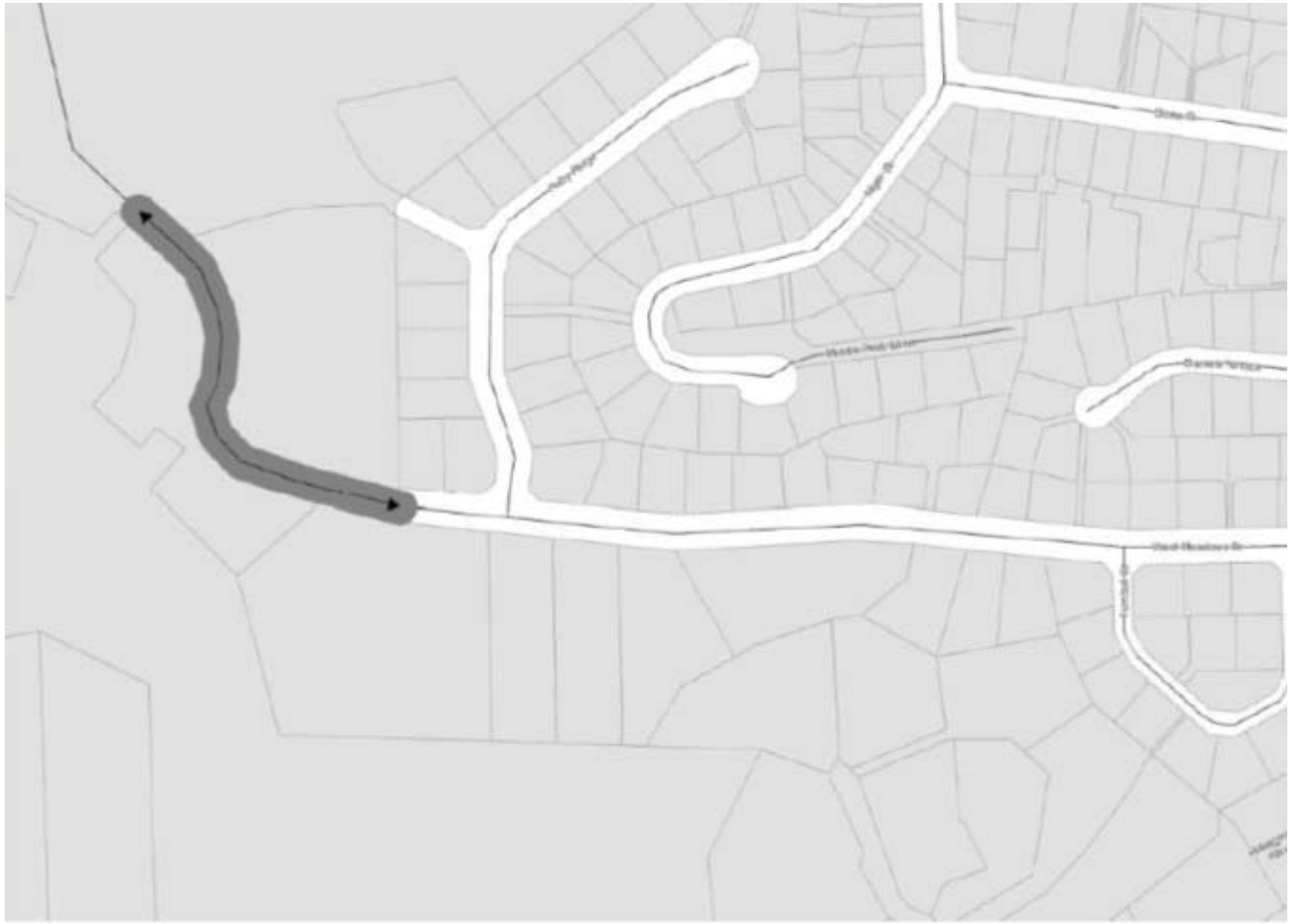


27.13.6 West Meadows Drive Structure Plan

Area of Lower Density Suburban Residential zoned land the subject of the West Meadows Structure Plan



West Meadows Drive Structure Plan



QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report 7

Report and Recommendations of Independent Commissioners
Regarding Chapter 27 – (Subdivision and Development)

Commissioners
Denis Nugent (Chair)
Trevor Robinson
Scott Stevens

TABLE OF CONTENTS

1. PRELIMINARY MATTERS

1.1 Terminology in this Report

1. Throughout this report, we use the following abbreviations:

Act	Resource Management Act 1991 as it was prior to the enactment of the Resource Legislation Amendment Act 2017
Clause 16(2)	Clause 16(2) of the First Schedule to the Act
Council	Queenstown Lakes District Council
NPSET 2008	National Policy Statement for Electricity Transmission 2008
ODP	the Operative District Plan for the Queenstown Lakes District as at the date of this report
ONF	Outstanding Natural Feature(s)
ONL	Outstanding Natural Landscape(s)
PDP	Stage 1 of the Proposed District Plan for Queenstown Lakes District as publicly notified on 26 August 2015
Proposed RPS	the Proposed Regional Policy Statement for the Otago Region as modified by decisions on submissions and dated 1 October 2016
Proposed RPS (notified)	the Proposed Regional Policy Statement for the Otago Region dated 23 May 2015
QAC	Queenstown Airport Corporation
RPS	the Operative Regional Policy Statement for the Otago Region dated October 1998
UCES	Upper Clutha Environmental Society
Stage 2 Variations	the variations, including changes to the existing text of the PDP, notified by the Council on 23 November 2017

1.2 Topics Considered

2. The subject matter of this hearing was Chapter 27 of the PDP (Hearing Stream 4).

3. Chapter 27 sets out objectives, policies, rules and other provisions related to subdivision and development.

4. As notified, it was set out under the following major headings:
   a. 27.1 – Purpose;
   b. 27.2 – Objectives and Policies;
   c. 27.3 – Other Provisions and Rules;

d. 27.4 – Rules – Subdivision;
e. 27.5 – Rules – Standards for Subdivision Activities;
f. 27.6 – Rules – Exemptions;
g. 27.7 – Location – Specific Objectives, Policies and Provisions;
h. 27.8 – Rules – Location Specific Standards;
i. 27.9 – Rules – Non-Notification of Applications;
j. 27.10 – Rules – General Provisions;
k. 27.11 – Rules – Natural Hazards;
l. 27.12 – Financial Contributions.

1.3 Hearing Arrangements

5. Hearing of Stream 4 took place over five days. The Hearing Panel sat in Queenstown on 25-26 July and 1-2 August 2016 inclusive and in Wanaka on 17 August 2016.

6. The parties we heard on Stream 4 were:

Council:
- Sarah Scott (Counsel)
- Garth Falconer
- David Wallace
- Nigel Bryce

Millbrook Country Club Limited[1] and **RCL Queenstown Pty Limited**[2]**:**
- Daniel Wells

Roland and Keri Lemaire-Sicre[3]**:**
- Keri Lemaire-Sicre

G W Stalker Family Trust, Mike Henry, Mark Tylden, Wayne French, Dave Finlin, Sam Strain[4]**, Ashford Trust**[5]**, Bill and Jan Walker Family Trust**[6]**, Byron Ballan**[7]**, Crosshill Farms Limited**[8]**, Robert and Elvena Heywood**[9]**, Roger and Carol Wilkinson**[10]**, Slopehill Joint Venture**[11]**, Wakatipu Equities Limited**[12]**, Ayrburn Farm Estate Limited**[13]**, FS Mee Developments Limited**[14]**:**
- Warwick Goldsmith (Counsel)
- Alexander Reid

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1 Submission 696
2 Submission 632/Further Submission 1296
3 Further Submission 1068
4 Submissions 534 and 535
5 Further Submission 1256
6 Submission 532/Further Submissions 1259 and 1267
7 Submission 530
8 Submission 531
9 Submission 523/Further Submission 1273
10 Further Submission 1292
11 Submission 537/Further Submission 1295
12 Submission 515/Further Submission 1298
13 Submission 430
14 Submission 525

- Jeff Brown (also on behalf of Hogan Gully Farming Limited[15], Dalefield Trustee Limited[16], Otago Foundation Trust Board[17], and Trojan Helmet Limited[18]):
- Ben Farrell

New Zealand Transport Agency[19]:
- Tony MacColl

Darby Planning LP[20], Soho Ski Area Limited[21], Treble Cone Investments Limited[22], Lake Hayes Limited[23], Lake Hayes Cellar Limited[24], Mt Christina Limited[25], Jacks Point Residential No.2 Limited, Jacks Point Village Holdings Limited, Jacks Point Developments Limited, Jacks Point Land Limited, Jacks Point Land No.2 Limited, Jacks Point Management Limited, Henley Downs Land Holdings Limited, Henley Downs Farms Holdings Limited, Coneburn Preserve Holdings Limited, Willow Pond Farm Limited[26], Glendhu Bay Trustees Limited[27], Hansen Family Partnership[28]:
- Maree Baker-Galloway (Counsel)
- Chris Ferguson
- Hamish McCrostie (17 August only)

NZ Fire Service Commission[29] and **Transpower New Zealand Limited[30]:**
- Ainsley McLeod
- Daniel Hamilton (Transpower only)

Queenstown Park Limited[31] and **Remarkables Park Limited[32]:**
- John Young (Counsel)

UCES[33]:
- Julian Haworth

Federated Farmers of New Zealand[34]:
- Kim Riley
- Phil Hunt

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15 Submission 456
16 Submission 350
17 Submission 406
18 Further Submission 1157
19 Submission 719
20 Submission 608
21 Submission 610
22 Submission 613
23 Submission 763
24 Submission 767
25 Submission 764
26 Submission 762
27 Submission 583
28 Submission 751
29 Submission 438/Further Submission 1125
30 Submission 805/Further Submission 1301
31 Submission 806/Further Submission 1097
32 Submission 807/Further Submission 1117
33 Submission 145/Further Submission 1034
34 Submission 600/Further Submission 1132

Ros and Dennis Hughes[35]:

- Ros Hughes
- Dennis Hughes

QAC[36]:

- Rebecca Wolt and Ms Needham (Counsel)
- Kirsty O'Sullivan

Patterson Pitts Partners (Wanaka) Limited[37]

- Duncan White
- Mike Botting

Aurora Energy Limited[38]:

- Bridget Irving (Counsel)
- Nick Wyatt

7. Evidence was also pre-circulated by Ulrich Glasner (for Council), Joanne Dowd (for Aurora Energy Limited[39]), Carey Vivian (for Cabo Limited[40], Jim Veint[41], Skipp Williamson[42], David Broomfield[43], Scott Conway[44], Richard Hanson[45], Brent Herdson and Joanne Phelan[46]), and Nick Geddes (for Clark Fortune McDonald & Associates Limited[47]).

8. Mr Glasner was unable to attend the hearing and his evidence was adopted by David Wallace who appeared in his stead at the hearing.

9. Ms Dowd was unable to travel to the hearing due to an unfortunate accident. In lieu of her attendance, we provided written questions for Ms Dowd, to which she responded in a Supplementary Statement of Evidence dated 5 August 2016.

10. Messrs Vivian and Geddes were excused attendance at the hearing.

11. Mr Jonathan Howard also provided a statement on behalf of Heritage New Zealand Pouhere Taonga[48] and requested that it be tabled.

1.4 Procedural Steps and Issues

12. The hearing of Stream 4 proceeded based on the general pre-hearing directions made in the memoranda summarised in Report 1.

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35 Submission 340
36 Submission 433/Further Submission 1340
37 Submission 453
38 Submission 635/Further Submission 1121
39 Submission 635/Further Submission 1121
40 Submission 481
41 Submission 480
42 Submission 499
43 Submission 500
44 Submission 467
45 Submission 473
46 Submission 485
47 Submission 414
48 Submission 426

13. Other procedural directions made by the Chair in relation to this hearing were:
    a. Consequent on the Hearing Panel's Memorandum dated 1 July 2016 requesting that Council undertake a planning study of the Wakatipu Basin (Noted in Report 1), a Minute was issued directing that if the Council agreed to the Hearing Panel's request[49], submissions relating to the minimum lot sizes for the Rural Lifestyle Zone would be deferred to be heard in conjunction with hearing the results of the planning study and granting leave for any submitter in relation to the minimum lot size in the Rural Lifestyle Zone to apply to be heard within Hearing Stream 4 if they considered that their submission was concerned with the zone provisions as they apply throughout the District[50];
    b. Granting leave for Mr Farrell's evidence to be lodged on or before 4pm on 20 July 2016;
    c. Granting leave for Ms Dowd's evidence to be lodged on or before noon on 3 August 2016, waiving late notice of Aurora Energy Ltd.'s wish to be heard and directing that Ms Dowd supply written answers to any questions we might have of Ms Dowd on or before noon on 16 August 2016;
    d. During the course of the hearing of submissions and evidence on behalf of Darby Planning LP and others, the submitters were given leave to provide additional material on issues that had arisen during the course of their presentation. Supplementary legal submissions and a supplementary brief of evidence of Mr Ferguson were provided. Ms Baker-Galloway, Mr Ferguson and Mr Hamish McCrostie appeared on 17 August to address the matters covered in this supplementary material.
    e. Directing that submissions on Chapter 27 specific to Jacks Point Resort Zone would not be deferred;
    f. Admitting a memorandum dated 18 August 2016 on behalf of UCES into the hearing record;
    g. Extending time for Council to file its written reply to noon on 26 August 2016.

1.5 Stage 2 Variations

14. On 23 November 2017, Council publicly notified the Stage 2 Variations. Relevantly to the preparation of this report, the Stage 2 Variations included changes to a number of provisions in Chapter 27.

15. Clause 16B(1) of the First Schedule to the Act provides that submissions on any provision the subject of variation are automatically carried over to hearing of the variation.

16. Accordingly, the provisions of Chapter 27 the subject of the Stage 2 Variations have been reproduced as notified, but 'greyed out' in the revised version of Chapter 27 attached as Appendix 1 to this report, in order to indicate that those provisions did not fall within our jurisdiction

1.6 Statutory Considerations

17. The Hearing Panel's Report 1 contains a general discussion of the statutory framework within which submissions and further submissions on the PDP have to be considered, including matters that have to be taken into account, and the weight to be given to those matters. We have had regard to that report when approaching our consideration of submissions and further submissions on Chapter 27.

18. Some of the matters identified in Report 1 are either irrelevant or have only limited relevance to the objectives, policies and other provisions of Chapter 27. The National Policy Statement

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49 The Hearing Panel was advised by Memorandum dated 8 July 2016 from counsel for the Council that the Council would undertake the study requested

50 In the event, no such application was received

for Renewable Electricity Generation 2011 and the National Policy Statement for Freshwater Management 2014 are in this category. The NPSET 2008 and the NPSUDC 2016, however, are of direct relevance to some provisions of Chapter 27. The NPSUDC 2016 was gazetted after the hearing of submissions and further submissions concluded and the Chair sought written input from the Council as to whether the Council considered the provisions of the PDP that had already been the subject of hearings gave effect to the NPSUDC 2016. Counsel for the Council's 3 March 2017 memorandum concluded that the provisions of the PDP gave effect to the majority of the objectives and policies of the NPSUDC 2016, and that updated outputs from the Council's dwelling capacity model to be presented at the mapping hearings would contribute to the material demonstrating compliance with Policy PA1 of the document. We note specifically counsel for the Council's characterisation of the provisions of the NPSUDC 2016 as 'high level' or 'direction setting' rather than as providing detailed requirements. The Chair provided the opportunity for any submitter with a contrary view to express it but no further feedback was obtained. We discuss in some detail later in this report the provisions necessary to give effect to the NPSET and NPSUDC.

19. In his Section 42A Report, Mr Bryce drew our attention to particular provisions of the RPS. He noted in particular Objectives 5.4.1-5.4.4 that he described as promoting sustainable management of Otago's land resource by:

"Objective 5.4.1
To promote sustainable management of Otago's land resource, in order:

a. *To maintain and enhance the primary production capacity and life-supporting capacity of land resources; and*

b. *To meet the present and reasonably foreseeable needs of Otago's people and communities;*

Objective 5.4.2
To avoid, remedy or mitigate degradation of Otago's natural physical resources resulting from activities utilising the land resource;

Objective 5.4.3
To protect Otago's outstanding natural features and landscapes from inappropriate subdivision, use and development."

20. He also noted Objective 9.3.3 and 9.4.3 (Built environment) and the related policies as being relevant as seeking "*to avoid, remedy or mitigate the adverse effects of Otago's built environment on Otago's natural and physical resources, and promote the sustainable management of infrastructure."*

21. Mr Bryce also drew to our attention a number of provisions of the Proposed RPS (notified). By the time we came to consider our report, decisions had been made by Otago Regional Council on this document which superseded the provisions referred to us by Mr Bryce. We have accordingly had regard to the Proposed RPS provisions dated 1 October 2016.

22. We note, in particular, the following objectives of the Proposed RPS:

Objective 1.1
Recognise and provide for the integrated management of natural and physical resources to support the wellbeing of people and communities in Otago.

Objective 2.1
The principles of Te Tiriti o Waitangi are taken into account in resource management processes and decisions.

Objective 2.2
Kai Tahu values, interests and customary resources are recognised and provided for.

Objective 3.1
The values of Otago's natural resources are recognised, maintained and enhanced.

Objective 3.2
Otago's significant and highly-valued natural resources are identified, and protected or enhanced.

Objective 4.1
Risk that natural hazards poised to Otago communities are minimised.

Objective 4.2
Otago's communities are prepared for and able to adapt to the effects of climate change.

Objective 4.3
Infrastructure is managed and developed in a sustainable way.

Objective 4.4
Energy supplies to Otago's communities are secure and sustainable.

Objective 4.5
Urban growth and development is well designed, reflects local character and integrates effectively with adjoining urban and rural environments.

Objective 5.1
Public access to areas of value to the community is maintained or enhanced.

Objective 5.2
Historic heritage resources are recognised and contribute to the region's character and sense of identity.

Objective 5.3
Sufficient land is managed and protected for economic production.

Objective 5.4
Adverse effects of using and enjoying Otago's natural and physical resources are minimised.

23. For each of the above objectives, there are specified policies that also need to be taken into account. Some of the policies of the Proposed RPS are particularly relevant to subdivision and development. We note at this point:

    a. Policy 1.1.2 Economic wellbeing:
    Provide for the economic wellbeing of Otago's people and communities by enabling the use and development of natural and physical resources only if the adverse effects of those

activities on the environment can be managed to give effect to the objectives and policies of the Regional Policy Statement;

b. Policy 2.1.2 Treaty principles:

Ensure that local authorities exercise their functions and powers, by:…
g) Ensuring that District and Regional Plans:
i. Give effect to the Nga Tahu Claims Settlement Act 1998;
ii. Recognise and provide for statutory acknowledgement areas in Schedule 2;
Iii Provide for other areas in Otago that are recognised as significant to Kai Tahu….;

c. Policy 2.2.2 Recognising sites of cultural significance:

"Recognise and provide for wahi tupuna, as described in Schedule 1C by all of the following:
a. Avoiding significant adverse effects on those values which contribute to wahi tupuna being significant;
b. Avoiding, remedying, or mitigating other adverse effects on wahi tupuna;
c. Managing those landscapes and sites in a culturally appropriate manner."

d. Policy 3.1.7 Soil values:

"Manage soils to achieve all of the following:….

f) Maintain or enhance soil resources for primary production……"

e. Policy 3.2.18 Managing significant soil:

"Protect areas of significant soil, by all of the following:….
c) Recognising that urban expansion on significant soils may be appropriate due to location and proximity to existing urban development and infrastructure…."

f. Policy 4.1.5 Natural hazard risk:

"Manage natural hazard risk to people and communities, with particular regard to all of the following:
a. The risk posed, considering the likelihood and consequences of natural hazard events;
b. The *implications of residual risk, including the risk remaining after implementing or undertaking risk reduction and hazard mitigation measures;*
c. The community's tolerance of that risk, now and in the future, including the community's ability and willingness to prepare for and adapt to that risk, and to respond to an event;
d. The changing nature of tolerance to risk;
e. Sensitivity of activities to risk;

g. Policy 4.3.2 Nationally and regionally significant infrastructure:

"Recognise the national and regional significance of all of the following infrastructure:

a. *Renewable electricity generation activities, where they supply the National Electricity Grid and local distribution network;*
b. *Electricity transmission infrastructure;*
c. *Telecommunication and radiocommunication facilities;*
d. *Roads classified as being of national or regional importance;*
e. *Ports and airports and associated navigation infrastructure;*
f. *Defence facilities;*
g. *Structures for transport by rail."*

h. Policy 4.3.4 Protecting nationally and regionally significant infrastructure:

"Protect the infrastructure of national or regional significance, by all the following:
a. *Restricting the establishment of activities that may result in reverse sensitivity effects;*
b. *Avoiding significant adverse effects on the functional needs of such infrastructure;*
c. *Avoiding, remedying or mitigating other adverse effects on the functional needs of such infrastructure;*
d. *Protecting infrastructure corridors from sensitive activities, now and for the future."*

i. Policy 4.4.5 Electricity distribution infrastructure:

"Protect electricity distribution infrastructure, by all the following:
a. *Recognise the functional needs of electricity distribution activities;*
b. *Restricting the establishment of activities that may result in reverse sensitivity effects;*
c. *Avoiding, remedying or mitigating adverse effects from other activities on the functional needs of that infrastructure;*
d. *Protecting existing distribution corridors for infrastructure needs, now and for the future;*

j. Policy 4.5.1 Managing for urban growth and development

"Manage urban growth and development in a strategic and co-ordinated way, by all of the following…..
c. *Identifying future growth areas and managing subdivision, use and development of rural land outside these areas to achieve all of the following:*
    i. *Minimise adverse effects on rural activities and significant soils;*
    ii. *Minimise competing demands for natural resources;*
    iii. *Maintain or enhance significant biological diversity, landscape or natural character values;*
    iv. *Maintain important cultural historic heritage values;*
    v. *Avoid land with significant risk from natural hazards;….*
e. *Ensuring efficient use of land…*
g. *Giving effect to the principles of good urban design in Schedule 5;*
h. *Restricting the location of activities that may result in reverse sensitivity effects on existing activities."*

k. Policy 4.5.3 Urban design:

"Encourage the use of Schedule 5 good urban design principles in the subdivision and development of urban areas."

l. Policy 4.5.4: Low impact design:

*"*Encourage *the use of low impact design techniques in subdivision and development to reduce demand on stormwater, water and wastewater infrastructure and reduce potential adverse environmental effects."*

m. Policy 4.5.5: Warmer buildings:

"Encourage the design of subdivision and development to reduce the adverse effects of the region's colder climate, and higher demand and costs for energy, including maximising the passive solar gain."

n. Policy 5.3.1: Rural activities:

"Manage activities in rural areas, to support the region's economy in communities, by all of the following:

a. Minimising the loss of significant soils;
b. Restricting the establishment of activities in rural areas that may lead to reverse sensitivity effects;
c. Minimising the subdivision of productive rural land to smaller lots that may result in rural residential activities;
d. Providing for other activities that have a functional need to locate in rural areas, including tourism and recreational activities that are of a nature and scale compatible with rural activities."

24. The Proposed RPS is a substantial document. Noting the above policies does not mean that the other policies in the Proposed RPS are irrelevant. We have taken all objectives and policies of the Proposed RPS into account and discuss them further, when relevant to specific provisions.

25. Mr Bryce reminded us of the existence of the Iwi Management Plans noted in Report 1. He did not, however, draw our attention to any particular provision of any of those Plans as being relevant to the matters covered in Chapter 27 and no representatives of the Iwi appeared at the hearing.

26. Consideration of submissions and further submissions on Chapter 27 has also necessarily taken account of the Hearing Panel's recommendations in Reports 2 and 3 as to appropriate amendments to the Strategic Chapters of the PDP (that is to say Chapters 3, 4, 5 and 6. We note in particular the following provisions:

Objective 3.2.2.1:
"Urban Development occurs in a logical manner so as to:

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

h. be integrated with existing, and planned future, infrastructure."

Policy 3.3.24
"Ensure that cumulative effects of new subdivision and development for the purposes of rural living does not result in the alteration of the character of the rural environment to the point where the area is no longer rural in character."

Policy 3.3.26
"That subdivision and/or development be designed in accordance with best practice land use management so as to avoid or minimise adverse effects on the water quality of lakes, rivers and wetlands in the District."

27. The tests posed in section 32 form a key part of our review of the objectives, policies, rules and other provisions of Chapter 27 of the PDP. We refer to and adopt the discussion of section 32 in the Hearing Panel's Report 3. In particular, for the same reasons as are set out in Report 3, we have incorporated our evaluation of changes to the notified Chapter 27 into the report that follows rather than provide a separate evaluation meeting the requirements of section 32AA.

28. We note that the material provided to us by the Council did not include a quantitative analysis of costs and benefits either of the notified Chapter 27, or of the subsequent changes Mr Bryce proposed to us. We queried counsel for the Council on this aspect when she opened the hearing and were told that Council did not have the information to undertake such an analysis. None of the submitters who appeared before us provided us with quantitative evidence of costs and benefits of the amendments they proposed either. When we discussed with Ms Baker-Galloway whether her clients would be able to provide us with such evidence, she advised that any information they could provide would necessarily be limited to their own sites and therefore too confined to be useful.

29. We have accordingly approached the application of section 32(2) on the basis that a quantitative evaluation of costs and benefits of the different alternatives put to us is not practicable.

1.7 Scope Issue – Activity Status of Residential Subdivision and Development within ONLs and ONFs

30. The submissions and evidence of Mr Julian Haworth at the hearing on behalf of UCES sought that residential subdivision and/or development within ONLs and ONFs should be ascribed non-complying activity status. We discussed with Mr Haworth during his appearance whether we had jurisdiction to entertain his request given the terms on which the submission filed by UCES on the PDP had been framed. Mr Haworth's subsequent Memorandum of 18 August drew our attention to the potential relevance of a further submission made by UCES (on a submission by Darby Planning LP) to this issue.

31. In the legal submissions in reply on behalf of the Council, it was submitted that there was no scope for us to consider the UCES request in this regard.

32. Mr Haworth requested that we make a decision specifically on this point. In summary, we have concluded that counsel for the Council is correct and we have no jurisdiction to entertain Mr Haworth's request on behalf of UCES. Our reasons follow.

33. The legal submissions on behalf of counsel for the Council in reply summarised the legal principles relevant to determining the scope of our inquiry[51].

34. In summary, a two stage inquiry is required:
    a. What do submissions on the PDP provisions seek? and
    b. Is what submissions on the PDP seek itself within the scope of the inquiry – put colloquially, are they "*on"* the PDP?

35. The second point arises in relation to proposed plans that are limited by subject matter or by geography. Here, there is no doubt that Chapter 27 provides rules that govern residential subdivision within ONLs and ONFs as defined by other provisions in the PDP and so, subject to possible issues arising from the interpretation of the High Court decision in *Palmerston North City Council v Motor Machinists Limited*[52]*,* the UCES request would not fail a jurisdictional inquiry on that ground.

36. The larger issue turns on what it is that are sought by submissions. In determining this question, the cases establish a series of interpretative principles summarised by counsel for the Council as follows:

    a. *The paramount test is whether or not amendments [sought to a Proposed Plan] are ones which are raised by and within the ambit of what is fairly and reasonably raised in submissions on the PDP. This would usually be a question of degree to be judged by the terms of the PDP and the content of submissions*[53]*.*

    b. *Another way of considering the issue is whether the amendment can be said to be a "foreseeable consequence" of the relief sought in a submission; the scope to change a Plan is not limited by the words of the submission*[54]*;*

    c. *Ultimately, it is a question of procedural fairness, and procedural fairness extends to the public as well as to the submitter*[55]*."*

37. Thus far, we agree that counsel for the Council's submissions accurately summarised the relevant legal principles. Those submissions, however, go on to discuss whether a submitter may rely on the relief sought by another submitter, on whose submission they have not made a further submission, in order to provide scope for their request. The Hearing Panel has previously received submissions on this point in both the Stream 1 and Stream 2 hearings from counsel for the Council. Counsel's Stream 4 reply submissions cross referenced the legal submissions in reply in the Stream 2 hearing and submitted that:

    "To the extent that a submitter has not sought relief in their submission and/or has not made a further submission on specific relief, it is submitted that the submitter could not advance relief."

38. This is contrary to the position previously put to the Hearing Panel by counsel for the Council. Those previous submissions said that while a submitter cannot derive standing to appeal decisions on a Proposed Plan by virtue of the submissions of a third party that they have not

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51 Refer Council Reply legal submissions at 13.2-13.4

52 [2014] NZRMA 519

53 *Countdown Properties (Northland) Limited v Dunedin City Council* [1994] NZRMA 145, and 166

54 *Westfield (NZ) Ltd v Hamilton City Council* [2004] NZRMA 556, and 574-575

55 Ibid*,* at 574

lodged a further submission on, if a submitter advances submissions and/or evidence before the Hearing Panel in relation to relief sought by a second submitter, the Hearing Panel can properly consider those submissions/evidence. This is based on the fact that the Hearing Panel's jurisdiction to make recommendations is circumscribed by the limits of all of the submissions that have been made on the Proposed Plan. In a subsequent hearing (on Stream 10), counsel for the Council confirmed that her position was correctly stated in the Stream 1 and 2 hearings.

39. It follows that if any submission, properly construed, would permit us to alter the status of residential subdivision and development within ONLs and ONFs to non-complying, we should consider Mr Haworth's submissions and evidence on that point, although we accept that if jurisdiction to consider the point depends on a submission other than that of UCES, and on which UCES made no further submission, that might go to the weight we ascribe to Mr Haworth's submissions and evidence (a related submission made by counsel for the Council).

40. As the Hearing Panel noted in its Report 3, we do not need to consider whether, if we conclude some third party's submission provides jurisdiction, UCES will have jurisdiction to appeal our decision on the point, that being a matter properly for the Environment Court, if and when the issue arises.

41. Focussing then on the provisions of the notified PDP as the starting point, the activity status of subdivisions was governed by Rules 27.4.1-27.4.3 inclusive.

42. Rule 27.4.1. was a catchall rule providing that all subdivision activities are discretionary activities, except otherwise as stated.

43. Rule 27.4.2 specified a number of subdivision activities that were non-complying activities. Residential subdivision within ONLs and ONFs may have been deemed to be non-complying under one of the subparts of Rule 27.4.2 (e.g. because it involved the subdivision of a building platform), but not generally so.

44. Rule 27.4.3 provided that subdivision undertaken in accordance with a structure plan or spatial layout plan identified in the District Plan had restricted discretionary activity status. The structure plans and special layout plans identified in the District Plan are of limited areas in the District. Clearly, they do not cover all of the ONLs and ONFs as mapped in the notified PDP.

45. It follows that as notified, residential subdivisions within ONLs and ONFs would usually fall within the default classification provided by Rule 27.4.1 and be considered as discretionary activities.

46. UCES did not make a submission seeking amendment to any of Rules 27.4.1-27.4.3 inclusive. The submission that Mr Haworth referred us to focusses on the section 32 reports supporting the PDP. Paraphrasing the reasons for the UCES submission in this regard, they noted:
    a. The section 32 reports do not refer to non-complying status in relation to residential subdivision and development;
    b. A March 2015 draft of the PDP proposed to make residential subdivision and development non-complying within ONLs and ONFs;
    c. A 2009 monitoring report referred to non-complying status within ONLs and ONFs as an option;
    d. Failure to discuss the issue is a critical flaw in the section 32 analysis.

47. The relief sought by UCES in relation to this submission was worded as follows:

"The Society, seeks that the S.32 Landscape Evaluation Report be re-written containing discussion of the costs and benefits associated with the option of residential subdivision and development becoming non-complying versus the option of it being discretionary, as required by S.32 of the Act and especially S.32(2).

The S.32 Landscape Evaluation Report, once rewritten, should then be publicly notified.
The Society seeks that the 40 working day submission period should apply to the rural part of the Proposed District Plan from the date of renotification of the rewritten S.32 Landscape Evaluation Report."

48. In the summary of submissions publicly notified by the Council, the UCES submission was listed as a submission on Rule 27.4.1. The summary of submission read:

"Expresses concern regarding the Discretionary Activity status within Outstanding Natural Landscapes and Outstanding Natural Features; and the change from a proposed non-complying activity status which was indicated in the March 2015 Draft District Plan. The Society seeks that the s32 Landscape Evaluation Report be re-written containing discussion of the costs and benefits associated with the option of residential subdivision and development becoming non-complying versus discretionary. The s.32 Landscape Evaluation Report should then be publicly notified with a 40 working day submission period."

49. Against this background, counsel for the Council submitted that amendment to the activity status of subdivision in the manner sought by UCES was not a reasonably foreseeable consequence of the UCES submissions and relief. In particular, it was argued that other submitters could not have identified that non-complying status was a likely or even possible consequence of the relief and, as such, could be prejudiced by the outcome now sought by UCES.

50. Counsel did not, however, explain how her submission could be reconciled against the fact that there were two further submissions[56] that state the further submitters' opposition to the UCES position that subdivision in ONLs and ONFs be non-complying. We note also that a third further submission[57] opposed the relief described within the summary of submissions, while stating that this was not part of the package of relief sought in UCES's submission.

51. We think that the last further submission (from Darby Planning LP) made a valid point. The summary of submissions recorded a position being taken in the UCES submission that, at best, is implicit. The further submitters similarly seem to have read between the lines in the summary of submissions, inferring where the argument might go, rather than reading what the submission actually said. It should not be necessary for interested parties to guess where a submission might be taken. While submissions are not to be read literally or legalistically, the substance of what is sought should be reasonably clear.

52. Stepping back and looking at the submission, we think it was misconceived from the outset. While a submission may attack the way in which a section 32 evaluation has been carried out, as we observed to Mr Howarth at the hearing, this is only a means to an end. The reason for attacking the section 32 evaluation is to form the basis of a challenge to the objective, policy, rule or other method supposedly supported by the section 32 evaluation. The link between

[56] Further Submissions 1029 and 1097
[57] Further Submission 1313

the two is illustrated by section 32A of the Act which states that a challenge to a plan provision on the basis that the section 32 evaluation is flawed may only be made in a submission **on the Plan**[58]. The section 32 analysis is not part of the PDP.

53. The solution to a flawed section 32 evaluation is to reassess the Plan provision sought to be changed, not to renotify the section 32 evaluation and to give the general public another opportunity to make submissions on the Plan.

54. Counsel for the Council also pointed out that the UCES submission referred only to the potential that on such renotification, submissions would be invited on the rural provisions of the Plan. While technically correct, we do not think that that is decisive.

55. The point that we are more concerned about is that on a fair and reasonable reading of the UCES submission (and indeed the summary of that submission), the public would have thought that at worst there would be another opportunity to make submissions before the activity status of residential submissions in ONLs and ONFs was changed to be more restrictive.

56. Given the advice we have received on the extent of the District currently mapped as ONL or ONF (nearly 97%), the relief now sought by UCES is a highly significant change. There is in our view considerable potential that interested parties would not have been as assiduous in reading 'between the lines' of the UCES submission as the further submitters referred to above and would be prejudiced by our embarking on a consideration of the merits of non-complying status applying to subdivision and development for residential purposes within ONLs and ONFs.

57. We have considered Mr Howarth's alternative point, made in his 18 August memorandum, which relies on a UCES further submission on Darby Planning LP's submission in relation to Rule 27.4.1.

58. The Darby Planning submission sought that Rule 27.4.1 be amended so that the default status for subdivisions is a controlled status unless otherwise stated. The submission suggested a number of areas of control as consequential changes to the proposed change of status.

59. The UCES further submission stated in relation to aspects of the Darby Planning submission related to subdivision and development:

"The Society opposes the entire submission in paragraphs 23-29, and in particular the request that rural subdivisions and development become a controlled activity. The Society seeks that this part of the submission is entirely disallowed."

60. The further submission went on, however, to note the potential significance of proposed legislative changes which, if adopted, would have the result that discretionary activity subdivisions would not be publicly notified[59], and stated:

"The Society is changing its position from that in its Primary Submission and it now seeks that all rural zone subdivision and development becomes non-complying."

61. The first thing to note is that UCES viewed this as a change from its primary submission. Clearly, the Society did not regard its submission as already raising this relief.

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58 See clause 6 of the First Schedule to the Act. Emphasis added.

59 The provision in question was Clause 125 of the Resource Legislation Amendment Bill 2015

62. Addressing the ability of a further submission to provide a jurisdictional basis for the relief sought, a further submission is not an appropriate vehicle to advise of substantive changes of position. This point is considered in greater detail in the Hearing Panel's Report 3, but in summary, clause 8(2) of the First Schedule to the Act states that a further submission must be limited to a matter in support of or in opposition to the relevant submission.

63. Clearly this particular further submission was in opposition to the relevant submission. It sought that the relevant submission be disallowed. If the Darby Planning LP submission was disallowed, the end result would be that Rule 27.4.1 would remain as notified, that is to say that unless otherwise stated, subdivision activities in ONLs and ONFs would be discretionary activities. A further submission cannot found jurisdiction in the manner that Mr Haworth sought.

64. We have considered, given the discussion above, whether any other submissions might provide jurisdiction for the relief now sought by UCES. There were a very large number of submissions seeking that Rule 27.4.1 be amended. The vast majority of those submissions sought, like Darby Planning LP, that the default status for subdivisions in the District be controlled activity status. Clearly those submissions do not provide jurisdiction for the relief UCES sought. They sought to move the rule in the opposite direction to that which UCES sought.

65. There are a number of more general submissions that sought that the entire Chapter 27 of the PDP be deleted and replaced with Chapter 15 of the ODP[60]. Under Chapter 15 of the ODP, the only non-complying subdivision activities are those falling within Rule 15.2.3.4. That rule related to a series of specific situations and does not support the UCES relief either.

66. Having reviewed all of the submissions on these Rules, none that we can identify provide jurisdictional support for the relief now sought by UCES.

67. We have therefore concluded that the altered relief now sought by UCES is outside the scope of any submission and cannot be considered further as the basis for any recommendation we might make on the final form of Chapter 27.

68. Before leaving the point, we should observe that had we identified any jurisdictional basis for Mr Haworth's submissions, there is considerable merit in the point he sought to make.

69. The Hearing Panel's Report 3 canvassed the material relevant to the strategic objectives and policies governing activities within and affecting ONLs and ONFs and concluded that the appropriate response would provide a high level of protection to those landscapes and features.

70. Against that background, discretionary activity status for subdivision and development associated with new residential activities being established in ONL's and ONFs appears somewhat incongruous. The Environment Court identified in relation to the ODP that discretionary activity status was an issue and sought to make it clear that that status had been applied in that context to activities in ONLs and ONFs because those activities are

60 E.g. Submissions 497, 512, 513, 515, 520, 522, 523, 525, 527, 529, 530, 531, 532, 534, 535, 536, 537, 608

inappropriate in almost all locations within the zone[61]. As the Court noted[62], it was necessary to displace the inferences that would otherwise follow from discretionary activity status. The Court also observed that if it had not been able to make clear that discretionary activity status was being used in that manner, non-complying status would have been appropriate.

71. In our view, it would be more consistent with the policy framework we have recommended, and arguably more transparent, if subdivision and development for the purposes of residential activities in ONLs and ONFs was a non-complying activity. Had we had jurisdiction, we would likely have recommended non-complying status for residential subdivision and development in ONLs and ONFs for this reason.

72. Mr Haworth drew our attention to another reason why, in our view, Council should consider this issue further.

73. At the time of our hearing, Parliament had before it the Resource Legislation Amendment Bill 2015. Among the amendments proposed was a change to the notification provisions that, as Mr Haworth observed, would mean that other than in special circumstances applications for subdivision consents would not be publicly notified unless they were non-complying activities. Mr Haworth expressed concern that this result would apply to residential development within the ONLs and ONFs. As noted above, this foreshadowed legislative change prompted a change in position from UCES.

74. The Resource Legislation Amendment Bill was enacted[63] in April 2017. As we read them, the notification provisions would have the same effect as those of the Bill that Mr Haworth drew to our attention.

75. We infer that this legislative change reflects the usual implications to be drawn from discretionary activity status discussed by the Environment Court in its 2001 decision, rather than the special meaning in the ODP, which has effectively been rolled over into the PDP.

76. We do not regard it as satisfactory that other than in exceptional circumstances, residential subdivision and development in ONLs and ONFs is considered on a non-notified basis given the national interest[64]in their protection and the intent underlying discretionary activity status in this situation. We recommend that Council initiate a variation to the PDP to alter the rule status of this activity to non-complying.

1.8 General Matters

77. There are a number of general submissions that we should consider at the outset. The first are the submissions that sought that Chapter 27 be deleted and replaced with Chapter 15 of the ODP. We have already noted the submissions in question in the context of our discussion of the UCES scope issue.

78. The equivalent rule to rule 27.4.1 in the ODP is Rule 15.2.8.1 which provides that the default status for subdivision is controlled activity status. This was at the heart of the huge bulk of submissions that we have considered on Chapter 27 and, indeed, much of the evidence and submissions we heard; namely that the default status under the ODP should not be changed.

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61 ODP 1.5.3(iii)(iii)

62 Lakes District Landowners Society Inc v QLDC C75/2001 at [43-46]

63 As the Resource Legislation Amendment Act 2017

64 Section 6, of course, identifies it as being a matter of national interest

79. The broad relief sought in a number of submissions (that Chapter 27 revert to Chapter 15 of the ODP) necessarily includes the narrower point (as to the default status of subdivision activities). We will consider the broad point first, and address the narrower point in the next section.

80. The other set of general submissions that we should address at the outset are those that sought that the structure of the Chapter 27 be amended so it is consistent with other zones, including using tables, and ensuring that all objectives and policies are located at the beginning of the section[65].

81. Other general submissions worthy of note are submissions 693 and 702, which suggested that the objectives and policies in Chapter 27 be reordered to make it clear which are solely applicable to urban areas, and submission 696, which sought that that the number of objectives and policies in Chapter 27 be reduced.

82. Submission 817 sought that objectives D1 and D4 of the National Policy Statement for Freshwater Management 2014 be implemented in Chapter 27.

83. Lastly Submission115 sought general but more substantive relief – related to provision for cycleways and pathways, and reserves.

84. Looking first at the question as to whether Chapter 27 should simply be deleted and Chapter 15 of the ODP substituted, the evidential foundation for this submission is contained in the evidence of Messrs Brown, Ferguson and Farrell. Mr Goldsmith summarised their evidence as being that the "ODP CA [standing for Controlled Activity] regime is not complex and works well."

85. That might be contrasted with the view set out in the section 32 report underpinning Chapter 27 which stated[66] that the ODP subdivision chapter is complicated and unwieldy. Mr Bryce, who gave planning evidence for the Council, noted the section 32 analysis, but focused his evidence more on the substance of the ODP Chapter 15 provisions that we will come to shortly.

86. Mr Goldsmith likewise sought to distinguish between the format of Chapter 15 and the substance. He accepted that the format of Chapter 15 could be improved and described[67] that aspect of the matter as follows:

> *"Format refers to the structure of the existing ODP Chapter 15 which follows the 'sieve' structure of the rest of the ODP. The 'sieve' structure is the approach which does not detail activity status in the likes of a Table, but requires activity status to be determined by reviewing a considerable number of plan provisions to see which layer of the multi-layered 'sieve' (each layer containing different size holes) catches the activity in question. This is a somewhat complex and counter-intuitive approach. It is acknowledged that the alternative PDP approach, classifying activities by reference to Tables, is clearer, more easily understood, and preferable. That is not challenged."*

87. As against that somewhat negative viewpoint, Mr Goldsmith suggested to us[68] that one of the virtues of the ODP Chapter 15 is that "*it is easy to find and apply the relevant Chapter 15*

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65 See Submissions 632, 636, 643, 688, 693, and 702. Submission 632 was the subject of a number of further submissions, but they do not appear to relate to this aspect of the submission.

