

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on the Proposed District Plan

Report 16.10

Report and Recommendations of Independent Commissioners
Regarding Upper Clutha Planning Maps
Lake McKay Station Rural Lifestyle Zones

Commissioners

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LAKE MCKAY STATION LIMITED (484) (LMS)

Further Submitters:

FS 1104 Jeffrey Adrian Feint

FS 1091 Jeremy Bell Investments Limited

1. SUMMARY OF RECOMMENDATIONS

1.1. Overall Recommendation

1. We recommend the requested rezoning of three separate areas as Rural Lifestyle be rejected. It follows that the further submissions should be accepted.

1.2. Summary of reasons

2. The PDP Rural Zone is more appropriate than the Rural Lifestyle zone because that zone has the most appropriate provisions to manage the wide variety of effects that are possible from rural living on the site.

2. PRELIMINARY MATTERS

2.1. Subject of Submission

3. This submission relates to 3 separate areas of land (Areas 1, 3 and 4 respectively) within Lake McKay Station ('LMS'), as generally identified on a map forming part of the submission and reproduced below. For the purpose of this report, the three individual areas in the submission are in each case described as the 'site'.
4. The land parcels are legally described as follows:
 - a. Area 1: 100 ha - Part Sec 1 SO 400466 Computer Freehold Register 18937 (title area 2180 ha)
 - b. Area 3: 6 ha – Part Lot 2 DP 342167 Computer Freehold Register 173355 (title area 2898 ha)
 - c. Area 4: 42 ha - Part Lot 2 DP 342167 Computer Freehold Register 173355 (title area 2898 ha)
5. Area 2 is the requested Rural Residential zone in submission 483 which is addressed in Report 16.9.

2.2. Outline of Relief Sought

6. Submission 484 sought in each case the rezoning of the site from Rural, as shown on Planning Maps 11, 11a and 18, to Rural Lifestyle in the areas identified above. It was proposed that within the largest area of 100 ha in Area 1, 17 - 20 Rural Lifestyle lots would be located in the 'mid run' area. Indicative allotments and potential house sites for Area 1 were shown (indistinctly) on an aerial photo overlay appended to the submission, and at our request, an updated and clearer plan was provided after the hearing. That plan showed the indicative location of 18 allotments with associated building platforms.
7. Areas 3 and 4 are 6 ha and 42 ha respectively. Area 3 is identified as potentially suitable for 3 dwellings and Area 4, for up to 12 dwellings taking into consideration the proposed BRAs in each.

8. As part of the proposal, the submitter is offering a total of 123 ha of land to the Department of Conservation as a conservation covenant in the Luggate Gorge area and has also had communication from the QE II Trust regarding an offered open space covenant over a rocky bluff area between Areas 3 and 4. Documentation relating to these is attached to the submission¹. The correspondence from DOC and the Trust confirms that both areas have significant conservation and ecological value.
9. Attached to his planning evidence on behalf of the submitter, Mr Mike Kelly appended a set of proposed provisions modelled on special zones in the ODP (Wyuna Station being cited as an example) that he considered could be included in Chapter 27. In those provisions, the proposed Lake McKay Station Rural Lifestyle Zone has, as an objective: *"To enable rural living development in a way that maintains the visual amenity values that are experienced from public places in the Upper Clutha Valley,"* along with a number of policies. Some of the policies and rules apply to all three areas, while others are specifically tailored to individual areas - in effect, creating sub zones within a bespoke Rural Lifestyle zone.
10. The overall thrust of these provisions is:
 - a. that subdivision and building platform identification ensures that built form and associated activities are reasonably inconspicuous when viewed from public places in the Upper Clutha Valley;
 - b. to specify the types of mitigation required for visual screening of built form;
 - c. to prohibit development over sensitive areas of the site, identified as BRAs;
 - d. to identify likely access options;
 - e. to state requirements for vegetation clearance, and methods for maintaining and enhancing indigenous vegetation;
 - f. to impose a maximum building height limit of 6m.
11. The provisions also identify controls that are specific to individual areas. The key elements of each area are:

Area 1

 - a. a maximum of 20 allotments;
 - b. recognition that this area is within a ground penetration area of the Wanaka Airport Protection Conical and Inner horizontal surfaces designation, requiring analysis for terrain shielding and obtaining the written approval of Queenstown Airport Corporation under section 176 of the RMA for a change of land use;
 - c. location and design of access road to avoid or mitigate adverse landscape and visual effects by various means, as outlined.

