

**BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL
INDEPENDENT HEARINGS PANEL**

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of submissions to the Stage 1 Proposed Queenstown Lakes District Council Plan by **Trojan Helmet Limited** (Submissions **443, 452, 437**), **Mount Cardrona Station Limited** (407), **Hogan Gully Farming Limited** (456) **Ayrburn Farm Estate Limited** (430), **Kawarau Jet Services Holdings Limited** (307), **ZJV (NZ) Limited** (343), **Remarkables Park Limited** (807), **Queenstown Park Limited** (806), **Shotover Park Limited** (808) and **Queenstown Wharves Limited** (766).

**STATEMENT OF EVIDENCE OF JEFFREY ANDREW BROWN
ON BEHALF OF VARIOUS SUBMITTERS
TOPIC 1: CHAPTERS 3, 4 and 6**

29 FEBRUARY 2016

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Attachment A – J Brown CV

1 Introduction

1.1 My name is Jeffrey Andrew Brown. I have the qualifications of Bachelor of Science with Honours and Master of Regional and Resource Planning, both from the University of Otago. I am a full member of the New Zealand Planning Institute. I am also a member of the New Zealand Resource Management Law Association. I was employed by the Queenstown Lakes District Council (**QLDC**) from 1992 – 1996, the latter half of that time as the District Planner. Since 1996 I have practiced as an independent resource management planning consultant, and I am currently a director of Brown & Company Planning Group Ltd, a consultancy with offices in Auckland and Queenstown. I have resided in Auckland since 2001.

1.2 **Attachment A** contains a more detailed description of my work and experience.

1.3 I have complied with the Code of Conduct for Expert Witnesses contained in the Environment Court Consolidated Practice Note 2014. This evidence is within my area of expertise, except where I state that I am relying on another person, and I have not omitted to consider any material facts known to me that might alter or detract from the opinions I express.

1.4 This evidence is on behalf of the following submitters to the Proposed District Plan (**PDP**):

- Trojan Helmet Limited (Submitters 443, 452, 437),
- Mount Cardrona Station Limited (407),
- Hogan Gully Farming Limited (456),
- Ayrburn Farm Estate Limited (430),
- Kawarau Jet Services Holdings Limited (307),
- ZJV (NZ) Limited (343),
- Remarkables Park Limited (807).
- Queenstown Park Limited (806),
- Shotover Park Limited (808), and
- Queenstown Wharves Limited (766).

1.5 I assisted in the preparation of the submissions for all of these submitters except for Remarkables Park Limited, Queenstown Park Limited, Shotover Park Limited, and Queenstown Wharves Limited who lodged further submissions in support of Trojan Helmet Limited, Mount Cardrona Station Limited, Hogan Gully Farming Limited, Ayrburn Farm Estate Limited, Kawarau Jet Services Holdings Limited, and ZJV (NZ) Limited.

- 1.6 I have read the Section 42A reports prepared by Matthew Paetz and Craig Barr. I comment on their reports through my evidence.
- 1.7 In this evidence I discuss Chapter 3 “Strategic Directions”, Chapter 4 “Urban Development” and Chapter 6 “Landscape” of the PDP. My evidence is structured as follows:
- (a) I discuss the strategic directions and landscapes issues generally;
 - (b) I discuss “resource management terminology”;
 - (c) I discuss the changes sought in the submissions on Chapter 3 provisions;
 - (d) I discuss the changes sought in the submissions on Chapter 4 provisions;
 - (e) I discuss the changes sought in the submissions on Chapter 6 provisions; and
 - (f) I conclude with discussion of Part 2 of the Act.

2 General discussion about the Strategic Directions, Urban Development and Landscape chapters

- 2.1 The Strategic Directions chapter introduces goals, objectives and policies with the purpose of setting *an appropriate planning / resource management direction for the District. Without this chapter, there will be no strategic chapter that seeks to address the inter-relationships between the diversity of issues across the District*¹.
- 2.2 This diversity of issues includes (in no particular order as they are all very significant in this District): managing natural conservation values, managing urban amenity values, servicing growth with utilities and road access, managing landscape values and enabling benefits resulting from economic growth. The submissions I discuss in this evidence address how the District Plan intends managing the effects of growth on landscape values, and are founded on the basic premise that growth will inevitably affect landscape values. This inevitability should be accepted, and the District Plan should focus on how the effects can be appropriately managed so that any adverse effects are avoided, remedied or mitigated and future generations can continue to enjoy the values that attract growth.

¹ Page 3, Section 32 Evaluation report, Strategic Direction, QLDC

- 2.3 I consider that the PDP as notified does not strike an appropriate balance between accepting the inevitability and appropriateness of growth and how landscape values should be managed in the face of this growth. Rather, in the continuum of the “enabling” and “regulating” components of section 5 of the Act, the PDP is weighted too far in the direction of protection of all landscapes, and this will frustrate appropriate development proposals including for tourism and other activities that are important to the District’s growth and identity and will unduly restrict landowners’ ability to use land to generate desirable economic and social outcomes.
- 2.4 Further, the notified PDP over emphasises the importance of farming activities. Farming is one method for utilising rural resources, but its long term economic opportunities, in many rural parts of the District, are very uncertain. There are very few farmers that derive their income entirely from farming, particularly within the Wakatipu Basin. Many of the High Country Stations within the district diversify their farming income with tourism activities.
- 2.5 Other activities that require a rural location, such as outdoor recreation, various other visitor activities and rural living, may better provide economic wellbeing for landowners and the wider community in the face of rapid growth, and therefore should also be enabled and should be on at least an equal footing with farming, and with appropriate objectives and related methods for managing potential adverse effects on landscape and other important values.
- 2.6 Many of the tourist activities which are synonymous with Queenstown-Lakes are rurally based – for example the *Lonely Planet*² lists the “*Top things to do in Queenstown*” and the top 10 are:
- *Skyline Gondola* (urban but mainly Rural General);
 - *Kawarau Bungy Centre* (Rural General/Gibbston Character Zone);
 - *The Original Kawarau Bridge Bungy Jump in Queenstown* (Rural General/Gibbston Character Zone);
 - *Shotover Jet* (Rural General);
 - *G Force paragliding* (Rural General);
 - *Grand Circle Helicopter Flight from Queenstown* (Rural General);
 - *Ziptrek Ecotours* (Rural General);
 - *Queenstown Bike Park* (Rural General);
 - *Queenstown Kawarau River White Water Rafting* (Rural General);
 - *Queenstown Winter Festival* (Various zones, both urban and rural).

² <http://www.lonelyplanet.com/new-zealand/queenstown-and-wanaka/queenstown/things-to-do/top-things-to-do-in-queenstown>

2.7 These are predominantly rural activities. It is therefore important that the “Strategic Directions” and Landscapes chapters reflect that many activities are not urban but are rural, non-farming activities. Golf courses, ski fields, rural living and other activities that are part of the social, cultural and economic fabric of the District should be accorded the same consideration as farming when contemplating how the District Plan deals with economic growth, population growth, and the impacts of these on the District’s rural resources and landscapes.

3 Use of RMA and non-RMA language

3.1 In addressing various modifications to the wording of provisions, Mr Barr³ discusses the use of RMA language. He states that in the Landscape chapter RMA language has been used sparingly and that “*the RMA and its ‘tests’ are the legislative framework that need to be given local expression in a way that is appropriate to local issues*”⁴. I agree with him to the extent that the RMA needs to be applied appropriately to local issues, but I disagree that non-RMA language should be generally preferred to RMA language in achieving this.

3.2 The QLDC landscapes have nationally and regionally recognised values in an RMA context. These values:

- reflect a range of section 6 and section 7 matters; and
- have been identified since the inception of the RMA first generation District Plan; and
- have been confirmed by a substantial body of case law over the last couple of decades.

