

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on Proposed District Plan

Report and recommendations of Independent Commissioners
regarding mapping of Wakatipu Basin and Arrowtown
(includes Stage 1 submissions not previously heard)

Report 18.11 - Area I
Ladies Mile

Commissioners

Denis Nugent (Chair)

Rachel Dimery

Trevor Robinson

Quentin Smith

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Appendix 1: Recommended Amendments to Chapter 8

1. INTRODUCTION

1.1. Preliminary

1. This report needs to be read in conjunction with Reports 18.1 and 18.2. Report 18.1 sets out the overall hearing process for Stream 14 and the approach we have taken to assessing the submissions in terms of the statutory requirements. In addition, it contains the Stream 14 Hearing Panel's recommendations on Chapter 24 Wakatipu Basin and the various variations to the text in Stage 1 of the PDP notified in conjunction with Chapter 24.
2. The abbreviations we use in the report are set out in Report 18.1, as is the list of persons heard.
3. Report 18.2 set out the background to the zoning issues dealt with in Stream 13 and explains how we divided the area subject to our deliberations up for the purposes of preparing the recommendation reports.

1.2. Ladies Mile Area

4. This area contains LCU 10 Ladies Mile. It also includes the southern slopes of the Slope Hill ONF, Lake Hayes Estate, the north bank of the Kawarau River between the Shotover River and Hayes Creek, the land between the east bank of the Shotover River and the land zoned Shotover Country Special Zone in the ODP, and the land on the true right bank of the Shotover River downstream from the old road bridge which was zoned Rural in Stage 1 and deferred to be dealt with as part of Stage 2.
5. Apart from the Threepwood land at the east end of Ladies Mile and a small area between Springbank Grove and the ONL boundary, which was zoned Rural Amenity in Stage 2, and the zoning of reserve land as one of the Open Space and Recreation Zones, the land in this area was subject to Stage 1 zonings and the submissions related to those Stage 1 zonings. We note that the part of Submission 655 which sought that the river flats below the Bridesdale subdivision be zoned Active Sport and Recreation has been dealt with in Stream 15 along with submissions relating to the zoning of the adjoining reserve land.
6. Area I, showing the zonings and map notations as notified, is shown on Figure 1 below.
7. As notified, Chapter 24 classified the capability of LCU 10 to absorb additional development as high.

LEGEND

- Landscape Character Unit Boundary
- Wakatipu Basin Area Boundary



Area I – Ladies Mile

Figure 1: Ladies Mile Area

1.3. Submissions Covered in this Report

8. Several submissions sought amendments to the position of the ONL boundary in this area. The areas of issue were adjoining the Slope Hill ONF and the location of the ONL along the bank of the Kawarau River. These are discussed in Section 2 below. There were also submissions relating to the Landscape Feature line on the western boundary of LCU 14 and seeking a building restriction area along Hayes Creek west of LCU 14. These are also dealt with in Section 2. All other submissions relating to LCU 14 are addressed in Report 18.6 – Area D – Lake Hayes.
9. The zoning issues we heard evidence on were in relation to:
 - a. much of the land zoned Rural in Stage 1 on both sides of Ladies Mile, where submitters sought Rural Residential, Large Lot Residential or Precinct zonings;
 - b. pieces of land on the margins of Lake Hayes Estate where urban residential zonings were sought.
10. We deal with these submissions in two groups:
 - a. land adjoining Ladies Mile;
 - b. land adjoining the southern (and south-eastern) boundary of Lake Hayes Estate.

2. OUTSTANDING NATURAL FEATURE AND OUTSTANDING NATURAL LANDSCAPE BOUNDARIES AND OTHER MAP NOTATIONS

2.1. Crane and Mactaggart¹

11. The submitters did not present any evidence in support of their request to remove the ONF from their property.
12. Ms Mellisop visited the site and agreed that the toe of Slope Hill lies largely outside Lot 1 DP 21614, apart from at the north-western part of the lot. She recommended amendments to the ONF boundary as shown in Figure 2.
13. We adopt Ms Mellisop's reasoning and recommend the ONF boundary is adjusted accordingly.

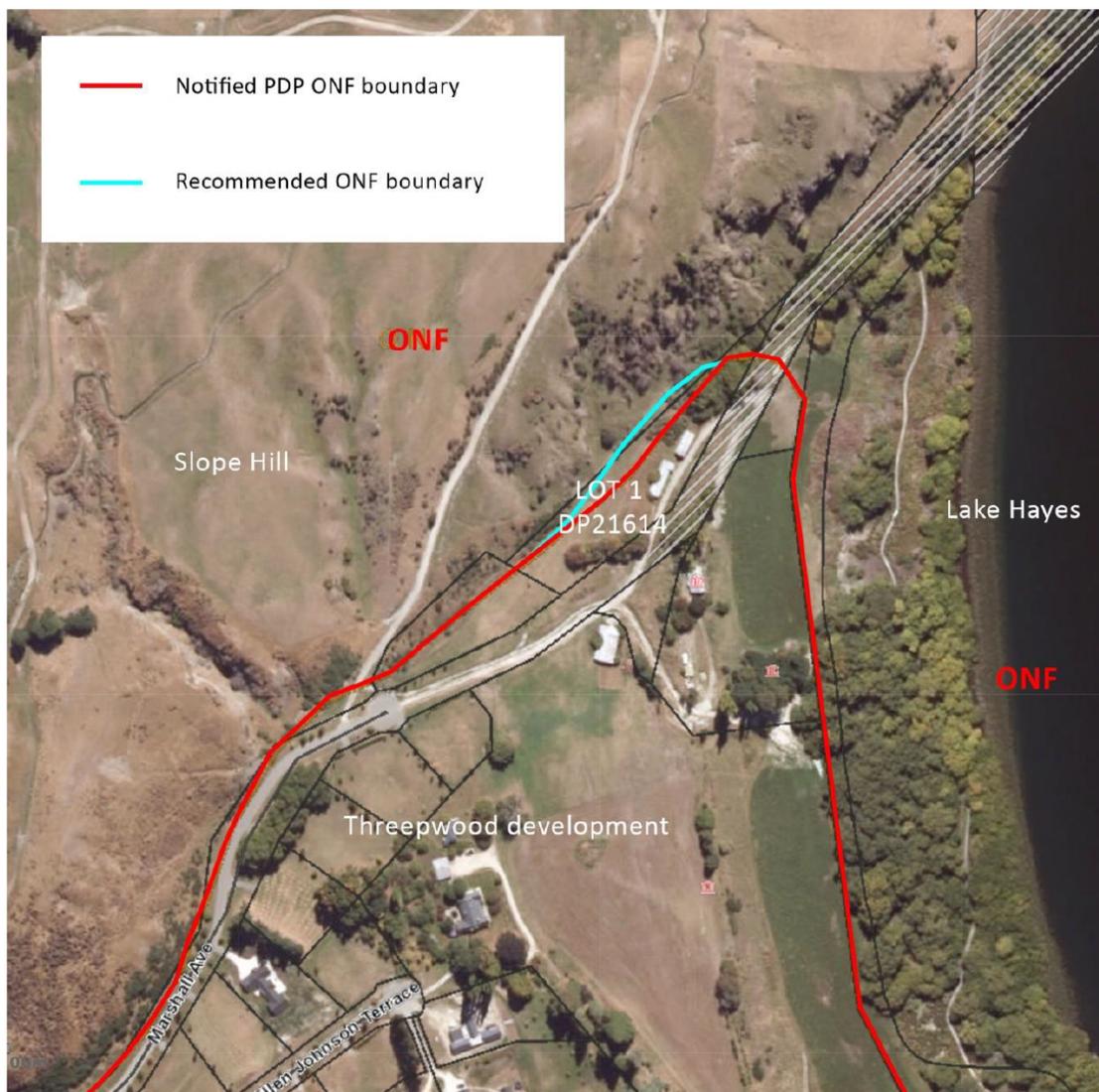


Figure 2: Recommended ONF boundary, as per Figure 2 of Ms Mellisop's Evidence in Chief

¹ Submission 688

2.2. ONF boundary near Springbank and Glenpanel

14. A group of submitters² requested that the boundary of the Slope Hill/Lake Hayes ONF be amended to exclude the lower more developed slopes. Ms Vanstone and Mr Langman, relying on the evidence of Ms Mellsop, recommended that the ONF boundary be amended.
15. We did not hear any evidence from the submitters in support of the requested amendment. However, we accept Ms Mellsop's assessment that the ONF boundary should exclude the Glenpanel homestead and curtilage and the dwellings at 399 Frankton-Ladies Mile Highway and 14 Lower Shotover Road.
16. Accordingly, we recommend that the ONF boundary be amended as sought by the submitters (refer to the line shown in green in Figure 3 below).

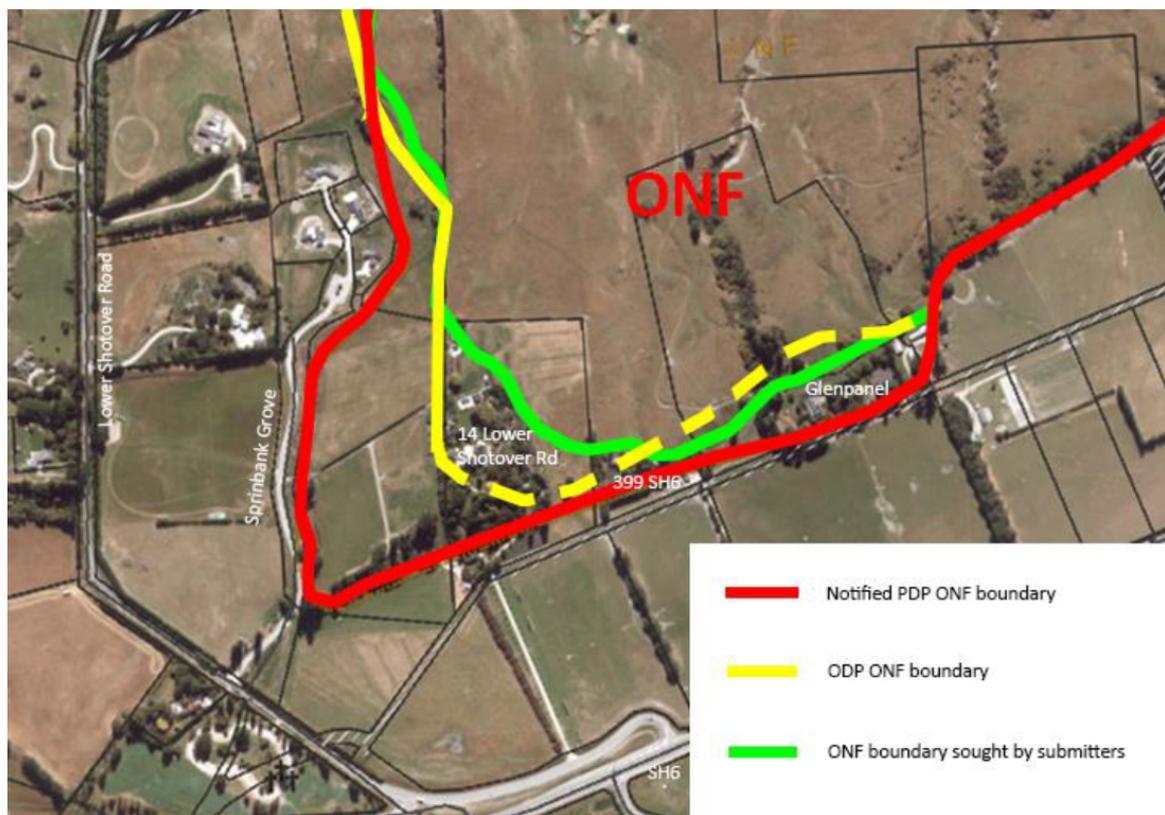


Figure 3: Recommended ONF boundary (as per Figure 5 of Ms Mellsop's Evidence in Chief)

2.3. Kawarau River ONL at Lake Hayes Estate

17. Bridesdale Farm Developments Limited ('Bridesdale')³ sought the relocation of the boundary of the ONL at Lake Hayes Estate to the true left bank of the Kawarau River. One other submitter⁴ supported the notified location of the ONL boundary.

