

Before the Hearings Panel  
For the Proposed Queenstown Lakes District Plan

<b>Under the</b>	Resource Management Act 1991
<b>In the matter</b>	of a variation to Chapter 21 Rural Zone of the Proposed Queenstown Lakes District Plan, to introduce Priority Area Landscape Schedules 21.22 and 21.23

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**REPLY EVIDENCE OF RUTH EVANS ON BEHALF OF QUEENSTOWN LAKES DISTRICT  
COUNCIL**

**15 December 2023**

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## **1. INTRODUCTION**

- 1.1** My name is Ruth Christine Cameron Evans. I am a planner at Barker & Associates. My qualifications and experience are set out in my s42A Report dated 11 August 2023 (**s42A report**).
- 1.2** This statement of reply evidence responds to matters raised during and since the Council hearing of this Variation, which proposes to introduce Priority Area Landscape Schedules 21.22 and 21.23 (**PA Schedules**) into Chapter 21 – Rural Zone (**Variation**).
- 1.3** I have reviewed all evidence filed by other expert witnesses and submitters, attended the hearing throughout and have reviewed all information provided to the Panel during and after the hearing.
- 1.4** In preparing this reply evidence, I have referred to and relied on the reply evidence of the following expert witnesses for the Council, including their recommended reply changes to the PA schedules:
- (a) Ms Bridget Gilbert; and
  - (b) Mr Jeremy Head.
- 1.5** Amended versions of the Preambles and individual PA Schedules are attached to the Council’s reply legal submissions.

### **Code of Conduct**

- 1.6** I confirm that I have prepared this report in accordance with the Code of Conduct for Expert Witnesses contained in Part 9 of the Environment Court Practice Note 2023. The issues addressed in this report are within my area of expertise except where I state that I am relying on the evidence or advice of another person. The data, information, facts and assumptions I have considered in forming my opinions are set out in the part of this report in which I express my opinions. I have not omitted to

consider material facts known to me that might alter or detract from the opinions I have expressed.

### **Matters addressed in my reply evidence**

**1.7** Following the end of the hearing, the Panel provided the Council with a list of issues for consideration as part of the Council's reply (included as Appendix 1 to Council's reply submissions). This evidence responds to a number of these issues, with others addressed by Ms Gilbert and Mr Head, and/or in the Council's reply legal submissions.

**1.8** This reply evidence also addresses a number of other issues that arose during the course of the hearing.

**1.9** I have not sought to respond to all issues raised by submitters, or the Panel, during and after the hearing, but this should not be taken to mean that I agree with or accept any matters raised.

**1.10** In response to a number of matters raised during the hearing by the Panel and submitters, Ms Gilbert and myself have recommended a number of amendments to the Preambles to assist with clarity and implementation of the PA schedules.

**1.11** With respect to the content of individual schedules, I continue to rely on and adopt the expert landscape recommendations of Ms Gilbert and Mr Head.

## **2. REQUESTED AMENDMENTS TO THE PA MAPPING**

**2.1** This issue has been identified by the Panel in its Issue 1, and by a number of submitters involved in the Variation.

**2.2** I maintain the position, as in my rebuttal evidence at paragraph 5.3, that mapping changes to PDP landscape classification lines (Outstanding Natural Landscape (**ONL**), Outstanding Natural Feature (**ONF**) and Rural

Character Landscape (RCL)) are outside the scope of the proposed variation.

**2.3** I also continue to hold the view that the PA boundaries are not in scope, as the focus of the Variation was to prepare and incorporate into Chapter 21 schedules for the PAs, with the content of those schedules the change to the status quo that the Variation was directed at. To the extent that the PA mapping was made available through consultation and when the proposed PA Schedules were notified, I consider that this was both appropriate and necessary to clarify the spatial extent of the PAs, so that submitters were aware of the areas being considered.

**2.4** I have reviewed the Council's reply legal submissions, which have reviewed the public notice, section 32 report and other documentation associated with the Variation, and agree that procedural unfairness and a risk of prejudice would arise if the Panel were to allow PA mapping amendments to be made at this stage.

### **3. PURPOSE, STRUCTURE AND APPLICATION OF THE PA SCHEDULES; AND PREAMBLES**

#### **Preambles – improving clarity**

**3.1** The Panel<sup>1</sup> have queried whether the Preambles sufficiently explain the purpose and structure of the PA schedules, in particular the landscape capacity section; and how the PA schedules fit within the PDP, in relation to relevant objectives, policies and assessment criteria.

**3.2** The Council team has carefully considered the wording of the Preambles following the hearing, to consider if any improvements can be made to assist with better explaining or clarifying the purpose and structure of the PA Schedules, and how they are intended to be used.

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1 Panel Issue 2(a).

