

**BEFORE THE HEARINGS PANEL
FOR THE QUEENSTOWN LAKES PROPOSED DISTRICT PLAN**

UNDER THE Resource Management Act 1991 ("**Act**")

IN THE MATTER OF Stage 3b Proposed District Plan – Rural Visitor
Zone

BETWEEN **MALAGHANS INVESTMENTS LIMITED**

Submitter #31022

AND **QUEENSTOWN LAKES DISTRICT COUNCIL**

Planning Authority

PLANNING EVIDENCE OF BEN FARRELL

8 JUNE 2020

Counsel instructed:

JGH BARRISTER

J D K Gardner-Hopkins

Phone: 04 889 2776

james@jghbarrister.com

PO Box 25-160

WELLINGTON

PROFESSIONAL DETAILS

Qualifications and experience

1. My full name is Ben Farrell.
2. I am an independent planning consultant based in Queenstown. I am the Owner and Director of Cue Environmental Limited, an independent consultancy service I established in 2018. My qualifications and experience is set out in my evidence in chief dated 29 February 2016 in relation to the PDP Council Hearing Stream 1b. I have worked as a planner across New Zealand and I am familiar with the Otago Regional Policy Statement (RPS) and District Plan Review (DPR) processes. Since preparing my evidence on Hearing Stream 1b I have:
 - (a) Presented expert planning advice on the poRPS council hearing, as well as provision of strategic planning advice in relation to the High Court appeal process.
 - (b) Provided expert planning evidence to the Environment Court in relation to the Strategic Direction Chapters (Topics 1, 2, and 4).
 - (c) Provided expert planning evidence to the Environment Court in relation to development proposals within the ONL.
 - (d) Prepared submissions and provided planning evidence and strategic advice to a range of parties in respect of numerous Hearing Streams, and Stages 2 and 3 of the DPR.
 - (e) Participated in numerous appeal and mediation processes in relation to the DPR.
 - (f) Presented expert planning evidence to the environment Court on behalf of the Royal New Zealand Forest and Bird Protection Society and Southland Fish and Game on the proposed Southland Water and Land Plan.
3. Over the last three years I have also represented the New Zealand Resource Management Law Association prepare submissions and provide commentary/feedback to Central Government in respect of numerous RMA related guidance documents, legislative reform, and policy development.
4. I have resided in the lower south-island since 2013 and Queenstown since 2015. I am generally familiar with the site and surrounding area having visited the Skippers area on numerous occasions for recreation purposes. However, I have not visited the site in mind of this matter (but intend to prior to the hearing).

SCOPE OF EVIDENCE

5. I have been asked to provide planning evidence in regard to the submission made by Malaghans Investments Limited (“MIL”) in respect of this hearing topic (#31022).
6. I have read the section 42A report and evidence on behalf of QLDC relating to the MIL submission: the s42A Report of Ms Grace; the evidence of Mr Jones and Ms Mellsop (landscape); and the evidence of Mr Bond (geotechnical). I have also read and rely on the evidence Mr Tony Milne (landscape) on behalf of MIL.

EXECUTIVE SUMMARY

7. This planning evidence supports the submission by MIL to rezone the site from Rural to Rural Visitor (RVZ). The reporting officer does not appear to be opposed to the rezoning subject to further information being provided in respect of landscape and natural hazards.
 - (a) In respect of landscape, Mr Milne has provided landscape evidence confirming that the suite can absorb development if it accords with a structure plan that Mr Milne has prepared.
 - (b) In respect of natural hazards, I opine that the absence of detailed geotechnical information (as recommended by Mr Bond and Ms Grace) should not be a fatal flaw to the rezoning request. Rather, the actual risks from natural hazards can be recognised and provided for as a restricted discretionary activity. Moreover, a controlled activity status for development may be appropriate if further geotechnical information around natural hazard risk is provided.
8. My evidence largely relies on the s.42A Report findings that the rezoning is appropriate in respect of giving effect to the relevant higher order provisions.
9. I support amending the Chapter 46 and 27 (Subdivision Chapter) to provide for a structure plan approach to the Skippers RVZ. Additionally, I support consequential amendments to the Rules to recognise that the structure plan approach will satisfactorily enable appropriate land use at the site. For example I recommend amending Rules 46.4.6d (to control infrastructure, heritage matters, and the location of parking), 46.5.1 (to permit 7m high buildings in the Skippers RVZ); 46.5.2 in relation to Building Size; 46.5.5 in relation to building setbacks from zone boundaries where a structure plan is in place; 46.5.8 in relation to building materials and colour. I support a permitted activity status for residential and residential visitor accommodation activities. I also support some amendments to the non-notification clauses to make resource consent application processes more efficient.
10. I support consequential amendments to Chapter 27 (Subdivision) and if required Chapter 26 (Heritage) to recognise and provide for subdivision and development, which accords with the structure plan, as a controlled activity.
11. The above amendments form part of MILs proposal. I have assessed MILs proposal under section 32 of the RMA and against Part 2. I have concluded that the proposed RVZ and above amendments are appropriate and the RVZ is better than the status quo.

