

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

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Hearing Stream 14 – Wakatipu Basin

**STATEMENT OF EVIDENCE OF CRAIG BARR
ON BEHALF OF QUEENSTOWN LAKES DISTRICT COUNCIL**

PLANNING: CHAPTER 24 WAKATIPU BASIN

30 May 2018

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APPENDIX 1: the S32 evaluation report for the WB chapter, which includes electronic links to additional reports on the final page

APPENDIX 2: the Land Use Study (which is also available as an electronic link to the S32 evaluation report

APPENDIX 3: recommended s42A Wakatipu Basin chapter. and recommended new provisions to be inserted into Chapters 3 and 6 of the PDP

APPENDIX 4: summary of submissions and recommendation to Stage 1 submissions transferred to Wakatipu Basin Chapter 24

APPENDIX 5: summary of submissions and recommendations to chapter 24 Wakatipu Basin

1. INTRODUCTION

- 1.1 My full name is Craig Alan Barr.
- 1.2 I am employed by the Queenstown Lakes District Council (**QLDC** or **Council**) as a senior planner and I am a full member of the New Zealand Planning Institute. I hold the qualifications of Master of Planning and Bachelor of Science from the University of Otago.
- 1.3 I have been employed in planning and development roles since 2006, for local authorities as well as in private practice. I have been employed by QLDC since 2012 (this includes its former regulatory provider Lakes Environmental Limited) in both district plan administration and policy roles. For most of 2016 I held the position of Acting Manager Planning Policy.
- 1.4 I have been closely involved in the Proposed District Plan (**PDP**) process for QLDC, which is a partial district plan review. During 2016 and 2017 I was the lead planner and reporting officer for QLDC in relation to the following hearings which addressed submissions on various chapters notified as part of Stage 1 of the PDP:
- (a) Strategic - Landscape (Chapter 6);
 - (b) Rural - Rural Zone (Chapter 21);
 - (c) Rural - Rural Residential and Lifestyle Zones (Chapter 22);
 - (d) Rural - Gibbston Character Zone (Chapter 23);
 - (e) District Wide - Energy and Utilities (Chapter 30);
 - (f) District Wide - Indigenous Vegetation and Biodiversity (Chapter 33); and
 - (g) Upper Clutha rezonings.
- 1.5 Although this is a Council hearing, I confirm that I have read the Code of Conduct for Expert Witness contained in the Environment Court Practice Note 2014 and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on

the evidence of another person. The Council, as my employer, has authorised that I give this evidence on its behalf.

2. OVERVIEW / CLARIFICATION

2.1 This evidence will address, and provide recommendations to the Hearings Panel on, the submissions made in relation to the text of Chapter 24 - Wakatipu Basin, including Stage 1 submissions on the PDP text that was specific to the Rural Zone (Chapter 21), Rural Residential and Rural Lifestyle Zones (Chapter 22), where these zones are located within the Wakatipu Basin. The latter submissions are deemed to be on the variation.

2.2 This hearing will also include rezoning and mapping annotation submissions on the Wakatipu Basin Rural Amenity Zone (**Amenity Zone**) and Wakatipu Basin Lifestyle Precinct (**Precinct**), as well as transferred Stage 1 submissions related to Arrowtown and Lake Hayes (including at Ladies Mile). My evidence does not address the application of the zones in the Wakatipu Basin, nor any rezoning submissions, although as part of responding to submissions on the chapter text, I have seen and read a number of submissions that are also seeking a rezoning.

2.3 In preparing my evidence, I refer to and rely on the evidence of:

- (a) Ms Bridget Gilbert, landscape;
- (b) Mr Glenn Davis, ecology;
- (c) Ms Andrea Jarvis, infrastructure;
- (d) Ms Helen Mellsop, landscape;
- (e) Mr Dave Smith, transportation; and
- (f) Mr Marcus Langman, planning Wakatipu Basin rezoning.

2.4 The key documents I have used, or referred to, in forming my view while preparing this section 42A report are:

- (a) Wakatipu Basin Chapter 24 Section 32 evaluation November 2017 (S32) (**Appendix 1**);

- (b) Wakatipu Basin Landscape Study 2016 (**Land Use Study**) (**Appendix 2**);
- (c) PDP (Stage 1) Decision version 5 May 2018 (**PDP or PDP 2018**);
- (d) The Resource Management Act 1991 (**RMA**);
- (e) The Operative 1998 Regional Policy Statement for Otago (**ORPS**); and
- (f) The Proposed 2015 Regional Policy Statement for Otago (**PRPS**).

2.5 Throughout my evidence I refer to the following versions of the PDP text, as follows:

- (a) **PDP or PDP 2018:** to refer to the PDP Stage 1 Decisions version 5 May 2018;
- (b) **Provision 24.X.X:** to refer to the Stage 2 notified version of a provision (i.e. Objective 24.2.1); and
- (c) **S42A Provision 24.X.X:** to refer to the recommended version of a Stage 2 provision, as included in **Appendix 3** to this evidence. (i.e. S42A Rule 24.4.XA).

2.6 When I refer to the 'Zone', or 'Zones' in my evidence, I referring to the Amenity Zone and Precinct notified as part of Stage 2 Chapter 24 Wakatipu Basin. The Precinct is a Sub Zone of the Amenity Zone.

2.7 Attached to my evidence are the following documents:

- (a) **Appendix 1:** the S32 evaluation report for the WB chapter, which includes electronic links to additional reports on the final page;
- (b) **Appendix 2:** the Land Use Study (which is also available as an electronic link to the S32 evaluation report);
- (c) **Appendix 3:** recommended s42A Wakatipu Basin chapter. and recommended new provisions to be inserted into Chapters 3 and 6 of the PDP;
- (d) **Appendix 4:** summary of submissions and recommendation to Stage 1 submissions transferred to Wakatipu Basin Chapter 24: and

- (e) **Appendix 5:** summary of submissions and recommendations to chapter 24 Wakatipu Basin.

3. SCOPE OF THIS EVIDENCE

3.1 My evidence addresses:

- (a) The submissions made in Stage 1 that have been transferred to this hearing because they are deemed to be on the Chapter 24 Wakatipu Basin variation:
 - (i) Chapter 2 Definition of Site (from Hearing Stream 10);
 - (ii) Chapter 6 Landscape (from Hearing Stream 01B);
 - (iii) Chapter 21 Rural Zone (from Hearing Stream 02);
 - (iv) Chapter 22 Rural Residential and Rural Lifestyle Zones (from Hearing Stream 02); and
 - (v) Chapter 27 Subdivision and Development from (Hearing Stream 04.

- (b) The submissions made in Stage 2 on Chapter 24 Wakatipu Basin, and the variations made to the following Stage 1 Chapters:
 - (i) Chapter 2 Definition of Site;
 - (ii) Chapter 6 Landscapes;
 - (iii) Chapter 21 Rural Zone;
 - (iv) Chapter 22 Rural Residential and Rural Lifestyle Zones;
 - (v) Chapter 27 Subdivision and Development; and
 - (vi) Chapter 36 Noise.

4. EXECUTIVE SUMMARY

- 4.1 Having carefully considered the submissions on proposed Chapter 24 and the implications of the relief sought by those submissions (both individually and collectively), as well as the advice provided by the Council's respective specialists, I recommend that Chapter 24 is largely retained as notified. I do however recommend a number of amendments that I now summarise:

- (a) Changes to the Purpose section 24.1, Objectives and Policies and assessment matters to improve grammar and provide better clarification of the intent of the provisions;
- (b) Amend Policy 24.2.1.6 so that the policy is more enabling for non-residential activities;
- (c) Add a new policy (s42A Policy 22.2.4.7) and amend Policy 24.2.5.6, relating to tree protection in the Precinct and the positive factors associated with removing wilding trees;
- (d) Add a new policy (s42A Policy 22.2.4.8) to encourage the planting, restoration and enhancement of indigenous vegetation;
- (e) Add a new rule (s42A Rule 24.4.XA) that enables the identification of a building platform for residential activity as a standalone restricted discretionary activity (ie. separate from subdivision);
- (f) Add a new rule (s42A Rule 24.4.XB) that permits the construction and alteration of buildings within a building platform, including building platforms approved and/or established under the ODP;
- (g) Add a new rule (s42A Rule 24.4.XC) that permits the alteration of buildings where there is not an approved building platform on the site, subject to standards;
- (h) Amend Rule 24.4.5 that provides for the construction or alteration of buildings not otherwise provided for as a restricted discretionary activity;
- (i) Add a new standard (s42A Standard 24.5.XA) that limits residential activity in the Amenity Zone to one residential unit per 80 hectares;
- (j) Add a new standard (s42A Standard 24.5.XB) that limits residential activity in the Precinct to one residential unit per 1ha minimum average, with a discretionary activity standard (s42A Standard 24.5.XB.1) where no minimum lot size is proposed;
- (k) Add a new standard (s42A Standard 24.5.XC) that controls the colour and reflectance value of buildings;

- (l) Add a new standard (s42A Standard 24.5.XD) that controls permitted alterations to buildings not located within a building platform;
- (m) Amending standard 24.5.3 (Height of Buildings) to provide for buildings between 6m and 8m as a discretionary activity, and which categorises buildings that exceed 8m as a non-complying activity;
- (n) Removal of Standard 24.5.12 that prohibits stock from grazing in or on the margin of a waterbody: and
- (o) Add a new standard (s42A Standard 24.5.XE) to provide standards for fire fighting and access.

5. BACKGROUND - STATUTORY

5.1 The s32 evaluation report provides an overview of the higher order planning documents that were considered when preparing the proposed Chapter 24 (refer to **Appendix 1**). In addition, a more detailed summary of relevant legislation and documents is provided below.

5.2 I also refer to the Panel's Recommendation Report 1 (**Report 1**) on Stage 1 of the PDP, in particular paragraphs 31 to 48.¹ Report 1 sets out the statutory requirements for consideration of proposed district plans from *Colonial Vineyard Limited v Marlborough District Council*,² and relevant changes through subsequent amendments to the RMA in 2013. Paragraph 46 of Report 1 largely summarises the position that applies in this evidence, although I wish to emphasise some points below.

5.3 Report 1 also refers to the relevant of the *King Salmon* decision.³ In my recommendations on the text of Chapter 24, I am conscious that a decision has been made on the Strategic Chapters of the PDP, but they are not "settled" objectives and policies (ie. they are currently subject to the appeal period). I am also conscious that the operative Regional

1 Hearing of Submissions on Proposed District Plan. Report 1. Report and recommendations of Independent Commissioners. Introduction. 28 March 2018. [\[Weblink\]](#)

2 [2014] NZ EnvC 55

3 *Environmental Defence Society v The New Zealand King Salmon Company Limited* [2014] NZSC 38

Policy Statement predates all of the National Policy Statements potentially relevant to the PDP (refer paragraph 46(d) of Report 1).

The Resource Management Act 1991 (RMA)

5.4 The purpose of the RMA is set out in section 5, as below:

5 Purpose

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—*
 - (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
 - (b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
 - (c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

5.5 This report considers the proposed Chapter 24 provisions in the context of advancing the purpose of the RMA to achieve the sustainable management of natural and physical resources.

5.6 The purpose and principles in Part 2 of the RMA, which emphasise the requirement to sustainably manage the use, development and protection of the natural and physical resources for current and future generations, taking into account the 'four well beings' (social, economic, cultural and environmental), are relevant to issues arising with this variation.

5.7 Section 6 ('Matters of national importance') of the RMA requires that the following matters of national importance are recognised and provided for:

- (a) *the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*
- (b) *the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*

- (c) *the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- (d) *the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*
- (e) *the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:*
- (f) *the protection of historic heritage from inappropriate subdivision, use, and development:*
- (g) *the protection of protected customary rights:*
- (h) *the management of significant risks from natural hazards.*

5.8 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.

5.9 Section 7 ('Other Matters') of the RMA identifies a range matters that RMA decision-makers are to have particular regard to. All of these are relevant in the PDP Rural Zone and Chapter 24, and the following especially so for the Queenstown Lakes District:

- (a) *the efficient use and development of natural and physical resources*
- (b) *the maintenance and enhancement of amenity values:*
- (c) *intrinsic values of ecosystems:*
- (d) *maintenance and enhancement of the quality of the environment:*
- (e) *any finite characteristics of natural and physical resources:*
- (f) *the protection of the habitat of trout and salmon:*

5.10 Section 7(b) requires that regard is had to the efficient use and development of natural and physical resources. Section 7(c) requires that particular regard is had to the maintenance and enhancement of amenity values, while section 7(f) is the maintenance and

enhancement of the quality of the environment. Section 7(g) requires that particular regard is had to any finite characteristics of natural and physical resources.

5.11 The above section 7 matters are relevant in the context of the Wakatipu Basin, in terms of determining the most appropriate way to manage the natural and physical resources located within the Wakatipu Basin (in terms of the landscape and amenity values), maintaining and enhancing the quality of those values and recognising the finite nature of the landscape quality and character of the Wakatipu Basin. The careful management of these matters are required to ensure that the overall landscape quality and character of the Wakatipu Basin valley floor is maintained, while continuing to provide for a variety of land uses within the Wakatipu Basin Rural Amenity Zone.

5.12 Consistent with the Panel's recommendations (and Council decisions) in relation to Chapters 3 and 6 of the PDP, where land that is identified as an ONF or ONL (section 6) is located within a zone other than the Rural Zone, there should be objectives or provisions that manage the respective section 6 landscape values. The Wakatipu Basin Zone has objectives, policies and rules that manage the landscape resource in terms of sections 6 (a), (b) and section 7(c) of the RMA, but it does not refer specifically to the ONF, ONL or RCL plan map annotations. Submissions made on Stage 1 of the PDP, specifically the Landscape and Strategic Directions chapters, as part of their submissions on Stage 2 and the Wakatipu Basin Zone (Chapter 24) are discussed in the analysis section of this report.

5.13 Section 8 requires that QLDC take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). The principles as they relate to resource management derive from Te Tiriti o Waitangi itself and from resource management case law and practice. They can be summarised as follows:

- (a) That there must be active protection of the partnership between the two parties;

- (b) That there is an obligation to act with reasonableness and good faith, with both parties being prepared to compromise; and
- (c) That dialogue and consultation will be the main way in which to give effect to the principles outlined above.

The Local Government Act 2002 (LGA)

Section 14

5.14 Section 14 of the LGA sets out a number of principles relating to local authority decision-making, including sections 14(c), (g) and (h). These principles are relevant in terms of policy development and decision making under the RMA:

- (c) *when making a decision, a local authority should take account of—*
 - (i) *the diversity of the community, and the community's interests, within its district or region; and*
 - (ii) *the interests of future as well as current communities; and*
 - (iii) *the likely impact of any decision on the interests referred to in subparagraphs (i) and (ii):*
- (g) *a local authority should ensure prudent stewardship and the efficient and effective use of its resources in the interests of its district or region, including by planning effectively for the future management of its assets; and*
- (h) *in taking a sustainable development approach, a local authority should take into account—*
 - (i) *the social, economic, and cultural interests of people and communities; and*
 - (ii) *the need to maintain and enhance the quality of the environment; and*
 - (iii) *the reasonably foreseeable needs of future generations*

5.15 Read together with Part 2 of the RMA, the LGA provisions emphasise a strong intergenerational approach, considering not only current environments, communities and residents but also those of the future. They demand a forward-looking policy approach that is balanced with considering current needs and interests. Like the RMA, the LGA provisions emphasise the need to take into account social, economic and cultural matters in addition to environmental considerations.

Iwi Management Plans

5.16 When preparing or changing a district plan, section 74(2A) of the RMA states that territorial authorities must "*take into account*" any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the relevant district. Two iwi management plans are relevant to the Queenstown Lakes District, being:

- (a) *The Cry of the People, Te Tangi a Taurira*: Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 (**MNRMP 2008**); and
- (b) *Kāi Tahu ki Otago* Natural Resource Management Plan 2005 (**KTKO NRMP 2005**)

5.17 Policies 1 to 18 of Part 3.5.7 of the MNRP 2008 contain a range of policies that are relevant to Subdivision and Development. They address iwi involvement in planning processing and plan development, interaction with developers and iwi, particularly where there may be significant effects, long term planning and cumulative effects, avoiding adverse effects on the natural environment and advocating for the use of esplanades reserves.

5.18 Part 10: Clutha/Mata-au Catchments *Te Riu o Mata-au* of the KTKO NRMP 2005 outlines the issues and policies for the Clutha/Mata-au Catchments. Included in this chapter is a description of some of the Kāi Tahu ki Otago values associated with the Clutha/Mata-au Catchments. Generic issues, objectives and policies for all catchments across the Otago Region are recorded in Chapter 5: Otago Region.

5.19 The following policies are of particular relevance:

5.6.4 Cultural Landscapes General Policies

Subdivisions:

1. *To discourage subdivisions and buildings in culturally significant and highly visible landscapes.*
2. *To encourage a holistic planning approach to subdivisions between the Local Government Agencies that takes into account the following:*

- i. *All consents related to the subdivision to be sought at the same time.*
 - ii. *Protection of Kāi Tahu ki Otago cultural values.*
 - iii. *Visual amenity.*
 - iv. *Water requirements.*
 - v. *Wastewater and storm water treatment and disposal.*
 - vi. *Landscaping.*
 - vii. *Location of building platforms.*
3. *To require that where any earthworks are proposed as part of a subdivision activity, an accidental discovery protocol is to be signed between the affected papatipu Rūnaka and the Company.*
 4. *To require applicants, prior to applying for subdivision consents, to contact Kāi Tahu ki Otago to determine the proximity of the proposed subdivision to sites of significance identified in the resource inventory.*
 5. *To require public foot access along lakeshores and riverbanks within subdivisions.*

Land Use 10.2.3 Wai Māori Policies in the Clutha/Mata-au Catchment

9. *To encourage the adoption of sound environmental practices, adopted where land use intensification occurs.*
10. *To promote sustainable land use in the Clutha/Mata-au Catchment.*
11. *To encourage all consents related to subdivision and lifestyle blocks are applied for at the same time including, land use consents, water consents, and discharge consents.*
12. *To require reticulated community sewerage schemes that have the capacity to accommodate future population growth.*

5.20 Overall, I consider that proposed Chapter 24 has taken into account these documents. The submission of KTKO is discussed in the analysis of submissions.

National Policy Statements

5.21 When preparing district plans, territorial authorities must give effect to any National Policy Statement (**NPS**) or National Environmental Standard (**NES**). Currently there are five NPSs in force:

- (a) National Policy Statement on Urban Development Capacity 2016 (**NPSUDC**);
- (b) National Policy Statement for Freshwater Management 2014 (**NPSFM**);
- (c) National Policy Statement for Renewable Electricity Generation 2011;
- (d) National Policy Statement on Electricity Transmission 2008 (**NPSET**); and
- (e) New Zealand Coastal Policy Statement 2010.

- 5.22** An additional National Policy Statement for Indigenous Biodiversity is currently in draft. The NPSs that are of most relevance to Chapter 24 are the NPSFM and NPSET, as addressed below.

Freshwater Management 2014 (NPSFM)

- 5.23** The NPSFM sets out objectives and policies for freshwater management under the RMA. This NPS provides a National Objectives Framework to assist regional councils and communities to more consistently and transparently plan for freshwater management.
- 5.24** The NPSFM does not directly require specific provisions to be included within district plans, but the RMA requires district plans to give effect to NPSs as well as regional policy statements.
- 5.25** If a regional council adopts a policy from a NPS in its regional policy statement which directs the management of contaminants such as sediment or nutrients, and those contaminants could be associated with particular land uses (such as earthworks or urban development), the relevant district council would need to give effect to those policies in rules controlling land use.
- 5.26** The management of activities that could generate sediment or nutrient runoff are primarily controlled through the Stage 2 Chapter 25 Earthworks. Submissions on this proposed chapter and any earthworks rules that affect the Wakatipu Basin Zone will be heard in Hearing Stream 15 to be heard in August 2018.

Electricity Transmission 2008 (NPSET)

- 5.27** The NPSET requires local authorities to provide for electricity transmission activities at the local level. The NPSET provides a regulatory framework, which works in tandem with the National Environmental Standards for Electricity Transmission Activities (NESETA), as discussed below.
- 5.28** The NPSET has a single objective which is:

To recognise the national significance of the electricity transmission network by facilitating the operation, maintenance and upgrade of the

existing transmission network and the establishment of new transmission resources to meet the needs of present and future generations, while:

- *managing the adverse environmental effects of the network; and*
- *managing the adverse effects of other activities on the network.*

- 5.29** The NPSET is only applicable to the operation of the high voltage national grid as defined in the NPSET itself. The national grid is defined in that NPS as “the assets used or owned by Transpower NZ Limited”.
- 5.30** The rules relating to earthworks to provide for the National Grid and to protect the National Grid are located within Chapter 30: Energy and Utilities. Chapter 25 Earthworks (Stage 2) recognises this by cross-referencing to Chapter 30 Energy and Utilities for earthworks associated with the National Grid.
- 5.31** The National Grid is not located within the Wakatipu Basin Zone. However, land development within the District can affect the capacity of the National Grid, and activities nearby to the National Grid Corridor could affect the operation of the National Grid.

Urban Development Capacity 2016 (NPSUDC)

- 5.32** The objectives of the NPSUDC apply to decision makers making planning decisions that affect an urban environment.
- 5.33** In terms of the NPSUDC, the District contains two main urban environments (Queenstown Urban Environment and Wanaka Urban Environment).
- 5.34** The Queenstown District is a 'high growth urban area' under the NPSUDC, and the NPSUDC applies to the District as a whole. The land identified within the Wakatipu Basin Zone is not an Urban Environment as defined in the NPSUDC.

5.35 I also refer to and rely on the evidence of Ms Vanstone⁴ where she discusses the NPSUDC in greater detail in the context of the rezoning requests in urban areas and for new urban areas that are the subject of Hearing Stream 14.

5.36 In broad terms, and setting aside the fact that the land subject to the Wakatipu Basin Zone is not an Urban Environment (and nor is the density of the Wakatipu Basin Zone considered to be urban development⁵), I consider that the Zone (and the Precinct in particular) assists the Council to implement Policy PA3(a) of the NPSUDC, as the Precinct provides a rural living housing choice that meet the needs of people and communities and future generations with regard to demand for a range of dwelling types and locations.

Operative Otago Regional Policy Statement (1998)

5.37 Section 74 of the RMA requires that a district plan prepared by a territorial authority must “*give effect to*” any operative regional policy statement. In relation to the PDP, the operative *Otago Regional Policy Statement 1998 (RPS 1998)* is the relevant regional policy statement that must be given effect to.

5.38 The RPS 1998 contains a number of objectives and policies of relevance to the Wakatipu Basin variation, specifically Objectives 5.4.1 to 5.4.4 (Land) and related policies that, in broad terms, promote the sustainable management of Otago’s land resource by:

- (a) Maintaining and enhancing the primary productive capacity and life supporting capacity of land resources;
- (b) Avoid, remedy or mitigate degradation of Otago’s natural and physical resources resulting from activities utilising the land resource; and
- (c) Protect outstanding natural features and landscapes from inappropriate subdivision, use and development.

5.39 Objective 9.4.3 (Built Environment) and related policies are relevant and seek to avoid, remedy or mitigate the adverse effects of Otago’s

4 Section 42A Report of Anita Mary Vanstone. Planning Ladies Mile Stage One Submissions 30 May 2018.
5 As defined by the PDP 2018.

built environment on Otago's natural and physical resources, and promote the sustainable management of infrastructure.

5.40 These objectives and policies highlight the importance of the rural resource both in terms of the productive resources of the rural area and the protection of the District's outstanding natural features and landscapes.

5.41 Overall, I consider that the notified version of Chapter 24, as well as the amendments made in my recommended revised version of Chapter 24 (attached at Appendix 1) give effect to the RPS 1998.

Proposed Otago Regional Policy Statement 2015 (PRPS)

5.42 Section 74(2)(a) of the RMA requires that a district plan prepared by a territorial authority shall "have regard to" any proposed regional policy statement.

5.43 The Proposed Regional Policy Statement 2015 (**PRPS 2015**) was notified for public submissions on 23 May 2015. Decisions on submissions were released on 1 October 2016⁶ (**PRPS**). The majority of the provisions of the PRPS have been appealed and mediation is currently taking place. While, in my view, limited weight should be given to the relevant objectives and policies in the PRPS, the provisions in that document are relevant in terms of the importance that they place on managing land use activities in a way that ensures the protection and maintenance of landscape, infrastructure, natural hazards and urban development.

5.44 The PRPS is a more prescriptive document than its predecessor. The following objectives and policies of the PRPS are relevant to Chapter 24:

- (a) Objective 1.1 and Policies 1.1.1 and 1.1.2;
- (b) Objective 4.5 and policy 4.5.1; and
- (c) Objective 5.3 and Policy 5.3.3.

⁶ The Otago Regional Council's track changed version incorporating decisions (Decisions Version) was released on 1 October 2016 and is currently subject to live appeals. Refer <https://www.orc.govt.nz/media/1552/rps-review-appeals-version.pdf>

5.45 Together, these objectives and policies aim to ensure the integrated management of natural and physical resources to support the wellbeing of people and communities (including by providing for economic wellbeing); that urban growth and development is well designed, reflects local character and integrates effectively with adjoining urban and rural environments; and that sufficient land is managed and protected for economic production, ensuring the appropriate distribution of economic activities.

Section 32 of the RMA

5.46 Where I have recommended changes to the notified version of Chapter 24, those recommendations have, in each case, reflected its evaluation of the suggested change in terms of section 32(1) - (4). The level of detail in which suggested changes have been considered also reflects my assessment of the scale and significance of the recommended change.

5.47 Like the Hearings Panel⁷ in its recommendations on Stage 1, I consider that this approach is more efficient than the alternative of preparing a separate evaluation report for each recommended change, given the number of provisions in respect of which changes have been recommended in this report.

6. BACKGROUND - DISTRICT PLAN REVIEW AND CHAPTER 24

6.1 The partial review of the Operative Queenstown-Lakes District Plan (**ODP**) is being undertaken in stages. Stage 1 commenced in April 2014 and was publicly notified for submissions on 26 August 2015, comprising 33 chapters and the majority of land in the District. Hearings on Stage 1, which consisted of ten individual hearings, one variation⁸ and three separate hearing streams for rezoning requests and mapping annotations⁹, were held from March 2016 to September 2017. The remaining Stage 1 geographic area to be heard is the Wakatipu Basin (including Arrowtown).

⁷ Recommendation of the Hearing Panel. Report 3. Report and Recommendations of Independent Commissioners Regarding Chapter 3, Chapter 4 and Chapter 6. 16 March 2018.

⁸ Variation 1 – Arrowtown Design Guidelines 2016

⁹ Ski Area Sub Zones, Upper Clutha Area and the Queenstown Area (excluding the Wakatipu Basin).

- 6.2** On 29 September 2016 the Council approved the commencement of Stage 2 of the district plan review. As part of the 29 September 2016 resolutions, the Council addressed what the plan outcome would be at the end of the partial review, and approved the separation of the District Plan into two volumes, Volume A and Volume B. Volume A (as at the date of notification of Stage 2) comprised the chapters notified in Stages 1 and 2 of the PDP.
- 6.3** All other land currently forms Volume B of the District Plan. This includes zones that have not yet been reviewed and notified (i.e. Township Zone, Industrial A and B Zones, Rural Visitor Zone). Also included in Volume B is land that has been withdrawn from the district plan review and there is no current intention to include it in the PDP (i.e. the land subject to Plan Changes 46 - Ballantyne Road Industrial and Residential extensions, 50 - Queenstown Town Centre extension and 51 – Peninsula Bay North) and the Frankton Flats B Special Zone and the Remarkables Park Special Zone. All Volume B land is subject to the ODP.

Proposed District Plan (Stage 1 Decisions on submissions version - May 2018)

- 6.4** On 5 May 2018 the Council publicly notified its decisions on submissions on Stage 1 of the PDP. The Stage 1 Decisions version¹⁰ has retained the notified structure and overall approach to managing the district's natural and physical resources.
- 6.5** The Stage 1 PDP includes a Strategic Directions chapter (Chapter 3) which sets out the over-arching strategic direction for the District. The objectives and policies of Chapter 3 are further elaborated on in the remaining strategic chapters (Chapter 4 Urban Development, Chapter 5 Tangata Whenua, and Chapter 6 Landscapes). All other chapters in the PDP must implement Chapters 3-6 in order to achieve the Strategic Directions in Chapter 3.

¹⁰ <https://www.qldc.govt.nz/planning/district-plan/proposed-district-plan-stage-1/decisions-stage-1/>

6.6 I consider that the following objectives and policies in Chapter 3: Strategic Directions are relevant to proposed Chapter 24 and the Wakatipu Basin:

PDP Strategic Objectives

3.2.1 The development of a prosperous, resilient and equitable economy in the District.

3.2.1.1 The significant socioeconomic benefits of well designed and appropriately located visitor industry facilities and services are realised across the District.

...

3.2.1.6 Diversification of the District's economic base and creation of employment opportunities through the development of innovative and sustainable enterprises.

3.2.1.7 Agricultural land uses consistent with the maintenance of the character of rural landscapes and significant nature conservation values are enabled. (also elaborates on SO 3.2.4 and 3.2.5 following)

3.2.1.8 Diversification of land use in rural areas beyond traditional activities, including farming, provided that the character of rural landscapes, significant nature conservation values and Ngāi Tahu values, interests and customary resources, are maintained. (also elaborates on S.O.3.2.5 following)

3.2.1.9 Infrastructure in the District that is operated, maintained, developed and upgraded efficiently and effectively to meet community needs and to maintain the quality of the environment. (also elaborates on S.O. 3.2.2 following)

3.2.4 The distinctive natural environments and ecosystems of the District are protected.

3.2.4.1 Development and land uses that sustain or enhance the life-supporting capacity of air, water, soil and ecosystems, and maintain indigenous biodiversity.

3.2.4.2 The spread of wilding exotic vegetation is avoided.

3.2.4.3 The natural character of the beds and margins of the District's lakes, rivers and wetlands is preserved or enhanced.

3.2.4.4 The water quality and functions of the District's lakes, rivers and wetlands are maintained or enhanced.

3.2.4.5 Public access to the natural environment is maintained or enhanced.

3.2.5 The retention of the District's distinctive landscapes.

3.2.5.1 *The landscape and visual amenity values and the natural character of Outstanding Natural Landscapes and Outstanding Natural Features are protected from adverse effects of subdivision, use and development that are more than minor and/or not temporary in duration.*

3.2.5.2 *The rural character and visual amenity values in identified Rural Character Landscapes are maintained or enhanced by directing new subdivision, use or development to occur in those areas that have the potential to absorb change without materially detracting from those values.*

3.2.6 The District's residents and communities are able to provide for their social, cultural and economic wellbeing and their health and safety.

3.2.7 The partnership between Council and Ngāi Tahu is nurtured.

PDP Strategic Policies

Climate Change

3.3.12 *Encourage economic activity to adapt to and recognise opportunities and risks associated with climate change.*

Natural Environment

3.3.19 *Manage subdivision and / or development that may have adverse effects on the natural character and nature conservation values of the District's lakes, rivers, wetlands and their beds and margins so that their life-supporting capacity and natural character is maintained or enhanced.*

Rural Activities

3.3.20 *Enable continuation of existing farming activities and evolving forms of agricultural land use in rural areas except where those activities conflict with significant nature conservation values or degrade the existing character of rural landscapes.*

3.3.21 *Recognise that commercial recreation and tourism related activities seeking to locate within the Rural Zone may be appropriate where these activities enhance the appreciation of landscapes, and on the basis they would protect, maintain or enhance landscape quality, character and visual amenity values.*

3.3.22 *Provide for rural living opportunities in areas identified on the District Plan maps as appropriate for rural living developments.*

...

3.3.24 *Ensure that cumulative effects of new subdivision and development for the purposes of rural living does not result in the alteration of the character of the rural environment to the point where the area is no longer rural in character.*

- 3.3.25 *Provide for non-residential development with a functional need to locate in the rural environment, including regionally significant infrastructure where applicable, through a planning framework that recognises its locational constraints, while ensuring maintenance and enhancement of the rural environment.*
- 3.3.26 *That subdivision and / or development be designed in accordance with best practice land use management so as to avoid or minimise adverse effects on the water quality of lakes, rivers and wetlands in the District.*
- 3.3.27 *Prohibit the planting of identified exotic vegetation with the potential to spread and naturalise unless spread can be acceptably managed for the life of the planting.*
- 3.3.28 *Seek opportunities to provide public access to the natural environment at the time of plan change, subdivision or development.*

Landscapes

- 3.3.29 *Identify the District's Outstanding Natural Landscapes and Outstanding Natural Features on the District Plan maps.*
- 3.3.30 *Avoid adverse effects on the landscape and visual amenity values and natural character of the District's Outstanding Natural Landscapes and Outstanding Natural Features that are more than minor and or not temporary in duration.*
- 3.3.31 *Identify the District's Rural Character Landscapes on the District Plan maps.*
- 3.3.32 *Only allow further land use change in areas of the Rural Character Landscapes able to absorb that change and limit the extent of any change so that landscape character and visual amenity values are not materially degraded.*

Cultural Environment

- 3.3.33 *Avoid significant adverse effects on wāhi tūpuna within the District.*
- 3.3.34 *Avoid remedy or mitigate other adverse effects on wāhi tūpuna within the District.*
- 3.3.35 *Manage wāhi tūpuna within the District, including taonga species and habitats, in a culturally appropriate manner through early consultation and involvement of relevant iwi or hapū.*

- 6.7** As with the other zone provisions in Stage 1 of the PDP, Chapter 24 is required to implement the above strategic policies, and in doing so, achieve the Strategic Directions of the PDP. Having considered the Study, s32 report, the respective evidence of the Council's specialists, and the submissions on the notified Chapter 24, I consider that the proposed text for Chapter 24 achieves the Strategic Directions. I

consider that the revised Chapter 24 attached at **Appendix 3** does the same, but provides added flexibility where this is sought by submitters.

6.8 Relevant policies included in Chapter 6 Landscapes and Rural Character are discussed in the analysis section of this report.

6.9 All of the District Wide chapters in the PDP are of relevance to the land to be zoned Amenity Zone / Precinct, but Chapter 27 (Subdivision and Development), Chapter 30 (Energy and Utilities), Chapter 33 (Indigenous Vegetation) and Chapter 34 (Wilding Exotic Trees) are of particular relevance. These chapters are discussed where relevant within this report.

7. ANALYSIS: STAGE 1 SUBMISSIONS

7.1 328 submissions were made on the Stage 1 text of the Rural Zone, Rural Residential and Rural Lifestyle Zones of the Wakatipu Basin. The submissions were summarised against the following Stage 1 chapters and submitters will have had the opportunity to appear and present evidence at the following Stage 1 hearings:

- (a) Chapter 21 Rural Zone (Hearing Stream 02);
- (b) Chapter 22 Rural Residential and Rural Lifestyle Zones (Hearing Stream 02); and
- (c) Chapter 27 Subdivision and Development (Hearing Stream 04).

7.2 The majority of these submissions opposed the notified Stage 1 text for proposed Chapters 21 and 22 and sought to provide more opportunity for rural living opportunities within the Wakatipu Basin. These submitters had the opportunity to and in many instances presented evidence and appeared at the respective Stage 1 Hearings. Topics that arose were whether the average allotment size in the Rural Lifestyle Zone should be 2ha or 1ha, and whether the activity status for subdivision generally that meet the specified minimum densities should be a controlled activity or a restricted discretionary activity.¹¹

11 Hearing Stream 04: Chapter 27 Subdivision and Development. Statement of evidence of Ben Farrell. 20 July 2016.

- 7.3** While these submissions remain as live submissions and recommendations on them are to be made through this hearings process, I consider that they have been materially overtaken by Chapter 24. In my view, the notified Chapter 24 provisions are more appropriate than the notified Stage 1 Rural Zone, Rural Residential Zone and Rural Lifestyle Zone in the context of the issues facing the Wakatipu Basin, and are more appropriate than the modifications requested through those Stage 1 submissions on the Rural Zone, Rural Residential and Rural Lifestyle Zones. While many of the submissions may seek an outcome that is similar to the Rural Residential and Rural Lifestyle Zones (i.e. a one hectare density for rural living in certain parts of the Wakatipu Basin), none of the Stage 1 submissions were supported by information as detailed and comprehensive as the Wakatipu Basin Land Use Planning Study or the Section 32 evaluation, and the resultant Chapter 24 objectives and provisions.
- 7.4** On this basis, I recommend that these Stage 1 submissions should be rejected. I note that I have not provided any specific analysis on these submissions in relation to proposed Chapter 24, however if any submitter provides evidence in support of their stage 1 submission, then the Council will be able to address any matters raised in its rebuttal evidence. A copy of these submissions with my recommendations are attached at **Appendix 4**.
- 7.5** 38 submissions were made on the provisions of Chapter 6 Landscapes (**Chapter 6**) that were varied as part of Stage 2 notification. Although these specific variations to Chapter 6 were included within the document that showed the proposed Chapter 38 Open Space and Recreation Zones, and some other variations to chapters, the variation to Chapter 6 and the 38 submissions on those specific provisions, have been discussed as part of the overall submissions on the notified Chapter 24 and will be considered in this hearing stream.
- 7.6** A copy of these submissions with my recommendations are attached at **Appendix 4**.

8. ANALYSIS: STAGE 2 SUBMISSIONS ON CHAPTER 24

- 8.1** 6080 submission points (2393 original submissions and 3687 further submissions) have been categorised as on Chapter 24 Wakatipu Basin, noting that some additional submission points are on definitions that are relevant to this chapter, but were notified through a variation to another Stage 2 chapter. A copy of these submissions with my recommendations are attached at **Appendix 5**. I acknowledge at the outset that some of these submissions points are also categorised as a rezoning submission point. Where the point does not specifically relate to the Wakatipu Basin text as notified, but is rather a consequential change associated with a rezoning request I have referred to Mr Langman's planning evidence on rezoning.
- 8.2** As mentioned, also addressed are submissions made on a variation to Chapter 6 Landscape, that were notified as consequential changes as part of Chapter 38 Open Space and Recreation Zones.
- 8.3** The RMA, as amended in December 2013, no longer requires a report prepared under s42A or the Council decision to address each submission point but, instead, requires a summary of the issues raised in the submissions.
- 8.4** Some submissions contain more than one issue, and will be addressed where they are most relevant within this evidence.