² Submissions 353 (supported by FS1016), 534, 535 (supported by FS1259, 1267, opposed by FS1068, FS1071), 813 and 2553 (supported by FS2763)

³ Submission 655, opposed by FS1064, FS1071, FS1340

⁴ Submission 492, opposed by FS1261

18. Mr Goldsmith, legal counsel for Bridesdale, pointed out that landscape assessments have subjective elements. He urged us to consider what is outstanding in the context of this district, in which 96.97% of the land is classified as ONL or ONF.
19. Mr Skelton, who gave landscape evidence for Bridesdale Farm Developments Limited, did not consider that the escarpment and river flats to be outstanding or natural. In his view, this was particularly so because of the existing and permitted development. His assessment in part relied on approximately 8ha of the river flats being designated recreation reserve⁵ and his understanding that the designation's conditions would allow up to 4,000m² of building coverage and 16,000m² of impervious surface coverage⁶. This land is also proposed to be rezoned Informal Recreation as part of Stage 2.
20. Ms Vanstone and Ms Mellsop, for Council, both considered this level of development to be fanciful. Ms Vanstone⁷ referred us to the definition of recreation reserve in the Reserves Act and the purpose of the Informal Recreation zone. She also noted that the flood hazard over this land may also limit the level of development that can occur. We return to the issue of the Informal Recreation zoning momentarily but agree that the flood hazard will impose a constraint on any development of this land.
21. We discussed the scenarios relating to the likely level of future development with counsel and witnesses at the hearing. Mr Goldsmith handed up a plan to us showing a seven-court tennis academy proposed on the land south of the garden allotments associated with the Bridesdale Farm development. He told us that this proposal was the subject of an application for resource consent that was currently being processed.
22. Turning to our consideration of the level of development enabled by the PDP, we have taken into account the recommendations of the Stream 15 Hearings Panel. That Panel's recommendation is to confirm the Informal Recreation zoning on the Council reserve land and to confirm the Rural zoning on the river flats, as notified in Stage 1.
23. In her reply evidence, Ms Vanstone asserted that the level of development on the designated recreation reserve land and adjoining Informal Recreation zoned land was likely to be small-scale community buildings and structures. Having read the Informal Recreation zone provisions attached to Report 19.6 by the Stream 15 Hearing Panel, we find that Ms Vanstone's conclusions still hold. In relation to the tennis academy proposal, we conclude that this not relevant to our consideration, as it does not yet have an approved resource consent.
24. Returning to our consideration of the appropriate location of the ONL boundary, we were persuaded by the evidence of Ms Mellsop. She cautioned against confining the assessment of the values of an area in isolation from the wider landscape.

There is always a danger that the more confined the focus of an assessment is, the more likely it is that the outcomes of the evaluation will be anomalous. Almost all ONL within the District contain small areas that would not be considered ONL if evaluated in isolation.⁸

⁵ Designation 365 Queenstown Lakes District Council as recreation reserve

⁶ S. Skelton, Evidence in Chief at 13

⁷ A. Vanstone, Reply Evidence at 9.12 to 9.17

⁸ H. Mellsop, Rebuttal Evidence at 9.3

25. We are cognisant of the decisions of the Environment Court discussing the extent of a landscape⁹. This is particularly relevant in this situation as we understood the landscape architects to agree that the river flats were too small to be a landscape in its own right. This understanding led us to have some difficulty with the logic of the boundary advanced by Mr Skelton. When we asked him how this area could be perceived to be part of the Ladies Mile LCU, he told us that this was because of the association with Lake Hayes Estate and Bridesdale on the upper edge of the terrace, with Slopehill behind, which framed the view and acted as a backstop.
26. Ms Mellsop concluded that the ONL boundary as notified follows a clear and legible demarcation between the suburban landscape of Lake Hayes Estate and the Kawarau River corridor. We agree. We consider the river flats to be part of the Kawarau River ONF, which is in turn part of the Remarkables ONL. It is artificial to separate the river flats from the river.
27. Ms Mellsop recommended a minor amendment to the ONL boundary to recognise historic earthworks that have taken place on the Crawford property¹⁰. We agree with her recommendation and agree that the ONL boundary should be shifted to the crest of the bund on Lot 403 DP 379403, as this now forms the effective crest of the river escarpment¹¹.
28. Overall, we find that amending the ONL boundary to exclude the river flats would not achieve the objectives for ONLs in the PDP. We recommend the ONL boundary is amended on the Crawford property, as this reflects the extent of historic earthworks, but otherwise it be confirmed as notified. Our recommended ONL boundary in this location (from Onslow Road to Hayes Creek) is shown on Figure 4 below.

⁹ See the discussion in *Wakatipu Environmental Society & Lakes District Rural Landowners Inc v Queenstown Lakes District Council* [2003] NZRMA 289 at paragraph 10ff

¹⁰ Submission 842, opposed by FS1340

¹¹ H. Mellsop, Evidence in Chief at 6.42.

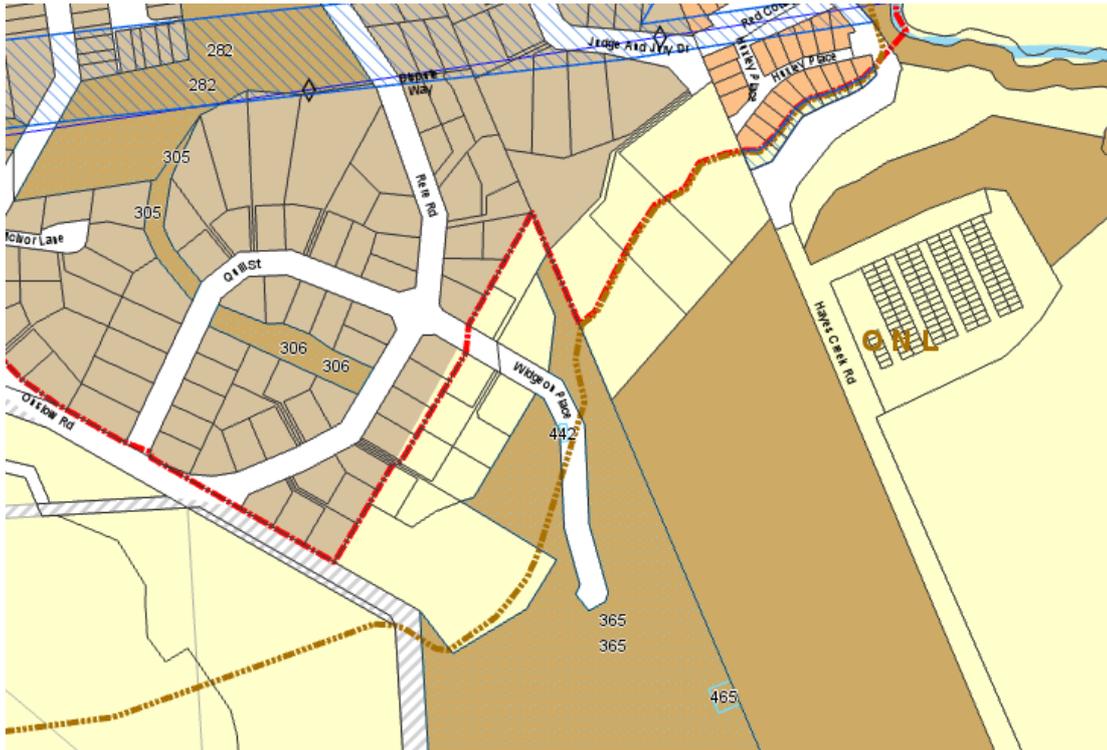


Figure 4: Recommended ONL boundary in area from Onslow Road to Hayes Creek

2.4. BRA/Landscape Feature Line East of Hayes Creek

29. A Stage 1 submission¹² sought that a Building Restriction Area apply over the steep eastern face of Hayes Creek. The Stage 2 Planning Maps as notified showed a Landscape Feature line at the top of the bank above the eastern side of Hayes Creek (the western edge of LCU 14). One submission¹³ sought this be removed.
30. No landscape evidence was presented by submitters on this matter. Ms Gilbert did not oppose the deletion of the Landscape Feature line on the eastern edge of Hayes Creek. She noted the close proximity of urban development on the other side of the creek, and that Hayes Creek is not an ONF or ONL. Relying on the evidence of Ms Gilbert, Mr Langman supported the removal of the Landscape Feature line.
31. Mr Carey Vivian presented planning evidence in support of the request for a Building Restriction Area¹⁴. He advised that the submitter supported the Landscape Feature line as notified in Stage 2 as being consistent with their Stage 1 submission. He disagreed with Ms Gilbert and Mr Langman. He considered that while Hayes Creek is not an ONF or ONL, it has “high landscape sensitivity”¹⁵. He sought that the Landscape Feature line be retained and that a Building Restriction Area apply over Hayes Creek.
32. Mr Langman stated in his reply evidence that Hayes Creek and the escarpment is not of any significance as a feature and for these reasons, he continued to recommend the removal of the Landscape Feature line and did not consider a Building Restriction Area to be necessary.

¹² Submission 454, opposed by FS1261

¹³ Submission 2398

¹⁴ Submission 451

¹⁵ C. Vivian, Evidence in Chief in relation to Submissions 451 and 454, at 2.17

33. We were unconvinced of the utility of a Landscape Feature line at this location and agree with recommendation of Mr Langman that it should be deleted. We equally consider there is no need for a Building Restriction line along this part of Hayes Creek. We note that the steep face at issue has a proposed zoning of Rural Lifestyle, with Precinct applying from the top of the bank. We were not provided any information on the distance between Hayes Creek and the Precinct sub-zone, but we are satisfied that Rule 22.5.6 (beyond challenge) requiring a 20m setback from waterbodies, will ensure that development is appropriately set back from Hayes Creek. In addition, recommended Rule 24.5.12, requiring a 30m setback from waterbodies for buildings in the Precinct sub-zone may also assist.

