

## **Queenstown Lakes District Proposed District Plan – Stage 1**

### **Section 42A Hearing Report For Hearing commencing: 10 October 2016**

**Report dated: 14 September 2016**

Report on submissions and further submissions  
**Chapter 8 – Medium Density Residential**

File Reference: Chp. 8 S42A

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I also have referred to, and relied on the following evidence filed alongside this section 42A report:

Mr Philip Osborne, Economics – statement dated 14 September 2016.

Mr Garth Falconer, Urban Design – statement dated 14 September 2016.

Mr Ulrich Glasner, Infrastructure – statement dated 14 September 2016.

Dr Stephen Chiles, Acoustic Engineering – statement dated 14 September 2016.

## 1. EXECUTIVE SUMMARY

- 1.1 The framework, structure and majority of the provisions in the Proposed District Plan (**PDP**) Medium Density Residential Zone (**MDRZ**) Chapter 8 should be retained as notified and are supported by the section 32 (**s32**) assessment which is **Appendix 3** to this Report.
- 1.2 Several changes are considered appropriate, and these are shown in the Revised Chapter attached as **Appendix 1 (Revised Chapter)**. I have also recommended a number of minor changes, or wording changes that provide better expression. For substantive changes, I have undertaken an assessment in terms of section 32AA of the RMA (see **Appendix 4**). The more significant recommended amendments include:
- a. Deletion of the Homestar density incentive, the requirement to undertake sustainable design, and the five year sunset clause for increased density (notified Zone Purpose (8.1), Policy 8.2.1.5, Objective 8.2.3 and associated policies and Rule 8.5.5);
  - b. Application of a base density of 250m<sup>2</sup> and a 400m<sup>2</sup> maximum density for the two greenfield MDRZ areas (notified Rules 8.5.5 and 27.6.1 (Chapter 27: Subdivision and Development));
  - c. Rationalisation and simplification of the urban design related objectives and policies (notified Objectives 8.2.2 and 8.2.4 (redrafted Objective 8.2.3) and their associated policies);
  - d. Removal of reduced car parking requirements for developments within the MDRZ (notified Policy 8.2.7.4);
  - e. Identification of an Arrowtown Historic Management Transition Overlay Area (**AHMTO**) on Planning Maps 27 and 28 to allow the application of a new rule which requires consent for all new residential units within the AHMTO, with consideration of the Arrowtown Design Guidelines as a matter of discretion (notified Rules 8.4.10 and 8.4.11);
  - f. New built form controls to ensure views from the walkway adjoining Scurr Heights MDRZ are maintained (redrafted Rules 8.5.8.2(a) and 8.5.1.1(a));
  - g. Extension of setback or acoustic insulation / ventilation for all properties within 80m of a State Highway, not just the Frankton MDRZ (notified Policy 8.2.13.1, redrafted Policy 8.2.11.1 and notified Rule 8.5.2);
  - h. Removal of the need for all Frankton MDRZ development to provide a Traffic Impact Assessment and Landscape Plan. Traffic, access and planting are proposed to be controlled through alternative methods (notified rule 8.4.11 and redrafted Rule 8.5.3.2);

- i. A change to recession planes only being applicable to flat sites, as well as accessory buildings on all sites (notified Rule 8.5.6);
- j. A relaxation of the activity status for breaches of the landscape permeable surface rule from non-complying to restricted discretionary (Rule 8.5.7);
- k. Multiple changes to boundary setback requirements to require greater setbacks for garages and from the State Highway (redraft Rule 8.5.8.1(b));
- l. Increase to the permitted building length standard and matters of discretion (notified Rule 8.5.9);
- m. Removal of the window sill height rule (notified Rule 8.5.10); and
- n. Rationalisation of the non-notification rules (notified 8.6).

1.3 I consider that the recommended amendments to Chapter 8 are more effective and efficient than the equivalent provisions within notified Chapter 8. In addition, I consider that the amendments are more effective and efficient than the existing Operative District Plan (**ODP**) and better meet the purpose of the Resource Management Act 1991(**RMA**).

1.4 The key reasons for this conclusion include that the proposed density promotes medium density development whilst ensuring the design of developments takes into account the context and amenity of neighbouring properties, rather than compliance with the Homestar rule which did not. I consider that the built form controls have been amended to better protect amenity of neighbouring properties and the wider area, and to sufficiently address potential reverse sensitivity effects without reverse sensitivity being an undue constraint on realising the development opportunities provided by the MDRZ. I also consider that the proposed provisions are more coherent and have an RMA basis in that the redrafted provisions now function as objectives, policies and matters of discretion.

## 2. INTRODUCTION

2.1 My name is Amanda Jane Leith. I am employed by Queenstown Lakes District Council (**Council**) as a Senior Policy Planner and I am a full member of the Planning Institute of Australia with eligibility to be a full member of the New Zealand Planning Institute. I hold the qualifications of Bachelor of Arts and Masters of Regional and Resource Planning from the University of Otago.

2.2 I am not the principal author of the notified PDP Chapter 8 – Medium Density Residential.

- 2.3 My current role is Senior Policy Planner, which I have held since 4 April 2016, prior to this I was employed as a Senior Resource Consents Planner at Council from 21 September 2015.
- 2.4 Although this is a Council hearing, I confirm that I have read the Code of Conduct for Expert Witness contained in the Environment Court Practice Note and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.
- 2.5 I am authorised to give this evidence on the Council's behalf.

### **3. SCOPE**

- 3.1 My evidence addresses the submissions and further submissions received on the notified Chapter 8.
- 3.2 Although this evidence is intended to be a stand-alone document and also meet the requirements of section 42A of the RMA, the section 32 Evaluation Report: Medium Density Residential Zone is attached as **Appendix 3** for information and reference purposes. This report links to supporting documents referenced in the section 32 (on pages 67 and 68 of that report), along with the Queenstown, Wanaka and Arrowtown Monitoring reports which I have also attached as **Appendices 6, 7 and 8**.
- 3.3 My evidence also addresses some of the submissions and further submissions received on other chapters which are also of relevance to Chapter 8. These include:
- (a) Chapter 2 – Definitions; and
  - (b) Chapter 27 – Subdivision and Development
- 3.4 Where I recommend substantive changes to provisions I assess those changes in terms of section 32AA of the RMA (see **Appendix 4**). The Table in **Appendix 2** outlines whether individual submissions are accepted, accepted in part, rejected, considered to be out of scope or transferred to another hearing stream.
- 3.5 The purpose of this report is not to undertake an assessment nor make recommendations on the appropriateness of the zoning of certain areas of land, as this will be undertaken for the rezoning hearings. However, to assist the Panel and submitters in giving them the context of where the notified MDRZ zones are located,

the relevant planning maps which include areas of MDRZ are attached in **Appendix 9**. I have addressed some location specific matters in Issues 1, 2 and 5 below where they relate specifically to density, character and infrastructure capacity.

#### **4. SUBMISSIONS**

- 4.1 Numerous submissions have been received seeking a re-zoning to or from Medium Density Residential, or for other changes to the PDP mapping annotations. These submission points have been transferred in **Appendix 2** to the future hearing(s) on mapping. Consequently, my evidence relates only to the written provisions which relate to the proposed MDRZ. I have not assessed the acceptability of the specific locations of the MDRZ as this will be addressed within the rezoning/mapping hearing(s). On this basis, I have considered the Chapter 8 provisions in the context of all of the proposed (notified) MDRZ land.
- 4.2 Submissions relating to the notified provisions within Chapter 8 for visitor accommodation were withdrawn from the PDP by way of Council resolution on 23 October 2015. Consequently, submission points relating to the notified visitor accommodation provisions have been marked in **Appendix 2** as being out of scope, and the withdrawn provisions have been removed from the revised chapter.
- 4.3 On 20 July 2016 Council notified Variation 1 to the PDP. This variation involves the replacement of references within the PDP to the Arrowtown Design Guidelines 2006 to the Arrowtown Design Guidelines 2016 and the notification of the Guidelines for submissions. Accordingly, references to the 2006 document have been replaced with 2016 within the Revised Chapter in **Appendix 1**.
- 4.4 I have read, referred to and relied on the evidence of Mr Philip Osborne (Economist), Mr Garth Falconer (Urban Designer), Mr Ulrich Glasner (Engineer) and Dr Stephen Chiles (Acoustics Engineer) that has been filed alongside this section 42A report.

#### **5. BACKGROUND – STATUTORY AND NON-STATUTORY DOCUMENTS**

- 5.1 The Medium Density Residential section 32 evaluation (**Appendix 3**) provides a detailed overview of the higher order planning documents applicable to the Medium Density Residential Chapter on pages 2 - 5. In summary, the following documents have been considered in the preparation of this chapter:

## **RMA**

- a. In particular the purpose and principles in Part 2, which emphasise the requirement to sustainably manage the use, development and protection of the natural and physical resources for current and future generations, taking into account the 'four well beings' (social, economic, cultural and environmental).

## **The Local Government Act 2002**

- b. In particular section 14, principles relating to local authorities. Sub-sections 14(c), (g) and (h) emphasise a strong intergenerational approach, considering not only current environments, communities and residents but also those of the future. They demand a future focussed policy approach, balanced with considering current needs and interests. Like the RMA, the provisions also emphasise the need to take into account social, economic and cultural matters in addition to environmental ones.

## **Iwi Management Plans**

- c. When preparing or changing a district plan, section 74(2A)(a) of the RMA states that Council must "*take into account*" any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district. Two iwi management plans are relevant:
  - *The Cry of the People, Te Tangi a Tauira*: Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 (MNRMP 2008)
  - *Kāi Tahu ki Otago* Natural Resource Management Plan 2005 (KTKO NRMP 2005)

## **Proposed National Policy Statement on Urban Development Capacity (draft NPS)**

- d. The Minister for the Environment notified this draft NPS for public consultation with submissions closing on 15 July 2016. The scope of the draft NPS relates to the provision of development capacity in local authority plans to address both housing and business needs.
- e. The draft NPS is just that and does not hold any statutory weight.
- f. The draft NPS identifies Queenstown as a high growth urban area (projected to experience population growth of over 10% in the next 10

years) and applies objectives and policies for regional and local authorities to implement through its planning documents.

- g. Although of no statutory weight, I note the following objectives of the proposed draft NPS that are of relevance:

OA1: To support effective and efficient urban areas that enable people and communities to provide for their social, economic and cultural wellbeing.

OA2: To provide sufficient residential and business development capacity to enable urban areas to meet residential and business demand.

OA3: To enable ongoing development and change in urban areas.

OB1: To ensure plans and regional policy statements are based on a robust, accurate and frequently-updated evidence base.

OC1: To promote coordination within and between local authorities and infrastructure providers in urban areas, consistent planning decisions, integrated land use and infrastructure planning, and responsive planning processes.

OD1: To ensure that planning decisions enable urban development in the short, medium and long-terms.

OD2: To ensure that in the short and medium terms local authorities adapt and respond to market activity.

#### **Operative Otago Regional Policy Statement 1998 (Operative RPS)**

- h. Section 75(3) of the RMA requires that a district plan prepared by a territorial authority must "*give effect to*" any Regional Policy Statement. The Operative RPS contains a number of objectives and policies that relate to residential development, including

i. Objective 5.4.3 and Policy 5.5.6 seek to protect Otago's outstanding natural features and landscapes from inappropriate subdivision, use and development.

ii. Objective 5.4.1 and associated Policies 5.5.3 and 5.5.5 promote sustainable land use and minimising the effects of development on water and land. Furthermore, Objective 6.4.1 and Policy 6.5.5 seek to ensure the sustainable provision of water supply.

iii. The promotion of sustainable management of the built environment and infrastructure, as well as avoiding or mitigating against adverse effects



on natural and physical resources is also incorporated into Objectives 9.4.1 to 9.4.3 as well as Policies 9.5.1 to 9.5.5.

- i. These provisions set a basis to manage the effects of residential development through sustainable management of land and infrastructure.

**Proposed Otago Regional Policy Statement 2015 (PRPS)**

- j. Section 74(2) of the RMA requires that a district plan prepared by a territorial authority shall "*have regard to*" any proposed regional policy statement. The PRPS was notified for public submissions on 23 May 2015, and contains the following objectives relevant to the chapter:

- 2.2 *The values of Otago's natural and physical resources are recognised, maintained and enhanced.*
- 3.4 *Good quality infrastructure and services meet community needs.*
- 3.6 *Energy supplies to Otago's communities are secure and sustainable.*
- 3.7 *Urban areas are well designed, sustainable and reflect local character.*
- 3.8 *Urban growth is well designed and integrates effectively with adjoining urban and rural environments.*
- 4.3 *Sufficient land is managed and protected for economic production.*

- k. These objectives set a basis to ensure urban areas are well located, designed, sustainable and reflect local character.

**The Queenstown High Density Residential Zone Monitoring Report, February 2011**

- l. This report identified an issue for further consideration in the District Plan review which is of relevance:
  - *Investigation continue into the level of intensification occurring in the Low Density Residential Zones (as documented in 2009 monitoring report), and whether HDR zone rules could be altered to attract that development to the HDRZ.*

### **The Wanaka High Density Residential Zone Monitoring Report, September 2011**

- m. This report identified a number of issues for further consideration in the District Plan review:
  - i. The objectives and policies relating to Wanaka that are inappropriate for the High Density Residential (**HDR**) zone or create conflicts should be revisited to ensure greater clarity.
  - ii. Ensure clear linkages between the policies and rules to ensure that unanticipated results are appropriately avoided.
  - iii. The purpose of the HDR zone and what it, and each corresponding subzone, is trying to achieve should be clearly stated to ensure that the issues, objectives, rules and policies clearly reflect this purpose.

### **The Queenstown Low Density Residential Zone Monitoring Report, May 2011**

- n. This report identified a number of issues for further consideration in the District Plan review:
  - i. Undertake an assessment as to the effectiveness, efficiency and appropriateness of the LDR zone provisions;
  - ii. Build on the Urban Design Critique to articulate what outcomes can be expected for the LDR zone;
  - iii. Consider definitions for the terms used to describe the outcomes for the zone;
  - iv. Engage with the community as to their desired outcomes;
  - v. Research the effectiveness of tools that could improve outcomes;
  - vi. Investigate the level of intensification occurring in the zone and whether the HDR zone rules could be altered to attract that development to the HDR zone;
  - vii. Reorganise the chapter to make clear which provisions relate to the HDR zone and which to the LDR zone; and

- viii. Consider cumulative effects if maintaining status quo or of any proposed changes.

**The Wanaka Low Density Residential Zone Monitoring Report, August 2011**

- o. This report identified a number of issues for further consideration in the District Plan review:
  - i. The objectives and policies relating to Wanaka that are inappropriate for the LDR zone or have served their purpose should be revisited;
  - ii. The link between policy and rules should be strengthened to ensure unanticipated results are defined as non-complying activities;
  - iii. Further data collection should be undertaken relating to affected party approvals to identify if consents for slight infringements can be avoided by reviewing the rule structure in the Plan.

**Monitoring Report: Residential Arrowtown, November 2011**

- p. This report included monitoring of both the Residential Arrowtown Historic Management zone and the Low Density Residential zone in Arrowtown. This report concluded that the District Plan provisions relating to both of the Arrowtown residential zones have worked efficiently over the review period. Consequently, only minor amendments to the Low Density Residential provisions were recommended:
  - i. Include references to the Arrowtown Planning Advisory Group and the Arrowtown Design Guidelines; and
  - ii. Consider extending the matters of control and discretion to include protection of vegetation, landscaping and archaeological matters.

**Wanaka Structure Plan (2007)**

- q. The Wanaka Structure Plan adopted in 2007 provides a framework for the future growth of Wanaka. This was produced as a result of community involvement through the Wanaka 2020 community planning exercise and adopted by Council as a working document.

**Growth Options Study (2004) and the Growth Management Strategy (2007)**

- r. The Growth Management Strategy is a non-statutory planning document that was prepared to help guide Council and the community in planning for

the future growth and development of the District. The main principles of relevance are as follows:

- i. Principle 1 – Growth is located in the right places.
- ii. Principle 2 – The type and mix of growth meets current and future needs.
- iii. Principle 3 – Infrastructure is provided which is sustainable and supports high quality development in the right places.
- iv. Principle 4 – High quality development is demanded.

#### **Arrowtown Design Guidelines (2006)**

- s. The Arrowtown Design Guidelines 2006 were developed to provide assistance to the community and decision makers where development is proposed within Arrowtown. The scope of the guidelines encompassed the whole of Arrowtown, with a focus on the town centre and early residential area. The guidelines however include recommendations for 'new' Arrowtown in order to encourage cohesiveness throughout the town. These guidelines were not explicitly referenced within the ODP, however were referenced within the PDP.

#### **Arrowtown Design Guidelines (2016)**

- t. The Arrowtown Design Guidelines 2016 have been notified as Variation 1 to the PDP with submissions closing on 17 August 2016. Included within Variation 1 is the proposal to amend all of the references in the PDP from 'Arrowtown Design Guidelines 2006' to 'Arrowtown Design Guidelines 2016'.
- u. The Arrowtown Design Guidelines 2016 are applicable to the MDR zone and are intended to be the *"key principles that need to be observed, respected and given precedence if the goals and objectives for retaining Arrowtown's heritage values are to be met"*.

#### **Dwelling Capacity Model (DCM)**

- v. The DCM was first created by Council in the early 2000s and has been the subject of a number of reviews. This DCM is based upon the capacity for the provision of residential units under the ODP only.
- w. Prior to the notification of the PDP, the DCM was further reviewed in 2014 and 2015 as it was found that prior to this, the DCM was overstating the

realistic capacity. This was outlined by Mr Matthew Paetz' in his evidence on Chapter 3: Strategic Direction.<sup>1</sup>

- x. The DCM is currently being further reviewed. This review has not yet been completed but will include the considerations set out by the NPS and updates to the existing dwelling numbers, which has not occurred for a number of years.
- y. Acknowledging the main constraints of the existing ODP DCM being the age of the dwelling number data and that more recent ODP plan changes such as North Lake are not included, the DCM identifies that the total residential capacity under the ODP is between 17 and 18,000 dwellings.

## 6. BACKGROUND – OVERVIEW OF THE ISSUES

- 6.1 The purpose of the MDRZ chapter is to provide for a greater supply of diverse housing options for the District whilst still ensuring that housing forms are well designed and located so to provide residential amenity. The zone may also incorporate small scale commercial activities where they enhance residential amenity or support the town centre and do not undermine the ability of the zone to provide housing supply. Community activities may also be located within the zone.
- 6.2 The s32 analysis<sup>2</sup> identified the following matters that had led to the proposed Medium Density Residential zone and associated provisions:
  - a. The Queenstown Lakes (**District**) is one of the fastest growing areas in New Zealand and has also become one of the least affordable areas in New Zealand. There is therefore a strong demand for residential accommodation including more diverse and flexible options, as well as greater affordability.
  - b. Increased density needs to be carefully balanced against urban design and amenity objectives.
  - c. The existing ODP provisions which are akin to medium density (Low Density Residential – Medium Density sub-zone and High Density Residential – Subzone C) have generated limited medium density opportunities and have contributed to the numerous plan changes to allow for the creation of new settlements in outlying greenfield locations. Such outcomes are expensive to service and result in reliance upon private transport.

1 Paragraph 7.18

2 Refer to **Appendix 3**

- d. Provide for appropriate community and commercial uses that contribute to economic diversification and social interaction.
- 6.3 After considering the submissions I believe that the above issues are still relevant along with the following additional issues identified by submitters:
- a. The establishment of the MDRZ;
  - b. Implementation of the MDRZ density provisions;
  - c. The capacity of transport and servicing infrastructure; and
  - d. Protection of existing activities from noise related reverse sensitivity effects;

## **SUBMISSIONS**

- 7.1 The PDP was notified on 26 August 2015. The submission period closed on 23 October 2015. A summary of submissions was notified on 3 December 2015. The further submission period closed on 16 December 2015. A further summary of submissions was notified on 28 January 2016 following the identification of several submissions that were not summarised in the initial period.
- 7.2 The RMA, as amended in December 2013, no longer requires a report prepared under section 42A or the Council decision to address each submission point. Instead, it requires a summary of the issues raised in the submissions.
- 7.3 840 points of submission and further submission were received on the Notified PDP Chapter 8 – Medium Density Residential.
- 7.4 Submissions are considered by issue, or as they relate to a specific MDR zone provision. Some submissions contain more than one issue, and will be addressed where they are most relevant within this evidence.
- 7.5 A summary of submission points received and a recommendation on whether the submission is recommended to be rejected, accepted, accepted in part or transferred to a future hearing is attached as **Appendix 2**. I have read and considered all submissions, including further submissions.

