

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 7 – Low Density Residential Zone

File Reference: Chp. 7 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) Low Density Residential Zone (LDRZ) Chapter 7 should be retained as notified and as supported in the section 32 (s32) assessment (see **Appendix 3**).
- 1.2 Several changes are considered appropriate, and these are shown in the Revised Chapter attached as **Appendix 1 (Revised Chapter)** to this evidence. A number of minor changes, or wording changes that provide better expression are also recommended. For substantive changes, I have undertaken an assessment in terms of section 32AA of the RMA (see **Appendix 4**). The most significant recommended amendments include:
- a. Deletion and amendment of all of the density related provisions to clarify that the as-of-right net site area for the zone is 450m², however a 'gentle density' of 300m² net site area may occur via a controlled activity resource consent (amendments to objectives 7.2.1 – 7.2.4 (revised chapter 7.2.1 and 7.2.2) and their associated policies as well as rules 7.4.9 and 7.4.10 and deletion of 7.5.6);
 - b. Allowing one residential unit per 450m² net site area within the Air Noise Boundary (ANB) and between the ANB and Outer Control Boundary (OCB) of Queenstown Airport (amendments to objective 7.2.3 (revised chapter 7.2.2) and deletion of rules 7.5.6 and 7.4.11);
 - c. Inclusion of privacy within policy 7.2.3.1 (revised chapter 7.2.2.1) to prompt attention where higher housing density is proposed;
 - d. Rewording of policy 7.2.9.3 (revised chapter 7.2.6.3) to allow the surrounding context to be taken into account when assessing the potential noise effects of commercial activities within the LDRZ;
 - e. Inclusion of recession plane provisions for accessory buildings on both flat and sloping sites (rule 7.5.8);
 - f. Addition of exceptions for minor intrusions into the minimum boundary setbacks in rule 7.5.9;
 - g. Change to the building separation distance within sites and the activity status in rule 7.5.10;
 - h. Deferment of the application of car parking requirements for Residential Flats within the LDRZ to the Transport Chapter to be considered in Stage 2 of the PDP; and
 - i. Modification to the non-notification clause 7.6.2.1 to specifically refer to the rule it relates to and to provide an exemption relating to State Highways.

- 1.3 I consider that the amendments to Chapter 7 are more effective and efficient than the equivalent provisions within the notified Chapter 7. 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**). The key reasons for this conclusion include that the density of the LDRZ better aligns to the vision outlined by the s32 report, and 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, while not being an undue constraint.

2. INTRODUCTION

- 2.1. My Name is Amanda Jane Leith. I am employed by the 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 become 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 7 – Low 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 Senior Resource Consents Planner at Council from 21 September 2015.

3. CODE OF CONDUCT

- 3.1. 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.
- 3.2. I am authorised to give this evidence on the Council's behalf.

4. SCOPE

- 4.1. My evidence addresses the submissions and further submissions received on the notified Chapter 7.

- 4.2 Although the purpose of this report is not to undertake an assessment nor make recommendations on the appropriateness of the zonings, as this will be undertaken for the rezoning hearings, the relevant maps which include areas of LDRZ are attached in **Appendix 8**. Consequently, my evidence relates only to the written provisions which relate to the proposed LDRZ and I have not assessed the acceptability of the specific locations of the LDRZ as this will be addressed within the rezoning/mapping hearing(s). On this basis, I have considered the LDRZ provisions in the context of all of the proposed LDRZ land.
- 4.3 Although this evidence is intended to be a stand-alone document and also meet the requirements of s42A of the RMA, the Section 32 Evaluation Report: Low Density Residential Zone report is attached as **Appendix 3** for information and reference purposes. This report links to supporting documents referenced in the s32 (on pages 67 and 68 of that report) along with the Queenstown, Wanaka and Arrowtown Monitoring reports attached as **Appendices 5, 6 and 7**.
- 4.4 My evidence also addresses some of the submissions and further submissions received on other chapters which are also of relevance to Chapter 7. These include:
- a. Chapter 2 – Definitions;
 - b. Chapter 27 – Subdivision and Development;
 - c. Chapter 35 – Temporary Activities and Relocated Buildings.
- 4.5 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.
- 4.6 Numerous submissions have been received seeking a re-zoning to or from LDRZ, or for other changes to the PDP mapping annotations. Although these submissions were summarised against the respective chapter, these submission points have been transferred in **Appendix 2** to the future hearing(s) on mapping.
- 4.7 Submissions relating to the notified provisions within Chapter 7 for visitor accommodation were withdrawn from the Proposed District Plan on 25 November 2015. Consequently, submission points relating to the notified visitor accommodation provisions have been marked in **Appendix 2** as being out of scope (and the provisions have been removed from the Revised Chapter in **Appendix 1**).

- 4.8 On 20 July 2016 Council notified Variation 1 to the PDP. This variation involves the replacement of references to the Arrowtown Design Guidelines 2006 to the Arrowtown Design Guidelines 2016 within the PDP 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**.

5. BACKGROUND – STATUTORY AND NON-STATUTORY DOCUMENTS

- 5.1. The Low Density Residential s32 analysis is attached as **Appendix 3** and provides a detailed overview of the higher order planning documents applicable to the LDRZ chapter on pages 2 – 5. In summary, the following documents have been considered in the preparation of this chapter:

The 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 Councils 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); and

- *Kāi Tahu ki Otago* Natural Resource Management Plan 2005 (KTKO NRMP 2005)

Proposed National Policy Statement on Urban Development Capacity (NPSUDC)

- d. The Minister for the Environment notified the Proposed NPSUDC for public consultation on 2 June 2016, with submissions closing on 15 July 2016. The scope of the proposed NPSUDC relates to the provision of development capacity in local authority plans to address both housing and business needs.
- e. The NPSUDC remains at draft status and does not hold any statutory weight.
- f. The proposed NPSUDC 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 local authorities to implement through its planning documents.
- g. The following objectives of the proposed NPSUDC are of relevance to the LDRZ:
 - 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.
- h. The above objectives (although they hold no legal weight at present) are reflected in the LDRZ provisions through enabling increased densities which has the potential to increase dwelling diversity and affordability.

Operative Otago Regional Policy Statement 1998 (Operative RPS)

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

- k. Section 74(2) of the RMA requires that when preparing or changing a district plan, 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 LDRZ provisions:

Objective 2.2 Otago's significant and highly-valued natural resources are identified, and protected or enhanced.

Objective 3.4 Good quality infrastructure and services meet community needs.

Objective 3.6 Energy supplies to Otago's communities are secure and sustainable.

Objective 3.7 Urban areas are well designed, sustainable and reflect local character.

Objective 3.8 Urban growth is well designed and integrates effectively with adjoining urban and rural environments.

Objective 4.3 Sufficient land is managed and protected for economic production.

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

The Queenstown Low Density Residential Zone Monitoring Report, May 2011

- m. This report identified a number of issues for further consideration in the District Plan review:
 - Undertake an assessment as to the effectiveness, efficiency and appropriateness of the LDRZ provisions;
 - Build on the Urban Design Critique to articulate what outcomes can be expected for the LDR zone;
 - Consider definitions for the terms used to describe the outcomes for the zone;
 - Engage with the community as to their desired outcomes;
 - Research the effectiveness of tools that could improve outcomes;
 - Investigate the level of intensification occurring in the zone and whether the High Density Residential zone rules could be altered to attract that development to the High Density Residential zone;
 - Reorganise the chapter to make clear which provisions relate to the High Density Residential zone and which to the LDR zone; and
 - Consider cumulative effects if maintaining status quo or of any proposed changes.
- n. This report also includes an Appendix prepared by Boffa Miskell in August 2010 entitled 'Urban Design Critique of Subdivisions in Queenstown Lakes District'. Although this report relates directly to subdivision some of the same principles outlined relate also to land use, such as the scale of buildings, dominance of garages, openings along the front façade and the like.

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:
 - The objectives and policies relating to Wanaka that are inappropriate for the LDR zone or have served their purpose should be revisited;
 - The link between policy and rules should be strengthened to ensure unanticipated results are defined as non-complying activities;
 - 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.

