

**BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL
INDEPENDENT HEARINGS PANEL**

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of submissions to the Stage 1 Proposed Queenstown Lakes District Council Plan by **Trojan Helmet Limited (Submissions 443, 452, 437), Mount Cardrona Station Limited (407), Hogan Gully Farming Limited (456) Ayrburn Farm Estate Limited (430), Kawarau Jet Services Holdings Ltd (307), ZJV (NZ) Limited (343), Queenstown Park Limited (806), Queenstown Wharves Limited (766), Mount Rosa Station Limited (377), Dalefield Trustees Limited (350), Skydive Queenstown Limited (122)**

**STATEMENT OF EVIDENCE OF JEFFREY ANDREW BROWN
ON BEHALF OF VARIOUS SUBMITTERS**

TOPIC 2 CHAPTERS 21, 22, 23, 33

21 APRIL 2016

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1 Introduction

- 1.1 My name is Jeffrey Andrew Brown. I have the qualifications of Bachelor of Science with Honours and Master of Regional and Resource Planning, both from the University of Otago. I am a full member of the New Zealand Planning Institute. I am also a member of the New Zealand Resource Management Law Association. I was employed by the Queenstown Lakes District Council (**QLDC**) from 1992 – 1996, the latter half of that time as the District Planner. Since 1996 I have practiced as an independent resource management planning consultant, and I am currently a director of Brown & Company Planning Group Ltd, a consultancy with offices in Auckland and Queenstown. I have resided in Auckland since 2001.
- 1.2 I have complied with the Code of Conduct for Expert Witnesses contained in the Environment Court Consolidated Practice Note 2014. This evidence is within my area of expertise, except where I state that I am relying on another person, and I have not omitted to consider any material facts known to me that might alter or detract from the opinions I express.
- 1.3 This evidence is on behalf of the following submitters to the Proposed District Plan (**PDP**):
- Trojan Helmet Limited (Submitters 443, 452, 437),
 - Mount Cardrona Station Limited (407),
 - Hogan Gully Farming Limited (456),
 - Ayrburn Farm Estate Limited (430),
 - Kawarau Jet Services Holdings Limited (307),
 - KJV(NZ) Limited (343),
 - Queenstown Park Limited (806),
 - Queenstown Wharves Limited (766),
 - Skydive Queenstown Ltd (122)
 - Mt Rosa Station Ltd (377) ;
 - Dalefield Trustees Limited (350);
- 1.4 I assisted in the preparation of the submissions for all of these submitters except for Queenstown Park Limited, Queenstown Wharves Limited, and Skydive Queenstown Limited who lodged further submissions in support of Trojan Helmet Limited, Mount Cardrona Station Limited, Hogan Gully Farming Limited, Ayrburn Farm Estate Limited, Kawarau Jet Services Holdings Limited, and ZJV (NZ) Limited.

- 1.5 I have read the Section 42A report prepared by Craig Barr. I comment on the report through my evidence.
- 1.6 In this evidence I address the following:
- (a) Chapter 21 – Rural Zone, including the following topic areas:
 - Providing for farming activities and non-farming activities;
 - Surface of water activities;
 - Access to ski areas;
 - (b) Chapter 22 – Rural Residential & Rural Lifestyle Zones;
 - (c) Chapter 23 – Gibbston Character Zone;
 - (d) Chapter 33 – Indigenous vegetation.
- 1.7 I conclude with a discussion of Part 2 of the Act.
- 1.8 The provisions I address are the reworded provisions set out in the revised chapters attached to the Council’s memo of 13 April 2016, not the notified provisions.
- 1.9 In my evidence to the higher order chapters (Chapters 3, 4 and 6) I discussed the use of RMA versus non-RMA language in the PDP. To recap, my view is that RMA language should be the “default” language of the PDP and any non-RMA language should be used sparingly, because RMA language is understood by a wide range of professionals as well as members of the public and that introducing new terms will lead to uncertainty as to meaning and scope and will open the door to litigation about what the terms mean. This is relevant to the Chapter 21 provisions I discuss below.

2 Chapter 21: Rural General Zone

- 2.1 In this section of my evidence I address the Chapter 21 provisions, in three topic areas: providing for farming activities / non-farming activities in the rural zones; surface of water activities; and ski areas.

Providing for farming activities / non-farming activities in the rural zones

Zone Purpose

2.2 The zone purpose, with my proposed modifications, is:

21.1 Zone Purpose

*The purpose of the Rural zone is to enable farming activities **and other activities that rely on rural resources** while protecting, maintaining and enhancing landscape values, nature conservation values, the soil and water resource and rural amenity.*

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

*Ski Area sub zones are located within the Rural Zone. These sub zones recognise the contribution tourism infrastructure makes to the economic and recreational values of the District. The purpose of the Ski Area Sub Zones is to enable the continued development of Ski Area Activities as year round destinations **for ski area, tourism and recreational activities** where the effects of the development ~~would be~~ **are** cumulatively minor. **The importance of providing access to the Ski Areas by passenger lift systems is recognised.***

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

...

2.3 I consider that the modifications are appropriate because:

- (a) In my view the Zone Purpose over-emphasises the importance of farming activities. Farming is one method for utilising rural resources, but its long term economic future, in many rural parts of the District, is uncertain. The statement does not recognise that many other activities require a rural location because they rely on rural resources and may better provide economic wellbeing for landowners and the wider community. Golf courses, ski areas, other recreational activities, and rural living are examples of this. The proposed modifications remedy this by identifying, along with farming, other activities that rely on rural resources and which contribute to the District's well-being.
- (b) Because of the over-emphasis on farming, the Zone Purpose is inconsistent with itself (for example the second and third paragraphs) and other Chapter 3 and Chapter 21 provisions that directly promote diversification of the use of rural resources. Examples are:

- Objective 3.2.1.6, regarding the significant socio-economic benefits of tourism activities across the District;
- Objectives 21.2.9 and allied policies, regarding non-farming activities; and
- Objective 21.2.10 and allied policies, regarding diversification of farms;

(c) The modifications in relation to the Ski Area Sub Zones reflect that these areas are becoming year-round destinations, and that access to them by non-road facilities is recognised. This is addressed further in my discussion of the Ski Area provisions.

2.4 In all other respects I support the zone purpose, including because it recognises that the rural areas of the District contain the lakes and rivers and acknowledges the desire for recreation, commercial and tourism activities within these areas.

Objectives – general discussion

2.5 In my primary evidence to Chapters 3 and 6¹ I set out my view about the inevitability of growth and that it should be accepted and its effects managed appropriately so that current and future generations can continue to enjoy the values that attract growth. To briefly recap, because it has consequences for Chapter 21, I consider that the PDP as notified is too far in the “regulate” direction of the “regulate” → “enable” continuum and that this may frustrate appropriate development, particularly in the rural areas where the PDP gives primacy to farming. I consider that golf courses, ski fields, other commercial recreation, rural living and other activities that are part of the social, cultural and economic fabric of the District should – at the objective and policy level – be promoted more or less equally with farming in recognition of their contribution to economic growth, population growth, and with recognition also of how their effects should be managed.

2.6 Having read Mr Barr’s analysis of how the PDP addresses farming (and permitted and established activities and non-farming activities in the rural areas) I have considered how Chapter 21 should be enabling or disabling activities. My view is that, fundamentally the PDP needs to recognise farming activities as well as non-farming activities that rely on and benefit from rural resources. The key difference is that the PDP identifies:

- that farming, permitted and established activities are generally acceptable in any location and, subject to meeting some development controls, can proceed without consent; and

¹ Evidence of J Brown, Chapters 3, 4 and 6, dated 29 February 2016

- that other activities (non-farming activities including commercial, recreational, tourist, rural living, and so on) may not be acceptable in any particular location and therefore a case by case assessment is required.