## **ANALYSIS**

- 8.1 The following key issues have been raised in the submissions and are addressed under the following headings:

- a. Issue 1 – Growth and affordability
- b. Issue 2 – Design and amenity
- c. Issue 3 – Non-residential uses
- d. Issue 4 – Reverse sensitivity
- e. Issue 5 – Transport and Infrastructure
- f. Issue 6 – Other Matters

8.2 Under the abovementioned headings, an analysis of the key issues identified by submitters is provided under sub-headings which relate to the specific objective, policy or rule. Where a provision has not been submitted on or where a submission is without any coherent basis, the submission point is unlikely to have been directly discussed within this report (although a recommendation for the latter is set out in Appendix 2).

8.3 For ease of discussion, I adopt identifiers for many of the frequently referenced MDRZ locations. These include the following:

- a. Frankton MDRZ – is the proposed MDR zone located to the northwest of State Highway 6 between Hansen Road, Lake Johnston and Quail Rise (Planning Map 31a: Queenstown Airport);
- b. Park Street MDRZ – the proposed MDR zone adjacent to the Wakatipu Gardens bounded by Frankton Road, Park Street and Suburb Street (Planning Maps 34: Fernhill and Sunshine Bay and 35: Queenstown);
- c. Wanaka MDRZ – the proposed MDR zone located adjacent to the Wanaka Town Centre (Planning Map 21: Wanaka Central);
- d. Scurr Heights MDRZ – located adjacent to Aubrey Road and held in one parcel of land (Planning Map 20: Wanaka); and
- e. Arrowtown MDRZ – refers to all of the proposed MDR zone land within Arrowtown (Planning Map 27: Arrowtown).

## 9. ISSUE 1 – GROWTH AND AFFORDABILITY

9.1 As outlined within the s32, the Queenstown Lakes District is one of the fastest growth areas in New Zealand and has also become one of the least affordable. In terms of growth, the s32 report quotes Mr Fraser Colgrave's report<sup>3</sup> of Insight Economics who predicts a *"population growth of 3.4% per annum to 2031 (representing a possible increase in population from 32,000 in 2015 to 55,000 by 2031)"*. Furthermore, Mr

<sup>3</sup> Insight Economics. Medium to High Density Housing Study: Stage 1A – Review of Background Data (2014) (Appendix 3)

Colgrave concludes in this report "...that the district will continue to experience high population growth and...demand for new dwellings will also be strong."

- 9.2 Mr Philip Osborne has expanded on the above in his evidence<sup>4</sup> stating that under the medium QLDC growth projections, it is expected that the District will accommodate an additional 20,000 residents by 2045 in a further 8,500 dwellings and that 1,700 additional dwellings will be utilised for visitors, with commercial accommodation demand increasing 70%. Mr Osborne also notes<sup>5</sup> that under the high growth projections to 2045, there is an anticipated 30,000 additional residents requiring 13,500 new homes, with a further 800 dwellings (2,300 total additional dwellings) that would be utilised by visitors and that the demand for commercial accommodation will rise by 100%.
- 9.3 Due to projections like the above, as well as past growth rates, Queenstown has been defined as a 'high growth area' within the proposed NPSUDC<sup>6</sup>.
- 9.4 In terms of dwelling numbers, residential growth plays a significant but not complete role in relation to demand for housing within the District. Mr Osborne notes<sup>7</sup> that holiday homes and usually 'empty' dwellings are material and an increasing proportion of the QLDC market with an estimated 20% of the housing stock being usually empty in 2001, growing to approximately 24% by 2013.
- 9.5 Although the notified visitor accommodation provisions within Chapter 8 are now out of scope, increases in both the holiday home market and tourism have an impact upon the PDP's dwelling capacity to cater for the District's usually resident population. This is through LDRZ properties either remaining empty for the majority of the year or being utilised for visitor accommodation purposes rather than for residential activity, including the growing online house rental market through websites such as BookaBach and AirBnB.
- 9.6 Mr Osborne acknowledges the above in his evidence:<sup>8</sup>

4 Paragraphs 3.13

5 Paragraph 3.15

6 The NPSUDC is unclear whether the reference to Queenstown relates to the whole QLDC area or whether it only relates to the Wakatipu.

7 Paragraph 3.4

8 Paragraph 3.4



*Between household growth rates and empty housing, it is estimated that in the 12 years to 2013 the total demand for housing rose by approximately 5,800 units. Additionally, estimates to 2016 suggest growth of a further 1,000 new households in the District.*

- 9.7 In terms of the provision of additional housing between 2001 and 2013, Mr Osborne states<sup>9</sup> that at least 5,000 new homes became available to the market, which would have resulted in a shortfall of approximately 800 dwellings for the 13 year period. As a consequence, Mr Osborne concludes that this would imply that the District currently has a latent undersupply of residential housing.
- 9.8 In terms of property prices and sales, Mr Osborne describes<sup>10</sup> the market trends over the last 15 years as 'dramatic' with the average house price between 2000 and 2008 rising by 158%. Following the global financial crisis, house prices in the District followed national trends and stabilised, only reaching 2008 price levels in 2013, however in the last three years an upward trend of a further 34% has occurred. As a result, Mr Osborne notes that given the District's income profile, this makes the District one of the least affordable areas in the country.
- 9.9 In reviewing the property sales data, Mr Osborne has identified<sup>11</sup> an unusual feature in the Queenstown property market being that there is a significant level of vacant section sales which make up the market annually. It is acknowledged that given the rate of growth in the District that there would be a high rate of these sales, however Mr Osborne has noted that in the last 10 years, site sales have made up approximately 40% of all residential sales. As a result, Mr Osborne states that it appears that there is a greater than average market in the District for the trading of vacant residential sites.
- 9.10 In addition to the above, Mr Osborne has also noted<sup>12</sup> the District's high rental values, low homeownership rate (35%) and its downward trend, Wanaka being the fastest growing area in terms of both sales and value and the falling home loan affordability.
- 9.11 As outlined above, Council is in the process of further reviewing its DCM in line with the proposed NPS and also to update the housing data within the model. Notwithstanding the constraints outlined above, the DCM (which is based upon the

<sup>9</sup> Paragraph 3.5

<sup>10</sup> Paragraph 3.6

<sup>11</sup> Paragraph 3.8

<sup>12</sup> Paragraph 3.9

ODP) states that there is currently a capacity of between 17,000 and 18,000 additional dwellings within the District.

- 9.12 On the basis of the existing DCM, the s32<sup>13</sup> identified that a significant proportion of the dwelling capacity within the urban and special zones of the Wakatipu is constrained through being owned by a limited number of parties which can lead to developers land banking or staging their developments so that only a limited number of lots are on the market at any time to drive prices up. In addition, the s32 also considered that this provided some reasoning as to why the ODP has been the subject of numerous plan changes to allow for the creation of new settlements in outlying greenfield locations.
- 9.13 Mr Osborne identifies<sup>14</sup> several market shortfalls and risks associated with the QLDC housing market and its affordability. These include the high capital growth rate and relatively low income growth which have "*led to high rental levels, low ownership rates (especially for those adults under 40 years old) and lack of housing options for those in the first and second income quartiles.*"
- 9.14 Furthermore, Mr Osborne highlights<sup>15</sup> that given the level of vacant sections that are currently traded rather than developed, the risk that currently exists is the lack of provision of housing that is affordable given the income levels and therefore the ability for the market to accommodate service employees is reduced.
- 9.15 As a result, Mr Osborne states that the issues facing the QLDC are not primarily to do with the supply of residential land but the development locations and options currently provided by the market.
- 9.16 To address the issues outlined in the s32 report, a number of methods were implemented via the MDRZ chapter:
- a) *Provision of the 'Medium Density Zone' in strategic locations to enable increased density of housing to cater for predicted levels of growth and support compact development objectives*
  - b) *Objectives and policies recognise that the zone will recognise change to an increasingly intensified residential character.*

<sup>13</sup> Page 21

<sup>14</sup> Paragraph 3.15

<sup>15</sup> Paragraph 3.16

- c) *Liberalise rules to enable better realisation of intensification objectives and policies*
- d) *Policies requiring the efficient utilisation of existing infrastructure networks*
- e) *Permitted activity status for certain low risk residential and visitor accommodation activities*
- f) *Apply a sunset clause on the density bonus provisions in the Medium Density zone to incentivise development and discourage landbanking*
- g) *Liberalise District Plan bulk and location rules*
- h) *Simplify and streamline provisions*
- i) *Consider different rating approaches to undeveloped or undercapitalised land (outside District Plan process)*
- j) *Increasing land supply and density through the Medium Density Zone*
- k) *Supporting increased density in locations where existing infrastructure capacity is available (or can be upgraded efficiently)*
- l) *Provisions support the Strategic Directions (Chapter 3) and Urban Development (Chapter 4) policies by promoting a compact urban form.*

9.17 These methods all align with Goal 3.2.2 and related objective within Chapter 3: Strategic Direction which state the following (taken from Mr Paetz's Right of Reply):

**"3.2.2 Goal – The strategic and integrated management of urban growth**

**3.2.2.1 Objective – Ensure urban development occurs in a logical manner:**

- *That promotes a compact, well designed and integrated urban form;*
- *That managed the cost of infrastructure; and*
- *That protects the District's rural landscapes from sporadic and sprawling development."*

9.18 Mr Osborne states<sup>16</sup> that there is an increasing body of economic research relating to the benefits of intensified residential development and the potential for local planning provisions to realise these benefits within the market.

9.19 The majority of the proposed MDRZ has been re-zoned from Low Density, Low Density – Medium Density Subzone or High Density – Subzone C under the ODP. However, the proposed Frankton MDRZ is being re-zoned from Rural General.

9.20 The provision of medium density housing is one method to address the issues faced by the District which are outlined above. Mr Osborne<sup>17</sup> in his evidence outlines that

<sup>16</sup> Paragraph 4.1

potential economic costs and benefits of such activity within the District, which I rely upon.

- 9.21 Council received many submissions both in support<sup>18</sup> and in opposition<sup>19</sup> to the proposed MDRZ. These submissions include general support or opposition for the concept of the zone, for or against a particular notified MDRZ location, or in relation to the various density related provisions within Chapter 8. I have sought to respond to the submissions relating to the introduction of the MDRZ and the various density related provisions collectively as they broadly seek to retain or change the notified provisions to reduce the density to the levels permitted in the ODP. Thus they are interrelated.
- 9.22 I note that many of the submissions in support or in opposition to the MDRZ specify a particular location. Many of the submissions in opposition relate specifically to the proposed MDRZ in Arrowtown, a lesser amount in Wanaka and a few for other MDRZ land. As outlined above, all submissions which relate to the location of MDRZ land or seek alternative zonings to the proposed MDRZ have been deferred to the rezoning/mapping hearing(s).
- 9.23 The primary purpose of the MDRZ is to *"provide land for residential development at increased densities"* and along with the High and Low Density Residential Zones, *"the zone will play a key role in minimising urban sprawl and increasing housing supply"* (redraft 8.1: Zone Purpose). The Zone Purpose also notes:

*"The zone is situated in locations in Queenstown, Frankton, Arrowtown and Wanaka that are within identified urban growth boundaries, and easily accessible to local shopping zones, town centres or schools by public transport, cycling or walking."*

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17 Paragraphs 4.6 and 4.7

18 Queenstown Lakes Community Housing Trust (88), A Cutler (110) (with exception of Scurr Heights), Universal Developments Ltd (177) (supported by FS1061), C Ryan (290) (supported by FS1061), N Blennerhassett (335), Helwick Street Ltd (445) (supported by FS1061), Queenstown Playcentre (470), P Thoreau (668) (opposed by FS1271 and 1331), J Garven & M White as Trustees for DL & JA Garvan Family Trusts (682), Sneaky Curlew Ltd (737) (opposed by FS1276 and FS1251), Hansen Family Trust (751), J & J Blennerhassett (773), C Ryan (290) (supported by FS1061)

19 S Spence (8) (further submissions FS1029, FS1061, FS1167, FS1189, FS1195, FS1270 all oppose this submission), T Drayron (9), K Found (19), R Walsh (22), S Speight (25), O Thomas (37), D Tan Chin Nam (61), E Winstone (99), R & E Le Berne Illes (132), I & D Williamson (140) (opposed by FS1189 and FS1195), N MacDonald (154), L Whitchurch-Kopa (155), W McCullagh (164), G Girvan (173) (opposed by FS1251), A & C Thomas (181), A Small (190), C Douglas (199), A Gormack (204), J Lindsay (210), S Cleaver (221), T Flight (244), J Watson (261), P Winstone (264), P Bunn (265), D Barton (269), S Zuschlag (304), E Lewis (317), P Mathieson (341), C Bunn (423), T Oliver (479) (opposed by FS1271), DJ & EJ Cassells, The Bulling Family, The Bennett Family, M Lynch (503) (supported by FS1063 and opposed by FS1315), Friends of the Wakatipu Gardens and Reserves Incorporated (506) (opposed by FS1315 and FS1260, supported by FS1063), R Heckler (569), K Milne (578), J Lindsay (597), P Fleming and Others (599) (supported by FS1265 and FS1268), H Guise (618), G W Crooks (646), G Crooks (648), The Jandel Trust (717), M Farrier (752), J Johnston (814), J Kinealy (821) (supported by FS1265, FS1268 and FS1063), B Derrett (824), FII Holdings Ltd (847), R & L Kane (130)

- 9.24 This zone purpose flows through the remainder of Chapter 8 through promoting medium density housing by allowing construction of up to three residential units (except for Arrowtown where only one unit per site is permitted) as a permitted activity (notified (and redraft) Rule 8.4.10). The purpose also flows into Chapter 8 through setting a minimum net site area of 250m<sup>2</sup> per residential unit unless compliance with the 6 star Homestar rating is achieved and then no minimum net site area applies.
- 9.25 As outlined above and in Mr Osborne's evidence, within the District there is a need and demand for additional residential units. I consider that the introduction of the proposed MDRZ is one tool in the approach to increasing housing supply and affordability within the District.
- 9.26 I also note that the Southern District Health Board (649) has submitted in general support of the proposed MDRZ as it will help reduce overcrowding and potential risks to health that can result. The submitter states that greater access to suitable accommodation should help to address this risk.

### **Homestar Compliance**

- 9.27 The notified MDRZ chapter includes provisions which allow increased density on the basis of compliance with a minimum six star Homestar rating. Homestar is administered by the New Zealand Green Building Council and is an independent rating tool that certifies the health, efficiency and sustainability of New Zealand homes. A six star rating ensures a house is well insulated, consumes less energy and water and that all materials have low or no likelihood of toxic emissions.
- 9.28 Council received many submissions on these provisions which include the Zone Purpose,<sup>20</sup> notified Objective 8.2.3<sup>21</sup> and associated policies,<sup>22</sup> and notified Rule 8.5.5,<sup>23</sup> as well as others outlining their general opposition to the idea.<sup>24</sup> Some submitters have stated their support for the incentive including Villa de Lago (380), and Reddy Group Limited (**RGL**) (699), and S Zuschlag (304), and P & J Sanford (676). They have also gone further and recommended that all houses should be six star rated and that no special density incentives should be applied for compliance.

20 R & L Kane (130),

21 C Douglas (199), NZIA (238) (opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248, FS1249), P Winstone (264), P Thoreau (362), Villa deLago (380), Reddy Group Ltd (699), J & J Blennerhassett (773)

22 The Full & Bye Trust (273), P Thoreau (362 & 668), Reddy Group Ltd (699)

23 P Roberts (172), Belfast Corporation Ltd (727), M Lawton (117), C Douglas (199), The Full & Bye Trust (273), P Thoreau (362), Jackie Gillies & Associates (604),

24 S Zuschlag (304)

- 9.29 Various submitters<sup>25</sup> have also outlined concerns as no minimum site size was prescribed within notified Rule 8.5.5 where a development complies with the Homestar six star rating. The submitters state that applying no maximum density could adversely affect the character of the area and result in a scale and intensity of development that is excessive. Furthermore, M Lawton (117) states in relation to notified Policy 8.2.3.1 and Rule 8.5.5 that if the MDRZ is being allowed by virtue of the increased density (pursuant to compliance with the Homestar tool) to convert to high density, then this should be completely clear and not buried in the detail of the rules. Ms Lawton further states that if the Homestar rating is used as an incentive then it needs to be checked both at the design stage and then certified when built as the danger could be that the buildings are not built to the approved specification.
- 9.30 The NZIA and Architecture + Women Southern (**NZIA**) (238) has recommended that all medium density projects appear before an Urban Design Panel or such body to be assessed, rather than compliance with the Homestar tool used. Their reason is that this assessment would cover both design and sustainable design principles.
- 9.31 Although unrelated to the PDP, I note that Auckland Council in the preparation of the proposed Auckland Unitary Plan recommended that all new residential buildings achieve a minimum six star Homestar rating or comply with a number of standards relating to double glazing, ceiling, wall and floor insulation, extraction ventilation, water efficiency ratings, light fittings and building materials. The Auckland Unitary Plan Independent Hearings Panel in their Sustainable Design report to Auckland Council dated July 2016<sup>26</sup> recommended that all references to sustainable design be deleted from the plan for reasons which include:<sup>27</sup>

*"the Panel considers that controls on internal aspects of buildings under the Resource Management Act 1991, to the extent that they are appropriate at all, cannot exceed the requirements for such controls set by the Building Code."*

*"the Unitary Plan can control the location of the building on a site, or the overall height of the building so as to address the adverse effects of that location of height on the environment. However it should not be controlling the manner in which a building is constructed. This type of controls addresses the function of the building"*

25 Roberts (172), R Jewell (300), P Winstone (264), D & V Caesar (651) and Friends of the Wakatipu Gardens and Reserves Incorporated (**FWGR**) (506),

26 [http://www.aucklandcouncil.govt.nz/EN/planspoliciesprojects/plansstrategies/unitaryplan/Documents/ihrp\\_recommendations/ihp077sustainabledesign.pdf](http://www.aucklandcouncil.govt.nz/EN/planspoliciesprojects/plansstrategies/unitaryplan/Documents/ihrp_recommendations/ihp077sustainabledesign.pdf)

27 Section 2.2 on page 5

*rather than its effects on the environment around it and is not appropriate to be included in a district plan which is concerned with land use planning."*

- 9.32 I consider the above reasoning to be narrow and disagree that the efficiency of a development is only about function and not effects on the environment. The performance of a development can reduce the effects on the environment via achievements such as reduced energy demand, less particulate emissions, reduced greenhouse gas emissions and the like.
- 9.33 Notwithstanding, I concur with the concerns raised by submitters in that unrestricted site density could result in unanticipated outcomes, such as insufficient servicing or roading capacity in areas. In addition there is a risk that the zone could turn into a de facto HDR zone, which is not the intention of the MDRZ, as outlined within the Zone Purpose in 8.1. I also share M Lawton's (117) concerns regarding the implementation of the Homestar rating tool and consider that there is a real risk that increased density may be granted on the basis of compliance with the tool and not constructed to that standard. If discovered, a retrospective non-complying activity resource consent would be required and the effect of not complying with the Homestar rating would be difficult to assess. Furthermore, I acknowledge that compliance with the Homestar standard has little correlation to the potential effects of additional density and therefore the incentive provides uncertainty as to the environmental outcome of the MDRZ. This concern is echoed by R & L Kane (130) in their submission.
- 9.34 On this basis, I recommend that the achievement of increased density on the basis of compliance with the Homestar tool be deleted. I also recommend deletion of notified Objective 8.2.3 and its associated notified Policies 8.2.3.1-3 on this basis. These changes are shown in **Appendix 1** and in the section 32AA analysis in **Appendix 4**.

### **Sunset Clause**

- 9.35 Although I recommend that the density incentive provided in notified Rule 8.5.5 be deleted as explained above, the restriction of this incentive to a five year period (known as a sunset clause) also requires consideration.
- 9.36 Various submitters<sup>28</sup> oppose the proposed sunset clause in notified Rule 8.5.5. These submitters include Dato Tan Chin Nam (61) and Hurtell Proprietary Ltd, Landeena Holdings Ltd, Shellmint Proprietary Ltd (97) (**Hurtell**) who have stated that their MDRZ

28 D Tan Chin Nam (61), Hurtell Proprietary Ltd, Landeena Holdings Ltd, Shellmint Proprietary Ltd (97), NZIA (238), Reddy Group Ltd (699) (supported by FS1271, FS1260, FS1331), P Thoreau (362)

land is inherently suitable for a higher density of development and therefore there is no good resource management reason for imposing a time limit on such development. Furthermore, RGL (699) oppose the sunset clause on the basis that it does not achieve the purpose of the RMA of promoting sustainable management because "*it unnecessarily restricts the waiver to half of the plans expected lifespan for no clear reason*".