PROPOSED REZONING

12. MIL sought the rezoning of the following land at 1352 and 1354 Skippers Road in its submission, as outlined in red in Figure 1 below:



Figure 1 Extent of MILs site where the RVZ is sought

13. MIL is now proposing to adopt a structure plan to help guide future development and subdivision. The “Skippers RVZ Structure Plan” is attached to Mr. Milnes evidence, and is illustrated in Figure 2 below.

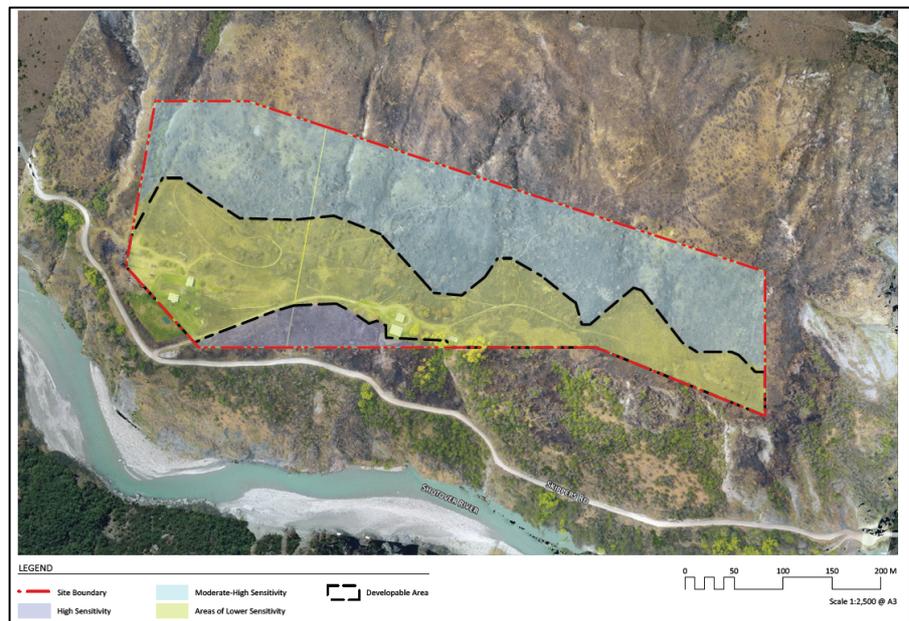


Figure 2 Proposed Structure Plan (refer evidence of Mr Milne)

14. MIL is also seeking amendments to the zone provisions. The focus of my assessment is on those proposed changes, with reliance on submission and the evidence of Ms. Grace and Mr. Milne informing the merits of the proposed rezoning.

REZONING - KEY ISSUES

15. I understand Ms Grace's recommendation against the rezoning of the MIL land to RVZ, to be summarised at paragraphs 9.11-9.13 of the s42A Report:

I consider the four Skippers sites generally have the key characteristics for RVZ areas, including those set out in the new policy I recommend in this evidence. The sites are remote. Three of them are clustered approximately 9km along the Skippers Road. ... As stated by Mr Jones, the sites are all relatively difficult to see from public places and potentially have the capability to successfully absorb development. As I understand it, accommodation options within Skippers are currently very limited. Allowing RVZ in this area would provide greater access to this particular ONL landscape, which also has heritage values, than currently exists. However, there are currently significant information gaps that, in my opinion, make re-zoning to RVZ not appropriate. The sites are relatively small sites, and while it is conceivable that a landscape assessment identifies lower landscape sensitivity areas, that information is not available at present. Further information is required to be able to understand the natural hazard risk on two of the Skippers sites.

