

- 9.39. I note that the s32 analysis does not specifically contemplate landscaping, and the ODP Business Zone does not include any rules prescribing a minimum landscaping requirement.
- 9.40. Given the significant emphasis on providing a high quality environment in the BMUZ, I consider that the issue of landscaping requires further consideration.
- 9.41. I have sought advice from Mr Church regarding the appropriateness of requiring landscaping in the BMUZ, and I accept and rely on his evidence supporting the inclusion of landscaping as an additional matter of discretion for buildings (notified Rule 16.4.2), and including a landscaped front yard setback of 2m depth in conjunction with residential activities at ground floor level (notified Rule 16.5.3).
- 9.42. I note that the notified Wanaka and Queenstown Town Centre Zones (Chapters 12 and 13 of the PDP) do not include landscaping requirements, which, in my view is appropriate for these high intensity town centre environments.
- 9.43. With regard to landscaping provided in conjunction with car parking, I note that Stage 2 of the District Plan Review will include a Transport chapter, and I understand this will include a review of the on-site parking and access requirements for the BMUZ. As an indicator, I have considered the relevant rules of the ODP Transport Section:14 that have relevance, namely:
- i. ODP Rule 14.2.2.2(i) – 'carparking areas' in the ODP Business Zone are a controlled activity in respect of their access, location, landscaping, separation from pedestrians, compatibility with surrounding activities and method of provision.
 - ii. ODP Rule 14.2.4.1 Table 1 sets out the number of parks required for various activities, including visitor accommodation, commercial activities, offices etc.
 - iii. ODP Rule 14.2.4.1(xvi) prescribes the following minimum standards (my underlining added):
 - (a) Other than for residential activities and activities within the Town Centre, Business, Industrial and Corner Shopping Centre Zones, every outdoor carpark shall include landscaping at a minimum rate of 6% of the total area of the car park or 1.5m² per parking space, whichever is the lesser.

(b) *Landscaping may be provided in strips or blocks provided the minimum internal dimension of any strip or block shall be not less than 1.5m.*

[...]

9.44. The ODP Transport Section: 14 therefore contemplates landscaping associated with car parking. In my view, keeping this structure will ensure that a consistent approach will be applied to the structure of the PDP, and that landscaping specifically for the purpose of mitigating adverse visual effects of car parking should be considered in conjunction with consideration of the parking thresholds that would apply to the BMUZ. I therefore do not propose to introduce a rule into the BMUZ requiring landscaping for car parking areas.

9.45. Considering the submitter's view and the evidence of Mr Church it is my view that it would be appropriate to introduce a minimum landscaping requirement in conjunction with new development.

9.46. Mr Church recommends inclusion of a rule that prescribes a minimum landscaped coverage of 10%. I support his view, and consider that a minimum requirement would assist with achieving the high levels of amenity sought for the BMUZ by notified Policy 16.2.2.3. I also recommend that this Policy is amended to specifically include landscaping. The changes are shown in **Appendix 1**.

9.47. In considering the standards of the notified BMUZ that set minimum thresholds for site layout, I note the following:

- i. Notified Rule 16.5.1: buildings shall be set back a minimum setback of 3m from a Residential Zone boundary, with breaches requiring restricted discretionary resource consent.
- ii. Notified Rule 16.5.4: maximum building coverage of 75%, with breaches requiring discretionary resource consent.

9.48. I note that no submissions were received specifically seeking to alter either of the above thresholds. Given the site coverage and setback requirement, it is my view that these minimum site thresholds anticipate that an entire site will not be occupied by buildings, and the addition of an onsite landscaping rule would not conflict with these standards.

9.49. Also of note is that notified Rule 16.4.4 (activity status of visitor accommodation) lists landscaping as a matter of discretion. Onsite landscaping is therefore contemplated in the notified BMUZ, albeit in a limited manner.

9.50. I consider that the recommended changes to the notified BMUZ as shown in **Appendix 1**, would assist with the implementation of the notified and recommended revised version of Objective 16.2.2 and would assist with implementing notified Policies 16.2.1.1 and 16.2.2.2..

10. ISSUE 2 – ENABLING THE RIGHT MIX OF ACTIVITIES

Commercial activities in the BMUZ

10.1. As detailed in paragraphs 9.4 to 9.6 above, I recommend that the submission of Bunnings (746.2), which seeks the inclusion of a new policy that acknowledges the operational and functional requirements of non-residential activities, is accepted in part.

10.2. The NZIA (238.96) supports notified Policy 16.2.1.3 with the following amendments:

Avoid activities that have noxious, offensive or undesirable qualities from locating within the business-mixed use zone to ensure that appropriate levels of amenity are maintained a high quality urban environment is maintained.

10.3. The NZIA states that the emphasis of the policy should be on the desired outcomes, and notes that amenity is a difficult word to assess.

10.4. I consider that revising the wording of the policy in the manner suggested by the NZIA would be more effective in implementing notified Objective 16.2.1 and recommended revised Objective 16.2.2. I do not, however, support the deletion of word *Business* from the name of the zone. I therefore recommend that the relief is accepted in part. The changes are shown in **Appendix 1**.

10.5. The submission of HW Richardson Group (252.11) requests that the Allied Concrete site at 105 Gorge Road is either rezoned to a zone that permits service and industrial activities or, in the alternative, requests that the BMUZ is amended to provide for these activities as permitted. The rezoning component of the submission will be heard at the Hearing on Mapping.