66 Section 32 Evaluation at page 8

67 Legal submissions for GW Stalker Family Trust and others at page 3.

68 Ibid at page 4

objectives and policies. It is rarely necessary to have recourse outside Chapter 15 to the land use Residential, RR and RL Zones." At least in that regard, the broader structure of the PDP needs to be acknowledged. Unlike the ODP, the PDP seeks to provide strategic direction in its early chapters which guides the implementation of more detailed chapters of the PDP like Chapter 27. In Report 3, the Hearing Panel for that Stream recommended that submissions seeking that the strategic chapters be deleted and the PDP revert to the ODP approach be rejected.

88. The corollary of that recommendation is that Chapter 27 cannot operate as a code entirely separated from the balance of the PDP. Broader strategic objectives and policies need to be taken into account.

89. Further, if the subdivision chapter were to revert to the format of Chapter 15, that would be out of step with the chapters of the PDP governing specific zones which take a similar approach to Chapter 27 (indeed, some general submissions noted already seek that the format of Chapter 27 be moved even more closely into line with those other chapters).

90. Lastly, when considering the merits of the way in which Chapter 15 is constructed, we note that the final form of Chapter 15 was the subject of extensive negotiations as part of the resolution of the Environment Court appeals on the ODP. The Court confirmed the final form of Chapter 15 in a consent order, but commented[69]:

"The amendments to Section 15 have been the subject of a somewhat circuitous process of assessment, reassessment and finally confirmation by the parties. Having considered the amended Section 15 now confirmed by the parties, I find that it achieves the aim of consistency with Section 5 of the plan in substance, even if its form still appears somewhat incongruous and unwieldy when compared with the rest of the Plan."

91. This is hardly a ringing endorsement, such as would prompt us to reconsider the wisdom of a different format to the PDP approach that the parties we heard from appeared to accept is clearer and more easily understood, as well as being more consistent with the way the balance of the PDP is structured.

92. In summary, we recommend that the general submissions that sought Chapter 15 of the ODP be substituted for Chapter 27 be rejected. We emphasise that that is not the same thing as rejecting the submissions that sought incorporation of key elements of the existing ODP approach (in particular the controlled activity status for subdivisions generally). As Mr Goldsmith aptly put it, this is an issue of substance that needs to be distinguished from the format of the provisions.

93. Turning to the general submissions already noted, which sought that the structure of Chapter 27 be amended so that it has all objectives and policies together and utilises tables, those submissions were a response to the notified Chapter 27 which exhibited the following features:
    a. It separated general objectives and policies (in section 27.2) from location-specific objectives and policies (in section 27.7);
    b. Consequential on that division, the standards for subdivision activities were separated in a similar manner, with general standards in section 27.5 and location-specific standards in section 27.8;
    c. The general standards in section 27.5 are a mixture of text and tabulated standards.

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69 *Wakatipu Environmental Society Inc & Others v Queenstown Lakes District Council* C89/2005 at [8]

94. In each of these respects, Chapter 27 is out of step with the detailed chapters in the balance of the PDP and Mr Bryce recommended that it be reformatted, as suggested by the submitters.

95. While consistency in formatting of the PDP is desirable, we also consider that the altered format suggested by Mr Bryce is both more logical and easier to follow. Accordingly, we agree with Mr Bryce and recommend that those submissions be accepted.

96. One consequence of such a significant reorganisation of the chapter is that it becomes difficult to track substantive changes sought in submissions, because of course, the submissions relate to the numbering in the notified chapter. In our discussion of submissions following, we will refer principally to the provision number in the submission (which in turn reflects the notified chapter), but provide in brackets the number of the comparable provision in our reformatted and revised version attached in Appendix 1.

97. The remaining general submissions noted above can be addressed more briefly.

98. As regards the submissions that sought that objectives and policies be reordered and labelled to make it clear which are solely applicable to urban areas, we formed the view during the course of the hearing that there is an undesirable degree of uncertainty as to when particular policies related just to the urban environment, given that this appeared to be the intention. We asked Mr Bryce to consider the merits of separating the district-wide objectives and policies into urban and rural sections[70]. Section 3 of Mr Bryce's reply evidence canvassed the point. Mr Bryce's opinion was that while there was some merit in a separation of objectives and policies into rural and urban sections, a number of the objectives and policies apply to both, making such separation problematic. We accept Mr Bryce's point, that a complete separation is not feasible, but we think that much more clarity is required for those objectives and policies that do not apply to both rural and urban environments, as to what it is that they do apply to.

99. In summary, therefore, we recommend acceptance in part of the general submissions we have noted. We do not think a further reordering is required or desirable, but we accept that a number of the objectives and policies need to be amended to remove the ambiguity that currently exists. We will discuss the exact amendments we propose as we work through the provisions of Chapter 27.

100. While we accept the desirability of keeping the number of objectives and policies to a minimum, the Millbrook submission seeking that the number be reduced is framed too generally to be of assistance. RCL Queenstown Pty Ltd[71] provided more targeted relief, listing the objectives and policies it thought should be deleted. However, Mr Wells, who gave evidence for both Millbrook and RCL, expressed broad satisfaction with the amendments Mr Bryce had recommended. While he expressed the views that further refinement might be made, he did not advance that point further, discussing specific provisions. It follows that while we have kept an eye on the potential for further culling of the objectives and policies beyond Mr Bryce's recommendations, so to minimise duplication, we have no evidential basis on which we could recommend a substantial reduction in the number of objectives and policies in Chapter 27.

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70 Following the precedent set by the Independent Hearing Panel on the Proposed Auckland Unitary Plan

71 Submission 632

101. As regards Submission 817, the submission is non-specific as to what changes might appropriately be made to Chapter 27 and the submitter did not provide us with any evidence that would assist further. Mr Bryce recommended an amendment to Policy 27.2.5.12 to provide greater linkage between subdivision management and water quality in part to address this submission. We accept that suggested change. Having reviewed the point afresh, we have not identified any other respects in which the Chapter would be amended to properly give effect to the provisions of the National Policy Statement identified by the submitter.

102. Lastly, addressing Submission 115 Mr Bryce recommended its rejection. We concur. Provision for cycleways, pathways and reserves is a point of detail to be assessed on a case by case basis under the framework of the objectives and policies of Chapter 27.

2. DEFAULT ACTIVITY STATUS

2.1 Controlled Activity?

103. A logical analysis of the submissions on Chapter 27 would start with the objectives, move to the policies, and then consider the rules to implement those policies. In this case, however, the default activity status for subdivisions dominated the submissions and was almost the sole issue in contention at the hearing. Accordingly, although it may appear counter-intuitive, we have decided to address this issue first.

104. As already noted, Rule 27.4.1 of the notified subdivision chapter provided that all subdivision activities would be discretionary activities, except as otherwise stated.

105. Although Rules 27.4.2 and 27.4.3 provided for non-complying and restricted discretionary activities respectively, these rules addressed a series of specific situations that, with one exception, were likely to be a small subset of subdivision applications. The exception was the provision in Rule 27.4.2 that subdivision not complying with the standards in sections 27.5 and 27.8 should be non-complying (other than in the Jacks Point Zone).

106. It follows that on the basis of the PDP as notified, the overwhelming majority of subdivisions that met the Chapter 27 standards would be considered as discretionary activities. One submitter supported the notified provisions[72]. Two other submissions[73] supported discretionary activity status for subdivision in the low density residential zone. A very large number of submitters opposed Rule 27.4.1[74]. Most of those submitters sought that the default activity status be 'controlled'. Many submitters either proffered consequential changes such as suggested matters to which Council's control might be limited or sought consequential changes both to the rule and to the objectives and policies of Chapter 27 more generally.

107. Many submissions sought controlled activity status on a more targeted basis. Submission 591 sought controlled activity status for all subdivisions in the urban zones. Other submitters[75] sought controlled activity status in one or more of the urban zones. Another group of submissions focussed on the rural zones seeking that subdivision in the Rural Residential

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72 Refer Submission 21

73 Submissions 406 and 427: Opposed in FS1262

74 The tabulated summary of the submissions and further submissions either on Rules 27.4.1-3 generally or specifically on Rule 27.4.1 occupied some 25 pages of Appendix 2 to Mr Bryce's Section 42A Report.

75 E.g. Submissions 249, 336, 395,399, 485, 488: Supported in FS1029, FS1061 and FS1270

and/or Rural Lifestyle zones be controlled[76]. A number of submitters[77] nominated the Rural Zone as an exception to a general controlled activity position, suggesting subdivisions in that zone should remain as discretionary activities. Some submissions focussed on the special zones seeking that subdivision in the Millbrook[78] or Jacks Point[79] Zone should be controlled activities. Oher variations were a submission that sought that subdivision within a proposed new subdivision at Coneburn be controlled[80] and a submission that sought that subdivisions for infill housing (one lot only) in all zones be controlled[81]. A group of infrastructure providers[82] sought that subdivision for utilities be a controlled activity.

108. Some submitters were less definitive in the relief sought. Submission 748 sought either controlled or restricted discretionary activity status for complying subdivisions. Submission 277 suggested an even more nuanced position with subdivision of land in the 'Rural General Zone' being discretionary and a mix of controlled and restricted discretionary activity subdivision rules *"for rural living areas and residential zones"*.

109. Some submissions sought more confined relief in the alternative. Submission 610 for instance sought a new rule providing that subdivision within the Ski Area Sub-Zones should be controlled if its primary relief (controlled activity status for all subdivisions except as otherwise stated) was rejected[83].

110. Many submitters did not consider the relevance of standards/conditions to activity status. Read literally, they would have the effect that all subdivisions, irrespective of subdivision design, would be controlled activities to which consent could not be refused. Many others referred to the need to comply with subdivision standards either explicitly (e.g. referring to minimum lot size requirements) or more generally. Many submitters also recognised the need for consequential amendments if the default activity status changed, in particular to the objectives and policies.

111. We have approached this issue as one of principle, considering first what the default activity status for subdivisions should be across all zones before considering (later in this report) whether particular zones (or sub-zones), or alternatively, particular types of subdivisions, need to be recognised as having characteristics warranting either more or less restrictive subdivision activity status as the case may be. Because of the breadth of the submissions on this point, a virtually infinite number of permutations would be within jurisdiction between the notified position (default discretionary status subject to specified exceptions) and all subdivisions being 'controlled' without any standards or other requirements. To keep our report within reasonable bounds, we have restricted our consideration of alternative options to those

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76 Submissions 219,283, 345, 350, 360, 396, 401, 402, 403, 415, 416, 430, 467, 476, 500, 820: Supported in FS1097, FS1164 and FS1206; Opposed in FS1034, FS1050, FS1082, FS1084, FS1086, FS1087, FS1089, FS1099, FS1199, FS1133 and FS1146

77 Submissions 336, 497, 512, 513, 515, 520, 522, 523, 525, 527, 529, 530, 531, 532, 534, 535, 537, 608: Supported in FS1029, FS1125, FS1164, FS1259, FS1260, FS1267, FS1286, FS1322 and FS1331; Opposed in FS1034, FS1068, FS1071, FS1092, FS1097, FS1117 and FS1120

78 Submissions 234, 346, 541: Opposed in FS1266

79 Submission 567

80 Submission 361 – although the reasons for this submission appear to link it to a parallel submission on notified rule 27.5.2.1 because it refers to a house already being established, prior to subdivision- Supported in FS1118 and FS1229; Opposed in FS1296

81 Submission 169

82 Submissions 179, 191, 421 and 781: Supported in FS1121

83 Supported in FS1125

specifically the subject of submissions or which were canvassed during the course of the hearing.

112. The rationale for default discretionary status was set out in the Section 32 Evaluation accompanying the notified PDP. The key points made in the Section 32 Evaluation were that, in the view of the authors, the ODP contains insufficient emphasis on good subdivision and development design, that the ODP subdivision chapter is ineffective in encouraging good subdivision design, and that discretionary activity status would help focus on the importance of good quality subdivision design[84].

113. Mr Bryce reviewed the arguments as to the appropriate default subdivision status in his

114. Section 42A Report, concluding that the section 32 analysis had not demonstrated that a discretionary activity regime was necessarily the best mechanism to respond to subdivision in all zones. Specifically, Mr Bryce recorded his opinion that subdivisions in the Rural Residential and Rural Lifestyle Zones, and within the District's urban areas do not require the broad assessment that would follow from discretionary activity status[85].

115. Equally, however, Mr Bryce was of the opinion that a default controlled activity rule, as sought by a large number of submitters, would be not be particularly effective in responding to subdivision development within the District[86].

116. Mr Bryce saw subdivision and development within areas the subject of structure plans or spatial layout plans as being in a category of their own, justifying controlled activity status. Likewise, he recommended a controlled activity rule covering boundary adjustments. At the other end of the range, Mr Bryce recommended that subdivision and development within the Rural Zone should be a discretionary activity because of the range of potential issues in those areas. The recommendation in his Section 42A Report was, however, that the default activity status for both urban subdivision and development, and subdivision and development within the Rural Residential and Rural Lifestyle Zones, should be Restricted Discretionary (but with separate rules for each to recognise the differences between them)[87]. Consequent on his recommendation, Mr Bryce suggested revised rule provisions specifying the areas within which discretion was retained, based on the areas of control sought in submissions seeking controlled activity status.

117. The argument presented for submitters at the hearing, principally by Mr Goldsmith and Ms Baker-Galloway, supported by expert planning evidence, rested on a number of related considerations, including:
    a. The ODP regime based on a default controlled activity status had worked reasonably well.
    b. The ODP regime provided certainty for developers. By contrast, the PDP regime created significant uncertainty.
    c. While restricted discretionary activity status was an improvement on full discretionary status, the ambit of the matters for discretion was such that it was not materially different to a full discretionary activity status. In particular, retention of discretion over subdivision lot sizes was of particular concern because lot sizes ultimately determined the economic return from an investment in a subdivision.

84 Refer section 32 evaluation at pages 10 and 33
85 Section 42 Report at 10.28
86 Section 42 Report at 10.30
87 Noting that Mr Bryce recommended other targeted Restricted Discretionary rules

d. The Council's reliance on urban design assessments was flawed. To the extent that analysis indicated poor urban design, that was for reasons that had little or nothing to do with the subdivision activity rule status.
e. Further, to the extent that issues of poor urban design in the past had been identified, those issues could be addressed within a controlled activity framework.
f. The concern expressed by Mr Wallace in his evidence for Council regarding the need to retain control over road widths could be addressed under section 106 of the Act.
g. The statistics presented by Mr Bryce as to the percentage of subdivision applications in fact considered as 'controlled' under the ODP were misleading.

118. Other views that we received included evidence on behalf of two leading survey consultancies in the District. Mr Geddes on behalf of Clark Fortune McDonald and Co indicated that the recommendations of Mr Bryce's Section 42A Report largely resolved that submitter's concerns. Mr Duncan White, giving evidence for Patterson Pitts likewise supported a restricted discretionary activity rule.

119. Mr Vivian, giving evidence on behalf of a number of submitters, also generally supported Mr Bryce's recommendations. We note, in particular, Mr Vivian's observation that while it is easy to critique urban design of historic subdivisions, it is a lot harder to ascertain if those subdivisions could have been improved had a different class of rule been applied to them at the time they were consented. Notwithstanding that qualification, Mr Vivian saw merit in a restricted discretionary activity regime, certainly for urban subdivisions, although he recommended some alterations to the proposed matters for discretion in a restricted discretionary activity rule applying to Rural Residential and Rural Lifestyle subdivisions.

120. We did not hear evidence from infrastructure providers seeking to support controlled activity status specifically for utilities.

121. At the opening of the hearing, counsel for the Council advised that Mr Bryce had reflected on the evidence which had been pre-circulated and had formed the view that discretion over lot sizes, averages and dimensions should be deleted from his proposed restricted discretionary activity rule.

122. Mr Goldsmith frankly acknowledged that if this revised recommendation were accepted, then he would accept a restricted discretionary activity rule on behalf of his clients. Ms Baker-Galloway, however, maintained an objection in principle to the restricted discretionary activity rule proposed on behalf of the submitters she represented.

123. As the hearing proceeded, the matters in dispute were progressively narrowed. We would like to express our thanks, in particular, to Mr Bryce for his readiness to consider ways in which his recommendations might be refined to meet the concerns of submitters, while still achieving the policy objectives that underpinned the notified subdivision provisions.

124. Stepping back from the issues in contention, the evidence of Mr Falconer suggests to us that, for whatever reason, the ODP provisions have not been successful in driving high quality urban design. In Mr Falconer's words, while there is some variability between subdivision, generally they are very mediocre. He thought it was particularly concerning that there were no very good examples of urban design. Against the background where, as Mr Brown noted in his evidence, the PDP has a much greater urban design flavour, especially when coupled with the strategic direction provided in Chapters 3 and 4, this suggests to us a need for something to change.

125. While there is an issue (as counsel argued) whether previous mediocre urban design is the product of subdivision activity status, we have considerable difficulty with the argument put to us by both Mr Goldsmith and Ms Baker-Galloway that good design might be enforced within a controlled activity framework. Ms Baker-Galloway cited case law to us suggesting that conditions on subdivisions might produce different lot sizes and subdivisions that look different from what is proposed[88]. However, when we discussed the point with Ms Baker-Galloway, she agreed that the ambit of valid conditions is ultimately an issue of degree, which will determine whether particular issues are able to be controlled by a condition.

126. Accordingly, while counsel are correct, and the case law gives the consent authority considerable latitude to impose conditions on a resource consent application, so long as the conditions do not effectively prevent the activity taking place[89], in our view, the efficacy of those powers depends on the quality of what it is that one starts with. If the starting product is a reasonable quality design, then there will probably be scope to improve that design through discussion between the applicant and Council staff, and imposition of conditions as required to 'tweak' the design. By contrast, if the starting point is a poor quality subdivision design from a consent applicant who refuses to proffer a significantly changed (and improved) design, then in our view, it is neither practically nor legally possible for the Council to redesign a subdivision application by condition.

127. The clearest example of a need for discretion over subdivision design where the Council might need to require potentially significant changes to an applicant's design appeared to be in the width and location of internal roading networks. Mr Wallace summarised his evidence, when we discussed it with him, as being that there is no single formula to identify suitable roadworks based solely on the size of the subdivision.

128. As regards the specific issue of road widths and access issues, both Mr Goldsmith and Ms Baker-Galloway argued that this could be addressed under section 106(1)(c). That provision provides the Council with jurisdiction to refuse a subdivision consent application irrespective of the activity status of the subdivision in circumstances, among other things, where "*sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision".* Ms Baker-Galloway however could not point us to a case which has held that section 106 extends as far as road widths, as opposed to the existence of a practicable legal access.

129. She also accepted that section 106 would not answer a point that we discussed both with a number of the planning witnesses and with counsel who appeared before us that arises when the most efficient (in some cases the only practicable) access to adjacent subdividable land is via the road network of the subdivision. This situation has arisen in the past in the District[90].

130. Ultimately, though, we see the potential application of section 106 as something of a red herring. If section 106 confers the power to refuse a subdivision consent application, there is no practical difference if the District Plan similarly provides a discretion to refuse the consent on the same grounds, and good reason why it should do so – so applicants are more aware of that possibility. As Mr Goldsmith frankly acknowledged, the concern on the part of submitters

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88 She relied in particular on *Dudin v Whangarei District Council* A022/07 and *Mygind v Thames-Coromandel District Council* [2010] NZ EnvC 34

89 Refer *Aqua King Limited v Marlborough District Council* (1998) 4ELRNZ 385 at [23]

90 In Subdivision Consent RM130588 (Larchmont)

is that that position is not 'leveraged' to carve out a greater ambit for subdivision consents to be rejected than section 106 would provide.

131. Mr Goldsmith called valuation evidence from Mr Alexander Reid to support his submission that an excessively wide discretion (certainly the full discretionary status in the notified PDP provisions) would have a chilling effect on the economics of subdivision in the District by reason of the inability to obtain land valuations on which banks and other financiers might rely.

132. Mr Reid's evidence was helpful because he confirmed that uncertainty in consent outcomes is ultimately an issue of degree. If there is some, but not great, uncertainty, then valuers (and banks) will accept that.

133. We discussed with Mr Reid specifically the statistics that Mr Bryce had provided to us which suggested that under the ODP, approximately half the applications for subdivision consent in residential zones, and the Rural Residential Zone (and substantially more than half of the applications in the Rural Lifestyle Zone and deferred Rural Lifestyle Zone) were actually considered on the basis that they were either discretionary or non-complying. Mr Reid's evidence was that he had never regarded there being a great risk of subdivision not occurring in those zones and thus it had not been an issue to value the land[91].

134. We discussed with Mr Jeff Brown and Mr Chris Ferguson whether the difference between controlled activity status and restricted discretionary activity status would have cost implications for applicants. Mr Brown's view was that costs would generally not vary, provided the points of control and discretion were the same. Mr Ferguson pointed out the potential, if the ability to decline under a restricted discretionary rule were used to force an outcome, for transaction costs to increase. He also identified the potential for a different outcome to have cost implications.

135. We had difficulty reconciling Mr Ferguson's reasoning with the legal submissions we heard from both Mr Goldsmith and Ms Baker-Galloway that the same outcomes could be achieved under a controlled activity regime as with a restricted discretionary activity regime, unless the outcome Mr Ferguson was referring to was that consent applications would be declined.

136. Perhaps more importantly, Mr Ferguson agreed that the time and cost for compiling a high quality application would likely not vary greatly either way.

137. Taking these matters into consideration, we have formed the following views.

138. First, we agree with Mr Bryce's recommendation that the full discretionary default subdivision rule in the notified Chapter 27 is not the most appropriate way in which to achieve the objectives of the PDP or (to the extent that those objectives might envisage that status) the most appropriate way to achieve the purpose of the Act. For zones in which development is envisaged, with the scale of development the subject of minimum standards, the increase in uncertainty for subdivision applicants is, in our view, not justified by the potential environmental issues that a subdivision that complies with those minimum standards might raise.

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91 A view supported by the updated information provided in Mr Bryce's reply indicating that in the 6 years between 2009 and 2015 one subdivision consent application only had been declined after the exercise of the right of appeal, where applicable.

139. We also regard full discretionary status as being inconsistent with the strategic direction contained in Part Two of the Plan which seeks to enable urban development within defined Urban Growth Boundaries (recommended Policy 3.3.14) and to recognise the Rural Lifestyle and Rural Residential Zones as the appropriate planning mechanism to provide for new Rural Lifestyle and Rural Residential developments (recommended Policy 6.3.0).

140. Secondly, we agree with Mr Bryce's recommendation that there are a number of exceptions to that general position, where retention of full discretionary activity status is justified, most obviously in the Rural and Gibbston Character Zones[92]. Those zones have no minimum lot sizes and rely on the exercise of a broad discretion to ensure that subdivision and development is consistent with the objectives and policies applying to those areas. Submitters advanced the case at the hearing that the Ski Area Sub-Zones needed to be considered separately from the balance of the Rural Zone, having characteristics justifying controlled activity status for subdivisions. We will discuss that point separately. We also discuss the other exceptions later in this report.

141. Thirdly, we agree with Mr Bryce's recommendation that while controlled activity status may be appropriate in some specific situations, the most appropriate way to achieve the objectives of the PDP is to provide that the default activity status for subdivisions in both Urban Zones and the Rural Residential and Rural Lifestyle Zones should be restricted discretionary activity. We did not hear evidence justifying a different approach to Rural Residential and Rural Lifestyle Zones compared to urban residential zones, or indeed to distinguishing between different residential zones. The evidence we heard, as summarised above, is that the relative costs (between restricted discretionary and controlled activity status) are only likely to be material in the case of poor quality applications. In our view, the need for Council to be able to demand high quality outcomes, and to not have to accept poor applications, are key reasons for restricted discretionary activity status.

142. We do not regard utilities as one of the situations where controlled activity status would be appropriate. While subdivisions will on occasion solely relate to utilities, provision for utilities is an essential component of all subdivisions and in our view, the discretion to refuse consent (where applicable) needs to extend to the utility component. The important point (as Submission 179 notes as justification for controlled activity status) is that subdivisions for utilities are not subject to the minimum lot sizes specified for other subdivisions and this is achieved in our recommended Rules 27.6.2 and 27.7.11.

143. Fourthly, particular attention needs to be paid to limiting the matters in respect of which discretion is reserved to minimise the uncertainty for subdivision consent applicants, while providing the framework to best ensure good quality subdivision design outcomes.

144. As already noted, Mr Bryce recommended two restricted discretionary activity rules in his reply evidence to replace Rule 27.4.1 as notified. The first (now numbered 27.5.7 in our recommended version of Chapter 27) was recommended to read as follows:

> *"All urban subdivision activities, unless otherwise stated, within the following zones:*
>
> 1. *Low Density Residential Zones;*
> 2. *Medium Density Residential Zones;*

[92] Noting our previous finding that in those parts of the Rural Zone classified as ONL or ONF, residential subdivision and development might appropriately be classified as a non-complying activity and recommending Council consider initiating a variation to achieve that result.

3. *High Density Residential Zones;*
4. *Town Centre Zones;*
5. *Arrowtown Residential Historic Management Zone;*
6. *Large Lot Residential Zones;*
7. *Local Shopping Centres;*
8. *Business Mixed Use Zones;*
9. *Queenstown Airport Mixed Use Zone.*

Discretion is restricted to the following:

- *Lot sizes and dimensions in respect of internal roading design and provision, relating to access and service easements for future subdivision on adjoining land;*
- *Subdivision design and layout of lots;*
- *Property access and roading;*
- *Esplanade provision;*
- *On site measures to address the risk of natural and other hazards on land within the subdivision;*
- *Fire fighting water supply;*
- *Water supply;*
- *Stormwater design and disposal;*
- *Sewage treatment and disposal;*
- *Energy supply and telecommunications;*
- *Open space and recreation; and*
- *Ecological and natural values;*
- *Historic heritage;*
- *Easements; and*
- *Bird strike and navigational safety.*

For the avoidance of doubt, where a site is governed by a Structure Plan, spatial layout plan or concept development plan that is identified in the District Plan, subdivision activity should be assessed in accordance with Rule 27.7.1."

145. The second rule recommended by Mr Bryce in his reply (now numbered 27.5.8) would read as follows:

"All subdivision activities in the District's Rural Residential and Rural Lifestyle Zones."

Discretion is restricted to all of the following:

- *In the Rural Lifestyle Zone the location of building platforms;*
- *Lot sizes and dimensions in respect of internal roading design and provision,*
- *relating to access and service easements for future subdivision on adjoining land;*
- *Subdivision design and lot layout;*
- *Property access and roading;*
- *Esplanade provision;*
- *On site measures to address the risk of natural and other hazards on land within the subdivision;*
- *Fire fighting water supply;*
- *Water supply;*
- *Stormwater disposal;*
- *Sewage treatment and disposal;*
- *Energy supply and telecommunications;*

- *Open space and recreation;*
- *Ecological and natural values;*
- *Historic heritage;*
- *Easements; and*
- *Bird strike and navigational safety."*

146. These two suggested rules are virtually identical – the only difference in the matters to which discretion is reserved is recognition of the need to consider the location of building platforms in the Rural Lifestyle Zone – but like Mr Bryce, we think there is value in separating the rules related to subdivision in Urban Zones from those applying in the Rural Residential and Rural Lifestyle Zones, if only for clarity of coverage to lay readers of the Plan.

147. Looking first at the proposed urban subdivision rule, we recommend a minor change to the introductory wording to refer to activities otherwise "*provided for"* rather than otherwise "*stated*". The latter suggests a more explicit reference than may always be the case.

148. Consequential changes are also required arising from recommended changes to the names of different zones in other reports to the Lower Density Suburban Residential Zone and the Airport Zone – Queenstown respectively.

149. In terms of the matters in respect of which discretion is restricted, as Mr Bryce indicated, the list of matters is largely drawn from the submissions that suggested matters for control, in the context of a proposed controlled activity rule. As Mr Goldsmith acknowledged to us at the hearing, most of these are a standard list of matters that have to be considered on any subdivision application.

150. We therefore propose to discuss on an exceptions basis, the matters where Mr Bryce proposed amended wording, inserted additional considerations, or the one point that he proposed be deleted from the rule.

151. As above, much of the discussion at the hearing focussed on the first proposed matter of discretion. Having initially (at the opening of the Council case) formed the view that this matter might be entirely deleted, Mr Bryce came around to the view that limited provision for a discretion over lot sizes and dimensions was appropriate, to address the specific issue discussed during the course of the hearing of the need for access to adjoining subdivisable land.

152. We think that the debate at the hearing got a little side-tracked by the concerns of submitters about the ambit of any discretion over lot sizes. While important, the principal consideration justifying reservation of discretion is the need to promote quality subdivision design. We propose that should be the first matter listed.

153. As above, Mr Bryce's suggested matter of discretion is "*subdivision design and layout of lots"*. We regard the layout of lots as an aspect of subdivision design rather than a discrete issue in its own right. If the subdivision design changes, for whatever reason, the layout of lots, and indeed lot sizes (in m^2) and dimensions (i.e. shape) will change correspondingly. Mr Goldsmith had no problem with that in principle. The concern he was expressing was of an explicit and separate discretion over lot sizes.

154. To put that beyond doubt, we think it would be helpful to reframe this first and primary matter of discretion as follows:

"subdivision design and any consequential effects on the layout of lots, and on lot sizes and dimensions."

155. Like Mr Bryce, we consider that the potential need to require access to adjoining subdivisable land is a discrete issue that needs specific discretion to enable it to be properly considered. Mr Bryce's suggested drafting focussing on lot sizes and dimensions, whereas, to us, this is the consequence of a discretion over internal roading design and provision. As well as being more logical, putting it that way round assists in meeting the concerns expressed for submitters. We also think it would also be helpful if the same consequential flow-on effect on lot layouts were identified as with subdivision design.

156. In summary, we recommend that the relevant point of discretion be amended to read:

"internal roading design and provision relating to access to and service easements for future subdivision on adjoining land, and any consequential effects on the layout of lots, and on lot sizes and dimensions."

157. The submissions we received focussed only on property access. Like Mr Bryce, we think that the focus might more explicitly be on roading as the primary means of property access.

158. The submissions likewise focussed solely on "natural hazards". We agree with Mr Bryce's recommendation that in the context of restricted discretionary activity, the ambit of potential action required should be stated more clearly – it is about onsite measures to address the risk of both natural and other hazards on land within the subdivision rather than, for instance, attempts to address natural hazards at source. It is both unreasonable and impracticable to contemplate a subdivision applicant having responsibility, for instance, for mitigating the causes of flooding that is the result of natural processes occurring offsite.

159. In our view, it also needs to be made clear that it is not just a choice of what on-site measures are taken to mitigate natural hazard risk. In some cases, precisely because it is beyond the control of any subdivision applicant to control natural hazards at source, all available mitigation steps would still be insufficient to enable subdivision and development of the scale and in the manner proposed to proceed. We therefore recommend that the point of discretion should refer to "*the adequacy*" of on-site measures to address natural hazard risk.

160. The submissions we received suggested "*stormwater disposal"* as a matter of control. We agree with Mr Bryce's recommendation that discretion needs to be retained over the design of stormwater management, not just its disposal.

161. Mr Bryce recommended two new matters of discretion, being "*ecological and natural values"* and "*historic heritage"*. Given the identification of those values and the objectives and policies of the Plan (not to mention the provisions of the Proposed RPS quoted above that sit behind them, they are obvious additions.

162. Lastly, Mr Bryce recommended addition of "*bird strike and navigational safety".*

163. This addition reflected submissions we heard from QAC seeking recognition of the potential for the development associated with subdivision to cause a potential safety issue at Queenstown Airport (principally) due to bird strike. QAC both made legal submissions and called planning evidence on the need for PDP provisions to discourage activities attracting birds that might give rise to a bird strike risk.

164. We had some difficulty with QAC's case in this regard. Ms Kirsty O'Sullivan, giving expert planning evidence for QAC, advised us that the essential issue was with stormwater ponds that might form part of a subdivision design attracting birds that roost in the Shotover Delta.

165. At the hearing, we sought to explore with QAC's representatives the extent to which bird strike is already an issue given the location of the municipal wastewater facilities in close proximity to the eastern end of the runway, on the opposite side of the runway to Shotover Delta. The initial advice we received from Ms O'Sullivan was that bird strike was not an issue at present because QAC knows about current flight paths. Subsequently, however, after we sought input on where subdivision-related development might pose a risk of bird strike, we were advised that most reported bird strikes had been on the airfield, but that there have been reports of near misses further afield. We were also advised that the highest recorded bird strike was at 30,000 feet and that it was difficult to define the relevant area in a spatial sense.

166. We found this unhelpful to say the least. QAC were seeking examination of potential bird strike issues as a discrete matter of discretion on all urban subdivisions, so as to enable a case by case assessment. My Bryce also recommended that this be a matter of discretion in both urban areas and in the Rural Lifestyle and Rural Residential Zones.

167. The only way in which a subdivision consent applicant could address that issue would be by obtaining expert ornithological evidence as to the potential impact of the proposed subdivision and development on the existing pattern of bird flights and expert aviation evidence on the potential risk to aircraft within the District where they might intersect with the predicted flight-paths of birds. The collective costs involved, given that this would need to be considered on every subdivision application in urban areas and in the Rural Lifestyle and Rural Residential Zone if Mr Bryce's recommendation were accepted, might well be substantial, but we were not provided with any quantification of those costs[93].

168. While any threat to aircraft safety is of course a matter for considerable concern, we regard it as incumbent on QAC to provide us with expert evidence that would enable us to evaluate whether the risks that subdivision and development might pose to aircraft movements justified the imposition of those costs. At the very least, we would have expected QAC to produce expert evidence on where birds currently roost, the current flight-paths of birds to and from those roosting areas, and the nature and scale of future subdivision and development sufficient to materially alter those flight-paths in a manner with the potential to create a risk to aircraft. Demonstrably, Ms O'Sullivan was not equipped to provide evidence on these matters. And to be fair to her, she did not suggest she could do so other than at a very general level.

169. We inquired of QAC whether it had taken a position on the recently reviewed earthworks provisions of the ODP, given our understanding that birds are attracted by newly excavated earthworks. We were advised that QAC had made submissions on those provisions, but those submissions were not accepted and QAC did not pursue the matter.

170. Had QAC provided us with the evidential basis to do so, we might well have recommended a focus on effects on bird strike and navigational safety within some defined distance from the

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93 Mr Bryce identified that the addition of new matters of discretion would add costs in the s32AA evaluation attached to his reply evidence, but did not comment on the potential quantum of such costs. Ms O'Sullivan did not comment on the cost implications for applicants of the relief she supported.

flight paths into and out of Queenstown Airport, recognising a potentially greater risk in such areas (QAC told us existing spray irrigation at the end of the runway at Wanaka had not created an issue at Wanaka Airport and provided no information as to the position at the smaller facilities). As it was, QAC did not provide us with an adequate evidential foundation either for the planning relief sought, or for some more targeted response.

171. In summary, we do not agree with Mr Bryce's recommendation that the default rules contain a recognition of potential bird strike risk as a separate area of discretion.

172. Submissions seeking a controlled activity rule suggested that "*the nature, scale, and* adequacy *of environmental protection measures associated with earthworks"* be an additional matter of control. Mr Bryce did not recommend that earthworks be a matter for discretion. Rather, his recommendation was that a cross reference be inserted to provisions of the earthworks chapter of the ODP. We think there are good reasons to treat earthworks as a separate issue under the rules. We will revert to that point when we address Mr Bryce's recommendations in that regard.

173. We do, however, consider that there is a case for an additional matter of discretion based on the submissions and evidence we heard for Aurora Energy Ltd[94]. We explore the issues raised in much greater detail in the context of the policies related to subdivision and development affecting electricity distribution lines[95]. Mr Bryce recommended a new rule governing subdivision and development in close proximity to 'sub-transmission' lines. We discuss that recommendation later in this report also. In summary, we do not regard it as either necessary or efficient to have a standalone rule, but we do consider it necessary to preserve a discretion on subdivision applications that might be exercised in accordance with recommended Policy 27.2.2.8.

174. Having identified the desirability of an additional point of discretion, we then considered whether it should be limited to effects on electricity distribution lines. Mr Bryce's draft rule considers "*Energy supply and telecommunications"* together. While the rationale for that discretion is (we think) related to the adequacy of the infrastructural arrangements, the same logic would apply to reverse sensitivity effects on telecommunication networks as on energy networks – both are essential local infrastructure.

175. Accordingly, we recommend that the relevant matter of discretion be amended to read:

"energy supply and telecommunications, including adverse effects on energy supply and telecommunication networks."

176. The suggested rule is stated to apply within the Low Density Residential Zone and the Queenstown Airport Mixed Use Zone. The Stream 6 Hearing Panel has recommended that the name of the Low Density Residential Zone be changed to the Lower Density Suburban Residential Zone. The Stream 8 Panel has recommended the Queenstown Airport Mixed Use Zone, as the term is used in Chapter 27, be changed to the Airport Zone - Queenstown. We therefore recommend use of those titles for those zones here, and elsewhere in Chapter 27 where they are referred to.

177. Lastly, we recommend that the language introducing the matters of discretion be tightened in this and the other Restricted Discretionary rules in Chapter 27 and that the specified matters

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94 Submission 71

95 Refer the discussion of our recommended Policy 27.2.2.8

be individually identified using an alphanumeric list for ease of subsequent reference. Again, this is a recommended general change. We also recommend that generally listing of sub-parts of policies or rules by identified by alphanumeric lists.

178. Turning to the parallel rule (now numbered 27.5.8), providing for subdivision in the Rural Residential and Rural Lifestyle Zones, the opening words, describing the ambit of the rule, need to provide for the operation of other rules in the rule package in the same way as Mr Bryce's recommended urban subdivision rule; that is to say, it needs the words "*unless otherwise provided for"* inserted into it.

179. As above, the only additional point of discretion Mr Bryce recommended in this rule was reference to building platforms in the Rural Lifestyle Zone. At the hearing, we discussed with both Mr Bryce and Mr Jeff Brown whether the size of building platforms might be an issue. Currently the zone standards for the Rural, Gibbston and Rural Lifestyle Zones[96] require identification of one building platform between 70m² in area and 1000m² in area per lot where allotments are created for the purposes of containing residential activity.

180. Mr Brown confirmed that in principle, both the location and size of building platforms are the issue in the Rural Lifestyle Zone, but he could not recall any consent holder trying to fill out building platforms to the full 1000m². Mr Goldsmith drew our attention to the fact that this issue was canvassed in the hearings on the rural chapters (the Stream 2 hearing). In that hearing, Mr Paddy Baxter, an expert landscape architect, suggested to the Hearing Panel that design controls might be appropriate for larger sized houses.

181. Relevant design controls in this context are those contributing to the visibility and external appearance of buildings constructed within approved building platforms since it is these matters that affect the ability of the landscape to absorb new or altered buildings.

182. We also note that Rule 22.4.2 provides that where a building is constructed or altered outside an approved building platform in the Rural Lifestyle Zone the Council retains discretion over external appearance, visibility from public places, landscape character and visual amenity. Logically, these matters should be equally relevant to the decision whether to approve building platforms (within which buildings might be constructed or altered as permitted activities).

183. Accordingly, we recommend that the relevant point of discretion be expanded to read:

"in the Rural Lifestyle Zone, the location and size of building platforms and in respect of any buildings within those building platforms:

a. external appearance;

b. visibility from public places;

c. landscape character; and

d. visual amenity.

184. In all other respects, the same conclusions about the matters in respect of which discretion is reserved follow as for subdivision in the urban zones.

[96] Rule 27.5.1.1 of the notified Chapter and 27.7.12.1 of our recommended revised Chapter

185. As already noted, a number of submissions identified the need for the objectives and policies of Chapter 27 to be amended to reflect any changes to the default rules related to subdivision. Accordingly, it is appropriate that we move now to address first the introductory statement of the purpose of Chapter 27 (in Section 27.1) and then the objectives and policies, before returning to the package of rules.

3. PURPOSE

3.1 Section 27.1 - Purpose

186. Section 27.1, as its title suggests, is designed to set out the purpose of Chapter 27. Submissions on it sought variously:
   a. Addition of reference to the protection of areas and features of significance and to passive solar design of dwellings[97];
   b. Deletion of reference to subdivision being discretionary, to be replaced with a statement that subdivision in zoned areas is controlled[98];
   c. Deletion of reference to logic[99];
   d. Deletion of reference to the Land Development and Subdivision Code of Practice and Subdivision Design Guidelines[100];
   e. Clarification that Chapter 27 does not apply to the Remarkables Park Zone and the proposed Queenstown Park Special Zone[101];
   f. Drawing attention to the relationship between subdivision and land use, softening the description of the relationship between subdivision and desirable community outcomes, deletion of specific reference to management of natural hazards and insertion of identification of the role of subdivision in provision of services[102].

187. Mr Bryce recommended the following changes to the notified version of Section 27.1:
   a. Consequential on his recommendation that the default status of subdivisions be restricted discretionary activity, the reference to all subdivision requiring resource consent as a discretionary activity should be amended;
   b. Deletion of reference to subdivision design being underpinned by logic;
   c. Separation of reference to the Subdivision Design Guidelines from the Land Development and Subdivision Code of Practice, recognising the focus of the Subdivision Design Guidelines on urban design and pitching the role of the Code of Practice as providing a best practice guideline;
   d. Deletion of reference to provisions in other chapters governing assessment of subdivision;
   e. Insertion of reference to the Council's development contributions policy.

188. We do not consider that the opening words of Section 27.1 need to place greater emphasis on the inter-relationship between subdivision and land use. In our view, the opening paragraph already draws that connection.

189. The reference in Section 27.1 to all subdivision requiring resource consent as a discretionary activity was problematic even on the basis of the notified Chapter 27, given that Rule 27.4.2

97 Submission 117
98 Submissions 288, 442, 806: Supported in FS1097
99 Submission 383
100 Submissions 567 and 806
101 Submission 806
102 Submission 806

provided for non-complying activities and Rule 27.4.3 provided for restricted discretionary activities. We have already addressed the appropriate default rule activity status, recommending that it be restricted discretionary. It follows that the existing text of Section 27.1 requires amendment. We agree with Mr Bryce's suggestion that the statement should read that "*all subdivision requires resource consent unless specified as a permitted activity".*

190. We also agree with Mr Bryce's recommendation that reference to logic in the second paragraph might appropriately be deleted. Without amplification as to what a logical subdivision design might involve, such as is contained in proposed Objective 3.2.2.1, this is likely to be unhelpful.

191. We do not, however, consider that the entire sentence in which that reference is made need be deleted. Given the overlap with recommended Objective 3.2.2.1, stating that good subdivision design is underpinned by an objective of creating healthy, attractive and safe places is a suitable comment. We do agree, however, that some qualification of the reference to management of natural hazards is required since as currently framed, the text provides no indication of how natural hazards should be managed. The Proposed RPS contains a comprehensive suite of provisions around natural hazard management. In the context of a general introduction to the subdivision and development section, it would be difficult to capture all of the nuances of the Proposed RPS position. We recommend therefore that the introduction talk about "*appropriate"* management of natural hazards.