- p. As with the Queenstown Low Density Residential Zone Monitoring Report above, the Boffa Miskell August 2010 report entitled 'Urban Design Critique of Subdivisions in Queenstown Lakes District' is also appended to this monitoring report and includes assessment of two Wanaka specific subdivisions.

Monitoring Report: Residential Arrowtown, November 2011

- q. 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:
- Include references to the Arrowtown Planning Advisory Group and the Arrowtown Design Guidelines; and
 - Consider extending the matters of control and discretion to include protection of vegetation, landscaping and archaeological matters.

Wanaka Structure Plan (2007)

- r. 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)

- s. 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:

Principle 1 – Growth is located in the right places

Principle 2 – The type and mix of growth meets current and future needs

Principle 3 – Infrastructure is provided which is sustainable and supports high quality development in the right places

Principle 4 – High quality development is demanded

Arrowtown Design Guidelines (2006)

- t. 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)

- u. 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'.
- v. The Arrowtown Design Guidelines 2016 are applicable to the LDRZ 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)

- w. 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.
- x. 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.
- y. Due to the release of the proposed NPSUDC, the DCM is currently being further reviewed. This review has not yet been completed but will include the considerations set out by the NPSUDC and updates to the existing dwelling numbers, which has not occurred for a number of years.
- z. 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 LDRZ chapter is to provide for suburban densities and housing forms that are well designed and located so to provide a high level of residential amenity. Community activities are also anticipated within the LDRZ where they ensure residential amenity is not unduly compromised.

6.2. The s32 analysis² identified the following issues with the ODP Residential chapter, resulting in substantial changes to the framework, structure, objectives and provisions of the proposed LDRZ:

- 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.
- b. The ODP has been the subject of numerous plan changes to allow for the creation of new settlements in outlying greenfield locations which are expensive to service and result in reliance upon private transport.
- c. Provision for increased density and greater affordability within existing residential environments must be carefully balanced against urban design and amenity objectives.
- d. Some existing ODP provisions unnecessarily trigger resource consent, and little design or amenity benefit has been gained from the resource consent process.
- e. Flexibility is required to allow limited commercial uses (and alterations to such uses) within the zone where those uses are of appropriate scale and of benefit to the surrounding community.

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. Flexibility to allow for the establishment and operation of community activities within the LDRZ;
- b. Protection of existing activities from noise related reverse sensitivity effects associated with the operation of Queenstown Airport and use of State Highways; and
- c. The capacity of transport and servicing infrastructure for the proposed densities.

7. SUBMISSIONS

7.1. The RMA, as amended in December 2013, no longer requires a report prepared under s42A or the Council decision to address each submission point. Instead, it requires a summary of the issues raised in the submissions.

2 Refer to **Appendix 3**

- 7.3. 495 points of submission and further submission were received on the notified PDP Chapter 7 – Low Density Residential.
- 7.4. Submissions are considered by issue, or as they relate to a specific LDRZ 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.

8. ANALYSIS

- 8.1. The following key issues have been raised in the submissions and are addressed in this report 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 – Noise
 - 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**).

9. ISSUE 1 – GROWTH AND AFFORDABILITY

Increased density and infill

- 9.1 As outlined within the s32 report, the Queenstown Lakes District (**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 a report³ by Mr Fraser Colgrave 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 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 evidence⁴ 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 notes⁵ that under the high growth projections to 2045, there are 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.⁶

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 notes⁷ that holiday homes and usually 'empty' dwellings are a 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 7 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:

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

4 Paragraphs 3.13.

5 Paragraph 3.14.

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.

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 states⁸ 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 describes⁹ 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 identified¹⁰ 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 noted¹¹ 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 NPSUDC and also to update the housing data within the model. Notwithstanding the constraints outlined above, the DCM (which is based upon the

8 Paragraph 3.5
9 Paragraph 3.6
10 Paragraph 3.8
11 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 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 identifies¹² 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 highlights¹³ 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 LDRZ chapter:

- *'Permitted Activity status for lower intensity residential and visitor accommodation activities'*
- *'Provision for infill housing up to a density of 1 residential unit per 300m²'*
- *'Objectives and policies recognise that the zone will recognise some change to enable limited infill development'*
- *'Liberalise rules to enable better realisation of intensification objectives and policies'*

12 Paragraph 3.15

13 Paragraph 3.16

- *'Greater provision for infill development in existing urban settlements, avoiding sprawling urban forms and incentivising sustainable forms of transport'*
- *'Liberalising building design controls (such as density, building height, recession planes) as appropriate to better enable limited infill development'*

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 states¹⁴ 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 In response to the notified LDRZ chapter which implements the abovementioned methods and goal through allowing increased density and providing more permissive built form controls, Council received many submissions both in support¹⁵ and in opposition¹⁶ to the proposed increased density and more permissive provisions relating to infill development, both generally, and also in relation to various¹⁷ provisions within the LDRZ chapter. I have sought to respond to these submissions collectively as they broadly seek to either allow the notified provisions to remain or to reduce the density back to the levels permitted for the LDRZ in the ODP. Thus they are interrelated.

9.20 Many of the submissions in opposition to the increased density or permissibility for the construction of multiple residential units on a site relate specifically to the built form controls that are also proposed. These submissions will be addressed under Issue 2

14 Paragraph 4.1

15 Submitters (L Fountain (32), D Fountain (33), R Fountain (34), N Blennerhasset (335), Varina Pty Limited (FS1251), A Cutler (110), P Sherrif (144) T Proctor (169), C Stewart (371), K Stewart (372), J Stewart (374), C Fallon (435), L Jackson (206), Q & C McCarthy (358), Woodlot Properties Limited (501), Kelvin Peninsula Community Association (72), Kawarau Village Holdings Limited (FS1352))

16 Submitters (T Drayron (9), Willowridge Developments Limited (FS1012), J Harrington (309), K Boulay (159), L King (230), E Chisholm (89), G Dickson (202), M Farrier (752))

17 Objective 7.2.1, Policies 7.2.1.1, 7.2.1.2, Objective 7.2.2, Policy 7.2.2.2, Objective 7.2.4, Rule 7.4.9, Rule 7.4.10 and Rule 7.5.6 (excludes those submissions in relation to the density within the Air Noise Boundary and Outer Control Boundary of Queenstown Airport, these will be addressed separately).

below. This will allow the issue of the actual density and number of dwellings permitted to be assessed in isolation.

- 9.21 As outlined within the s32 report, the ODP LDRZ currently allows the construction of one residential unit per 450m² land area, however increased density is permitted within the Low Density Residential - Medium Density Subzone or where a Comprehensive Residential Development is proposed. To subdivide however, the ODP prescribes a minimum lot area of 600m² for the majority of the LDRZ (800m² for Arthurs Point, 1500m² for Queenstown Heights and 700m² for Wanaka).
- 9.22 One part of the solution to the abovementioned need and demand for additional residential capacity within the District is to create a more compact urban form via increasing existing densities and promoting infill development. The s32 report introduced a 'gentle density' approach for the LDRZ with the aim of supporting "*discrete infill development within the zone, whilst protecting residential amenity*". This approach introduced a maximum site density of 1 unit per 300m²¹⁸ and a height limit of 5.5m¹⁹ for additional units where the site area is less than 900m².

Density Based Objectives and Policies

- 9.23 In reviewing the objectives²⁰ and associated policies as well as the related rules²¹ within the LDRZ chapter which address density and infill development, I consider that the intent outlined within the s32 report has not been clearly reflected by the LDRZ provisions. My understanding is that the intention is to allow an increase in the overall density of the LDRZ via the 'gentle density' provisions, rather than a wholesale 300m² density across the zone which I consider is the potential outcome of the LDRZ provisions as notified. A minimum site area of 300m² is akin to medium density development²² and its design needs to be assessed to ensure that residential amenity is being maintained.
- 9.24 On the basis of the above, I believe that the potential outcome does not align with the discussion within the s32 report because the LDRZ objectives are not aligned to the s32. As a result, I have condensed and modified the notified objectives 7.2.1 – 7.2.4 to create two objectives. The first recommended objective (revised chapter 7.2.1) specifies that the outcome sought for the zone is a low density residential environment which has high residential amenity values (merging notified objectives 7.2.1 and

18 Rule 7.5.6

19 Rules 7.5.1.4 and 7.5.2.3

20 Objectives 7.2.1 – 7.2.4

21 Rules 7.4.9, 7.4.10, 7.4.11, 7.5.1.4, 7.5.2.3 and 7.5.6

22 See Mr Garth Falconer's evidence in relation to the PDP Medium Density Residential zone

7.2.2). The second recommended objective (revised chapter 7.2.2) reflects the increased density promoted through the 'gentle density' provisions.