3.3 Against this background, in my view, Mr Barr’s goal of achieving a plain and simple plan by using non-RMA language to “*encourage readers to engage with the PDP*”⁵ will have the opposite effect: RMA language is understood by a wide range of professionals and members of the public, and introducing new terms – while on their face possibly simpler – will lead to uncertainty as to meaning and scope. It will also open the door to litigation about what the terms mean, which is unnecessary when there is already wide understanding about the meaning of many RMA terms. In my view RMA language should be the “default” language of a District Plan (or any RMA planning instrument), and any non-RMA language should be used sparingly.

3.4 I have spent a good deal of time over that last 2 years working on the Proposed Auckland Unitary Plan (**PAUP**) and this has involved submissions, meetings, mediations, workshops,

³ S42A Report, Craig Barr, mainly in paragraphs 9.31 – 9.37

⁴ S41A report, Craig Barr, paragraph 9.34

⁵ *ibid*, paragraph 9.35

caucuses, and hearings. The mediations were attended, typically, by a wide range of RMA professionals as well as developers and interest groups, and the language of the PAUP provisions was the key point of the debate. Almost without exception the provisions that emerged, regardless of the topic, were in RMA language, across all levels of the PAUP, including the Regional Policy Statement, Regional provisions and District provisions. Non-RMA terms that became popular were “*minimise*” and “*manage*”, the latter being used as a summary default term meaning “*avoid, remedy, or mitigate*”.

3.5 I will return to this when I discuss the individual provisions, but my summary view is that RMA language is preferable and that the wording of provisions needs to be very carefully chosen to offer as much precision as possible in what is, typically (especially when dealing with landscapes) a very subjective field of endeavour. To that extent I agree with Mr Paetz’ view that the objectives and policies need to be very direct, meaningful and outcome-focussed⁶.

3.6 I now turn to the specific provisions of Chapters 3, 4 and 6.

4 Chapter 3: Strategic Directions

4.1 In this section of my evidence I address the Chapter 3 objectives and policies.

Objectives 3.2.1.1, 3.2.1.2 and 3.2.1.3, and their allied policies

4.2 These objectives relate to the town centres. I agree with Mr Paetz⁷ that the objectives should better recognise the various zones within and functions of Frankton, but I consider that his revised Objective 3.2.1.1 and recommended Objective 3.2.1.2 should be combined, as follows (Mr Paetz’ changes are in plain strikeout or underline, my further changes are in bold strikeout and underline):

3.2.1.1 Objective *Recognise, develop and sustain the Queenstown and Wanaka ~~central business areas—town centres~~ **and the Frankton Mixed Use Commercial Area (comprising the Remarkables Park Zone and the Frankton Flats Special Zone (A) and (B) zones and the Queenstown Airport)**, as the hubs of New Zealand’s premier alpine resorts and the District’s economy.*

Policies

3.2.1.1.1 *Provide a planning framework for the Queenstown and Wanaka ~~central business areas—town centres~~ **and the Frankton Mixed Use Commercial Area** that enables quality development and enhancement of the centres as the key commercial, civic and cultural hubs of the District, building on their existing functions and strengths.*

3.2.1.1.2 *Avoid commercial rezoning that could ~~fundamentally~~ undermine the role of the Queenstown and Wanaka ~~central business areas~~ **town***

⁶ S42A report, Matthew Paetz, para 12.16

⁷ S42A report, Matthew Paetz, para 12.22

centres and the Frankton Mixed Use Commercial Area as the primary focus for the District's economic activity.

- 3.2.1.1.3 Promote growth in the visitor industry and encourage investment in lifting the scope and quality of attractions, facilities and services within the Queenstown and Wanaka ~~central business areas town centres~~ and the Frankton Mixed Use Commercial Area.

~~3.2.1.2 Objective~~ Recognise, develop, sustain and integrate the key mixed use function of the wider Frankton commercial area, comprising Remarkables Park, Queenstown Airport, and Five Mile.

Policies

~~3.2.1.2.1 Provide a planning framework for the wider Frankton commercial area that facilitates the integrated development of the various mixed use development nodes.~~

~~3.2.1.2.2 Recognise and provide for the varying complementary functions and characteristics of the various mixed use development nodes within the Frankton commercial area.~~

~~3.2.1.2.3 Avoid additional commercial rezoning that will undermine the function and viability of the Frankton commercial area, or which will undermine increasing integration between the nodes in the area.~~

4.3 The reasons for my changes are:

- (a) I consider that the collection of large scale zoned commercial areas at Frankton, including within the Remarkables Park Zone, the Frankton Flats Special Zones (A) and (B) and the Airport currently (or will) contribute to the District's economy in the same way as the Queenstown and Wanaka town centres and Frankton should be regarded equally as an economic hub;
- (b) I therefore consider that the "Frankton Mixed Use Commercial Area", which comprises much of the Remarkables Park Zone (the existing Remarkables Park Town Centre and associated range of existing and future mixed use development areas) and the Frankton Flats Special Zone (A) (which is the Five Mile retail development) and the Frankton Flats Special Zone (B) (comprising a yet to be developed range of commercial / light industrial / industrial activities), and Queenstown Airport should be treated in the same way – at this strategic level – as the Queenstown and Wanaka town centres;
- (c) I do not consider it is necessary for an objective or policy to refer specifically to "integrating" the various Frankton commercial zones, and hence I have deleted Objective 3.2.1.2 and Policy 3.2.1.2.1. The Frankton sub-areas each have their own established District Plan provisions to achieve the purpose of the Act, and they will each develop and fulfil their roles in accordance with these provisions. Their physical integration is accounted for by physical linkages such as Lucas Place (connecting the airport to Remarkables Park) and the Eastern Arterial Road (which will connect the Frankton Flats Special Zone (B) with the Remarkables Park Zone. Further, there is a potential risk that the higher order provisions seeking "integration" of the existing zones could be used in a

way that might require the established zone provisions to be modified in some way to achieve such “integration”;

- (d) Policy 3.2.1.2.2 is deleted because I consider it is superfluous; the various mixed use development nodes within the Frankton area are already recognised and provided for in Objective 3.2.1.1 and its policies, and the varying complementary functions and characteristics of the Frankton mixed use areas are recognised in the various zone objectives and policies;
- (e) Policy 3.2.1.2.3 is deleted because it repeats the modified Policy 3.2.1.1.2.

4.4 The following table further evaluates these modified provisions under Section 32AA of the Act:

Costs	Benefits	Effectiveness & Efficiency
I do not consider that the modifications have any costs. The intent of the objectives and policies is maintained and there is no change in the meaning and impact of the provisions.	The key town and commercial centres, including those of Queenstown and Wanaka and Frankton, which are all “hubs” of the District’s economy, are dealt with under a single objective and set of policies.	The single set of objectives and policies are efficient in that they provide the same policy guidance for the various hub centres.

4.5 I support Mr Paetz’ modifications to his Objective 3.2.1.3 and Policies 3.2.1.3.1 and 3.2.1.3.3, but they would need renumbering if my evidence in paragraphs 4.2 and 4.3 above is accepted.

Objective 3.2.1.4

4.6 I consider that Objective 3.2.1.4 should be amended as follows.

*Objective 3.2.1.4 Recognise the potential for rural areas to diversify their land use beyond ~~the strong productive value of~~ **traditional rural activities including** farming, provided ~~a sensitive approach is taken to~~ **adverse effects on** rural amenity, landscape character, healthy ecosystems, and Ngai Tahu values, rights and interests **are avoided, remedied or mitigated.***

4.7 The reasons for the changes are:

- (a) The term “strong productive value” does not fairly represent the farming in the District. The amendment better represents the situation in that it simply recognises traditional

rural activities. Regardless of the activity, however, a sensitive approach needs to be taken to the matters identified in the objective. I address farming in more detail under Objective 3.2.5.5 (paragraph 4.25) below;

- (b) The deletion of “*a sensitive approach is taken to ...*” and replacement with “*... adverse effects on ... are avoided, remedied or mitigated*” are from Mr Paetz’ recommendation⁸, which I agree with as I prefer the RMA language.