2.7 I agree with Mr Barr to that extent, but where I depart from him is the level of enabling for the non-farming group of activities. I consider that many non-farming activities can be absorbed within the rural areas. Given the economic good that non-farming activities in rural areas can bring to the District, and the general doubt about the economic viability of farming activities, I consider that in the PDP non-farming activities should be on an equal footing as farming activities at least to the extent that the objectives and policies encourage and enable them, subject to managing their effects on the environment.

2.8 Accordingly I consider that each group of activities should have a separate objective and set of policies, and that these should be first and second sets of provisions in the batting order of 21.2, as follows:

- First, Objective 21.2.1 and associated policies which enable, as well as regulate as necessary, farming, permitted² and established activities; and
- Second, Objective 21.2.2 and associated policies, which are an aggregated and reconstituted version of the notified Objectives 21.2.9 and 21.2.10, elevated up the batting order so that they are very close in the hierarchy to the farming group. They enable, but also regulate as necessary, the non-farming group of activities. They include some types of activities that, in addition to the enabling and regulating provided by this objective and its policies, require more focussed objectives and policies. This includes, for example, ski area activities and surface of water activities (respectively, Objectives 21.2.7, and 21.2.11, which I address further below).

2.9 In my preferred batting order, these two major activity-related sets of provisions are followed up by the provisions that focus on various regulatory and more focussed enabling aspects, including:

- Objective 21.2.3 and related policies (which relate to the life supporting capacity of soils);
- Objective 21.2.4 and related policies (life supporting capacity of water);
- Objective 21.2.5 and related policies (reverse sensitivities);

² Although I do not consider that “*permitted activities*” is necessary; an objective to “*enable permitted activities*” is superfluous, and I would prefer that the types of activities being enabled are identified

- Objective 21.2.6 and related policies (mineral extraction);
- Objective 21.2.7 and related policies (ski areas);
- Objective 21.2.8 and related policies (airport noise boundaries);
- Objective 21.2.9 and related policies (development constraints);
- Objective 21.2.10 and related policies (informal airports);
- Objective 21.2.11 and related policies (surface of water activities);
- Objective 21.2.12 and related policies (rural industries).

2.10 I now address the key provisions individually.

Objective 21.2.1 and policies

2.11 For Objective 21.2.1 and associated policies I consider that the following modifications are appropriate:

21.2.1	Objective	<i>A range of land uses including farming, permitted and established activities are enabled while protecting, maintaining and enhancing landscape, ecosystem services, nature conservation, and rural amenity values.</i>
	<i>Policies</i>	<p>21.2.1.1 <i>Enable farming activities while protecting, maintaining and enhancing the values of indigenous biodiversity, ecosystem services, recreational values, the landscape and surface of lakes and rivers and their margins.</i></p> <p>21.2.1.2 <i>Provide for Farm Buildings associated with larger landholdings of 100 hectares in area where the while managing the effects of the location, scale and colour of the buildings will not adversely affect on landscape values.</i></p> <p>21.2.1.3 <i>Require buildings to be set back a minimum distance from internal boundaries and road boundaries in order to mitigate potential adverse effects on landscape character, visual amenity, outlook from neighbouring properties and to avoid adverse effects on established and anticipated activities.</i></p> <p>21.2.1.4 <i>Minimise the dust, visual, noise and odour effects of activities by requiring them to locate a greater distance from formed roads, neighbouring properties, waterbodies and zones that are likely to contain residential and commercial activity.</i></p> <p>21.2.1.6 <i>Avoid adverse cumulative impacts on ecosystem services and nature conservation values.</i></p>

2.12 The reasons for my modifications to Policy 21.2.1.2 is that some properties may still seek to farm the land, and need buildings for that purpose, and that this opportunity should not be provided for just on properties of 100ha or more but on all properties provided that the effects are considered and managed.

Objective 21.2.2 (notified Objectives 21.2.9 and 21.2.10) and policies

2.13 Objectives 21.2.9 and 21.2.10, and their policies, are deleted and replaced with a new Objective 21.2.2 and associated policies, as follows:

~~21.2.9 Objective A range of activities are undertaken on the basis they do not degrade while adverse effects on landscape values, rural character and amenity are avoided, remedied or mitigated. or impinge on permitted and established activities.~~

~~Policies 21.2.9.1 Commercial activities in the Rural Zone should have a genuine link with the rural land and water resource, farming, horticulture or viticulture activities, or recreation activities associated with resources located within the Rural Zone.~~

~~21.2.9.2 Provide for the establishment of commercial, recreational, retail and industrial activities only where these would protect, maintain or enhance rural quality or character, amenity and landscape values.;~~

~~...~~

~~21.2.10 Objective The potential for diversification of farming and other rural activities supports the sustainability of natural and physical resources.~~

~~Policies 21.2.10.1 Encourage revenue producing activities that can support the long term sustainability of rural areas of the district.~~

~~21.2.10.2 Ensure that revenue producing activities utilise natural and physical resources (including buildings) in a way that maintains and enhances landscape quality, character, rural amenity, and natural resources.~~

~~21.2.10.3 Have regard to the establishment of activities such as tourism, commercial recreation or visitor accommodation located within farms where these enable landscape values and indigenous biodiversity to be sustained in the longer term.~~

21.2.2 Objective A range of activities that rely on or benefit from a rural location are enabled while adverse effects on ecological values, landscape values, and rural character and amenity values are managed.

Policies 21.2.2.1 Provide for the establishment of non-farming activities (including commercial, recreational, rural living, and diversification of farming activities) only where these would avoid, remedy or mitigate adverse effects on ecological values, landscape values, and rural character and amenity values.

21.2.2.2 Commercial activities in rural areas should have a genuine link with rural resources, farming, recreation, horticulture or viticulture activities.

21.2.2.3 The significant economic and social value of existing rural living development in the Wakatipu Basin Rural Landscape is recognised, and further rural living development enabled where it is

consistent with the landscape character and amenity values of the locality.

21.2.2.4 Non-farming activities should promote, wherever practical, the protection, maintenance or enhancement of rural quality or character, amenity and landscape values and enable landscape values and indigenous biodiversity to be sustained in the longer term.

21.2.2.5 Encourage forestry to be consistent with topography and vegetation patterns, to locate outside of the Outstanding Natural Features and Landscapes, significant natural areas and ensure forestry does not adversely affect the landscape character or visual amenity values of the Rural Landscape.

21.2.2.6 Ensure forestry harvesting avoids adverse effects with regards to siltation and erosion and sites are rehabilitated to minimise runoff, erosion and effects on landscape values.

21.2.2.7 Limit exotic forestry to species that do not have any potential to spread and naturalise.

21.2.2.8 Ensure traffic from commercial activities does not diminish rural amenity or affect the safe and efficient operation of the roading and trail network, or access to public places.

21.2.2.9 Provide for a range of activities that support the vitality, use and enjoyment of the Queenstown Trail and Upper Clutha Tracks Trail network on the basis landscape and rural amenity is protected, maintained or enhanced and established activities are not compromised.

2.14 I consider that the modifications are appropriate for the following reasons:

- (a) The objective enables activities but their effects must be managed, and the method for this management is in the policies. The key effects-based test for proposals is in Policy 21.2.2.1 (i.e. adverse effects must be avoided, remedied or mitigated);
- (b) I consider that “*protecting, maintaining or enhancing*” should not be *the* test for applications (as they would be in the notified versions of the 21.2.9 or 21.2.10 policies) because “*protecting, maintaining or enhancing*” is a very high hurdle – too high in my view. Even the simplest of applications may struggle to clear it because some may perceive that change will not protect nor maintain nor enhance any rural values, particularly if considered at the scale of an individual site;
- (c) Nevertheless, “*protecting, maintaining or enhancing*” is a very important and is a laudable outcome, and applicants should be encouraged to strive to achieve it. This is expressed in Policy 21.2.2.4;

- (d) Policy 21.2.2.2 requires that commercial proposals should have a genuine link to the rural area. This is important in that activities that could otherwise happen in an urban area, without a need for locating rurally, are discouraged. This is reflected in the rules (particularly Rule 21.4.15, which I address below);
- (e) The new Policy 21.2.2.3 is in recognition of the rural living character that has established in many parts of the Wakatipu Basin, and accepting that further development is appropriate where that development is consistent with the existing character and amenity values at the scale of the local area. This is consistent with Mr Baxter’s statement³.