9.25 Notified objective 7.2.4 relating to encouraging additional diversity and affordability of the housing stock has been converted into a new policy (revised chapter 7.2.3.4) with the remainder of the objective being deleted as it repeats words used elsewhere and the outcome sought from the objective as notified can in my opinion be achieved through the remainder of the objectives.

9.26 Subsequently, the notified policies associated with these objectives require review and reorganisation. Associated with the new objective 7.2.1, I recommend deletion of notified policy 7.2.2.1 as its intent is confusing. Notified policies 7.2.1.2 and 7.2.2.2 (revised chapter 7.2.1.3) have also been modified, 7.2.1.2 to specify the intensity of development to be achieved and 7.2.2.2 (revised chapter 7.2.1.3) to ensure that the built form maintains the character of the zone and protects amenity values.

9.27 To coincide with the recommended objective 7.2.2, I have amended notified policies 7.2.3.1 (revised chapter 7.2.2.1), 7.2.3.2 (revised chapter 7.2.2.2), 7.2.4.1 (revised chapter 7.2.2.3) to reflect the wording of the amended objective, to make the provision more clear in its intent and to reword 7.2.3.2 (revised chapter 7.2.2.3) to read as a policy.

9.28 With regard to the changes to notified policy 7.2.3.1 (revised chapter 7.2.2.1) relating to privacy, Council in its corporate submission (383) has requested that this policy specifically address privacy effects of new buildings on adjoining properties as a separate point. I consider that reduced privacy is a potential adverse amenity effect as a result of increased densities, and consequently agree that the wording proposed by the submitter is suitable, subject to minor amendments, as it includes methods that can be implemented to ensure adequate privacy is provided. A subsequent change to the matters of discretion in 7.4.10 will also be necessitated and this will be addressed below.

9.29 I note in relation to notified policy 7.2.2.2 (revised chapter 7.2.1.3) that Mr Garth Falconer in his evidence²³ states:

This policy appears to be a catch all for building positioning on the site along with setbacks and maximum site coverage. A further suggested positive shift to encourage greater efficiency of land use within the LDRZ would be to define the maximum size of a low density lot.

23 Paragraph 3.9

- 9.30 Given that many LDRZ lots are 1000m², Mr Falconer recommends a lower maximum of 800m² to create the opportunity for more lots. I acknowledge this recommendation, however there have been no submissions requesting this relief; consequently I do not consider that there is scope to make this change.

Density Based Rules

- 9.31 The abovementioned changes to the LDRZ objectives and policies which address density necessitate changes to the rules. The notified rule 7.4.9 states that up to two residential units per site (one in Arrowtown) is a permitted activity, regardless of the size of the site (although rule 7.5.6 restricts density to no more than one residential unit per 300m²). Where additional residential units on a site are proposed, a restricted discretionary activity consent would be required under notified rule 7.4.10. Consequently, under these two notified rules the trigger for consent is the number of dwellings not density.
- 9.32 Aurum Survey Consultants (166) seek the deletion of rules 7.4.9 and 7.4.10 on the basis that they do not account for larger sites which are capable of containing multiple units by virtue of their land size. The submitter seeks that the construction of one residential unit per 300m² be a permitted activity, with any additional dwellings on site being a controlled activity.
- 9.33 I agree with this submitter in that the notified wording of rules 7.4.9 and 7.4.10 does not consider the size of the sites. I also consider that the separation of the minimum site area in rule 7.5.6 from 7.4.9 and 7.4.10 could create confusion as to what is really permitted or anticipated. Consequently, I recommend that rules 7.4.9 and 7.4.10 be amended to include the minimum site area requirements.
- 9.34 In addition to the above, in line with the 'gentle density' approach, I recommend that the minimum site area be amended to 450m². I have included this within the modified rule 7.4.9. This 450m² minimum site area correlates with the minimum site area for the LDRZ notified within Chapter 27: Subdivision and Development and also correlates with the existing permitted density for the LDRZ under the ODP for land use consent.
- 9.35 To reflect the 'gentle density' approach, I recommend modification of rule 7.4.10 to specify that consent is required for any development which involves a net site area of between 300m² and 449m² per residential unit. With regard to this recommendation, Mr Falconer notes that 300m² sites could detract from the LDRZ if the design quality is

not high. Consequently, Mr Falconer recommends a restricted discretionary activity status for rule 7.4.10.

- 9.36 G Todd (406) and MR & SL Burnell Trust (427) seek that the activity status for notified rule 7.4.10 be changed from restricted discretionary to discretionary. Submitter 406 provides the following reasons for this relief:

This would enable persons who may be affected by a development opportunity(sic) to submit on a publicly or limited notified application and enable Council to consider site specific issues which may give rise to adverse environmental effects (temporary or permanent) on neighbouring property owners.

- 9.37 Residential activity is anticipated within the LDRZ. Further, the rules within the LDRZ chapter include maximum building heights, recession planes, setbacks and other built form controls with a maximum density of one residential unit per 300m², subject to lower heights for the additional dwellings. Taking all of this into account, I consider that the potential effects on neighbouring property owners are adequately addressed and that to make the activity status discretionary would increase the uncertainty and potentially discourage people from undertaking these developments, which would provide an additional constraint on the aim of achieving greater diversity and affordability of housing in the District.

- 9.38 Overall, I consider that the most appropriate activity status for Rule 7.4.10 is restricted discretionary, as it signals that the development is anticipated, however still provides adequate discretion to address any potential concerns which relate to the matters of discretion listed within the rule.

- 9.39 NZIA and Architecture + Women Southern (**NZIA**) (238) has submitted that the first matter of discretion in rule 7.4.10 which states "*The location, external appearance, site layout and design of buildings and fences*" is too broad (seven further submissions²⁴ were lodged against submission 238 for the reason that it will not promote or give effect to Part 2 of the Act). I agree that this matter is very broad and covers everything in terms of the design of a development so that the activity would not in reality be a restricted discretionary activity. I note that the other matters within rule 7.4.10 are more specific and include assessment of street activation, articulation, parking and access, landscaping, natural hazards, and where located in Arrowtown,

24 Man Street Properties Ltd (FS1107), Ngai Tahu Property Ltd & Ngai Tahu Justice Holdings Ltd (FS1226), Shotover Memorial Properties Ltd & Horne Water Holdings Ltd (FS1234), Skyline Enterprises Ltd & O'Connells Pavilion Ltd (FS1239), Skyline Enterprises Ltd & Accommodation and Booking Agents, A & R Stokes (FS1242), Trojan Holdings Ltd & Beach Street Holdings Ltd (FS1248), Tweed Development Ltd (FS1249)

consideration of the Arrowtown Design Guidelines 2016. I consider that all of these matters can be retained as matters of control and that the first point can be deleted.

- 9.40 Further to the above, Council (383) in its corporate submission has requested an additional matter of discretion to include assessment of privacy effects. I consider that reduced privacy is a potential adverse amenity effect as a result of increased densities and that this is not directly addressed via the other built form rules within the LDRZ chapter. Consequently, I agree that this should be considered as part of Rule 7.4.10 and that it would be appropriate as a matter of discretion. The wording proposed by the submitter is however framed as an assessment matter including some possible measures that can be utilised to reduce potential privacy effects, including the use of setbacks, offsetting windows or other screening methods. Accordingly, I have reduced the recommended matter of discretion to only state "*privacy for the subject site and neighbouring residential units*". However, I note that the amendments I propose to policy 7.2.3.1 (revised chapter 7.2.2.1) also expand upon the measures that could be used to mitigate privacy effects.
- 9.41 The abovementioned recommendations allow notified rule 7.5.6 to be deleted, subject to the inclusion of the Queenstown Heights Overlay Area specific density requirement within rules 7.4.9 and 7.4.10.