Overall, when considering the costs and benefits of the economic, social, cultural, and environmental effects of the rezoning of the Skippers submission sites to RVZ, and the risk of acting, it is my opinion that this would not be an efficient or effective way to achieve the Objectives of Chapters 3. I consider the Rural Zone to be the most appropriate one for the sites with the information available. The discretionary activity resource consent process of the Rural Zone provides greater and more appropriate ability to manage effects of development on landscape and potential risk from natural hazards. I recommend that the relevant submission points for these submissions be rejected.

16. MIL has considered the extent of rezoning sought and expert landscape advice has been sought from Mr Tony Milne. The Structure Plan prepared by Mr. Milne has identified (and mapped) areas of low sensitivity and I understand MIL is seeking amendments to the PDP to enable development within this "Developable Area".
17. The use of Structure Plans in the ODP and PDP is not uncommon and can be an appropriate method for managing the effects of development in any particular location, in an integrated way.
18. The RVZs are contained across the district typically in remote locations. Where a landowner wishes to adopt a structure plan approach, that should be accommodated within the RVZ framework. Not every RVZ needs to have a structure plan, in my opinion, however.
19. Mr Milne discusses the structure plan for the proposed Skippers RVZ at his [44] and the following paragraphs, particularly the use of a "Developable Area" concept in the Structure Plan. I understand that the Developable Area is only located on areas of low sensitivity. It is an effective method for achieving the objectives of enabling certain activities and development in appropriate locations and restricting development in areas of moderate-high and high landscape sensitivity, to maintain or enhance landscape character and visual amenity values.
20. I agree with Ms Grace' summation (at paragraph 5.8) that the objectives and policies in Chapters 3, 6 and 46 seek to enable visitor industry activities and services and provide for access to the District's landscapes.

AMENDMENTS TO PDP PROVISIONS

21. My evidence focuses on these proposed amendments insofar as they relate to the proposed Skippers RVZ. I note Ms Grace proposes a number of changes to the RVZ provisions as set out in her section 42A report. I have suggested a number of amendments to the planning provisions and I will discuss these further below. However, the amendments I discuss below are specific to the scope of my evidence relating to the MIL submission. I have not commented on all of Ms Grace's recommended amendments.

Zone Purpose

22. If some of the RVZ areas are to utilize a structure plan mechanism, then I consider it appropriate for the purpose of the zone (46.1) to contain an explanation relating to structure plans and what they seek to achieve in the context of the zone. I suggest the following be added into 46.1:

Schedule 46.7 includes a schedule of Structure Plans to guide future land use development within some of the RVZs. Development in accordance with each Structure Plan is specifically provided for.

Objectives and Policies

23. I recommend an Objective and supporting Policy be introduced to provide for future development and activities in accordance with a structure plan. The policies recognise that the Structure Plan will identify areas suitable for development and consequently seek to enable appropriate development and activities in the policies.

Recommended new objective:

Development that is in general accordance with a Structure Plan in 46.7 is enabled.

Recommended new policies:

Enable development that generally accords with a Structure Plan in Schedule 46.7.

Permit activities within the RVZ that support the visitor industry.

Provide for a range of activities within the RVZ that retain a rural character.

24. Policy 46.2.2.2 outlines colours and materials for RVZs. The land subject to the MIL submission contains a heritage overlay. I suggest the following amendment to this policy to specifically refer to heritage colours and textures for the RVZ in Skippers:

(b) in the immediate vicinity of the Homestead Area at Walter Peak, ~~and~~ the Homestead Area at Arcadia, ~~and within the RVZ at Skippers,~~ provide for a range of external building colours that are not as recessive as required generally for rural environments, but are sympathetic to existing development.

(c) Within the RVZ at Skippers encourage the incorporation of heritage colours, texture and materials as part of the overall design palette for buildings and structures.

25. I also recommend a new policy to provide for rural roading and infrastructure. RVZs in locations such as Skippers are very isolated with no local services. Creative and unique ways of providing services could be adopted and the policy framework provides for this. I recommend the following policy, or wording with like effect:

Ensure development is appropriately serviced while recognising and providing for the remote rural location of the Zone by enabling practical infrastructure design considerations as an alternative to adherence to Council's code of practice for urban subdivision and development.

Rules

Introduction of the structure plan

26. Structure Plans for RVZs could be located at section 46.7 of the PDP.
27. A new standard would need to be included in Table 46.5 to control development that is undertaken in general accordance with a structure plan. For the Skippers RVZ, where a

specific “Developable Area” has been identified, the rule should establish that development outside the identified “Developable Area” fall into the Discretionary activity status.

