

**BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL
AT QUEENSTOWN**

IN THE MATTER OF the Resource Management Act 1991

AND

IN THE MATTER OF the hearing of submissions by
Wakatipu Equities Limited
(#515/#1298, #2479/#2750) and
Slopehill Properties Limited (#854,
#2584) on the Proposed
Queenstown Lakes Proposed District
Plan Stage 2 Stream 14 – Wakatipu
Basin

STATEMENT OF EVIDENCE OF BEN FARRELL

13 JUNE 2018
EDITED 20 JULY 2018

EXECUTIVE SUMMARY

Qualifications and experience

1. My name is Ben Farrell. I am an Independent Planning Consultant with 20 years involvement in New Zealand's environmental and resource management sector, including over 15 years practical application of the RMA working as a planner on a wide variety of matters for a wide variety of public and private parties.
2. I am familiar with the Wakatipu Basin and the administration of the Queenstown Lakes District Plan insofar as it relates to land use subdivision and development in the Wakatipu Basin.

Scope of Evidence

3. In this matter I have been commissioned by Wakatipu Equities Limited (#515/#1298, #2479/#2750) and Slopehill Properties Limited (#854, #2584) ("the submitters") to provide planning evidence in relation to their submissions. The submitters own land proposed to be zoned Rural Amenity and seek general and specific relief to the district plan to ensure that the provisions applying the Wakatipu Basin and their respective properties protect existing development satisfactorily recognise and provide for rural living opportunities.
4. Throughout my evidence I refer to other planning evidence I have provided on this matter, namely: evidence in Hearing Streams: 1b (Strategic Directions, Landscape) 2 (Rural Chapters), 4 (Subdivision); and evidence for other submitters in Hearing Stream 14 (for submitters M & C Burgess; The Ashford Trust; and Philip Smith).

Statutory Matters

5. I generally agree with the statutory matters set out in the s.42A reports by Mr Barr and Mr Langman, except I do not agree that Chapter 24 "is required" to implement the Strategic Policies. The Strategic Objectives and Policies set out in Chapter 3 and 6, while relevant, are subject to Environment Court Proceedings and in my opinion should not be given much weight at this point in time.
6. There are no National Directions of particular relevance to this matter.

- ~~7. — There are no directive provisions in the operative regional policy Statement that might trump or strongly influence the evaluation of the relief sought in the submissions.~~
- ~~8. — There are relevant provisions in the PRPS but it is subject to challenge, and in my view it should not be given much weight until it becomes operative.~~
- ~~9. — There are relevant Strategic provisions in Chapters 3 and 6 but as mentioned above these are subject to challenge. Until such time that the appeals on the Strategic Provisions relating to land use activities in the Wakatipu Basin are settled, I do not think your evaluation of this submission should be heavily influenced by the Proposed Strategic Provisions. I am also of the view that the Strategic Provisions should include specific policy recognition providing for the benefits and appropriateness of rural living activities and development in the Wakatipu Basin. I am also of the view that the provisions relating to the significant amenity landscape values should not “protect” those values (as opposed to being “maintained and enhanced”).~~
- ~~10. — I recommended (in previous evidence) that Chapters 21 and 22 proposed in 2015 should be amended to include a bespoke policy framework to recognise the positive contribution of, and to enable, rural living opportunities in the Wakatipu Basin. My recommendation stands.~~
- ~~11. — I consider all the objectives and policies in Proposed Chapter 24 relevant but I do not think your decision should be heavily influenced by the Objectives of Chapter 24, as notified, unless:
 - ~~a. — The objectives are amended to recognise and provide for the benefits of rural living, and you consider these new objectives alongside the other objectives; and~~
 - ~~b. — Your enquiry includes a better more accurate understanding of the particular landscape values that are so important they warrant protection from development.~~~~
- ~~12. — I believe Chapter 24 as proposed is deficient because:
 - ~~a. — The Objectives do not satisfactory recognise and provide for the benefits of rural living~~~~

- b. ~~The objectives and policies inappropriately seek to “protect” significant amenity landscape values rather than “maintain or enhance” them.~~
- c. ~~The landscape assessment relied on in the s.32 evaluation for the suite of objectives and methods applying to the Rural Amenity Zone is inaccurate and remains at a scale that is too broad brush to warrant avoidance of development~~
13. ~~In my opinion it is appropriate that Part 2 (s5, 6(a), 6(c), 7(b), 7(c), and 7(f) are considered in this matter. In respect of s.5, I believe it is a fundamental intent of the purpose of the Act to enable people to use and develop their land, provided adverse effects are avoided, remedied or mitigated. I agree with and refer you to the discussions by Mr Goldsmith’s presentations to the panel in Hearing Streams 1b and 2 in respect of the relevance of sections 7(b), (c), and (f). Given the uncertainty with the provisions in the Regional Policy Statement and Strategic Provisions, coupled with the failure (in my opinion) of the proposed district plan objectives to satisfactorily recognise and provide for rural living, I believe the sections 5, 7(b), 7(c), and 7(f) should carry substantial weight throughout this particular enquiry.~~

Position of Mr Todd, Mr Troon, Ms Todd, Mr M Brial

14. ~~The concerns of these submitters are relevant but should not trump the benefits of enabling further subdivision and development around their properties.~~

Key points of Councils Evidence and s.42A Reports

15. ~~I do not agree with Mr Barr’s statement that QLDC is “required” to protect ONFLs from inappropriate use, subdivision and development as a matter of national importance. Rather the requirements on QLDC are those collectively under sections 74 and 31 to review objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district. In doing so the Council must “recognise and provide for” the protection of ONFLs from inappropriate subdivision, use, and development.~~
16. ~~Compared to the suite of provisions proposed by Council, and supported by Mr Barr in 2015, the Council has achieved the provision~~

~~of a bespoke land use policy framework for the Wakatipu Basin (Chapter 24 of the District Plan). I applaud the:~~

- ~~a. Identification of land which can absorb rural lifestyle and residential development~~
- ~~b. Identification of particularly landscape values~~

~~17. However, the planning case for Council has not satisfactorily:~~

- ~~a. Identified all the pieces of land in the Basin which can accommodate further rural living development;~~
- ~~b. Justified the need to avoid rural living development;~~
- ~~c. Recognised or provided for rural living opportunities on land which can in my view appropriately accommodate further subdivision and development.~~

~~18. In respect of ecology Mr Davis appears to identify there are no significant ecological values within or near the site and that the basin has less than 10% of its indigenous vegetation land cover. Mr Davis has not commented on the submissions by WAL and SPL and (of some surprise to me) has not identified any nature conservation benefits associated with the site or ecological benefits of rural living activities.~~

~~19. No issues were raised in respect of Infrastructure.~~

~~20. Mr Skelton has responded to the landscape evidence of Ms Gilbert and Ms Mellsop respectively. In my view, the subject land can absorb further rural living development of a density commensurate with that outlined in the evidence of Mr Skelton. I support changing the landscape unit boundaries and description as discussed in Mr Skelton's evidence.~~

~~21. Councils Transportation evidence by Mr David Smith effectively opposes all the submissions seeking increased subdivision and development in the Wakatipu Basin. For the reasons set out in my evidence for M & C Burgess; The Ashford Trust; and Philip Smith⁴ I consider it would not be an appropriate response to avoid the rezoning on the basis of transportation effects.~~

⁴

Benefits of Rural Living and why it should be provided for within the Rural Amenity Zone

- ~~22. It is appropriate to provide a bespoke planning regime for the Wakatipu Basin.~~
- ~~23. There is a gap in the general policy framework, which should be addressed, particularly as:~~
- ~~i. Independent landscape experts agree there is potential for new rural living opportunities in the rural general zone in the Wakatipu Basin.~~
 - ~~ii. Farming is not a feasible land use in the Wakatipu Basin and there should be provision for more rural living opportunities.~~
 - ~~iii. New rural living developments can have significant local benefits.~~
- ~~24. I believe rural living can significantly improve the quality of the environment.~~
- ~~25. The ODP and PDP (in its current stages) seek to preserve rural characteristics and avoid adverse cumulative effects, which in my view is not appropriate when a fundamental intent of the purpose of the Act is to enable people to use and develop their land provided adverse effects are avoided, remedied or mitigated. I acknowledge s5 facilitates the protection of resources but in my view implementation of this aspect of s5 needs to be applied in the context of the environmental bottom lines stated in sections 6 and 7 of the Act. I highlight that the RMA only seeks to ensure that amenity values associated with the landscape are maintained and enhanced (7(c)) and that resources are used effectively and efficiently (7(b)). I am of the opinion that a development that provides new tailored housing and landscape treatment that contributes to the rural living characteristics of the basin should be encouraged, not discouraged.~~
- ~~26. Any new development has a cumulative effect one way or another but such effects can be appreciated by different people differently. I support the shift from evaluating impacts on amenity values to landscape characteristics as these are more definable and measurable compared to cumulative effects on amenity values~~