3. ZONING OF LAND ADJACENT TO FRANKTON-LADIES MILE HIGHWAY AND NORTH OF SHOTOVER COUNTRY AND LAKE HAYES ESTATE

3.1. Introduction

34. For the most part, submitters¹⁶ sought to rezone land on either side of Frankton Ladies Mile Highway, north of Shotover Country and Lake Hayes Estate, as Rural Lifestyle and/or a mix of Rural Lifestyle and Rural Residential or a zone that provides for rural living. Some submitters¹⁷ sought Large Lot Residential or unspecified urban zones and corresponding adjustments to the urban growth boundary to include these areas. The further submissions in opposition raised issues of reverse sensitivity, infrastructure capacity and the impact of ribbon development on the scenic value of the highway and traffic.
35. We note Stage 1 as notified included the Low Density Residential Zone. This was renamed the Lower Density Suburban Residential Zone as a result of the Stage 1 decisions. We have taken all references to Low Density Residential Zone in the evidence we heard are to refer to the Lower Density Suburban Residential Zone. We have therefore only referred to Lower Density Suburban Residential Zone in our report, as we consider this to be the equivalent zone.
36. In her Section 42A Report, Ms Vanstone recommended that the land in this area should retain the Rural and Rural Amenity zoning, as notified in Stages 1 and 2.
37. The key areas of disagreement between the expert witnesses related to the relevance of the Housing Accords and Special Housing Areas Act 2013; landscape values; transport and planning. Mr Kyle, the planning witness for QAC, advised that QAC no longer had an interest in the Stage 1 submissions within this area¹⁸.

3.2. Relevance of the Housing Accords and Special Housing Areas Act 2013 to Requests for Rezoning

38. One of the main areas of disagreement was whether the Housing Accords and Special Housing Areas Act 2013 (HASHAA) is a relevant matter to which we should have regard to under Section 74(2)(b)(i) of the Act.
39. Ms Vanstone provided an overview of HASHAA and the history of recent developments that have been approved in this area under HASHAA. She observed that the bulk of the Special

¹⁶ Submissions 532 (supported by FS1322, opposed by FS1071, FS1092, FS1340), 535 (supported by FS1259, FS1267, opposed by FS1068, FS1071, FS1092) and 2567

¹⁷ Including submissions 838, 239 and 404

¹⁸ Submissions 229, 239, 351, 404, 532, 670, 688, 690, 838

Housing Areas (SHAs) approved under HASHAA have been in the vicinity of the Ladies Mile area and that the consented development has significantly transformed the southern part of this area¹⁹.

40. Ms Vanstone placed considerable emphasis on the Housing Accords and Special Housing Areas Implementation Policy (Lead Policy), which was adopted by Council on 26 October 2017, as a reason why the relief sought by submitters should not be granted. The Lead Policy is used to guide the assessment of SHAs and included an indicative master plan for part of the Ladies Mile area (refer Figure 5 below). Ms Vanstone explained the Lead Policy classifies this area as Category 2, which indicates that it is land that may be suitable for inclusion in a SHA, subject to further assessment.



Figure 5: Indicative Ladies Mile Masterplan attached to the Lead Policy (Source: A. Vanstone, Section 42A Report, Figure 5)

41. Ms Vanstone also advised that the Council had been provisionally allocated \$50 million dollars, through the government's Housing Infrastructure Fund, to advance infrastructure projects in Kingston, Quail Rise south and Ladies Mile. She provided an overview of the process to date and noted that due to concerns raised by the NZTA about the capacity of the Shotover Bridge, the indicative business case only sought funding for infrastructure to serve areas A, B and D2 as shown on Figure 6 below.
42. The primary reason Ms Vanstone provided for her reliance on the Lead Policy was that it would promote integrated and comprehensive development. She considered this was important because the landholdings are in multiple ownership, making it difficult to address stormwater management and access points to State Highway 6 in a coordinated fashion²⁰.

¹⁹ A. Vanstone, Section 42A Report at 9.4 to 9.11

²⁰ Ibid. refer to discussion at 10.6 to 10.17

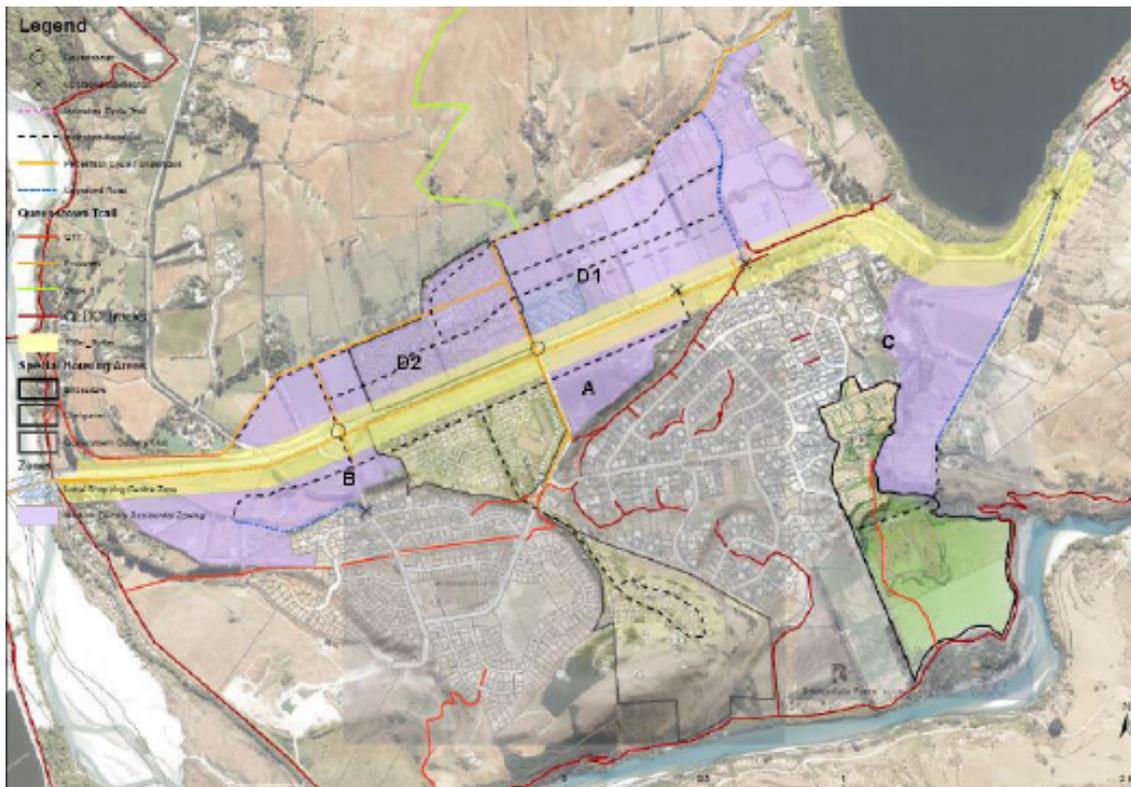


Figure 6: Map of the Ladies Mile Development Area (Source: A. Vanstone, Section 42A Report, Figure 6)

43. Ms Rosie Hill, legal counsel for one group of submitters, expressed the view that there is no justification to lock up the land. In her submission, the Council placed too greater reliance on an option (the indicative master plan) that is not on the table and that may never eventuate. She summarised the issue thus:

The Ladies Mile landowners are currently facing a situation where the Council is attempting to direct the development of their land through HASHAA legislation under the RMA, or otherwise face its effective sterilisation through a combined Rural Zone or Wakatipu Basin Rural Amenity Zone as proposed by Council under the RMA.²¹

44. We agree with Ms Vanstone that the Lead Policy is a relevant matter to which we should have regard to under Section 74(2)(b)(i) of the RMA. We find that while it is not a requirement to prepare such a policy under HASHAA, it is open to the Council to prepare plans and strategies to assist with its functions under any relevant legislation.
45. However, we had some sympathy with the submitters' contention that they were in limbo, particularly as the WB Landscape Study recommended that this land be zoned Ladies Mile Gateway Precinct and considering the time that has elapsed since the notification of Stage 1 of the PDP. The WB Landscape Study identified this area as having a high absorption capability and recommended a planning strategy to provide for residential development at a density of 1:250m² and/or 1:450m² with a 75m building setback from Frankton-Ladies Mile Highway²².
46. We discussed the uncertainty faced by landowners with Ms Vanstone. She acknowledged that there was no surety regarding the timeline to progress the urbanisation of this area and that an

²¹ Legal submissions for submitters 24, 535, 532 and 229

²² WB Landscape Study, Table 1, page 3

integrated planning process was needed. In her reply evidence, Ms Vanstone confirmed that the documentation for the Lead Policy and Housing Infrastructure Fund application recommends a Structure Plan process, but we were not provided with any definitive timeline for this to occur. She went on to state that the Housing Infrastructure Fund application makes clear the Council's intention to provide for urbanisation, but conceded that this would be clearer if a variation to zone the land for urban development had been notified concurrently²³.

3.3. Transport

47. We heard expert evidence from Mr Smith for Council, and Messrs MacColl and Gatenby for NZTA, that these zonings would adversely affect the efficiency of the transport network at the Shotover Bridge. None of the submitters presented expert evidence on transport matters in support of their submissions.
48. We have set out our findings on the capacity issues at the Shotover Bridge in Report 18.1 at Section 2.9. In summary, we found that it may be appropriate to enable incremental development of parts of the Wakatipu Basin, subject to our findings on other relevant matters.

3.4. Landscape

49. The submitters did not present any landscape evidence in support of their requests.
50. Ms Mellsop presented evidence for the Council on landscape values. One of the key issues influencing her assessment was the Queenstown Country Club development and the resulting changes to the landscape and visual amenity values of the area. She told us that this and the increasing urbanisation evidenced by road upgrades meant that Rural Lifestyle and Large Lot Residential B zones were appropriate for some parts of the area.
51. Ms Mellsop opposed an urban zoning for the land on the southern side of Frankton-Ladies Mile Highway²⁴. She also opposed the requests to rezone part of this land Rural Lifestyle, with a 150m strip of Rural Zone adjacent to the highway. She did not support Lower Density Suburban Residential Zone in respect of the Queenstown Country Club site, as unlike the conditions of the consent²⁵, the zone standards do not include suitable design controls.
52. Ms Mellsop considered that the Rural Lifestyle zone with a 2 hectare lot average could generally be absorbed, with some exceptions and caveats, which we will summarise briefly. In relation to the Threepwood site, she recommended that Rural Lifestyle for the western part of the site as she considered the eastern part, bordering Lake Hayes, to be extremely sensitive to change (refer Figure 7 below). Her recommendation for Rural Lifestyle on the western part of Threepwood was contingent on building setbacks of at least 100 metres and development controls to avoid rural living development being visible from Lake Hayes. Similarly, for the Boyd land²⁶, she recommended a setback of at least 100 metres on the upper terraces and only supported the rezoning of the lower terraces to Large Lot Residential Area B.