Queenstown Heights Overlay Area

- 9.42 The LDRZ Queenstown Heights Sub-Zone relates to land located above Frankton Road to the north and adjoins the top of Goldfield Heights and Middleton Road in places. The Middleton Family Trust (336 and 354) have noted that the intent of the PDP is to allow increased densities within the LDRZ subject to development controls and state:

The Objectives and Policies for the LDR zone, Strategic Directions and Urban Development chapters of (the) PDP appear opposed to the 1500m² minimum lot size in the Queenstown Hill Overlay Area.

- 9.43 Consequently, the submitter seeks that the minimum lot size within the sub-zone be amended to be the same as the remainder of the zone and that the sub-zone be deleted from the PDP.
- 9.44 Queenstown Airport Corporation (**QAC**) in its further submission (FS1340) has opposed submission 336 as they are concerned that it will result in the intensification of Activities Sensitive to Aircraft Noise (**ASAN**) within close proximity to Queenstown

Airport. I note that the sub-zone is located outside of both the Air Noise Boundary (**ANB**) and Outer Control Boundary (**OCB**) of Queenstown Airport; consequently, I do not recommend acceptance of this further submission.

- 9.45 With regard to the Middleton Family Trust submission, I note that no mention has been made of the steep topography of the land, nor the site hazards that are applicable to the land within the sub-zone. I understand that these are the reasons behind the 1500m² minimum lot area as applied in the ODP and replicated within the PDP. The sub-zone covers part of the land affected by the Queenstown Hill Landslide in the mid 1900s which is attributed to a schist outcrop. As such, for any development of the sub-zone, significant geotechnical investigations will be required.
- 9.46 Subdivision consent (RM081212 varied by RM150520) has been granted to create 158 residential lots above Middleton Road, of which six lots are within the westernmost portion of the sub-zone. The geotechnical engineering assessments (by Tonkin & Taylor and Geosolve) that were provided as part of these applications confirm that the approximate location of the landslide boundary is within the sub-zone.
- 9.47 Consequently, given the known hazards, I support the notified 1500m² minimum lot size for the Queenstown Heights Sub-Zone. Given the changes to the LDRZ chapter outlined above, the density restriction on this sub-zone is now included within rules 7.4.9 and 7.4.10.

Density within Air Noise Boundary and Outer Control Boundary

- 9.48 Also of relevance to the proposed deletion of rule 7.5.6 and modification to rules 7.4.9 and 7.4.10 are the submissions received in relation to density within the Queenstown Airport ANB and OCB.
- 9.49 Notified rule 7.4.11 outlines that more than one dwelling, residential unit, or residential flat per site within the ANB of the Queenstown Airport is a non-complying activity. This rule applies regardless of the size of the site within the ANB and notwithstanding notified rule 7.5.6 which specified a density of one residential unit per 300m².
- 9.50 Three submitters²⁵ are seeking deletion of rule 7.4.11 in its entirety and a further five submitters²⁶ are seeking deletion of this rule with an amendment to restrict density within the ANB to one residential unit per 450m² as currently permitted by the ODP

25 Submitters (J Phelan & B Herdson (485), H McPhail (834) and Scott Freeman and Bravo Trustee Company Limited (555)

26 H Tapper (24), K Hubber (35), M McKellar, A Stevenson and the McKellar-Stevenson Family Trust (36), K E & H M Hamlin & R D Liddell (43), B Williams (141)

and Plan Change 35 (**PC35**) (effectively a change to notified rule 7.5.6). QAC in its further submission (FS1340) opposes the abovementioned submissions seeking deletion of rule 7.4.11 unless notified rule 7.5.6 is updated accordingly. However, the Board of Airline Representatives of New Zealand (**BARNZ**) (271) supports the notified rule 7.4.11 and in its further submission (FS1077) has opposed all of the abovementioned submissions seeking deletion of rule 7.4.11.

- 9.51 Further submissions on the BARNZ (271) submission received from Queenstown Park Limited (**QPL**) (FS1097) and Remarkables Park Limited (**RPL**) (FS1117) have cited opposition to all amendments proposed where they are not consistent with PC35.
- 9.52 PC35 was appealed to the Environment Court; however the Environment Court has released a number of interim decisions to date and has confirmed all of the provisions relating to the ODP Residential Zones. PC35 retains the ability to construct one residential unit per 450m² provided acoustic measures are implemented. I note that in relation to the PC35 acoustic insulation requirements for residential units within the ANB, notified rule 7.5.3 (revised chapter 7.5.4) replicates the Environment Court approved rules in this regard (with updated table and chapter references).
- 9.53 As outlined above, population pressures and housing demand are issues for the Queenstown Lakes District, particularly within the Wakatipu Basin. LDRZ properties which are located within the ANB are well located in terms of access to amenities (retail, reserves, community activities and the like) and transportation networks (including the lakeside cycle trail and Frankton bus exchange). However, these properties within the ANB are within an area subject to significant noise effects which have the potential to create reverse sensitivity related issues. Consequently, I support the retention of the ODP ability (and Plan Change 35) to construct no more than one residential unit per 450m² within the ANB. Accordingly, I recommend that notified rule 7.4.11 be deleted and for rule 7.4.10 to exempt properties within the ANB.
- 9.54 Related to the above, BARNZ (271) and QAC (433) have also submitted seeking that the density of properties located between the ANB and OCB be restricted to one residential unit per 450m². These submissions are opposed by the further submissions received from RPL (FS1117) and QPL (FS1097) where they differ from PC35.
- 9.55 PC35 did not hamper the ability to establish one residential unit per 450m² for sites between the ANB and OCB; however it did introduce acoustic requirements which are replicated within notified Rule 7.5.4 (revised chapter 7.5.5) (with updated table and

chapter references). Although I see a benefit in allowing an increased density within the OCB, given this location is well located and has good access to amenities, I do not seek to amend that which has already been considered via PC35. Consequently, I recommend that rule 7.4.10 also includes an exemption for these properties to state that the 'gentle density' provisions do not apply to these properties.

- 9.56 As a result of the above changes, it is also considered necessary to update notified objective 7.2.3 (revised chapter 7.2.2) which outlines when additional 'gentle density' may be acceptable within the LDRZ. Submitter 433 (QAC) recommends that this objective specify that additional density on lots within the ANB or OCB of Queenstown Airport is not anticipated. This relief is supported by further submission 1077 (BARNZ) and opposed by further submissions 1097 (QPL) and 1117 (RPL) where the changes are not consistent with PC35. The changes are consistent in their intent with PC35, consequently I consider that this change is acceptable.
- 9.57 The QAC (433) have also requested the inclusion of a new policy to state that infill development within the ANB and OCB is discouraged. Given my recommendations relating to deletion of rule 7.4.11 and modification to rule 7.4.10 and objective 7.2.3 (revised chapter 7.2.2), I do not believe that this change is necessary.
- 9.58 Modifications to notified policies 7.2.10.1 (revised chapter 7.2.7.1) and 7.2.10.2 (revised chapter 7.2.7.2) are also sought by QAC (433). The majority of the modifications are grammatical and are accepted. However, QAC also seek to include reference to the specific noise limits and contours that are already outlined within rules 7.5.3 (revised chapter 7.5.4) and 7.5.4 (revised chapter 7.5.5). Replication of these specific rules is not considered necessary within policies; consequently, I do not support their inclusion.

Infrastructure

- 9.59 Under the revised provisions outlined above, the potential density change within the LDRZ compared to that allowed by the notified chapter will be further controlled.
- 9.60 Increased density and infill development support the compact urban form approach outlined within Chapter 3 – Strategic Directions. Council's Chief Engineer, Mr Ulrich Glasner in paragraph 5.3 of his evidence in relation to Chapter 3 also outlines the positive effects of this approach:

A compact and integrated urban form maximises the efficiency of existing infrastructure and its operation, because the surplus in the network can be utilised and

the operation of the network can be managed efficiently which means cost savings for ratepayers and potentially for the developer. Reduced distance to destinations, and more efficient use of embedded infrastructure reduces the cost to the community as a whole.