**3.3** I note that the Preambles were agreed by the landscape and planning experts that signed the Planning and Landscape Joint Witness Statement.

**3.4** I consider the amendments set out in the reply version of these Preambles (as attached to Council's reply legal submissions as Appendix 4) to improve overall clarity, and do not consider the further amendments to materially depart from what was agreed and recorded in the JWS. I note that Ms Gilbert, in her reply evidence, has explained the reasons why the Council proposed an amendment to the Preambles at the outset of the hearing, in paragraphs 4.4 to 4.11 of her reply evidence. I note that the amendments address a comment made by the Panel during the hearing that the wording of this category (in the version tabled by the Council at the opening of the hearing), used quantitative terms rather than descriptive terms. This is addressed by Ms Gilbert in paragraph 4.10 of her reply evidence.

**3.5** For ease of reference, along with some non-substantive wording changes, the following additional changes are now recommended as part of the reply version of the Preambles:

- (a) Numbering added for ease of reading and to assist with future cross references to sections of the preambles;
- (b) References to relevant SPs and other clauses in Chapter 3 added as footnotes to assist the user to navigate to the relevant part of Chapter 3;
- (c) Clarification in section 2 as to how the schedules apply to resource consents and plan changes;
- (d) Clarification in section 3.2 that additional landscape values may be identified in any location or proposal specific assessment;
- (e) Further explanation added in section 3.4 to explain the sections in the PA schedules titled 'Other distinctive vegetation types' and the 'Important land use and patterns and features', as well as why 'important' is not included in relation to mana whenua sections;

- (f) Clarification added in section 3.4 that reference to attributes is not intended to lock in existing land uses, to address this potential concern raised during the hearing;
- (g) Clarification added to section 3.5 to further explain the reference to plant and animal pests;
- (h) Clarification added to section 4.1 to confirm that the landscape capacity ratings do not apply to any Exception Zone (further bolstering the explanation in section 2)<sup>2</sup>;
- (i) Explanation added to section 4.2 to clarify that the landscape capacity ratings and qualifying comments are high level; and
- (j) Amendments to the description for the ‘extremely limited or no landscape capacity’ category, reflecting on discussions during the hearing and explained further by Ms Gilbert at paragraphs 4.4 – 4.11 of her reply.

### **Integration of the PA schedules with the PDP**

**3.6** The addition of references to the relevant Chapter 3 strategic objectives and policies throughout the Preambles is to provide a clearer link between the PA Schedules and the requirements of Chapter 3. In my view, this assists with the ‘fit’ of the PA schedules to the PDP framework.

**3.7** In relation to the Chapter 21 assessment matters for landscape (21.21), I note that 21.21.A states that for Ski-Area Sub Zones (**SASZ**), no assessment matter is relevant unless the subdivision or development is not anticipated by the SASZ (as per SO 3.2.5.4(b)). Parts 21.21.1.1 and 21.21.2.1 relate to landscape values, and include having regard to the landscape values identified in Schedule 21.22/21.23, ‘where relevant’.

**3.8** The amendments to the Preambles explain that the PA schedules are only directly applicable to land within the Rural Zone, including the Rural Industrial Sub Zone, but that they do not directly apply to the SASZ. The

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<sup>2</sup> To clarify, there is nothing in the PA Schedules or Preambles that suggests the landscape capacity ratings would apply outside the PA, either. I note this question was raised during the hearing on Day 5.

addition of 'where relevant' in the assessment matter affords the plan user the ability to exercise discretion as to the relevance of the PA Schedule(s) to the proposal, which the amended Preamble will assist with.

### **The audience / users for the PA Schedules**

- 3.9** The Panel has asked<sup>3</sup> whether it is clear who the audience for the landscape schedules is, and if they are then pitched at the right level for this audience (in terms of overall clarity). I have considered this request, but note that the term audience could be taken to mean 'users' more generally, and that clarity should also be associated with readability.
- 3.10** As noted in my summary statement,<sup>4</sup> in my view the PA Schedules are intended to be used to inform landscape assessments. As a result, they will be used by landscape architects to assist plan users and decision makers in relation to plan implementation, and where required, plan development. They will, however, also continue to be read and used by a wide range of plan users, including landowners and the community more generally, developers, decision makers, planners, lawyers, etc.
- 3.11** Given the discussions during the hearing regarding who may read the PA schedules (and Preambles), and the potential that they might be drafted in too technical a manner, Ms Gilbert, Mr Head and myself have reviewed the Schedules and specifically considered whether there are opportunities to remove some of the more technical aspects, and simplify the content. Following this review, and while a number of amendments to the Preambles have been recommended, as discussed in paragraph 3.5 above, no substantial changes are recommended.
- 3.12** The PA Schedules are necessarily technical in places because they address and record what can be a technical matter, being descriptions of

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3 Panel Issue 2(b).