²³ A. Vanstone, Reply Evidence at 3.12

²⁴ Submissions 404 and 850

²⁵ SHA qualifying development approval SH160140

²⁶ Submission 838



Figure 7: Threepwood zoning as recommended by Ms Mellso, as per Figure 3 of her Evidence in Chief

53. We will discuss the appropriateness of planning controls to require setbacks and/or building restriction areas below.

3.5. Planning

54. Mr Geddes, giving planning evidence for the Ladies Mile Consortium²⁷, supported Rural Residential and Rural Lifestyle zone for part of the land on Frankton-Ladies Mile Highway. He provided a Section 32 evaluation of three options open to us being: retaining the Rural Zone; zoning the land Rural Lifestyle or Wakatipu Basin Lifestyle Precinct with an allotment size of 4000m²; or a zoning between the first two options. He supported a 25 metre building restriction area for the land fronting Frankton-Ladies Mile Highway, as proposed in the submission and told us that he thought this was consistent with the setback for the retirement village on the Queenstown Country Club SHA land. He acknowledged that from an efficiency perspective, the requested zoning had the potential to make urban development problematic. However, on balance, he considered that it was appropriate, given the constraints that are yet to be addressed such as the transport limitations of the Shotover Bridge²⁸.

²⁷ Submissions 2489, 535, 532 and 229

²⁸ N. Geddes, Evidence in Chief at 9.8 and 9.9

55. Another planning witness, Mr Daniel Thorne, who presented evidence for D. Boyd²⁹, supported Large Lot Residential zoning for the land on the southern side of Frankton-Ladies Mile Highway, to the east of Old School Road and adjoining Shotover Country. In response to our questions, he clarified that he thought Large Lot Residential A would be an appropriate zone. Mr Thorne emphasised that if the land was not rezoned through this process, there was no certainty of outcome. He told us that of the options available, Large Lot Residential was efficient and would not unduly fragment the land and preclude future development at a higher density. In response to questions about other examples where infilling of rural lifestyle living had been effective, he cited Rolleston, but added the caveat that most developers would look to amalgamate the land.
56. Mr Thorne advised us that he understood there were no concerns from a landscape perspective with the middle and lower terraces being zoned Large Lot Residential Area A. He acknowledged that he did not have any landscape evidence, but told us from a planning perspective, he had difficulty with Ms Mellisop opposing development of the upper terrace adjacent Frankton-Ladies Mile Highway. He considered the identification of the upper terraces in the Lead Policy, as being appropriate for low to medium density development to be of *'significant relevance when considering the potential visual amenity effects of the relief sought'*.
57. We did not receive any planning evidence in support of submissions relating to the zoning of the land at Threepwood.
58. Ms Lemaire-Sicre³⁰ operates the pet lodge on Ladies Mile. She told us the Queenstown Country Club SHA development is subject to no complaints covenants in respect of noise and the operation and expansion of the pet lodge. Ms Lemaire-Sicre did not think that 'no complaints' covenants work and for this reason sought the retention of the Rural Zone.
59. The officers' assessment of the submissions relating to the land to the north of Frankton-Ladies Mile Highway was split between the Section 42A Reports prepared by Mr Langman and Ms Vanstone. Ms Vanstone addressed the land zoned Rural in Stage 1 as notified, while Mr Langman addressed the land zoned Rural Amenity as part of the Stage 2 Variation. Mr Langman relied on the evidence of Ms Mellisop and recommended that Rural Amenity zone as notified in respect of the land shown in dark green in Figure 8 below.

²⁹ Submission 838

³⁰ Submission 134 and FS1068

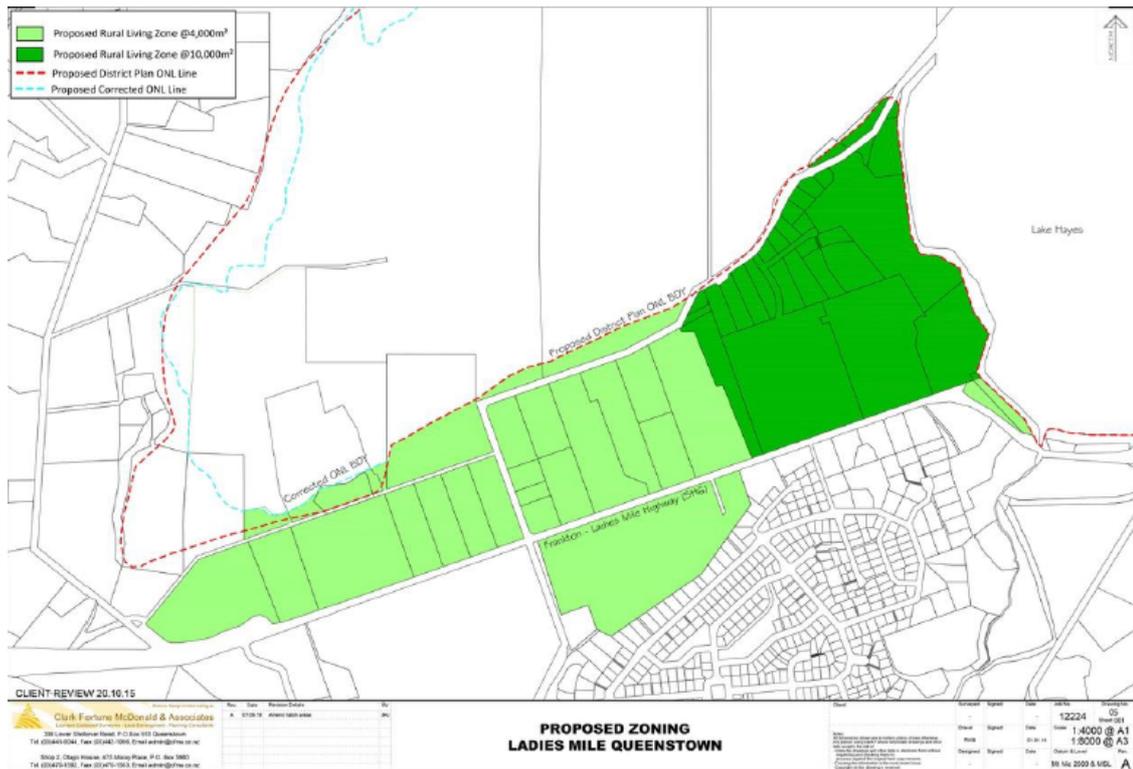


Figure 8: Land recommended to be Rural Amenity zone shown in dark green, as per M Langman, Rebuttal Evidence, page 68

60. In her reply evidence, Ms Vanstone maintained her view that the submissions in relation to the Rural Zone should be rejected. She stated that zoning the land Rural Lifestyle, Rural Residential or Precinct would be a sub-optimal resource management outcome and inefficient use of land³¹. She emphasised the conclusions in the evidence of Mr Smith and NZTA that these zonings would adversely affect the efficiency of the transport network at the Shotover Bridge. She acknowledged that the land was being ‘held up’ while the outcome of the Housing Infrastructure Fund application is awaited and concluded that a structure plan should be prepared for the entirety of the Ladies Mile landscape unit³².

3.6. Discussion and Conclusions

3.6.1 General

61. Ms Vanstone reiterated in her reply that *‘protecting the capacity of the bridge in the meantime as a ‘dead hand’ that prevents all additional urban growth east of the Shotover Bridge is not tenable’*³³. We wonder if the same may not be said with regards maintaining the Rural zoning of this area until such time as a review of the Ladies Mile landscape unit is undertaken and a structure plan is prepared. We say that particularly as the land has been included in the PDP review. Submitters are entitled to have a decision on the zoning of their land based on the options that are open to us and absent any scope issues. We consider the Council’s position to be untenable and that the submitters are entitled to rely on the WB Landscape Study and LCU 10 description in Schedule 24.8, as notified. If the Council considered that planning for the area should wait for the results of further reviews it might wish to undertake, it was, and still is, open to the Council to withdraw this land from Stage 1 of the PDP review.

³¹ A. Vanstone, Reply Evidence at 3.15 and 3.16

³² Ibid. at 6.5 and 6.13

³³ Ibid. at 7.9

62. We have set out our findings on the capacity issues at the Shotover Bridge in Report 18.1 at Section 2.9. On this basis, we find that it is open to us to recommend discrete areas of land may be zoned for more intensive development, where that is appropriate for other reasons. We will discuss these other reasons in our conclusions that follow: firstly, for the Boyd³⁴ land and secondly, for the balance of the land within this area.

3.6.2 Boyd Land

63. The Boyd land is zoned Rural Amenity and Rural in the PDP as notified, refer Figure 9 below.

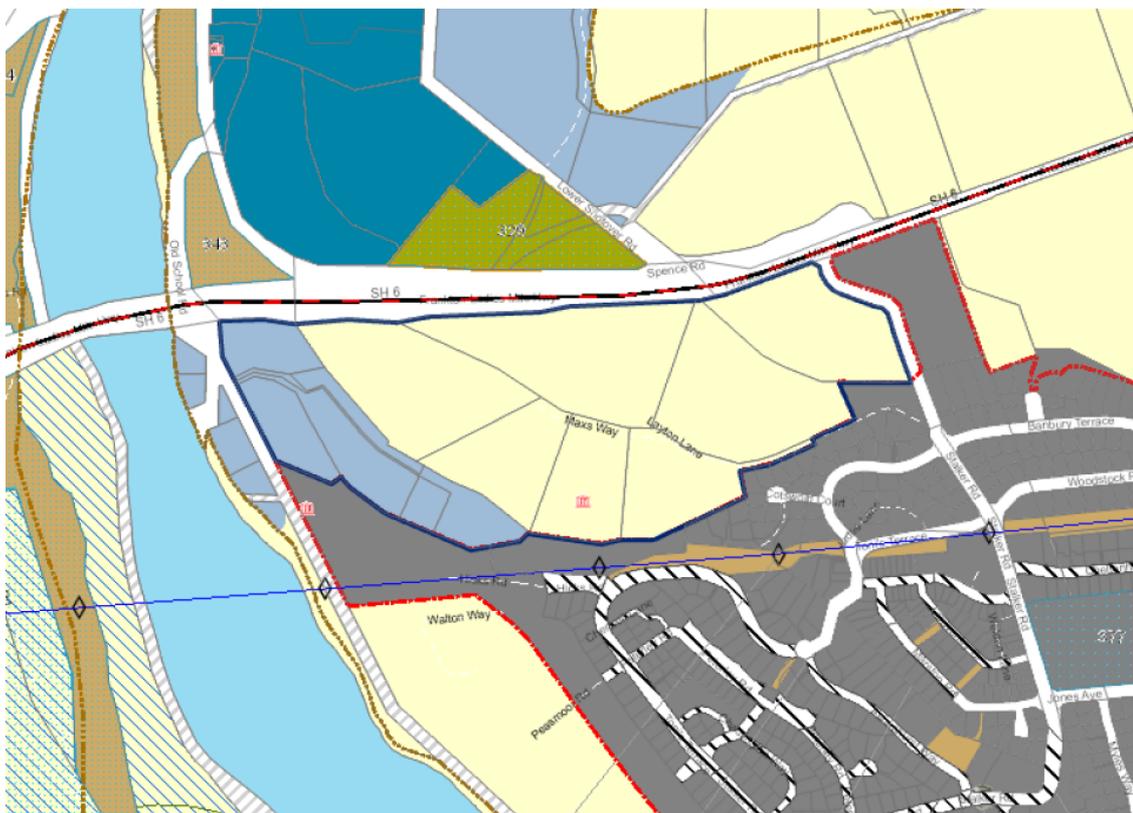


Figure 9: The Boyd land is outlined in blue, as per A Vanstone, Section 42A Report, Figure 12.