Groups of Submissions

- 8.5** A number of submitters have used a resource management professional or firm to file their submission, and the agent has generally applied the same relief sought to a number of submissions. This has been helpful to coordinate and consider the merits and outcomes sought by the collective group of submissions by each agent. For efficiency, I have grouped these submissions together, using an abbreviation or one of the submitters' names. These are identified as follows:

- (a) Near identical submissions made by telecommunication companies comprising Chorus New Zealand Limited (2194), Spark Trading Limited (2195) and Vodafone New Zealand Limited (2478) collectively referred to as the **Telcos**.
- (b) Submissions filed by resource management firm Southern Planning Group seek various separate mapping changes, but also collectively request nearly identical changes to the Chapter 24 provisions comprising submitters; Shotover Trust (2437), Speargrass Trust (2410), AK Robins, Anderson Lloyd Trustee Co Ltd & RB Robins (2398), D Hamilton & L Hayden (2422), Bendall Family Land Trust (2424), AEM Property (2017) Limited (2496), Alexander Morcom, Jacqueline Davies & Veritas (2013) Limited (2334), Robert Ffiske & Webb Farry Trustees 2012 Limited (2338) and Guenther Raedler (only opposes the RD status of Rule 24.4.5) (2657). These submitters are collectively referred to as **Ffiske et. al.**
- (c) Boffa Miskell Limited have generally identical submissions on the notified Chapter 24 text (with the exception of bespoke rules for rezonings, which are assessed as part of Mr Langman's evidence) from; Crown Investments Trust (2307), Darby Planning LP (2376), Lakes Hayes Limited (2377) and Lake Hayes Cellar Limited (2378) referred to collectively as **CIT** or **Crown Investments**.
- (d) Anderson Lloyd have made submissions on behalf of the following submitters whose submissions seek particular mapping amendments, or changes to specific LCUs, but also propose a generally identical set of amendments to Chapter 24 and variations shown in track changes:
- (i) Ray Ferner (2464) (Chapter 24 and variations to stage 1 text only not Chapters 3, 6 and 21);
 - (ii) Peter Hale (2458) (Chapter 24 and variations to stage 1 text only not Chapters 3, 6 and 21);
 - (iii) Morven Ferry Limited (2449);
 - (iv) Barnhill Corporate Trustee Limited and DE, ME Bunn & LA Green (2509);

- (v) Morven Residents Association Incorporated (2490);
- (vi) Slopehill Joint Venture (2475);
- (vii) Wakatipu Equities Limited (2479);
- (viii) Juie QT Limited (2488);
- (ix) Phillipa Archibald/Philip Smith (2501);
- (x) Lake Hayes Estate Properties Limited (2525);
- (xi) Crosby Developments Limited (Hawthorn Triangle) (2526) (Chapter 24 and variations to stage 1 text only not Chapters 3, 6 and 21);
- (xii) Crosby Developments Limited (Northridge) (2527);
- (xiii) Len McFadgen (2529) (Chapter 24 and variations to stage 1 text only not Chapters 3, 6 and 21);
- (xiv) Goldcrest Farming Limited (2550);
- (xv) GW Walker Family Trust (Springbank) (2553);
- (xvi) Joerg Henkenhaf (2562) (Only in relation to modifications to Chapters 3, 6 and 21 and Rule 24.4.5);
- (xvii) John Edward Griffin (2580);
- (xviii) Arrowtown Village Joint Venture (2505); and
- (xix) Kirstie Jean Brustad (2577).

These submissions are collectively referred to as **Brustad et. al.**

- (e) Goldcrest Farming Limited appear to have lodged two submissions that are nearly identical, referenced as 2550 and 2607. Their submissions are summarised as part of the **Brustad et. al** group of submissions.
- (f) Several submissions filed by resource management firm Brown and Company Planning Group seek various mapping changes, but also collectively request nearly identical changes to the Chapter 24 provisions which includes the following submitters collectively referred to as **Stoneridge Estate et. al**:
 - (i) Stoneridge Estate Limited (2314);
 - (ii) R. G. Dayman (2315);
 - (iii) Tui Trustees (2015) Ltd (2316);

- (iv) Mandeville Trust/S Leck (2317);
- (v) C Batchelor (2318);
- (vi) D. D. and J. Duncan (2319);
- (vii) G. Wills and T. Burdon (2320);
- (viii) Waterfall Park Developments Limited (2389);
- (ix) R. M. Donaldson (2229);
- (x) Lake Hayes Investments Ltd (2291); and
- (xi) D. J Robertson (2321) where it relates to the general opposition to the Amenity Zone and differences between the Operative District Plan (**ODP**).

(g) Clarke Fortune McDonald & Associated Limited have filed submissions, many of which are on rezoning and are addressed in Mr Langman's evidence. These submissions also collectively seek changes to the provisions of Chapter 24 and many of which are identical, noting some variations between the submissions. The following submissions are referred to in my evidence collective as **Bagrie et. al**. The submitters are:

- (i) J & L Bagrie (2246);
- (ii) E, J, R & S Dennison (2247);
- (iii) D Gallagher (2248);
- (iv) Ms M K Greenslade (2249);
- (v) Ms Anna Hutchinson (2250);
- (vi) R & J Kelly (2251);
- (vii) Ms Sarah Lawrence (2252);
- (viii) D M Stanhope & G Burdis (22553);
- (ix) L M Topp (2254);
- (x) Mr Antony Strain, Sarah Strain and Samuel Strain (2255);
- (xi) Mr Don Andrew, Kathleen Andrew and Roger Macassey (2256);
- (xii) L McFadgen (2296);
- (xiii) P & J McLeod (2298);
- (xiv) R and S McLeod (2300);
- (xv) N T McDonald (2303); and

(xvi) Middleton Family Trust (2332).

(h) Submissions lodged by resource management firm Vivian & Espie for Skipp Williamson (2271), D Broomfield and Woodlot Properties Limited (2276) and Wakatipu Investments Limited (2275) seek identical changes where it relates to the provisions of Chapter 24 (the exception being zoning or specific LCU descriptions). These submissions are referred to collectively as **Williamson et. al.**

8.6 Further submitters are identified in the summary of submissions and recommendations attached at **Appendix 4**, where a recommendation is made on whether to accept, accept in part or reject the respective further submission, based on my overall recommendation on the primary submission.

8.7 I respond to the submissions generally in the order the provision appears in notified Chapter. In addition, the following general and then key issues that have been raised in the submissions are addressed first.

8.8 Sean Brennan (2353) has made a submission seeking the Gibbston Character Zone is reviewed. The Gibbston Character Zone is not part of Stage 2 and not within the scope of Stage 2 of the PDP. Legal counsel can address this if necessary.

9. GENERAL SUBMISSIONS IN SUPPORT OF THE CHAPTER

9.1 Upper Clutha Environmental Society Incorporated (2016) supports the notified Chapter in its entirety. Support for the Chapter is also found in submissions¹² which either support in full, or conditionally, the restrictions on future subdivision in the Amenity Zone.

9.2 The Ministry of Education (2151) supports Chapter 24 overall because the Zone retains predominantly rural and rural living opportunities. The

¹² Luise Lockwood (2184), Wayne and Mi Ae McKeague (2207), Julian Apse (2214), Taramea Ltd (2240), Anthony Ward (2248), Roy and Gudrun Somerville (2282), Conway Powell (2286), Nikki Apse (2309), Karen Page (2368), Heritage New Zealand (2446), Philip and Mary Blakely and Wallace (2499), Shaping our Future (2511), and Wendy McGuinness (2540).

Ministry of Education considers that this supports the Council's overall strategic growth, which assists the Ministry to plan for and develop schools in the District.

- 9.3** Dalefield Trustee Limited supports Chapter 24 and the Precinct insofar as the 6000m² minimum allotment size and 1ha average site size, and the restricted discretionary activity status for subdivision.
- 9.4** The Department of Conservation (2242) seeks that Policies 24.2.2.1, 24.2.1.2, 24.2.1.3, 24.2.1-24.2.1.9 and Rules 24.5.3 - 24.5.5 and 24.5.12 be retained.
- 9.5** Erik Moen (2054) supports the Precinct overall but considers that the Precinct is located too close to roads. The submitter suggests the 20m setback is insufficient and requests a 100m-200m setback to achieve open pastoral spaces. I note that Rule 24.5.4 requires a 75m setback of buildings from roads. I consider that this achieves at least in part the intent of the submission. I recommend this submission is accepted in part, however I do not recommend any changes to the provisions as a result of it.
- 9.6** Mike and Gemma Smith (2263) support the variation overall, who consider that it addresses a long standing issue with the ODP Rural General Zone by identifying areas where development can be absorbed and where it cannot.
- 9.7** Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou, Hokonui Rūnanga, Te Rūnanga o Waihōpai, Te Rūnanga o Awarua and Te Rūnanga o Ōraka-Aparima (Kāi Tahu) (2329) (**Kāi Tahu**) generally supports the Wakatipu Basin Chapter 24 provisions that seek to recognise and protect the ancestral relationship Kāi Tahu, and their culture and traditions, have with their lands, water, culturally significant sites, wāhi tapu and other taonga, and the willingness of the QLDC to incorporate these matters in the PDP.
- 9.8** The following particular amendments are sought by Kāi Tahu:

- (a) That the provisions recognise and address the effects of landfills, cemeteries and crematoriums on tangata whenua values;
- (b) That areas of wahi tupuna are mapped;
- (c) Kāi Tahu values need to be visible throughout the document including cross referencing with the Tangata Whenua Chapter; and
- (d) Tangata Whenua values should be recognised throughout the PDP, similar to references to landscape and ecological values.

9.9 The following provisions of Chapter 24 relate directly to Tangata Whenua:

- (a) Policy 24.2.1.12

Have regard to the spiritual beliefs, cultural traditions and practices of Tangata Whenua.

- (b) Assessment Matter 27.7.6.2 aa

Assessing the extent to which the subdivision and subsequent land use on the proposed site(s) adversely affects the historical, cultural or spiritual significance of any site or waahi tapu of significance to iwi.

9.10 Aside from the above provisions, I consider that the various rules and policies that manage adverse effects would also address these concerns. For instance, Rule 24.4.1 requires a non-complying activity resource consent for any activity not specified and activities such as a crematorium, landfill or cemetery. While I do not recommend any specific modifications to Chapter 24 in response to the Kāi Tahu submission, I consider the submission is accepted in part. I also note that mapping of wahi tupuna is a matter that has been considered in the decisions on Stage 1¹³ and I understand that the Council have undertaken to advance this through a further stage of the PDP.

¹³ Report 2. Report and recommendations of independent commissioners regarding Chapter 1, Chapter 5 and Section 3.2.7. 16 March 2018.

10. GENERAL SUBMISSIONS OPPOSING THE CHAPTER

- 10.1** Jane Shearer (2055) seeks that the variation ceases and a full review of the zoning in rural areas is undertaken. Being of a procedural nature rather than one of substance, I consider this submission is beyond the scope of Stage 2 and/or Chapter 24 and therefore recommend that the submission is rejected.
- 10.2** Bruce McLeod (2231) is critical of proposed Chapter 24 and also critical of the Land Use Study and the s32 report prepared by QLDC. Mr McLeod considers that matters such as the existing rules in the ODP, development patterns, research into hydrology informing the Study and variation, and the overall change in focus of the planning regime to restrict lots to 80ha is flawed. Mr McLeod strongly opposes the variation and also submits on specific rules included in proposed Chapter 24. These submission points are identified in my evidence, or taken into consideration as part of similar submissions.
- 10.3** Philip Blakely and Mary Blakely Wallace (2499) seek that the subdivision rules proposed in Chapter 24 are more similar to the Stage 1 PDP Rural Zone rules with no minimum lot size and subdivision being a discretionary activity. Additionally they seek that subdivision within the Rural Zone (in the context of the now notified Wakatipu Basin Zone) should be based on solid analysis and evaluation of identified landscape character units and values, and that the extent and subdivision density of the proposed Rural Lifestyle Zone is reconsidered (in the context of the notified 1ha average density of the Precinct). Also that that the Wakatipu Basin Zones have resulted in the merging of the Rural Residential and Rural Lifestyle Zones are reconsidered.
- 10.4** Anna-Marie Chin (2241) opposes the variation because the proposed Chapter places more restrictions on being able to build than the present ODP and Stage 1 framework. David Shepard (2135) opposes the Precinct and does not consider the densities promoted in the variation will achieve the objectives to protect, maintain and enhance landscape and visual amenity values.

- 10.5** Kaye Eden (2360) opposes both the Amenity Zone and the Precinct. Ms Eden questions the 80ha minimum lot size on the basis that it is too small for an economic unit and would be more of a nuisance to maintain. Ms Eden also suggests that the minimum lot size in the Precinct should be 2ha.
- 10.6** Clark Fortune McDonald & Associates (2297) seek that reference to the year 2015 in the title of "QLDC Land Development and Subdivision Code of Practice (2015)" be deleted. I note that Chapter 24 does not contain any reference to this document at all, and so I recommend that the submission is rejected, albeit that it is not entirely relevant.
- 10.7** Submitters Mylore Family Trust (2544), Kirsty McTaggart and Justin Crane (2567), QN1 Limited (2459), Richard Anthony Smith and Banco Trustees Limited (2470), Walrus Jack Trustee Limited (2480), C & Y Guillot and Cook Adam Trustees Limited (2519), Crown Range Holdings Limited (2530), D Smith and G Mirkin (2532), M. W and S Lawn (2534), Roger Monk (2281) and Slopehill Properties Limited (2584) all oppose Chapter 24 and the Zones for a range of reasons including that the 80ha minimum allotment size in the Amenity Zone is arbitrary, and the minimum 6000m² lot size in the Precinct acts to down-zone many properties. The submitters invariably seek that, in the alternative, a mix of the operative (ODP) zoning regime is reinstated.
- 10.8** I refer to the Land Use Study, the s32 report and landscape evidence from Ms Gilbert that supports the variation, and consider that the Chapter 24 provisions are more appropriate than the ODP and any alternatives suggested by those submitters. I recommend that all of these submissions are rejected. In terms of those submitters who seek the status quo, or a similar variant is retained, I also refer to Issue 1 where I discuss the merits of the approach to managing subdivision and development by way of the Chapter 24 provisions utilising minimum lot sizes, versus the 0ha lot size discretionary regime of the ODP and Stage 1 PDP Rural Zone.
- 10.9** BSGT Limited (2487) consider that the objectives, policies and rules are overly focused on landscape and visual amenity. BSGT request

that the objectives, policies and rules be made more enabling of activities contemplated in the Zone, such as farming. Similar to the comments I have made on the Federated Farmers of New Zealand (**Federated Farmers**) submission (2540), I consider that overall the WB Chapter accepts effects associated with farming by providing for it as a permitted activity.¹⁴

- 10.10** The notable difference being the reduced size of Farm Buildings which are permitted up to 50m² in the Amenity Zone¹⁵ and are permitted up to 300m² in the Rural Zone Rural Character Landscape areas.¹⁶ However, the permitted status in the Rural Zone requires that a range of standards are met, including that the landholding must be greater than 100ha, must not exceed a density of one building per 50ha, and must be located lower than 600m² above sea level. The rules permitting farm buildings in the Rural Zone do not therefore provide unbridled development rights.
- 10.11** BSGT Limited also request that new rules be added that provide for clearance of native and exotic vegetation and the grazing of stock as permitted activities with no standards. Grazing of stock is already permitted pursuant to Rule 24.4.2, and the rules for clearance, including clearance of indigenous vegetation through grazing, are included in Chapter 33 Indigenous Vegetation and Biodiversity. I recommend that this submission point is rejected.
- 10.12** Submitter John Martin (2606) seeks that the variation is withdrawn because the findings of the Land Use Study are flawed. No other specific reasons are provided. I consider the Study to provide a sufficient basis to promulgate the Wakatipu Basin variation and Chapter 24. I recommend this submission is rejected.
- 10.13** Submitter Walrus Jack Trustee (2480) request that Chapter 24 and related zonings are rejected and that it is replaced with a mix of the zonings similar to the ODP that better enable rural living. No specified

14 Farming is a permitted activity pursuant to Rule 24.4.2 and Farm Buildings are a permitted activity pursuant to Rule 24.4.8.

15 Rule 24.5.8.

16 PDP Rural Zone Rule 21.8.1.

provisions are suggested by this submitter. For the reasons set out below I recommend this submission is rejected.

- 10.14** Submitters Flood (2472), Buckham (2515), Nash (2578), Gott (2579), seek that the Lifestyle Precinct is rejected because the densities are too high, in their view bordering on urban densities, that the requirement for sites as small as 6000m² to provide their own servicing leads to the Council negating its role to provide infrastructure, and that overall the effects on infrastructure arising from the densities contemplated by the Lifestyle Precinct are inappropriate.
- 10.15** Submitters Hunter Leece and Anne Kobienia (2122), with particular concern to the Lifestyle Precinct in Dalefield, also question the relative higher densities provided for in the Precinct and query the constraints on infrastructure associated with the expansion of rural living areas.
- 10.16** With regard to the above submissions on the Precinct density, I consider the Chapter 24 provisions, and the evidential support provided in the Land Use Study and s32 report, to be appropriate, and consider that they are more appropriate than the alternatives where these have been suggested by submitters. I do accept that modifications should be made to the Chapter 24 text as notified and I discuss these in greater detail in my evidence. In broad terms I consider that the distribution, intensity and scale of residential density provided for in the Precinct is the most appropriate way to achieve the objectives of Chapter 24 and the Strategic Chapters of the PDP. I recommend these submissions are rejected.
- 10.17** The Friends of Lake Hayes Society Inc. (2140), Catherine Dumarchand (2150) and Peter Goulston (2312) have requested in their submissions that the Land Use Study is revisited to include impacts on Lake Hayes water quality and the contribution of groundwater. The Study forms part of the evidential basis behind the notified WB variation. Amendments to it are not available in this public process. However, I do consider the submitters' concerns further below. The submitters have also requested that the PDP restricts any further residential or commercial subdivision and building in the Lake Hayes catchment area until suitable reticulated sewerage is installed.

10.18 I refer to and rely on the advice of Ms Jarvis in relation to infrastructure matters, specifically that on-site wastewater is feasible on the site sizes envisaged under the Precinct as notified. I also note that the discharge of stormwater and contaminants from both point and non-point sources is a function of the Otago Regional Council. With particular regard to on-site wastewater management, the rules of the Otago Regional Plan: Water for Otago are relevant to the Wakatipu Basin:

12.A.1.4 *The discharge of human sewage through any on-site waste water treatment system, installed after 28 February 1998, onto or into land is a permitted activity, providing:*

- (a) *The discharge does not exceed 2000 litres per day (calculated as a weekly average); and*
- (b) *The discharge does not occur within the A zone of any Groundwater Protection Zone, as identified on the C-series maps, nor in the area of the Lake Hayes catchment, as identified on Map B6; and*
- (c) *The system's disposal field is sited more than 50 metres from any surface water body or mean high water springs; and*
- (d) *The system's disposal field is sited more than 50 metres from any bore which:*
 - (i) *Existed before the commencement of the discharge activity; and*
 - (ii) *Is used to supply water for domestic needs or drinking water for livestock; and*
- (e) *There is no direct discharge of human sewage, or effluent derived from it, to water in any drain or water race, or to groundwater; and*
- (f) *Effluent from the system does not run off to any other person's property; and*
- (g) *The discharge does not cause flooding of any other person's property, erosion, land instability, sedimentation or property damage.*

10.19 Rule 12.A of the Regional Plan: Water, contains the following advice note:

Note: The approval of particular technologies for the on-site treatment of human sewage under particular land conditions will usually require the involvement of the relevant city or district council, under the Building Act 2004 or the Health Act 1956. This Plan deals only with the effect of the discharge on the environment, and does not promote any particular technology or treatment method.

10.20 Relevant to the Wakatipu Basin, I note that the Wakatipu Basin Aquifer is not subject to the 'A zone of any Groundwater Protection Zone'. Limb (b) of Rule 12.A.1.2 does not permit any on-site wastewater treatment system in the area of the Lake Hayes catchment, as identified on Map B6. An excerpt of this map¹⁷ is provided below.

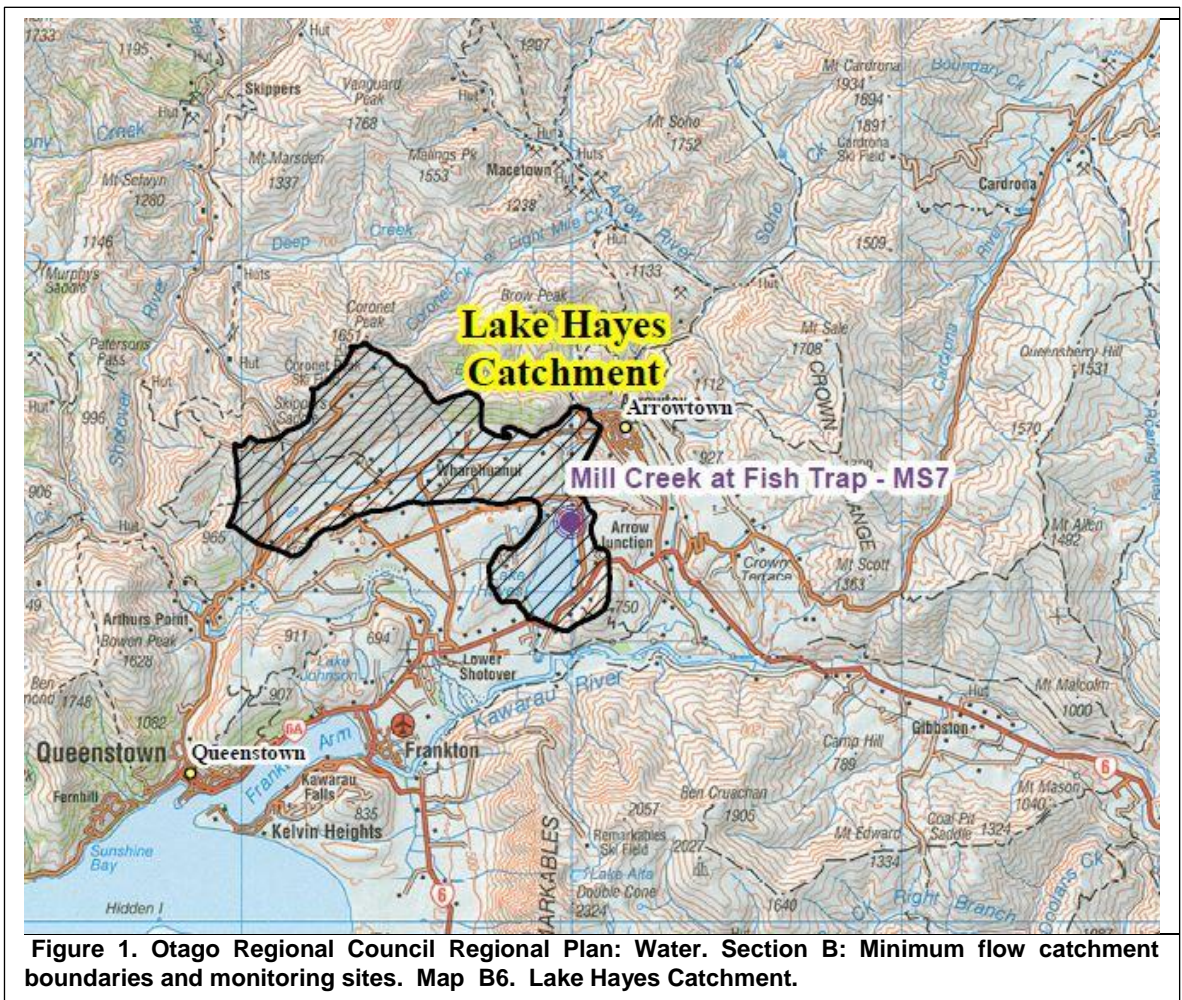


Figure 1. Otago Regional Council Regional Plan: Water. Section B: Minimum flow catchment boundaries and monitoring sites. Map B6. Lake Hayes Catchment.

¹⁷ Otago Regional Council Regional Plan: Water. Section B: Minimum flow catchment boundaries and monitoring sites. Map B6. Lake Hayes Catchment.

- 10.21** Part of the area identified in the ORC Map B6 as within the Lake Hayes Catchment is also zoned Precinct. I consider that the requirement to obtain a discretionary activity resource consent under the Regional Plan: Water, for on-site wastewater treatment systems is a safeguard that provides for the sufficient management of wastewater arising from the Precinct.
- 10.22** I refer to and rely on the evidence of Ms Jarvis who is confident that on-site wastewater servicing can be achieved on properties with a minimum allotment size of 6000m².
- 10.23** The area (sub zone) identified within the Zone as Lifestyle Precinct is relatively small compared to the rest of the Amenity Zone. The areas of 'greenfield' Lifestyle Precinct that are zoned ODP Rural General make up an even smaller portion of the Lifestyle Precinct. In addition, the expectation imposed by the PDP through the Precinct zoning to service sites that are on average a size of 1ha is not considered to be beyond the environmental capacity of these areas to service wastewater within these lots. I make this inference based on Ms Jarvis's evidence and the rule framework in the Otago Regional Plan: Water for Otago, discussed above.
- 10.24** I recommend these submissions are rejected.
- 10.25** Ffiske et. al oppose the entirety of Chapter 24 but also seek specific changes to provisions and provide conditional support for others.¹⁸ The more specific submissions are addressed in greater detail further in this report. Submissions¹⁹ also seek that the Amenity Zone and provisions in Chapter 24 are rejected in favour of the ODP Rural, Rural Residential and Rural Lifestyle Zones. Concerns include the introduction of minimum allotment sizes including the smaller minimum lot size of 6000m² and 1ha average in Precinct.²⁰

18 Ie. Submission 2410.1.

19 Miles Wilson (2018), McKeague (2207), Julian Apse (2214), Taramea Ltd (2240).

20 Hunter Leece & Anne Kobienia (2122) as it relates specifically to the Lifestyle Precinct in Dalefield, Cassidy Trust (2144), Catharine Dumarchand (2150), Susan Harwood (2169), Amanda Foo-Ryland (2192), Sarah Foo-Ryland (2193), Victoria Onions (2206), Beatrice Onions (2209), Wendy Clarke (2234), Anna-Marie Chinn (2241).

11. SPECIFIC ISSUES - QUEENSTOWN TRAILS TRUST (2575)

11.1 The submission of the Queenstown Trails Trust (2575) (QTT) emphasises their submission made on the PDP 2015 Stage 1 Strategic Direction Chapter 3 and emphasises the relevance of trail networks at a strategic level.

11.2 I have identified the following objectives of the Decisions version PDP 2018 Strategic Direction Chapter 3 as relevant:

3.1 Purpose: identifies compact and connected settlements that encourage public transport, biking and walking.

Objective 3.2.4.5: Public access to the natural environment is maintained or enhanced.

Strategic Policy 3.3.28: Seek opportunities to provide public access to the natural environment at the time of plan change, subdivision or development. (relevant to S.O.3.2.4.6²¹)

11.3 I consider the Stage 1 Decisions version contains appropriate reference to facilitate trail networks. QTT have also requested that text is placed into the purpose statement of the WB chapter that emphasises the importance of the trail network. While I support the intent of the submission, I do not consider that additional text is necessary and nor do I consider that every resource or opportunity or constraint located within a zone needs to be identified and discussed in the purpose Statement. I also refer to the submission made by Slopehill Properties Limited (2584), which I discuss below, who have criticised the purpose statement for being too long and seek that it is reduced to only 3 paragraphs. For these reasons I recommend that the QTT submission point is rejected.

11.4 QTT support Policy 24.2.1.10 'Facilitate the provision of walkway, cycleway and bridle path networks', but also seek that an additional objective and policies are included that recognise the benefits of public walking cycling trails, and recognise that in creating trails there are

21 Strategic Objective 3.2.4.6 does not exist. It is inferred that the correct cross reference should be 3.2.4.5.

likely to be some adverse effects arising from trail construction. QTT are concerned that the rules and policies of Chapter 24 that seek to manage the effects of development near to identified landscape features, ONF or ONL, would prevent the establishment of trails, noting that the benefits of constructing the trail usual outweigh the effects.

11.5 Again, I agree with the intent, but I do not consider the policies of Chapter 24 managing the effects of development, including trails, to be 'no change' or 'no effects policies'. I also note the following provisions of the PDP that are relevant to trails:

(a) PDP definition of 'Public Place'

Means every public thoroughfare, park, reserve, lake, river or place to which the public has access with or without the payment of a fee, and which is under the control of the council, or other agencies. Excludes any trail as defined in this Plan.

(b) PDP definition of 'Trail':

Means any public access route legally created by way of a grant of easement registered after 11 December 2007 for the purpose of providing public access in favour of the Queenstown Lakes District Council, the Crown or any of its entities, and specifically excludes:

- a. roads, including road reserves;*
- b. public access easements created by the process of tenure review under the Crown Pastoral Land Act; and*
- c. public access routes over any reserve administered by Queenstown Lakes District Council, the Crown or any of its entities.*

(c) PDP Stage 2 Earthworks Chapter 25. Policy 25.2.2.1:

Subject to Objective 25.2.1, enable earthworks that are necessary to provide for people and communities wellbeing, having particular regard to the importance of:

- a. Nationally and Regionally Significant Infrastructure;*
- b. tourism infrastructure including the continued operation, and provision for future sensitive development of recreation and tourism activities within the Ski Area Sub Zones and the vehicle testing facility within the Wairau Ski Area Sub Zone;*
- c. minimising the risk of natural hazards;*
- d. enhancing the operational efficiency of farming including maintenance and improvement of track access and fencing; and*

e. *the use and enjoyment of land for recreation, including public walkways and trails.*

(d) PDP Stage 2 Earthworks Chapter 25. Assessment Matter 25.8.10 e.

Whether the earthworks are for the purposes of public recreation trails that enhance recreational opportunities and access.

(e) The PDP Stage 2 Transport Chapter 29 also makes reference to the importance of active transport (which trails are a part of), by way of Objective 29.2.1, Policies 29.2.1.1. Rule 29.4.5 specifies that development of active transport located outside a road is a permitted activity.

11.6 I consider that these strategic and district wide components of the PDP (noting their varying stages throughout the PDP hearing process), in conjunction with Policy 24.2.1.10, provide sufficient support for trail networks within the Zone. Again, while I support the intent of the request, I do not consider them to be necessary and I recommend they are rejected.

11.7 QTT are also concerned that Rule 24.4.5 (setback from identified landscape features) would mean that a trail is interpreted as an accessway. QTT request the rule is amended to exclude public trails.

11.8 Rule 24.4.5 is:

24.5.5	<p>Setback from identified landscape features</p> <p>Any building or accessway shall be located a minimum of 50m from the boundary of any identified landscape feature as identified on the planning maps.</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> • Building location, character, scale and form. • External appearance including materials and colours. • Landform modification/planting (existing and proposed). 	RD
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11.9 The PDP definition of 'Accessway' is:

Means any passage way, laid out or constructed by the authority of the council or the Minister of Works and Development or, on or after 1 April 1988, the Minister of Lands for the purposes of providing the public with a convenient route for pedestrians from any road, service lane, or reserve to another, or to any public place or to any railway station, or from one

public place to another public place, or from one part of any road, service lane, or reserve to another part of that same road, service lane, or reserve.*

** Footnote: From section 315 of the Local Government Act 1974.*

- 11.10** A trail would be considered an accessway and subject to the rule. However, I do not see this as being onerous for the future construction of parts of the trail network. As alluded to by the submitter in their submission, the benefits of trails to the public and the District are high, and if appropriately designed they have every possibility of according with the relevant assessment matters and policies of Chapter 24, and a resource consent could be forthcoming.
- 11.11** I also consider that it is important that activities seeking to locate within the Wakatipu Basin, whether they be recreation trails or trails primarily for part of the active transport network, do not degrade the resources that form part of the appreciation of the recreational amenity. I recommend this submission point by QTT is rejected.

12. SPECIFIC ISSUES - WAKATIPU REFORESTATION TRUST (2293)

- 12.1** The Wakatipu Reforestation Trust (2293) (**WRT**) submit that Chapter 24 does not include sufficient rules, assessment matters, and objectives and policies that provide for the protection and enhancement of indigenous biodiversity and its contribution to visual amenity, rural amenity and natural character and the life supporting capacity of the air, land and water.
- 12.2** WRT seek that that the Council provide development incentives for the protection and establishment of indigenous biodiversity values, similar to those contained within the Auckland Unitary Plan, Part E39 for rural subdivision, a copy of which is attached to their submission. This AUP chapter is a wide-ranging chapter that affects all subdivision in rural areas throughout the Auckland region.
- 12.3** I consider that it would be more helpful if the submitter identified which specific parts of the AUP they seek are emulated in Chapter 24, and also the tangible comparisons between this planning framework of the AUP (which seeks to enhance indigenous biodiversity), and Chapter 24, which is fundamentally about protecting, maintaining and

enhancing an amenity landscape in terms of section 7(c) of the RMA. In particular, whether the subdivision provisions of the AUP, Part E39 are concerned with protecting existing indigenous vegetation, or offering development rights in exchange for indigenous biodiversity restoration.

12.4 WRT have attached a map to the submission, being the Stage 2 PDP Planning Map 13D overlain by a series of primary, secondary ecological corridors and areas identified as source population and habitat. I understand the map is included to provide assistance with understanding the submission and as far as I am aware the submitter does not seek this map is included in the PDP.

12.5 WRT also seek a range of amendments to the Chapter 24 text that, overall, seek to include consideration and provide incentives for development to enhance indigenous biodiversity within the Zone. The following new stand-alone paragraph sought to the Purpose Statement generally reflects the overall tenet of the WRT submissions:

The protection and enhancement of indigenous vegetation within the Basin by way of development incentives will increase the Basin's natural biodiversity values, its ecological integrity and the life supporting capacity of the air, land and water. Lands within the District which are not suitable for farming or rural residential activities, such as scarps, gullies, riparian areas and amenity areas near dwellings present significant opportunities for ecological enhancement, as well as restoration of native habitats integrated within these activity areas.

12.6 I consider there to be two key matters raised by this submission. The first is the extent to which the objectives of the Zone and Chapter 24 overall would be achieved by a focus on indigenous biodiversity and, notwithstanding the obvious intrinsic benefits, whether this provides value from a regulatory perspective. The second is the extent to which the submission duplicates, or is materially achieved by, PDP Chapter 33 Indigenous Vegetation and Biodiversity.

12.7 I support a focus on the restoration and enhancement of indigenous biodiversity, and consider that this would assist the Council to give effect to s31(1)(iii) of the RMA to maintain indigenous biodiversity.

However, I do not support changes that seek to shift the focus for Chapter 24 from the landscape character and visual amenity values derived from the Basin landscape, to one of providing development rights in exchange for the enhancement of another resource or value that the values of the Wakatipu Basin are not predominantly derived from.

12.8 Relevant to this matter is the description of the Wakatipu Basin's landscape character as described in the evidence of Ms Pfluger in the Stage 1 Rural Hearing (02) Stream,²² and cited in the Land Use Study²³ as a helpful summary of the characteristics of the wider Wakatipu Basin:

... In my view, in general terms the key landscape characteristics of the Wakatipu Basin are related to its landform determined by its complex underlying geology, the current landuse/ landcover forming the visible overlay and its location surrounded by mountain ranges. More specific characteristics are notable within discrete parts of the basin (for example Dalefield is characteristically different from land south of Ladies Mile), however they share higher level landscape characteristics. These generic characteristics include:

- *The glacial carved basin, defined by prominent peaks and ridges of surrounding mountains. The distinctive formative processes provide sculpted basin-wide features, including roche moutonees, alluvial terracing, lakes and rivers. The basin setting has influenced drainage, soils, vegetation, land use and settlement.*
- *Open and expansive valley floors, where natural vegetation patterns relate only to parts of the 'edges' of the basin and the higher elevated areas where alpine and tussock vegetation dominate.*
- *Both the Shotover and Kawarau Rivers flow into Lake Wakatipu and demonstrate significant alluvial erosion and cutting through basement rock along their Wakatipu stretches.*

22 Proposed District Plan Proposed Plan Review (Chapters 21 and 22), Statement of Evidence of Yvonne Pfluger, 21 April 2016 .

23 At 15-16.

- *Within the basin, settlement patterns vary in size with Arrowtown and Queenstown being the principal areas. Locally quarried stone brings a noted harmony to much of the built environment drawing on the area's mountainous setting.*
- *Farming (both arable and pasture) is limited to a few areas, with the predominance of life style and low-density living paramount. A mix of densities proliferates throughout the basin, all angled to capture views and aspect. Specific areas such as Dalefield retain higher densities of dwellings as opposed to parts of Speargrass Road for example, creating a difference within the basin character. New areas of development, such as Lake Hayes Estate and Shotover Country are further changing the urban built form outside of Queenstown and Arrowtown, creating new nodal communities.*
- *Shelterbelts and deciduous tree lines define land use boundaries within the basin. Species, despite being exotic, have become known to typify the area, promoting seasonal variation.*
- *The roading network is typically straight, dual-lane and sealed. Many roads are lined with hedges and trees, which are generally located on adjacent private properties. Views towards the surrounding peaks and ridges provide containment and internal basin features including the roches moutonees, lakes and rivers amplify the formative processes within this basin landscape.*

12.9 I note that the only reference to indigenous vegetation is in the second bullet point of Ms Pfluger's evidence, which notes '*where natural vegetation patterns relate only to parts of the 'edges' of the basin and the higher elevated areas where alpine and tussock vegetation dominate*'.

12.10 I do not consider the characteristics of the Wakatipu Basin to derive from indigenous vegetation attributes and I would not support a planning framework that is predicated on the enhancement of indigenous vegetation, where the vegetation types and patterns that contribute to the maintenance and enhancement of the character and visual amenity are derived from exotic plants. I do however consider the emphasis on the maintenance and enhancement of indigenous

vegetation to be commendable, especially given that the Land Environments New Zealand classifies the majority of the Wakatipu Basin that is covered by the Zone as having <10% indigenous cover left, as indicated in Mr Davis's evidence.

12.11 For completeness, I do not support adopting the concept of transferable development rights or enabling development for indigenous vegetation enhancement incentives. For these reasons I recommend the submission is rejected.

12.12 In terms of provisions, WRT seek an objective and suite of policies, amendments to rules and new assessment matters. In particular, WRT seek that Rule 24.4.29 is retained but amended to require resource consent for Indigenous vegetation that is of a height greater than 2 metres, and any area of indigenous vegetation greater than 25m².

12.13 By comparison, the PDP Indigenous Vegetation and Biodiversity Chapter at Rule 33.5.2 restricts the clearance of indigenous vegetation that is greater than 2.0 metres in height to 50m² on sites that are 10ha or less, and 500m² on sites that are greater than 10ha, in any five year period. I consider that these rules are sufficient and that while the rules requested by WRT are significantly more restrictive in the case of sites greater than 10ha, I consider that the rules in Chapter 33 are the most appropriate in this instance and the inclusion of rules managing indigenous vegetation in Chapter 24 are not efficient nor more effective overall than Chapter 33.

12.14 I note that the PDP Rural Zone Chapter 21, which a large part of the Wakatipu Basin zone has now replaced, contains the following policies and assessment matters relating to retention and enhancement of indigenous vegetation associated with changes in land use from productive farming to a diversification toward other activities:

(a) Policy 21.2.9.3:

Provide for the establishment of activities such as tourism, commercial recreation or visitor accommodation located within farms where these enable landscape values and indigenous biodiversity to be sustained in the longer term.

- (b) Part 21.21.3 Assessment Matters Other factors and positive effects, applicable in all the landscape categories (ONF, ONL and RCL):

whether the proposed subdivision or development would enhance the character of the landscape, or protects and enhances indigenous biodiversity values, in particular the habitat of any threatened species, or land environment identified as chronically or acutely threatened on the Land Environments New Zealand (LENZ) threatened environment status;

12.15 Chapter 24 itself is relatively silent on this matter through its policies, recognising that the collective amenity derived from vegetation in the Basin is in large part exotic, and that it is the change of season and transient values where exotic vegetation contributes to such amenity values. The following references to indigenous vegetation form part of Chapter 24:

- (a) Rule 24.5.7 – setback of buildings from waterbodies – ‘*indigenous biodiversity values*’ is a matter of discretion and assessment matter 24.7.9.
- (b) Assessment matter 24.7.3 b. ‘*the retirement and restoration planting of steep slopes over 15° to promote slope stabilisation and indigenous vegetation enhancement*’; and
- (c) Assessment Matter Part 27.7.6.2 Z z. ‘Considering the extent to which the subdivision provides for ecological restoration and enhancement. Ecological enhancement may include enhancement of existing vegetation, replanting and weed and pest control’.