Area 3

 - a. a BRA;
 - b. a maximum of 3 allotments;
 - c. use of existing access roads and minimise access roads to individual allotments.

Area 4

 - a. a BRA;
 - b. maximum of 12 allotments;
 - c. use of existing access roads and minimise access roads to individual allotments.

¹ Lake McKay Station Plan Change. Rural Lifestyle Zone Section 32 Evaluation report. Appendix 8 Conservation Land Consultation.

12. Supporting documents lodged with the submission are a Section 32 analysis, engineering report and landscape/visual effects assessment, as well as correspondence relating to conservation land consultation.²
13. Two further submissions opposed the requested rezoning. Jeffrey Adrian Feint (FS 1104) opposed the rezone request specifically with regard to the "Option 2" access to Area 1 outlined in the submitter's engineering report. Mr Feint's concerns were that the Option 2 access would use the paper road passing through the adjoining Criffel Deer Farm and there would be several adverse effects on his property being:
 - a. effects on the visual amenity landscape;
 - b. adverse nuisance effects related to the proximity of the road to the further submitter's property (the road would pass through the corner of the barn);
 - c. the value of the further submitter's property;
 - d. damage to paddocks;
 - e. traffic hazard at the SH6 access point; and
 - f. bridge construction across Luggate Creek.
14. Jeremy Bell Investments Limited (FS 1091) opposed the rezoning request for the following reasons:
 - a. the LMS land is used for agriculture, and therefore has a lack of infrastructure and services available to service residential development;
 - b. lifestyle zoning is potentially viable, but more information is required especially regarding infrastructure and access.
15. Neither of the further submitters presented evidence to us³ or attended the hearing.

2.3. Description of the Site and Environs

16. LMS is located on the Pisa/Criffel Range and has an area of several thousand hectares which are used for grazing sheep and cattle. Existing farm road access is via Atkins Road and Kingan Road, as well as directly off SH 6 approximately 2 kms east of Luggate township. LMS has a complex topography, which encompasses small areas of flat terraced land close to SH 6 as well as elevated terraces and steep, rocky hill country. Most of LMS is within the notified Pisa/Criffel ONL and has several SNAs identified on the Planning Maps. The most significant of these is at Luggate Gorge, a relatively pristine area of vegetation on and surrounding the steep sides of the gorge that Luggate Creek flows through. LMS has irrigated pastures on the rolling down lands, and sporadic tussock, matagouri and kanuka over the remainder. The LMS lands are highly visible, iconic features of the Upper Clutha landscape and from elevated parts there are majestic views from it over the Clutha River valley towards Lakes Wanaka and Hawea, and the surrounding mountains.
17. Area 1 is open rolling country with flattish pastoral land amid rocky raised areas, on a high plateau above a terrace face. There are stands of kanuka and tussock on the raised areas, two of which are identified as SNAs in the PDP and referenced as E30-E1 and E30-E2. On the plateau's flanks are steeply incised gullies which drop down to Luggate Creek. The creek forms the western, northern and eastern boundaries of the proposed Rural Lifestyle area. On the northern side, the land rises the other side of the creek to Knob A3KV discussed in our Report 16. The western side of the site slopes down to the valley floor beyond the creek. The land to

² Lake McKay Station Plan Change. Rural Lifestyle Zone Section 32 Evaluation report prepared by Opus International Consultants Ltd

³ Jeremy Bell Investments Ltd participated in the hearing in relation to its own submissions, but did not address the matters raised in its further submission as part of its submissions or evidence

the east rises to the balance of LMS on the other side of the creek. On the south side, the landscape rises in a series of broad ridges to the north end of the Pisa Range. Two SNAs on the north and south branches of the creek (E30D and E30F respectively) have outstanding indigenous vegetation values and area E30D is offered by the submitter to the Department of Conservation as conservation reserve land⁴.