9.61 And in paragraph 5.11, he states:

More compact urban areas also result in more efficient use of existing infrastructure (particularly where there is available capacity), and lower overall costs where upgrades or extensions of existing infrastructure are required (compared to the provision of entirely new infrastructure). In addition, having a less sprawling infrastructure network means that the network can generally be more easily and efficiently maintained, which will generally increase asset life and performance, and result in lower overall costs to the community. In addition, more efficient use of existing infrastructure networks is likely to have environmental benefits, in terms of an overall reduction in the effects of building and maintaining additional infrastructure.

9.62 In paragraphs 7.1 and 7.2 of the evidence referred to above, Mr Glasner states that the strategic approach to urban development in the PDP is "*both appropriate and achievable*".

9.63 Mr Glasner in his evidence²⁷ in relation to the residential zones has confirmed again that there is capacity in the infrastructure network to address the additional growth anticipated as a result of the PDP. Furthermore, the Long Term Plan 2015-2025 and Annual Plan 2016/17 already cover major upgrades and renewals to cater for increased densities. If additional upgrades are necessary they will be addressed through a future Long Term Plan or Annual Plan review process.

9.64 Linked to the above, Maggie Lawton (117) has submitted in relation to policy 7.2.3.3 which states:

Encourage initiatives to reduce water demand and water use, such as roof rain water capture and use and greywater recycling.

9.65 The submitter asks how Council will encourage these initiatives and whether there will be any associated rules. Whilst I support the intent of this provision from a sustainable management point of view, I have not found a basis for their inclusion within the

²⁷ Paragraph 2.1

notified LDRZ chapter as a requirement. As a result, I recommend deletion of policy 7.2.3.3.

Character and Amenity

- 9.66 As outlined above, many submissions were received opposing the proposed density and infill provisions. Some of these raised concerns with regards to the character and amenity of specific areas of the District. These are addressed below. The remainder of the submissions which raise more general concerns about amenity and character of the LDRZ are addressed under Issue 2 – Built Form Controls below.

Arrowtown

- 9.67 J Harrington (309) has submitted in opposition to the proposed infill provisions with particular reference to Arrowtown for the reason that it will spoil the beauty and tranquillity of Arrowtown.
- 9.68 Variation 1 to the PDP relates to the Arrowtown Design Guidelines 2016, which is referenced within the LDRZ chapter via notified policy 7.2.5.1 (revised chapter 7.2.3.1) and rule 7.4.10. In rule 7.4.10, the design guidelines are included as a matter of discretion to be assessed for any development proposing a net site area of less than 450m².
- 9.69 Under rule 7.4.9 the construction of one dwelling on a site which is 450m² or greater is a permitted activity within Arrowtown and therefore assessment against the design guidelines will not occur. This retains the status quo under the ODP whereby the construction of one residential unit per 450m² is also a permitted activity. Notwithstanding, it is acknowledged that this could lead to a potential adverse effect upon the character of Arrowtown.
- 9.70 Upon review of the location of the proposed LDRZ in Arrowtown, I note that the potential sensitive locations are where the LDRZ adjoins the Arrowtown Residential Historic Management Zone (**ARHMZ**). The proposed LDRZ has an interface with the ARHMZ along Durham Street, Stafford Street and Criterion Street. The Durham Street and Stafford Street interfaces are along the road alignment, consequently, it is considered that there is adequate separation to mitigate these potential effects. The proposed LDRZ along Stafford Street adjoins the ARHMZ along Adamson Drive mid block. I note that the ARHMZ zoned properties are of predominantly flat land which slope steeply at the rear to create a raised terrace. The proposed LDRZ properties are

located on top of this terrace. Consequently, I consider that the topography provides some mitigation in this regard.

- 9.71 Overall, I do not consider that the density proposed will undermine the character of Arrowtown, given the proposal to incorporate the Arrowtown Design Guidelines 2016 into the PDP and the limitation in the interface between the ARHMZ and LDRZ.

Kelvin Peninsula

- 9.72 E Chisholm (89) has stated that buildings on 300m² sites would threaten the look and appeal of the LDRZ which may lead to lower house prices, loss of green spaces and the Kelvin Peninsula becoming less desirable to live in.
- 9.73 I consider, given the changes I have recommended above that the above concerns raised by E Chisholm (89) will be mitigated. Furthermore, Mr Garth Falconer in his evidence states that he considers that the changes to the PDP LDRZ (for the entire LDRZ) are relatively minor and, whilst encouraging infill, will retain amenity.

Residential Flat

- 9.74 Rules 7.4.9 and 7.4.10 relate to the number of Dwellings, Residential Units and Residential Flats that can be constructed on sites as permitted or restricted discretionary activities. Both of these rules specify '*Dwelling, Residential Unit, Residential Flat*'. Council (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.

Subdivision

- 9.75 Consultant planner on behalf of Council, Mr Nigel Bryce in sections 4.6-4.9 of his Section 42A evidence relating to Chapter 27 – Subdivision and Development has deferred consideration of the submissions which seek to modify the lot sizes and density rules for the zones which have not already been the subject of a hearing. With regard to the LDRZ, only one submission has been deferred being 166 (Aurum Survey Consultants) which states:

Low density minimum lot size should align with the density rule of 300m². Matching subdivision size with density helps to ease funding channels and therefore facilitates efficient use of the zone in a logical and consistent manner.

- 9.76 Notified rule 27.5.1 prescribes a minimum lot size of 450m² which rule 7.4.9 now aligns with. This addressed the submitter's concerns about consistency, however not at the 300m² density proposed. However, I note that notified rules 27.5.2 (27.7.13 in Mr Bryce's s42A Appendix 1) and 27.5.3 (27.7.14 in Mr Bryce's Appendix 1) allow subdivision of land less than 450m² within the LDRZ where the units have been constructed or where a certificate of compliance or resource consent has been granted for the units and restrictions are registered on the Certificate of Title for the property. These rules in the subdivision chapter are to ensure that where lots are proposed which are less than 450m² in size, that they are capable of development which will provide a suitable level of residential amenity for both the future occupants of the units and the neighbouring properties through assessment against the rules within the LDRZ chapter.
- 9.77 Whilst I acknowledge the submitter's concerns about facilitating subdivision in order to ease funding channels, I consider that the notified rule 27.5.3 in particular allows some flexibility. Consequently, subdivision less than 450m² is able to be undertaken where the development of the lots is shown to be capable of development via the construction of the additional units, or approval of a certificate of compliance or resource consent. As a result, I do not support Aurum Survey Consultants' submission in this regard.
- 9.78 Mr Falconer supports²⁸ the proposed provisions in allowing an increase in the density of the LDRZ; however he recommends that, to ensure better activation of streets, sections that are capable of subdivision be encouraged to subdivide so that both lots have street frontage rather than the development of rear lots.
- 9.79 I do not agree with Mr Falconer in this regard as the subdivision of side by side properties can result in streetscapes which are dominated by garaging and driveways which reduce the levels of street activation and passive surveillance and also are problematic in relation to the location and growth of street trees and provision of on-street car parking. Furthermore, I do not wish to discourage people from retaining the existing house on a larger site and developing to the rear.

28 Paragraph 3.11

10. ISSUE 2 – DESIGN AND AMENITY

10.1 Taking into account the need and demand for additional residential housing, the LDRZ chapter has provided increased density with the aim of achieving a greater number of dwellings, an increased diversity of the housing stock and greater affordability than currently exists within the District. However, these aims need to be carefully balanced against urban design and amenity objectives to ensure that the LDRZ remains a great residential environment in which to live.

10.2 Pages 15–18 of the s32 report details the issues and responses in relation to urban design and amenity values within the LDRZ and states:

It is intended that the revised Low Density Residential Zone will retain its current function in allocating land for low density housing forms, which have general protection for views, sunlight admission and privacy.