28. I support the Discretionary activity status for development outside the “Developable Area” because that would be status quo (i.e. if the land was retained as rural general).

Natural Hazards

29. In the absence of detailed geotechnical information (as recommended by Mr Bond and Ms Grace) I consider it would be appropriate to include a rule specific to the Skippers RVZ to classify new buildings a restricted discretionary activity, with discretion restricted to “the natural hazard risks associated with the proposed building and measures taken to avoid, remedy or mitigate those risks”. A controlled activity status for buildings may be appropriate if further geotechnical information around natural hazard risk is provided.

Building height

30. Rule 46.5.1 relates to building height. Based on the evidence of Mr Milne a 7m building height standard is recommended for the Skippers RVZ, on the basis that the landscape can accommodate this height of building.

Building size

31. I consider Rule 46.5.2 should be amended so that non-conformance results in a controlled activity, with the matters of discretion changed to matters of control. I consider a 500m² built form restriction “across the zoned area” to be arbitrary and will result in inefficient consenting, effectively undermining the controlled activity Rule 46.4.6 by virtue of having such a low threshold rule-breach trigger. In reality, the trigger will make almost all development of buildings within a RVZ restricted discretionary. I understand that such a consent will not, however require notification, which may limit the inefficiencies of such a rule in practice.

Building setbacks

32. Rule 46.5.5 relates to building setbacks from zone boundaries. In my opinion, this rule is arbitrary in RVZs which have a structure plan (i.e. on the basis the structure plan specifies appropriate locations where buildings can be developed without needing to impose additional location restrictions). Moreover, in the case of Skippers, the surrounding land has no particular sensitivities that could be significantly impacted by having building near the zone boundary. I have suggested an amendment to 46.5.5.2 below to exclude the Skippers RVZ from this rule:

Rule 46.5.5.1 shall not apply to “Development Areas” identified in a Structure Plan listed in XX

33. If Rule 46.5.5.1 is retained without the above exemption, then I consider the non-notification exception under 46.6 should be removed to ensure that breaches to this standard are not publicly notified and do not require affected persons approvals

Building material and colours

34. I consider the controlled activity status for buildings within this area will sufficiently protect, maintain or enhance landscape values and there should be no need for restricted discretionary criteria to enable Council to decline controlled activity consent applications in this case.
35. I do not agree with Ms Grace (paragraphs 5.14 and 5.15) that building appearance should be restricted discretionary activities. In my opinion, the colour and materials associated with buildings can be satisfactory managed via the controlled activity status. Despite Ms Mellsoy’s concerns (discussed in s.5 of her evidence) in relation to existing RVZs I am

not aware of any significant issues raised in the RVZ review process or background documents justifying the consenting costs and risks associated with applying a discretionary status for the external appearance of buildings.

36. Based on the landscape evidence of Mr Milne, the rationale set out in paragraph 5 of the s42A Report does not justify any restrictions on the total site density and external appearance within the “Developable Area” identified in Mr. Milnes Structure Plan.
37. If clause 46.5.8 remains, I recommend the status for non-conformances with the permitted external appearance criteria be amended to the Controlled Activity Status.
38. In regard to Rule 46.5.8 relating the building materials and colours, I consider that heritage values should be added as a matter of control for the Skippers RVZ (as the Skippers RVZ is currently located within a Heritage Overlay).
39. I propose amendments to the matters of control to include:
- (a) “Heritage values for RVZs within a Heritage Overlay”, or alternative wording, to account for the identified heritage values;
 - (b) “Infrastructural servicing”, to provide for alternative solutions; and
 - (c) Amending matter (g) relating to car parking “the location of car parking” given car parking is addressed under separate provisions in the PDP.
40. Rule 46.4.6 relates to buildings as a controlled activity, with a matter of control including “density”. I do not agree that this should be a matter of control. Rather I consider that it would be ineffective to manage as part of this rule.

Residential activity

41. I support the status of residential activities, and residential visitor accommodation activities, as permitted activities.
42. Ms Grace (at 6.1 and 6.2) identifies that the s32A Report explains that residential development is not consistent with the intent of the RVZ to provide for the rural visitor industry, and says that residential activity is not appropriate within the RVZ.
43. I do not agree with Ms Grace that residential activity is not appropriate within the RVZ and I do not agree with the rationale discussed in the s32A Report and consider that the intent of the proposed RVZ can provide for residential activity. The following section in the s.32A Report summarises the issue as follows:

Residential activity and community activity are considered to have little association with rural visitor activities. A fundamental flaw of the RVSP is that there appears to have been none, or little justification from an effects perspective to identify these areas (i.e. a lack evidential proof that those areas are appropriate from a landscape or natural hazards risk) and that despite the well-intended objective that sought an outcome of ‘Provision for the ongoing operation of the existing visitor areas’ a raft of unspecified activities that have no strong relationship with the visitor industry are permitted.