4 Ruth Evans summary statement for QLDC dated 16 October 2013, paragraph 9.



landscape attributes, values and capacity. They are also intended to be used to inform landscape assessments, and I expect that they will be predominantly used by landscape architects and planners (who will have a familiarity with this topic, particularly in the Queenstown Lakes District).

**3.13** For the most part, the content of many of the PA Schedules has been agreed by the landscape architects involved in joint witness conferencing, or in evidence. Overall, the remaining areas of disagreement as to the schedule content are limited.

**3.14** Putting aside these disagreements, in my view the PA schedules are drafted in a manner that makes them generally easy to read for non-experts. While the schedules do not use exclusively plain wording, any attempts to further simplify the content may run the risk of reducing their utility and intended role in informing landscape assessments. This could also run the risk of not meeting the requirements of the policy framework in Chapter 3 of the PDP, which expects the PA Schedules to identify and describe certain matters (being those in 3.3.37 and 3.3.38 for the ONF/L, for example).

**3.15** I also note there is precedent within the PDP for the type of landscape oriented language that is used in the PA Schedules, with a number of strategic policies introducing technical terms (e.g. SP 3.3.43), and technical concepts and descriptions featuring in Chapter 24 and its associated Schedule 24.8, for the Wakatipu Basin Rural Amenity Zone. In effect, Schedule 24.8 serves a similar purpose to the PA Schedules, albeit that it is focussed on landscape character units, rather than PAs.

**3.16** Finally, I also note that the PA Schedules will be engaged for proposals in the Rural Zone that require resource consent for a restricted discretionary, discretionary or non-complying activity. For this activity type, and because it would necessarily involve land that it within the ONF/L or RCL, obtaining input from a landscape architect will typically be required. This is regardless of the existence of the PA Schedules.

**3.17** Having discussed this point with Council planners, and from my own experience in the District, I consider that it would be rare to allow any such applications to progress without them being accompanied by a landscape assessment. I also note that processing planners often seek landscape input and advice (at least peer review) as part of assessing these applications. The PA schedules are intended to provide the starting point for landscape architects, and to remove any inconsistency with that, by describing the relevant landscape attributes and values which will be assessed against the relevant policy framework. I also note that Mr Carey Vivian expressed a view on Day 4 of the hearing that it is very difficult for a lay person to obtain approval for any development in these areas (ONF/Ls and RCLs) without the assistance of an expert.

#### **Reference to the Landscape Assessment Methodology Report**

**3.18** During Day 8 of the hearing there was a discussion between the Panel and submitters in relation to whether reference should be made to the Landscape Assessment Methodology Report in the Preambles.

**3.19** This report forms part of the section 32 report for the Variation, and informed the drafting of the PA Schedules ahead of notification.

**3.20** Since notification a number of changes to the Preamble and Schedules have been recommended, which build on the original landscape assessment methodology, and respond to matters raised by submitters and their representatives (experts and others). In this regard, I consider that this report has become somewhat superseded by the Variation process, and I therefore do not recommend referencing or linking to this report at all.

**3.21** In my view, the Preambles and PA Schedules should be able to stand on their own, without this additional context. As with other technical material that has informed the preparation of the PDP, it will be possible

to provide the background material online, or by request (including the s32 report, briefs of evidence, and the panel recommendation report).

### **Exception Zones, Non-Rural Zones and Open Space Zones**

- 3.22** The Panel has asked<sup>5</sup> whether there is a clear explanation with respect to the application of the PA schedules to the Exception Zones, Non-Rural Zones and Open Space Zone and/or whether any activity in these areas has (or not) influenced overall PA landscape capacity ratings.
- 3.23** In my view the JWS version of the Preambles (attached to QLDC’s opening submissions) was clear that the PA Schedules only apply to the Rural Zone, including the Rural Industrial Sub Zone, and not any other zones (see preamble section 2.1.2). This would include Exception Zones, non-rural zones and the Open Space Zone).
- 3.24** In response to the Panel’s request, I have recommended some further minor amendments to this part of the Preambles (now numbered as section 2.1 and 2.2), to provide further clarity that for resource consents, the PA Schedules are only engaged for activities requiring resource consent as a restricted discretionary, discretionary or non-complying activity. I have considered the option of listing all of the zones that the PA Schedules do not apply to, but note that this is an extensive list and consider it more efficient to list the zone and subzone that the schedules **are** directly applicable to.
- 3.25** In relation to whether activities occurring in other zones were considered when formulating landscape capacity ratings, the Council team has reviewed the landscape capacity sections of all PA Schedules, and amended (where necessary) the ratings to remove any indirect reference to non Rural Zone activities.

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5 Panel Issue 2(d).