2.15 Policies 21.2.2.5 – 21.2.2.9 are the same as those from the notified provisions.

2.16 The following table further evaluates these modified provisions under Section 32AA of the Act:

<u>Objective 21.2.2: A range of activities that rely on or benefit from a rural location are enabled while adverse effects on ecological values, landscape values, and rural character and amenity values are managed.</u>		
Costs	Benefits	Effectiveness & Efficiency
There are no costs to this option, in my view.	The new policy is for other (non-farming) activities but benefit from a rural location, such as golf courses, ski fields, mountain biking trips, sculpture parks, and a range of other activities including commercial recreation activities. It is likely that none of these activities would be contemplated in a residential zone (and even if they did would likely be considered an inefficient use of valuable land, in the Queenstown-Lakes context). The only viable location for these activities is within rural land and this	It is effective to have a separate objective and suite of policies that relate to non farming activities. Objective 22.2.1 focusses on farming and other permitted and established activities, while the proposed Objective 22.2.2 focusses on other activities and requires that the adverse effects of any other activity is only enabled when its adverse effects are managed. The policy and rules framework then focus the attention on the key matters for achieving the objective, and to assess the suitability of any proposal.

³ Evidence of Patrick Baxter, dated 21 April 2016

	<p>objective provides this recognition.</p> <p>The objective lists a number of adverse effects (such as effects on landscape and ecological values) signalling a non-permitted methods regime.</p>	<p>Separate, focussed suites of provisions is a more efficient way of dealing with the two groups of activities that are contemplated in the rural zones.</p>
<p><u>Policy 21.2.2.1: Provide for the establishment of non-farming activities (including commercial, recreational, rural living, and diversification of farming activities) only where these would avoid, remedy or mitigate adverse effects on ecological values, landscape values, and rural character and amenity values.</u></p>		
Costs	Benefits	Effectiveness & Efficiency
<p>There are no costs to this option.</p>	<p>The policy is beneficial in that it provides for a range of other (non-farming) activities that should be contemplated in the rural zone, given their economic importance to the District, and provides the test to guide the determination of application. This guidance sits comfortably with the generally discretionary status of the activities.</p>	<p>Most of the activities listed are discretionary activities, and will need thorough assessment at time of resource consent application. The policy is effective as it provides for the establishment of those activities if they can avoid, remedy or mitigate their adverse effects, and the test is clear and based on section 5(2)(c) of the Act.</p>
<p><u>Policy 22.2.2.2 Commercial activities in rural areas should have a genuine link with rural resources, farming, recreation, horticulture or viticulture activities.</u></p>		
Costs	Benefits	Effectiveness & Efficiency
<p>There are no costs to this policy.</p>	<p>The rural zones are to remain, broadly, rural in character, and commercial activities commercial recreation, retail and industrial activities need to have a genuine link to the rural zone and a need to be in a rural zone. The benefits of this are that the rural zone is recognised for its potential to accommodate</p>	<p>The policy is effective in identifying the appropriateness of a particular commercial or other non-farming activity seeking to locate in the rural area.</p>

	such activities, and the policy should inhibit activities that do not have a need to be rurally located.	
<p><u>Policy 21.2.2.3 The significant economic and social value of existing rural living development in the Wakatipu Basin Rural Landscape should be recognised, and further rural living development enabled where it is consistent with the landscape character and amenity values of the locality.</u></p>		
Costs	Benefits	Effectiveness & Efficiency
The policy causes no additional “environmental” costs in that applications for rural living will be assessed through the consent process, and will succeed or otherwise based on the individual merits of the proposal.	The policy is beneficial in that the rural zone – in addition to the Rural Lifestyle and Rural Residential Zones – is important for rural living opportunities, given that not all residents wish to live in an urban setting. The policy recognises that rural living has significant economic and social values, it needs to be assessed against the ability of the rural areas (location by location) to be able to absorb that development while remaining consistent with landscape character and amenity values.	All uses of the rural area need the ability to be assessed under a rural framework. This policy provides additional guidance that further rural opportunities are anticipated in the Wakatipu Basin, giving the Basin recognition of its value for this purpose. The policy is effective in achieving this, in my view. I also consider it is efficient for the District Plan to recognise – and not eschew – the Basin’s value for this purpose, and to ensure that the rules framework to implement the policy is effective in taking into account landscape and rural character and amenity values in determining applications.
<p><u>21.2.4 Non-farming activities should promote, wherever practical, the protection, maintenance or enhancement of rural quality or character, amenity and landscape values and enable landscape values and indigenous biodiversity to be sustained in the longer term.</u></p>		
Costs	Benefits	Effectiveness & Efficiency
There are no costs arising from the policy.	There are many benefits that can arise from non-farming activities, common examples include replanting	It is effective in that the plan promotes opportunities for non-farming uses to contribute positively to

	of indigenous vegetation and protection of land from development.	protection, maintenance and enhancement of an area, and inn recognition that without that activity taking place such positive environmental outcomes may not arise.
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Objective 21.2.5 (notified as Objective 21.2.4) and policies

2.17 Objective 21.2.4 and associated policies relate to reverse sensitivity and my modifications are:

21.2.4 Objective ~~Situations where sensitive activities conflict with existing and anticipated activities are managed.~~ Reverse sensitivity effects are managed.

Policies 21.2.4.1 *New activities must recognise that permitted and established activities in the Rural Zone may result in effects such as odour, noise, dust and traffic generation that are reasonably expected to occur and will be noticeable to residents and visitors in rural areas.*

21.2.4.2 *Control the location and type of non-farming activities in the Rural Zone, to minimise or avoid conflict with activities that may not be compatible with permitted or established activities.*

2.18 I consider that the modifications are appropriate because the reworded objective is simpler but has identical intent.

Rules

2.19 I support the permitted status for commercial recreation activities with less than 10 persons in one group and the discretionary status for more than 10 persons in a group (Rule 21.4.16 and Rule 21.5.21). The rules recognise that small scale, low impact outdoor commercial recreation activities can be accommodated without resulting in any adverse effects on the environment and therefore do not need resource consent, and large scale activities require scrutiny.

2.20 I consider that Rule 21.4.15 could be expanded, as follows:

21.4.15	<i>Commercial activities ancillary to and located on the same site as recreational, commercial recreational activities</i>	D
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2.21 These additions would clarify the rule given that recreational activities and commercial recreational activities have different definitions.

Rule 21.7 – Assessment matters

2.22 I consider that the assessment matters should be modified and in **Attachment B** I set out my proposed modifications. I will not go through each of the modifications, but I generally describe them and focus on some, as follows:

- (a) I prefer the use of RMA language – for example I prefer “*adversely affect*” to “*degrade*” or “*detract from*”;
- (b) Some of the matters are changed from being cast negatively to being cast more neutrally, including 21.7.2.3 where I replace “*will degrade*” with “*is consistent with and will complement*”. This presents a more balanced assessment in that its start point is not an assumption that a proposal will degrade the area;
- (c) 21.7.2.7(b) and 21.7.3.3(f) are modified by deleting “*valued*” as there is no direct assessment to determine what aspects of landscape quality or rural character and amenity are actually being valued and by whom;
- (d) 21.7.2.5(c) is deleted because the matters are dealt with under 21.7.2.4.

2.23 The following table further evaluates these modified provisions under Section 32AA of the Act:

Costs	Benefits	Effectiveness & Efficiency
There are no costs anticipated.	<p>It is a benefit to include language that is consistent with the RMA which has previously been tested by the Environment Court and the meanings are commonly known by planning professionals and the public.</p> <p>The language used is more consistent with the terms and phrases I have promoted as part of the objectives and policies, which ensures consistency.</p>	Amendment of the assessment matters to use RMA language and language consistent with the objectives and policies will be more effective in aligning the provisions when resource consents are being considered.