12.16 Having considered these matters I conclude that:

- (a) From a regulatory perspective, the provisions of Chapter 33 are sufficient, and no additional rules are necessary within Chapter 24 to manage indigenous vegetation;
- (b) The matters of discretion, and assessment matters in Chapter 24 and Chapter 27 are appropriate; and
- (c) That the policy framework of Chapter 24 could benefit from recognition of indigenous biodiversity maintenance and enhancement, but not to the extent sought by WRT.

12.17 I recommend including a new policy in Chapter 24 the same as or very similar to that in PDP Chapter 33. The reason for including a similar policy in Chapter 24 is because it is intended to be applicable to development in the Zone generally, and not just when this policy would be considered when an activity involves a breach of a rule in Chapter 33. A policy in Chapter 24 could be considered by way of a resource consent for any relevant activity. The policy is 33.2.33:

Encourage the retention and enhancement of indigenous vegetation including in locations that have potential for regeneration, or provide stability, and particularly where productive values are low, or in riparian areas or gullies.

12.18 I consider that this policy neatly encompasses the situations where indigenous vegetation would want to be planted as part of development within the Zone. I consider it is important that the policy apply to both the Amenity Zone and the Precinct, and relates to achieving Objective 24.2.4. Accordingly I recommend the recommended Policy as S42A Policy 24.2.4.8. The only modification I recommend to the policy, (compared to Chapter 33.2.33) is to acknowledge the incentive component of the policy rather than being regulatory focused. To achieve this, I recommend that provision for 'planting' is added to the policy. This would make the policy relevant to development activities generally and not just those situations where indigenous vegetation is proposed to be removed.

12.19 On this basis I recommend the submission is accepted in part.

13. SPECIFIC ISSUES - FIRE AND EMERGENCY NEW ZEALAND (2660) (FENZ)

13.1 The Submission from FENZ (2660) seeks the introduction for what it calls new standards²⁴ requiring compliance with the New Zealand Fire Service Code of Practice 2008. FENZ also state that they support the inclusion of standards rather than assessment matters consistent with their evidence presented at the Stage 1 PDP hearings.

24 FENZ submission at 8.

13.2 I am unsure of the intent of this part of the FENZ submission because the provision sought is requested to be located in Part 24.7: Assessment Matters, and there is not any resultant activity status or matters of control or discretion attached with the standards that are usually expected for non-compliance with a rule. This means that FENZ may be seeking new assessment matters, but the provisions appear to be drafted as a rule.

13.3 Notwithstanding the above I will assess these on the basis that they are standards (rules) in terms of s9 of the RMA, and not be concerned with the unspecified nature of the activity status, matters of discretion or assessment matters.

13.4 The first rule sought is 27.x.1, as follows:

New buildings excluding accessory buildings (excluding accessory buildings that are not habitable) shall have sufficient water supply for firefighting in accordance with the New Zealand Code of Practice SNZ PAS4509: 2008.

13.5 I addressed very similar submissions from the then New Zealand Fire Service (**NZFS**) in the Rural Hearing stream in 2016 as part of the hearing on submissions on the Rural Zone Chapter 21, Rural Residential and Rural Lifestyle Zone Chapter 22 and Gibbston Character Zone Chapter 23.

13.6 My evidence at those hearings was that in principle, I support the management of this issue because it is important however, for the following reasons I was then, and am still reluctant to accept the request to include this standard in Chapter 24. The reasons are:

- (a) The rule would have to rely on the relevant Standards New Zealand Code of Practice (**CoP**) and this would mean directing people to provisions outside the plan for permitted activity status (the appropriate way to do this would be for the COP to be incorporated by reference into the PDP);
- (b) The rule/permitted activity status would be entirely reliant on the whole COP. There are components of the COP that

provide the ability to apply more discretion than I consider is sufficiently certain to be a permitted activity standard;

- (c) Referencing the standard would mean the council need to undertake a plan change if/when the standard is updated. If not, council are obliged to administer the old standard and this matter has caused problems with the administration of the ODP (e.g. having to rely on a superseded noise standard in terms of administering the rule but in terms of assessment the more recent standard is preferred. The administration of resource consents for helicopter landings and departures being one example);
- (d) The QLDC and FENZ have a memorandum of understanding (**MOU**) that sets out the requirements for firefighting provisions in non-reticulated areas. The MOU requires 20,000 litres of water for a firefighting reserve, whilst the CoP requires 45,000 litres. The MOU conflicts with the CoP and this further reinforces why it is not appropriate to broadly apply the COP as a rule.
- (e) The Council has a longstanding practice of assessing and imposing conditions on this matter when subdivision and development is the Rural Zones. There are unlikely to be any consented but unbuilt developments that do not have conditions, usually registered on a property's computer freehold register that do not require suitable access for fire appliances, a fire fighting reserve, and connection (if applicable), and the suitable distance to and from the buildings.
- (f) Because a resource consent would be required for the construction of habitable buildings in the Zone. I do not consider this rule is necessary. For these reasons I recommend that the submission is rejected.

13.7 In the Stage 1 Rural Hearing, my recommendation was therefore that a rule was not necessary in the Rural Zone, Rural Lifestyle Zone and Gibbston Character Zone. The exception to that position was with the Rural Residential Zone. Because the PDP permitted buildings subject to standards in that zone, I considered such a rule should be included.

My recommended Rule captured what were considered to be the essential prerequisites:

- (a) A water supply of 20,000 litres and any necessary couplings;
- (b) A hardstand area adjacent to the firefighting water supply capable of supporting fire service vehicles;
- (c) Firefighting water connection point within 6m of the hardstand, and 90m of the dwelling; and
- (d) Access from the property boundary to the firefighting water connection capable of accommodating and supporting fire service vehicles.

13.8 I note that during the hearing the NZFS maintained their position that a rule relying entirely on and referencing the CoP was more appropriate.

13.9 Following a memorandum received on 7 June 2016 from the NZFS²⁵ supporting a 45,000l static water supply amongst other matters, the Hearings Panel recommended the standards as recommended in my s42A reports but increased the water supply to 45,000l²⁶.

13.10 The Hearings Panel presiding over the Rural Hearing and Chapters 21-23 made the following determinations that form the PDP 2018:

(a) Rural Zone Chapter 21: Rule 21.5.7, a new rule was inserted:

21.7.5	<p>Fire Fighting water and access</p> <p>All new buildings, where there is no reticulated water supply or any reticulated water supply is not sufficient for fire-fighting water supply, must make the following provision for fire-fighting:</p> <p>21.7.5.1 A water supply of 45,000 litres and any necessary couplings.</p> <p>21.7.5.2 A hardstand area adjacent to the firefighting water supply capable of supporting fire service vehicles.</p> <p>21.7.5.3 Firefighting water connection point within 6m of the hardstand, and 90m of the dwelling.</p> <p>21.7.5.4 Access from the property boundary to the firefighting water connection capable of accommodating and supporting fire service vehicles.</p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> a. the extent to which SNZ PAS 4509: 2008 can be met including the adequacy of the water supply; b. the accessibility of the firefighting water connection point for fire service vehicles; c. whether and the extent to which the building is assessed as a low fire risk.
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(b) Rural Residential and Rural Lifestyle Zones Chapter 22 Rule 22.5.13, a new rule was inserted and applicable to both the Rural Residential and Rural Lifestyle Zones.

²⁵ Memorandum of Counsel for NZFSC dated 7 June 2016 regarding its Fire Fighting Water Supplies Code of Practice and related matters.

²⁶ Hearing of Submissions on Proposed District Plan Report 4A Report and Recommendations of Independent Commissioners Regarding Chapter 21, Chapter 22, Chapter 23, Chapter 33 and Chapter 34 [168].

22.5.13	<p>Fire Fighting water and access</p> <p>New buildings where there is no reticulated water supply or it is not sufficient for fire-fighting water supply must provide the following provision for firefighting:</p> <p>22.5.13.1 A water supply of 20,000 litres and any necessary couplings.</p> <p>22.5.13.2 A hardstand area adjacent to the firefighting water supply capable of supporting fire service vehicles.</p> <p>22.5.13.3 Firefighting water connection point within 6m of the hardstand, and 90m of the dwelling.</p> <p>22.5.13.4 Access from the property boundary to the firefighting.</p>	<p>RD</p> <p>Discretion is restricted to all of the following:</p> <p>a. the extent to which SNZ PAS 4509: 2008 can be met including the adequacy of the water supply;</p> <p>b. the accessibility of the firefighting water connection point for fire service vehicles;</p> <p>c. whether and the extent to which the building is assessed as a low fire risk.</p>
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13.11 There was no equivalent rule included in the Gibbston Character Zone Chapter 23.

13.12 I note the Stage 1 decision confirm that the rules should be applied to the Rural Lifestyle Zone as well as the Rural Residential Zone.²⁷

13.13 There is no discussion as to why in Rule 21.5.7 there is a requirement for a 45,000l water supply and in the Rural Residential Zone and Rural Lifestyle Zone in Rule 22.5.13 the required water supply is 20,000l. I also note that Standard 22.5.13.4 appears to have been constricted, but there is a full stop at the end of the word firefighting which suggests that it is not simply a formatting error.

13.14 I maintain my overall position that because the development rights for buildings or building platforms in specified locations within the Wakatipu Basin Zone (Rule 24.4.5) requires a restricted discretionary activity resource consent, this rule is not necessary and the matter can be better dealt with through each respective resource consent application.

13.15 However, on the basis of the above, I recommend that it would be appropriate to include a permitted activity standard requiring compliance with specified fire fighting standards. I continue to support my recommendations from the respective Stage 1 hearing on submissions to Chapters 21-23, however, I maintain that a 20,000l capacity is appropriate for any individual development involving buildings.

27 Ibid [215-216]

- 13.16** While I do not support the elements of the FENZ submission which would require compliance with the CoP, I consider that the application of the standard to habitable buildings has merit. I also recommend that the rule is applicable to residential activities only, because commercial activities may have different requirements and in nearly all cases commercial activities require a discretionary or non-complying activity resource consent.
- 13.17** FENZ have also requested a separate standard that requires that where a building is more than 135m from the nearest road that has reticulated water supply including hydrants, access shall have a minimum formed width of 4m, a height clearance of 4.0m and a maximum gradient of 1 in 5. I am concerned that this permitted standard would arbitrarily create the need for earthworks and formation of fairly wide 4 metre accessways that would not achieve the landscape oriented objectives of Chapter 24, and would lead to a conflict between the outcomes sought and expectations for particular forms of infrastructure/ servicing.
- 13.18** I consider a more appropriate method is to retain the notified provisions that while requiring safe and effective access and infrastructure generally, do not come at the cost of the landscape. For these reasons I recommend this part of the FENZ submission is rejected.
- 13.19** Therefore, I recommend the FENZ submission is accepted in part and the following new rule is added in Part 24.5 (Standards):

<u>24.5.XE</u>	<p><u>Fire Fighting water and access</u></p> <p><u>24.5.XE.1 Except as provided for in Rules 24.5.XE.2 and 24.5.XE.3, new buildings where there is no reticulated water supply or it is not sufficient for fire-fighting water supply must provide the following provision for firefighting:</u></p> <p>a. <u>A water supply of 20,000 litres and any necessary couplings.</u></p>	<u>RD</u>
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	<p>b. <u>A hardstand area adjacent to the firefighting water supply capable of supporting fire service vehicles.</u></p> <p>c. <u>Firefighting water connection point within 6m of the hardstand, and 90m of the building.</u></p> <p>d. <u>Access from the property boundary to the firefighting water connection capable of accommodating and supporting fire service vehicles.</u></p> <p><u>Discretion is restricted to:</u></p> <ul style="list-style-type: none"> • <u>the extent to which SNZ PAS 4509: 2008 can be met including the adequacy of the water supply;</u> • <u>the accessibility of the firefighting water connection point for fire service vehicles;</u> • <u>whether and the extent to which the building is assessed as a low fire risk.</u> <p><u>24.5.XE.2: Rule 24.5.17.1 only applies to residential activity and excludes non-habitable accessory buildings.</u></p> <p><u>24.5.XE.3: Rule 24.5.17.1 does not apply to buildings previously authorised by Rules 24.4.XA and 24.4.5.</u></p>	
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13.20 Rules (S42A) 24.4.XA and Rule 24.4.5 as recommended to be amended to contain reference to firefighting water supply and access as a matter of discretion. I do not consider recommended S42A Rule 24.5.XE needs to apply to activities established through these rule. By excluding S42A Rule 24.5.XE where a development has been through this standard means that there will be efficiencies through not needing to revisit this matter, and triggering non-compliance with the rule.

14. ISSUE 1 – MINIMUM AND AVERAGE ALLOTMENT SIZES

Wakatipu Basin Rural Amenity Zone (Amenity Zone)

14.1 The Amenity Zone provides an inherent residential development right by permitting residential activity (Rule 24.4.3) and by enabling one residential unit per site (Rule 24.4.4). The rules however restrict opportunities for future subdivision to instances where the resultant lots are not less than 80ha (Rule 27.5.1). Subdivision where the lot's sizes are compliant would be a restricted discretionary activity, and a non-complying activity where less than 80ha.

- 14.2** The minimum allotment size is opposed by a number of submitters²⁸ who seek that the existing ODP framework is retained with no specified allotment size and a discretionary activity resource consent requirement.
- 14.3** Brustad (2577) et. al seeks various changes to Rules 24.3.4, 24.4.5 and subdivision standard 27.6.1 and to add a new rule with discretionary activity status providing for the creation of a building platform. In addition to this, the submitter seeks that there is a similar regime to the ODP with no minimum allotment size or specified density requirement in the Amenity Zone, similar to that sought by the submitters identified above. D J Robertson (2321) also seeks that the 80h minimum lot size is removed and replaced with the discretionary regime of the ODP.
- 14.4** Submitters Timothy Roberts (2477) and John Martin (2606) seek that the minimum lot size of 80ha is rejected because there is no resource management rationale. No other reasons are provided in support of these submissions.
- 14.5** Submitters Dagg (2586) and Fam (2589) oppose the Amenity Zone, in particular the 80ha minimum lot size and prefer the regime under the ODP citing it as a reasonably effective method, and that the 80ha minimum allotment size method is poorly evaluated.
- 14.6** The Land Use Study and s32 report have identified that the ODP regime in the context of the Wakatipu Basin does not adequately address the cumulative effects of rural living style subdivision and that development in the Wakatipu basin is not currently being managed in the most appropriate way. The unspecified allotment size, and relatively permissive assessment matters of the ODP, in conjunction with the development pressures evident in the Wakatipu Basin and the absence of a landscape-wide analysis of the absorptive capacity of the Wakatipu Basin area as a whole has resulted in a piecemeal approach to managing the Wakatipu Basin landscape resource. Provision for a discretionary activity status for a building platform without any specified

28 Robertson (2321).

allotment size would result in the same approach as the ODP, the shortcomings of which is what the Wakatipu Basin variation seeks to address.

- 14.7** Introducing these provisions into the proposed Chapter 24 framework would in my view weaken the planning framework because Chapter 24 provides an inherent development right for each site (Rules 24.3.4 and 24.4.5). As described in the Land Use Study and s32 report a fundamental aspect of the notified Zone is that a landscape design-led approach is retained but specified allotment sizes are introduced along with guidance on the absorptive capacity of the various landscape units in the Wakatipu Basin through the LCUs in Schedule 24.8. Chapter 24 introduces a significant change to the resource management framework for the Wakatipu Basin compared to the operative and PDP Stage 1 regime and I do not consider the re-instatement of the unspecified allotment size to be the most appropriate way to achieve the objectives of Chapter 24, or the Strategic Directions of the PDP overall.
- 14.8** I also rely on the evidence of Ms Gilbert at Section 62 of her evidence where she emphasises that a fundamental principle underpinning the Wakatipu Basin variation is the strategy of enabling some additional rural residential development in distinct 'nodes' throughout the Basin (corresponding to the Precinct), interspersed with more open, undeveloped and spacious areas to maintain the amenity values of the wider basin area. The proposed 80ha minimum lot size was selected to clearly signal that only a limited level of additional development was considered to be appropriate in the Amenity Zone in order to maintain the open, relatively undeveloped and spacious areas between the rural residential 'nodes'.
- 14.9** For these reasons I do not support an unspecified allotment size and discretionary activity status approach for the Wakatipu Basin and I consider that Chapter 24 is a more appropriate method of achieving the desired outcomes.
- 14.10** For completeness, I recommend that the Brustad (2577) et. al submissions on these matters are rejected.

Lifestyle Precinct - Two precincts and higher density in specified areas

- 14.11** Dalefield Trustees Limited (2097) support the 1ha average and 6000m² minimum allotment size in the Precinct.
- 14.12** Scott Carran (2608) requests an 8000m² minimum lot size.
- 14.13** A number of submitters including Brustad et. al (2577), United Estates Ranch (2126) and Stoneridge Estate (2314) et. al seek two zones within the Precinct, an 'A Zone' that has 1ha average with no minimum allotment size, and a 'B Zone' zone with a minimum allotment size of 4000m², or average lot size of 4000m² with no minimum.
- 14.14** Submitter Dennison (2301) seeks that a defined area of the Precinct located at north of Lake Hayes is provided with a minimum density of 4000m².
- 14.15** These submissions have been assessed as part of the rezoning and mapping component of the submissions. I refer to and rely on Ms Gilbert's landscape evidence and Mr Langman's planning evidence and their collective recommendations as to the distribution of zones and appropriate density outcomes for both the Precinct and Amenity Zone.

Average or minimum and a 4000m² lot size

- 14.16** A large number of submitters, including Brustad (2577) et. al, also seek additional flexibility through the Precinct by only having a 1ha average minimum, with no minimum allotment size. There are also concerns raised by submitters that the minimum site size of 6000m² would give rise to 'cookie cutter' types of development.
- 14.17** Banco Trustees Limited (2400) seeks that a minimum lot area of 4000m² is provided for in the Precinct in accordance with the findings of the Study.

- 14.18** Pete and Kelly Saxton seek that in the Precinct, the proposed average size of lots increased from 6,000m² to 40,000m², for example to reduce the visual impact of built form on those who live in the Littles Road area.
- 14.19** Ms Gilbert discusses the landscape related implications of the various requests made by these submitters in her evidence and also discusses the case study undertaken as part of identifying the Precinct and appropriate densities, focusing on the Fitzpatrick Basin, Hawthorn Triangle, Northern end of Lake Hayes and Hogans Gully and at Arrow Junction.
- 14.20** Ms Gilbert considers that a 4000m² minimum lot size would be likely to lead to a dense patterning of dwellings that would lead to large lot urban rather than rural living. Ms Gilbert supports the 6000m² minimum, with an average lot size of 1ha, coupled with the 75m road setback (Rule 24.5.4).
- 14.21** Ms Gilbert has identified in her evidence that a no minimum, and minimum average lot size approach can have benefits in terms of reinforcing a design-led approach, and in her view, in terms of affecting a landscape outcome, a minimum site size is of very limited importance overall. However, from an overall planning perspective there is more comfort with retaining the 6000m² minimum because of the potential for poor outcomes if a range of suburban nodes are established. Another perceived or potential poor planning outcome is the “death by a thousand cuts” issue where the balance area that was initially set aside to remain undeveloped as part of a subdivision, is then over time further developed on the basis that each incremental piece of development has limited adverse effects in its own right, even though the final outcome would never have been approved if it was considered as a whole.
- 14.22** Ms Gilbert also supports submissions that request a reference in the Precinct to a minimum average lot size, to confirm that a larger average may be appropriate in some situations. While I do not consider this to be necessary, I agree the change could assist and I recommend these submissions are accepted.

14.23 With respect to the potential for ineffective and undesirable outcomes associated with a no minimum approach, I consider that there are sufficient rules and assessment matters (and scope to add provisions through submissions) within Chapter 24 and related Chapter 27 Subdivision and Development provisions, that would ensure the policies are implemented, and that the outcomes sought by the objectives would be achieved.

14.24 I consider that it could better achieve the objectives of Chapter 24 if provision was made for a minimum average, with no specified minimum lot size. I consider that this could be provided for by amending the density related rules (currently located in Chapter 27 Subdivision and Development) though in general terms I consider the following conditions are necessary:

- (a) Retaining a non-complying activity status for breaching the 1ha average while activities that comply with a density of 6000m² are permitted, and activities with minimum lot sizes less than 6000m² are a discretionary activity.
- (b) An additional policy related to ensuring appropriate landscape outcomes where the recommended discretionary activity is utilised to create lots less than 6000m².

14.25 On the basis of the above I recommend that the submissions seeking that the minimum lot size is removed are accepted in part.

4000m² lot size

14.26 Submitters including Stoneridge Estate et. al (2314) and Brustad (2577) et. al seek an minimum lot size of 4000m² at least within the areas developed under the ODP Rural Residential Zone regime.

14.27 Ms Gilbert sets out in her evidence at Section 63 that from a landscape perspective, notwithstanding the presence of existing areas of 4000m², overall a 1ha average and 6000m² minimum lot size is appropriate to ensure the maintenance of landscape and visual amenity across the Basin. I refer to and rely on Ms Gilbert's evidence on that matter.

14.28 From a planning perspective, and contingent on the overall modifications to the provisions (ie. whether the density provisions are included in the Chapter 24 provisions or remain in the subdivision chapter), I also acknowledge that the increased allotment size could result in a vacant 4000m² site created under the ODP Rural Residential Zone regime requiring a non-complying activity consent for residential activity that does not meet the minimum area. There are not likely to be many of these properties, and their location amidst the established pattern of development would not be likely to result in adverse effects that are more than minor. These types of scenarios are likely to be exceptions and individually and collectively would not undermine outcomes sought through the Objectives of Chapter 24, in particular Objectives 24.2.1 and 24.2.5.

14.29 I recommend these submissions are rejected.

15. ISSUE 2 – BUILDING PLATFORMS

15.1 Submitter Ffiske et. al (**2338**) seeks that Chapter 24 is amended to enable building platforms to be established through a land use consent. The submission identifies a shortcoming of the ODP Rural Lifestyle Zone²⁹ in that there is no ability to identify a building platform through a land use consent. I note that this issue has been rectified through the notified PDP 2015 and that the land use activity of building platforms (that enable residential activity) are confirmed in the Stage 1 Decisions version as Rule 22.4.2. I also note that similar to the ODP, residential activity can be established through a land use consent for a building platform under Stage 1 Decisions Version Rural Zone Rule 21.4.10, and Gibbston Character Zone Rule 23.4.9.

15.2 Williamson (2276) supports the concept of being able to apply for a land use consent for a building platform for residential activity.

15.3 BSGT Limited (2487) oppose the provisions citing they create an unjustified duplication of regulatory control. Submitter T McQuilkin and A P McQuilkin Family Trust (2273) also opposes the restricted discretionary activity status for buildings within a platform.

29 Operative District Plan. Part 8 Rural Living.

- 15.4** Submitter James Cunning Muspratt (2418) and Submitter Henry (2426) seeks that the construction of buildings within a building platform is a controlled activity and the construction or alteration of buildings not within a building platform is a discretionary activity.
- 15.5** I also note that the related provisions in the Subdivision and Development Chapter 27, support the identification of building platforms through subdivision, however future buildings would still be required to obtain a discretionary activity resource consent subject to Rule 24.4.5. A key reason for this is to ensure, via the land-use consent requirement, that specific details of the dwelling design and location, including access and landscaping, can be assessed to ensure the objectives of Chapter 24 can be achieved.
- 15.6** My understanding of the rationale for not including the opportunity for building platforms through a land use rule was to ensure that, irrespective of whether there had been a preceding subdivision, all buildings and associated development would be assessed through a restricted discretionary activity resource consent (notified Rule 24.4.5).
- 15.7** This strategy is emphasised at Section 62 of Ms Gilbert's evidence. The 'Discretionary' regime coupled with the use of building platforms is cited in the Land Use Study and the s32 report for Chapter 24 as one of the reasons for the ODP provisions not sufficiently managing the adverse effects of rural subdivision and development within the Wakatipu Basin.
- 15.8** On balance, I agree with the submitters that an opportunity should exist to create a building platform that enables residential development on a site through a land use consent, noting that generally where residential development entitlements are sought for the ultimate use being the sale of land, it is undertaken through the subdivision chapter. I consider that it could be appropriate to enable a building platform to be created through land use providing the land use is for residential activity (as requested by Submitter Ffiske), and all the relevant matters are able to be assessed to ensure the objectives of Chapter 24 are achieved.

15.9 With regard to the Land Use Study and s32 report and reasons for not continuing the building platform mechanism, I agree with the Study and the S32 to the extent that the existing regime was not sufficiently providing the most appropriate direction for residential development, and strategic management of the landscape resource in the Wakatipu Basin. However, I consider that the crux of the issue was not the use of identifying and providing for development within a building platform, but the individual and combined outcomes of the following matters:

- (a) High levels of development pressure in the Wakatipu Basin;
- (b) A lack of a specified minimum allotment size, coupled with the lack of a commensurate activity status and policy framework that sent a signal that subdivision above a certain density across the Wakatipu Basin Rural Zone overall was unlikely to be appropriate without providing guidance as to what that density should be in any given context; and
- (c) Relatively enabling assessment matters in the ODP addressing the visual amenity landscape that did not appropriately manage cumulative adverse effects.

15.10 By comparison, the process of assessing building platforms is used in the ODP and PDP throughout the ONL and ONF areas of the Rural Zone, including nearby in the Wakatipu Basin ONL. I do not consider that the issue of cumulative adverse effects has been as acute in these areas as the Wakatipu Basin. I consider that the reason the discretionary regime has been more successful in these areas to manage rural subdivision and development could well be a result of relying on the strength of the assessment matters and policies in the ODP,³⁰ rather than an inherent issue with the use of building platforms as method to plan the location of rural living development.

15.11 Comparing the above matters identified in (a) – (c) above to Chapter 24, I consider the key differences to be:

³⁰ For instance ODP Part 5 Rural Areas Assessment Matters – 5.4.2.2 (1) Outstanding Natural Landscape (Wakatipu Basin) and Outstanding Natural Features – District Wide. (b) (i) - ...the Council shall be satisfied that the proposed development will not be visible or will be reasonably to see when viewed from public roads and other public places.

- (a) The Amenity Zone and Precinct are based on areas that have been identified through a landscape character analysis as part of the Land Use Study , and then the consolidation of those areas into two zones, supported by LCUs that further identify and describe the landscape opportunities and constraints across the basin;
- (b) A residential activity development right is provided on each site in the Zone overall, managed by a minimum (Amenity Zone) or minimum and average (Precinct) allotment size; and
- (c) Ensuring that the objectives of Chapter 24 are achieved is possible through the requirement to obtain a restricted discretionary activity consent to establish any buildings and any development associated with residential activity in the Zones, with associated matters of discretion that allow for consideration of certain matters that may impact on landscape values.

15.12 I note that the opportunity for establishing a building platform in the Zone is already contemplated through subdivision by way of Matter of Discretion 27.7.6.1 a. which states that discretion is restricted to the location of building platforms and accessways.

15.13 The concept of enabling residential land use through a building platform is in my view, if managed appropriately, a discrete and mechanical issue which can be addressed by the addition of suitable matters for assessment. The deficiencies in the existing ODP regime identified in the Land Use Study and S32 in the context of the Wakatipu Basin, is relevant to how this mechanism should be appropriately implemented to ensure confidence that the objectives of Chapter 24 are achieved. There are three distinct themes that I consider are relevant:

- (a) Ensuring the relevant density rules are still applicable and would not be inadvertently bypassed by the proliferation of multiple building platforms on a site;
- (b) Ensuring that in the Precinct the beneficial effect of the larger balance lots established through the initial subdivision of land under the Zone framework is not inadvertently undermined

through further land use activities for residential building platforms; and

- (c) Whether there are sufficient matters of discretion and assessment matters in Chapter 24 to manage the effects of creating building platforms through a land use consent.

15.14 With regard to (a) (and as discussed in the preceding issue) I consider that if a rule for residential activity located within building platforms are included in the chapter, then minimum allotment sizes in the Amenity Zone and a minimum average lot size in the Precinct will be required to be included in Chapter 24 to ensure that the residential density limits that underpin the Zone are achieved.

15.15 The residential density provisions for Chapter 24 are located in Chapter 27 Subdivision and Development. Rule 24.4.3 permits a residential unit but also limits residential units to one per site. I therefore recommend the addition of two new rules to 24.5 Standards specifying the density of residential activity in each of the Amenity Zone and Precinct.

15.16 An alternative option could be to amend Rule 24.4.3 so that the creation of a building platform is also limited to one per site. However, I understand the Ffiske (2338) submission to be seeking the ability to create more than one building platform on a site if there is sufficient land to achieve the density rules. This rule is also opposed by some submitters.³¹ I do not see any reason for precluding more than one building platform being created on a site, or why a building platform could not be established in addition to an existing residential unit, if the site is of a sufficient size to achieve the specified densities, and the relevant provisions of Chapter 24 can be addressed to ensure the objectives of Chapter 24 are achieved.

15.17 With regard to (b), I consider that a further provision is necessary to ensure that any lot created as the 'balance' of land associated with a multiple lot subdivision does not have building platform or buildings established on it that could undermine the outcomes of the previous subdivision. I consider that this can be achieved through Subdivision Rule 27.4.2 g. (which forms part of the Chapter 24 package of

31 Ie. Boxer Hill Trust (2385), Bruce McLeod (2231).

provisions). On this matter, Submitter Brustad et. al has requested the following, which I do not consider to be necessary:

The further subdivision of an allotment that has previously been used to calculate the minimum and average lot size for subdivision in the Wakatipu Basin Lifestyle Precinct, except in the instance that further subdivision and any prior subdivision, together, complies with Rule 27.5.1.

15.18 A third theme (c) arises from enabling building platforms to be created as land uses within the Chapter 24 provisions, which is the extent to which the matters of discretion and assessment matters fulfil requisites for managing new development in rural areas. The following table compares the matters of discretion associated with the rule I support adding to enable identification of building platforms (Rule 24.4.5 Construction of buildings) with those in the subdivision chapter:

Table 1. Comparison between the Chapter 24 matters of discretion for buildings and subdivision.

Rule 24.4.5 (construction of buildings) matters of discretion	Rule 27.7.6.1 Subdivision matters of discretion
<ul style="list-style-type: none"> (a) Building location scale and form. (b) External appearance including materials and colours. (c) Accessways. (d) Servicing and site works including earthworks. (e) Retaining structures. (f) Infrastructure (e.g. water tanks). (g) Fencing and gates. (h) External lighting. (i) Landform modification, landscaping and planting (existing and proposed). (j) Natural hazards. 	<ul style="list-style-type: none"> (a) Location of building platforms and accessways (b) Subdivision design and lot layout including the location of boundaries, lot sizes and dimensions; (c) Location, scale and extent of landform modification, and retaining structures; (d) Property access and roading; (e) Esplanade provision; (f) Natural and other hazards; (g) Firefighting water supply and access; (h) Water supply; (i) Network utility services, energy supply and telecommunications; (j) Open space and recreation provision; (k) Ecological and natural landscape features; (l) Historic Heritage features; (m) Easements; (n) Vegetation removal and proposed plantings; (o) Fencing and gates;

	<p>(p) Wastewater and stormwater management;</p> <p>(q) Connectivity of existing and proposed pedestrian networks, bridle paths, cycle networks.</p>
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15.19 I consider that a broader range of matters of discretion need to be addressed than those currently sitting within Rule 24.4.5, to ensure land use proposals for residential activity within building platforms are adequately addressed. I also consider that while matters such as those listed in (q) from the subdivision matters of discretion are not usually attributable to a land use for residential activity, it is important these are considered at the assessment of a building platform because if a building platform is established and subdivision follows, then the opportunity for these types of considerations may be perceived as having already been assessed.

15.20 For these reasons, I consider that additional matters of discretion should be provided to assist with the assessment of proposals to establish a building platform for residential activity.³² While non-residential activity is contemplated in the Zone, it is clearly not as readily anticipated as residential activity and for these reasons I do not consider the ability to identify a building platform for non-residential activity should be required because these activities can be considered on a case by case basis.

15.21 I therefore recommend a new rule be added as follows:

<u>24.4.XA</u>	<p><u>The identification of a building platform not less than 70m² and not greater than 1000m² for the purposes of a residential unit, subject to the Standards in Table 24.3.</u></p> <p><u>Discretion is restricted to:</u></p> <p>(a) <u>Location of building platforms and accessways;</u></p> <p>(b) <u>Scale and form of future buildings;</u></p> <p>(c) <u>Materials and colours of future buildings;</u></p> <p>(d) <u>Earthworks including any future earthworks associated with accessways and the location of future buildings;</u></p>	<u>RD</u>
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³² I consider that the submissions of Fiske et. al and Brustad et. al provide scope to make these recommendations.

	<ul style="list-style-type: none"> (e) <u>Location, scale and extent of landform modification, and retaining structures;</u> (f) <u>Location and scale of Infrastructure (e.g. water tanks);</u> (g) <u>External lighting;</u> (h) <u>Landscaping and planting (existing and proposed);</u> (i) <u>Property access and roading;</u> (j) <u>Natural and other hazards;</u> (k) <u>Firefighting water supply and access;</u> (l) <u>Water supply;</u> (m) <u>Network utility services, energy supply and telecommunications;</u> (n) <u>Ecological and natural landscape features;</u> (o) <u>Historic Heritage features;</u> (p) <u>Easements;</u> (q) <u>Vegetation removal and proposed plantings;</u> (r) <u>Fencing and gates;</u> (s) <u>Wastewater and stormwater management;</u> (t) <u>Public access easements including connectivity of existing and proposed pedestrian networks, bridle paths, cycle networks.</u> 	
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15.22 The recommended matters of discretion are a blend of the matters for buildings and subdivision, identified in Table 1 above. Notable omissions are the references to esplanades, and open space and recreation. I consider however that opportunities for public access and active transport connections remain valid and I recommend the inclusion of matter of discretion 24.4.XA(t), which identifies public access easements and connections with trail networks.

15.23 I acknowledge that it may also be possible to clearly and plainly modify an existing notified rule, such as Rule 24.4.5, to include the above provision for a residential building platform. However for the sake of clearly articulating my recommendations I consider in this instance it is most appropriate to facilitate this amendment through a new rule.

15.24 Consequential modifications are also necessary to a range of other rules and standards with building platforms being provided for by way of a residential land use consent. The most fundamental are the recommended introduction of density standards (S42A Rules 24.5.XA and 24.5.XB) to ensure that building platforms and the resultant

residential activity are appropriately managed. The full suite of changes are attached in the recommended s42A Chapter 24 in **Appendix 3**.

16. ISSUE 3 – EXISTING DEVELOPMENT RIGHTS AND THE ACTIVITY STATUS FOR THE CONSTRUCTION OF BUILDINGS WITHIN APPROVED BUILDING PLATFORMS

16.1 Rule 24.4.5 requires a restricted discretionary resource consent for the construction of buildings, exterior alteration to existing buildings, and buildings located within an existing approved or registered building platform area. Any activity requiring resource consent pursuant to this rule would be processed without public or limited notification (Part 24.6). Discretion is restricted to:

- (a) Building location scale and form.
- (b) External appearance including materials and colours.
- (c) Accessways.
- (d) Servicing and site works including earthworks.
- (e) Retaining structures.
- (f) Infrastructure (e.g. water tanks).
- (g) Fencing and gates.
- (h) External lighting.
- (i) Landform modification, landscaping and planting (existing and proposed).
- (j) Natural hazards.

16.2 Submitters including Brustad (2577) et. al and Stoneridge Estate et. al (2314) and CIT (2307) seek that provision is made to recognise existing development rights, particularly where non-specific residential development has been approved through the ODP Discretionary regime in the Rural General Zone.

16.3 Submitters, McGuinness Pa Ltd (244&), Dagg (2586) and Fam (2589) oppose the requirement for a restricted discretionary activity resource consent for buildings within a platform.

16.4 Submitter Williamson (2276) seeks that the construction of a building within a previously approved building platform should be a controlled

activity, but supports the concept of a restricted discretionary activity consent being required for the identification of a building platform.

16.5 Submitter Ffiske (2410) et. al seeks the same, and makes the point in their submission that in their view the requirement for a restricted discretionary activity resource consent is onerous because significant assessment and consideration has already been undertaken to obtain a building platform, and that this generally includes a notified resource consent application.

16.6 The submitter considers that a requirement for a restricted discretionary activity resource consent would result in unnecessary duplication. Submitter Ffiske points out, as do others such as Submitter Brustad (2577) et. al, that the Council has already supported permitted activity status for construction and alteration of buildings within building platforms in the Rural Zones. It is noted that these respective rules have been confirmed in the Stage 1 Decisions.³³ Submitter Ffiske seeks that the activity status for constructing and altering buildings within a building platform be a permitted activity.

16.7 Submitter Stoneridge Estate seeks a suite of rules that recognise the development rights afforded under the ODP, including:

- (a) That buildings located within the ODP Rural Residential Zone are provided for as a controlled activity (submitters Rule 24.4.25); and that
- (b) The construction of new residential buildings not located within a building platform or not within the Rural Residential Zone at the date of notification of proposed Chapter 24 (23 November 217) are non-complying;
- (c) The identification of a new residential building platform where it complies with the respective density provisions of Chapter 24 is a controlled activity; and that
- (d) The identification of a new residential building platform on a site that does not comply with the density provisions is a non-complying activity.

33 Rule 21.4.6.

- 16.8** With regard to the Stoneridge Estate et. al request, I do not support including a reference to the legacy ODP Rural Residential Zones, and I do not consider the obligations in Rule 24.4.5 to obtain a (non-notified) resource consent for design and appearance and servicing to be onerous within the legacy Rural Residential Zoned areas in the Wakatipu Basin. Most sites within the ODP Rural Residential Zone are developed, and a restricted discretionary activity consent for alterations, or a redevelopment would fundamentally be a checking and confirmation process, rather than a first principles assessment. Notwithstanding the restricted discretionary activity status, the Chapter 24 provisions provide an inherent residential development right on each site and I consider it to be an overstatement for a property owner on an established 4000m² property seeking alterations to their dwelling, or the construction of a new dwelling, to see the restricted discretionary activity status as a formidable challenge.
- 16.9** CIT (2307) and Darby Planning (2376) seek that buildings in the Precinct be permitted and that a restricted discretionary activity resource consent be required for a building platform in the Amenity Zone, with the resultant construction of buildings within a building platform becoming a permitted activity. The CIT submission states that the Precinct has been identified as being able to absorb additional development and building can therefore be permitted within this part of the Zone.
- 16.10** In considering this proposal I note that buildings within approved building platforms are a controlled activity in the ODP, and permitted subject to compliance with standards in the PDP. Coupled with the knowledge that generally most building platforms in the ODP Rural General Zone are likely to contain comprehensive mitigation and conditions prescribing a specified development outcome. From both an efficiency perspective and an effects perspective, I cannot support retaining the approach where buildings and alterations within a building platform are subject to a restricted discretionary activity resource consent, where they have already been through a discretionary activity resource consent under the ODP.