192. We agree with the suggestion in Submission 806 that the opening words to paragraph 3 should state that good subdivision "*can help to create"* desirable outcomes. It is unduly ambitious to think that good subdivision will necessarily achieve these matters on its own.

193. We do not consider that reference to passive solar design of dwellings is required given the existing reference in the third paragraph to maximising access to sunlight. Similarly, in relation to the relief sought in Submission 117, reference to protection of areas and features of significance is an unnecessary level of detail. These matters are covered more appropriately in the objectives and policies following.

194. As regards the degree to which the Subdivision Design Guidelines and the Land Development and Subdivision Code of Practice are referenced, this matter overlaps with how they are addressed in the balance of the chapter.

195. Counsel for the Council noted that both of these documents had been incorporated by reference under Part 3 of Schedule 1 of the Act. As counsel noted, the advantage of incorporating documents by reference in this way is that they can then be referenced in the PDP without needing to be annexed to it. As counsel also pointed out, however, the downside of such referencing is that the document cannot thereafter be changed without the reference to it also being changed through the mechanism of a Plan Change.

196. Mr Wallace produced a copy of the current Code of Practice for us. It is both a lengthy and highly detailed document and Mr Wallace highlighted the fact that it is a "*live, ever evolving document"* and that he anticipated that it would be amended and readopted by Council before the close of 2016. Nor would this be the only amendment. In his words, "*there will be an ongoing process of updating the Code of Practice to ensure evolving best practice is captured in the document"*[103].

[103] D Wallace, Evidence at 4.2

197. Against this background, the recommendation of Mr Bryce was that specific reference to the Code of Practice should be removed from the relevant policy (27.2.1.1).

198. This recommendation produced a degree of puzzlement from the representatives of submitters who appeared before us, given that the Code of Practice is referred to in the ODP generically and, as far as the submitters could ascertain, this has never been seen as posing a legal issue in the past notwithstanding that the Code of Practice has been updated from time to time.

199. Mr Goldsmith did not seek to contradict counsel for the Council's submissions. Rather his approach was to query why reference to the Code of Practice is a problem now if it has never previously been a problem. Ms Baker-Galloway noted that in the litigation on the Horizons One-Plan, the High Court had no difficulty with a generic reference to the OVERSEER nutrient model in the One-Plan, notwithstanding that new versions of the model would be produced[104].

200. As we understand the argument for the Council, it is the additional step of incorporating the Code of Practice by reference that has created the legal issue.

201. The High Court decision referred to us quoted a section of the Environment Court's decision on the One-Plan querying whether a model like OVERSEER is written material within the meaning of clause 30 of the First Schedule (so as to be able to be incorporated by reference). It appears to us also that the High Court's decision turned on the fact that the One-Plan did not require use of OVERSEER. Rather it was mentioned as one means by which the Plan's provisions might be complied with.

202. We do not, therefore, regard the High Court's decision as supporting an explicit policy reference to the Code of Practice as something that is required to be complied with (as notified Policy 27.2.1.1 currently does), given the Council's intention that the Code of Practice will change.

203. Mr Duncan White gave evidence for Paterson Pitts noting that submitter's concern with the notified provisions given the lack of external input into the content of the Code of Practice. We agree that this is problematic, even if the legal concerns expressed by counsel for the Council could be overcome.

204. Mr Goldsmith drew our attention to a possible concern that removing reference to the Code of Practice, when in practice the Council will rely on the current version of the document. In his submission, this might mislead readers of the PDP who are not as a result aware that there is a large and very detailed document sitting outside the PDP which has, in Mr Goldsmith's words, "*a very significant influence on the subdivision design consent process".*

205. Ultimately though, Mr Goldsmith expressed himself as being ambivalent as to where the Code of Practice is referenced as long as it is referenced somewhere in the PDP. He took the pragmatic view that any rules and policies referring to the adequacy or appropriateness of infrastructure and service provision would then enable the Code of Practice to be referenced during the processing of a subdivision application.

206. We discussed the concern Mr Goldsmith had identified with counsel for the Council who agreed that the Code of Practice might appropriately be referred to in the introductory sections, provided it has not been incorporated by reference. We think that is the best solution, but it faces the problem that, of course, the Council has already resolved to

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104 Discussed in *Horticulture New Zealand v Manawatu-Wanganui Regional Council* [2013] NZHC 2492 at [106]-[115]

incorporate the Code of Practice (2015) version by reference. We recommend that Council resolve that that document should cease to be incorporated by reference.

207. Assuming the Council does so resolve, we further recommend that the existence of a Code of Practice be highlighted in Section 27.1, but in a separate paragraph to the discussion of the Subdivision Design Guidelines that we will come to shortly. Mr Bryce drafted a sentence to insert on the end of the fourth paragraph of section 27.1 reading:

"The purpose of the QLDC Land Development and Subdivision Code of Practice is to provide a best practice guideline for subdivision and development infrastructure in the District."

208. Mr Bryce's suggestion did not capture what we had in mind because it assumed an understanding of what the Code of Practice was and failed to convey the critical point, which is that subdivision applicants need to consult the document.

209. Accordingly, we recommend that a new paragraph be inserted following the existing paragraph 4 reading:

"The QLDC Land Development and Subdivision Code of Practice provides assistance in the design of subdivision and development infrastructure in the District and should also be considered by subdivision applicants."

210. Consequential deletions of reference to the Code of Practice in the existing text of the fourth paragraph will be required.

211. The Subdivision Design Guidelines did not attract the same concern regarding the need for ongoing change. While Mr Goldsmith critiqued the Subdivision Guidelines, the thrust of his point seemed to be that they were a little trite and overlapped with the existing policies. As against that view, Mr Falconer gave evidence for the Council indicating his view that the Design Guidelines are well founded, helpful and provide a concise checklist for the layout and broad scale design of subdivisions[105]. To the extent that Mr Dan Wells critiqued the illustrated design contained in the Subdivision Design Guidelines, Mr Falconer described those criticisms to us as matters of detail, not raising major issues.

212. Mr Falconer did, however, accept that the Subdivision Design Guidelines would benefit from being extended in scope.

213. Given Mr Falconer's undoubted expertise and experience in the field of subdivision and urban design, we accept his opinion as to the value of the Subdivision Design Guidelines, and are satisfied that Section 27.1 should acknowledge their role. The only amendments we recommend to the text suggested by Mr Bryce are to make it a little clearer that the Guidelines are principally focused on development in urban areas, but that some aspects may be relevant to rural subdivisions.

214. We do not think it is helpful to state on a piecemeal basis that Chapter 27 does not apply to the Remarkables Park Zone and the requested Queenstown Park Special Zone as Queenstown Park Limited proposes. We discussed with counsel from the Council how Chapter 27, once finalised, will interrelate with the ODP subdivision provisions that will continue to apply in a number of zones (including the Remarkables Park Zone, which forms part of the ODP). We will discuss this issue in greater detail in our consideration of the notified Section 27.3. For the same reason, however, we agree with Mr Bryce's recommendation that what was the first part

[105] G Falconer, Evidence at paragraph 2.1

of the fifth paragraph of Section 27.1 should delete reference to provisions for assessment of subdivisions outside Chapter 27.

215. Lastly, Mr Bryce recommended that a paragraph be inserted on the end of Section 27.1 as a consequential change resulting from his recommendation that reference to the Development Contributions Policy be deleted from Policy 27.2.5.11 (same numbering in notified version), reading:

"Infrastructure upgrades necessary to support subdivision in future development are to be undertaken and paid for by subdividers and developers in accordance with the Council's 10 Year Plan Development Contribution Policy."

216. The difficulty we have with the suggested addition to Section 27.1 is that it assumes an understanding of the role of the Development Contributions Policy and records the current policy set under the Local Government Act, which may change during the lifetime of the PDP.

217. Accordingly, we recommend that Mr Bryce's suggestion not be accepted, but rather that a new paragraph 6 be inserted in section 27.1 reading as follows:

"The Council uses its Development Contributions Policy set out in its 10 Year Plan to fix the contributions payable by subdividers for infrastructure upgrades. That policy operates in parallel with the provisions of this chapter and should be referred to by subdivision consent applicants."

218. We have discussed each of the amendments we have recommended to Section 27.1 above. The end result, accepting the suggested changes, is that the introductory section of Chapter 27 related to its purpose would read as follows:

"Subdivision and the resultant development enables the creation of new housing and land use opportunities, and is a key driver of the District's economy. The council will support subdivision that is well designed, is located in the appropriate locations anticipated by the District Plan with the appropriate capacity for servicing and integrated transportation.

All subdivision requires resource consent unless specified as a permitted activity. It is recognised that subdivisions will have a variable nature and scale with different issues to address. Good subdivision design, servicing and the appropriate management of natural hazards are underpinned by a shared objective to create healthy, attractive and safe places.

Good subdivision can help to create neighbourhoods and places that people want to live or work within, and should also result in more environmentally responsive development that reduces car use, encourages walking and cycling, and maximises access to sunlight.
Good subdivision design will be encouraged by the use of the QLDC Subdivision Design Guidelines 2015. The Subdivision Design Guidelines includes subdivision and urban design principles and outcomes that give effect to the objectives and policies of the Subdivision and Strategic Directions Chapters, in both designing and assessing subdivision proposals in urban areas. Proposals at odds with this document are not likely to be consistent with the policies of the Subdivision and Strategic Directions chapters, and therefore, may not achieve the purpose of the RMA. Some aspects of the Subdivision Design Guidelines may be relevant to rural subdivisions.

The QLDC Land Development and Subdivision Code of Practice provides assistance in the design of subdivision and development infrastructure in the District and should also be considered by subdivision applicants.

The Council uses its Development Contributions Policy set out in its 10 Year Plan to fix the contributions payable by subdividers for infrastructure upgrades. That policy operates in parallel with the provisions of this chapter and should be referred to by subdivision consent applicants.

The subdivision chapter is the primary method to ensure that the District's neighbourhoods are quality environments that take into account the character of local places and communities."

219. We are satisfied that as amended, this introductory statement is the most appropriate way to achieve the objectives of Chapter 27 that we are about to discuss, given the alternatives open to us.

4. SECTION 27.2 – OBJECTIVES AND POLICIES

4.1 General

220. We have already discussed the general submissions seeking that the objectives and policies more clearly identify where they are limited in scope either to urban or rural environments. The only other general submission that we need to discuss at the outset of our consideration of the objectives and policies in Chapter 27 is that of Transpower New Zealand Limited[106] that sought a new objective related to reverse sensitivity effects on the national grid.

221. Mr Bryce recommended that the suggested objective not be inserted into Chapter 27, on the basis that Transpower's relief would more appropriately be addressed by a new policy seeking to achieve existing Objective 27.2.2.

222. The relief sought by Transpower was in fact framed as a course of action (i.e. as a policy) rather than as an environmental outcome (i.e. as an objective) and Ms Ainsley McLeod, giving planning evidence for Transpower, accepted that this was the appropriate way for Transpower's concern to be addressed. We concur.

223. Before considering the first objective and the policies related to it, we should note that the existing objectives and policies were supported by a number of submitters, either as is, or generally, but subject to specific points of concern[107].

4.2 Objective 27.2.1 and Policies Following

224. Turning to Objective 27.2.1, as notified, it read:

"Subdivision will create quality environments that ensure the District is a desirable place to live, visit, work and play."

225. Submissions seeking changes to Objective 27.2.1 sought variously:

106 Submission 805: Supported in FS1121 and FS1211

107 See submissions 453, 586, 775 and 803: Supported in FS1117

a. Reference be made to "*high"* quality environments[108];
b. Rewording to read:

   "The formative role of subdivision creating quality environments is recognised through attention to design and servicing needs."[109]
c. Soften the wording so it states that subdivision will "*help to"* create quality environments[110].

226. By his reply evidence, Mr Bryce had come to the view that the objective might appropriately be amended in line with the thinking underlying the third of the submissions only – substituting "*enable"* for *"create".*

227. We largely agree. We do not think it is necessary to add a second adjective. Referring to quality environments already conveys the message that Submission 238 sought.

228. We consider that the more comprehensive amendment sought in Submission 632 would obscure rather than clarify the outcome sought in this objective. Accordingly, we do not recommend that that be accepted.

229. As we have noted in our discussion of Section 27.1, however, the PDP needs to be realistic as to what subdivision can deliver in terms of desirable outcomes. Ultimately, it is one of a number of contributing factors that create quality environments. Accordingly, we agree with Mr Bryce's suggested amendment and recommend the objective be retained with only a minor grammatical change, as follows:

"Subdivision that will enable quality environments to ensure the District is a desirable place to live, visit, work and play."

230. Given the range of alternatives open to us, we consider that this objective aligns well with recommended Objective 3.2.2.1 and is accordingly the most appropriate way in which to achieve the purpose of the Act in this context.

231. Policy 27.2.1.1 as notified read:

"Require subdivision to be consistent with the QLDC Land Development and Subdivision Code of Practice, while recognising opportunities for innovative design."

232. A number of submissions on it sought its deletion[111]. Some of these submissions focussed on the fact that the Code of Practice can be changed without consultation[112]. A number of other submissions focussed on the interrelationship between this and other policies, and the default discretionary rule status[113].

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108 Submission 238: Opposed in FS1107, FS1157, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248 and FS1249

109 Submission 632: Supported in FS1097; Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

110 Submission 806

111 Submissions 248, 453, 567, 632 and 806: Supported in FS1097; Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

112 See in particular Submission 453: Supported in FS1097

113 E.g. Submissions 248 and 567: Supported in FS1097 and FS1117

233. Mr Bryce recommended that reference to the Code of Practice be deleted, largely for the reasons discussed above in the context of Section 27.1, and that the policy require subdivision infrastructure (the subject of the Code of Practice) be designed so as to be fit for purpose.

234. We concur. It is not efficient to have a policy that refers to a document that is likely to be superseded a number of times during the life of the PDP. That will only necessitate a series of future plan changes.

235. The addition we have recommended that Section 27.1 address the sole substantive concern expressed to us, that readers of the PDP might not appreciate the role of the Code of Practice.

236. Accordingly, we recommend that Mr Bryce's suggested amendments to Policy 27.2.1.1 be accepted, subject only to minor grammatical changes, so that it would read:

"Require subdivision infrastructure to be constructed and designed so that it is fit for purpose, while recognising opportunities for innovative design."

237. Policy 27.2.1.2 as notified read:

"*Support subdivision that is consistent with the QLDC Subdivision Design Guidelines, recognising that good subdivision design responds to the neighbourhood context and the opportunities and constraints of the application site."*

238. This policy attracted opposition from the same submitters and for largely the same reasons as are summarised above in relation to Policy 27.2.1.1.

239. Mr Bryce distinguished this policy from the previous one on the basis that it was unlikely that the subdivision guidelines would need to be updated as regularly as the Code of Practice. Based on the evidence of Mr Falconer summarised earlier, we agree that the Subdivision Design Guidelines play a valuable role that should be recognised in the policies of Chapter 27. The concern expressed in Submission 453 is addressed by the fact that, having been incorporated by reference, the Subdivision Design Guidelines can effectively only now be changed by means of a publicly notified Plan Change.

240. Mr Bryce recommended in his reply evidence two amendments to the notified policy: the first to clarify what "*support"* means in this context and the second to be clear that the document referenced is the 2015 version of the Subdivision Design Guidelines. We agree with those amendments. The only further amendments we would recommend are a minor grammatical change and insertion of reference to urban subdivision, to make it clear, as sought by the general submissions already noted, that this is one of the policies that is specific to urban subdivision.

241. Accordingly, we recommend that Policy 27.2.1.2 read as follows:

"*Enable urban subdivision that is consistent with the QLDC Subdivision Design Guidelines 2015, recognising that good subdivision design responds to the neighbourhood context and the opportunities and constraints of the application site."*

242. Policy 27.2.1.3 as notified read:

"Require that allotments are a suitable size and shape, and are able to be serviced and developed to the anticipated land use of the applicable zone."

243. Two submissions sought changes to this policy, one to delete reference to development and to make consequential changes[114] and the other to delete the opening words "*require that"*[115].

244. Mr Bryce did not recommend any change to this policy. We agree with his reasoning. The ability to develop an allotment for the anticipated land use will be one of the key factors that determines whether an allotment is a suitable size and shape. Deleting the opening words would mean that the policy ceases to be a course of action and would rather state an outcome (i.e. objective). We recommend only minor grammatical changes, so that the policy would read:

"Require that allotments are a suitable size and shape, and are able to be serviced and developed for the anticipated land use under the applicable zone provisions."

245. Notified policy 27.2.1.4 reads:

"*Where minimum allotment sizes are not proposed, the extent any adverse effects are mitigated or compensated by achieving:*

a. *Desirable urban design outcomes;*

b. *Greater efficiency in development and use of the land resource;*

c. *Affordable or community housing."*

246. One submission sought it be deleted[116]. Another submission queried whether the word "proposed*"* should be replaced with *"achieved"*[117]. A third submission[118] suggested that the opening words should read, "*where small lot sizes are proposed, the extent….".*

247. Mr Bryce agreed with the submitters seeking amendments that the policy is unclear and requires clarification. What it is actually seeking to address, as Submission 453 surmised, is the position where the minimum allotment sizes are not achieved. We agree with Mr Bryce that the initial point that needs to be made is that failure to comply with minimum allotment sizes is not a desirable state of affairs. In some circumstances in the urban environment (and we think it needs to be made clear that it is the urban environment), that may nevertheless be acceptable based on the criteria identified in the policy.

248. In summary, we recommend acceptance of Mr Bryce's suggested amended policy wording with one addition (to focus the second part of the policy on urban environments) and minor reformatting changes. It would therefore read as follows:

"Discourage non-compliance with minimum allotment sizes. However, where minimum allotment sizes are not achieved in urban areas, consideration will be given to whether any adverse effects are mitigated or compensated by providing:

a. desirable urban design outcomes.

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114 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

115 Submission 806

116 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

117 Submission 453

118 Submission 806

b. greater efficiency in the development and use of the land resource.

c. affordable or community housing."

249. Policy 27.2.1.5 as notified, read:

"The Council recognises that there is an expectation by future landowners that the effects and resources required of anticipated land uses will have been resolved through the subdivision approval process."

250. Submission 453 sought a minor grammatical change so that the policy would refer to effects and resources required "*by"* anticipated land uses. Submissions 632[119] and 806 sought deletion of this policy. The latter submission suggested that it was not framed as a policy.

251. Mr Bryce recommended that the minor grammatical change sought by Submission 453 be accepted but otherwise that the policy remain unamended.

252. For our part, we think that Submission 806 made a valid point. The policy needs to start with a verb to express a course of action.

253. We also have a concern that subdivision consent processes will not necessarily resolve all effects of anticipated land uses. That is what land use consent applications are for.

254. To state more clearly what course of action the policy envisages being undertaken, it should start with the words "*recognise that"*. That might be considered to rather beg the question as to how that recognition might be implemented. We think the answer to that rhetorical question is that it will be implemented through the subdivision approval process considering these matters. The end result we have in mind sits between the outcome sought by submitters and the status quo.

255. In summary, therefore, we recommend that Policy 27.2.1.5 be amended to read:

"Recognise that there is an expectation by future landowners that the key effects of and resources required by anticipated land uses will have been resolved through the subdivision approval process."

256. Policy 27.2.1.6, as notified, read:

"Ensure the requirements of other relevant agencies are fully integrated into the subdivision development process."

257. The only submission seeking change to this policy sought its deletion[120]. Mr Bryce acknowledged that it might be argued that this policy is not necessary to give effect to the notified Objective 27.2.1, but considered that it was still helpful in guiding PDP users. We concur and note that Mr Wells, who gave evidence for submitter 632, did not provide any reasons why this particular policy should be deleted.

258. Accordingly, we recommend that Policy 27.2.1.6 be retained without amendment.

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119 Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

120 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

259. Policy 27.2.1.7, as notified, read:

"Recognise there will be certain subdivision activities, such as boundary adjustments, that are undertaken only for ownership purposes and will not require the provision of services."

260. The sole submission seeking a change to this policy[121] sought that it be amended to ensure that boundary adjustments are not subject to the discretionary activity rule [i.e. notified Rule 27.4.1] and are exempt from the policies relating to provision of services.

261. Mr Bryce did not recommend any change to this policy specifically in response to the concern expressed in Submission 806. Mr Bryce drew our attention to his separate discussion of rules related to boundary adjustments, but in summary, took the view that the policy already states that some subdivision activities and in particular boundary adjustments, will not require the provision of services. We agree. The only amendment we recommend is one suggested by Mr Bryce in his reply evidence, following a discussion we had with him, that reference to "*ownership purposes"* should be deleted. We are not at all sure what that means and we think that there might be a number of purposes that would justify a boundary adjustment. We do not regard that as a substantive change since the motivation of the applicant is not material to the course of action the policy identifies.

262. Accordingly, we recommend that Policy 27.2.1.7 be amended to read:

"Recognise there will be certain subdivision activities, such as boundary adjustments, that will not require the provision of services."

263. Mr Bryce recommended two new policies for this objective, the first relating to subdivision of a residential flat from a residential unit, and the second relating to subdivision of land resulting in division of a residential building platform. As Mr Bryce explained in his reply evidence, these suggested new policies (27.2.1.8 and 27.2.1.9) arose from a discussion we had with him regarding the apparent lack of any policy support for non-complying activity rules governing these activities. Mr Bryce confirmed our concern that there is something of a policy vacuum as regards these activities and, as such, non-complying rule status is somewhat illusory – if there are no directly applicable objectives and policies, it is difficult to imagine that an application would ever not pass through the second statutory gateway in section 104D(1)(b). Put simply, if there are no objectives and policies that the application could be contrary to, the conclusion would inevitably be that the statutory precondition is satisfied. This is an unsatisfactory position in the structuring of Chapter 27 which ought to be filled and we agree with Mr Bryce that the corollary of a non-complying activity is a policy indicating that generally, these activities should be avoided.

264. However, the fact that there is a policy vacuum is not a sufficient justification for new policies to be inserted into the chapter, certainly where they would have a substantive effect on the implementation of the PDP's provisions, in the absence of a submission seeking that relief.

265. In this case, there does not appear to be any submission seeking policies along the lines suggested by Mr Bryce and there is only one submission on the relevant rules[122] related to Rule 27.4.2(d) as notified (Rule 27.5.19 in our revised chapter). That submission, however, sought only that the rule be clarified. While we have approached the issue on the basis that a

121 Submission 806

122 Submission 453

submission on a rule could provide a jurisdictional basis for consequential changes to objectives and policies if such changes can be said to be fairly and reasonably raised in the submission[123], the submission in this case was associated with more general relief seeking that subdivisions around existing buildings should be controlled activities. We do not consider that the submission gives any jurisdiction for firming up on the non-complying status of the activity through a supporting policy.

266. Accordingly, we have concluded that while worthwhile, we do not have jurisdiction to accept Mr Bryce's recommendations in this regard.

267. For these reasons, the Chair recommended to the Council that policies be introduced by way of variation to address this policy gap in his Minute dated 22 May 2017.Having reviewed the policies recommended as above, we have concluded that they are the most appropriate way to achieve Objective 27.2.1, given the alternatives open to us, and the jurisdictional limitations we have discussed.

4.3 Objective 27.2.2 and Policies Following

268. Objective 27.2.2. as notified read:

"Subdivision design achieves benefits for the subdivider, future residents and the community."

269. One submitter[124] sought that this objective be deleted. The evidence presented by the submitter did not seek to support this submission with detailed reasons. Given that the only other submissions on the objective sought its retention, we agree with Mr Bryce's recommendation that it should remain as notified. As Mr Bryce recorded[125], the objective gives effect to the Proposed RPS (see in particular Objective 4.5) and the strategic direction of the PDP (see in particular recommended Objective 3.2.2.1). We therefore conclude that Objective 27.2.2 in its notified form is the most appropriate way to achieve the purpose of the Act in this context.

270. Policy 27.2.2.1, as notified read:

"Ensure subdivision design provides a high level of amenity for future residents by aligning roads and allotments to maximise sunlight access."

271. The only submission seeking to change this policy [126] sought that it be reworded to read:

"Encourage roads and allotments to align in a manner that maximises sunlight access."

272. Mr Bryce did not recommend that the suggested amendment be made. As he observed, it would weaken the outcome sought. That does not necessarily mean that it is not the most appropriate way to achieve the objective, but in this case, the evidence the submitter called did not support the relief sought. Indeed, Mr Wells pronounced himself broadly satisfied with the amendments Mr Bryce had recommended, and his reasons for his recommendations.

273. Accordingly, we likewise recommend no change to the suggested policy.

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123 Refer the Legal advice received by the Hearing Panel from Meredith Connell dated 9 August 2016

124 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

125 Updated Section 42A Report at 18.48

126 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277 and FS1283 and FS1316

274. Policy 27.2.2 as notified, read:

"Ensure subdivision design maximises the opportunity for buildings to front the road."

275. There were no submissions on this policy and Mr Bryce recommended that it remain as notified.

276. For our part, we think amendment is required in line with the general submissions already noted, to make it clear that this policy applies to urban subdivisions, but otherwise agree that no change to it is required.

277. Accordingly, we recommend that the policy be amended to read:

"Ensure subdivision design maximises the opportunity for buildings in urban areas to front the road."

278. Policy 27.2.2.3 as notified read:

"Open spaces and reserves are located in appropriate locations having regard to topography, accessibility, use and ease of maintenance, and are a practicable size for their intended use."

279. Submission 632[127] sought that this policy be reworded to be more direct, starting with the verb "*locate"*.

280. The Council's corporate submission[128] sought that reference to "*use"* and "*practicable* size*"* be deleted from the policy.

281. Mr Bryce supported the relief sought by Submission 632 in substance, while suggesting a grammatical change to better express the intent, having regard to the altered wording. Mr Bryce did not support the Council's submission on the basis that size is relevant to future use.

282. We agree with Mr Bryce's recommendation for the reasons that he set out in his evidence[129]. The stance advocated in the Council's submission might in our view also be considered inconsistent with Policy 27.2.1.3. Accordingly, we recommend that Policy 27.2.2.3 be reworded to read:

"*Locate open spaces and reserves having regard to topography, accessibility, use and ease of maintenance, while ensuring these areas are a practicable size for their intended use."*

283. Policy 27.2.2.4 as notified read:

"Subdivision will have good and integrated connections and accessibility to existing and planned areas of employment, community facilities, services, trails, public transport in adjoining neighbourhoods."

284. Submission 524 sought that reference to community activities be inserted into this policy. Submission 632[130] sought a more comprehensive amendment so that the policy would read:

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127 Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

128 Submission 809

129 Updated Section 42A Report at 18.50 and 18.52

130 Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

"Design subdivisions to achieve connectivity between employment locations, community facilities, services, recreation facilities and adjoining neighbourhoods."

285. Mr Bryce recommended acceptance of the suggestion in Submission 524 and rejection of the more comprehensive amendment sought in Submission 632 on the basis that the latter would weaken the outcomes sought in the policy. He did accept, however, that the policy needed to be expressed as a course of action rather than as an outcome, which we considered was a positive feature of that submission.

286. Mr Bryce also recommended expansion of the reference to adjoining neighbourhoods to make it clear that the neighbourhoods in question might be planned neighbourhoods, and that they might be either within the subdivision area or adjoining it. Having initially recommended that reference to trail connections be inserted[131], after discussion with us at the hearing, Mr Bryce came around to the view that this was unnecessary given the initial reference to connections at the start of the policy. We agree with his position on both points, and with the reformatting Mr Bryce suggested, to have a numbered list of the matters being connected (subject in the latter case to some minor reformatting to standardise the style of the sub-policies with the balance of the Chapters).

287. We therefore largely accept Mr Bryce's recommendations. It follows that we do not consider additional changes are required to address submissions 625 and 671[132]. We also do not agree that reference needs to be made to community activities rather than community facilities. The point being made in Submission 524 is that the current definition of "*community facilities"* is anomalous and needs to be corrected, among other things to include educational facilities. We agree with the underlying point (which has already been discussed in the Hearing Panel's Report 3). There are two ways in which the issue can be addressed. The definition of "*community facilities"* could be revised and expanded. Alternatively, and more simply, the existing definition could simply be deleted. We prefer the latter approach. The existing definition serves no purpose (there is no community facility subzone in the PDP) and in its ordinary natural meaning, community facilities would include recreational facilities, which would address another point made in Submission 632. Accordingly, we recommend to the Hearing Panel on Stream 10 that the definition of "*community facilities"* be deleted.

288. Lastly, this is another policy that is specific to the urban environment, and this also needs to be made clear.

289. In summary, therefore, we recommend that Policy 27.2.2.4 be reworded to read:

"Urban subdivision *shall seek to provide for good and integrated connections and accessibility to:*

a. *existing and planned areas of employment;*
b. *community facilities;*
c. *services;*
d. *trails;*
e. *public transport; and*
f. *existing and planned neighbourhoods both within and adjoining the subdivision area."*

131 Mr Bryce thought that this would address the relief sought in submissions 625 and 671 (seeking recognition in a policy for the need for trails as part of the subdivision process)

132 We therefore recommended acceptance of Further Submission 1347

290. Policy 27.2.2.5 as notified read:

"Subdivision design will provide for safe walking and cycling connections that reduce vehicle dependence within the subdivision."

291. The only submission seeking to amend this policy was Submission 632[133], which sought that it be reworded to read:

"Encourage walking and cycling and discourage vehicle dependence through safe connections between and within neighbourhoods."

292. We think that consideration of this policy needs to occur in tandem with consideration of the following Policy (27.2.2.6) which read as notified:

"Subdivision design will integrate neighbourhoods by creating and utilising connections that are easy and safe to use for pedestrians and cyclists."

293. Submission 632 sought that that policy be deleted[134]. When we discussed these two policies with Mr Bryce, he agreed with our initial view that there is a significant degree of duplication between them. Mr Bryce recommended that they be combined into one policy in his reply evidence. We concur.

294. To that extent, we agree also with the thinking underlying Submission 632.

295. We agree, however, with Mr Bryce that the wording proposed in Submission 632 would soften the policy too much, and thus would not be the most appropriate way to achieve the objective.

296. We therefore agree with Mr Bryce's suggested rewording save that this is another urban focussed policy. We therefore recommend an amendment to make that clear.

297. In summary, we recommend that policies 27.2.2.5 and 27.2.2.6 be combined as new Policy 27.2.2.5 reading as follows:

"Urban subdivision design will integrate neighbourhoods by creating and utilising connections that are easy and safe to use for pedestrians and cyclists, and that reduce vehicle dependence within the subdivision."

298. Policy 27.2.2.7 as notified read:

"Encourage innovative subdivision design that responds to the local context, climate, land forms and opportunities for views or shelter."

299. The only submission seeking to amend this policy[135] sought deletion of the word "*innovative*".

300. Mr Bryce did not recommend that that submission be accepted, and the submitter did not pursue the point when they appeared at the hearing. When we discussed the matter with Mr Bryce, he agreed that reference to innovative design was not necessary in the policy, but he felt that innovation was something to be encouraged. We agree and, accordingly, we

133 Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

134 Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

135 Submission 453

recommend that the policy remain without change (other than by being renumbered 27.2.2.6).

301. Policy 27.2.2.8 as notified, read:

"Encourage informal surveillance of streets and the public realm for safety by requiring that the minority of allotments within a subdivision are fronting, or have primary access to, cul-de-sacs and private lanes."

302. Submission 632[136] sought that this policy be deleted. Mr Bryce did not recommend any amendment to it.

303. In our view, this policy needs to be considered in tandem with the following policy (27.2.2.9) which as notified, read:

"Encourage informal surveillance for safety by ensuring open spaces and transport corridors are visible and overlooked by adjacent sites and dwellings."

304. Submission 632 was again the only submission seeking substantive change to Policy 27.2.2.9, so that it would read:

"Promote safety through overlooking of open spaces and transport corridors from adjacent sites and dwellings and effective lighting."

305. Mr Bryce supported this relief in part. The exception was that he thought that retaining specific reference to '*informal surveillance"* provided greater clarity.

306. Stepping back from these policies, we think there is substantial duplication between them. Streets in the public realm are open spaces (as well as being transport corridors). We agree with Mr Bryce that the concept of information surveillance is a helpful one. However, we also think that there is a case for informal surveillance of cul-de-sacs and private lanes on safety grounds.

307. Lastly, this is another policy that is specific to urban areas and this should be made clear.

308. In summary, therefore, we recommend acceptance of Submission 632 by deletion of notified Policy 27.2.2.8 and acceptance in part of that submitter's relief in relation to the following policy, so that the end result is one policy, renumbered 27.2.2.7, reading:

> *"Promote informal surveillance for safety in urban areas through overlooking of open spaces and transport corridors from adjacent sites and dwellings and by effective lighting."*

309. In his Section 42A Report, Mr Bryce recommended inclusion of another policy addressing subdivision near electricity transmission corridors with reference to amenity and urban design outcomes and to minimising potential reverse sensitivity effects.

310. Mr Bryce's recommendation reflected his consideration of a submission by Transpower New Zealand Limited[137] seeking a new objective of reverse sensitivity effects on the National Grid.

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136 Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

137 Submission 805: Supported in FS1211

As already discussed, Mr Bryce recommended that this matter be addressed through a new policy supporting objective 27.2.2. Also as above, we agreed with that recommendation.

311. Ms McLeod gave evidence for Transpower supporting, in principle, Mr Bryce's recommendation, but seeking amendments to the language that he had suggested. Specifically, Ms McLeod suggested that the policy be specific to the National Grid (she opposed, in particular, an amendment to expand it to cover the Aurora Line Network), broadening it to talk about potential direct effects on the National Grid, not just reverse sensitivity effects, and lastly amending it to require avoidance of such effects, rather than their minimisation. She was of the opinion that these amendments were necessary to better give effect to the NPSET 2008.

312. We also need to consider, in this context, the relief sought by Aurora Energy Limited[138], which was addressed in the submissions of Ms Irving and the evidence of Ms Dowd. Aurora had already sought, in the Stream 1B hearing, recognition of what it described as critical electricity lines (66kV 33kV and 11Kv sub-transmission and distribution lines of strategic importance to its line network, and to its customers). Aurora sought a new policy that would read:

"Avoid, remedy or mitigate reverse sensitivity effects on infrastructure."

313. In his reply evidence, Mr Bryce agreed with the amendments suggested by Ms McLeod in her evidence and recommended that the policy be expanded to cater for sub-transmission lines, as sought by Aurora. Mr Bryce drew on recommendations which Mr Barr had made to the Hearing Panel considering Chapter 30 (Stream 5) of the PDP suggesting that the Aurora's sub-transmission lines needed to be specifically recognised through an amended policy and rule framework.

314. In its Report 3, the Hearing Panel recommended that the primary focus at a strategic level should be on regionally significant infrastructure. Further, that identification of what is regionally significant should primarily be a matter for the Regional Council. The Hearing Panel noted in this regard that the Proposed RPS deliberately excludes electricity transmission infrastructure that does not form part of the National Grid when identifying infrastructure that is regionally significant.

315. As Ms Irving put to us, however, the fact that the Regional Council has not chosen to class Aurora's line network (or components thereof) as being regionally significant, does not mean that the PDP should not provide for it at a more detailed level. Ms Irving also drew to our attention provisions of the Proposed RPS making provision for electricity distribution infrastructure. We note in particular Policy 4.4.5 of the Proposed RPS which states:

"Protect electricity distribution infrastructure, by all of the following:

a. Recognising the functional needs of electricity distribution activities;

b. Restricting the establishment of activities that may result in reverse sensitivity effects;

c. Avoiding, remedying or mitigating adverse effects from other activities on the functional needs of that infrastructure;

d. Protecting existing distribution corridors for infrastructure needs, now and for the future."

[138] Submission 635: Supported in FS1211

316. Mr Bryce's recommendation in his reply evidence was that the appropriate policy to pick up on these issues should read:

"Manage subdivision within or near to electricity transmission corridors and electricity sub-transmission lines to facilitate good amenity and urban design outcomes, while avoiding potential adverse effects (including reverse sensitivity effects) on the National Grid and electricity sub-transmission lines."

317. We have a number of difficulties with that suggested policy wording. First, focussing on the National Grid and on what is required to implement the NPSET 2008, policy 10 of that document requires that "*decision-makers must to the extent reasonably possible manage activities to avoid reverse sensitivity effects on the electricity transmission network and to ensure that operation, maintenance, upgrading, and development of the electricity transmission network is not compromised."*

318. As noted in the report of the Hearing Panel considering Chapter 4[139] inclusion of the qualifier "*to the extent reasonably possible"* means that this is not the same thing as requiring that all adverse effects be avoided, given the guidance we have from the Supreme Court in *King Salmon* as to what the latter means. The Hearing Panel's conclusion was that it was both consistent with the NPSET 2008 and appropriate that reverse sensitivity effects on regionally significant infrastructure be minimised. We take the same view in this context.

319. We do agree though with Ms McLeod and Mr Bryce that the focus should not solely be on reverse sensitivity effects. Certainly, with the National Grid, direct effects need to be managed so as to avoid compromising the operation, maintenance, upgrading and development of the National Grid "*to the extent reasonably possible"*.

320. Turning to the Aurora Network, while the Regional Council has confirmed that it is not regionally or nationally significant, it is clearly important to the health and wellbeing of the District's people and communities.

321. Neither the Proposed RPS nor Aurora's own submission would, however, support a policy of avoiding reverse sensitivity effects on the Aurora line network.

322. As above, the Proposed RPS talks in terms of avoiding, remedying or mitigating adverse effects from other activities "*on the functional needs"* of electricity distribution infrastructure. Aurora's submission, as above, seeks that reverse sensitivity effects be avoided, remedied or mitigated.

323. The other point to note is that the Proposed RPS addresses the requirements of electricity distribution infrastructure which it defines as "*lines and associated equipment used for the conveyance of electricity on lines other than lines that are part of the National Grid."*

324. In other words, it makes no distinction between different elements of line networks like those of Aurora. Accordingly, we take the view that introducing some subset of the Aurora Network (e.g. sub-transmission lines) is likely only to promote confusion, especially given that Aurora's own submission does not seek a higher level of protection from reverse sensitivity effects than the Proposed RPS would require for the entire distribution network. We note also that the Hearing Panel considering Chapter 30 (Report 8) has recommended that Aurora's submissions

139 Report 3 at [937]

(and the Staff Recommendation) that sub-transmission lines be recognised in separate objectives, policies and rules in that chapter not be accepted.

325. We also think that the reference to electricity transmission corridors needs to be clarified. Policy 11 of the NPSET 2008 requires identification of buffer corridors around elements of the National Grid and Ms McLeod agreed that the appropriate reference in the rules would be to the National Grid Corridor. We consider that this policy should likewise refer to the National Grid Corridor. Also, having defined a buffer corridor, the focus should be on activities within that corridor. It is only other electricity lines, where a corridor has not been defined, where nearby subdivision might be an issue.

326. In summary, we recommend that a new policy be inserted as 27.2.2.8 reading:

"Manage subdivision within the National Grid Corridor or near to electricity distribution lines to facilitate good amenity and urban design outcomes, while minimising potential adverse effects (including reverse sensitivity effects) on the National Grid and avoiding, remedying or mitigating adverse effects (including reverse sensitivity effects) on electricity distribution lines."

327. Submission 632[140] sought a new policy in this section related to heritage values. Mr Bryce's view was that that matters the policy would address were already adequately covered in existing policies. We concur – see in particular the policies related to Objective 27.2.4 that we will discuss shortly.

328. The other submission seeking a new policy in this part of the Chapter we should discuss at this time is that of Queenstown Airport Corporation[141] seeking a new policy that would discourage activities "*that encourage the congregation of birds within aircraft flight paths."*

329. This is of course linked to the point we discussed in the context of the default subdivision rules, as to whether the potential bird strike should be a matter of discretion reserved for consideration.

330. While, as already noted, Mr Bryce recommended that provision should be made in the rules as sought by QAC, he did not reconsider the recommendation in his Section 42A Report that this was not an appropriate matter for a new policy.

331. For our part, the same reasoning that prompted us to reject the QAC submission in the context of a specific discretion of the rules leads us to the view that it should not be provided for in a policy either. Put simply, QAC did not provide us with the evidential foundation for a policy and having decided that it is not appropriate to leave it as a discretion within the rules, it would be inconsistent to insert a policy to the same effect.

332. Accordingly, we recommend that the QAC submission be rejected.

333. Having reviewed the policies discussed above and the alternatives open to us, we record our view that policies 27.2.1-27.2.8 recommended above are the most appropriate way in which to achieve Objective 27.2.2.

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140 Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

141 Submission 433: Opposed in FS1097 and FS1117

4.4 Objective 27.2.3 and Policies Following

334. Objective 27.2.3 as notified read as follows:

"Recognise the potential of small scale and infill subdivision while acknowledging that the opportunities to undertake comprehensive design are limited."

335. Submissions seeking to *amend* this objective sought either to soften the last phrase (to say that opportunities may be limited *"in some circumstances"*)[142] or to convert it into a policy with slightly amended wording[143].

336. Mr Bryce considered that the notified objective does indeed read like a policy. Rather than converting it to a policy, however, as sought by Submission 632, he recommended amendments to reframe it as an outcome. Mr Bryce's suggested rewording also addressed the point taken in Submission 208. While the Hearing Panel has had difficulty in other contexts with the language now recommended by Mr Bryce (recognise and provide for)[144], the following policies flesh out how small-scale and infill subdivision might be recognised and provided for and thus, in this context, we regard it as acceptable. We do think that the focus of the objective is on the potential of small scale and infill subdivision in urban areas and that this should be made clear. Small scale subdivision in rural areas raises different, and not necessarily positive, issues. Otherwise, we recommend that Mr Bryce's wording be accepted with only minor grammatical changes, with the result that the objective would read:

"The potential of small scale and infill subdivision in urban areas is recognised and provided for while acknowledging their design limitations."

337. For the reasons set out above, and given the jurisdictional limitations on our choosing any alternative rewording, we consider that this objective is the most appropriate way to achieve the purpose of the Act as it relates to small scale and infill subdivision.

338. Policy 27.3.2.1, as notified, read as follows:

"Acknowledge that small scale subdivision, (for example subdivision involving the creation of fewer than four allotments) and infill subdivision where the subdivision involves established buildings, might have limited opportunities to give effect to policies 27.2.2.4, 27.2.2.6 and 27.2.2.8."

339. There were no submissions seeking amendment to this policy and Mr Bryce recommended that the sole submission supporting it[145] be accepted on the basis that the policy provided clear guidance and was effective in guiding plan users as the intent of the objective. He therefore recommended that the policy be retained as notified, other than to revise the numbering of the policy cross references to reflect other recommendations.

340. We agree in substance with that position. As with the objective, we think that the policy is focussing on small scale subdivision in urban areas (that is the focus of the cross-referenced

142 Submission 208

143 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

144 Refer Report 3 at Section 1.9

145 Submission 691

policies). It should make that clear. The only other amendment we suggest is to clarity what "*acknowledgement"* means in this context. Logically, it must mean that the design limitations are accepted.

341. Accordingly, we recommend that the policy be slightly amended from Mr Bryce's recommendation to read:

"Accept that small scale subdivision in urban areas, (for example subdivision involving the creation of fewer than four allotments), and infill subdivision where the subdivision involves established buildings, might have limited opportunities to give effect to policies 27.2.2.4, 27.2.2.5 and 27.2.2.7."