~~(acknowledging that this approach still requires subjective interpretations and analysis from individual landscape architects).~~

~~27. I do not agree with Mr Barr that ecological restoration and landscape enhancements should not be incentivised. On the contrary I believe it is important and entirely appropriate for the District Plan to promote restoration of indigenous diversity values through plant and wetland restoration.~~

~~28. I support the introduction of Schedule 27.4 but consider the landscape descriptions and associated policy framework do not adequately identify the environmental bottom lines (those landscape qualities and characteristics) which should be maintained or enhanced. The Schedule should include more detail (specifically identify) the landscape values/features where development is to be discouraged.~~

~~29. The proposed policy framework (as notified) will address the issue of cumulative landscape effects for land zone Rural Amenity because it effectively prohibits further subdivision and development.~~

~~30. I opine that:~~

~~a. Any subdivision or development that is not carefully and comprehensively designed or maintained may significantly adverse effect landscape quality or character.~~

~~b. Any subdivision or development that is carefully and comprehensively designed and maintained is not likely to significantly adverse effect the broader landscape quality or character of the Wakatipu Basin.~~

~~c. As a local issue, there will likely always be tensions between the desire of some people to preserve the appearance of their surrounding environment and others who support change. In accordance with the direction of Part 2 of the Act the focus of the management of adverse effects should be on maintaining and enhancing amenity values and the quality of the environment. Not protecting resources from people wanting to subdivide, use and develop resources, which I consider lies deep in the heart of the purpose of the Act and should prevail in this case.~~

31. ~~I provided evidence in Stream 2 in support of the discretionary regime with no minimum lot size for the Rural General Zone. This evidence continues to apply to the subdivision regime proposed for the Rural Amenity Zone provisions, except where an assessment has been carried out identifying that a minimum lot size for subdivision can be applied without significantly adversely affecting landscape and amenity values (for example in this case Mr Skelton has identified that subdivision of 4ha densities is appropriate).~~

32. ~~Referring to my previous evidence I maintain, the proposed provisions:~~

a. ~~Overstate and give inappropriate weight to the protection of primary production activities and rural character;~~

b. ~~Do not take satisfactory account of the rural living characteristics present in the Wakatipu Basin;~~

c. ~~Do not satisfactorily recognise and provide for new rural living opportunities.~~

d. ~~Should not seek to “protect” the landscape character of the Wakatipu Basin.~~

e. ~~I note the district plan provisions will be implemented by people who are not experienced RMA practitioners, and therefore suggest that any inherent references in the policies should be made explicit.~~

33. ~~I opined that the most appropriate way to implement the purpose of the Act and Strategic Direction objectives (as amended in my EiC) is to ensure the socioeconomic benefits of rural living development in the Wakatipu Basin are recognised and provided for by inserting a new objective and policy into Chapter 21.~~

34. ~~My evidence includes (for completeness) the amendments I recommended to Chapters 3 and 20, 21.~~

Providing for Rural Living in the Rural Amenity Zone, including the appropriateness of the discretionary regime with no minimum allotment size

35. ~~In my view the discretionary regime can be implemented without creating significant or inappropriate change to the highly valued landscape elements (the “parts” of the landscape “whole”) if appropriate bottom lines are identified and maintained or enhanced.~~

36. — ~~For this to occur the bottom lines need to be identified. The Wakatipu Basin Study achieves this in some places but it fails to achieve this across the entire Rural Amenity Zone and within LCU 11. The evidence of Mr Skelton is more accurate and in my opinion provides an appropriate scale for which landscape values should be identified.~~
37. — ~~While concerns around over-domestication and the need to manage cumulative landscape effects are valid, the playing field has changed to an extent that it is not appropriate to simply discourage rural living activity (or make it harder to consent) unless there is clear evidence specifying what specific landscape elements warrant protection.~~

Development Standards and Consent Requirements

38. — ~~I support the discretionary regime for subdivision and development in the Rural General/Amenity Zone. An exception is within the sensitive landscape areas identified in Mr Skelton's evidence where I believe it is more appropriate than not to manage subdivision and land use as a non-complying activity.~~
39. — ~~Generally the management of potential effects associated with building design can be appropriately managed via the controlled activity status. However, I support the provision of a RD activity status for residential flats up to 150m² outside an approved building platform.~~
40. — ~~I also provided evidence supporting the relief of numerous submitters seeking the permitted number of residential units per site to increase from one to two², and to enable ancillary residential accommodation and activities on rural lifestyle blocks.~~

Rezoning the submitters land

41. — ~~The submitters respectively seek relief for their land to be rezoned to permit rural lifestyle of a density provided in the Operative District Plan (2ha). I do not support this relief on the basis that there is insufficient evidence to demonstrate this is appropriate (let alone the most appropriate method for implementing sustainable management and the relevant objectives). However, based on the evidence of Mr Skelton I do support further subdivision of the land to an average of~~

~~4ha per site, with capabilities for further rural living opportunities within each site.~~

Recommended Amendments

- ~~42. I support the sweeping amendments to Chapter 24 sought by the submitters.~~
- ~~43. I also support retention of the operative policy framework of Chapters 21 and 22 subject to the amendments I recommended in my evidence in Streams 1b and 2, coupled with a refined Schedule 24.8 (that better articulates the highly values landscape characteristics and features where development should be avoided).~~
- ~~44. I support amendments to ensure the policy framework overall facilitates approved and new rural living activity where significant landscape values specifically identified in the district plan are maintained or enhanced. I endorse the relief being sought by both parties, including the reasons given by WAL (shown as track changes in its submission). In particular I support the following amendments to Chapter 24~~
- ~~a. Insertion of a new that recognises and promotes the benefits of rural living in the Rural Amenity Zone~~
 - ~~b. Amendments to objective 1.2.1, policies 1.2.1.1, 1.2.1.8, 1.2.2.1, 1.2.5.1 to delete the word “protect”.~~
 - ~~c. Insertion of a new policy to promote or incentivise nature conservation enhancements and landscaping that enhances environmental quality or amenity values.~~
 - ~~d. Insertion of a new policy with supporting methods to provide specific reference to a new sub-zone or landscape unit to recognise and provide for 4ha allotments as a restricted discretionary activity outside the sensitive landscape areas identified by Mr Skelton. As part of this a new rule should be introduced to manage/discourage buildings within the sensitive landscape areas as a non-complying activity.~~
 - ~~e. Insertion of a new rule provide for additional building platforms as a discretionary activity if the density is above 4ha, and non-~~

~~complying if the density is below 4ha (except for residential flats)~~

- ~~f. Amendments to Rule 24.3.4 allowing one residential unit per site or per building platform~~
- ~~g. Insertion of a new rule controlling the activity status of buildings within approved building platforms.~~
- ~~h. Amendments to the Landscape Units Description to align with the recommendations set out in Mr Skelton's evidence.~~
- ~~i. Amendments to rule 24.5.7 to exclude artificial wetlands and watercourses.~~
- ~~j. Amendments to all the matters of discretion to ensure that the benefits of the proposal and locational or other practical constraints can be taken into account by decision-makers.~~
- ~~k. Amendments to the assessment matters to ensure the benefits of the proposal will be considered and focus the landscape assessment to the matters identified in the relief sought by SPL~~

Section 32(1) and s32(4) commentary

- ~~45. In respect of s.32(1) and s.32(4) I have considered benefits, costs, and overall effectiveness and efficiencies of the relief sought by the submitters. I believe the relief sought by the submitters is overall more efficient and effective than the provisions currently contained in Chapter 24.~~

Conclusion

- ~~46. I conclude there are no planning provisions that will have a firm influence on the outcome of this rezoning enquiry and Part 2 is relevant such that you can apply an overall broad judgement to determine whether or not the relief sought is the most appropriate for achieving sustainable management.~~
- ~~47. While there is disputed landscape evidence there is agreement that the landscape can absorb further residential subdivision and development. In my view (relying on the evidence of Mr Skelton), the landscape can absorb further subdivision and development while~~

~~appropriately: maintaining and enhancing amenity values; maintaining and enhancing the quality of the environment; and protect the outstanding natural landscape values of Slopehill.~~

- ~~48. The existing landscape values associated with the subject land do not need to be protected.~~
- ~~49. The significant landscape values identified in Mr Skelton's evidence should be identified in the district plan.~~
- ~~50. The submitters land can absorb further rural lifestyle or rural residential development. The current Rural General or shift to Rural Amenity is appropriate provided rural living opportunities can be provided for.~~
- ~~51. In terms of the overall purpose of the Act, it is appropriate to amend Chapter 24 so that it:
 - ~~a. Provides for further rural living opportunities throughout the Rural Amenity Zone subject to inclusion of rules or standards that manage and/or discourage built development affecting the significant landscape values identified by Mr Skelton.~~
 - ~~b. Specifically identifies and articulates the landscape values (environmental bottom lines) where development should be avoided in order to irreversibly compromise very important landscape values~~~~

QUALIFICATIONS AND EXPERIENCE

52. My full name is Ben Farrell. I am an Independent Planning Consultant based in Queenstown. My qualifications and experience are listed in my evidence dated 14 June 2018 prepared in support of the submissions for M & C Burgess; The Ashford Trust; and Philip Smith.