4.8 The following table further evaluates the provisions under Section 32AA of the RMA:

Costs	Benefits	Effectiveness & Efficiency
<p>The use of “traditional” could be seen as uncertain, as land uses have changed over time in the District. Early settlers farmed the land, and mined the land for gold, and later land uses include ski areas, golf courses and other tourism and commercial recreation activities. These have in turn in part shaped the landscape character of the District. A degree of assessment may be required.</p>	<p>The removal of “strong productive value” assists in making the policy more accurate. The Council has not proved in the Section 32 analysis that there is “strong productive value” of farming. The replacement of this wording with “traditional rural activities” acknowledges that there are a number of activities, not just farming, that depend on rural resources, and hence the provision is more accurate.</p>	<p>The proposed wording change is effective as it accurately reflects that farming is just one use of the rural zone and does not elevate the status of farming to “strong productive use” when this has not been substantiated in any way.</p> <p>There are a number of rural activities that can occur (as long as a sensitive approach is taken to rural amenity, landscape character etc). These are now also provided for within the objective, and this is more effective and efficient.</p>

New Objective 3.2.1.6

4.9 Mr Paetz recommends⁹ a new Objective 3.2.1.4 (which I think is a mis-numbering and it should be numbered Objective 3.2.1.6. It reads:

Objective **3.2.1.6** **Recognise and provide for the significant socioeconomic benefits of tourism activities across the District.**

⁸ S42A report, Matthew Paetz, para 12.32

⁹ S42A report, Matthew Paetz, para 12.34, page 21

- 4.10 I support this addition, for the reasons Mr Paetz provides. Kawarau Jet’s submission proposed a new policy 3.2.1.3.3 that reads:

Policies **3.2.1.3.3** **Provide for a range of appropriate Recreational and Commercial Recreational activities in the rural area and on the lakes and rivers of the District.**

- 4.11 I support this new policy as an important part of what makes Queenstown (and to a lesser extent the rest of the District) unique and important is the numerous opportunities the natural resources provide for recreation and commercial recreation activities. Jetboating, rafting and bungy jumping, for example, are synonymous with the District. I consider that the new proposed policy above is the most appropriate way to achieve Mr Paetz’ new Objective 3.2.1.6 as it is aligned with tourism activities.
- 4.12 The following table further evaluates the new Policy 3.2.1.3.3 under Section 32AA of the Act:

Costs	Benefits	Effectiveness & Efficiency
The use of the word “appropriate” gives a level of uncertainty in terms of what is appropriate and what is not. This can be developed further within the specific zone provisions.	Provides an explicit high level policy enabling commercial recreational activities, which will in turn promote and support provisions for a range of appropriate recreational and commercial recreational activities in the specific zone provisions.	The proposed policy gives effect to the objective, as there are a number of sustainable enterprises that utilise the rural resources. Providing for these within the policy framework effectively enables the ongoing diversification of tourism products to be part of the economic base and provide for employment opportunities.

Objective 3.2.5.1

- 4.13 In paragraph 12.109 Mr Paetz recommends amendments to Objective 3.2.5.1¹⁰, in particular deleting “natural character” and replacing with “quality”. I disagree with this as I consider that natural character is more aligned with the “natural” theme of the section 6(b) landscapes and provides appropriate emphasis on that ONL aspect in this District. I consider that the term “inappropriate” needs to be added, to better align with section 6(b). I consider that the objective should read as follows:

¹⁰ S42A report, Matthew Paetz, para 12.109, page 34

Objective 3.2.5.1 ~~Protect the **natural character** quality of the Outstanding Natural landscapes and Outstanding Natural Features from **inappropriate** subdivision, use and development.~~

Objective 3.2.5.2 and policies

4.14 These provisions relate to the Rural Landscapes. I consider that the objective and policies should be amended as follows:

Objective 3.2.5.2 ~~Minimise the adverse landscape effects of subdivision, use or development in specified Rural Landscapes.~~
Recognise the landscape character and visual amenity values of the Rural Landscapes and manage the adverse effects of subdivision, use and development on these values.

Policies 3.2.5.2.1 ~~Identify the district's Rural Landscapes Classification on the district plan maps, and minimise the effects of subdivision, use and development on these landscapes.~~

3.2.5.2.2 **Avoid, remedy or mitigate the adverse effects of subdivision, use and development within Rural Landscapes.**

4.15 I consider that the modifications are necessary for the following reasons:

- (a) In my view the notified Objective 3.2.5.2 is too broad and could dis-enable otherwise legitimate development proposals. The proposed words “*recognise ... values and manage the adverse effects ... on these values*” more clearly sets out that, in any specific proposal (whether a plan change or resource consent) the landscape and visual amenity values must be recognised (which, in practice, would be by way of thorough assessment) and then adverse effects on such values must be *managed*. This means that adverse effects must be avoided, remedied or mitigated, as is the duty under section 5 of the Act;
- (b) The splitting of Policy 3.2.5.2.1 into two policies 3.2.5.2.1 and 3.2.5.2.2 better separates the two distinct purposes which are:
- to identify the relevant landscapes; and
 - to set out the intent of the District Plan for those landscapes.

The insertion better aligns the policy with the parent objective, which is to manage the adverse effects of subdivision and development on the relevant values;

- (c) Adverse effects should be “*avoided, remedied or mitigated*”, rather than “*minimised*”, and this aligns with section 5(2)(c) of the Act. It also better provides for the different (and in many cases unique) circumstances of any particular development proposal

where the adverse effects on landscape character and visual amenity values may, in the broad determination under section 5, not necessarily need to be completely avoided but could be adequately remedied or mitigated. Using the same language (avoid, remedy and mitigate) as the Act is useful in this case as it allows for these opportunities to be expressed in the policy.

4.16 Mr Paetz proposes an amended Objective 3.2.5.2 also. His recommended version is:

Objective 3.2.5.2 ~~Minimise the adverse landscape effects of subdivision, use or development in specified Rural Landscapes.~~
Maintain and enhance the landscape character of the Rural Landscape Classification, whilst acknowledging the potential for managed low impact change.

4.17 I do not support this wording because the two legs of the objective – “*maintain and enhance*” on the one hand and “*potential for managed ... change*” on the other, are at odds with each other and the provision is therefore ambiguous. The first leg sets a very high bar – essentially only applications that improve landscape character would meet the Objective. An applicant for some activity such as a rural lifestyle development could meet the second leg of the objective but could likely find it very difficult to meet the first leg. I therefore prefer the wording I set out in paragraph 4.14 above.

4.18 The following table further evaluates Objective 3.2.5.2 under Section 32AA of the Act:

Costs	Benefits	Effectiveness & Efficiency
No costs identified.	<p>The proposed objective removes the term “minimise” as it is too broad and may disenable otherwise legitimate development proposals.</p> <p>The proposed rewording amends the objective to be “positive” in that development is enabled, but properly qualifies this in that landscape character and visual amenity values are recognised. This would ensure a thorough examination of the proposal to ensure that any adverse effects are avoided, remedied or mitigated.</p>	<p>It is more efficient to have clear objectives that give direction to those administering the District Plan. A thorough assessment can then be undertaken at time of application of those objectives.</p>

4.19 The following table further evaluates Policy 3.2.5.2.2 under Section 32AA of the Act:

Costs	Benefits	Effectiveness & Efficiency
No costs identified.	This policy requires that adverse effects are to be avoided, remedied or mitigated which in turn aligns with section 5(2)(c) of the Act. It provides for the many different circumstances of development in which the effects can remedied or mitigated, and it may be that if adverse effects cannot be adequately avoided then a particular proposal should be refused.	The policy is effective in that it allows for subdivision, use and development only if adverse effects are avoided, remedied or mitigated. These are well known and defined terms in the Act (Section 5(2)(c) and provide scope for thorough assessment of options and design of an activity within a rural landscape.

