

BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL

IN THE MATTER OF the Resource Management Act 1991

AND

IN THE MATTER OF the Queenstown Lakes Proposed District
Plan

Submissions and Further Submissions on:

Chapter 21 – Rural

Chapter 33 - Indigenous Vegetation

STATEMENT OF EVIDENCE BY LOUISE TAYLOR ON BEHALF OF:

MATUKITUKI TRUST LIMITED (SUBMITTER 355, FURTHER SUBMITTER 1367)

X-RAY TRUST LIMITED (SUBMITTER 356, FURTHER SUBMITTER 1349)

**PENINSULA BAY JOINT VENTURE (SUBMITTER 378, FURTHER SUBMITTER
1336)**

(21 APRIL 2016)

1. INTRODUCTION

Qualifications, Experience and Code of Conduct

- 1.1 My name is Louise Taylor. I prepared evidence on behalf of submitters Matukituki Trust Limited (“**Matukituki**”)¹, X-Ray Trust Limited (“**X-Ray**”)² and Peninsula Bay Joint Venture (“**PBJV**”)³ on chapters 1, 3, 4 and 6 of the Proposed District Plan. I set out my qualifications and experience in my evidence dated 26 February 2016.
- 1.2 I re-confirm my obligations in terms of the Environment Court Practice Note dated 1 December 2014.
- 1.3 I explained the background and approach to the each of the submitters’ submissions and further submissions in my evidence dated 26 February 2016. Further detail is set out in the respective submissions. I will not repeat that here, but summarise the key matters of particular relevance to this hearing for each submitter in the following section.

2 BACKGROUND – MATUKITUKI TRUST LIMITED

- 2.1 Matukituki holds a resource consent for the development of a dwelling and farm building on its property at the eastern tip of Roy’s Peninsula, Wanaka⁴.
- 2.2 Matukituki’s land is located on part of an Outstanding Natural Feature and under the Proposed Plan will be included in the Rural Zone⁵. Therefore, the manner in which use and development is proposed to be managed in the Rural Zone and on Outstanding Natural Features (“ONFs”) is highly relevant to Matukituki.
- 2.3 Matukituki’s resource consent was granted by the Environment Court following a prolonged application process extending over several years⁶. Matukituki incurred significant time, cost and effort in securing the existing resource consent. Matukituki wishes to ensure that the Proposed Plan facilitates the completion of a development that was rigorously assessed and subsequently approved by the Environment Court.

¹ Matukituki Trust Limited, submitter no. 355, further submitter no. 1349.

² X-Ray Trust Limited, submitter no. 355, further submitter no. 1367.

³ Peninsula Bay Joint Venture submitter no. 378, further submitter no. 1336.

⁴ The land is legally described as Lot 5, Deposited Plan 300476, Lower Wanaka Survey District.

⁵ Refer to Proposed Planning Map 7.

⁶ Decision No. [2010] NZEnvC 138.

3 BACKGROUND – X-RAY TRUST LIMITED

- 3.1 X-Ray owns two adjoining lots (approximately 58 hectares in total) on the southern side of Speargrass Flat Road, Arrowtown. The land is included in the proposed Rural Zone⁷. X-Ray is developing the land for farming and associated residential purposes in accordance with a detailed Landscape Management Plan and resource consents obtained from Queenstown Lakes District Council.
- 3.2 Both of X-Ray's lots have building platforms, curtilage areas and extensive landscaping along with ecological restoration. Due to the sensitivity of the land from primarily a landscape perspective, consent notices control development on each lot⁸.
- 3.3 X-Ray wishes to ensure that the agricultural, ecological, landscape and amenity values of its land are not compromised by incompatible development on land adjoining and near X-Ray's land. X-Ray is particularly concerned about the transformative adverse effects it considers are likely to occur if the Dalgleish Farm to the north of X-Ray's site is removed from the Rural Zone and included in the Millbrook Resort Zone⁹.
- 3.4 X-Ray considers that it is appropriate for the proposed Rural Zone to enable a variety of activities that may be compatible with the ecological, landscape, agricultural and amenity values of a rural setting. In X-Ray's view, this flexibility will support the ongoing viability of the District's rural areas. Therefore, X-Ray is generally supportive of provisions that seek to enable rural diversification while appropriately managing adverse effects¹⁰.

4 BACKGROUND – PENINSULA BAY JOINT VENTURE

- 4.1 Infinity Investment Group ("**Infinity**") manage and develop PBJV's landholdings at Peninsula Bay (Wanaka) where Infinity has developed a fully master-planned community spanning approximately 70 hectares.

⁷ Lots 1 and 2 DP 475822, Computer Freehold Registers 665219 and 655220, Speargrass Flat Road, Wakatipu Basin. Otherwise identified as 413 and 433 Speargrass Flat Road respectively.

⁸ Consent Notice 9805352.1, Consent Notice 9805352.2 and Consent Notice 9805352.3.

⁹ As depicted on Planning Map 26 (originally notified) compared to Planning Map 26, revised version dated 17 July 2015.

¹⁰ For example, Objectives 21.2.1, 21.2.4, 21.2.10, Policies 21.2.2.1, 21.2.10.1, 21.2.10.2.