18. Within Area 1, the proposed Rural Lifestyle development is intended to provide spatial separation between lots with the aim of retaining a sense of open space and remoteness and to ensure that no buildings are located on the north and east-facing slopes visible from Mt Barker Road, SH 6 or SH 8A.
19. Area 3 is a small terrace on the south boundary of Luggate township and at an elevation approximately 80m higher than the township. Vegetation is mainly pasture grasses with mature pine trees on the western and eastern sides of the terrace. Water storage tanks for Luggate's water supply are located on the same terrace within a separately owned title, accessed via an easement over the farm track proposed to be used for the Rural Lifestyle development.
20. Area 4 is located on two terraces approximately 1.5 kms east of Luggate, with each steeply sloping terrace riser around 40m to 50m in height. The lower terrace is flat and divided down the middle by the Sheepskin Creek gully. The upper terrace has a rocky promontory at its eastern end, and the land within the proposed Rural Lifestyle zone slopes from the promontory to the back of the terrace. Vegetation comprises pasture grasses. The terrace risers are visually prominent and the front face of the lower terrace is directly visible from SH 6 on the eastern approach to Luggate⁵.

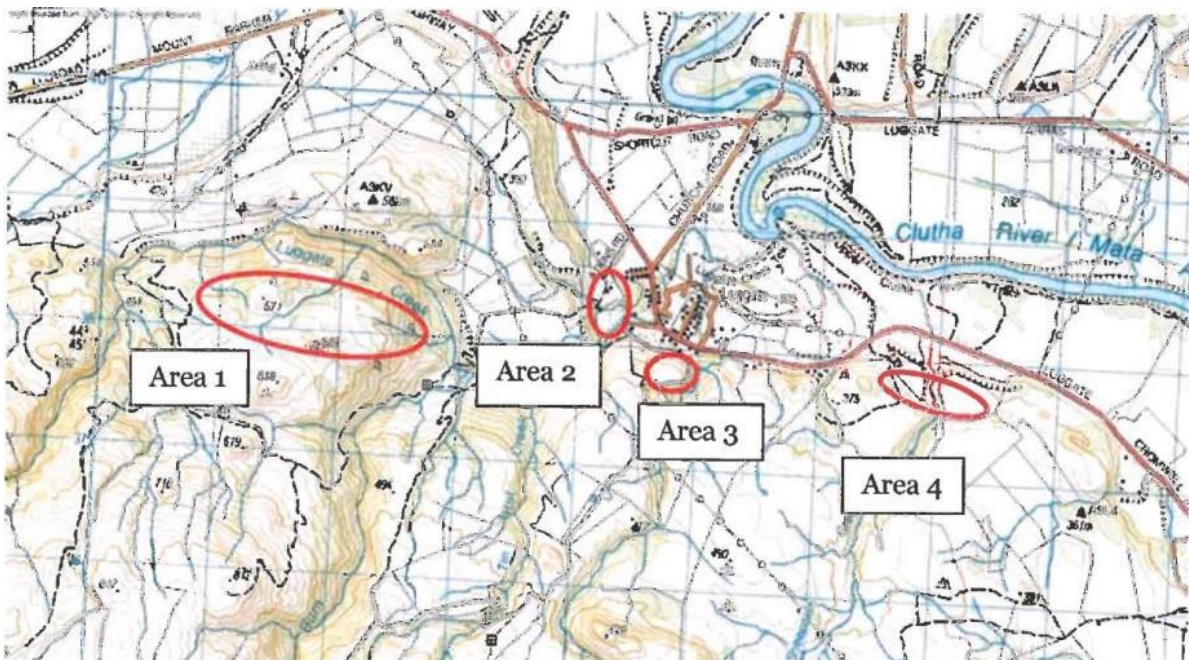


Figure 1: location of submission site forming part of LMS outlined in red

⁴ Opus report - Landscape Assessment, section 3.2.1

⁵ Opus report, Landscape Assessment, section 3.2.2 at page 13

2.4. The Submitter's Case for Rezoning

21. The submitter's case relied to a large extent on the detailed engineering report and landscape/visual effects assessments in the Opus report attached to the submission. In the Opus report, each of the three areas was analysed in terms of provision for three waters infrastructure, proposed vehicle access, and potential landscape character and visual effects. The key issues identified in the engineering report were that reticulated services are not available to the site and in each area it will be necessary to establish a private water scheme, either from a bore, or surface take from the Luggate Creek. It would also be necessary to establish a private wastewater scheme, with individual on site waste water disposal, or a private community scheme. The engineering report confirmed that this is feasible, and Mr Glasner, on behalf of Council, did not oppose the proposal. Stormwater would also be disposed of on-site. We discuss the three waters, ecological, access and visual/landscape aspects applying to individual areas in more detail below.
22. At the hearing Mr Colin Harvey, the owner of LMS, made the point in his evidence that residential development was "the other half" of protecting SNAs, which represent a significant amount of land within LMS (around 400 ha), that there was demand for residential lots, and development would not proceed if he could not sell the lots. He emphasised that LMS was putting up a total package and the reserve area offered to DoC was conditional on the development proceeding.
23. Mr Kelly gave planning evidence on behalf of the submitter. As it related to the Rural Lifestyle rezoning request, his evidence was in part premised on acceptance of the LMS submissions requesting removal or amendments to several SNAs (submission 439) and on acceptance of the ONL line being amended in accordance with the assessment that had been undertaken by Ms Anne Steven (submission 482). All three proposed Rural Lifestyle areas are within the ONL as notified.
24. While Mr Kelly appeared to stray into matters of landscape assessment that are not within his area of expertise, we note that he disagreed with the inclusion of the lower terraces at the base of the Pisa and Criffel ranges as ONL and he maintained that the areas proposed as Rural Lifestyle would not be visible from public viewing locations or have other adverse effects. However, LMS did not call specialist landscape evidence on this aspect.