SCOPE OF EVIDENCE

53. In this matter I have been commissioned by Wakatipu Equities Limited (“**WEL**”) #515/#1298, #2479/#2750) and Slopehill Properties Limited (“**SPL**”) (#854, #2584) (“**the submitters**”) to provide planning evidence in relation to their submissions. The submitters own land proposed to be zoned Rural Amenity and seek general and specific relief to the District Plan to ensure that the provisions applying to the Wakatipu Basin and their respective properties protect existing development and satisfactorily recognise and provide for new rural living opportunities.
54. My evidence is confined to the issues arising from the above relief sought and includes discussion on:
- a. Relevant Statutory Matters
 - b. Council's Evidence and s.42A Report
 - c. Submissions of G Todd, J Troon, J Todd, and M Brial
 - d. The benefits of rural living and why it should be provided for within the Rural Amenity Zone
 - e. Appropriateness of the discretionary regime with no minimum lot sizes for the Wakatipu Basin Rural Amenity Zone
 - f. Permitted activity status for buildings within building platforms
 - g. Tree protection provisions applicable to the Precinct
 - h. Rezoning the Submitters' Land
 - i. Recommended Amendments
 - j. Commentary on Section 32(1) and s32(4)
 - k. Conclusion

55. I confirm this evidence is within my area of expertise except where I state that I am relying on facts or information provided by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express. I am familiar with the Code of Conduct for Expert Witnesses (Environment Court Practice Note 2014) and will generally conform to it³.
56. In preparing this evidence I have reviewed and ~~may~~ refer to various planning documents, reports and statements of evidence of other experts giving evidence are relevant to my area of expertise, including:
- a. The s.32 Reports, s42A Reports, and accompanying evidence supporting proposed District Plan chapters 3, 6, 21, 22 (as part of the Stage 1 hearings);
 - b. The s.32 Reports and two s.42A Reports prepared by Mr Langman and Mr Barr dated 30 May 2018, along with the supporting evidence of Ms Jarvis, Mr Davis, Mr Smith, Ms Mellsop, and Ms Gilbert all dated 28 May;
 - c. The legal submission of Mr Warwick Goldsmith, and supporting evidence (including my own planning evidence), presented in the hearing of Streams 1b, 2, and 4 in relation to the issue of Rural Living in the Wakatipu Basin;
 - d. The Operative Regional Policy Statement “**ORPS**”
 - e. The Proposed Regional Policy Statement “**PRPS**”;
 - f. The Proposed Queenstown Lakes District Plan Stage 1, including decision reports;
 - g. The Proposed Queenstown Lakes District Plan Stage 2 (inclusive of the supporting s.32 evaluations);
 - h. The evidence of Mr Steve Skelton dated 13 June 2018.
57. I have prepared my evidence based on my:

³ If this matter were before the Environment Court I would not completely comply with the code of conduct because I have not stated the methods for reaching all the conclusions I have reached; and I have not properly referenced statements of others upon which I rely.

- (a) Previous experience in this District Plan review process, including provision of planning evidence for the submitters⁴ in the hearings for Streams 1B (Strategic Direction, Urban Development, Landscape), 2 (Rural, Rural Residential and Rural Lifestyle); and 4 (Subdivision);
 - (b) Expertise as a planner familiar with district plan preparation;
 - (c) Applied experience with QLDC's administration of the District Plan in respect of subdivision or development proposals in the Wakatipu Basin;
 - (d) Familiarity with the above mentioned reports, evidence, and planning documents.
58. I confirm I am familiar with the Wakatipu Basin environment. I have resided in Queenstown since 2015 and lived in the Wakatipu Basin from 2015 to 2017. I visit the Wakatipu Basin regularly for work and personal reasons. I have also carried out numerous site visits in relation to the land subject to this matter.

STATUTORY MATTERS

59. Mr Barr⁵ provides a summary of the background to the plan review process. I agree with this summary except I do not agree that Chapter 24 "is required" to implement the Strategic Policies. The Strategic Objectives and Policies set out in Chapter 3 and 6, while relevant, are subject to Environment Court Proceedings and in my opinion should not be given much weight at this point in time.

National Directions

60. There are no National Directions of particular relevance to this matter.

Operative Regional Policy Statement ("RPS")

61. There are no directive provisions in the RPS that might trump or strongly influence the evaluation of the relief sought in the submissions.

Proposed Regional Policy Statement ("PRPS")

62. In my opinion the only influential provisions in the PRPS to be considered in this matter are:

⁴ Except I have not previously provided evidence for Mr Philip Smith

⁵ Pages 6-22

- a. Objective 1.1 and supporting policy 1.1.2 in regard to recognising and providing for the integrated management of natural and physical resources to support the economic wellbeing of people and communities in Otago.
 - b. Objective 3.2, supporting Policies 3.2.3-3.2.6 and Schedule 4 of the PRPS (in relation to the identification and management of “highly valued natural features and landscapes”).
 - c. Objective 5.3 and supporting policy 5.3.1 (use of rural land).
63. The above provisions and the entire RPS remains subject to challenge, and in my view it should not be given much weight until it becomes operative.

Relevant District Plan Strategic Objectives

64. As discussed above these are subject to challenge. Moreover, for the reasons discussed in my evidence presented to the panel for Stream 1b, I am of the view that the Strategic Provisions should include specific policy recognition providing for the benefits and appropriateness of rural living activities and development in the Wakatipu Basin. I also provide evidence for Stream 1b and Stream 2 that the provisions relating to the significant amenity landscape values should not “protect” those values (as opposed to being “maintained and enhanced”). I provided evidence that Chapters 3 and 6 overstated and give inappropriate weight to the protection of primary production activities and the rural character of the Wakatipu Basin. I recommended that these chapters be amended to differentiate the policy framework applying to the RLC across the district to recognise the positive contribution of, and to enable, rural living opportunities in the Wakatipu Basin.
65. For completeness, I refer you to the relief I recommended to the Strategic Directions Chapter in relation to the Wakatipu Basin ~~is provided~~ (copy below). In respect of the Strategic Objectives set out in Chapters 3 and 6, I maintain the view that they are not the most appropriate in respect of the sustainable management of the Wakatipu Basin. I understand relief similar to the amendments I recommended below have been sought by submitters in appeals to the Environment Court.

66. Accordingly, until such time that the appeals on the Strategic Provisions relating to land use activities in the Wakatipu Basin are settled, I do not think the evaluation of these submissions should be heavily influenced by the Proposed Strategic Provisions.

Table 1 Copy of my recommended amendments to Chapter 3 for Rural Living

<p>Objective - Minimise the adverse landscape effects of subdivision, use or development in specified Rural Landscapes. Maintain and enhance the landscape character of the Rural Landscape Classification, whilst acknowledging the potential for managed and low impact change. <u>Subdivision, use and development of the rural environment occurs in a way that maintains or enhances rural amenity values.</u></p> <p>Policies</p> <p>Identify the district's Rural Landscape Classification on the district plan maps, and; minimise the effects of subdivision, use and development on these landscapes <u>Recognise that the RL is a resource with significant economic and social value.</u> <u>Recognise that different parts of the RL have different characteristics, different amenity values and variable ability to absorb further development.</u> <u>Enable subdivision and development which avoids, remedies or mitigates adverse effects on the visual amenity values of the surrounding RL.</u> <u>Avoid or appropriately mitigate adverse effects from subdivision and development that are:</u></p> <ul style="list-style-type: none"> • <u>Highly visible from public places and other places which are frequented by members of the public generally (except any trail as defined in this Plan); and</u> • <u>Visible from public formed roads.</u> <p><u>Avoid planting and screening, particularly along roads and boundaries, which would obstruct significant views or significantly adversely affect visual amenity values.</u> <u>Encourage any landscaping to be sustainable and consistent with the established character of the area.</u> <u>Encourage development to utilise shared accesses and infrastructure and to locate within the parts of the site it will minimise disruption to the landform.</u></p> <p>Objective - Direct new urban <u>Encourage</u> subdivision, use or development to occur in those areas which have potential to absorb change without detracting from landscape and visual amenity values <u>while recognising the importance of natural landscapes.</u></p> <p>Objective - Recognise there is a finite <u>Enable appropriate</u> capacity for residential activity in rural areas if the qualities of our landscape are to be maintained.</p> <p>Objective - Recognise that agricultural land use is fundamental to the character of our landscapes.</p> <p>Policies</p> <p>Give preference to farming activity in rural areas except where it conflicts with significant nature conservation values. Recognise that the retention of the character of rural areas is often dependent on the ongoing viability of farming and that evolving forms of agricultural land use which may change the landscape are anticipated.</p> <p>Objective - Provide <u>Enable</u> access to housing that is more affordable.</p> <p>Policies</p> <p>Provide <u>Enable</u> opportunities for low and moderate income Households to live in the District in a range of accommodation appropriate for their needs.</p> <p>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.</p> <p><u>Provide for increased residential density that enables family members to live together on the same site or near each other.</u></p>