342. Policy 27.2.3.2 as notified read:

"While acknowledging potential limitations, encourage small scale and infill subdivision to:

- *Ensure lots are shaped and sized to allow adequate sunlight to living in outdoor spaces, and provide adequate on-site amenity and privacy;*
- *Where possible, locate lots so that they over-look and front road and open spaces;*
- *Where possible, avoid the creation of multiple rear sitesWhere buildings are constructed with the intent of a future subdivision, encourage site and development design to maintain, create and enhance positive visual coherence of the development with the surrounding neighbourhood;*
- *Identify and create opportunities for connections to services and facilities in the neighbourhood."*

343. The only submissions seeking amendment of this policy sought variously *qualification* of the third bullet point to insert a practicability test[146] or its deletion[147].

344. Mr Bryce recommended that the substance of Submission 453 be accepted. He preferred, however, to delete all reference to *possibilities*. Mr Bryce also recommended reformatting so that, rather than setting subparagraphs as bullet points, numbered sub policies be used.

345. The evidence advanced by Submitter 632 did not support the relief sought on this policy and we thus have no evidential basis to consider its deletion.

346. We agree with Mr Bryce's preference that the policy not speak in terms of what is possible, but rather in terms of what is practicable. We also agree that alphanumeric listing sub-policies, will assist future reference to them, subject to minor reformatting for consistency. As with the objective, however, the application of the policy should be related to urban subdivision.

347. Accordingly, we recommend that Policy 27.2.3.2 be reworded as follows:

"While acknowledging potential limitations, encourage small scale and infill subdivision in urban areas to:

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146 Submission 453

147 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

a. *ensure lots are shaped and sized to allow adequate sunlight to living areas and outdoor spaces, and provide adequate on-site amenity and privacy;*
b. *where possible, locate lots so that they over-look and front road and open spaces;*
c. *avoid the creation of multiple rear sites, except where avoidance is not practicable;*
d. *where buildings are constructed with the intent of a future subdivision, encourage site and development design to maintain, create and enhance positive visual coherence of the development with the surrounding neighbourhood;*
e. *identify and create opportunities for connections to services and facilities in the neighbourhood."*

348. Having considered the alternatives open to us, we have concluded that Policies 27.2.3.1 and 27.2.3.2 as amended above, are the most appropriate way in which to achieve Objective 27.2.3.

4.5 Objective 27.2.4 and Policies Following

349. Objective 27.2.4 as notified read:
"Identify, incorporate and enhance natural features and heritage".

350. A number of submissions supported this objective[148]. One submission sought its deletion[149]. Another submission[150] sought that the objective be reworded to read:

"Identify and where possible incorporate and enhance natural features and heritage values within subdivision design."

351. Mr Bryce recommended rejection of the submission seeking deletion of this objective, pointing to strategic objectives seeking to protect heritage values[151]. Mr Bryce, however, thought elements of the relief sought in Submission 806 should be accepted – to refer to heritage values and to reference subdivision design – and that the term "*natural features"* be clarified so as to remove the potential that it might be seen as restricted to ONFs. Mr Bryce noted in this regard that the policies seeking to achieve this objective focussed, among other things, on biodiversity values. Mr Bryce also recommended that the objective be restructured to be expressed as an outcome rather than a course of action.

352. Mr Bryce did not specifically discuss the request in Submission 806 that the objective be qualified by a reference to what is possible. We do not consider that the outcome sought needs to be softened in the manner suggested. While it is obviously correct that subdivision design cannot enhance, for instance, natural features in all cases, it does not mean that that should not be the aspiration of the PDP. It is for the policies to provide a more nuanced course of action.

353. Accordingly, we agree with Mr Bryce's recommendations with the result that Objective 27.2.4 would be revised to read:

"Natural features, indigenous biodiversity and heritage values are identified, incorporated and enhanced within subdivision design."

148 Submissions 117, 339, 426 and 706: Opposed in FS1162
149 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316
150 Submission 806
151 Refer recommended Objective 3.2.3.2

354. We consider that this objective is the most appropriate way to achieve the purpose of the Act in this context having regard to the strategic objectives we have recommended in Chapter 3 and the alternatives available to us.

355. Policy 27.2.4.1 as notified read:

"Enhance biodiversity, riparian and amenity values by incorporating existing and planned waterways and vegetation into the design of subdivision, transport corridors and open spaces."

356. Submissions seeking substantive amendment to this policy included a request that it commence "*where possible and practical enhance…."*[152], seeking that the words "*and protecting"* be added[153], and seeking its amendment to read:

"Incorporate existing and planned waterways and vegetation into the design of subdivision, transport corridors and open spaces, as a means of mitigating effects and where possible enhancing biodiversity, riparian and amenity values."[154]

357. Mr Bryce did not recommend acceptance of a policy seeking to soften the focus on enhancement of relevant values. Addressing Submission 453 specifically, he felt that the relief sought would weaken the intent of the policy which, in his view, responded to the outcomes of the strategic directions in Chapter 3 and was consistent with sections 6(a) and 7(c) of the Act.

358. By the same token, however, Mr Bryce did not recommend acceptance of Submission 809 since that would be going further than the notified objective that the policy seeks to achieve.

359. While we understand and agree with Mr Bryce's reasoning, in principle, we do not consider that he has addressed the fundamental issue posed by Submissions 453 and 806, namely that it will not always be possible to achieve enhancement of biodiversity, riparian and amenity values through subdivision design. Removal of existing vegetation may also, in some cases, be desirable as a means to enhance biodiversity values given that that term will encompass everything from pristine indigenous bush to wilding pines and gorse. Similarly, if an existing waterway is low in natural values, its incorporation into subdivision design may not be desirable.

360. The qualifications suggested in Submissions 806 (*"where possible"*) and 453 ("*where possible and* practical*")* go too far, however, and, as Mr Bryce notes, would weaken the intent of the policy.

361. To address these points, we recommend that the policy be revised to read:

"Incorporate existing and planned waterways and vegetation into the design of subdivision, transport *corridors and open spaces where that will maintain or enhance biodiversity, riparian and amenity values."*

362. Policy 27.2.4.2 as notified, read:

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152 Submission 453

153 Submission 809: Opposed in FS1097

154 Submission 806

"Ensure that *subdivision and changes to the use of land that results from subdivision do not reduce the values of heritage items and protected features scheduled or identified in the District Plan*."

363. Submissions on this policy either supported it[155] or sought its deletion[156].

364. Mr Bryce noted the direct connection between the policy and the notified objective and accordingly recommended that the policy remain in its existing form.

365. We agree that the policy responds directly to the objective and should be retained. Consequent on the Hearing Panel's recommendations in relation to management of heritage values[157] we recommend minor changes to be consistent with the recommended form of Chapter 26, as follows:

"Ensure that subdivision and changes to the use of land that result from subdivision do not reduce the values of heritage features and other protected items scheduled or identified in the District Plan."

366. Policy 27.2.4.3 as notified read:
"The Council *will support subdivision design that includes the joint use of stormwater and flood* management *networks with open spaces and pedestrian/cycling transport corridors and recreational* opportunities *where these opportunities arise."*

367. Submissions on this policy ranged between support for it in its current form[158], its deletion[159], its amendment to address situations where joint use may not be appropriate because of resulting adverse effects on the environment[160], and amendment to remove the focus on the Council's actions, substituting "*encourage"* at the front of the policy[161].

368. Mr Bryce supported the policy direction of this policy, but recommended that it be relocated to fall under Objective 27.2.5. Given that that objective relates to infrastructure and services, including stormwater and flood management, we agree. We will return to the point in that context. Accordingly, we accept Mr Bryce's recommendation and recommend that the policy should be deleted from section 27.2.4.

369. Policy 27.2.4.4 as notified read:

"Encourage the protection of heritage and archaeological sites, and avoid the unacceptable loss of archaeological sites."

370. Submissions on this policy either sought its deletion[162] or clarification of what "*unacceptable loss"* means[163].

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155 Submissions 339, 706: Opposed in FS1162
156 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316
157 See Section 6.5 of Report 4
158 Submissions 339 and 706: Opposed in FS1162
159 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316
160 Submission 117 – noting that the Summary of Submissions did not correctly record the relief sought in this submission.
161 Submission 806
162 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316
163 Submission 806

371. Mr Bryce recommended that this policy be retained in his Section 42A Report while agreeing with Submission 806 that the term "*unacceptable loss"* was not easily defined. Mr Bryce drew attention, in particular, to the strength of the intention underlying the policy. When we discussed the point with him, he accepted that the term is problematic, but frankly acknowledged that he was having difficulty identifying an alternative form of words that was suitable. When he returned to the point in reply, Mr Bryce drew on the Council staff reply on Chapter 26 suggesting that the term "*unacceptable"* should be deleted and the policy amended to focus on avoidance in the first instance, and to mitigation proportionate to the level of significance of the feature where avoidance cannot reasonably be amended.

372. Mr Bryce also suggested that the opening words of the policy should be "*provide for"* rather than "*encourage"* on the basis that this would better align with the provisions of the Act.

373. While Mr Bryce's suggested amendment to this policy does indeed provide the clarification which Submission 806 sought, we have a degree of unease regarding the extent to which this policy will have moved if we accept Mr Bryce's recommendation on that relatively slender jurisdictional base. We note that Submission 806 suggested (in the reasons for the relief sought) that regard should be had to the relative significance of the archaeological site when determining what loss is unacceptable, but Mr Bryce suggests moving that concept some distance. We are also concerned about the proposed amendment to the start of the policy which would make it more restrictive without any submission having sought that end result.

374. Standing back from these concerns, we note that there is significant duplication between this policy and the notified Policies 27.2.4.2 (addressing retention of the values of heritage features) and 27.2.4.6 (regarding protection of archaeological sites). We have come to the view that rather than attempt to massage an unsatisfactory policy with limited assistance from submissions suggesting viable alternatives, the better course is to delete this policy and rely on the other policies just noted to address heritage and archaeological aspects of the relevant objective. We therefore recommend that notified Policy 27.2.4.4 be deleted (i.e. that Submission 632 be accepted).

375. Policy 27.2.4.5 as notified read:

"Ensure opportunity for the input of the applicable agencies where the subdivision and resulting development could modify or destroy any archaeological sites."

376. The only submissions on this policy[164] sought its deletion.

377. Mr Bryce recommended that those submissions be accepted on the basis that the policy simply duplicates a process already entrenched in the Act and in other legislation. In particular, in his view, the Act would replicate the statutory requirements under the Heritage New Zealand Pouhere Taonga Act 2014.

378. We agree with Mr Bryce's reasoning. As he notes, the proposed rules of Chapter 27 provide for consideration whether Heritage New Zealand is an affected party in any given case. Heritage New Zealand exercises control over modification or destruction of archaeological sites under its own Act and we do not think it is necessary to provide for its involvement in a policy of this kind. We also note that Heritage New Zealand was not among the further submitters opposing deletion of this policy.

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[164] Submissions 632 and 806: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

379. We therefore recommend deletion of notified Policy 27.2.4.5.

380. Policy 27.2.4.6 as notified, read:

"Encourage subdivision design to protect and incorporate archaeological sites or cultural features, recognising these features can contribute to and create a sense of place. Where applicable, have regard to Maori culture and traditions in relation to ancestral lands, water, sites, wahi tapu and other taonga."

381. One submission sought deletion of this policy[165]. Another submission sought its amendment to refer to protection of archaeological sites or cultural features where possible[166].

382. Mr Bryce did not recommend acceptance of either submission. In his view, the notified policy is effective in implementing the outcomes of the relevant objective. As regards the amendments sought in Submission 806, Mr Bryce suggested to us that they did not adequately respond to sections 6(e) and 6(f) of the Act.

383. We agree with Mr Bryce's reasoning, while noting that he might also have drawn support for his position from the Proposed RPS. Given our recommendation, as above, that notified Policy 27.2.4.4 be deleted, it is important that the provision for protection of archaeological sites and cultural features in Policy 27.2.4.6 be retained. Indeed, were there jurisdiction to consider it, the provisions noted by Mr Bryce, along with the Proposed RPS, would have justified, if anything, a more directive policy stance. As regards the specific concern expressed in Submission 806 that provision for cultural features is problematic if they are not clearly identified, we understand this will be addressed in a subsequent stage of the District Plan review process.

384. Accordingly, we recommend that notified Policy 27.2.4.6 be retained unamended, other than to renumber it 27.2.4.3.

385. Notified Policy 27.2.4.7 read:

"Encourage initiatives to protect and enhance landscape, vegetation and indigenous biodiversity by having regard to:

a. *Whether any landscape features or vegetation are of a sufficient value that they should be retained and the proposed means of protection;*

b. *Where a reserve is to be set aside to provide protection to vegetation and landscape features, whether the value of the land so reserved should be off-set against the development contribution to be paid for open space and recreation purposes."*

386. Submissions seeking change to this policy sought amendment to the wording of the second bullet point to make offsetting more certain[167], amendment to the second bullet point to

165 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316
166 Submission 806
167 Submission 453

express it in a slightly different way[168] and extension of the policy to encourage initiatives for provision of public access to natural features and heritage[169].

387. Mr Bryce did not support any of the suggested changes on the basis that none of them would make the notified policy any more effective.

388. We agree with that recommendation. The development contribution is imposed under the Local Government Act. Accordingly, it would be inappropriate for a policy in the PDP to purport to constrain how it should operate. Like Mr Bryce, we are unconvinced that the wording amendments suggested in Submission 809 improve the policy. Lastly, submitter 806 provided no evidence that would provide us with a basis for accepting the extent of the proposed extension to the policy.

389. In summary, we therefore recommend that notified Policy 27.2.4.7 be retained unamended other than to renumber it 27.2.4.4 and to convert the bullet points of the notified version to alphanumeric sub-paragraphs, together with minor reformatting.

390. Lastly under Objective 27.2.4, the Council's corporate submission[170] sought inclusion of a new policy to support the objective that would read:

"Ensure that new subdivision and developments recognise, incorporate and where appropriate, enhance existing established protected vegetation and where practicable ensure that this activity does not adversely impact on protected vegetation."

391. The suggested new policy is opposed on the basis that it is unnecessary.

392. In his Section 42A Report, Mr Bryce recommended acceptance of an amended version of the suggested new policy deleting the final clause commencing "*and where practicable".* In Mr Bryce's view, such a policy would better give effect to what was the notified section 3.2.4 goal (and is now recommended Objective 3.2.4).

393. When we discussed the point with him, we expressed some concern that the policy lacked guidance as to the criteria for determining appropriateness. Mr Bryce agreed that this was a gap in the proposed wording. In his reply evidence, Mr Bryce recommended deleting the term "*where appropriate",* substituting a reference to "*suitable measures to enhance existing established protected indigenous vegetation"* and inserting further guidance as to what suitable measures might include – such things as protective fencing, destocking, removal of existing wilding species and invasive weeds or active ecological restoration.

394. Mr Bryce's suggested addition to the policy rather tended to miss the point we were making, namely that the policy needed to identify when it would be appropriate to require enhancement measures.

395. Mr Bryce's suggested addition also takes the policy a significant distance further than the relief proposed in Submission 809.

396. Stepping back from the detail, Mr Bryce did not explain to us why, if indigenous vegetation was already protected, it was necessary to ensure its enhancement in this context. It seems

168 Submission 809

169 Submission 806

170 Submission 809: Opposed in FS1097

to us that these matters are better addressed in the policies establishing the protection of indigenous vegetation.

397. In summary, we do not agree that this policy, or some amendment thereof is the most appropriate way in which to achieve Objective 27.2.4. Accordingly, we do not recommend its inclusion.

398. Having reviewed the four policies we have recommended as above, we consider that collectively, having regard to the alternatives open to us, they represent the most appropriate way to achieve Objective 27.2.4.

4.6 Objective 27.2.5 and Policies Following

399. Notified Objective 27.2.5 read:

"Require infrastructure and services are provided to lots and developments in anticipation of the likely effects of land use activities on those lots and within overall developments."

400. A number of submissions supported this objective. Submissions seeking substantive change to it included those seeking its deletion[171], a request to delete reference to likely effects[172] and a request to make that deletion combined with a statement that subdivision development not adversely affect the National Grid[173].

401. Mr Bryce's consideration of this objective started with the observation (that we agree with) that although supposedly an objective, it does not read like an outcome statement.

402. In addition, given the range of policies specified in this section of Chapter 27, we do not consider that reference to likely effects of land use activities accurately captures the intention underlying this provision (as evidenced by the policies seeking to achieve it).

403. It follows that, like Mr Bryce, we largely accept the relief sought in Submission 635.

404. While we accept the need to ensure that subdivision and development that might potentially affect the National Grid needs to be managed in accordance with the NPSET 2008, this objective (or the policies under it[174]) does not seem to be the correct vehicle for that management given that it focusses on infrastructure and services to lots and developments rather than the effects of subdivision and development. We note that Ms McLeod, giving evidence on behalf of Transpower New Zealand Ltd, agreed with Mr Bryce's recommendation that the amendments sought in Submission 805 not be accepted.

405. Lastly, given that provision of infrastructure and services to new lots is a key aspect of the management of subdivision and development, it would clearly not be appropriate or consistent with the purpose of the Act to delete this objective.

406. Ideally the objective would give some guidance as to the nature and extent of infrastructure and services provided to new subdivisions and developments, but the requirements of subdivisions are so many and varied in this regard that a concise summary of the desired outcome is a challenge. Mr Bryce did not recommend that we go down that path and none of

171 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

172 Submission 635: Opposed in FS1097

173 Submission 805

174 Addressing the relief sought in Submissions 635 and 805, supported in FS1211 in this regard

the submissions seeking amendment to the objective provided any suggestions that we could adopt or adapt.

407. In summary, therefore, we accept Mr Bryce's recommendation that Objective 27.2.5 should be amended to state simply:

"Infrastructure and services are provided to new subdivisions and developments."

408. For the reasons set out above, given the alternatives open to us, we consider this objective the most appropriate way to achieve the purpose of the Act in this context.

409. The first group of five policies under Objective 27.2.5 relate to transport, access and roads.

410. Policy 27.2.5.1 as notified read:

"Integrate subdivision roading with the existing road networks in an efficient manner that reflects expected traffic levels and the provision for safe and convenient walking and cycling."

411. Submissions on it variously sought its retention[175], and an amendment to refer to both safe and efficient integration of roading[176].

412. We note also Submission 798[177], requesting that in considering subdivisions and development, provisions require the inclusion of links and connections to public transport and infrastructure, not just walking and cycling linkages.

413. Mr Bryce recommended acceptance of the wording amendments sought in Submission 805. He noted that the relief sought in Submission 798 is provided for within Policy 27.2.5.3. Lastly, Mr Bryce recommended an amendment to refer to potential traffic levels rather than expected traffic levels – to reflect the fact that the Code of Practice states that development design "*shall ensure connectivity to properties and roads that have been developed, or that have the potential to be developed in the future."*

414. This recommendation prompted us to discuss with Mr Wallace how potential traffic levels might be ascertained. Mr Wallace's response was that, in his mind, it was linked to the PDP zoning, which sets out what is anticipated by the PDP.

415. In his reply evidence, Mr Bryce picked up on Mr Wallace's evidence and suggested a clarification be inserted to this effect.

416. We agree with Mr Bryce's recommendation that Submission 719 should be accepted and that Submission 798 is appropriately addressed in another policy. We do not think, however, that the suggested amendment substituting '*potential'* for '*expected'* is necessary, particularly if it implies a substantive change to the policy unsupported by a submission seeking that relief. Given Mr Wallace's clarification (which we think is helpful), the traffic levels of relevance are those that are expected into the future, having regard to the zoning of the area. We think a slight amendment is required of the suggested clarification because the PDP zoning does not itself anticipate or provide for traffic levels. Traffic levels are the result of the zone provisions being implemented. We regard this as a minor non-substantive change.

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175 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

176 Submission 719

177 Supported in FS1097

417. In summary, therefore, we recommend that Policy 27.2.5.1 be amended to read:

"Integrate subdivision roading with the existing road networks in a safe and efficient manner that reflects expected traffic levels and the provision for safe and convenient walking and cycling.

For the purposes of this policy, reference to 'expected traffic levels' refers to those traffic levels anticipated as a result of the zoning of the area in the District Plan."

418. Notified Policy 27.2.5.2 read:

"Ensure safe and efficient pedestrian, cycle and vehicular access is provided to all lots created by subdivision and to all developments."

419. The only substantive change sought to this policy[178] would specify that access is along roads and delete reference to developments.

420. Mr Bryce did not recommend acceptance of the suggested changes because he did not believe that they made the policy more effective.

421. We agree. Safe and efficient pedestrian and cycle access to lots might not necessarily be along roads and the evidence for Submitter 632 did not explain to us why reference to developments should be deleted.

422. Accordingly, we recommend retention of Policy 27.2.5.2 unamended.

423. Policy 27.2.5.3 as notified read:

"Provide trail, walking, cycle and public transport linkages, where useful linkages can be developed."

424. The only submission seeking a material change to this policy was Submission 632, seeking its deletion[179]. Once again, the submitter did not seek to support this position in evidence. Mr Bryce did not recommend acceptance of that submission, but he did suggest that Submission 798 noted above might appropriately be addressed by a reordering of this policy to shift reference to public transport to the front of the policy. We agree with Mr Bryce's view that with some minor grammatical amendments, the suggested revisions make the policy clearer. Accordingly, we recommend that Policy 27.2.5.3 be revised to read:

"Provide linkages to public transport networks, and to trail, walking and cycling networks, where useful linkages can be developed."

425. Policy 27.2.5.4 as notified read:

"The design of subdivision and roading networks to recognise topographical features to ensure the physical and visual effects of subdivision and roading are minimised."

[178] Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

[179] Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

426. The policy is the subject of two substantive submissions. The first[180] opposed the policy as being too open to differing interpretations. The second[181] suggested that it be revised to read:

"Encourage the design of subdivision and roading networks to recognise and accommodate pre-existing topographical features where this will not compromise design outcomes and the efficient use of land."

427. Mr Bryce recommended revision of the policy to the format suggested in Submission 632, but did not accept the substantive shift from ensuring to encouraging, or the deletion of reference to minimising effects.

428. We agree with Mr Bryce's recommendation with only a minor grammatical change. Given the policy already focuses on minimising effects, in our view, it provides sufficient flexibility for subdividers.

429. In summary, therefore, we recommend that Policy 27.2.5.4 be revised to read:

"Ensure the physical and visual effects of subdivision and roading are minimised by utilising existing topographical features."

430. Policy 27.2.5.5 as notified read:

"Ensure appropriate design and amenity associated with roading, vehicle accessways, trails, walkways and cycle ways within subdivisions by having regard to:

a. *Location, alignment, gradients and pattern of roading, vehicle parking, service lanes, access to lots, trails, walkways and cycle ways, and their safety and efficiency;*
b. *The number, location, provision and gradients accessways and crossings from roads to lots for vehicles, cycles and pedestrians, and their safety and efficiency;*
c. *The standard of construction and formation of roads, private accessways, vehicle crossings, service lanes, walkways, cycle ways and trails;*
d. *The provision and vesting of corner splays or rounding at road intersections;*
e. *The provision for and standard of street lighting, having particular regard to the avoidance of upward light spill;*
f. *The provision of appropriate tree planting within roads;*
g. *Any requirements for widening, formation or upgrading of existing roads;*
h. *Any provisions relating to access for future subdivision on adjoining land;*
i. *The provision of public transport routes and bus shelters."*

431. Submissions on this policy seeking changes to it sought variously:
   a. Consideration be given in subdivision design to other species[182];
   b. Amendment to require old and replacement lighting to be downward facing using energy efficient lightbulbs[183];
   c. Amendment of the final bullet point to add a cross reference to Council transport strategies[184];

180 Submission 453
181 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316
182 Submission 117
183 Submission 289
184 Submission 453

d. Deletion of the policy[185];
e. Addition of reference to links and connections to public transport services and infrastructure[186].

432. Mr Bryce did not recommend additional reference to Council transport strategies, noting that the transport section of the PDP will be reviewed as part of a subsequent stage of the District Plan review process. He was also of the view that the amendment recommended to the notified Policy 27.2.5.3 would address the Otago Regional Council's submission noted above[187]. He did, however, recommend an amendment to the final bullet point to reference linkages to public transport routes to address this submission.

433. As regards Submission 289, Mr Bryce was of the view that the outcome sought by the submitter is both impractical and would constitute a significant policy shift that would in turn require significantly more detailed Section 32 evaluation before adoption. Mr Bryce did, however, recommend that reference be added to siting and location of lighting and to the night sky.

434. Mr Bryce also drew our attention to a new policy sought in Submission 632, overlapping with and effectively amending the fifth bullet point in Policy 27.2.5.5, so that it would refer to the inter-relationship between lighting and public safety and substitute the word '*reduce'* for *'avoidance'*. Mr Bryce recommended acceptance of the former but not the latter.

435. Mr Bryce did not specifically address the relief sought in Submission 117. For our part, we think that Objective 27.2.4 and the recommended revisions to the policies supporting that objective already address the substance of the submission.

436. We largely agree with Mr Bryce's recommendations regarding the balance of submissions on the policy. So far as provision for lighting is concerned, Mr and Mrs Hughes appeared at the hearing to address their submissions on steps required to protect the District's night sky. Most of their evidence and submissions in fact related to Chapters 3 and 6 and will be considered by the Hearing Panel in that context. They supported the existing lighting provisions in Chapter 27.

437. We agree with Mr Bryce's view that more analysis would be required of costs and benefits before Submission 289 could be accepted in its entirety. We agree, however, that with minor grammatical amendments, reference to siting and location, and to public safety are desirable improvements to this sub-policy.

438. Like Mr Bryce, we do not accept the suggestion in Submission 632 that the focus should be on reduction of upward light spill. Rather, we recommend that the policy should be more effects-based. In Report 3, the Hearing Panel has recommended that provisions related to the night sky focus on views of the night sky[188]. We recommend a similar focus in this context.

439. We do not accept Mr Bryce's suggestion as to how Submission 798 might be incorporated into the ninth bullet point. The submission sought inclusion of links and connections to public transport services and infrastructure as a matter for consideration in relation to subdivision and development, not just walking and cycling linkages. For most subdivisions, it is the location

185 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316
186 Submission 798
187 Ibid
188 Report 3 at Section 8.5

of public transport routes which will determine the ability to link/connect to public transport. We recommend that that be the focus of amendment to the ninth bullet point.

440. Mr Bryce also recommended that reference be made to trail connections to address Submissions 625 and 671 that we have already discussed, and that the words "*are provided for"* are inserted to provide clarity as to how having regard to the listed matters will ensure the outcomes desired. We agree with Mr Bryce's recommendation in this regard, and with his suggested formatting change to convert the bullet points to a numbered list. We also recommend minor reformatting for consistency.

441. Focusing on the areas of substantive change to the policy, we therefore recommend that it read:

*"*Ensure *appropriate design and amenity associated with roading, vehicle accessways, trails and trail connections, walkways and cycle ways within subdivisions are provided for by having regard to:…*

e. the provision for and standard of street lighting, having particular regard to siting and location, the provision for public safety, and the avoidance of upward light spill adversely affecting views of the night sky…

i. the provision and location of public transport routes and bus shelters"

442. Before leaving access issues, we should note Submission 275 that sought a policy providing for reduced access widths in the High Density Residential Zone. Mr Bryce did not specifically address this submission and the submitter did not provide evidence to support its submission, which appeared counter-intuitive to us. Be that as it may, we do not have an evidential basis to recommend acceptance of the relief sought.

443. The next group of policies in this section of the chapter relate to water supply, stormwater and wastewater (referred to as the 'three waters' in Mr Wallace's evidence). The format of the policies is that Policy 27.2.5.6 deals with the three waters collectively. Then follow discrete policies on each of "water", "stormwater" and "wastewater".

444. Policy 27.2.5.6 as notified read:

445. *"All new lots shall be provided with connections to a reticulated water supply, stormwater disposal and/*or *sewage treatment and disposal system, where such systems are available or should be provided for."*

446. This submission is supported in one submission[189]. A second submission[190] queried the position if systems aren't available, asking whose responsibility it is to provide those systems in that situation.

447. Mr Bryce did not recommend any change to this policy. We agree with this recommendation. The answer to the question posed in Submission 117 is that the more specific policies following address the point.

448. Submission 632 sought a new policy on a related point – providing that when connected to Council infrastructure, capacity in the system should be ensured or necessary upgrades

189 Submission 438

190 Submission 117

reasonably expected to occur. Mr Bryce did not discuss it specifically, and the submitter's evidence did not address it. It seems to us, however, that the capacity of the Council's infrastructure is considered at an earlier point than subdivision. In general, land should not be zoned for development if infrastructure capacity is not available (or likely to be available) to service it. Accordingly, we do not consider the suggested policy is necessary, particularly in the absence of evidence setting out its costs and benefits.

449. Accordingly, we recommend that Policy 27.2.5.6 be retained unamended.

450. Addressing the policies specifically related to water, the first policy is 27.2.5.7 which, as notified, read:

"Ensure water supplies are of a sufficient capacity, including firefighting requirements, and of a potable standard, for the anticipated land uses on each lot or development."

451. The only submissions on this policy[191] sought its retention. Mr Bryce did not recommend any change to the policy and we agree with that recommendation.

452. Accordingly, we recommend that Policy 27.2.5.7 be retained unamended.

453. Policy 27.2.5.8 as notified, read:

"Encourage the efficient and sustainable use of potable water by acknowledging that the Council's reticulated potable water supply may be restricted to provide primarily for households' living and sanitation needs and that water supply for activities such as irrigation and gardening may be expected to be obtained from other sources."

454. Submission 117 agreed with this policy but suggested that the rules of the PDP needed to be consistent with it ensuring, for instance, that height requirements on water collection tanks not effectively prohibit collection of rainwater.

455. Submission 289[192] also supported the policy but suggested that existing houses could be encouraged to install water tanks.

456. Submission 632[193] sought the deletion of the policy.

457. Mr Bryce did not recommend any change to the policy. We agree. The point made in Submission 117 is relevant, but needs to be considered in the context of the rules of the PDP.

458. The relief sought in Submission 289 is beyond the scope of provisions addressing subdivision and development.

459. Lastly, Submission 632 was not supported by the evidence we heard on behalf of the submitter and we have no basis on which to recommend deletion of the policy.

460. Accordingly, we recommend that Policy 27.2.5.8 be retained unamended.

461. Policy 27.2.5.9 as notified, read:

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191 Submissions 438 and 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

192 Supported in FS1125

193 Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

*"*Encourage *initiatives to reduce water demand and water use, such as roof rain water capture and use and greywater recycling."*

462. Submissions on it opposed the policy on the basis variously that the issue is better addressed as part of the building process rather than through controls on subdivision[194], sought to introduce a practicality qualification[195] and sought that a similar provision be applied to existing houses[196].

463. Mr Bryce did not recommend acceptance of either Submission 453 or Submission 632. Mr Bryce noted in particular that in some circumstances, particularly where subdivisions are undertaken at locations not connected to a reticulated water supply, it would be appropriate to address water conservation at the subdivision stage. He also observed that the policy seeks to encourage the outcome rather than require it. We agree with Mr Bryce. The policy enables consideration of water conservation. If it is premature or impractical in a particular case, the policy accommodates that. As with the submission made on the previous policy, the relief sought in Submission 289 does not relate to subdivision and development.

464. Accordingly, we recommend that Policy 27.2.5.9 be retained unamended.

465. Policy 27.2.5.10 as notified read:

"Ensure appropriate water supply, design and installation by having regard to:

a. The availability, quantity, quality and security of the supply of water to the lots being created;
b. Water supplies for firefighting purposes;
c. The standard of water supply systems installed in subdivisions, and the adequacy of existing supply systems outside the subdivision;
d. Any initiatives proposed to reduce water demand and water use."

466. Submissions on this policy consisted of a submission from New Zealand Fire Service seeking that it specifically refer to the Fire Service Code of Practice for the definition of what adequate water supplies for firefighting purposes might require[197] and a request that it be deleted[198].

467. Submission 632 was not supported by evidence when the submitter appeared before us and given the obvious relevance of the matters addressed in the policy to subdivision and development, we need say no more about it.

468. New Zealand Fire Service, however, did appear to support its submission. Ms McLeod gave evidence explaining why, in her view, it was appropriate to reference the relevant New Zealand Standard[199] (referred to in turn in the Fire Service Code of Practice).

194 Submission 453
195 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316
196 Submission 289
197 Submission 438: FS1097 queried the need for the suggested reference
198 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316
199 SNZ PAS 4509:2008

469. Ms McLeod drew attention to the desirability of referencing the standard to eliminate any possible confusion that might arise as a result of an existing agreement between the Council and the Fire Service Commission providing for alternatives not covered by SNZ PAS 4509:2008.

470. In his reply evidence, Mr Bryce remained of the view that this was not necessary, but noted that he had recommended that SNZ PAS 4509:2008 be integrated into the assessment matters supporting the redrafted rule.

471. We agree with Mr Bryce's recommendation on this point. We consider that it is better that the policy remain broadly expressed. SNZ PAS 4509:2008 is referenced in the Land Development and Subdivision Code of Practice. We have already discussed the desirability of generalising reference to that document and we think the same logic applies to the Standard the Fire Service seeks to include. The concerns expressed by the Fire Service are in our view adequately addressed by the more detailed provisions, including the recommended assessment matter that Mr Bryce drew our attention to.

472. In summary, we recommend retention of Policy 27.2.5.10 unamended, save only for reformatting the bullet pointed matters as a numbered list and decapitalising the first word in each part.

473. Policy 27.2.5.11, as notified, read:

"Ensure that the provision of any necessary additional infrastructure for water supply, stormwater disposal and/or sewage treatment and disposal and the upgrading of existing infrastructure is undertaken and paid for subdividers and developers in accordance with the Council's 10 Year Plan Development Contributions Policy."

474. Submissions addressing this policy included Submission 117 which stated, somewhat enigmatically, that the policy "*needs long-term foresight".* We are unsure what that means, and the submitter did not appear at the hearing to provide clarification.

475. Other submissions opposed the policy. One submitter stated that the costs it covers should be covered by development contributions[200]. Submission 632[201] simply sought its deletion.

476. Mr Bryce's initial response to Submission 453[202] was to accept that referencing the Development Contribution Policy within Policy 27.5.2.11 is not necessarily required, but he considered that the guidance the policy provided assisted with implementation of the PDP. Mr Bryce suggested, however, that specific reference to the Development Contribution Policy be deleted in his reply evidence.

477. We do not think that assists. If anything, it exacerbates the issue identified in Submission 453 as the implication of Policy 27.2.5.11, as amended, would be that this policy would operate separately from the Development Contribution Policy. From Mr Bryce's evidence, we do not understand that to be the intention.

478. We have already addressed the Development Contribution Policy in the context of Section 27.1. For the reasons set out in our discussion of the purpose of Chapter 27, we think that

200 Submission 453: Supported in FS1117

201 Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

202 Section 42A Report at 18.140

greater clarity is required that development contributions are fixed in parallel with PDP, and independently of it. Accordingly, we recommend that Policy 27.2.5.11 be deleted.

479. Turning to stormwater arrangements, notified Policy 27.2.5.12 read:

"Ensure appropriate stormwater design and management by having regard to:

a. *Recognise and encourage viable alternative design for stormwater management that minimises run-off and recognises stormwater as a resource through re-use in open space and landscape areas;*
b. *The capacity of existing and proposed stormwater systems;*
c. *The method, design and construction of the stormwater collection, reticulation and disposal systems, including connections to public reticulated stormwater systems;*
d. *The location, scale and construction of stormwater infrastructure;*
e. *The effectiveness of any methods proposed for the collection, reticulation and disposal of stormwater run-off, including the control of water-borne contaminants, litter and sediments, and the control of peak flow."*

480. Submission 117 sought inclusion of provision in the policy to manage organic contaminants and heavy metals to mitigate adverse effects on water bodies. The submission also advocates expert design including a "*treatment train"* approach.

481. Submission 289 supported the policy but sought that stormwater collection from roads in particular be designated so that it does not run into lakes and rivers.

482. Submission 453 sought that the policy be qualified by the words "*where possible and practical"*.

483. Mr Bryce did not recommend acceptance of Submission 453 on this point. In his view, the policy already provides for a broad range of stormwater design options.

484. Mr Bryce likewise did not recommend acceptance of Submission 289. In Mr Bryce's view, the engineering evidence of the Council indicated that the relief sought was not practicable. Mr Bryce, however, noted that the fifth bullet point already addressed the substance of much of the relief the submitter sought through controlling water-borne contaminants, litter and sediments. In relation to that fifth bullet point, Mr Bryce also drew our attention to the relief sought in Submission 632[203] in the form of a new policy seeking that stormwater be managed "*to provide for public safety and where opportunities exist to maintain and enhance water quality".* Mr Bryce recommended that elements of this suggested policy be incorporated into the fifth bullet point of policy 27.2.5.12 and thereby also address what is now recommended Objective 3.2.4.4.

485. In addition, Mr Bryce recommended an amendment to the first bullet point to correct a grammatical issue with the way the introduction of the policy moves into the specific matter covered by that bullet point.

486. As with other policies, Mr Bryce recommended that the bullet point matters be converted to a numbered list.

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[203] Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

487. We largely agree with Mr Bryce's recommendations on this policy, including his suggested reformatting in line with changes to previously policies. We think though that a further grammatical tweak is required to the first bullet point so it scans properly.

488. As regards to the fifth bullet point, we consider that with the amendments recommended by Mr Bryce, it goes part way to meeting the relief sought in Submission 117. That submitter did not appear to explain or support her submission and we do not think that we have an evidential basis to push this policy further towards treatment of stormwater in the absence of a proper quantification of costs and benefits, as required by section 32 of the Act.

489. In summary, therefore, and focussing on areas of suggested amendment, we recommend that the notified Policy 27.2.5.12 be renumbered 27.2.5.11 and amended to read:

"Ensure appropriate stormwater design and management by having regard to:

a. any viable alternative designs for stormwater management that minimise run-off and recognise stormwater as a resource through re-use in open space and landscape areas;…

.

e. the effectiveness of any methods proposed for the collection, reticulation and disposal of stormwater run-off, including opportunities to maintain and enhance water quality through the control of water-borne contaminants, litter and sediments, and the control of peak flow."

490. Mr Bryce recommended insertion of a revised form of Policy 27.2.4.3 at this point. We have already discussed the form of the notified policy and the submissions on it[204].

491. Mr Bryce did not recommend acceptance of the submissions on Policy 27.2.4.3 although we note that his Section 42A Report addressed a different submission to that in fact made in Submission 117 on this point (due presumably to an error in the summary of submissions).

492. Mr Bryce did recommend an addition to the policy to qualify it by reference to the acceptability of maintenance and operation requirements to Council if assets are to be vested.

493. The suggested addition itself raised questions in our mind that we discussed with Mr Wallace – seeking to ascertain what tests the Council would in fact employ to determine acceptability. As a result, Mr Bryce recommended a lengthy clarification be added to the policy as to the meaning of that term.

494. The end result, were Mr Bryce's recommendations to be accepted, would shift the policy a significant distance from where it started. Nor do we think that the additions suggested by Mr Bryce respond to the submissions on Policy 27.2.4.3.

495. Going back to those submissions, we agree with the suggestion in Submission 806 that the focus of the policy should not be on what the Council will or will not do. The focus should be on subdivision design, rather than the Council's actions.

496. We also think that Submitter 117 had a point when she observed that joint use may not always be desirable, on environmental grounds (i.e. a different point to the one Mr Bryce seeks to add). We do not think it would be helpful to add a generalised reference to appropriateness, but an effects-based test would address the point the submitter was making.

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[204] Refer paragraph 359-361 above

497. While we understand that Mr Bryce's suggestions reflect a concern on the part of Council that this provision might be utilised by subdividers to try and off-load residual waste land onto Council, we do not consider that the policy would commit Council to accept vesting of such land where it is not fit for purpose or would impose unreasonable costs on the Council. However, if this is a concern, we recommend that it be addressed by a variation. We do not consider that the submissions on the policy provide a proper basis for the amendments Mr Bryce recommends.

498. Responding to those submissions, we recommend that the relocated Policy 27.2.4.3 be renumbered 27.2.5.12 and amended to read:

"Encourage subdivision design that includes the joint use of stormwater and flood management networks with open spaces and pedestrian/cycling transport corridors and recreational opportunities where these opportunities arise and will maintain the natural character and ecological values of wetlands and waterways."

499. Turning to wastewater policies, notified policy 27.2.5.13 read:

"Treating *and disposing of sewage is provided for in a manner that is consistent with maintaining public health and avoids or mitigates adverse effects on the environment."*

500. The only submission on the policy[205] sought amendments obviously designed to make the policy more succinct without altering its meaning. Mr Bryce recommended that the submission be accepted.

501. When we discussed this particular policy with Mr Bryce at the hearing, he agreed with a concern we expressed that an open-ended reference to avoiding or mitigating adverse effects might provide insufficient guidance to ensure adverse effects are minimised. Accordingly, Mr Bryce suggested in his reply evidence that the policy might explicitly state that adverse effects should be avoided in the first instance and, where this is not reasonably possible, minimised "*to an extent that is proportionate to the level of significance of the effects".*

502. While we consider Mr Bryce's suggested additions would improve the policy, given the limited ambit for amendment provided by Submission 632, we think that clarification of what the existing reference to avoiding or mitigating adverse effects should be taken to mean should more closely reflect the caselaw[206].

503. In summary, we recommend that notified Policy 27.2.5.13 be renumbered 27.2.5.14 and revised to read:

"Treat and dispose of sewage in a manner that:
a. maintains public health;
b. avoids adverse effects on the environment in the first instance; and
c. where effects on the environment cannot be reasonably avoided, mitigates those adverse effects to the extent practicable."

504. If the Council determines that greater certainty is required as to the level of mitigation provided under this policy, we recommend that it explore a variation to the PDP.

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205 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

206 Refer for instance *Winstone Aggregates Ltd v Papakura District Council* A049/2002

505. Notified Policy 27.2.5.14 read:

"Ensure appropriate sewage treatment and disposal by having regard to:
- *The method of sewage treatment and disposal;*
- *The capacity of, and impacts on, the existing reticulated sewage treatment and disposal system;*
- *The location, capacity, construction and environmental effects of the proposed sewage treatment and disposal system."*

506. The only submission on this policy[207] sought its deletion. The submitter did not support this aspect of its submission in the evidence we heard (rather the contrary in fact) and Mr Bryce did not recommend any substantive change to the policy, much less its deletion. We agree.

507. Accordingly, we recommend that notified Policy 27.2.5.14 be renumbered 27.2.5.15 and reformatted to contain a list of numbered sub points starting in each case without a capital letter, but otherwise retained unamended.

508. Notified Policy 27.2.5.15 read:

"Ensure that the design and provision of any necessary infrastructure at the time of subdivision takes into account the requirements of future development on land in the vicinity."

509. The only submission on this policy[208] sought an addition to state that such upgrades would be credited against development contributions.

510. Mr Bryce recommended the submission be rejected. We agree. Given that development contributions are assessed under the Council's Development Contribution Policy promulgated under the Local Government Act, it is inappropriate that a policy in the PDP should seek to constrain how that development contribution policy is implemented. While we understand the concern developers might have that they might be required to "over spec" the infrastructure they install for the benefit of third parties, the policy is framed in a way that prompts consideration of future needs, rather than directing any particular outcome, thereby enabling negotiation of appropriate financial arrangements between the parties.

511. Accordingly, we recommend that notified Policy 27.2.5.15 be retained unamended, other than by renumbering it 27.2.5.16.