10.6. I note that notified Rule 16.4.7 prescribes a non-complying activity status for Industrial Activities, unless otherwise specified in the Activities Table (16.4).

10.7. The site at 105 Gorge Road is a rear site on the eastern side of the road, with access located opposite the entrance to Sawmill Road. It is therefore centrally located within the Gorge Road area of the BMUZ.

- 10.8. I note that the submitter does not provide an analysis against the relevant objectives and policies of the BMUZ, nor do they suggest how the policy framework and the overarching Zone Purpose should be adjusted to cater for the relief they are seeking.
- 10.9. I acknowledge that the shift in Zone Purpose from that of the ODP Business Zone to that of the BMUZ may result in uncertainty for existing industrial activities within the BMUZ.
- 10.10. However, it is my view that enabling industrial activities in the BMUZ may result in effects that would not achieve the levels of amenity consistent with a mixed use environment. It is also my view that the relief sought would not assist with achieving notified Objectives 16.2.1 and 16.2.2, nor would it assist with the implementation of notified Policies 16.2.1.1, 16.2.1.2, 16.2.1.3, redraft Policy 16.2.1.5, and notified Policy 16.2.2.3.
- 10.11. I therefore recommend that the changes to the BMUZ provisions sought by submission 252.11 are rejected.
- 10.12. With regard to visitor accommodation activities, Erna Spijkerbosch (392.13) (opposed by further submissions FS1216, FS1228, FS1238, FS1246, supported by further submissions FS1288 and FS1059) seeks that visitor accommodation is excluded from the BMUZ. Mrs Sijkerbosch is of the view that enabling visitor accommodation is not consistent with the aim of increasing worker accommodation stock near the town centre.
- 10.13. I note the thrust of the notified Zone Purpose (16.1) is to provide for a mix of commercial and residential uses. Providing 'worker accommodation' is not an explicit goal of the BMUZ, however I accept that the zone would provide the opportunity for increased supply and diversity of the current housing stock, as highlighted in the s32 analysis¹⁸ in **Appendix 3**.
- 10.14. It is my view that a mixed use zone, such as the BMUZ is an appropriate location for visitor accommodation. The Anderson Heights area in Wanaka and Gorge Road in Queenstown are within close proximity to the respective town centres, which are the District's two main hubs for tourism activities. I am therefore not persuaded by the submitter's argument that it would be appropriate to exclude visitor accommodation activities from the BMUZ and recommend that this element of submission 392.13 is rejected.
- 10.15. Insofar as the activity status of visitor accommodation activities, several submitters being GH & PJ Hensman (542.3), High Peaks Ltd (545.3) (supported by FS 1059.82), Ngai Tahu Property Ltd (550.3), Skyline Enterprises Ltd (556.8), Totally Tourism Ltd (571.20), Trojan Holdings Ltd

18 Page 3, paragraph 1, bullet point 3.

(634.8) (opposed by FS1059.91) and Morraine Creek Ltd (1366.20) seek that the activity status is shifted from restricted discretionary to controlled.

10.16. Notified Rule 16.4.4 lists visitor accommodation as a restricted discretionary activity with the following matters of discretion:

- *The location, provision, and screening of access and parking and traffic generation;*
- *Landscaping;*
- *The location, nature and scale of visitor accommodation and ancillary activities relative to one another within the site and relative to neighbouring uses;*
- *The location and screening of bus and car parking from public places; and*
- *Where the site adjoins a residential zone:*
 - *Noise generation and methods of mitigation; and*
 - *Hours of operation, in respect of ancillary activities.*

10.17. I note that these matters are very similar to those of notified Rule 12.4.2 of the Queenstown Town Centre Zone, notified Rule 13.4.3 of the Wanaka Town Centre Zone, and notified Rule 14.4.3 of the Arrowtown Town Centre Zone which provide for visitor accommodation activities as a controlled activity, however the notified Local Shopping Centre Zone provides for visitor accommodation activities as restricted discretionary (notified Rule 15.4.4).

10.18. I also note that the s32 analysis does not provide any specific analysis of the merits of controlled verses restricted discretionary activity status. Also of note is that the submissions received on this point do not provide specific reasons for the relief sought.

10.19. It is my view that, due to the proximity of the BMUZ within walking distance of the Wanaka and Queenstown Town Centres, which are the District's two main centres for tourism, it is appropriate for visitor accommodation to be afforded the certainty of controlled activity status. I consider that the notified matters of discretion would be appropriate matters of control. This approach is also supported by the relevant submissions.

10.20. I therefore recommend that these submission points are accepted, with the changes to notified Rule 16.4.4 shown in **Appendix 1**.

Residential Activities within the BMUZ

10.21. The NZIA (238.98) (supported by further submission FS 1059, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248, FS1249) seeks that notified Policy 16.2.1.5 (redraft Policy 16.2.1.4) is removed and replaced with the following wording:

16.2.1.5 For sites fronting Gorge Road (and other main streets) avoid residential activities on the ground floor

10.22. In my view the notified policy is more appropriate than that suggested by the submitter as it provides the opportunity for residential activities at ground floor level on sites fronting Gorge Road, so long as commercial activities are the main use at the street interface.

10.23. I do, however recommend one minor change to the policy to remove the reference to 'high density' residential, thus ensuring that the policy applies to any form of residential activity. This recommended change is shown in **Appendix 1** and I recommend that submission 238.98 is therefore accepted in part.