- 4.2 PBJV and Infinity recently lodged Private Plan Change Application 51 (“**PC51**”) with the Queenstown Lakes District Council (“**QLDC**”). PC51 seeks to alter Map 19 of the Operative District Plan to extend the current Low Density Residential Zoning at Peninsula Bay. A portion of the proposed Low Density Residential Zone would extend into an Outstanding Natural Landscape (“**ONL**”). PC51 also proposes substantial re-vegetation works and the construction/upgrade of recreational infrastructure to be undertaken on land to be vested with QLDC for public use.
- 4.3 In addition to PC51, PBJV lodged a submission on the Proposed Plan including submission points on Chapters 21 (Rural) and 33 (Indigenous Vegetation and Biodiversity).
- 4.4 PBJV wishes to ensure that the Rural Zone assessment matters applying to ONLs will promote a balanced assessment of development proposals. Furthermore, PBJV’s submissions on Chapter 33 seek to ensure that development affecting indigenous biodiversity and vegetation is appropriately assessed and managed.
- 4.5 PBJV’s submission noted that it is appropriate to recognise opportunities for environmental gains arising from proposals for subdivision, use and development within ONLs and environments of significant indigenous vegetation and significant habitats of indigenous fauna. PBJV further noted that where capacity is available within these areas to absorb change (without adversely affecting the values for which they are recognised), subdivision, use and development proposals can provide additional support for the restoration, enhancement, or even protection (i.e. through land use covenants) of these areas.

5 SUBMISSION POINTS

- 5.1 I have prepared the table at **Appendix A** below to provide my assessment of the manner in which the Proposed Plan addresses the concerns raised by Matukituki, X-Ray and PBJV in their respective submissions. My assessment is in accordance with s32AA of the *Resource Management Act 1991* (“**Act**” or “**RMA**”).

- 5.2 I consider that the recommendations of the s42A reports for Chapters 21 and 33, in conjunction with the amended objectives proposed by the Memorandum of Counsel¹¹, resolve a number of the submitters concerns. I have indicated where this is the case in the table at **Appendix A**.
- 5.3 Nevertheless, in my view, there are issues with some provisions of Chapter 21. In short, these relate to:
- The management of reverse sensitivity effects;
 - The diversification of the rural sector;
 - Ambiguous drafting; and,
 - Absolutist drafting that does not envisage **any** adverse effects.
- 5.4 More specifically, I note that proposed policy 21.2.1.3 seeks to manage aesthetic effects as well as reverse sensitivity effects. I consider that as proposed the policy is unwieldy and the two distinct issues will be more effectively managed by separation of the issues. To this end I note that Objective 21.2.4 and the associated policies provide standalone guidance for the management of reverse sensitivity effects, negating the need for reference to the matter in Policy 21.2.1.3.
- 5.5 I am of the view that there is a degree of mis-alignment between provisions seeking to enable rural diversification. To this end I have recommended amendments to Objectives 21.2.1 and 21.2.10 to encourage a consistent planning approach to the matter.
- 5.6 In my opinion, some of the proposed Chapter 21 provisions remain open to interpretation¹². I have recommended amendments to these which, in my view, will better serve effective and efficient assessment of proposals in rural areas.
- 5.7 A number of provisions recommended by the s42A report maintain unqualified requirements for the avoidance of all adverse effects and the protection of resources from adverse effects. In these instances, the requirements have no regard to the significance of adverse effects, the values of the resources affected or any potential positive effects.

¹¹ Memorandum of Counsel on behalf of the Queenstown Lakes District Council in response to Panel's fourth procedural minute and attaching redrafted chapters, 13 April 2016.

¹² Policy 21.2.1.4 and Objective 21.2.10.

- 5.8 I am of the view that this approach may inappropriately constrain resource use that underpins economic, social and cultural well-being. I consider that it would be more effective and efficient to enable applicants and authorities to consider a variety of effects management techniques that may facilitate sustainable resource use.
- 5.9 I confirm that in preparing my evidence for this hearing I undertook an assessment in terms of s32AA of the Act. My assessment is integrated into the table of evidence at **Appendix A**. A specific s32AA assessment is provided against each of the provisions for which submissions or further submissions were lodged by X-Ray, Matukituki or PBJV. Where the submitters submitted on the same provisions, my s32AA assessment is the same for each submitter.

6 CONCLUSION

- 6.1 I consider a number of the amendments to provisions that have been recommended by the s42A reporting officer and the Memorandum of Counsel provide improvements and are in general, appropriate. In my view, these changes generally improve the clarity and operability of the Proposed Plan.
- 6.2 Notwithstanding the above, there are a number of provisions that I consider could be improved, as discussed above.
- 6.3 Overall, I confirm that I consider the amendments I have suggested at **Appendix A** are the most appropriate in terms of achieving the purpose of the RMA or the purpose of the relevant objective.



Louise Taylor

26 April 2016

APPENDIX A

CHAPTER 21 "RURAL" AND CHAPTER 33 "INDIGENOUS VEGETATION AND BIODIVERSITY"