Objectives 3.2.5.3 and 3.2.5.4 and policies

4.20 I support these objectives and their allied policies because these provisions correctly identify that some parts of the District have capacity to absorb change without detracting from landscape and visual amenity values, whether by way of zone or consent, but that residential development in rural areas needs to be carefully managed to avoid, remedy or mitigate potential adverse effects on landscape character and visual amenity values.

4.21 Objective 3.2.5.4 should be amended as follows:

*Objective **3.2.5.4** Recognise there is a finite capacity for residential activity in rural areas if the qualities of ~~our~~ **the** landscapes are to be maintained.*

4.22 Impersonal language is more suitable in a quasi-legislative instrument such as a District Plan, hence "... *the* ..." rather than "... *our* ..." The plural "*landscapes*" recognises that there are different landscapes with different qualities.

4.23 Policy 3.2.5.4.2 should be modified as follows:

*Policies **3.2.5.4.2** ~~Provide for~~ **Enable** rural living opportunities in appropriate locations.*

4.24 I consider that "*Provide for* ..." is a policy basis for zoning land for rural living (i.e. the Rural Lifestyle and Rural Residential Zones) but not the basis for other appropriate rural living

opportunities while, “Enable ...” allows for both zoning and other opportunities (i.e. through consents or plan changes).

Objective 3.2.5.5 and policies

4.25 These provisions relate to the notified Plan’s emphasis on farming and its primacy over other rural activities, which I discussed in paragraphs 2.4 – 2.7 above. I consider that the objective and policies should be amended as follows:

Objective 3.2.5.5 *Recognise that agricultural land use **and other activities that rely on rural resources** ~~is~~ **are** fundamental to the character of ~~our~~ **the** landscapes.*

Policies 3.2.5.5.1 *Give preference to farming ~~activity~~ **and other activities that rely on rural resources** in rural areas except where ~~it~~ **they** conflicts with significant nature conservation values.*

3.2.5.5.2 *Recognise that the retention of the character of rural areas is often dependent on the ongoing viability of **activities that rely on rural resources and** farming and that evolving forms of agricultural **and other** land uses which may change the landscape are anticipated.*

4.26 The amendments acknowledge that the rural areas provide for agricultural uses as well as other non-farming activities that require and rely on rural resources. Farming is one method for utilising rural resources, but its long term economic opportunities, in many rural parts of the District, are very uncertain. Under the objective and policies as notified, rural landowners are essentially being made to be default “caretakers” of the landscape and visual values of the land, not because the land has any productive value but because the land has visual value, which farming activities maintain. Rural land hence takes on a quasi-open space reserve function.

4.27 Other activities that require a rural location, such as rural residential and rural lifestyle uses, ski fields, and golf courses, may better provide economic wellbeing for landowners and the wider community in the face of rapid growth, and may enable greater level of investment back into the land (for example ecological values can be improved) and therefore should also be enabled and should be on at least an equal footing with farming, provided that potential adverse effects on landscape and other values are properly managed.

4.28 The following table further evaluates Objective 3.2.5.5 and Policies 3.2.5.5.1 and 3.2.5.5.2 under Section 32AA of the Act:

Costs	Benefits	Effectiveness & Efficiency
The proposed changes have no costs, they more accurately represent the	The change in the objective and the supporting policies acknowledges that the rural	The objective is effective and efficient in that it highlights that rural resources are

rural resources (including farming).	areas currently provide for other uses as well as agriculture, examples include ski fields, golf courses and rural living. These activities require rural resources.	important to a number of land uses, including but not limited to agriculture.
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5 Chapter 4: Urban Development

5.1 My principal concern about Chapter 4 is Policy 4.2.2.1 as it applies to the Wakatipu Basin (I do not comment on Wanaka as it has different circumstances and considerations). The policy states:

4.2.2.1 *Urban Growth Boundaries define the limits of urban growth, ensuring that urban development is contained within those identified boundaries, and urban development is avoided outside of those identified boundaries.*

5.2 There are two problems with this policy:

- (a) There are zones that are outside the UGB that contain or are zoned to enable urban development, such as the Millbrook Zone and the Waterfall Park Zone. The Millbrook Zone contains golf courses and associated resort facilities including a hotel, and large areas of single and attached dwelling units that are urban in character and density. The Waterfall Park Zone, adjacent to Millbrook, enables 100 dwelling units in a small confined area, and development to what the Zone enables would in my view constitute urban development. These zones are contrary to the policy because they do not avoid urban development outside of the UGB, and therefore the policy does not correctly reflect the current reality;
- (b) If there is an area which could be developed efficiently for urban purposes somewhere in the District that is outside the UGB, then by using the word “avoid” the PDP is effectively saying that that area should not be used for urban purposes. There is no s32 evaluation that would support this. For example:
 - (i) The Council’s infrastructure evidence¹¹ sets out the reasons why UGBs are necessary for efficient provision of infrastructure but does not provide any specific

¹¹ Statement of evidence of Ulrich Glasner dated 19 February

information as to any constraints or any other inability to provide infrastructure to justify the location of the UGBs;

- (ii) There is no analysis of why areas adjacent to and outside the UGB that may be suitable for urban development (for example where urban development would not be constrained by an ONL or ONF boundary or by a topographical feature that would clearly demarcate a logical rural/urban boundary) are not within the UGB¹².

5.3 These two problems can be addressed by two amendments:

- (a) change the UGB to include existing zones that contain or are zoned to enable urban development;
- (b) change the policy so that “*avoid*” is qualified.

5.4 I consider that these two amendments are appropriate. The UGB could simply be extended to include some land (or a new UGB created), particularly where there is ample existing knowledge of the land (such as by virtue of existing urban development or zoned development opportunities, or via information that may be brought to the table through this PDP process). However, it is not so simple to include other land now because there has been no evaluation of whether urban development is appropriate or not. The policy could be modified to reflect this, and I suggest the following addition to the policy to allow for exceptions:

4.2.2.1 *Urban Growth Boundaries define the limits of urban growth, ensuring that urban development is contained within those identified boundaries, and urban development is avoided outside of those identified boundaries **except as provided for in Policy 4.2.2.5.***

...

4.2.2.5 *Urban Growth Boundaries may need to be reviewed and amended over time to address changing community needs. **Areas within any new or expanded Urban Growth Boundary should exhibit the following specific site and location characteristics:***

- (a) urban development capacity can be provided efficiently;**
- (b) infrastructure can be provided in a feasible, efficient and cost-effective manner;**
- (c) the urban development supports public transport, walking and cycling;**
- (d) areas of significant landscape, ecological or cultural values are avoided;**
- (e) areas with significant natural hazard risks are avoided;**
- (f) conflicts between urban activities and rural activities are avoided, remedied or mitigated;**

¹² I acknowledge here that Arrowtown has a particular set of circumstances and expansion beyond its UGB is constrained for character reasons

(g) the proposed Urban Growth Boundary is a clear defensible limit to urban expansion by aligning with strong landscape boundaries or clear topographical features or other features such as roads, high tension lines/corridors, or airport flight paths.

5.5 In my view this addition to the policy is necessary to take into account land areas for which urban development may be the most efficient outcome. The new clauses (a) – (g) in Policy 4.2.2.5 ensure that any proposal is properly tested against fundamental criteria that dictate what a new urban area should be able to accomplish.