11. ISSUE 3 – BULK AND LOCATION OF BUILDINGS AND OUTDOOR STORAGE

Building Heights

11.1. Notified Rule 16.5.7.1 concerns itself with building heights in the Gorge Road BMUZ. Buildings up to 12m are provided for as a permitted activity and buildings of 12m to 20m are provided for as a restricted discretionary activity, with the following matters of discretion:

- *the design and quality of the building, including the use of articulated facades and active street frontages;*
- *The avoidance of large monolithic buildings; and*
- *The impact on the street scene.*

11.2. Notified Rule 16.5.7.1 also stipulates that buildings exceeding 20m height in the Gorge Road area of the BMUZ would require resource consent for a non-complying activity, as would buildings exceeding 12m height in the Anderson Heights area under notified Rule 16.5.7.2.

11.3. Mrs Erna Spijkerbosch (392.13) (opposed by further submissions FS1216, FS1228, FS1238, FS1246, supported by further submissions FS1288 and FS1059) submits that the 20m restricted discretionary height should only apply on the eastern side of Gorge Road. Mrs Spijkerbosch also submits that up to 25m heights should be 'allowed' at the eastern edge of the BMUZ, and building heights should be staggered to a height of 12m at the Gorge Road frontage. The submitter is also of the view that the limits on notification for building heights between 12m and 20m in the Gorge Road area in notified Rule 16.6.2 should be removed. I address this element of the submission from paragraph 11.22, below.

11.4. I note that Mrs Spijkerbosch's submissions regarding building heights are limited to consideration of heights in the Gorge Road area, and I therefore do not extend my

consideration of notified Rule 16.5.7 (redraft Rule 16.5.8) to the Anderson Heights area of the BMUZ.

- 11.5. I also note that no specific urban design evidence or reasoning has been provided by the submitter, however I consider that the submission warrants further investigation, particularly as the BMUZ seeks to introduce significant changes in building heights compared to the Operative Business Zone (the operative regime enables buildings of 7m as a permitted activity (Rule 11.2.5.1vi of the ODP), with height breaches considered as a restricted discretionary activity (Rule 11.2.3.3ii of the ODP)).
- 11.6. Mr Church has provided his views, from an urban design perspective, as to the suitability of enabling the restricted discretionary heights across the entire Gorge Road BMUZ, including modelling and illustrations appended to his evidence. Mr Church supports Mrs Spijkerbosch's submission that seeks the retention of the 12 to 20m restricted discretionary heights on the eastern side of Gorge Road, with the exception of two areas at the northern and southern ends of the eastern side of Gorge Road (as described in paragraphs 32.34 – 32.35 of Mr Church's evidence).
- 11.7. Mr Church also supports the submitter's view that the notified 12-20m restricted discretionary building heights on the western side of Gorge Road should be reduced due to the potential for development of a visually dominant band of tall buildings stretching across the valley floor and up the lower slopes of Ben Lomond,¹⁹ amongst other considerations.
- 11.8. I have considered Mr Church's evidence, however I also consider that urban design considerations should be balanced against other matters.
- 11.9. The Gorge Road BMUZ, in my view, provides a significant opportunity for brownfield development within walking distance of the Queenstown town centre, which is the District's principal hub for commercial activities, employment, and tourism.
- 11.10. As highlighted in the s32 analysis (**Appendix 3**) the additional residential capacity enabled within the BMUZ would assist with supplying more land zoned for residential uses. Building heights are an important component in considering the capacity of the zone, given that most residential activities would be provided for above street level. It is likely that the dominant housing typology that would be enabled in the BMUZ is apartment-style housing. This would result in further diversification of the current housing stock enabled in the District. It would also provide significant opportunity for 'worker accommodation' to be provided in close proximity to

¹⁹ Evidence of Mr Church, at paragraph 31.37.

the Queenstown Town Centre, as highlighted in Mrs Spijkerbosch's submission on visitor accommodation (392.13).

11.11. Notified Rule 16.5.7 provides for buildings up to 12m as a permitted activity in the Gorge Road (and Anderson Heights) areas. It does not permit buildings between 12m and 20m in the Gorge Road area, however it does anticipate them through the use of the restricted discretionary activity status.

11.12. This is a significant shift from the operative permitted building height enabled by the ODP Business Zone. However, it is noteworthy that the changes to the operative heights, promulgated through the BMUZ, attracted just one submission point in opposition. Mrs Spijkerbosch's submission provides the following reasons for requesting the changes to building heights:²⁰

This preserves some 'openness' to the street, rather than having a built up corridor. This [is] one of only two entrances to town, so strict design rules need to be enforced to ensure it is still an attractive entrance. This may be more important in the future as growth and increases in traffic place more demand on existing entrances to town. [...]

11.13. It is my view that the restricted discretionary status of buildings between 12m and 20m and the accompanying policy framework, which sets a high expectation for the design of buildings, would achieve the 'strict design rules' that the submitter seeks. Height recession planes would apply for sites adjoining residential-zoned properties, which would limit the ability of sites adjoining a residential zone to be built above the permitted 12m threshold.

11.14. Also of relevance are the submissions received in support of notified Rules 16.5.7 and 16.5.7.1 from Coronet Property Investments Ltd (321.4) and Fletcher Distribution & Mico New Zealand Ltd (344.9). Mrs Spijkerbosch has made a further submission supporting primary submission 344.9 (FS1059.62).

11.15. Given that the relief sought in Mrs Spijkerbosch's primary submission is at odds with the view imparted through her further submission, I am uncertain as to her final view on heights. I do, however note that her further submissions against other primary submission points (namely FS FS1059.80 and FS1059.84, amongst others) do further her view that development on the western side of Gorge Road should be limited to 12m and heights on the eastern side could be increased above the 20m threshold of the notified BMUZ.