16.11 I note that the majority of building platforms will be located in the legacy ODP Rural General Zone, which was found by the Study to not be appropriately managing development of rural living and residential buildings within the Wakatipu Basin. However on an individual basis, the obligations required to obtain a resource consent for a residential building platform and the associated level of scrutiny and resultant conditions placed on future development, in my view provide comfort that the location, design constraints and mitigation of future development in these building platforms will achieve the objectives of Chapter 24. I also consider it appropriate that modest alterations to existing buildings be permitted, subject to standards similar to those of the PDP Rural Zone Chapter 21.³⁴

16.12 Relevant to this matter, the following advice note in Chapter 24, at provision 24.3.2.3, references the matter of existing conditions of resource consents:

Guiding Principle: Previous Approvals

- a. *Requirements relating to building platforms and conditions of consents, including landscaping or other visual mitigation, that are registered on a site's computer freehold register as part of a resource consent approval by the Council are considered by the Council to remain relevant and will remain binding unless altered or cancelled.*
- b. *Applicants may apply to alter or cancel any conditions of an existing resource consent as a component of an application for resource consent for development. Whether it may be appropriate for the Council to maintain, or to alter or cancel these conditions shall be assessed against the extent to which a proposal accords with the objectives and provisions of the Wakatipu Basin Rural Amenity Zone and Wakatipu Basin Lifestyle Precinct.*

16.13 While this text is non-statutory (and refers readers to a separate process that would apply even without the advice note), it does place an applicant/land owner with interests within the Zone on notice that any existing conditions associated with consented development applicable to a site remain applicable to the extent these are relevant to, and would achieve the objectives of Chapter 24.

34 Rules 21.4.7 and 21.7.2.

- 16.14** I acknowledge Section 65 of Ms Gilbert's evidence where she sets out her view that requiring a restricted discretionary activity consent at the time of building is the most appropriate way to manage potential effects associated with buildings, because it requires more detail and allows for oversight to address any potential adverse effects of a specific building design. I do not disagree with Ms Gilbert, and in recommending a different planning framework, I acknowledge that there could be a reduced level of oversight and management of the effects of specific building design from a landscape perspective.
- 16.15** However from an overall planning perspective, and in the relatively unique environment created by the ODP that provides for the establishment of residential activity within building platforms, and the accompanying process that these are registered on the resultant computer freehold register (where sites are created by subdivision), I do not consider it to be sufficiently efficient to require a restricted discretionary activity resource consent to construct buildings within previously approved and completed resource consents that established that right.
- 16.16** I consider that my recommended amendments to the provisions in s42A Chapter 24 will ensure that the objectives in Chapter 24, and PDP Chapter 6 (Landscapes and Rural Character) will be achieved.
- 16.17** I also acknowledge that the overall intent of Chapter 24 is to move away from the 'discretionary regime', that substantial development rights have been provided for in the areas of the Precinct that are (generally) zoned Rural Lifestyle or Rural General under the ODP, and that despite the minimum requirement for 80h for subdivision, it would be a restricted discretionary activity to establish a house on any site.
- 16.18** I consider that the loss of development rights addressed by many submitters should be considered in the context that under Chapter 24 as notified, a residential development right is provided on each 'site'. This means that compared to the ODP Rural General regime, sites can be contemplated to have a residential unit established within it by way of a restricted discretionary activity status resource consent, which in my view is framed in way that generally accepts the principle of this

activity occurring, subject to being designed and built in a way that is sensitive to its high amenity rural context.

16.19 This is considerably more enabling than the ODP Rural General regime that requires a discretionary activity resource consent for any buildings including alterations to buildings,³⁵ the majority of which have historically been processed on a notified basis.

16.20 However, as part of my recommendation to enable the use of building platforms, and to recognise existing development rights of previously approved building platforms, I consider that it is important that this rule is removed, and the density of future development is underpinned by the density rules for residential activity of 80ha in the Amenity Zone, and 1ha minimum average in the Precinct.

16.21 In summary, I recommend the various submissions seeking existing development rights be accepted in part and that:

- (a) The identification of a building platform for the purposes of residential activity is a permitted activity, subject to standards controlling density³⁶ (s42A Rules 24.4.XA, 24.5.XA and 24.4.XB).
- (b) The construction and alteration of residential buildings within a building platform approved through the rule framework of Chapter 24 and including any previous resource consent be a permitted activity (s42A Rule 24.4.XB);
- (c) Permitting the external alteration of existing buildings not located within a building platform up to 30% over a ten year period be a permitted activity, subject to standards controlling colour and materials (s42A Rules 24.4.XC and Rule 24.5.XD);
- (d) That standards for fire fighting and emergency vehicle access be added (s42A Rule 24.5.XE);
- (e) That standards related to colour be added for alterations to buildings and in the case this matter is omitted from conditions pertaining to building platforms (s42A Rule 24.5.XC);

³⁵ ODP Part 5 Rural Areas – Rules. Rule 5.3.3.3 I (a) Discretionary Activities.

³⁶ Consistent with the relief sought by CIT (2307 and DPL 2376) who seek density rules in the Precinct as a consequence of enabling building platforms.

- (f) Removal of Rule 24.3.4 that permits one residential unit per site is removed. Any additional residential development rights created through Chapter 24 will need to rely solely on the density requirements in s42A Rules 24.5.XA and 24.5.XB;
- (g) Rule 24.4.9 that requires a discretionary activity resource consent for the construction of buildings not provided for by any other rule be removed. I note in this regard that this is largely redundant as a consequence of these recommended changes and any other unspecified activity for a building will be a restricted discretionary activity pursuant to s42A Rule 24.4.5.
- (h) All other rules and standards of Chapter 24 remain applicable, ie. Vegetation retention in the Precinct, and maximum building height of 4m.

16.22 Recommended S42A Rules 24.4.XB and 24.4.XC respectively provide for the construction and alteration of buildings as a permitted activity both within a building platform, and where there is not a building platform on the site. The rules have been purposefully drafted so that the standards in Table 24.3 apply, unless stated to the contrary. I accept that this will require that in some cases a resource consent will be required for a building within a building platform where a standard is not met (ie. Rule 24.5.4 Setback from Roads), however I consider that this is appropriate to ensure that activities established under previous planning schemes achieve the greatest extent possible the Objectives of Chapter 24.

17. ISSUE 4 – TREE PROTECTION IN THE PRECINCT

17.1 As part of managing the potential adverse effects of providing for rural living throughout the Precinct, provisions were included in Chapter 24 to control the removal of exotic vegetation in the Precinct. The reason for this is to ensure that vegetation that currently provides visual screening or contributes to visual mitigation of buildings could otherwise be removed to make way for development under the Chapter 24 framework, in particular the 1 ha density across the Precinct.

- 17.2** The exotic tree protection rules provisions comprise a policy, rule and assessment matter:

Policy:

24.2.5.6 *Retain vegetation where this contributes to landscape character and visual amenity values of the Precinct and is integral to the maintenance of the established character of the Precinct.*

Rule Table 24.2 Activities in the Wakatipu Basin Lifestyle Precinct

24.4.29	<i>Clearance, works within the root protection zone or significant trimming of exotic vegetation that is of a height greater than 4 metres.</i>	<i>RD</i>
	<i>Discretion is restricted to:</i>	
	<ul style="list-style-type: none"><i>The extent of clearance.</i><i>Trimming and works within the root protection zone.</i>	

Assessment Matter Part 24.7:

24.7.13	<i>Clearance, works within the root protection zone or significant trimming of exotic vegetation over 4m in height</i>
	<ul style="list-style-type: none"><i>a. The degree to which the vegetation contributes to the landscape character and visual amenity values, and the extent to which the clearance or significant trimming would reduce those values.</i><i>b. The potential for buildings and development to become more visually prominent.</i><i>c. The merits of any proposed mitigation or replacement plantings.</i><i>d. The effects on the health and structural stability of the vegetation.</i>

- 17.3** Submitters Brustad (2577) et. al request that the rules are deleted. The reason given in the submission is '*these rules have been deleted as it is ultra vires under section 76 of the RMA*'.³⁷

- 17.4** Section 76(4A) of the RMA sets out that a rule may prohibit or restrict the felling, trimming, damaging, or removal of a tree or trees on a single urban environment allotment only if the trees are described in a schedule to the plan. Section 76(4B) may prohibit or restrict the felling, trimming, damaging, or removal of trees on two or more urban environment allotments in certain circumstances.

37 Submission 577 Appendix A. Comment AL 23.

17.5 In both circumstances provided by s76(4A) and (4B) it is contingent upon the activity occurring within an ‘*urban environment allotment*’, the meaning of which set out in s76(4C) as:

- (a) *that is no greater than 4000 m²; and*
- (b) *that is connected to a reticulated water supply system and a reticulated sewerage system; and*
- (c) *on which there is a building used for industrial or commercial purposes or as a dwelling house; and*
- (d) *that is not reserve (within the meaning of section 2(1) of the Reserves Act 1977) or subject to a conservation management plan or conservation management strategy prepared in accordance with the Conservation Act 1987 or the Reserves Act 1977.*

17.6 With regard to the above, it is my understanding that the allotments within the Precinct that are subject to Rule 24.4.29 exceed 4000m², and they can be serviced on site. Buildings will be likely to be used as a ‘dwelling house’ due to Rule 24.4.3 that permits one residential unit per site, and in terms of limb (d), the land at issue is unlikely to become a reserve.

17.7 Therefore, the allotments within the Precinct are not considered to be ‘*urban environment allotments*’ for the purposes of s76(4A) because they do not meet limbs (a) and (b) of s76(4C) of the RMA. I consider the proposed vegetation clearance to be ‘vires’ in terms of s76 and recommend that the submissions on this matter from Brustad (2577) et. al submissions be rejected.

17.8 Submitters including Ffiske (2410) et. al criticise the vegetation clearance rules as too onerous and suggest that vegetation should be identified and protected in a schedule. Taking into account the new inherent development rights introduced by the Chapter 24 rules, the mostly increased density of residential activity provided for across the Precinct, and the changes to the consenting of building platforms I have recommended above, I recommend that the tree protection rules are retained, as they make a critical contribution to achieving the objectives of Chapter 24.

- 17.9** Submitter Dagg (2586) opposes the vegetation protection rules because they are uncertain and will frustrate farmers and lifestyle block owners. Dalefield Trustee Limited (2097) do not oppose the intent of the rule, but request the height restriction is increased to 6m.
- 17.10** Boxer Hill Trust (2386) request the rule is deleted because a blanket approach is unwarranted and inefficient and that if protection of vegetation is required then they should be protected by a condition of resource consent. I consider that the point of the rule is to require a resource consent for clearance where vegetation is important and should be subject to managed removal through a consenting process. The rule is included in order to address unmanaged clearance prior to any application for a resource consent.
- 17.11** I accept that the permitted threshold of 4 metres is quite low, and there is potential for a relatively high number of resource consents to be generated, however I refer to and rely on the evidence of Ms Gilbert who considers that this height is appropriate. I also consider that it is important and necessary where there is a rule restricting significant trimming or clearance to also include root protection areas, as damage to the root system can result in a tree becoming diseased or dying, which can have the same effect as significant trimming and clearance. I recommend this submission is rejected.
- 17.12** I note in the submission by Boxer Hill Trust (2386)³⁸ their marked-up version of Rule 24.4.29 includes native vegetation as though these formed part of the proposed provisions, which is not correct. Indigenous vegetation was intentionally excluded from the Rule because it is managed by way of PDP Chapter 33 Indigenous Vegetation and Biodiversity.
- 17.13** Ms Gilbert's evidence at Section 66 states that many of the exotic plantings serve to assist the integration of existing built development in the Precinct areas (including access ways and retaining structures) and in so doing, are critical to the appropriate management of landscape effects associated with existing development.

- 17.14** Submitters including the Wakatipu Wilding Conifer Group Incorporated (2190) (**WWCG**), Dennison (2301), Ffiske (2410) et. al, CIT (2307) and DPL (2376) raise the matter of the conflict arising from the tree protection rules and the efforts of the community and Council through various mechanisms including the PDP Chapter 34 Wilding Trees.
- 17.15** WWCG recommend a new policy under Objective 24.2.1 that encourages legal mechanisms at the time of subdivision or land use consent to require landowners to prevent the ongoing establishment of trees and plants with wilding potential. They seek a new policy under Objective 21.2.4 that avoids the retention of trees and plants with wilding potential as part of development proposals, and to amend notified Policy 24.2.5.6 so that the retention of vegetation does not include trees and plants with wilding potential.
- 17.16** I agree that better recognition of the tension between retaining established vegetation that contributes to the character and amenity of the Precinct and the mitigation of adverse effects of development, with the desire to remove the seed source of identified wilding exotic trees would be beneficial.
- 17.17** In terms of the relief sought by WWCG, while a relevant issue generally, I do not consider a policy specifically on legal mechanisms associated with ongoing restrictions related to wilding exotic vegetation is necessary. I consider that Chapter 34 of the PDP better achieves this request.
- 17.18** I also consider that the request to include a policy that seeks to avoid the retention of trees and plants with wilding potential as part of development proposals goes too far. There may be instances where an established tree that has a risk of wilding spread makes a particularly important contribution to character or mitigating the effects of development, and that the wilding spread potential is relatively low. While I support the management of wilding exotic trees, I do not consider this should be at the expense of the amenity of the Zone and ability to achieve the objective of Chapter 24.

17.19 However, I consider the basis for the policy is well founded, and currently missing from Chapter 24 as notified. I support a policy on this matter but would prefer the following phrasing:

24.2.4.7 Encourage the removal of trees with wilding potential as part of development proposals, and where necessary, provide non-wilding species as replacements to maintain landscape character and amenity values.

17.20 WWCG seek Policy 24.2.5.6 is amended so that when vegetation is retained, consideration of trees and plants with wilding potential are excluded. Again, I agree with the intent but consider an exclusion in all instances could go too far. I consider that Policy 24.2.5.6 and the new S42A Policy 24.2.4.7 would tie together better with the following recommended wording:

24.2.5.6 Retain vegetation where it does not present a high risk of wilding spread, and/or where this vegetation contributes to landscape character and visual amenity values of the Precinct and is integral to the maintenance of the established character of the Precinct.

17.21 On the basis of the above I recommend the submission is accepted in part. I consider my proposed amendment to also fulfil, at least part, the relief sought by the other submissions on this matter.

17.22 With regard to the requested amendments to the rules and assessment matters, I consider that specific regard to the removal of wildings as a matter of discretion to Rule 24.4.5 is not necessary, because it is relevant in terms of the retention or removal of vegetation. I agree that assessment matters should be included, but as stated above I consider that the tone should be tempered so that the actual wilding risk of a particular tree is considered alongside the benefit it offers in mitigating adverse effects of subdivision and development.

17.23 I recommend the following assessment matter is added at 24.7 and 27.7.6.2 respectively:

Considering the benefits of the removal of identified wilding exotic trees and their replacement with non-wilding species in all instances, except where this would have significant landscape or visual amenity adverse effects.

17.24 WWCG also seek the addition of a definition that specifies trees and plants with wilding potential. For consistency, I recommend that the wilding exotic trees already identified in PDP Chapter 34 Wilding Exotic Trees be used via a cross reference within the rules. Although this is not a definition per se, the trees identified in Chapter 34 as wilding exotics are already subject to regulations limiting the planting of these trees.

17.25 PDP Rule 34.4.1 requires a discretionary activity resource consent for the planting of Radiata Pine, while Rule 24.4.2 specifies that the planting of the following are a prohibited activity:

- (a) Contorta or lodgepole pine (*Pinus contorta*);
- (b) Scots pine (*Pinus sylvestris sylvestris*);
- (c) Douglas fir (*Pseudotsuga menziesii*);
- (d) European larch (*Larix decidua*);
- (e) Corsican pine (*Pinus nigra*);
- (f) Bishops pine (*Pinus muricata*);
- (g) Ponderosa pine (*Pinus Ponderosa*);
- (h) Mountain pine (*Pinus mugo uncinata*);
- (i) Dwarf Mountain pine (*Pinus mugo*);
- (j) Maritime pine (*Pinus pinaster*);
- (k) Sycamore (*Acer pseudoplatanus*);
- (l) Hawthorn (*Crataegus monogyna*);
- (m) Boxthorn (*Lycium ferocissimum*);
- (n) Buddleia (*Buddleja davidii*);
- (o) Grey willow (*Salix cinerea*);
- (p) Crack willow (*Salix fragilis*);
- (q) Cotoneaster (*Simonsii*);
- (r) Rowan (*Sorbus aucuparia*);
- (s) Spanish heath (*Erica lusitanica*).

17.26 The trees identified as wilding and for adding to the definition are the same as those in Chapter 34. I consider it is more efficient to cross

reference to Chapter 34 than include a new definition. While I therefore recommend this part of the WWCG submission is rejected, the intent sought would be achieved through inserting a cross reference to Chapter 34.

18. 24.1 PURPOSE

18.1 The purpose statement sets out where the Zone applies, what the focus of the provisions are and what they seek to manage. Submissions on the purpose statement have been addressed paragraph by paragraph.

18.2 Slopehill Properties Limited (2584) request that the Purpose statement is significantly amended so that it is reduced in length and more simple and quotable on a case by case basis. The submitter has recommend removing all but 3 paragraphs. I accept that the Purpose statement is relatively long (compared to some other PDP chapters), however in this context it is considered important to articulate the purpose, intent, and rationale for the provisions. I consider that Chapter 24 is overall better served by the notified text than by the changes sought by the submitter and I recommend their submission is rejected.

Paragraph 1

18.3 Paragraph 1 of the purpose statement is:

This chapter applies to the Wakatipu Basin Rural Amenity Zone (the Zone) and Wakatipu Basin Lifestyle Precinct (the Precinct). The purpose of the Zone is to protect, maintain and enhance the particular character and amenity of the rural landscape which distinguishes the Wakatipu Basin from other parts of the District that are zoned Rural.

18.4 Submitter Williamson et. al (2272) seeks clarity as to the status of the Amenity Zone and Precinct. I agree that reinforcing that the Precinct is part of the Zone would assist, and recommend this part of the submission be accepted. Provision 34.3.3.1 states that the Precinct is a sub-zone of the Wakatipu Basin Rural Amenity Zone. I recommend that reference to the Precinct as a sub-zone is included in Paragraph 1.

- 18.5** Submitter Brustad et. al requests the reference to protect is removed. I do not agree with the removal of the word 'protect' because this reflects the intention that the Chapter 24 provisions need to be strict, and while they do allow for additional development in certain locations achieving a high level of intervention to protect the landscape amenity values of the Wakatipu Basin should in my view be described in language akin to this being an environmental bottom line.
- 18.6** I acknowledge that the word protect is more akin to the phrasing used to manage resources in s6 of the RMA³⁹, and that s7 is framed around maintaining amenity. However both ss7(c) and 7(f), which I consider to relate to landscape management, refer to 'enhancing' amenity values and the quality of the environment. I consider that in order for the PDP Provisions to be able to achieve maintenance and enhancement, a degree of protection is required in certain circumstances and that such protection does not mean section 7 matters are being conflated to be the same as matters of national importance. I consider what is important is the application of the word protect and the strictness of the policies and the planning provisions in their context. Maintaining high levels of amenity in this highly visible and highly valued environment with its high levels of development pressure and potential for degradation through cumulative changes in my view requires planning provisions that seek to protect its values.
- 18.7** I also note that the word 'protect' is used elsewhere in the Chapter 24 provisions, including in objectives and policies and I will discuss these within each of those topics.
- 18.8** Dalefield Trustee Limited (2097) also seeks that the words 'protect, maintain and enhance' are replaced in favour of 'does not adversely effect'. I also disagree with this request. The submitter considers that the notified text would set too high a bar for development to adhere to in the context of the development rights afforded to properties in the Zone. I consider the policies are appropriate and that they need to be viewed through the context of the development rights afforded. I also consider that the same argument could be made for the requested text because 'does not adversely effect' could also be construed as a no-

39 'Matters of National Importance'. For instance sections 6(a) to (c), (f) and (g).

effects approach to managing landscape and visual amenity. I recommend this submission is rejected.

- 18.9** I also consider that the word protect is appropriate in this instance because the management of the landscape resource in the Wakatipu Basin through Chapter 24 also has a bearing on the appreciation of the ONFs within the Wakatipu Basin and the Rural Zoned ONL enclosing the valley floor of the Wakatipu Basin to which Chapter 24 applies. Activities within the Zone and Precinct can influence the appreciation and quality of the ONF and ONL in the surrounding environment due to development occurring in the foreground views to ONFs and the ONL, in particular as viewed from public roads.
- 18.10** CIT (2307) seek that the word protect is removed for similar reasons to those set out above. CIT also seek that the word protect is removed from Objective 24.2.1 and Policies 24.2.1.1 and 24.2.1.8. For the reasons set out above I consider that the use of the word protect is warranted in this context and is the most appropriate way to achieve the objectives of Chapter 24 overall.
- 18.11** Submitter Brustad (2577) et. al also seeks that the word 'particular' is replaced with 'established'. I do not consider this to offer any added value, or be a more accurate descriptor. The Wakatipu Basin has a particular character and amenity compared to other rural areas of the District, and these particularities are expanded upon through the LCUs within Chapter 24. The established character does not take a forward-looking view of what the purpose of the Zone is. Accordingly, I recommend this part of their submission is rejected.
- 18.12** Brustad (2577) et. al also seek some grammatical changes to the first paragraph but I do not consider they offer added value and I recommend these are rejected.

Paragraph 2

- 18.13** Paragraph 2 as notified is:

A primary focus of the Zone is on protecting, maintaining and enhancing rural landscape and amenity values while noting that

productive farming is not a dominant activity in the Wakatipu Basin. To achieve the purpose of the Zone a minimum lot size of 80 hectares is required if subdividing and all buildings except small farm buildings in the Zone require resource consent as a means to ensure rural landscape character and visual amenity outcomes are fulfilled.

- 18.14** Submitter Brustad (2577) et. al seeks substantial changes to the second paragraph because in their view:

It is important to recognise that the special character and amenity of the Basin is derived from rural living and development which has occurred over the lifetime of the ODP. It is the domestication in the landscape which creates a varied and manicured environment which is valued by residents and visitors. Appropriately describing the existing environment is critical for the basis of sound planning moving forward.

- 18.15** I consider the zone purpose should be forward-looking and does not need to state the existing situation. I consider it is useful for the Zone purpose to describe the activities contemplated in that zone, what the issues are and what environmental outcomes are anticipated. For the reasons set out above I do not support the removal of the word protect, and I consider the word 'rural' should be retained because the Zone has a rural character, albeit I accept that it is somewhat more manicured and modified (with a range of activities including rural living and golf courses) than other rural areas of the District such as the Upper Clutha. I also note that the Zone includes the Crown Terrace which has a more 'productive farming' character and absence of rural living, compared to the valley floor of the Basin. I recommend modifying the phrase 'to ensure', to be replaced with 'of ensuring that' for grammatical reasons. I consider this to be a minor change in terms of cl 16(2) of Schedule 1 of the RMA.

- 18.16** I also consider that it is important to retain the reference to the 80ha minimum allotment size because it sets out important parameters to be achieved through the purpose of the Zone. I recommend this part of their submission is rejected.

- 18.17** Submitter Brustad also seeks that additions are made to include 'landscape Classification Units', which I infer to be the LCUs in Part 24.8. I agree that it would be beneficial to include reference to the LCUs but not in this paragraph because the LCUs apply to both the Zone and Precinct. I recommend this part of their submission is rejected.

Paragraph 3

18.18 Paragraph 3 as notified is:

A wide range of supportive activities that rely on and seek to locate within the rural landscape resource are contemplated in the Zone including rural living at low densities, recreation, commercial and tourism activities as well as enabling farming and farming related activities. There are also some established industrial type activities that are based on rural resources or support rural type activities.

18.19 The Telcos seek that reference is made to utilities. I do not support this because it is not necessary to prescribe every activity or physical resource that will be present in the Zone, or potentially within the road network within the Zone. While I accept that utilities and telecommunications serve an important role, I do not consider that this specific distinction is required. I also note that the utilities have their own dedicated chapter, Chapter 30 Energy and Utilities. For these reasons, I recommend these submissions be rejected.

18.20 Submitter Brustad (2577) et. al seeks that the words 'rural landscape' be replaced with 'Wakatipu Basin' and that the reference to 'low densities' is replaced with 'a variety of densities', that in their view removes the implication of their being one zone type and confusion with the PDP Lower Density Residential Zone (Chapter 7). I agree that these minor changes will help better articulate this paragraph. I recommend this part of their submission is accepted.

18.21 I do recommend a minor grammatical change to reduce the length of a sentence associated with farming and farming related activities being enabled with the Zone. I recommend that this recommended change to be within the ambit of cl16(2) of schedule 1 of the RMA.

Paragraph 4

18.22 Paragraph 4 as notified is:

Land within the District is subject to natural hazards and, where applicable, it is anticipated that development will recognise and manage the risks of natural hazards at the time of subdivision and applications for resource consent for buildings.

18.23 I have not identified any specific submissions on this paragraph.

Paragraph 5

18.24 Paragraph 5 as notified is:

Within the Zone, variations in landscape character support higher levels of development in identified Wakatipu Basin Lifestyle Precinct areas. The Precinct provides for rural residential living opportunities within areas where additional development can be absorbed without detracting from the landscape and visual amenity values of the Precinct and the wider landscape character and amenity values of the Zone and its surrounding landscape context.

18.25 Submitter Brustad (2577) et. al seeks several changes, some of which appear to be grammatical preference. A material change is the removal of the words 'detracting from' with 'resulting in inappropriate adverse effects'. I consider that the changes sought by Submitter Brustad et. al do not offer any added value nor do they appear to correct any deficiencies in the text. I also note that no reasons are given for the changes. I recommend this part of their submission is rejected and the Paragraph is retained as notified. I do recommend removing the words 'Wakatipu Basin Lifestyle' because the Precinct has already been identified in Paragraph 1 as the abbreviation of the Wakatipu Basin Lifestyle Precinct. I consider that this is a minor grammatical change and qualifies in terms of cl 16(2) of schedule 1 of the RMA.

Paragraph 6

18.26 Paragraph 6 as notified is:

There is a diversity of topography and landscape character within the Precinct that has a variety of existing lot sizes and patterns of development. The Precinct incorporates a range of rural lifestyle type developments, generally characterised as low-density residential development on rural land. These sites include scattered rural residential, farmlet and horticultural sites. Existing vegetation including shelter belts, hedgerows and exotic amenity plantings characterise the Precinct.

18.27 Submitter Brustad (2577) et. al seek changes including that that the word 'incorporate' is replaced with 'enables' and replacing 'rural lifestyle' with 'rural living'. While no reasons are given for the changes

sought, I agree that 'enables' is a better choice of verb in this context, I also agree that in the context of the Precinct, the use of the word 'rural living' is more appropriate than 'rural lifestyle'. This is because compared to the Rural Lifestyle Zone that achieves a density of 1 residential unit per 2 hectares, the Precinct allows somewhat smaller site sizes and could further limit activities associated with rural lifestyle living such as small horticulture/viticulture and keeping of horses or other livestock at a small scale. Changing the phrase to 'rural living' distinguishes the outcomes intended in the Precinct from those in the Rural Lifestyle Zone.

- 18.28** The submitter also requests that the descriptor of the sentence identifying 'scattered *rural residential, farmlet and horticultural sites*' is removed. Notwithstanding my comments above, distinguishing that the 1ha average allotment size is not as suitable by comparison as the Rural Lifestyle Zone for these activities, I maintain nonetheless that these activities are present in the Wakatipu Basin and I consider that retaining remnant farmlet and horticultural activities should be encouraged and that this would further add to opportunities to create smaller sites and retain other areas in the existing use, rather than compulsory creation of minimum 6000m² allotments. For these reasons I recommend this sentence is retained and that part of the Brustad et. al submission is rejected.

Paragraph 7

- 18.29** Paragraph 7 as notified is:

While the Zone and Precinct do not contain Outstanding Natural Features or Landscapes, they do contain part of the District's distinctive and high amenity value landscapes and are located adjacent to or nearby Outstanding Natural Features and Landscapes. Some land within the Precinct has been identified as being of particular landscape sensitivity. A rule requiring a setback of buildings and development from these identified landscape features as shown on the planning maps requires that an assessment is undertaken to ensure the values of these landscapes are maintained.

- 18.30** This paragraph was included to express that the Wakatipu Basin contains landscape features that, while not s6(b) landscapes, are still sensitive to change and could be adversely affected by development. The paragraph identifies that there is a rule that requires setback from

these features to ensure the values of these landscapes can be maintained.

18.31 Submitter Brustad (2577) et. al seeks that the last sentence discussing the rule is removed. This is consequential in their view to a request to remove Rule 24.5.5 requiring a 50m setback from these identified features. I recommend that the rule is retained and I discuss this further as part of that specific rule. I also consider that while it would be inappropriate to include a description of every rule in the purpose statement, this particular rule is critically important in terms of managing the more sensitive landscapes within the Zone. I recommend this part of the Brustad et. al submission is rejected.

18.32 I do recommend a minor grammatical change so that the reference to setbacks is 'the setback', instead of 'a setback'. I consider that this is a minor grammatical change and qualifies in terms of cl 16(2) of schedule 1 of the RMA.

Paragraph 8

18.33 Paragraph 8 as notified is:

Development within the Zone or Precinct that is adjacent to or nearby Outstanding Natural Features or Landscapes is to be managed to ensure that the Outstanding Natural Features or Landscapes are protected from inappropriate subdivision, use and development. While there are not specific setback rules for development in relation to Outstanding Natural Features or Landscapes, all buildings except small farm buildings and subdivision require resource consent. Discretion is provided to manage the effects of subdivision, use and development on any adjacent or nearby Outstanding Natural Feature or Landscape, as well as managing the effects on landscape character and visual amenity values within the Zone and Precinct.

18.34 Distinct from the preceding paragraph on areas of heightened landscape sensitivity within the Zone, this paragraph directly discusses the existence of, and the need to manage activities to protect surrounding ONFs and the ONLs outside the Zone. I consider the paragraph is an important guiding statement as to the application of the rules, policies and achieving the Objectives of Chapter 24 as they relate to landscape matters.

18.35 Submitter Brustad (2577) et. al request that the entire paragraph is deleted because they consider it includes detail and repetition that is unnecessary within the purpose section. Noting the submitters' request to retain the preceding sentence where it relates to ONF and ONLs, I consider that the submitter has missed the distinction between the two paragraphs; the preceding paragraph 7 simply notes that the Zone does not manage s6(b) landscapes, whereas paragraph 8 sets out that when assessing the effects of activities within the Zone it will be required to take into account the potential for adverse effects on ONFs within the Wakatipu Basin and the ONL that encloses the Wakatipu Basin.

18.36 I also consider that it is important to note that there are not any rules such as setbacks from these Rural Zone features, but that the rules, assessment matters and policies provide for the adverse effects of activities on ONFs and ONL's to be assessed. I recommend this paragraph is retained and that this part of the submission is rejected.

Paragraph 9

18.37 Paragraph 9 as notified is:

In the Precinct a limited opportunity for subdivision is provided with a minimum lot size of 6000m² in conjunction with an average lot size of one hectare (10,000m²). Controls on the location, nature and visual effects of buildings are used to provide a flexible and design led response to the landscape character and visual amenity qualities of the Precinct.

18.38 Submitter Brustad (2577) et. al seeks that the paragraph is amended to provide for a range of minimum densities that reflect existing use rights, historical zoning, and landscape sensitivities in particular areas. For the reasons set out in Issues 3 and 4 above, I do not support these changes and with the exception of my recommended amendments to s42A Rule 24.5.XB that provides for a discretionary activity resource consent to create a 1ha minimum average with no minimum lot size.

18.39 Submitter Brustad et. al also seeks that at this point the modifications to the text should reflect the intention to incorporate the LCUs into decision making. I consider that the LCUs are already an inherent part of decision making, and it appears as though reliance on the LCUs is

favoured as part of removing the 80ha minimum allotment size in the Amenity Zone. As set out above, I do not support the reintroduction of the 0ha lot size/discretionary regime and reliance on the LCUs.

- 18.40** I do however support identification of LCUs within the purpose statement. At the risk of the Purpose statement becoming too long, I consider it would be worthwhile adding explanatory text on LCUs. The recommended text below is generally consistent with accepting in part the modifications requested by Submitter 2577 et. al:

The various landscapes within the Zone are identified through Landscape Character Units (LCU) which define the landscape values, opportunities and constraints of those areas and assist with the assessment of the extent to which subdivision and development, in conjunction with the assessment matters and policies, would achieve the objectives of Chapter 24.

- 18.41** On this basis I recommend Submitter Brustad et. al's submission on this matter is accepted in part.

- 18.42** Stoneridge Estate et. al seek that the paragraph is amended so that in their view the Precinct more readily provides for rural living and that location attributes are recognised. I agree with the intent of the reasons, but also consider that the changes also relate to rezonings and changes sought to residential densities in the Precinct. Because the changes to densities, or the zoning patterns are not supported, I do not consider the changes to text are necessary. I do recommend amendments to reflect the recommended rules that provide for an opportunity to establish lots less than 6000m² as a discretionary activity, providing the 1ha minimum average is retained. I recommend the following amendments:

In the Precinct a limited opportunity for subdivision is provided with a minimum lot size of 6000m² in conjunction with an average minimum lot size of one hectare (10,000m²). Opportunities to dispense with the minimum lot size are provided for through a discretionary activity resource consent. Controls on the location, nature and visual effects of buildings are used to provide a flexible and design led response to the landscape character and visual amenity qualities of the Precinct.

- 18.43** I recommend the submissions requesting changes are otherwise rejected.

Paragraph 10

18.44 Paragraph 10 as notified is:

Building location, access, services, earthworks, landscaping, infrastructure and natural hazards are managed through the identification of suitable building platforms at the time of subdivision. These matters as well as the bulk and location, building design and finish may also be assessed at the time of obtaining resource consent for a building.

18.45 Submitter Brustad (2577) et. al seeks that the word 'assessed' is replaced with 'controlled by way of conditions' at the time of obtaining consent for buildings. I agree with the intent of this change but do not consider it necessary. In the context where, although a development right for residential activity is provided for if the minimum lots size in the Zone or minimum average is achieved in the Precinct, a restricted discretionary activity resource consent is still required to ensure that subdivision and development achieves the objectives of Chapter 24. I recommend this part of the Brustad et. al submission is rejected.

18.46 In relation to the submission discussed in Issue 3 above associated with enabling building platforms to be established by way of land use consent, I recommend the text of the last sentence is modified to include reference to building platforms. While this change was not specifically sought by Submitter Ffiske (2338), I consider that it is a consequential modification arising from the recommendation to accept that submission in part that building platforms be provided for through land use consents.

18.47 Regarding the Purpose statement generally, Submitter Williamson (2272) et. al considers that it does not sufficiently state in detail the purpose of the Precinct, or the relationship between the Amenity Zone and the Precinct. The Submitter seeks that the Purpose statement is amended to have a distinct vision for both the Amenity Zone and Precinct.

18.48 As discussed above, I recommend adding modifications to Paragraph 1 to clarify that the Precinct is a sub zone of the Amenity Zone. To assist with clarifying and confirming that the Precinct is part of the Amenity Zone, I recommend relocating Paragraph 9, which is on the

Precinct to the third paragraph. I consider this to be more logical and fit better with the preceding paragraph (Paragraph 2) which is distinct to the Amenity Zone. I recommend the submission is accepted in part.

18.49 Williamson et. al (2276) suggests that the Amenity Zone and Precinct should be sub-zones of an overarching Wakatipu Basin Zone. Or alternatively, separate these two zones into separate chapters.

18.50 I consider my recommendations to the Purpose Statement (24.1) has clarified the relationship between the two, in addition Rule 24.3.3.1 confirms that the Precinct is a sub-zone of the Amenity Zone. I also note that at the commencement of the objectives and policies at 24.2, the text states:

Objectives 24.2.1 to 24.2.4 and related policies apply to the Zone and Precinct. Objective 24.2.5 and related policies apply to the Precinct only.

18.51 I consider that it is clear that the Precinct is a sub-zone of the Amenity Zone. I do not consider the zones should be separated. I also do not consider that the planning maps should use different annotations (ie. Retaining the light blue of the Amenity Zone but showing the Precinct as hatching) because this could lead to confusion and difficulty interpreting the cadastral boundaries and various district wide annotations that also overlay the zone annotation.

18.52 While I do not recommend the broader changes suggested by the submitter I consider the amendments to the Purpose statement previously discussed assist. I recommend the submission is accepted in part.

19. 24.2 - Objectives and Policies

19.1 The objective and policy framework is separated into 5 groups:

- (a) Objective 24.2.1 is on landscape and visual amenity values and applies across the entire zone;
- (b) Objective 24.2.2 manages non-residential activities and applies across the entire zone;

- (c) Objective 24.2.3 is on reverse sensitivity and applies across the entire zone;
- (d) Objective 24.2.4 is on broader integrated resource management functions and addresses water and ecological quality, recreation and infrastructure, and applies across the entire zone; and
- (e) Objective 21.2.5 seeks to manage the landscape and visual amenity values of the Precinct while providing for a relatively high rural living density. The objectives and policies apply only to the Precinct.

General Submissions on Objectives and Policies

- 19.2** X-Ray Trust and Avenue Trust (2619) state in their submission that they generally support the policy framework overall.
- 19.3** Submitter Dennison (2301) seeks that the policies be made generally more enabling. Subject to the modifications I recommend to Chapter 24, and as discussed in greater detail in relation to other similar submissions, I consider that the policies are the most appropriate way to achieve the objectives. I recommend this submission is accepted in part, subject to my recommended changes in **Appendix 3**.
- 19.4** The Telcos have submitted that the policies within Chapter 24 overlap with unnecessary duplication. The Telcos are also concerned that some of the policies set out a very high avoidance stance, despite the area not reaching the threshold for being an outstanding landscape.
- 19.5** The policies are purposefully nuanced and fine grained to ensure that activities, primarily subdivision and development are appropriately assessed and that each policy must be implemented. I consider that Chapter 24 takes a belts and braces approach but I consider this is necessary given the development pressure and issues associated with the management of cumulative adverse effects and apparent shortcomings of the ODP management regime for dealing with these issues.
- 19.6** For instance, the Telco submission identifies that Policies 24.2.1.2 and 24.2.1.3 are both directed at the same matter, subdivision and

development, and that the policies could be merged. I agree that they could, but in the context of the identified need to manage the landscape resource I also consider it is important that there is a separate policy to be implemented that references the LCUs. Where possible I prefer succinct PDP text but in this circumstance a high degree of intervention and plan administration is considered necessary to achieve the Objectives, while still providing for a certain amount of carefully managed growth to occur in the Zone.

19.7 The Telco submission also states that Policies 24.2.1.4 and 24.2.1.5 are very similar and seek the same outcome. I disagree and note that Policy 21.2.1.4 is focused on the control of built form and developments, this policy is a key link to the relatively heavy emphasis on managing design throughout the provisions. I consider that Policy 21.2.1.5 is unique to the Zone and needs to be necessarily distinct where it seeks to manage the effects of development within the Zone that can also have an effect on the ONFs located amidst the Zone, and the surrounding ONL of the Wakatipu Basin. Overall, the policies from 24.2.1.2 through to 24.2.1.5 seek to respectively ensure the following subtly different issues are managed being:

- (a) 24.2.1.2 - maintain and enhance the amenity of the zone overall;
- (b) 24.2.1.3 - maintain and enhance the values of the zone as described through the LCUs;
- (c) 24.1.2.3 - control the design of activities to achieve the objectives and implement the various design provisions; and
- (d) 24.2.1.5 - effectively manage activities within the Zone where they may degrade the adjacent and nearby ONFs and ONL.