- 3.26** An example of where this has occurred is in relation to the landscape capacity ratings for SASZ activities. This amendment has been explained in the reply evidence of Ms Gilbert at paragraphs 4.1 to 4.3. Landscape capacity is no longer included for SASZ activities, other than passenger lift systems, which by nature will be partly located outside of the SASZ.
- 3.27** The Panel<sup>6</sup> also noted that the Open Space Zone is unique, in that in some cases it is completely contiguous with Rural Zone land, or entirely contained within it. The Panel asked what the best way to deal with these zones is, noting that it would seem unusual that the Open Space Zone is an Exception Zone.
- 3.28** The Open Space Zone is a district wide zone, contained within Part Five of the PDP – District-Wide Matters. It contains a number of provisions relating to ONF/Ls, and includes a direction to protect landscape values.
- 3.29** It is not however an Exception Zone listed in 3.1B.5(a). It follows that the PA Schedules are not directly relevant to proposals in the Open Space Zone (see section 2 of the Preamble), but like other non-Rural Zones, the PA Schedules may be referred to for proposals within the Open Space Zone (however this is not mandatory).
- 3.30** The legal submissions presented by Anderson Lloyd on Day 2 of the hearing, suggested that greater clarity was needed for how and when the PA Schedules ‘may’ be considered, where capacity is included for activities anticipated in Exception Zones.
- 3.31** Ms Gilbert and Mr Head have reviewed the landscape capacity ratings and descriptions. They have collectively made some amendments to the PA Schedules, including removing any reference to anticipated Ski Area Activities in the SASZ, as outlined in paragraph 3.26 above. In addition, and in response to evidence from Mr Ferguson on Day 8 of the hearing, a clarification has been added to the Preamble (refer to section 4.1) to

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6 Panel Issue 8.

explain that the landscape capacity descriptions do not apply to activities within any Exception Zone that is located within a PA. I expect these amendments may resolve the question around how and when the Schedules 'may' be considered. Ultimately, however, it will be for applicants and the consent authority to determine whether any of the PA schedule content is relevant for proposals that are not within the Rural Zone, but I anticipate that there may be instances where this will be the case.

### **Mount Cardrona Special Zone**

**3.32** In the Anderson Lloyd submissions dated 8 November 2023 counsel noted the Council's indication that the Mount Cardrona Station Special Zone (**MCSSZ**) could be a candidate to become an 'Exception Zone' once it is reviewed and brought into the PDP.

**3.33** To the extent that Anderson Lloyd raised concerns about this zone, as explained previously, the PA schedules will only apply to proposals in the Rural Zone. When the MCSSZ is reviewed and eventually forms part of the PDP, if it is included as an Exception Zone, the PA Schedules will not engage with that zone.

### **Definitions**

**3.34** The Panel has asked<sup>7</sup> whether 'exotic forestry' (under productive forestry) and 'intensive agriculture', as referenced in the PA Schedules, need further clarification, to assist property owners when making decisions about ongoing rural activities.

**3.35** Having considered the use of these terms, and the relevant explanations in the Preamble, I do not consider that further clarification is required. If the Panel considers that additional clarification is required for intensive agriculture, it could potentially include the term 'factory farming'

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7 Panel Issue 2(i).

alongside the landscape capacity descriptions for this activity, but I do not consider this to be necessary.

### **Monitoring**

**3.36** The Panel has asked<sup>8</sup> how the PA schedules will (or should) be monitored over time, particularly to address potential cumulative effects, acknowledging that the PA schedules record capacity at one point in time and that subdivision, use and development within these areas is already very limited.

**3.37** Strategic Policies 3.3.47 and 3.3.48 set out reasonably detailed requirements for Rural Zone landscape monitoring. For land within the PA Schedules, the requirement is to monitor efficiency and effectiveness at least every 2.5 years from the 'date that any area is added to a schedule is made operative'. I note that this is a reasonably short interval and, if the Council was concerned that potential cumulative effects were arising earlier than this, there is the ability to undertake monitoring at an earlier interval.

**3.38** For completeness, Strategic Policy 3.3.48 specifies monitoring requirements, which will ensure that monitoring is robust and achieves a measurable level of detail.

### **Permitted activities**

**3.39** The Panel<sup>9</sup> asked if permitted activities within the Rural Zone would impact negatively on existing landscape values. I have discussed this question with Ms Gilbert and understand that landscape values could be impacted by some permitted activities. However, any impact would not be of a nature that would undermine the PDP landscape policy, as

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8 Panel Issue 2(g).

9 Panel Issue 2(c).

permitted activities are considered to be those that are appropriate within the rural environment.