	Removes double-ups to keep the assessment matters stream lined and concise.	
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Surface of water activities (Issue 10 in the S42A report)

2.24 Objective 21.2.12 and associated policies relate to the surface of lakes and rivers and their margins. I consider that the following modifications to the objective and policies are appropriate:

21.2.12 Objective ***The surface of lakes and rivers and their margins are protected, maintained or enhanced while appropriate recreational, commercial recreational, and public transport activities that utilise those resources are recognised and provided for, and their effects managed.***

Policies:

- 21.2.12.1 *Have regard to statutory obligations, the spiritual beliefs, cultural traditions and practices of Tangata Whenua where activities are undertaken on the surface of lakes and rivers and their margins.*
- 21.2.12.2 *Enable people to have access to a wide range of recreational experiences on the lakes and rivers, based on the identified characteristics and environmental limits of the various parts of each lake and river.*
- 21.2.12.3 *Avoid or mitigate the adverse effects of frequent, large-scale or intrusive commercial activities such as those with high levels of noise, vibration, speed and wash, in particular motorised craft in areas of high passive recreational use, significant nature conservation values and wildlife habitat.*
- 21.2.12.4 *Have regard to the whitewater values of the District's rivers and, in particular, the values of **parts of** the Kawarau, Nevis and Shotover Rivers as three of the few remaining major unmodified whitewater rivers in New Zealand, and to support measures to protect this characteristic of rivers.*
- 21.2.12.5 *Protect, maintain or enhance the ~~natural character and~~ nature conservation values of lakes, rivers and their margins, with particular regard to places with nesting and spawning areas, the intrinsic value of ecosystem services and areas of indigenous fauna habitat and recreational values.*
- 21.2.12.6 *Recognise and provide for the maintenance and enhancement of public access to and enjoyment of the margins of the lakes and rivers.*
- 21.2.12.7 *Ensure that the location, design and use of structures and facilities are such that any adverse effects on **natural character and** visual qualities, safety and conflicts with recreational and other activities on the lakes and rivers are avoided, remedied or mitigated.*
- 21.2.12.8 *Encourage **water based public transport systems and associated infrastructure and** the development and use of marinas, jetties and moorings in a way that avoids or, where necessary, remedies and or mitigates adverse effects on the environment.*

- 21.2.12.9 *Take into account the potential adverse effects on nature conservation values from the boat wake of commercial boating activities, having specific regard to the intensity and nature of commercial jet boat activities and the potential for turbidity and erosion.*
- 21.2.12.10 *Ensure that the nature, scale and number of commercial boating operators and/or commercial boats on waterbodies do not exceed levels where the safety of passengers and other users of the water body cannot be assured.*
- 21.2.12.11 *Recognise and provide for a water based public transport system on the Kawarau River and Frankton Arm.***

2.25 I broadly support the provisions because:

- (a) They are consistent with the sustainable management purpose of the Act;
- (b) They are consistent with the modifications I support to the higher order provisions of Chapter 3, including the new policy 3.2.1.3.3⁴;
- (c) The provisions recognise and provide for the recreational use of the District's waterways, and also recognise that certain activities can have adverse effects which should be avoided, remedied or mitigated.

2.26 My proposed changes are necessary for the following reasons:

- (a) Objective 21.2.12 currently only promotes the protection, maintenance or enhancement of the waterways but, unlike the policies that serve it, the objective does not recognise that the waterways are used and will continue to be used for a range of commercial and non-commercial recreational activities. The objective should be expanded to address this, by adding the words "*while appropriate recreational, commercial recreational, and public transport activities that utilise those resources are recognised and provided for, and their effects managed.*" This ensures that the objective is appropriately balanced and provides better context for its allied policies.
- (b) I support the introduction of recognition of lake and river based public passenger transport into the provisions. The possible ferry route from Queenstown, Frankton Arm and the Kawarau River, connecting the various existing and future settlement areas (eg Bayview Road, the Frankton Marina, Remarkables Park, Shotover Country Estate, Lake Hayes Estate, and Bridesdale) is a perfect example of an alternative transport connection to contribute to relieving road congestion. It can also facilitate access and enjoyment of the river and its margins. The modifications to the objective, and to Policy 21.2.12.8, recognise this opportunity.

⁴ My evidence to Chapter 2, dated 29 February, Page 11, para 4.10

- (c) My modification to Policies 21.2.12.5 and 21.2.12.7, by removing "... *natural character* ..." from the former and inserting it in the latter, is necessary in my view because Policy 21.2.12.5 deals with nature conservation values and focusses on ecological values, and I consider that the intention to "*protect, maintain and enhance*" these is necessary and desirable. However, a jetty, for example, is likely to have some impact on natural character, and it is likely to be difficult to construct a jetty in a way that protects, maintains or enhances natural character. In this context, "*natural character*" is more aligned with "*visual qualities*" rather than with ecological values, and I therefore consider that "*natural character*" is better located in Policy 21.2.12.7 which deals with the effects of the location, design and use of structures and facilities, and for which the duty is to avoid, remedy or mitigate the effects.
- (d) In Policy 21.2.12.4, I consider that the reference to whitewater values of the rivers should be qualified with "... *parts of* ..." because not all of the individual rivers are whitewater. For example, the upper stretches of the Kawarau River and the lower stretches of the Shotover River are not whitewater.

2.27 The following table further evaluates these modified provisions under Section 32AA of the Act:

<i>Objective 21.2.12: The surface of lakes and rivers and their margins are protected, maintained or enhanced while appropriate recreational, commercial recreational, and public transport activities that utilise those resources are recognised and provided for, and their effects managed.</i>		
Costs	Benefits	Effectiveness & Efficiency
There are no costs to this objective.	The amendments to the objective reflect that the waterways are used for a range of commercial and non-commercial uses, many long-established and significant contributors to the well-being of the District.	The amendment provides balance as it reflects that while protection, maintenance and enhancement are important, so too is the ability for the waterways to be used appropriately. This also reflects the intent of a number of policies that already sit below the objective.
<i>Policy 21.2.12.4: Have regard to the whitewater values of the District's rivers and, in particular, the values of parts of the Kawarau, Nevis and Shotover Rivers as three of the few remaining major unmodified whitewater rivers in New Zealand, and to support measures to protect this characteristic of rivers.</i>		
Costs	Benefits	Effectiveness & Efficiency

There are no costs to this option.	Accurately reflects that not all of the rivers are whitewater.	Corrects the policy to identify that not all stretches of the rivers are whitewater, and this ensures that at time of the consent, the actual characteristics of the part of the river can be assessed on the merits. This is efficient.
<p><i>Policy 22.2.12.5 Protect, maintain or enhance the natural character and nature conservation values of lakes, rivers and their margins, with particular regard to places with nesting and spawning areas, the intrinsic value of ecosystem services and areas of indigenous fauna habitat and recreational values.</i></p> <p><i>and</i></p> <p><i>Policy 21.2.12.7 Ensure that the location, design and use of structures and facilities are such that any adverse effects on <u>natural character</u> and visual qualities, safety and conflicts with recreational and other activities on the lakes and rivers are avoided, remedied or mitigated.</i></p>		
Costs	Benefits	Effectiveness & Efficiency
There are no costs to this policy.	The removal of “ <i>natural character</i> ” from Policy 12.1.12.5 and insertion into Policy 12.2.12.7 better reflects the core intent of each of the policies.	The amendments are more efficient in that the policies better reflect their intent and will still ensure that any effects on “ <i>natural character</i> ” are addressed.
<p><i>21.2.12.8 . Encourage <u>water based public transport systems and associated infrastructure and the development and use of marinas, jetties and moorings in a way that avoids or, where necessary, remedies and or mitigates adverse effects on the environment.</u></i></p>		
Costs	Benefits	Effectiveness & Efficiency
There are no costs to the policy	The impact of traffic congestion is significant. The change in the policy reflects the ability for the waterways and physical resources (marinas, jetties and the like) to be used for water based passenger transport systems. These have the ability to relieve some of the pressure on the roading network and should be recognised and encouraged at the policy level.	The amendment to the policy is effective in supporting water based public transport.