5.6 The following table further evaluates the amended Policies 4.2.2.1 and 4.2.2.5 under Section 32AA of the Act:

Costs	Benefits	Effectiveness & Efficiency
There is a potential cost in that the Council may be required to determine proposals to amend the UGBs. However, such costs usually fall on the developer / applicant, not the Council.	<p>The changes acknowledge that there may be some rural areas in the District that can sustain urban development, and that such opportunities are not necessarily foreclosed, but that any potential new urban development outside the current Urban Growth Boundaries can be assessed against the fundamental principles in Policy 4.2.2.5 as to the appropriateness of the boundary change.</p> <p>The new clauses direct what values must be taken into account when assessing and determining whether a new boundary is appropriate.</p>	<p>The revised policies are effective in guiding what principles must be taken into account in determining whether any changes to the boundaries are appropriate.</p> <p>The policies are efficient in that legitimate proposals for sustainable urban development outside the current UGB's are not frustrated by a high order policy but can be properly assessed and determined using valid principles for urban growth.</p>

5.7 I consider that the changes are necessary and will assist in achieving the relevant objectives of Chapter 4, particularly Objectives 4.2.1 and 4.2.2, and relevant objectives of Chapter 3, including, for example, Objectives 3.2.2.1 (in relation to urban growth), 3.2.6.1 (in relation to affordable housing) and 3.2.6.2 (in relation to mix of housing opportunities).

6 Chapter 6: Landscapes

- 6.1 Further to my discussion in paragraphs 2.1 – 2.7 above, I consider that the Landscapes chapter needs to be modified to improve the direction and guidance necessary for District Plan users, particularly in relation to the Rural Landscape areas.
- 6.2 The vision statement as notified recognises the finite capacity of the rural resources to absorb new rural lifestyle and rural residential development, but needs to also recognise that there are rural areas that can absorb development, whether in new areas or infill within existing areas, provided that the potential adverse effects on the landscape character and visual amenity values are properly recognised and considered when applications are being contemplated, prepared and determined.
- 6.3 Additional subdivision and development in some areas should not be forbidden or necessarily discouraged, in my view. Rather, given the District’s growth pressures, the focus should be on where and how rural resources could absorb new development and to focus the assessment on such matters as specific location within the topography, boundaries, access, landscaping, colours and materials of buildings, and visibility from other areas. This should be outlined as part of the “Values (6.2)”, and I consider that the 6th paragraph of that values statement should be amended as follows, to better reflect the reality of the Wakatipu Basin:

...

~~*While acknowledging these rural areas have established housing, a substantial amount of subdivision and development has been approved in these areas and the landscape values of these areas are vulnerable to degradation from further subdivision and development. It is realised that rural lifestyle living development has a finite capacity if the District’s distinctive rural landscape values are to be sustained.*~~

The Wakatipu Basin has been developed for rural living purposes to a significant extent, and there is a considerable amount of additional subdivision and development which has been consented but not yet built. The landscape character of the Wakatipu Basin has been affected by existing development, and will continue to be affected by consented development, to the extent that it displays a predominantly rural living character with some remaining pastoral areas, interspersed with undeveloped roche moutonees. Rural living development in the Basin provides significant economic and social benefits, and the Basin contains potential for additional such development. It is realised that rural living development in the Basin has a finite capacity if the existing landscape character is to be retained, and that additional rural living needs to be carefully managed so that visual amenity values are not unduly compromised.

...

Objective 6.3.1 and related policies

- 6.4 These provisions relate to all landscapes. I consider that the objective should be amended as follows:

6.3.1 Objective *The District contains and values Outstanding Natural Features, and Outstanding Natural Landscapes, ~~and Rural Landscapes~~ that require protection from inappropriate subdivision and development and Rural Landscapes where the adverse effects of subdivision and development are appropriately managed.*

6.5 In my view the term “*inappropriate*” should not be applied to the Rural Landscapes because the term “*inappropriate*” is the term used in section 6(b) of the Act, in relation to ONLs and ONFs, and the use of the term for other categories of landscapes implies that the higher “test” for ONLs and ONFs is also being applied to this other category. I understand Mr Barr’s point that subdivision and development in non-ONL/ONF areas should not be inappropriate, but the use of this term as the test for all landscapes, given the context of this term’s use in section 6, will be confusing.

6.6 Further, I consider that elevating the test threshold for non-ONL and ONF landscapes is contrary to the relevant objectives and policies in the Strategic Direction chapter, including Objective 3.2.5.2 and 3.2.5.3 and their allied policies, which I addressed above (paragraphs 4.14 – 4.19).

6.7 The following table further evaluates the amended Objective 6.3.1 under Section 32AA of the Act:

Costs	Benefits	Effectiveness & Efficiency
Nil. There is no loss of original meaning or intent, rather the landscape categories are more accurately distinguished vis-a-viz Section 6 terminology.	The proposed change is better aligned with Section 6(b) of the Act by ensuring that the outstanding features and landscapes are differentiated from other landscapes.	The proposed change is more effective as it clarifies that the landscape categories are to be treated differently and gives clearer direction for the expectations for each landscape category.

6.8 Policy 6.3.1.2 should be amended by deleting the term “*Classification*”, which is cumbersome, and just referring to these areas as “*Rural Landscapes*”. Mr Barr agrees with this¹³.

6.9 Policy 6.3.1.3 should be modified as follows:

Policies ... **6.3.1.3** *That subdivision and development proposals located within the Outstanding Natural Landscape, or an Outstanding Natural Feature, ~~be assessed against the assessment matters in provisions 21.7.1 and 21.7.3 because subdivision and development is~~ are*

¹³ S42A Report, Craig Barr, paragraph 9.65, p. 17

*inappropriate in ~~almost all~~ **most** locations, meaning successful applications will be exceptional cases.*

6.10 The reasons are:

- (a) Stating in a policy that applications should be assessed against the relevant assessment matters is not necessary. It is a procedural matter and if it needs to be stated then that statement should be in an administrative explanation section of the Plan, and not in the substantive policies of a particular chapter. It also confuses the policy and the method in that the PDP user needs to turn to the assessment matters to understand the policy;
- (b) The words “*almost all*” are replaced with “*most*” and the reference to “*exceptional cases*” is deleted. The “*almost all*” and “*exceptional cases*” words are from the operative provisions for the ONL-Wakatipu Basin landscape category. The PDP policy 6.3.1.3 is expanding that test to all ONL and ONFs in the District. This is contrary to the established case law and is not justified in any way on the section 32 documentation.

6.11 If the words “*almost all*” are replaced with “*most*” then this leads to a consequential problem in that the established test for the Wakatipu Basin ONLs (i.e “*almost all*”) is weakened. This needs to be remedied, and would require retention of the existing policy distinction between the ONL category in the Wakatipu Basin and the rest of the ONLs through the District.

6.12 The following table further evaluates the amended Policy 6.3.1.3 under Section 32AA of the Act:

Costs	Benefits	Effectiveness & Efficiency
<p>Nil. The assessment matters must be addressed anyway and do not need to be referenced in this policy. There is no loss of meaning or intent.</p>	<p>Avoids superfluous content and makes the policy more succinct.</p> <p>The revisions ensure that the PDP provisions are consistent with the established case law for ONLs in the Wakatipu Basin. The revisions necessitate consequential amendments to reflect the clear distinction, in the case law, between the ONL-Wakatipu Basin</p>	<p>The amended policy is more concise without losing or changing meaning.</p> <p>The amended policy is more accurate in relation to the policy distinctions between the ONLs in the District, so that the policy more effectively reflects the established case law.</p>

	category and the other ONLs in the District.	
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6.13 Policies 6.3.1.4 and should be modified as follows:

- Policies ...*
- 6.3.1.4** ~~That subdivision and development proposals located within the Rural Landscape be assessed against the assessment matters in provisions 21.7.2 and 21.7.3 because subdivision and development is inappropriate in many locations in these landscapes, meaning successful applications will be, on balance, consistent with the assessment matters.~~ **That subdivision and development proposals within the Rural Landscapes Classification will only be successful where development can be located and designed in such a manner that adverse effects on landscape character and visual amenity values are avoided, remedied or mitigated.**
- 6.3.1.6** ~~Enable rural lifestyle living through applying Rural Lifestyle, Zone and Rural Residential Zone and Resort Zone plan changes in areas where the landscape can accommodate change,~~ **and carefully considered applications for subdivision and development for rural living.**

6.14 The reasons for this are:

- (a) That policies should not state that proposals will be assessed against the assessment matters, for the reasons I discussed in paragraph 6.10 above;
- (b) To ensure that the “inappropriate” test of Section 6(b) of the Act does not apply to subdivision and development within landscapes that are not outstanding;
- (c) The new wording gives better guidance to those contemplating subdivision or development in the Rural Landscapes. The guidance is that adverse effects should be “avoided, remedied or mitigated” which aligns with section 5(2)(c) of the Act, and sections 7(b) and 7(c), in relation to the efficient use and development of natural and physical resources and the maintenance and enhancement of amenity values, respectively. It also better provides for the different (and in many cases unique) circumstances of any particular development proposal where the adverse effects on landscape character and visual amenity values may, in the broad determination under section 5, not necessarily need to be completely avoided but could be adequately remedied or mitigated. The opportunities for this should be expressed in the policy.