AMENDMENTS AND SECTION 32AA ASSESSMENT

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SUBMITTER	PROPOSED OBJECTIVES OF THE MEMORANDUM OF COUNSEL DATED 13 APRIL 2016 AND PROPOSED POLICIES OF THE S.42A OFFICER "REVISED CHAPTER" APPENDICES	LOUISE TAYLOR'S SUGGESTED AMENDED PROVISIONS	SECTION 32AA ASSESSMENT		
CHAPTER 21 RURAL ZONE					
X-Ray Trust (Submitter no. OS356) (Further submitter no. FS1349)	21.2.1 Objective Enable Undertake a A range of land uses including farming, permitted and established activities are enabled while protecting, maintaining and enhancing landscape, ecosystem services, nature conservation and rural amenity values. Enable Undertake a A range of land uses including farming, permitted and established activities <u>are enabled</u> while protecting, maintaining and enhancing landscape, ecosystem services, nature conservation and rural amenity values.	Enable Undertake a A range of land uses including farming, permitted and established activities are enabled while protecting, maintaining and enhancing landscape, ecosystem services, nature conservation and rural amenity values. <u>A range of farming and other land uses compatible with a rural location are enabled while landscape, ecosystem services, nature conservation and rural amenity values are maintained or enhanced.</u>	General comments and appropriateness in terms of achieving the purpose of the Act or the purpose of the Objective		
	I consider my recommended amendments are the most appropriate in terms of achieving the purpose of the Act as they: <ul style="list-style-type: none"> - remove the superfluous reference to "permitted and established activities" activities and replaces this with recognition of the variety of activities that may be compatible with a rural location; - remove a requirement for "protection" of the values. This is an inappropriately high management threshold for the identified values. It would prevent future land use change or development (notwithstanding the comments at paragraphs 8.29 to 8.30 of the s42A report). 				
	Environmental, Economic, Social & Cultural Benefits	Environmental, Economic, Social & Cultural Costs	Effectiveness & Efficiency		
The relevant values continue to be maintained or enhanced. This envisages a range of management techniques. However a range of land uses are also contemplated which is a more appropriate enabling approach.			None. An appropriate management regime requiring the maintenance or enhancement is provided for the identified values.	The removal of superfluous terms and re-drafting of the objective clearly identifies the outcome that is sought.	
	21.2.1.1 Policy Enable farming activities while protecting, maintaining and enhancing the values of indigenous biodiversity, ecosystem services, recreational values, the landscape and surface of lakes and rivers and their margins.	Enable farming activities while protecting , maintaining and enhancing the values of indigenous biodiversity, ecosystem services, recreational values, the landscape and surface of lakes and rivers and their margins.	General comments and appropriateness in terms of achieving the purpose of the Act or the purpose of the Objective		
I consider that the deletion of the term "protecting" is the most appropriate in terms of achieving the purpose of the parent objective (as amended) and avoids the creation of an inappropriately high threshold of regulation over values that are not required to be protected from all adverse effects.					
Environmental, Economic, Social & Cultural Benefits	Environmental, Economic, Social & Cultural Costs	Effectiveness & Efficiency			
The amendments I have recommended will enable appropriate development to occur in the rural zone while ensuring the identified values are managed appropriately.			None. An appropriate management regime requiring the maintenance or enhancement is provided for the identified values.	I consider that it is not effective to apply a requirement to protect the identified values as this essentially mandates a no-effects approach.	
	21.2.1.2 Policy Provide for Farm Buildings associated with larger landholdings <u>of 100 hectares in area</u> where the location, scale and colour of the buildings will not adversely affect landscape values.	Provide for Farm Buildings associated with larger landholdings of 100 hectares in area where the location, scale and colour of the buildings will not <u>significantly</u> adversely affect landscape values.	General comments and appropriateness in terms of achieving the purpose of the Act or the purpose of the Objective		
The RMA is an effects-based statute. The activity-based focus of this policy fails to recognise that there may be circumstances in which the development of farm buildings can manage landscape effects appropriately notwithstanding the size of the landholding.					

			<p>My recommended amendments are consistent with the purpose of the Act as they focus planning assessment squarely on the effects of development rather than an ad-hoc land area.</p> <p>I consider my recommended amendments are the most appropriate in terms of achieving the purpose of the parent objective (as amended).</p>						
			<table border="1"> <thead> <tr> <th>Environmental, Economic, Social & Cultural Benefits</th> <th>Environmental, Economic, Social & Cultural Costs</th> <th>Effectiveness & Efficiency</th> </tr> </thead> <tbody> <tr> <td>Farm buildings are enabled where appropriate (including on lots smaller than 100 hectares in area) to support rural activities. The current policy penalises owners of smaller landholdings. The policy does not envisage any effects.</td> <td>It is inherent in my amended policy that significant adverse effects on landscape values are not contemplated but that a degree of adverse effect may be acceptable depending on the nature of the proposal.</td> <td>My amended policy is focussed on the efficient and effective management of landscape effects rather than potentially inconsequential matters such as the size of the landholding.</td> </tr> </tbody> </table>	Environmental, Economic, Social & Cultural Benefits	Environmental, Economic, Social & Cultural Costs	Effectiveness & Efficiency	Farm buildings are enabled where appropriate (including on lots smaller than 100 hectares in area) to support rural activities. The current policy penalises owners of smaller landholdings. The policy does not envisage any effects.	It is inherent in my amended policy that significant adverse effects on landscape values are not contemplated but that a degree of adverse effect may be acceptable depending on the nature of the proposal.	My amended policy is focussed on the efficient and effective management of landscape effects rather than potentially inconsequential matters such as the size of the landholding.
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21.2.1.3 Policy Require buildings to be set back a minimum distance from internal boundaries and road boundaries in order to mitigate potential adverse effects on landscape character, visual amenity, outlook from neighbouring properties and to avoid adverse effects on established and anticipated activities.	Require buildings to be set back a minimum distance from internal boundaries and road boundaries in order to mitigate potential adverse effects on landscape character, visual amenity, <u>and</u> outlook from neighbouring properties and to avoid adverse effects on established and anticipated activities.	<p>General comments and appropriateness in terms of achieving the purpose of the Act or the purpose of the Objective</p> <p>As drafted, this policy inappropriately conflates reverse sensitivity issues with landscape and visual amenity issues. I consider that the issues should be separately managed and note that Objective 21.2.4 and associated policies relate to reverse sensitivity. I also disagree with the absolute nature of the requirement to “...avoid adverse effects on established and anticipated activities”.</p> <p>I consider the proposed mitigation approach towards potential adverse effects on landscape character, visual amenity and neighbouring properties outlook to be an appropriate method to achieve the purpose of the parent objective.</p>							
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21.2.1.4 Policy Minimise the dust, visual, noise and odour effects of activities by requiring facilities them to locate a greater distance from formed roads, neighbouring properties, waterbodies and zones that are likely to contain residential and commercial activity.	Minimise the dust, visual, noise and odour effects of activities by requiring facilities them to locate a greater distance from <u>on</u> formed roads, neighbouring properties, waterbodies and zones that are likely to contain residential and commercial activity.	<p>General comments and appropriateness in terms of achieving the purpose of the Act or the purpose of the Objective</p> <p>I agree with the intent of this policy to manage reverse sensitivity effects, however I do not consider the directive to “locate a greater distance from” provides sufficient clarity to achieve the desired outcome.</p> <p>I note that the use of additional performance standards (such as standardised setbacks) would not be an efficient way of managing different activities. My recommend amendments enable a case-by-case</p>							