There is currently little guidance in the RVSZ provisions as to the appropriate level or amount of the permitted activities that should occur within the zone. While the objective of the RVSZ states that the zone is intended to provide for the ongoing operation of existing visitor areas there are no rules that would support the protection of this land for visitor-related purposes rather than for other activities. For example, there are no provisions that would prevent a RVSZ from being developed as a high density residential area, given that buildings are controlled (and therefore the Council must grant any such application) and there are no controls that would limit density or building bulk beyond the setback requirements and building height limits. The

outcome at Arthurs Point is a clear illustration of the failing of the operative provisions and poor identification of the location of the zone.

In addition to the lack of protection for these areas for visitor-related activity, and given the large areas of land that make up the RVSZ, there is the potential that the lack of controls could result in urban-type growth occurring within the wider rural areas in which the RVSZ are generally located.

The lack of specific identification of permitted activities has not continued through the District Plan Review. The structure of the PDP has (generally) reversed the permitted activity presumption, instead applying a non-complying or discretionary activity status to activities where they have not been specifically identified.

44. It appears to me Council's primary desire in respect of residential development is to avoid urban development, which is understandable. However, urban development is not anticipated or provided for in the RVZ. No submitter, that I am aware of, has or is suggesting that any RVZ should enable urban development.
45. I do not agree residential activities have little association with rural visitor activities. For example, visitor accommodation requires staff/workers and given the rural/remote location of RVZs it is efficient for these people to reside within the RVZ. This is explicitly provided for in the RVZ as stated in the last paragraph of the zone purpose. Also, people choose to reside in the rural environment and so would prefer to reside in a rural setting compared to the urban environment. In this District many residential houses and holiday homes are located in rural environments, and many are used for some form of visitor activity (e.g. residential visitor accommodation).
46. I struggle to understand how permitting residential activity in the RVZ will result in inappropriate adverse effects. For example:
- (a) As stated above many residential houses and holiday homes are located in rural environments, and many are used for some form of visitor activity (e.g. residential visitor accommodation). Rural living is a desirable land use that provides a choice of housing. Permitting residential activity allows rural style living which accords with SO3.2.6 (The District's residents and communities are able to provide for their social, cultural and economic wellbeing and their health and safety); and SP 3.3.22 (Provide for rural living opportunities in areas identified on the District Plan maps as appropriate for rural living developments. (relevant to S.O. 3.2.1A, 3.2.1.7, 3.2.5.1 and 3.2.5.2).
 - (b) Practically, the proposed RVZs are highly unlikely to be developable for residential subdivisions of a density likely to create inappropriate adverse effects. Located in remote and off grid or unconnected locations such as Skippers Canyon will not be able to undertake standard residential or urban subdivision and development. A more likely scenario would be the establishment of a low density high-quality rural living environment, that retains a strong rural lifestyle or rural residential character.
47. The s32 Report identifies two RVZs as problematic (Arthurs Point and Cardrona). These two RVZs have since been rezoned to urban zones. I submit the proposed rezoning to urban is not a retrospect fit because of the development that has occurred under the permissive RVZ regime. Rather these two locations are suitable for urban development. For example they are well serviced locations that adjoin (or are in very close proximity to) existing urban zoned and developed land.
48. I observe neither the s32 or 42A Reports appear to acknowledge that while residential development has been permitted, the majority of remotely located RVZs in the district have not been developed for residential or urban character uses.
49. In summary, I consider that the restriction on residential use (Rule 46.4.13) too onerous. When compared to uses anticipated in the RVZ residential activities are unlikely to give rise to adverse effects of such significance that warrant a non-complying or discretionary activity status.

Non-Notification Clauses

50. Rule 46.6 relates to non-notification of applications. I consider that clause 46.5.5 (setback of buildings from the Zone boundary) should not apply to buildings within development areas located in a structure plan. Exclusion of the abovementioned activities from notification or requiring affected persons approval will help enable development to occur efficiently within the remotely located RVZs.
51. I also consider that clauses 46.5.6 (commercial recreational activities) and 46.4.6 (construction, relocation or exterior alteration of buildings) should be deleted from all RVZs. Allowing resource consent applications for these activities to be notified does not serve any meaningful purpose.