512. The following policy, 27.2.5.16 in the notified Chapter 27, related to energy supply and telecommunications. As notified, it read:

"To ensure adequate provision is made for the supply and installation of reticulated energy, including street lighting, and communication facilities for the anticipated land uses while:
- *Providing flexibility to cater for advances in telecommunication and computer media technology, particularly in remote locations;*
- *Ensure the method of reticulation is appropriate for the visual amenity values of the area by generally requiring services are underground;*
- *Have regard to the design, location and direction of lighting to avoid upward light spill, recognising the night sky is an element that contributes to the District's sense of place;*

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207 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

208 Submission 453

- *Generally require connections to electricity supply and telecommunication systems to the boundary of the net area of the lot, other than lots for access, roads, utilities and reserves."*

513. This policy was supported by the telecommunication submitters. Substantive amendments were sought in Submission 635[209] which sought to qualify the reference to underground reticulation, so it would apply "*where technically and operationally feasible".* Submission 632[210] sought deletion of reference to underground reticulation and street lighting, along with amendments to generalise the reference to technology, soften the reference to amenity values, and shift the third bullet point into a separate policy. We have already discussed the last point, in the context of recommended Policy 27.2.5.5.

514. When we discussed this policy with Mr Bryce, he accepted that typically, telecommunication and electricity line services would not be undergrounded in rural environments and thus the second bullet point needed reconsideration. He also agreed with our suggestion that the range of relevant issues in deciding whether services should be undergrounded should extend to include landscape values.

These considerations prompted Mr Bryce to recommend that the second bullet point be amended to read:

"Ensure the method of reticulation is appropriate for the visual amenity and landscape values of the area by generally requiring services are underground and in the context of rural environments where this may not be practicable, infrastructure is sited in a manner that does not adversely impact upon visual amenity and landscape values of the receiving environment."

515. We discussed also with Mr Bryce the application of the fourth bullet point in rural environments where a residential building platform has been identified. Mr Bryce's advice was that typically in such cases, infrastructure connections would be to the building platform where there is one.

516. Mr Bryce also recommended specific reference be made in the fourth bullet point to services being supplied to residential building platforms.

517. Addressing these matters in turn, we agree that reference should be made to landscape values. We do not consider this a material change because the operative requirement (that reticulation is generally underground) is not altered, other than in the manner we are about to discuss.

518. We think that Mr Bryce is correct, and that some qualification of that position is required to recognise the impracticality of undergrounding telecommunication and electricity line services throughout the rural environment. Similarly, while we agree that there needs to be a limit on acceptance of over-ground utilities in the rural environment, we consider a policy of effectively no adverse impacts on visual amenity and landscape values would be too onerous given the generally high (if not outstanding) landscape values of almost the entire District. We recommend, therefore, a policy of minimising visual effects on the receiving environment.

519. As regards Mr Bryce's suggestion (responding constructively to the point we had raised) that the fourth bullet point extend the obligation to provide services from lot boundaries to residential building platforms (where they exist), upon reflection, we have determined that

209 Aurora Energy Limited

210 Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

this would impose an obligation that the submissions on this policy would not justify. We remain of the view that this is a desirable amendment to Chapter 27 and thus we recommend that the Council institute a variation of Chapter 27 to insert Mr Bryce's recommended addition to the fourth bullet point reading:

"Where the subdivision provides for a residential building platform, the proposed connections to electricity supply and telecommunications systems shall be established to the residential building platform."

520. Accordingly, aside from numbering the bulleted sub-points of Policy 27.2.5.16 and starting each without a capital letter, renumbering it 27.2.5.17 and commencing the policy with the word "Ensure", the only amendments we recommend are to shift the third bullet point into Policy 27.2.5.5, amended as outlined above, and to amend the second sub-point so that it would read:

"ensure the method of reticulation is appropriate for the visual amenity and landscape values of the area by generally requiring services are underground and in the context of rural environments where this may not be practicable, infrastructure is sited in a manner that minimises adverse visual effects on the receiving environment."

521. The final two policies in this section of the PDP relate to easements. The first, notified Policy 27.2.5.17, read:

"Ensure that services, shared access and public access is identified and managed by the appropriate easement provisions."

522. The second, notified Policy 27.2.5.18, read:

"Ensure that easements are of an appropriate size, location and length for the intended use."

523. One submission[211] sought that both policies be deleted. Another submission[212] sought that they be retained. Mr Bryce recommended their retention because they give effect to the direction of notified Objective 27.2.5 by ensuring easements are provided and are of an appropriate size, location and length.

524. We agree with Mr Bryce's recommendation. We also agree with his suggestion (responding to a question we had) that the second policy might be amended to clarify its effect by adding "*of both* the *land and easement"* on the end. We do not regard that as a substantive change.

525. Accordingly, we recommend that notified Policies 27.2.5.17 and 27.2.5.18 be amended as above and renumbered to align with recommended changes above, but otherwise retained.

526. Having considered all of the policies recommended (27.2.5.1-18 inclusive), we consider that collectively they are the most appropriate way to achieve Objective 27.2.5 given the alternatives available to us.

4.7 Objective 27.2.6 and Policies Following

527. Objective 27.2.6 as notified, read:

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211 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

212 Submission 635

"Cost of services to be met by subdividers."

528. It needs to be read together with the two supporting policies, the first of which (27.2.6.1) read:

"Require subdividers and developers to meet the costs of the provision of new services or the extension or upgrading of existing services (including head works), that are attributable to the effects of the subdivision or development, including where applicable:

- *Roading, walkways and cycling trails;*
- *Water supply;*
- *Sewage collection, treatment and disposal;*
- *Stormwater collection, treatment and disposal;*
- *Trade waste disposal;*
- *Provision of energy;*
- *Provision of telecommunications and computer media;*
- *Provision of reserves and reserve improvements."*

529. The second policy (27.2.6.2) read:

"Contributions will be in accordance with the Council's 10 Year Plan Development Contributions Policy."

530. Submission 632[213] sought that the objective and both policies be deleted. Submission 285 sought to qualify the objective so that the obligation on developers and subdividers would only arise when existing services were up to standard. Submission 600[214] supported the objective. Submission 719 supported both the objective and the first policy. Submission 632 sought in the alternative to amend Policy 27.2.6.2 to emphasise that development contributions were managed through the Local Government Act.

531. Mr Bryce recommended amendments to the policies to shift reference to the Development Contribution Policy into the start of Policy 27.2.6.1, delete the existing Policy 27.2.6.2 but otherwise to retain the objective and first policy.

532. His reasoning was that these provisions assist in making PDP users aware of the need for development contributions and that upgrading of existing infrastructure is a consequence of subdivision development activity.

533. We disagree. The Development Contribution Policy operates under the Local Government Act in parallel with the PDP. As we have discussed in the context of other policies referring to development contributions, retaining provisions purporting to direct when and how development contributions will be collected blurs that distinction and creates the possibility that those provisions might be read as creating an independent right to levy financial contributions.

534. Mr Bryce's explanation of the utility of the existing Objective 27.2.6 and the related policies suggested to us that their sole function is to operate as advice notes rather than objectives and policies.

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213 Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

214 Supported in FS1209; Opposed in FS1034

535. Given our recommendation that Section 27.1 be amended to cross reference the Development Contribution Policy and emphasise the need for subdivision applicants to be aware of it, and the existence of a separate provision (notified section 27.12) providing further clarification of the position, we consider that this objective and the related policies serve no useful purpose. We recommend that they be deleted.

4.8 Objective 27.2.7 and Policies Following

536. Notified objection 27.2.7 read:

"*Create esplanades where opportunities arise.*"

537. One submission sought its deletion[215]. Two submissions[216] supported the objective.

538. Mr Bryce did not support the deletion of the objective. In his view, it provided guidance on a relevant matter identified in sections 229 and 230 of the Act as to the purpose and meaning of Esplanade Reserves and Strips.

539. We agree in principle with Mr Bryce, but consider that the objective needs to be reframed. Starting with a verb, it expresses a course of action rather than an outcome. Accordingly, we recommend that the objective be renumbered 27.2.6 and amended to read:

"Esplanades created where opportunities arise."

540. We do not regard this as a substantive change. We consider the amended objective to be the most appropriate way to achieve the purpose of the Act as it relates to provision of esplanade reserves and strips.

541. Policy 27.2.7.1 as notified read:

"Create esplanades reserves or strips where opportunities exist, particularly where the subdivision is of large-scale or has an impact on the District's landscape. In particular, Council will encourage esplanades where they:

- *are important for public access or recreation, would link with existing or planned trails, walkways or cycles ways, or would create an opportunity for public access; have high actual or potential value with regard to the maintenance of indigenous biodiversity;*
- *comprise significant indigenous vegetation or significant habitats of indigenous fauna;*
- *are considered to comprise an integral part of an outstanding natural feature or landscape;*
- *would benefit from protection, in order to safeguard the life supporting capacity of the adjacent lake and river;*
- *would not put an inappropriate burden on the Council, in terms of future maintenance costs or issues related to natural hazards affecting the land."*

542. The only submission seeking substantive change to this policy[217] sought that it be significantly shortened to read:

"Create esplanades reserves or strips where they would provide nature conservation, natural character, natural hazard mitigation, infrastructural or recreational benefits.'

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215 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

216 Submissions 373 and 378: Opposed in FS1049, FS1095 and FS1347

217 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

543. Mr Bryce recommended to us that Submission 632 be accepted in part – he thought that the amendments proposed made the broad policy clearer, but recommended that the six sub-points be retained as providing greater guidance.

544. We agree with Mr Bryce's recommendation. We think that the sub-points in the notified policy contained important signposts as to when esplanade reserves or strips should be a priority, or alternatively where, notwithstanding other benefits, there is good reason that they not be created. We therefore recommend that Policy 27.2.7.1 be renumbered 27.2.6.1, but otherwise largely be revised as recommended by Mr Bryce. The only additional amendments we propose are minor grammatical changes. The revised policy would therefore read:

"Create esplanade reserves or strips where they would provide nature conservation, natural character, natural hazard mitigation, infrastructural or recreational benefits. In particular, Council will encourage esplanades where they:

a. are important for public access or recreation, would link with existing or planned trails, walkways or cycles ways, or would create an opportunity for public access;
b. have high actual or potential value with regard to the maintenance of indigenous biodiversity;
c. comprise significant *indigenous vegetation or significant habitats and indigenous fauna;*
d. are considered to comprise an integral part of an outstanding natural feature or outstanding natural landscape;
e. would benefit from protection, in order to safeguard the life supporting capacity of the adjacent lake or river;
f. would not put an inappropriate burden on the Council, in terms of future maintenance costs or issues related to natural hazards affecting the land."

545. When we discussed esplanade reserves and strips with Mr Bryce, we identified that there appeared to be a gap in the policy coverage providing guidance as to the circumstances where an esplanade reserve or strip would otherwise be required under section 230 of the Act and a waiver is sought either to reduce the width of an esplanade reserve or to avoid the requirement to create an esplanade reserve or strip at all. Mr Bryce accepted that this was an apparent vacuum in the policies and undertook to cover the point in reply.

546. In his reply evidence, Mr Bryce suggested a new policy which would address these matters worded as follows:

"Avoid reducing the width of esplanade reserves or strips, or the waiving of the requirement to provide an esplanade reserve or strip, except where the following apply:

a. Safe public access and recreational use is already possible and can be maintained for the future;
b. It can be demonstrated that a full width esplanade reserve or strip is not required to maintain the natural functioning of adjoining rivers or lakes;
c. A reduced width in certain locations can be offset by an increase in width and other locations or areas, which would result in a positive public benefit in terms of access and recreation."

547. We have no issues with the form of the suggested new policy. We think it would be a desirable change to the notified Chapter 27 that would fill an evident policy gap.

548. However, we cannot identify any submission which would provide jurisdiction for making this change. In the Chair's 22 May 2017 Minute, this was identified as a point that would merit the

Council addressing by way of variation. The Chair's Minute also suggested that such a variation may also usefully provide guidance as to when the Council would prefer an esplanade strip as opposed to an esplanade reserve and identify the considerations that would come into play if a large lot were the subject of a subdivision.

549. Notified Policy 27.2.7.2 read:

"To use opportunities through the subdivision process to improve the level of protection for the natural character and nature conservation values of lakes and rivers, as provided for in section 230 of the Resource Management Act 1991."

550. The sole submission on this policy seeking change to it was that of submitter 632 proposing its deletion[218].

551. Mr Bryce did not recommend acceptance of that submission. His opinion was that the policy responded to matters raised under section 229-230 of the Act and therefore should be retained.

552. Given that the evidence for submitter 632 did not support the submission on this point, we have no basis to disagree with Mr Bryce. Accordingly, we recommend that notified Policy 27.2.7.2 be renumbered 27.2.6.2, but otherwise retained unamended, save only for minor grammatical changes (to delete the word "To" at the start of the policy and to refer to protection "*of*" the natural character and nature conservation values of lakes and rivers) and the substitute reference to "the Act".

553. Considering our recommended policies 27.2.6.1 and 27.2.6.2 collectively, we consider that these policies are the most appropriate means to achieve our recommended Objective 27.2.6 given the alternatives available to us.

4.9 Objective 27.2.8 and Policies Following

554. Notified Objective 27.2.8 read:

"Facilitate boundary adjustments, cross-lease and unit title subdivision, and where appropriate, provide exemptions from the requirement of esplanade reserves."

555. Submissions on this objective variously supported in its current form[219] sought that the reference to exemptions for esplanade reserves be deleted[220], sought recognition that boundary adjustments do not create a demand for services and should be treated as controlled activities[221], and sought the deletion of the objective[222].

556. Mr Bryce recommended acceptance of Submission 383 on the basis that the objective as notified reads more like a policy than an outcome statement. As such, in his view, it needed to be recast focussing on the outcome, which is provision for boundary adjustments, cross leases and unit title subdivisions. We agree with that approach.

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218 Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

219 Submission 370

220 Submission 383

221 Submission 806

222 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

557. We do not support deletion of the objective which would then provide no policy support for a more favourable rule framework than might otherwise be the case. As will be seen in due course, we support recognising the characteristics of boundary adjustments, cross leases and unit titles as either creating few or no environmental impacts (or demand for services – as Submission 806 identified) or as facilitating urban development within urban areas, and thereby assisting achievement of the strategic objectives of the Plan. For the same reason, we agree with Mr Bryce's proposed rejection of Submission 632 on this point.

558. In summary, therefore, we recommend that notified Objective 27.2.8 be renumbered 27.2.7 and revised to read:

"Boundary adjustments, cross-lease and unit title subdivisions are provided for."

559. We consider that this objective is the most appropriate way to achieve the purpose of the Act in this context, given the alternatives available to us.

560. Policy 27.2.8.1 as notified read:

"Enable minor cross-lease and unit title subdivision of existing units without the need to obtain resource consent where there is no potential for adverse effects associated with a change in boundary location."

561. The only submission specifically on this policy[223] sought its retention.

562. Mr Bryce, however, recommended an additional sentence be added to the policy noting that the intention is not to enable subdivision of approved residential building platforms in Rural and Rural Lifestyle Zones by this means. We support that clarification as an aspect of the general point discussed earlier regarding the need to be clear when policies apply only in urban environments. This is an example of an urban-focused policy. However, we think the point could be made rather more succinctly.

563. We also recommend a minor amendment to the notified version of Policy 27.2.8.1 to delete the word '*minor'*. We think that is unnecessary given the policy requirement that there be no potential for adverse effects.

564. In summary, therefore, we recommend that Policy 27.2.8.1 be renumbered 27.2.7.1 and revised to read:

"Enable cross-lease and unit title subdivision of existing units in urban areas without the need to obtain resource consent where there is no potential for adverse effects associated with the change in boundary location."

565. Policy 27.2.8.2 as notified, read:

"Ensure boundary adjustment, cross-lease and unit title subdivisions are appropriate with regard to:

a. *The location of the proposed boundary;*
b. *In rural areas, the location of boundaries with regard to approved residential building platforms, existing buildings, and vegetation patterns and existing or proposed accesses;*
c. *Boundary treatment;*

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223 Submission 632: Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

d. *Easements for access and services."*

566. The only submission that sought amendment to this policy[224] focused on the fourth bullet point, seeking that it be altered to read:

"The location of existing or proposed accesses and easements for access and services."

567. Mr Bryce recommended acceptance of that submission on the basis that the second bullet point already refers to existing or proposed accesses and amendment to the fourth bullet point would provide more effective linkage between the two.

568. While we agree there is merit in referring to both existing and proposed accesses in the fourth bullet point (because the second bullet point is limited to rural areas), we think the point might be made more simply. We also think it would be a mistake to limit consideration just to the location. Unlike fee simple titles, easements depend for their efficacy on the extent of the rights created by the easement. The existing wording would already cover that and so, if it is expanded to specifically include reference to location, we consider that specific reference to the terms of any easements (or other arrangements for that matter) is also required.

569. In summary, we recommend that the policy be renumbered 27.2.7.2, the list converted to numbered sub-points with the first word in lower case (consistent with our recommendations regarding the formatting of other policies) and the fourth sub-point be amended to read: *"the location and terms of existing or proposed easements or other arrangements for access and services."*

570. Mr Bryce also suggested addition of a further policy under this heading relating to unit title, strata title or cross lease subdivisions of existing approved buildings with land use consents permitting multi-unit commercial or residential development including visitor accommodation development.

571. This suggested new policy was discussed in Mr Bryce's reply evidence[225]. This is a point we queried Mr Bryce about when he appeared at the hearing. As Mr Bryce noted, putting aside '*minor*' cross-lease and unit title subdivisions addressed in (now) Policy 27.2.7.1, only renumbered Policy 27.2.7.2 provides any specific reference to unit title subdivision and even then, the policy is weighted towards boundary adjustments. While we agree with Mr Bryce's view that unit title and cross-lease subdivisions are an important method for enabling the further intensification of urban areas provided for in the Plan's strategic objectives, we do not think that there is jurisdiction to recommend addressing this shortcoming through a new policy. Certainly, we have not identified a submission which would provide such jurisdiction and Mr Bryce's reply evidence suggests that there is no submission seeking a stand-alone policy of this kind.

572. This is another area where the Chair suggested in his 22 May 2017 Minute that a variation is warranted to correct a shortcoming in the notified PDP provisions.

573. During the course of the hearing, we discussed with the Council's representatives the absence of a policy framework for Structure Plans. This was discussed in Mr Bryce's reply evidence at section 9. Mr Bryce considered specifically the desirability of greater certainty as to what a structure plan is and what a structure plan must include in order to receive the benefit of

224 Submission 719

225 At paragraph 2.5

controlled subdivision activity status (as sought in the legal submissions of Ms Baker-Galloway).

574. Mr Bryce's evidence was that no submissions specifically sought introduction of a policy framework and definition to support the application of structure plans. Accordingly, while he supported the idea that policies might provide for structure plans, his conclusion was that there was no scope to do so in the current process.

575. We agree with that conclusion[226]. Accordingly, this also was included in the Chair's 22 May 2017 Minute, so that the detailed provisions of Chapter 27 that depend on the existence of structure plans might sit within an appropriate policy framework.

576. We consider the recommended policies as above are collectively the most appropriate way to achieve recommended objective 27.2.7, given the alternatives available to us.

577. Before leaving our discussion of the district-wide objectives and policies, we should note submission 238[227] that sought a new objective be inserted: *"Discourage subdivision adjacent to Urban Growth Boundaries"*.

578. Mr Bryce recommended rejection of the submission on the basis that the underlying point is already suitably addressed in Chapters 3 and 4. We agree. Given the coverage at a higher level, we see no value in an additional objective overlapping, but not identical to the provisions recommended in Chapters 3 and 4, particularly given that it would be unsupported by any policy in Chapter 27.

5. SECTION 27.7 - LOCATION–SPECIFIC OBJECTIVES AND POLICIES

5.1 General

579. We have already noted the general submissions seeking reconfiguration of Chapter 27, among other things, to shift the location-specific objectives and policies forward in Chapter 27 so that they follow the general objectives and policies. As above, we agree with Mr Bryce's recommendation that this reconfiguration would assist the clarity of the chapter and bring into line with other chapters of the PDP.

580. As Mr Bryce noted[228], what was section 27.7 contained location-specific objectives, policies "*and* provisions". The provisions in question either explicitly set out matters of discretion or identified relevant matters to be taken into account examples are notified Sections 27.7.3, 27.7.6.1, 27.7.7.7.4, 27.7.14.2, 27.7.18.1 and 27.7.20. We agree with Mr Bryce's observation that it is difficult to determine whether these are policies or rules, and like him, we consider that they are generally better shifted into a new table of location-specific provisions as part of the reconfiguration responding to the submissions on the point, in order to remove any uncertainty as to their purpose and status. We recommend revision of Chapter 27 accordingly.

581. Looking generally at the location-specific objectives and policies that remain, having shifted the text (including the section heading and introductory words that precede notified Objective 27.7.1) into a new Section 27.3, we consider that some further reformatting would assist the clarity of the PDP for the reader. Accordingly, rather than the subject matter being stated

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226 While noting that later in this report, we recommend a limited definition of Structure Plans to remove the need to refer in each case to the entire range of documents serving the same purpose.

227 Opposed in FS1107, FS1157, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248 and FS1249

228 Section 48A Report at 22.6

within the body of the objective, we recommend that in each case this be a heading that precedes the relevant objective and policies. Our recommended revised Chapter 27 shows this change, which we do not regard as substantive in nature.

5.2 Objectives 27.7.1 and 27.7.2, and Policies Following those objectives

582. Turning to the text of the objectives and policies, many were not the subject of submission and there is no aspect that we need to consider further. We propose, therefore, to address the location-specific objectives and policies on an exceptions basis.

583. Accordingly, the first provision that we need to mention is notified Objective 27.7.1 (renumbered 27.3.1) which relates to Peninsula Bay. Although Mr Bryce did not recommend any substantive amendments to it[229], we consider that some rewording is required to more clearly express it as an outcome, that is to say as an objective.

584. Accordingly, we recommend that the word "*ensure*" be deleted with the result that the objective would read:

"Effective public access is provided throughout the Peninsula Bay land."

585. We do not regard this as a substantive change. For the same reason, we recommend that notified Objective 27.7.2 (renumbered 27.3.2) related to Kirimoko be reworded to read:

"A liveable urban environment is created that achieves best practice in urban design; the protection and incorporation of landscape and environmental features into the design of the area; and high quality built form."

586. In his Section 42A Report, Mr Bryce discussed a submission[230] from the Council Parks Team seeking that notified Policy 27.7.2.8 (now 27.3.2.8) be revised so that rather than seeking minimisation of disturbance to existing native plant remnants, disturbance be avoided.

587. Mr Bryce recommended rejection of this submission on the basis that it is not necessary to appropriately give effect to the relevant objective and may not be achievable in all instances.

588. We heard no evidence from any other representative of Council that would provide a basis on which we might disagree with Mr Bryce. Accordingly, we recommend rejection of Submission 809 in this respect.

589. Policy 27.7.2.3 (renumbered 27.3.2.3), as notified, read:

"Ensure that urban development of the site is restricted to lower areas and areas of concealed topography, such as gullies (all zoned Low Density Residential) and that visually sensitive areas such as the spurs are left undeveloped (building line restriction area)."

590. The words in brackets are both unnecessary and out of place. The provision of a favourable zoning, or building line restrictions, as the case may be, are matters for the rules which implement the policy. We recommend that in each case, the words in brackets are deleted.

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229 Mr Bryce did, however, recommend deletion of a cross reference to an ODP objective in the notified version of Section 27.7.1, referring to concerns about its validity. While we agree with that concern, the issue has been overtaken by the Stage 2 Variations.

230 Submission 809

The end result does not alter the meaning of the policy and therefore we regard it as a minor change within the scope of Clause 16(2).

5.3 Objective 27.7.4 and Policies Following

591. Notified Objective 27.7.4 (renumbered now 27.3.3) read as follows:

"Objective – Large Lot Residential Zone between Studholme Road and Meadowstone Drive – ensure protection of landscape and amenity values in recognition of the zone's low density character and transition with rural areas."

592. Mr Bryce recommended that this be reconfigured so that it is expressed as an outcome rather than a course of action. We agree both with the need to revise the objective and with the revised wording Mr Bryce suggests. Taking account of the insertion of a heading to identify the subject-matter of the objective, amended to reflect the recommendation of the Stream 6 Hearing Panel that the Large Lot Residential Zone be split into "A" and "B" zones, we recommend that this objective be reframed as:

"Landscape and amenity values of the zone's low density character and transition with rural areas be recognised and protected."

593. Submissions[231] sought that the word "*ridgelines"* in notified Policy 27.7.4.1 (now Policy 27.3.3.1) be substituted by the words "*skyline ridges".* Mr Bryce did not recommend acceptance of that submission and we agree. The submitters did not appear to support their submission and it is not apparent to us that the amended wording would result in a policy which more appropriately gives effect to the relevant objective.

594. Notified Policy 27.7.4.2. (renumbered 27.3.3.2)) read:

"Subdivision and development within land identified as 'Urban Landscape Protection' by the 'Wanaka Structure Plan 2007' shall have regard to the adverse effects of development and associated earthquakes on slopes, ridges and skylines."

595. We discussed with Mr Bryce the appropriateness of a cross reference to the Wanaka Structure Plan given the reasoning of the Council's position with respect to the Land Development and Subdivision Code of Practice. Like the Code of Practice, the Wanaka Structure Plan sits outside the PDP. It is also not a Structure Plan in the sense referred to in other PDP provisions in that it does not guide the development of specific areas. Rather, as Mr Bryce put it, it is an expression of the strategic intent of Council which has legal effect because its provisions are incorporated into the PDP.

596. Mr Bryce addressed the point in his reply evidence[232] and suggested that the best course was to delete reference to the Structure Plan and to describe the area concerned.

597. Mr Bryce also noted that there is a submission specifically seeking deletion of the relevant policy and the '*Urban Landscape Protection Line'* referred to in it[233].

598. Mr Bryce recommended that further specific policy direction for this area be considered as part of the residential hearing stream.

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231 Submissions 65 and 74

232 N Bryce, Reply Statement at 2.23-2.26

233 Submission 335

599. The Hearing Panel on the Residential Zone Stream (Stream 6) has not recommended any consequential changes to this policy and we agree with Mr Bryce's recommendations as to how it might be amended.

600. It follows that we recommend that what is now Policy 27.3.3.2 be reworded as:

"Subdivision and development within land located on the north side of Studholme Road shall have regard to the adverse effects of development and associated earthworks on slopes, ridges and skylines."

5.4 Objective 27.7.5 and Policies Following

601. Notified Objective 27.7.5 read:

"Objective – Bobs Cove Rural Residential Zone (excluding sub-zone) – Recognise the special character of the Bob's Cove Rural Residential Zone."

602. Mr Bryce recommended a grammatical change so that this objective also reads as an outcome statement. While we would prefer an outcome statement that was somewhat clearer as to the nature of the outcome being sought, in the absence of any submission on the point, we do not consider a more substantive amendment is possible. Accordingly, we agree with Mr Bryce's suggestion, with the result that we recommend that the objective (renumbered as 27.3.4) be reworded as:

"The special character of the Bob's Cove Rural Residential Zone is recognised and provided for."

603. Notified Policy 27.7.5.1 (renumbered 27.3.4.1) read:

"Have regard to the need to provide for street lighting in the proposed subdivision. If street lighting is required in the proposed subdivision to satisfy the Council standards, then in order to maintain the rural character of the zone, the street lighting shall be low in height from the ground, of reduced lux spill and directed downwards to avoid adverse effects on the night sky."

604. Mr Bryce identified that this policy contained a level of duplication that could be resolved without altering the policy meaning.

605. We agree with the desirability of expressing this policy more succinctly. However, we consider Mr Bryce's revision inadvertently altered the meaning by omitting reference to "*required*" street lighting. That would imply that street lighting is required at all locations. We recommend a further revision of the wording to address that point. The only additional amendment we recommend is consequential on changes to other PDP provisions, recognising that the night sky is not affected by light on the ground. What is affected are views of the night sky. Accordingly, we recommend that what is now Policy 27.3.4.1 would read:

"In order to maintain the rural character of the Zone, any required street lighting shall be low in height from the ground, of reduced lux spill and directed downwards to avoid adverse effects on views of the night sky."

5.5 Objective 27.7.6 and Policies Following

606. Notified Objective 27.7.6 related to the Ferry Hill Rural Residential Sub-Zone. Both the objective and Policy 27.7.6.1 following it are proposed to be deleted (and replaced) in the Stage 2 Variations, so we need say no more about it.

5.6 Objective 27.7.7 and Policies Following

607. Notified Objective 27.7.7 and its associated policies related solely to the Makarora Rural Lifestyle Zone. As the Hearing Panel hearing the mapping submissions in the Upper Clutha (Stream 12) has recommended all the land which was proposed to be zoned Rural lifestyle at Makarora be zoned Rural[234], this objective and these policies can be deleted as a consequential amendment. Thus, we recommend their deletion.

5.7 Objective 27.7.8 and Policies Following

608. Notified Objective 27.7.8 (renumbered 27.3.5) relates to the Wyuna Station Rural Lifestyle Zone. Mr Bryce did not recommend any change to this policy, but consistent with other amendments he has recommended to objectives, we consider that some grammatical reformatting is required to express it more clearly as an outcome.

609. Accordingly, we recommend that this objective be revised to read:

"Provision for a deferred Rural Lifestyle Zone on the terrace to the east of, and immediately adjoining, the Glenorchy Township."

5.8 Objective 27.7.9 and Policies Following

610. Notified Objective 27.7.9 is also related to the Wyuna Station Rural Lifestyle Zone. Mr Bryce recommended that this objective be reworded to be expressed more as an outcome. Consistent to our approach in relation to other objectives, we agree with Mr Bryce both in this regard and in relation to his correction of a cross reference to what is now objective 27.3.5[235].

611. The only additional change required is a minor punctuation tweak. Accordingly, we recommend that what is now Objective 27.3.8, be reworded to read:

"Subject to Objective 27.3.5, rural living development is enabled in a way that maintains the visual amenity values that are experienced from the Glenorchy Township, Oban Street and the Glenorchy-Paradise Road"."

5.9 Objectives 27.7.10-13 Inclusive

612. Notified Objectives 27.7.10-13 inclusive were not actually objectives at all. In each case they were labelled "*Objective – Industrial B Zone"*. Under the label "*policies*" for each, there is no policy either, just a note that this was reserved for Stage 2 of the PDP review. In effect, these are merely placeholders that in our view serve no useful purpose. Mr Bryce initially recommended their deletion, but following a discussion we had with him, querying whether any submission had sought that relief, resiled on that view. We too have reflected on the position, and have concluded that while no submission sought that outcome, it nevertheless open to us to recommend that the '*objective'* and '*policies'* in each case be deleted. Precisely because these provisions do not say anything, we do not regard this as a substantive change.

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234 Refer Report 16.17

235 Accepting in this regard submission 481

5.10 Objective 27.7.14 and Policies Following

613. Notified Objective 27.7.14 (renumbered Objective 27.3.7) read:

> *"Objective - Jacks Point Zone – Subdivision shall have regard to identified location-specific opportunities and constraints."*

614. Mr Bryce recommended that this objective be revised to read:

> *"Objective – Jacks Point Zone – Subdivision shall have regard to identified location specific opportunities and constraints identified within the Jacks Point Structure Plan located within Chapter 41."*

615. Mr Bryce did not explain the rationale for this change in his evidence proper. In his section 32 evaluation, he expressed the view that it was an administrative modification to cross refer the Structure Plan located in Chapter 41 that would result in efficiencies in PDP implementation.

616. Given that the first policy under this objective cross referred the objectives and policies in Chapter 41 that make extensive reference to the Jacks Point Structure Plan, we do not consider it a material change to clarify that the opportunities and constraints referred to are those identified within the Structure Plan, as indeed Mr Bryce advised was the intent.

617. We consider that the desired outcome could be expressed more succinctly as:

> *"Subdivision occurs consistent with the Jacks Point Structure Plan."*

618. As notified, Objective 27.7.14 was supported by 8 policies. Mr Bryce recommended the first notified policy be retained, the second (27.7.14.2) be transferred to the Rule governing compliant subdivision within the Jacks Point Zone (now 27.7.1) and the remaining six to the section he drafted (discussed below) providing assessment criteria.

619. We agree with those recommendations in the first two respects. However, the rule to which the suggested assessment criteria relate applied to non-compliance with standards for conservation areas within the Jacks Point Zone and the former policies apply to activity areas, not including those conservation areas. We consider the best approach is to retain them as policies supporting Objective 27.3.7, amended as required so that they read as policies. We regard the changes in wording and formatting required as minor changes within Clause 16(2) of the First Schedule.

620. Addressing the submissions on these policies, Submission 762[236] sought a new heading for Policy 27.7.14.2 recognising that it provided matters of discretion. This has effectively been granted through Mr Bryce's suggested reorganisation of provisions.

621. Submission 632[237] sought that Policy 27.7.14.5 related to subdivisions below 380m² on the Hanley Downs portion of the zone. While we accept the need for the relevant rule (now 27.7.5.2) to provide for smaller sections in that area, we consider that the policy guidance should start at a higher point.

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236 Opposed in FS1217, FS1219, FS1252, FS1277, FS1283, and FS1316

237 Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

622. Submission 632[238] also sought deletion of both Policies 27.7.14.7 and 27.7.14.8 related to cul-de-sacs and configuration of sites, parking, access and landscaping. Mr Bryce did not recommend deletion of these provisions. Mr Wells, giving evidence for the submitter, identified the first as having merit, but suggested it could be dealt with under more general provisions. He did not appear to address the latter submission specifically. Given that position, we prefer to be clearer as to the desired approach, and recommend retention of these provisions, but amended as above.

623. Mr Bryce recommended inclusion of two new policies in this section reading:

"Enable subdivision which provides for appropriate, integrated and orderly development in accordance with the Jacks Point Structure Plan located within Chapter 41.

The extent to which the subdivision achieves the matters of control listed under Rule 27.7.4 and as they relate to the Jacks Point Structure Plan located within Chapter 41."

624. We think the first suggested policy is unnecessary because the objectives and policies located within Chapter 41, and cross referred in renumbered Policy 27.3.7.1, already enable subdivision in accordance with the Structure Plan.

625. The second suggested policy is framed as an assessment criterion rather than a policy.

626. Accordingly, we do not recommend inclusion of either of the two new policies that Mr Bryce suggested.

5.11 Objective 27.7.17 and Policies Following

627. Notified Objective 27.7.17[239] related to Waterfall Park. There were no submissions specifically on this objective[240] and Mr Bryce did not recommend any change to it.

628. We consider that minor grammatical changes would better identify the outcome sought by this objective and that, for the same reasons as apply in relation to the Jacks Point objective just noted, it would be desirable to cross reference the Waterfall Park Structure Plan.

629. Accordingly, we recommend that Objective 27.7.17 be renumbered 27.3.8 and reworded to read:

"Subdivision that provides for a range of visitor, residential and recreational facilities, sympathetic to the natural setting and has regard to location specific opportunities and constraints identified within the Waterfall Park Structure Plan."

630. Mr Bryce recommended no change to notified policy 27.7.17.1 other than consequential renumbering. The policy refers to the Waterfall Park Structure Plan as being located within Chapter 42. As we will discuss later in this report in greater detail, we consider that all of the Structure Plans relevant to the subdivision rules and policies should be located in Chapter 27. Accordingly, we recommend that that cross reference be amended accordingly.

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238 Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

239 There were no Objectives 27.7.15 and 27.7.16

240 Other than seeking that it be shifted to accompany the other objectives and policies in Chapter 27 (Submission 696)

631. Mr Bryce recommended a new policy under this objective framed in a similar manner to the second policy he suggested for the Jacks Point Zone. For the same reasons as above, we do not recommend inclusion of a policy that is framed as an assessment criterion.

5.12 Objective 27.7.19 and Policies Following

632. Notified Objective 27.7.19 related to the Millbrook Special Zone. There were no submissions on the wording of this objective[241] and Mr Bryce did not recommend any change to it other than renumbering it to reflect his suggested reorganisation of the chapter. For our part, aside from renumbering it 27.3.9 to reflect our recommendations as above, we recommend a minor grammatical change to more clearly express the objective as an outcome, so that it be worded:

"Subdivision that provides for resort development while having particular regard to landscape, heritage, ecological, water and air quality values."

633. Notified Policy 27.7.19.1 is framed in a similar manner to the parallel policy related to Waterfall Park. Mr Bryce did not recommend any change to it (other than consequential renumbering). For the same reasons as above, we recommend that the renumbered Policy 27.3.9.1 should cross reference the Millbrook Structure Plan located within Chapter 27.

634. As for Jacks Point and Waterfall Park, Mr Bryce recommended a new policy be inserted related to the extent to which the subdivision achieves the matters of control listed in the relevant rule. For the same reasons as above, we do not recommend inclusion of such a policy.

635. As a result of the recommendations of the Stream 13 Hearing Panel[242], an objective and some seven policies are included to address subdivision activities within a new (Coneburn Industrial) zone. These have been inserted in a new Section 27.3.10.

636. Similarly, two new objectives and related policies have been inserted as 27.3.11 and 27.3.12 governing subdivision in the West Meadows Drive area of Wanaka and the Frankton North area, consequent on the recommendations of the Stream 12 and 13 Hearing Panels[243] respectively.

5.13 Conclusion on Location and Zone-Specific Objectives and Policies

637. Looking overall at the location-specific objectives and policies, we have a concern that many of these provisions have been rolled over from the ODP with no apparent thought having been given to whether they remain appropriate. Many of the policies, in particular, relate to actions apparently taken in the past or referenced to such past actions. Renumbered Policy 27.3.1.1 refers, for instance, to actions being taken before any subdivision or development occurs within the Peninsula Bay Lower Density Suburban Residential Zone. Our understanding is that development of the Zone has already proceeded. We wonder whether that policy is effectively 'spent'. Similarly, Policy 27.3.7.1 seeks prohibition or deferral of development of the Wyuna Station Rural Lifestyle Zone until such time as one of three servicing options is undertaken. Mr Bryce confirmed to us that the intention is not that, by restating the existing policy, there should be an opportunity to move to a different wastewater disposal option, as appears to be the effect of restating the policy in the same form as appears in the ODP.

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241 Although it appears Submission 696 may have been misdirected, referring variously to Objective 27.7.17, Policy 27.7.17.1 and Section 27.7.18.1, that all relate to Waterfall Park.

242 Refer Report 17-8 Part F

243 Refer Reports 16.2 at Section 2.11 and Report 17-6 Parts A, B and C

638. Given the paucity of submissions on this part of Chapter 27, it was beyond the scope of our inquiry to address these matters. However, we recommend that the Council undertake a complete review of the location-specific objectives and policies to determine whether they are necessary and appropriate having regard to development that may already have occurred within the respective zones. To the extent that the outcome of such a review is a finding that one or more of the objectives and/or policies needs to be amended or deleted, we recommend that this be part of a variation to the PDP.

639. We record, however, that we have considered each of the recommended objectives in this section of Chapter 27 and that, with the amendments and deletions recommended, the resulting objectives are the most appropriate way in which to achieve the purpose of the Act, given the alternatives available to us.

640. We further record that we have considered the policies in this section and again, having regard to the alternatives available to us, we consider that, in each case, the policies supporting the location-specific objectives recommended, are the most appropriate means to achieve those objectives.

6. SECTION 27.3 - OTHER PROVISIONS AND RULES

6.1 27.3.1 – District Wide Provisions

641. The purpose of notified Section 27.3 was evidently to provide clarification as to the relationship between Chapter 27 and the balance of the PDP, and to describe the inter-relationship of Chapter 27 with the ODP. Section 27.3.1 as notified outlined a number of district wide chapters of relevance to the application of Chapter 27.

642. The only submission on Section 27.3.1[244] sought that specific emphasis be given to Chapter 30 as it relates to subdivision use and development near the National Grid. Mr Bryce did not recommend acceptance of that submission on the basis that issues related to the National Grid were more properly identified in the substantive provisions of Chapter 27 and because drawing out Chapter 30 would give it too much emphasis when all the district-wide chapters need to be considered. We agree with Mr Bryce's analysis on both counts. Mr Bryce recommended only minor cosmetic changes to Section 27.3.1.

643. For our part, we thought that the distinction drawn between provisions within Stage 1 of the PDP and ODP provisions (or "Operative" provisions as Mr Bryce suggested) in Section 27.3.1 was unhelpful given that following resolution of any appeals on the PDP, its provisions will form part of the ODP. In addition, the chapter heading of Chapter 6 listed in the table following needs to be amended to reflect recommendations of the Hearing Panel hearing submissions on that chapter. Lastly, chapter headings affected by the Stage 2 Variations need to be noted in italics pending decisions as part of that process.

644. As a consequence, we recommend deletion of the second sentence of notified Section 27.3.1 (now renumbered 27.4.1), deletion of reference to provisions being in the ODP in the table following, and amendment of the reference to Chapter 6 (so that it is entitled *"Landscapes and Rural Character"*).

244 Submission 805

6.2 27.3.2 – Earthworks Associated with Subdivision

645. Notified Section 27.3.2 contained 'clarification' as to the status of earthworks associated with subdivision activities. The intention appeared to be that earthworks form part of the consideration of subdivision applications, but be considered in terms of matters of control and discretions contained in the District Wide Earthworks Chapter.

646. We identified this as raising a number of difficult issues. Fortunately perhaps, our need to grapple with those issues has been overtaken by the Stage 2 Variations which have proposed an amendment to 27.3.2. We need therefore address it no further.

6.3 27.3.3 – Zones Exempt from PDP and Subdivision Chapter

647. Section 27.3.3 of the notified PDP listed a number of zones under the heading:

*"*Zones *exempt from the Proposed District Plan and subdivision chapter."*

648. The first list (in notified Section 27.3.3.1) listed certain zones[245] which did not form part of the PDP Stage 1 and in respect of which the Subdivision Chapter does not apply. The second list (in notified Section 27.3.3.2) referred to the three special zones the subject of Chapters 41-43 of the PDP and stated that they were the exception and that the balance of the special zones within Chapter 12 of the ODP were excluded from the operation of the Subdivision Chapter.

649. In its Report 2, the Hearing Panel discussed the lack of clarity generally, if not confusion, as to the matters covered by the PDP, of which these provisions are but one example. The Hearing Panel suggested to counsel for the Council that rather than have provisions buried in the Subdivision Chapter explaining what matters were within the purview of the PDP and what matters were not was not helpful and that it would assist the reader if such clarification were provided in the opening sections of the PDP. The answer the Hearing Panel received from the Council's representatives was that the Council preferred not to make a statement as to what matters were covered by the PDP in the introductory sections of the PDP, because that would only get overtaken by subsequent plan changes, necessitating that the explanation would itself need to be changed. The advice we had from counsel was that Council preferred to provide such clarification by means of explanations on the Council website.

650. The same logic would suggest that Section 27.3.3 should be deleted, because it raises the same issues as a clarification in the introductory sections would have done.

651. We had other issues with this part of the Chapter. We do not think it is helpful to refer to the PDP: Stage 1 given that at the completion of this process, the final form of the PDP will then form part of the ODP. While we note the advice received subsequently[246] that Council's intention is that the provisions of the PDP, once operative, will be held in a separate volume of the District Plan applying to most but not all of the District, it will still not be correct to describe that volume as the "Proposed District Plan".

652. For the same reason, we do not think it is helpful to refer to Chapter 12 of the ODP given that, upon the PDP becoming operative, Chapter 12 will contain provisions related to Queenstown Town Centre, and not the special zones intended to be referred to by notified Section 27.3.3.2.