- 9.37 The s32 outlines (on page 18) that the sunset clause in notified Rule 8.5.5 is a method to address potential land banking.<sup>29</sup> The s32 highlights that the majority of the current dwelling capacity within the District is held by a limited number of developers who can act strategically to restrict the timing and quantity of land brought to the market. However, when the proposed MDRZ is viewed as a whole, the potential for land banking is reduced given that the majority of the zone covers land that is in multiple ownership. This is particularly applicable to the brownfield MDRZ land, where although there are some pockets within singular ownership, such as five properties on Park Street, most of the land parcels are owned individually.
- 9.38 The proposed greenfield MDRZ land is limited to Frankton and Scurr Heights in Wanaka. The land within the notified MDRZ at Frankton is across eleven properties which are owned by five parties. Given the access constraints presented by adjoining State Highway 6, some coordination of development across the various lots would be required to enable the development of the full extent of the MDRZ. This may create delays in the commencement of development, however I consider that the division of ownership will mitigate the potential for land banking.
- 9.39 Scurr Heights in Wanaka was recently sold by the Council to a single party, consequently, there is a risk of land banking occurring on this site. However, given the other planned developments occurring within Wanaka, including Three Parks and Northlake, the effect of a potential delay in bringing this land to the market would be less significant. In addition to the above, the proposed five year sunset clause would create inefficiencies for infrastructure planning. Mr Glasner states that infrastructure is planned on a maximum probable development basis, which means that the time at which the capacity is taken up is not of consequence as the infrastructure will generally have a life of at least 60 years.<sup>30</sup> Consequently, infrastructure upgrades may be made in areas where development potential is not realised within the five year timeframe providing additional supply where this is not necessary.

29 Section 32A report, at page 18.

30 Paragraph 4.13



9.40 The notified sunset clause is also problematic with respect to the outcomes that the draft NPS seeks. Given that Queenstown has been defined in the draft NPS as a high growth location, the aim is to ensure that dwelling capacity within the District has a margin of at least 20% over and above projected short and medium-term demand, and 15% over and above projected long-term demand.<sup>31</sup> The application of the sunset clause would result in short term capacity but would not contribute to the medium or long term capacity. The Council would therefore possibly have to consider additional capacity in other areas once the additional MDRZ capacity expires.

9.41 For the reasons set out above (and acknowledging that the draft NPS has no statutory weight), I recommend that the reference to the allowance for temporary density in notified Rule 8.5.5 be removed from the chapter. This change is shown in **Appendix 1**.

### **Minimum Net Site Area**

9.42 Given that I have recommended that the increased density allowed through compliance with the Homestar tool be deleted and that the sunset clause also be deleted from the applicable provisions, consideration of the minimum net site area for the zone is required. Notified Rule 8.5.5 applies a minimum net site area of 250m<sup>2</sup>, however the ability to reduce this via compliance with the Homestar tool is now recommended to be deleted.

9.43 R Jewell (300) has submitted on notified Rule 8.5.5, stating that section sizes in the MDRZ should not be less than 400m<sup>2</sup>, whilst D & V Caesar (651) requests that the minimum net site area in Arrowtown be increased to 350m<sup>2</sup>. I note that these suggested sizes are greater than the minimum set in the notified plan and are also greater than the sizes proposed in the LDRZ and are therefore not akin to medium density.

9.44 The Wanaka Residents Association (728) also sought an increase to the minimum lot size for the MDRZ. This is on the basis that the proposed density of 250m<sup>2</sup> per dwelling will be incompatible with the stated goals of retaining amenity, including connection with the street, appropriate height and scale, access to sunlight, and privacy.

9.45 Belfast Corporation Limited (727) and Mulwood Investments Limited (731) have sought rezoning of their land on Belfast Terrace, Queenstown Hill from MDRZ to High

31 Policy PD5 in the Proposed NPS

Density. However by way of secondary relief they seek that the density be increased to be characteristic with the developments within the surrounding area. I note that the submitter's properties on Belfast Terrace are within the HDR Subzone C under the ODP and that the minimum site area prescribed for this zone is 250m<sup>2</sup>. Any breaches of this rule in the ODP require a non-complying activity consent.

9.46 Mr Falconer's evidence states that for the anticipated development of terrace, duplex and townhouses, the notified 250m<sup>2</sup> minimum net site area is conservative.<sup>32</sup> Mr Falconer notes that the Ministry for the Environment defines medium density housing as housing under 350m<sup>2</sup> and that Housing New Zealand defines it as housing between 150m<sup>2</sup> and 350m<sup>2</sup> for both brownfield and greenfield development.<sup>33</sup> Terrace housing is frequently developed at between 180m<sup>2</sup> and 200m<sup>2</sup> and therefore Mr Falconer recommends a density range of between 150m<sup>2</sup> and 350m<sup>2</sup> to enable the zone to support a range of medium density residential house typologies.<sup>34</sup> This range would also clearly differentiate the MDRZ from the HDR and LDR zones in terms of site size.

9.47 Whilst I support Mr Falconer's evidence and note that both the zone purpose and notified Policy 8.2.1.2 specify that terrace, semi-detached, duplex, town house and small lot detached housing are anticipated within the zone, I do not consider that I have scope to reduce the minimum net site area of 250m<sup>2</sup> to 150m<sup>2</sup>. This is because no submission received sought a reduction in the minimum net site area from that which was notified. The 250m<sup>2</sup> minimum net site area also aligns with the PDP Chapter 27 – Subdivision and Development, which in redraft Rule 27.6.1 also prescribes a minimum lot area of 250m<sup>2</sup>.

9.48 Notwithstanding the above, I acknowledge that in some locations and for some building typologies, a small increase to density may be acceptable. The Estate of Norma Kreft (512) and the Wanaka Trust (536) have requested that the activity status for a breach of notified Rule 8.5.5 change from non-complying to restricted discretionary for the following reasons:

*"The non-compliance status for breach of the density rule is opposed as this does not allow for innovative and flexible design outcomes that respond to the site and context which may promote the objectives and policies within this chapter and allow for the most efficient and effective use of resources."<sup>35</sup>*

32 Paragraph 4.8

33 Paragraph 4.8

34 Paragraph 4.8

35 Submission 512

- 9.49 The submitters also volunteer a number of matters of discretion including the extent to which the development promotes medium density housing, mitigates adverse effects on local infrastructure, ability to provide adequate parking and outdoor living on site, and the extent to which topography or landscaping can ameliorate any adverse effects.
- 9.50 As a result of Mr Falconer's urban design evidence outlined above and given that the notified MDRZ chapter allowed unlimited density where compliance with a minimum 6 star Homestar rating was achieved, I can see some merit in amending the activity status for Rule 8.5.5 to fully discretionary. A discretionary activity status would more readily provide for activities that do not comply with the minimum density to be contemplated, and would show that non-compliance was contemplated, as a non-complying activity status can indicate that an activity was not anticipated. Furthermore, a fully discretionary activity would not have to pass the 104D test, which would decrease the complexity of the PDP.
- 9.51 I therefore recommend that Rule 8.5.5 be amended to a fully discretionary activity status, rather than a restricted discretionary activity status as sought by the submitters<sup>36</sup>. Although this recommendation does not align with the relief sought by the submitters, it is more lenient than the notified activity status and consequently, I consider that there is scope to make this change. This is on the basis that the volunteered matters of discretion would not allow for adequate assessment of all of the potential adverse effects arising from increased density upon surrounding properties, including amenity. Furthermore, I consider that to frame matters of discretion that would enable such an assessment would be difficult and would be tantamount to a discretionary activity status anyway. The change is shown in **Appendix 1**.
- 9.52 I note that non-compliance with the 250m<sup>2</sup> minimum site area for subdivision in Chapter 27 would trigger a non-complying activity status which does not correlate to the proposed discretionary activity status for the MDRZ chapter. However I consider there to be merit in this approach. Given the smaller lot sizes proposed, more certainty is provided in terms of the outcomes of development where a site developed at a higher density first and then subdivided via redraft Rule 27.5.2.1 of the PDP.

<sup>36</sup> The Estate of Norma Kreft (512) and the Wanaka Trust (536)

## Maximum Net Site Area/Minimum Site Density

9.53 Ballantyne Investments Ltd (620) states that a new minimum site density of 25 dwellings per hectare (400m<sup>2</sup>) should also be applied to curb urban sprawl and wastage of land. I support the sentiments in this submission point on the basis of enhancing the compact city approach that Council is promoting through the identification of the Urban Growth Boundaries and increased densities within existing residential areas. However, given that the majority of proposed MDRZ land is brownfield land which currently contains established dwellings, the application of a minimum site density for these areas would be problematic given that people may seek to retain the existing dwelling. Furthermore, the location of an existing dwelling or access arrangements may limit the potential to maximise the density of these areas.

9.54 In considering the two proposed greenfield MDRZ locations in Frankton and Scurr Heights, I note that the application of a minimum density here may also be problematic given the site constraints of both areas (high voltage power lines traversing Frankton MDRZ and topography of Scurr Heights MDRZ). However, given the need and demand for residential dwellings within the District, I support the application of a minimum site density for these greenfield MDRZ locations to ensure that their eventual development supplies a density akin to medium density residential development rather than LDR or less. Accordingly, I have amended notified Rules 8.5.5 and redrafted 27.6.1<sup>37</sup> to apply a minimum site density for greenfield MDRZ land of 400m<sup>2</sup> net site area per residential unit. I consider that this change accords with notified Policy 8.2.1.4 (redrafted policy 8.2.1.3). The changes to notified Policy 8.2.1.4 (redrafted policy 8.2.1.3) and Rule 8.5.5 are shown in **Appendix 1**.

### 8.4.11 Matters of Discretion and Activity Status

9.55 Aurum Survey Consultants (166) have submitted in relation to notified Rule 8.4.10 stating that this rule should be deleted as it will not achieve its purpose. Rule 8.4.10 states that the construction of one residential unit in the Arrowtown MDRZ and up to three in all other locations is a permitted activity. The submitter considers that this rule and notified Rule 8.4.11 do not account for larger sites, and will result in multi-dwelling capable sites being subdivided before establishing additional dwellings, or large dormitories being developed. Consequently the submitter recommends a new controlled activity status for the construction of more than one dwelling.

<sup>37</sup>

Mr Nigel Bryce's Right of Reply on Chapter 27: Subdivision and Development

9.56 Whilst I agree with the submitter that the triggers within both rules do not account for the size of sites, there needs to be a balance between enabling a sufficient level of development without the need for resource consent and drawing a line as to when developments need to be assessed in terms of their design and effects upon adjoining properties and the streetscape. When considering the scale of development that may trigger the need for this assessment, I consider that the development of two houses on a site to be relatively commonplace, however, the construction of three or more to be less so. Consequently, I support the notified Rules 8.4.10 and 8.4.11, as do a number of submitters.<sup>38</sup>

9.57 The Estate of Norma Kreft (512) and the Wanaka Trust (536) have submitted in relation to the matters of discretion listed in notified Rule 8.4.11. The submitters consider the matters of discretion too broad and not sufficiently restricted to be useful or relevant. I concur with the submitters' suggestions in relation to bullet point 1 relating to the location, appearance, layout and design of buildings. However I do not agree with the remainder of the submitters' recommendations which include the addition of the word 'environment' to bullet point 2 to state 'street environment' as I consider that it is unnecessary. Furthermore, the changes to bullet points 6 and 7 requested by the submitters are also not supported as the changes continue to result in the matters of discretion reading as assessment matters. In this regard, 9.59 RGL (699) have submitted in relation to notified Rule 8.4.11.2 stating that the matters of discretion are drafted as assessment matters. The submitter consequently recommends amendments and I concur with these subject to some minor amendments. These changes are included in **Appendix 1**.

## **Residential Flat**

9.58 Notified Rules 8.4.10 and 8.4.11 relate to the number of 'Dwellings, Residential Units and Residential Flats' that can be constructed on sites as permitted or restricted discretionary activities. Council in its Corporation Submission (383) has sought to remove 'Residential Flat' from these rules on the basis that they are already encompassed within the definition of 'Residential Unit'. I support this submission, as it is not intended that 'Residential Units' and 'Residential Flats' be considered independently from one another. As outlined in the definition of 'Residential Flat', it is accommodation which is ancillary to a residential unit and within the same ownership.

38 JD Familton & Sons Trust (586), RGL (699), HR Familton (803) and HR & DA Familton (775)

## Non-Notification

- 9.59 Many submitters<sup>39</sup> have raised objections to the notified non-notification Rule 8.6.2.1, which is based upon compliance with the minimum six star Homestar rating. As outlined above, I have recommended that the additional density allowed through compliance with the Homestar tool be deleted. Consequently, I also recommend deletion of this non-notification clause, and this is shown in **Appendix 1**.
- 9.60 Furthermore, three submissions<sup>40</sup> have been received in relation to notified Rule 8.6.2.2 which specifies that the non-notification Rule 8.6.2.1 is to cease five years from the operative date of the MDRZ. The submitters recommend deletion of Rule 8.6.2.2 and replacement with 'visitor accommodation'. I agree that notified Rule 8.6.2.2 should also be deleted given my above recommendations. I note however that the issue of Visitor Accommodation is going to be considered comprehensively in Stage 2 of the PDP, therefore I do not recommend including rules covering Visitor Accommodation in Stage 1. The deletion is shown in **Appendix 1**.
- 9.61 Under notified Rule 8.4.10 the construction of one dwelling in Arrowtown or up to three elsewhere in the District is a permitted activity, with any additional dwellings triggering the requirement for resource consent under notified Rule 8.4.11. Given that residential activity is anticipated within the MDRZ, and that regardless of the number of dwellings the built form controls (including density in Rule 8.5.5) still apply, I recommend that a new non-notification rule be applied to relate to compliance with Rule 8.4.11. This recommendation is consistent with the relief sought by the Otago Foundation Trust Board (408) (**OFTB**) supported by Hansen Family Partnership (FS1270) who request that the Frankton MDRZ be added to the non-notification Rule 8.6.2.2 on the basis of its greenfield location. This change is shown in **Appendix 1**.
- 9.62 P Swale (792) strongly opposes notified clause 8.6.1 which relates to non-notification of controlled activities. With the withdrawal of notified Rules 8.4.23 and 8.4.28 relating to visitor accommodation from Stage 1 of the PDP, no controlled activities remain. Consequently, notified Rule 8.6.1 is now redundant and therefore can be deleted from the chapter. This change is also shown in **Appendix 1**.

39 P Thoreau (362), P Winstone (264), C Douglas (199), FWGR (506), P & J Sanford (676), DJ and EJ Cassells, The Bulling Family, The Bennet Family, M Lynch (503) (supported by FS1063)

40 Dato Tan Chin Nam (61), Hurtell et al. (97), RGL (699)

## 10. ISSUE 2 – DESIGN AND AMENITY

- 10.1 Taking into account the need and demand for additional residential housing, the MDRZ has been introduced into the PDP as a new zone which aims to enable a greater supply of diverse housing options and affordability within the District. The Zone Purpose (8.1) however also acknowledges the following:

*"While providing for a higher density of development than is possible in the Low Density Residential Zone, the zone utilises development controls to ensure reasonable amenity protection is maintained. Importantly, building height will be generally limited to two storeys.*

*Development will be required to adhere to high standards of urban design, providing site responsive built forms and utilising opportunities to create vibrant public spaces and active transport connections (walking and cycling)."*

- 10.2 Many submissions have been received in relation to the notified built form controls outlined within the MDRZ rules. These range from more general submissions relating to the protection of an area's character to more specific submissions relating to the standards. These submissions have been grouped into topics and addressed below.

### Arrowtown MDRZ

- 10.3 Many submissions were received opposing the Arrowtown MDRZ on the basis of the potential effect that will result upon the character of Arrowtown. Although these submissions have been transferred to the rezoning/mapping hearing(s), I consider that this is a matter that should be addressed in relation to the provisions also.
- 10.4 C Douglas (199), S Clark (306), S Zuschlag (304) and P Winstone (264) oppose the Arrowtown MDRZ on the basis that increased density will not enhance the local character, heritage and identity. C Douglas (199) considers that a key aspect of Arrowtown's character is the basic roading design, open storm water drains and lack of footpaths and is concerned that increased density will result in increased traffic and on-street parking, and increased stormwater runoff which may necessitate more urban street formation.
- 10.5 N Ker (180) and N & C Beggs (255) request that development within the Arrowtown MDRZ be subject to strict design guidelines around heights and shading of neighbours to maintain a positive living environment. N Ker (180) also outlines

appropriate materials and that only deciduous trees should be planted within Arrowtown where they will grow to be greater than 4m in height.

- 10.6 P Winstone (264) also submits that notified Objectives 8.2.2, 8.2.6 (revised chapter Objective 8.2.5) and their associated policies will not provide a positive contribution to local character, heritage and identity, particularly in Arrowtown. In support of this argument, the submitter and a number of other submitters have referenced the recent Queenstown Lakes Community Housing Trust development on Suffolk Street in Arrowtown as a poor example of medium density / low cost housing. I do not propose to pass judgement on the merits of the Suffolk Street development; however I do note that this development was assessed under the ODP Low Density Residential provisions and not the proposed MDRZ provisions (the development was consented in 2014).
- 10.7 Notified Objective 8.2.2 and its associated policies relate to respecting an area's urban design, character, heritage and identity through buildings addressing the street, street activation, mitigation of building mass and parking dominance, integration of landscaping and integration of amenity and natural features into a development. These matters are all considered to be consistent with good urban design practice.
- 10.8 Notified Objective 8.2.6 (redraft Objective 8.2.5) seeks to ensure that medium density development in Arrowtown will respond sensitively to the town's character. Furthermore, associated Policy 8.2.6.1 (redraft Policy 8.2.5.1) references the Arrowtown Design Guidelines 2016 which are the subject of Variation 1 to the PDP. The notified design guidelines include provisions relating to the design of new buildings, guidance on materials, appropriate tree species, and the location and design of dwellings within the proposed MDRZ.
- 10.9 The notified MDRZ chapter also references the Arrowtown Design Guidelines within the Zone Purpose (8.1) and they are included as a matter of restricted discretion within notified Rule 8.4.11, where consent is sought for the construction of two or more dwellings in Arrowtown.
- 10.10 Taking the above into account, I note that the construction of one residential unit in Arrowtown is a permitted activity within notified Rule 8.4.10 and consequently, compliance with the Arrowtown Design Guidelines 2016 would not be assessed nor required. This replicates the status quo under the current ODP Low Density Residential zoning of these properties whereby the construction of one residential unit per 450m<sup>2</sup> is a permitted activity. However, it must be acknowledged that the PDP has introduced an interface between the proposed MDRZ and the Arrowtown Residential



Historic Management Zone (**ARHMZ**) along Suffolk and Kent Streets which is significant in its length. As a consequence, the notified location of the proposed Arrowtown MDRZ has the potential to adversely affect the values of the ARHMZ if development is not sympathetic to the adjoining zone.

10.11 Given the above, I consider that compliance with the Arrowtown Design Guidelines would be the best way to ensure that this interface is managed. Consequently, I recommend a transition overlay area be applied over those MDRZ properties along Suffolk Street and Kent Street and that notified Rules 8.4.10 and 8.4.11 be amended to specify that restricted discretionary consent is required for the construction of any residential unit within the transition overlay area. This recommendation is considered to address some of the matters raised by C Douglas (199), S Clark (306), P Winstone (264), N Ker (180) and D Clarke (26) and will ensure that development in this sensitive location will be sympathetic.

10.12 As for the remainder of the proposed Arrowtown MDRZ outside of the proposed transition overlay area, I do not consider that this is as sensitive in terms of the character of Arrowtown, although I do note that there is a length of proposed MDRZ land which is on Centennial Avenue, one of the main entrances to Arrowtown. The construction of one residential unit as a permitted activity on each of these properties, subject to compliance with the built form controls within the PDP, is unlikely to result in a significant effect upon the character of Arrowtown. The existing built form within the proposed Arrowtown MDRZ is already of varied ages, styles and design, however development is of relatively consistent scale, which will still be ensured via the proposed PDP built form standards.

10.13 Overall, I consider that the MDRZ provisions, subject to my recommended changes and the application of the Arrowtown Design Guidelines 2016 will adequately manage the effects of the increased density upon the character of Arrowtown.

### **Wanaka MDRZ**

10.14 D Barton (269) seeks an additional policy be included for the MDRZ which recognises the character of central Wanaka. The Full and Bye Trust (273) also seek that more stringent controls be applied to retain the amenity of Wanaka.