Development Rules (for example recession planes, building height, setbacks and site coverage) have been retained (but relaxed in some circumstances) to protect residential amenity, and it is noted that density is not intended to come at the expense of quality design.

10.3 The s32 report also states that development rules have been revised to improve rules which may have been unnecessarily triggering resource consent with little design or amenity benefit being gained from the process.

10.4 The following sections will assess the submissions received in relation to the design related provisions within the LDRZ chapter. Where submissions have raised built form related concerns in relation to a specific geographical area these are stated.

Height of Additional Dwellings

10.5 Notified rules 7.5.1.4 and 7.5.2.3 (revised chapter 7.5.3) restrict the height of additional residential units on sites which are less than 900m² in area to 5.5m. These rules correspond with the 'gentle density' allowed for in Rule 7.4.10.

10.6 The NZIA (238) has submitted in relation to rule 7.5.1.4 (revised chapter 7.5.3) and questioned why it does not allow additional height for the new residential unit where

the existing house is less than 5.5m high. I note that this submission has been opposed by eight further submissions.²⁹

- 10.7 Aurum Survey Consultants (166) have submitted requesting deletion of both Rules 7.5.1.4 and 7.5.2.3 (revised chapter 7.5.3) for the following reasons:

Rule 7.5.1.4 and 7.5.2.3 over complicates the height rules, lacks foresight and will be manipulated resulting in poor urban design. It promotes inefficient use of the LDR zone. We need to keep bulk within the zone to prevent sprawl. 900m² is not consistent with site density. The rule further promotes large dormitory dwellings and monolithic type development. Part c promotes second dwellings to be joint in tacky type manner to the first dwelling. The rule will also promote keeping old housing stock and tacking on a second dwelling.

- 10.8 S & J McLeod (391) also propose deletion of rule 7.5.2.3 (revised chapter 7.5.3) for the reason that a large 4-5 bedroom house will have more effect than two smaller, two bedroom apartments. The submitter also adds that parking and coverage will naturally keep the dwellings smaller and that a lower height limit only leads to increased earthworks and not a reduction in dwelling size. The submitter states that if this rule is kept, the activity status should be changed to restricted discretionary as an 8m building may have no effect on some sites.

- 10.9 A Cutler (110)³⁰ and T Proctor (169) cite similar problems with rules 7.5.1.4 and 7.5.2.3 (revised chapter 7.5.3) with submitter 110 describing rule 7.5.2.3 as a "simplistic / broad brush approach that does not acknowledge aspect or topography". Both submitters recommend that the rules be amended to take into account topographical changes and state that a two storey dwelling may be appropriate on sloping sites. As a result, submitter 169 recommends rule 7.5.1.4 (revised chapter 7.5.3) be amended as follows:

Despite the above, where a site is less than 900 square metres in area and more than one (1) residential unit is proposed per site, the following height provisions apply:

- a) *Where residential units are proposed in addition to an existing dwelling, then the additional residential unit/s shall not exceed either:*

29 Man Street Properties Ltd (FS1107), Ngai Tahu Property Ltd & Ngai Tahu Justice Holdings Ltd (FS1226), Shotover Memorial Properties Ltd & Horne Water Holdings Ltd (FS1234), Skyline Enterprises Ltd & O'Connells Pavilion Ltd (FS1239), Skyline Enterprises Ltd & Accommodation and Booking Agents, A & R Stokes (FS1242), Trojan Holdings Ltd & Beach Street Holdings Ltd (FS1248), Tweed Development Ltd (FS1249)

30 Supported by further submitter FS1059

- i) 5.5m in height OR*
- ii) The level (RL) of the 2nd floor of the existing house or, where the existing house is single level, the height of the roofline measured at the parapet or eave;*

Whichever of i) or ii) is the higher of the two.

- 10.10 I note that Tim Proctor's (169) recommended wording above is in relation to sloping sites and therefore the proposed change should apply to the notified rule 7.5.2.3 rather than 7.5.1.4.
- 10.11 In relation to this rule, Mr Falconer states that two level buildings, and additions to buildings to increase their height to two storeys can add greater efficiency of land use and can support local architectural character. In relation to the revised chapter rule 7.5.3(b), Mr Falconer recommends that this be deleted or changed to have a restricted discretionary activity status as the LDRZ supports one to two level homes.
- 10.12 I concur with many of the points raised by the submitters and Mr Falconer above. However in considering the potential outcomes of infill development within the LDRZ (including additional houses built forward or behind existing dwellings and also new developments on vacant sites front and back or side by side), I find that the notified provisions best reflect the gentle density approach and will ensure that the amenity and character of the zone and adjoining residential properties is not unduly compromised. Consequently, I recommend retention of the intent of the existing provisions. Furthermore, although submissions have been received requesting changes to this rule, I consider that to delete it in its entirety would result in a drastic change to the chapter which may not have been anticipated by many submitters.
- 10.13 I note that the notified 7.5.1.4 and 7.5.2.3 are the same, however apply to flat and sloping sites respectively. To avoid the repetition, I have copied their content into a new rule (revised chapter 7.5.3) and identified that the new rule relates to both 7.5.1 and 7.5.2.
- 10.14 Notwithstanding the above, I do acknowledge that some sites, particularly sloping sites or possibly properties which adjoin sites which already contain two storey developments, could allow additional height without detriment to the amenity of the adjoining neighbours or the zone. Consequently, I recommend that the activity status for rules 7.5.1.4 and 7.5.2.3 (revised chapter 7.5.3) be amended from non-complying to discretionary. This activity status signifies that non-compliance with the height limits could be contemplated, subject to the merits of each case. The non-

complying status could, on the other hand discourage persons from applying for resource consent despite the design having merit.

Building Length

10.15 Rule 7.5.11: Continuous Building Length is based upon the following ODP site Rules 7.5.5.2(vi) and (vii):

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....

10.16 Associated with the above rules are three interpretive diagrams within Appendix 4 of the ODP. Despite that, many people have still found the above rules complex and difficult to interpret. Consequently, Council has also had to publish a practice note (also including diagrams) to further aid interpretation of the existing rules.³¹ Consequently, the drafting of notified rule 7.5.11 has taken into account the issues

31 <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>

that have arisen with the interpretation of the existing ODP rules, and has simplified and relaxed the rule.

10.17 The notified rule 7.5.11 only relates to length of the building above ground floor level as opposed to the ODP rules relating to all levels above ground level. As a result, under the PDP version, the ground floor level of a building can exceed 16m without requiring resource consent, however all floors above ground floor level are required to be less than 16m in length or else restricted discretionary resource consent is required.

10.18 The NZIA (238) support the rule, however they seek that a diagram be included for clarification purposes (eight further submissions³² were received opposing submission 238 in its entirety). In addition, Aurum Survey Consultants (166) have requested clarification as to whether the ground floor level is restricted by the rule.

10.19 Looking at the notified rule further, I do not consider that a diagram is necessary if some minor wording changes are made. 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".

Minimum Building Setbacks

10.20 A number of submitters,³³ primarily in relation to "Old Frankton", but some more generally, have requested that the existing setback rules in the ODP be maintained rather than the setbacks notified within Rule 7.5.9 which prescribe a road setback of 4.5m and 2m setbacks for all other boundaries.

10.21 Mr Falconer has considered the proposed setbacks in Rule 7.5.9 and states:

While I consider that these setbacks are well scaled and clear, it is my opinion that more generous setbacks are required for the rear boundary to create a private and usable rear yard. Therefore I suggest the retention of the ODP which are 4.5m from the road, two 2m (side) setbacks and one 4.5m. Ideally for maximum solar orientation roads should be running north south so rear yards are usually on the east west

32 Man Street Properties Ltd (FS1107), Ngai Tahu Property Ltd & Ngai Tahu Justice Holdings Ltd (FS1226), Shotover Memorial Properties Ltd & Horne Water Holdings Ltd (FS1234), Skyline Enterprises Ltd & O'Connells Pavilion Ltd (FS1239), Skyline Enterprises Ltd & Accommodation and Booking Agents, A & R Stokes (FS1242), Trojan Holdings Ltd & Beach Street Holdings Ltd (FS1248), Tweed Development Ltd (FS1249)

33 M Hansen (60), K Syme (67), A M Mavora MacKenzie (83), R & E Le Berne Illes (132), P Sherrif (144), J & V Hamilton (148), M Paul (158), L Jackson (206) supported by FS1063, opposed by FS1274

boundaries. However as specifics vary according to site topography and house layout, I believe it is best to retain the ODP provision that allows the developer to define where the larger (4.5m minimum) setback lies.