<u>21.2.12.11 Recognise and provide for a water based public transport system on the Kawarau River and Frankton Arm.</u>		
Costs	Benefits	Effectiveness & Efficiency
There may be other opportunities for a water based public transport system (in Wanaka for example) that are not covered by the policy.	Provides support in a policy sense for proposals that seek to provide for water based public transport – this is positive it may take pressure off the roading network in the Wakatipu Basin where there are various settlements that will have the critical mass to support a new and alternative public transport service.	It is effective in that policy support for non-road based forms of transport will relieve pressure off the roading network, its inclusion can be weighed up against their effects.

Rules

- 2.28 I generally support the rules framework for activities on the surface of waterways, including Rule 21.4.24, Table 9 (Rules 21.5.38 – 21.5.47) and Rule 21.6 (relating to notification), and I comment as follows:
- (a) I support the new exception for public transport ferry activities in Rule 21.5.47.1 in relation to hours of operation for commercial motorised craft⁵;
 - (b) In Rule 21.5.39, the discretion that is restricted to commercial non-motorised boating activities is appropriate. Importantly it includes: "*congestion and safety, including effects on other commercial operators and recreational users*", which is a necessary component of the assessment as conflicts between existing or new motorised and existing or new non-motorised boating activities should be assessed in detail at the time of any application.
 - (c) I support Rule 21.6 which does not apply to restricted discretionary activities and therefore the normal RMA tests for notification / non-notification apply. This is important, in order to ensure that all commercial users of a water body are aware of all applications so that any safety concerns can be properly assessed in the determination of

⁵ s42A report, page 21-25

applications, including by way of safe operational plans that take into account existing users.

Ski areas (Issue 7 in the s42A report)

2.29 Objective 21.2.6 and associated policies relate to the ski areas. I consider that the following modifications to the objective and policies are appropriate:

21.2.6	Objective	<i>The future growth, development and consolidation of <u>Skiing Ski Area</u> Activities is encouraged within identified Ski Area Sub Zones, and where appropriate Ski Area Sub Zones are connected with other areas, including urban zones, while adverse effects on the environment are avoided, remedied or mitigated.</i>
	Policies	<p>21.2.6.1 <i>Identify Ski Field <u>Area</u> Sub Zones and encourage Ski Area Activities to locate and consolidate within the sub zones.</i></p> <p>21.2.6.2 <i>Control <u>Manage</u> the visual impact of roads, buildings and infrastructure associated with Ski Area Activities.</i></p> <p>21.2.6.3 <i>Provide for the continuation of existing vehicle testing facilities within the Waiorau Snow Farm Ski Area Sub Zone on the basis the landscape and indigenous biodiversity values are not further degraded.</i></p> <p><u>21.2.6.4</u> <i><u>Provide for appropriate alternative (non-road) means of transport to Ski Area Sub Zones, including from nearby urban zones and facilities, by way of passenger lift systems and associated structures and facilities.</u></i></p>

2.30 As a general statement and subject to the changes which I discuss below, I support the provisions because the ski area activities carried out within ski area sub zones are a significant contributor to the District's international and national image and its economic wellbeing. The objective and policies afford protection to ski area activities, and provide for their ongoing development, growth and viability while adequately managing the potential effects of the ski area activities on the environment. There is capacity for significant growth of activities within existing ski areas and growth and consolidation of activities within these areas is an efficient way to minimise the adverse effects of ski area activities on the surrounding rural environment.

2.31 The reasons for my changes are:

- (a) The change from "Skiing" to "Ski Area" in the objective, and the change from "Field" to "Area" in Policy 21.2.6.1 are necessary so that the terminology is internally consistent and aligns with the PDP's defined terms.
- (b) I consider that "manage" is a better term than "control" in Policy 21.2.6.2 as "manage" is consistent with "avoid, remedy or mitigate" in the objective.

(c) On the insertion of “... *and where appropriate Ski Area Sub Zones and urban zones are integrated ...*” into the objective, and the introduction of Policy 21.2.6.4, I comment:

(i) There are opportunities for better connectivity between ski areas and nearby urban zones and facilities, to take advantage of the compatibility between the activities in the two areas and to remove or significantly reduce the need for vehicle access from valley settlements to the ski area activity facilities. In many other alpine recreational areas overseas, including Europe, North America and Asia, gondolas are the primary means of access to ski areas.

(ii) Passenger lift systems are likely to:

- improve the overall energy performance and efficiency of the ski areas by replacing the (typically) tens of thousands of car and bus trips taken every year (by skiers, boarders, staff and other winter and non-winter users) up and down the steep, winding and unsealed roads to and from the ski area activity facilities;
- reducing overall air emissions;
- improving road safety;
- avoiding the significant cutting and filling required to create and maintain a road corridor. In addition to the likely ecological effects; the scars are visible from wide areas and road maintenance and any necessary widening to cope with more traffic ensures that scar visibility persists;
- as the roads are not sealed, the dust is typically visible and can have adverse effects on the surrounding ecology and amenity values.

2.32 I consider that the provisions should recognise the opportunities for passenger lift systems (gondolas and their towers, lines and associated structures and facilities) because they overcome these problems. I acknowledge that such systems are likely to be visible (to varying degrees) and will have an impact on landscape values, but they can be located and designed in a manner that is likely to be more appropriate within the mountainous landscape and more sensitive (in relation to visibility and landscape impact) than road access.

2.33 I further consider that the integration passenger lift systems can provide is more efficient if the connection is between the SASZ and an urban zone, as this further reduces the need for vehicle use (for example people could walk or take public transport from their home or hotel or hostel directly to the base facility, or the base facility may have an adjoining carpark so that vehicle trips are minimised).

2.34 The following table further evaluates these modified provisions under Section 32AA of the Act:

<i>Objective 21.2.6 The future growth, development and consolidation of Skiing Ski Area Activities is encouraged within identified Ski Area Sub Zones, and where appropriate Ski Area Sub Zones are connected with other areas, including urban zones, while adverse effects on the environment are avoided, remedied or mitigated.</i>		
Costs	Benefits	Effectiveness & Efficiency
There are no costs to this option.	The amendments to the objective reflect that in some cases they may be opportunities to link Ski Area Sub Zones and other areas (including urban zones). This option may have less environmental effects than the establishment and maintenance of roads.	This reflects the changing nature of ski fields and access to them, and so is effective in broadening the opportunities for ski areas. Still ensures that potential adverse effects are avoided, remedied or mitigated.
<i>Policy 22.2.6.2 Control Manage the visual impact of roads, buildings and infrastructure associated with Ski Area Activities.</i>		
Costs	Benefits	Effectiveness & Efficiency
There are no costs to this option.	The use of the term “manage” is consistent with “avoid, remedy or mitigate”.	“Manage” is now used commonly in District Plans and is more effective than “Control”, in my view.
<i>Policy 21.2.6.4 Provide for appropriate alternative (non-road) means of transport to Ski Area Sub Zones including from nearby urban zones and facilities by way of Passenger Lift Systems and associated structures and facilities.</i>		
Costs	Benefits	Effectiveness & Efficiency
The use of the word “appropriate” will need to be tested but this is inherent in the consenting process.	Provides a specific policy for the opportunity for alternative means of transit. This is a benefit as this method was not contemplated by the Operative Plan.	The amendments are effective in providing clear policy direction for these activities.

Ski Areas – rules

2.35 I support the proposed new definition for “Passenger Lift Systems”:

Means any mechanical system used to convey or transport passengers within or to a Ski Area Sub-Zone, including chairlifts, gondolas, T-bars and rope tows, and including all moving, fixed and ancillary components of such systems such as towers, pylons, cross arms, pulleys, cables, chairs, cabins, and structures to enable the embarking and disembarking of passengers.

