

Before the Independent Hearing Panel

Under the Resource Management Act 1991

In the matter of the Upper Clutha Landscape Schedules Variation to the
Queenstown Lakes Proposed District Plan

**REPLY EVIDENCE OF EMILY FREW ON BEHALF OF
QUEENSTOWN LAKES DISTRICT COUNCIL**

PLANNING

30 September 2026



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Appendix 1: Right of Reply version of the UCLS Variation

Appendix 2: Submissions Recommendations Table (updated September 2026)

Appendix 3: Alternative Preamble 21.23

1. Introduction

- 1.1** My full name is Emily Clare Frew. I am a planner employed by the Queenstown Lakes District Council (**Council** or **QLDC**). My qualifications and experience are as set out in paragraphs 1.2 – 1.4 of my section 42A Report.

Code of Conduct

- 1.2** Although this is a Council Hearing, I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023 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.

2. Scope of Reply Evidence

- 2.1** My reply evidence responds to planning matters raised during the hearing of the Upper Clutha Landscape Schedules (**UCLS**) Variation (**Variation**). A number of these matters are summarised in paragraphs 7 and 8 of Minute 14 of the Panel, which asked Council to respond (without providing new evidence) to the following issues (including planning matters) raised by Submitters:

- (a) the manner by which the UCLS non-Priority Area (**PA**) RCL Schedules are provided for within the current statutory framework of the PDP;
- (b) how the Queenstown Lakes Spatial Plan 2021 (**The Spatial Plan**) might impact some of the schedules;
- (c) Two subsequent changes since the s 32 Report which supported the Variation;
 - (i) the Otago Regional Policy Statement 2021 (**RPS**), becoming operative on 9 July 2026, as a result of a mediated settlement, specifically the provisions that apply to highly valued landscapes; and
 - (ii) the various consent orders for the Priority Area Landscape Schedule (**PALS**) appeals.

- (d) the relevance of the National Policy Statement for Highly Productive Land 2022 (Amended 2025) (**NPS-HPL**) to the Variation;

2.2 My reply evidence also addresses the following additional issues raised by the Panel and Submitters during the hearing:

- (a) Whether the s 32 Report should have analysed resource consent examples and/or data for activities within PA schedules;¹
- (b) The UCLS Schedules' application to Planation Forestry activities.²

2.3 I then set out my primary and alternative recommendations for the Variation – considering an option raised by submitters in terms of s32AA of the Resource Management Act 1991 (**RMA**).

3. How the non-PA UCLS are provided for within the current statutory framework of the PDP

3.1 Minute 14 mentions the 'fundamental issue' raised by submitters as being how the scheduling of the non-PAs is provided for in the current PDP.³

3.2 I accept that⁴ the Scheduling of non-PAs is not expressly directed in Chapter 3 of the PDP, in the same way as Scheduling of the identified PAs is.⁵

1 See Rosie Hill, Opening Synopsis of Legal Submissions, 26 August 2026, paragraphs 14 – 19, and Hearing Day 3, Recording 1, 0:06:30, 3 September 2026.

2 Question raised by Commissioner Blakey, Hearing Day 1, Recording 4, 1 September 2026.

3 During the hearing this was raised by Ms Rosie Hill for Hawthenden Trust (Submitter 22 and 30), Devon Dairy (Submitter 29 and 60), Exclusive Developments Ltd (Submitter 45), and Mata Au Investments Ltd (Submitter 17), and Grandview Grazing (Submitter 9) and Lake McKay Ltd (Submitter 16), and by Mr Julian Haworth (Submitter 1) who seeks amendments to Chapter 3.

4 Joint Witness Statement, paragraph 10, and my Rebuttal evidence at paragraphs 5.1-5.5.

5 SP 3.3.33.a and SP 3.3.39-3.3.42 direct that visual amenity values, landscape character and landscape capacity in the Upper Clutha PA RCLs are Scheduled in the PDP according to the Values and Identification Framework, whereas SP 3.3.33.b and SP 3.3.46 direct that values, character and capacity in the Upper Clutha non-PAs are identified in resource consent proposals according to the landscape assessment methodology in SP 3.3.45 and best practice landscape assessment methodology.

3.3 In my view, the existing PDP framework, including in Chapters 3, 6 and 21, provide strategic policy support for the introduction of non-PA landscape schedules. Relevantly, the PDP provides for:⁶

- (a) the maintenance or enhancement of landscape character and visual amenity values of RCLs (including for example SO 3.2.5.4, SO 3.2.5.7, SP 3.3.33, and SP 3.3.35, Policy 6.3.4.10, and Objective 21.2.1 and 21.2.9);
- (b) the identification of landscape values and capacity in a landscape assessment for site-specific resource consents (SP 3.3.45); and
- (c) the consideration of any statement of values in a Schedule to the PDP or identified through a site-specific assessment when considering a resource consent (assessment matters 21.21.2.1 and 21.21.2.5).

3.4 The PDP is also clear that non-PA's are not any more or less important than PA's (SP 3.3.44). This Variation assists with implementing various strategic objectives and policies which are directed at maintaining and enhancing landscape character and visual amenity values in non-PA RCL, by recording the relevant values that require consideration in the Upper Clutha Basin RCL, by way of Schedules included in the PDP.