#### **4. LANDSCAPE CAPACITY DESCRIPTIONS**

##### **Landscape capacity descriptions straying into policy?**

- 4.1** During day 8 of the hearing Mr Chris Ferguson (at paragraphs 21 to 28 of his summary statement), outlined a view that the landscape capacity descriptions may be straying into policy, for example by touching on landscape outcomes, or requirements for enhancement (for example the landscape capacity description for rural living in the West Wanaka schedule.
- 4.2** I have discussed this matter with Ms Gilbert and Mr Head. I understand the 'qualifying comments' in the landscape capacity descriptions are intended to provide the context in which each activity may be appropriate (at a PA scale), and that they are intended to provide guidance to plan users. They are based on a review of the characteristics of the existing environment, including consents for development in each PA.
- 4.3** Were these qualifying comments to be removed, the landscape capacity ratings would lose this context, and the PA Schedules would provide a rating only. This more 'stark' approach could lead to potential risks, including if it is interpreted as more determinative, which is inconsistent with the role of the PA schedules and landscape capacity descriptions as high level guidance. In addition, if the qualifying comments were not included, then there is a risk that the landscape capacity ratings will need to become more restrictive, to reduce the risk of inappropriate activities establishing.
- 4.4** In my view it is important to find a balance between providing useful context for the landscape capacity ratings, i.e. enough for it to be guiding the type of activity that may be appropriate, and providing a blunt rating.

I also consider that 'assessing' landscape capacity naturally includes consideration of the context in which an activity may be appropriate.

**4.5** While there is no express direction in Chapter 3 to provide 'qualifying comments' when providing the "record of the related landscape capacity" required by SP 3.3.38 and 3.3.41, when considered against the definition of "landscape capacity" in 3.1B.5, there is an argument to make that a record of landscape capacity should provide some guidance on when the point is reached where identified landscape values could be compromised. The recommended qualifying comments are intended to work in a similar way, although they describe potentially appropriate activities, that would not comprise landscape values.

**4.6** I note that previous iterations of the landscape capacity descriptions, including for West Wanaka, used the term 'barely discernible'. I accept that this is a higher bar than the 'reasonably difficult to see' test set in Policy 6.3.3.1(b), and support replacing this terminology to align with existing PDP policy.

#### **Landscape capacity definition**

**4.7** In a related discussion during Day 8 of the hearing, it was noted that the definition of 'landscape capacity'<sup>10</sup> in 3.1B.5 refers to 'subdivision and development' only, but not 'use'. This was raised as Chapter 3 and the PA schedules refer to 'subdivision, use and development'. I also note that the landscape capacity descriptions refer to 'development', and that SP 3.3.38 and 3.3.41 refer to 'activities' for which landscape capacity must be described in the schedules.

**4.8** In summary, I do not consider this to be a significant issue, as the policies in Chapters 3 and 6 that support the PA Schedules refer to "subdivision, use and development activities". The fact that there is a slight

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<sup>10</sup> Landscape capacity is defined in Part 3.1B.5(b) of the PDP.



misalignment with the definition of “landscape capacity” is overcome by the reference to all three terms on SP 3.3.38 and 3.3.41.

**4.9** To assist the Panel, and having looked into this issue, it appears that the inconsistency may have flowed from the Topic 2 (Decision 2.2) decision, where the Court held (my emphasis):

[10] *In this decision, when we use certain terms drawn from the landscape evidence, we intend a particular meaning for them. While we may not always be precisely consistent, our intended meanings are as follows:*

- (a) *Landscape capacity (or ‘capacity’):*
  - (i) *when used in relation to an ONF or ONL, refers to the capacity that the natural feature or natural landscape in question has to accommodate change from land **use or development**, without those landscape values being destroyed or materially compromised;*
  - (ii) *when used in relation to an RCL, refers to the capacity of a landscape character area to accommodate change from land **use or development**, without that area’s landscape character or visual amenity values being destroyed or materially compromised;*

...

[176] *In the case of the Upper Clutha RCL Values’ Identification Framework, the evidence demonstrates the importance of establishing a proper benchmark for the measurement of additive cumulative degradation of identified character and amenity values through land use change arising through **subdivisions and developments** over time.*

...

[194] *We are assisted by the LVA Guidelines produced by Ms Gilbert. In particular*

*... Cumulative effects come into play in particular circumstances where an additional effect takes the landscape beyond a ‘tipping point’ -which would normally require a benchmark against which the effects are to be measured. Such benchmarks might include the character envisaged in the District Plan, or the ‘capacity’ of a landscape to accommodate **development** before compromising its valued characteristics and qualities. This is a matter of judgment.*

...