25. As we have discussed in our findings on those submissions⁶, we consider the notified ONL line to be appropriate and have recommended only a minor change to the boundary of one of the notified SNAs (E-30A).
26. Mr Kelly's evidence took the form of a series of responses to areas of disagreement between the submitter and Council officers in their assessments of Areas 1, 3 and 4. We discuss each area in turn.
27. Area 1
Area 1 has no water available for irrigation, which Mr Kelly noted would preclude more intensive farming and, in his opinion meant that Rural Lifestyle was a more viable option. He disagreed with Mr Barr's recommendation to retain Rural zoning because he considered that the Rural Zone has a policy framework which is not in favour of rural lifestyle development. Mr Kelly considered that Rural Lifestyle would be more enabling. While he thought that this zone *"should be able to maintain visual amenity values"* and that the requirements as recommended would ensure through subdivision design, location of building platforms and

⁶ See Report 16.1 at Section 2.9

associated mitigation measures that built form and associated activities are not visible from any public places in the Upper Clutha Valley, no expert evidence to support that proposition was provided.

28. Mr Kelly also thought that an assessment of ecological values at the time of subdivision and development would be sufficient to maintain ecological values, despite Mr Davis's concerns that a detailed analysis of ecological values had not been provided.
29. In terms of access options, he advised that two of the three options identified in the Opus report are across neighbouring property (which we understand to be Criffel Station and Criffel Deer Farm) from Smith Road. The third option is via an unformed road off SH 6. While he stated that discussions for easements were under way, he was unable to confirm any agreement in principle with either of the affected parties, both of whom have lodged further submissions opposing the requested zoning citing either specific concerns about access, or a lack of information. He agreed with Ms Banks's comments that the access options had high construction and maintenance costs, which Ms Banks advised would be of concern to Council if the road is vested in QLDC, but did not offer any suggested method of addressing the issue, other than to comment that any future development will have to consider the costs of maintaining a private road.
30. As already noted, after the hearing, Mr Kelly provided a structure plan showing potential house sites within Area 1 as well as an indicative roading layout and the area of the site that is offered to DoC as conservation land, this being contiguous with existing DoC land to the west and with an 86.6 ha area of SNA to the east.⁷

Area 3

31. In relation to Area 3, Mr Kelly pointed out that Mr Glasner's assessment of infrastructure confirmed that town water supply was feasible as the storage tanks for Luggate township are on the same terrace. On-site waste water and stormwater disposal were also feasible and Mr Glasner did not oppose the proposal.
32. As regards access, Mr Kelly noted that the Council has an easement over the existing farm track for access to water supply tanks. He disagreed with Ms Banks's opinion regarding the unsuitability of the road being single lane only, on the basis that the low usage from three houses could be addressed by providing passing bays. He thought that the proposed BRAs on the terrace riser at the rear, the intended back terrace location of the building platforms, a building height restriction of 6m and a requirement for landscaping to achieve screening of built form (which could include retaining the trees on the front of the terrace until other plantings were established) would overcome Ms Mellsop's concerns regarding potential landscape and visual amenity effects. In his view this combination of measures could be applied in a Rural Lifestyle zone as set out in Appendix 4 of his evidence-in-chief.