64. The existing and consented environment in the surrounding area is rapidly urbanising. The WB Landscape Study and Council's Lead Policy all point to the future urbanisation of this area. The question is one of timing. We do not find merit in this land remaining as a small pocket of Rural zoned land, set between the State Highway and an urban area. It is not an outcome that sits comfortably with the policy framework of the partially operative RPS and strategic directions of the PDP. Very broadly speaking, the policy framework seeks to enable rural activities in rural areas and to define urban growth boundaries to achieve a compact and efficient urban form. We agree with Mr Thorne that using the land for productive purposes will become increasingly challenging over time. For this reason, we find that zoning the land Rural is not the most appropriate way to achieve Objectives 21.2.1 and 21.2.9 for the Rural Zone.
65. The experts who gave evidence all agreed that the land can be serviced. The experts disagreed about the landscape and visual effects of development on the upper terrace. We think that these effects can be appropriately mitigated by applying a 75 metre Building Restriction Area to apply to the upper terrace, adjacent to Frankton-Ladies Mile Highway. This would be consistent with existing development elsewhere on Frankton-Ladies Mile Highway, such as the

³⁴ Submission 838

Queenstown Country Club SHA land. We did not see any reason why this land would warrant a greater set back, particularly when it is not adjacent to an ONL. We therefore find that it is appropriate for this area to be included within the urban growth boundary and zoned Large Lot Residential Area A. We do not think that Large Lot Residential Area B is appropriate, as the objectives and policies for that zone are intended to apply to land adjacent to an ONL, which as we have already said, is not the case here.

66. Rezoning this land to an urban zone requires that the Urban Growth Boundary be relocated to ensure consistent application of the Strategic Direction objectives and policies in Chapters 3 and 4. We therefore also recommend that the Urban Growth Boundary be relocated in this location as shown on Figure 10.



Figure 10: Recommended Zoning, Building Restriction Area and relocated Urban Growth Boundary on Boyd Land

3.6.3 Queenstown Country Club

67. We accept Ms Mellsoy's evidence that it would not be appropriate to apply an urban zone to the retirement village land on the Queenstown Country Club SHA land without site specific development controls to address the matters covered in the qualifying development approval³⁵. We did not hear any evidence on which to base a Section 32AA analysis and, therefore, we find that, while it is appropriate to include the land within the urban growth boundary to reflect the existing and consented development, it is not appropriate to apply an urban zone.

3.6.4 Threepwood Land

68. We also accept Ms Mellsoy's evidence in relation to the impacts development on the terrace adjoining Lake Hayes (Threepwood) would have on landscape and visual amenity values. For this reason, we consider the most appropriate way to achieve the objectives is to retain the Rural Amenity zone over all of the Threepwood land.

³⁵ For instance, building setbacks from the highway, landscaping requirements and development controls such as height, fencing and building size (refer to discussion at 7.8 of Ms Mellsoy's Evidence in Chief).

3.6.5 North of Ladies Mile

69. Turning to the land on the northern side of Frankton-Ladies Mile Highway, we do not agree with Ms Vanstone that the Rural Zone is appropriate. As with the Boyd land, this land is adjacent to an area that is rapidly urbanising. We agree with Ms Vanstone that an urban zone and Structure Plan process would be a good outcome. However, this is not one of the alternatives open to us. We have received evidence that the land is capable of being serviced. We have also heard evidence that a Rural Lifestyle zone is appropriate from a landscape perspective. We find that retaining the Rural Zone is not appropriate when considered against the objectives for the Rural Zone, which seek to enable farming activities and protect rural amenity values. Overall, we are satisfied that Rural Lifestyle Zone is appropriate as it would accord with Objective 22.2.1 to provide for rural living in an area that can absorb development.

3.6.6 South of Ladies Mile

70. A submission³⁶ also sought that the site³⁷ east of Howards Drive, south of State Highway 6 and north of Lake Hayes Estate, as shown in pale green on Figure 8, be rezoned for the same reasons given for the rezoning of the land north of Ladies Mile. We consider that this land falls into the same category as that discussed in the previous section and for the same reasons recommend it also be rezoned Rural Lifestyle.

3.6.7 Summary

71. In summary, for the reasons given above, we recommend the following map amendments in this area
- a. Rural Amenity in respect of the property known as Threepwood, adjoining Lake Hayes;
 - b. Rural Lifestyle in respect of the land at 516 Frankton-Ladies Mile Highway (Lot 4 DP 22156) and the land on the northern side of Frankton-Ladies Mile Highway, between Lower Shotover Road and Threepwood, with a 75m Building Restriction Area applied from the boundary with Frankton-Ladies Mile Highway;
 - c. Large Lot Residential A in respect of the land on the southern side of Frankton-Ladies Mile Highway, to the east of Old School Road and adjoining Shotover Country; with a 75m Building Restriction Area applied 75m from the boundary with Frankton-Ladies Mile Highway; and include the land within the urban growth boundary;
 - d. The land on the southern side of Frankton-Ladies Mile Highway (Lot 500 DP 470412, part of the Queenstown Country Club Special Housing Area)³⁸ be included within the urban growth boundary.

Figure 11 below shows most of the recommended zoning in this area. The remainder is shown on Figure 10 above.

³⁶ Submission 532, supported by FS1322, opposed by FS1071, FS1092, FS1340

³⁷ Lot 4 DP 22156

³⁸ Submission 404 (Sanderson Group Ltd)



Figure 12: The area outlined in blue denotes the extent of the rezoning request in Submission 655, as per A. Vanstone, Section 42A Report, Figure 22

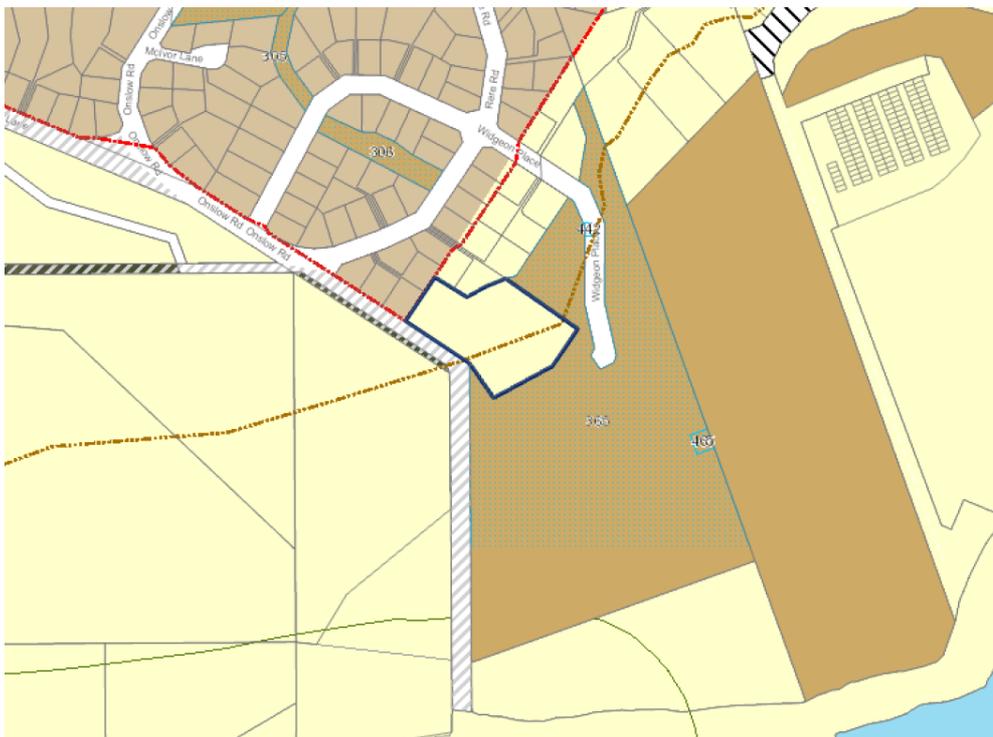


Figure 13: The area outlined in blue denotes the extent of the rezoning request in Submission 842, as per A. Vanstone, Section 42A Report, Figure 33

73. J. & R. Bamford⁴¹ requested the land shown in Figure 14 below either retain the rural zoning as notified or alternatively, be zoned either Rural Living or low density urban to be consistent with the Bridesdale Farm outcome.

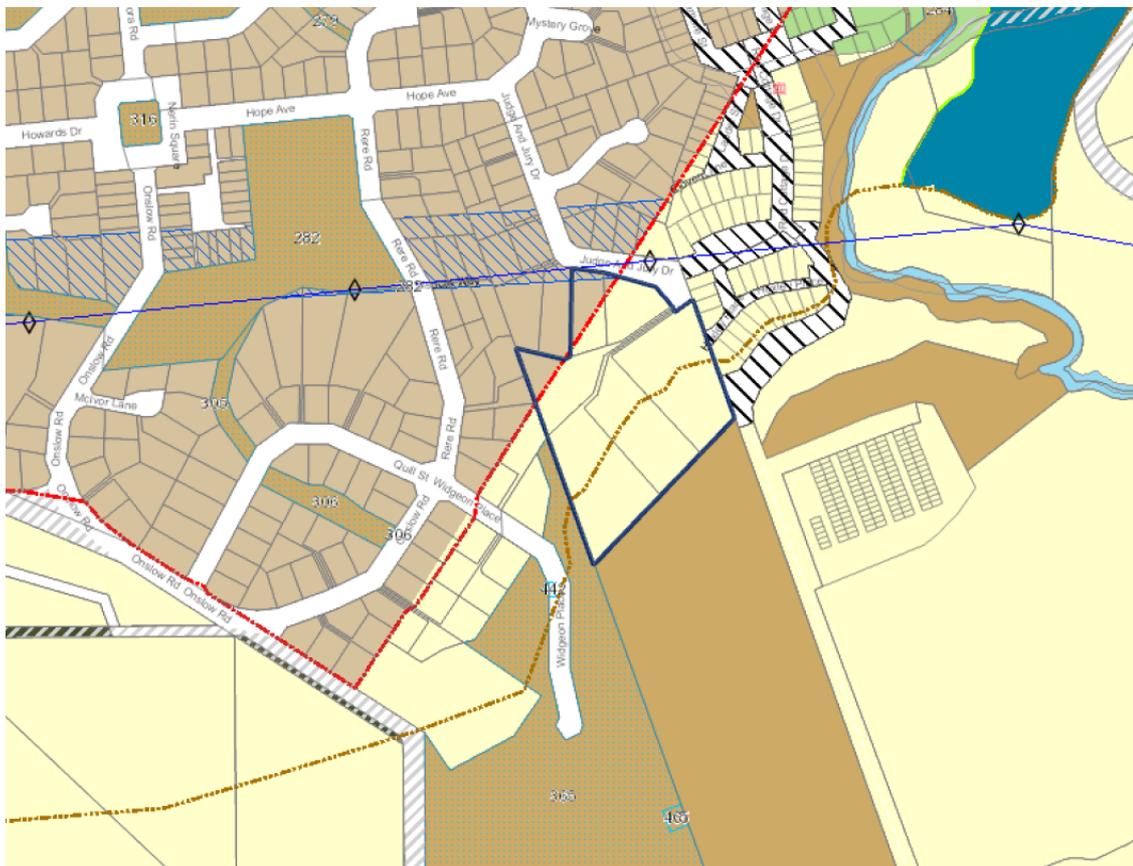


Figure 14: The area outlined in blue denotes the extent of the rezoning request in Submission 492, as per A. Vanstone, Section 42A Report, Figure 27