Relevant Objectives – Chapter 24

67. I consider all the objectives and policies in Proposed Chapter 24 relevant. For the reasons outlined in my evidence below, when determining which objectives and methods are the most appropriate, I do not think your decision should be heavily influenced by the Objectives of Chapter 24, as notified, unless:
- a. The objectives are amended to recognise and provide for the benefits of rural living, and you consider these new objectives alongside the other objectives; and
 - b. Your enquiry includes a better and more accurate understanding of the particular landscape values ~~that~~ which are so important that they warrant protection from development.
68. My evidence presented to the panel in 2016 addressed the appropriateness of the provisions in Chapters 21 (Rural); 22 (Rural Residential and Rural Lifestyle); and 27 (Subdivision) which applied to the Wakatipu Basin prior to the variation introducing Chapter 24. The majority of this evidence remains relevant to the consideration of Chapter 24, and for completeness I have incorporated into my evidence below.
69. I note Chapter 24 addresses a key issue I raised in my previous evidence:

... to improve plan administration and enable more appropriate management of the effects of subdivision, use and development on the landscape, I consider:

The specific landscape characteristics being referred to in the landscape provisions should be identified in the district plan with specific guidance and recognition provided in the policy framework;

The Wakatipu Basin should not be subjected to the rural landscape provisions provided in the PDP (at least as notified or amended by Mr Barr). Rather, the Wakatipu Basin should be provided with its own finer grained policy framework and assessment criteria, which emphasises that rural living opportunities should be enabled while maintaining or

enhancing amenity values – not protecting rural characteristics.

For the above reasons I agree that a separate management regime for the Wakatipu Basin is more appropriate than not carving it out from other rural zones in the district.

70. However, the Objectives do not satisfactorily recognise and provide for the benefits of rural living, and inappropriately seek to “protect” significant amenity landscape values rather than “maintain or enhance” them, which is the applicable legislative standard from section 7 of the RMA. Also the landscape assessment relied on in the s.32 evaluation for the suite of objectives and methods applying to the Rural Amenity Zone is not beyond challenge⁶ and remains at a scale that is too broad brush to warrant avoidance of development (as directed in proposed Policy 3.3.23). I elaborate on these matters in my evidence further below.

Part 2

71. In my opinion it is appropriate that the relevant provisions in Part 2 are considered in this matter. These are:
- a. Section 5 in respect of enabling people to utilise their land to provide socioeconomic benefits whilst protecting resources and avoiding, remedying or mitigating effects on the environment);
 - b. Section 6a in respect of protecting ONFLs from inappropriate development;
 - c. Section 7(b) in respect of the efficient use of the land resource;
 - d. Section 7(c) in respect of maintaining and enhancing amenity values;
 - e. Section 7(f) in respect of maintain and enhancing the quality of the environment.
72. In respect of s.5, I believe it is a fundamental intent of the purpose of the Act to enable people to use and develop their land, provided

⁶ For example it determines that LCU has a low ability to absorb further rural living development, but this is contrary to the evidence of Dr Read, Mr Skelton, and QLDCs previous assessment (in Stage 1) that at parts of the LCU can absorb further development

adverse effects are avoided, remedied or mitigated. This is set out in my evidence dated 29 February 2016⁷, ~~which is~~ and summarised in my evidence below⁸.

73. For the purposes of brevity I agree with, and refer you to, the discussions by Mr Goldsmith⁹ (including the evidence upon which he referred to) relating to the relevance of sections 7(b), (c), and (f). In summary:

- a. Rural living development does provide communitywide economic benefits such as significant employment benefits, and this is a relevant matter under s7(b);
- b. Making provision for rural living opportunities in the Wakatipu Basin enables a more effective and efficient use of the land resource (compared with farming), and this is a relevant matter under s7(b);
- c. In respect of s7(c) the definition of amenity values *“embraces a wide range of elements and experiences, and recognises that the appreciation of amenity may change depending on the audience”*. Appreciation of landscape characteristics can change depending on the audience. This accords with my view that amenity values are in the particular eye of the beholder.
- d. I agree with Mr Goldsmith’s findings that there is no direction in Part 2 seeking to protect the status quo and there should be no presumption in favour of retention of existing character in order to maintain or enhance amenity values.
- e. I also agree with Mr Goldsmith that section 7 landscapes derive amenity not from outstanding naturalness, and not just from natural amenity, but also from a wide range of elements and experiences depending on the audience. As stated by Mr Goldsmith:

“[it should not] be assumed (on landscape grounds) that existing rural uses are preferable in sustainable management terms to subdivision for lifestyle blocks

⁷ Pages 31-37

⁸

⁹ Paragraph 6 of Goldsmiths legal submission 20 May (Hearing Stream #2)

which could include restoration of indigenous bush, grasses or wetlands, especially if predator controls are introduced. Just to show how careful one has to be not to be inflexible about these issues we raise the question whether it is possible that a degree of subdivision into lifestyle blocks might significantly increase the overall naturalness of a landscape... Logically there is a limit: the law of diminishing returns where too much subdivision leads to overdomestication of the landscape...

...the consideration of 'overdomestication' must be assessed against the existing environment of the Wakatipu Basin but it is "false to assess it against an unrealistic historic connection".

The words 'maintain and enhance' do not equate to protection or preservation of the status quo of the natural environment. Use and development of the land resource are allowed unless protection is required. The landscape evidence to be presented demonstrates that 'quality' of the environment is not just derived from naturalness but from human interactions and perceptions of that environment..."

74. Given the uncertainty with the provisions in the Regional Policy Statement and Strategic Provisions, coupled with the failure (in my opinion) of the Proposed District Plan Objectives to satisfactorily recognise and provide for rural living, I believe the matters in sections 5, 7(b), 7(c), and 7(f) should carry substantial weight throughout this particular enquiry.

POSITION OF MR GRAEME TODD, JOHN TROON, JANE TODD, AND MICHAEL BRIAL

75. The submission by Graeme Morris Todd, John William Troon, Jane Ellen Todd, and Michael Brial seeks that the subject land be retained as Rural Amenity with no prescribed subdivision and development rights.
76. I assume the concerns raised by these submitters relate to their want to maintain their amenity values and environmental quality by avoiding further development visible from their respective properties. Such concerns are a relevant matter to be given regard under s7(c) and s7(f).
77. In my opinion their concerns, while relevant, should not trump the benefits of enabling further subdivision and development around their properties. This is primarily because the submitters' land can be subdivided and developed for rural living purposes in such a way that is compatible with the existing subdivision and development patterns and significant landscape qualities and characteristics within LCU11 and LCU8 (as set out in Mr Skelton's evidence).
78. In my opinion, it would not be appropriate to restrict other people from being provided with the same choice of lifestyle on the basis that a few residents want to retain the status quo.

KEY POINTS OF COUNCILS EVIDENCE AND S.42A REPORTs.42 Report

79. The Wakatipu Basin Zone does not contain any matter (or environmental bottom line) afforded protection under s.6 of the RMA, except for certain waterbodies (and their margins) and except to the extent that part of the site is on the fringe of the Slopehill ONF. As Mr Barr states:

"The Wakatipu Basin Zone itself does not comprise any land that is within either an Outstanding Natural Feature (ONF) or Outstanding Natural Landscape (ONL). The Wakatipu Basin Zone is adjacent to, and enclosed by, the ONLs of the District. Roche Moutonnee (ONF) are located amidst the valley floor of the Wakatipu Basin. Development adjacent to ONL/ONFs has

*the potential to degrade the important quality, character and visual amenity values of these features, and QLDC is required to protect these from inappropriate use, subdivision and development as a matter of national importance”.*¹⁰

80. I agree with the above statement except that QLDC is not “required” to protect ONFLs from inappropriate use, subdivision and development as a matter of national importance. Rather the requirements on QLDC are those collectively under sections 74 and 31 to review objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district. In doing so the Council must “recognise and provide for” the protection of ONFLs from inappropriate subdivision, use, and development.
81. Compared to the suite of provisions proposed by Council, and supported by Mr Barr in 2015, the Council has achieved the provision of a bespoke land use policy framework for the Wakatipu Basin (Chapter 24 of the District Plan). It has achieved the following which I applaud:
- a. Identification of land which can absorb rural lifestyle and residential development; and
 - b. Identification of particularly landscape values.
82. However, in my opinion the planning case for Council has not satisfactorily:
- a. Identified all the pieces of land in the Basin which can accommodate further rural living development. Because of this, the policy direction should not discourage rural living opportunities outside the areas of land which the Council has identified can accommodate further rural living development.
 - b. Justified the need to avoid rural living development. The landscape evidence (relied on in Council’s planning evidence) remains at a scale that is not accurate.