10.15 I am familiar with the proposed MDRZ in Wanaka however I have been unable to identify any unifying built form characteristics within the area which are unique and in need of specific protection. The proposed MDRZ location adjacent to the Wanaka Town Centre is already an area in transition with development of various ages,

styles and design. I consider that the general urban design outcomes sought within notified Objective 8.2.2 and its associated policies, and the built form controls included within the rules will ensure that the existing character of the Wanaka MDRZ is not compromised.

### **Wanaka Town Centre Transition Overlay Area (TCTO)**

#### *Setback*

- 10.16 JWA & DV Smith Trust (505) (**JWA**) have submitted in relation to notified Rule 8.5.8 requesting that a setback of 4.5m be applied to the southern boundary of the TCTO. The submission however does not make the intent of the 4.5m setback clear, as to whether it should be to provide a buffer area for the purposes of overshadowing, or to allow additional amenity space to the rear of the TCTO buildings.
- 10.17 The TCTO permits commercial activities, and notified Objective 8.2.12 (redraft Objective 8.2.10) seeks to enable forms of non-residential development which support the Wanaka Town Centre and are sensitive to the transition with residential uses.
- 10.18 As notified, the overlay area is over all of the MDRZ sites which have frontage to Brownston Street between Dungarvon Street and Chalmers Street, as well as all of the sites fronting Russell Street. Consequently, the interface between the properties which are subject to the TCTO and the adjoining MDRZ properties occurs mid block.
- 10.19 The built form controls within the MDRZ are the same for developments within and outside the TCTO and do not differ for non-residential or residential developments. Consequently, I anticipate no increased built form, dominance or overshadowing effects occurring as a result of buildings constructed within the TCTO. It is activities that the TCTO permits.
- 10.20 Mr Falconer in his evidence supports the proposed increased setback, however he recommends 6m to allow for provision of a courtyard within the rear yard.<sup>41</sup> Given that the rear yards of the TCTO (with the exception of the TCTO on the north side of Russell Street) are orientated south, I do not anticipate that south facing courtyards will be highly desirable.

41 Paragraph 4.32

10.21 As a result of the above, I do not support the proposed 4.5m setback requested by the submitter or the 6m setback recommended by Mr Falconer (there being no scope for this 6m relief). I do note however that there are no notified policies within the MDRZ chapter addressing the interface between the TCTO and the adjoining residential uses, which I assume is the intent of the submission by JWA (505). Consequently, I recommend an additional policy (redraft Policy 8.2.10.3) which aims to protect the amenity of the adjoining residential properties through mitigation of dominance, solar access and privacy effects. This change is shown in **Appendix 1**.

10.22 JWA (505) also seek another matter of discretion be imposed within notified Rule 8.4.25 (redraft Rule 8.4.22) to state:

*"Adverse effects of the building on adjoining residential activities and amenity in a residential zone are avoided, remedied or mitigated."*

10.23 I consider that this phrase is more akin to a policy than a matter of discretion. Notwithstanding, given the new policy I recommend above (redraft Policy 8.2.10.3) and that development within the TCTO will have to conform to the same built form controls as residential buildings within the MDRZ, I do not support the relief sought by the submitter.

10.24 Linked to the above point, Council in its corporate submission (383) seek an additional matter of discretion be included within notified Rule 8.4.25 (redraft Rule 8.4.22) to require consideration of visual privacy of adjoining residential properties. I support this submission and also note that it correlates with Council's (383) submission in relation to notified Rule 8.4.11 which also seeks to add privacy, screening and overlooking impacts as a matter of discretion for the assessment of three or more residential units (or more than one unit in Arrowtown).

#### *Street Activation*

10.25 JWA (505) seek to amend notified Policy 8.2.12.2 (redraft Policy 8.2.10.2) to remove "*activates the street*" and to change the wording "*minimises the dominance of parking*" to "*minimise the adverse effects of parking*". This policy seeks quality built form outcomes and the assessment of street activation, dominance of parking and visual interest in the building design. These are considered to be basic urban design principles. Consequently, I do not agree with the relief sought by the submitter. However I have recommended that the word "*visual*" is inserted into the policy to clarify that it is the visual dominance of car parking which is to be

assessed, as the notified wording could be construed to be related to car parking numbers or their proportion of the site coverage.

### *Variances*

- 10.26 JWA (505) seek the deletion of notified Policy 8.2.12.3 on the basis that it is contradictory to other provisions within the PDP, has not been adequately considered in terms of the costs and benefits within the s32, and that the Transport chapter is not included within Stage 1 of the PDP review. I concur with the submitters comments as parking is yet to be holistically considered and is best considered as part of the review of the Transport chapter in Stage 2 of the PDP. Furthermore, I consider that the high quality urban design components are already adequately addressed via notified Policy 8.2.12.2 (redraft Policy 8.2.10.2) and the proposed new Policy 8.2.10.3. I therefore consider the notified Policy 8.2.12.3 should be deleted and this is shown in **Appendix 1**.

### *Buildings*

- 10.27 Varina Propriety Limited (591) (**Varina**) seek replacement of the proposed TCTO with the Wanaka Town Centre zoning. This component of their submission will be considered at the respective hearing on rezoning. However, as a secondary relief, the submitter accepts that a key issue is the management of the interface with residential neighbours. Notwithstanding this, the submitter disagrees with the MDRZ approach in requiring all buildings within the TCTO to conform to the same built form standards as residential units and as a result, the submitter contends that the built form standards do not align with notified Objective 8.2.12 (redraft Objective 8.2.10) for the following reason:

*"Primarily because the proposed rules require compliance with residential bulk and locations standards whereas the proposed objective promotes 'non-residential development forms'. In addition, policy 8.2.13.3 promotes the relaxation of built form rules within the TCTO but this does not follow into the rule framework."*

- 10.28 As outlined above, I have recommended deletion of notified Policy 8.2.12.3. As to whether the built form controls included within the rules allow the development of non-residential building forms, I note firstly that all buildings within the TCTO also

require a restricted discretionary consent.<sup>42</sup> The matters of discretion include promotion of a design which integrates and is sympathetic to the surrounding environment and one which addresses the street. In reviewing the other standards within the MDRZ which would apply including building height, coverage, recession planes, landscaped permeable surface and continuous building length, I do not consider that these will prevent non-residential building forms, only that the scale will be the same or similar as the surrounding residential built forms which will result in the transition area sought. Consequently, I disagree with the submitter and do not agree that there is a need to make the built form controls more liberal for the TCTO.

- 10.29 N Blennerhassett (335) has submitted in relation to notified Rule 8.4.25 (redraft Rule 8.4.22) questioning why the specified materials are limited to '*stone, schist, plaster or natural timber*'. Submitter Blennerhassett states that corrugated iron is a similarly vernacular material and that variety of form, material and colour is equally of merit. Considered in isolation, I understand the submitter's concern, however in the context of the remainder of the provision, the above materials make sense:

*"The external appearance of the building is sympathetic to the surrounding natural and built environment. The use of stone, schist, plaster or natural timber is encouraged"*

- 10.30 Accordingly, the use of corrugated iron is not prevented, nor is colour. However, this rule will ensure that the exterior design of a building can be assessed and will go some way to ensure that a building constructed in a solid, bold corporate colour, which would probably be out of character with the Wanaka Town Centre can be resisted. Consequently, I see no need to amend this provision.
- 10.31 N Blennerhasstt (335) also questions how "*significant view shafts*" within notified Rule 8.4.25 (redraft Rule 8.4.22) will be interpreted. Upon review of this matter of discretion in the context of the proposed zone on PDP Map 21, I agree with the submitter. Furthermore, buildings within the TCTO have the same setback, height and recession plane restrictions as the remainder of the MDRZ which sits behind the overlay area and these will allow reasonable protection of view shafts. As a result, I recommend that this matter of discretion be deleted, which is shown in **Appendix 1**.

42 Rule 8.4.25 (revised chapter 8.4.22)

## Park Street

10.32 Submitter 503 (DJ & EJ Cassells, the Bulling family, the Bennett family and M Lynch) have submitted that the two blocks bounded by Hobart and Park Streets are not suitable for the proposed MDRZ. Consequently, the submitter seeks that the area be retained as High Density Residential – Subzone C as in the ODP and that a special character overlay be identified. The intent of the overlay is to protect the townscape/landmark value of the precinct, the individual historic buildings and the relationship with the Wakatipu Gardens. Alternatively, the submitter seeks that the MDRZ rules be amended to reflect the existing bulk and location controls in the ODP or to replace with provisions that are akin to the ARHMZ. This submission has been deferred to the hearings on mapping given that they are essentially seeking the rezoning of the land.

## Quality Urban Design

10.33 In addition, to the abovementioned submissions in relation to the character and urban design of specific MDRZ locations, Council received many non-location specific submissions seeking to ensure that quality urban design is achieved within the proposed MDRZ.

10.34 With regard to the Zone Purpose (8.1), RGL (699) suggested modification from "*Development will be required to adhere to high standards of urban design*" to "*Development will be required to achieve high standards of design*". The reasons provided for this change are:

*"remove the reference to "urban" design in order that the reference is simply to "design". This is a wider reference that includes elements of architectural design and urban design and recognises that both aspects have influence over residential development."*

10.35 I do not concur with the removal of the word 'urban' as requested by the submitter, as my understanding of 'urban design' is that it involves the arrangement and design of buildings and spaces. I do however accept the wording change from "adhere to" to "achieve". This change is shown in **Appendix 1**.

10.36 With regard to notified Objective 8.2.2, RGL (699) has recommended deletion of the entire provision and replacement with the following:

*"Residential areas are attractive, healthy and safe environments with functional and quality development that positively responds to the site, neighbourhood and wider context and which are in keeping with or complement the planned built character of the place."*

- 10.37 I do not support the proposed complete replacement of the provision, however I have incorporated the words "*respond to the site, neighbourhood and wider context*" in place of the notified "*complement and enhance local character, heritage and identity*". I consider the submitter's statement to be clearer in its intent and application. This change is shown in **Appendix 1**.
- 10.38 With regard to notified Objectives 8.2.2 and 8.2.5 (redraft Objective 8.2.4) and their associated policies, Varina's (591) submission accepts that the urban design outcomes sought would be important for large scale multi-unit residential or visitor accommodation developments, but also submits that they are less relevant to lower intensive forms of development, such as individual residential units. Given that notified Rule 8.4.10 allows construction of three residential units or less per site (one in Arrowtown) as a permitted activity without consideration of urban design matters, the submitter recommends that notified Objectives 8.2.2 and 8.2.5 (redraft Objective 8.2.4) and their associated policies be more focused to only relate to multi-unit or visitor accommodation developments rather than all developments.
- 10.39 Given that lower intensity forms of residential development are permitted activities pursuant to notified Rule 8.4.10, I anticipate that the submitter is seeking guidance within the provisions to specify when the provisions are relevant for developments which may comply with Rule 8.4.10, however breach a built form standard. I consider that the urban design principles that are outlined within redraft Objective 8.2.2 and its associated policies should still be applicable to all developments which are seeking consent for a breach in one of the built form standards. I do not consider that any of these provisions are onerous. With regard to Objective 8.2.5 (revised chapter Objective 8.2.4) and its associated policies, I consider that the intention of what form of development the policies apply to is unclear. Accordingly, I recommend that notified Policy 8.2.5.1 (redraft Policy 8.2.4.1) be amended to add "*where possible*" at the end as this will ensure that larger developments which may be able to provide valuable connections can be pursued. I do not consider that single, residential units necessarily need to provide this. I have also amended notified Policy 8.2.5.2 (redraft Policy 8.2.4.2) to turn the policy into an action statement. However no other changes are recommended as I consider that even a small scale development can adhere to this provision easily through such measures as

providing a path from the front door to the street. These changes are shown in **Appendix 1**.

- 10.40 With regard to notified Policy 8.2.5.3 (redraft Policy 8.2.4.3), I have amended this to become a policy with an action and added a qualifier that it applies only to non-residential activities, as it is not expected that residential developments will need to provide end of trip facilities. I also consider that notified Policy 8.2.5.4 (redraft Policy 8.2.4.4) is only of relevance to non-residential development as street activation is already promoted for residential development in Policies 8.2.2.1 and 8.2.2.2.
- 10.41 RGL (699) have also sought changes to notified Policy 8.2.2.4 which relates to the mitigation of potential dominance effects of a building. I support the proposed amendments, which includes deletion of the specific properties to be considered, as all properties should be considered. This change is shown in **Appendix 1**.
- 10.42 With regard to notified Policy 8.2.2.7, RGL (699) have recommended changes to make the provision read as a policy and to further strengthen the wording. I support RGL's modifications subject to a change from 'encourage' to 'ensure' to further strengthen it. This change is shown in **Appendix 1**.
- 10.43 Notified Policy 8.2.4.1 (redraft Policy 8.2.3.1) seeks to apply built form controls in order to ensure protection of neighbouring properties privacy and amenity,. However, given that the built form controls listed within the policy include recession planes, building height and yard setback, RGL (699) recommend the addition of 'access to sunlight'. I agree with this addition and this also allows the deletion of notified Policy 8.2.4.3. This change is shown in **Appendix 1**.
- 10.44 JWA (505) also seek changes to notified Policy 8.2.4.1 (redraft 8.2.3.1) to 'ensure' that the built form controls 'are complied with'. I do not consider that this wording is suitable for a policy as built form controls may be able to be breached whilst not adversely affecting neighbours' access to sunlight, privacy or amenity.
- 10.45 RGL (699) seeks the deletion of notified Policy 8.2.4.2, on the basis that it does not implement notified Objective 8.2.4. Given the above recommendation to remove the Homestar incentive in relation to density, I support the deletion of the policy. This change is shown in **Appendix 1**.
- 10.46 The NZIA (238) seek that all medium density developments appear before the Urban Design Panel (**UDP**) or another review authority in order to be assessed as being of high quality design including sustainability principles. Furthermore, the



Queenstown Playcentre (470), N Ker (180) and P Thoreau (668) seek the implementation of design guidelines to guide development within the MDRZ.

10.47 Mr Falconer recommends that design guidelines like those being notified for Arrowtown are produced for the remainder of the proposed MDRZ and states that alternatively, another way to provide design review is to require development proposals to be reviewed by the UDP, especially as medium density design is where design is a critical element.<sup>43</sup>

10.48 No MDRZ design guidelines have been prepared to date with the exception of the Arrowtown Design Guidelines 2016 which specifically apply to Arrowtown. The Council may resolve in the future to formulate MDRZ design guidelines to aid assessment of MDRZ proposals, but it is not certain. I note that notified Policy 8.2.2.6 states as follows:

*"Development must take account of any design guide or urban design strategy applicable to the area."*

10.49 The Jandel Trust (717)<sup>44</sup> and FII Holdings Ltd (847)<sup>45</sup> have sought deletion of the above policy as they consider that there is no certainty to landowners in referring to documents that are formed outside of the planning process and that these documents may contradict the District Plan. I do not support the proposed deletion of this policy and as noted above, numerous submitters seek the opposite relief, being implementation of design guidelines to guide all development within the MDRZ. However to provide further clarity, I recommend inclusion of the words "Council adopted" to "design guide or urban design strategy". This goes some way to address submitter 717 and 847's concerns. Consequently, with the proposed wording of Policy 8.2.2.6, should Council in the future decide to adopt further design guidance for MDRZ proposals, these can be incorporated into the assessment without direct reference within the chapter. These changes are shown in **Appendix 1**.

10.50 With regard to the assessment of proposals by the UDP, under the ODP this process is voluntary. At present the UDP is well attended for primarily large scale developments and their comments are generally well received by Applicants. The use of UDP's are advocated by Council planners and are seen by many Applicants as a way to a smoother resource consent process, particularly where significant

43 Paragraph 4.19

44 Opposed by FS1029 and supported by FS1270

45 Supported by FS1061 and FS1270

breaches of rules are sought. I support that this process remain voluntary and not mandated as part of the PDP to maintain this relationship.

- 10.51 Overall, I consider that the objectives, policies and rules as recommended will ensure a good urban design outcome for the proposed MDRZ. This would be further enhanced through the development of MDRZ design guidelines, however until such a time as this occurs, I consider that the MDRZ provisions are suitable.

### **Street Activation**

- 10.52 RGL (699) have sought modifications to notified Policy 8.2.2.1 to ensure it reads as a policy and to remove unnecessary wording. The substantive change recommended by the submitter is to delete the words "*provide direct connection between front doors and the street*". I concur that these words are surplus to requirement given that the policy already states that buildings are to "address streets". Consequently, I concur with the relief sought in this regard and this change is shown in **Appendix 1**.

- 10.53 RGL (699) also seek modifications to notified Policy 8.2.2.2 to re-order the provision. I have altered the policy to simplify it and remove the qualifier "*where street activation is not practical due to considerations or constraints*" as the measures outlined within the policy are valid for developments with and without site constraints. This change is shown in **Appendix 1**.

### **Building Length**

- 10.54 Notified Rule 8.5.9: Continuous Building Length is based upon the existing ODP site standards 7.5.5.2(vi) and (vii) which state:

#### ***vi Continuous Building Length in the Low Density Residential Zone***

*Where the aggregate length along one elevation of buildings measured parallel to any internal boundary or internal boundaries exceeds 16m; either:*

- (a) The entire building(s) shall be set back an additional 0.5m for every 6m of additional length or part thereof from the minimum yard setback (continuous façades) at the same distances from the boundary;*  
*or*
- (b) That part of the building(s) which exceeds the maximum building length shall be progressively set back 0.5m for every 6m of additional length or*

*part thereof from the minimum yard setback (varied façade(s) with stepped setbacks from the boundary).*

**Refer Appendix 4**

### **vii Continuous Building Length in the High Density Residential Zone**

- (a) *No unbroken building length shall exceed 16m. Breaks in building length shall be a minimum of 2m in depth and 4m in width for the full height of the wall and shall include a discontinuous eave line and roofline at the break.*
- (b) *The aggregate length along any true elevation of a building, including breaks, shall not exceed 30m.*
- (c) *This rule does not apply to underground structures which are not visible from the ground level....*

10.55 Associated with the above ODP rules are three interpretive diagrams within Appendix 4 of the ODP. Due to the number of enquiries and issues that have been raised over time with the interpretation of the above ODP standards, Council has also had to publish a practice note (also including diagrams) to further aid interpretation of the existing standards (<http://www.qldc.govt.nz/assets/Uploads/Planning/Practice-Notes/Practice-Notes-for-the-Operative-District-Plan/Practice-Note-6-Continuous-Building-Length-Oct14.pdf>)

10.56 Consequently, the drafting of notified Rule 8.5.9 has taken into account the issues that have arisen with the interpretation of the existing ODP rules, and attempted to simplify the rule.

10.57 Notified Rule 8.5.9 only relates to building length above ground floor level. Consequently the ground floor level of a building can exceed 16m without requiring resource consent. However, any floors above ground floor level are required to be less than 16m in length or else restricted discretionary resource consent is required.

10.58 The NZIA (238) supports the rule however they seek that an interpretive diagram be included as they seek clarification as to how the rule applies to a double level building. Looking at the notified rule further, I do not consider that a diagram is necessary subject to some minor wording changes. The changes I propose are to clarify that the rule applies to the entire facade length rather than a single plane of an elevation through the removal of the word "*continuous*", and to state that the rule

applies to all floors above the "*ground floor*" level rather than the current wording "above one storey".

10.59 RGL (699) has also submitted that the rule requires amendment to avoid undermining notified Rule 8.4.10.2 which provides for the construction of up to three dwellings (limited to one in Arrowtown) on a site as a permitted activity. According to their submission, RGL (699) states that a standard terrace typology utilising front access has a width of 8m. Notified Rule 8.5.9 at 16m would therefore only allow two terraced dwellings to be established as a permitted activity. Consequently, the rule should be amended to 24m to allow three terrace houses to be constructed as a permitted activity in line with notified Rule 8.4.10.2. This change is shown in **Appendix 1**.

10.60 Mr Falconer comments that medium density terrace houses can range from 5m to 8m in width.<sup>46</sup> Consequently, to best align with the permitted activity detailed in notified rule 8.4.10.2, he supports a 24m maximum building length.

10.61 The notified LDRZ chapter prescribes a maximum building length of 16m and the notified HDRZ prescribes a maximum building length of 30m. Consequently, the 24m proposed by RGL (699) and Mr Falconer is supported as it provides a graduated approach which reflects the density expected within each zone and correlates with the anticipated housing type and number expressed within Rule 8.4.11.