74. M. McDonald and S. Anderson⁴² requested that the Stage 1 zoning be retained and that the zoning of the properties at 45A-C Erskine Street reflect the private covenants applying to these properties that restrict any further development.
75. The key areas of disagreement between the parties who appeared at the hearing related to aircraft noise effects, landscape values and planning.

4.2. Aircraft noise effects

76. Mr Kyle, the planning witness for QAC, considered that Ms Vanstone had not afforded appropriate weight to aircraft noise effects. Nonetheless, he supported her overall recommendation to reject the zoning requests. We have discussed this issue in Section 2.10 of Report 18.1.
77. We accept Mr Kyle’s evidence insofar as we agree that it is not appropriate for land in the Outer Control Boundary (OCB)⁴³ for the airport to be zoned Lower Density Suburban Residential or

⁴¹ Submission 492, opposed by FS1261

⁴² Submission 451, opposed by FS1261

⁴³ As sought in submission 850

any other zone that would lead to activities sensitive to aircraft noise being established within the OCB.

4.3. Landscape

78. Mr Skelton was the only landscape expert to give evidence in support of one of the submissions⁴⁴ to rezone land in this area. No other submitters called landscape evidence in support of their requests.
79. We have already discussed Mr Skelton's evidence in relation to the request to amend the ONL boundary adjacent to Kawarau River. We turn now to his evidence in support of the zoning request.
80. There was no issue, from a landscape perspective, concerning the rezoning request for the part of the land outside the ONL which had been developed for residential purposes under consent SH150001. However, the submission also sought that an area along the escarpment south of the road built down the escarpment also be zoned Medium Density Residential. This land is within the ONL as notified and as recommended. We note that the submitter also sought the rezoning of the river flats as Active Sport and Recreation. That submission was heard in Stream 15 and reported on in Report 19.6.
81. Mr Skelton asserted that Ms Mellsop and Ms Vanstone used the landscape category boundary as the key reason to reject the requested Medium Density Residential zoning⁴⁵. For this reason, he provided an assessment in support of the rezoning on the escarpment as if it were part of an ONL and considered the effects of a potential 9 – 10 houses at his location.
82. He considered that the river flats were transitioning from a pastoral character to an urban parkland character and instanced the presence of the garden allotments and sheds, together with the trails and parking areas. He stated that⁴⁶:
- "I walked this land on several occasions and the natural character of the lands east of the site associated with Morven Hill and Hayes Creek are significantly more appreciable in their natural character. I acknowledge that the natural character of the escarpment will be enhanced as native planting matures, however it will continue to be wedged between an urban and urban park like landscape character."*
83. Mr Skelton concluded that the Medium Residential Density Zone was appropriate and future houses would be viewed from the riverside trail against the backdrop of the escarpment. The view towards the Remarkables ONL would be in the context of the sheds in the garden allotments and in his view would not adversely affect the overall visual amenity of the landscape.
84. We turn now to the evidence we heard from Ms Mellsop in relation to the rezoning requests. She advised us that her assessment had considered the increasing urbanisation in the Ladies Mile area generally and in respect of specific sites.

⁴⁴ Submission 655

⁴⁵ S. Skelton, Evidence in Chief at 41

⁴⁶ Ibid. at 44

85. Ms Mellsop opposed the request for Medium Density Residential zoning of the Crawford⁴⁷ land and recommended Low Density Residential Zone⁴⁸ for those parts of the site outside the ONL.
86. Ms Mellsop opposed the request for Low Density Residential of the Bamford land, both within and outside the ONL. She considered the topography of the escarpments and terraces adjacent to the ONL to be sensitive to the level of urban development that would be enabled by this zone. In her view Rural Lifestyle, Rural Residential or Large Lot Residential zoning could be absorbed.
87. Ms Mellsop also opposed the Medium Density Residential zoning of the Bridesdale Farm Development's land within the ONL. She commented that housing on the escarpment has been considered previously as part of the hearing for SH150001 and was rejected. She outlined her involvement in SH150001 as the landscape expert for the Council and advised that she held to her opinion that housing at this location would be visually prominent and incongruous⁴⁹. She disagreed with Mr Skelton about the visibility from the riverside trail and advised that the evidence at the hearing for SH150001 showed the dwellings would be clearly visible⁵⁰.
88. Mr John Duthie, who gave planning evidence for Bridesdale Farm Developments Ltd, supplied a set of bespoke planning provisions to address concerns raised by Ms Mellsop and Ms Vanstone. These concerns related to the level of development enabled by the Medium Density Residential zone and its impact on the natural character of Hayes Creek and the adjacent ONL. Ms Mellsop considered these provisions would go some way to addressing the concerns but did not consider they went far enough. She advised that the rezoning as requested would result in the removal of native planting that was required by the conditions attached to SH150001. She also observed that the 'landscaped permeable surface' referred to in the provisions could consist of lawn or any combination of trees and shrubs and was concerned about the potential for solid fencing to detract from the natural character of the area.
89. In her reply evidence, Ms Mellsop reiterated her view that the escarpment and floodplain are within the Kawarau River corridor ONL and that therefore, Medium Density Residential zoning would be inappropriate.

4.4. Planning

4.4.1 Bamford Submission

90. Mr Carey Vivian gave planning evidence in support of the Bamford's submission⁵¹. His evidence included a map, reproduced at Figure 13 below, showing the amendments that he supported.

⁴⁷ Submission 842

⁴⁸ As we have already discussed, the Stage 1 decisions renamed this Lower Density Suburban Residential Zone

⁴⁹ H. Mellsop, Rebuttal Evidence at 9.5 to 9.8

⁵⁰ Ibid. at 9.7

⁵¹ Submission 492

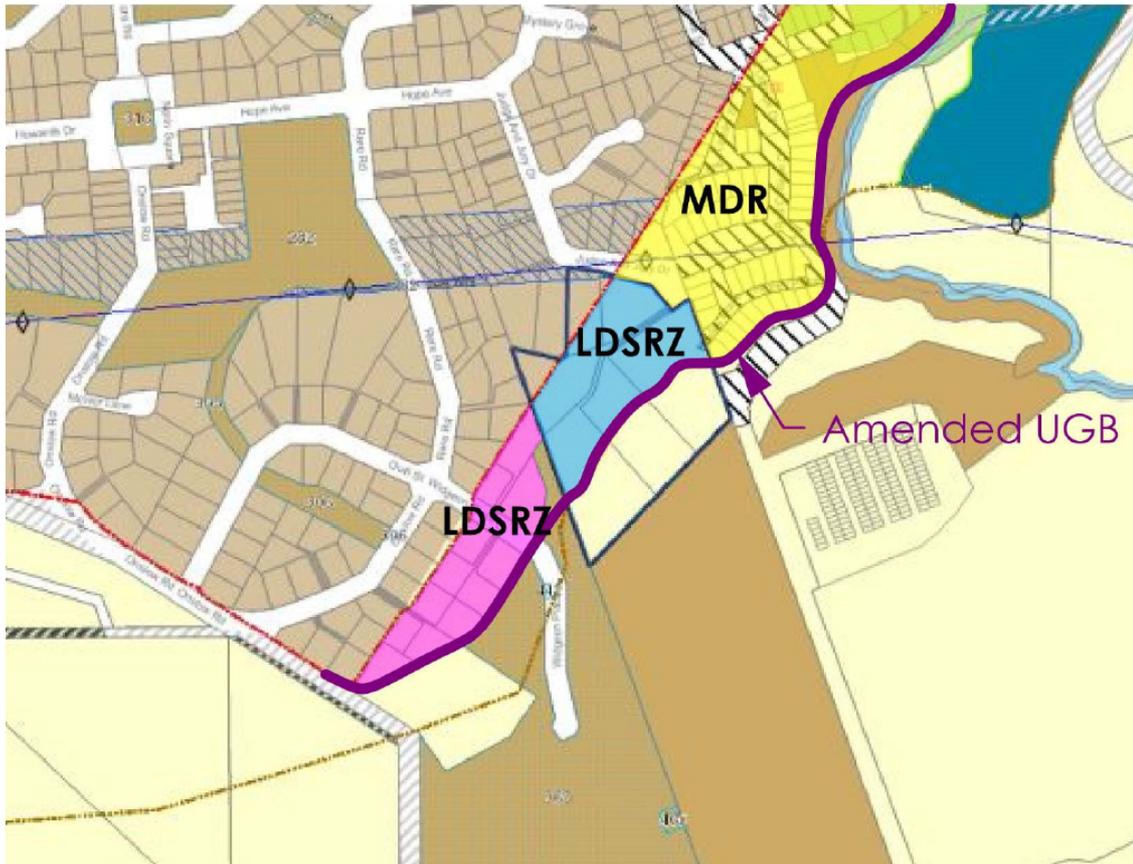


Figure 15: Bamford property shown outlined in blue, as per C. Vivian, EiC, Figure 27

91. Mr Vivian considered that the extent of medium density development to the east had changed the receiving environment and that Ms Mellsop’s concerns could be addressed at the time of subdivision, given the applicable matters of discretion. We discussed this with Mr Vivian at the hearing and queried whether this was in fact the case, given the absence of any matters of discretion relating to landscape values.

4.4.2 McDonald and Anderson Submission

92. Mr Vivian advised that these submitters agreed with Ms Vanstone’s recommendation to reject their submission⁵².

4.4.3 Crawford Submission

93. Ms Vanstone’s Section 42A Report provided details of the approved qualifying development SH160140⁵³. She described how the approved development achieved outcomes similar to those promoted for the Low Density Suburban Residential zone. However, she agreed with Ms Mellsop that site specific controls would be needed to protect the integrity of the adjacent ONL. She advised that the submitter had not provided any such provisions and for this reason, recommended that the zoning request be rejected.