			assessment of measures required to manage dust, noise, odour and visual effects. I consider that my amended wording is appropriate in terms of achieving the intent of the parent objective (as amended).						
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21.2.1.5 Policy Have regard to the location and direction of lights so they do not cause glare to other properties, roads, public places or the night sky.	I am comfortable with the wording in the s42A report.	No s32AA assessment required. I agree with the s42A recommendation.							
21.2.1.6 Policy Avoid adverse cumulative impacts on ecosystem services and nature conservation values.	Avoid <u>Manage</u> adverse cumulative impacts on ecosystem services and nature conservation values.	<p>General comments and appropriateness in terms of achieving the purpose of the Act or the purpose of the Objective</p> <p>I consider that it is inappropriate to apply an unqualified requirement to avoid adverse cumulative effects as the s42a wording proposes, particularly in light of the broad nature of the phrase “nature conservation values” (which is not defined in the Proposed Plan).</p> <p>I recommend that the term “manage” be substituted for the term “avoid” as this will enable a range of resource management methods to be employed as best fits the individual circumstances. I consider that my amended wording is appropriate in terms of achieving the intent of the parent objective (as amended).</p>							
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21.2.2 Objective Sustain <u>The life supporting capacity of soils is sustained.</u>	I am comfortable with the wording in the Memorandum Of Counsel dated 13 April 2016.	No s32AA assessment required. I agree with the recommended wording in the Memorandum Of Counsel dated 13 April 2016.							
21.2.2.1 Policy Allow for the establishment of a range of activities that utilise the soil resource in a sustainable manner.	I am comfortable with the wording in the s42A report.	No s32AA assessment required. I agree with the s42A recommendation.							

<p>21.2.2.2 Policy</p> <p>Maintain the productive potential and soil resource of Rural Zoned land and encourage land management practices and activities that benefit soil and vegetation cover.</p>	<p>I am comfortable with the wording in the s42A report.</p>	<p>No s32AA assessment required. I agree with the s42A recommendation.</p>		
<p>21.2.2.3 Policy</p> <p>Protect the soil resource by controlling activities including earthworks, indigenous vegetation clearance and prohibit the planting and establishment of recognised <u>identified</u> wilding exotic trees with the potential to spread and naturalise.</p>	<p>Protect, <u>enhance or maintain</u> the soil resource by controlling activities including earthworks, indigenous vegetation clearance and prohibit the planting and establishment of recognised <u>identified</u> wilding exotic trees with the potential to spread and naturalise.</p>	<p>General comments and appropriateness in terms of achieving the purpose of the Act or the purpose of the Objective</p>		
<p>I consider the Council's insertion of the term "identified" is appropriate in terms of achieving the parent objective, as this promotes identification by way of a method in the Plan rather than the more ambiguous "recognition".</p> <p>However I do not agree with the unqualified s42A requirement to protect the soil resource. I am of the view that this is not practical or appropriate in light of the overarching Objective 21.2.2.2.</p>				
		<p>Environmental, Economic, Social & Cultural Benefits</p>	<p>Environmental, Economic, Social & Cultural Costs</p>	<p>Effectiveness & Efficiency</p>
		<p>An unqualified requirement to protect the soil resource would preclude many productive rural activities. This is inappropriate given the social and cultural needs of the community for primary production.</p>	<p>My recommended amendments will facilitate use of this soil resource, which is a fundamental aspect of many activities in the rural zone.</p>	<p>I consider that it is effective to use a method in the Plan to identify exotic trees that are to be regulated. I also consider that qualification of the requirement to "protect" promotes efficient use of the soil resource.</p>
<p>21.2.3 Objective</p> <p>Safeguard <u>The</u> life supporting capacity of water <u>is safeguarded</u> through the integrated management of the effects of activities.</p>	<p>I am comfortable with the wording in the Memorandum Of Counsel dated 13 April 2016.</p>	<p>No s32AA assessment required. I agree with the recommended wording in the Memorandum Of Counsel dated 13 April 2016.</p>		
<p>Policy 21.2.3.1</p>	<p>I am comfortable with the wording in the s42A report.</p>	<p>No s32AA assessment required. I agree with the s42A recommendation.</p>		
<p>21.2.4 Objective</p> <p>Manage <u>Situations</u> where sensitive activities conflict with existing and anticipated activities <u>are managed</u> in <u>the Rural Zone</u>.</p>	<p>I am comfortable with the wording in the s42A report.</p>	<p>No s32AA assessment required. I agree with s42A recommendation. I note this is unchanged in the Memorandum Of Counsel dated 13 April 2016.</p>		
<p>21.2.4.1 Policy</p> <p><u>New activities must</u> R recognise that permitted and established activities in the Rural Zone may result in effects such as odour, noise, dust and traffic generation that are reasonably expected to occur and will be noticeable to residents and visitors in rural areas.</p>	<p>I am comfortable with the wording in the s42A report.</p>	<p>No s32AA assessment required. I agree with the s42A recommendation.</p>		