¹⁰ Barr evidence 30 May 2018 (par 5.8, p8)

- c. The planning evidence fails to recognise or provide for rural living opportunities on land which can, in my view, appropriately accommodate further subdivision and development.

Ecology

83. Mr Davis has examined the ecological values of the Wakatipu Basin and I understand there are no significant ecological values within or near the site, except potentially for some small unspecified waterbodies (including wetlands).
84. Mr Davis has not commented on the submissions by WAL and SPL and has not identified any nature conservation benefits associated with the site (I am not sure why Mr Davis does not recognise the benefits that rural living has contributed to nature conservation values in the Wakatipu Basin).
85. Mr Davis concludes [without qualifying the term “must”] that:

“Any rezone or landuse change activity must consider the environmental impact and avoid or mitigate negative impacts. Restoration and re-establishment of indigenous terrestrial and freshwater values, including improved surface and ground water quality, should be a priority for any proposed rezone and/or landuse change.”

Infrastructure

86. Ms Jarvis does not comment on the submissions, noting that any intensification in land use will need to be serviced privately at the developer’s cost, and that there should be no expectation that the on-site infrastructure will ultimately be joined to Council schemes.
87. This position accords with the existing provision of infrastructure on the subject land. Apart from electricity and communications, wastewater and water supply is provided via private infrastructure connections and agreements.

Landscape

88. Mr Skelton has responded to the landscape evidence of Ms Gilbert and Ms Mellsop respectively. In my view, the subject land can absorb further rural living development of a density commensurate with that outlined in the evidence of Mr Skelton.

Landscape Unit Boundaries and Description

89. I support changing the landscape unit boundaries and description as discussed in Mr Skelton's evidence. Mr Skelton's rationale aligns with the following comment from Mr Langman:

*"Where geomorphological boundaries are available, they have been used to define the zones (and LCUs). In most cases, these will not follow cadastral boundaries. In order to protect the integrity of the landscape units, these geomorphological boundaries form an important function to prevent the creep of higher density development into those areas that are more sensitive to change from a landscape perspective."*¹¹

90. Notwithstanding the above, I am aware of Mr Langman's conflicting statement suggesting that the key issue is actually the ability to absorb additional development:

*"... the key issue in terms of defining appropriate boundaries between the Amenity Zone and Precinct is the ability of the landscape to absorb additional development."*¹²

91. The ability of the landscape to absorb additional development is addressed in Mr Skelton's evidence.

Transportation

92. Council's Transportation evidence by Mr David Smith effectively opposes all the submissions seeking increased subdivision and development in the Wakatipu Basin.
93. For the reasons set out in my evidence for M & C Burgess, The Ashford Trust, and Philip Smith¹³, I consider it would not be an appropriate response to avoid the rezoning on the basis of future transportation effects. A broader enquiry of all the issues raised by Council and all submitters should be taken into account. In this instance, the inhibitions of existing infrastructure should not be a bar to rezoning, where it is acknowledged that future upgrades to that infrastructure are and will be required in any event.

¹¹ Langman evidence 30 May 2018 (par 5.14, p13)

¹² Langman evidence 30 May par 20.10, p62)

¹³ Evidence dated 13 June 2018, Paragraphs 31-36

BENEFITS OF RURAL LIVING AND WHY IT SHOULD PROVIDED FOR WITHIN THE RURAL AMENITY ZONE

94. The following summarises evidence I have previously provided in relation to the topic of rural living in the Wakatipu Basin. I have made some minor changes to the evidence to reflect the additional information produced by QLDC in regard to the variation, the submissions received on the variation, and in light of Mr Skelton's evidence:

95. I provided evidence stating:

- a. Why it is appropriate to provide a bespoke planning regime for the Wakatipu Basin, or at least one that is different to the majority of rural zoned land in the district.
- b. That Chapter 21 ~~does~~ did not ~~currently~~ identify the benefits of or provide for rural living in the Rural General Zone.
- c. That the s42A Report is was silent on rural living in the Rural General Zone and Council's position failed to provide an assessment of the benefits and costs of rural living in the Wakatipu Basin.
- d. That there was a gap in the general policy framework, which should be addressed, particularly as:
 - i. Independent landscape experts agreed there was is potential for new rural living opportunities in the Rural General Zone in the Wakatipu Basin.
 - ii. Farming is not a feasible land use in the Wakatipu Basin and there should be provision for more rural living opportunities. In this regard I draw your attention to the evidence of Mr Stalker, Mr Strain and also the evidence/presentations by Phillip Bunn, Debbie MacColl, Steven Bunn and Family tabled at the strategic directions hearing in March 2016.
 - iii. New rural living developments can have significant local benefits, for example:
 - Ongoing revenue, rating and local spend from additional relatively high property transactions.

- Immediate economic and employment benefits arising from the development and construction of each new rural living development (consenting and construction and landscaping costs, plus capital gain).
 - Ongoing economic benefits arising from employment and local spend from property maintenance/service providers (e.g. cleaners, gardeners, arborists). In my experience many people who live in rural living situations in the Wakatipu Basin employ a variety of service providers.
 - Provision of housing: enhancing resident and visitor amenity values and appreciation of the district.
 - Provision of housing: helping alleviate pressures on the housing market.
 - Enhancements and improvements to environmental quality and amenity values.
- e. In respect of the last bullet point above, my evidence outlined that rural living can significantly improve the quality of the environment, more so than ~~that~~ farming activities. The planning regime is such that much of the land in the Wakatipu Basin used for rural living is managed in accordance with purposefully designed landscape plans. In this context I considered that a large proportion of the Wakatipu Basin is a managed environment.
- f. I opined that the ODP and PDP sought to preserve rural characteristics and avoid adverse cumulative effects, which in my view is not appropriate when a fundamental intent of the purpose of the Act is to enable people to use and develop their land provided adverse effects are avoided, remedied or mitigated. I outlined that I was not aware of any evidence identifying the benefits of protecting the farming productivity of

land within the Wakatipu Basin or the contribution farming activities in the Wakatipu Basin make to the local economy. I provided some data and assumed that the economic contribution of farming activities with the Wakatipu Basin is of a very little to indiscernible contribution. On the contrary, I assumed that rural living makes as significant contribution to the local economy (as identified above).

- g. I highlighted that the RMA only seeks to ensure that amenity values associated with the landscape are maintained and enhanced (7(c)) and that resources are used effectively and efficiently (7(b)). I opined that outside ONFLs there is no justification for preventing subdivision and development that is carefully managed to ensure amenity values are maintained or enhanced. Locking up highly valuable land that does not carry significant primary production values or contribute a significant environmental value to the district-wide community does not, in my opinion, align with the purpose of the Act. I am of the opinion that a development which provides new tailored housing and landscape treatment that contributes to the rural living characteristics of the basin should be encouraged, not discouraged.
 - h. I opined that any and all new development has a cumulative effect one way or another but such effects could be considered adverse by one person and positive by another (as is the subjective nature of amenity values). I stated that I appreciated why the PDP introduced a policy tact to shift away from the protection of amenity values to the protection of landscape characteristics – the cumulative effects on landscape characteristics will be more definable and measurable compared to cumulative effects on amenity values (acknowledging that this approach still requires subjective interpretations and analysis from individual landscape experts architects).
96. In relation to incentivising ecological restoration, I do not agree with Mr Barr’s commentary in paragraph 12 and position in paragraphs 12.10 and 12.11.