²⁰ Submission 392.

11.16.I have reviewed the relevant higher order goals, objectives and policies of the Strategic Directions Chapter,²¹ and consider that the following have particular relevance to this issue:

- **Goal 3.2.3:** *A quality built environment taking into account the character of individual communities.*
- **Objective 3.2.3.1:** *A built environment that ensures our urban areas are desirable and safe places to live, work and play.*
- **Policy 3.2.3.1.1:** *Ensure development responds to the character of its site, the street, open space and surrounding area, whilst acknowledging the necessity of increased densities and some change in character in certain locations.*
- **Policy 3.2.3.1.2:** *That larger scale development is comprehensively designed with an integrated and sustainable approach to infrastructure, buildings, street, trail and open space design.*
- **Objective 3.2.4.8:** *Respond positively to climate change*
- **Policy 3.2.4.8.1:** *Concentrate development within existing urban areas, promoting higher density development that is more energy efficient and supports public transport, to limit greenhouse gas emissions in the District.*
- **Objective 3.2.5.3:** *New urban subdivision, use of development will occur in those areas that have the potential to absorb change without detracting from landscape and visual amenity values.*
- **Goal 3.2.6:** *Enable a safe and healthy community that is strong, diverse and inclusive for all people.*
- **Objective 3.2.6.1:** *Access to housing that is more affordable.*
- **Policy 3.2.6.1.1:** *Enable opportunities for low and moderate income Households to live in the District in a range of accommodation appropriate for their needs.*
- **Policy 3.2.6.1.2:** *In applying Plan provisions, have regard to the extent to which minimum site size, density, height, building coverage and other controls influence Residential Activity affordability.*

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- **Objective 3.2.6.2:** *A mix of housing opportunities is realised.*
- **Policy 3.2.6.2.1:** *Promote mixed densities of housing in new and existing urban communities.*
- **Policy 3.2.6.2.2:** *Enable high density housing adjacent or close to the larger commercial centres in the District.*

11.17. The Urban Development Chapter²² has the following objectives and policies that I also consider relevant to the issue of building heights and capacity in the BMUZ:

- **Objective 4.2.1:** *Urban development is integrated with infrastructure and services and is undertaken in a manner that protects the environment, rural amenity and outstanding natural landscapes and features.*
- **Policy 4.2.1.3:** *Encourage a higher density of residential development in locations that have convenient access to public transport routes, cycleways or are in close proximity to community and educational facilities.*
- **Policy 4.2.1.5:** *Urban development is contained within existing settlements.*
- **Objective 4.2.3:** *Within Urban Growth Boundaries, provide for a compact and integrated urban form that limits the lateral spread of urban areas, and maximises the efficiency of infrastructure operation and provision.*
- **Policy 4.2.3.2:** *Enable an increased density of residential development in close proximity to town centres, public transport routes, community and education facilities.*
- **Policy 4.2.4.2:** *Ensure that development within the Queenstown Urban Growth Boundary:*
 - *Provides a diverse supply of residential development to cater for the needs of residents and visitors*
 - *Provides increased density in locations close to key public transport routes and within convenient access to the Queenstown Town Centre*
 - *Provides an urban form that is sympathetic to the natural setting and enhances the quality of the built environment.*
 - *Provides infill development as a means to address future housing demand*

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- *Provides and range of urban land uses to cater for the foreseeable needs of the community*
- *Maximises the efficiency of existing infrastructure networks and avoids expansion of networks before it is needed for urban development*
- *Supports the coordinated planning for transport, public open space. Walkways and cycleways and community facilities.*
- *Does not diminish the qualities of significant landscape features.*

11.18. In considering the above higher order goals, objectives and policies I provide the following views:

- i. The BMUZ is consistent with the strategic direction to encourage intensification within existing urban areas that are close to town centres.
- ii. When a high quality design bar, such as that of the BMUZ is met, enabling taller buildings significantly increases the zone's capacity. The Gorge Road area of the BMUZ is strategically located and, in my view, is an appropriate location for taller buildings. The landscape values of our District pose constraints on the ability for intense forms of development to be provided.
- iii. The BMUZ is consistent with the strategic direction to enable a mix of housing typologies close to town centres. Providing the opportunity for taller buildings in the BMUZ would assist with realising this goal due to the increased capacity that height enables.

11.19. Having considered the views of Mrs Spijkerbosch and the evidence of Mr Church, as well as considering the above higher order provisions, I recommend that notified Policy 16.2.2.7 is amended and that additional matters of discretion are added to notified Rule 16.5.7 (redrafted Rule 16.5.8), which give effect to the changes recommended at the policy level. These are shown in **Appendix 1** and are discussed in further detail in the s32AA analysis in **Appendix 4**.

11.20. In order to achieve the 'openness' along the street frontage of Gorge Road sought by Mrs Spijkerbosch's submission, I recommend the inclusion of an additional rule that requires a stepped frontage of buildings from the fourth storey and above. Mr Church supports the introduction of this rule to notified Rule 16.5.7 (redraft Rule 16.5.8), as shown in **Appendix 1**.