	21.2.4.2 Policy Control the location and type of non-farming activities in the Rural Zone, to minimise or avoid conflict with activities that may not be compatible with permitted or established activities.	I am comfortable with the wording in the s42A report.	No s32AA assessment required. I agree with the s42A recommendation.		
	21.2.8 Objective Avoid s Subdivision, use and development is avoided, remedied or mitigated in areas that are identified as being unsuitable due to identified constraints for development is avoided, remedied or mitigated.	I am comfortable with the wording in the Memorandum Of Counsel dated 13 April 2016.	No s32AA assessment required. I agree with the recommended wording in the Memorandum Of Counsel dated 13 April 2016.		
Matukituki Trust (Further submitter no.1367) X-Ray Trust (Submitter no. OS356) (Further submitter no. FS1349)	21.2.10 Objective Recognise the potential for a Diversification of farming and other rural activities that utilises the natural or physical resources of farms and supports the sustainability of farming activities natural and physical resources.	<u>A range of diverse farming and other rural activities support the sustainability of natural and physical resources.</u>	General comments and appropriateness in terms of achieving the purpose of the Act or the purpose of the Objective		
			As proposed in the Memorandum of Counsel, the Objective reads as a simple statement with no purpose.		
			I consider that my recommended amendments to the objective ensure it is outcome-focussed and that it is the most appropriate in terms of achieving the purpose of the Act.		
			Environmental, Social & Cultural Benefits	Environmental, Economic, Social & Cultural Costs	Effectiveness & Efficiency
		The amended objective I have recommended recognises that there are various rural activities besides farming, and these should support and not undermine sustainable resource management.	None. The recommended Objective identifies an outcome to be sought. The version recommended in the Memorandum of Counsel has no outcome.	I am of the view that my recommended outcome efficiently and effectively recognises the plethora of rural activities and encourages the management of the effects of such activities.	
X-Ray Trust (Submitter no. OS356)	21.2.10.1 Policy Encourage revenue producing activities that can support the long term sustainability of <u>farming and rural areas of</u> in the district.	I am comfortable with the wording in the s42A report.	No s32AA assessment required. I agree with the s42A recommendation.		
	21.2.10.2 Policy Ensure that revenue producing activities utilise natural and physical resources (including buildings) in a way that maintains and enhances landscape quality, character, rural amenity, and natural values <u>resources</u> .	Ensure that revenue producing activities utilise natural and physical resources (including buildings) in a way that maintains and/or enhances landscape quality, character, rural amenity, and/or natural values.	General comments and appropriateness in terms of achieving the purpose of the Act or the purpose of the Objective		
			I consider that the requirement to maintain <u>and</u> enhance the identified values is inappropriate as it would require enhancement where this may be unwarranted. I also note the need to distinguish between landscape quality, character and rural amenity (aesthetic values) and natural values.		
			I consider that my amended wording is appropriate in terms of achieving the intent of the parent objective (as amended).		

			Environmental, Economic, Social & Cultural Benefits	Environmental, Economic, Social & Cultural Costs	Effectiveness & Efficiency
			My amendments enable maintenance or enhancement to be undertaken as appropriate to the circumstances of the particular proposal. In the absence of my recommended amendments, enhancement would be required in all instances, even where not necessary in light of the effects stemming from the proposal.	None.	In my view it would be inefficient to mandate enhancement actions where the scale and nature of adverse effects does not warrant such action. I therefore prefer my recommended version to that recommended by the s42A report author.
	21.2.12 Objective Protect, maintain or enhance The surface of lakes and rivers and their margins <u>are protected, maintained or enhanced.</u>	I am comfortable with the wording in the s42A report.	No s32AA assessment required. I agree with the s42A recommendation.		
Matukituki Trust (Further submitter no. 1367)	Policy 21.2.12.7 Ensure that the location, design and use of structures and facilities are such that any adverse effects on visual qualities, safety and conflicts with recreational and other activities on the lakes and rivers are avoided, <u>remedied</u> or mitigated.	I am comfortable with the wording in the s42A report.	No s32AA assessment required. I agree with the s42A recommendation.		
Matukituki Trust (Submitter no. 355) X-Ray Trust (Further submitter no. FS1349)	Rule 21.4.5 <u>Activity</u> The use of land or buildings for residential activity except as provided for in any other rule. <u>Activity Status</u> Discretionary	I am comfortable with the wording in the s42A report.	No s32AA assessment required. I agree with the s42A recommendation.		
Matukituki Trust (Submitter no. 355)	Rule 21.4.6 <u>Activity</u> One residential unit within any building platform approved by resource consent. <u>Activity Status</u> Permitted	I am comfortable with the wording in the s42A report.	No s32AA assessment required. I agree with the s42A recommendation.		
Matukituki Trust (Further submitter no. 1367)	Rule 21.4.7 <u>Activity</u> The construction and exterior alteration of buildings located within a building platform approved by resource consent, or registered on the applicable computer freehold register, subject to compliance with the standards in Table 3.	I am comfortable with the wording in the s42A report.	No s32AA assessment required. I agree with the s42A recommendation.		

	<u>Activity Status</u> Permitted		
X-Ray Trust (Further submitter no. FS1349)	Rule 21.4.9 (FS) <u>Activity</u> The identification of a building platform not less than 70m ² and not greater than 1000m ² . <u>Activity Status</u> Discretionary	I am comfortable with the wording in the s42A report.	No s32AA assessment required. I agree with the s42A recommendation.
X-Ray Trust (Further submitter no. FS1349)	Rule 21.4.14 (FS) <u>Activity</u> Retail sales of farm and garden produce and wine grown, reared or produced on-site or handicrafts produced on the site and that comply with the standards in Table 5. Except roadside stalls that meet the following shall be a permitted activity: a. the ground floor area is less than 5m ² ; b. are not higher than 2.0m from ground level; c. the minimum sight distance from the stall/access shall be 200m; d. the minimum distance of the stall/access from an intersection shall be 100m; and, the stall shall not be located on the legal road reserve. Control is reserved to all of the following: <ul style="list-style-type: none"> • The location of the activity and buildings. • Vehicle crossing location, car parking. • Rural amenity and landscape character. <u>Activity Status</u> Controlled	I am comfortable with the wording in the s42A report.	No s32AA assessment required. I agree with the s42A recommendation.