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245 Frankton Flats A, Frankton Flats B, Remarkables Park, Mount Cardrona Station, Three Parks, Kingston Village Special Zone, Open Space Zone

246 Counsel for the Council's Memorandum dated 23 November 2016

653. Mr Bryce sought to resolve at least some of these issues by suggesting deletion of reference to the PDP Stage 1 in notified Section 27.3.3.1, but created new issues by suggesting insertion of a reference to Chapter 15 of the ODP.

654. Subsequently the provisions have been overtaken in part (as regards reference to the Open Space Zone) by the Stage 2 Variations.

655. The only submissions on this part of Chapter 27 sought variously an amendment to the heading[247] and insertion of a reference to a proposed new zone in notified provision 27.3.3.2[248]. This is not a promising basis for clarification of the complex position we have described above.

656. Our concerns in relation to this section were effectively overtaken by the advice we received[249] that Council had determined that the appropriate way to resolve the difficulties in determining what plan provisions apply to what land is to insert clarification by way of plan variation under clause 16A. The Council's resolution of 25 May 2017 (discussed in Report 1) withdrawing a number of the zones listed in notified 27.3.3.1 from the PDP is an additional consideration.

657. Against that background, we recommend that Section 27.3.3 be deleted from Chapter 27 in effect, so Council can start, in effect, with a 'blank slate'. We regard this as a minor non substantive change because, to the extent section 27.3.3 records that Chapter 27 does not apply to zones not part of the PDP, it does no more than state the position as we believe it to be in any event. We discuss this further in Section 8.1 below.

6.4 Section 27.11 – Natural Hazards

658. Section 27.11 discussed the role of the Natural Hazards Chapter of the District Plan. Because renumbered Section 27.4 operates as a 'catchall' of other relevant provisions in the PDP, we consider Section 27.11 should form part of the provisions referenced in Section 27.4. There was only one submission on Section 27.11[250], which sought that it reference section 106 of the Act. We are a little unclear as to the point of the submission given that Section 27.11 already does reference section 106.

659. Be that as it may, we recommend that notified Section 27.11 is shifted into a subsection of renumbered Section 27.4 (as 27.4.3), but otherwise be left unamended.

6.5 Conclusion

660. We have considered the provisions recommended for renumbered Section 27.4 as a whole. We consider that collectively, they are the most appropriate means to achieve the objectives of the PDP as they relate to subdivision and development, given the alternatives available to us in this context.

247 Submission 580
248 Submission 806
249 In counsel for the Council's 23 November 2016 Memorandum
250 Submission 806

7. SECTION 27.4 - RULES – SUBDIVISION

7.1 Introduction

661. Before commencing a review of the submissions on the rules of Chapter 27 as notified, we note that Mr Bryce suggested that consequent on reformatting of the rules he had suggested, there needed to be an initial introductory statement regarding the rules. We agree both with the need for explanation and the suggested text. Our recommended revised Chapter 27 shows the new text as Section 27.5.1.

662. We also consider that it is desirable to provide for the situation that might potentially arise when an activity falls within more than one rule. In such cases, unless stated otherwise in the rules, activity status should be determined by the most restrictive rule, and so we recommend the following be added:

"Where an activity falls within more than one rule unless stated otherwise, its status shall be determined by the most restrictive rule."

7.2 Boundary Adjustments

663. The next rule requiring consideration is notified Rule 27.6.1.1. This is a permitted activity rule for certain boundary adjustments. The only submissions that sought amendment to the notified rule were from the survey companies[251] seeking variously acknowledgement of the requirement for a Certificate of Compliance under section 223 of the Act and a minor grammatical change to improve the English.

664. Mr Bryce recommended acceptance of the former point and suggested also a clarification of the reference in the notified rule to a resource consent (to identify what type of resource consent is required). We accept both recommendations in substance, but we think both the wording and the formatting suggested by Mr Bryce needs a little massaging. Specifically, the cross reference should be to a *'land use consent'* so as to pick up on the language of section 87(a) of the Act and the formatting needs to make it clear that this rule relates to one activity that might arise in a number of different situations. The cross reference to section 223 needs to be framed more clearly as an advice note drawing attention to the fact that this is a collateral obligation. Lastly, we recommend that the minor grammatical change suggested in Submission 370 be accepted.

665. The end result is that we recommend that renumbered **Permitted Activity** Rule 27.5.2 be framed as follows:

"An adjustment to an existing cross-lease or unit title due to:

a. an alteration to the size of the lot by alterations to the building outline;
b. the conversion from cross-lease to unit title: or
c. the addition or relocation of an accessory building;

providing the activity complies with all other provisions of the District Plan or has obtained a land use consent.

Advice Note
In order to undertake such a subdivision, a Certificate of Compliance (s139 of the Act) will need to be obtained (see s223(1)(b))."

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[251] Submissions 370 and 453

666. In his Section 42A Report, Mr Bryce noted a number of submissions[252] seeking provision for boundary adjustments not falling within notified Rule 27.6.1.1 as a controlled activity. Mr Bryce noted that under the notified Plan, such boundary adjustments would fall within the default discretionary rule already discussed. In Mr Bryce's view, boundary adjustments are an important and frequently utilised mechanism (he cited a statistic provided in the section 32 evaluation to the effect that of 677 subdivisions advanced between 2009 and 2015, 125 were boundary adjustments). Accordingly, Mr Bryce recommended inclusion of a new controlled activity rule for boundary adjustments. Mr Bryce felt, however, that boundary adjustments within the Arrowtown urban limits, and on sites containing heritage or other protected or scheduled items should be dealt with under a different rule with a greater level of discretion – he recommended a new restricted discretionary activity rule for such boundary adjustments.

667. We agree with Mr Bryce that there is a case for a less regulated approach to boundary adjustments than in the notified plan, that most boundary adjustments can appropriately be considered as controlled activities (subject to suitable conditions) and that a greater level of discretion is required for sites with identified sensitivity, or more generally in Arrowtown (but still short of full discretionary status).

668. Focussing on the new controlled activity rule, Mr Bryce largely recommended acceptance of the proposed matters of control suggested in the submissions subject to some drafting changes to express them more clearly. We discussed with Mr Bryce whether there needed to be an additional precondition requiring that lots be immediately adjoining each other to avoid the rule being used in situations that while technically able to be described as boundary adjustments, create additional issues. Mr Bryce agreed that that was a desirable additional precondition. We also consider that the situations proposed Rule 27.5.3 addresses might be expanded on to cover the situation where the existing lots already do not comply with the specified minimum lot areas. Subject to that point, we recommend inclusion of a new **Controlled Activity** rule numbered 27.5.3, with only minor additional rephrasing and reformatting from that suggested by Mr Bryce, reading as follows:

> *"For boundary adjustment subdivision activities where there are two or more existing lots which each have separate Certificates of Title, new lots may be created by subdivision for the purpose of an adjustment of the boundaries between the existing lots, provided:*
>
> *a. in the case of Rural, Gibbston Character and Rural Lifestyle Zones, any approved building platform is retained in its approved location;*
>
> *b. no additional or relocated residential building platform is identified and approved as part of a boundary adjustment within the Rural, Gibbston Character and Rural Lifestyle Zones;*
>
> *c. no additional separately saleable lots are created;*
>
> *d. the areas of the resultant lots either comply with the minimum lot size requirement for the zone (where applicable) or where any lot does not comply with an applicable minimum lot size requirement for the zone, the extent of such non-compliance is not increased; and*
>
> *e. lots must be immediately adjoining each other.*

[252] Submissions 532, 534, 535, 762, 763, 767, 806: Supported in FS1097, FS1157, FS1259, FS1267 and FS1322; Opposed in FS1068, FS1071, FS1217, FS1219, FS1252, FS1277, FS1283 and FS1316

Control is reserved to:

a. the location of the proposed boundaries;

b. boundary treatment;

c. easements for existing and proposed access and services."

669. Similarly, we largely accept Mr Bryce's recommendation of a new restricted discretionary activity rule. Amendment is, however, required to adjust the language recommended by Mr Bryce, to make it clear that this is indeed a restricted discretionary rule – reference to reservation of control is therefore not appropriate. The only additional changes we consider necessary are to separate the two situations where the rules apply (for clarity), to emphasise that the focus should be on heritage or other protected items identified on the PDP maps, to provide certainty, insertion of the same precondition regards boundary adjustments involving sites that are not adjacent as in Rule 27.5.3, and minor grammatical and formatting changes.

670. Accordingly, we recommend inclusion of a new **Restricted Discretionary Activity** rule numbered 27.5.4, worded as follows:

"For boundary adjustments that either:

a. involve any site that contains a heritage or other protected item identified on the District Plan maps; or

b. any boundary adjustment within the Urban Growth Boundary, of Arrowtown

where there are two or more existing lots which each have separate Certificates of Title, new lots may be created by subdivision for the purpose of an adjustment of the boundaries between the existing lots, provided:

- *a. no additional separately saleable lots are created;*
- *b. the areas of the resultant lots comply with the minimum lot size requirement of the zone;*
- *c. lots must be immediately adjoining each other.*

Discretion is restricted to:

a. the impact on the heritage values of the protected item;

b. the maintenance of the historic character of the Arrowtown Residential Historical Management Zone;

c. the location of the proposed boundaries;

d. boundary treatment;

e. easements for access and services."

671. Establishing rules governing boundary adjustments with conditions on their application requires consideration of the position should those conditions not be met. For boundary adjustments within the urban zones covered by the PDP, non-complying boundary adjustments will fall within the new default rule (25.5.7) discussed earlier, and will therefore be considered as restricted discretionary activities. While this is the same status as activities within Rule 25.5.4, there are a much more extensive list of matters over which discretion is reserved and so we do not view this as inappropriate. Likewise, non-complying boundary adjustment within the Rural Residential and Rural Lifestyle Zones will fall within the new Rule 25.5.8. Lastly, non-complying boundary adjustments within the Rural and Gibbston Character Zones will be considered as discretionary activities under Rule 27.5.11, reflecting the greater potential sensitivity of land in those zones.

7.3 Unit Title or Leasehold Subdivision

672. Mr Bryce also recommended a new controlled activity rule to cater for "*unit title, strata title or cross lease subdivision of a multi-unit commercial or residential* development *the subject of a land use consent".* This recommendation was in conjunction with Mr Bryce's suggestion of a new policy to follow renumbered 27.2.7.2 providing for such subdivisions. We have already concluded that there is no jurisdiction for us to recommend a new policy to this effect[253] and recommended a variation to address the issue. We do not, however, think that there are any jurisdictional impediments to inserting a rule to this effect given the numerous submissions seeking that all subdivision activities be controlled activities.

673. There are, however, some aspects of Mr Bryce's suggested rule that we consider require amendment. First, we do not consider that separate reference need be made to strata titles given that this has no clear meaning in terms of the PDP and, as a matter of property law, there is no meaningful distinction between a stratum title and a unit title[254].

674. Secondly, although Mr Bryce focussed on cross-leased subdivisions, we consider that the precise nature of the leasehold interest in question should not influence the status which is appropriate for such subdivisions.

675. Thirdly, Mr Bryce suggested that the Council reserve control over the effects of infrastructure provision. For the reasons discussed above in relation to the Aurora line network, we consider that the reservation of control needs to include effects "*on"* infrastructure provision as well as "*of"* infrastructure provision.

676. As previously, the rule should refer to an approved "*land use consent*". We have amended the description of the matters of control for consistency also.

677. Mr Bryce's recommended rule included a reference to fee simple subdivisions. We consider that the wording could be clarified as to what is meant by that, and to state more clearly what it is intended to apply to.

678. Lastly, Mr Bryce suggested a reference to lots containing an approved land use consent. A lot does not contain consents. Resource consents sit alongside property rights, which is why a land use consent is described as running with the land. We therefore recommend that the reference be to lots *"the subject of"* an approved land use consent.

679. In summary, therefore, we recommend inclusion of a new **Controlled Activity** rule numbered 27.5.5 reading as follows:

"Where a land use consent is approved for a multi-unit commercial or residential development, including visitor accommodation development, and a unit title or leasehold (including cross lease) subdivision is subsequently undertaken in accordance with the approved land use consent, provided:

a. all buildings must be in accordance with an approved land use consent;

b. all areas to be set aside for the exclusive use of each building or unit must be shown on the survey plan, in addition to any areas to be used for common access or parking or any other such purpose;

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253 Refer paragraph 562 above

254 A stratum estate is an estate (in fee simple or leasehold) created under the Unit Titles Act 2010 – see Principles of Real Property Law, Hinde et at, 2nd edition 3.004C

c. all service connections and on-site infrastructure must be located within the boundary of the site they serve or have access provided by an appropriate legal mechanism.

Control is reserved to:

a. the effect of the site design, size, shape, gradient and location, including existing buildings, manoeuvring areas and outdoor living spaces;
b. the effects of and on infrastructure provision.

This rule does not apply to a subdivision of land creating a separate fee-simple title.

The intent is that it applies to subdivision of a lot the subject of an approved land use consent in order to create titles in accordance with that consent."

7.4 District Wide Subdivision Rules

680. Putting aside recommended Rule 25.5.6, that we will come to shortly, the next two rules in our recommended section 27.5 are Rules 27.5.7 and 27.5.8 discussed earlier[255].

681. Mr Bryce drew our attention in his Section 42A Report to a submission by Transpower New Zealand Ltd[256] seeking a new rule in the Utilities Chapter (Chapter 30) that would make subdivision of land within a defined distance either side of national grid lines a restricted discretionary activity, subject to a condition/standard requiring that all allotments identify a building platform for the principal building and any dwelling to be located outside the corridor. The submission further sought a default non-complying activity rule, to operate in conjunction with the restricted discretionary activity rule.

682. Mr Bryce recommended that this submission be considered in the context of Chapter 27 and we agree with that suggestion. We also note the relevance of the policy we have recommended above as 27.2.2.8, which in turn reflects the provisions of the Proposed RPS provisions related to regionally significant infrastructure and the NPSET 2008.

683. We agree with Mr Bryce that a rule framework is required to support these policy provisions and that the need to protect the operation of the national grid means that there must be provision for applications to be declined if required. That means in practice that the rules should at least be restricted discretionary in nature.

684. In relation to the framing of the rule, by Mr Bryce's reply, he had largely agreed with the suggestions made by Ms McLeod in relation to his initial draft attached to the Section 42A Report. For our part, we think that, aside from minor wording and formatting changes for consistency, two amendments are required to Mr Bryce's draft rule. The first is that Mr Bryce's draft refers to the "*National Grid Subdivision Corridor"*. We asked Ms McLeod about this and she saw no reason not to call the area in question just "*National Grid Corridor"*. This would have the practical advantage of enabling utilisation of the existing definition, which Transpower did not seek to substantively change.

685. The second amendment is to the specified condition/standard Transpower sought and Mr Bryce agreed that the condition/standard should have, with the result that the rule would apply "*where all allotments identify a building platform for the principal building and any dwelling to be* located *outside of the National Grid Yard".* This would mean that a subdivision in the vicinity of the National Grid lines not involving construction of any building or dwelling,

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255 See the discussion at paragraphs 99-176 above

256 Submission 805: Opposed in FS1132

such as the creation of a reserve or a subdivision for utility purposes, would become a non-complying activity. We therefore recommend that the provision be turned around so it expresses the position on an exceptions basis.

686. Accordingly, we recommend inclusion of a new **Restricted Discretionary** rule numbered 27.5.10[257], worded as follows:

"Subdivision of land in any zone within the National Grid Corridor except where any allotment identifies a building platform to be located within the National Grid Yard.

Discretion is restricted to:

a. *impacts on the operation, maintenance, upgrade and development of the National Grid;*
b. *the ability of future development to comply with NZECP34:2001;*
c. *the location, design and use of any proposed building platform as it relates to the National Grid transmission line."*

687. The corollary of this rule is a further non-complying activity rule for subdivisions that do not comply with the standard. We accept Mr Bryce's recommendation as to its wording save that the cross reference should be to the National Grid Corridor and a consequential renumbering.

688. As a result, we recommend inclusion of a new **Non-Complying** activity rule numbered 27.5.24 worded:

"Any subdivision of land within the National Grid Corridor, which does not comply with Rule 27.5.10."

689. Mr Bryce's recommended set of rules next had a new restricted discretionary activity rule for subdivision of land within a defined distance from electricity sub-transmission lines, responding to the submissions of Aurora Energy Limited[258].

690. We have already addressed the point more generally, by recommending inclusion of a discretion over adverse effects on energy supply and telecommunication networks in the context of recommended Rules 27.5.7 and 27.5.8 and control over effects on infrastructure in Rule 27.5.5. Against this background, we do not regard a rule specifically applying to electricity sub-transmission lines as being required.

691. The next rule recommended by Mr Bryce is a discretionary activity rule governing subdivision activities in the Rural and Gibbston Character Zones. The need for this rule is a consequence of shifting from a discretionary default rule (as per notified rule 27.4.1). We have already addressed the need to treat subdivisions in the Rural and Gibbston Character Zones differently to subdivisions in other zones and so we do not need to go back over that ground (except in relation to the Ski Area Sub-Zones, which we will discuss shortly). Mr Bryce also recommended that an exception be made for subdivisions undertaken in accordance with Rule 27.5.5.

692. The evidence we heard from the representatives of some of the ski companies[259] was that in the existing ski areas, there might well be leasehold subdivisions of accommodation facilities. While it is difficult to contemplate a situation where multi-unit commercial residential developments would occur in the Rural Zone outside the ski areas, we think that the same

257 Leaving 27.5.9 available for a new rule proposed in the Stage 2 Variations.

258 Submission 635: Opposed in part in FS1301

259 Submissions 610 and 613

logic would apply to such subdivisions: provided the subdivision occurs in conjunction with an approved land use consent, it might properly be considered as a controlled activity.

693. Subdivisions under Rule 27.5.5 are not, however, the only potential exception to full discretionary activity status in the Rural and Gibbston Character Zones. Rules 27.5.2-4 also might apply. We therefore consider the exception needs to be more generic – "*unless otherwise provided for".* That formulation would also enable non-complying boundary adjustments in these zones to be addressed under Rule 27.5.11, in the manner we discussed above[260].

694. Turning to the broader submission made on behalf of submitters 610 and 613 that subdivision within the Ski Area Sub-Zones should be a controlled activity rather than discretionary, as for the balance of the Rural Zone, this was the subject of extensive legal submissions and planning evidence.

695. The argument for the Ski Company submitters, building on the case they advanced in the Stream 2 hearing related to the relevant provisions of Chapter 21, is that the PDP identifies the Ski Area Sub-Zones as an important area for growth and development by reason of their contribution to the District's economy and provides an enabling policy and rule framework. It was argued that the Ski Area Sub-Zones are quite different to the balance of Rural Zoned land and that their different purpose justifies a different subdivision status. Specific attention was given to the extent of modification which, in counsel's submission, justified the exclusion from the stringent policies applicable to ONLs and ONFs. The submitters also emphasised the importance of subdivision as a means to optimise ski area operations and to enable their continued prosperity. It appears from the evidence we heard that a major strategic initiative planned by the submitters is creation of ski villages with accommodation on the mountain. Subdivision is required, so we were told, to facilitate this although, as noted above, probably by way of lease rather than freehold subdivision.

696. While the Ski Area Sub-Zones are atypical in the context of the Rural Zone as a whole, we think it also needs to be recognised (as noted in the Hearing Panel's Report 3) that exclusion of the Ski Area Sub-Zones from the ONL classification process is something of an anomaly. They are clearly not sufficiently large to be landscapes in their own right and they have been developed (so far) in a manner which does not appear to have caused the broader landscapes within which they sit to cease to have the qualities justifying a classification as an ONL. We also think it needs to be borne in mind that minimum lot sizes are a key constraint in the Residential, Rural Residential and Rural Lifestyle Zones justifying a less restrictive rule regime for subdivision and development in those zones. The absence of a minimum lot size in the Rural Zone both enables flexibility in design and requires a greater level of discretion to be retained.

697. At the hearing, we explored with the representatives of the submitters whether subdivision on a more favourable basis might be limited to discrete parts of the Ski Area Sub-Zones (specifically, the ski bases). The thought that we had in mind was that in those parts of the Sub-Zone, there is an existing level of development and incremental subdivision and development within a defined area around the ski base facilities might be able to be provided for on a less restrictive basis.

698. However, when the submitters reappeared on 17 August accompanied by Mr McCrostie, he advised that while they were not looking to undertake subdivision and development across the entire ski area (that would of course defeat the whole purpose of a ski facility) there were

260 See paragraph 658 above

pods across the field where visitor accommodation, food and beverage operations and the like might be located, so it was not as simple as identifying a single discrete area within each Sub-Zone.

699. We discussed with the representatives of the submitters whether this conundrum might be addressed by a structure plan type approach and when they reappeared on 17 August, Mr Ferguson had clearly given considerable thought to this suggestion. He tabled suggested revised rules based on the subdivision being undertaken in accordance with a Landscape and Ecological Management Plan for the Sub-Zone, that additional feature justifying controlled activity status. It occurred to us that such an arrangement might raise issues of the kind that were addressed in the litigation on the Proposed Auckland Unitary Plan surrounding the use of framework plans[261]. Counsel for the submitters, Ms Baker-Galloway responded that the concept is one where an activity is consented, and an application contains the Landscape and Ecological Management Plan. Unlike the proposal considered by the Environment Court, it was not proposed that they be sequential.

700. We have discussed the Auckland Framework Plan cases in more detail in our Report 1. For present purposes, it is sufficient to say that while the approach advanced by Ms Baker-Galloway and Mr Ferguson might solve the legal hurdles identified in the framework plan cases (we assume that might be the case for the moment), it presents a more fundamental problem that is discussed in Report 1. If the Landscape and Ecological Management Plan is only approved as a condition of consent, it is not possible to identify in advance that the end result will be sufficiently acceptable that consent should be granted – that is to say, whether sufficient control is retained by controlled activity status. Mr Bryce came to the same view in his reply evidence. His opinion was that the approach advanced by Mr Ferguson "*falls short of a true structure plan response and therefore I question whether it offers the same level of certainty provided by the structure plan approach"*[262]. Mr Bryce also drew our attention to the jurisdictional issues created by the way in which the submitters' original submissions had been framed, limiting the scope of parallel amendments proposed to Chapter 21 to visitor accommodation.

701. We have concluded that Mr Bryce is correct, and the proposal proffered by Mr Ferguson on behalf of the submitters does not provide us with sufficient comfort to recommend controlled activity status. We consider that the solution for the ski companies is to pursue the course adopted in a number of other developments and proffer a true structure plan for the Ski Area Sub-Zones that might be incorporated in the PDP through a variation to it, with subdivision thereafter considered as a controlled activity under Rule 27.7.1.

702. In the absence of a Structure Plan within the District Plan, we think that any subdivision and development in the Ski Area Sub-Zones not falling within Rule 27.5.5 should remain discretionary.

703. In our assessment of costs and benefits of the competing alternatives we have had regard to Mr Bryce's view, as set out in his reply evidence[263], that Rule 27.5.5 is a more effective way of addressing the concern advanced on behalf of the submitters than the relief they suggest.

704. Lastly Mr Bryce's recommended rule had a typographical error in that it referred to the *"Rural General"* zone that needs to be corrected.

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261 *Re Application for Declarations by Auckland Council* [2016] NZEnvC 056 and [2016] NZEnvC 65

262 N Bryce, Reply Statement at 2.11

263 N Bryce, Reply Statement at 2.14

705. In summary, we recommend inclusion of a new discretionary activity rule numbered 27.5.11 worded:

"All subdivision activities in the Rural and Gibbston Character Zones and Airport Zone - Wanaka, unless otherwise provided for."

706. Mr Bryce also recommended as separate discretionary activity rules, the subdivision of land containing heritage or other protected items, archaeological sites, heritage landscapes and significant natural areas. Previously these rules had been located, somewhat anomalously, within the section (27.5) that set out the standards for subdivision activities. Accordingly, we accept Mr Bryce's suggestion. The only recommended changes to his suggested rules are consequential on the recommendations of the Hearing Panel in relation to how heritage and archaeological items are treated, and a cross-referencing correction – Mr Bryce suggested boundary adjustments under Rule 27.5.2 be exempted, but we consider that it should refer to Restricted Discretionary Rule 27.5.4. Otherwise Rules 27.5.4 and 27.5.12 would overlap.

707. Accordingly, we recommend inclusion of four discretionary activity rules numbered 27.5.12-15 respectively reading:

"*The subdivision of land containing a heritage or other protected item scheduled in the District Plan. This rule does not apply to boundary adjustments under Rule 27.5.4.*

The subdivision of land identified on the planning maps as a Heritage Overlay Area.

The subdivision of a site containing a known archaeological site.

Subdivision that would alter, or create a new boundary within a Significant Natural Area scheduled in the District Plan."

708. Notified Rule 27.4.2(e) provided as a non-complying activity, where a subdivision occurs under the Unit Titles Act and the building in question is not completed. This needs to be read together with notified Rule 27.4.2(f) which indicated (notwithstanding that it sits under a heading stating that the specified rules are non-complying activities) that where a unit title subdivision is lodged concurrently with an application for building consent or land use consent, it should be considered as a discretionary activity.

709. Submission 166 sought that both Rules 27.4.2(e) and (f) should be deleted. The submission argued that they operate as a barrier to staged developments and that other statutory provisions protect the Council in relation to the issue of unit titles.

710. Mr Bryce did not support that relief. While we agree in substance with Mr Bryce, we do think that greater clarity could be provided as to the inter-relationship between the two rules (and indeed Rule 27.5.5).

711. Logically, the second, less restrictive rule should be stated first. Mr Bryce suggested only minor wording amendments. Aside from amending Mr Bryce's reference to a "land use resource consent" to refer to the correct statutory term (*'land use consent'*), we agree with Mr Bryce's recommendations. The revised **Discretionary Activity** rule (numbered 27.5.16) would therefore read:

"A Unit Titles Act subdivision lodged concurrently with an application for building consent, or land use consent."

712. Turning to the second rule, we recommend that notified Rule 27.4.2(e) be renumbered 27.5.20 and revised to read:

"A subdivision under the Unit Titles Act not falling within Rules 27.5.5 or 27.5.16 where the building is not completed (meaning the applicable Code of Compliance Certificate has not been issued), or building consent or land use consent has not been granted for the buildings."

713. The next rule we need to discuss relates to subdivision within the Jacks Point Zone. As notified, Rule 27.4.2(a) provided that subdivision within the Jacks Point Zone that did not comply with the Chapter 27 standards should be a discretionary activity. Mr Wells gave evidence on this point[264] seeking recognition of the particular situation created within the Hanley Downs part of the Jacks Point Zone, where more intensive development (more intensive that is than the standard of 380m² provided for in notified Section 27.5.1) is planned. He sought restricted discretionary activity status for that area. In Mr Bryce's reply evidence, he recommended acceptance of Mr Wells' suggestion. We concur. Mr Bryce recommended a site specific restricted discretionary activity rule related to subdivision within another part of the Jacks Point Zone (a Farm Preserve activity area). However, that activity area has been deleted from the revised Jacks Point Structure Plan and the accompanying recommended Chapter 41 provisions, and so the rule is no longer required. We also suggest consequential changes to reflect our recommendations as to the heading and content of subsequent sections and to standardise the numbering with the other rules.

714. In summary, therefore, we recommend the **Discretionary** activity rule providing for non-compliance with the Jacks Point standards should be numbered 27.5.17 and read:

"Within the Jacks Point Zone, subdivision that does not comply with the minimum lot areas specified in Part 27.6 and the zone and location specific rules in Part 27.7, excluding:

a. *In the R(HD) Activity Area, where the creation of lots less than 380m² shall be assessed* under *Rule 27.7.5.2 (as a restricted discretionary activity)."*

715. Mr Bryce recommended that the balance of what was notified Rule 27.4.2(a) be the subject of a separate non-complying activity rule and be amended to cross reference the Jacks Point rule just discussed. We agree both with that reformatting and recommend the rule be as suggested by Mr Bryce, subject only to correcting the cross-reference numbering and consequential changes reflecting recommended changes to section headings.

716. The recommended **Non-Complying** rule (numbered 27.5.19 to accommodate an additional discretionary activity rule we will discuss shortly) therefore reads:

"Subdivision that does not comply with the minimum lot areas specified in Part 27.6 with the exception of the Jacks Point Zone which is assessed pursuant to Rule 27.5.17."

717. The final discretionary activity rule in this part of Chapter 27 is consequential on to a new zone recommended by the Stream 13 Hearing Panel for the Coneburn Industrial area. Amended to reflect the revised terminology we have recommended, it reads:

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[264] In relation to Submission 632: Supported in FS1097; Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

"*Within the Coneburn Industrial Zone Activity Area 2a, subdivision which does not comply with the minimum lot areas specified in Part 27.6."*

718. The next rule we need to consider is notified Rule 27.4.2(b) which identified as a non-complying activity the further subdivision of an allotment previously used to calculate a minimum average density in the Rural Lifestyle Zone or Rural Residential Zone.

719. Submission 350 sought deletion of this particular rule. The submission provides reasonably detailed reasons for the relief sought. It is argued that the rule has been carried over from legacy plans and is not based on achieving the objectives of the PDP or on achieving good environmental outcomes. The rule is described as a technicality which should not apply because the parent lot has been subdivided before. The reference point should be whether the objectives of the Rural Lifestyle and Rural Residential Zones are met. It is also supported on efficiency grounds. These various points might have carried more weight had Mr Jeff Brown, who gave evidence for this submitter, addressed them in his evidence.

720. Having said that, we consider that there is a problem with the way the rule is worded. The concern the rule seeks to address (we infer) is one of "*environmental creep"* if subdividers are permitted to obtain consents on one basis and then make further application, leveraging off the initial consent to obtain a better outcome.

721. Accordingly, where a subdivision has been approved with the maximum number of lots meeting the average density requirements in the relevant zone, the applicant should be discouraged from *"*having *another bite of the cherry"*. The test in the rule, however *("used to calculate the minimum average densities for subdivision"*) has wider application. In any subdivision in the Rural Lifestyle Zone, for instance, the average density will be calculated and compared to the average required (not less than 2 hectares). If the calculated average density is greater than 2 hectares, there may be room for a further subdivision in future with the average of the original subdivision remaining above 2 hectares. On the face of the matter, such a further subdivision would be a non-complying activity in terms of notified Rule 27.4.2(b). We do not consider that should be the case.

722. Another submission on this rule[265] sought deletion of reference to the Rural Residential Zone. The submission argues that minimum average densities are not relevant to the Rural Residential Zone.

723. The submission is not quite correct. While minimum average densities are not provided for in the Rural Residential Zone generally, either under the ODP or under the PDP, they are provided for in the Bob's Cove Sub-Zone. On this rather slender basis (and because specification of this as a non-complying activity in the balance of the Rural Residential Zone will impose no costs on subdividers if they have not had to meet an average density requirement), we recommend retention of reference in the rule (now numbered 27.5.21) to the Rural Residential Zone.

724. Reverting to the substantive issue we have identified with the reformatted rule Mr Bryce recommended, we consider it would be addressed if the Rule were worded as follows:

"The further subdivision of one or more allotments that if undertaken as part of a previous subdivision would have caused that previous subdivision to exceed the minimum average density requirements for subdivision in the Rural Lifestyle Zone or the Rural Residential Zone."

265 Submission 166

725. Notified Rule 27.4.2(c) provided that the subdivision of the building platform was a non-complying activity. Mr Bryce recommended a slight change of wording to meet the concern expressed in Submission 166 that the notified rule wording lacked clarity. We agree with Mr Bryce's suggestion and recommend retention of notified **Non-Complying** Rule 27.4.2(c), renumbered 27.5.22 and amended to read:

"The subdivision of land resulting in the division of a building platform."

726. Notified Rule 27.4.2(d) provided that the subdivision of a residential flat from the residential unit it is ancillary to was a non-complying activity except where this is permitted in the Low Density Residential Zone. Submission 453 suggested that this rule was unclear and needed clarification.

727. Mr Bryce discussed the point in his Section 42A Report and suggested that it could be made clearer. We agree with his reasoning and accordingly we recommend that notified **Non-Complying** Rule 27.4.2(d) be renumbered 27.5.23 and amended to read:

"The subdivision of a residential flat from a residential unit."

728. Mr Bryce recommended inclusion of a new non-complying activity rule consequential on his reorganisation of the chapter. The specific issue is that standards related to servicing and infrastructure were formerly located in Section 27.5.4, but have been shifted to Part 27.7. Non-compliance with the standards in Section 27.5 was a non-complying activity under notified Rule 27.4.2. The effect of Mr Bryce's recommended new rule is to retain that position unchanged. We agree with that recommendation, subject only to amending the terminology to reflect our recommendations as to the heading of Section 27.7. Accordingly, we likewise recommend a new **Non-Complying** rule numbered 27.5.25 reading:

"Subdivision that does not comply with the requirements related to servicing and infrastructure in Rule 27.7.13."

729. Finally, under this general heading, and out of abundant caution, we recommend a new rule to catch any subdivision not otherwise addressed by any of the rules we have recommended. While we have not identified any subdivision activity that is not in fact covered by the rules, either in Section 27.5 or 27.7. we think it is prudent to have a default rule. Discretionary status for such a rule will maintain the status quo under notified Rule 27.4.1 and, to that extent, we recommend that that rule be retained. As with Rule 27.4.1, a catchall rule should come first in the group of rules.

730. Accordingly, we recommend that **Discretionary** Rule 27.4.1 be renumbered 27.5.6 and revised to read:

"Any subdivision that does not fall within any rule in Part 27.5 or Part 27.7."

731. Considering the rules we have recommended in our revised section 27.5, we believe that collectively they are the most appropriate way to achieve the Chapter 27 objectives and to implement the policies under those objectives.

8. SECTION 27.5 - RULES –STANDARDS FOR SUBDIVISION ACTIVITIES

8.1 Rule 27.5.1 – Minimum Lot Sizes

732. A large number of submissions were made on notified Section 27.5.1 (renumbered 27.6.1), which set out the minimum lot area in specified zones. Most of these submissions were transferred for consideration in the relevant zone hearings given the obvious linkages between minimum densities and the outcomes sought to be achieved in each zone. This was not possible in relation to the parts of Rule 27.5.1 (as notified) specifying minimum densities in the Rural, Rural Lifestyle, Rural Residential and Gibbston Character Zone because, by the time that decision was made, the hearings of submissions on those zone provisions had already occurred. Submissions related to densities in the Rural Lifestyle Zone were, however, deferred as a result of the Council's decision to undertake a structure planning process in the Wakatipu Basin[266].

733. The Chair's direction provoked a degree of confusion on the part of submitters. Mr Ben Farrell gave evidence, and Mr Goldsmith made submissions for a group of submitter parties on the minimum average lot size in the Rural Lifestyle Zone in case that particular aspect had not been deferred along with the minimum lot size.

734. The minimum average density applied in the Rural Lifestyle Zone is inextricably connected to the minimum lot size. As we observed to Mr Goldsmith, it is necessary to know what the minimum lot size is before considering the minimum average, because the minimum average must necessarily be greater than the minimum if it is to serve any purpose. Accordingly, we think there is no value of entering into a discussion of the minimum average lot size separate from the minimum lot size and have proceeded on the basis that both should be deferred until the results of the Wakatipu Basin Structure Plan process are able to be considered.

735. The Stage 2 Variations now proposes rezoning of the Wakatipu Basin, with the result that there is no Rural Lifestyle Zoned land in that area. Accordingly, any consideration of minimum densities (and minimum average densities) within Rural Lifestyle Zoned land in the Wakatipu Basin will only need to be considered as a consequence of the decisions on the Stage 2 Variations altering that position.

736. As above[267], no submitter sought to be heard in relation to Rural Lifestyle Zone Minimum lot density requirements outside the Wakatipu Basin, and we thus have no evidence to contradict the Council position that the notified minimum densities are appropriate in the balance of the District.

737. Notified Rule 27.5.1 stated minimum lot areas for a number of zones that we had understood (based on advice from counsel for the Council) would be the subject of a subsequent stage of the District Plan review process – specifically the Township, Industrial A and B, Riverside and Hydro Generation Zone.

738. In his Section 42A Report, Mr Bryce recommended that those references be deleted. When we discussed the point with him, however, he could not identify for us any submission seeking that relief and in the legal submissions in reply for the Council, it was submitted that there was no jurisdiction to do so. The fact that some provisions of the PDP purport to apply to land not

266 Refer the Chair's procedural direction of 4 July 2016 discussed earlier

267 Refer Section 1.4 above

forming part of Stage 1 of the PDP review is problematic, to say the least. The key issues were canvassed in the Chair's Minute to the Council dated 12 June 2017[268] albeit in the context of notations on the planning maps.

739. The point of particular concern to us is whether members of the public would have thought to go past advice that Stage 2 zones were not part of the PDP process, looking for standards for those zones buried in Chapter 27. The fact that it appears the sole submission on the minimum lot standards in section 27.5.1 for the Stage 2 zones is by the Council itself tends to reinforce that concern. It is also somewhat ironic that the staff recommendation is that the Council's own submission be rejected as being out of scope as not being within Stage 1 of the PDP.

740. In a subsequent hearing, relating to Chapters 30, 35 and 36 (Stream 5), the Council submitted that it would be appropriate to transfer provisions purporting to set noise limits for zones not within Stage 1 of the PDP to Stage 2. The Stream 5 Hearing Panel noted a number of reasons why it did not agree with that course of action. It concluded that reference to non-Stage 1 zones in the relevant rule was in error and that those references could and should be deleted under Clause 16(2)[269]. We have come to the same conclusion. In summary, if the zones are not part of Stage 1, they remain part of the ODP, and nothing in the PDP can change the provisions of the ODP. Their removal is not a substantive change to the PDP.

741. As a result, a relatively small number of submissions on notified Rule 27.5.1 require consideration at this point.

742. Following the order in which submissions are discussed in the Section 42A Report, the first zone Mr Bryce discussed was the Rural Residential Zone. He noted a submission[270] seeking reinstatement of the ODP provisions governing any Rural Residential land at the north of Lake Hayes, which would require an 8000m² lot average. Mr Bryce recommended acceptance of that submission, but the land in question is proposed to be rezoned as part of the Stage 2 Variations. The submission will need to be reconsidered in that process.

743. The second zone discussed by Mr Bryce was the Rural Zone (mislabelled Rural General in the Section 42A Report). Mr Bryce noted two submissions[271] seeking a minimum lot size be specified for subdivisions within the Rural Zone and the Gibbston Character Zone and a minimum allotment size of 5 acres (2 hectares) in the Rural Zone respectively.

744. Mr Bryce recommended rejection of both submissions, referring to the reasoning of the section 32 evaluation to the effect that the absence of a minimum lot size prevents any '*development right*' arising in these zones and emphasising the desirability of maintaining the existing approach, based on landscape considerations.

745. We note that Mr MacColl did not seek to support NZTA's submission on this point and submitter 38 did not appear at the hearing to provide us with evidence that would cause us to reconsider the approach in the Section 32 Report supported by Mr Bryce.

746. Accordingly, we agree with Mr Bryce's recommendation that these submissions should be rejected.

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268 Minute Concerning Annotations on Maps 12 June 2017

269 Report 8 at Section 18.1

270 Submission 26

271 Submissions 719 and 38: Supported in FS1109; Opposed in FS1097 and FS1155

747. The next zone Mr Bryce discussed was the Jacks Point Zone. He noted Submission 762[272] seeking that the final specified '*minimum lot area*' should be referenced to "*all other activity areas"*.

748. Mr Bryce recommended this amendment be made in aid of efficient and effective plan administration.

749. The Stream 9 Hearing Panel has, however, identified broader issues with these provisions. Specifically, neither FP area will exist following revision of the Jacks Point Structure Plan, and the cross reference to Rule 41.5.8 should apply to subdivision in Residential Activity Areas, rather than 'other' areas. Our recommended table shows these amendments.

750. Mr Bryce also noted[273] two submissions[274] seeking amendment to the activity table in notified Rule 27.5.1 so that LDRZ land within the Queenstown Airport Outer Control Noise Boundary should have a minimum lot area of 600m². Mr Bryce recommended that these submissions be accepted in order to maintain the status quo established by ODP Plan Change 35 and thereby protect the operation of an item of regionally significant infrastructure. We note specifically the emphasis given by the Proposed RPS in that regard.

751. We agree with Mr Bryce's recommendation with the result that in that part of the table related to the renamed Lower Density Suburban Residential Zone, additional text is inserted as follows:

"Within the Queenstown Airport Air Noise Boundary and Outer Control Boundary: 600m²."

752. We note that the Hearing Panel hearing submissions on the residential zones (Stream 6) has recommended[275] that the Large Lot Residential Zone be separated into two zones (Large Lot Residential Zone A and B respectively) and that the minimum densities in these zones be 2000m² and 4000m² respectively. We recommend consequential amendment of Rule 27.6.1 accordingly. Insertion of the Coneburn Industrial Zone and special provisions for the Rural Residential Zone at Camp Hill, as recommended by the Stream 13 Hearing Panel, has likewise created a need for consequential amendments to insert minimum lot sizes for those areas. The Stream 13 Panel has also recommended deletion of the Queenstown Heights Sub-Zone, and so minimum lot sizes are no longer required for that area.

753. Finally, a consequence of the Stream 8 Hearing Panel rezoning Wanaka Airport from Rural to Airport Zone and the recommendation of that Panel that the subdivision provisions applying to the Airport Zone at Wanaka mirror those applying to the Rural Zone[276], is that the reference to "Airport Mixed Use" needs to be changed to "Airport Zone". We have not had any recommendations for other changes to the minimum lot areas in other zones from Hearing Panels considering those matters.

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272 Opposed in FS1217, FS1219, FS1252, FS1277, FS1283 and FS1316

273 Section 42A Report at 16.1

274 Submissions 271 and 433: Opposed in FS1097 and FS1117

275 Refer Report 9A at Section 16.1

276 Refer Report 11 at Section 61.1

754. Lastly, we record that the Stage 2 Variations have proposed deletion of some line items in renumbered section 27.6 (and addition of others). Our recommended Chapter 27 greys out the existing provisions proposed to be changed.

755. More generally, the format of (now) Rule 27.6.1 was the subject of criticism[277]. It was suggested that it be redrafted to be clearer. We agree with Mr Bryce's view that the table of minimum lot sizes is clear (or in reality, as clear as it is possible to be, given the need for district-wide provisions in this area). However, we recommend both a minor change to the description of average net site area in the opening words of the rule, and an Advice note referring the reader to the rules governing non-compliance with the minimum site areas to assist readability.

756. Notified Section 27.5.1 had 7 sub-rules followed by two further rules governing subdivision associated with infill development and subdivision associated with residential development on small sites in the (now) Lower Density Suburban Residential Zone. As part of the reorganisation of the chapter recommended by Mr Bryce, these provisions have been shifted either into our renumbered Section 27.5 or into the zone and location specific rules in renumbered Section 27.7. We agree that with one exception, they are more appropriately grouped with these other provisions and we will consider them in that context. The exception is notified Rule 27.5.1.3 which related to minimum size requirements (for access lots, utilities, roads and reserves) and which more properly should remain with renumbered 27.6.1.

757. This provision was the subject of a submission[278] that sought that it also state that lots created for the specified purposes shall not be required to identify a building platform. Mr Bryce recommended rejection of this submission on the basis that the requirement for a building platform (refer renumbered Rule 27.7.8) stated that it relates to allotments created for the purposes of containing residential activity. As Mr Bryce observed, the suggested addition is therefore unnecessary and we likewise recommend rejection of the submission.

758. The end result is, however, that a renumbered Section 27.6 is limited to minimum lot area standards and we recommend that the heading of the section be amended to reflect that, and therefore to read:

"Rules – Standards for Minimum Lot Areas."