10.22 The s32 report³⁴ outlines that overly restrictive planning rules (including setbacks) can impact on building costs through requiring non-standard designs. As a result, the s32 states that some liberalisation of the operative provisions is necessary to reduce building costs and to enable infill development at increased site densities.

10.23 I concur with the assessment provided within the s32 report and consider that the proposed setbacks, in conjunction with the other built form controls including building coverage and recession planes, will ensure that development is not overly constrained in its design and will not prevent infill development. However, the setbacks will still ensure that adequate space is provided between and around sites to maintain amenity values.

Exemptions

10.24 The NZIA (238) has suggested in relation to rule 7.5.9: Minimum Boundary Setbacks that the ability to skew boundaries such as that permitted in Jacks Point should be incorporated, as it would allow greater flexibility in siting and allow for better outdoor living spaces.

10.25 I have reviewed the Jacks Point "*Residential Design Guidelines*" (Version 3.0 – September 2009) which are the Council approved design guidelines against which applications for resource consent are assessed and found no provisions relating to skewing of boundaries. However, looking at the Jacks Point website, I found a document entitled "*Proposed – Subject to QLDC Approval: Residential & Comprehensive (Multi-Dwellings) Design Guidelines*" (2013). It is my understanding that this document does not have any status under the ODP and is a guideline produced by the developers of Jacks Point. Notwithstanding, this version of the guidelines includes the provision which the submitter refers:

"1.4 Ability to Skew

1.4.1 *Buildings can be skewed up to 1m beyond the setbacks line to improve siting where:*

- *Encroachment is on a maximum of two sides; and*

- *The revised siting does not compromise the privacy and sunlight for an adjoining site to any greater extent than that which would otherwise apply;*

1.4.2 *Walls outside the setback lines do not include any windows or glazed doors."*

10.26 I support the design intent of the above provision. However, as a regulatory control, I do not believe this would work. The second bullet point under 1.4.1 requires an exercise of judgement rather than a quantitative assessment. Consequently, to apply this as a rule would create confusion as to whether consent is or is not required.

10.27 Upon review of notified Chapter 41 – Jacks Point, I note that the following exception (rule 41.5.5.3(a)) has been included to the minimum boundary setbacks:

Any building may encroach into a setback by up to 1m for an area no greater than 6m² provided the component of the building infringing the setback has no windows or openings.

10.28 I note that no submissions were lodged on the above specific rule in Chapter 41.

10.29 The inclusion of a restriction on the area of the building permitted within the setback would mitigate potential dominance or overshadowing concerns. Furthermore, the rule also addresses potential privacy effects. The adoption of a similar exemption within the LDRZ would allow greater flexibility in design as promoted by the NZIA, whilst managing the potential effects. It would also achieve the objective of avoiding rules which may unnecessarily trigger resource consent where little design or amenity benefit is gained from the process. As a result, I recommend an exception to rule 7.5.9 to this effect. Refer to the recommended revised chapter in **Appendix 1**.

10.30 Aurum Survey Consultants (166) also seek an amendment to rule 7.5.9 to allow eaves and other protrusions into the setback. Nathan Shearing in his further submission (FS1202) supporting the above states that if the current ODP allowance is removed then a likely outcome will be buildings remaining up to the setback line but with eaves removed, resulting in higher walls and less 'texture' of the built form.

10.31 Given my recommendation above to incorporate an exception in line with that in Chapter 41, I do not see the need to provide additional exemptions in relation to chimneys and other projections. However I do support the exemption of eaves from the setback distances (up to 0.6m) provided they do not result in additional significant adverse effects upon adjoining properties in terms of dominance, overshadowing and

the like. Consequently, I have recommended one additional exemption within rule 7.5.9 for eaves. I note that the location of eaves can increase overshadowing effects; however the recession plane controls in rule 7.5.8 will still apply.

Garages

10.32 Two submissions³⁵ have been received in relation to rule 7.5.9 to allow garages to be constructed within the road setback as per the existing ODP rule 7.5.5 (this reference appears to be an error and is understood to be a reference to 7.5.3.2(i) (controlled activity) of the ODP), particularly on steep sites, and that this would likely reduce the amount of earthworks required. Furthermore, the submitters state that a single level garage with outdoor living area above would be preferable to open parking.

10.33 I concur that in some cases, particularly on sloping sites, garages and carports can be accommodated within the road setback without detriment to the streetscape. However I consider that this assessment is best undertaken via the resource consent process, rather than a blanket exception to the rule. The resource consent process will ensure that the proposed location and design of an accessory building within the road setback will not result in effects upon both adjoining neighbours and the streetscape in terms of dominance, safety, overshadowing and amenity amongst other matters, and will ensure that the development is consistent with the anticipated character of the LDRZ.

Consistency

10.34 I have recommended a change to Rule 7.5.9.2 to change reference of 'side and rear' boundaries to 'all other boundaries'. This is to reflect the wording within the Medium and High Density Residential chapters and is not considered a significant change.

Setback between Two Dwellings on Same Site

10.35 Notified rule 7.5.10: Building Separation Within Sites sets out a minimum separation distance of 6m between residential units on the same site. Non-compliances with this rule are restricted discretionary activities with discretion being restricted to the following:

- *"The extent to which site characteristics including the presence and positioning of existing buildings and vegetation, limits the ability to achieve compliance"*

35 Sean McLeod (389), Sean and Jane McLeod (397)

- *The extent to which the infringement enables better outcomes for overall amenity than would be achieved with a complying proposal*
- *The extent to which the design of the dwellings, with particular regard to the location of windows and doors, limits the potential for adverse effects on privacy between dwellings."*

10.36 Four submissions³⁶ request a reduction to 4m on the basis that two residential units on adjoining sites can be located 4m apart under rule 7.5.10. I support this argument given that it is likely that many additional dwellings will subsequently be subdivided off from the original dwelling and therefore will be akin to dwellings on side by side properties. I do however consider that the proposed 4m distance is a minimum setback distance and that non-compliances could result in quite varied effects. Consequently, I recommend that the activity status be changed from restricted discretionary to discretionary to allow all of the potential effects to be considered. This results in the notified matters of discretion no longer being relevant and these are recommended to be deleted in **Appendix 1**.

10.37 The above recommendation negates the need for the relief sought by T Proctor (169) to add an additional matter of discretion to the rule to allow consideration of ground level changes.

Building Coverage

10.38 Willowridge Developments Limited (249) has submitted in relation to Rule 7.5.5: Building Coverage (revised chapter 7.5.6) seeking that the maximum coverage be increased from 40% to 50% for lots between 450m² and 700m². This request is on the basis that 40% of 450m² equates to a ground floor area of around 180m², including garage, which is likely to be too small for many people.

10.39 The submission only provides market related reasons for the proposed increase and does not address potential effects at all. In addition, I note that the average house size in Queenstown in 2011 was 181m² according to qv.co.nz.³⁷

10.40 As the building height limits in rules 7.5.1 and 7.5.2 allow two storey developments within the LDRZ, I do not consider that the notified rule will unduly hamper

36 Aurum Survey Consultants (166), Sean McLeod (389), Sean and Jane McLeod (391), NZIA and Architecture + Women Southern (238) (submission 238 opposed by further submitters: Man Street Properties Ltd (FS1107), Ngai Tahu Property Ltd & Ngai Tahu Justice Holdings Ltd (FS1226), Shotover Memorial Properties Ltd & Horne Water Holdings Ltd (FS1234), Skyline Enterprises Ltd & O'Connells Pavilion Ltd (FS1239), Skyline Enterprises Ltd & Accommodation and Booking Agents, A & R Stokes (FS1242), Trojan Holdings Ltd & Beach Street Holdings Ltd (FS1248), Tweed Development Ltd (FS1249))
 37 On 12 April 2011

development. In terms of effects, I consider that the ratio of building size to land area is more important on smaller sites in terms of residential amenity for both the occupants of the site, as well as adjoining properties and within the streetscape. I also note that for infill development, the s32 report promoted the idea of 'gentle density' to ensure that the potential adverse amenity effects are mitigated. This rule is part of these controls. Consequently, I do not support the proposed change.