11.21. Insofar as the remaining elements of relief sought by Mrs Spijkerbosch, I consider that the 20m maximum restricted discretionary height is sufficient, with heights exceeding 20m requiring resource consent for a non-complying activity. I do not consider it necessary to taper heights to 12m at the Gorge Road frontage. This view is supported by the evidence provided by Mr

Church insofar as he supports the retention of the 12-20m restricted discretionary height range in areas east of Gorge Road.²³

11.22. Mrs Spijkerbosch (392.13) also submits that buildings over 12m should be notified, unless located on the eastern side of Gorge Road. The submission relates to notified Rule 16.6.2, which lists restricted discretionary activities that shall not require the written consent of other persons and shall not be notified or limited notified. The notified rule includes *Building Heights between 12m and 20m in the [BMUZ] in Queenstown*.

11.23. I note that the following submissions were received in support of notified Rule 16.6: Julie Rogers (30.3), Erna Spijkerbosch (392.14) (supported by further submissions by Pinewood (FS1288.9) and Erna Spijkerbosch (FS1059.49).

11.24. In the absence of any reasons for the change requested by submission 392.13 to Rule 16.6.2, and given that Mrs Spijkerbosch also supports the rule that she has sought to have amended (392.14 and FS1059.49), I am unsure of her position and am unable to support her requested relief.

Recession Lines

11.25. Several identical submission points from Skyline Enterprises Ltd (556.9), Trojan Holdings Ltd (634.9), Ngai Tahu Property Ltd (550.4) and GH & PJ Hensman (542.4) seek that the height recession line element of notified Rule 16.5.1 is relaxed so that the recession line is applied at an angle of 45 degrees.

11.26. Notified Rule 16.5.1 requires that buildings on sites adjoining, or separated by a road from, a Residential Zone shall not project beyond a recession line constructed at an angle of 35 degrees inclined towards the site from points 3m above the Residential Zone boundary.

11.27. I accept and rely on the evidence provided by Mr Church who has undertaken modelling of the 35 degree and 45 degree scenarios. Mr Church supports the 45° angle sought by the submitters, but only as it applies to the northern boundary of a site. Furthermore, it is Mr Church's view that the matters of discretion of notified Rule 16.5.1 should be amended to include consideration of screen planting, and to provide further specificity to the concepts of 'dominance' and 'privacy'.

11.28. I accept and agree with Mr Church's views and recommend the changes to notified Rule 16.5.1, as shown in **Appendix 1**.

²³ Evidence of Mr Church, at paragraph 31.28.

11.29.Mrs Spijkerbosch (392.13) (opposed by further submissions FS1216, FS1228, FS1238, FS1246 and supported by FS1288 and FS1059) seeks that residential neighbours are consulted if breaches in setbacks or sunlight access are more than minor.

11.30.I note that notified Rule 16.6.3 restricts public notification of such breaches; however the rule does not limit the opportunity for limited notification. I therefore consider that the submitter's relief is addressed in the notified rule and no subsequent amendments are recommended.

Outdoor living

11.31.The NZIA (238.106) (opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249, FS1242) seeks that the matters of discretion for buildings (notified Rule 16.4.2) are amended to include a requirement for outdoor living areas.

11.32.I note that notified Rule 16.4.2 includes the following as a matter of discretion:

Where residential units are proposed as part of a development, the extent to which open space is provided on site either through private open space or communal open space, or a combination thereof[...]

11.33.Notified Rule 16.4.2 therefore does not set any minimum requirements for outdoor space accompanying residential activities, but it does however require provision of outdoor space to be considered.

11.34.I do not consider that the BMUZ should require a minimum outdoor living area rule. I consider that this would be difficult for many developments to comply with given that residential activity is anticipated to be located above the ground floor, and the notified building heights are permitted to 12m, and restricted discretionary 20 metres in the Gorge Road area. These parameters of the BMUZ clearly contemplate apartment style living. I do not consider a minimum outdoor living requirement is necessary as a rule, and I consider that if this was imposed it has the potential to be at odds with the overall thrust of the BMUZ and the above mentioned higher order strategic direction and urban development goals, objectives and policies. I note that Mr Church does not share my view, however I have balanced his evidence against other matters, and I consider that not all living arrangements should be expected to have outdoor living requirements. I also note that this is reflected in the notified High Density Residential Zone.

11.35.In my view, using the matters of discretion for buildings (notified Rule 16.4.2) provides scope for significant flexibility in the provision of outdoor living areas, particularly insofar as it enables outdoor space to be provided communally. While I acknowledge that this could be criticised for

being a 'toothless' matter of discretion, I do not consider it appropriate to require a minimum standard for outdoor living space and I consider that the costs of such as requirement would outweigh the benefits.

11.36. The outcome sought through notified Objective 16.2.2 and implementing notified Policies 16.2.2.1 to 16.2.2.6 is that the high amenity outcomes will primarily be delivered through built form and not through the provision of outdoor living. I therefore recommend that the submission is rejected.

Outdoor storage

11.37. The NZIA (238.102) (opposed by further submissions FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248 and FS1249) seeks that notified Policy 16.2.1.9 (redraft Policy 16.2.1.8) is amended in the following manner:

Ensure that outdoor storage areas are appropriately located and screened to limit any adverse visual effects ~~and be consistent with the appropriate levels of amenity.~~

11.38. The submitter questions how one would define 'appropriate levels of amenity'. I agree that the notified policy is subjective and may result in uncertainty as to the outcomes that the policy is trying to achieve.

11.39. Rather than using the concept of amenity, it is my view that tying the policy to the effects of outdoor storage on public places and residential zones (as is articulated in notified Rule 16.5.2) would provide more certainty than notified Policy 16.2.1.9. I therefore recommend that submission 238.102 is accepted in part, with the incorporation of the recommended changes shown in **Appendix 1**.