3.5 In my view, the lack of explicit direction that requires non-PA Schedules in the format of the PA Chapter 3 provisions (SP 3.3.39-3.3.42), does not preclude the Council from including non-PA schedules as a method to assist with the implementation of the overarching strategic direction for RCL. The contents of District Plans are directed by s 75 of the RMA. A District Plan may include methods, other than rules, for implementing the policies for the district⁷, procedures for monitoring the efficiency and effectiveness of the policies and methods⁸, and the information to be included with an application for resource consent.⁹ As methods of implementing policies, and monitoring their efficiency, the non-PA schedules are consistent with s 75(2) as they help to achieve policy SP 3.3.45, SP 3.3.48, which implement SO 3.2.5.5.

⁶ As also explained in the s32 Report, my s42A Report at paragraphs 6.4-6.8, and 13.14, and in my Rebuttal at paragraphs 5.1-5.5.

⁷ Section 75(2)(b).

⁸ Section 75(2)(e).

⁹ Section 75(2)(g).

- 3.6** To respond to matters arising, I firstly address the support for scheduling *values* of non-PA RCLs, and secondly address support for scheduling *capacity* (including the list of activities) for non-PA RCLs.

Support for scheduling values of non-PA RCLs in current PDP

- 3.7** There is express plan architecture to compliment the scheduling of values and landscape character of non-PA RCL.
- 3.8** SP 3.3.43 sets out that in applying strategic objectives and policies and the landscape assessment methodology for RCL, a number of specific attributes must be had regard to. This same list of attributes apply to PAs and non-PAs, and therefore there is a consistent framework for identification of attributes and values.
- 3.9** The landscape assessment methodology in SP 3.3.45 for RCLs (also implemented for both PAs and non-PAs, per SP 3.3.46), requires the landscape assessment to:
- (a) define a relevant landscape character area and its wider landscape context;
 - (b) identify the landscape character and visual amenity values of that landscape character area and within its wider landscape context; and
 - (c) assess effects on that character and those values and on related landscape capacity;
 - (d) and in each case apply a consistent rating scale for attributes, values and effects.
- 3.10** Scheduling of non-PAs implements this framework by recording the values to be maintained or enhanced – guiding consistency and efficiency in consenting assessments.
- 3.11** In addition, the Chapter 21 rule framework provides a pathway for Council to have regard to the values in the non-PA schedules when considering a resource consent

application in non-PA RCL.¹⁰ The rule framework under Chapter 21.4 permits farming activities, residential, subdivision and development activities, commercial activities, and other activities that comply with Zone standards under 21.5 - 21.18. A breach of most standards with restricted discretionary (**RD**) status¹¹, and breaches of any standard above RD status requires Council to have regard to effects on either or both landscape character and visual amenity values. The matters of assessment then clarify that those 'landscape character and visual amenity values' are those identified in Schedule 21.23¹² and those identified in accordance with SP 3.3.45. Experts agreed during conferencing that if the non-PAs are adopted into the PDP, Council would have regard to them.¹³

Support for scheduling capacity of non-PA RCLs

- 3.12** In terms of capacity, not exceeding capacity is part of maintaining or enhancing landscape character or visual amenity values. If capacity is exceeded, it means that the landscape character or visual amenity values are not being maintained.¹⁴
- 3.13** Alongside the various objectives and policies that relate to the maintenance or enhancement of values, the PDP also provides direction for the identification of capacity. This includes SP 3.3.33.b that requires landscape capacity to be identified in accordance with SP 3.3.45, the landscape assessment methodology, which includes by identifying and assessing effects on character and values and on related landscape capacity. Specific to rural living, SP 3.3.35.a.iii provides that subdivision or development for rural living, should not be allowed unless the capacity assessment demonstrates that the subdivision or development will maintain enhance the values.
- 3.14** There is no equivalent Chapter 21 assessment matter that expressly requires the Council to have regard to capacity stated in a Schedule for a non-PA. Instead, there

¹⁰ Joint Witness Statement, paragraph 15.

¹¹ Not all RD-status standards restrict discretion to landscape matters. Those standards that do not require Council to have regard to these matters are: 21.5.3, 21.7.5, 21.13.5, 21.14.8. Also refer to table from Hearing Day 1 – Emily Frew – PDP Rural Zone Framework for Farming Activities.

¹² 21.21.2.1.a, 21.21.2.1.b.

¹³ See Joint Witness Statement, paragraph 11.

¹⁴ PDP 3.1B.5.b.ii. in relation to a landscape character area in a Rural Character Landscape, means the capacity of the landscape character area to accommodate subdivision and development without compromising its identified landscape character and while maintaining its identified visual amenity values.

is a broader direction for cumulative effects under assessment matter 21.21.2.5(d) that requires the Council to have regard to 'the effect that the proposal would have on landscape capacity'. For non-PAs, Council is required to consider the *outcome of an assessment of landscape capacity* undertaken in accordance with SP 3.3.33 that is relevant to the proposal being considered, and to have regard to the effect that the proposal would have on landscape capacity (under assessment matter 21.21.2.5.b and d). For non-PA RCLs this means that Council needs to have regard to the outcome of an assessment of landscape capacity in accordance with SP 3.3.45 (case-by-case). Because the schedules do the high-level leg work for any case-by-case assessment, they provide potential assistance to the applicant and the Council by providing a starting point for that capacity assessment that will be required (SP 3.3.45.b.iii).