<p>X-Ray Trust (Further submitter no. FS1349)</p>	<p>Rule 21.4.20 (FS)</p> <p><u>Activity</u> Visitor Accommodation</p> <p><u>Activity Status</u> Discretionary</p>	<p>I am comfortable with the wording in the s42A report.</p>	<p>No s32AA assessment required. I agree with the s42A recommendation.</p>		
<p>PBJV (Submitter no. 378)</p> <p>Matukituki Trust (Submitter no. OS355)</p>	<p>Assessment Matter 21.7.1</p> <p>Outstanding Natural Features and Outstanding Natural Landscapes (ONF and ONL).</p> <p>These assessment matters shall be considered with regard to the following principles because, in or on Outstanding Natural Features and Landscapes, the applicable activities are inappropriate in almost all locations within the zone Wakatipu Basin, and inappropriate in many locations throughout the District wide Outstanding Natural Landscapes:</p>	<p>These assessment matters shall be considered with regard to the following principles because, in or on Outstanding Natural Features and Landscapes, the applicable activities are inappropriate in almost all locations within the zone Wakatipu Basin, and inappropriate in many locations throughout the District wide Outstanding Natural Landscapes:</p>	<p>General comments and appropriateness in terms of achieving the purpose of the Act or the purpose of the Objective</p>		
			<p>I do not agree with the conclusions of the reporting officer regarding the retention of presumptive statements about the appropriateness of development in ONFs and ONLs¹³.</p> <p>In my opinion, these presumptive statements pre-empt a balanced consideration of proposals in ONFs and ONLs. The appropriateness or otherwise of an application is a matter to be decided on the merits of individual applications. It is inherent in s6(b) of the RMA that ONFs and ONLs must be protected from inappropriate development. However, to simply designate development as inappropriate in most/many locations fails to recognise that individual proposals will include nuances that may render them appropriate in the context of the landscape they are intended to be located in. Further, these statements are not necessary in a series of assessment matters. They are better served in a policy (or perhaps objective) if that is the intent of the Panel.</p> <p>I consider my recommended shortened wording is the most appropriate in terms of achieving the purpose of the objective.</p>		
			<p>Environmental, Social & Cultural Benefits</p>	<p>Environmental, Social & Cultural Costs</p>	<p>Effectiveness & Efficiency</p>
			<p>My recommended amendments will remove speculative commentary, while retaining the comprehensive suite of assessment matters set out at 21.7.2.2 – 21.7.2.6¹⁴. Therefore, the amendments promote merits based consideration of the assessment matters.</p>	<p>None. The presumptive statement does not form a statutory test in and of itself. It simply provides a backdrop to the comprehensive assessment matters set out at 21.7.2.2 – 21.7.2.6. The removal of this commentary will not reduce the requirement to assess proposals against the assessment matters.</p>	<p>I consider the presumptive statement to be inappropriate for the reasons given above and am of the view that its presence detracts from a focussed assessment of proposals against the assessment matters.</p> <p>Therefore I consider that its removal will improve the clear and efficient application of the assessment matters to consent applications.</p>

¹³ As set out at section 19 (Issue 12) of the Chapter 21 s42A report.

¹⁴ I note that the s42A author recommends that Assessment Matter 21.7.1.1 be deleted and as noted below, I consider that its deletion is appropriate.

PBJV (Submitter no. 378) X-Ray Trust (Further submitter no. FS1349)	Assessment Matter 21.7.1.1 The assessment matters are to be stringently applied to the effect that successful applications will be exceptional cases.	I am comfortable with the wording in the s42A report (i.e. deletion of this assessment matter).	No s32AA assessment required. I agree with the s42A recommendation.		
PBJV (Submitter no. 378)	Assessment Matter 21.7.1.6 Cumulative effects of subdivision and development on the landscape Taking into account whether and to what extent existing, consented or permitted development (including unimplemented but existing resource consent or zoning) may already have degraded: a. the landscape quality or character; or, b. the visual amenity values of the landscape. The Council shall be satisfied that the proposed development, in combination with these factors will not further adversely affect the landscape quality, character or visual amenity values.	Cumulative effects of subdivision and development on the landscape Taking into account whether and to what extent existing, consented or permitted development (including unimplemented but existing resource consent or zoning) may already have degraded: a. the landscape quality or character; or, b. the visual amenity values of the landscape. The Council shall be satisfied that the proposed development, in combination with these factors will not further adversely affect the <u>appropriately avoids, remedies or mitigates adverse effects on</u> landscape quality, character or visual amenity values.	General comments and appropriateness in terms of achieving the purpose of the Act or the purpose of the Objective		
			As notified, the proposed Assessment Matter 21.7.1.6 appears to preclude approval of activities where they would "...further adversely affect the landscape quality, character or visual amenity values". In my view this does not distinguish between proposals where adverse effects may be acceptable, taking into account the particular circumstances of individual resource consent applications. I consider that the revised drafting I have recommended will enable consideration of the nature of adverse effects and any remediation or mitigation measures that may be proposed. I am of the view that this is the most appropriate approach in terms of achieving the purpose of the objective.		
			Environmental, Economic, Social & Cultural Benefits	Environmental, Economic, Social & Cultural Costs	Effectiveness & Efficiency
			My recommended amendments will enable development to occur where adverse effects can be appropriately managed. This is consistent with providing for the economic, social and cultural well-being of the community.	None. Proposals that cannot appropriately avoid, remedy or mitigate adverse effects will continue to be subject to planning assessment and determination on the merits.	My proposed amendments support an effects-based approach to the assessment of proposals. This is more efficient and effective than applying a general prohibition to activities with adverse effects, regardless of the nature of the effects and any reasonable management measures proposed).
PBJV (Submitter no. 378)	21.7.3 Other factors and positive effects, applicable in all the landscape categories (ONF, ONL and RLC).	I am comfortable with the wording in the s42A report (i.e. retention of the provision as notified).	No s32AA assessment required. I agree with the s42A recommendation.		
PBJV (Submitter no. 378) X-Ray Trust (Submitter no OS356) (Further submitter no. FS1349)	Assessment Matter 21.7.3.3 In considering whether there are any positive effects in relation to the proposed development, or remedying or mitigating the continuing adverse effects of past subdivision or development, the Council shall take the following matters into account: ... <i>(Entire provision not shown below).</i>	I am comfortable with the wording in the s42A report (i.e. retention of the provision as notified).	No s32AA assessment required. I agree with the s42A recommendation.		