- a. In respect of 12.10, I observe that Mr Barr focuses on the current and established character of the Wakatipu Basin. This character has been undeniably significantly modified by human activities, namely agricultural land uses. The position of Mr Barr is, with respect, ignorant of the natural characteristics associated with historic vegetation cover (of which less than 10% remains, as identified by Mr Davis).
 - b. In respect of 12.11, it is my opinion after having regard to Part 2 (in particular sections 5, 6c, 7c, 7f, 6c); Objective 3.1, policies 3.1.2, 3.1.9, 3.1.12, Objective 3.2 and policy 3.2.16 of the PRPS; and the Proposed Strategic Provisions, coupled with the socioeconomic benefits of providing for Rural Living, that it is ~~very~~ important and entirely appropriate for the District Plan to promote restoration of indigenous diversity values through plant and wetland restoration.
97. By introducing a description of the respective land units, the proposed new policy framework set out in Chapter 24 is an attempt at providing a finer grain policy framework for the Wakatipu Basin (which I endorse). However, in my view the landscape descriptions and associated policy framework do not adequately identify the environmental bottom lines (those landscape qualities and characteristics) which should be maintained or enhanced. Because it fails to identify these at a finer scale, the policy framework for land use in the Rural Amenity Zone remains unreasonably tipped against rural living opportunities in favour of protection of existing significant amenity landscape values.
98. The proposed policy framework will, in my view, address the issue of cumulative landscape effects for land zoned Rural Amenity. This is because the framework seemingly creates a prohibition of further subdivision and development.
99. As set out in my evidence on Chapter 21:
 - a. I acknowledge that any new subdivision and development within the Wakatipu Basin will contribute a cumulative effect to some extent, but given the sensitivity of the Wakatipu Basin landscape I considered this to be appropriate on the basis that:

- i. Any subdivision or development ~~that~~ which is not carefully and comprehensively designed or maintained *may* significantly adverse effect landscape quality or character.
 - ii. Any subdivision or development ~~that~~ which is carefully and comprehensively designed and maintained is *not likely* to significantly adverse effect the broader landscape quality or character of the Wakatipu Basin.
 - iii. The matter is a local issue and there are no matters of national importance or regional significance to be concerned with. At a local level I envisage there will likely always be tensions between the desire of some people to preserve the appearance of their surrounding environment and others who support change. In accordance with the direction of Part 2 of the Act, the focus of the management of adverse effects should be on maintaining and enhancing amenity values and the quality of the environment. It should not be on protecting resources from people wanting to subdivide, use and develop resources, which I consider lies deep in the heart of the purpose of the Act and should prevail in this case.
100. I provided evidence in Stream 2 in support of the discretionary regime with no minimum lot size for the Rural General Zone. This evidence continues to apply to the subdivision regime proposed for the Rural Amenity Zone provisions, and is summarised below:
- a. I do not support provision of a minimum allotment size in the Rural General (Rural Amenity) zone, except ~~where a minimum lot size~~ where an assessment has being carried out identifying that a minimum lot size for subdivision can be applied without significantly adversely affecting landscape and amenity values (for example, in this case Mr Skelton has identified that subdivision of 4ha densities is appropriate ~~in this case~~ over parts of the WAL land as a revised 'Precinct' option).
 - b. I stated, and maintain, that the proposed provisions:

- i. Overstate and give inappropriate weight to the protection of primary production activities and rural character;
 - ii. Do not take satisfactorily account of the rural living characteristics present in the Wakatipu Basin (for example, refer Mr Skelton's evidence on this point, including his recommended amendments to the landscape unit description); and
 - iii. Do not satisfactorily recognise and provide for new rural living opportunities.
- c. I firmly agreed with Mr Baxter's concluding commentary that:

"Some people do and will view the change described above negatively, as Dr Read obviously does, primarily because of the loss of rural character. Others do and will view it positively, primarily because the rural living characteristics create a more varied and interesting pattern and because many people actually like driving through the countryside and looking at other people's houses. I consider the key point to be the predominance of amenity tree planting which I have described above. Over time that will enhance the existing significantly treed aesthetic which I consider to be a pleasant and enjoyable aesthetic with a high degree of visual amenity, provided development is carried out under the stringent landscaping controls which have been consistently applied over the past 15-20 years in the Basin."

- d. I agreed with the concerns raised and the relief sought by some submitters in relation to policies which sought to discourage planting and other types of landscape treatment (bunds) can assist in the maintenance and enhancement of amenity values of the area. I agreed this could lead to a loss of openness that may change or adversely affect existing landscape characteristics (in some situations), the significance of this effect does not warrant a policy direction that discourages this from occurring if it can be achieved with

carefully design that can maintain or enhance amenity values. In my opinion, creating a policy framework ~~that~~ which seeks to prevent people from planting along their own property for the benefit of others frustrates the intent of sustainable management – particularly where the planting and maintenance of trees and shelter belts is a strong rural characteristic and can provide practical functions such as shelter from wind, sun, provide privacy, and support or enhance ~~natural~~ nature conservation values.

- e. I set out my reasons why I disagreed with Mr Barr (~~par 9.97~~) that it is appropriate for any objective or policy within the PDP, including policy 6.3.1.11, to focus on or seek to “protect” the landscape character of RLC land within the Wakatipu Basin. In terms of this land I consider it is more appropriate for the PDP to focus on maintaining and enhancing amenity values, so that the local landscape characteristics (which contribute to local amenity values) can be addressed on a case-by-case site specific basis.
- f. I also opined that the District Plan provisions will be implemented by people who are not experienced RMA practitioners. I stated that refraining from including explicit intentions of a policy weakens the policy and represents a missed opportunity to improve the effectiveness of the policy. Additionally, in my experience (working with QLDC consent staff on a weekly basis) there is a real risk that any inherent references within the provisions will be lost on the “rejuvenating young crop of district plan administrators”. I suggested that any inherent references in the policies be made explicit.
- g. I recommended numerous amendments to the rural landscape provisions in Chapter 6 and Chapter 21. ~~For completeness these are listed in my evidence below.~~
- h. I recommended that a new objective and policy relating to rural living in the Rural General Zone (particularly the Wakatipu Basin) should be specifically provided for in Chapter 21.

101. I opined that the most appropriate way to implement the purpose of the Act and Strategic Direction objectives (as amended in my EiC) ~~was~~ is to ensure the socioeconomic benefits of rural living development in the Wakatipu Basin are recognised and provided for by inserting a new objective and policy into Chapter 21. I recommended the following new objective and policy be included in Chapter 21 (or similar provisions with like effect):

New Objective

Rural living opportunities in the Wakatipu Basin Rural Landscape are provided for where landscape character and amenity values are appropriately maintained.

New Policies

Recognise the socioeconomic benefits of rural living in the Wakatipu Basin Rural Landscape and provide for rural living subdivision and development where the quality of the environment and amenity values are appropriately maintained.

102. I also recommended the following tweaks to Objectives 22.2.1, Objective 22.2.2, Policies 22.2.1.1, 22.2.1.2:

Objective 22.2.1

~~Maintain and enhance~~ The district's landscape quality, character and visual amenity values are maintained and enhanced while enabling rural living opportunities in areas that can avoid detracting from absorb development within those landscapes are enabled

Policy 22.2.1.1

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

Objective 22.2.2

~~Ensure the~~ Within the rural residential and rural lifestyle zones, predominant land uses are rural, residential and where appropriate, visitor and community activities.

Providing for Rural Living in the Rural Amenity Zone, including the appropriateness of the discretionary regime with no minimum allotment size

103. There are two ways in which rural living is provided for in the operative and proposed District Plans:
- a. Rural living development rights and expectations are ~~can be~~ prescribed through Rural Lifestyle or Rural Residential Zones which specify minimum or average densities that can occur through controlled or managed subdivision (namely the policy framework for the operative Rural Lifestyle and Rural Residential Zones, and the proposed Precinct Zone); or
 - b. Rural living development expectations are ~~can be~~ managed on a case-by-case discretionary regime, ~~where the development proposal can be approved if they can demonstrate:~~
 - i. ~~Providing a more efficient use of land~~
 - ii. ~~Maintains or enhances amenity values (i.e. the highly valued landscape qualities identified in the landscape unit)~~
 - iii. ~~Maintains or enhances the quality of the environment.~~
104. The discretionary regime ~~discussed above~~ was proposed for the submitters' land in Chapter 21 of the 2015 proposed District Plan. Chapter 24, as proposed, shies away from the discretionary regime, on the basis that cumulative effects should be avoided so that subdivision and development is discouraged and not provided for.
105. In my view, the discretionary regime can be implemented without creating significant or inappropriate change to the highly valued landscape elements (the "parts" of the landscape "whole") if appropriate bottom lines are identified and maintained or enhanced.
106. For this to occur the bottom lines need to be identified. The Wakatipu Basin Study achieves this in some places but it fails to achieve this across the entire Rural Amenity Zone and within LCU 11. The evidence of Mr Skelton is more accurate and in my opinion provides an appropriate scale for which landscape values should be identified.