- 3.15** As I have stated in my previous evidence, capacity ratings provide a high-level 'baseline' that can be compared against, making monitoring more efficient and effective.¹⁵ The Chapter 3 rural zone monitoring framework under SP 3.3.48 also requires an assessment of whether the activities listed under SP 3.3.48.d have exceeded landscape capacity as part of determining whether SO 3.2.5 (the retention of the Districts distinct landscapes) has been achieved for all RCL, rather than just PAs. This list of activities aligns with the list of activities in the values identification framework for PA RCLs (SP 3.3.41.g) to assist in monitoring PAs. It is therefore logical that setting out the capacity for these activities in non-PA schedules also helps with monitoring which is required for non-PAs.

4. How the Queenstown Lakes Spatial Plan impacts the Schedules

- 4.1** Minute 14 requested that Council clarify how the Spatial Plan might impact some of the schedules, in response to submitters seeking that the reference to the Spatial Plan be clarified or removed.¹⁶ I understand this issue arose at the hearing due to Mr Curley changing the position he had previously expressed in the JWS.¹⁷

¹⁵ Also addressed in my Rebuttal Statement, paragraph 7.6.

¹⁶ Submitters OS20 and OS21, represented in Summary of Evidence Dan Curley (Planning) dated 3 September 2026, paragraphs 22 - 23 and Dan Curley, Hearing Day 3, Recording 2, 00:51:00, 3 September 2026, and Submitter OS30, represented in Summary of Evidence of Benjamin Espie (Landscape Architect) dated 2 September 2026, paragraph 18.

¹⁷ Summary Statement of Dan Curley on Day 3 of the Hearing.

- 4.2** Referencing the Spatial Plan in the qualifying comments of the capacity rating for 'urban expansions' and 'rural living' serves to indicate to plan users that capacity for urban expansions or rural living is not determined solely by effects on landscape. Rather, the direction given in the Spatial Plan for future development is another relevant matter that the Council can consider (s 104(1)(c)), alongside the effects on landscape values, in determining the appropriateness of urban development activities or rural living in the non-PA RCL Schedule areas.
- 4.3** In my view, seeking to create consistency and integrate the District Plan and Spatial Plan direction is consistent with s 74(2)(b)(i) of the RMA, which requires Council when preparing or changing its District Plan, to have regard to any management plans and strategies prepared under other Acts.¹⁸
- 4.4** I also agree and adopt Ms Gilbert's view that it is methodologically appropriate for landscape assessments, and by extension schedules, to recognise community-based, non-statutory documents where they assist in understanding landscape values.¹⁹
- 4.5** I rely on Ms Gilbert's expert opinion that, from a purely landscape perspective, there is 'extremely limited or no' landscape capacity for urban expansions in these schedule areas, despite the Spatial Plan identifying these areas as future urban.²⁰ The fact that a tension might arise is recognised by the guidance text reference to the Spatial Plan in the relevant Schedules.²¹

18 See my Rebuttal Statement, paragraph 8.2.

19 Rebuttal Statement of Ms Bridget Gilbert, paragraphs 4.2 and 4.4.

20 Rebuttal Statement of Ms Bridget Gilbert, paragraphs 4.6 and 4.8.

21 Joint Witness Statement at paragraph 52, and 21.23.7 Studholme Road JWS Version.

5. Changes since the section 32 Report

Subsequent updates to the Otago RPS

- 5.1 The Panel has requested that Council, in response to evidence presented at the Hearing,²² comment on whether the original s 32 analysis and reporting remains valid in the context of the subsequent updates to the now operative 2021 RPS.
- 5.2 The UCLS s 32 Report considered the then operative 2019 RPS and the 2021 RPS-DV (notified decisions version, dated March 2024). All appeals on the 2021 RPS-DV were resolved in March 2026 and the 2021 RPS became operative in July 2026 (and fully replaced the 2019 RPS from that date) – which was after the s 32 Report (October 2024) and after my s42A Report (May 2026).
- 5.3 The 2019 RPS definition of 'highly valued features and landscapes' (HVF/L) encompasses RCL, as HVF/L was defined as having values that are of significance under s7(c) and s7(f) of the RMA.²³
- 5.4 The 2021 RPS did not change the definition of HVF/L,²⁴ meaning RCLs remain HVF/L.²⁵
- 5.5 The s 32 report considered the Variation gave effect to the then operative 2019 RPS.²⁶ To elaborate, the 2019 RPS required Councils to identify, maintain or enhance HVL/Fs²⁷ by setting objectives, policies and methods²⁸, and assessing the values of places of potential significance, using biophysical, sensory, associative

22 Rosie Hill (OS09, OS22 & OS30, OS29 & FS60, OS45 and OS17) Opening Synopsis of Legal Submissions, 26 August 2026, paragraphs 39 – 47, Hearing Day 3, Recording 1, from 00:54:53, 3 September 2026 and Bridget Irving (Submitters OS37, OS08, OS32, OS43 & OS31), Submissions of Counsel, 26 August 2026, paragraphs 35-38.