Area 4

33. Mr Kelly described Area 4, which is 42 ha, as having potential for 12 lots on two terraces that have remnant indigenous vegetation. Removal of exotic plants, control of pest animals and enhancement of indigenous vegetation would be necessary. He outlined on-site services provision via either a bore on the flats beside SH 6 or from Dead Horse Creek utilising an existing water permit, with wastewater disposal via septic tank and access via an existing farm road. He contrasted the lack of a water supply for irrigation with the opportunities the land

⁷ Exhibit 27: Opus International Consultants Ltd - Aerial Layout Plan - Lake McKay Station Limited - Proposed Rural Living Area 1 Potential House Sites

provided for rural living and its attributes of a north-facing aspect, "fantastic views" and proximity to Luggate.

34. Mr Kelly disputed the assessment by Ms Banks of the proposed access point as having deficient sight lines at the intersection with SH 6, stating that the sight distances comply with NZTA guidelines.
35. He also identified the potential for environmental gains from the maintenance and enhancement of regenerating indigenous vegetation under small block ownership, and the minimisation of landscape and visual amenity effects by means of the measures he has recommended (as outlined above).

2.5. The Council's position

36. The Council staff's comments and recommendations responded to the additional information included in Mr Kelly's evidence. We discuss the Council's evidence in relation to landscape, ecology, traffic and planning considerations for each area below.

Area 1

37. Mr Davis considered that the area's ecological values include kanuka woodland and grey shrubland, that are likely to be disturbed as a result of road construction and creation of building platforms. He was of the opinion that a detailed application setting out the required area of vegetation clearance and ecological enhancement/restoration activities would need to be provided to allow an accurate assessment of the ecological effects, but that rural living would be possible with only minor ecological effects. He opposed the proposal on the basis that that assessment has not been provided.
38. Ms Banks critiqued the engineering assessment submitted as an appendix to the Opus report, in which access options and engineering design standards were identified and discussed. She did not support any of the proposed Rural Lifestyle areas due to a number of constraints identified in the Opus report, including topography, land ownership and sight distances, and likely expensive construction required. There are also identified risks of land erosion as a result of road construction in difficult and steep topography. Ms Banks noted NZTA's lack of support for the Area 1 and 4 access options. Her overall conclusion was that the proposal presented traffic safety issues and she did not support it.
39. As regards landscape issues, Ms Mellsop considered that there is potential to locate access roads and built development so that it is not visible from the basin below, but in her opinion, the Rural Lifestyle Zone would not ensure this outcome. She was also of the view that rural lifestyle development would inappropriately degrade the character of an area that has a high existing level of natural character and expressiveness, with numerous schist hillocks and outcrops, and which supports extensive areas of regenerating kanuka woodland.
40. In response to Mr Kelly's post-hearing structure plan, showing an indicative 18 lot subdivision identifying building platforms and proposed access within Area 1, Ms Mellsop advised in her reply evidence that the updated provisions together with the structure plan were helpful in stating the anticipated landscape outcomes. However, in her opinion these fell short of providing sufficient certainty given the absence of rules, assessment criteria or other methods to give effect to the proposed policies.
41. Mr Barr also acknowledged that there could be areas that have capacity to absorb development, but that any rural living development in this location would require a high level

of certainty of the effects in terms of access, night lighting and planting of boundaries and curtilage areas, noting also the difficulties and uncertainties relating to provision of appropriate access for this area. Relying on Ms Mellsop's landscape assessment, he considered that the Rural Zone is the most appropriate because the assessment matters in Part 21.7 and landscape assessment criteria coupled with a discretionary activity status provide the most appropriate framework for rural living development, having particular regard to sections 6 and 7 of the RMA. In his reply evidence, Mr Barr echoed Ms Mellsop's concerns regarding the difficulties in implementing the submitter's proposed policy of ensuring that built form (including roads) would be inconspicuous from public roads, describing the location of Area 1 "*elevated and exposed*".⁸