107. In my opinion the 80ha minimum allotment size and residential density standard is arbitrary and does not take into account the existing and consented environment of the Wakatipu Basin.
- ~~108. For the above reasons I consider the proposed district plan provisions applying to the management of land use in the Wakatipu Basin are not the most appropriate. The following amendments should be incorporated:~~
- ~~a. An objective with supporting policies that recognises and provides for the benefits of rural living~~
 - ~~b. An policy that promotes development this results in improved environmental quality~~
 - ~~c. A policy that discourages development in parts/characteristics of each respective landscape unit which have been identified through this plan development process contributing a significant value were development should be avoided.~~
- ~~109. To clarify (c) above, these important pieces of the basin should only be determined at a fine scale after hearing from landscape experts and consideration of the amenity values of the people who live on or can see the subject land.~~
110. I stand by my following evidence¹⁴:
- "I generally support the approach set out in the ODP and the PDP of applying a discretionary activity status to subdivision and residential development on Rural General zoned land without minimum lot sizes. In this regard I agree with Mr Barr (par 6.4-6.5) that it is appropriate to avoid using minimum lot sizes for subdivision. While this creates uncertainty for landowners and district plan administrators, in my experience it is an effective method for incentivising a design led approach to the layout of new allotments, location and appearance of buildings and driveways, and landscape treatment. This approach is appropriate within sensitive receiving environments, such as the existing Rural General Zoned land in the Wakatipu Basin, because it facilitates a design led approach to*

¹⁴ Paragraphs 122 -123 of my evidence for Hearing Stream #1b dated 29 February 2016

subdivision and development while ensuring that actual and potential positive effects (enhancement opportunities) can be identified and adverse effects on the sensitive receiving environment can be avoided, remedied, or mitigated.

The alternative (providing minimum lot sizes), has an impractical and fundamental issue of attempting to predict what an appropriate minimum lot size having regard to the receiving environment. In my experience this is not practical unless a fine grained master plan is undertaken across the subject rural area. If a minimum lot size is selected, it runs the risk of:

- *Being too small, which could lead to inappropriate adverse effects associated with ad hoc development sprawl;*
- *Being too large, which could prevent appropriate development from being realised and/or impose unnecessary high costs on land development.”*

111. The landscape is highly manicured, with human elements (deforestation to create openness, landscaping including tree plantings and earthworks, and architecturally designed buildings) which all enhance the amenity values associated with its landscape and overall environmental quality.
112. In my view, previous concerns about “domestication of the landscape” were identified in a policy framework where the benefits of rural living were not as important as they are now. This is reflected in the high demand (high price) for sections, and high quality and level of investment in the land.
113. While concerns around over-domestication and the need to manage cumulative landscape effects are valid, the playing field has changed to an extent that it is not appropriate to simply discourage rural living activity (or make it harder to consent) unless there is clear evidence specifying what specific landscape elements warrant protection.
114. For the reasons set out in my previous evidence¹⁵, I support the discretionary regime for subdivision and development in the Rural

¹⁵ Refer evidence for Stream 1b dated 29 February 2016 (page 31)

General/Amenity Zone. An exception to this is subdivision and development within the sensitive landscape areas identified in Mr Skelton's evidence. For the reasons set out in Mr Skelton's evidence, I believe it is more appropriate than not to manage subdivision and land use within these sensitive receiving environments as a non-complying activity, to discourage potential development within these areas and to ensure the actual or potential landscape and visual amenity effects can be satisfactorily assessed, and consent applications potentially refused.

115. As discussed in my previous evidence¹⁶, I agree that the management of potential effects associated with building design can be appropriately managed via the controlled activity status within approved building platforms. However, I do support the provision of a permitted status if sufficient permitted design standards are employed, and I also support the RD activity status for residential flats up to 150m² outside an approved building platform.
116. I previously also provided evidence supporting the relief of numerous submitters seeking the permitted number of residential units per site to increase from one to two¹⁷. ~~In my view~~ I maintain:
- a. The s32 analysis undertaken in relation to these rules do not satisfactorily identify the costs or benefits of, and overall justification for, limiting density to one residential unit per building platform.
 - b. The provision for more than one residential unit per site will be a more efficient and effective use of resources.
 - c. The provision for a second dwelling unit per site encourages families to live close together, which I consider to be a very important socioeconomic benefit that allows people to provide for their wellbeing.
117. In my view, it is important that ancillary residential accommodation and activities be provided for on rural lifestyle blocks. Specifically because:

¹⁶ For example refer page 35 of my evidence for Stream 2 dated 21 April 2016

¹⁷ For example refer page 36 of my evidence for Stream 2 dated 21 April 2016

- a. In my experience it is a traditional common practice in New Zealand for homeowners to provide “granny flats” on their property to accommodate family members and guests;
 - b. Smaller residential units/cottage like buildings are an established part of the Wakatipu Basin, including Slopehill Road;
 - c. Residential flats provide opportunities for short term stay, of which is in high demand in the district and can provide rural landowners with an additional income source (consistent with the strategic provisions providing for diversification); and
 - d. The provision for residential flats gives effect to the strategic objectives 3.2.6, which specifically provides for residents to provide for their social, cultural and economic wellbeing.
118. In respect of the proposed standards for the Rural Precinct Zone, I consider:
- a. The tree protection rules are not sufficiently justified and should be deleted. The regime creates an unnecessary burden (cost, time, responsibility) on landowners and Council resources. Older established exotic vegetation may be appropriate to remove where this is dangerous or where these detract from amenity values, such as previous shelter belt planting on roads. A more appropriate method for protecting established or important vegetation, in my view, is to continue the status quo and control landscaping (including protection of specific trees or mitigation planting) specifically through conditions of consent and consent notices to ensure positive elements of consent proposals are complied with. Additionally, if there are specific trees which are identified as being truly significant in respect of the contribution they make to the environment, then a schedule of “significant amenity trees” should be considered, rather than a blanket approach.
 - b. I do not agree that a 75m road frontage setback should apply in the Lifestyle Precinct, especially as new buildings and building platforms already require resource consent. In my opinion a 75m setback is onerous and not an efficient use of land.

- c. I agree with Mr Barr's reasons for recommendations to enable buildings within approved platforms as a permitted activity. This ~~is important for~~ provides certainty ~~for~~ of landowners with existing platforms and a more efficient regime overall.
- d. For completeness, I stand by my previous evidence¹⁸ that in principle a controlled activity regime for subdivision to prescribed densities in the Precinct zone is appropriate.

REZONING THE SUBMITTERS' LAND

- 119. Both SPL and WAL sought relief that their land be rezoned to permit rural lifestyle of a density provided in the Operative District Plan (2ha). There is no evidence supporting this level of intensification across the entire site area and, in my view, would not be the most appropriate means of implementing sustainable management of the land at this point in time.
- 120. The landscape evidence of Mr Skelton does support further subdivision of parts of the land to a minimum / average of 4ha per site, with capabilities for further rural living opportunities within each site.
- 121. From an efficiency perspective, it would be more appropriate than not to include new zone or a sub-zone within the Rural Amenity Zone that provides for subdivision down to 4ha.
- 122. Turning to the **rezoning principles** outlined in par 5.7 of Mr Langman's evidence, ~~in~~ I consider that rezoning the submitters' land:
 - a. Accords with the overall strategic intention for the Wakatipu Basin by providing for rural living where it can be absorbed by the landscape, subject to introduction of new rules or standards implementing the landscape protection recommendations set out in Mr Skelton's evidence.
 - b. Gives effect to the PRPS. Specifically, it utilises rural land resources for economic benefits without affecting significant

¹⁸ For Stream 4 dated 20 July 2016 (pages 2-5)

rural production or soil resources and satisfactorily maintaining and enhancing significant natural values.

- c. Accords with the overall strategic intention for the Wakatipu Basin by providing for rural living where it can be absorbed by the landscape.
- d. Creates economic benefits which outweigh the costs.
- e. Changes zone boundaries in a manner that is consistent with the maps in the PDP.
- f. Takes into account the location and environmental features of the site.
- g. Does not present any known significant infrastructure concerns, other than risks around cumulative effects on the roading network, which can be mitigated through long-term planning and provision of roading improvements.
- h. Will not create demand for new infrastructure that would have significant or inappropriate adverse environmental effects.
- i. Will not be incompatible with nearby land uses.
- j. Rezoning will be more appropriate than the option of separate resource consent application processes if the suite of objectives and policies are not amended to provide a more balanced framework for new rural living opportunities. This is because the risks and costs associated with individual resource consent application processes is likely to be unreasonably high.
- k. Existing use rights to be taken into account in this case include the undeveloped building platforms on the submitters' land. These rights have been factored into the landscape assessments of both Ms Gilbert and Mr Skelton. Recognition (and protection) of existing development rights/expectations provides for an integrated approach to the management of the land resource because it recognises previous investment in decision making processes, provides security of investment for landowners, and provides an incentive for landowners to invest in environmental enhancement measures that would not

otherwise occur (for example structural landscaping and protection of specific view shafts/open spaces).