Subdivision Chapter

52. I consider a specific objective and supporting policies could be included for all RVZs or each RVZ that has a structure plan. This would align with the existing framework within Chapter 27 and ensures the structure plan is reflected in the Subdivision provisions.
53. The following Objective and supporting policies (or wording with like effect) could be inserted into Chapter 27.3 (location specific objectives and policies) to facilitate subdivision and development that accords with RVZ Structure Plans:

[New Objective specific to] Rural Visitor Zones:

Subdivision that provides for visitor accommodation, residential visitor accommodation, worker accommodation, commercial recreation, recreation, and activities ancillary to these uses.

Policies

Enable subdivision in the RVZ that provides for visitor accommodation, residential visitor accommodation, worker accommodation, commercial recreation, recreation, and activities ancillary to these uses.

Provide for a rural standard of infrastructure, including access, and the need to consider alternative forms of servicing to meet the needs of the intended land uses acknowledging the remoteness and practical constraints associated with non-conformity to Councils Code of Practice for subdivision and development.

54. A consequential amendment to rule 27.5.13 should be made to provide for subdivision within RVZs within Heritage Overlays (if the Heritage Overlay remains over the site). Specifically, there does not need to be any minimum allotment size for subdivisions associated with the abovementioned activities.

OTHER SUBMISSIONS AND INTRODUCING MORE RESTRICTIVE PROVISIONS

55. As a general comment I am surprised to see Ms Grace recommending more stringent / restrictive provisions in Chapter 46 compared to the notified version, for example Ms Grace is recommending:
- (a) Amendments to the Zone Purpose are less enabling/supportive of development
 - (b) Numerous amendments to provisions throughout the chapter to introduce the term "protect"
 - (c) Introducing the direction to protect, maintain or enhance the landscape character and visual amenity values of the Rural Visitor Zone and surrounding rural landscapes, whereas previous this direction applied to ONLs and did not include the term "protect".

56. From my brief review of the submissions (including further submissions) there is no relief being sought to make the chapter more restrictive. The provision of more restrictive provisions will undermine the efficiency and effectiveness of the RVZ, and I submit that care needs to be taken not to do so. I submit the driving philosophy of the RVZ is to encourage rural visitor development and activities in appropriate rural locations (in accordance with SO3.2.1.1), recognising that other “protectionist” provisions sit alongside this outcome, including the landscape value protection directions set out in SO3.2.5XX(a) (in relation to ONLs) and SO 3.2.5.2 (in relation to the RCLs).

REGIONAL POLICY STATEMENTS AND STRATEGIC DISTRICT PLAN PROVISIONS

57. In this evidence I have not undertaken a close examination of the relevant RPS provisions or the SOs and SPs as these matters have been addressed in the s.42A Report and I understand these are not matters of contention. I observe from the s.42A Report (par 9.11) that the directives in the strategic chapters are anticipated to be met through the RVZ provisions.

SECTION 32 RMA

Evaluation

58. Section 32AA requires a further evaluation for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed, must be undertaken in accordance with section 32 (1) to (4), and must be undertaken at a level of detail commensurate with the scale and significance of the changes.

59. There are two objectives proposed for the zone, as set out below:

46.2.1 Objective 1 – Visitor accommodation, commercial recreation, and ancillary commercial activities are provided for through a Rural Visitor Zone that:

- a. protect the landscape values of Outstanding Natural Landscapes; and*
- b. maintain the landscape character, and maintain or enhance the visual amenity values of Rural Character Landscapes.*

46.2.2 Objective 2 – Buildings and development that have a visitor industry related use are enabled within the Rural Visitor Zone in areas of lower landscape sensitivity and where necessary are restricted or avoided to:

- a. protect the landscape values of Outstanding Natural Landscapes, and*
- b. maintain the landscape character and maintain or enhance the visual amenity values of Rural Character Landscapes.*

60. For the purposes of this evidence (where my scope is focusing only on the MIL submission) I am not challenging or testing the appropriateness of these two Objectives. I take them as read.

61. In my opinion the inclusion of a structure plan is an effective method for implementing the above Objectives. The provisions can include a structure plan to identify landscape values within the ONL including where development is appropriate. This provides a more efficient, finer grained, planning regime. The district plan becomes more complete in

¹ As contained in the section 42A report

² As contained in the section 42A report

respect of providing appropriate resource management provisions in relation to the specified area.