12. ISSUE 4 – ACTIVITY STATUS OF BUILDINGS (RULE 16.4.2)

Restricted discretionary vs controlled activity status

12.1. Submitters Skyline (566.10), Trojan Holdings (634.7) Coronet Property Investments Ltd (321.3), GH & PJ Hensman (542.2), High Peaks Ltd (545.2), Ngai Tahu (550.2) submit that notified Rule 16.4.2 should be amended to shift the activity status of buildings from restricted discretionary to controlled.

- 12.2. The s32 analysis²⁴ included in **Appendix 3** sets out the reasoning behind the decision to attribute the restricted discretionary status to all buildings in the BMUZ, and the evidence provided by Mr Church also addresses this.
- 12.3. While requiring a restricted discretionary consent for all buildings would create greater uncertainty and cost, it is my view that the emphasis on high quality design in the BMUZ cannot be effectively implemented through consent conditions, and the ability imparted through the restricted discretionary status to decline proposals that would result in poor quality design outcomes should be maintained. A controlled activity status would in my view result in a regime whereby an application could only be modified through conditions of consent. I consider that it would be inappropriate for the Council in its regulatory role to effectively undertake a fundamental redesign of a proposal through conditions on a controlled activity consent. The BMUZ seeks high quality design outcomes (as per notified and redrafted Objective 16.2.2). In my view in order to effectively achieve this goal it is appropriate for the Council to retain the ability to decline an application. For example, this would ensure that proposals that are of poor quality, such that urban design issues cannot be resolved through discussions or conditions, can be declined. Therefore the restricted discretionary activity status is in my view the more appropriate method to achieve the objective. Furthermore, the non-notification clause for restricted discretionary buildings (notified Rule 16.6.2) will reduce uncertainty, cost and time delays that may otherwise have resulted due to the notification process.
- 12.4. I also emphasise that the liberal building bulk and location provisions, coupled with the range of land uses contemplated with the BMUZ require oversight of design to ensure applications constituting poor outcomes are modified, or if required, declined.
- 12.5. I therefore recommend that the submissions are rejected, as shown in **Appendix 2**.

Buildings for Trade Supplier activities

- 12.6. Various submissions received from Fletcher Distribution Ltd and Mico Ltd (**Mico**) (344.6, 344.10) (supported by FS1059), (344.11) (supported by FS1164 and opposed by FS1314) seek relief relating to Trade Supplier Activities, I address the elements of relief in turn below.

Amend Rule 16.4.2 so that the activity status for the establishment building or trade suppliers up to 1000m2 GFA is a controlled activity:

- 12.7. The submitter correctly points out that the BMUZ permits a range of activities, however buildings for those activities require restricted discretionary consent. It is the submitter's view that, because the activities listed are permitted, then a controlled activity status for the buildings

should follow. I do not support this view. As set out in the above paragraphs 12.1 to 12.5 I consider it important that the Council retain oversight of the design of buildings and that if necessary, have the ability to decline proposals that would result in poor design outcomes. It is my view that notified Rule 16.4.2 should not be amended to provide a separate activity status for buildings for trade supplier activities.

12.8. I also note that buildings in the Queenstown Town Centre Zone (notified Rule 12.4.6) require resource for a restricted discretionary activity. I therefore recommend that this submission is rejected.

Amend the notified definition of 'Building Supplier' to remove the reference to Three Parks and Industrial B Zones:

12.9. The submitter notes that Placemakers and Mico would fit within the notified definition of Building Supplier, however the definition is currently limited in its application. The notified definition is as follows:

Building Supplier (Three Parks and Industrial B Zones)

Means a business primarily engaged in selling goods for consumption or use in the construction, modification, cladding, fixed decoration or outfitting of buildings and without limiting the generality of this term, includes:

glaziers;

locksmiths; and

suppliers of:

- *awnings and window coverings;*
- *bathroom, toilet and sauna installations;*
- *electrical materials and plumbing supplies;*
- *heating, cooling and ventilation installations;*
- *kitchen and laundry installations, excluding standalone appliances;*
- *paint, varnish and wall coverings;*
- *permanent floor coverings;*
- *power tools and equipment;*
- *safes and security installations; and*

- *timber and building materials.*

12.10. It is my view that the limitation of the definition so that it only applies to Three Parks and the Industrial B Zone may result in inconsistency in the application of the term *Building Supplier* in the PDP. It is therefore appropriate, in my view, to remove the reference to Three Parks and the Industrial B Zone. I recommend this element of the relief is accepted.

- Insert a new definition of *Trade Supplier* as follows:

means a business engaged in sales to businesses and institutional customers and may also include sales to the general public, and wholly consists of suppliers of goods in one or more of the following categories:

- *automotive and marine suppliers;*
- *building suppliers;*
- *catering equipment suppliers;*
- *farming and agricultural suppliers;*
- *garden and patio suppliers;*
- *hire services (except hire or loan of books, video, DVD and other similar home entertainment items);*
- *industrial clothing and safety equipment suppliers; and*
- *office furniture, equipment and systems suppliers.*

12.11. The submitter correctly points out that notified Rule 16.4.6 refers to Trade Suppliers, however the notified Chapter 2: Definitions does not define this activity.

12.12. It is my view that the term does need to be defined to ensure that notified Rule 16.4.6 is able to be effectively implemented.