Area 3

42. Mr Davis did not oppose Rural Lifestyle development in this area from an ecological perspective. Nor did Mr Glasner in terms of three waters infrastructure.
43. Ms Banks referred to the access track off Kingan Road being restricted to single lane only due to land constraints. In her opinion, from a transport safety perspective, the Rural Lifestyle zoning is not appropriate given that widening the track to allow for two lanes of traffic would incur substantial costs and there is a risk of erosion.
44. Ms Mellsop thought that in the case of Area 3, some limited development could be absorbed if it was not visible from the wider basin, noting that the elevated terrace area has existing road access and is partially screened by pines on the escarpment face to the north. However, she did not consider that Rural Lifestyle zoning would be appropriate from a landscape perspective, and site-specific controls would be required to ensure that there was no degradation of the values of the surrounding ONL. She considered that these would be difficult to define within the framework of Rural Lifestyle zoning and recommended that the phrase '*reasonably inconspicuous*' used in the proposed policy should be altered to '*reasonably difficult to see*'.
45. Mr Barr did not support Rural Lifestyle zoning for this area, on the basis that Rural zoning provides the best method to manage any residential development for the reasons he had outlined previously.

Area 4

46. Mr Davis's comments were the same for this area as Area 1, ie insufficient information had been provided to enable a full assessment of ecological values, but that rural living may be possible with minor ecological effects.
47. Ms Banks commented that access for Area 4 relied on NZTA approval and that sight distances at the intersection with SH 6 are substandard. We note that while not entirely clear, the Opus report does suggest that access for Area 4 could be via an access closer to Luggate than the southern access option identified as having inadequate sight distance in one direction (to the north). The Opus report notes that this option relies on sight distance across an open paddock and a no-build/no tree planting covenant may be necessary to preserve sight lines in the future⁹.
48. Ms Mellsop opined that Area 4 would be visible from the Upper Clutha Basin to the north, including Kane Road, the Luggate-Tarras Highway (State Highway 8), and the Wanaka-Luggate

⁸ C Barr Reply evidence at paragraph 27.5

⁹ Opus Report - Engineering Assessment dated September 2015, page 8

Highway (State Highway 6) as it descends from Wanaka Airport. She considered that even with the mitigation measures recommended in the Opus report, the earthworks, buildings, landscaping and lights associated with rural lifestyle development would significantly detract from views towards the mountains.

49. Mr Barr maintained his opinion that Rural zoning is the most appropriate method of managing potential effects in this area for the same reasons that also apply to Areas 1 and 3.

2.6. Discussion of Planning Framework

50. Mr Barr provided us with input on the planning background to the relevant Plan provisions, the issues being primarily the sensitivity of the landscape and appropriate methods for managing visual effects, and access. We note that the latest version of the PDP available to the planners was that recommended in the staff reply on each chapter. In our Report 16, we summarise the key background provisions in the PDP, as recommended by the Hearing Panel, that is to say, a further iteration along from that considered in the planning evidence. For the purposes of our discussion here, we have not repeated the reference to every objective, policy or other provision to which we have had regard.

51. Focussing on the most relevant provisions, given that the site is within the notified ONL, the question of whether landscape character and visual amenity values are protected in terms of recommended Objective 3.2.5.1 is of particular importance along with the corresponding provisions of recommended Policy 3.3.30. In relation to activities across all rural zones, the following recommended policies are worthy of note:

6.3.8 *Avoid indigenous vegetation clearance where it would significantly degrade the visual character and qualities of the District's distinctive landscapes.*

6.3.9 *Encourage subdivision and development proposals to promote indigenous biodiversity protection and regeneration where the landscape and nature conservation values would be maintained or enhanced, particularly where the subdivision or development constitutes a change in the intensity of the land use or the retirement of productive farm land.*

52. In relation to activities in ONLs and on ONFs, the following policy in Chapter 6 is applicable:

"6.3.12 Recognise that subdivision and development is inappropriate in almost all locations in Outstanding Natural Landscapes and on Outstanding Natural Features, meaning successful applications will be exceptional cases where the landscape or feature can absorb the change and where the buildings and structures and associated roading and boundary changes will be reasonably difficult to see from beyond the boundary of the site the subject of application."