10.62 RGL (699) also submits in relation to the matters of discretion included within notified Rule 8.5.9 and comments that they have been drafted as assessment criteria rather than matters of discretion. I concur with this submission point and recommend that the matters of discretion be amended as per the RGL submission. This change is shown in **Appendix 1**.

## **Privacy**

10.63 The NZIA (238), The Jandel Trust (717) and FII Holdings Ltd (847) all seek deletion of notified Rule 8.5.10: Window Sill Heights. The reason provided by NZIA is that this rule would encourage reduced quality interior environments. The other submitters have also stated that this rule has very little design merit or benefit to the environment and that increased costs and inefficiencies that will result. Conversely,

46 Paragraph 4.37

the Estate of Norma Kreft (512) and the Wanaka Trust (536)<sup>47</sup> seek a change in the activity status of the rule from discretionary to restricted discretionary.

- 10.64 Upon review of the notified rule, I have identified some potential issues, such as the rule applying to windows only and not to balconies or doors which may result in the same, if not more, privacy effects. Furthermore, windows although opaque in line with the rule could still be opened, which can result in privacy effects.
- 10.65 Whilst I understand that the intent of the rule is to protect privacy given the density that is proposed and the proposed building setbacks, more lenient recession planes and increased heights (in some locations) compared to the ODP LDRZ, I also have concerns that the rule does not respond to the predominant built form within the District where houses are orientated for views of the District's natural landscapes and features. Looking at the existing built form in Fernhill, you can see many examples of dwellings that have been constructed with large windows or balconies which have full view of their neighbour's backyards, however this is not the view which is sought. The views over Lake Wakatipu, the Queenstown Town Centre and the Remarkables are those that people place importance on. The same could also be applied to Scurr heights where the optimum view is to the north through to north-west over Lake Wanaka, mountains and optimal sun. I also note that the notified HDRZ chapter does not include privacy provisions in either the ODP or PDP and this is a zone which has unrestricted density and increased heights compared to the proposed MDRZ.
- 10.66 I have experience in administering a very similar standard to notified Rule 8.5.10 whilst working in local government in Western Australia. Whilst there were some benefits of these provisions in terms of preventing overlooking of sensitive outdoor living areas such as pools, bbq areas, living and bedroom windows, I also consider that there were shortfalls. In my experience, I consider it highly likely that the implementation of the rule as notified will result in the poor amenity outcomes that the NZIA (238) outlines, as this has occurred frequently in Western Australia. Examples of this include bedrooms and living spaces on the first floor level and above all having highlight windows or obscure glazing so that there is no external aspect from those rooms. This is not a great amenity outcome for occupants of the dwellings. Furthermore, I also saw instances where kitchen or living room windows were required to be obscured which created a safety concern as no view over children playing in the backyard or in the pool area could be obtained from inside the dwelling.

47 Supported by FS1315 and FS1172

- 10.67 Furthermore, in Western Australia there is a heightened sense of importance placed upon privacy which I attribute to the administration of these privacy rules. Privacy was frequently one of the most common compliance matters raised at the three local governments I worked at and I felt that there was an expectation of complete privacy by many members of the community. This meant that they expected there to be absolutely no opportunity for overlooking of their windows or outdoor spaces, regardless of their use. For example, I was involved in two separate compliance investigations in relation to overlooking of a clothes drying area and stairwell windows.
- 10.68 In addition to the above, I also consider there to be some benefit in indirect overlooking of neighbouring properties such as allowing for passive surveillance and for informal neighbour interaction.
- 10.69 As a result of the above, I do not support notified Rule 8.5.10. However, in order to consider whether the rule is in fact necessary given the inclusion of other rules restricting height (Rule 8.5.1), internal setbacks (Rule 8.5.8.2) and recession planes (Rule 8.5.6), I have reviewed what could be constructed as a permitted activity based upon these other design control parameters.
- 10.70 To comply with the notified recession planes prescribed in notified Rule 8.5.6 for the northern, eastern and western and southern boundaries, dwellings with a proposed height of 7m (permitted height in Arrowtown or Wanaka) or 8m (permitted height in all other areas) would have to be setback approximately 3.2m and 3.8m respectively from the northern boundary, 4.5m and 5.7m respectively from the eastern and western boundaries and 6.4m and 7.8m respectively from the southern boundary. Consequently, the notified recession planes will ensure that a first floor level is setback greater than the 4m that notified Rule 8.5.10 requires from all boundaries except the northern boundary.
- 10.71 The recession plane requirement relating to the northern boundary is more lenient than for the other boundaries given the limited overshadowing that occurs to the north of a building. Associated with this is that to maximise solar gain, buildings and outdoor living areas are orientated toward the north. Consequently, particularly in newer builds, dwellings do not often have primary outdoor living areas or large windows within the southern area of sites (unless there is a significant view to be had).

10.72 In the Council's corporate submission (383), an amendment to notified Rule 8.5.10 was sought to emphasise that the rule relates to privacy effects associated with habitable rooms. Furthermore, the submission also sought that notified Rule 8.4.11 be amended to include privacy as a matter of discretion and to add a new policy to 8.2.4 to this effect.

10.73 Overall for the reasons outlined above, I recommend that notified Rule 8.5.10 be deleted and for reference to window sill height controls in notified Policy 8.2.4.1 also be deleted. However I also recommend that an additional policy relating to privacy be inserted under notified Objective 8.2.4 (redraft Objective 8.2.3) and an additional matter of discretion be inserted into notified Rule 8.4.11. As these provisions will not prescribe a privacy distance, the design of developments will need to ensure that privacy is considered in the design taking into account the site context.

## **Boundary Setbacks**

### *Road Boundary*

10.74 Notified Rule 8.5.8: Minimum Boundary Setback prescribes a 3m road boundary setback and a 1.5m setback from all other boundaries. L Cooper (657)<sup>48</sup> seeks that the 3m road setback be increased to 4.5m, however others<sup>49</sup> support the notified distance of 3m.

10.75 Those seeking the 4.5m setback cite that the ODP setback is 4.5m and that this is an appropriate distance for a road boundary setback having regard to the density and special characteristics of some areas within the MDRZ. Those supporting the notified 3m setback do so on the basis that this will allow for innovative and flexible design outcomes that will respond to site and context and allow for more efficient and effective use of resources.

10.76 Mr Falconer has outlined a preference for a 4.5m road setback for a garage as this would still allow a car to be parked within the driveway in front of the garage.<sup>50</sup> Mr Falconer, however recommends that the remainder of the house be setback 3m from the road.<sup>51</sup> Requiring a greater setback for the garage than for the remainder of the house would also help decrease the dominance of the garage. I concur with

48 Supported by FS1063, FS1265 and FS1268, opposed by FS1260, FS1331 and FS1271

49 RGL (699), HR & DA Familton (775), The Jandel Trust (717), JD Familton and Sons Trust (586) HR Familton (803), FII Holdings Ltd (847)

50 Paragraph 4.33

51 Paragraph 4.33

Mr Falconer's recommendation. I recommend a new rule 8.5.8.1 b, which is shown in **Appendix 1**.

### *Dominance of Garages*

- 10.77 Notified Policy 8.2.2.3 states that street frontages shall not be dominated by garaging, parking and access ways. RGL (699) recommend changes to this policy to turn it into an action statement. The submitter has used the word 'avoid', however I note that JWA (505), the Estate of Norma Kreft (512)<sup>52</sup> and the Wanaka Trust (536)<sup>53</sup> recommend the word 'mitigate'. Furthermore, other submitters<sup>54</sup> seek deletion of this policy on the basis that the street frontage may be the best location for these activities.
- 10.78 M Lawton (117) supports notified Policy 8.2.2.3, however asks how this will be ensured as there are no rules which align to this policy. Furthermore, Rule 8.4.10 permits the construction of a single residential unit in Arrowtown or up to three in other MDRZ areas without consideration of the dominance of parking structures and access.
- 10.79 I note that the matters of discretion in notified Rule 8.4.11 include one bullet point which relates to parking and access. However, this is limited to safety, efficiency and impacts to on-street parking and neighbours and doesn't address dominance. I am concerned about this given that a streetscape dominated by garages and carports limits street activation and also passive surveillance. Furthermore, I consider that it is unattractive.
- 10.80 In considering notified Policies 8.2.2.2 and 8.2.2.3, Mr Falconer notes the concern of garages dominating the street frontage and that on more constrained sites the design is more difficult.<sup>55</sup> Notwithstanding this, Mr Falconer states that in general, garages should not extend past the front floor or front elevation of the house and not exceed 50% of the building frontage.<sup>56</sup> Furthermore, breaking double garages into two doors and tandem garages should also be supported.
- 10.81 Given the above, I recommend the addition of a new rule (redraft Rule 8.5.14) which aligns with notified Policy 8.2.2.3 as I consider that overly dominant garaging can significantly impact streetscapes, limiting street activation, passive surveillance and

52 Supported by FS1315, FS1260, FS1331

53 Supported by FS1315

54 JD Fmilton & Sons Trust (586), HR & DA Fmilton (775) and HR Fmilton (803)

55 Paragraph 4.34

56 Paragraph 4.35



preventing planting of street trees or location of on-street car parking bays. The additional rule aligns with Mr Falconer's advice above requiring that garaging occupy no greater than 50% of the width of the street frontage. I acknowledge however that site constraints such as topography or site dimensions may necessitate more than 50% being sought, however the effects of these could be mitigated through the measures outlined above by Mr Falconer and possibly through the provision of a second floor over the garage, which would enhance the street activation and passive surveillance. Accordingly, I recommend additional qualifiers be inserted into notified Policy 8.2.2.3 to avoid street frontages being dominated by these activities and a discretionary activity status for the proposed new rule. I also recommend deletion of the words "parking and accessways" from notified Policy 8.2.2.3 as I consider that the primary concern is with regard to garaging as this is a permanent structure, whereas parking is temporary and the location and width of an accessway relies upon the design of the garage. Furthermore, I do not consider that carports are as much of a concern as garages given their open sided design. These changes are shown in **Appendix 1**.

#### *State Highway Road Boundary*

10.82 The New Zealand Transport Agency (**NZTA**) (719) have requested that an exception be included within notified Rule 8.5.8.1 for properties adjoining the State Highway to require a 4.5m setback. The submitter considers that the increased setback improves the amenity of residents within the zone. I support this requirement, as a 4.5m setback would provide an additional buffer area in terms of noise effects of vehicles using the State Highway. Furthermore it would allow the landscape buffer area required by notified Rule 8.5.3.3 (redraft Rule 8.5.3.2) to be planted adjacent to State Highway 6 (**SH6**) for the Frankton MDRZ. These changes are shown in **Appendix 1**.

#### *Internal Setbacks*

10.83 Submitter 651 (D & V Caesar) requested that the internal setback distance in notified Rule 8.5.8.2 be increased from 1.5m to 2m, however no specific reasoning is provided in relation to this request. The s32 report outlines the reasoning for the relaxation of the internal setback requirements as follows:

*"these controls have been relaxed from the operative provisions in the context of seeking to achieve increased density, and recognising that this zone is intended to accommodate change. The provisions are considered to provide an effective balance in mitigating the effects of this change."*

- 10.84 I concur with the assessment in the s32 report in this regard.
- 10.85 With respect to Arrowtown, N Ker (180) requests a 6m northern setback and 4m maximum wall height at the 6m setback line be applied. P Roberts (172) also seeks an increase to the notified internal setback to 2.5m. These requests are not supported on the basis that they are more onerous than the current ODP LDRZ requirements and would discourage the redevelopment or infill of existing sites.
- 10.86 The OTFB (408) have requested that the proposed Rural zoning within the Outer Control Boundary adjacent to the proposed Frankton MDRZ be re-zoned MDRZ. This submission point has been deferred for consideration as part of the hearing(s) on mapping. However, the submitter requests as secondary relief that an exception to the MDRZ setbacks be included so that 1.5m of land is not lost from the development potential for the site. I consider it unnecessary to draft such an exception in this instance, particular as the outcome of the re-zoning request is unknown. Furthermore, this matter could be considered as part of any future resource consent. As a result, I do not support the relief sought.

#### *Activity Status*

- 10.87 The Estate of Norma Kreft (512) and the Wanaka Trust (536)<sup>57</sup> have sought that the activity status for breaches of notified Rule 8.5.8 be changed from discretionary to restricted discretionary on the basis that the discretionary status:

*"does not allow for innovation and flexible design outcomes that respond to the site and context which may promote the objectives and policies within this chapter and allow for the most efficient use of resources."*

- 10.88 In addition, the submitters have recommended a number of matters of discretion which include assessment as to whether the intrusion is necessary, the potential adverse effects in terms of dominance, privacy or sunlight and whether topography or landscape provides adequate mitigation.
- 10.89 Whilst I consider that the matters of discretion volunteered by the submitters cover many of the potential effects of reduced setbacks, I do not consider that it covers all of those that are of relevance, such as effects upon the streetscape or vehicular safety as a result of a reduced road setback or effects on access to views.

57 Supported by FS1315 and FS1172.

Furthermore, to add these matters, as well as others, would result in the discretion being too wide and therefore meaningless.

- 10.90 Overall, I consider that reduced setbacks do in some instances have the potential to result in effects on the amenity of neighbouring properties and the streetscape and given that the attributes of residential sites differ from site to site, a discretionary activity status is in my view more appropriate.

### **Setback of Buildings from Waterbodies**

- 10.91 Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga (810) have submitted in relation to the setback of buildings from waterbodies in notified Rule 8.5.13 (redraft Rule 8.5.12) and requested that a further matter of discretion be added: 'Manawhenua values'. No specific reason has been provided by the submitter for this inclusion, nor details of which waterbodies may be of particular concern, or the specific customary rights which may be affected. The only reasoning provided within the submission is that the *"objectives and policies in the Manawhenua chapter (Chapter 5) need to be better reflected and interwoven throughout the remainder of the document. Manuwhenua values in the document lack visibility and detail."*

- 10.92 Looking at notified Rule 8.5.13 (redraft Rule 8.5.12), I note that "Any indigenous biodiversity values" are already included as a matter of discretion. Consequently, the standard already requires consideration of effects upon the indigenous plant and animal life associated with the waterbody, regardless of whether they are associated with a customary right. I also consider that the inclusion of "manawhenua values" would create some confusion as to what is, and what is not included. Furthermore, given that Council lacks information as to which waterbodies are of concern and which specific customary rights may be affected, this may lead to the requirement for applicants to source affected party approvals from iwi as a default position. As a result, I do not support this submission point.

### **Setbacks from Electricity Transmission Infrastructure**

- 10.93 Aurum Survey Consultants (166) have submitted in relation to notified Rule 8.5.14 (redraft Rule 8.5.13) which states the required setback from electricity transmission infrastructure. The submitter states that the rule makes no sense. The rule states:

*"National Grid Sensitive Activities are located outside of the National Grid Yard."*

10.94 In Chapter 2 – Definitions of the PDP, both "National Grid Sensitive Activities" and "National Grid Yard" are defined. The earlier definition states which activities are required to be setback and the latter being the setback required. In this context, I consider that the rule does make sense. I do note however that no activity status was applied to the rule within the notified PDP MDRZ chapter. Given the potential risk to human health, I have recommended a non-complying activity status for Rule 8.5.14 (revised chapter Rule 8.5.13).

### **Landscaped permeable surface**

10.95 The Estate of Norma Kreft (512) and the Wanaka Trust (536)<sup>58</sup> have requested that the non-compliance status for notified Rule 8.5.7 be reduced from the notified non-complying status to restricted discretionary on the basis that the non-complying status:

*"does not allow for innovative and flexible design outcomes that respond to the site and context which may promote the objectives and policies within this chapter and allow for the most efficient use of resources."*

10.96 I do not agree with the reasoning provided by the submitter as I consider that the notified 25% landscaped permeable surface requirement is not particularly onerous. In addition, given the lack of restrictions imposed within the notified rule, the rule allows outcomes that could respond to site and context. Notwithstanding, upon review of the rule and consideration of the potential outcomes, I concur that the activity status of this rule could be changed to restricted discretionary as the assessment of breaches of this rule are discrete being the use of landscaping to improve visual appearance or to mitigate potential dominance effects and also to allow for on-site disposal of stormwater. The submitters have proposed a matter of discretion relating to the assessment of visual appearance and dominance of buildings as viewed from adjacent properties and the public realm which I accept. In addition, I also recommend an additional matter of restricted discretion to allow assessment of on-site stormwater disposal. These changes are shown in **Appendix 1**, in notified Rule 8.5.7.

58 Supported by FS1260, FS1315, FS1331 and FS1172.

## Recession Planes

10.97 Notified Rule 8.5.6 sets out the recession plane requirements for buildings. When compared to the recession plane angles prescribed within the ODP for the residential zones, the angles have been relaxed. With regard to this, the s32 report states:

*"The height and recession plane controls of the Residential zones in the Operative District Plan are overly restrictive, and in many situations make complying development to even 2 storeys difficult to achieve, especially on flatter land."*

And

*"The Productivity Commission highlights that the existence of restrictive planning rules which aim to protect amenity, often come at a significant opportunity cost in terms of the ability to economise on the use of land, with consequent costs for individuals and the community. Furthermore, in some cases the costs of such regulation exceed the likely benefits."*

10.98 As a result, the recession planes from the ODP were modified to be specific to each site boundary and also liberalised. The s32 report also included reference to a 3D visualisation<sup>59</sup> which is included in **Appendix 11**. This visualisation identifies the change to overshadowing between the ODP rules and the PDP MDRZ rule and it was concluded that the revised recession plane controls *"will maintain appropriate and reasonable sunlight access whilst not hindering development"* and that the ODP *"rules do not fit the contemporary requirements for greater density, and change is required to better balance amenity considerations with development potential"*.

10.99 P Thoreau (362 and 668<sup>60</sup>) describes the notified recession planes as "extremely aggressive" and states that they will lead to a significant loss of amenity values to adjoining properties. He therefore recommends a reduction in the recession plane angles. Others<sup>61</sup> support the sentiments expressed by P Thoreau requesting reconsideration of the rule. However many others<sup>62</sup> have also submitted requesting retention of the notified recession planes. With specific reference to Arrowtown, G

59 Shadow and Recession Planes Study, Virtual Rift 3D Solutions, prepared 12 March 2015.

60 Opposed by FS1271.

61 R & L Kane (130), the Full & Bye Trust (273).

62 JD Familton and Sones Trust (586), RGL (699), HR and DA Familton (775), HR Familton (803), RGL (699) and FS1271,

Crooks (648) and M Kramer (268) oppose the recession planes for Arrowtown due to concerns with loss of direct sunlight, privacy and views.

- 10.100 Mr Falconer considers that recession planes are important planning design controls which ensure adequate solar access and minimise shading effects on neighbouring properties.<sup>63</sup> With regard to Arrowtown, Mr Falconer states that its valley siting does mean lower levels of sunlight during the winter, however applying increased setbacks would diminish the relatively tight urban form. This same point could also relate to Fernhill where sunlight hours during the winter months are also reduced.
- 10.101 Overall, I concur with the analysis provided within the s32 report and consider that the proposed recession plane angles will still provide for access to sunlight on adjoining properties whilst ensuring that they are not an undue impediment to development within the MDRZ.
- 10.102 P Thoerau (362) has also submitted opposing notified Rule 8.5.6.5, which specifies that recession planes do not apply to site boundaries adjoining a town centre zone, fronting the road, a park or a reserve. I do not support this submission point on the basis that sites with these attributes are generally less sensitive in terms of access to sunlight and building bulk. In addition, this may allow the location of additional windows or balconies which will provide passive surveillance of the street, park or reserve.
- 10.103 Varina (591) have submitted in relation to notified Rule 8.5.6 applying to all sites, flat or sloping. The submitter notes that all of the other residential zones in the PDP do not apply recession planes for sloping sites and that they can severely restrict the available building envelope. I agree with the submitter in this regard. Using an example of a site which slopes down from front to back of which we have many in the District, the application of a recession plane from the rear boundary (lowest point of the block) would severely restrict the built form so to render the rear part of the block undevelopable. As a result, I consider that this would give rise to numerous resource consent applications without merit. Therefore, I recommend that a consistent approach be adopted for the MDRZ as is also recommended for the LDRZ, being that recession planes only apply to flat sites. However, as with the LDRZ, accessory buildings are permitted, subject to a controls on building length and location of openings, to be built up to the boundary. Consequently to control their height on sloping sites, I recommend that the recession planes still apply to accessory buildings on sloping sites. These changes are shown in **Appendix 1**.