759. We record that having considered the alternatives open to us on the few matters the subject of submission in renumbered 27.6.1, we believe that the recommended provisions represent the most appropriate way to achieve the Chapter 27 objectives, and the most appropriate way to implement the policies relevant to those objectives.

8.2 Zone and Location Specific Rules

760. In his Section 42A Report, Mr Bryce noted three submissions[279] that sought that subdivision undertaken in accordance with a Structure Plan or Spatial Layout Plan identified in the PDP be a controlled activity. Notified Rule 27.4.3 provided that it is was restricted discretionary activity. Mr Bryce supported controlled activity status on the basis that a Structure Plan/Spatial Layout Plan provides a level of certainty to both proponents and decision-makers

[277] Submission 631

[278] Submission 635

[279] Submissions 456, 632 and 696: Supported in FS1097; Opposed in FS1217, FS1219, FS1252, FS1275, FS1277, FS1283 and FS1316

as to what is expected in terms of subdivision design, and the fact that the Structure Plan/Spatial Layout Plan has been identified through a Plan Change process means that opportunities, constraints and effects of the future subdivision and land use activities have already been identified.

761. We agree that where a Structure Plan or similar document has been incorporated in the PDP there are good grounds for taking a less restricted regulatory approach to subdivision that is consistent with the Structure Plan.

762. Mr Bryce suggested a number of matters of control to accompany a new controlled activity rule in his Section 42A Report, that were further refined in his reply evidence. We have no issue in principle with the matters of control other than that the language should largely, parallel that discussed in Section 2.1, but we consider that the initial description of the activity recommended by Mr Bryce needs amendment in three respects. First, Mr Bryce suggested that the cross reference to a Structure Plan should test whether subdivision is undertaken "*in accordance with"* the document. We consider that requiring consistency with the document would be a better test given that Mr Bryce proposes that in each of the following rules dealing with areas that are currently the subject of a Structure Plan or like document, consistency with the document is a suggested matter of control.

763. Secondly, the suggested rule refers to Structure Plans, Spatial Layout Plans and Concept Development Plans, reflecting the range of different documents that are already identified and included in the District Plan. We think it would be more efficient if the term "*Structure Plan"* were defined to include documents that fulfil a similar function. Ideally, a new definition would also outline the minimum requirements for a 'Structure Plan' to be included in the PDP, but as discussed earlier, the policy gap in this regard will need to be filled by a variation.

764. Thirdly, we consider that it is not sufficient that a Structure Plan is "*identified"* in the PDP. We believe it should be "*included"* within the PDP so the key aspects of subdivision design are apparent to the readers of the Plan, and there can be no doubt as to whether the requirements for controlled activity status are met. As discussed shortly, there is also a technical problem with the approach in the notified PDP because Structure Plans do not meet the tests for incorporation by reference in Clause 30 of the First Schedule.

765. In summary, therefore, we recommend inclusion of a new controlled activity rule numbered 27.7.1, to replace notified Rule 27.4.3 that reads as follows:

"Subdivision consistent with a Structure Plan that is included in the District Plan.
Control is restricted to:

a. *subdivision design, and any consequential effects on the layout of lots and on lot sizes and dimensions*
b. *internal roading design and provision, and any consequential effects on the layout of lots, and on lot sizes and dimensions;*
c. *property access and roading;*
d. *esplanade provision;*
e. *the adequacy of on site measures to address the risk of natural and other hazards on land within the subdivision;*
f. *fire fighting water supply;*
g. *water supply;*
h. *stormwater design and disposal;*
i. *sewage treatment and disposal;*

j. energy supply and telecommunications, including adverse effects on energy supply and telecommunication networks;
k. open space and recreation;
l. ecological and natural values;
m. historic heritage;
n. easements;
o. any additional matters relevant to achievement of the objectives and policies in part 27.3 of this Chapter.

766. Associated with this Rule we recommend to the Stream 10 Hearing Panel that a new definition be inserted in Section 2 of the PDP worded as follows:

"Structure Plan means a plan included in the District Plan, and includes Spatial Development Plans, Concept Development Plans and other similarly titled documents."

767. Notified Section 27.7.3 is headed "*Kirimoko Structure Plan – Matters of Discretion for Restricted Discretionary Activities".*

768. Submission 656 sought enlargement of the discretion provided over earthworks and greater specification of aspects of subdivision design the subject of discretion.

769. Initially, Mr Bryce recommended acceptance of the submission[280].

770. By his reply evidence, Mr Bryce had come to the view that the specific matters of control needing to be considered in relation to the Kirimoko could be substantially reduced. Mr Bryce did not discuss in his reply evidence his reasons for coming to this conclusion, but we infer that some of the matters were considered redundant in the light of other recommended PDP provisions (particularly the matters of assessment Mr Bryce recommended be introduced as part of his reply evidence).

771. We agree with that and we think that Mr Bryce's recommended rule might be further pruned to remove duplication. In particular, given our recommendation that consistency with a structure plan should be a precondition to Rule 27.7.1, it is not necessary to refer to such consistency as an additional matter of control in this rule. Similarly, given that subdivision design is a matter of control under Rule 27.7.1, further reference to it is not required in this rule.

772. We also consider that some amendment of the language is required to reflect the fact that the rule is specifying matters of control rather than (as was the case for notified Section 27.7.3) matters of discretion, to which particular regard had to be had.

773. In summary, therefore, we recommend that section 27.7.3 be renumbered 27.7.2 and revised to read:

"In addition to those matters of control under Rule 27.7.1, any subdivision of the land shown on the Kirimoko Structure Plan included in Part 27.13, the following shall be additional matters of control:
a. *roading layout;*
b. *the provision and location of walkways in the green network;*
c. *the protection of native species as identified on the Structure Plan as green network."*

280 Section 42A Report at 22.12

774. Because this section of the PDP contains other provisions related to Kirimoko, we think it would be clearer if all of those provisions were collected under a single heading. We have therefore numbered the rule above 27.7.2.1 under the heading "27.7.2 – Kirimoko". We will discuss the balance of provisions under that heading shortly.

775. Rule 27.7.3.1 in Mr Bryce's revision of Chapter 27 (relocated from notified Policy 27.7.6.1) related to the Ferry Hill area. The Stage 2 Variations propose deletion of these provisions and so we need say no more about them

776. Mr Bryce recommended that the next provision in his reformatted section 27.7 relate to the Jacks Point Zone. By his reply evidence, Mr Bryce had recommended that the sole additional matter of control that needed to be referenced, consequential on other provisions he had recommended, was consistency with the Jacks Point Zone Structure Plan. For the reasons discussed above in relation to the Kirimoko area, it is not necessary to provide another rule solely for that purpose we do not therefore recommend inclusion of the rule suggested by Mr Bryce.

777. The next two rules Mr Bryce suggested in this part of the revised Chapter 27 related to the Peninsula Bay area and were derived from notified Section 27.8.2.1. As notified, that provision read:

"No subdivision or development shall take place within the Low Density Residential Zone at Peninsula Bay unless it is consistent with an Outline Development Master Plan that has been lodged with and approved by the Council."

778. The sole primary submission on Section 27.8.2.1 supported its continued inclusion[281]. While two further submissions[282] opposed that submission, given the permissible ambit of further submissions discussed in the Hearing Panel's Report 3, these further submissions do not take the matter further.

779. This rule needs to be read together with heading of Section 27.8 and Section 27.8.1 that preceded it.

780. The heading of Section 27.8 as notified was:

"Rules – Location Specific Standards."

781. Section 27.8.1 contained a general provision stating that activities not meeting the standards specified in Section 27.8 should be non-complying activities, unless otherwise specified.

782. Mr Bryce recommended that consequential on his recommended revision of the format of Chapter 27, Section 27.8.2.1 should be converted to two rules, one a controlled activity rule (for subdivision or development consistent with the Outline Development Master Plan) and the second, a non-complying rule (for development which is inconsistent with the Outline Development Master Plan).

783. Unlike the rules that we have been discussing however, the Outline Development Master Plan for Peninsula Bay is not contained in the PDP.

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281 Submission 378

282 FS1049 and FS1095

784. Nor is it even clear whether this is an existing document or one that might be "*approved"* by the Council in future. The way that notified Section 27.8.2.1 is framed, however, suggests that even if an Outline Development Master Plan has already been approved, there might yet be a successor. Be that as it may, the reference in the notified PDP to this Outline Development Master Plan, and the suggestion that the activity status of future subdivision and development should be dependent on whether there is such a plan (and whether the subdivision or development in question is consistent with it), raises questions as to whether this is permissible in the light of the Environment Court decisions on declarations sought in relation to the use of framework plans in the context of the Proposed Auckland Unitary Plan[283] discussed in our Report 1.

785. Given the conclusions reached by the Hearing Panel in Report 1, this then requires us to determine what we can and should do with Section 27.8.2.1 of the notified PDP given that the only submission on it specifically seeks its retention.

786. Section 27.8.2.1 is framed in directive terms rather than as a standard in the ordinary sense of that term. From that point of view, it does not sit easily within the notified section 27.8.

787. Nor is it altogether clear to us what the rule status is intended to be for subdivision or development that is consistent with an approved Outline Development Master Plan. Mr Bryce has treated the Peninsula Bay "*Outline Development Master Plan"* as a Structure Plan, which might suggest that under the notified PDP, it fell within Rule 27.4.3. If that were the case, it would be a restricted discretionary activity with discretion restricted to matters specified in Part 27.7. Rule 27.4.3 referred, however, to a structure plan or spatial layout plan, which does not suggest an intention that the rule apply to all plans that might be considered to fall within a generic reference to structure plans. In addition, the only matters specified in Part 27.7 related to Peninsula Bay refer to provision of public access and are not framed as matters of discretion, so it would not seem to have been intended that Rule 27.4.3 would apply to the Peninsula Bay area on that ground also.

788. The end result therefore, is that we consider that under the notified PDP, subdivisions would fall within the default discretionary activity rule if consistent with an approved Outline Development Master Plan, and if not, then as non-complying activities.

789. Given our conclusion that subdivisions in most zones might appropriately be dealt with as restricted discretionary activities, we consider that the best outcome in the light of the Environment Court's guidance in the Auckland framework plan cases is that Section 27.8.2.1 be deleted as a consequential amendment to our acceptance (in part) of submissions seeking that all subdivision activities be controlled activities, and Mr Bryce's recommendation of two rules to be inserted in substitution in revised section 27.7 not be accepted. That will leave subdivision in the Peninsula Bay area as a restricted discretionary activity under our recommended Rule 27.5.7. If, in the future, the Council and/or the Peninsula Bay JV wish that further subdivision be considered as a controlled activity, then the Outline Development Master Plan applying to that area will need to be incorporated in the PDP by way of variation or plan change. Because, however, the end result is beneficial to the submitter, compared to the relief sought, we have classified the submission as 'Accepted in Part'.

790. The next provision recommended by Mr Bryce related to the Kirimoko area. The provisions Mr Bryce recommended are derived from notified Section 27.8.3.

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283 *Re Application for declarations by Auckland Council* [2016] NZ EnvC 056 and [2016] NZ EnvC 65

791. Those provisions were the subject of a specific submission[284] that sought inclusion of an additional standard related to post development stormwater runoff (that would require that during a 1 in 100year event stormwater runoff is no greater than the pre-development situation).

792. Mr Bryce recommended rejection of that submission on the basis of the Council's engineering evidence (initially Mr Glasner, but adopted by Mr Wallace) that the Council's Code of Practice requires that post development stormwater runoff be no greater than pre-development runoff up to and including in a 1 in 20-year event. Mr Wallace's evidence was that designing stormwater runoff management systems for a 1 in 100 year event would create a significant level of over-design which would in turn add significantly to the Council's maintenance costs.

793. The submitter in question did not appear to support its submission with evidence that would contradict that provided by Council. On this basis, we agree with Mr Bryce's recommendation.

794. Mr Bryce therefore suggested only grammatical changes to frame the notified provisions more clearly as standards or conditions, failure to comply with which would properly cause the activity to default to non-complying status.

795. We agree with the suggested changes. The only additional change we recommend is to correct a typographical error (referring to the Rural General Zone), to amend the cross reference to the Structure Plan to be consistent with the language of 27.7.2.1 and (as discussed above) to relocate the rule to follow Rule 27.7.2.1. Accordingly, we recommend inclusion of new **Non-Complying** Rules 27.7.2.2-4 text, reading:
"Any subdivision that does not comply with the principal roading layout and reserve network depicted in the Kirimoko Structure Plan included in Part 27.13 including the creation of additional roads, and/or the creation of accessways for more than 2 properties.

Any subdivision of land zoned Rural proposed to create a block entirely within the Rural Zone to be held in a separate Certificate of Title;

Any subdivision of land described as Lots 3 to 7 and Lot 9 DP300734, and Lot 1 DP304817 (and any title derived therefrom) that creates more than one lot that has been included in its legal boundary land zoned Rural."

796. The next rule recommended by Mr Bryce related to the Bob's Cove Rural Residential Sub-Zone and was derived from notified Sections 27.8.5.1 and 27.8.5.2. Those provisions were not the subject of specific submission by any party and Mr Bryce recommended that they be reproduced unchanged save for the formatting necessary to express them more clearly as standards/conditions. We agree, and our recommended revised Chapter 27 includes Mr Bryce's provisions in a new Rule 27.7.3.

797. The next rule recommended by Mr Bryce related to the Ferry Hill Rural Residential Sub-Zone and was derived from notified Sections 27.8.6.1-8 inclusive. These provisions are proposed to be deleted in the Stage 2 Variations and so we need not consider them further.

798. The next rule recommended by Mr Bryce related to Ladies Mile and derived from notified Section 27.8.7.1. There were no specific submissions seeking change to these provisions and

284 Submission 656

Mr Bryce recommended that they be amended only to express them more clearly as standards or conditions, failure to comply with which might prompt a shift to non-complying status.

799. We agree, and our revised Chapter 27 shows these provisions as recommended Rule 27.7.4.

800. The next rule recommended by Mr Bryce related to Jacks Point and derived from notified Sections 27.8.9.1 and 27.8.9.2.

801. These provisions were the subject of two submissions. The first[285] sought minor changes to 27.8.9.2 by way of clarification rather than substantive change. Mr Bryce recommended acceptance in part with the suggestions made by the submitter, that were in practice subsumed within the reformatting that Mr Bryce recommended.

802. The second submission[286] sought that Rule 27.8.9.2 make provision, where discretion was restricted to traffic and access, to also include the ability to provide and support public transport services, infrastructure, and connections. Mr Bryce recommended rejection of this submission on the basis that as the rule in question relates to the Jacks Point Zone conservation lots, within the identified Farm Preservation Activity Area, the matters sought to be referenced by the submitter were not applicable.

803. Mr Bryce recommended retention of the existing provisions with consequential amendments reflecting the reformatting exercise he had undertaken in response to more general submissions discussed earlier.

804. Mr Bryce also recommended specific recognition of the Hanley Downs part of Jacks Point, accepting in this regard, Mr Wells evidence discussed earlier in the context of recommended Rule 27.5.17.

805. We largely agree with Mr Bryce's recommendations. Notified rule 27.8.9.2 is, however, no longer required following deletion of the FP1 Activity Area from the Jacks Point Structure Plan. It should be deleted as a consequential change. In addition, as well as consequential renumbering and reformatting, we recommend expanding the matters of discretion so that they are consistent with our recommendations in relation to Rule 27.7.1, and address the matters made relevant by recommended Policies 27.3.7.4 and 27.3.7.7. We also suggest amending the text to refer to the Jacks Point Structure Plan as being contained in Part 27.13 and insert a new Rule 27.7.5.3, reflecting a recommendation we have received from the Stream 13 Hearing Panel[287].

806. Mr Bryce next recommended a rule to govern subdivision within the Millbrook Resort Zone that is inconsistent with the Millbrook Resort Zone Structure Plan, reflecting his observation that there does not appear to be any rule governing non-compliance with that Structure Plan. Mr Bryce recommended that subdivision in this case be a discretionary activity. Given that operation of notified Rule 27.4.1 would have had that effect in any event, this is not a substantive change. We agree with Mr Bryce that it is helpful, however, to be specific in this case. Accordingly, we recommend inclusion of a new Rule 27.7.6 along the lines suggested by Mr Bryce. The only amendments we would suggest would be that the rule cross reference the Millbrook Resort Zone Structure Plan as located in Chapter 27 and correction of a minor typographical error.

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285 Submission 762: Opposed in FS1217, FS1219, FS1252, FS1277, FS1283 and FS1316

286 Submission 798

287 Refer Report 17-8Part I

807. We should note that we recommend inclusion of three additional site/zone specific rules under this heading, the first two related to the Coneburn Industrial Zone and the Frankton North area and numbered 27.7.7 and 27.7.9 respectively, consequential on the recommendations of the Stream 13 Hearing Panel, and the last related to the West Meadows Drive area and numbered 27.7.8, reflecting recommendations from the Stream 12 Hearing Panel.

808. Lastly, and more generally, we note that many of the site-specific standards in this part of Chapter 27 do not fit easily into the structure we recommend on Mr Bryce's advice. We suspect they may be legacy provisions rolled over from the ODP. Renumbered Rule 27.7.4.1 a. for instance, was notified as a standard governing subdivision on Ladies Mile. It does not read as a standard and it would be difficult to apply as such. There were no submissions on it, and hence Mr Bryce (understandably) did not focus on it. Even if there had been a submission giving us some scope to amend (or delete) it, we were unsure what role it was intended to have. We recommend that the Council review the provisions in this section to identify any that are past there 'use-by' date, or that need reframing to meet their intended purpose.

8.3 Building Platform and Lot Dimensions

809. Mr Bryce next recommended inclusion of rules relocated from notified Rule 27.5.1.1 (related to building platforms) and 27.5.1.2 (related to site dimensions).

810. Addressing first notified Rule 27.5.1.1, this was the subject of one submission[288] seeking that the maximum dimensions of a building platform in the Rural Lifestyle Zone be specified to be 600m² (rather than 1000m²) as at present. Mr Bryce recommended rejection of that submission on the basis that flexibility as to building platform size is often required.

811. In our discussion of the restricted discretionary activity rule we have proposed for subdivision within the Rural Lifestyle Zone (27.5.8), we have recommended retention of a discretion over the size of building platforms. We regard that as a more appropriate solution than arbitrarily reducing the maximum building platform size in the Rural Lifestyle Zone, particularly given that the submitter did not appear to provide us with evidence that would have given us confidence that a reduced maximum building platform size would be appropriate in every instance.

812. Accordingly, we agree with Mr Bryce's recommendation that notified Rule 27.5.1.1 might be retained unamended, save only for relocating it in Section 27.7, and numbering it 27.7.10.

813. Turning to notified Rule 27.5.1.2, the only submissions on this provision[289] supported retention of particular aspects of the rule.

814. Mr Bryce recommended, however, deletion of specific reference to the Township Zone on the basis that it was not part of Stage 1 of the PDP. For the reasons discussed earlier, in relation to revised section 27.6, we agree that this is the appropriate outcome. The only other amendment to notified provision 27.5.1.2 recommended Is to insert the word *"lots"* rather than *"sites"* for clarity and to renumber it 27.7.11.

815. Before going on the next rule Mr Bryce recommended, we need to address the position if either of renumbered rules 27.7.8 and 27.7.9 are not complied with. Under the notified plan, this fell within Rule 27.4.2 as a non-complying activity.

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288 Submission 367: Opposed in FS1150 and FS1325

289 Submission 208, 596, 775, 803

816. We have not identified any submission seeking to change that position. We therefore recommend a new Rule 27.7.12 be inserted as follows:

"Subdivision applications not complying with either Rule 27.7.10 or Rule 27.7.11 shall be non-complying activities."

8.4 Infill subdivision

817. The next rule Mr Bryce discussed related to subdivision associated with infill development which he recommended be relocated from notified Rule 27.5.2.

818. This rule was the subject of a number of submissions. Several submissions[290] sought that the definition of an established residential unit should turn on whether construction has reached the point of roof installation rather than whether a Building Code of Compliance certificate has been issued.

819. In addition, Submission 275 sought to amend 27.5.2 so that in the High Density Residential Zone the minimum lot size need not apply to any lots being created which contain a residential unit, provided that any vacant lots also being created do meet the minimum lot size. Lastly, Submissions 208 and 433[291] sought deletion of the rule.

820. In his Section 42A Report, Mr Bryce acknowledged that the submitters opposing recognition of a Building Code of Compliance Certificate as the sole determinant of whether a residential unit has been established had a point, given that the concept of Building Code of Compliance Certificates dates only from 1992, and therefore a large number of "*established"* residential units will not have such a certificate. He recommended that the rule be made more explicit that completion of construction to not less than the installation of the roof be an alternative to issue of a Building Code of Compliance Certificate as a means to define an established residential unit for the purposes of this rule. We agree with his recommendation in that regard.

821. Mr Bryce did not explicitly discuss Submission 275 in his Section 42A Report and the submitter did not appear to elaborate on the submission.

822. Reading the submission in context, it appears to us that the submission on this point is associated with a broader request for relief related to (and reducing) the minimum lot areas for the High Density Residential Zone[292]. We think that that is the appropriate context for consideration of the merits of the submission rather than broadening the ambit of this particular rule, which essentially sought to recognise the reality of existing lawful residential developments and provide that title boundaries might be brought into line with those developments.

823. The breadth of Submission 169 is also difficult to address in this context – particularly in the absence of any evidence from the submitter that might satisfy us that the effects of infill development can be addressed by conditions in all locations (and identifying appropriate areas of control).

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290 Submissions 166, 169, 389 and 391

291 Opposed in FS1097 and FS1117

292 Submission 169 also appears to be linked to more wide-ranging relief, seeking controlled activity status for a single infill unit subdivision in any zone.

824. Deletion of the rule sought in Submission 433 was also part of broader relief; in this case, which sought to carry over the provisions of ODP Plan Change 35 into the PDP and thereby protect the ongoing operations of Queenstown Airport. As we will discuss shortly, Mr Bryce recommended an amendment to the following rule to address the submission. When the representatives of the QAC appeared before us, Ms O'Sullivan giving planning evidence for the submitter, supported that relief and did not provide evidence suggesting why it should be broadened to this particular rule. This accorded with our understanding of QAC's position which sought to avoid intensification of residential activities within the defined Airport noise boundaries. Given that this particular rule relies on dwellings already having been established, aligning the title position with the existing pattern of development would appear to have no effect on the airport's operations.

825. The reasons for Submission 208 indicated that the concern of that submitter was for maintenance of amenity in the High Density Residential Zone. Mr Bryce did not discuss the submission specifically and the submitter did not provide evidence to support its submission. In the absence of an evidential basis for the submission, we do not recommend deletion of this provision.

826. In summary, therefore, we accept Mr Bryce's recommended rule which is numbered 27.7.13 in our revised Chapter 27, save only for correction of internal cross reference numbering and amending the reference to the former Low Density Residential Zone.

827. The revised rule we recommended is therefore worded:

"The specified minimum allotment size in Rule 27.6.1, and minimum dimensions in Rule 27.7.9 shall not apply in the High Density Residential Zone, Medium Density Residential Zone and Lower Density Suburban Residential Zone where each allotment to be created, and the original allotment, all contain at least one established residential unit (established meaning a Building Code of Compliance Certificate has been issued or alternatively where a Building Code of Compliance Certificate has not been issued, construction shall be completed to not less than the installation of the roof)."

828. The next rule Mr Bryce discussed was derived from notified Rule 27.5.3.1 and related to circumstances where the minimum allotment size in the (now) Lower Density Suburban Residential Zone does not apply.

829. Submissions on it sought variously clarification of the interrelationship with Rule 27.5.2[293] (now 27.7.11), deletion and a more enabling approach generally[294], deletion[295], and revision to make the rule "*more practical"*[296].

830. Mr Bryce did not discuss the apparent overlap between Rules 27.5.2 and 27.5.3 (to the extent both applied to the Lower Density Suburban Residential Zone). We think there is a logic to the distinction between the rules given that Rule 27.5.2 applied in the three specified zones and addressed the situation where residential units actually exist, whereas Rule 27.5.3 was limited to the (now) Lower Density Suburban Residential Zone and addressed the situation where residential units were consented but not constructed.

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293 Submission 169

294 Submission 166

295 Submission 433: Opposed in FS1097 and FS1117

296 Submission 453

831. We do not recommend acceptance of Submission 166. The submitter did not appear to amplify their submission and we consider that we have addressed the more general issues it poses elsewhere in this report.

832. The request for deletion by Submission 433 was addressed by Mr Bryce's recommendation that the rule not apply within the Airport noise boundaries defined in the Plan.

833. We agree with that approach although we consider it needs to be clearer that any reference to the Air Noise Boundary and Outer Control Boundary should be as defined in the planning maps.

834. Lastly, Mr Duncan White gave evidence in support the submissions of Patterson Pitts Partners (Wanaka) Limited[297]. He explained that the reference to more practical provisions related to the changes to the land transfer system (including the establishment of electronic titles for land) and the interrelationship of section 221 registrations with certification under section 224(c). For our part, we were grateful for the assistance provided by Mr White and his colleague Mr Botting on these matters. Mr Bryce recommended acceptance of the suggestions in the submission and we concur. Mr White raised other issues of the practical application of this rule. In particular, he queried whether it was appropriate for District Plan requirements like the maximum building height and the limitation of one residential unit per lot to be locked in by consent notices. He also noted the potential issues posed by changes of design requiring a cancellation or variation of the consent notice with consequent costs on the landowner. Lastly, Mr White queried the position if a consent or certificate of compliance has lapsed. Mr Bryce did not recommend additional changes to address these issues. In his reply evidence[298], he expressed his view that any additional costs associated with the need to vary a consent notice were outweighed by the benefits derived from investment certainty.

835. Many of the points about which Mr White expressed concern are in landowners' own hands to address. Certificates of compliance and land use consents might be granted for generic designs. How specifically or how widely an application for either is framed is a matter for a landowner. Similarly, if a landowner has a certificate of compliance or land use consent that is in danger of lapsing, they can apply to extend the lapse period under section 125 of the Act.

836. While Mr White had a point regarding the desirability of using consent notices only to bind the subdivider to planning requirements that require compliance on an ongoing basis, these particular requirements (building height and number of lots) are key to the effects of residential development on an ongoing basis. We therefore agree with Mr Bryce's recommendation in this regard.

837. The only additional amendments we recommend are a minor grammatical change (to refer to '*the'* residential unit(s), consistent with the first part of the rule) amendment of the zone name consequential on the Stream 6 Hearing Panel's Report, a clarification of the type of resource consent required, and some internal renumbering and reformatting for consistency.

838. In summary, therefore, we recommend that notified Rule 27.5.3 be renumbered 27.7.14 and amended to read:

"Subdivision associated with residential development on sites less than 450m² in the Lower Density Suburban Residential Zone.

297 Submission 453

298 N Bryce, Reply Statement at 10.4

27.7.14.1 In the Lower Density Suburban Residential Zone, the specified minimum allotment size in Rule 27.6.1 shall not apply in cases where the residential units are not established, providing:

a. *a certificate of compliance is issued for the residential unit(s) or,*
b. *a land use consent has been granted for the residential unit(s).*

In addition to any other relevant matters, pursuant to s221 of the Act, the consent holder shall register on the Computer Freehold Register of the applicable allotments:

a. that the construction of any residential unit shall be undertaken in accordance with the applicable certificate of compliance or land use consent (applies to the additional undeveloped lot to be created);
b. the maximum building height shall be 5.5m (applies to the additional undeveloped lot to be created);
c. there shall be not more than one residential unit per lot (applies to all lots).

27.7.14.2 Rule 27.7.14.1 shall not apply to the Lower Density Suburban Residential Zone within the Queenstown Airport Air Noise Boundary and Outer Control Boundary as shown on the planning maps."

8.5 Servicing and Infrastructure Requirements

839. The next rule Mr Bryce discussed are a series of provisions contained in notified Section 27.5.4 which was entitled "*Standards relating to servicing and infrastructure",* but which are in fact limited to water supplies. These provisions were the subject of submissions from the telecommunication companies[299] seeking insertion of a new standard regarding telecommunication reticulation and, in one case, electricity connections. Putting those matters aside for the moment, the only submissions on the existing provisions related to water supply supported them[300], although Submission 166 did seek clarification as to the Council's intention regarding what capacity potable water supply should be available to lots where no communal owned and operated water supply exists. The submission observed that the rule appeared to be at variance from current Council standards.

840. Mr Wallace provided the answer to that question: the current Council Code of Practice requires provision for 2100 litres per day, which covers both potable and irrigation water supply, and is designed for a reticulated system. Mr Wallace advised that where a reticulated system is not available, the minimum requirement is 1000 litres per day (as per the notified rule) with the subdivider needing to identify what supply will be available for irrigation separately.

841. Mr Bryce however recommended that provisions in the notified Rule 27.5.4.1 referring to zones not covered by Stage 1 of the PDP process be deleted. For the reasons already discussed, we concur and recommend those references be deleted pursuant to Clause 16(2). In the case of the reference to the Corner Shopping Centre Zone, this should be corrected to the Local Shopping Centre Zone on the same basis, as should the reference to the Airport Mixed Use Zone be changed to Airport Zone - Queenstown.

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299 Submissions 179, 191, 421 and 781: Supported in FS1132; Opposed in FS1097, FS1117 and FS1164

300 Submissions 453, 586, 775 and 803

842. Apart from a minor grammatical change in the opening words of what was notified Rule 27.5.4.1, and some internal renumbering for consistency, the only substantive amendments we recommend are to make the first rule (providing that all lots must be connected to a reticulated water supply) subject to the third rule (which provides the position where no reticulated water supply exists) and to correct the references to the Millbrook Resort and Waterfall Park Zones.

843. In summary, therefore, we recommend that notified Rules 27.5.4.1-3 be renumbered 27.7.15.1-3 and amended to read:

> *"27.7.15.1 Subject to Rule 27.7.15.3, all lots, other than lots for access, roads, utilities and reserves except where irrigation is required, must be provided with a connection to a reticulated water supply laid to the boundary of the net area of the lot, as follows:*
>
> *To a Council or community owned and operated reticulated water supply:*
> *a. Residential, Business, Town Centre, Local Shopping Centre Zones and Airport Zone - Queenstown;*
> *b. Rural-Residential Zones at Wanaka, Lake Hawea, Albert Town, Luggate and Lake Hayes;*
> *c. Millbrook Resort Zone and Waterfall Park Zone.*
>
> *27.7.15.2 Where any reticulation for any of the above water supplies crosses private land, it should be accessible by way of easement to the nearest point of supply.*
>
> *27.7.15.3 Where no communal owned and operated water supply exists, all lots other than lots for access, roads, utilities and reserves, shall be provided with a potable water supply of at least 1000 litres per day per lot."*

844. Turning to infrastructure services other than water supplies, Mr Bryce drew our attention in his Section 42A Report to the interrelationship with renumbered Policy 27.2.5 which indicates an intention to generally require connections to electricity supply and telecommunication systems at the boundary of lots. He recommended a new standard related to provision of telecommunication reticulation to allotments in new subdivisions.

845. We discussed with Mr Bryce whether the suggested standard was consistent with the policy emphasis in recommended Policy 27.2.5.16 on providing flexibility to cater for advances in telecommunication and computer media technology. Mr Bryce's view was that it was broadly consistent. Mr Bryce also agreed with our suggestion that it was desirable to include an equivalent rule/requirement related to electricity.

846. The submissions from telecommunications companies sought to introduce an emphasis on telecommunication reticulation meeting the requirements of the network provider. We also note further submissions on this point seeking to emphasise the commercial nature of the arrangements between landowners and telecommunication service providers and the potential, given changing technology, for self-sufficiency[301].

847. In some ways, electricity supply is rather easier to address than telecommunications. Unless a property is '*off-grid',* there must be an electricity line to the boundary, and in our view, this should be a subdivision standard.

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[301] Further submissions 1097, 1132, 1117 and 1164

848. With telecommunication technology increasingly offering connection options not involving hard wiring, this is somewhat more problematic. We are also wary of recommending rules that enable the telecommunication companies to leverage the position for their commercial advantage.

849. We have come to the view that while subdivision standards might legitimately provide for hard-wired telecommunication reticulation in urban environments and Rural Residential zoned land, in Rural Lifestyle, Gibbston Character and Rural zoned areas, greater flexibility is required.

850. In summary, we recommend amendments to the new rule suggested by Mr Bryce to split it into three under a new heading "*Telecommunications/Electricity",* numbered 27.7.15.4-6, and worded as follows:

"Electricity reticulation must be provided to all allotments in new subdivisions (other than lots for access, roads, utilities and reserves).

Telecommunication services must be available to all allotments in new subdivisions in the Rural Zone, Gibbston Character Zone and Rural Lifestyle Zone (other than lots for access, roads, utilities and reserves).

Telecommunication reticulation must be provided to all allotments in new subdivisions in zones other than the Rural Zone, Gibbston Character Zone and Rural Lifestyle Zone (other than lots for access, roads, utilities and reserves)."

851. Before leaving revised Section 27.7, we should address the heading for the whole section. Mr Bryce recommended that it be headed "*Rules – Zone and Location Specific Standards".* Many of the provisions in this section are not 'standards' in the ordinary sense of the word. We recommend that the heading be amended to "Zone and Location Specific Rules".

8.6 Exemptions

852. In Mr Bryce's recommended revised Chapter 27, the next section (numbered 27.8) was entitled "Rules – *Exemptions"* which was then amplified with a statement (numbered 27.8.1):

"The following activities are permitted and shall not require resource consent."

853. This initial statement was derived from notified Section 27.6.1. Consequent on Mr Bryce's recommendation (that we support) that Rule 27.6.1.1 be transferred into the rule table in Section 27.5, the only remaining provision from what was Section 27.6 related to the provision of esplanade reserves or strips.

854. The only submissions on Rule 27.6.1.2 supported the rule in its current form[302], but Submission 453 queried whether the rule should have its own heading.

855. While Mr Bryce did not feel the need to amend what was 26.6.1, we consider that the submission made a valid point. Notified Rule 27.6.1.2 did not describe a permitted activity not requiring a resource consent. What it did was identify exemptions from the requirement to provide an esplanade reserve or strip, and the heading of the rule should say that. The more

[302] See Submissions 453, 635 and 719

general heading might also usefully be clarified given that the section now identifies only one exemption.

856. Secondly, the language of notified Rule 27.6.1.2 was quite convoluted. Paraphrasing section 230(3) of the Act, it stated that unless provided otherwise in a rule of a District Plan, where any allotment of less than 4 hectares is created by a subdivision, an esplanade reserve is normally required to be set aside. The purpose of Rule 27.6.1.2 was clearly to make such provision and we consider that that might be stated much more clearly than it is at present. In addition, the cross reference to activities under former Rule 27.6.1.1 needs to be changed to refer to activities provided for in renumbered Rule 27.5.2.

857. In summary, therefore, we recommend that revised section 27.8 of the PDP be worded as follows:

"27.8 Rules – Esplanade Reserve Exemption

27.8.1 Esplanade reserves or strips shall not be required where a proposed subdivision arises solely due to the land being acquired or a lot being created for a road designation, utility or reserve, or in the case of activities authorised by Rule 27.5.2."

858. In Mr Bryce's revised recommended Chapter 27, two other provisions were suggested to be inserted within section 27.8 worded as follows:

"27.8.2 Industrial B Zone;
a. Reserved for Stage 2 of the District Plan review.

27.8.3 Riverside Stage 6 – Albert Town:
a. Reserved for Stage 2 of the District Plan review."

859. We suspect that these provisions were left in Mr Bryce's recommended Chapter 27 in error. Clearly they do not fit the suggested heading to Section 27.8 (Rules – Exemptions).

860. Nor do they actually say anything. At most they are placeholders. As such, we do not recommend they be included.

8.7 Assessment Criteria

861. The following section (27.9 in Mr Bryce's suggested revised Chapter 27) is a new section entitled "*Assessment Matters for Resource Consents"*.

862. The background to this particular part of the subdivision chapter was discussed in section 5 of Mr Bryce's reply evidence. As Mr Bryce noted, one of the legal submissions made by Mr Goldsmith[303] was to query whether Chapter 27 as notified created legal issues as a result of the extensive use of objectives and policies as the basis for assessment of subdivision applications, as opposed to using assessment criteria (as is the case under the ODP). Mr Bryce's reply evidence also recorded that Mr Goldsmith highlighted concerns that a number of the "*matters of discretion"* were framed in fact as assessment criteria.

863. We discussed with Mr Goldsmith the potential to employ the structure used within the Proposed Auckland Unitary Plan, which included assessment matters for controlled activity

[303] On behalf of GW Stalker Family Trust and Others (Submissions 430, 515, 523, 525, 530, 531, 535 and 537, FS1256)

and restricted discretionary activity rules within both urban and rural subdivision chapters as a means to supplement the objectives and policies. Mr Goldsmith thought that we might use the wording of that Plan, subject to confirming scope.

864. We asked Mr Bryce to consider these matters and to advise us whether, in his opinion, the understanding and implementation of Chapter 27 would be improved with insertion of appropriate assessment criteria. His conclusion was that this would be the case and he provided us with draft provisions which we might consider recommending. Given the time pressures Mr Bryce was under, this was a significant undertaking, and we express our thanks for his work on this aspect of his reply evidence, which we have found of particular assistance.

865. Mr Bryce noted that the suggested assessment criteria responded to requests in submissions both for clear guidance for Council planning officers processing applications[304] and to the large number of submissions seeking inclusion of the provisions of the ODP Chapter 15 in whole or in part that we have already discussed[305].

866. We also consider that inclusion of assessment criteria is consequential on our recommendation to accept Mr Bryce's recommendation and provide a more permissive rule regime for subdivisions than in the notified PDP (responding in that regard to the very large number of submissions seeking that outcome).

867. As Mr Bryce recorded, his recommended assessment criteria did not seek to reintroduce significant volumes of assessment matters reflective of those within the ODP, but rather sought to achieve an appropriate balance between effective guidance to plan users and administrators, while still seeking to ensure that the PDP is streamlined[306].

868. Mr Bryce also recommended adoption of an approach advanced within the Proposed Auckland Unitary Plan whereby relevant policies are cross referenced within the assessment matters. We agree with Mr Bryce that this approach is advantageous, because it provides an effective link between the policies and supporting methods.

869. Lastly, we note that inclusion of assessment criteria properly so called has enabled Mr Bryce to remove an unsatisfactory feature of the notified Chapter 27 commented on by Mr Goldsmith: *"assessment criteria"* which are mislabelled as matters of discretion or like provisions.

870. We do not intend to review all of the assessment criteria recommended by Mr Bryce in detail, but rather to identify where, in our view, Mr Bryce's recommendations need to be amended and/or supplemented.

871. The first point that we would note is that we consider it necessary to revise the headings Mr Bryce had suggested in order that the new Section 27.9 might have its own numbering system, albeit cross referenced to the rules to which each set of assessment criteria relate.

872. The second general set of amendments that we recommend is to amend the assessment criteria where necessary, to express each point more clearly as a question or issue to which Council staff should direct themselves.

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304 Submission 370

305 Mr Goldsmith also directed us to those submissions as providing a jurisdictional basis for adopting the same approach as the Proposed Auckland Unitary Plan.

306 N Bryce Reply Statement at 5.8

873. In our renumbered Sections 27.9.3.1 and 27.9.3.2 (related to revised Rules 27.5.7 and 27.5.8 respectively) we have added assessment criteria as a consequential change reflecting the additional changes we have recommended to those rules to insert a discretion related to reverse sensitivity effects on infrastructure.

874. Similarly, we recommend amendment to delete assessment criteria recommended by Mr Bryce related to activities affecting electricity sub-transmission lines, reflecting our recommendation as above, that this not be the subject of a separate rule. We have made other more minor amendments to Mr Bryce's recommended assessment criteria to cross reference our recommended revisions to the policies and rules.

875. We consider that Mr Bryce's recommended assessment criteria for the Jacks Point Zone need amendment to reflect deletion of the rule related to subdivisions in the FP-1 area. As discussed in section 5.10 above, we recommend that most of the 'assessment criteria' recommended by Mr Bryce be returned to what is now section 27.3.7.

876. We also recommend use of the defined term "*Structure Plan"* that we have suggested to the Stream 10 Hearing Panel rather than seeking to describe all of the various plans of similar ilk.

877. Where we have recommended deletion of location-specific rules as above (or where they have been deleted by the Stage 2 Variations), we have not included assessment criteria Mr Bryce has suggested related to those rules.

878. Lastly, we have inserted a new set of assessment criteria recommended by the Stream 12 Hearing Panel in relation to the new Controlled Activity rule discussed above, applying to the West Meadows Drive area.

879. The end result, however, is that recommended Section 27.9 contains a set of assessment criteria that in our view will assist implementation of the objectives and policies and is the best way to implement those policies.

8.8 Notification

880. Turning to notification issues, this was dealt with in notified Section 27.9. As a result of the reorganisation of the Chapter, the parallel provisions are in Section 27.10 of our recommended version of the Chapter.

881. Relevant submissions included:
   a. A request that all subdivisions in the Lake Hawea area be notified[307];
   b. Deletion of provision creating potential for notification where an application site adjoins a state highway[308];
   c. Insertion of a requirement for restricted discretionary and discretionary subdivisions in the (now) Lower Density Suburban Residential Zone to be supported with affected party approval before they are considered on a non-notified basis[309];
   d. Addition of the Ski Area Sub-Zone as an additional category of non-notified applications[310];

307 Submission 272
308 Submission 275
309 Submission 427 and 406: Opposed in FS1261
310 Submissions 613 and 610

e. Addition of subdivision of sites within the Queenstown or Wanaka Airport air noise boundaries within the category of applications that are potentially notified[311];
f. Provision for notification where there is a need to assess natural hazard risk[312].

882. Mr Bryce recommended that consequent on his recommended amendments to the rules, the scope of applications that are directed not to be notified or limited–notified should be revised and limited to controlled activity boundary adjustments and to controlled and restricted discretionary activities, but that otherwise, the submissions on this part of the Chapter should be rejected.

883. Addressing the specific points of submission, Mr Bryce recommended rejection of Submission 272 on the basis that in cases to which renumbered Section 27.10.1 did not apply, notification would be addressed on a case by case basis[313]. We agree with Mr Bryce's recommendation. While, as the submission notes, public notification provides a public consultation process, the presumption in favour of notification has been removed from the Act and we have seen no evidence that would suggest that the costs of notification in every case, irrespective of the nature and scale of any environmental effects, is matched by the benefits of doing so.

884. As regards Submission 275, Mr Bryce recommended rejection of the submission, noting that it perpetuated an existing provision under the ODP and had the effect only of ensuring notification would be assessed on a case by case basis where sites adjoin or have access to a state highway. We agree with Mr Bryce's reasoning. Given the policy provisions related to reverse sensitivity effects on regionally significant infrastructure, we consider it is appropriate that notification decisions be assessed on their merits in this instance. However, the way in which these provisions have been reframed means that we categorise the submission as 'Accepted in Part'.

885. Mr Bryce recommended rejection of submissions 427 and 406 regarding subdivisions in the Low Density Residential Zone. In his view, a case by case assessment for subdivision applications not falling within the general provisions of renumbered Rule 27.10.1 was appropriate. We note also that Mr Bryce's recommended revisions to this section would have the result of accepting the submissions in part because discretionary applications within the (now) Lower Density Suburban Residential Zone would not fall within the general no notification rule. The submitters in this case did not appear to provide evidence as to why the renamed Lower Density Suburban Residential Zone should be treated differently to the balance of zones in the Plan, or to provide us with evidence as to the balance of costs and benefits were their relief to be accepted. In these circumstances, we agree with Mr Bryce's recommendation and recommend that the submissions be rejected.