53. Chapter 21 - Rural Zones - echoes these overarching objectives and policies by referring to enabling a wide range of land uses including farming, permitted and established activities

"while protecting, maintaining and enhancing landscape, ecosystem services, nature conservation and rural amenity values" in recommended Objective 21.2.1.

54. In Chapter 22 - Rural Residential and Rural Lifestyle Zones, the description of the zone purpose provides a useful overview of the Rural Lifestyle zone, and embodies many of the objectives and policies for these zones: *"The Rural Residential and Rural Lifestyle zones provide residential*

living opportunities on the periphery of urban areas and within specific locations amidst the Rural Zone. In both the zones a minimum allotment size is necessary to maintain the character and quality of these zones and the open space, rural and natural landscape values of the surrounding Rural Zone.”

55. Chapter 22.1 goes on to record in relation to the Rural Lifestyle Zone:

“The Rural Lifestyle Zone provides for rural living opportunities with an overall density of one residential unit per two hectares across a subdivision. Building platforms are identified at the time of subdivision to manage the sprawl of buildings, manage adverse effects on landscape values and to manage other identified constraints such as natural hazards and servicing. The potential adverse effects of buildings are controlled by height, colour, and lighting standards.

Many of the Rural Lifestyle Zones are located within sensitive parts of the district’s distinctive landscapes. While residential development is anticipated within these zones, provisions are included to manage the visual prominence of buildings, control residential density and generally discourage commercial activities. Building location is controlled by the identification of building platforms, bulk and location standards and, where required, design and landscaping controls imposed at the time of subdivision.”

56. Recommended Objective 22.2.1 is:

“22.2.1 Objective

The district’s landscape quality, character and amenity values are maintained and enhanced while enabling rural living opportunities in areas that can absorb development”

and an associated Policy 22.2.1.1 is:

“22.2.1.1 Policy

Ensure the visual prominence of buildings is avoided, remedied or mitigated particularly development and associated earthworks on prominent slopes, ridges and skylines.’

3. ISSUES

57. We have identified the following issues that we need to address in order to provide a recommendation on the submission by LMS:
- a. The effects of Rural Lifestyle development within a sensitive landscape;
 - b. Provision for road access;
 - c. Whether bespoke provisions are an adequate and appropriate method of avoiding, remedying or mitigating adverse effects on this site.

4. DISCUSSION OF ISSUES AND CONCLUSIONS

58. We have given careful consideration to the sensitivity of the landscape in the context of our consideration of LMS submission 482. In Report 16.1, we have recommended retention of the ONL line as notified. In relation to the sensitivity of the specific areas for which Rural Lifestyle zoning is sought, we rely on the unchallenged expert landscape evidence of Ms Mellsoy in which she acknowledges that Areas 1 and 3 in particular may have some potential to absorb rural living, but that there is the potential for the effects associated with building platforms and formation of access roads in particular to degrade the ONL and have adverse visual effects from the basin below.

59. Important attributes of all three areas are the views and northerly aspect. We anticipate that efforts would be made to locate building platforms to maximise these features on the highest permissible elevations, which would be essentially at odds with the objectives and policies discussed above and, in particular, recommended Policy 22.2.1.1. We noted from our site visit as well as many trips through the area, and having also had the benefit of viewing the site from the top of Mt Iron, that a significant portion of the site is clearly visible from public places near and far.
60. Like Ms Mellsop, we found the indicative structure plan helpful in understanding an overall concept for Area 1. However, we were unable to test the assumptions and statements in the landscape assessment, or the methodology by which the submitter's intentions, as well meaning as they may be, could be translated into robust and effective plan provisions that would give effect to what was little more than an aspirational statement accompanied by an indicative plan.
61. We accordingly agree with Ms Mellsop's assessment and her concerns (and Mr Barr's) that the Rural Lifestyle zoning framework, even with the bespoke provisions proposed by the submitter, would not ensure that those landscape values could be adequately protected. As Ms Mellsop pointed out, the proposed Rural Lifestyle zone does not have associated rules or assessment criteria that would provide a robust methodology for evaluating the potential landscape and visual effects against the environmental outcomes that are anticipated within ONLs, and articulated in the objectives and policies outlined above.
62. While we do not consider there to be any significant issues relating to site servicing or ecological values, road access is to varying degrees problematic. Our site visit to the LMS and adjoining Criffel Station properties enabled us to appreciate the difficult topography which imposes significant constraints on access to Area 1, in particular. The submitter's engineering report, further submissions and Council's assessment all acknowledge these difficulties. The potential for adverse visual and ecological effects arising from the provision of road access to the required standard has not been fully assessed. We agree with the Council's position (Mellsop/Barr) that Rural Lifestyle zoning does not enable the appropriate degree of rigour to be applied in ensuring protection of the ONL and or/SNAs. In particular, the submitter's stated wish to be able to maintain or form access roads to a width of 20m within an SNA, being one access option, caused us concern.
63. While access via Mt Barker and Smith Road and a farm track through Criffel Station may be feasible, this proposition was conceptual only, and there are both legal and practical issues over use of a paper road and potential for adverse impacts on the neighbouring landowner's farming operations.
64. Both the Council and the submitter's engineers agree that the option for access from Kingan Road into Area 3, would involve bridging the Luggate Creek. This is not only expensive, but it would also require a detailed assessment of environmental values associated with the stream, and that has not been undertaken.
65. We note that NZTA has indicated that on the basis of the limited information provided by the submitter, it did not support the grant of approval to state highway access for either Areas 1 or 4.