23 2019 RPS: *'Highly valued natural features, landscapes and seascapes are those which have values that are of significance under Sections 6(a), 6(c), 7(c) and 7(f), but are not 'outstanding natural features and landscapes' under Section 6(b) of the RMA,'* page 131

24 2021 RPS, *'means areas which contain attributes and values of significance under Sections 7(c) and 7(f) of the RMA 1991, which have been identified in accordance with APP11,'* page 27

25 In response to Maree Baker Galloway (Representing OS35, OS36, OS50), Hearing Day 3, Recording 4, from 00:08:00, 3 September 2026: Ms Baker-Galloway submitted that she does not think there is evidence that these schedules are HVL / s7(c) landscapes, under the RPS.

26 UCLS Section 32 Report, October 2024, paragraph 6.16.

27 2019 RPS, Objective 3.2, Policies 3.2.5, 3.2.6, pages 34-35.

28 2019 RPS, Method 4.1, page 91.

attributes,²⁹ and identifying significant indigenous vegetation and habitats.³⁰ The 2021 RPS-DV did not require HVF/L or their values to be identified.³¹ The s 32 Report thus considered only the introduction of the Mata-au Clutha River PA gave effect to the 2021 RPS-DV.

5.6 The 2021 RPS has now reinstated (as compared to the 2019 RPS) that HVF/L and their values can be identified. Councils now have the discretion to identify HVF/L areas and values.

5.7 In summary, the Operative 2021 RPS gives direction for identifying landscapes and values as follows:

- (a) RCL are section 7(c) landscapes and are HVLs (as defined in the RPS);³²
- (b) The Council *must* identify ONFs and include a statement of values and, in areas likely to face development pressure, include their capacity to accommodate development;³³
- (c) The Council *may* identify highly valued natural landscapes, and, if it does, it *must* collaborate with Kāi Tahu to identify values and capacity of natural features and landscapes of significance for Kāi Tahu;³⁴ and
- (d) In addition, identification of values of HVLs *must* occur in accordance with APP11 and MW-M1(5),³⁵ and those values *must* be maintained or enhanced.³⁶

5.8 Counsel for submitters stated that the 2021 RPS, unlike the 2019 RPS, does not require Council to identify HVF/L, under NFL-M1(1).³⁷ Moreover, if Councils choose

29 2019 RPS, Method 4.2.2, page 93, refers to policies 3.1.11 and 3.2.5, page 32, which refer to Schedule 3, page 121.

30 2019 RPS, Method 4.2.2, page 93, refers to policy 3.2.1, page 32, which refers to Schedule 4, page 122.

31 2019 RPS-DV (March 2024), page 271 – 274.

32 2021 RPS Interpretation, page 27 – *Highly valued natural features and landscapes means areas which contain attributes and values of significance under Sections 7(c) and 7(f) of the RMA 1991, which have been identified in accordance with APP11; noting this was the same under the RPS 2019: ‘Highly valued natural features, landscapes and seascapes are those which have values that are of significance under Sections 6(a), 6(c), 7(c) and 7(f), but are not ‘outstanding natural features and landscapes’ under Section 6(b) of the RMA,’* page 131;

33 2021 RPS, NFL-M1(2)(a).

34 2021 RPS, NFL-M1(1)(g).

35 2021 RPS, NFL-P1.

36 2021 RPS, NFL-O2.

37 For example, Bridget Irving (OS37, OS08, OS32 and FS59, OS43, OS31), Submissions of Counsel, 26 August 2026, paragraph 36, and, Rosie Hill (OS22 and OS30, OS29 and FS 60, OS45, OS17, Opening Synopsis of Legal Submissions, 26 August 2026, paragraphs 42 – 47.

to identify HVF/L, then they are only required to identify values and capacity of natural features and landscapes of significance for Kāi Tahu, in collaboration with Kāi Tahu, and to include these areas in district plan maps.³⁸

- 5.9** The PDP has already fulfilled the optional requirement³⁹ under the 2021 RPS (*may identify*) to identify HVF/L. Mapping RCL, which are HVF/Ls as they are section 7(c) landscapes, occurred when the RCL zoning was applied to the land by previous PDP processes.⁴⁰
- 5.10** The Rural Zone was notified in 2015 alongside Chapter 6. The Chapter 6 framework for landscape classification sought to give effect to the RPS (1998) and had regard to⁴¹ the 2015 Proposed RPS, which required natural and physical resources to be maintained and enhanced, and ultimately, to give effect to s 6 and s 7(c) of the RMA.⁴²
- 5.11** Consequently, Chapter 6 sets out (in Policy 6.3.1.1) that all zoned land be classified as either ONF/ONL or RCL. Under SO 3.2.5.2, ONF/L are s 6(b) matters requiring protection, and under SO 3.2.5.5, RCL are s 7(c) matters requiring amenity values be maintained or enhanced. The purpose of categorising landscape in this way, as started in the Chapter 6, is to provide greater certainty of their importance to the District, and to respond to regional policy and national legislation.⁴³
- 5.12** In addition to the *may identify* HVF/L (under NFL-M1(1)) provisions NFL-O2, NFL-P1 and NFL-P3 direct that any identified *values* of HVF/L are maintained or enhanced, that those values are identified using APP11 landscape assessment criteria (which aligns with that under SP 3.3.43 and Te Tangi a Te Manu), as well as identified,

38 See 2021 RPS, NFL-M1(1)(g).

39 See 2021 RPS, NFL-M1.

40 See 2021 RPS Interpretation, page 27 – ***Highly valued natural features and landscapes*** means areas which contain attributes and values of significance under ***Sections 7(c) and 7(f) of the RMA 1991***, which have been identified in accordance with APP11. And Policy 6.3.1.1 of the PDP requires rural zoned land which is not ONF/ONL to be categorised as RCL, and under SO 3.2.5.5., RCL visual amenity values are required to be maintained or enhanced (with amenity values being those from section 2 of the Act).