<p>X-Ray Trust (Further submitter no. FS1349)</p>	<p>Assessment Matter 21.7.2.4</p> <p>Effects on visual amenity:</p> <p>Whether the development will result in a loss of the visual amenity of the Rural Landscape, having regard to whether and the extent to which:</p> <ul style="list-style-type: none"> a. the visual prominence of the proposed development from any public places will reduce the visual amenity of the Rural Landscape. In the case of proposed development which is visible from unformed legal roads, regard shall be had to the frequency and intensity of the present use and, the practicalities and likelihood of potential use of these unformed legal roads as access; b. the proposed development is likely to be visually prominent such that it detracts from private views; c. any screening or other mitigation by any proposed method such as earthworks and/or new planting will detract from or obstruct views of the Rural Landscape from both public and private locations; d. the proposed development is enclosed by any confining elements of topography and/or vegetation and the ability of these elements to reduce visibility from public and private locations; e. any proposed roads, boundaries and associated planting, lighting, earthworks and landscaping will reduce visual amenity, with particular regard to elements which are inconsistent with the existing natural topography and patterns; f. boundaries follow, wherever reasonably possible and practicable, the natural lines of the landscape or landscape units. 	<p>I am comfortable with the wording in the s42A report (i.e. retention of the provision as notified).</p>	<p>No s32AA assessment required. I agree with the s42A recommendation.</p>
<p>X-Ray Trust (Further submitter no. FS1349)</p>	<p>Assessment Matter 21.7.2.7</p> <p>Cumulative effects of development on the landscape:</p> <p>Taking into account whether and to what extent any existing, consented or permitted development (including unimplemented but existing resource consent or zoning) has degraded landscape quality, character, and visual amenity values. The Council shall be satisfied;</p> <ul style="list-style-type: none"> a. the proposed development will not further degrade landscape quality, character and visual amenity values, with particular regard to situations that 	<p>I am comfortable with the wording in the s42A report (i.e. retention of the provision as notified).</p>	<p>No s32AA assessment required. I agree with the s42A recommendation.</p>

	<p>would result in a loss of valued quality, character and openness due to the prevalence of residential or non-farming activity within the Rural Landscape.</p> <p>b. where in the case resource consent may be granted to the proposed development but it represents a threshold to which the landscape could absorb any further development, whether any further cumulative adverse effects would be avoided by way of imposing a covenant, consent notice or other legal instrument that maintains open space.</p>					
CHAPTER 33 INDIGENOUS VEGETATION AND BIODIVERSITY						
PBJV (Submitter no. 378)	Objective 33.2.1 The P protection, maintain maintenance and enhancement of indigenous biodiversity.	The protection, maintenance and/or enhancement of indigenous biodiversity.	General comments and appropriateness in terms of achieving the purpose of the Act or the purpose of the Objective			
			<p>I note that s6(c) extends protection to significant indigenous vegetation and habitats however as drafted the Objective will extend an additional requirement to enhance these values. This will not assist to provide for the well-being of the community as in some cases enhancement may not be feasible or warranted.</p> <p>I consider my recommended amendments are the most appropriate in terms of achieving the purpose of the Act.</p>			
			<table border="1"> <thead> <tr> <th style="text-align: center;">Environmental, Economic, Social & Cultural Benefits</th> <th style="text-align: center;">Environmental, Economic, Social & Cultural Costs</th> <th style="text-align: center;">Effectiveness & Efficiency</th> </tr> </thead> <tbody> <tr> <td>My amendments enable maintenance or enhancement to be undertaken as appropriate to the circumstances of the particular proposal. In the absence of my recommended amendments, enhancement would be required in all instances, even where not necessary to address the biodiversity effects of the proposal.</td> <td>The s6(c) level of "protection" is maintained in accordance with the RMA and the economic costs associated with unwarranted enhancement are avoided.</td> <td>In my view it would be inefficient to mandate enhancement actions where the scale and nature of adverse effects does not warrant such action. I therefore prefer my recommended version to that recommended by the s42A report author.</td> </tr> </tbody> </table>	Environmental, Economic, Social & Cultural Benefits	Environmental, Economic, Social & Cultural Costs	Effectiveness & Efficiency
Environmental, Economic, Social & Cultural Benefits	Environmental, Economic, Social & Cultural Costs	Effectiveness & Efficiency				
My amendments enable maintenance or enhancement to be undertaken as appropriate to the circumstances of the particular proposal. In the absence of my recommended amendments, enhancement would be required in all instances, even where not necessary to address the biodiversity effects of the proposal.	The s6(c) level of "protection" is maintained in accordance with the RMA and the economic costs associated with unwarranted enhancement are avoided.	In my view it would be inefficient to mandate enhancement actions where the scale and nature of adverse effects does not warrant such action. I therefore prefer my recommended version to that recommended by the s42A report author.				
PBJV (Submitter no. 378)	Policy 33.2.1.6 Encourage the long-term protection of indigenous vegetation and in particular Significant Natural Areas by encouraging land owners to consider non-regulatory methods such as open space covenants administered under the Queen Elizabeth II National Trust Act.	I am comfortable with the wording in the s42A report.	No s32AA assessment required. I agree with the s42A recommendation			
PBJV (Submitter no. 378)	Policy 33.2.1.7 Activities involving the clearance of indigenous vegetation are undertaken in a manner to ensure the District's indigenous biodiversity values are protected, maintained or enhanced.	I am comfortable with the wording in the s42A report.	No s32AA assessment required. I agree with the s42A recommendation			