19.8 While the suggestions made by the Telcos could potentially assist with more streamlined administration of the establishment and maintenance of utility infrastructure, I do not see that the changes proposed are any more appropriate than the policy framework notified by the Council. I also consider there is a risk that if the policy framework is reworked for the sole purpose of making the wording more efficient, important subtleties may be lost and the purpose of the Zone may not be fulfilled. For these reasons I recommend the submission is rejected.

20. OBJECTIVE 24.2.1 and Policies 24.2.1.1 – 24.2.1.12

20.1 Objective 24.2.1 as notified is:

Landscape and visual amenity values are protected, maintained and enhanced.

20.2 Otago Fish and Game Council (2455) supports Objective 24.2.1 and the policies.

20.3 Williamson (2276) considers that where Objective 24.2.1 applies to both the Zone and the Precinct, it creates a conflict between Objective 24.2.1 and 24.2.5 because they seek to achieve different things. The submitter seeks that the objective is amended so that it does not apply to the Precinct.

20.4 I disagree and consider that it is appropriate and important for this Objective (and related policies) to apply to the Precinct component of the wider Zone. I acknowledge the clear difference in density outcomes, but both Objectives 24.2.1 and 24.2.5 need to be read and applied in the context of the fundamental density outcomes for each area. I also consider the interrelationship between Objective 21.2.1 and 24.2.5 is important where they both need to be achieved (ie. maintaining the anticipated density outcomes for future growth in both zones). If the density provisions are not maintained in an overall sense in one area there will likely be a consequential adverse change to landscape character in the other. I consider the objectives and their relationship between each other are appropriate and I do not recommend any changes in this regard.

20.5 Submitter Williamson (2276) also requests that the word 'character' is added after landscape. I note that in the following suite of policies (Policies 24.2.1.1 – 24.2.1.12) each mention of the word landscape is followed by the word character. I consider it would be more consistent if the phrasing in the objective was 'landscape character'. I recommend this component of the submission is accepted in part.

- 20.6** For similar reasons to those above, Submitter Williamson (2276) seeks that Policy 24.2.1.1 is modified to remove the reference to average lot sizes because they do not exist in the Amenity Zone. For the reasons set out above, Objective 24.2.1 and the associated policies apply to both the Zone and Precinct. In terms of drafting, the reasons for including both in the same policy is primarily for efficiency, as it is fundamental to both areas that the minimum lot size (in the case of the Amenity Zone) or average and minimum (in the case of the Precinct) are applied. I do not consider it to be misleading or inaccurate that the policy refers to both areas, and that an average only applies to the Precinct. I recommend this part of their submission is rejected.
- 20.7** Federated Farmers (2540) seek that the word protect is removed from the objective, citing concerns that this sets too high a bar in amenity landscapes. I consider that the objective needs to be viewed through the lens of the overall policies and rules, and I note that farming is a permitted activity (Rule 24.4.2). It appears to be common ground by many submitters including Federated Farmers that farming is not the dominant land use in terms of economic outputs in the Wakatipu Basin, despite the Zone being based on rural character and amenity values, and that productive farming, at least in terms of low intensity grazing and cropping is still clearly evident and of the number of hectares on which some form of farming activity occurs it is still the dominant land use in many locations.
- 20.8** The policy framework overall supports farming. However, while the provisions accept the effects of landscape change associated with many types of farming, it is landscape change associated with rural living developments that are the focus of the policy framework.
- 20.9** For the same reasons set out above in relation to the Purpose statement I consider that the word 'protect' is necessary, despite the landscape being an amenity landscape. This is because of the development issues present in the Wakatipu Basin, the value of the amenity, and because of the effects of any development in the Basin on nearby ONF and ONL.

- 20.10** For these reasons I consider that the word protect in the policy does not unduly restrict farming and should not be changed from that perspective.
- 20.11** Federated Farmers also seek that the word 'and' is replaced with 'or' so that enhancement is not conjunctive with protection and maintenance. For the same reasons I prefer to retain the notified wording.
- 20.12** I consider that the word 'protect' should be retained and the submission rejected.
- 20.13** For the same reasons as set out above I recommend that the submission by CIT (2307) seeking that the word protect be, removed is rejected.
- 20.14** Submitter Bagrie et. al request that additional policies are included to enable sufficient development. I consider the policies as notified are sufficient. In the context of the matters discussed at Issue 1 and Issue 2, the recommended s42A changes are slightly more enabling than the notified version. I recommend these submissions are accepted in part.
- 20.15** Policy 24.2.1.1 as notified is:

Implement minimum and average lot sizes within the Wakatipu Basin Rural Amenity Zone and the Wakatipu Basin Lifestyle Precinct to protect landscape character and visual amenity values.

- 20.16** The submissions of Brustad (2577) et. al are predicated on removing the 80ha minimum allotment size in the Amenity Zone, and replacing with the ODP and PDP Rural Zone 0ha area minimum allotment size and discretionary assessment regime. Under their submission, the key mechanism is to rely on the LCUs. This approach is not supported for the reasons set out in Ms Gilbert's evidence. The Land Use Study and the section 32 evaluation analysed the issue in detail, and concluded that the 0ha area discretionary regime is not the most appropriate way to manage residential subdivision and development in the Wakatipu Basin and I consider the imposition of a minimum allotment size in the Amenity Zone is the most appropriate way to achieve Chapter 24 and

implement Chapter 6 (Landscapes) and achieve the Strategic Directions Chapter 3.

20.17 I consider that Policy 24.2.1.1 and the reference to upholding a specified density is fundamental to the effectiveness of Chapter 24 and the overall framework. I recommend these submissions are rejected.

20.18 Federated Farmers (2540) also seek that the word 'protect' is replaced with 'maintain or enhance'. For the reasons set out above and in the preceding section on Objective 24.2.1 I recommend that the text remain as notified.

20.19 Submitter Brustad (2577) et. al also seeks the following policy to be added as new 'policy 2':

Recognise that the amenity and landscape characteristics of the Zone are derived from historical and rural living subdivision and development.

20.20 The explanation provided with the submission states that it is important to recognise that the amenity and landscape characteristics of the basin are derived not only from pastoral land use but also a varied form and pattern of rural living development which has evolved over time.

20.21 I do not disagree with that statement, but I do not consider this additional policy to be necessary. I consider that the objectives and policies, rules, LCUs and assessment matters of Chapter 24 together provide adequate recognition of the historical patterns of development within each respective LCU in the Wakatipu Basin. I consider it is important to emphasise that Objective 24.2.1 seeks to protect, maintain and enhance landscape and visual amenity values. The Objective does not seek an outcome associated with productive rural activities, whether from an economic derived perspective or landscape character perspective. I consider the requested policy to not offer significant advantage over the notified provisions and I recommend it is rejected.

20.22 I also consider that a policy reference to the LCUs and the management of the effects of activities is provided for in Policy 24.2.1.3.

20.23 Policy 24.2.1.2 as notified is:

Ensure subdivision and developments are designed (including accessways, services, utilities and building platforms) to minimise modification to the landform, and maintain and enhance the landscape character and visual amenity values.

20.24 Federated Farmers (2540) support this policy.

20.25 Brustad (2577) et. al requests a grammatical amendment to replace 'developments are' to 'development is'. I agree that this change would improve the policy and would also be consistent with the style of the remaining policies in Chapter. I recommend this part of their submission is accepted.

20.26 The remainder of submission point 2577.9 seeks that the word 'inappropriate' is added so that the policy reads as '*minimise inappropriate modification*'. The submitter considers that the introduction of built form will have the effect of modifying the landscape and that not all such modification is inappropriate.

20.27 I agree that the crux of the issue is to manage landscape change, Chapter 24 is not aimed at achieving 'no change, or 'no effects'. However, placing the word inappropriate into this sentence would read as though a range of effects from modification are anticipated, and that the policy only needs to ensure inappropriate activities are minimised and that these would be confined to activities involving unacceptable or intolerable modification effects. I do not consider this policy would achieve the objective and I do not support this change.

20.28 In light of this request, I have also considered whether the policy as notified is too strict, or absolute. I do not consider this to be the case. The starting point is that the Wakatipu Basin landscape subject to Chapter 24 has values. The unbridled modification of this landscape from its present state would be likely to have adverse effects that would not achieve Objective 24.2.4. I consider that the qualifier 'minimise' modification provides sufficient leverage for the nature and scale of rural living and other activities to occur as provided for by Chapter 24. I also consider that the policies need to be read in their context and the

densities of residential activity and rule framework provided in the Amenity Zone and Precinct respectively. For these reasons I consider the policy would not benefit from the amendments sought by Brustad et. al. I recommend this part of their submission is rejected.

20.29 Slopehill Properties Limited (2584) seek the entire policy is deleted because they consider the matters within the policy are not required to achieve the objective. I consider that the design of subdivision and development is critical to achieving the objective. I recommend this submission and similar submissions by Slopehill Properties Limited that pare back the policies of Chapter 24 without sufficient justification are rejected.

20.30 Policy 24.2.1.3 as notified is:

Ensure that subdivision and development maintains and enhances the Wakatipu Basin landscape character and visual amenity values identified for the landscape character units as described in Schedule 24.8.

20.31 Submitter Brustad (2577) et. al seeks grammatical changes to capitalise the landscape character units, I agree this would assist as it confirms the cross reference to Schedule 24.8. I do not agree with the request to remove reference to the location of the LCUs in Schedule 24.8. I consider this to be a valuable, and tangible cross reference at a policy level to a lower order provision. The submitter has not provided any reasons for this removal. On the basis of the above I recommend the submission is accepted in part.

20.32 Federated Farmers (2540) support this policy.

20.33 Williamson (2276) seeks that the word protect is added, I agree that this would be more consistent with, and assist with achieving Objective 24.2.1. I note in recommending this submission is accepted, it draws away from the support offered by Federated Farmers who oppose the use of the word protect in the policy framework.

20.34 Policy 24.2.1.4 as notified is:

Maintain and enhance the landscape character and visual amenity values associated with the Zone and Precinct and surrounding landscape context by controlling the colour, scale, form, coverage, location (including setbacks from boundaries and from Identified Landscape Features) and height of buildings and associated infrastructure, vegetation and landscape elements.

20.35 Brustad (2577) et. al seeks that reference to the Precinct is removed from the policy. I agree because the statement as the start of the Objectives and Policies states that Objectives and related policies 24.2.1 to 24.2.4 apply to the Zone and Precinct. The reference to the Precinct could lead to confusion as to the status of the other policies, which also apply.

20.36 Brustad (2577) et. al seeks that the reference to specified rules relating to setbacks from boundaries and landscape features are removed. I consider that these rules are important, in particular the setback from identified landscape features. I recommend the text is retained. I recommend this part of their submission is rejected.

20.37 Federated Farmers (2540) request that the words 'where necessary' are added. I consider that controls on these elements of buildings are necessary in all instances in the Wakatipu Basin. This does not mean that buildings would not obtain consent, but rather, ensures that proper oversight is provided to ensure Objective 24.3.1 is achieved. I recommend their submission is rejected.

20.38 Policy 24.2.1.5 as notified is:

Require all buildings to be located and designed so that they do not compromise the qualities of adjacent or nearby Outstanding Natural Features and Outstanding Natural Landscapes, or of identified landscape features.

20.39 Notably, this policy is not opposed by Submitter Brustad (2577) et. al. Federated Farmers (2540) request this policy is modified to provide more flexibility and that it is less strict. I consider that it is necessary to be strict in this instance when managing development nearby or in the public foreground view of ONFs and the ONL. I recommend their submission is rejected.

20.40 Submitters Dennison (2301) and United Estates Ranch (2126) seek that the reference to ‘nearby’ is removed. I recommend that it is retained because activities in the foreground of an ONF, but that are not necessarily adjacent to the ONF, could compromise the views to the ONF. I consider it is important to retain this policy in order to achieve Objective 24.2.1 and achieve PDP Landscape and Rural Character Policy 6.3.26.b.

20.41 Policy 24.2.1.6 as notified is:

Ensure non-residential activities avoid adverse effects on the landscape character and visual amenity values.

20.42 The Telcos seek that this policy is deleted because in their view it is an avoidance policy and provides a level of direction that goes “well beyond” what is necessary to achieve Objective 24.2.1.

20.43 Federated Farmers (2540) seek similar changes to soften the policy.

20.44 Brustad (2577) et. al request the policy is modified because in their view the avoid wording of the provision would not allow for the establishment of any non-residential activities. They cite a cellar door as an appropriate activity. I agree this type of activity probably would be, but the focus of the policy is on landscape and visual amenity, being a policy sitting under Objective 24.2.1. Submitter Brustad et. al request the following amendments:

Ensure the scale and location of non-residential activities ~~avoid adverse effects on the~~ maintains and enhances landscape character and visual amenity values.

20.45 I maintain that ‘avoid’ policies are appropriate in certain circumstances but in this instance I consider that the policy probably goes too far without qualification to clarify that activities could be appropriate while still having a range of adverse effects that would be no more than minor. I also agree that commercial activities could be appropriate in both the Amenity Zone and Precinct, and could even enhance the environment if the non-residential activity is suitably located, designed and scaled.

20.46 I also note that Policy 24.2.5.3 which is specific to the Precinct has the following policy for non-residential activities:

Provide for non-residential activities, including restaurants, visitor accommodation, and commercial recreation activities while ensuring these are appropriately located and of a scale and intensity that ensures that the amenity, quality and character of the Precinct is retained.

20.47 This is a broader policy that also addresses other amenity matters. From a landscape perspective, although the Precinct has been identified by the Land Use Study and s32 as having higher capacity for development, I do not consider the door should be closed for activities throughout the Zone to the extent it could be by Policy 24.2.1.6 as notified. There will be likely to be discrete locations within the LCU's of the Amenity Zone that have sufficient absorptive capacity for non-residential development.

20.48 By comparison, I consider that Policy 24.2.5.3 is a more flexible effects-based policy, but would still require relatively strict administration in order to maintain amenity within the Precinct. I also note that Submitter Brustad et. al has not opposed Policy 24.2.5.3.

20.49 On the basis of the above I recommend that Policy 24.2.1.6 is modified generally as sought by Submitter Brustad et. al., except I consider that element of design is included and that the order is rearranged as follows:

Ensure the location, design and scale of non-residential activities ~~avoid adverse effects on the~~ maintains and enhances landscape character and visual amenity values.

20.50 It is possible the word 'scale' is redundant because the scale of something is part of its design. However for the sake of certainty that scale is important, especially in the context of managing visual amenity, I recommend the policy addresses both 'design' and 'scale'. In summary therefore, I recommend the Brustad et. al submission is accepted in part. I also consider that by retaining but softening the policy it accepts in part the submission of the Telcos and Federated Farmers.

20.51 Policy 24.2.1.7 as notified is:

Control earthworks and vegetation clearance so as to minimise adverse changes to the landscape character and visual amenity values.

20.52 Submitter Brustad (2577) et. al seeks that the word 'change' is replaced with 'effects'. I consider that the two words in this context are synonymous, and would not materially alter a course of action to be undertaken to implement the policy. I also consider that 'parroting of the RMA' within a policy is of limited value but in this instance the modification would provide better certainty and better align the policy to an effects based context. Accordingly I recommend the submission of Brustad et. al is accepted.

20.53 Federated Farmers (2540) seek that the word 'control' is replaced with 'manage' because in their view control imposes a stricter test. I generally consider the words to be virtually synonymous in this context and that there is no advantage in adopted this relief. I consider their submission is rejected.

20.54 Slopehill Properties Limited (2584) request the policy is removed because these matters are controlled by other PDP Chapters. I disagree and consider that they are relevant because of the importance of the overall impact that poorly design subdivision and development could have on the Wakatipu Basin. I recommend this submission is rejected.

20.55 Policy 24.2.1.8 as notified is:

Ensure land use activities protect, maintain and enhance the range of landscape character and visual amenity values associated with the Zone, Precinct and wider Wakatipu Basin area.

20.56 Submitter Brustad (2577) et. al seeks that this policy is removed because they consider it to be a repetition of Policies 24.2.1.3 and 24.2.1.4. This policy is a broad and overarching policy, and I consider that the other policies within Objective 24.2.1 and in particular 24.2.1.3 and 24.2.1.4 are more fine grained than Policy 24.2.1.8, and when applied both individually and collectively would ensure Objective 24.2.1

is achieved. Notwithstanding the additional words in this policy of 'protect' and 'wider Wakatipu Basin area', I consider that if the other policies within Objective 24.2.1 are implemented then this policy would be as well. I agree that this policy does not offer any added value in the context of the entire suite of policies within Objective 24.2.1.

20.57 I recommend this submission is accepted, and that Policy 24.2.1.8 is deleted.

20.58 CIT (2307) seeks that the word protect is removed and as I recommend the Policy should be deleted, I recommend this submission be accepted.

20.59 Federated Farmers (2540) support this policy in part, but seek more qualification is provided. By recommending the policy is deleted I recommend this submission is accepted in part.

20.60 Policy 24.2.1.9 as notified is:

Provide for activities that maintain a sense of openness and spaciousness in which buildings are subservient to natural landscape elements.

20.61 Submitter Brustad (2577) et. al seeks that the policy is modified so that 'buildings' are replaced with 'built form', and that 'subservient' is replaced with 'complements'. I consider that referring to 'built form' would not offer any advantage over 'buildings'. I also do not consider the word 'complements' to be more appropriate than 'subservient'. I consider that it is important that buildings are subservient to natural landscape elements and the retention of this word would provide clearer direction about the outcomes sought and would better achieve Objective 24.2.1. I recommend this submission is rejected.

20.62 CIT (2307) seek the Policy is deleted, on the basis that the words 'openness' and 'spaciousness' are capable of a wide range of interpretations. I consider that the policy would be interpreted in the context of the objectives, rules and provisions and I consider it to be appropriate. I recommend this submission is rejected.

20.63 Policy 24.2.1.10 as notified is:

Facilitate the provision of walkway, cycleway and bridle path networks.

20.64 Williamson (2276) supports the provision of walkways and cycleways, but not necessarily bridle paths which should be limited to appropriate areas. I accept that provision for bridle paths would be likely to be limited and in a general sense would not be as important to the wider community and concept of active travel as walking and cycling. However, the submitter has not identified where these appropriate areas for bridle paths would be and I do not wish that the concept of other forms of recreational trails are precluded. I recommend the submission is rejected and the policy retained as notified.

20.65 Policy 24.2.1.11 as notified is:

Manage lighting so that it does not cause adverse glare to other properties, roads, public places or the night sky.

20.66 Submitter Brustad (2577) et. al seeks that the word 'adverse' is replaced with 'inappropriate'. In this context something being either adverse or inappropriate may not have a material difference because the subject matter to be managed is glare, which in itself is likely to be adverse and inappropriate, as opposed to 'lighting'.

20.67 I note the PDP Stage 1 Decisions version has the following policies in the other Rural Chapters:

(a) Chapter 21 Rural Zone Policy 21.2.1.5:

Have regard to the location and direction of lights so they do not cause glare to other properties, roads, public places or views of the night sky.

(b) Chapter 22 Rural Residential and Rural Lifestyle Policy 22.2.1.6:

Lights be located and directed so as to avoid glare to other properties, roads, and other public places and to avoid degradation of views of the night sky.

(c) Chapter 23 Gibbston Character Zone Policy 23.2.1.11:

The location and direction of lights do not cause glare to other properties, roads, public, places or degrade views of the night sky.

20.68 Having considered these other iterations of policies of the same issue for the PDP rural zones, I consider that applying the policy so that it only manage 'inappropriate glare' would not be the most appropriate way to achieve Objective 24.2.1. It poses a question as to what sort of glare should be considered 'appropriate' as distinct from 'inappropriate glare'. It is my view that the effects of glare are adverse effects and I consider that this is reinforced by the policies managing lighting in the other rural chapters.

20.69 I also note that the other rural chapter provisions approach glare on the basis that it is unacceptable, whereas Policy 24.2.1.11 is more qualified in that glare is acceptable, but not where it is adverse. Policy 24.2.1.11 provides more flexibility than the other versions in the rural chapters. Overall, I recommend that the submission of Brustad (2577) et. al on this policy be rejected.

20.70 Federated Farmers (2540) seek that the policy is amended to refer to significant or permanent glare because they consider as drafted the policy captures glare that is temporary in nature. I disagree and consider that the words 'adverse glare' are important in that they capture glare that is more than temporary in duration and likely to have a more than minor adverse effect. I consider the policy is appropriate and the submission is rejected.

20.71 Policy 24.2.1.12 as notified is:

Have regard to the spiritual beliefs, cultural traditions and practices of Tangata Whenua.

20.72 Submitter Brustad (2577) et. al seeks that 'as set out in Chapter 5' is added to the policy. I note that similar policies in the other rural chapters of the PDP do not include a reference such as this. While I consider that cross referencing can be valuable, it is clear that Strategic Chapter 5 Tangata Whenua would clearly be the first point of reference for guidance to implement this policy. Accordingly, I do not consider

these amendments to be necessary and I recommend the submission is rejected.

21. REQUEST FOR OBJECTIVE AND POLICIES RECOGNISING EXISTING DEVELOPMENT RIGHTS AND THE BENEFITS OF RURAL LIVING

21.1 Submitter Brustad (2577) et. al seeks that an objective and a suite of policies be added as a new 'objective 2' that recognise the benefits of rural living. The reasons given in the submission are to do with the inability to generally refer to Part 2 of the RMA and the positive elements within it, in a post *King Salmon* context. The policies' limbs address;

- (a) the enjoyment of rural living by both residents and visitors;
- (b) the opportunity for rural living opportunities within close proximity to town centres;
- (c) the diversification of land use where farming is no longer economically viable;
- (d) the onsite and offsite employment opportunities generated by subdivision and construction;
- (e) landscaping and property maintenance; and
- (f) the efficient and effective use of a finite rural land resource.

21.2 I consider that these matters are inherently recognised and provided for within the framework of Chapter 24 because of the development rights afforded to each site, including residential activity being permitted and one residential unit⁴⁰ per site being permitted. This is greater than the recognition that is afforded by the ODP Rural General Zone, which does not recognise a residential unit as a permitted activity. It is also greater than the ODP Rural Lifestyle Zone which requires a subdivision consent to have been granted for a building platform in order for any residential activity development rights to be recognised.

21.3 All of the attributes identified as requiring to be recognised by the submitter are provided for collectively in the notified provisions or the provisions I have recommended. This includes the additional

40 Rule 24.4.3 and 24.4.4.

subdivision rules about achieving the prescribed allotment density, and addressing the subdivision design such as the requirements that subsequent residential buildings and development achieve the landscape management focused objectives and policies of Chapter 24.

21.4 Stoneridge Estate et. al also seek an additional objective and two policies that facilitate existing development rights. While I do not agree that this policy is needed, I note that I have recommend changes to Chapter 24 that facilitate the construction of residential activity within building platforms as a permitted activity, as discussed in Issues 2 and 3 above. I also consider that the policies and objectives for Chapter 24 are generally appropriate and in my view the additional text is not necessary and would provide little or no benefit. For these reasons I recommend these submissions are accepted in part.

22. OBJECTIVE 24.2.2 AND POLICIES 24.2.2.1 – 24.2.2.6

22.1 Objective 24.2.2 as notified is:

Non-residential activities are compatible with infrastructure, and maintain and enhance landscape character and amenity values.

22.2 The Telcos, Otago Fish and Game Council (2455) and the New Zealand Transport Agency (2538) (**NZTA**) support the objective as notified.

22.3 Policy 24.2.2.1 as notified is:

Support commercial, recreation and tourism related activities where these activities protect, maintain or enhance the landscape character and visual amenity values.

22.4 FENZ (2660) note in their submission that the organisation is now supported by The Fire and Emergency Act 2017 (the **FENZ Act**). The FENZ Act gives FENZ a mandate to undertake to respond to a wide range of emergencies and perform necessary rescues and provide assistance.

22.5 FENZ seek that community activities are added to Policy 24.2.2.1 because this would assist with fire stations being located strategically throughout the community.

22.6 Relevant here is the PDP 2018 definition of 'community activities' which is:

Means the use of land and buildings for the primary purpose of health, welfare, care, safety, education, culture and/or spiritual well being. Excludes recreational activities. A community activity includes day care facilities, education activities, hospitals, doctors surgeries and other health professionals, churches, halls, libraries, community centres, police purposes, fire stations, courthouses, probation and detention centres, government and local government offices.

22.7 This existing definition is broad and encompasses many activities. Without derogating from the importance of the fire service and emergency facilities, and the obvious importance of the organisation being able to find a convenient location for a station, I do not consider that the Zone is an obvious choice for such activities over the estimated ten-year minimum life of the PDP. A far higher concentration of urban growth is expected to occur within the Queenstown and Arrowtown Urban Growth Boundaries and although the submitter may clarify their need to locate in this area through evidence, I consider that a location within the Urban Growth Boundary and close to transport routes is likely to be preferable.

22.8 The Amenity Zone itself and also the Precinct are primarily intended for farming, rural living and opportunities are provided for non-residential activities that have a need to locate in the Zone. The FENZ submission does not provide any evidence that there will be a need to locate within the Zone. In addition, I note that while community activities are not singled out in Policy 24.2.2.1, the activity status for community activities generally is discretionary (Rule 24.4.20). In this context I do not consider a fire station or emergency services related facilities are likely to be unduly prejudiced by the policy framework.

22.9 Overall, I consider that the identification of community activities generally in the Zone, could undermine the Strategic Directions of the PDP, particularly because the Zone is relatively conveniently located between the Queenstown urban area and Arrowtown, where provision

for community activities may be readily envisaged within these urban zones.

22.10 I recommend that the FENZ submission is rejected.

22.11 Submitter Brustad (2577) et. al has requested the following amendments:

~~24.2.2-4~~ 24.2.3.1 ~~Support~~ Provide for a range of non-residential activities, including commercial, recreation and tourism related activities which rely on the rural land resource and where these activities protect, maintain or enhance the landscape character and visual amenity values identified in the relevant Landscape Classification Unit.

22.12 I consider the amendments would have a broader application than the notified policy. I prefer the notified version because it is likely to better align with the resultant activity status for non-residential activities. For instance Rules 24.4.14 to 24.4.20 provide a discretionary activity status for limited retail activities, commercial recreation, cafes and restaurants, visitor accommodation and community activities. While Rule 24.4.22 provides for industrial activity associated with wineries as a restricted discretionary activity. Rule 24.4.23 states that commercial or industrial activity not otherwise specified in those rules are non-complying.

22.13 I consider that given the high levels of amenity in the Zone and high levels of development pressure, there should be a relatively strict policy application for business activities other than farming or residential activity.

22.14 I therefore consider the notified policy generally aligns better with the activity status for the various non-residential activities identified. I do however support some of the suggested changes, in particular the reference to relying on the rural land resource, this is similar to Rural Zone Policy 21.2.1.10, which seeks that commercial activity in the Rural Zone should have a genuine link with the rural land resource.

22.15 I do not consider the reference to the LCUs to be necessary because the policy has a broader application than the matters that may be identified in the LCUs.

22.16 On this basis I consider that the submission should be accepted in part, and recommend that reference to activities relying on the rural land resource should be added as follows:

Support commercial, recreation and tourism related activities that rely on the rural land resource and where these activities protect, maintain or enhance the landscape character and visual amenity values.

22.17 Policy 24.2.2.2 as notified is:

Ensure traffic, noise and the scale and intensity of non-residential activities do not adversely impact on the landscape character and visual amenity values or affect the safe and efficient operation of the roading and trail network or access to public places.

22.18 Slopehill Properties Limited (2584) request the policy is amended so that it applies where activities do not 'significantly' adversely affect effect, stating that a 'no adverse impact' is too onerous and potentially prohibitive. I consider that limiting the implementation of the policy to instances where effects are significant would not go far enough in terms of appropriate environmental management. I do not agree that as worded it could be construed that it is a 'no effects' policy and there is insufficient justification for this. I recommend the submission rejected.

22.19 Policy 24.2.2.3 as notified is:

Restrict the type and intensity of non-residential activities to those which are compatible in visual amenity terms and in relation to other generated effects (e.g. traffic, noise, and hours of operation) with surrounding uses and the natural environment.

22.20 Submitter Brustad (2577) et. al has requested the entire policy is deleted because in their view there is no justification for compatibility or comparability of non-residential activities.

22.21 In my view the Chapter 24 provisions take a step change from the ODP regime of a mix of rural and rural living zones, to managing an

environment that would be dominated by rural living land use albeit at very low densities overall, and that neither rural production nor business activities are the predominant use in the Zone. In this respect a focus of the Zone should be on managing and maintaining amenity generally, while recognising farming occurs but at a relatively lower intensity than in the Rural Zone within other parts of the District.

22.22 I consider the policy to be useful and relevant, and while similar to Policy 24.2.2.1 it provides a more locally specific approach to managing the effects of non-residential activities within rural living environments. I do not support any changes and recommend the policy is retained as notified.

22.23 Policy 24.2.2.4 as notified is:

Ensure traffic generated by non-residential development does not individually or cumulatively compromise road safety or efficiency.

22.24 NZTA (2538) seek that the policy is amended to read 'the safety and efficiency of the road network', instead of 'road safety or efficiency'. NZTA consider this would more broadly capture the wider transportation network. I agree with the NZTA and recommend the policy is amended. The recommended amendment is:

Ensure traffic generated by non-residential development does not individually or cumulatively compromise ~~road safety or efficiency~~ the safety and efficiency of the road network.

22.25 Policy 24.2.2.5 as notified is:

Ensure non-farming activities with potential for nuisance effects from dust, visual, noise or odour effects are located a sufficient distance from formed roads, neighbouring properties, waterbodies and any residential activity.

22.26 Federated Farmers (2540) support this policy.

22.27 Submitter Brustad (2577) et. al has requested that the entire policy is deleted because in their view it is an unnecessary repetition of Policy 24.2.2.2 While similar, I consider that this policy is more specific to the natural resources that amenity is derived from within the Wakatipu

Basin, and would assist with achieving Objective 24.2.2. I consider the policy should be retained. I recommend this submission is rejected.

22.28 Dagg (2586) requests that this policy is amended to strengthen the reverse sensitivity provisions. The submitter is concerned that activities establishing in close proximity to farming are considered to ensure that the effects of increased development do not adversely affect such activity. The submitter does not provide any alternative phrasing. Particularly in light of Policy 21.2.1.10 that promotes public trails. In the absence of any additional information from the submitter I consider the policies in Chapter 24 relating to reverse sensitivity are the most appropriate, and I recommend rejecting the submission.

22.29 Policy 24.2.2.6 as notified is:

Ensure informal airports are located, operated and managed to maintain the surrounding rural amenity, having regard to the differing densities of the Zone and Precinct.

22.30 Submitter Slopehill Properties Limited (2584) seeks that the last part of the sentence is removed because it is superfluous. I disagree, there are not likely to be sites created under the Precinct densities (minimum 6000m² with 1ha average) that would result in an informal airport complying with the permitted standards that require a 500 metre separation from the boundary of a residential unit. Whereas in the Amenity Zone, this standard is likely to be achievable in many locations. I recommend that this submission is rejected.

23. OBJECTIVE 24.2.3 AND POLICIES 24.2.3.1 – 24.2.3.3

23.1 Objective 24.2.3 as notified is:

Reverse sensitivity effects are avoided or mitigated where rural living opportunities, visitor and tourism activities, community and recreation activities occur.

23.2 Otago Fish and Game Council (2455) supports Objective 24.2.3 and the associated policies.

23.3 Federated Farmers (2540) seek that this objective is amended so that it is clear that the onus is on the new activity to avoid or mitigate effects

on existing activities. I consider that it is inherent that the objective addresses the effects of new sensitive activities becoming a nuisance for existing activities and while I agree with the principle behind the submission, I recommend the objective should be retained as notified.

23.4 Policy 24.2.3.1 as notified is:

Ensure informal airports are not compromised by the establishment of incompatible activities.

23.5 I have not identified any specific submissions on this Policy.

23.6 Policy 24.2.3.2 as notified is:

Ensure reverse sensitivity effects on residential lifestyle and non-residential activities are avoided or mitigated.

23.7 I have not identified any specific submissions on this Policy.

23.1 Policy 24.2.3.3 as notified is:

Support productive farming activities such as agriculture, horticulture and viticulture in the Zone by ensuring that reverse sensitivity issues do not constrain productive activities.

23.2 Federated Farmers (2540) support this policy.

24. OBJECTIVE 24.2.4 AND POLICIES 24.2.4.1 – 24.2.4.6

24.1 Objective 24.2.4 as notified is:

Subdivision and land use development maintains and enhances water quality, ecological quality, and recreation values while ensuring the efficient provision of infrastructure.

24.2 NZTA (2538) support the Objective as notified. Otago Fish and Game Council (2455) supports Objective 24.2.4 and policies.

24.1 Transpower (2442), the asset manager of the National Grid, seek that Objective 24.2.4 is amended to include '*and the protection of the National Grid*'. I note that the National Grid is not located in land zoned Wakatipu Basin, nor is the Transpower Frankton Substation (where the

National Grid terminates) located within the Zone. That said, I acknowledge their submission where they state that future upgrades in other parts of the District cannot be ruled out.

24.2 I do not consider that every utility needs to be provided for expressly in the policy framework, also particularly where the National Grid is not located within the Zone. I note that Regionally Significant Infrastructure, as defined⁴¹ includes the National Grid, is identified in Policy 24.2.4.6. Therefore, taking into account this reference, and the fact that the National Grid's interests are provided for in the PDP District Wide Energy and Utilities Chapter 30, and furthermore, that Transpower are a requiring authority with powers to designate land leads me to the view that the requested text is not necessary. I do not support the requested addition and recommend the Transpower submission is rejected.

24.3 Submitter Brustad (2577) et. al has requested that the words 'land use' are removed. There is no reason given, however I agree that this change would improve the objective in a minor way. I note that the PDP definition of subdivision and development (which was derived from an advice note in notified PDP 2015 Chapter 21 Rural Zone) is:

Includes subdivision, identification of building platforms, any buildings and associated activities such as roading, earthworks, lighting, landscaping, planting and boundary fencing and access/gateway structures.

24.4 Amending the objective would also better align it with the definition of subdivision and development, which is consistent with the intent of the objective. I recommend this submission is accepted.

24.5 Policy 24.2.4.1 as notified is:

Avoid adverse cumulative impacts on ecosystem services and nature conservation values.

24.6 I have not identified any specific submissions on this policy.

24.7 Policy 24.2.4.2 as notified is:

41 Refer to Stage 2 PDP Chapter 25 Earthworks.

Provide for improved public access to and the maintenance and enhancement of the margins of waterbodies including Mill Creek and Lake Hayes.

24.8 Federated Farmers (2540) seek amendments to ensure that improvements to public access occur as a result of development and that there is not an expectation that this be required to occur over existing farmland. I do not consider this issue is likely to materialise because fundamentally the PDP and Chapter 24 are a regulatory document and cannot initiate courses of action until development is proposed. I agree with Federated Farmers, but do not consider any amendments are necessary. I recommend that this submission is rejected.

24.9 Policy 24.2.4.3 as notified is:

Provide adequate firefighting water and fire service vehicle access to ensure an efficient and effective emergency response.

24.10 FENZ (2660) seek that the Policy is modified to replace 'fire service' with 'emergency'. This would broaden the policy ambit to more than just fire fighting and would align the policy with the updated status of the submitter. I agree these changes are more appropriate and recommend the submission is accepted.

24.11 Policy 24.2.4.4 as notified is:

Ensure development does not generate servicing and infrastructure costs that fall on the wider community.

24.12 Federated Farmers (2540) support this policy. NZTA (2538) request the policy is amended to include infrastructure generally so that the effects of development are sustainably managed. I agree with the NZTA's submission. I note that this policy is not intended to be a 'no cost' policy to the Council, but that the servicing and infrastructure costs of the Zone, and the Precinct in particular as it is incrementally developed will ensure infrastructure investment is included and timed through the Council's draft Ten Year Plan (ie.the Long Term Plan) and Government investment in infrastructure such as State Highways. The intent of the policy is to ensure that activities not otherwise

contemplated by the Zone framework do not place an undue burden on infrastructure providers. For instance, there is no expectation that development in the Precinct will be connected to Council's reticulated water or wastewater infrastructure where this would require an extension or upgrade to that network.

24.13 The recommended revised wording of s42A Policy 24.2.4.4 is:

Ensure development does not generate servicing and infrastructure costs that fall on the wider community including infrastructure providers.

24.14 Policy 24.2.4.5 as notified is:

Ensure development infrastructure is self-sufficient and does not exceed capacities for infrastructure servicing.

24.15 Submitter Brustad (2577) et. al seeks that Policies 24.2.4.2 to 24.2.4.4 are removed because in their view the provisions in the Subdivision and Development Chapter 27 provide for management of subdivision development and infrastructure. I disagree, and consider these policies to be important and relevant for the land use chapter. Particularly because not all development is derived from a subdivision, the need to manage servicing associated with land use activities for residential activity on a site, or any non-residential activity. I recommend this submission is rejected.

24.16 Policy 24.2.4.6 as notified is:

Ensure that other utilities including regionally significant infrastructure are located and operated to maintain landscape character and visual amenity values, having regard to the important function and location constraints of these activities.

24.17 The Telcos seek that the policy is amended to include the qualifier 'to the extent practicable', I do not consider this addition would achieve the objectives of Chapter 24 and I consider the enablement provided by PDP Chapter 30 Energy and Utilities will provide sufficient leverage for utilities to be established and maintained. I recommend this part of their submission is rejected.

- 24.18** The Telco's also seek that the policy is relocated to sit under Objective 24.2.1 or 24.2.2 because the Objective it sits within is more focused around managing the effects of subdivision and that it should be located elsewhere to ensure that the primary focus of the policy is on utilities.
- 24.19** I acknowledge this point, but I also take the view that utilities and more specifically regionally significant infrastructure, which includes the Telcos (as defined), are linked to subdivision and development not only in the Zone but elsewhere. I consider the policy generally sits well with the other policies within Objective 24.2.4 that also address infrastructure associated with subdivisions (ie. Private infrastructure), including firefighting and other necessary servicing aspects.
- 24.20** I also accept that while utilities are not specified in the PDP definition of subdivision and development, the definition is not exhaustive and does not disqualify other elements associated with growth and development such as utilities. For these reasons I recommend the Telcos submission is rejected.
- 24.21** Transpower (2442) seek that the word 'maintain' is replaced with 'avoid, remedy or mitigate potential adverse effects'. The submitters reasoning is that Policy 8 of the NPSET, in particular Policy 8, takes a 'seek to avoid' approach, if this cannot be achieved then an 'avoid, remedy or mitigate' avenue is taken. Transpower also consider that the requirement in Policy 24.2.4.6 to 'maintain' is too onerous because there may be some circumstances where regionally significant infrastructure may not be able to maintain landscape character and visual amenity values.
- 24.22** For the reasons set out in my discussion on Objective 24.2.6, I consider that the requirements of the National Grid, notwithstanding that it is supported by the NPSET and that District Plans are required to give effect to that NPS, are not a primary concern to managing activities within the Zone because no National Grid infrastructure is present within the Zone. I also do not agree that Policy 24.2.4.6 needs to be recast to align with the language of Policy 8 of the NPSET, on the chance that the National Grid may one day extend into the Zone. I

consider the policy is appropriately framed at s7(c) matters in the context of the District. I also consider that the context of maintenance is not a 'no change' policy and change is contemplated within the Zone on the basis that activities maintain the values of a respective landscape character unit overall.