41 Under s 74(2)(a).

42 Section 32 Evaluation Report Landscape, Rural Zone and Gibbston Character Zone accessible online at <https://www.qldc.govt.nz/media/dupcoqbr/pdp-s32-chapter-6-chapter-21-and-chapter-23-landscape-rural-zone-gibbston-character-zone-aug-2015.pdf>.

43 PDP Chapter 6.1 Purpose.

recorded and assessed using Te Ao Kāi Tahu methodologies, paradigms and mātauraka under MW-M1(5), which the Te Tangi a Te Manu is consistent with.⁴⁴

- 5.13** The 2021 RPS does not preclude Council from identifying HVF/L, and then scheduling the values as a method of identification. The 2021 RPS does not direct the Council to identify the capacity of HVF/Ls, but in my view, it does not prevent it. The preparation and contents of the schedules remain consistent with the direction given in the 2021 RPS.

Subsequent consent orders for PALS appeals

- 5.14** My Section 42A report evaluated, under s 32AA, the effectiveness and efficiency of adopting the Preamble 21.23 text amendments and approach to mapping that were confirmed through the March 2026 Environment Court consent determination for PALS Topic 1 matters.⁴⁵
- 5.15** I undertook further analysis under s 32AA, which reviewed the changes to the PALS 21.23 Preamble and ePlan maps. I consider that because these changes clarified how the PALS schedules should be interpreted and applied, adopting the modified Preamble 21.23 and mapping approach would improve the clarity and application of the UCLS Schedules, making them more effective and efficient in achieving the purpose of the UCLS Variation.⁴⁶
- 5.16** Submitter relief seeking that further changes align with the approach through the PALS Variation,⁴⁷ gave scope for the s42A Report to adopt the PALS Preamble 21.23 and apply the notified changes to this version (rather than creating a whole new non-PA preamble), as well as making the changes to the PDP ePlan maps.
- 5.17** Any subsequent PALS 'Topic 2' Consent Orders that have been issued, are site specific (i.e., they have amended the description of values or capacity of a specific

⁴⁴ See Upper Clutha 21.23 Schedules and Mata-au Clutha River PA Schedule 21.22.25 Methodology Report, October 2024, paragraphs 2.5, 2.6, 5.3, 5.4.

⁴⁵ *Burdon v Queenstown Lakes District Council* [2026] NZEnvC 40. PALS 'Topic 1' related to Preamble 21.22 and Preamble 21.23, as well as all PALS schedules generally.

⁴⁶ See my section 42A Report, section 32AA analysis, paragraphs 16.2 – 16.5.

⁴⁷ OS29.4, OS30.9, OS37.3

PA schedule), and they do not change the way that the schedules work. Therefore, they do not change my views that this Variation should adopt the same 'base' in the preamble and mapping approach as had recently been determined in the PALS appeals.

6. The relevance of the NPS-HPL to the UCLS Variation

- 6.1** Whether the Variation gives effect to the NPS-HPL was raised in the joint lay statement for Otago Federated Farmers.⁴⁸
- 6.2** The sole Objective of the NPS-HPL is to protect highly productive land for primary production. Some policies, including Policy 1, 4 and 8, provide for the recognition of the value of HPL, protection of HPL from inappropriate use, and prioritisation of HPL for land-based primary production.
- 6.3** The land relevant to the Variation is already zoned Rural Zone. Part of the Purpose of the Rural Zone is to enable farming and other appropriate rural activities, and avoid urban development or rural lifestyle, while providing for the maintenance and/or enhancement of landscape values and rural amenity.⁴⁹
- 6.4** The Variation is not rezoning land for urban development. Nor is it creating any rules or amended activity status (including any associated with the protection or otherwise of HPL). Instead, it provides guidance to assist with the implementation of the existing PDP provisions, particularly Chapters 3, 6 and 21.
- 6.5** The Schedules sit within the Rural Zone framework and assist with assessing the effects of activities, as is already required by the Chapter 21 framework. Therefore, the Schedules do not change the existing PDP framework nor impede HPL land from being used for land-based primary production.

48 Statement of Evidence for Otago Federated Farmers (OS41), dated 26 August 2026, paragraph 24.

49 PDP 21.1 Chapter 21 Zone Purpose.

6.6 In addition, in response to submissions by Otago Federated Farmers that the schedules would make routine farming activity slower and more expensive,⁵⁰ I emphasise that the Schedules do not change the rules and standards that already exist, and that a landscape assessment is already required for farming activities in breach of certain standards.⁵¹ By providing clarity on what values are required by the PDP to be maintained or enhanced, the schedules remove the need for values assessments from first principles.⁵²

6.7 For these reasons and consistent with the s 32 Report, I consider that the Variation gives effect to the NPS-HPL.

7. Other matters

PALS consent and monitoring examples in UCLS Variation processes

7.1 Counsel for a number of submitters has stated that Council has not included any examples of consenting costs or monitoring evidence from consents involving the PALS that would indicate the schedules' effectiveness or efficiency in better achieving the PDP framework.⁵³ This is despite the PALS (notified on 30 June 2022) having been in existence for consideration in consenting decisions for four years, and the Decision on the PALS (21 June 2024) having legal effect for over two years.