62. I consider the plan amendments proposed in support of the MIL submission, as discussed above, are an appropriate way to achieve the objectives, and the proposed objectives are an appropriate way to implement the amending proposal.
63. Section 31 (1) (b) requires an examination of the proposed policies and rules/methods that implement the objectives. My evidence above discusses the appropriateness of the Structure Plan as a method that gives effect to the objectives. Section 32 (1) (b) (ii) requires an examination as to whether the provisions in the amending proposal are the most appropriate way to achieve the objectives by assessing the efficiency and effectiveness of the provisions in achieving the objectives. The requirements of this sub-clause are further subject to section 32 (2).
64. The proposed provisions, discussed in my evidence above, are in my opinion an appropriate way to achieve the objectives. By introducing a structure plan as a method, development and land use is appropriately guided to ensure that the rules implement the policies, and policies implement the objectives.
65. Taking into account section 32(2), my opinion is that the benefits of the amending proposal outweigh adverse environmental effects. The extent of adverse effects are discussed below. In my opinion these are likely to be insignificant and appropriate.

Effects

66. In undertaking an examination of the provisions, it is appropriate to consider the environmental effects. As assessed in my evidence above, the key environmental effects to consider are effects on landscape values.
67. Landscape values have been evaluated and addressed in detail by Mr Milne. The landscape effects can be managed through the structure plan and methods (rules) relating to development and subdivision. The proposed increased building height of 7m can be appropriately absorbed into the landscape.
68. Natural hazards have been raised as a matter by the QLDC for further investigation, although I observe Ms Grace acknowledges at [9.5] that the hazard annotations are “non-verified or outside priority areas”. I understand that MIL has been unable to have this matter further evaluated on site due to the Covid-19 lockdown. Notwithstanding this, I consider that it is relevant that the RVZ rule framework provides for the consideration of natural hazards in the consenting process, including Rule 46.4.6 and 46.5.2, in addition to the subdivision provisions. On that basis, it would not be necessary to fully resolve natural hazard issues prior to rezoning.
69. Due to its remoteness, development within the zone will need to provide onsite service solutions. Additional provisions (rules and policies) have been introduced to take into account the remote location.
70. No transportation advice has been sought by MIL. Skippers is isolated and there are only two modes of transport: vehicle on Skippers Road or helicopter. The proposed provisions relating to helicopter use are positive for Skippers in providing a good transport option. The drive along Skippers Road is part of the experience of the location; this road is clearly ‘not to standard’ and it will not be possible to ever achieve this given the practical constraints. No significant transport effects are expected.
71. The economic benefits³ of the proposal would be positive. Skippers provides for a number of visitors through touring and adventure trips, however there is no accommodation to provide for the added visitor experience.

³ Section 32 (2) (a) (i) and (ii) of the RMA.

Cost / Benefits

72. In regard to section 32 (1) (b) (i), and taking into account section 32 (3) relating to an “amending proposal”, there are broadly two other options available to the submitter that could be considered “reasonably practicable options” for achieving the objectives:
- (a) Maintain the status quo; and
 - (b) Within the status quo framework, seek resource consent for visitor accommodation.
73. Maintaining the status quo (option 1) would not enable development and use of land that is suitable for development, as identified by Mr Milne.
74. The resource consent pathway under the Rural Zone provisions in Chapter 21 is highly uncertain. The Rural provisions cover the majority of the district and therefore do not cater for the intricacies of a remote location like Skippers where landscape assessment work has been carried out and determined that the site is suitable for development.
75. Compared with the status quo, rezoning the land from Rural to RVZ:
- (a) Provides a method that enables appropriate development in an appropriate location
 - (b) Provides for integrated land use management, guided by a structure plan and matters of control, that take into account the need to manage environmental effects, including site servicing/infrastructure requirements and the heritage values of the area.
 - (c) Provides for a range of appropriate activities, including (in my opinion) residential visitor accommodation and rural living opportunities.
 - (d) Appropriate protection, maintenance and enhancement of ONL landscape and visual amenity values.
76. A tailored zone like the RVZ is more appropriate to help identify the type of activities which are appropriate for the subject land resource and guide and streamline future consenting processes. In my opinion, the most appropriate option is MILs amending proposal.
77. In my experience it is very inefficient to utilise or to rely on discretionary resource consent application processes to determine the appropriateness of multiple activities within a confined location within an ONL. In this regard:
- (a) The costs associated with resource consent application processes is very high, to the point where it can genuinely impact land use outcomes. Part of my role as a consultant planner is to advise applicants, and potential applicants, on the anticipated costs of resource consent application process. In this District, an applicant must pay QLDC a minimum of \$24K if a Council hearing is required (although the actual costs on an applicant are likely to be closer to \$75-\$100K when factoring in the costs of preparing and reviewing all the application documentation). In recent years my advice has been that resource consent applications for new buildings in the ONL could cost a minimum \$80K (if unopposed), or well over several hundred thousand dollars (if opposed and the Council decision appealed). I have been involved in one case recently for a house in an ONL where the resource consent application process cost the applicant around \$500K.
 - (b) Coupled with the high costs of resource consent applications an efficiency problem with the resource consent application process is that, in my experience, there is no certainty and obtaining certainty can take a long time (too long). In this District QLDC has the standard practice of, at a staff level,