2.36 The definition of “Ski Area Activities” would be modified as follows:

Means the use of natural and physical resources for the purpose of providing for:

- (a) recreational activities either commercial or non commercial.
- (b) ~~chairlifts, t-bars and rope tows to facilitate commercial recreational activities.~~ **passenger lift systems.**
- (c) use of snowgroomers, snowmobiles and 4WD vehicles for support or operational activities.
- (d) activities ancillary to commercial recreational activities.
- (e) in the Waiorau Snow Farm Ski Area Sub Zone vehicle and product testing activities, being activities designed to test the safety, efficiency and durability of vehicles, their parts and accessories.
- (f) buildings for or ancillary to the activities in (a) – (e) above**

2.37 I support the modifications because passenger transport systems can efficiently transport large numbers of people to, from and within ski area subzones while protecting them from the elements, significantly reducing vehicle traffic to the ski area subzone facilities, and reducing the need for large expanses of vehicle parking within operational parts of the ski area subzone.

2.38 Mr Barr supports these modifications⁶, and I agree with his proposed consequential changes to Rule 21.5 Table 7, and the clarification of the status of activities⁷. I support the controlled activity status for buildings, and the restricted discretionary status for visitor accommodation in the SASZ areas.

2.39 I consider that passenger lift systems should be excluded from the general development controls for buildings in the zone, as follows:

Table 3	Standards for Structures and Buildings	Non-Compliance Status
	<i>The following standards apply to structures and buildings, except Farm Buildings <u>and Passenger Lift Systems</u></i>	
...

2.40 The reasons for this are that the rule should be clear that Passenger Lift Systems are exceptions from the general standards applying to structures and buildings, in the same way that farm buildings are exceptions.

⁶ s42A report, para 14.18
⁷ s42A report, para 14.19

- 2.41 I support Mr Barr's Rule 21.4.19 which deals with Passenger Lift Systems, heli-skiing and non-commercial skiing outside of Ski Area Sub Zones, but there is no default status. I consider the status should be Controlled or Restricted Discretionary, subject to appropriate assessment matters.

3 Chapter 22 – Rural Residential and Rural Lifestyle Zone

- 3.1 In this section of my evidence I address the chapter 22 Rural Residential and Rural Lifestyle rules. My proposed changes are set out as follows:

Table 2

Table 2, Building Materials and Colours

All buildings, including any structure larger than 5m², new, relocated, altered, reclad or repainted, are subject to the following in order to ensure they are visually recessive with the surrounding landscape:

22.5.1.1 *All exterior surfaces **(excluding windows)** shall be coloured in a range of black, browns, greens and greys;*

22.5.1.2 *Pre-painted steel, and all roofs shall have a reflectance value not greater than 20%;*

22.5.1.3 *Surface finishes shall have a reflectance values of not greater than 30%.*

Note: 22.5.1.1 – 22.5.1.3 above do not apply if natural materials such as locally sourced schist and unstained cedar are used, and do not apply to solar panels.

...

- 3.2 The reasons for the proposed modifications are that the exclusion for windows is appropriate in the development control for colours; and it seems inefficient to require the development controls to be applied if natural materials are being used. This may increase, unnecessarily, the volume of consents required in the zones. There are a number of building materials that occur naturally in the local environment which may not have a reflectance value greater than 30%, or, because of their natural state, their reflectance values may be not able to be readily quantified. Schist, for example, is a common building material. It should be able to be used without triggering an additional consent requirement.

Rule 22.4.3.2: exterior alteration outside a building platform

- 3.3 I support Rule 22.4.3.2 as it enables flexibility in the location of buildings within the building platform on the site. However, I consider that the words “visibility from public places” should be deleted from the list of matters over which discretion is restricted. The visibility of a 30% expansion to a building's gross floor area outside the building platform, subject to meeting other

development controls, will not have adverse effects on the view from a public place, given the effects arising from the existence of the building on the platform anyway.

- 3.4 Most Rural Residential and Rural Lifestyle Zones can be seen from a public place, and their appropriateness will have been tested at the inception of the zone (in terms of landscape effects and a Section 32 analysis), when development is already broadly contemplated, as opposed to at the individual resource consent stage.

4 Chapter 23: Gibbston Character Zone

- 4.1 In this section of my evidence I address the chapter 23 (Gibbston Character Zone) objectives and policies.
- 4.2 I generally support the objectives and policies in Chapter 23, but consider that some modifications are necessary, as follows:

23.2.1 Objective *The economic viability, character and landscape values of the Gibbston Character Zone are protected by enabling viticulture and other activities that rely on rural resources and ~~controlling~~ managing the adverse effects resulting from other activities locating in the Zone.*

Policies 23.2.1.1 *Enable viticulture activities and other activities that rely on rural resources while protecting, maintaining or enhancing the values of indigenous biodiversity, ecosystems services, ~~the landscape~~ and surface of lakes and rivers and their margins.*

23.2.1.2 *Ensure land with potential value for rural productive activities is not compromised by the inappropriate location of other developments and buildings.*

...

23.2.1.8 *Recognise that the establishment of complementary activities such as commercial recreation, visitor accommodation, and rural living may be complementary to the character and viability of the Gibbston Character Zone, providing they do not impinge on rural productive activities.*

- 4.3 The reasons for my proposed changes are:
- (a) Objective 23.2.1 and Policy 23.2.1.1 emphasise the importance of viticulture activities but also need to recognise that other activities rely on the rural resources of the area, including other rural productive activities and commercial recreation. Such activities are viable and sustainable and can complement the core viticulture activities. These activities could also include rural activities such as farming and horticulture which can also contribute to the attributes of the Gibbston Character Zone but were not enabled in

the objective as notified. The amendment proposed by Mr Barr to the objective acknowledges that other activities are also appropriate within the zone, as long as their adverse effects are mitigated. I agree with this amendment. “Landscape” can be removed from the Policy because effects on landscape values are dealt with by various other policies, including 23.2.1.3, 23.2.1.5 and 23.2.1.6.

- (b) Grape growing for wine production in the Gibbston Valley has only occurred since the 1980s⁸, before the land was predominately farmed. This shows that the Gibbston Character Zone has only relatively recently evolved in terms of its landscape characteristics from dry barren farmland to a mixture of vineyards, residential dwellings and other commercial activities. The success of the Wakatipu Trail as it traverses through the Gibbston Valley (a tourism/leisure activity), and the Bungy complex also illustrate the changing nature of Gibbston over the 3-4 decades. It is important that the objective does not foreclose other possible activities. Their potential effects are managed through the rules framework.
- (c) I consider that the words “*other activities that rely on rural resources*” should be included in the policy. This change is more consistent with Policy 23.2.1.2 which refers to all rural productive activities, and not just viticulture. This allows for the changing nature of the Gibbston Character Zone, and that other tourism and commercial recreational activities should also be provided for by this policy as they rely on the rural resources.
- (d) Other complementary activities, including rural living, should be included in Policy 23.2.1.8, as appropriate residential development has contributed to shaping the overall landscape character of the Gibbston Character Zone, and is complementary to viticulture and other rural productive activities in the Zone. Further:
 - (i) The proposed modification to Policy 23.2.1.8 is supported by relevant rules in the notified PDP, including those providing for residential development as a discretionary activity (Rules 23.4.5 – 23.4.11);
 - (ii) Visitor Accommodation is also provided for as a Discretionary activity and has policy support in Policy 23.2.1.8.
- (e) Mr Barr in paragraph 7.3.4 of his Section 42A report cites the reason for not including “*and rural residential development*” is that the use is not commercial in nature. He concludes that the addition of the policy conflicts with policies 21.2.1.2 and 23.2.1.3, which emphasise the importance of the use of land for rural productive activities ancillary industrial and complementary commercial activities. However, by removing any

⁸ <http://www.gibbstonvalley.com/our-wine-story/history/>

reference to rural residential uses in the Gibbston Character Zone, should there be instances where residential development is appropriate there is no policy support at all.