7.2 While the PALS have had legal effect since June 2022 as a matter under s104(b)(vi), both the contents of individual schedules, the Preamble 21.23 and mapping approach were subject to appeals. Therefore, it is questionable whether any conclusive trends showing the influence of the PALS could have been determined from consent data, given not all schedules would have carried the same weighting.

⁵⁰ Statement of Evidence, dated 26 August 2026, by Rachel Shalini Thomas and Anna Michelle Gillespie (OS41), paragraph 35.

⁵¹ Not all RD-status standards restrict discretion to landscape matters. Those standards that do not require Council to have regard to these matters are: 21.5.3, 21.7.5, 21.13.5, 21.14.8. Also refer to table from Hearing Day 1 – Emily Frew – PDP Rural Zone Framework for Farming Activities.

⁵² See my s42A Report, paragraph 14.4.

⁵³ Rosie Hill (OS22 and OS30, OS29 and FS 60, OS45, OS17), Opening Synopsis of Legal Submissions, 26 August 2026, paragraphs 12 – 15, and Hearing Day 3, Recording 1, from 00:06:30, 3 September 2026.

- 7.3** Moreover, UCLS s 32 Report was published in October 2024, approximately four months after the PALS decision was notified. Any data from PALS consents since the decision in 2024 were unlikely to have been of a scale to give a clear indication of the effectiveness and efficiency of the PALS and inform the UCLS s 32 cost/benefit analysis. Moreover, Council was not required to undertake this monitoring to fulfil the requirements of s32.
- 7.4** The timing of the UCLS has prevented any conclusive evidence of efficiency and effectiveness of the PALS. In the absence of any data, I consider that, the District Plan, by providing greater specificity about what visual amenity values and landscape character it seeks to maintain and enhance, is better able to anticipate and manage adverse effects on landscape character and visual amenity values. Schedules provide additional information for Council and applicants to assist in a landscape assessment required for both PAs and non-PAs under SP 3.3.45.
- 7.5** For both parties, Schedules can create efficiencies by setting the physical parameters of an assessment and providing a 'same-page' starting point about what is likely to be affected, meaning assessments can be streamlined, and can instead focus on the extent of effects, and appropriate mitigations.⁵⁴
- 7.6** For applicants and landscape architects, values and capacity ratings give greater clarity of what is likely to be of value on their site. For Council, having high-level information about what is important in an area, can reduce the risk of values being overlooked by planners or landscape architects in case-by-case assessments and having capacity ratings as 'starting point' can help in the assessment and monitoring of cumulative effects.⁵⁵

Schedules' application to Planation Forestry Activities

- 7.7** During the hearing, the Panel asked how the Schedules are relevant to plantation forestry.⁵⁶

54 As discussed in Section 42A Report, paragraphs 12.8, 14.4, 14.5

55 As discussed in Section 32 Report, paragraphs 2.6, 3.2, 3.3, JWS, paragraph 48, Rebuttal Report, paragraph 7.2, 7.6,

56 Question from Commissioner Blakey, Hearing Day 1, Recording 4, 1 September 2024.

- 7.8** The Schedules apply to plantation forestry that falls under the definition of 'Forestry activities' in the PDP⁵⁷, but not to plantation forestry activities that are within scope of the definition of 'Commercial Forestry', under the National Environmental Standards for Commercial Forestry 2023 (**NES-CF**).
- 7.9** Forestry activities in scope of the PDP definition are a discretionary activity under Chapter 21, requiring that Council have regard to landscape character and visual amenity values, identified in Schedule 21.23 where relevant, and identified in accordance with SP 3.3.45.⁵⁸
- 7.10** Otago Regional Council regulates commercial forestry activities and issues consents under the NPS-CF. The NES-CF allows rules in the District Plan to prevail over the NES-CF on several discrete matters, including recognising and providing for the protection of ONF/L and SNAs, but not RCL.⁵⁹ Consents for Plantation Forestry activities, within scope of the NES-CF, in RCL would therefore not require consent under the PDP, and not require the schedules to be engaged.

8. Recommendation on most appropriate form of the Variation

Primary recommendation

- 8.1** I recommend the adoption of the Reply Recommended Versions of the UCLS as attached as Appendix 1 to this Reply. I recommend that submission points are accepted, accepted in part or rejected by the Hearings Panel as set out in Appendix 2 of this Reply.
- 8.2** In my view, identifying landscape character, visual amenity values and landscape capacity in non-PA schedules, is more efficient and effective in achieving Strategic Policies 3.3.33, 3.3.45 and Strategic Objective 3.2.5.5, because such high-level identification provides for more consistent interpretation of and assessment across

⁵⁷ **Forestry Activity** Means the use of land primarily for the purpose of planting, tending, managing and harvesting of trees for timber or wood production in excess of 0.5ha in area.