PBJV (Submitter no. 378)	Policy 33.2.1.8 Where the adverse effects of an activity on indigenous biodiversity <u>values</u> cannot be avoided, remedied or mitigated, consideration will be given to whether there has been any compensation or biodiversity offset proposed and the extent to which any offset will result in <u>no net loss and preferably</u> , a net indigenous biodiversity gain.	Where the adverse effects of an activity on indigenous biodiversity values cannot be avoided, remedied or mitigated, consideration will be given to whether there has been any compensation or biodiversity offset proposed and the extent to which any offset will result in no net loss and preferably, a net indigenous biodiversity gain.	General comments and appropriateness in terms of achieving the purpose of the Act or the purpose of the Objective		
			I consider that the term “preferably” renders the reference to net gain redundant. As per the amendments to Objective 33.2.1 I have recommended above, the requirement for enhancement to be undertaken (i.e. net gain) should not be mandatory, but is a useful and appropriate tool available to the proponent of an activity. Therefore the amendments to this policy align with the parent objective and the overall guidance of s6(c) of the RMA to protect significant indigenous biodiversity, and I consider the amended policy to be more appropriate in terms of achieving the purpose of the objective.		
			Environmental, Social & Cultural Benefits	Environmental, Social & Cultural Costs	Effectiveness & Efficiency
			The section that I recommend be deleted does not add value to the Proposed Plan. It does not require the provision of a net gain. I therefore consider the benefits of the amendment to be in the removal of redundant content.	None. The policy as proposed does not mandate a net gain. Therefore the amendment as recommended will not compromise biodiversity objectives.	I am of the view that the amendments I have recommended remove superfluous content and improve the clarity of the policy.
PBJV (Submitter no. 378)	Objective 33.2.3 Ensure the efficient use of land, including ski field development, farming activities and infrastructure improvements, do not reduce the District's Land use and development maintains indigenous biodiversity values.	I am comfortable with the wording in the s42A report.	No s32AA assessment required. I agree with the s42A recommendation		
PBJV (Submitter no. 378)	Policy 33.2.3.2 Where the permanent removal of indigenous vegetation is proposed, e Encourage opportunities to remedy adverse effects through the retention, <u>rehabilitation</u> or <u>establishment</u> protection of the same indigenous vegetation community elsewhere on the site.	<u>Encourage</u> opportunities to remedy adverse effects through the retention, <u>rehabilitation</u> , <u>or establishment</u> or protection of the same indigenous vegetation community elsewhere on the site.	General comments and appropriateness in terms of achieving the purpose of the Act or the purpose of the Objective		
			In my view an aspect of maintaining indigenous biodiversity values as per Objective 33.2.3 will necessarily involve the establishment of new plantings. The QLDC recommended wording deletes the reference to “establishment” of vegetation. However, indigenous biodiversity values will alter over time due to a range of variables (age, disease, climate, human intervention etc.) and it is likely that establishment of new plantings would have a positive effect on indigenous biodiversity in a locality. I therefore consider that the retention of the term “establishment” in this policy more appropriately achieves the purpose of the parent objective.		
			Environmental, Social & Cultural Benefits	Environmental, Social & Cultural Costs	Effectiveness & Efficiency
			The establishment of indigenous vegetation will support both environmental and economic benefits, in terms of providing habitat and remedying adverse effects.	None.	In my view the establishment of indigenous vegetation is an efficient and effective way to support the intent of this policy and the outcome sought by the overarching objective.

<p>PBJV (Submitter no. 378)</p>	<p>Policy 33.2.3.4 & Policy 33.2.3.5</p> <p>33.2.3.4 When considering the effects of proposals for the clearance of indigenous vegetation, have particular regard to whether threatened species are present, or the area to be cleared is within a land environment (defined by the Land Environments of New Zealand at Level IV) identified as having less than 20% indigenous vegetation remaining; and,</p> <p>33.2.3.5 Where indigenous vegetation clearance is proposed within an environment identified as having less than 20% indigenous vegetation remaining (defined by the Land Environments of New Zealand at Level IV), have regard to the threatened environment status, the nature and scale of the clearance, potential for recovery or the merit of any indigenous biodiversity offsets.</p> <p><u>33.2.3.4 Have regard to whether the area to be cleared is within a chronically or acutely threatened land environment (defined by the Land Environments of New Zealand at Level IV), and the degree to which the clearance would maintain indigenous biodiversity, using the criteria in Policy 33.2.1.10.</u></p>	<p>I am comfortable with the wording in the s42A report.</p>	<p>No s32AA assessment required. I agree with the s42A recommendation</p>
<p>PBJV (Submitter no. 378)</p>	<p>Policy 33.2.3.5 (notified as 33.2.3.7)</p> <p>Have regard to any areas in the vicinity of the indigenous vegetation proposed to be cleared, that constitute the same habitat or species which are protected by covenants or other formal protection mechanisms.</p>	<p>I am comfortable with the wording in the s42A report.</p>	<p>No s32AA assessment required. I agree with the s42A recommendation</p>