4.4.4 Bridesdale Submission

94. As noted above, Mr John Duthie gave planning evidence for Bridesdale Farm Developments Ltd. Mr Duthie relied on Mr Skelton’s evidence that the ONL should be shifted.

⁵² C Vivian, EiC in relation to Submissions 451 and 454, paragraphs 2.5-2.7

⁵³ Relating to the land the subject of Submission 842

95. He helpfully provided a diagram showing the areas where rezoning was requested, which we have reproduced in Figure 14 below.



Land to be zoned Low Density Residential



Land to be rezoned Medium Density Residential

Figure 16: Land requested to be rezoned Medium Density Residential and Lower Density Suburban Residential⁵⁴, as per J. Duthie, EiC, Diagram 4

96. Mr Duthie proposed a suite of site specific controls to work in tandem with the requested Medium Density Residential Zone⁵⁵. These controls included a special density control, landscape yard control and fencing control. He also proposed a site specific rule to enable retail activities including café or restaurant on the site identified as the “Red Cottage”. When we discussed these controls with Mr Duthie, he told us that he was equally comfortable with a

⁵⁴ We note that this land was in fact zoned Lower Density Suburban Residential as notified so no rezoning of that land is necessary.

⁵⁵ J. Duthie, Evidence in Chief at pages 31 and 32

Building Restriction Area to address the issue of the sensitivity of the adjacent ONL and of the Hayes Creek corridor.

97. Ms Vanstone recommended that Building Restriction Areas be applied to that portion of the lots approved by SH150001 which were within the ONL or adjoining Hayes Creek⁵⁶. She also recommended that an overlay apply and that additional standards be included in Chapter 8 to control fencing, including fencing in building restriction areas in order to protect the amenity of Hayes Creek and the landscape values of the ONL⁵⁷.
98. Ms Vanstone did not support the site specific rule to enable the commercial use of the “Red Cottage”. She advised that existing resource consents already provided for the use as a café or restaurant.

4.5. Discussion and Conclusions

99. We agree with Ms Vanstone and Mr Duthie that the existing development authorised by qualifying development approval SH150001 should be zoned Medium Density Residential and that the Urban Growth Boundary be extended to include the land outside the ONL. However, we can find no reason why a special rule should be included in the Medium Density Residential Zone in relation to fencing. There are no fencing rules in the Medium Density Residential Zone provisions, although there is a matter of discretion relating to fences in the rule for residential units⁵⁸.
100. We accept Ms Vanstone’s evidence that building restriction areas are required to protect the amenity values of Hayes Creek and the landscape values of the ONL. While we do not agree that standards are required generally for fences in the zone, we do agree that it is appropriate to include a standard to control fences in the building restriction areas. We recommend the following be included in Chapter 8, Section 8.5:

8.5.19	No fencing shall be constructed in a building restriction area adjoining Hayes Creek and the Outstanding Natural Landscape at Bridesdale.	RD Discretion is restricted to: a. Visual amenity values; b. Landscape character.
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101. We do not consider it necessary to provide a site specific rule to enable the commercial use of the “Red Cottage”. Its use as a café or restaurant is authorised by an existing resource consent. Further, Rule 8.4.13 provides for commercial activities as a discretionary activity. We can see no justification for the restricted discretionary activity status promoted by Mr Duthie.
102. We agree with Ms Vanstone’s analysis⁵⁹ that it is not appropriate to determine zoning based on the presence of private covenants. On this basis, we recommend the properties at 45A-C Erskine Street retain the Lower Density Suburban Residential zoning as notified.
103. We note that the Stream 15 Panel has recommended the flood plain land remain zoned Rural as notified and the adjoining Council reserve land retain its notified Informal Recreation zoning.

⁵⁶ A. Vanstone, Section 42A Report, Figure 24 at page 78 and Figure 25 at page 80

⁵⁷ A. Vanstone, Rebuttal Evidence at [9.34]

⁵⁸ Rule 8.4.10 in Chapter 8 Medium Density Residential

⁵⁹ A. Vanstone, Section 42A Report at [22.7 and 22.8]

This confirms Ms Mellsop's opinion that future development within the reserves in the flood plain is likely to maintain the landscape values of the Kawarau River corridor ONL⁶⁰.

104. Based on our findings relating to the ONL boundaries in this area⁶¹, we do not consider it appropriate to extend the urban growth boundary beyond the boundary of the ONL to encompass the entire site shown in Figure 12, above. Nor do we find it appropriate to include the escarpment and floodplain on Bridesdale Farm within the Medium Density Residential zone.
105. We agree that the Bamford land on the upper terrace should be zoned Lower Density Residential. However, we were not persuaded that Lower Density Residential should extend over the lower terraces and escarpments. This is particularly so given the absence of any relevant matters of discretion in relation to landscape values. We were not presented with any site specific rules on which to base a Section 32AA analysis and therefore find that the Rural Zone should be retained. We do however find that it is appropriate to shift the urban growth boundary to accord with the boundary of the ONL. The ONL boundary provides a defensible boundary to contain urban development and this gives effect to Objective 4.2.1.

5. OVERALL RECOMMENDATIONS FOR AREA I

106. For the reasons set out above, we recommend that:
 - a. Submission 2398 be accepted and the Landscape Feature line on the western edge of LCU 14 be deleted as shown Map I1 below;
 - b. Submission 688 be accepted in part by amending the boundary of the Slope Hill Outstanding Natural Feature as shown on Map I2 below;
 - c. Submission 842 be accepted in part by amending the boundary of the Outstanding Natural Landscape on the true left bank of the Kawarau River to be in the location shown on Map I3 below;
 - d. That Submissions 532, 535 and 2426, and Further Submissions 1068, 1071, 1092, 1259, 1267, 1322 and 1340 be accepted in part by amending the boundary of the Slope Hill Outstanding Natural Feature and zoning the land the north side of Ladies Mile between Lower Shotover Road and Threepwod, and Lot 4 DP 22156 on the south side of Ladies Mile to Rural Lifestyle Zone with a Building Restriction Area as shown on Map I4 below;
 - e. Submissions 134 and 2567 be rejected;
 - f. Submission 404 and Further Submissions 1004, 1259, 1267, 1340 and 1357 be allowed in part by amending the urban growth boundary to include Lot 500 DP 470412 as shown on Map I4 below;
 - g. Submission 850 and Further Submissions 1071 and 1340 be allowed in part by applying Large Lot Residential A along with a Building Restriction Area to the land on the southern side of Frankton-Ladies Mile Highway north of Shotover Country between Old School and Stalker Roads, and amending the urban growth boundary to include this land as shown on Map I5 below;
 - h. Submissions 451 and 655, and Further Submissions 1064, 1071, 1261 and 1340 be allowed in part by applying the Medium Density Residential Zone to land adjoining the southern edge of Lake Hayes Estate outside of the Kawarau River Outstanding Natural Landscape, and amend the urban growth boundary to include that land, and apply Building Restriction Areas as shown on Map I6 below, and by amending Chapter 8 as set out in Appendix 1;

⁶⁰ H. Mellsop, Reply Evidence at 7.7

⁶¹ Refer to discussion at section 1.1

- i. Submission 492 and Further Submission 1261 be allowed in part by applying the Lower Density Suburban Residential Zone to the land at the top of the terrace adjoining Judge and Jury Drive, and amending the urban growth boundary to correlate with the ONL boundary in the area south of Judge and Jury Drive, as shown on Map 17 below;
- j. Submission 454 be rejected and the further submission in opposition be accepted;
- k. The zoning of all other land in Area I, except for that subject to a proposed Open Space and Recreation Zone, and all other map notations in Area I, be adopted as notified.