⁵⁸ See PDP Assessment Matter RCL, 21.21.2.1a. and 21.21.2.1.b

⁵⁹ Under ss(2) of the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017, as at June 2026.

proposals, better ensuring that landscape character is maintained and visual amenity values are maintained or enhanced.⁶⁰

Alternative recommendation

8.3 A number of submitters raised issue with the capacity sections of the non-PA Schedules, on the basis that they:

- (a) create an additional layer of compliance which adds to the time and cost of applications,⁶¹ and arguably make site-specific more onerous for applicants;⁶²
- (b) run the risk being applied too rigidly applied as 'de facto' policy statements or 'rules',⁶³ and especially in the case of small schedules,
- (c) are ambiguous, either being too 'high-level' to apply to site-specific assessments,⁶⁴ or subjectively worded and interpreted,⁶⁵ all of which makes the application process reportedly more costly and less efficient.
- (d) are inefficient given they can become outdated, requiring ongoing plan changes.⁶⁶

8.4 I understand that these same issues were largely traversed through submissions on the PALS Variation, the key difference being that for the PALS the PDP was expressly directive in requiring landscape capacity to be recorded in a schedule.

60 As discussed in my Rebuttal Statement, paragraphs 7.2 – 7.3.

61 For example, Black Peak Farming (OS28), Oral Submission, and Lagoon Valley Dairies (OS11), Hearing Day 2, Recording 3, 40:00, Lagoon Valley Dairies (OS11), Hearing Day 2, Recording 3, 1:40:10, 2 September 2026, Maree Baker Galloway (OS49, OS39, OS36), Synopsis of Legal Submissions, dated 26 August 2026, paragraphs 19-21, Statement of Evidence for Otago Federated Farmers (OS41), dated 26 August 2026, paragraphs 53 – 55.

62 For example, Summary of Evidence of Benjamin Espie (on behalf of Various submitters), dated 2 September 2026, paragraph 6.

63 For example, Maree Baker Galloway (OS49, OS39, OS36), Synopsis of Legal Submissions, dated 26 August 2026, paragraphs 27-31, Summary Evidence of Dan Currey (on behalf of Various submitters), 3 September 2026, paragraph 19.

64 Summary of Evidence of Benjamin Espie (on behalf of Various Submitters), paragraph 6.

65 For example, Statement of Evidence for Otago Federated Farmers (OS41), 26 August 2026, paragraphs 48 – 52. Summary Evidence of Dan Currey (on behalf of Various submitters), 3 September 2026, paragraphs 15 – 19.

66 For example, Summary Evidence of Dan Curley (on behalf of Various submitters), 3 September 2026, paragraphs 20-21.

8.5 I also note that a number of submitters support the retention of capacity ratings in the non-PA schedules.⁶⁷ One submitter⁶⁸ has noted that the policy framework requires an assessment of capacity, so if capacity ratings are removed, the plan is silent on what weight to give the descriptive and evaluative content in the schedules when making an assessment.

8.6 As I have explained in my evidence and during the hearing, my position on these issues is:

- (a) my proposed amendments⁶⁹ to Preamble 21.23 have sought to make clear that capacity ratings are guidance only and are not replacement for policies, rules or standards.⁷⁰ As I have stated, capacity ratings are a high-level 'starting point', or context, for a site-specific assessment, indicating the sensitivity of an area to development change, and therefore what level of development is likely to be appropriate to ensure that landscape character is maintained and visual amenity values maintained or enhanced.⁷¹
- (b) I agree that capacity ratings can become outdated, as with the PALS, or any other part of the PDP.⁷² Capacity ratings, by being a point in time, remain useful in achieving the policy framework, as they provide a 'baseline' to assist Council with monitoring (under SP 3.3.48) whether SO 3.2.5 has been achieved, and capacity has not been exceeded.⁷³ They therefore assist Council in understanding the extent of change over time, and how Council can continue to manage effects on landscape character and visual amenity values. In my view, this makes the PDP policy framework more efficient and effective.

⁶⁷ For example, OS7.28 (Florence Micoud), OS5.7 (Rod Macleod), 10.4 (Kāi Tahu ki Otago), OS24.4 (Willowridge Developments Limited), OS25.13 (Fork Farm Family Trust), OS31.6 (Bell Group Limited), OS43.11 (Scott Aubrey Family Trust).

⁶⁸ Speaking notes of Rachel Shalini Thomas and Anna Michelle Gillespie on behalf of Otago Federated Farmers, (OS41), dated 2 September 2026, paragraph 9.

⁶⁹ See my Rebuttal Statement, paragraph 5.8.

⁷⁰ Also stated in Proposed Preamble 21.23 (Rebuttal version August 2026), paragraph 6.3, and 21.21.A - Application of Assessment Matters 21.21.1 to 21.21.3.

⁷¹ See my Rebuttal Statement, paragraph 7.3.

⁷² As discussed in JWS, paragraph 27.

⁷³ See my Rebuttal Statement, paragraph 7.6 and JWS, paragraph 42.

8.7 I consider that capacity ratings, as 'a high-level' starting point across a broader landscape area, give some indication to landscape architects about the sensitivity of the surrounding landscape, rather than requiring them to start from scratch. I note Ms Gilbert's point that without capacity ratings, landscape experts would be required to determine a landscape rating scale for each application and that there is no guidance in Te Tangi a Te Manu, with respect to landscape assessment methodology for capacity assessments.⁷⁴ The schedules do not completely remove subjective interpretations, however, they reduce the risk that capacity is interpreted inconsistently, under or over-estimated or disregarded across assessments over time, and give more certainty that the PDP framework can anticipate and manage cumulative effects.