6.15 The following table further evaluates the amended Policies 6.3.1.4 and 6.3.1.6 under Section 32AA of the Act:

Costs	Benefits	Effectiveness & Efficiency
Nil. The original policy intent is maintained.	<p>Avoids superfluous content and makes the policy more succinct.</p> <p>Guides applicants and decision makers in what is expected of an application for it to be successful.</p>	The amended policy gives clearer direction for how to address proposals within this landscape classification, and this is efficient for all parties to a proposal.

Objective 6.3.2 and related policies

6.16 Objective 6.3.2 as notified relates to adverse cumulative effects. I consider that the following amendment is necessary:

6.3.2 Objective *Avoid, **remedy or mitigate** adverse cumulative effects on landscape character and amenity values caused by incremental subdivision and development.*

6.17 The reason for this is that using the term “avoid”, without qualification, would likely foreclose opportunities which may have only minor, but nonetheless adverse, effects, and very few if any proposals could actually achieve the objective. This stringent objective would only be justified by an overall section 32 assessment that any change to the landscape is automatically “adverse”. The landscape evidence and related section 32 documents do not support such a preventative approach. Qualifying the objective with “*remedy or mitigate*” is necessary in my view. “*Remedy*” would encourage an applicant to focus on any existing adverse effects and the potentially positive outcomes this could enable, and “*mitigate*” requires design solutions to consider what the potential adverse effects are and how they could be sufficiently reduced or eliminated entirely. Further guidance on this is within the policies that serve this objective, such as:

Policies **6.3.2.1** *Acknowledge that subdivision and development in the rural zones, specifically residential development, has a finite capacity if the District’s landscape quality, character and amenity values are to be sustained.*

– which I support.

6.18 The following table further evaluates Objective 6.3.2 under Section 32AA of the Act:

Costs	Benefits	Effectiveness & Efficiency
The policy is not as definitive with “remedy or mitigate” added but gives the opportunity for developments to be assessed on their merits.	The amendment acknowledges that there are opportunities to remedy and mitigate the adverse cumulative effects on landscape, rather than just avoiding them.	The addition of “remedy or mitigate” is efficient as it allows each development to be assessed as to the cumulative impact of landscape character and amenity.

6.19 Policy 6.3.2.2 should be amended as follows:

Policies **6.3.2.2** *Allow residential subdivision and development only in locations where **adverse effects on the District's local landscape character and visual amenity values would not be degraded can be avoided or adequately remedied or mitigated, recognising that there are parts of the rural areas that can absorb rural living development, provided that the potential adverse effects on the landscape character and visual amenity values are properly considered when determining applications.***

6.20 These amendments are different to that proposed in the submissions. The submissions version deleted “... *would not be degraded*” and inserted “... *would not be significantly adversely affected* ...”. I prefer the wording set out above, as it better directs an applicant and the Council in their respective assessments. The words “...*recognising that there are parts of the rural areas that can absorb rural living development, provided that the potential adverse effects on the landscape character and visual amenity values are properly considered when determining applications*” are in recognition of the strategic direction Objective 3.2.5.3.

6.21 I prefer to not use non-RMA terms such as “*degraded*” in this context. Given the definition of “degrade” (being “*lower the character or quality of*”¹⁴), any proposal that could be perceived to lower the quality of the landscape, no matter the extent of the lowering, would not meet the objective; it is too absolute and I do not consider that is justified. My preferred wording recognises that the landscape values are one component in the overall determination of applications, and seeks that any potential adverse effects are properly considered in this determination.

6.22 The following table further evaluates amended Policy 6.3.2.2 under Section 32AA of the Act:

¹⁴ S42A report, Craig Barr, paragraph 9.36

Costs	Benefits	Effectiveness & Efficiency
Nil. The original policy intent is maintained, the policy is further developed to acknowledge that some areas may be suitable for development but only after a thorough assessment of effects.	The amendment to the policy recognises that the landscape characteristics of the District are diverse and that there will be opportunities for residential subdivision and development whereas assessment at the time of resource consents will identify any adverse effects on landscape character and visual amenity.	Removal of the term “degraded” and replacement with language used in the RMA and in RMA instruments including District Plans. This is efficient as the meaning and case law associated with terminology is well known and understood.

6.23 Policies 6.3.2.3 and 6.3.2.4 are:

Policies	6.3.2.3	Recognise Require that proposals for residential subdivision or development in the Rural Zone that seek support from take into account existing and consented subdivision or development in assessing the have potential for adverse cumulative effects. particularly where the subdivision and development would constitute sprawl along roads.
	6.3.2.4	Have particular regard to the potential adverse effects on landscape character and visual amenity values from infill within areas with existing rural lifestyle development or where further subdivision and development would constitute sprawl along roads.

6.24 The reasons are:

- (a) I do not see why it is only applications that seek support from existing and consented development that should be assessed in this regard. My modifications expand the assessment to all applications, so that existing and consented development is taken into account when assessing potential adverse cumulative effects;
- (b) The words “... *particularly where the subdivision and development would constitute sprawl along roads*” can be deleted from Policy 6.3.2.3 because they are repeated in the next policy;

- (c) The words "... *infill within areas with existing rural lifestyle development or ...*" should be deleted from Policy 6.3.2.4 because there should be no distinction between "infill" or "outfill" (i.e. expansion) development; the assessment should be the same.

6.25 The following table further evaluates amended Policies 6.3.2.3 and 6.3.2.4 under Section 32AA of the Act:

Costs	Benefits	Effectiveness & Efficiency
<p><i>Policy 6.3.2.3</i></p> <p>Nil. The original policy intent is maintained.</p>	<p>The removal of the second part of the policy keeps the policy open in terms of what constitutes cumulative effects – which can be more than "sprawl along roads", and avoids repetition with Policy 6.3.2.5.</p>	<p>The amendment keeps the policy open so that the adverse cumulative effects of any subdivision or development can be identified and assessed. Does not repeat Policy 6.3.2.5.</p>
<p><i>Policy 6.3.2.4</i></p> <p>Nil. The original policy intent is maintained.</p>	<p>The removal of "from infill within areas of existing rural lifestyle development" as in a number of cases infill is preferable to sprawl and should not be discounted at a policy level.</p>	<p>The amendment keeps the policy open so that the potential adverse effects of any subdivision or development can be identified and assessed. Acknowledges that infill should not necessarily be discouraged as it can prevent sprawl of development (along roads) which the policy is trying to prevent.</p>

6.26 Policy 6.3.2.5 should be amended by deleting reference to "*openness*". The Environment Court has on many occasions identified that "*openness*" is not a factor except in relation to outstanding landscapes. In the Rural Landscapes, openness could be changed by permitted activities (for example by farmers planting shelter rows, or conservation planting). I also consider that "degrade" in the policy is too absolute, as I discussed for Policy 6.3.2.2. My preferred wording of the policy is therefore:

Policies ... **6.3.2.5**

~~Ensure incremental changes from subdivision and development do not degrade landscape quality, or~~

~~character or openness as a result of activities associated with mitigation of the visual effects of proposed development such as screening planting, mounding and earthworks.~~

Ensure that the incremental changes from activities associated with mitigation of the visual effects of proposed development, such as screening planting, mounding and earthworks, do not themselves significantly adversely affect landscape character or visual amenity values.