[195] *Where Ms Gilbert refers to ‘**development**’, we would refer to **subdivision** also. The only other point of substantial difference we would have with Ms Gilbert on that explanation is that the district*

*plan is a statutory instrument for expressing that judgment, as we have earlier discussed in this decision.*

- 4.10** As can be seen from the above, a range of variations in terminology appear, but with use and development being treated as somewhat equivalent descriptors.
- 4.11** Outside of these excerpts, I have not identified anything that indicates whether ‘use’ was deliberately left out of the definition in 3.1B.5.
- 4.12** What I consider to be more relevant is that SPs 3.3.38 and 3.3.41 specify the content of the PA Schedules, and require that various subdivision, use and development activities are assessed and recorded. While the relevant clauses use the words “landscape capacity”, that must be read and applied in context, as the Council has done when preparing the PA Schedules.
- 4.13** For completeness, I note that these terms can be conflated (and are in places through the PDP), but consider that the PA Schedules will always need to be read in conjunction with the Chapter 3 provisions, and other relevant provisions of the PDP, which I consider assist in suggesting that a pragmatic approach should be taken.

## **5. FLEXIBILITY FOR CHANGING LAND USES**

- 5.1** A common point of discussion through the hearing was whether the PA Schedules ‘lock in’ current land uses, due to the capacity ratings. The Panel has asked<sup>11</sup> if there is a danger that the Court’s list of activities might have the effect of locking in present activities at a point in time. The Panel is also interested in how the schedules could be future-proofed to provide for activities that are not currently contemplated, but may be appropriate within the PAs.

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<sup>11</sup> Panel Issue 2(f).

- 5.2** The Panel has also asked<sup>12</sup> whether there is sufficient flexibility for changing land use activities associated with farming, renewable energy, indigenous forest cover (and relationship to the new National Environmental Standard for Commercial Forestry 2023 (**NES-CF**)) and the supporting infrastructure that may be required for these activities.
- 5.3** I note that the PA Schedules are drafted at a point in time, and that they are not intended to be fixed in any way. This is made clear in the Preamble (see section 3.2), including through the amendment in the reply version that notes that references to existing attributes are not intended to lock in existing land uses (see section 3.4).
- 5.4** A number of Strategic Policies also assist with this issue. Strategic Policy 3.2.1.8 provides for diversification of land use beyond traditional activities, including farming, provided that the policy direction to protect (for ONF/Ls) or maintain/enhance (for RCLs) is met. Strategic Policy 3.3.21 is to enable continuing existing farming activities and evolving forms of agricultural land use in rural areas except where those activities conflict with the policy direction (protect or maintain/enhance). Farming (including horticulture, cropping, etc) is a permitted activity in the Rural Zone and the Schedules do not change this.
- 5.5** In my view, the collective effect of Chapter 3 is that it does anticipate some (appropriate) change, with policy guidance on how that change should occur (in terms of outcomes). SP 3.3.38 and 3.3.41 also do not attempt to fix activities to the list provided, as that list is not exclusive. To some extent, the monitoring requirements in SP 3.3.47 and 3.3.48 also anticipate change, as they are conceived to assess whether the provisions of Chapters 3, 4, 6 and 21 are being implemented successfully, for a non-specific range of activities.
- 5.6** While complete future proofing is difficult as it relates to the unknown, taking into account existing PDP provisions, and the role of the schedules

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12 Panel Issue 2(h).

as high level guidance, I consider that when the schedules (including the preamble) are read as part of the wider package of PDP provisions managing future land use, existing activities will not be locked in. I also note that it is not the role of the PA Schedules to constrain or regulate development, as they are intended to be a tool to assist with processing applications.

### **Farmhouses / workers accommodation / rural living**

**5.7** From listening to the discussion with submitters regarding changing farming practices, I understand one of the challenges was supporting infrastructure such as housing for farm workers. Workers accommodation is not defined by the PDP. I have checked with one of the Council's planners as to how workers accommodation is consented in the PDP and understand it is typically treated as residential activity.

**5.8** Residential activity is not one of the activities for which landscape capacity is listed. In that case, a proposal specific assessment will be required (same as for those activities that are listed) to determine the relevant values / character of the landscape, and the related landscape capacity. This is the status quo, and no change is proposed by this variation. In terms of the Panel's question<sup>13</sup> as to whether workers accommodation should be one of the activities listed for which landscape capacity is specified, I consider that as a proposal specific assessment will be required regardless of whether it is listed as an activity (due to it triggering a discretionary consent status), including capacity for this type of activity is not required. A proposal specific assessment is appropriate in my view as the form and scale of this type of accommodation could vary from a standard dwelling to a scale of building that houses a number of individual workers – with potential landscape effects varying accordingly.

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13 Panel Issue 2(i).

**5.9** I note that the Panel has also asked<sup>14</sup> if the term ‘rural living’ is too broad brush. Rural living is defined in 3.1B.5(d) as:

residential-type development in a Rural Character Landscape or on an Outstanding Natural Feature or in an Outstanding Natural Landscape, including of the nature anticipated in a Rural Residential or Rural Lifestyle Zone but excluding residential development for farming or other rural production activities.