8.8 While I remain supportive of the inclusion of capacity ratings for the reasons summarised above, if the Panel is minded to remove the capacity sections of the non-PA Schedules, and introduce the rest of the non-PA Schedule to the PDP, in my view this would consequentially require the following changes (in orange) to Preamble 21.23, shown in my Attachment 3, 'alternative preamble':

- (a) Insert of the following paragraph 6.2:
 - (i) 'Capacity ratings are not included in the Schedules for non-PAs. The capacity of activities will be determined through proposal-specific assessment in accordance with SP 3.3.45. This does not imply that the non-PAs are more or less important than the PAs in terms of landscape character, visual amenity values or landscape capacity or are more or less vulnerable to adverse effects (including cumulative effects) of subdivision, use and development.'
- (b) Insert an additional footnote (14) for the paragraph above:
 - (i) 'Refer to Strategic Policy 3.3.44'
- (c) Amend Section 6 of Preamble 21.23 to apply capacity ratings to PAs only:
 - (i) Retitle Section 6 as: 'Landscape Capacity for Priority Areas;' and
 - (ii) Retaining the 'PA' text in section 6 only.

⁷⁴ See Joint Witness Statement, paragraph 43.

- 8.9** These changes would be needed because this approach could imply that the values and landscape character of these areas are less important than PAs or less vulnerable to cumulative effects of subdivision, use and development (which is not the case - SP 3.3.44).
- 8.10** In terms of the effect of removing the capacity sections, in accordance with s32AA, I have summarised the costs, benefits and efficiency and effectiveness of this alternative approach, as follows.

Alternative option: Include the Mata-au Clutha River Schedule, and 12 non-PA Schedules in the PDP, but exclude the capacity ratings for the non-PA schedules			
Costs	Benefits	Efficient and Effectiveness	Risk of Acting / not acting
Environmental Risk of cumulative effects as assessments could under-estimate or inconsistently assess the effects of proposals over time Removal of a tool (the 'base-line') to determine the effects of proposals over time, making the PDP less effective/efficient in managing adverse effects on landscape character, visual amenity values (particularly cumulative effects).	Environmental The attributes and visual amenity values state what is valued in the landscape, however there is a risk of cumulative effects of development on those values/character over time without any high-level indication of capacity.	While this approach would provide the high-level values / character of non-PA schedule areas, no guidance on the capacity of those values/character to accommodate development creates risk that the PDP direction for s 7(c) landscapes will not be achieved – as the capacity could be exceeded through a case by case approach. Not identifying the capacity for activities in the rural zone would require individual resource consent applications to undertake a case-by-case assessment to identify this capacity. It is not considered that this approach is an efficient or effective way to achieve the objective of the proposal, as capacity assessments must start from scratch and could vary significantly across proposals.	This option would give effect to the Environment Court and PDP direction to identify and schedule the Mata-au Clutha River as a PA, and assist in providing the values of non-PA RCL in the Upper Clutha Basin. Not acting would provide some indication of what is valued in non-PA schedule areas, but without a high-level indication of the capacity of those values to accommodate subdivision or development over time. The PDP framework would be less efficient / effective in maintaining landscape character and/or enhancing visual amenity values. The risk of acting is that s7(c) landscapes may not be maintained or enhanced – particularly in terms of cumulative effects.
Economic Applicants incur cost of case-by-case assessment to determine the capacity and then effects on that capacity, required to be assessed under SP 3.3.45 There is no starting point to aid in the mediation of potential disputes over landscape capacity, between parties.	Economic Identifying the visual amenity values and attributes would reduce the cost of case-by-case assessments.		

Alternative option: Include the Mata-au Clutha River Schedule, and 12 non-PA Schedules in the PDP, but exclude the capacity ratings for the non-PA schedules			
Costs	Benefits	Efficient and Effectiveness	Risk of Acting / not acting
Social As drafted, the RCL schedules have been informed by public feedback about the values people hold in the landscapes. Not including capacity ratings would not give an indication of cumulative effects on those values and would increase the risk that these values will not be maintained or enhanced over time.	Social There is a social benefit through identification of landscape values as this schedule would provide a high level of certainty that the values people associate with this landscape would be protected. However, without further guidance on the capacity of these values to accommodate subdivision and development, there is a risk these values would not be maintained and enhanced.		
Cultural Greater risk of under-estimating capacity, and therefore risk of adverse effects (including cumulative effects) cumulative effects of development on mana whenua values, and thus does not provide enough certainty that such values will be maintained or enhanced.	Cultural Identifying mana whenua values within RCLs which need to be maintained or enhanced is helpful, but no guidance as to when or what development would undermine the maintenance / enhancement of those values in a capacity sense.		

8.11 Notwithstanding the above, if the capacity rating section is removed from the non-PA schedules, I recommend changes to Preamble 21.23 Section 6 'Landscape Capacity' to ensure the Variation remains consistent with SP 3.3.44 and consequential amendments to clarify that only PA schedules contain capacity ratings.

30 September 2026

Emily Frew