- 4.4 The following tables further evaluate the modified Objective and Policies under Section 32AA of the Act:

<i>Objective 23.2.1 The economic viability, character and landscape values of the Gibbston Character Zone are protected by enabling viticulture and other activities that rely on rural resources and controlling managing the adverse effects resulting from other activities locating in the Zone.</i>		
Costs	Benefits	Effectiveness & Efficiency
There are no costs anticipated, the wording changes better reflect the intent of the Zone, in my view.	<p><i>“Managing”</i> is broader and is accepted as meaning to <i>“avoid, remedy or mitigate”</i>.</p> <p>The addition of <i>“activities that rely on rural resources”</i> is beneficial in that it broadens the intent of the zone for not just viticulture, and this is consistent with policies.</p>	The objective is more effective in expressing the intent of the Zone, being not just for viticulture, and better aligns with the policy and rules framework which anticipate assessment of a range of activities that are not viticulture.

<i>Policy 23.2.1.1 Enable viticulture activities and other activities that rely on rural resources while protecting, maintaining or enhancing the values of indigenous biodiversity, ecosystems services, the landscape and surface of lakes and rivers and their margins.</i>		
Costs	Benefits	Effectiveness & Efficiency
No particular costs.	Enables the consideration of other activities that rely on rural activities at a policy level, these can be assessed as part of a discretionary consent regime for commercial, visitor accommodation, and rural living in the Zone.	Providing for other activities that rely on rural resources is effective, the policy already provides for a comprehensive list of environmental factors that need to be protected, maintained or enhanced as part of any consent. “Landscape” can be removed because effects on landscape values are dealt with by various other policies.

<i>Policy 23.2.1.8 Have regard to the establishment of complementary activities such as commercial recreation, visitor accommodation, and rural living that may be complementary to the character and viability of the Gibbston Character Zone, providing they do not impinge on rural productive activities.</i>		
Costs	Benefits	Effectiveness & Efficiency
No particular costs.	Enables the consideration of other activities that rely on rural activities at a policy level, these can be assessed as part of a discretionary consent regime for activities such as commercial, visitor accommodation, and rural living in the Zone.	Providing for other activities that rely on rural resources is effective, to guide the expectations of the Plan for the zone. Consents are required for commercial, visitor accommodation and rural living activities as part of the PDP, an assessment as to how they may impinge on rural production would be made at the time of application.

5 Chapter 33: Indigenous Vegetation and Biodiversity

5.1 In this section I address the Chapter 33 provisions for indigenous vegetation and biodiversity. I broadly support the intent of this Chapter but I have several matters to address.

5.2 The Purpose statement (33.1) should be modified to take into account aspects of ski area sub zones, as follows:

*... Activities including ski-field development **and access to ski area subzones**, as well as development within identified Ski Area Sub Zones, farming, fence, road and track construction can be reasonably expected to be undertaken providing such activities maintain or enhance the District's indigenous biodiversity values.*

...

*Alpine environments are identified as areas above 1070m and are, **apart from ski area subzones**, among the least modified environments in the District. ...*

- 5.3 The first modification takes into account the matters I addressed in relation to the ski area sub zones, at paragraphs 2.29 – 2.40 above. The second modification is necessary because the ski area sub zones areas are, typically, highly modified.
- 5.4 I have been involved in several district plan reviews that promote incentives to protect, maintain and enhance indigenous biodiversity through creating some form of development right. These include subdivision and development within the property containing the indigenous vegetation, or transferring the development right elsewhere, in return for the permanent protection, maintenance, and enhancement of the valued bush, wetland or and other worthy features. This is in recognition that there are few other methods available to ensure that such protection can be secured and funded. Some rule frameworks include, for example, a direct “reward” (in terms of a rural-residential lot that can be created) for protecting a specific number of hectares of vegetation or wetland (eg. 1 new site allowed for every 6 hectares of qualifying bush protected in perpetuity, or 1 new site for every 2 hectares of wetland protected).
- 5.5 Such a direct mechanism is not a part of the QLDC’s PDP, but I consider that opportunities for proposals that can demonstrate a significant indigenous biodiversity gain, implemented as part of a development, should at least be recognised in the Chapter 33 (and possibly Chapter 27 (subdivision)) objectives and policies.
- 5.6 Accordingly, I support including the following policies in Chapter 33.2.1 (worded as below or similar):

33.2.1.x Recognise the importance of providing for a range of activities that have the potential to protect, maintain or enhance indigenous biodiversity.

33.2.1.y Encourage development proposals that can generate positive environmental outcomes through the permanent protection and enhancement of substantial areas of high quality indigenous vegetation or wetlands.

- 5.7 These policies are complemented and would be given effect to by existing assessment matter 21.7.3.3(b) in Chapter 21 which states:

21.7.3.3 *In considering whether there are any positive effects in relation to the proposed development, or remedying or mitigating the continuing adverse effects of past subdivision or development, the Council shall take the following matters into account:*
...

- b. *whether the proposed subdivision or development would enhance the character of the landscape, or protects and enhances indigenous biodiversity values, in particular the habitat of any threatened species, or land environment identified as chronically or acutely threatened on the Land Environments New Zealand (LENZ) threatened environment status;*

- 5.8 I consider that Policy 33.2.2.3 should be modified as follows:

33.2.2.3 *The majority of Significant Natural Areas are located within land used **or previously used** for farming activity, and provide for small scale, low impact indigenous vegetation removal, stock grazing, the construction of fences and small scale farm tracks, and the maintenance of existing fences and tracks, **including for the purposes of public access and recreation.***

5.9 These additions are necessary to reflect that some properties may not be farms, and that small scale low impact removal of indigenous vegetation should not just be for farming purposes but can be for other non-farming purposes also, and this should include for public access and recreation. I do not consider that prioritising farming is justified when the adverse effects of other activities are no different and in many cases could be less than farming.

5.10 Objective 33.2.4.1 and policies should be modified as follows:

33.2.4 Objective *Indigenous biodiversity and landscape values of alpine environments are protected from the **adverse** effects of vegetation clearance and exotic tree and shrub planting.*

Policies 33.2.4.1 *The alpine environments contribute to the distinct indigenous biodiversity and landscape qualities of the District, and are vulnerable to change and require protection from **the adverse effects of** vegetation clearance or **the** establishment of exotic plants.*

33.2.4.2 *Protect the alpine environment from degradation due to planting and spread of exotic species.*

33.2.4.3 Encourage land use practices that enable rehabilitation through replanting and pest control.

5.11 This makes the provisions more consistent with other provisions in this Chapter, for example 33.2.2.2 and 33.2.2.3. The additional Policy 33.2.4.3 is necessary in my view, given the evidence of Mr Beale⁹ that the alpine environments are threatened by pest species.

5.12 The following table further evaluates the modified Objective and Policies under Section 32AA of the Act:

<u>Policy 33.2.1.x Recognise the importance of providing for a range of activities that have the potential to protect, maintain or enhance indigenous biodiversity.</u>		
Costs	Benefits	Effectiveness & Efficiency
There are not costs to this policy.	The addition of a policy that recognises that there are opportunities to protect, maintain and enhance indigenous biodiversity is beneficial.	It is effective for the policies to signal that positive outcomes arising from development in rural areas are encouraged. This policy may be effective in the promotion of improvement