**5.10** The Preambles cross reference to this definition (see section 5).

**5.11** On Day 4 of the hearing, Blair Devlin for The Milstead Trust raised a concern with a potential gap in the PA schedules not listing capacity for farmhouses. As noted previously these activities are specified in Strategic Policy 3.3.38. While the list in this policy is not exhaustive, farm dwellings have not been included as they were not known to be creating particular development pressure at the time the list of PAs was developed.

**5.12** As touched on in paragraph 5.8 above, there is no change to the consenting pathway for farmhouses (or any other activity). Landscape capacity for this type of activity will continue to be assessed on a case by case basis. I consider this to be an appropriate pathway for this activity.

### **Renewable energy generation**

**5.13** Renewable energy generation (**REG**) is one of the activities for which capacity must be specified. In terms of providing for this activity, as previously outlined the PA schedules are part of a package of PDP provisions for managing development in rural landscapes.

**5.14** A proposal specific assessment will be required if the REG requires resource consent. The schedules do not change this, but provide some high level guidance on landscape capacity at a PA scale. As with any

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14 Panel Issue 2(h).

development in a rural landscape, a balancing assessment is required for REG which is acknowledged in my s42A report at paragraph 5.8.

### **Forestry and indigenous forest cover**

- 5.15** The schedules do not seek to change the PDP approach, including the activity status for forestry or indigenous forest cover, or carbon farming. The presence of existing production forestry is acknowledged as an attribute in several schedules. In general the capacity descriptions for focus on exotic forestry and remain silent on other forestry such as indigenous forest cover (e.g. carbon farming). As such I do not consider the PA schedules to be constraining on indigenous forestry.
- 5.16** I note that the PDP does not seek to specifically manage carbon/native forests in Chapter 21 or Chapter 33 (and therefore this activity could default to non-complying in the Rural Zone as an activity not listed). The definition of forestry activity refers to 'harvest', therefore there is a question on whether carbon forestry which by nature is not harvested is 'forestry' for the purposes of the PDP.
- 5.17** I have now had the opportunity to consider any implications for this Variation arising from the new NES-CF. The NES-CF replaces the previous National Environmental Standard for Plantation Forestry (**NES-PF**). The key difference is that the NES-CF also manages effects from carbon forestry, whereas the NES-PF did not.
- 5.18** In my view there is nothing in the NES-CF that presents any inconsistency issues for the PA Schedules, as the PA Schedules are a descriptive tool describing landscape values and related capacity (including for forestry), rather than how these forests should be managed with respect to operational requirements. The Council may choose to amend the PDP to remove existing references to the NES-PF and include any requirements arising from the NES-CF, however this is a broader PDP matter that is beyond the scope of this Variation.

## Rural industrial activities / distilleries

- 5.19** The Panel asked<sup>15</sup> if rural industrial activities should be added to the list of activities in Chapter 3. This activity is already included where relevant for the Church Road/Shortcut Road RCL PA schedule in relation to the Rural Industrial Sub Zone at Luggate.
- 5.20** I note that in his summary statement at paragraphs 9 and 10 Mr Head addressed the suggestion by Mr Espie to include rural industrial activities in Schedule 21.22.18 for Cardrona Valley in relation to the Cardrona Distillery. I agree that this is not appropriate for the reasons given by Mr Head. I do not support listing 'distillery' as a separate activity for this schedule either. A distillery requires consent as a discretionary activity in the Rural Zone. I consider it is appropriately included as an important land use feature within this schedule. If consent is required for a new or expanded distillery a proposal specific landscape assessment will be required regardless, and listing landscape capacity for it is not necessary, it is not efficient to list every similarly consented activity within the PAs.

## Water tanks at Ladies Mile

- 5.21** During Day 4 of the hearing, advisors for The Milstead Trust presented a view that the PA Schedule for Slope Hill is problematic with respect to consenting water tanks to service future development at Te Pūtahi Ladies Mile<sup>16</sup>. This included a view (paragraph 27 of the submitter's representations) that the water reservoir is urban development. In my view a standalone water reservoir/s does not meet the definition of urban development, which is (my emphasis):

*...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*

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<sup>15</sup> Panel Issue 2(i).

<sup>16</sup> Ladies Mile is subject to a separate PDP variation for urban rezoning. Hearings for the Te Pūtahi Ladies Mile variation underway currently.

*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, nor does the provision of regionally significant infrastructure within rural areas.*

**5.22** The water reservoir itself does not meet this definition, in my view the reference to reliance on reticulated services is in reference to future development, not the infrastructure itself. In terms of the schedules being a barrier for consenting the required infrastructure, I note that the PA Schedules are high level guidance, drafted at PA scale and not a site or proposal specific scale. The future water tanks will be assessed on their merits and if they are located within the PA, will need to be accompanied by a landscape assessment regardless of the PA Schedule.