12.13. In my view the list of activities included in the definition are appropriate, and these activities should be afforded the restricted discretionary activity status prescribed by notified Rule 16.4.6. I note that the definition would result in *Building Suppliers* becoming a subcategory of *Trade Suppliers*. This would result in the activities listed within the *Building Suppliers* definition also being subject to notified Rule 16.4.6. I consider that this is also appropriate in the context of the BMUZ as, in my view the activities listed in the *Building Suppliers* definition warrant the restricted discretionary activity status prescribed by notified Rule 16.4.6. I note that I have undertaken a word search of the use of these terms in the notified Stage 1 Chapters and the term *Building Supplier* does not occur in any notified Chapter (aside from notified Chapter 2: Definitions), and the term *Trade Supplier* only occurs in the BMUZ. I therefore recommend that the relief sought by submission 344.11 is accepted.

12.14. Bunnings Limited (**Bunnings**) (746.4, 746.5 and 746.6) (supported by FS1164) also seek changes in respect of notified Rule 16.4.6. I consider that submission 746.4, which seeks deletion of notified Rule 16.4.6 is without a sound basis. The activities listed in this rule in my view may result in the construction of large utilitarian buildings. It is my view that these activities do warrant the specific consideration provided by notified Rule 16.4.6.

12.15. As alternative relief Bunnings seeks that notified Rule 16.4.6 is amended to delete the reference to Trade Suppliers and replace it with Building Suppliers, as this term is defined in the PDP. I consider that this matter is addressed in the changes recommended in response to the Mico submissions, above. In addition, I do not support the amendment sought by Bunnings to the matter of discretion in notified Rule 16.4.6, which would see the second matter limited to applying only to neighbouring *residential* properties. The notified BMUZ anticipates a mix of residential and non-residential activities. The relief sought would, in my view, mean that the impact of buildings on adjoining properties within a residential zone would be able to be considered, but not the impact on residential activities occurring within the BMUZ. In my view this would not be appropriate amendment to notified Rule 16.4.6.

12.16. Regarding Bunnings' submission 746.5, I consider that this matter is more appropriately addressed by the changes sought by Mico submissions 344.10 and 344.11. I therefore recommend this submission point is accepted in part.

12.17. Bunnings (746.5) seeks that the definitions of "Commercial Activity", "Retail Activity" and "Large Format Retail" to specifically exclude "Building Supplier" to exclude *Building Supplier*. I do not consider that these changes are necessary, and the matter is sufficiently addressed in the recommended changes in response to the Mico submissions.

12.18. Bunnings (746.6) also seek that the notified definitions of *Commercial Activity*, *Retail Activity* and *Large Format Retail* are amended to specifically exclude *Building Supplier*. The submitter provides the following reasons for this change:

It is assumed that "Building Supplier" will be appropriately will be appropriately provided for in the Business and Industrial zone provisions that will be notified as part of Stage 2 of the PDP review. However, without being able to review those provisions now as part of Stage 1, consequential amendments to definitions, including "Commercial Activity", "Retail Activity" and "Large Format Retail" are required now to specifically exclude "Building Supplier" from these definitions. This will ensure a clear understanding of which activities are included and excluded from Rule 16.4.6...

12.19. It is my view that the recommended changes to definitions shown in **Appendix 1** would provide an appropriate degree of certainty as to the activities that Rule 16.4.6 captures. In my view the

relief sought would not provide a clearer interpretation of the rule and I recommend that it be rejected.

Matter of discretion – natural hazards

12.20. Ledge Properties Ltd and Edge Properties Ltd (700.2) states concern regarding the practicality of meeting the requirements of the matter of discretion pertaining to natural hazards in notified Rule 16.4.2 (bullet point 5). The submitter goes on to point out that in their view there need to be exemptions for small consents and minor natural hazards.

12.21. The relevant matter of discretion (as notified) is as follows:

Where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: an assessment by a suitably qualified person is provided that addresses the nature and degree of risk the hazard(s) pose to people and property, whether the proposal will alter the risk to any site, and the extent to which such risk can be avoided or sufficiently mitigated.

12.22. I agree that the notified version would place a burdensome requirement on applicants proposing minor developments, or for instances where the risk posed by the natural hazard is low. It is also a partial mix of an assessment matter and a matter of discretion.

12.23. While I recommend that the matter of discretion remains, I consider that the requirement for an assessment by a suitably qualified person is removed, as shown in **Appendix 1**. I consider that the recommended change would provide flexibility for the assessment to be commensurate to the level of risk posed. I also consider that this approach is consistent with notified Policy 28.3.2.3, which provides further guidance as to information requirements and does not stipulate a requirement for all hazard assessments to be completed by a suitably qualified person.

12.24. Also of note is that the recommended revised wording is consistent with that recommended for the other chapters within the Business and Residential Hearing streams (the latter to come through the right of reply), which provides a consistent approach.

12.25. I therefore recommend that the relief sought by 700.2 is accepted in part, as shown in **Appendix 1**.

13. ISSUE 5 – OTHER MATTERS

Glare

- 13.1. The NZIA (238.101) (supported by further submission FS1059 and opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248, and FS1249) seeks that notified Policy 16.2.1.8 (redrafted Policy 16.2.1.7) is amended in the following manner:

Ensure that the location and direction of street lights does not cause significant glare to other properties roads and public places and promote lighting design that mitigates adverse effects on the night sky, and provide a safe well lit environment for pedestrians.