24.23 Policy 8 of the NPSET is:

In rural environments, planning and development of the transmission system should seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character and areas of high recreation value and amenity and existing sensitive activities.

24.24 If the policy were to be framed around Policy 8 of the NPSET then I consider that the first position should be to seek to avoid National Grid activities locating within the Zone, because the Zone is an amenity landscape and the finding of the Land Use Study, and the evidence of Ms Gilbert is that the Zone has high recreation and amenity value. However, Transpower do not seek that this part of Policy 8 of the NPSET is added to Policy 24.2.4.6.

24.25 Transpower also seek that the words 'technical constraints' are added to the policy in addition to function and location constraints. I am uncertain as to the difference between a functional and technical constraint. My general understanding is that these are synonymous and I do not support this inclusion.

24.26 On the basis of the above I recommend the submission is rejected.

25. OBJECTIVE 24.2.5 AND POLICIES 24.2.5.1 – 24.2.5.6

25.1 Objective 24.2.5 as notified is:

The landscape character and visual amenity values of the Precinct are maintained and enhanced in conjunction with enabling rural residential living opportunities.

25.2 Otago Fish and Game Council (2455) supports objective 24.2.5 and policies.

- 25.3** Stoneridge Estates et. al seek that the objective is rewritten to 'enable rural residential living opportunities while managing effects of subdivision and development on the landscape character and visual amenity values of the precinct'.
- 25.4** Stoneridge Estates et. al considers the notified objective is flawed because it does not sufficiently contemplate changes to the landscape that will occur through the provisions and outcomes of the Precinct. I disagree and consider that the objective and its associated policies are framed in the context of the 1ha average and 6000m² minimum allotment size. I consider that the development provided for in the Precinct can be achieved through the application of the rules, assessment matters and policies. I consider this submission should be rejected.
- 25.5** Stoneridge Estate et. al also seek modifications to Policies 24.2.5.1, 24.2.5.2, 24.2.5.4, 24.2.5.5 and 24.2.5.6. The amendments seek to include language such as avoid, remedy or mitigate, and to 'take into account' rather than 'maintain and enhance'. I consider that the notified policies are more appropriate and would achieve the objective. I recommend these submissions are rejected.
- 25.6** Williamson (2276) seeks that Objective 24.2.5 is amended to reflect that the landscape character and visual amenity will change over time, because it is unlikely these values can be 'maintained and enhanced'. I disagree, and consider that the objective is phrased in the context of the anticipated development occurring. The objective and the related policies overall contemplate landscape change, but as part of this occurring, a high bar is set to ensure that development is the most appropriate. I consider the same response is applicable to the submitters request to modify Policy 24.2.5.1. I recommend these submissions are rejected.
- 25.7** Policy 24.2.5.1 as notified is:

Provide for rural residential subdivision, use and development only where it protects, maintains or enhances the landscape character and visual amenity values as described within the landscape character unit as defined in Schedule 24.8.

25.8 CIT (2307) does not support the reference to LCUs within the Precinct. I disagree and consider the LCUs will assist with development achieving the objectives of Chapter 24. I recommend that this submission is rejected.

25.9 Submitter Brustad (2577) et. al seek that the word 'only' is removed. I consider that in the context of the residential density provided for in the Precinct that the policy framework is sufficiently strong to ensure Objective 24.2.5 is achieved. I recommend the policy is retained, with the minor grammatical change to capitalise the LCUs. On this basis I recommend the submission is accepted in part.

25.10 Policy 24.2.5.2 as notified is:

Promote design-led and innovative patterns of subdivision and development that maintain and enhance the landscape character and visual amenity values of the Wakatipu Basin overall.

25.11 Williamson (2276) support the policy but question how it could apply and relate to the Wakatipu Basin overall. I consider the policy is framed in this manner to ensure that development is sensitive to the Zone and not just be inward looking where certain densities are contemplated for in the one. For instance, a poorly located and designed development in the Precinct, or a proposal that does not comply with the identified setbacks from landscape features, or the prescribed densities could be likely to have adverse effects on the wider zone and the visual amenity values as viewed from anywhere in the Zone, not just the Precinct.

25.12 I consider the policy is appropriate and does not require any modifications. I recommend the submission is rejected.

25.13 Policy 24.2.5.3 as notified is:

Provide for non-residential activities, including restaurants, visitor accommodation, and commercial recreation activities while ensuring these are appropriately located and of a scale and intensity that ensures that the amenity, quality and character of the Precinct is retained.

25.14 Williamson (2276) supports the policy as notified.

25.15 Policy 24.2.5.4 as notified is:

Implement minimum and average lot size standards in conjunction with building coverage and height standards so that the landscape character and visual amenity qualities of the Precinct are not compromised by cumulative adverse effects of development.

25.16 Williamson (2276) supports the policy as notified.

25.17 Brustad (2577) et. al seek that the policy be amended to remove the reference to managing cumulative adverse effects, but instead to specify that the policy seeks to encourage variation in subdivision design. The submitter considers that the intention of an average lot size is not to reduce the cumulative effects, but to encourage variation in subdivision design.

25.18 I consider that the imposition of an average lot size is an important determinant of the distribution of residential activity in those areas where it applies. While the average and minimum allotment size ranges provide different functions, where an average is used it is equally important as the minimum for managing the overall intensity of residential activity. In many respects I consider that the average density limit is more important than a minimum because the average is the overall density that influences the environmental outcome. While the average is used as a flexible approach to the subdivision and development pattern, and assists with implementing landscape design led policies, the overall density achieved will be contingent upon the average prescribed. If the average density across an area is not adhered to then in a high amenity landscape context there is a high likelihood that cumulative adverse effects would arise.

25.19 I also note that in the event that the average prescribed allotment size is not adhered to, the activity status would be non-complying. In this context I consider that implementing Policy 24.2.5.4 and addressing cumulative effects is critical to achieving Objective 24.2.5.

25.20 For these reasons I recommend that the policy is retained as notified and the submission is rejected.

25.21 Policy 24.2.5.5 as notified is:

Maintain and enhance a distinct and visible edge between the Precinct and the Zone.

25.22 The X-Ray Trust and Avenue Trust (2619) support this policy.

25.23 Policy 24.2.5.6 is discussed in Issue 4 above.

26. 24.3 OTHER PROVISIONS AND RULES

Advice Notes 24.3.2

26.1 Provision 24.3.2.1 as notified is:

A permitted activity must comply with all of the rules and any relevant district wide rules.

26.2 Provision 24.3.2.2 as notified is:

The surface of lakes and rivers are zoned Rural, unless otherwise identified on the Planning Maps as zoned Wakatipu Basin Rural Amenity Zone.

26.3 Provision 24.3.2.3 as notified is:

Guiding Principle: Previous Approvals

- a. *Requirements relating to building platforms and conditions of consents, including landscaping or other visual mitigation, that are registered on a site's computer freehold register as part of a resource consent approval by the Council are considered by the Council to remain relevant and will remain binding unless altered or cancelled.*
- b. *Applicants may apply to alter or cancel any conditions of an existing resource consent as a component of an application for resource consent for development. Whether it may be appropriate for the Council to maintain, or to alter or cancel these conditions shall be assessed against the extent to which a proposal accords with the objectives and provisions of the Wakatipu Basin Rural Amenity Zone and Wakatipu Basin Lifestyle Precinct.*

26.4 Williamson (2276) opposes this provision on the basis that it is inconsistent with the intent of providing greater recognition to existing development rights and that the RMA should be relied on for any variations to past consents or consent notices. I anticipate the

recommendations made above in relation to activity status for construction within a previously approved building platform should satisfy the concerns of the submitter. I note that Provision 24.3.2.3 is an advice note and does not seek to usurp the RMA where it sets out the requirements for varying conditions of resource consents. In any event, under the RMA applications to alter or cancel conditions of an existing resource consent are processed as fully Discretionary activities under section 221, and therefore the objectives and provisions of the Amenity Zone and/or Precinct (the latter if relevant) would be relevant considerations. Given the changes made above I recommend the submission is accepted in part, however I do not recommend any changes to the text of 24.3.2.3.

26.5 Provision 24.3.2.5 as notified is:

Clarifications of the meaning of root protection zone, minor trimming of a hedgerow, minor trimming and significant trimming are provided in Part 32.3.2 of the Protected Trees Chapter 32 .

26.6 Submitter Brustad (2577) et. al has requested that Advice Note 24.3.2.5 on the meaning of root protection zone, minor trimming of a hedgerow and significant trimming be removed, contingent with their request to remove Rule 24.4.29. For the reasons set out in Issue 4 above I recommend the rule is retained and that this submission is rejected.

26.7 The PDP now includes this clarification in Chapter 2 Definitions, rather than Chapter 32 Protected Trees. I therefore recommend the text is amended to refer to Chapter 2 definitions. I consider this to be a minor correction that falls within the ambit of cl16(2) of the RMA.

26.8 Transpower (2442) seek that an advice note is included referring to Chapter 30 Energy and Utilities and in particular the respective National Grid related provisions. I do not consider this amendment to be necessary because Chapter 30 is already referenced. I also note that the Stage 2 Earthworks Chapter 25 contains more detailed guidance around earthworks activity near utilities. I recommend the submission is rejected

General Rules 24.3.3

26.9 Provision 24.3.3.1 as notified is:

The Wakatipu Basin Lifestyle Precinct is a sub-zone of the Wakatipu Basin Rural Amenity Zone and all rules in Table 24.1 apply to the Precinct. Where specific rules and standards are identified for the Precinct in Tables 24.2 and 24.3, these shall prevail over the Zone rules in Table 24.1.

26.10 I have not identified any specific submissions on this provision. However the provision is relevant in terms of the matters raised by Williamson et. al relating to whether provisions apply specifically to the Amenity Zone or Precinct. It confirms that the Precinct is a sub zone of the Amenity Zone, and confirms the application of rules to the two areas. I do not recommend any changes.

26.11 Provision 24.3.3.2 as notified is:

All activities, including any listed permitted activities shall be subject to the rules and standards contained in Tables 24.1 to 24.3.

26.12 I have not identified any specific submissions on this provision.

27. 24.4 RULES

27.1 The X-Ray Trust and Avenue Trust (2619) support the rules in Table 24.1 and 24.2.

27.2 Rule 24.4.1 as notified is:

24.4.1 Any activity not listed in Tables 24.1 to 24.3.

NC

27.1 Submitter Williamson (2276) seeks that the rule is amended to clarify that Table 24.3 are standards not activities. I agree that this minor change will assist. I recommend this submission is accepted.

27.2 Rule 24.4.2 as notified is:

24.4.2 <i>Farming.</i>	<i>P</i>
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27.3 Federated Farmers (2540) support this rule.

27.4 Rule 24.4.3 as notified is:

24.4.3 <i>The use of land or buildings for residential activity except as provided for in Table 24.1 or Table 24.2.</i>	<i>P</i>
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27.5 I have not identified any submissions on this rule.

27.6 Rule 24.3.4 as notified is:

24.3.4 <i>One residential unit per site</i>	<i>P</i>
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27.7 I note that the rule is referenced as 24.3.4, where it should be 24.4.4. This should be corrected through clause 16(2) of Schedule One of the RMA.

27.8 Federated Farmers (2540) support this rule.

27.9 Submitter Brustad (2577) et. al seeks that residential building platforms are included in this rule. For the reasons set out in Issues 2 and 3 above I do not support this as a permitted activity. I do agree that building platforms can be introduced by way of land use provisions, but that these are required to be assessed via a restricted discretionary activity resource consent. As stated in Issue 3 above I recommend this rule is deleted because I recommend the Amenity Zone and Precinct residential density standards are included as rules in Chapter 24.

27.10 Rule 24.4.5 as notified is:

24.4.5 <i>The construction of buildings including exterior alteration to existing buildings including buildings located within an existing approved/registered building platform area.</i>	<i>RD</i>
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Discretion is restricted to:

- *Building location scale and form.*
- *External appearance including materials and colours.*
- *Accessways.*
- *Servicing and site works including earthworks.*
- *Retaining structures.*
- *Infrastructure (e.g. water tanks).*
- *Fencing and gates.*
- *External lighting.*
- *Landform modification, landscaping and planting (existing and proposed).*
- *Natural hazards.*

Excludes farm buildings as provided for in Rule 24.4.8

27.11 Federated Farmers (2540) support this rule.

27.12 Submitter Brustad (2577) et. al seeks that this rule is amended to provide for buildings as a permitted activity as under the ODP regime through a 'grandfather clause' that provides for buildings within an approved building platform at the date the Variation was notified, and that would have been in the Rural Residential Zone under the ODP. For the reasons set out in Issues 2 and 3 above I do not support this approach, and I recommend that permitted activity status is appropriate for buildings within previously approved building platforms created under Chapter 24, and that buildings within building platforms require a restricted discretionary activity resource consent if they have been approved under previous planning regimes. For these reasons I recommend this submission is accepted in part.

27.13 FENZ seek that the reference in the matters of discretion to accessways and infrastructure are retained. I recommend no changes in this regard and accordingly recommend the submission is accepted.

27.14 Dalefield Trustee Limited (2097) seek that a permitted threshold of 33% is provided for external alterations to reduce inefficiencies with small scale extensions to buildings. As discussed in Issue 3 above I recommend a new rule (S42A Rule 25.4.XD) that permits extensions up to 30% over a ten year period, subject to other standards including S42A Rule 25.5.XC relating to colour. I consider this submission is achieved by my recommended changes and I recommend it is accepted in part.

27.15 Rules 24.4.6 and 24.4.7 as notified are:

24.4.6	<i>Residential Flat not exceeding 150m² gross floor area and attached to the Residential Unit.</i>	<i>P</i>
24.4.7	<i>Residential Flat not exceeding 150m² gross floor area that is not attached to the Residential Unit.</i> <i>Discretion is restricted to:</i> <ul style="list-style-type: none">• <i>Building location scale and form.</i>• <i>External appearance including materials and colours.</i>• <i>Accessways.</i>• <i>Servicing and site works including earthworks.</i>• <i>Retaining structures.</i>• <i>Infrastructure (e.g. water tanks).</i>• <i>Fencing and gates.</i>• <i>External lighting.</i>• <i>Landform modification, landscaping and planting (existing and proposed).</i>• <i>Natural hazards.</i>	<i>RD</i>

27.16 The NZTA (2538) support the rule as notified. I note that consequential recommendations are made to the rule as a result of recommending that the building platforms are included in the Chapter 24 framework.

27.17 Rule 24.4.8 as notified is:

24.4.8	<i>Farm Buildings.</i>	<i>P</i>
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27.1 Federated Farmers (2540) support this rule.

27.2 Submitter Williamson (2276) supports the rule but seeks that it is clarified to occur outside a building platform. I note that recommended S42A Rule 24.4.XA is the rule that enables the identification of building platforms but relates only to a residential unit. Therefore this matter is addressed and the submission is accepted in part.

27.3 Rule 24.4.9 as notified is:

24.4.9	<i>The construction of any buildings including the physical activity associated with buildings such as roading, access, lighting, landscaping and earthworks not specifically provided for by any other rule in Table 24.1 or Table 24.2.</i>	<i>D</i>
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27.4 Rule 24.4.9 is opposed by BSGT Limited (2487) because they consider it creates unnecessary duplication and uncertainty. As set out in Issue 3 above I recommend this rule is deleted.

27.5 Rules 24.4.10 to 24.4.24 address a variety of activities and have attracted less submissions. These are addressed where submitters oppose the rules as follows:

27.6 Renee Kampman (2433) opposes Rule 24.4.12 and seeks that informal airports be a discretionary activity where it is located within 750m of a neighbouring property. Mr Kampman raises the difference in noise effects associated with 3-5 landings compared to one. I am uncertain if Mr Kampman has considered this submission in view of related Rule 24.4.28 that makes informal airports a discretionary activity within the Precinct, or Rule 25.5.14 that permits informal airports within the Amenity Zone on the basis they do not exceed 2 trips per day, and shall be located a minimum distance of 500 metres from any other zone or the notional boundary of any residential dwelling not located on the same site.

27.7 I consider that these standards achieve the general intent of Mr Kampman's submission. Without any more detailed information I recommend his submission is rejected.

27.8 Rule 24.4.14 as notified is:

24.4.14	<i>Retail sales of farm and garden produce and wine grown, reared or produced on-site or handicrafts produced on the site where the access is onto a State Highway.</i>	<i>D</i>
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27.9 As shown in Appendix C to Mr Smith's Transportation evidence, State Highway 6 generally skirts along through the southern part of the of Zone except in the Arrow Junction and Morven and Gibbston Highway flats area where the Zone is located on either side of the Stage Highway.

27.10 The NZTA (2538) support the rule as notified.

27.11 Federated Farmers seek that the activity status is changed to restricted discretionary. I note that this rule addresses the activity only, and any building is subject to the rules for buildings which is the same as any other activity. Any landscape or visual amenity effects associated with the prominence of the road being a State Highway can be addressed through other provisions. The key matters to consider therefore are traffic and safety related issues. I recommend the Federated Farmers submission is accepted and this activity can be modified as follows:

24.4.14	<p><i>Retail sales of farm and garden produce and wine grown, reared or produced on-site or handicrafts produced on the site where the access is onto a State Highway.</i></p> <p><u><i>Discretion is restricted to:</i></u></p> <ul style="list-style-type: none"> • <u><i>access safety and transportation effects.</i></u> • <u><i>on-site parking.</i></u> 	<u><i>RD</i></u>
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27.12 I note that this is at odds with the NZTA’s submission supporting the rule as notified with discretionary activity status, however I note that the matters of discretion are related to access and transportation, and that no ‘non-notification’ clauses are recommended. Therefore, although this part of the NZTA submission is rejected, I do consider that the NZTA concerns are still addressed. I also recommend that this rule is specified in Section 24.6 as an exception to the processing of applications for resource consent for restricted discretionary activities on a non-notified basis. This would further address the NZTA’s concerns with the change in status of the rule.

27.13 Rule 24.4.17 as notified is:

24.4.17	<i>Cafes and restaurants.</i>	<i>D</i>
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27.14 Submitter Ffiske et. al opposes this rule and considers that it is inconsistent with Rule 24.4.22 that requires a restricted discretionary activity consent for industrial activities associated with a vineyard. I consider that a more enabling activity status with defined parameters is more suitable for Rule 24.2.22 because these activities are ancillary to a farming activity. I consider that cafes and restaurants many not have a clear relationship with the rural land resource or effects similar to activities ancillary to farming and I consider a discretionary activity

status is appropriate. Cafes and restaurants could operate at later hours on a regular basis and I consider wider discretion is appropriate.

27.15 I recommend this submission is rejected.

27.16 Rule 24.4.20 as notified is:

24.4.20	<i>Community activities.</i>	<i>D</i>
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27.17 FENZ oppose the discretionary activity status as it relates to fire stations and seek that fire stations are made a restricted discretionary activity, with matters of discretion relating to vehicle manoeuvring, location, design and external appearance of buildings, location and functional requirements, community safety and resilience, screening and landscaping, and privacy and sunlight access.

27.18 While fire fighting and emergency services are of clear importance to the community, I do not support a bespoke rule for one of potentially many community activities where there is no evidence provided by the submitter that there is a real likelihood of a fire station being required in the Zone, and needing to have greater certainty about obtaining consent in the Basin. I recommend this submission is rejected. I also further note that the matters of discretion would require further consideration as to what is ought to be considered, in particular community safety and resilience.

28. TABLE 24.2 ACTIVITIES WITHIN THE LIFESTYLE PRECINCT

28.1 Rules 24.4.25 and 24.4.26 as notified are:

24.4.25	<i>Residential Flat not exceeding 150m² gross floor area that is not attached to the principal Residential Unit but is not separated from the principal Residential Unit by more than 6 metres.</i>	<i>D</i>
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24.4.26	<i>Residential Flat not exceeding 150m² gross floor area that is not attached to the principal Residential Unit and is separated from the principal Residential Unit by more than 6 metres.</i>	<i>NC</i>
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- 28.2** Submitter Brustad (2577) et. al seek that a new activity unrelated to residential flats is inserted in this location. The suggested rules provide for controlled activity status for a residential building platform in the Precinct that comply with the density standards. The submitter explains that these are to provide for existing property rights under the ODP for rural living zones. I note in this regard that areas zoned as Lifestyle Precinct also include land zoned Rural under the ODP (and Stage 1 PDP 2015), so the submitter's reason does not apply to all of the notified Precinct (nor the Precinct as sought in rezoning submissions).
- 28.3** I have assessed this submission collectively in Issues 2 and 3 above and I recommend that in the residential building platforms in the Precinct are permitted. As such I recommend this submission is rejected.
- 28.4** I do however agree with Submitter Brustad et. al that where there is a consented building platform, then the rules providing for assessment of the location of the principal residential unit and residential flat can be dispensed with, because the approval of the actual building platform has confirmed that buildings are anticipated and that any potential adverse effects associated with the sprawl of buildings have been addressed through the consenting of the building platform. I recommend this submission is accepted in part. I recommend that the rules are amended so that they do not apply to residential flats located within an approved building platform.
- 28.5** Renee Kampman (2433) opposes the non-complying status for Residential Flats in the Precinct where they are 6m or more from the principal dwelling. The submitter seeks that the activity status is the same as in the Amenity Zone. I consider that by virtue of my recommendations to enable the identification of building platforms and consequential changes to these rules not applying within approved building platforms that his submission is accepted in part. Where the rule is still applicable, I consider that a non-complying status is appropriate because the separation of buildings on the same site in the Precinct is a more critical issue to manage, given the higher densities envisaged. I recommend the rule be retained and non-complying status is applied. Overall, I recommend this submission is accepted in part.

28.6 Rule 24.4.27 as notified is:

<p>24.4.27 <i>Panelbeating, spray painting, motor vehicle repair or dismantling, fibreglassing, sheet metal work, bottle or scrap storage, motorbody building, or any activity requiring an Offensive Trade Licence under the Health Act 1956.</i></p> <p><i>Excludes activities undertaken as part of a Farming Activity, Residential Activity or as a permitted home occupation.</i></p>	<p><i>PR</i></p>
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28.7 I have not identified any specific submissions on this rule.

28.8 Rule 24.4.28 as notified is:

<p>24.4.28 <i>Informal airports.</i></p>	<p><i>D</i></p>
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28.9 Submitter Hunter Leece and Anne Kobienia (2122) request that informal airports are made as prohibited activities. I consider that this is too onerous and no evidence has been provided to justify that prohibition. It would not provide the opportunity for a case to be made through a resource consent application for a proposal to establish an informal airport and consider the merits of the proposal against the adverse effects. I also do not consider prohibited activity status finds support in the recommended objectives and policies for the chapter. I recommend this submission is rejected.

28.10 Rule 24.4.29 relates to restrictions on clearing of vegetation. The Submissions and my recommendations on them are discussed in Issue 4 above.

29. 24.5 STANDARDS

29.1 FENZ (2660) seek a range of exemptions to Rules 24.5.1 (building coverage), 24.5.2 (setback from internal boundaries), 24.5.3 (building height) and 24.5.4 (setback from roads). I do not consider there to be any clear resource management reasons that justify these exemptions. If there were a clear reason for these exemptions, it could suggest that fire stations may not be an appropriate activity within the Zone. I recommend the submission is rejected.

29.2 Rule 24.5.1 as notified is:

<p>24.5.1 Building coverage</p> <p><i>The maximum building coverage for all buildings shall be 15% of lot area, or 500m² gross floor area whichever is the lesser.</i></p> <p><i>Discretion is restricted to:</i></p> <ul style="list-style-type: none">• <i>Building location, character, scale and form.</i>• <i>External appearance including materials and colours.</i>• <i>Landform modification/planting (existing and proposed).</i>	<p>RD</p>
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29.3 Stoneridge Estates et. al seek that that the rule is amended to provide for a maximum site coverage of 1000m² conditional upon the size of the lot. For lots greater than 4000m² the limit is requested to be 15% or 1000m², and for lots smaller than 4000m², the requested building coverage is restricted to 25%.

29.4 Regarding maintaining existing development rights in the ODP 'legacy' Rural Residential Zone (as noted above this doesn't align neatly with the Precinct as notified) I note that ODP Rule 8.2.4.1 (1) requires a building coverage limit of 15% in the Rural Residential Zone. Therefore where sites are created to the expected 4000m² minimum allotment size the building coverage limit is typically 600m².

29.5 Submitters CIT (2307) and DPL (2376) seek that the 500m² limit apply to any individual building and that it refers to the ground floor area rather than gross floor area. Submitter Dennison (2301) raises similar issues. I respond to this issue below when addressing the Brustad et al submission.

29.6 Submitter Brustad (2577) et. al seeks that this area is increased to 1000m². This matter was also canvassed in the Stage 1 PDP s42a for the Chapter 21 Rural Zone and Chapter 22 Rural Residential and Rural Lifestyle Zones, where submitters sought that the 500m² limit be removed entirely. I note that the 500m² limit for buildings is retained in the PDP decisions version. I consider the 500m² limit is appropriate because it would provide the Council the discretion to determine whether, due to the size of the building, any additional mitigation is required or in the case of constructing buildings within a platform,

whether the building has adverse effects that do not accord with the basis for the approval of the building platform.

29.7 I also refer to and rely on Section 63 of Ms Gilbert's evidence where she recommends the 500m² limit is retained.

29.8 For these reasons I recommend these submissions are rejected and the 500m² limit is retained.

29.9 Brustad et al also seeks that the reference to 'gross floor area' is removed because building coverage is defined. I acknowledge this and also note that this definition is included in Chapter 2 of the PDP. I consider that ground floor area is a more useful and fairer limit because the footprint of buildings and their scale and adverse effects within the landscape are what the rule is seeking to manage in order to achieve the Objectives of Chapter 24, not its floor area.

29.10 On this matter, the equivalent PDP Rural Zone Chapter 21 and Rural Residential and Rural Lifestyle Zones Chapter 22 rules limit ground floor area to 500m² and I consider that this is also appropriate in this context. I recommend that the word 'gross' is replaced with 'ground' and that the submission is accepted in part.

29.11 Slopehill Properties Limited (2584) seek that 'the benefits' of the proposal' and 'location or other practical constraints' are added to the matters of discretion to all restricted discretionary activities. I consider that these factors are inherently part of the consideration and the level of regulation should focus on the effects with not complying with the rule. I recommend these submissions are rejected.

29.12 Rule 24.5.2 as notified is:

24.5.2	Setback from internal boundaries	<i>RD</i>
	<i>The minimum setback of any building from internal boundaries shall be 10m.</i>	
	<i>Discretion is restricted to:</i>	
	<ul style="list-style-type: none"><i>• Building location, character, scale and form.</i><i>• External appearance including materials and colours.</i>	

- *Landform modification/planting (existing and proposed).*

29.13 Submitters Dennison (2301) and United Estates Ranch (2126) support the rule.

29.14 Submitter Brustad et. al seeks that the setback is amended to 15m in the Zone to replicate the ODP rules. I consider the 10m setback is appropriate as notified. The submitter has not provided any information as to why a 15m setback is more appropriate. I recommend this submission is rejected.

29.15 Submitter Hunter Leece and Anne Kobienia (2122) consider that the setback from internal boundaries rule should be 75m, the same as the setback from a road boundary in the Precinct. Their reasons are that residents should be afforded the same degree of amenity as those views from public places. I accept that the provisions focus on the views from public places such as roads. While amenity within the Zone for residents and visitors to properties is important, the views from public places are critical in terms of achieving the s42A Objectives of Chapter 24 (Objective 24.1 and 24.2.5). A combined setback of 75m for both roads and internal boundaries could render a development unlikely to comply with the setback rules. I recommend this submission is rejected.

29.16 Rule 24.5.3 as notified is:

24.5.3 *Height of buildings* RD

The maximum height of any building shall be 6m.

Discretion is restricted to:

- *Building location, character, scale and form including the pitch of roofs.*
- *External appearance including materials and colours.*
- *Landform modification/planting (existing and proposed).*

29.17 BSGT Limited (2487), Stoneridge Estate et. al, Debbie MacColl (2350), Philip Bunn (2353), Steven Bunn (2356) and Dennison (2301) seek the height limit is increased to 8m and infringing the rule should be a non-complying status imposed.

- 29.18** Williamson (2276) et. al support the 6m maximum limit but request the activity status is discretionary. Dalefield Trustee Limited (2097) seek that the limit is increased to 8m, but that if there is concern with the height of 8m then there could requirements for minimum roof pitches so to control the potential for tall, large, flat roof structures.
- 29.19** Submitters CIT (2307) and Brustad et. al seeks an 8 metre height and considers that this is more appropriate because this is the operative (ODP⁴²) height limit for buildings.
- 29.20** It is my experience that it is generally considered to be acceptable to have buildings up to 8m in the ODP Rural Residential and Rural Lifestyle Zones⁴³. However, although an 8m maximum height is specified for residential buildings in the Rural Zone, and a maximum of 10m for farming and other buildings, unless there is a functional necessity for buildings above one level, many building platforms approved for residential activity in the ODP Rural General Zone are not more than 6 meters in height.
- 29.21** My experience is that it is relatively common for a condition to be volunteered by the applicant agreeing that buildings must not be greater than a height typically between 4.5m to 6m above existing ground level, depending on the sensitivity of the landscape.
- 29.22** Therefore, it is my view that while the ODP has a height limit of 8m for residential buildings, retaining the 8m height limit is not justified in areas of the Amenity Zone and Precinct currently zoned Rural.
- 29.23** I acknowledge that there is a range of two-story buildings across the Zone, many of which are located within those areas zoned Rural Residential in the ODP for instance in Lake Hayes North and Dalefield.
- 29.24** I note that the activity status for infringing the rule is restricted discretionary which is less onerous than the non-complying status for height related non-compliances in the ODP Rural General, Rural Residential and Rural Lifestyle Zones. I consider that it is important

42 ODP Part 5 Rural Areas – Rules. Rule 5.3.5.2 I (a).

43 ODP Part 8 Rural Living Area – Rules. Rule 8.2.4.2 ii (a).

given the inherent development right afforded in the Zone that the building height is relatively conservative because it could otherwise be construed that notwithstanding the assessment matters and policy framework, that the 8m height limit is treated as the permitted benchmark as expected in urban zones.

29.25 I consider that to provide more flexibility and to recognise functional needs where these arise, that the 6m height limit be retained, and that between 6m to 8m there is a restricted discretionary activity status and thereafter, buildings over 8m are non-complying. I consider that this could assist with providing for a range of buildings and circumstances across the entire Zone, while still ensuring the rules are aligned with the policy framework. This also acknowledges the matter of existing buildings in the Zone that are over a height of 6m, where alterations are proposed between 6m to 8m in height. These circumstances can be more readily viewed in the context of the upper threshold limit of 8m, after which building height infringements are a non-complying activity.

29.26 I refer to and rely on Ms Gilbert’s evidence at Section 64 where she maintains her view that 6m is appropriate.

29.27 On this basis and taking into account the concerns of submitters, I recommend the submissions opposing the notified rule are accepted in part. My recommended s42A version of Rule 23.5.3 is provided below. I have followed the PDP style where it uses a similar tiered rule structure for building height standards in PDP Chapter 9 High Density Residential Zone Rule 9.5.2:

<p>24.5.3</p>	<p>Height of buildings</p> <p><u>24.5.3.1</u> The maximum height of any building shall be 6m <u>except where specified in Rule 24.5.3.2.</u></p>	<p>RD</p> <p>Discretion is restricted to:</p> <ul style="list-style-type: none"> • Building location, character, scale and form including the pitch of roofs. • External appearance including materials and colours.
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	<p><u>24.5.3.2 The maximum height of any building shall be 8m.</u></p>	<ul style="list-style-type: none"> Landform modification/planting (existing and proposed). <p><u>NC</u></p>
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29.28 Rule 24.5.4 as notified is:

24.5.4	<p><i>Setback from roads</i></p> <p><i>The minimum setback of any building from road boundaries shall be 20m in the Zone and 75m in the Precinct.</i></p> <p><i>Discretion is restricted to:</i></p> <ul style="list-style-type: none"> <i>Building location, character, scale and form.</i> <i>External appearance including materials and colours.</i> <i>Landscaping/planting (existing and proposed).</i> 	<i>RD</i>
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29.29 The X-Ray Trust and Avenue Trust (2619) support the 75m setback from roads in the Precinct.

29.30 CIT (2307) and DPL (2376) seek that the setback from roads is reduced to 10m anywhere in the Zone. Debbie MacColl (2350), Philip Bunn (2353) and Steven Bunn (2356) seek that the ODP setbacks of 10 metres are applied.

29.31 Slopehill Properties Limited (2584) seek that the setback is 20m throughout. Mike and Gemma Smith (2263) consider the 75m setback to be too restrictive and that within the Lake Hayes Terrace Landscape Unit the setback of development from roads should be 20m.

29.32 Ffiske et. al request the 75m setback be reduced to 20 metres and considers that the rule is too onerous given the minimum lot size of 6000m² in the Precinct. Ffiske et. al also make the point that the setback does not provide for areas with existing development in the Precinct that are already located within the setback.

29.33 Dalefield Trustee Limited (2097) oppose the 75m setback in the Precinct and seek that it is reduced to 30m because of the established pattern of built form along Mountain View Road and that the combination of the setback and the 6000m² would unduly limit the development of properties.

- 29.34** Submitter Brustad et al also seeks that this rule be amended to require a 10m setback in the Precinct and a 20m setback in the Zone. No information is provided other than an explanation that this reflects the ODP. Similarly Bagrie et. al request the setback is reduced to 20m in both zones.
- 29.35** I refer to and rely on Ms Gilbert's evidence and the Land Use Study that identified the importance of providing for visual relief and spaciousness, particularly within the Precinct, and in the context of the residential development rights afforded to each site. I support the notion of an increased setback from road boundaries and I consider that the relatively small minimum lot size of 6000m² combined with the minimum average of 1ha provides sufficient flexibility that it is feasible that subdivision design can achieve compliance with the rule. I consider that this is a particularly important rule to assist with achieving Objective 24.2.1 of Chapter 24.
- 29.36** With regard to the matter of imposing a setback of 75m within environments that have been established with the ODP setback from roads, ODP Rule 8.2.4.2.ix requires a 10m setback from roads and in the Rural Residential Zone north of Lake Hayes, the minimum setback of roads from Speargrass Flat Road shall be 15m.
- 29.37** Ms Gilbert discusses in Section 65 of her evidence the need for a 75m setback, and notes that the issue is not just the prominence of buildings. The establishment of vegetation along the road boundary that potentially block views and degrade openness where this is still present is also important. The emphasis is on maintaining openness and relatively untrammelled views within the Wakatipu Basin currently enjoyed from public places, primarily roads in the less established parts of the Precinct. Ms Gilbert has considered whether a reduced setback is worthwhile in the more developed areas, most obviously those established under the ODP Rural Residential Zone. Ms Gilbert does not consider this to be practicable from a drafting perspective and that the importance of not degrading the views to any surrounding ONL/ONF is paramount.

29.38 I agree with Ms Gilbert and for these reasons I recommend the submission is rejected and the rule is retained.

29.39 Rule 24.5.5 as notified is:

24.5.5 *Setback from identified landscape features* RD

Any building or accessway shall be located a minimum of 50m from the boundary of any identified landscape feature as identified on the planning maps.

Discretion is restricted to:

- *Building location, character, scale and form.*
- *External appearance including materials and colours.*
- *Landform modification/planting (existing and proposed).*

29.40 In addition to the submission of the Queenstown Trails Trust discussed above, the X-Ray Trust and Avenue Trust (2619) oppose the rule and consider that these provisions are affording a greater level of protection to this s7(c) amenity landscape than s6(b) ONL/ONF landscapes.

29.41 Submitter Brustad et. al seeks a non-related replacement rule associated with standards for colours of permitted buildings. I have discussed this matter in Issue 4 and I refer to that assessment.

29.42 Submitter Brustad has also requested that Rule 24.5.5 in its entirety be removed because in their view it is not necessary and is arbitrary to have setback rules from ONF/L, noting that the submitter has not opposed the relevant policy (Policy 24.2.1.6) support for appropriate setback to protect outstanding values has been retained.

29.43 Submitters Donaldson (2229) and McGuinness (2292) seek controlled activity status, which in their view is appropriate because the purpose of the Precinct is rural residential development. I do not consider controlled activity status would provide sufficient oversight and would be likely to compromise the ability for the Policy 24.2.1.5 to be implemented. Development in the Precinct is anticipated to be very responsive to the landscape and poorly located, designed or mitigated proposals should be able to be declined if necessary. I recommend this submission is rejected.

- 29.44** As discussed above, this rule is not related to ONF/L areas as identified on the PDP Planning Maps, but to identify areas of landscape sensitivity within the interface between the Amenity Zone and Precinct. These areas are not s6(b) landscapes but amenity landscapes in terms of s7(c) of the RMA. While the intention of the rule is that the preferred position is that activities do not located within 50m of the identified landscape feature, the key aim of the rule is to provide the opportunity for additional oversight in areas that Ms Gilbert has identified through the Land Use Study as having limited capacity for subdivision and development. While the 50m setback is somewhat arbitrary I consider that the identification of the landscape features themselves and the rule provides guidance on areas within the Zone that require additional oversight where development including accessways are proposed.
- 29.45** Ms Gilbert also recommends that the setback rule is important to ensure the retention of the landscape values of more open, and visually sensitive parts of the Zone.
- 29.46** I recommend these submissions are rejected and that the rule is retained.
- 29.47** Rule 24.5.3 as notified is:

24.5.6	<i>Setback from boundaries of non-residential buildings housing animals</i>	<i>RD</i>
	<i>The minimum setback from boundaries for any building housing animals shall be 30m.</i>	
	<i>Discretion is restricted to the following:</i>	
	<ul style="list-style-type: none"> • <i>Effects on open space, rural living character and amenity.</i> • <i>Effects on privacy, views and outlook from neighbouring properties and public places.</i> • <i>Reverse sensitivity effects on adjacent properties including odour and noise.</i> • <i>Landform modification/planting (existing and proposed).</i> 	

- 29.48** Federated Farmers support this rule, acknowledging that the Zone is a relatively unique rural zone in terms of the high levels of amenity. I recommend their submission is accepted.
- 29.49** Rule 24.5.7 as notified is:

24.5.7 Setback of buildings from waterbodies

RD

The minimum setback of any building from the bed of a wetland, river or lake shall be 30m.

Discretion is restricted to the following:

- *Indigenous biodiversity values.*
- *Natural Hazards.*
- *Visual amenity values.*
- *Landscape and natural character.*
- *Open space.*

29.50 Slopehill Properties Limited seek that the setback is reduced to 10m, and both submitters Dennison (2301) and Slopehill Properties seek that artificial (man made) ponds be made exempt from this rule. I consider the rule is important to be retained, I note that all new buildings to be established require a restricted discretionary activity resource consent, either through the building consent itself, or by obtaining rights to develop a building platform. I consider that the extent to which a building within a water body is acceptable can be assessed through this resource consent process. I do not consider this to be inefficient given the relatively low incidence of this occurring. I recommend this submission is rejected.

29.51 Otago Fish and Game Council (2455) supports the rule but seeks that the word 'indigenous' is removed as the matter of discretion to broaden the discretion to the habitat of trout, and that recreational values are added. I do not consider deleting the reference to 'indigenous' reduces emphasis on indigenous biodiversity, rather it broadens the application. I consider these changes would better achieve the intent of the rule and recommend this submission is accepted. The submitter makes the same request to the relevant assessment matter (s42A 24.7.8) and I agree for the same reasons.