63 Paragraph 4.28

10.104 The Estate of Norma Kreft (512) and the Wanaka Trust (536)<sup>64</sup> have sought that the activity status of breaches of notified Rule 8.5.6 relating to recession planes be reduced from non-complying to restricted discretionary and proposes two matters of restricted discretion as follows:

- *"The extent to which the recession plane projection has adverse (effects) on the amenity of neighbouring properties.*
- *The extent to which topography or landscape mitigates any visual dominance of buildings."*

10.105 A breach of a recession plane would ordinarily result in an assessment of the effects of the development upon the adjoining property's access to sunlight, access to views and the potential dominance of the building as a result of the protrusion. Privacy is also an interrelated matter which can be considered.

10.106 As outlined above, many submitters consider that the recession planes within the notified provision are very lenient. Furthermore, I consider that all of the likely matters that you would consider in the assessment of a recession plane breach are included within the requested matter of discretion: *"effects on the amenity of neighbouring properties"* however not explicitly. Regardless, I do not support the proposed change in the activity status for breaches of recession planes, as breaches of height and recession planes can result in significant adverse effects not only upon the immediately adjoining properties but also for the wider area, for example interruption of view shafts within a wider area. For this reason, I support the notified non-complying activity status for Rule 8.5.6.

### **Building Coverage**

10.107 Aurum Survey Consultants (166) oppose notified Rule 8.5.4 relating to the maximum building coverage being 45% and requests that the standard be increased to 50%, as 45% coverage of a 250m<sup>2</sup> medium density site is only 112.5m<sup>2</sup> which is not a very big house footprint. It is acknowledged that this is not a very large house size compared to the average house size in Queenstown which [qv.co.nz](http://qv.co.nz)<sup>65</sup> states is 181m<sup>2</sup>. However, one of the primary purposes of the introduction of the MDRZ is to *"enable a greater supply of diverse housing options for the District"*<sup>66</sup> such as terrace housing or townhouses. Notwithstanding this, two storey development is permitted

64 Supported by FS1260, FS1315, FS1331 and FS1172

65 On 12 April 2011.

66 8.1 Zone Purpose.

which would allow additional floor area to be created on a second level or within a loft. Consequently, I do not accept this submission.

10.108 The New Zealand Fire Service (**NZFS**) (438) request that fire stations be exempt from notified Rule 8.5.4 on the basis that their operations would likely necessitate a greater site coverage. I acknowledge the importance of the location of community activities such as fire stations within residential zones and that the residential bulk and location controls are conservative compared to what such activities usually require. However, the location of these activities within the MDRZ would likely result in the fire station (or other community activity) being located adjacent to residential units and within residential streets. As a result, the potential effects upon the character and amenity of these units and streets need to be considered via a resource consent process. Consequently, I do not support an exemption from notified Rule 8.5.4 on this basis.

10.109 The Estate of Norma Kreft (512) and the Wanaka Trust (536)<sup>67</sup> have requested the activity status for breaches of notified Rule 8.5.4 be changed from discretionary to restricted discretionary on the basis that the discretionary status:

*"does not allow for innovation and flexible design outcomes which may promote the objectives and policies within this chapter and allow for the most efficient and effective use of resources." (submission 512).*

10.110 I do not support the proposed change to the activity status on the basis that the effects of building coverage can manifest in many different ways and can relate to dominance, access to sunlight, impacts upon views and the like. A breach of building coverage, often in combination with other site control breaches can also signify overdevelopment of a site. Consequently, I support the notified discretionary activity status.

### **Building Height**

10.111 When the notified building heights in notified Rule 8.5.1 are compared to the heights permitted by the ODP, they allow an increase to the permitted height within Arrowtown from 6m to 7m and also for the height on sloping sites to be increased from 7m to 8m to be the same as flat sites.

67 Supported by FS1315 and FS1172.



10.112 The s32 analysis included commentary on the impact of restrictive planning controls such as height controls and noted (page 22) that the ODP height controls "*are overly restrictive, and in many situations make complying development to even 2 storeys difficult to achieve*". On this basis, the s32 states that the MDRZ provisions have been developed to improve the ease of development, however that building heights remain limited to two storeys to be consistent with expectations for a residential environment. The s32 analysis (on page 52) also acknowledges that increased building heights may result in adverse effects on amenity values, such as increased shading and blocking some views, however notes that protection is still offered through recession plane controls and other methods.

10.113 Mr Falconer notes that the notified heights in the MDRZ will only allow for two storey development.<sup>68</sup> However, he recommends that these heights be increased to 10m to allow for a three level building and roof on the basis that three level terraces and small townhouses are familiar as medium density dwellings.<sup>69</sup> I acknowledge Mr Falconer's advice however note that there are no submissions seeking that the heights be increased for the MDRZ, with the exception of the NZFS (438) and the OFTB (408) which seek specific height exemptions in relation to fire station drying towers and churches respectively (these requests are addressed below under Issue 3). On this basis, I do not consider there to be scope to investigate Mr Falconer's recommendation in relation to the MDRZ. While Mr Falconer's advice on this matter is not applicable to any submissions, it does however highlight that the MDRZ provisions are not as enabling as what is considered to be medium density housing in other locations outside the District, and the the PDP MDRZ provisions are sympathetic to the amenity and character of the existing neighbourhoods of the District.

10.114 RGL (699) recommends amendments to notified Policy 8.2.1.3 to outline the situations where building heights of more than two storeys may be acceptable. The s32 report for the MDRZ as well as the notified Zone Purpose (8.1) are very specific in the retention of two storey development within the zone. Furthermore the activity status for breaches of height in notified Rule 8.5.1 is non-complying. Consequently, I do not consider that additional height should be signalled as appropriate through the proposed amendments. In saying this however, there may be a few select sites which may be capable of additional height, for example on a steeply sloping site where a partial basement may be proposed. As a result, I consider the explicit reference to 'two storeys' in notified Policy 8.2.1.2 and the entire Policy 8.2.1.3

68 Paragraph 4.12

69 Paragraph 4.12

should be deleted. To cover the potential effects of developments which seek additional height, I consider that notified Objective 8.2.4 (redraft Objective 8.2.3) and its associated policies ensure that development will maintain amenity of adjoining sites and the surrounding environments.

10.115 S Wilson (58) opposes the increased building heights as she considers that they will detract dramatically from the uniqueness of Queenstown, however a number of submitters oppose this submission<sup>70</sup> and two submitters<sup>71</sup> support the heights as notified. Due to the minor increase to the height limits that are proposed, I do not agree with S Wilson's (58) statement that the proposed heights will dramatically detract from the uniqueness of Queenstown.

10.116 P Winstone (264), J Lindsay (597) and G Crooks (648) are opposed to the MDRZ in Arrowtown. P Winstone (264) states that if the zone goes ahead that the maximum building height should be 5m, and J Lindsay (597) requests that the heights remain as they are under the ODP (6m). The 5m or 6m height recommended by the submitters would not allow two storey development to occur, which would make maximisation of the MDRZ difficult. I also note that the ODP height for Arrowtown LDRZ is already 6m, therefore P Winstone is seeking a reduced height standard. Notwithstanding, as outlined above, I agree with the analysis within the s32 report in the reducing barriers to enable development. Furthermore, I consider that the potential effects as a result of two storey development upon the character of Arrowtown can be addressed via application of the Arrowtown Design Guidelines which are included as Variation 1 to the PDP.

#### *Exceptions Sought*

10.117 Exceptions to the heights specified in notified Rule 8.5.1 are sought by the OFTB (408) and the NZFS (438) to allow a church to be constructed up to 12m in height within the Frankton MDRZ and to exempt drying towers associated with fire stations from the height requirements respectively. I acknowledge the important role that community activities play and support their location within the residential zones, however I consider that the effects of their developments and activities should be assessed on a case by case basis in order to take into account the potential effects of things like increased height upon the residential amenity of the surrounding properties. For this reason, I do not support the proposed exemptions to the height standards.

70 FS1125, FS1260, FS1271 and FS1331.

71 RGL (699) and JWA & DV Smith Trust (505).

10.118 M Prescott (73) seeks that a maximum height restriction be imposed upon buildings at the Scurr Heights MDRZ and that special consideration of the view from the public scenic walkway be undertaken. W Richards (55) and D Richards (92) seek similar relief. The public walkway that the submitters refers to is that which runs along the east of the proposed MDRZ parcel and is included within designation 270<sup>72</sup> as shown on the PDP map 20. It is noted that the topography of the MDRZ is undulating; however the land does increase in elevation as it rises to the east. Consequently the levels of the walkway land are higher than much of the land within the proposed MDRZ. Furthermore, the width of the walkway designation is 20m.

10.119 I support the submitters' concerns as this walkway is popular, particularly with residents of Wanaka for recreational purposes and the walkway provides great views over Lake Wanaka and toward the mountains. In order to retain these views, Mr Falconer has recommended an increased setback of 6m and a single storey height limit within 15m of the walkway designation boundary.<sup>73</sup> I support this recommendation and have amended Rules 8.5.1 and 8.5.8 accordingly, as shown in **Appendix 1**.

#### *Activity Status*

10.120 The Estate of Norma Kreft (512) and the Wanaka Trust (536)<sup>74</sup> seek that the activity status for a height breach be restricted discretionary rather than non-complying for the MDRZ, with the exception of the TCTO. The matters of discretion promoted by the submitters include:

- *"The extent to which variation in the building form, including the use of projections and recessed building elements, varied roof form, and variety of materials and colour, mitigates the effects of the additional height.*
- *Whether the scale of development is appropriate for the context taking into account the extent of any effects on the balance of open space and building.*
- *The extent to which topography or landscape mitigates any visual impacts.*
- *The extent to which the additional height of the building influences its overall visual dominance".*

10.121 I do not support the proposed change to the activity status as breaches of height can result in significant adverse effects both upon adjoining properties but also

72 Recreation Reserve: Domin Park, Anderson Road, Wanaka

73 Paragraph 4.26

74 Supported by FS1315, FS1260, FS1331, FS1172

within a wider area, such as impacts upon views or dominance within a streetscape. Furthermore, breaches of height can adversely affect solar access to adjoining properties which can result in adverse effects on the enjoyment, amenity, light and temperature of neighbouring dwellings. Consequently, the effects can be varied in both their type and extent depending upon the context. As a result, I recommend that the existing non-complying activity status remain.

## **Landscaping**

10.122 Notified Policy 8.2.2.5 seeks to ensure that landscaped areas are well designed and provide high amenity outdoor living spaces whilst softening the visual impact of developments. RGL (699) propose changes to this policy to ensure the policy's focus is on outdoor living spaces and to remove unnecessary wording. I support the amended focus upon outdoor living spaces as opposed to the notified "*recreation and enjoyment*", however I do not support the deletion of the wording "*integrated into the design of developments*" as I consider it important that buildings and landscaping is integrated.

## **Flat Roofs**

10.123 Notified Policy 8.2.6.2 relates to development within Arrowtown and states:

*"Flat roofed housing forms are avoided."*

10.124 I acknowledge that no submissions have been received in relation to this policy and therefore I have no scope to amend this. However, I am concerned about the absolute wording employed. Flat, lean-to type roofs as secondary roofing elements are evident around Arrowtown and I note that this is acknowledged within the Arrowtown Design Guidelines 2016 (Variation 1)..

## **11. ISSUE 3 – NON-RESIDENTIAL USES**

11.1 In relation to the establishment and location of non-residential uses within the proposed MDRZ, the s32 report states:

*"Provision for appropriate community and commercial uses which contribute to economic diversification and social interaction are considered to be appropriate for a residential environment which is intended to support an increased density of population. Currently, the provisions of the operative District Plan generally limit commercial and community uses to specialist*

*zones or sub-zones, and lack flexibility to cater for a growing community with changing needs.*

*Specifically, in Wanaka, the zone adjoins land within the Wanaka Town Centre Zone. A discrete area of the medium density zone here (the Wanaka Town Centre Transition Overlay) is considered to be appropriate for mixed use development forms, to provide for the managed expansion of the Wanaka Town Centre."*

- 11.2 In order to address the above, the s32 report proposes two methods. Firstly, the provision of low intensity commercial and community uses within the zone and secondly support for mixed use development within the TCTO.

### **Community Activities**

- 11.3 As outlined within the section 42A report on the LDRZ (Chapter 7), the Ministry of Education (524) (**MoE**) and the Southern District Health Board (678) (**SDHB**) have sought deletion of the 'Community Facility' definition. For reasons outlined within the LDRZ Section 42A report, I have not supported the deletion of this definition, however given that there are no Community Facility Sub-Zones within the chapter I recommended deletion of this reference. There are also no identified Community Facility Sub-Zones within the MDRZ, therefore I recommend deletion of the reference to 'Community Facilities' in notified Rule 8.4.9 also.
- 11.4 The NZIA (238) have submitted on the Zone Purpose (8.1) of the Chapter seeking that anticipated community activities, connections and linkages within the zone be mapped. In response, I note that the location of community activities is subject to land ownership and availability and can change over time. Any new activity sought by way of consent could not be added to the planning maps unless a plan change was entered into. Connections and linkages within the zones are generally confined to existing roads and pathways in the brownfield locations and can be the subject of consideration as part of future subdivision of greenfield sites. Overall, I consider the mapping of these matters to be impractical and a potential barrier to development of the MDRZ. Consequently, I recommend rejection of this submission point.
- 11.5 The OFTB (408) seek additional reference to community activities, specifically reference to churches and their contribution to an area within the MDRZ Zone Purpose (8.1). I do not support this submission point as I consider that community activities are already adequately provided for within the last paragraph of the notified 8.1. Furthermore, the submitter also requests that notified Objective 8.2.11 (redraft

8.2.9) be modified to specifically reference 'supporting community facilities'. I also do not support this request on the basis that the overall function of the MDRZ is for residential development and although community activities are anticipated within the MDRZ, these are intended to be ancillary to its primary function. The submitter's proposed wording is considered to inappropriately elevate the status of community activities to equal to the residential intent of the zone.

- 11.6 In addition to the above, the OFTB (408) also request deletion of notified Policy 8.2.8.2 for the reason that the Frankton location of the submitter's proposed MDRZ site adjacent to SH6 would allow for increased traffic generation. In looking at this policy as well as related Policies 8.2.8.1 (redraft 8.2.7.1) and 8.2.8.3 (redraft 8.2.7.2) and in considering the proposed MDRZ throughout the District, I recommend that this policy be deleted. Notified Policy 8.2.8.1 (redraft 8.2.7.1) ensures that the potential reserve sensitivity effects of community activities be avoided or mitigated, including traffic and notified Policy 8.2.8.3 (redraft 8.2.7.2) ensures that the design, scale and appearance of community activities are compatible with the residential context. Consequently, I consider that the potential effects of community activities are adequately addressed through the remaining policies.
- 11.7 The MoE (524) supported by the NZFS (FS1125) have both requested that the activity status for community activities in Rule 8.4.9 be changed from Discretionary to Permitted. The MoE (524) seek the change on the basis that community activities are identified as being anticipated within the MDRZ and that the proposed discretionary activity status will require every aspect of a new development to be considered which is inconsistent with the objectives and policies of the zone. Similarly, the OFBT (408) has requested that the activity status be changed from Discretionary to Restricted Discretionary and lists a number of matters which Council should have discretion over.
- 11.8 Upon review of the s32 analysis, commentary on the importance and inclusion of community activities is provided (on pages 26 and 27); however the activity status is not addressed. I concur with the statements in the s32 in that the establishment and operation of community uses such as hospitals, schools, libraries and the like within the MDRZ is of merit given this will allow local communities to be more self-sufficient for their daily needs and encourage walkability within communities. However, I also acknowledge that community activities can be highly varied in their scale, nature and effects and therefore it would be extremely difficult to draft satisfactory matters of discretion. For example, community activities can include schools, hospitals, churches, fire stations and detention centres which are all very different from one another in terms of their scale and nature, have different operational requirements

and potential effects. On this basis, I recommend that the proposed discretionary activity status remains.

### **Commercial Activities**

- 11.9 With regard to the allowance of commercial activities within the MDRZ, P Winstone (264), P Swale (792) and L King (230) oppose these activities within the MDRZ. P Swale (792) is opposed on the basis that commercial activities should be located within commercial and business areas and that commercial creep around McDougall Street, Wanaka is already a problem. In addition, H Blair (511) and W Blair (510), also in relation to Wanaka, have sought explanation of the term 'low (small) scale' in the context of notified Objective 8.2.10 (redraft 8.2.8). These submitters seek this explanation on the basis that to allow more commercial activity would compromise the existing residents.
- 11.10 I support the allowance for small scale commercial development within the MDRZ akin to the traditional corner store or for a small café which provides an amenity and a location for social interaction for surrounding residents and is unlikely to generate large traffic volumes. Successful examples of these types of commercial activities existing within the District include Graze restaurant, bar and grocer within Lake Hayes Estate and the Four Square Supermarket on Adamson Drive in Arrowtown.
- 11.11 I consider that the suitability of this type and scale of commercial activity is adequately expressed within notified Objective 8.2.10 (redraft 8.2.8) and its associated policies and that commercial development of larger scale can be rejected via the resource consent process which has a Discretionary<sup>75</sup> or Non-Complying<sup>76</sup> activity status. In support of this objective and associated policies, I note that under Rules 8.4.6 and 8.4.7, commercial activities in Queenstown, Frankton and Wanaka which are less than 100m<sup>2</sup> gross floor area are discretionary activities and that all commercial activities larger than 100m<sup>2</sup> or within Arrowtown are non-complying activities. Consequently, quantitative parameters have been included in the PDP around what is considered small scale. Overall, I consider that the notified PDP framework is adequately robust to ensure that all of the possible effects resulting from commercial activities located within the MDRZ can be avoided, remedied or mitigated.

<sup>75</sup> 8.4.6 – Commercial Activities in Queenstown, Frankton or Wanaka of no more than 100m<sup>2</sup> gross floor area

<sup>76</sup> 8.4.7 – Commercial Activities not otherwise covered

11.12 In relation to notified Objective 8.2.10 (redraft 8.2.8), FII Holdings Ltd (847) and the Jandel Trust (717) have stated that the word 'limited' is of no assistance. I disagree with this submission on the basis that the word 'limited' directly relates to the third bullet point of the objective which seeks to ensure that commercial activities do not compromise the primary purpose of the zone being for residential use. I consider that the words 'small scale' relate directly to the scale of the commercial activity and that the word 'limited' addresses the potential cumulative effect of numerous commercial uses being located within an area which would have the potential to undermine the cohesiveness of the residential area and reduce the land available for residential purposes. Consequently, I reject the proposed change to notified Objective 8.2.10 (redraft 8.2.8).

11.13 In relation to notified Rule 8.4.29 (redraft 8.4.25), N Blennerhassett (335) has questioned whether the intent of this rule is to allow licensed premises to locate anywhere within the MDRZ as a permitted activity. I believe this query arises as a result of the formatting of the notified MDRZ chapter in that notified Rule 8.4.29 (redraft 8.4.25) sits on a separate page in isolation from the remainder of the rules which are specifically for the TCTO. This rule is only intended to apply to the overlay area and not the remainder of the MDRZ.

## **12. ISSUE 4 – REVERSE SENSITIVITY**

12.1 Council has received submissions concerned that the location of residential units, or an increased number of units within the proposed MDRZ, will give rise to potential reverse sensitivity effects related to noise.

### **Noise from Existing Non-Residential Uses Adjacent to Frankton MDRZ**

12.2 The Jandel Trust (717) and FII Holdings Ltd (847) both seek for the land proposed to be zoned MDRZ at Frankton be rezoned Business Mixed Use or Industrial on the basis of the location being in close proximity to the Frankton industrial area, SH6 and the commercial development within the Frankton Flats. In support of the proposed rezoning request, submitter 717 advises of a resource consent granted for the submitter's land (RM090499) for the non-residential use of a garage/storage building which the submitter states was based upon compliance with the ODP Rural General noise standards at the notional boundary of the surrounding residential units. As a result, the submitter seeks that reverse sensitivity effects be considered in relation to the existing non-residential activities within the area.