not providing professional advice or feedback about the likely merits of an application. This means that for any discretionary application (including NCA), a landowner (or any other party) will have no certainty about the appropriateness of a potential development outcome until the end of their resource consent application process.

78. A better alternative to the resource consent application process (for discretionary applications) is to enable a range of development opportunities by way of finer grained plan provisions, such as the RVZ.
79. My reading of the findings and directions of the Environment Court in relation to its Interim Decisions on Topic 2 (at paragraphs [129-131]) is that the role of identifying particular landscape values and attributes sit within QLDCs as the local planning authority and it is district plan's role to identify and describe these landscape values and capacity is, not to leave it up to individual resource consent proposals.
80. I consider MILs proposed provisions for the RVZ to be sufficient, although I am aware there are various other parties seeking RVZs and through other evidence, there may be ways to jointly refine the provisions across the collective group. The proposal is well informed and uncertainty is relatively low. The proposed provisions provide for a clear consenting pathway.
81. Practically, in this District resource management practice appears to be shifting away from an effects-based planning philosophy to a prescribed land use approach. This is particularly obvious in the Rural General Zone for example:
- (a) Council has decided to replace the discretionary regime for land development in the Wakatipu Basin with a prescribed bespoke zoning approach with clear criteria for rural subdivision and development.
 - (b) The default status for activities not explicitly provided for the Rural Zone and the RVZ has been reversed from permitted to non-complying.
82. For the above reasons, in principle, I consider it will be more efficient and effective to rezone RG zoned land to RVZ if the evidence before you demonstrates general conformance with the SOs and SPs, and the intent of the RVZ.
83. In my opinion, there is sufficient information before you to support MILs proposed provisions, and the risk of not acting will result in an inferior outcome in the context of achieving the purpose of the RMA.

Part 2

84. An examination of the extent to which the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA is required under s.31(1)(a).
85. As a matter of principle, if the proposal gives effect to the district plan objectives then it follows that the proposal will accord with the purpose of the RMA (on the basis that the RMA is filtered down and particularised through the lower order documents which Chapter 46 is ultimately implementing).
86. In respect of matters of national importance (which are to be recognised and provided for as matters of national importance), the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development (b); the protection of historic heritage from inappropriate subdivision, use, and development (f); and the management of significant risks from natural hazards (h) apply to this proposal. In this case the site is located within an ONL. Development as proposed is not considered "inappropriate" and the ONL can be appropriately protected. As stated by Mr Jones (and as noted earlier), and supported through the evidence of Mr Milne, the site is relatively difficult to see from public places and have the capability to successfully absorb development. Historic heritage has been provided for in the provisions and will be

protected. I have assumed that natural hazard risks will not be significant or can be satisfactorily identified and mitigated through matters of control.

87. In respect of other matters, I consider particular regard is to be given to:
- (a) the efficient use and development of natural and physical resources (7b);
 - (b) the maintenance and enhancement of amenity values (7(c); and
 - (c) the maintenance and enhancement of the quality of the environment (7(f).
88. Rezoning the site to RVZ provides a more efficient use of the land resource compared to retaining the land as rural general. Additionally, through the controls proposed by MIL, including the structure plan approach, amenity values and the quality of the environment will be maintained and can be further enhanced at the time of development.
89. The proposal is not understood to offend Section 8 in any way.
90. In conclusion the proposal meets the purpose of the RMA. It better achieves the PDP's objectives and thereby Part 2 in a more efficient and effective manner (ie the "most appropriate" way) than the framework as notified.

Ben Farrell
8 June 2020