## **6. TRACKS AND TRAILS**

**6.1** During the hearing the Panel was concerned with how landscape capacity for tracks and trails has been expressed across the PA schedules, and asked whether it can be addressed consistently.<sup>17</sup>

**6.2** Ms Gilbert and Mr Head have reviewed their respective schedules and made a number of amendments to more consistently refer to tracks and trails within the earthworks category. I support this approach as earthworks is likely to be the most common consent trigger that has a landscape effect.

## **7. HYBRID PAS**

**7.1** The Panel have noted<sup>18</sup> that in a number of cases submitters have highlighted concerns about PAs that encompass more than one landscape

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<sup>17</sup> Panel Issue 5.

<sup>18</sup> Panel Issue 7.



classification, ie. both ONL and ONF, or RCL and ONL, or some other combination. The Panel has asked if it is appropriate to change the titles of the PAs schedules to either acknowledge the mixed landscape classification, or to remove that from the title.

**7.2** I note that the PA mapping is different to landscape classification line (**LCL**) mapping (the mapping in the PDP that identifies ONL boundaries, and some ONF boundaries). The PA mapping is intended to show the spatial extent of the PAs that each schedule applies to. It is not for the purpose of setting landscape boundaries for the purpose of triggering any relevant PDP policies and/or rules. In most cases for ONL PAs, the PA mapping aligns with the LCL. However, there are PAs that are a smaller part of a wider ONL, and so the boundary of the PA will not marry up with the LCL mapping. I note it is not uncommon for an ONF to be nested within a wider ONL, and there are examples of this in the District (see, for example, the Kawarau River ONF, and the Shotover River ONF).

**7.3** Whether the PA is an ONL or ONF is described in Strategic Policy 3.3.36. For the purpose of identifying what PA Schedule is relevant, the schedule that matches the name of the mapped PA should be used. This will assist with clarity and certainty.

**7.4** As noted in the attachment to Council's reply legal submissions, the labels for the PA mapping will be updated to ensure that they match the PA titles in Strategic Policies 3.3.36 and 3.3.39.

## **8. LANDSCAPE ASSESSMENT GUIDELINES**

**8.1** The Panel has asked<sup>19</sup> *if it is the intention of QLDC to prepare guidelines (with reference to the note under section 3.3.45 of the Plan) which aid in administration of the schedules, or should/will the Preamble text (which will be embedded in the Plan) provide enough guidance?*

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19 Panel Issue 11.

- 8.2** I have checked with QLDC and understand that there are no current plans to prepare guidelines to assist with best practice landscape assessment methodologies. This matter is discussed further in Council’s reply legal submissions.
- 8.3** In relation to the Variation, throughout the process the Preambles have been developed to assist with guidance on how Schedules 21.22 and 21.23 are intended to be used, including by way of references to relevant parts of Chapter 3. Beyond the Preambles and the relevant SO and SPs, I do not consider any further guidance is required for how the PA Schedules are used.
- 8.4** I note that Schedule 24.8 for the Whakatipu Basin Rural Amenity Zone does not have any accompanying guidance, and am advised by Ms Gilbert she does not consider any will be necessary for the 21.22 and 21.23 PA Schedules either. Ms Gilbert has also advised me that Te Tangi a te Manu provides sector guidance (that this is accepted by the landscape architecture profession) that relates to the preparation of landscape assessments, and that this has superseded the need for guidance as foreshadowed by the note in SP 3.3.45.

**9. SECTION 32AA, RMA**

- 9.1** In terms of section 32AA of the RMA, I consider the additional changes recommended in the Council’s reply improve effectiveness with respect to implementation of the PA Schedules, efficiency in terms of how they apply within the wider PDP context, and overall ensure the PA Schedules better achieve the strategic objectives and policies of Chapter 3 of the PDP.

**10. CONCLUSION**

- 10.1** I recommend a number of additional changes to the Preambles to further assist with clarity and application of the PA Schedules.
- 10.2** I continue to accept and rely on the recommendations of Ms Gilbert and Mr Head with respect to the content of individual PA Schedules.
- 10.3** As directed by the Panel, Council is preparing an updated Accept / Reject Spreadsheet, which will be filed by 31 January 2024. This spreadsheet will confirm the submission points that I recommend are accepted, accepted in part, or rejected by the Panel, in a manner that aligns with the Council's reply.
- 10.4** Overall, I consider that the changes recommended in this reply, and that of Ms Gilbert and Mr Head, will achieve the relevant strategic objectives and policies of the PDP, and are the most appropriate to achieve the objective of the Variation and purpose of the RMA.

**Ruth Evans**

**Date: 15 December 2023**