- 12.3 In reviewing the resource consent that the submitter references, I note that the use of the garage/storage building was approved for storage purposes only and consequently compliance with the Rural General noise standards would be anticipated. Therefore, I do not anticipate reverse sensitivity effects upon future residential development as a result of this approved use. Furthermore, as this use has resource consent, it can continue to be relied upon to undertake the storage activity approved.
- 12.4 I have undertaken a review of Council's records for the remainder of the proposed MDRZ in Frankton and not found any other additional approved non-residential activities. Notwithstanding, it is noted that there are some non-residential uses adjacent to the proposed Frankton MDRZ, including the Frankton substation located at 93 Frankton Ladies Mile and a substation at 71 Frankton Ladies Mile (Aurora Energy).
- 12.5 Dr Stephen Chiles in his evidence has identified that the Frankton and Aurora substations are designated sites and that there are no designation conditions relating to noise.<sup>77</sup> Furthermore, notified Rule 36.5.4 in Chapter 36 - Noise would also not apply to the sites. Through his previous experience, Dr Chiles notes that substations generally do not generate high sound levels but can emit a continuous sound with tonal characteristics which can annoy. Dr Chiles states that he is unaware of the specific sound levels at this site, but it is likely that acoustic treatment would only be justified over a limited area in the MDRZ if at all and that to confirm this advice, sound level measurements would need to be obtained.
- 12.6 The site adjoining the substation is 111 Frankton – Ladies Mile Highway, Frankton (which comprises two separate land parcels). The notified MDRZ covers approximately two-thirds of the adjoining site, with the remainder being zoned Rural due to the location of the Queenstown Airport Outer Control Boundary. Furthermore, high voltage transmission lines run through the site at the approximate location of the change in zone mid-site. As a result, this renders a significant portion of the adjoining site adjacent to SH6 unable to be developed for residential units. Consequently, the number of residential units which are capable of being located adjacent to the Transpower substation site is limited and therefore I do not consider that there is a need for the new policy that the Jandel Trust (717) proposes (ie to require all new noise sensitive activities located within 100m of existing non-residential activities be insulated).

77 Paragraph 9.6

- 12.7 I note however that Transpower (805) have submitted and lodged evidence in relation to Chapter 30 – Energy and Utilities, specifically notified Rule 30.5 requesting a 150m separation of buildings and sensitive activities from the Frankton substation<sup>78</sup>. I consider that Chapter 30 is the most applicable chapter for such a rule (if any) is to be included for this purpose.
- 12.8 Furthermore, I also do not support the submitters' proposed amendment to notified Policy 8.2.10.3 (redraft 8.2.8.3) to provide an exception for any existing lawfully established commercial uses to continue to generate adverse noise effects. It is noted that the relief sought is already protected through Section 10 of the RMA pertaining to the protection of existing uses, if it is the case that these activities were lawfully established prior to the date of these provisions being made operative.

### **Noise from State Highway 6 adjacent to Frankton MDRZ**

- 12.9 Notified Rule 8.5.2; Sound insulation and mechanical ventilation, relates to buildings located within 80m of SH6 and requires all residential buildings or buildings containing activities sensitive to road noise located within 80m of SH6 within the Frankton MDRZ to be designed to achieve internal sound levels of AS/NZ 2107:2000. All of the lots within the Frankton MDRZ have a portion of their land area located within 80m of SH6.
- 12.10 In relation to this rule, the NZTA (719) seek that the 80m setback distance be measured from the seal edge of the State Highway. This measurement is problematic given that the location of the seal edge is not fixed and can change as a result of road upgrades and road widening. Consequently, I recommend that notified Rule 8.5.2 be amended to state that the rule applies within 80m of the SH6 road boundary as the road boundary is fixed.
- 12.11 Related to this is the submission received from Universal Developments Limited (177)<sup>79</sup> regarding notified Policy 8.2.13.1 (redraft 8.2.11.1) which states that the 80m distance prescribed in the policy (and replicated in notified Rule 8.5.2) is not supported by robust assessment and requests that this distance be replaced by 15m (no reasoning provided for 15m). Dr Chiles has responded to this point<sup>80</sup> by explaining that the NZTA maps show the extent of road-traffic noise effects to typically extend to 100 metres or more for most of the state highway networks within

<sup>78</sup> Amended to 45m within the pre-lodged evidence from A Mcleod

<sup>79</sup> supported by FII Holdings Limited (FS1189) and The Jandel Trust (FS1195)),

<sup>80</sup> At paragraph 8.2.

the District. Therefore, Dr Chiles considers that the proposed rules requiring assessment for acoustic treatment within 80 metres are appropriate.

- 12.12 The NZTA (719) also seek to add specific noise limits into notified Rule 8.5.2 (35 dB  $L_{Aeq(1h)}$  and 40 dB  $L_{Aeq(1h)}$ ) in addition to the existing reference to the Australian and New Zealand Standard. Dr Chiles agrees with the NZTA submission in this regard and states:<sup>81</sup>

*"In general, I consider that AS/NZS 2107 contains appropriate guidance for internal sound levels in different types of spaces. However, for any particular space it does not contain a single criterion, rather it states satisfactory and maximum levels. Therefore, in my opinion a simple reference to AS/NZS 2107 is not sufficient when specifying criteria in the PDP. I consider that policies and rules in the PDP should not reference AS/NZS 2107, as it would provide more certainty for rules to set specific noise limits and it would avoid unnecessary reference to an external document."*

- 12.13 With respect to the two levels proposed by the NZTA (719), Dr Chiles considers that the  $L_{Aeq(1h)}$  is not appropriate and that  $L_{Aeq(24h)}$  should be used. Dr Chiles states that this recommendation is consistent with NZS 6806 and the NZTA's published guidance on the matter, and applies to all habitable spaces including bedrooms.
- 12.14 I accept the advice provided by Dr Chiles and have therefore amended notified Rule 8.5.2.1 accordingly. I note that notified Policy 8.2.13.1 (redraft 8.2.11.1) also includes reference to AS/NZS 2107. Consequently, to correlate with the relief sought by NZTA (719) regarding notified Rule 8.5.2.1, I have amended the policy to explain what activities are being protected from the noise.
- 12.15 In my s42A report for the LDRZ I have recommended a change to the definition of "Activity Sensitive To Aircraft Noise" (ASAN) and "Activities Sensitive To Road Noise". I have undertaken a consequential amendment to notified Policy 8.2.13.1 (redraft 8.2.11.1) to change reference from all new and altered buildings for "residential and other noise sensitive activities" to for "activities sensitive to road noise" so that those updated definitions are referred to. As a result of the existing reference to community activity within this definition, I also recommend deletion of "(including community uses)" within the policy.

81 Paragraph 5.4.

## Noise from Existing Activities Around Frankton MDRZ

- 12.16 In addition to being located adjacent to SH6, the Frankton MDRZ also has high voltage transmission lines traversing the zone, the Frankton Flats commercial and industrial zone, and Glenda Drive industrial zone located across SH6. Further, a Queenstown Airport flight path is identified over the proposed zone. Consequently, it is acknowledged that the proposed MDRZ in Frankton is within a busy area which will be subject to increased noise.
- 12.17 To acknowledge this increased noise, the Jandel Trust (717) and FII Holdings Ltd (847) seek amendments to the Zone Purpose (8.1) to promote non-residential development within the MDRZ where they are located in areas that have lower residential amenity. Furthermore, the submitters also seek the inclusion of "*mixed use development*" within notified Objective 8.2.11 (redraft 8.2.9) and the addition of a new policy acknowledging reduced amenity on the basis of proximity to non-residential activities, SH6 and nearby industrial and commercial zones.
- 12.18 I do not support the proposed change to the Zone Purpose and notified Objective 8.2.11 (redraft 8.2.9) as recommended by these submitters, on the basis that the changes detract from the main intent of the MDRZ being for the provision of residential housing and not for non-residential uses. The intention of the notified Frankton MDRZ is not to be a mixed use area and I am concerned that the proposed wording will allow for inappropriate commercial development overspill from the Frankton Flats commercial zoning across SH6 which may create traffic safety problems with cars and pedestrians crossing SH6.
- 12.19 The potential reduced amenity for residential occupants within the Frankton MDRZ given its context is however acknowledged. Notified Rule 8.5.2 regarding sound insulation and mechanical ventilation for buildings within 80m of SH6 will ensure that buildings within 80m of SH6 are insulated. However, it is acknowledged that the remainder of the area will still be subject to increased noise.
- 12.20 Although the proposed Frankton MDRZ is located outside of the Queenstown Airport Outer Control Boundary; the zone is located within the flight paths of the Queenstown Airport (identified by PDP Figure 1 – Airport Approach and Protection Measures). Consequently, notified Policy 8.2.13.2 (redraft 8.2.11.2) encourages all new and additions to existing buildings containing ASANs located within the flight paths to be designed and built to achieve an internal design sound level of 40 dB Ldn. It is noted that there is no corresponding notified rule which places a requirement to do this.

12.21 Dr Chiles notes that the noise limits in PDP Chapter 36 are generally based on the receiving site and that notified Rule 36.5.4 sets noise limits in the MDRZ for sound coming from the adjoining areas. Although the noise limits within the PDP do not apply to the Glenda Drive Industrial zone nor the Frankton Flats A or B zones, Dr Chiles states that as there are existing receivers within the same area as the proposed MDRZ, the same noise limits would apply to them under the ODP. Accordingly, Dr Chiles advises:<sup>82</sup>

*"The noise limits that apply to sound received in the MDRZ are relatively stringent and consequently, new houses should not require acoustic treatment for sound that is controlled by those limits, such as sound from commercial and industrial activities at Glenda Drive and Frankton Flats."*

12.22 As a result of Dr Chiles' evidence, I do not support the Jandel Trust (717) and FII Holdings Ltd (847) proposed new policy.

#### **Extension of Rule 8.5.2 to all MDRZ**

12.23 The NZTA (719) has also sought to extend notified Rule 8.5.2 to all MDRZ land adjacent to a State Highway rather than just the Frankton MDRZ.

12.24 A review of the proposed MDRZ locations has found that there are two proposed MDRZ sites located within 80m of SH6 at the entrance to Wanaka (both known as 57 Hedditch Street, Wanaka), as well as numerous proposed MDRZ sites off Frankton Road (bounded by Suburb, Adelaide and Hobart Streets, Queenstown) located along SH6A at the entrance to Queenstown town centre.

12.25 As outlined above, Dr Chiles has noted that the NZTA maps show the extent of road traffic noise effects typically extending 100m or more beyond the state highway network in the District, including many lower speed areas such as Frankton Road (SH6A). Consequently, I support the relief sought by the NZTA (719) in relation to notified Rule 8.5.2.

12.26 With regard to the abovementioned Hedditch Street, Wanaka properties, Dr Chiles' evidence is that the NZTA maps identify this as an area where effects might justify a reduction in the distance triggering acoustic treatment.<sup>83</sup> Dr Chiles notes that the

<sup>82</sup> Paragraph 9.3

<sup>83</sup> Paragraph 8.3

speed limit reduces to 50 km/h for this section of SH84 between Anderson Road and Ardmore Street and therefore acoustic treatment would only need to be considered within 60m of the road.<sup>84</sup> As only two identified properties are within the 60m distance for efficiency reasons in terms of creating a succinct District Plan, I do not recommend a specific exemption for these two properties.

### **Definition of ASAN**

12.27 The OFTB (408) seek that community activities are excluded from the definition of Activity Sensitive to Aircraft Noise (**ASAN**) in relation to the MDRZ in Frankton on the basis that community activities are not affected by aircraft noise as other uses are, and that buildings for community activities can be designed to mitigate aircraft noise. A number of further submitters<sup>85</sup> oppose this submission however there are also a number who support<sup>86</sup> it.

12.28 None of the proposed Frankton MDRZ land is within the Air Noise Boundary or Outer Control Boundary of Queenstown Airport; however the land is located within the flight paths of the Queenstown Airport (identified by PDP Figure 1 – Airport Approach and Protection Measures). Notified Policy 8.2.13.2 (redraft 8.2.11.2) encourages all new and additions to existing buildings containing ASANs located within the flight paths to be designed and built achieve an internal design sound level of 40 dB Ldn, however there is no corresponding notified rule which places a requirement to do this.

12.29 Accordingly, as there is no requirement to insulate ASANs in the MDRZ, there is no need to amend the definition of ASAN as requested by the submitter. Regardless, the proposed deletion of community activity from the definition of ASAN is not supported as the definition of 'Community Activities' incorporates a vast range of uses and includes schools, hospitals and libraries which are all considered to potentially be sensitive to noise effects.

## **13. ISSUE 5 – TRANSPORT AND INFRASTRUCTURE**

13.1 Numerous submissions were received querying whether there is sufficient capacity within the existing Council infrastructure to service the additional dwellings which

<sup>84</sup> Paragraph 8.3(b)

<sup>85</sup> FS1167, FS1340 and FS1077

<sup>86</sup> FS1270, FS1097

could be constructed within the zone. Other submitters have raised more specific queries in relation to the Chapter 8 provisions.

## **Infrastructure Capacity**

### *Arrowtown*

- 13.2 P Winstone (264) questions whether the additional houses that could be constructed within the Arrowtown MDRZ will result in efficient use of existing infrastructure in reality and whether there will be a big cost to upgrade the existing services. Furthermore, J Newson (319) and K Milne (578) seek evidence that Arrowtown water and sewerage infrastructure can cope with the additional demand that the MDRZ will provide.
- 13.3 Mr Ulrich Glasner in his evidence<sup>87</sup> confirms that Arrowtown's water and sewerage infrastructure have capacity to supply the planned additional demand. Furthermore, Mr Glasner explains that Council has a planned programme of renewals combined with upgrades and extensions to services identified within the current Long Term Plan.
- 13.4 Numerous submitters<sup>88</sup> consider that a key aspect of Arrowtown's character is the basic roading design, open storm water drains and lack of footpaths. These submitters have raised concerns that increased density in Arrowtown will result in increased traffic, on-street parking and stormwater runoff which may necessitate a more urban street formation.
- 13.5 Mr Glasner has stated<sup>89</sup> that most of Arrowtown relies on a ground soakage stormwater system which is similar to other towns in the District and around New Zealand. Existing ODP zone standard 7.6.5.2(iii) for the Arrowtown Historic Management zone (which requires that the maximum building coverage including the area covered by hard surfacing within the zone not exceeding 30%), has been extended to also apply to the proposed MDRZ in notified Rule 8.5.7 (stating that at least 25% of the site area is to comprise landscaped permeable surface). Mr Glasner considers that this will not necessitate any change to the current approach of disposal of stormwater to ground but that ground conditions can vary from site to site.

87 Paragraph 4.6

88 C Douglas (199), S Clark (306), P Winstone (264), D Clarke (26), N MacDonald (154), J Newson (319), S Zuschlag (304)

89 Paragraph 4.2

- 13.6 With regard to road design, Mr Glasner states<sup>90</sup> that any decision to change to kerb and channel or a more urban street formation would be a decision that the community would need to make, not individual developments. I agree with this statement, particularly as the current road formation is one of the key characteristics of Arrowtown.
- 13.7 On a different matter, D Clarke (26) has noted in his submission that all infill development in Arrowtown should be gas reticulated and fire free to minimise air quality impacts. It is noted that the installation of new domestic heating appliances in Arrowtown is controlled by the Otago Regional Council who applies a very low particulate emission rate. Furthermore, I do not support any amendments to the MDRZ chapter that would require gas reticulation. This is not considered to be particularly relevant in terms of the Council's functions.

#### *Frankton*

- 13.8 In relation to the proposed Frankton MDRZ, Universal Developments Limited (177) and the OFTB (408)<sup>91</sup> have submitted in relation to notified Policy 8.2.11.1 which states:

*"Intensification does not occur until adequate water supply services are available to service the development".*

- 13.9 I interpret this policy to mean that the proposed MDRZ development cannot occur until water supply (or upgrades) are provided to the land. However, Mr Glasner has confirmed that there is capacity within the existing water supply systems and additional works are currently under design or identified in the Council's Long Term Plan for 2020/2021. As a result, I recommend deletion of notified Policy 8.2.11.1.
- 13.10 The OFTB (408)<sup>92</sup> and Universal Developments Limited (177) have also submitted in relation to notified Policies 8.2.7.5 (redraft 8.2.6.3) and 8.2.11.2 (redraft 8.2.9.2), both which promote on-site stormwater treatment, storage and dispersal.
- 13.11 The OFTB (408) seek the addition of the words "where practical" to notified Policy 8.2.7.5 (redraft 8.2.6.3) and deletion of the word "network" within notified Policy

90 Paragraph 4.2.

91 Supported by FS1270.

92 Supported by FS1270



8.2.11.2 (redraft 8.2.9.2). However, Universal Developments Limited (177) seek deletion of notified Policy 8.2.11.2 (redraft 8.2.9.2) stating it is too prescriptive and limits the choice of stormwater design/innovation/options.

13.12 Mr Glasner's evidence is that sustainable urban design seeks to minimise the effects of development on the natural environment.<sup>93</sup> On-site stormwater detention and/or soakage systems are recognised internationally as a cost effective method of reducing impacts on the environment. Council is seeking to strike the best balance of sizing and providing new community infrastructure and managing demand at the source. The Council's Land Development and Subdivision Code of Practice covers this topic and specifies that low impact design is the preferred approach.

13.13 On the basis of Mr Glasner's evidence, I recommend a change to notified Policy 8.2.7.5 (redraft 8.2.6.3) to 'encourage' low impact approaches to stormwater management, which allows the consideration of alternatives where necessary. This wording also allows the policy to be phrased as an action. With regard to notified Policy 8.2.11.2 (redraft 8.2.9.2), I recommend similar relief with the inclusion of the words "encourage" and "low impact" and deletion of the word "network".

#### *Wanaka*

13.14 G Girvan (173) opposes the Wanaka MDRZ on the basis that the infrastructure in Wanaka will not cope, in particular that the roading is not suitable for the expected increase in traffic. Mr Glasner states in his evidence<sup>94</sup> that Wanaka's water and sewerage systems have capacity to service the planned additional demand and that Council has a planned programme of renewals, combined with upgrades and extensions to be delivered over time.

#### *General*

13.15 RGL (699) have submitted in relation to the Zone Purpose 8.1 to change the requirement for increased density to be in locations "*supported by appropriate utility infrastructure*" to "*supported by adequate existing or planned infrastructure*".

13.16 Given Mr Glasner's evidence, I concur with the submitter's relief sought.

93 Paragraph 4.11.

94 Paragraph 4.15.

- 13.17 Transpower New Zealand Ltd (805) recommend amendments to notified Objective 8.2.7 (redraft 8.2.6) and associated Policy 8.2.7.2 (redraft 8.2.6.1) to also ensure development does not adversely affect the safe, effective and efficient operation, maintenance, development and upgrade of regionally significant infrastructure, including the National Grid. I do not consider that the relief sought is warranted for the MDRZ as the location and likely built form parameters are well defined and the outcome of development can easily be identified.
- 13.18 I note that 'Regionally significant infrastructure' was discussed as part of the hearing on Chapter 3: Strategic Direction, and changes to the definition were recommended by Council Planner, Mr Matthew Paetz. A further change to this definition is recommended by Council Planner, Mr Craig Barr in his s42A report relating to Chapter 30: Energy and Utilities.
- 13.19 PDP Chapter 30 relates to utilities and includes provisions relating to the maintenance, development and upgrade of infrastructure including regionally significant infrastructure. I consider that this relief is best suited to Chapter 30 and is covered by redraft Policies 30.2.6.1 and 30.2.6.4.<sup>95</sup> I note that Mr Barr has recommended changes to these policies within his s42A evidence in response to Transpower New Zealand Ltd's (805) submission, however these changes do not preclude the ability for the submitter to operate, maintain, develop and upgrade its infrastructure within the MDRZ.

#### **Traffic Related to Frankton MDRZ**

- 13.20 Rule 8.5.3 relates to developments on land fronting SH6 within the Frankton MDRZ. The NZTA (719) have submitted in support of this rule as it will ensure the safety, efficiency and functionality of SH6 is not compromised.
- 13.21 The Jandel Trust (717) and FII Holdings Ltd (847) seek an amendment to notified Rule 8.5.3.1(a) to allow existing access points on to SH6 to be utilised. In response to these submissions, the NZTA (FS1092) opposes the relief sought and notes the following:

*"Existing accesses can be closed under the Government Roading Powers Act. It is inappropriate for the District Plan to signal that existing accesses*

<sup>95</sup> Mr Craig Barr's section 42A evidence on Chapter 30: Energy and Utilities

*will continue to be used when the Transport Agency may require them to be closed in the future."*

- 13.22 On this basis, I reject the relief sought by the submitters.
- 13.23 The Jandel Trust (717) and FII Holdings Ltd (847) seek the deletion of notified Rule 8.5.3.2, which requires submission of a Traffic Impact Assessment (**TIA**) addressing a number of points for all applications for development on land fronting SH6 within the Frankton MDRZ. The submitters seek deletion of this rule on the basis that the rule is excessive and would be more appropriate if new access were being proposed on to SH6, which would be assessed as a non-complying activity under notified Rule 8.5.3.1.
- 13.24 Upon review, I consider that notified Rule 8.5.3.2 is problematic and unworkable for a number of reasons. Firstly, 8.5.3.2 only outlines the matters to be covered by the TIA and does not specify the outcome or conclusion that would need to be achieved. Secondly, the provision does not state that this assessment is to be undertaken by a suitably qualified or experienced person. Furthermore, developments of less than four residential units could proceed as a permitted activity provided all of the standards are met; therefore there will be no formal planning process for the TIA to be assessed.
- 13.25 I agree with the submitters that the requirement to submit a TIA should be linked to developments where consent is sought under notified Rule 8.5.3.1 for access directly on to SH6, however, as the activity status for a breach of standard 8.5.3.1 is non-complying, submission of a TIA does not need to be expressly stated.
- 13.26 Linked to the above, the OFTB (408) seek that both notified 8.5.3.1 and 8.5.3.2 are deleted on the basis that traffic matters should have already been addressed prior to notifying the MDRZ. The submitter highlights that a developer would have no control over other access. A number of other submitters<sup>96</sup> are also seeking this relief.
- 13.27 Notified Rule 8.5.3.1 specifies that only three points of connection to SH6 are permitted and that no new vehicular access on to SH6 is allowed. NZTA (FS1092) opposes the submissions which seek deletion of this rule. I concur with the NZTA as additional points of access on to SH6 may affect the safety and functioning of the

96 P & M Arnott (399) supported by FS1061 and FS1270, The Jandel Trust (717) opposed by FS1029 and FS1092 and supported by FS1270, FII Holdings Ltd (847) supported by FS1061 and FS1270

highway. Furthermore, additional points of access can be considered via the non-complying activity status applied to notified Rule 8.5.3.