886. Mr Bryce discussed the submissions seeking an exemption for subdivisions within the Ski Area Sub-Zones in somewhat greater detail in his Section 42A Report[314]. In his view, there is the potential for subdivision within the Ski Area Sub-Zones to create arbitrary lines within sensitive landscape settings and accordingly, a need for the effects of subdivision in the Sub-Zone to be considered on a case by case basis.

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311 Submission 433: Opposed in FS1097 and FS1117

312 Submission 798

313 While this has changed since the hearing (with effect from 18 October 2017) with enactment of the Resource Legislation Amendment Act 2017, the transition provisions (refer section 12 of Schedule 12 of the Act) direct that the PDP First Schedule process must be completed as if the 2017 Amendment Act had not been enacted.

314 Section 42A Report at 23.4

887. Mr Ferguson gave planning evidence on behalf of the submitters. He noted that Mr Bryce's position appeared to be related to the issues surrounding the status of a subdivision within the Ski Area Sub-Zones. As already noted, Mr Ferguson gave evidence supporting controlled activity status for such subdivisions which, if accepted, would have had the effect of bringing such subdivisions within the ambit of the non-notification rule.

888. Mr Ferguson did not explore the position should we recommend (as we have done) that discretionary status for subdivisions within the Sub-Zone be retained.

889. We agree that there is a linkage between these matters. The same considerations that have prompted us to recommend rejection of the broader submissions on the status of subdivisions within Ski Area Sub-Zones suggest to us that notification decisions should be assessed on a case by case basis rather than being predetermined through operation of a non-notification rule.

890. In summary, we agree with Mr Bryce's recommendation and we recommend rejection of these submissions.

891. Mr Bryce also recommended rejection of the submission by Queenstown Airport Corporation seeking an exception for activities within the defined noise boundaries around Queenstown and Wanaka Airports.

892. In his opinion, the amendments to the PDP recommended to address potential reverse sensitivity effects on the Airport meant that those issues were already appropriately addressed. Mr Bryce noted in this regard that subdivisions in the vicinity of Wanaka Airport would in most circumstances be a discretionary activity anyway and accordingly could be notified on that basis. He invited QAC to respond to this matter at the hearing[315]. When QAC appeared before us, its Counsel advised that Ms O'Sullivan (the submitter's planning adviser) agreed that the relief sought was unnecessary and that the submitter no longer pursued the submission. Accordingly, we need take that particular point no further.

893. As regards the submission of Otago Regional Council[316], this poses a practical difficulty given that (as discussed in greater detail in Report 14) virtually every property in the District is subject to some level of natural hazard. We therefore have difficulty understanding how the submission could be granted other than by requiring notification of every application the Council receives. This would have obvious cost implications. ORC did not appear to suggest how its submission could practically be addressed and provided no section 32AA analysis upon which we could rely. Accordingly, we recommend the Regional Council's submission be rejected.

894. Considering the detail of Mr Bryce's recommendations, we consider that his recommended Rule 27.10.1 requires further amendment to be clear that boundary adjustments falling within Rule 27.5.4 fall outside the non-notification rule (presumably the reason why he suggested that specific reference be made to controlled activity boundary adjustments).

895. In addition, we do not think it is necessary to make specific reference in 27.10.2 to archaeological sites or listed heritage items, or to discretionary activities within the Jacks Point Zone. Consequent on Mr Bryce's recommended focus of the non-notification rule on

315 Refer Section 42A Report at 23.5.

316 Submission 798

controlled and restricted discretionary activities, those activities automatically fall outside the rule in any event.

896. We also think that the reference to the National Grid Line might be simplified, just to cross reference Rule 27.5.10.

897. Lastly, the existing reference to the Makarora Rural Lifestyle Zone can be deleted, consequent on the Stream 12 Hearing Panel's recommendation to rezone that land Rural.

898. More generally, while improved by Mr Bryce, we found the drafting of these provisions to be quite convoluted, with an initial rule, followed by two separate sets of exceptions. We think it can be simplified further.

899. In summary, we recommend that notified Section 27.9 be renumbered 27.10 and amended to read:

"Applications for all controlled and restricted discretionary activities shall not require the written approval of other persons and shall not be notified or limited notified except:

a. where the site adjoins or has access onto a State Highway;
b. where the Council is required to undertake statutory consultation with iwi;
c. where the application falls within the ambit of Rule 27.5.4;
d. where the application falls within the ambit of Rule 27.5.10 and the written approval of Transpower New Zealand Limited has not been obtained to the application.

8.9 Section 27.10 – Rules – General Provisions

900. Notified Section 27.10 was entitled "*Rules – General Provisions"*. The first such provision related to subdivisions with access onto State Highways. NZTA[317] made some technical suggestions as to how this rule should be framed that Mr Bryce recommended be accepted. We concur. The only additional amendment that we would recommend relates to the cross reference to the Designations Chapter. We consider that this should, for clarity, record that the designations chapter notes sections of State Highways that are limited access roads as at the date of notification of the PDP (August 2015).

901. The second general provision relates to "*esplanades".* The only submission on it[318] suggested correction of an internal cross reference. Mr Bryce recommended that that submission be accepted.

902. For our part, in addition to that correction, we think that both the heading and text of this rule would more correctly refer to esplanade reserves and strips rather than "*esplanades"*. We regard this as a minor matter falling within Clause 16(2).

903. Thirdly, consequent on the concern expressed to us by representatives of Aurora Energy Limited that the general public are not familiar with the legal obligations arising under the New Zealand Electrical Code of Practice for electrical safe distances, we consider it would be helpful if the existence of this Code of Practice were noted at this location.

904. Lastly, we consider that the heading of this section is incorrect. Mr Bryce agreed that they are not rules and suggested that the title might better be "G*eneral Provisions"*. For our part, we consider that "A*dvice Notes"* better captures the character of the provisions in question given

317 Submission 719
318 Submission 809

that they are in the nature of advice and are not intended to have independent regulatory effect.

905. In summary, therefore, we recommend that notified Section 27.10 be renumbered 27.11 and amended to read:

"Advice Notes

27.11.1 State Highways
Attention is drawn to the need to obtain a Section 93 notice from New Zealand Transport Agency for subdivisions with access onto State Highways that are declared Limited Access Roads (LAR). Refer to the Designations Chapter of the District Plan for sections of State Highways that are LAR as at August 2015. Where a designation will change the use, intensity or location of the access on the State Highway, subdividers should consult with the New Zealand Transport Agency.

27.11.2 Esplanade Reserves and Strips
The opportunities for the creation of esplanade reserves or strips are outlined in the objective and policies in Section 27.2.6. Unless otherwise stated, section 230 of the Act applies to the standards and process for creation of esplanade reserves and strips.

27.11.3 New Zealand Electrical Code of Practice for Electrical Safe Distances
Compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP34:2001) is mandatory under the Electricity Act 1992. All activities regulated by NZECP34:2001 including any activities that are otherwise permitted by the District Plan must comply with this legislation."

8.10 Section 27.12 – Financial Contributions

906. Notified Section 27.12 related to financial contributions. The only submissions on it supported the existing provisions, although Submission 166 queried the title. Mr Bryce did not recommend any change to it other than to alter the heading to read:

"Development and Financial Contributions"

907. We agree with that suggestion.

8.11 Section 27.13 – Structure Plans

908. Notified Section 27.13 contained the Ferry Hill Rural Residential Subzone Concept Development Plan and the Kirimoko Block Structure Plan. The only submissions on it supported the existing provisions. The Stage 2 Variations propose deletion of the Ferry Hill document. For our part, for the reasons discussed earlier, we consider that a copy of the other "*Structure Plans"* contained in the PDP and referenced in the objectives, policies and rules of Chapter 27 should be contained here. Accordingly, we recommend that the Structure Plans for the Jacks Point, Waterfall Park, Millbrook Resort, Coneburn Industrial Zones and West Meadows Drive (the latter two consequential on recommendations from the Stream 13 and Stream 12 Hearing Panels respectively) be inserted in this section of the Chapter.

909. We also recommend the section be labelled "Structure Plans".

8.12 Conclusions on Rules

910. Having considered all of the rules and other provisions of the PDP discussed above, we are of the belief that individually and collectively, the rules and other provisions recommended are the most appropriate provisions to implement the policies of Chapter 27 and thereby achieve the objectives both of Chapter 27 and, to the extent they are relevant, the objectives of the strategic chapters of the PDP.

9. SUMMARY OF RECOMMENDATIONS TO OTHER HEARING STREAMS

911. We also record that during the course of our deliberations, we determined that it would assist implementation of Chapter 27 if the definitions in Chapter 2 were amended in two respects:

a. Deletion of the existing definition of "*community facilities"* (refer Section 4.3 above)

b. Inclusion of a new definition of the term "Structure Plan" as follows:

"Structure Plan means a plan included in the District Plan, and includes Spatial Development Plans, Concept Development Plans and other similarly titled documents." (refer the discussion at Section 8.7 above).

912. These are matters for the Hearing Panel considering submissions on the definitions (Stream 10) to consider.

10. SUMMARY OF RECOMMENDATIONS

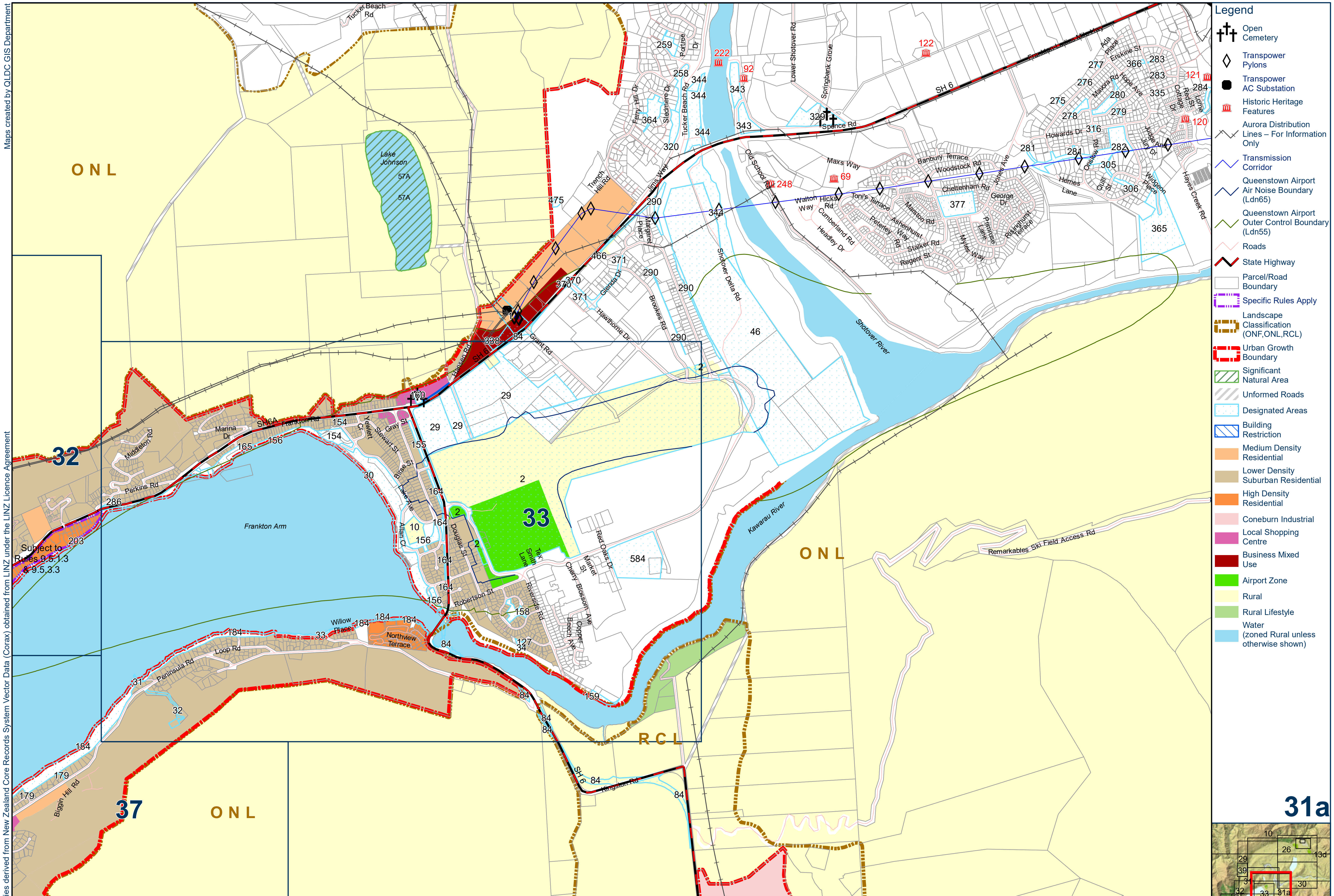
913. As already noted, we have attached our recommended version of Chapter 27 as a clean document in Appendix 1.

914. Appendix 2 contains our recommendations in respect of submissions in tabular form.

915. In addition, in the course of this Report, we have made a number of other recommendations for consideration of the Council. These are detailed in Appendix 3.

For the Hearing Panel

Denis Nugent, Chair
Dated: 4 April 2018



Maps created by QLDC GIS Department

Parcel boundaries derived from New Zealand Core Records System Vector Data (Corax) obtained from LINZ under the LINZ Licence Agreement

QUEENSTOWN LAKES DISTRICT COUNCIL

PDP Decisions Version Map 31a - Queenstown Airport

0 0.5 1 Km

Date Published: 18-Apr-18

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report 17-6

Report and Recommendations of Independent Commissioners
Regarding Mapping of Frankton, Lake Johnson, Tucker Beach Road

Commissioners
Denis Nugent (Chair)
Jan Crawford
David Mountfort

PART C: FRANKTON NORTH – CENTRAL AND EAST

Submitters: **S Spence (Submission 8), Ian & Dorothy Williamson (Submission 140), Universal Developments Limited (Submission 177), S & J McLeod (Submission 391), P & M Arnott (Submission 399), Otago Foundation Trust Board (Submission 408), Jandel Trust (Submission 717), Hansen Family Partnership (Submission 751), FII Holdings Limited (Submission 847)**

Further Submissions

FS1270 Hansen Family Partnership – support 399, 408, 717, 847, oppose 8
FS1029 Universal Developments – oppose 8, 717
FS1061 Otago Foundation Trust Board – support 399, 851, oppose 8, 717
FS1062 Ross Copeland – oppose 717
FS1195 Jandel Trust – support 751, 847, oppose 8, 391
FS1271.12 Hartell Properties Ltd and Others
FS1167 P & M Arnott -support 717, 751, oppose 8, 408
FS1340 Queenstown Airport Corporation – oppose 399, 408, 717, 751
FS1092.9 New Zealand Transport Agency – oppose 408, 717, 751
FS1077 Board of Airline Representatives – oppose 399, 717, 751, 847
FS1189 FII Holdings Ltd – support 717, oppose 8, 391

7. PRELIMINARY MATTERS

7.1. Subject of Submissions

53. These submissions related to an area of approximately 28 ha north of the SH6 at Frankton, as shown on Figure 6-1 above, which is reproduced below as Figure 6-3 for convenience. Note that some of the submissions include the Grant land (submission 455) at the south western tip of the strip which has been discussed separately above.

7.2. Outline of Relief Sought

54. The submissions requested a wide range of alternative zonings ranging from rural, through to all forms of residential, business and industrial.

55. Other submissions sought amendments relating to various PDP provisions affecting the lands requested to be rezoned.

7.3. Description of the Site and Environs

56. The land is mostly used for small-scale rural activities, with some houses and an engineering workshop, scattered trees and some shelter belts. It contains flat lands along SH6, terraces and the lower slope of Ferry Hill. Two substations, belonging to Transpower and Aurora Energy, are located part way along the strip.

57. To the south across SH6 is the Queenstown Events Centre, the Five Mile development and Glenda Drive industrial area. To the north the land rises steeply to Ferry Hill.

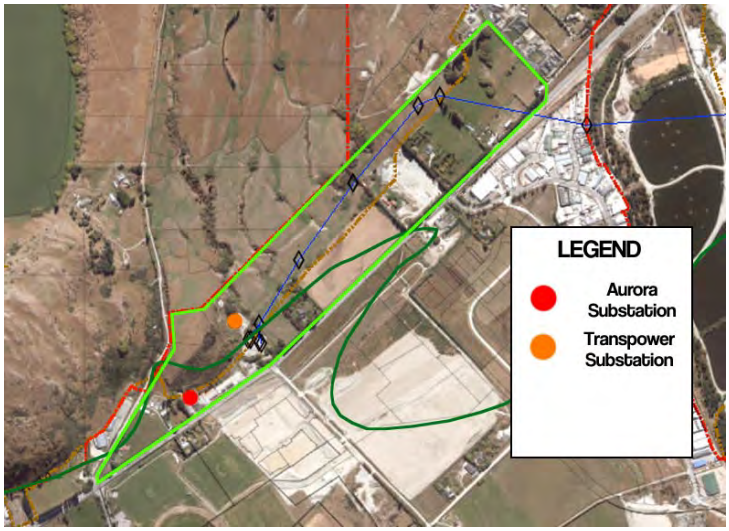


Figure 6-3 – the submission site

7.4. The Case for Rezoning

58. Figure 6-4 below shows the location of the properties of various submitters. Note that the Otago Foundation has an interest in the Hansen Family Trust land where it proposes to build a church complex. The Grant property discussed above is also shown.

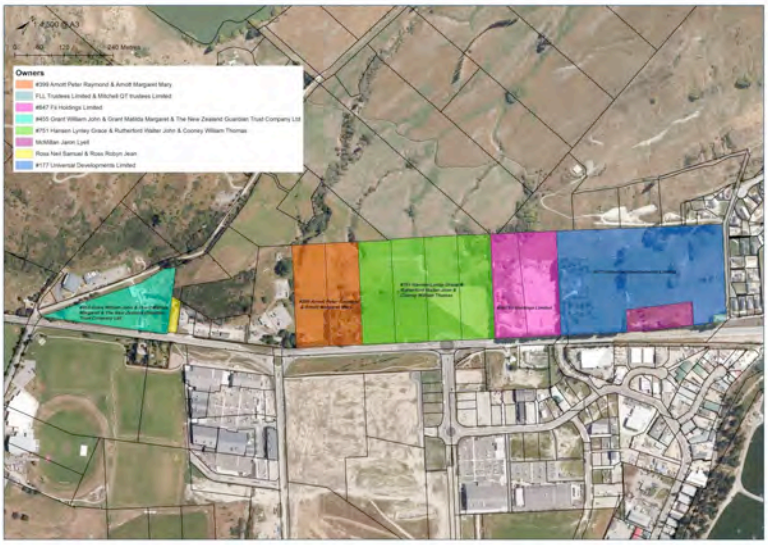


Figure 6-4 – Landowner submitters properties

59. The case for the landowners was presented by Mr Warwick Goldsmith, legal counsel, with evidence from Mr James Bentley, landscape architect, Mr Andy Carr, traffic engineer and transport planner, and Mr Chris Ferguson, planner.

60. Briefly, the extensive range of alternative zonings requested by the submitters was narrowed down at the hearing to a request for BMUZ across all the properties, along with a request for relocation of the ONL to the uphill boundaries of the properties.

61. In opening Mr Goldsmith submitted that that the planning complexities of the site culminate in a particular planning environment which is of relatively low amenity (at least in part), is suited to a range of potential mixed use options, and which should be maximised in the most efficient way in light of its proximity to developed land, particularly given the Site's ability to

contribute to the District's foreseeable shortage of feasible commercial capacity and to the demand for centrally located residential land.

7.5. Landscape

62. Mr Bentley challenged the location of the ONL across the site, stating that it was based purely on the boundary between the flat land/terraces at the base of Ferry Hill, and the slopes of Ferry Hill itself which he regarded as too simplistic an approach, because of the cultural overlays present on the site. These include electricity substations, the National Grid power pylons, houses, tracks, shelter belts, a water race, a reservoir, grazed land a recently approved 4 lot rural residential subdivision all within the ONL. He said that all of this is influenced by the close proximity of SH6 and the adjacent mixed use developments on Frankton Flats south of SH6, which have an influence on the naturalness of the area which is a key consideration in the classification of the landscape. He recommended that the ONL boundary be set at a water race which traverses across the face of Ferry Hill a little above the flat area. He said that although the lands immediately adjacent to the water race were not significantly different from each other, land use activities are more strongly present below the water race and human influence is more prevalent.

63. In his legal submissions Mr Goldsmith drew our attention to a decision of the Environment Court, *JS Waterston v Queenstown Lakes District Council*[13] which discusses principles applicable to the setting of ONL boundaries in a case at Ferry Hill. The Court said that there

"….there are four circumstances that suggest that the topographical should give way to a recognition of the realities of the situation."

64. In summary, the Court's four circumstances are:
    a. The presence of existing buildings in the landscape,
    b. Whether the naturalness of the land has been affected has been reduced by exotic grasses and trees,
    c. The presence of existing or consented rural residential subdivision adjacent to the site,
    d. The need for a practical boundary.

65. Mr Goldsmith said all four factors were present in this case.

66. For the Council Dr Read preferred the existing ONL line because it was, in her view, the best and most obvious change in landform, and there was no physical delineator higher up the hill. She did not accept that the water race represented a true change in the landscape character.

7.6. Transport

67. Mr Andy Carr presented transport evidence for the submitters. Accepting that direct access from properties in the block to SH6 would be unsafe and not permitted by NZTA under Limited Access Road legislation, he said that traffic access to the site would have to be largely from a new fourth leg on the Hawthorne Drive/SH6 roundabout, which was designed to allow for this. He said that there is already considerable peak hour traffic at this roundabout, and analysed what level of additional traffic would be possible while still achieving a satisfactory level of service. He calculated peak hour traffic generation from both higher density housing, and business mixed use. The standard he set out to achieve is what is known "Level of Service E" which represents a delay of 50 seconds for an approaching vehicle for any leg of the roundabout. He proposed that in order to achieve the BMUZ zoning which the landowners prefer, it would be necessary to limit traffic generation on the site, which he proposed to do

[13] C169/2000 at page 6

by setting a limit that would allow for each hectare of land to generate 55 vehicle movements (two-way) in the peak hours (that is, 1,430 vehicle movements divided by the 26.1ha of land owned by the group). Development beyond this level would be a restricted discretionary activity to enable developments to be assessed in the light of prevailing conditions at the time.

68. Mr Carr mentioned almost in passing the possibility of a connection being made to the Tucker Beach Rd intersection further to the north east. NZTA is considering a major upgrade to this intersection. However Mr Carr did not rely on that, because trips from the submission sites would mostly be to or from Queenstown or Frankton, and Tucker Beach Rd would be a longer route.

69. For the Council, its transport expert, Ms Wendy Banks said in her Reply evidence that level of Service C would be more appropriate, which would result in an overall limit of 1200 two way vehicles in the peak hour. In her opinion, based on potential full development, the part of the site recommended for BMUZ could exceed the 1200 movements per peak hour without allowing for any contribution for the HDRZ (as recommended by Ms K Banks) portion of the site. She was not comfortable with the movements per hectare regime proposed by Mr Carr, as she thought it would be difficult to calculate and enforce, although accepting that it would allow for a fair distribution of development across the various sites, rather than allowing the earlier developments to claim a disproportionate share of the development. In conclusion, she was comfortable with a mixture of BMUZ and HDRZ on the site, but subject to floor area limits calculated across the whole site.

70. For NZTA, Mr MacColl and Mr Sizemore reiterated the Agency's opposition to any form of business zoning on the north side of SH6 at Frankton, but that it was comfortable with higher density residential forms of zoning provided these had access to an internal roading system and not directly to SH6, and provided also that safe pedestrian facilities are provided across SH6.. They did not comment on the detailed modelling or the trip generation limits discussed by Mr Carr and Ms K Banks.

7.7. Economic Impacts

71. For the Council, Mr Tim Heath, an economist, produced a supplementary statement of evidence as part of the right of reply report. In this he reiterated his concern that additional commercial zoning of this and the Grant land to the west (discussed separately above), a total of 6.85ha of BMUZ could have an adverse effect on the viability of the Franktown town centres such as Five Mile. However he also recognised that there are constraints, such as the OCB and the general undesirability of industrial in this location. He said that if there was to be any commercial zoning then the gross floor area (GFA) or retail) should be limited, but did not say by how much.

7.8. Planning

72. For the submitters, Mr Ferguson discussed various options for the zoning of the sites. With regard to the Rural Zone, he said that this should not be a repository for sites that are otherwise too difficult but in itself needs to be justified as being the best fit with the objectives and policies of the PDP. He said that the BMUZ zoning would be the most appropriate in achieving the range of objectives dealing with the role of Frankton, urban growth, protection of the airport, and landscape values. He accepted that it would be appropriate to apply some specific rules to the BMU zoning to recognise the relevant constraints and ensure appropriate management of effects. New rules were proposed to restrict activities within the OCB, ensuring appropriate acoustic insulation for sensitive activities close to the State Highway and managing vehicle access to protect the function of the State Highway.

73. He also proposed a 20 metre wide setback from SH6 for maintenance of the visual amenity of this approach to Queenstown except at the eastern end of the site where the road descends to the Shotover River and cuts into the terrace landform. He said that this did not need to be the same as the 50m setback on the southern side of SH6 because that was designed to relate to building heights there and to preserve views to the Remarkable Mountains. He considered 20 m to be sufficient for visual amenities and would also provide opportunities for possible future road widening and installation of roadside services.

74. He acknowledged that a concern for BMUZ would be whether this would create an oversupply of commercial land and have the potential to detract from the viability of other town centres, particularly at Frankton. He discussed the economic evidence for the Council by Mr Phil Osborne, who said that there were currently 46.8 ha of vacant zoned commercial land in the Wakatipu Ward and that this would not be sufficient in the long term, resulting in a predicted shortfall of 16 ha by 2048. Mr Ferguson considered that although Mr Osborne had identified potential economic risks from an oversupply of land over the sort to medium term, these were only potential risks not established outcomes.

75. After the hearing, in her Reply evidence, Ms K Banks changed her position and recommended that the western end of the block (as well as the Grant land) be zoned BMUZ, with the balance outside the ONL, as recommended by Dr Read, as HDRZ, along with amended provisions addressing the various issues particular to the sites. The BMUZ portion would correspond to those parts of the properties affected in part by the OCB. She did this recognising the unsuitability of any rural zoning, avoiding issues in the OCB and keeping the business portion small enough to avoid significant economic effects on the town centres.

76. For the Otago Foundation Trust Board, Ms Alyson Hutton, a planner gave evidence in support of the Foundation's submission supporting the Council's originally proposed MDR zoning, and opposing the then recommendation in Ms K Banks' original Section 42A Report which recommended reverting the zoning west of the Hawthorne Drive roundabout to Rural. In particular, she considered the suggested Rural Zone could not be justified on its own merits and was simply a default zoning in the absence of anything else. She pointed out that the residential component of the church complex the Foundation proposed to build would be outside the part of the site within the OCB.

77. Mr Sean Mcleod gave brief evidence in support of the submission by S and J Mcleod[14]. They are not landowners in the block, but are residents of Queenstown with a keen interest in the hierarchy of zoning in Queenstown. Mr Mcleod said it was inappropriate to have higher density zoning on the outskirts of Queenstown; rather the highest densities should be at the centre. He did not believe the site suitable for either medium or high density. He preferred increasing the density of existing urban areas rather than continuing to spread into rural areas.

78. Stephen Spence[15] did not provide evidence in support of his submission. His submission sought to remove the proposed MDRZ and retain rural zoning on the land. He stated that any development should be sympathetic to the style of development in the Quail Rise Zone. Mr Spence considered this area to be an important landscape in regard to the entranceway to Queenstown and was concerned that any development at MDR level would impinge on the amenity values of Quail Rise residents and increase the traffic in Quail Rise. Other submitters

[14] Submission 391

[15] Submission 8

seeking to reduce the density in this location included Ian and Dorothy Williamson[16], who sought rezoning to LDRZ, although presented no evidence in support of that part of their submission.

8. DISCUSSION OF PLANNING FRAMEWORK

8.1. Airport

79. Strategic Chapters 3 and 4 contain a number of objectives and policies that are designed to allow the airport to operate successfully without constraints due to the need to protect the sensitive activities from airport from airport noise

80. Policy 3.3.5 is to

3.3.5 Policy
Recognise that Queenstown Airport makes an important contribution to the prosperity and resilience of the District.

81. In support of this is a group of policies in Chapter 4 which provide

4.2.2.15 Ensure appropriate noise boundaries are established and maintained to enable operations at Queenstown Airport to continue and to expand over time.

4.2.2.16 Manage the adverse effects of noise from aircraft on any Activity Sensitive to Aircraft Noise within the airport noise boundaries while at the same time providing for the efficient operation of Queenstown Airport.

4.2.2.17 Protect the airport from reverse sensitivity effects of any Activity Sensitive to Aircraft Noise via a range of zoning methods.

4.2.2.18 Ensure that Critical Listening Environments of all new buildings and alterations and additions to existing buildings containing an Activity Sensitive to Aircraft Noise within the Queenstown Airport Air Noise Boundary or Outer Control Boundary are designed and built to achieve appropriate Indoor Design Sound Levels.

82. A strip of land adjacent to SH6 is within the Queenstown Airport OCB and was zoned Rural when notified. The OCB provisions are intended to discourage Activities Sensitive to Aircraft Noise (ASAN) from being established or manage the adverse effects of airport noise.

83. Establishment of ASAN is prohibited in the Rural Zone. Potential residential zones for the site include the LDR, MDR or HDRZ. In these zones, the establishment of ASAN is not prohibited, but it is discretionary in the LDRZ and there are requirements to ensure satisfactory indoor noise environments in all these zones. We note that at the time of notification, there was no MDR or HDR zoning within the OCB.

84. The Local Shopping Centre (LSCZ) and Business Mixed Use Zones (BMUZ), which are the zones which would achieve that aspect of the relief seeking commercial activities, require acoustic insulation for critical listening environments (including residential activities and visitor accommodation) to limit the potential for reverse sensitivity effects on Queenstown Airport for buildings within the Queenstown Airport Outer Control Boundary.

[16] Submission 140

8.2. Landscape

85. Strategic objectives and policies in Chapters 3 and 6 require the identification of ONL's and ONF's and their protection from more than minor or temporary adverse effects.[17]

86. As notified the Landscape classification line bisected most of the sites, with the lower flatter lands nearest SH6 outside it and the slopes up to the property boundaries within the ONL, even though they were zoned MDR. We note that there are no rules in Chapter 8 which would impose any additional controls on MDR land within an ONL.

8.3. Urban Growth

87. The site is within the Urban Growth Boundary as shown on the planning maps. Relevant Objectives and Policies in Strategic Chapter 4 include;

Objective 4.2.1
Urban Growth Boundaries used as a tool to manage the growth of larger urban areas within distinct and defendable urban edges.

Objective 4.2.2A
A compact and integrated urban form within the Urban Growth Boundaries that is coordinated with the efficient provision and operation of infrastructure and services.

Policies

4.2.1.1 Policy
Define Urban Growth Boundaries to identify the areas that are available for the growth of the main urban settlements.

4.2.1.4 Policy
Ensure Urban Growth Boundaries encompass a sufficient area consistent with:

- *a. the anticipated demand for urban development within the Wakatipu and Upper Clutha Basins over the planning period assuming a mix of housing densities and form;*
- *b. ensuring the ongoing availability of a competitive land supply for urban purposes;*
- *c. the constraints on development of the land such as its topography, its ecological, heritage, cultural or landscape significance; or the risk of natural hazards limiting the ability of the land to accommodate growth;*
- *d. the need to make provision for the location and efficient operation of infrastructure, commercial and industrial uses, and a range of community activities and facilities;*
- *e. a compact and efficient urban form;*
- *f. avoiding sporadic urban development in rural areas;*
- *g. minimising the loss of the productive potential and soil resource of rural land.*

4.2.2.3 Policy
Enable an increased density of well-designed residential development in close proximity to town centres, public transport routes, community and education facilities, while ensuring development is consistent with any structure plan for the area and responds to the character of its site, the street, open space and surrounding area.

[17] See objective 3.2.5. and Policies 3.2.5.13.3.29, 3.3.30 and 6.3.11

4.2.2.4 Policy

Encourage urban development that enhances connections to public recreation facilities, reserves, open space and active transport networks.

4.2.2.12 Policy

Ensure that any transition to rural areas is contained within the relevant Urban Growth Boundary.

8.4. Transport

88. Although Chapter 29 Transport has been notified, it is too early in the submission process for us to give any weight to the objectives and policies in that chapter. However, Objective 4.2.2A above is relevant as transport and roading is one aspect of infrastructure that needs to be provided and operated efficiently.

89. A very small portion of the site is within the ONL. Strategic objectives and policies in Chapters 3 and 6 require the identification of ONL's and ONF's and their protection from more than minor or temporary adverse effects.[18]

8.5. Economic Impacts

90. Relevant objectives and policies from Chapter 3 include

3.2.1 The development of a prosperous, resilient and equitable economy in the District.

……..

3.2.1.3 The Frankton urban area functions as a commercial and industrial service centre, and provides community facilities, for the people of the Wakatipu Basin.

…….

3.2.1.5 Local service and employment functions served by commercial centres and industrial areas outside of the Queenstown and Wanaka town centres , Frankton and Three Parks, are sustained.

3.2.1.9 Infrastructure in the District that is operated, maintained, developed and upgraded efficiently and effectively to meet community needs and to maintain the quality of the environment.

9. ISSUES

a. Landscape

b. Airport

c. Road noise

d. Transport

e. Economic effects

f. Setbacks

[18] See Objective 3.2.5.1 and Policies 3.3.29, 3.3.30 and 6.3.11

10. DISCUSSION OF ISSUES AND CONCLUSIONS

10.1. Landscape

91. We have received very different opinions from Dr Read and Mr Bentley regarding the location of the ONL. Dr Read has taken the topographical approach and therefore supported the location that was notified, generally at the base of the slope. Mr Bentley took an approach which recognised physical and cultural modifications of the landscape and recommends placing it along the water race which traverses the hillside above the properties. He acknowledged that this was only an approximation of the transition from the more modified lands below the water race and the more natural lands above it.

92. We consider that there is some merit in the cultural modification approach. However we do not think the water race is a particularly suitable boundary.

93. When Ferry Hill is viewed from the highway corridor or nearby, most of it is not visible. The upper slopes are cut off by intervening topography and the skyline is quite low. The water race actually crosses this skyline. We do not think an ONL boundary should cross the skyline when seen from such a well-used location. It needs to be well below the skyline in this location. Ferry Hill is able to be viewed as a whole from further away, for example from the lower parts of Shotover County, but from that distance, the modifications to the landscape appear near the of bottom of the hill and are relatively minor in their visual impact.

94. We are unable to pinpoint an exact location where the higher and more natural landscape merges into the lower, culturally-modified landscape. We accept Mr Goldsmith's interpretation based on the *Waterston* decision discussed earlier and consider that in this location a "practical boundary" would be appropriate. The suggestion of using the water race could have been a practical boundary, but only works from distant viewpoints. The only other readily identifiable feature in this vicinity is the uphill boundary of the submission properties. We have therefore decided to adopt that as the ONL boundary in this location. We note that this will be at a very similar elevation to the houses on Trench Hill Rd at Quail Rise, adjacent to the submission sites. We note also that, other than the land that was zoned Rural when the PDP was notified (that is the Transpower site and the land west of it), moving the Landscape Classification line to the property boundaries will have no practical effect on protecting the ONL as the notified MDR zoning provided no protection in any event. We further note that this altered position corresponds to the notified UGB (which no submission sought to be altered).

10.2. Airport

95. As shown on Figure 6-3, some of the land in this group is within the OCB. QAC submitted strongly against residential use of this land. This could be resolved by zoning the land for a commercial activity, which could be BMUZ without the residential component. NZTA's evidence was firmly against BMUZ because of high traffic generation and consequent effect on SH6, and it preferred MDR because of its lower traffic generation. The Council's evidence on this was ambivalent in the end, with the economist Mr Heath concerned about the potential impact on the vitality of the Frankton centres unless the floor area was limited in some way, but recognising the inherent difficulties in finding a suitable zone for the OCB affected lands. In her Reply evidence, Ms Kim Banks recommended zoning the OCB-affected properties BMUZ from SH6 to the ONL line, rather than to the property boundaries as requested by the submitters. This would partly meet Mr Heath's concerns, as it would be a smaller area than proposed by the submitters and would therefore result in a lesser amount of floor area.

96. We have decided to accept Ms Banks' solution, in a slightly modified form. As we are also recommending altering the ONL location we do not propose to use that notified line as a boundary. We consider that there could be a BMUZ zone on the Arnott and Hansen Family Trust properties, which are the ones affected by the OCB, for a depth of 90 metres back from SH6, which we estimate would be sufficient for a double row of BMUZ activities with an internal access road between. We note that a number of the sites in the existing BMUZ zone at Gorge Road are approximately this depth.

10.3. Transport

97. Development of any sites will need to be prevented until a new road is constructed to a "fourth leg" off the Hawthorne Drive Roundabout. In addition, subdivision of sites should ensure that adequate access it provided throughout the area to this connection point.

10.4. Economic Effects

98. We understand the concern of Mr Heath, given that both he and Mr Osborne, who also gave economic evidence for the Council, said that there is at present adequate zoned commercial land in Queenstown for the short to medium term, although in the longer term, after 2038 there could be a shortage developing. However, this is a relatively small area[19] of land that we are proposing for rezoning, and due to the proposed roading upgrades it will be a number of years before it can come to the market. Economic modelling is not an exact science. We are satisfied that this will achieve the objectives and policies of the PDP cited above relating to the development of the economy and functioning of town centres.

10.5. Balance of the sites

99. The balance of the sites, which are outside the OCB should remain MDRZ in our opinion, rather than HDRZ recommended by Ms K Banks. This is for two reasons. Firstly, MDRZ would provide a better transition to the Rural land which would commence at the property boundaries slightly above the bottom of Ferry Hill. Secondly we do not think that the site would not really provide good alternative access to nearby commercial and employment centres by pedestrians, cyclists and public transport, as the zone purpose for HDRZ suggests, even after the installation of safe crossing points. Further, the nearest centre, which is Five Mile, does not provide a full range of commercial, community and social facilities in any case.

10.6. Setbacks

100. In the end both Ms Banks and Mr Ferguson recommended a 20m setback along most of the frontage of these sites, in the form of a Building Restricted Area. This was said to be for visual amenity, and also to allow for future road widening and underground services. We note that NZTA already has a widening project under consideration and has not moved to designate land for this purpose, although it remains able to do so. We are not convinced of any landscape or amenity need for such a wide setback and did not receive any expert evidence on that.

101. Ms Banks proposed a 6m setback from Ferry Hill Drive, but we understood that was to create a buffer between the relatively low density of the ODP Quail Rise Special Zone and the higher density allowed by the HDRZ. Such a setback was not included in the notified rules for the MDRZ and, even if we considered it necessary, which we do not, we doubt that there is scope to apply such a setback in the MDRZ.

10.7. Road Noise

102. NZTA is concerned that residents would be adversely affected by road noise from SH6 which is a very busy road in this vicinity. Ms Banks proposed that it be dealt with by rules requiring

[19] We estimate it as a little less than 3 ha in this part of Frankton North.

mechanical ventilation and an Indoor Sound Design Level so that residents would have a satisfactory indoor noise environment. We accept that this is an appropriate response to the issue. We note that recommended Rule 8.5.2 requires sound insulation for activities sensitive to road noise within 80m of any State Highway. We are satisfied that rule will provide adequate noise attenuation for residential activities.

10.8. Recommended Amendments to Chapters 8, 16 and 27

103. Submissions on particular provisions in Chapter 8[20] relating to this land were deferred to be dealt with by this Hearing Stream. Ms Banks recommended an amended version of Rule 8.5.3 be inserted into Chapter 9 consistent with her initial recommendation that much of the land be zoned High Density Residential.

104. In addition, a number of submission points from NZTA (719), Otago Foundation Trust Board (408 and FS1061), Peter and Margaret Arnott (399) and FII Holdings Ltd (847) relating to the PDP provisions other than zoning affecting these sites were referred to us from the Stream 8 Hearings Panel.

105. As we have discussed above, with the zoning approach we recommend, we also recommend amendments to Chapters 8, 16 and 27 to deal with the specific issues raised with the zoning of this land. We set out the recommended changes in full in Appendix 1. In summary they are:

a. Chapter 8:
    i. insert a new policy dealing with the effects of stormwater discharges on SH6 (Policy 8.2.8.2);
    ii. insert two new policies dealing with external and internal roading, pedestrian and cycling connections (Policies 8.2.8.8 and 8.2.8.9);
    iii. insert a revised matter of discretion for the erection of 4 or more residential units in this area (Rule 8.4.10);
    iv. revise Rule 8.5.3 to remove the requirement for a traffic impact assessment and to amend the landscaping requirements;
b. Chapter 16:
    i. Insert a new objective and policy specific to this land consistent with Objective 8.2.8 and its policies (Objective 16.2.3 and Policies 16.2.3.1 to 16.2.3.9);
    ii. Include amendments to rules to make Warehousing, Storage and Lock-up Facilities and Trade Suppliers prohibited activities in this part of the BMUZ (Rules 16.4.7 and 16.4.18);
    iii. Insert a rule making Activities Sensitive to Aircraft Noise a prohibited activity within the Queenstown Airport Outer Control Boundary (Rule 16.4.17);
    iv. insert a new standard consistent with Rule 8.5.3 to apply to the BMUZ in this area (Rule 16.5.11);
c. Chapter 27:
    i. Insertion of a new Objective and policies related to ensuring roading access through both the MDRZ and BMUZ in this area (Objective 27.3.11 and Policies 27.3.11.1 to 27.3.11.3);
    ii. Insertion of standards specific to subdivision in this area in MDRZ and BMUZ (Rules 27.7.8.1 and 27.7.8.2).

106. We are satisfied that the combination of objectives recommended are the most appropriate way to achieve the purpose of the Act in this context, while taking into account the higher

[20] Notified Rule 8.5.3

order documents, the Strategic Directions Chapters and the alternatives available to us. The recommended policies are, in our view, the most appropriate way to achieve the policies.

107. For all the reasons set out above, we are satisfied that the rules we recommend are the most effective and efficient means of implementing the policies so as to achieve the objectives of Chapters 8, 16 and 27, and those in the Strategic Directions chapters. Where we have not recommended rules suggested to us, or included in the notified PDP, that is because, for the reasons set out above, we do not consider them to be effective or efficient.

11. RECOMMENDATION ON ZONING

108. For the reasons set out above, we recommend that:
    a. Submission 8 be rejected;
    b. Submissions 140, 177, 391, 399, 408, 717, 751 and 847 and Further Submissions 1270, 1029, 1061, 1062, 1195, 1271, 1167, 1340, 1092, 1077 and 1189 be accepted in part;
    c. The land between Hansen Road and Ferry Hill Drive be rezoned as Business Mixed Use and Medium Density Residential, the location of the Outstanding Natural Landscape boundary be amended, and the Building Restricted Area on the north side of State Highway 6 at Frankton be deleted, as shown on the map in Appendix 2 to this report; and
    d. Chapters 8, 16 and 27 be amended as set out in Appendix 1 to this report.