29.52 Rule 24.5.8 as notified is:

24.5.8 Farm buildings

RD

- a. *The maximum gross floor area shall be 50m².*
- b. *All exterior surfaces shall be coloured in the range of black, browns, greens or greys (except soffits).*

c. *Pre-painted steel and all roofs shall have a reflectance value not greater than 20%.*

d. *All other surface finishes shall have a reflectance value of not greater than 30%.*

Discretion is restricted to:

- *Building location, character, scale and form.*
- *External appearance including materials and colours.*
- *Landform modification/planting (existing and proposed).*

29.53 Submitters Brustad (2577) et. al, Roger Monk (2281), Debbie MacColl (2350) Philip Bunn (2353) and Steven Bunn (2356) have requested that the size of farm buildings provided for in this rule be increased from 50m² to 150m². I note that the equivalent Rule in the Rural Zone Chapter 21 provides for farm buildings up to 150m² in the Rural Character Landscapes (s7(c) landscapes). However, these zones also require that a range of other criteria are met including that the landholding is not less than 100ha in area, and the density of buildings combined is not greater than one per 50ha. The Rural Zone therefore, has a completely different framework and justification for having larger permitted farm buildings.

29.54 I also note that it appears to be widely accepted by submitters that the resource management issues for the Wakatipu Basin include that the Basin does not rely on or derive from the retention of rural production activities. Without this justification I do not consider the permitted gross floor area for farm buildings should be increased from 50m² to 150m². I recommend the submission is rejected.

29.55 Renee Kampman (2433) seeks that the maximum permitted gross floor area is increased to 140m² and that the colours scoria/barn red are included as permitted colours. I do not support the area request for the reasons given above. I do not support barn red because it has potential to be visually prominent compared to the range of greens, browns and greys specified in the standard. I consider that red could be appropriate if the location, design and mitigation are appropriate and the resource consent process is the best process for this. I recommend the submission is rejected.

- 29.56** Federated Farmers (2540) seek that the permitted light reflectance value be increased by 10% for roofs and surfaces so that roofs will be 30% and walls 40%. Federated Farmers raise concern that farmers have indicated that achieving these lower reflectance values as provided for in the notified rule is often very difficult.
- 29.57** I note the light reflectance value to be in-line with the remainder of similar rules in the PDP, in particular Rule 21.8.2 of the Rural Zone Chapter 21, which specifies the colour for farm buildings. I also note that generally, at least in the case of pressed steel clad buildings and roofs, such as corrugated iron or rib-profile, there is a cost increase of approximately \$2000.00 ex GST for a 'coloursteel' option rather than zincalume for a 60m² pole shed, but the price stays the same between colours, once a colour is selected over zincalume.
- 29.58** I note that managing the reflectivity of materials is a well-accepted resource management method in this district that has been endorsed by commissioners and the courts. I acknowledge that the cost of paint may be beyond my area of expertise however I consider that additional costs of complying with both aspects of this rule are not likely to be so onerous that they are unjustified. The submitter may be able to provide additional information as to the actual cost of painting buildings.
- 29.59** Federated Farmers also cite an example arising from the Southland District Plan where the colours of 40% were considered acceptable, however the submission does not advise whether this related to landscapes requiring management in terms of s7(c) of the Act.
- 29.60** I recommend the Federated Farmers submission is rejected.
- 29.61** Submitter Dagg (2586) opposes the permitted limits of 50m² gross floor area, citing that farm buildings are generally in the order of 80m² - 100m² and that the provisions should be more supportive of farming activities. Dagg suggests that a more appropriate limit would be 100m².
- 29.62** Chapter 24 purposefully steps away from focusing on productive farming as the predominant land use in the Zone. I consider that a

consequence of this is that the permitted thresholds for all building types need to be more restrictive (than the Rural Zone by comparison).

29.63 I do not consider the framework overall to be overly restrictive. I note that under the PDP, a farm building would need to be on a landholding greater than 100ha and achieve a density of not more than 1 farm building per 50ha, where non-compliance is a restricted discretionary activity. In the case of the Wakatipu Basin, where the Study identified that there were very sites that were capable of further subdivision, it may have been likely that a rule within Chapter 24 as enabling as that for Farm Buildings in the Rural Zone would never have the opportunity to be realised as a permitted activity because very few sites are over 100ha as a starting point, while acknowledging from the information provided in the submission the submitters land is likely to be one of the larger landholdings in the Wakatipu Basin.

29.64 I recommend this submission is rejected.

29.65 Rule 24.5.9 as notified is:

24.5.9	Home occupations	<i>RD</i>
a.	<i>The maximum net floor area of home occupation activities shall be 150m².</i>	
b.	<i>No goods materials or equipment shall be stored outside a building.</i>	
c.	<i>All manufacturing, altering, repairing, dismantling or processing of any goods or articles shall be carried out within a building.</i>	
	<i>Discretion is restricted to:</i>	
	<ul style="list-style-type: none">• <i>The nature, scale and intensity of the activity.</i>• <i>Visual amenity from neighbouring properties and public places.</i>• <i>Noise, odour and dust.</i>• <i>Access, safety and transportation.</i>	

29.66 NZTA (2538) support the rule as notified.

29.67 Rule 24.5.10 as notified is:

24.5.10	Roadside stall buildings	<i>RD</i>
a.	<i>The maximum ground floor area shall be 5m².</i>	

<p>b. <i>Buildings shall not be higher than 2.0m from ground level.</i></p> <p>c. <i>The minimum sight distance from the stall or stall access shall be 250m.</i></p> <p>d. <i>The minimum distance of the stall or stall access from an intersection shall be 100m; and, the stall shall not be located on the legal road reserve.</i></p> <p><i>Discretion is restricted to:</i></p> <ul style="list-style-type: none"> • <i>Building location, character, scale and form.</i> • <i>External appearance including materials and colours.</i> • <i>Access and safety.</i> • <i>Parking.</i>
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29.68 I have not identified any specific submissions opposing this rule. I do not recommend any changes to it.

29.69 Rule 24.5.11 as notified is:

<p>24.5.11 <i>The maximum gross floor area of buildings shall be 25m² for retail sales of farm and garden produce and wine grown, reared or produced on-site or handicrafts produced on the site.</i></p> <p><i>Discretion is restricted to:</i></p> <ul style="list-style-type: none"> • <i>Building location, character, scale and form.</i> • <i>External appearance including materials and colours.</i> • <i>Access safety and transportation effects.</i> • <i>Parking, access and safety.</i> 	<p><i>RD</i></p>
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29.70 I have not identified any specific submissions opposing this rule. I do not recommend any changes to it.

29.71 Rule 24.5.12 as notified is:

<p>24.5.12 <i>Grazing of animals in or on the margins of waterbodies</i></p> <p><i>Stock shall be prohibited from standing in the bed of, or on the margin of a waterbody where this causes pugging or damage to the margin of the waterbody.</i></p> <p><i>For the purposes of this rule:</i></p> <ul style="list-style-type: none"> • <i>Margin means land within 3.0 metres from the edge of the bed.</i> • <i>Waterbody and bed have the same meaning as in the RMA, and also includes any drain or water race that goes to a lake or river.</i> 	<p><i>PR</i></p>
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29.72 Otago Fish and Game Council (2455) supports Rule 24.5.12.

29.73 Federated Farmers (2540) seek that the rule is deleted and raise concern that the cost of fencing or benefits of vegetation control on the margins of waterbodies has not been considered. Bagrie et. al also seeks the rule is deleted for similar reasons.

29.74 The matter is related to the submissions of The Friends of Lake Hayes Society Inc. (2140), Catherine Dumarchand (2150) and Peter Goulston (2312) regarding their concern with the water quality of Lake Hayes, and that the notified Chapter 24 provisions do not go far enough in terms of managing water quality.

29.75 I note that the same rule was notified in the PDP 2015 Rural Zone Chapter 21 Rule 21.5.7. The Hearings Panel recommended the rule is deleted because it duplicates the functions of the Otago Regional Council and it therefore is not included in the PDP Rural Zone. For these reasons I see no merit in pursuing this rule and recommend the submission of Federated Farmers and Bagrie et. al is accepted.

29.76 Rule 24.5.13 as notified is:

24.5.13	Glare	<i>RD</i>
<i>e.</i>	<i>All fixed exterior lighting shall be directed away from adjacent roads and sites.</i>	
<i>f.</i>	<i>Activities on any site shall not result in more than a 3 lux spill (horizontal and vertical) of light to any other site, measured at any point within the boundary of the other site.</i>	
<i>g.</i>	<i>There shall be no upward light spill.</i>	
	<i>Discretion is restricted to:</i>	
	<ul style="list-style-type: none"><i>• Lighting location and number of lights.</i><i>• Proximity to roads, public places and neighbours.</i><i>• Height and direction of lights.</i><i>• Lux levels.</i>	

29.77 I have not identified any specific submissions opposing this rule. I do not recommend any changes to it.

29.78 Rule 24.5.3 as notified is:

24.5.14 Informal airports

D

Informal airports that comply with the following standards shall be permitted activities:

- h. Informal airports shall not exceed a frequency of use of 2 flights per day;*
- i. Informal airports shall be located a minimum distance of 500 metres from any other zone or the notional boundary of any residential dwelling not located on the same site;*
- j. Informal airports for emergency landings, rescues, fire-fighting and activities ancillary to farming activities.*

Advice note: *For the purpose of this Rule a flight includes two aircraft movements i.e. an arrival and a departure.*

29.79 Submitter Williamson (2276) supports the rule.

29.80 Dalefield Trustee Limited (2097) request that the rules are modified so that:

- (a) There are not more than 2 flights per fortnight;
- (b) The landing area is more than 100m from the notional dwelling not located on the same site;
- (c) The aeronautical guidelines for flying in residential areas are met.

29.81 The informal airports rules were promulgated and notified as part of Stage 1. I note that the Stage 1 PDP Decision in Chapter 21 is the same as that supported by Council staff⁴⁴ in the Stage 1 hearing. The permitted standards are framed in such a way that permit the landing and take-off of aircraft so that they would comply with the respective noise rules in PDP Chapter 36 Noise, without the requirement for case-by-case evaluation to be undertaken to ensure compliance. The rule is considered to achieve an appropriate balance between the use of land for informal airports while maintaining amenity, without the burden of ensuring compliance on a case by case basis.

29.82 I consider the standards in Rule 24.5.14 are more efficient and effective than those requested by Dalefield Trustee Limited (2097) because they

44 Both planning and acoustic experts.

permit more flights (2 trips per day versus 2 per fortnight), require a greater setback from neighbouring dwellings (500m separation versus 100m separation) and therefore do not require reference or adherence to a third party document as suggested in the submission. I recommend the submission is rejected.

29.83 Rules 24.5.15 and 24.5.16 relate to visitor accommodation and will be heard in Hearing Stream 15. Those submitters whose submissions will be heard in hearing Stream 15 are shown in **Appendix 5**.

30. 24.6 NON NOTIFICATION OF APPLICATIONS

30.1 Provision 24.6 as notified is:

Any application for resource consent for restricted discretionary activities shall not require the written consent of other persons and shall not be notified or limited-notified, with the exception of the following:

- c. *Rule 24.5.1 Building coverage.*
- d. *Rule 24.5.2 Setback from internal boundaries.*
- e. *Rule 24.5.3 Height of buildings.*
- f. *Rule 24.5.4 Setback from roads.*
- g. *Rule 24.5.5 Setback from identified landscape features.*

30.2 Submitter Brustad et. al, requests the notification test for limb e. Rule 24.5.5 is removed. While no explanation is given I understand this is associated with the submitters' broader request to remove the rule itself. I consider that this rule should be retained as being subject to notification, if necessary.

30.3 Williamson (2271) considers that the entire Part 24.6 is deleted if all activities are restricted discretionary because the provision will be meaningless. I do not understand exactly the reason with the information provided in the submission. I recommend the submission is rejected.

31. 24.7 ASSESSMENT MATTERS

31.1 Provisions 24.7.1 and 24.7.2 provide interpretive assistance and as notified are:

24.7.1 In considering whether or not to grant consent or impose conditions on a resource consent, regard shall be had to the assessment matters set out at 24.7.3 to 24

24.7.2 All proposals for restricted discretionary activities will also be assessed as to whether they are consistent with the relevant objectives and policies for the Zone or Precinct as well as those in Chapters 3-Strategic Direction; Chapter 4- Urban Development, Chapter 6-Landscapes and Chapter 28- Natural Hazards.

31.2 NZTA support the provisions that require the consideration of the strategic and other chapters.

31.3 Stoneridge Estate et. al seeks that AM 24.7.1 is amended to include the word 'and/' so that the text reads 'whether or not to grant consent and/or impose conditions'. I recommend this is accepted because it confirms that consideration is not limited to one or the other.

31.4 CIT (2307), DPL (2376) and Stoneridge Estates et. al seek that the references in 24.7.2 to higher order chapters 3, 4 and 6 are deleted. I agree that the provisions of Chapter 24 should themselves implement these strategic policies and objectives. However (relevant) Strategic Directions provisions are still relevant as part of any resource consent application. I do not support the removal of the text. I recommend the submission is rejected and the NZTA submission is accepted.

31.5 Williamson (2276) et. al also requests the references to Strategic Chapters are removed because in their view it implies a non-complying activity test. For the reasons set out above I recommend this text is deleted.

31.6 Assessment Matters (**AM**) are grouped by the following themes and related rules:

- (a) 24.7.3 Landscape and visual amenity;
- (b) 24.7.4 Servicing, hazards, infrastructure and access;
- (c) 24.7.5 Non-residential activities;
- (d) 24.7.6 Boundary and road setbacks;
- (e) 24.7.8 Setback from boundaries of non-residential buildings housing animals
- (f) 24.7.9 Setback of buildings from water bodies
- (g) 24.7.10 Roadside Stalls
- (h) 24.7.11 Retail Sales
- (i) 24.7.12 Glare
- (j) 24.7.13 Clearance, works within the root protection zone or significant trimming of exotic vegetation over 4m height.

31.7 As notified there is a numbering error where the assessment matters skip 24.7.7. This a minor formatting error that can be corrected through clause 16(2) of Schedule 1.

31.8 Williamson (2276) et. al seeks that the assessment matters in Part 24.7 are separated into the Amenity Zone and Precinct so as to better achieve the different outcomes of each zone. I disagree, and consider that that the assessment matters are appropriate for both. I recommend this submission is rejected.

31.9 The following submissions were made on the assessment matters.

24.7.3 Landscape and visual amenity

31.10 Dennison (2301) requests that the assessment matters are separated because including buildings, coverage and height encroachments within the same assessment matter will result in different assessment matters overlapping. The submitter also states:

e.g. where a building meets the maximum height then the height-related Assessment Matters shall not be considered).

31.11 I do not agree. All the matters identified in AM 27.4.3 (a) to (i), as notified, relate to landscape and visual amenity. The overall planning framework makes it clear that notwithstanding the residential

development right enabled on each site on the basis of complying with density provisions, a robust design-led response to assessing development is required in administering the provisions. It should not be taken as a given that because an activity complies with the bulk and location rules then it is automatically deemed to implement the respective policies.

31.12 In relation to this matter, I consider Ms Gilbert's discussion on the activity status for subdivision activities in Precinct, where at Section 59 of her evidence she describes situations where from a landscape perspective a restricted discretionary activity status is required. This includes where the existing site configuration (established through the ODP), or proximity to landscape features and ONFs/ONL and views from public roads mean that the building platform or building would be prominent from public locations.

31.13 In this case also, I consider that a building, notwithstanding that it complies with the bulk and location standards, may still require careful scrutiny to ensure appropriate outcomes via the consent process. I therefore consider the assessments matters are cast appropriately and I recommend the submission is rejected.

31.14 Stoneridge Estate et. al seek that the reference to building location in AM 24.7.3 is removed because in their requested rules the location has been defined through the building platform. Now that I am recommending building platforms for residential activity are enabled through a land use consent this matter is relevant. I recommend their submission is rejected.

31.15 AM 24.7.3 c. as notified is:

The extent to which existing covenants or consent notice conditions need to be retained or are otherwise integrated into the proposed development in a manner that delivers optimal landscape character and visual amenity outcomes.

31.16 Submitter Brustad et. al seeks that the words 'delivers optimal' are replaced with 'maintains and enhances'. I agree that maintain and enhance is a more typical phrasing for a district plan and is likely to be

less ambiguous for that reason. I recommend this part of their submission is accepted. As a consequence of the change I consider the word outcome is no longer necessary and I recommend this word is also deleted.

31.17 The X-Ray Trust and Avenue Trust (2619) seek similar amendments and I also recommend their submission is accepted.

31.18 FENZ seek the AM is retained, while I have recommend changes I consider the intent from the perspective of FENZ is kept and accordingly I recommend their submission is accepted in part.

31.19 AM 24.7.3 d. as notified is:

The extent to which the development maintains visual amenity from public places and neighbouring properties.

31.20 Submitter Brustad et. al seeks that the reference to 'neighbouring properties' is removed because in their opinion views to private lots should not be a general matter of assessment, as this is otherwise assessed under s95E of the RMA (at notification). The submitter also states that a reference to neighbouring properties could be included under the AM relating to internal setbacks.

31.21 I consider that non-compliance with internal setbacks and the overall maintenance of visual amenity resulting from a development, as viewed from a neighbouring property, require that different matters are considered in terms of overall effects on the environment and forming determinations in terms of s95 of the RMA.

31.22 I consider that the submission has raised a relevant matter however in terms of the extent to which the Council could consider views from neighbouring properties, and if they are not able to undertake an assessment in terms of s95 of the RMA, to determine whether the application needs to be processed on a notified or limited notified basis. Provision 24.6 (Non-notification of applications) states that an application for resource consent for a restricted discretionary activity shall not require the written consent of other persons and shall not be notified (or limited notified), with the exception of specified rules. Rule

24.4.5 relating to the construction of buildings must be processed on a non-notified basis. Therefore, I consider that reference to neighbouring properties in AM 24.7.3 d. would conflict with, and potentially undermine, the non-notification provisions and provide neighbours of adjoining properties with a false expectation that they could be considered an affected person to a resource consent application.

- 31.23** It is important that the matters of discretion and assessment matters consider more than just views from public places. Notwithstanding the restrictions on notification through Part 24.6, adjoining land is part of the environment and the effects of development should be assessed. For these reasons therefore, I consider that Brustad et. al's submission is accepted in part and the reference to neighbouring properties is replaced with the following:

The extent to which the development maintains visual amenity ~~from in the landscape and from~~ public places ~~and neighbouring properties~~.

- 31.24** AM 24.7.3 e. as notified is:

Whether clustering of buildings would offer a better solution for maintaining a sense of openness and spaciousness, or the integration of development with existing landform and vegetation patterns.

- 31.25** Submitter Brustad et. al seek that the words 'or varied allotment sizes in subdivision design' are included, and that reference is also made to lifestyle development patterns. I agree with these amendments, in so far that the minimum allotment size is also recommended to be retained at 6000m². I agree with these requested amendments and recommend this submission is accepted. The recommended revised AM is:

Whether clustering of buildings or varied allotment sizes in subdivision design would offer a better solution for maintaining a sense of openness and spaciousness, or the integration of development with existing landform and vegetation or lifestyle patterns.

- 31.26** AM 24.7.3 g. as notified is:

The extent to which the development avoids, remedies or mitigates adverse effects on the features, elements and patterns that contribute to the value of adjacent or nearby ONLs and ONFs. This includes consideration of the appropriate setback from such features as well

as the maintenance of views from public roads and other public places to the surrounding ONL and ONF context.

31.27 The X-Ray Trust and Avenue Trust (2619) support the AM as notified.

31.28 Submitter Brustad et. al seek that the word 'outstanding' is inserted so the text refers to 'outstanding features'. I have discussed the rule and policy context and that identified landscape features identified on the Stage 2 PDP Maps and related to Rule 24.5.5 are not because they are ONF/L. In addition, the AM is phrased in a context whereby development within a particular (non ONF/L) identified landscape feature could affect the maintenance of views from public roads and other public places to the surrounding ONF/L.

31.29 I consider that the AM is appropriate as notified and I recommend this submission is rejected. Accordingly I recommend the submission of the X-Ray Trust and Avenue Trust (2619) is accepted.

31.30 AM 24.7.3 h. as notified is:

The extent to which development adversely affects other identified landscape features as identified on the planning maps, and in particular the visual amenity values of those features in views from public places outside of the Precinct.

31.31 The X-Ray Trust and Avenue Trust (2619) seek this AM is deleted because in their view the identified landscape features are unquantified and there is a lack of clear direction in the objectives and policies. The submitter also considers this AM to largely replicate the preceding AM 24.7.3 g.

31.32 I refer to Ms Gilbert's evidence where she discusses the identified landscape feature and in particular, how it relates to the X-Ray Trust and Avenue Trust (2619) property. Based on this analysis I consider the identified landscape features are appropriate. I also consider there is a clear distinction between these and the Rural zoned s6(b) landscape features which are also provided for in the policy framework. I consider that Rule 24.5.5 and the assessment matter is clearly implemented though Policy 24.2.1.5. I consider the provisions are the most appropriate way to achieve the objective. On this basis I recommend the submission is rejected.

31.33 AM 24.7.3 i. as notified is:

Whether mitigation elements such as a landscape management plan or proposed plantings should be subject to bonds and consent notices.

31.34 Submitter Brustad (2577) et.al seeks that the word ‘and’ should be replaced with ‘or’. In some instances these may require both, but as drafted both bonds and consent notices are necessary to be read as inclusive of each other. I recommend this change and the submission be accepted.

31.35 Ms Gilbert recommends at Part 53 of her evidence where she discusses the submission of Millbrook Country Club (2295) that the assessment matters for both Chapter 24 and Subdivision and Development Chapter 27 would benefit from the reference to ‘no build areas’ in the list of matters to be considered in the subdivision assessment criteria, to give a clear signal to plan users that such a development design device may well be appropriate to manage adverse landscape and visual effects.

31.36 Assessment Matters 24.7.3 and 27.7.6.2 c., as recommend to be modified by way of accepting submissions from Brustad (2577) et. al, states:

The extent to which existing covenants or consent notice conditions need to be retained or are otherwise integrated into the proposed development in a manner that ~~delivers optimal maintains and~~ enhances landscape character and visual amenity ~~outcomes~~.

31.37 While relevant to existing covenants or consent notices imposed by previous resource consents, where these may include conditions pertaining to ‘no build’ areas, these assessment matters do not address the provision for no build areas associated with future subdivision.

31.38 The Wakatipu Basin Zone is unlike the ODP Rural General Zone in that the Wakatipu Basin Zone provides a development right associated with achieving a minimum area of land or allotment size (and the ODP Rural General Zone does not. However, I consider that it remains important

in the Wakatipu Basin Zone that there is the ability for areas of land that are particularly sensitive, or unsuitable for development that are identified in the 'first' resource consent application for development, and these constraints are 'carried over' so that any future development takes these matters into account. I also consider this can be achieved without limiting the development rights afforded to lots capable of supporting more than one residential unit.

- 31.39** PDP Rural Zone (Chapter 21) landscape Assessment Matter 21.21.3.3 (a) (Other factors and positive effects, applicable in all the landscape categories (ONF, ONL and RCL)) has a similar assessment matter which states:

Whether the proposed subdivision or development provides an opportunity to protect the landscape from further development and may include open space covenants or esplanade reserves.

- 31.40** This assessment matter is helpful, but also phrased in a strict manner that recognises that there is not any inherent development right for residential activity in the PDP Rural Zone.

- 31.41** I recommend a similar assessment matter phrased for Chapter 24 and Chapter 27 respectively as follows:

- (a) Chapter 24: Whether the proposed development provides an opportunity to maintain landscape character and visual amenity through open space covenants.
- (b) Chapter 27: Whether the proposed subdivision provides an opportunity to maintain landscape character and visual amenity through open space covenants or consent notices.

- 31.42** In the case that the Millbrook submission does not provide scope for this change, then I consider there is sufficient scope provided through submissions who oppose the Zone, and the precinct in particular on the basis that the densities envisaged through this zone would not achieve the objectives of Chapter 24. These submissions include David Shepard (2135), Flood (2472), Buckham (2515), Nash (2578), and Gott (2579) who seek that the Lifestyle Precinct is rejected

because the densities are too high and will result in unsatisfactory landscape and amenity outcomes.

Assessment Matter 24.7.5 Non-residential activities

31.43 NZTA (2538) seeks that 27.4.7 d. is amended to provide better clarity follows. I agree, and recommend the following wording primarily derived from the NZTA submission:

24.7.5	<p style="text-align: center;">Non-residential activities</p> <p>Whether the proposal achieves:</p> <ul style="list-style-type: none">a. An appropriate scale and intensity of the activity in the context of the amenity and character of the surrounding area including reference to the identified elements set out in Schedule 24.8 for the relevant landscape character unit.b. Adequate visual amenity for neighbouring properties and from public places.c. Minimisation of any noise, odour and dust.d. Acceptable access and safety <u>Access that maintains the safety and efficiency of the transport network.</u>
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32. 24.8 SCHEDULE OF LANDSCAPE CHARACTER UNITS

32.1 Bagrie et. al seek that Schedule 24.8 be amended to provide assessment matters. The submission states:

The submitter considers the matters / elements set out in Schedule 24.8 are 'observations' not criteria which a resource consent can be reasonably assessed against. They do not confirm or even allude to what the desired outcome each is (or collectively is) seeking. This is considered to prevent any meaningful evaluation of future resource consent applications.

There is no obvious direction written into the matters set out in Schedule 24.8 which will direct the design of a building or a landscape plan to establish the environmental outcome which is consistent with that intended by the Objectives and policies for Chapter 24.

32.2 The Council's s32 report for the Wakatipu Basin Chapter 24 states⁴⁵ that LCUs were included in the Chapter text to provide more detailed guidance for plan users as to the features and attributes of each area that need to be protected, maintained or enhanced.

45 At 27.

- 32.3** The description of the LCUs are not intended to be assessment criteria or to enunciate the desired outcome, this is the role of policies. The LCUs identify features and values within each LCU to assist with the application of the assessment matters in part 24.8, and consideration of whether the policy framework has been achieved. I do not consider the LCUs should be cast as assessment criteria and I recommend the submission is rejected.
- 32.4** Transpower (2442) seek that additional text is inserted into LCU 18 Morven Eastern Foothills', and LCU 25 Shotover Country to recognise the presence of and constraints afforded by the National Grid.
- 32.5** NZTA (2538) seek that LCU 10 (Ladies Mile) is amended to acknowledge that there are transportation infrastructure capacity issues at the Shotover Bridge on SH6, and that the capacity to absorb development is low rather than high.
- 32.6** The LCUs identify 'infrastructure features' and these descriptions provide the existing infrastructure in the context of the extent which this infrastructure influences the landscape character and visual amenity within the respective LCU.
- 32.7** I agree that SH6, and the National Grid are clearly distinct infrastructure features within each LCU, however the potential landscape constraints and opportunities are intended to help inform the administration of the assessment matters and policies from a landscape perspective.
- 32.8** Both the State Highway and the National Grid are identified on the PDP Maps and there are provisions in Chapter 27 Subdivision and Development and Chapter 30 Energy and Utilities that manage activities within proximity to the National Grid Corridor.
- 32.9** The management of the State Highway is provided for in the policy framework, rules and where it is a Limited Access Road (**LAR**), through section 91 of the Government Roding Powers Act 1989 (**GRPA**).

- 32.10** Section 91 of the GRPA gives the NZTA the discretion to specify the location, and formation of crossing places. Section 92 restricts persons from using (including moving animals) a crossing place without authorisation from the Agency. Section 93(1) provides that where any person wishes to exercise any right involving subdivision or use of land and that right is conditional on the land having access to a road, a LAR is deemed to not be a road *except for such purpose, to such extent, and on such conditions, as may be notified from time to time to the territorial authority* or the Registrar-General of Lands.
- 32.11** I do not object to the identification of this infrastructure within the LCU, but I do not support these infrastructure items being identified as a landscape constraint. I consider the submitters are seeking to use the LCUs for the purpose of protecting their assets and I do not consider the LCUs should be used in this way. There are other PDP provisions and other instruments that better achieve this, such as those I have identified above. I also refer to Part 72 of Ms Gilbert's evidence where she does not support the reference to infrastructure constraints in the LCUs. I recommend the submissions of Transpower and the NZTA are rejected.
- 32.12** Submitter Williamson et. al seeks that the LCU map be retained but be updated to exclude the landscape character units and their associated tables that fall outside the Wakatipu Basin Variation. Although the description provided in each LCU is useful for context, and help illustrate the landscape character units derived from the Land Use Study, in the absence of the LCU itself being zoned Wakatipu Basin then there is no relevance from a statutory perspective to include any LCUs in Chapter 24.
- 32.13** That said, there are areas of Wakatipu Basin Zone that are located within for instance, the Ladies Mile (LCU 10) and Millbrook (LCU 23) LCUs. It would be incongruous and potentially misleading if the LCU map in Schedule 24.8 was amended to only include those parts of the wider LCU that are included within the Wakatipu Basin Zone. Therefore although I accept the reasoning in the submission, I reject the submission point in terms of the relief sought, and do not recommend any changes to the LCU map. I also consider that retaining the entire

LCU map and description as notified may be beneficial to inform persons contemplating development and considering the provisions for activities on land that is within the Wakatipu Basin Zone.

32.14 I am also aware that the rezoning submissions on land in these areas (ie. Millbrook LCU 23) may result in another zone and that the LCU map at Schedule 24.8 may in the fullness of time be more comprehensively modified without any residual Wakatipu Basin Zoning remaining. If this is the case it would clearly be easier to accept removing such LCUs in their entirety.

32.15 The only LCUs that are not subject at all to the Wakatipu Basin Zone and could be removed are:

- (a) LCU 16 (Bendemeer) which can be removed in its entirety because the area shown on the LCU map is zoned Bendemeer Special Zone (ODP Part 12); and
- (b) LCU 25 (Shotover Country Margins) can be removed because all of this land is zoned Rural Zone (PDP Chapter 21).

32.16 I recommend that LCU 16 and LCU 25 are removed. I note that the LCU overview map in Schedule 24.8 has not yet been updated to show this recommended change, but will be through my Reply evidence.

32.17 Overall, I do not recommend any further changes to the LCU map for the time being, but however note the following LCUs that include relatively large areas of land not zoned Wakatipu Basin:

- (a) LCU 10 (Ladies Mile) which includes land zoned Rural (Chapter 21);
- (b) LCU 23 (Millbrook) which includes land zoned Waterfall Park (Chapter 42) and Millbrook (Chapter 43);
- (c) LCU 24 (Arrowtown South) which includes the Arrowtown South Special Zone (ODP Part 12) and the Open Space and Recreation Zone (PDP Stage 2).

- 32.18** I also note that many of the LCUs contain the PDP Stage 2 Open Space and Recreation Zones. I do not consider the presence of these areas should result in the modification of the LCU map and tables. I recommend that this submission is rejected.
- 32.19** Queenstown Trails Trust (2575) seek that the descriptions are updated to correctly include all trails and public recreation areas, including those that have been approved but not yet formed. Ms Gilbert at Part 71 of her evidence states that the use of the assessment matters are preferred to ensure how development can integrate with trails. I agree, and note the assessment matters and in particular AM 24.7.3 b addresses this issue. The LCUs are not able to address the consequence of every activity within each area. I recommend this submission is rejected.
- 32.20** Submitter Slopehill Properties Ltd (2584) seeks that Landscape Character Unit 11 Slope Hill (Foothills) is amended so they are less broad and inaccurate and are more robustly tested by a range of experts and locals. Ms Gilbert notes at Part 67 of her evidence the LCU Descriptions were derived from a comprehensive Basin wide landscape assessment. I recommend this submission is rejected.
- 32.21** X-Ray Trust and Avenue Trust (2619) seek amendments to the LCU 8 to show the extent of the Precinct as being within the Lake Hayes Rural Residential Character Unit (Unit 12). This matter is addressed by Ms Gilbert and Mr Langman as part of the mapping requests.
- 32.22** X-Ray Trust and Avenue Trust (2619) request that LCU 6 is retained over the northern part of their property.
- 32.23** Boxer Hill Trust (2386) seek modifications to LCU 8 (Speargrass Flat) and Trojan Helmet (2387) seek modifications to LCU 22 (The Hills). Ms Gilbert discusses these in her evidence and while overall she disagrees with the changes sought, she does recommend some amendments to these LCU descriptions. I refer to and rely on Ms Gilbert's assessment on this matters. I recommend therefore that the submissions are accepted in part and the recommended amendments are attached at **Appendix 3**.

33. VARIATION TO STAGE 1 CHAPTER 22 RURAL RESIDENTIAL AND RURAL LIFESTYLE

33.1 I have not identified any submissions specifically on these provisions, while noting the relief sought from submitters who seek the ODP or Stage 1 PDP provisions are reinstated.

34. VARIATION TO STAGE 1 CHAPTER 27 SUBDIVISION AND DEVELOPMENT

34.1 Alongside notification of the WB chapter, variations were made to the Subdivision and Development Chapter 27 by the addition of rules relating to minimum and average lot sizes and assessment matters.

34.2 I note that the numbering in Chapter 27 has changed from notification through to the PDP Stage 1 Decisions version. For the sake of clarity in this report and the recommended amendments to the notified provisions in **Appendix 3**, I will retain the numbering and cross referencing as provided for in the notified version, despite these having changed through the Decisions version of the PDP.

Subdivision Rules

34.3 Rules 27.4.2 g and h were notified as standards whereby non-compliance would be a non-complying activity:

g. The further subdivision of an allotment that has previously been used to calculate the minimum and average lot size for subdivision in the Wakatipu Basin Lifestyle Precinct.

h. The subdivision of an existing or approved residential flat from the residential unit it is ancillary to, or the subdivision of a second residential unit on any allotment in the Wakatipu Basin Rural Amenity Zone or the Wakatipu Basin Lifestyle Precinct.

34.4 Submitter Brustad (2577) et. al has requested that the reference to minimum density be removed because they also seek a 0ha lot size discretionary regime in the Zone and average density limitations in the Precinct. For the reasons set out above in Issue 1 I do not support these changes and I recommend this part of their submission is rejected.

34.5 The submitter has also requested the following additions to enable additional subdivision on the basis that the density limits are not breached:

g. The further subdivision of an allotment that has previously been used to calculate the minimum and average lot size for subdivision in the Wakatipu Basin Lifestyle Precinct, except in the instance that the further subdivision and any prior subdivision together, complies with Rule 27.5.1.

34.6 I agree that this change would facilitate the ability for additional subdivision, where there is sufficient area. However this rule as requested to be amended could result in areas that were 'set aside' as part of the balancing of effects and enabling of development that occurred with a prior subdivision consent to be developed or subdivided. For these reasons I am reluctant to accept this rule. In situations where additional subdivision is proposed through the Chapter 24 framework, a non-complying activity consent is appropriate to ensure that there is adequate breadth for decision makers to consider whether the objectives of Chapter 24 would be undermined by further subdivision. For these reasons I recommend the submission is rejected.

34.7 Dalefield Trustee Limited (2097) oppose Rule 27.4.2 g. because they consider that it is a 'legacy' rule and is not necessary as part of achieving Chapter 24. I disagree and consider that this rule is important to ensure that sites are not progressively developed where there has already been development on the site. In particular, situations where development was determined to be appropriate based on the balance area' of the site relative to the location of the development. I consider that where there are rules requiring the maintenance of an average, oversight is required to ensure previous outcomes are not undermined. I consider this rule is important to achieve Objectives 21.2.1 and 21.2.5 in particular. I recommend this submission is rejected.

34.8 Submitter Brustad (2577) et al seeks the following changes to provision 27.4.2 h:

The subdivision of an existing or approved residential flat from the residential unit it is ancillary to, ~~or the subdivision of a second~~

~~residential unit on any allotment in the Wakatipu Basin Rural Amenity Zone or the Wakatipu Basin Lifestyle Precinct.~~

34.9 The reasons given by the submitter are that this is not necessary because the subdivision of a residential unit can be assessed through the discretionary activity consent. For the reasons set out in Issues 1 to 3 above I do not support the re-instatement of the discretionary regime. I do however note that with the recommendations I am offering, associated with the introduction of a land use consent for residential activity within a building platform, that the subdivision of a second residential unit may be appropriate as an anticipated activity because the density provisions in both the Subdivision and Development Chapter (Rule 27.5.1) and Chapter 24 (s42A Rules 24.5.XA and 25.4.XB) would be applicable and the creation of a new lot with a second residential unit may well be appropriate if the minimum and average densities are met.

34.10 I recommend this submission is accepted in part.

34.11 Submitters Brustad (2577) et. al and Burgess (2591) have requested the activity status for subdivision generally is controlled . I note that the Stage 1 has applied a restricted discretionary activity. I also support restricted discretionary activity status for the same reasons set out in the Hearings Panel's Stage 1 recommendation report⁴⁶ and I recommend this submission is rejected.

34.12 Submitter Brustad (2577) et. al has also requested consequential changes at Rule 27.4.3 b. and 27.5.1 to reflect their desire for no allotment size in the Amenity Zone and varying allotment sizes in their Precinct A and B. For the reasons set out in Issue 1 I recommend these submissions are rejected.

Subdivision Assessment Matters

34.13 NZTA (2538) generally support a range of assessment matters as they relate to infrastructure and access. NZTA also seek that a new assessment matter is included at 27.7.6.2 that considers the extent to

46 Report 7 Report and Recommendations of Independent Commissioners Regarding Chapter 27 – (Subdivision and Development).4 April 2018.

which cumulative effects impact on the network. I do not consider these are appropriate because the assessment matters for restricted discretionary subdivision are those that are contemplated by the Chapter 24 framework and in terms of the effects of development anticipated by the PDP, would not constitute a cumulative adverse effects. I agree that this is an issue, but in the context of Chapter 24 would arise from a non-complying subdivision that does not comply with the density provisions. I recommend this submission is rejected.

34.14 AM 27.7.6.2 b. as notified is:

The extent to which the subdivision provides for low impact design that avoids or mitigates adverse effects on the environment.

34.15 Submitter Brustad (2577) et. al seeks that references to low impact design avoiding or mitigating adverse effects are replaced with variation in design, and maintenance and enhancement of amenity values. I consider that the AM more generally relates to overall environmental protection and management, and not just on section 7(c) of the RMA. I recommend this submission is rejected.

34.16 AM 27.7.6.2 c. (Subdivision Design) as notified is:

c. The extent to which the location of future buildings and ancillary elements and the landscape treatment complements the existing landscape character, visual amenity values and wider amenity values of the Zone or Precinct, including consideration of:

- I. the retention of existing vegetation and landform patterns;*
- II. the alignment of lot boundaries in relation to landform and vegetation features and neighbouring development;*
- III. earth mounding, and framework planting to integrate buildings and accessways;*
- IV. planting of appropriate species that are suited to the general area having regard to the matters set out in Schedule 24.8;*
- V. riparian restoration planting;*
- VI. the retirement and restoration planting of steep slopes over 15° to promote slope stabilisation and indigenous vegetation enhancement;*
- VII. the incorporation of development controls addressing such matters as building height, building colours and materials, building coverage, earthworks, retaining, fencing, gates, accessways (including paving materials), external lighting, domestic infrastructure (including water tanks), vegetation removal, and proposed plantings;*
- VIII. the integration of existing and provision for new public walkways and cycleways/bridlepaths.*

34.17 Submitter Brustad (2577) et. al seeks that limb l. is amended to replace 'retention of' with 'compatibility with' existing vegetation and landform patterns. I consider that the merits of retention of existing vegetation and landforms is important, and the issue of compatibility is inherent in the remaining AMs. I recommend this submission is rejected.