Recommended Amendments

123. Both WAL and SPL ~~recommend~~ seek sweeping amendments to Chapter 24. WAL also seeks a partial rezoning of its land.
124. In my opinion, the policy framework proposed under chapters 21 and 22 (as part of Stage 1) would be appropriate for the Wakatipu Basin, subject to the amendments I recommended in my evidence in Streams 1b and 2, coupled with a refined Schedule 24.8 (which better articulates the highly values landscape characteristics and features where development should be avoided).
125. I endorse the relief being sought by both parties, including the reasons given by WAL, ~~(shown as track changes in its submission)~~ to the extent that:
 - a. A new objective is provided which recognises and promotes the benefits of rural living in the Rural Amenity Zone by specifically seeking protection of existing development rights and provision for additional rural living opportunities.
 - b. Amendments to objective 1.2.1, policies 1.2.1.1, 1.2.1.8, 1.2.2.1, 1.2.5.1 to delete the word “protect”.
 - c. A new policy is inserted to promote or incentivise nature conservation enhancements and landscaping which enhances environmental quality or amenity values.
 - d. A new policy with supporting rule(s) ~~to~~ be inserted to provide specific reference to a new sub-zone, landscape unit or drawing to reflect the elements provided in the Appendices of Mr Skelton’s evidence. The Policy should recognise and provide for appropriate subdivision and development to an average density of 4ha allotments as a restricted discretionary activity outside the sensitive landscape areas identified by Mr Skelton. A new supporting rule should be introduced to manage / discourage buildings within the sensitive landscape areas as a non-complying activity. The policy could utilise the wording proffered in the submission by SPL (“*avoid new rural*

living subdivision and development only in locations that have been identified as having very important landscape values which will be irreversibly compromised by further domestication”).

- e. Amendments to Rule 24.3.4 allowing one residential unit per site or per building platform.
- f. Insertion of a new rule to provide for additional building platforms as a discretionary activity if the density is above 4ha, and non-complying if the density is below 4ha (except this would not apply to new residential units outside building platforms ancillary to a primary residence – which would be provided for as a restricted discretionary under rules 24.4.6 and 24.4.7)
- g. Insertion of a new rule permitting or controlling the activity status of buildings within approved building platforms.
- h. Amendments to the Landscape Units Description along the lines of that sought by the submitters to reflect and introduce the finer grain landscape descriptors provided in Mr Skelton’s evidence.
- i. Amendments to rule 24.5.7 so that the setback from waterbodies standards does not apply to artificial wetlands or watercourses.
- j. Amendments to all the matters of discretion to ensure that the benefits of the proposal and locational or other practical constraints can be taken into account by decision-makers.
- k. Amendments to the assessment matters to ensure the benefits of the proposal will be considered and focus the landscape assessment to the matters identified in the relief sought by SPL: *the maintenance of landscape character and visual amenity including reference to the identified elements set out in Schedule 24.8 for the relevant landscape unit; the maintenance of views to the surrounding mountain context; and adequate privacy, outlook and amenity for adjoining properties.*

- I. The policy framework overall facilitates approved and new rural living activity where significant landscape values specifically identified in the District Plan are maintained or enhanced.
126. In my opinion, the above amendments are more appropriate than the provisions currently contained in Chapter 24. In arriving at this conclusion, I have considered benefits, costs, and overall effectiveness and efficiencies as discussed below.

Section 32(1) and s32(4) commentary

127. The following provides commentary in respect of s.32(1) and s.32(4) for the amendments I recommend above:

Benefits

- a. There are many benefits that can arise from rural living development (as identified in my evidence above) including indigenous biodiversity restoration and enhancing landscape/amenity values through the establishment and upkeep of trees, grounds, and architecturally designed buildings (basically rural living can enhance amenity values and the quality of the environment).
- b. In the case of ~~Slopehill Properties~~ SPL, the benefits of being able to develop a third residential unit (on its 8ha of land) enables family members to live together onsite. This is a significant benefit to local people which I consider warrants recognition and provision in the District Plan.
- c. Amending the Rural Amenity Zone provisions to provide for rural living increases the supply of land for housing and provides a choice for people to live outside the urban environment. This choice is highly desired by local people to people abroad.
- d. The benefits to landowners from being able to diversify their land use from the status quo are significant.
- e. I am not aware of any evidence disputing the benefits of rural living (even though this is not reflected in the proposed policy framework and supporting s.32 evaluation).

- f. Introduction of more detailed landscape descriptors provides more certainty to landowners, interested parties, and people involved in the administration of the District Plan.

Costs

- g. The discretionary regime create costs and risks because of the uncertainty involved in individual resource consent processes. However, these costs and risks are more efficient than not providing for rural living opportunities on the submitters' land.
- h. Not providing for rural living opportunities on the submitters' land creates opportunity costs to the landowners and dis-benefits to the community in respect of the benefits of the rezoning not able to be realised.
- i. There is disputing landscape evidence as to the ability of the landscape to be able to absorb further rural living development. In my view, the environmental costs identified in the landscape and transportation arguments which Council has relied on do not justify rejection of the submission.
- j. There is an environmental cost on parties who do not support land use intensification because of impacts on their amenity values.

Effectiveness and Efficiency

- k. Providing for rural living opportunities on the site is more effective and efficient than the status quo, and much more efficient than the proposed framework of providing one residential unit per 80ha.
- l. The proposed provisions (as notified) are not efficient because they fail to provide for the benefits of rural living.
- m. The proposed provisions (as notified) are not effective because they discourage rural living opportunities even though the landscape can absorb further development.
- n. The discretionary regime does create costs and risks because of the uncertainty involved in individual resource consent processes. However, it is effective because it encourages high

quality developments, landscaping and ecological restoration to be designed in a comprehensive and sympathetic way.

- o. The discretionary regime, with supporting policies, is also effective in providing an incentive for enhancing natural values and amenity values, which arise from new investment opportunities, which might not otherwise be recognised.

CONCLUSIONS

128. For the reasons set out in my evidence above and having regard to the information I have referred to, coupled with my understanding of the sites' environment (including listening to the submitters), I am of the opinion that:

- a. There are no complete (fully particularised) ~~certain~~ and direct objectives or policies provisions to be implemented that will have a firm influence on the outcome of this rezoning enquiry. Part 2 is relevant and ultimately you can apply an overall broad judgement to whether or not the zoning is the most appropriate means of implementing sustainable management of the site.
- b. While there is disputed landscape evidence, there is agreement that the landscape can absorb further residential subdivision and development. In my view (relying on the evidence of Mr Skelton), the landscape can absorb further subdivision and development while appropriately: maintaining and enhancing amenity values; maintaining and enhancing the quality of the environment; and protecting the outstanding natural landscape values of Slopehill.
- c. The existing landscape values associated with the subject land do not need to be protected. However, even if they do, they can be protected via district plan methods requiring resource consents to manage the design of subdivision and building development.
- d. The significant landscape values identified in Mr Skelton's evidence should be identified in the District Plan by introducing new rules or standards that do not provide for or seek to avoid

buildings (e.g. are non-complying activities) within the sensitive areas identified in Mr Skelton's evidence.

129. From a rural land use perspective, I consider the submitters' land can absorb further rural lifestyle or rural residential development. The current Rural General or shift to Rural Amenity is appropriate provided rural living opportunities can be provided for.
130. In my opinion, Chapter 24 needs to be amended to:
- a. Include an objective and at least one policy which specifically recognises the benefits of rural living development and provides for rural living opportunities that can maintain and enhance landscape and amenity values. The relief sought by WAL or SPL achieves this and I endorse both of these as suitable amendments respectively.
 - b. Include a policy which incentivises or rewards landowners for enhancing environmental values. I endorse the relief sought by WAL, SPL, and the Wakatipu Reforestation Trust on this matter.
 - c. Include a policy that supports further domestication of the landscape in the Rural Amenity Zone where that domestication is ancillary to the primary residences on a site. For example, Mr Dunstan (of Slopehill Properties Limited) is seeking a policy framework which provides sufficient certainty that a relatively small, well-designed cottage (or "granny flat") can be established on its property in addition to the two approved building platforms. The purpose of this is to allow Mr Dunstan to reside on the site along with his children and grandchildren.
131. In terms of the overall purpose of the Act, it is appropriate to amend Chapter 24 so that it:
- a. Specifically identifies and articulates the landscape values (environmental bottom lines) where development should be avoided in order to irreversibly compromise very important landscape values (in line with proposed policy 3.3.23)
 - b. Provides for further rural living opportunities throughout the Rural Amenity Zone (including to an average density of 4ha on the submitters' land), subject to inclusion of rules or standards

that manage and/or discourage built development affecting the significant landscape values identified by Mr Skelton.

A handwritten signature in blue ink, appearing to be 'D. Skelton', written in a cursive style.

DATED this 13th day of June 2018

(Edited 20 July 2018)