13.28 I acknowledge that compliance with notified Rule 8.5.3.1 will require coordination between property owners to provide access through sites to meet up with the three designated points of access on to SH6. I consider that a structure plan or similar would be the best way to ensure integrated access through the Frankton MDRZ, however I have not found adequate scope within the submissions received to do this. Consequently, the proposed rules require coordination between landowners.

13.29 In response to the proposed deletion of notified standard 8.5.3.2, the NZTA (FS1092) states:

*"A traffic impact assessment is necessary to ensure any proposed development does not adversely affect the safety, efficiency and functionality of the adjacent State Highway."*

13.30 I agree with the submitters mentioned above that the provision of a TIA for all development, regardless of scale, is onerous, but I also consider that submission of a TIA would be beneficial for larger developments which will result in increased traffic generation on to SH6 and therefore may result in impacts upon the function of the State Highway.

13.31 Within the Frankton MDRZ the construction of three or less residential units per site is a permitted activity (8.4.10) and the construction of four or more dwellings is a restricted discretionary activity (8.4.11). One of the matters of restricted discretion in notified 8.4.11 states:

- *"For land fronting State Highway 6 between Hansen Road and the Shotover River, provision of a Traffic Impact Assessment, Landscaping Plan and Maintenance Program, and extent of compliance with Rule 8.5.3."*

13.32 I recommend the deletion of notified Rule 8.5.3.2 and for its intent to be inserted into the above matter of restricted discretion subject to modifications. The proposed matter of discretion is to cover the extent to which the development will affect the safety and effective functioning of the State Highway. I have removed the requirement to consult with NZTA. Informal consultation of course can occur, however formally, the NZTA will be assessed as to whether they are considered an

affected party as part of a resource consent for four or more dwellings under notified Rule 8.4.11.

- 13.33 Secondly, I propose a new matter of discretion to ensure that each development integrates with other access points through the zone and public transport networks. I have recommended this as I consider that the requirement in 8.5.3.2 to provide an access network design through the entire zone is ambitious at best, given that the Frankton MDRZ is held in varied ownership. Again, I consider that a structure plan would be the best way to ensure suitable access through the sites, however there is no scope to do this.
- 13.34 As for seeking methods of traffic demand management included within notified Rule 8.5.3.2(f), I do not consider this to be as applicable to residential development as it is to non-residential development. Ensuring the MDRZ is in close proximity to existing or proposed future public transport connections, which the Frankton MDRZ is, is one way to promote modal shift. Another way is to ensure residential development is connected to pedestrian and cycle trails. Consequently, this is included within redrafted 8.4.11. This aligns with the relief sought by the NZTA (719) in relation to notified Rule 8.5.3.2. The NZTA (719) requested integration with pedestrian and cycling networks, particularly the connections across SH6.

### **Landscape Buffer Along SH6 for Frankton MDRZ**

- 13.35 With respect to the landscape buffer along SH6 sought within notified Rule 8.5.3.3 (redraft 8.5.3.2), P & M Arnott (399) have sought that the rule be deleted. The submitter has not provided any reasoning for this request. Regardless, this submission has the support of further submitters OFTB (FS1061) and Hansen Family Partnership (FS1270). Furthermore, the OTFB (408) seeks changes to notified 8.5.3.3 (redraft 8.5.3.2) to include a list of appropriate species for the planted buffer area which would create consistency across the zone.
- 13.36 Notified Rule 8.5.3.3 (redraft 8.5.3.2) aligns with notified Policy 8.2.11.3 (redraft 8.2.9.3). I do not support the complete deletion of notified 8.5.3.3 (redraft 8.5.3.2) on the basis that a landscape buffer along SH6 would result in softening the built form as viewed from SH6 and vice versa, as well as providing amenity. This buffer area would also correlate to the buffer area provided on the opposite side of SH6 in front of the Frankton Flats A and B zones, and would therefore ensure an attractive entrance into Frankton.

- 13.37 Notwithstanding the above, I recognise that the implementation of notified 8.5.3.3 (redraft 8.5.3.2) is problematic in the same ways as notified Standard 8.5.3.2 is (outlined above). However, notified 8.5.3.3 (redraft 8.5.3.2) cannot be dealt with in the same way as notified 8.5.3.2 as it would not ensure a landscape buffer along the length of the SH6 boundary. This is because developments of less than four residential units would be permitted without needing to comply with this provision. As a result, I consider that a separate rule is required.
- 13.38 In his evidence<sup>97</sup>, Mr Falconer has identified some parameters that planting should adhere to. I have formed these into redraft Rule 8.5.3.2. In order to ensure that a relatively consistent buffer is provided, I have also included a list of species in redraft Rule 8.5.3.2 which are to be selected from for the planting within this buffer area. This list was supplied by Council's Arborist, Mr Tim Errington with the objective of providing a list of species which will provide a vegetated buffer however are not necessarily required to screen development from view. The provision of the list of species aligns with the relief sought by the OTFB (408) as outlined above.

### **Car Parking**

- 13.39 Bridesdale Farm Developments Limited (655)<sup>98</sup> notes that Stage 1 of the PDP does not include a Transportation chapter. The submitter then incorrectly states that due to there being no identified MDRZ within Chapter 14 of the ODP that a discretionary activity consent under ODP Rule 14.2.2.3(ii) would be required. The ODP Table 1 however includes a parking calculation for Residential Units contained within 'All Other Zones' as two parking spaces per unit. Consequently, until such time as a Transportation chapter of the PDP is notified and determined, this parking standard would adequately apply to all residential units proposed within the MDRZ.
- 13.40 P Fleming (599)<sup>99</sup> opposes the proposed Park Street MDRZ on the basis that transport and car parking are not included in Stage 1 of the PDP. N Ker (180) also requests that two car parking bays be required on each site within the Arrowtown MDRZ. These submissions are acknowledged and as outlined above, the existing provisions of the ODP will remain applicable to developments proposed under the MDRZ. Furthermore, once a transportation chapter is notified, people will have the ability to review and submit on these provisions too.

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Paragraph 4.40

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Opposed by FS1064 and FS1071

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Supported by FS1265 and FS1268

- 13.41 P Thoreau (362 and 668<sup>100</sup>) and the Full and Bye Trust (273) has queried notified Policies 8.2.7.3 (redraft 8.2.6.2) and 8.2.7.4 and their contradiction with the zone purpose in 8.1. The submitter requests that these policies be reviewed.
- 13.42 Notified Policy 8.2.7.3 (redraft 8.2.6.2) seeks to ensure that access and parking is located and designed to optimise efficiency and safety, and minimise impacts to on-street parking. This policy only seeks to ensure that access and parking is efficient and safe and that consideration of potential loss of on-street bays is made. Furthermore, JWA (505), the Estate of Norma Kreft (512)<sup>101</sup> and the Wanaka Trust (536)<sup>102</sup> recommend a change to the policy to delete the word '*impacts*' and insert '*adverse effects*' in its place to acknowledge the intensification of development that is proposed within the MDRZ. I concur with this change. Further, the NZTA (719) also recommend changes to clarify what outcome is being sought by the policy. The submitter suggests an amendment to the policy to remove the word '*optimise*' and instead require that access and parking '*maintain the*' efficiency and safety and that the policy also mention '*the transport network*', as at present the notified standard does not explicitly state this. I concur with these changes, subject to a minor grammatical change.
- 13.43 RGL (699) recommend complete deletion of notified Policy 8.2.7.3 (redraft 8.2.6.2) on the basis that the Transport chapter has yet to be reviewed. I do not concur with this submission on the basis that the location of access and parking within a site is inherently linked to the design of the land use which is addressed within the MDRZ chapter.
- 13.44 Notified Policy 8.2.7.4 states:
- "A reduction in parking requirements may be considered in Queenstown and Wanaka where a site is located within 400 m of either a bus stop or the edge of a town centre zone."*
- 13.45 In addition to the submitter above who seeks reconsideration of this policy, JWA (505), P & J Sanford (676) and RGL (699) seek deletion of this policy. JWA (505) seek this relief on the basis that the policy is potentially contradictory to other provisions within the PDP, it has not been adequately considered in terms of s32 analysis, and given the Transport Chapter is yet to be reviewed.

100 Opposed by FS1260 and FS1271

101 Supported by FS1315, FS1125, FS1260, FS1331

102 Supported by FS1315

13.46 P Thoreau (668) notes that on-street parking is already an issue in the proposed Wanaka MDRZ and other submitters including P Fleming (599) and L Campbell (420) also express the same concern in relation to the proposed Park Street MDRZ and in Frankton respectively. In light of these concerns raised and given that transport and parking are to be the subject of review in Stage 2 of the PDP, I recommend deletion of notified Policy 8.2.7.4 to allow for a comprehensive review of existing parking demands and the suitable level of parking that should be provided for each zone / area.

### **Consultation with NZTA**

13.47 Notified Policy 8.2.11.6 (redraft 8.2.9.6) seeks to ensure that a safe and legible walking and cycle environment is provided. The Jandel Trust (717)<sup>103</sup> and FII Holdings Limited (847)<sup>104</sup> have sought the deletion of the note following Policy 8.2.11.6 (redraft 8.2.9.6) which states:

*"Note: Attention is drawn to the need to consult with the New Zealand Transport Authority (NZTA) to determine compliance with this policy".*

13.48 The submitters seek deletion of this note on the grounds that it is not the role of the NZTA to determine compliance with a policy, *"nor is it the role of the RMA to specify that a policy should be strictly complied with"*.

13.49 I support the deletion of the above note on the basis that this appears to be providing affected party status and delegation of some term of approval to NZTA. Furthermore, policies are unlike rules in that they do not require compliance with, only determination that a development is not contrary (non-complying activities) or not in accordance with (controlled, restricted discretionary and discretionary activities) the objectives and policies of the District Plan.

13.50 I note that there are also two similar notes attached to notified Policy 8.2.11.4 (redraft 8.2.9.4) which relates to provision of safe and legible transport connections avoiding new access on to SH6 and integration with the road network and public transport routes on the southern side of SH6. These notes state:

103 Opposed by FS1029 and FS1092, supported by FS1270

104 Supported by FS1270



*"Note: Attention is drawn to the need to consult with the New Zealand Transport Agency (NZTA) prior to determining an internal and external road network design under this policy."*

*"Note: Attention is drawn to the need to obtain a Section 93 notice from the NZ Transport Agency for all subdivisions on State highways which are declared Limited Access Roads. The NZ Transport Agency should be consulted and a request made for a notice under Section 93 of the Government Roading Powers Act."*

- 13.51 These notes are considered to differ from the abovementioned note as they are not requiring compliance with the policy. Furthermore, SH6 is a limited access road and consequently any additional crossings, a change to an existing crossing or subdivision of the property requires approval from NZTA outside of the RMA process (ie, through the Government Roading Powers Act 1989). Consequently, I recommend that the notes under Policy 8.2.11.4 (redraft Policy 8.2.9.4) remain.

#### **Pedestrian and Cycling Linkages**

- 13.52 Notified Objective 8.2.5 (redraft 8.2.4) and its related policies seek to promote active living through walkability and provision of bike parking as well as addressing crime prevention through environmental design principles.
- 13.53 P Thoreau (668) has submitted that notified Objective 8.2.5 (redraft 8.2.4) should be abandoned as it will be prone to abuse and forced compromise. Furthermore, W Blair (510) and H Blair (511) state that this objective contradicts the proposal to rezone the Russell Street – MacDougal Street, MDRZ and will clog the streets with parked cars and make it unsafe for cyclists and pedestrians.
- 13.54 Conversely, C Douglas (199), Villa de Lago (380) and the SDHB (649) all support the objective. The SDHB (649) submission provides support for the following reasons:

*"Community design affects patterns of living that in turn influence health. Research shows that easy access to a safe place to exercise promotes fitness. Access to walking/cycling paths are positively associated with physical behaviours and proximity to places for physical activity within the neighbourhood promotes activity."*

13.55 I disagree with P Thoreau (668) that this objective will be abused as it is not providing an incentive to development, only ensuring that consideration of connections to the wider active network and consideration of public health and safety is undertaken. I acknowledge that in brownfield MDRZ locations such as the area referenced by W Blair (510) and H Blair (511), connectivity to the network will not be as applicable as that for greenfield locations, however there may be instances where pedestrian laneways may be able to be secured as part of redevelopment of brownfield properties. Consequently, I support retention of notified Objective 8.2.5 (redraft 8.2.4) and its associated policies.

#### *Arrowtown*

13.56 Linked to the above, P Winstone (264) opposes notified Objective 8.2.1 which identifies that medium density development will be realised close to town centres, local shopping zones, activity centres, public transport routes and non-vehicular trails. The submitter states that shopping, airport and work are not in Arrowtown and that Arrowtown is a commuter suburb which relies upon vehicles.

13.57 The proposed Arrowtown MDRZ is located between 400m and 900m from the Arrowtown Town Centre. This town centre provides both employment and amenities such as restaurants and convenience retail. Arrowtown is also accessible from Queenstown by public transport and there are substantial non-vehicular trails in the area, the majority recreational, however one provides access to Gibbston Valley and partial trails through to Queenstown via Frankton or Arthurs Point are formed. It is noted that the Queenstown Trails Trust is always seeking to extend these trails with a current emphasis on expansion of commuting trails in their strategic plan.

13.58 It is acknowledged that many people living in Arrowtown do commute to work via private forms of transport, however I do not agree that Arrowtown's attributes in terms of its attractiveness for living, working and entertainment should be ignored. Consequently, I reject this submission point.

#### *Frankton MDRZ*

13.59 Notified Policy 8.2.11.6 (redraft 8.2.9.6) seeks to ensure that a safe and legible walking and cycling environment is provided and provides a number of matters to consider which include linking to the external network, ensuring it is in a form and layout that encourages non-motorised transport, a bus stop is provided adjacent to SH6 and the linages are as direct as possible.

13.60 The OFTB (408) seek deletion of all of the matters to consider on the basis that the policy requests planning and consideration of a number of networks that would be outside of the ability of a single landowner to influence. Whilst I agree with the submitter that the provision of the bus stop adjacent to SH6 is possibly outside of the remit of one landowner, I consider that the intent of the policy, which is to ensure quality pedestrian and cycling linkages through the zone are provided which connect to others outside of the zone is still valid. Consequently, I recommend modifications to this policy which simplifies the provision and makes it more succinct.

## **Schools**

13.61 D Clarke (26) and S Zuschlag (304) have queried whether the proposed Arrowtown MDRZ is aligned to the capacity of the school. The submitters state that Arrowtown Primary School is at capacity, however I note that the MoE (524) have not raised this concern within their submission. Furthermore, current Associate Education Minister Ms Nikki Kaye announced in a press release on 24 June 2016 that up to \$11 million has been allocated to be invested in Arrowtown Primary School which, among other things, will increase the capacity of the school from 520 to 560.<sup>105</sup> On this basis I recommend these submission points are rejected.

## **14. ISSUE 6 – OTHER MATTERS**

### **Bulk Material Storage**

14.1 In the same vein as the remainder of their submissions, in which a mixed use environment is sought for the Frankton MDRZ, the Jandel Trust (717) and FII Holdings Ltd (847) oppose the prohibited activity status for 'Bulk Material Storage' in notified Rule 8.4.5 on the basis that the storage of any material outside should not be prohibited in this environment and that the benefits of screening are not considered. Given that the intention of the MDRZ is for residential development with ancillary community and small scale commercial activities, I do not support the relief sought as outdoor storage of materials can result in unsightly visual effects, noise effects and depending upon the materials, environmental health issues.

14.2 I note that 'Bulk Material Storage' is included as a prohibited activity in notified Rule 8.4.5, however this activity is not defined in Chapter 2 – Definitions. A definition of "Outdoor Storage" is however provided in Chapter 2, therefore I recommend that this rule be changed to "Outdoor Storage". No submissions have been received to

105 (<https://www.beehive.govt.nz/release/37m-school-investment-otago-and-southland>)

this effect, however this change will reduce the potential for confusion. This change would not result in any regulatory effect as the activities are considered to be the same.

## **Reserves**

14.3 Friends of the Wakatipu Gardens and Reserves Incorporated (506) supported by P Fleming (FS1063) seek to ensure that densification does not reduce existing public open spaces, reserves and gardens and that additional public open spaces, reserves and public gardens should be provided. Further, N Blennerhassett (335) states that *'thought needs to be given to provision of open space to balance the increased density of people and that Wanaka is lucky to have kept Pembroke Park for this purpose'*.

14.4 I consider that development undertaken within the MDRZ will not result in a reduction in existing open spaces and reserves which are public due to them being owned or administered by Council or other Crown entities. For larger scale subdivision and developments, reserves can be vested in Council. Alternatively, development contributions are payable generally for all developments which exceed one residential unit on a site. Development contributions can include payments for reserves, reserve improvements and community facilities. These contributions are set by the Council's Development Contributions and Financial Contributions policy which is reviewed annually.

14.5 With regard to open space within development sites, it is noted that notified Rule 8.5.4 prescribes a building coverage of 45%. I consider that this level of coverage will still allow suitable space around and between buildings.

14.6 Overall, I do not support the abovementioned submission.

## **Urban Growth Boundaries**

14.7 The NZIA (238) seek that reference to Urban Growth Boundaries are included within objective 8.2.1. I do not see the need for this addition as Urban Growth Boundaries are applied around urban areas of which the MDRZ would be part.

## **Objectives and Policies**

14.8 In the Panel's Fourth Procedural Minute dated 8 April 2016 concern was expressed that many objectives and policies were not framed as such. This also aligns with

much of the RGL (699) submission which makes multiple recommendations to redraft the notified objectives, as objectives and policies as policies. I have adopted much of the amended wording recommended by submitter 699.

- 14.9 I have also followed this same approach in recommending some changes to the matters of discretion which have been framed as assessment matters. I have retained the subject matter of the notified provision however have deleted the remainder of each prescriptive provision. I recommend these changes in regard to notified Rules 8.4.11, and 8.4.25 (redraft 8.4.22). RGL (699) have submitted in relation to a number of rules in this vein however in some cases I have expanded this. These changes are not considered to alter the regulatory effect of the provisions.

## **Definitions**

### *Dwelling*

- 14.10 As outlined within my Section 42A evidence for the LDRZ chapter, Arcadian Triangle (836) has submitted in relation to the definition of 'Dwelling' seeking its deletion. For reasons provided within LDRZ evidence, I have agreed with the submitter and recommended deletion of this definition. This recommendation has implications for the MDRZ and consequently necessitates deletion or replacement of the word 'Dwelling' to 'Residential Unit' within the following provisions of Chapter 8: 8.4.10, 8.4.11 and 8.5.5.

## **15. CONCLUSION**

- 15.1 On the basis of my analysis within this evidence, I recommend that the changes within the Revised Chapter in **Appendix 1** are accepted.

15.2 The changes will improve the clarity and administration of the Plan; contribute towards achieving the objectives of the Plan and Strategic Direction goals in an effective and efficient manner and give effect to the purpose and principles of the RMA.

A handwritten signature in blue ink, appearing to read 'A. Leith', is positioned below the text.

**Amanda Leith**  
**Senior Planner**  
**14 September 2016**