6.27 The following table further evaluates amended Policy 6.3.2.5 under Section 32AA of the Act:

Costs	Benefits	Effectiveness & Efficiency
Nil. The original policy intent is maintained.	The use of RMA language in the policy is beneficial as this language is known, understood and based on established case law.	More efficient to use RMA language; this will aid understanding because RMA language is known, understood, and tested.

Objective 6.3.4 and related policies

6.28 These provisions should be modified as follows:

- Objective 6.3.4** **Protect, maintain or enhance the District's Outstanding Natural Landscapes (ONL).**
- Policies**
 - 6.3.4.1** *Avoid subdivision and development that would ~~degrade~~ **adversely affect** the important qualities of the landscape character and amenity, particularly where there is no or little capacity to absorb change.*
 - 6.3.4.2** *Recognise that large parts of the District's Outstanding Natural Landscapes include working farms and accept that viable farming involves activities which may modify the landscape, providing the quality and character of the Outstanding Natural Landscape is not adversely affected.*
 - 6.3.4.3** *Have regard to adverse effects on landscape character, and visual amenity values as viewed from public places, with emphasis on views from formed roads.*
 - 6.3.4.4** *Have regard to the adverse effects from subdivision and development on the open landscape character where it is open at present.*

6.29 The ONLs of the District are iconic and contribute to the District's identity. Their ongoing protection, maintenance and enhancement is necessary, as I discussed in part 2 above.

6.30 Given the spatial scale of the ONLs and their varied topography, they have some – albeit very limited – capacity to absorb development, provided that any adverse effects of development

are avoided. The words “*adversely affect*” in Policy 6.3.4.1 are preferable to the term “*degrade*” for the reasons I have discussed above.

6.31 The openness of a landscape may be an issue in ONLs, but not in non-outstanding landscapes. This has been confirmed many times by the Environment Court. The new Policy 6.3.4.4 is therefore appropriate under Objective 6.3.4 and is relocated from Policy 6.3.5.6.

6.32 The following table further evaluates Policy 6.3.4.1 under Section 32AA of the Act:

Costs	Benefits	Effectiveness & Efficiency
Nil. The original policy intent is maintained.	The change to the policy uses language which is commonly used in District Plans and is supported by case law. “Degrade” in this sense is too absolute whereas “adversely affect” in this context promotes assessment of whether any actual or potential effects are or could be adverse.	More efficient to use RMA language; this will aid understanding because RMA language is known and meaning is understood and tested.

Objective 6.3.5 and policies

6.33 These provisions should be amended as follows:

- 6.3.5 Objective** ~~Ensure~~ **Enable appropriate subdivision and development does not degrade landscape character and diminish visual amenity values of in the Rural Landscape (RLC).**
- Policies**
- 6.3.5.1** **Recognise that the RLC is a resource with significant economic and social value including, but not limited to, rural productive activities, outdoor recreation activities, and rural living activities.**
- 6.3.5.2** **Recognise that different parts of the RLC have different characters, different landscape and visual amenity values and variable ability to absorb further development.**
- 6.3.5.3** ~~Allow~~ **Enable** ~~subdivision and development only where it will not degrade landscape quality or character or diminish~~ **which avoids, remedies or mitigates adverse effects on the landscape character and visual amenity values of the surrounding RL identified for any Rural Landscape.**
- 6.3.5.24** ~~Avoid~~ **or appropriately mitigate** ~~adverse effects from subdivision and development that are:~~

- Highly visible from public places and other places which are frequented by members of the public generally (except any trail as defined in this Plan); and
- Visible from public **formed** roads.

6.3.5.35 ~~Avoid planting and screening, particularly along roads and boundaries, which would degrade openness where such openness is an important part of the landscape quality or character—~~**obstruct significant views or significantly adversely affect visual amenities.**

6.3.5.46 Encourage any landscaping to be sustainable and consistent with the established character of the area.

6.3.5.57 Encourage development to utilise shared accesses and infrastructure; **and** to locate within the parts of the site where ~~they~~ **it** will be least visible, and have the least **minimise** disruption to the landform ~~and rural character.~~

~~6.3.5.6 Have regard to the adverse effects from subdivision and development on the open landscape character where it is open at present.~~

6.34 My reasons for these modifications are as follows:

- (a) The Objective is modified significantly – it is turned into a positive enabling provision with focus on “*appropriate*” subdivision and development, and the allied policies enable decisions to be made about what is “*appropriate*”;
- (b) The new Policies 6.3.5.1 and 6.3.5.2 do not replace the notified versions; the notified versions are now Policies 6.3.5.3 and 6.3.5.4 respectively, with modifications;
- (c) The new Policies 6.3.5.1 and 6.3.5.2 recognise the values of the Rural Landscapes, including, in Policy 6.3.5.1, their values for various activities, including rural production, outdoor recreation, and rural living, and in Policy 6.3.5.2, their variable landscape and visual amenity values and hence their ability to absorb further development which is different from place to place. Against the scene-setting of Policies 6.3.5.1 and 6.3.5.2, subdivision and development within the Rural Landscapes are “*enabled*” by Policy 6.3.5.3, but this is qualified by the addition of RMA language – “... *which avoids, remedies or mitigates adverse effects* ...” to replace the terms “*degrade*” and “*diminish*”. The Policy better provides for the different (and in many cases unique) circumstances of any particular development proposal where the adverse effects on landscape character and visual amenity values may, in the broad determination under Section 5, not necessarily need to be completely avoided but could be adequately remedied or mitigated. The opportunities for this are expressed in the Policy;
- (d) The new Policy 6.3.5.4 qualifies the “*Avoid* ...” with “... *or appropriately mitigate*” the adverse effects of change that is highly visible. In my view without this qualification the

policy sets the bar too high; total avoidance of adverse effects may be impossible but a particular change may be appropriate with suitable mitigation, and this opportunity should not be foreclosed by the Policy. The first bullet point of the new policy also refers to public formed roads so that this higher test is applied where it is more justified. Unformed roads would fall into the “public place” category and would be caught by the first bullet point in the Policy;

- (e) Policy 6.3.5.5 relates to planting and screening particularly along roads and boundaries. The modifications delete references to “*openness*” (as the Environment Court has confirmed that that is not an issue in non-outstanding landscapes), and replace these with “... *obstruct significant views or significantly adversely affect visual amenities*”. This then invites specific assessment of impacts of the development both from the public and private perspectives;
- (f) The new Policy 6.3.5.7 removes the expectation that new development would locate in the least visible part of the site and seeks to minimise disruption to the landform. I consider that effects on rural character are dealt with adequately under the new Policy 6.3.5.3 and hence these words are deleted in Policy 6.3.5.7;
- (g) Policy 6.3.5.6 (as notified) is deleted from this part of the PDP and shifted to where it is relevant under the ONL provisions, under Objective 6.3.4, as I have discussed above (paragraph 6.28).

6.35 The following table further evaluates Objective 6.3.5 under Section 32AA of the Act:

Costs	Benefits	Effectiveness & Efficiency
Nil. Additional assessment is required to ensure that the adverse effects are also “remedied or mitigated”.	The term “ <i>degrade</i> ” is too absolute and replaced with “ <i>avoids, remedies or mitigates adverse effects on</i> ” which aligns with section 5(2)(c) of the Act. It better reflects the different and in some cases unique circumstances of development proposals can be assessed. Opportunities to remedy and mitigate should also be expressed under the policy.	Uses language which is known, common and tested and this will be more effective and efficient for users.