- 13.2. I consider that the suggested amendments are appropriate as they would incorporate Crime Prevention Through Environmental Design (**CPTED**) principles. I also consider it would be appropriate to introduce a new policy that requires CPTED principles to be incorporated in site design. A similar policy applies to the notified Town Centre chapters of the PDP (refer to notified Policy 12.2.4.3 of the Queenstown Town Centre Zone). I consider it is appropriate that it also applies to the BMUZ also, and would also assist with implementing the recommended changes to notified Rule 16.5.7 (redraft Rule 16.5.8), which includes CPTED considerations as a new matter of discretion for restricted discretionary building heights in the Gorge Road area.
- 13.3. I recommend that the relief sought by submission 238.101 is accepted and a further policy is also included, as shown in **Appendix 1**.

Noise

- 13.4. The NZIA (238.100) (opposed by further submissions FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248, and FS1249) submits that the noise thresholds should be set out at the Policy level by amending notified Policy 16.2.1.7 (redraft Policy 16.2.1.6).
- 13.5. I note that notified Rule 16.5.8 sets out the thresholds for noise generated within the BMUZ.
- 13.6. The approach taken in the notified BMUZ, of having the specific thresholds set out at the rule level, rather than in a policy is consistent with the treatment of such requirements in the other business zones of the PDP. It is my view that putting the thresholds in the policy would remove any flexibility for applications that breach the noise thresholds to be approved. However at the rule level, such breaches are considered a non-complying activity. I also note that the submitter does not propose any changes to notified Rule 16.5.8.

13.7. I am unsure of the submitter's rationale for elevating the thresholds to the policy level, as no reasons are provided in the submission. In the absence of any reasons, I am not persuaded that the relief sought should be accepted.

Submission points supporting various provisions of the notified version

13.8. A number of submission points support various proposed objectives and provisions of the notified BMUZ with no further comment provided by the submitter. These points are listed in **Appendix 2** and are not discussed in further detail as the submissions support the various provisions and do not seek further relief. For instances where I do not recommend changes in the Recommended Revised Version in **Appendix 1**, I recommend these submission points are accepted.

Submission points rejecting various provisions of the notified version

13.9. I recommend that submission points rejecting a notified BMUZ provision that do not provide any reasons or rationale for the requested change, and have not been otherwise submitted on, are rejected. This recommendation is made in the absence of any evidence or reasoning that alters my view that the notified objectives and provisions, with the incorporation of the changes shown in **Appendix 1**, are appropriate in meeting the purpose of the Act. These submissions are shown in **Appendix 2**.

Drafting style for objectives and policies

13.10. In the Panel's Fourth Procedural Minute dated 8 April 2016, concern was expressed that many objectives and policies were not framed as such. I have reviewed the notified Objectives and Policies and do not recommend any changes in this regard.

Recommended changes for clarification and improvement

13.11. A number of non-substantive changes are recommended to be made to the provisions to clarify the intent and improve the drafting of the chapter. A number of these have been discussed in other hearing streams and in the interests of consistency I have also recommended these changes. I consider that the changes do not alter the regulatory effect or change the geographic application of the provision and I consider the Panel are able to recommend these changes are made without a submission on the provisions.

13.12. I have identified some provisions in the notified BMUZ that could be improved, however no submissions have been made on these and the changes recommended would lessen the regulatory effect of the rule. Therefore, I do not consider there is scope within submissions for me to be recommending these changes. These provisions are:

- i. Notified Rule 16.5.9.1 (redraft Rule 16.5.10.1) because the component of the rule where it states... *as to limit effects on the night sky* ...provides too much discretion and subjectivity associated with whether a activity would be compliant.

13.13. In any event, this rule is considered to be ultra vires and therefore in my view should be removed from the PDP.

13.14. In addition, I note that the notified BMUZ does not include a requirement for development of large sites to provide a Comprehensive Development Plan. Introducing this requirement would give effect to Strategic Direction Policy 3.2.3.1.2 which seeks that development on large sites is undertaken in a comprehensive manner. The introduction of a rule akin to 12.4.6.2 of the notified Queenstown Town Centre Zone (and accompanying notified Policy 12.2.2.9) would, in my view be an appropriate addition to the BMUZ and is also supported by Mr Church.

Subdivision and Development Chapter 27 of the PDP

13.15. The Subdivision and Development Chapter was heard in Hearing Stream 04 between 25 July and 17 August 2016.

13.16. Subdivision of land within the BMUZ is a restricted discretionary activity in accordance with Rule 27.5.6 of the Subdivision Chapter (Chapter 27).²⁵ In addition, Rule 27.6 prescribes a minimum lot area for subdivision of 200m² within the BMUZ.

13.17. I note that no submissions were received specifically seeking to amend the above density regime as it applies to the BMUZ, and therefore no changes are recommended.

BMUZ Design Guide – Potential future Variation

13.18. It is my view that a design guide for the BMUZ, similar to that of the town centre zones, would be a useful tool to illustrate the quality of urban environment that the Zone seeks to achieve.

13.19. A design guide may also provide an opportunity to include pedestrian linkages and other urban design elements that are not presently captured by the BMUZ. A design guide may also be able to be incorporated by reference, similar to the Arrowtown Design Guidelines 2016.

13.20. I note that the above view is my own, and is supported by the evidence provided by Mr Church, however this may not necessarily be the view of Council.

²⁵ Subdivision and Development Hearing – Recommended Revised Chapter – Reply 26/08/2016

14. CONCLUSION

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

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



Amy Bowbyes
Senior Planner
2 November 2016

Appendix 1. Recommended Chapter with tracked changes