34.18 Submitter Brustad (2577) et. al seeks that AM 27.7.6.2 f. is amended to remove the reference to clustering of future buildings, and replace with variation in lot sizes. I agree that variation is helpful, I also note that a similar modification made by Brustad to Chapter 24 AM 24.7.3 (e) that included reference to variation but also included clustering. I recommend the submission is accepted in part, with a similar modification that includes reference to variation in allotment sizes but does not involve removing the reference to clustering, as follows:

f. *Whether clustering **or variation of lot sizes** of future buildings would offer a better solution for maintaining a sense of openness and spaciousness, or the integration of development with existing landform and vegetation patterns.*

34.19 Submitter Brustad (2577) et. al seeks a grammatical amendment to AM 27.7.6.2 g. to replace 'the' with 'an' appropriate setback. I recommend this submission is accepted because I consider it would improve grammar.

34.20 Otago Fish and Game Council (2455) request the following assessment matter is included at 27.7.6.1:

Adverse cumulative impacts on ecosystem services and nature conservation values.

34.21 While I support the intent I do not support the provision because I consider that the provision would be difficult to quantify in the context of the assessment matters for restricted discretionary activity subdivision that is contemplated within the parameters of the zone. This type of phrasing is better suited to a policy for discretionary or non-complying activities. I recommend the submission is rejected.

35. VARIATION TO STAGE 1 CHAPTER 2 DEFINITIONS - SITE

35.1 The definition of Site as varied through Stage 2 is:

Site	<p>Means:</p> <p>Any area of land which meets one of the descriptions set out below:</p> <p>(a) An area of land which is:</p> <ul style="list-style-type: none">(i) Comprised of one allotment in one certificate of title, or two or more contiguous allotments held together in one certificate of title, in such a way that the allotments cannot be dealt with separately without the prior consent of the council; or(ii) Contained in a single lot on an approved survey plan of subdivision for which a separate certificate of title could be issued without any further consent of the council; <p>Being in any case the smaller area of clauses (i) or (ii) above; or</p> <p>(b) An area of land which is composed of two or more contiguous lots held in two or more certificates of title where such titles are:</p> <ul style="list-style-type: none">(i) Subject to a condition imposed under section 37 of the Building Act 2004; or(ii) Held together in such a way that they cannot be dealt with separately without the prior consent of the council; or <p>(c) An area of land which is:</p> <ul style="list-style-type: none">(i) Partly made up of land which complies with clauses (a) or (b) above; and(ii) Partly made up of an interest in any airspace above or subsoil below a road where (a) and (b) are adjoining and are held together in such a way that they cannot be dealt with separately without the prior approval of the council; <p>Except in relation to each description that in the case of land subdivided under the Unit Titles Act 1972 and 2010, the cross lease system or stratum subdivision, 'site' must be deemed to be the whole of the land subject to the unit development, cross lease or stratum subdivision.</p>
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- 35.2** Federated Farmers support the definition of site as varied at notification.
- 35.3** A Stage 1 submission from Paterson Pitts (370) sought that the definition of site refer to the Unit Titles Act 2010 or any replacement. I note that in the Stage 1 Hearing Stream 10, when reporting on Chapter 2, the Council's S42A reporting planner⁴⁷ identified that the potential issues with the definition of site as notified in Stage 1 could not be resolved through the single submission received on the definition. This submission from Paterson Pitts was focused on updating references to the Unit Titles Act 2010. I note that the reporting planner supported and suggested utilising the definition of site used in the Auckland Unitary Plan, which is the same as notified as part of the Stage 2 Wakatipu Basin variation (and is set out above). I note that the Hearings Panel⁴⁸ deferred any recommendation on the definition of site, acknowledging that the definition had been varied through Stage 2.
- 35.4** Submitters Paterson Pitts (Wanaka) (2457) oppose the removal of limb 4(iii) (b) of the PDP Stage 1 definition in relation to a split zoning being separate sites.
- 35.5** Arcadian Triangle Limited (2504) oppose the removal of the removal of part 4(iii) (a) in relation to airspace, and (b), similar to the Paterson Pitts submission. Arcadian Triangle also oppose the changes relating to Unit Titles but do not specify why, except to question that the changes will have the desired outcome.
- 35.6** Limb 4(iii) (a) – (c) of the Stage 1 definition is:
- ...
- In addition to the above.*
- a) *A site includes the airspace above the land.*
 - b) *If any site is crossed by a zone boundary under this Plan, the site is deemed to be divided into two or more sites by that zone boundary.*
 - c) *Where a site is situated partly within the District and partly in an adjoining District, then the part situated in the District shall be deemed to be one site.*

⁴⁷ Section 42A Hearing Report. Chapter 2 – Definitions. 15 February 2017.

⁴⁸ Hearings of submissions on Proposed District Plan. Report 14. Report and recommendations of Independent Hearings Commissioners Regarding whole of plan, Chapter 2 (Definitions) and Chapter 28 (Natural Hazards).

- 35.7** The reason for removing the reference in the definition of site is that where a site is crossed by a zone boundary, then the site is deemed to be two or more sites by that zone boundary, is because the extent of the Zone and Precinct has been identified for landscape reasons, derived from the Study and not for the purposes of recognising any existing or approved legal boundaries
- 35.8** This part of the Stage 1 definition that deemed there to be multiple sites where a zone boundary affected the land is considered to be unhelpful and at odds with the purpose of Chapter 24 to direct rural living and other development where there has been identified capacity for development to be absorbed. The purpose of the Zone is to protect, maintain and enhance the particular landscape values of the Wakatipu Basin. Zoning is used as a method based primarily on the capacity of the landscape to absorb additional development. It is considered incongruous with the Zone therefore if small areas of land zoned WBRAZ can be treated as a separate site. It would also have been at odds with the Study and supporting information that lead to the identification of the Precinct, if the extent of the Precinct was contiguous with the boundaries of properties as they currently existed.
- 35.9** The retention of limb (b) would have had the potential for residential development rights on very small sites zoned Amenity Landscape, which is likely to be at odds with the purpose of Chapter 24. Rule 24.4.3 permits residential activity, while Rule 24.3.4 permits one residential unit per site. Although any development would require a restricted discretionary activity resource consent, I consider that limb (b) would not be appropriate.
- 35.10** In light of the recommendations I have made to proposed Chapter 24, the matter is potentially resolved because I have recommended deletion of Rules 24.3.3 and 24.3.4, and the introduction of s42A Rules 24.5.XA and 24.5.XB that require a minimum area is achieved for residential activity as a land use.
- 35.11** However, I consider that amending the definition to remove the reference to a split zone being treated as two sites also rectifies potential issues that can arise in other zones throughout the District.

35.12 I maintain my view that the definition is more appropriate without this clause. I also note that the Hearings Panel in recommending a rezoning submission at Arthurs Point⁴⁹ criticised the Stage 1 definition of ‘site’ because of the deeming provisions that recognises these areas as two sites will lead to land being recognised as having two sites on an arbitrary basis.

35.13 Arcadian Triangle have requested that the airspace above a site is included in the definition. The RMA includes the following in the definition of land:

land—

- (a) includes land covered by water and the airspace above land; and*
- (b) in a national environmental standard dealing with a regional council function under [section 30](#) or a regional rule, does not include the bed of a lake or river; and*
- (c) in a national environmental standard dealing with a territorial authority function under [section 31](#) or a district rule, includes the surface of water in a lake or river*

35.14 Section 9 of the RMA (Restrictions on the use of land) therefore includes airspace above ‘land’, as does the reference to ‘land’ in s218 of the RMA (Meaning of Subdivision of land). I consider that the inclusion of the airspace above land when dealing with land and therefore the definition of site is provided for in the RMA and does not need to be specified in the definition.

35.15 I recommend these submissions are rejected and the definition is retained as notified.

36. VARIATION TO STAGE 1 CHAPTER 36 NOISE

36.1 I have not identified any submissions on the variation to Chapter 36 Noise.

49 Recommendation Report of Hearings Panel. Report 17.01 at Part 5.2.

37. VARIATION TO STAGE 1 CHAPTER 6 LANDSCAPES

- 37.1 As part of the Stage 2 Open Space and Recreation Zones Chapter 38, the PDP Stage 1 Landscape Chapter 6 was varied as follows (underlined text for additions and strike through text for deletions). The changes were to delete the last paragraph of the introductory part 6.2 Values, and to amend statements on implementation:

Part 6.2 Values - Last paragraph: Delete.

~~Landscapes have been categorised into three classifications within the Rural Zone. These are Outstanding Natural Landscapes (ONL) and Outstanding Natural Features (ONF), where their use, development and protection are a matter of national importance under Section 6 of the RMA. The Rural Landscapes Classification (RLC) makes up the remaining Rural Zoned land and has varying types of landscape character and amenity values. Specific policy and assessment matters are provided to manage the potential effects of subdivision and development in these locations.~~

Part 6.4 Rules - Amend:

~~6.4.1.2 The landscape categories apply only to the Rural Zone. The Landscape Chapter and Strategic Direction Chapter's objectives and policies are relevant and applicable in all zones where landscape values are at issue.~~

6.4.1.3 The landscape ~~categories~~ assessment matters do not apply to the following within the Rural Zones:

- a. Ski Area Activities within the Ski Area Sub Zones.
- b. The area of the Frankton Arm located to the east of the Outstanding Natural Landscape line as shown on the District Plan maps.
- ~~c. The Gibbston Character Zone.~~
- ~~d. The Rural Lifestyle Zone.~~
- ~~e. The Rural Residential Zone.~~

- 37.2 This variation was made prior to Council receiving the Panel's Stage 1 recommendation reports and the Council making its decision on Stage 1.

- 37.3 Through the new Open Space and Recreation Zones (Stage 2 Chapter 38), section 6 ONF/L land and section 7 visual amenity land is not always zoned Rural Zone on the PDP maps. I understand the removal of the text by the Council was to allow for the application of some of the Open Space and Recreation Zones to land that is recognised as

ONF/L in terms of its section 6 landscape values, or an amenity landscape in terms of s7(c) of the RMA. This land was previously zoned Rural Zone in Stage 1.

37.4 I understand also, that the reason for removing the reference to the Gibbston Character Zone, Rural Lifestyle Zone and Rural Residential Zone from (PDP notified 2015) provision 6.4.1.3 was because the assessment matters in Chapter 21 (Rural Zone⁵⁰) are not applied, and cannot be applied to the other rural zones, because Chapter 21 only applies to the Rural Zone. The text was unnecessary.

37.5 A large number of submitters appear to have inferred that the removal of the reference to the other rural type zones (ie the Gibbston Character Zone, Rural Lifestyle Zone and Rural Residential Zone) meant that the assessment matters in Chapter 21 could apply to those other zones. This was not the intention. The reason for retaining only limbs (a) and (b) relating to the Ski Area Sub Zones (which I return to below) and the area of the Frankton Arm located east of the ONL line is because this land is zoned Rural Zone, and the intention of the provision was to simply specify that in these areas, the assessment matters did not apply.

37.6 In terms of the intended alignment with the Ski Area Sub Zones when the variation was notified, the Council's position at the close of the Stage 1 hearings was that:

- (a) The Ski Area Sub Zone is a sub zone of the Rural Zone;
- (b) the Ski Area Sub Zones form part of the wider ONLs (and therefore still are ONL as a matter of fact); but that
- (c) the landscape assessment matters located in Chapter 21 do not apply to "Ski Area Activities" within the Ski Area Sub Zone.

37.7 Under that framework if someone sought to undertake an activity in the Ski Area Sub Zone that didn't fall within the definition of "Ski Area Activities", such activities could be assessed against the landscape assessment matters located in Chapter 21.

50 PDP 2018 Decisions versions Section 21.21 Assessment Matter (Landscape).

- 37.8** However, PDP decisions version Policy 6.3.2 is clear that any activity within the Ski Area Sub Zone must not be assessed against the landscape categories (and as a consequence, the landscape assessment matters in Chapter 21 (Section 21.21.1 and 21.21.3) that apply to those categories), and policies related to the ONL in Chapter 6 (ie. Policies 6.3.12 to 6.3.18).
- 37.9** In any case, I consider that the PDP Decisions have overtaken this variation to the Chapter 6 text, and PDP Policy 6.2.3 now excludes the Ski Area Sub-Zones and the area of Rural Zoned land east of the ONL line at the Frankton Arm from not only the landscape categories, but also the policies of Chapter 6 related to those categories. For instance, Policies 6.3.12 to 6.3.18 do not apply to the Ski Area Sub-Zones.
- 37.10** In addition, I emphasise that the intention was not to apply the landscape assessment matters located in Chapter 21, to any of the 'other rural zones', and similarly they will not apply to the Wakatipu Basin Zone.
- 37.11** The variation also has some relevance to the likes of Jacks Point, which is not a Rural Zone, but it is agreed that part of the Jacks Point is ONL and very careful consideration has been given to the extent of development provided for in that part of the zone.
- 37.12** I now turn to the Stage 1 submissions that are deemed to be on the variation to Chapter 6, and submissions lodged in Stage 2.
- 37.13** Submitters in Stage 2⁵¹ sought the text be retained but that it be modified to state that the Wakatipu Basin Zone is not subject to the landscape assessment matters (located in the Rural Zone) and the landscape chapter 6 objectives and policies. As set out above, I agree that this is the correct outcome, and the question is how the relevant chapters should reflect this.

51 Including Crown Investment Trust (2307), Brustad (2577) et. al, Stoneridge Estate et. al, Mount Rosa Wines Ltd (2231), Gibbston Highway Limited (2227), Treble Cone Investments Ltd (2373), Darby Planning LP (2376), Lake Hayes Ltd (2377), Henley Downs Farm Holdings Ltd and Henley Downs Land Holdings Ltd (2381), Glendhu Bay Trustees Ltd (2382), Mt Christina Ltd (2383) and Paterson Pitts (Wanaka) (2465). Refer to Appendices 4 and 5 for the full list of submissions.

37.14 The Stage 1 PDP Decisions version, Chapter 6 (now called Landscape and Rural Character), has through Policies 6.3.1, 6.3.2 and 6.3.3, confirmed that only land zoned Rural is subject to the Landscape Chapter 6, unless otherwise stated:

Rural Landscape Categorisation

- 6.3.1 *Classify the Rural Zoned landscapes in the District as:*
- a. *Outstanding Natural Feature (ONF);*
 - b. *Outstanding Natural Landscape (ONL);*
 - c. *Rural Character Landscape (RCL) (3.2.5.1, 3.2.5.2, 3.3.29, 3.3.31).*
- 6.3.2 *Exclude identified Ski Area Sub-Zones and the area of the Frankton Arm located to the east of the Outstanding Natural Landscape line as shown on the District Plan maps from the Outstanding Natural Feature, Outstanding Natural Landscape and Rural Character Landscape categories applied to the balance of the Rural Zone and from the policies of this chapter related to those categories. (3.2.1.1, 3.4.4.4, 3.3.21).*
- 6.3.3 *Provide a separate regulatory regime for the Gibbston Valley (identified as the Gibbston Character Zone), Rural Residential Zone, Rural Lifestyle Zone and the Special Zones within which the Outstanding Natural Feature, Outstanding Natural Landscape and Rural Character Landscape categories and the policies of this chapter related to those categories do not apply unless otherwise stated. (3.2.1.1, 3.2.1.7, 3.2.1.8, 3.2.5.2, 3.3.20-24, 3.3.32).*

37.15 Policy 6.3.1 and Policy 6.3.2 apply to the Rural Zone. Policy 6.3.3 sets out the relevance of Chapter 6, to the 'other rural zones'. The decisions version does not refer specifically to the Wakatipu Basin, giving the timing of the Stage 1 PDP decisions, and the variation.

37.16 Policy 6.3.3 specifically excludes the 'other rural zones' (Rural Residential and Rural Lifestyle Zones Chapter 22, Gibbston Character Zone Chapter 23) and the Special Zones (ie. Chapters 41-44) from the

ONF, ONL and Rural Character Landscape categories and the policies of Chapter 6, unless otherwise stated.

37.17 Therefore for any zone, other than the Rural Zone, Chapter 6 can be of relevance, but only if the PDP specifies that.

37.18 Chapter 6 uses headings to specify what zones, the different parts of Chapter 6 apply to, as follows:

- (a) the Rural Zone, Gibbston Character Zone, Rural Residential Zone and Rural Lifestyle Zone (Policies 6.3.4 – 6.3.11);
- (b) the ONF/L (Policies 6.3.12 – 6.3.18);
- (c) then Rural Character Landscapes (6.3.19 – 6.3.29); and
- (d) finally activities on rivers and lakes (Policies 6.3.30-6.3.33).

37.19 My understanding of Chapter 6 is that the second subheading in Chapter 6, is the specification required to ensure that the chapter policies apply to land in addition to the “Rural Zone” through the heading “Managing the Rural Zone, Gibbston Character Zone, Rural Residential Zone and Rural Lifestyle Zone”.

37.20 I consider that the variation text has been overtaken by the Stage 1 PDP Decisions version framework. I also infer from the Panel’s recommendation report, that the Hearings Panel who presided over Chapter 6 in hearing stream 01B in March 2016 would have deleted the Chapter 6 provision subject to the variation, and instead replaced these statements with the above PDP Policies 6.3.2 and 6.3.3 if they had not been denied the ability to do so through the text being varied and subject to submissions on Stage 2.

37.21 From my perspective, I see no merit in further discussing this text as varied because Policies 6.3.2 and 6.3.3 in particular are included in the decisions version of the chapter and are subject to appeal. Policy 6.3.3 however needs to include reference to the Wakatipu Basin Rural Amenity Zone, because Chapter 24 is one of the ‘rural zones’ of the PDP (I return to this below). Therefore, because of the outcome of the PDP Chapter 6, I also consider that the relief sought by both the Stage 1 and Stage 2 submitters has been achieved, in part at least.

38. SUBMISSIONS MADE TO PROVISIONS IN STAGE 1 PDP CHAPTERS 3, 6 AND 21, NOT NOTIFIED AS PART OF STAGE 2

38.1 Several submitters including Brustad (2577) et. al have requested changes to text located in Stage 1 of the PDP in Chapter 3 Strategic Directions, Chapter 6 Landscapes and Chapter 21 Rural Zone, none of which was notified as part of the variations associated with Stage 2. The requested changes are to notified Stage 1 text (which is now subject to Council decision and appealable if a submitter has rights to appeal) and new policies.

38.2 CIT (2307) also seek three new Chapter 3 Strategic Directions policies and a new Policy to Landscape Chapter 6 that provide for rural living.

Chapter 21, Rural Zone

38.3 I do not consider the requested amendments to Chapter 21 Rural Zone assessment matters (Part 21.7⁵²) sought by Brustad et. al to be relevant in any way because the Chapter 24 Wakatipu Basin Zone replaces the Rural Zone at these locations and there is no apparent direct interdependence between Chapter 21 and Chapter 24. As such I consider that this part of these submissions are not 'on' Stage 2 of the PDP.

Chapter 3, Strategic Directions and Chapter 6, Landscape and Rural Character

38.4 Counsel for QLDC have advised me that I should consider the specific submissions that seek to change the text of Chapter 3, Strategic Directions and Chapter 6, Landscape and Rural Character as they establish the higher order strategic framework for the Wakatipu Basin. This is because, although the submission points are on provisions that were not notified as part of the variation, and have in fact been changed through the Council's Stage 1 decision on the PDP 2018 which is now subject to appeal, the submissions are directly related to the strategic framework that sit above Chapter 24 in the PDP. Because the Zone

52 Now Section 21.21 in the PDP 2018.

has been notified as one of the other 'rural zones' in the PDP, but is not the 'Rural Zone' as such, there is accepted to be a gap in Chapter 6 of the PDP 2018. Legal counsel has advised me that this approach is consistent with the principles of fairness and due process, which are embodied in the RMA by its emphasis on public participation in decision making.

38.5 Proceeding on the basis that submissions made on Chapters 3 and 6 associated with Chapter 24 can be considered as 'on' Stage 2, a key process related matter emerges in that regardless of any submissions made in Stage 2 and evidence filed in Stage 2, or any recommendations made by the Hearings Panel in Stage 2, by the time the hearings of submissions are completed and the Hearings Panel have released their recommendations on Stage 2, the PDP will be subject to appeals and be before the Environment Court. Furthermore, appeals on Stage 1 are to be lodged prior to the date that the hearing on the Wakatipu Basin, is to commence. In addition, many of the amendments sought by the submitters are to objectives and policies that have been removed, replaced or otherwise substantially altered and renumbered in the Stage 1 PDP. I am also very conscious that there is a potential risk that any recommended amendments to Chapter 6 could delay and/or frustrate the PDP 2018 appeal process.

38.6 Having considered the changes sought by these submitters against the PDP 2018, I consider that in many instances the relief sought by those submitters has been achieved, at least in part, through the PDP 2018 text. The relevant objectives and policies of PDP 2018 Chapter 3 that are relevant to Chapter 24 and the matter of rural living opportunities include:

PDP 2018 Strategic Directions Chapter 3

Objective 3.2.5 The retention of the District's distinctive landscapes. (addresses Issues 2 and 4)

...

3.2.5.2 *The rural character and visual amenity values in identified Rural Character Landscapes are maintained or enhanced by directing new subdivision, use or development to occur in those*

areas that have the potential to absorb change without materially detracting from those values.

...

Policies

3.3.22 *Provide for rural living opportunities in areas identified on the District Plan maps as appropriate for rural living developments. (relevant to S.O. 3.2.1.7, 3.2.5.1 and 3.2.5.2)*

...

3.3.24 *Ensure that cumulative effects of new subdivision and development for the purposes of rural living does not result in the alteration of the character of the rural environment to the point where the area is no longer rural in character. (relevant to S.O. 3.2.1.8, 3.2.5.1 and 3.2.5.2)*

- 38.7** The Wakatipu Basin Zone ‘replaces’ Stage 1 PDP Rural Zone and Rural Character Landscape categorisation on the plan maps. In the same way, Chapter 24 ‘replaces’ the Rural Zone, Rural Residential and Rural Lifestyle chapters that applied to the same area of land.
- 38.8** Chapter 24 implements Strategic Directions Policies 3.3.22 and 3.3.24. Accordingly, Strategic Directions Objective 3.2.5.2 is achieved by providing a planning regime that directs new rural living development to occur in areas where amenity values will be maintained. In effect, this is the identification of the Lifestyle Precinct in specified areas, over land that was in Stage 1, subject to the planning framework for RCL categorised Rural Zone land.
- 38.9** A number of the Policies of the PDP Landscape and Rural Character Chapter 6 are relevant, albeit with the following identified interrelationship and structural issues that require resolving, possibly because the Stage 1 Hearings Panel were not able to have regard to Chapter 24 in their recommendations.
- 38.10** Firstly it would be appropriate for reference to be made to Chapter 24 Wakatipu Basin Zone in PDP 2018 Policy 6.3.3 because the Wakatipu Basin is still a ‘rural zone’ and is part of Part 4 of the PDP. It will be the

fifth rural zone, sitting alongside the Rural Zone, Gibbston Character Zone and Rural Residential and Rural Lifestyle Zones.

38.11 For these reasons I also consider that the Wakatipu Basin Zone should be included in the second sub-heading of PDP Chapter 6 that makes Landscape Policies 6.3.4 to 6.3.11 applicable to all the Rural Zones in Part 4 of the PDP.

38.12 Because the Wakatipu Basin Zone is no longer identified as a Rural Character Landscape because it is no longer Rural Zone (as it was in Stage 1), there are a number of policies located within the fourth sub-heading '*Managing Activities in Rural Character Landscapes*', that do not apply through the structure of the PDP Chapter 6. In my view, these should be relocated to the suite of policies that apply to all Rural Zones, under the second sub-heading of Chapter 6. In particular, the following policy (Policy 6.3.27) is only relevant to s7(c) land in the Wakatipu Basin:

Policy 6.3.27 In the Wakatipu Basin, avoid planting and screening, particularly along roads and boundaries that would degrade openness where such openness is an important part of its landscape quality or character. (3.2.1.1, 3.2.1.8, 3.2.5.2, 3.3.20-21, 3.3.24-25, 3.3.32).

38.13 My other recommendation would be to simply amend the second sub-heading as follows (underline to show additions):

Managing Activities in the Rural Zone, the Gibbston Character Zone, the Rural Residential Zone and the Rural Lifestyle Zone and the Wakatipu Basin Zone

38.14 However, while the above suggested amendments to Chapter 6 are my preferred option, because they would be relatively simple drafting amendments that are consistent with the revised structure of the PDP, I accept that the text I am considering is now included in the PDP 2018, and is subject to parallel processes through appeals to the Environment Court.

38.15 To avoid the problems associated with recommending to the Hearings Panel amendments to parts of the PDP that will be before the Environment Court, and to reduce increasing the complexity of the staged review of the PDP, I recommend that new provisions are added to Chapters 3 and 6 of the PDP so as to ensure Chapter 24 implements Chapter 6 and achieves Chapter 3. These new provisions will apply to the Wakatipu Basin Zone, and will ensure there is the appropriate strategic framework sitting in Chapters 3 and 6, as sought by submitters. I wish to reiterate that this is not my preferred option because it will result in duplication of provisions in Chapters 3 and 6, and because it means that the RCL Policies (6.3.19 – 6.3.29) that have been influenced by submitters with an interest in the Wakatipu Basin will not be applicable to the Wakatipu Basin (although noting this is already a consequence of the drafting in the PDP 2018 Chapter 6), and that the relevance of these policies to the Upper Clutha or any areas remaining as RCL in the Queenstown area, may be limited as currently drafted. But this option is the most practicable option to separately advance Chapter 24 and any appeals to the Environment Court.

38.16 In context of the above discussion, I recommend the following new provisions be added to Chapters 3 and 6 so that Chapter 24 achieves the Strategic Directions (Chapter 3) of the PDP.⁵³ I consider that both my recommended amendments to Chapters 3 and 6, and the promulgation of Chapter 24⁵⁴ are consistent with best practice and authority⁵⁵ on landscape related issues (albeit that this land is not ONF/L, but surrounds and is directly adjacent to ONF/L), that is; the Zone is as categorised s7(c) land which if of high recreational and amenity values, and that the planning consequences flow from that classification.

38.17 I consider that the Wakatipu Basin variation, in replacing the Stage 1 Rural Zone and RCL land is relevant to and achieves the following objectives and policies of Chapter 3:

(a) Strategic Objective 3.2.5.2

53 And for the sake of completeness, the ORPS 1998 and ultimately Part 2 of the Act, given that both the relevant district plans and regional policy Statements are subject to review and are incomplete.

54 Including the Land Use Study and s32.

55 *Man O'War Station Limited v Auckland Council* [2017] NZCA 24

The rural character and visual amenity values in identified Rural Character Landscapes are maintained or enhanced by directing new subdivision, use or development to occur in those areas that have the potential to absorb change without materially detracting from those values.

- (b) Strategic Policy 3.3.19
Manage subdivision and / or development that may have adverse effects on the natural character and nature conservation values of the District's lakes, rivers, wetlands and their beds and margins so that their life-supporting capacity and natural character is maintained or enhanced. (relevant to S.O. 3.2.1.8, 3.2.4.1, 3.2.4.3, 3.2.4.4, 3.2.5.1 and 3.2.5.2)

- (c) Strategic Policy 3.3.20
Enable continuation of existing farming activities and evolving forms of agricultural land use in rural areas except where those activities conflict with significant nature conservation values or degrade the existing character of rural landscapes. (relevant to S.O. 3.2.1.7, 3.2.5.1 and 3.2.5.2)

- (d) Strategic Policy 3.2.21
Recognise that commercial recreation and tourism related activities seeking to locate within the Rural Zone may be appropriate where these activities enhance the appreciation of landscapes, and on the basis they would protect, maintain or enhance landscape quality, character and visual amenity values. (relevant to S.O. 3.2.1.1, 3.2.1.8, 3.2.5.1 and 3.2.5.2)

- (e) Strategic Policy 3.3.22
Provide for rural living opportunities in areas identified on the District Plan maps as appropriate for rural living developments. (relevant to S.O. 3.2.1.7, 3.2.5.1 and 3.2.5.2)

- (f) Strategic Policy 3.3.24
Ensure that cumulative effects of new subdivision and development for the purposes of rural living does not result in the alteration of the character of the rural environment to the point where the area is no longer rural in character. (relevant to S.O. 3.2.1.8, 3.2.5.1 and 3.2.5.2)

- (g) Strategic Policy 3.3.25
Provide for non-residential development with a functional need to locate in the rural environment, including regionally significant infrastructure where applicable, through a planning framework that recognises its locational constraints, while ensuring maintenance and enhancement of the rural environment. (relevant to S.O. 3.2.1.8, 3.2.1.9 3.2.5.1 and 3.2.5.2)
- (h) Strategic Policy 3.3.26;
That subdivision and / or development be designed in accordance with best practice land use management so as to avoid or minimise adverse effects on the water quality of lakes, rivers and wetlands in the District. (relevant to S.O. 3.2.1.8, 3.2.4.1 and 3.2.4.3)
- (i) Strategic Policy 3.3.27;
Prohibit the planting of identified exotic vegetation with the potential to spread and naturalise unless spread can be acceptably managed for the life of the planting. (relevant to S.O.3.2.4.2)
- (j) Strategic Policy 3.3.32;
Only allow further land use change in areas of the Rural Character Landscapes able to absorb that change and limit the extent of any change so that landscape character and visual amenity values are not materially degraded. (relevant to S.O. 3.2.19 and 3.2.5.2)

38.18 Therefore, I do not consider any changes to Chapter 3 are necessary. I consider that the notified provisions of Chapter 24 achieve Chapter 3 Strategic Directions.

38.19 To resolve the process and structural constraints identified above, I consider the following recommended amendments to Chapter 6 to be the most appropriate way, from a material and structural perspective to ensure Chapter 24 implements Chapter 6 and achieves Chapter 3.

- 38.20** After Policy 6.3.3, add a new policy specific to Chapter 24 Wakatipu Basin (Policy 6.3.XA) that states:

6.3.XA: Provide a separate regulatory regime for the Wakatipu Basin Rural Amenity Zone, within which the Outstanding Natural Feature, Outstanding Natural Landscape and Rural Character Landscape categories and the policies of this chapter related to those categories do not apply. (3.2.1.1, 3.2.1.7, 3.2.1.8, 3.2.5.2, 3.3.20-24, 3.3.32).

- 38.21** After the fifth subheading and related policies 6.3.30 to 6.3.33 (*Managing Activities on Lakes and Rivers*), add a new sub-heading and the following policies, I reiterate that I am purposefully recommending replicating the policies, but making it clear that they apply only to the Wakatipu Basin Zone. (with the exception of amendments to Policy 6.3.XA for structural reasons):

Managing Activities in the Wakatipu Basin Rural Amenity Zone

- 3.3.34 Avoid urban development and subdivision to urban densities in the rural zones. (3.2.2.1, 3.2.5.1, 3.2.5.2, 3.3.13-15, 3.3.23, 3.3.30, 3.3.32). [Identical to PDP Policy 6.3.4]
- 3.3.35 Enable continuation of the contribution low-intensity pastoral farming on large landholdings makes to the District's landscape character. (3.2.1.7, 3.2.5.1, 3.2.5.2, 3.3.20). [Identical to PDP Policy 6.3.7]
- 3.3.36 Avoid indigenous vegetation clearance where it would significantly degrade the visual character and qualities of the District's distinctive landscapes. (3.2.1.8, 3.2.5.1, 3.2.5.2, 3.3.19, 3.3.30, 3.3.32). [Identical to PDP Policy 6.3.8]
- 3.3.37 Encourage subdivision and development proposals to promote indigenous biodiversity protection and regeneration where the landscape and nature conservation values would be maintained or enhanced, particularly where the subdivision or development constitutes a change in the intensity in the land use or the retirement of productive farm land. (3.2.1.7, 3.2.4.1, 3.2.5.1, 3.2.5.2, 3.3.19, 3.3.20, 3.3.30, 3.3.32). [Identical to PDP Policy 6.3.9]
- 3.3.38 Ensure that subdivision and development adjacent to Outstanding Natural Features does not have more than minor adverse effects on the *landscape quality, character and visual amenity of the relevant Outstanding Natural Feature(s)*. (3.2.5.1, 3.3.30). [Identical to PDP Policy 6.3.10 except reference to activities occurring in the ONL and RCL removed]

- 6.3.39 Encourage any landscaping to be ecologically viable and consistent with the established character of the area. (3.2.1.8, 3.2.5.1, 3.2.5.2, 3.3.30, 3.3.32). [Identical to PDP Policy 6.3.11]
- 6.3.40 Require that proposals for subdivision or development for rural living take into account existing and consented subdivision or development in assessing the potential for adverse cumulative effects. (3.2.1.8, 3.2.5.2, 3.3.23, 3.3.32). [Identical to PDP Policy 6.3.21 except reference to Rural Zone removed]
- 6.3.41 have particular regard to the potential adverse effects on landscape character and visual amenity values where further subdivision and development would constitute sprawl along roads. (3.2.1.1, 3.2.1.7, 3.2.5.2, 3.3.21, 3.3.24-25, 3.3.32). [Identical to PDP Policy 6.3.22]
- 6.3.42 Ensure incremental changes from subdivision and development do not degrade landscape quality or character, or important views as a result of activities associated with mitigation of the visual effects of proposed development such as screen planting, mounding and earthworks. (3.2.1.1, 3.2.1.8, 3.2.5.2, 3.3.21, 3.3.24, 3.3.32). [Identical to PDP Policy 6.3.23]
- 6.3.43 Locate, design, operate and maintain regionally significant infrastructure so as to seek to avoid significant adverse effects on the character of the landscape, while acknowledging that location constraints and/or the nature of the infrastructure may mean that this is not possible in all cases. (3.2.1.9, 3.2.5.2, 3.3.25, 3.3.32). [Identical to PDP Policy 6.3.24]
- 6.3.44 In cases where it is demonstrated that regionally significant infrastructure cannot avoid significant adverse effects on the character of the landscape, such adverse effects shall be minimised. (3.2.1.9, 3.2.5.2, 3.3.25, 3.3.32). [Identical to PDP Policy 6.3.25]
- 6.3.45 Avoid adverse effects on visual amenity from subdivision, use and development that:
- a. is 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); or
 - b. forms the foreground for an Outstanding Natural Landscape or Outstanding Natural Feature when viewed from public roads. (3.2.1.1, 3.2.1.8, 3.2.5.1, 3.2.5.2, 3.3.20-21, 3.3.24-25, 3.3.30, 3.3.32). [Identical to PDP Policy 6.3.26]
- 6.3.46 Avoid planting and screening, particularly along roads and boundaries that would degrade openness where such openness is an important part of its landscape quality or character. (3.2.1.1, 3.2.1.8, 3.2.5.2, 3.3.20-21, 3.3.24-25, 3.3.32). [Identical to PDP Policy 6.3.27]

6.3.47 Encourage development to utilise shared accesses and infrastructure, and to locate within the parts of the site where it will minimise disruption to natural landforms and to rural character. (3.2.1.1, 3.2.1.8, 3.3.21, 3.3.24, 3.3.32). [Identical to PDP Policy 6.3.29]

38.22 The only modifications I recommended to the above s42A Policies are:

- (a) S42A Policy 6.3.38 (PDP Policy 6.3.10) references to activities in the ONL or RCL be removed, because the activities will take place within the Wakatipu Basin Rural Amenity Zone;
- (b) S42A Policy 6.3.40 (PDP Policy 6.3.21) reference to the Rural Zone be removed because the activities will occur in the Wakatipu Basin Rural Amenity Zone; and
- (c) S42A Policy 6.3.47 (PDP Policy 6.3.27) where the reference to 'In the Wakatipu Basin' be removed because this is not necessary, the Zone is the Wakatipu Basin.

38.23 I do not consider the recommended changes to these policies to materially alter the level of regulation. Rather, the changes correctly cross reference the Wakatipu Basin Zone.

38.24 The following policies within the respective sub-headings in PDP Chapter 6 have not been included in my recommended suite of duplicate policies for the Zone for the following reasons:

- (a) The matters in Policy 6.3.5 associated with the location and direction of lights causing adverse glare and detracting from the night sky are provided for in Policy 24.2.1.11;
- (b) The matters in Policy 6.3.6 associated with Forestry are managed by the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2018 (**NES-PF**);
- (c) Policy 6.3.19 recognises that subdivision and development is unsuitable in many locations and that applications, will need to be on balance, consistent with the objectives and policies of the Plan. Through the identification of the Precinct Sub-

Zone, and that the minimum residential density associated with residential activity in the Amenity Zone must be 80ha, Chapter 24 provides a greater level of certainty as to the areas of the Zone where development is likely to be appropriate;

- (d) Policy 6.3.20 is concerned with future plan changes to the Rural Lifestyle Zone and Rural Residential Zone and Chapter 24 is promulgated as a replacement in preference to ad-hoc subdivision; and
- (e) Policy 6.3.28 is not included because it is on the Upper Clutha Basin.

38.25 This recommendation would mean that Policies 6.3.19 through to 6.3.29 (with the exception of 6.3.27) would apply to the Rural Character Landscapes of the Rural Zone, which will likely predominantly be within the Upper Clutha, or any residual Rural Zone within the Wakatipu Basin that is not ONL or ONF (if any).

38.26 I consider that with these amendments, Chapter 24 could fit into the PDP 2018 Landscape and Rural Character Chapter 6. For the reasons set out above, while I do not recommend directly supporting those submissions, I consider that their intent has been fulfilled, at least partially through the outcome of the decisions on submissions to the PDP 2015. I rely on the scope made available through these submissions to recommend the above minor structure changes to the PDP 2018 Landscape and Rural Character Chapter 6 to ensure Chapter 24 is sufficiently incorporated into the PDP.

38.27 In particular the Submission of Stoneridge Estate et. al⁵⁶ where it discusses the Stage 2 variation provision to the Landscape Chapter 6 on provisions 6.4.1.2 states '*the WBLP should be added to the list of exemptions for the same reason as in (a) above – the WBLP zones has its own set of objectives, policies, rules and assessment matters, formulated for the specific attributes and circumstances of this Zone.*

56 At Part 3.6.1 (b).

38.28 I infer that although the Stoneridge Estate et. al refers to the Lifestyle Precinct their reference to zones and the wider context of Chapter 24 suggests the submitter meant the entire Chapter 24.

38.29 The recommended amendments to Chapter 6 are included in **Appendix 3.**



Craig Barr
SENIOR PLANNER
30 May 2018

APPENDIX 1

Section 32 Evaluation Report

(Weblinks to the references are available through the s32 report)

[filed separately, see webpage]

APPENDIX 2

Wakatipu Basin Land Use Planning Study 2017

(Report only, the appendices are available through [clicking on this link](#))

[filed separately, see webpage]

APPENDIX 3

**Recommended Revised Chapter 24 and Recommended New provisions to be
inserted into Chapter 3 and 6.**

[filed separately, see webpage]

APPENDIX 4

Summary of Submissions and submissions and recommendation to Stage 1 submissions transferred to Wakatipu Basin Chapter 24

[filed separately, see webpage]

APPENDIX 5

Summary of Submissions and Recommendations to Chapter 24 Wakatipu Basin

[filed separately, see webpage]