⁹ Evidence of Simon Beale, dated 21 April 2016

		protection and enhancement of indigenous vegetation.
<i>Policy 33.2.1.y Encourage development proposals that can generate positive environmental outcomes through the permanent protection and enhancement of substantial areas of high quality indigenous vegetation or wetlands.</i>		
Costs	Benefits	Effectiveness & Efficiency
There are not costs to this policy.	The addition of a policy that encourages opportunities to permanently protect, maintain and enhance indigenous biodiversity and through resource consents, resulting in environmental gains, is beneficial.	It is effective to provide for positive environmental outcomes arising from development in rural areas. This policy should be effective in protecting and enhancing indigenous vegetation.
<i>Policy 33.2.2.3 The majority of Significant Natural Areas are located within land used or previously used for farming activity, and provide for small scale, low impact indigenous vegetation removal, stock grazing, the construction of fences and small scale farm tracks, and the maintenance of existing fences and tracks, including for the purposes of public access and recreation.</i>		
Costs	Benefits	Effectiveness & Efficiency
Minor removal of small areas of indigenous vegetation, but this is already anticipated by the provisions.	Recognises that these areas can be found on farms and land that has been previously farmed and there are opportunities for small scale removal to create positive benefits, such as to public access and recreation.	Effective is allowing small scale removal in order to gain positive benefits – such as public recreation. Efficient in that the policy acknowledges small scale removal may be necessary, for activities that are not necessarily related to farming.
<i>Objective 33.2.4 Indigenous biodiversity and landscape values of alpine environments are protected from the <u>adverse</u> effects of vegetation clearance and exotic tree and shrub planting.</i> <i>And</i> <i>Policy 33.2.4.1 The alpine environments contribute to the distinct indigenous biodiversity and landscape qualities of the District, and are vulnerable to change and require protection from the <u>adverse</u> effects of vegetation clearance or <u>the</u> establishment of exotic plants.</i>		
Costs	Benefits	Effectiveness & Efficiency
There are not costs to this objective.	The addition of “adverse” acknowledges that there will be effects in terms of clearing, but consideration will be for the “adverse” effects.	The amendment effectively signals that the protection from only the “adverse” effects is necessary, and it is efficient to manage only “adverse”

		effects as opposed to all (minor) effects.
<u>33.2.4.3 Encourage land use practices that enable rehabilitation through replanting and pest control.</u>		
Costs	Benefits	Effectiveness & Efficiency
There are no costs to this policy.	This policy encourages environmental benefits.	Effective as it introduces a policy which promotes positive outcomes.

J A Brown
21 April 2016

Attachment A

Curriculum vitae – Jeffrey Brown

Professional Qualifications

1986: Bachelor of Science with Honours (Geography), University of Otago

1988: Master of Regional and Resource Planning, University of Otago

1996: Full Member of the New Zealand Planning Institute

Employment Profile

May 05 – present: Director, Brown & Company Planning Group Ltd – resource management planning consultancy based in Auckland and Queenstown. Consultants in resource management/statutory planning, strategic planning, environmental impact assessment, and public liaison and consultation. Involved in numerous resource consent, reviews, plan changes/variations and designations on behalf of property development companies, Councils and other authorities throughout New Zealand.

Projects include: residential and rural-residential subdivision; high density, mixed-use urban/village developments; golf course resort developments; commercial property planning; lodges, vineyards and wineries; airport planning; water-based transport planning; industrial, office and commercial developments.

1998 – May 2005: Director, Baxter Brown Limited – planning and design consultancy (Auckland and Queenstown, New Zealand). Consultants in resource management statutory planning, landscape architecture, urban design, strategic planning, land development, environmental impact assessment, public liaison and consultation.

1996-1998: Director, Jeffrey Brown Associates, Queenstown. Resource management consultancy in Queenstown.

1989 – 1996: Resource management planner in several local government roles, including Planner (1992 – 1994) and District Planner (1994 – 96), Queenstown-Lakes District Council. Responsible for this authority's duties under the Resource Management Act, including policy formulation and consents.

Attachment B

Rule 21.7.2 – Assessment matters – Rural Landscape Classification Changes proposed

21.7.2 Rural Landscape Classification (RLC)

These assessment matters ~~Applications~~ shall be considered with regard to the following principles assessment matters because in the Rural Landscapes the applicable activities are unsuitable in many locations:

21.7.2.1. [*deleted by the Council*]

21.7.2.2 Existing vegetation that:

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

21.7.2.3 Effects on landscape quality and character:

The following shall be taken into account:

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

21.7.2.4 Effects on visual amenity:

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

- a. ~~the visual prominence of the proposed development~~ **is visually prominent** from any public places ~~will reduce the visual amenity of the Rural Landscape~~. In the case of proposed development which is visible from unformed legal roads, regard shall be had to the frequency and intensity of the present use and, the practicalities and likelihood of potential use of these unformed legal roads as access;
- b. the proposed development ~~is likely to be visually prominent such that it detracts from~~ **obstructs or significantly adversely affects** private views;

- c. any screening or other mitigation by any proposed method such as earthworks and/or new planting will ~~detract from or obstruct~~ views of the Rural Landscape from both public and private locations;
- d. the proposed development is enclosed by any confining elements of topography and/or vegetation and the ability of these elements to reduce visibility from public and private locations;
- e. any proposed roads, boundaries and associated planting, lighting, earthworks and landscaping ~~will reduce visual amenity, with particular regard to elements which~~ are inconsistent with the existing ~~natural~~ topography and patterns;
- f. boundaries follow, wherever reasonably possible and practicable, the natural lines of the landscape or landscape units.

21.7.2.5 Design and density of development:

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

- a. opportunity has been taken to aggregate built development to utilise common access ways including roads, pedestrian linkages, services and open space (ie. open space held in one title whether jointly or otherwise);
- b. there is merit in clustering the proposed building(s) or building platform(s) having regard to the overall density and intensity of the proposed development and whether this would exceed the ability of the landscape to absorb change;
- c. ~~development, including access, is located within the parts of the site where they will be least visible from public and private locations;~~
- d. development, including access, is located in the parts of the site where they will have the least impact on landscape character.

21.7.2.6 Tangata Whenua, biodiversity and geological values:

- a. whether and to what extent the proposed development will ~~degrade~~ **adversely affect** Tangata Whenua values including Tōpuni or nohoanga, indigenous biodiversity, geological or geomorphological values or features and, the positive effects any proposed or existing protection or regeneration of these values or features will have.

The Council acknowledges that Tangata Whenua beliefs and values for a specific location may not be known without input from iwi.

21.7.2.7 Cumulative effects of development on the landscape:

~~Taking into account w~~**W**hether and to what extent:

- a.** any existing, consented or permitted development (including unimplemented but existing resource consent or zoning) has ~~degraded~~ **changed** landscape quality, character, and visual amenity values. ~~The Council shall be satisfied;~~
- ab.** the proposed development will not ~~further degrade~~ **adversely affect** landscape quality, character and visual amenity values, with particular regard to situations that would result in a loss of ~~valued~~ quality, character and ~~open~~ **space** due to the prevalence of residential or non-farming activity within the Rural Landscape.
- bc.** where ~~in the case~~ resource consent may be granted to the proposed development but it represents a threshold to which the landscape could absorb any further development, ~~whether~~ any further **potential** cumulative adverse effects would be avoided by way of imposing a covenant, consent notice or other legal instrument ~~that maintains open space.~~

21.7.3 Other factors and positive effects, applicable in all the landscape categories (ONF, ONL and RLC)

21.7.3.1 In the case of a proposed residential activity or specific development, whether a specific building design, rather than nominating a building platform, helps is necessary to demonstrate whether the proposed development is appropriate.

21.7.3.2 Other than where the proposed development is a subdivision and/or residential activity, whether the proposed development, including any buildings and the activity itself, are consistent with rural activities or the rural resource and would maintain or enhance the quality and character of the landscape.

21.7.3.3 In considering whether there are any positive effects in relation to the proposed development, or remedying or mitigating the continuing adverse effects of past subdivision or development, the Council shall take the following matters into account:

- a. whether the proposed subdivision or development provides an opportunity to protect the landscape from further development and may include open space covenants or esplanade reserves;
- b. whether the proposed subdivision or development would enhance the character of the landscape, or protects and enhances indigenous biodiversity values, in particular the habitat of any threatened species, or land environment identified as chronically or acutely threatened on the Land Environments New Zealand (LENZ) threatened environment status;
- c. any positive effects including environmental compensation, easements for public access such as walking, cycling or bridleways or access to lakes, rivers or conservation areas;
- d. any opportunities to retire marginal farming land and revert it to indigenous vegetation;
- e. where adverse effects cannot be avoided, mitigated or remedied, the merits of any compensation;
- f. whether the proposed development assists in retaining the land use in low intensity farming where that activity maintains the ~~valued~~ landscape character.