66. These issues all suggest that a detailed and rigorous assessment will be necessary by way of resource consent application(s) and the requested zoning does not provide the appropriate framework in which to consider potential environmental effects.
67. We infer that a more detailed analysis would be necessary of any new building site, formation of access, and proposed mitigation of adverse effects before Ms Mellisop, Ms Banks and Mr Barr could support rural lifestyle development within any of the identified areas. Mr Davis has also indicated that ecological values require evaluation.
68. We have given weight to Mr Barr's point that Rural Lifestyle zoning creates an expectation that a certain level of development is anticipated and will be enabled by the Plan. As we have noted in our Report 16, this underlying premise, in many of the submissions made to it, was accepted by the Stream 4 Hearing Panel - that the zoning of the land represents a considered decision that the land is suitable for development for the identified purpose. In the case of the Rural Lifestyle Zone, this means development into rural lifestyle blocks at the density provided for in that zone being a 1 ha minimum and 2 ha average lot size.
69. This implied development right in the Rural Lifestyle zone, leads us to the conclusion that it is inappropriate to create that expectation, particularly in relation to the elevated and expansive areas identified as Areas 1 and 4, and with potential effects from access roads that are at this point in time conceptual only. Even with the proposed BRAs, significant parts of these areas are visible from the Clutha River basin. The likely adverse effects on landscape character and visual amenity from rural lifestyle development is an outcome which the PDP seeks to avoid in ONLs and we find that the proposal is contrary to recommended Policy 6.3.12.
70. We have discussed the general issue of bespoke provisions in our Report 16 and agree that there is no legal or planning impediment to their adoption, but we agree also with Mr Barr that the Rural Lifestyle zone provisions, notwithstanding the bespoke provisions proposed by the submitter, are insufficient to avoid or adequately mitigate adverse effects and that retention of Rural zoning is the most appropriate method of achieving the Plan's objectives.
71. We accept that this conclusion likely comes with the cost of the loss of the benefits of permanent protection of the two areas offered to the Department of Conservation and the QE II Trust. We have discussed the legal principles governing environmental compensation in our Report 16.14, concluding that while proffered benefits might be taken into account in the determination of a zoning question, there must be a nexus between the benefits and the adverse effects. Proffered ecological benefits, as here, cannot compensate for the failure to protect an ONL.

5. **OVERALL CONCLUSIONS AND RECOMMENDATIONS**

72. Our overall finding in relation to this area is that the modified Rural Lifestyle zoning proposed by the submitter does not provide the necessary controls to avoid significant adverse effects on the ONL, and we prefer Mr Barr's and Ms Mellsop's evidence that the most appropriate method to ensure that the ONL values are protected is retention of Rural zoning.
73. We recommend that the submission be rejected and the further submissions be accepted.

For the Hearing Panel

A handwritten signature in blue ink, appearing to read 'T. Robinson', with a large, stylized flourish extending downwards.

Trevor Robinson, Chair
Dated: 27 March 2018