6.36 The following table further evaluates the new and amended policies under Objective 6.3.5 under Section 32AA of the Act:

Costs	Benefits	Effectiveness & Efficiency
<p><i>Policy 6.3.5.1</i></p> <p>Nil. Provides for the many activities that depend on the rural resources for their viability, including farming and other activities such as outdoor recreation and rural living.</p>	<p>Introduces a policy which recognises that the rural landscape has social and economic value which is not limited to just rural production activities. The rural zones are important to other sectors of the economy such as tourism, recreational and rural living, and this new policy reflects this.</p>	<p>As notified the ability of the rural areas to accommodate activities other than farming was underrepresented in the policy framework. This ignored the positive economic and social value that the zone also contributes. This policy is effective in that it reflects this, and is more efficient in that it allows for and will not frustrate legitimate rural activities.</p>
<p><i>Policy 6.3.5.2</i></p> <p>Will require landscape assessment at the time of consent to determine possible effects on the different characters, landscapes and visual amenity landscapes. There is not an ability for a “one size fits all” approach in the District as the landscape is so varied. However, such a cost is inherent in the notified provisions also. The cost needs to be accepted if proper assessment is to guide decision making for</p>	<p>Introduces a policy that provides the opportunity at consent stage to assess the viability of different landscapes to absorb (or not) development.</p>	<p>The rural landscape of the District is varied and is represented by different characters, different landscapes and visual amenity. The new policy acknowledges that and provides a framework for a specific assessment to be made at the time of consent. It is efficient to assess consents in this context.</p>

consents and other processes.		
<p><i>Policy 6.3.5.3</i></p> <p>As above, there is the cost of assessment required to ensure that the adverse effects are also “remedied or mitigated”.</p>	<p>Enables development only where any adverse effects can be avoided, remedied or mitigated. Removes language which could be uncertain and replaces with RMA language (s5(2)(c)).</p>	<p>Uses language which is known, understood and tested, and this will be more effective and efficient for users.</p>
<p><i>Policy 6.3.5.4</i></p> <p>Nil. Additional assessment is required to ensure that the adverse effects are also mitigated.</p>	<p>The term “<i>mitigates</i>” is added as it aligns with section 5(2)(c) of the Act. It better reflects the different and in most cases unique circumstances of proposals, and how adverse effects can be managed.</p>	<p>Uses language which is common which will aid in the efficient administration of the plan.</p>
<p><i>Policy 6.3.5.5</i></p> <p>Nil. Gives additional strength to the policy.</p>	<p>Supports the decisions of the Environment Court in which “openness” is not an issue in non-outstanding landscapes. The replacement with “views” where views are “important to the appreciation of the landscape quality of character” requires the assessment of any views, where they are open or not, as part of any proposal.</p>	<p>Supports existing Environment Court decisions in which the term “openness” has already been examined.</p>
<p><i>Policy 6.3.5.7</i></p> <p>Nil.</p>	<p>Improves the readability of the policy and removes unnecessary language.</p>	<p>The policy is efficient in that it endeavours to guide an applicant to a development form that is consistent with</p>

		the other policies, and this guidance would need to be adapted as necessary to the individual circumstances of the proposal.
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Objective 6.3.8 and related policy

- 6.37 I support the objective and the related policies as drafted. The landscape of the region is unique and provides opportunities for tourism. This must be sustained into the future.

Rule 6.4.1.2

- 6.38 This rule, with changes as recommended by Mr Barr, states:

6.4.1.2 ~~The landscape categories apply only to the Rural Zone. The Landscape Chapter and Strategic Direction Chapter's objectives and policies are relevant and applicable in all zones where landscape values are at issue.~~

- 6.39 Even with this change I am unclear as to what this rule is achieving. A rule is not needed to state that certain chapters of the plan are relevant, and the rule could lead to confusion in some circumstances, for example where a subdivision in a residential zone is near an ONL or ONF and hence the ONL and ONF provisions of Chapter 6 could become relevant in the discretionary subdivision process. Also, the rule requires additional layers of complexity and introduces uncertainty particularly in the Rural Residential and Rural Lifestyle zone. This zone has a set of objectives and policies that address landscape issues. Any additional site specific issues are addressed through those specific objectives and policies.
- 6.40 I consider that the entire rule should be deleted.

7 Part 2 of the Act, Section 32 and Part 2 of the Act, and conclusion

Section 6

- 7.1 All of the Section 6 matters of national importance are relevant but of particular relevance to the District, and to the subject matters of this hearing, is section 6(b) (the *protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development*). I consider that the PDP Chapters 3 and 6 provisions, with the modifications I

have discussed through this evidence, ensure that the duty to recognise and provide for the matters in section 6(b) is fulfilled.

Section 7

7.2 I consider that the following section 7 matters are most relevant:

(b) the efficient use and development of natural and physical resources:

(c) the maintenance and enhancement of amenity values:

(f) the maintenance and enhancement of the quality of the environment:

(g) any finite characteristics of natural and physical resources:

7.3 I consider that, in the context of the District's rapid population growth, and the reasons for that growth which are in large part related to the District's natural values, the rural areas of the District need to be efficiently used, developed and protected, as necessary, while still maintaining and enhancing their amenity values and the quality of the environment. The PDP needs to strike the right balance between these section 7 matters. I consider that, with the modifications I support to the Chapter 3, 4 and 6 provisions, the PDP will strike the right balance between efficient use on the one hand and the maintenance and enhancement of amenity values and environmental quality on the other.

Section 5

7.4 In Part 2 of my evidence I discussed the continuum of the "enabling" and "regulating" components of section 5 of the Act, and recorded my view that the PDP is weighted too far in the direction of protection of all landscapes, which will frustrate or dis-enable appropriate development proposals that are important to the District's growth and identity and to individual landowners.

7.5 My basic premise is that growth will inevitably affect landscape values, and that the District Plan should focus on how the effects of growth can be appropriately managed so that adverse effects are avoided, remedied or mitigated and future generations can continue to enjoy the values that attract growth and the benefits that flow from growth.

7.6 I consider that with the modifications I have suggested through this evidence the PDP will strike the right balance between accepting the inevitability of growth and how the District's values should be managed accordingly. The modifications are more enabling of activities in the rural areas, including of urban development, but with a very strong focus on proper assessment to ensure that any adverse effects on the District's landscape and other important values are managed, and that the outcomes are, ultimately, appropriate.

7.7 Accordingly I consider that the PDP Chapters 3, 4 and 6, with my modifications, are necessary to achieve the purpose and principles of the Act.

J A Brown

29 February 2016

A**Curriculum vitae – Jeffrey Brown****Professional Qualifications**

1986: Bachelor of Science with Honours (Geography), University of Otago

1988: Master of Regional and Resource Planning, University of Otago

1996: Full Member of the New Zealand Planning Institute

Employment Profile

May 05 – present: Director, Brown & Company Planning Group Ltd – resource management planning consultancy based in Auckland and Queenstown. Consultants in resource management/statutory planning, strategic planning, environmental impact assessment, and public liaison and consultation. Involved in numerous resource consent, reviews, plan changes/variations and designations on behalf of property development companies, Councils and other authorities throughout New Zealand.

Projects include: residential and rural-residential subdivision; high density, mixed-use urban/village developments; golf course resort developments; commercial property planning; lodges, vineyards and wineries; airport planning; water-based transport planning; industrial, office and commercial developments, special housing area developments.

1998 – May 2005: Director, Baxter Brown Limited – planning and design consultancy (Auckland and Queenstown, New Zealand). Consultants in resource management statutory planning, landscape architecture, urban design, strategic planning, land development, environmental impact assessment, public liaison and consultation.

1996-1998: Director, Jeffrey Brown Associates, Queenstown. Resource management consultancy in Queenstown.

1989 – 1996: Resource management planner in several local government roles, including Planner (1992 – 1994) and District Planner (1994 – 96), Queenstown-Lakes District Council. Responsible for this authority's duties under the Resource Management Act, including policy formulation (the first generation RMA District Plan, notified 1995), other plan changes, designations and consents.