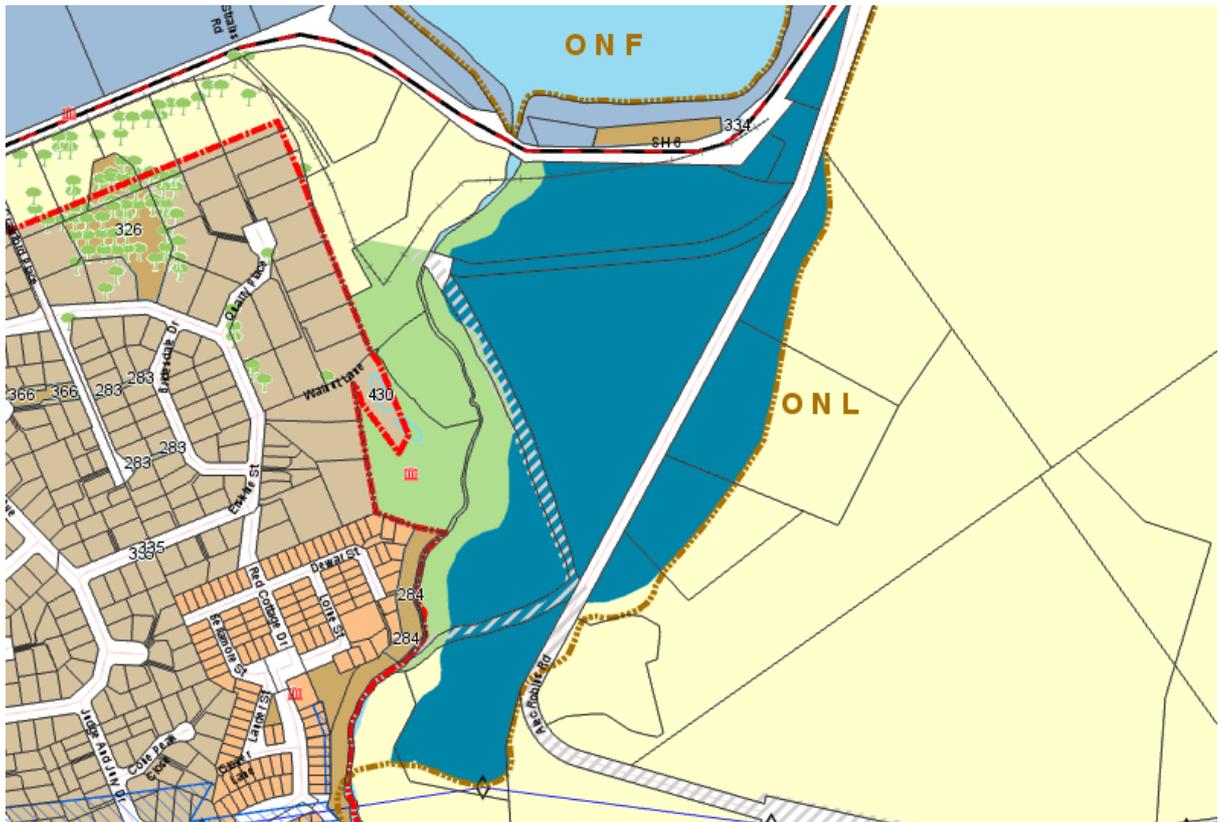
For the Hearing Panel



Denis Nugent, Chair

Dated: 15 February 2019

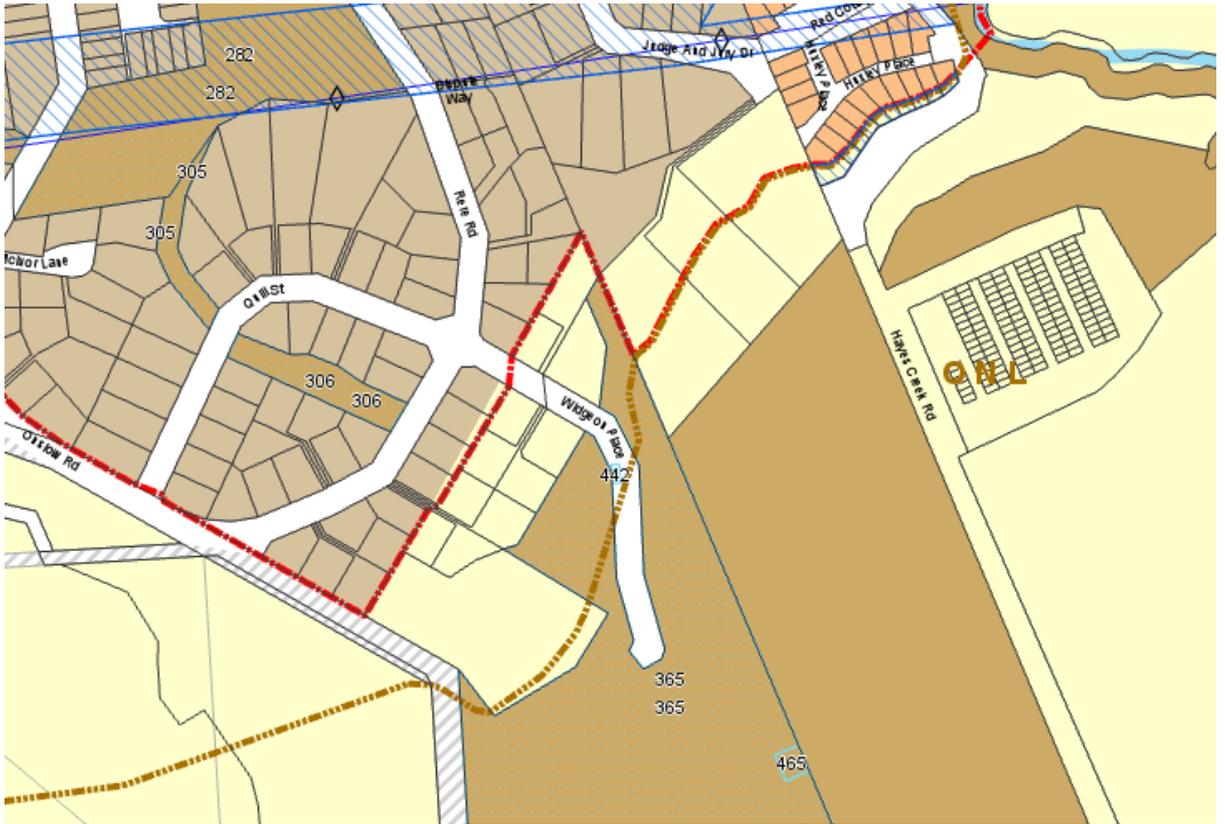
Maps Referred to in Overall Recommendations



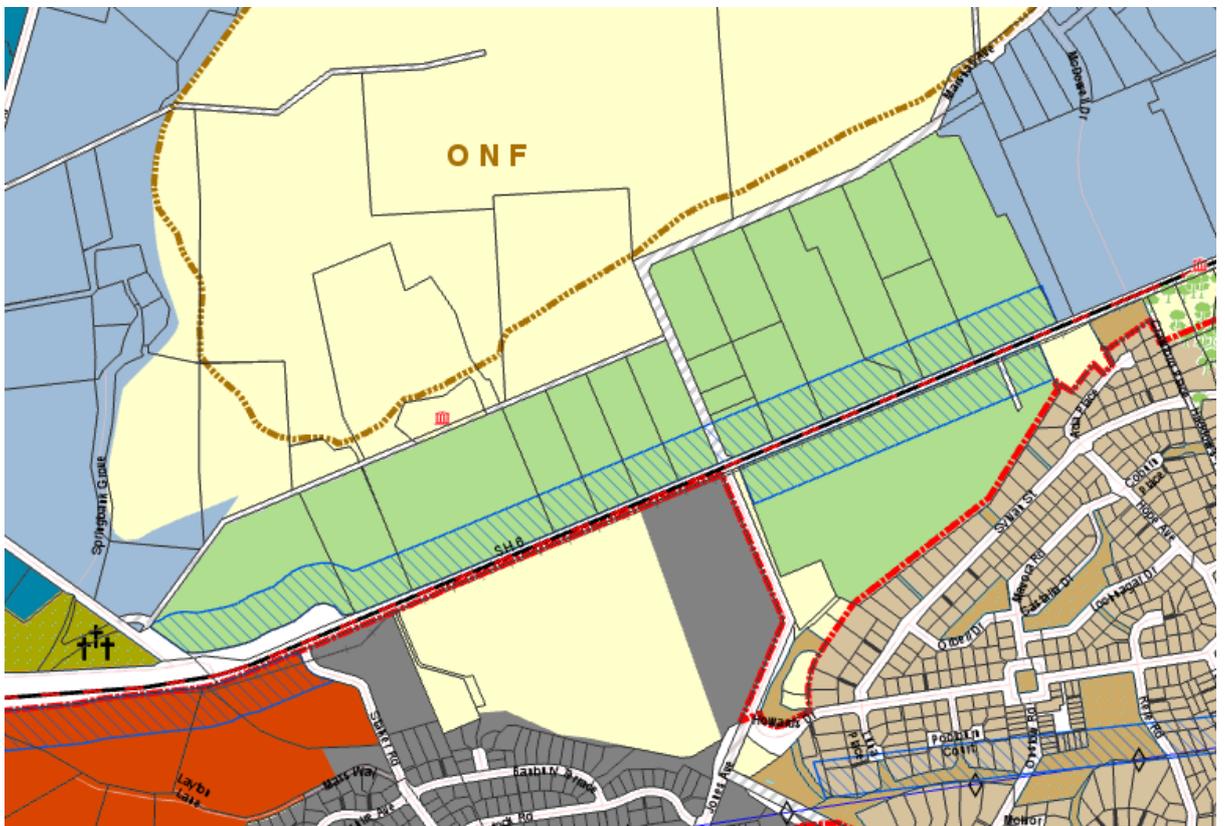
Map I1: Zoning and map notations adjoining Hayes Creek and LCU 14



Map I2: Amended boundary of Slope Hill Outstanding Natural Feature adjoining Threeewood



Map 13: Amended boundary of Kawarau River Outstanding Natural Landscape between Onslow Road and Wigeon Place



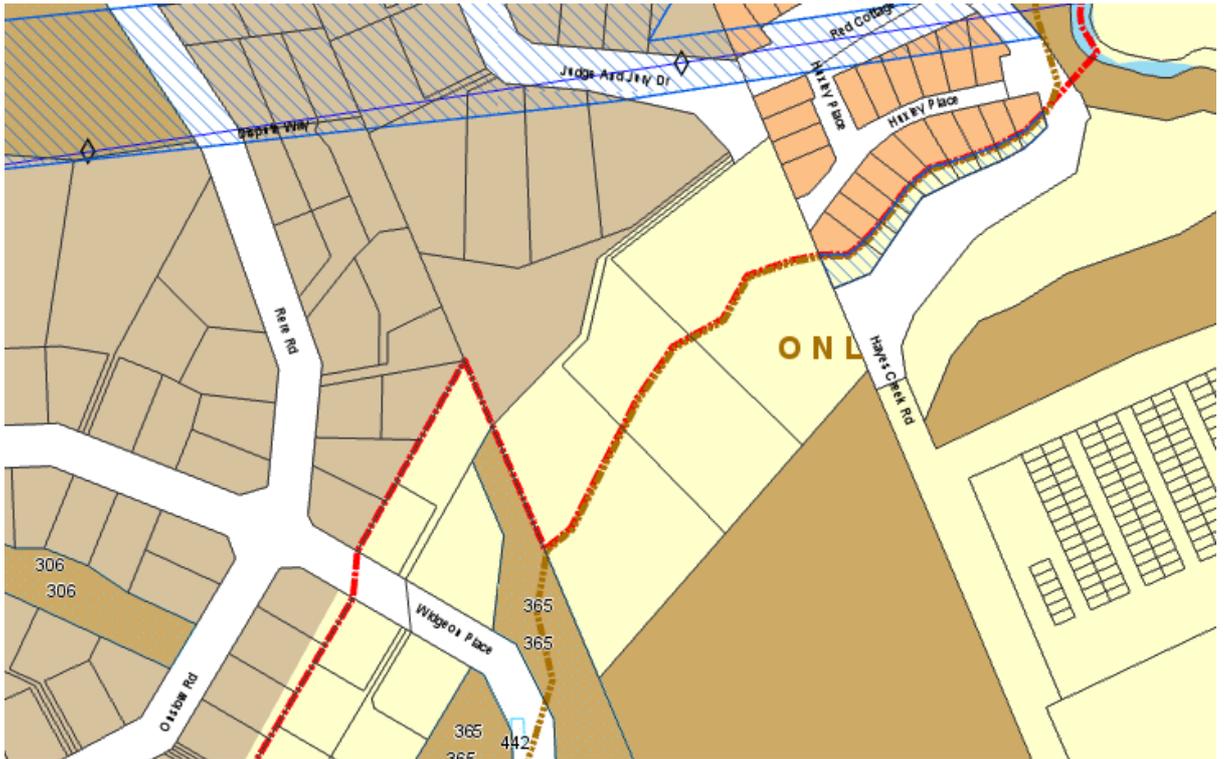
Map 14: Amended boundary of Slope Hill Outstanding Natural Feature, amended location of urban growth boundary, application of Rural Lifestyle Zone and Building Restriction Areas along Ladies Mile



Map 15: Application of Large Lot Residential A Zone and Building Restriction Area, and amended location of urban growth boundary at south west end of Ladies Mile



Map 16: Application of Medium Density Residential Zone and Building Restriction Areas, and amended location of the urban growth boundary at Bridesdale



Map 17: Application of Lower Density Suburban Residential Zone and amended location of the urban growth boundary south of Judge and Jury Lane, Lake Hayes Estate

Appendix 1: Recommended Amendments to Chapter 8

107. Insert a new standard in Section 8.5 of Chapter 8 Medium Density Residential as follows:

8.5.19	No fencing shall be constructed in a building restriction area adjoining Hayes Creek and the Outstanding Natural Landscape at Bridesdale.	RD Discretion is restricted to: c. Visual amenity values; d. Landscape character.
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