10.41 The NZIA (238) in relation to this rule (and rule 7.5.10) states that a minimum outdoor living space rule should be added to Chapter 7 in order to be more effective in creating good quality outdoor spaces. I note that a similar rule³⁸ is included within the ODP for the residential zones.

10.42 Mr Falconer has expressed a similar opinion, recommending that the requirement for a specific living court be included in the rule.

10.43 In reviewing the s32 report for reasoning as to the deletion of the ODP provision, whilst not explicitly mentioned, I anticipate that its deletion was one of the methods to address "*Issue 5: Housing supply, affordability and the impacts of restrictive planning controls*" (pages 13-15) which states:

"...development rules have been revised to improve rules which may be unnecessarily triggering resource consent (with little design benefit to be gained from the process), and to better accommodate a portion of infill housing supply."

10.44 Rule 7.5.5 (revised chapter 7.5.6) specifies a maximum building coverage of 40% and rule 7.5.7 requires a minimum 30% of the site area to comprise landscaped (permeable) surface. Overall, I consider that these two rules will ensure that there is sufficient space on the site for outdoor living, without mandating a specific size and minimum dimension. As a result, I recommend rejection of the proposed additional rule sought by the NZIA in relation to minimum outdoor space.

Recession planes

10.45 Notified rule 7.5.8 sets out the recession plane requirements for buildings. When compared to the recession plane angles prescribed within the ODP for the LDRZ, the angles have been relaxed. With regard to this, the s32 report states:

"Recession plane controls have been revised (consistent with some operative special zones) to specify different angles for northern, eastern, western and southern

38 7.5.5.2(viii)

boundaries – with the strictest control over the southern boundary. A 3D visualisation was developed to investigate the comparative effect of changing the recession plane at the southern boundary to 2.5 m and 35° from the operative provision of 2.5m and 25 (ie. an increase of 10°). This illustrates that shading impacts associated with a 35° recession plane are only marginally different to the impacts of the operative 25°, and will still be able to effectively mitigate adverse shading impacts. The revised recession plane controls will maintain appropriate and reasonable sunlight access whilst not hindering development."

10.46 The 3D visualisation³⁹ referred to within the s32 is included in **Appendix 9**. 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*".

10.47 Council in its corporate submission (383) seeks to include sloping sites within rule 7.5.8: recession planes. The notified rule as drafted only relates to flat sites including accessory buildings. The submitter states that the reason for the amendment is to protect amenity and sunlight access; and to address the potential for accessory buildings to be located within boundary setbacks without a recession plane control.

10.48 A comparison of the differences in the height and recession plane controls between the ODP and PDP shows that the only changes are the 0.5m increase to the maximum height in Arrowtown and the recession plane provisions no longer applying to accessory buildings on sloping sites. I anticipate that the latter is the intent behind the submission.

10.49 Under notified rule 7.5.9, accessory buildings can be located within the side and rear setback distances where they are not more than 7.5m in length and there are no windows or openings (other than for carports) along any walls within 1.5m of the boundary. If no recession planes were applied, an accessory building up to 7.5m long could be constructed up to a rear or side boundary with a height of between 6-8 metres depending upon the zone. To offset these potential building bulk and access to sunlight effects on the residential amenity of adjoining properties, I consider that the application of recession planes is necessary for sloping sites as well as flat sites. Consequently, I recommend that rule 7.5.8 be amended to ensure that recession planes apply to accessory buildings on sloping sites as well as flat sites.

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

10.50 Many submissions have also been received in relation to the new recession plane angles that are included within notified rule 7.5.8. Many of these⁴⁰ relate specifically to "Old Frankton", two⁴¹ relate specifically to Wanaka, and others⁴² are more general.

10.51 Conversely, the NZIA (238) support the varying angles on boundaries to take into account the sun angles. However they suggest that this is taken further and the required recession plane angle should change continuously according to the actual sun angle.

10.52 Mr Falconer in his evidence⁴³ supports the proposed recession planes for the following reasons:

"the steepening up the gradient for the recession plane allows for more flexibility in two level buildings and the shadow study diagram shows little difference between 25 and 35 degrees. I also note these proposed recession planes are the same as the ones used in Auckland and Christchurch, and are the same as proposed for medium and high density zones in the PDP."

10.53 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 LDRZ.

Height along Frankton Road

10.54 Submitter 208 (Pounamu Body Corporate Committee) has submitted in relation to notified policy 7.2.2.2 (revised chapter 7.2.1.3) and rules 7.5.1 and 7.5.2 with the aim of limiting the height of developments along Frankton Road to maintain views to Lake Wakatipu. The submitter seeks updates to the abovementioned PDP provisions to replicate the requirements within ODP Site Standard 7.5.5.2(xix)(a) which states:

"No building or building element on the south side of Frankton Road (SH6A) shall rise above the nearest point of the roadway centreline, except for the intrusion of a single building element of no more than one story in height above the nearest point of the roadway centreline and limited to a cumulative length parallel to the road of not more

40 M Hansen (60), K Syme (67), A M Mavora MacKenzie (83), J & V Hamilton (148), L Jackson (206) supported by FS1063 and opposed by FS1274

41 G Dickson (202), L King (230)

42 R & E Le Berne Illes (132), P Sherriff (144)

43 Paragraphs 3.20 and 3.21

than 10% of the length of the road frontage (to a maximum of 16 metres), used solely for access, reception and lobby uses related to the predominant use of the site.

This Rule applies to those properties from Cecil Road (Paper Road) to, and including, Lot 1 DP 12665."

10.55 The wording of the above ODP provision could be interpreted in various ways. Furthermore, monitoring compliance with the provision is difficult. The provision also appears to favour visitor accommodation or commercial uses, with the 10% exemption applying to reception and lobby uses.

10.56 Mr Falconer in his evidence states that the existing ODP rule protects the valued views of Lake Wakatipu from Frankton Road and so should be retained. However, Mr Falconer recommends deletion of the 10% exception for access, reception and lobby uses as this complicates and compromises the intent of the rule in maintaining a free unobstructed view from the road across to the lake. I concur with Mr Falconer's evidence in this regard and have inserted a new rule (7.5.16) and applied a restricted discretionary activity status to replicate the ODP activity status and to restrict discretion to retention of views.

Old Frankton

10.57 A number of submitters⁴⁴ are seeking for the ODP rules regarding density, setbacks, recession planes and heights for "Old Frankton" to be retained ahead of the PDP rules, as the development permitted as a result of the PDP rules would have significant amenity impacts (in particular, outlook, privacy, views, noise, parking and traffic). Further submissions in support⁴⁵ and in opposition⁴⁶ to these submissions have also been received.

10.58 The submitters have not defined the extent of "Old Frankton" with the exception of referring to PDP Map 33 which shows the entirety of the Frankton LDRZ. Looking at the existing housing stock in Frankton, I anticipate that the "Old Frankton" term relates to the LDRZ in Frankton and is being differentiated from the newer housing constructed within the adjacent Remarkables Park zone.

10.59 With regard to density, I note that the majority of the LDRZ land within Frankton is within the ANB or OCB of Queenstown Airport. The minimum density within the ANB

44 M Hansen (60), K Syme (67), A M Mavora MacKenzie (83), J & V Hamilton (148), L Jackson (206), M Paul (158), P Sherriff (144)

45 P Fleming and Others (FS1063)

46 J Thompson and MacFarlane Investments Limited (FS1274), New Zealand Fire Service (FS1225)

and OCB is proposed to be 450m² which is consistent with the ODP for land use consent. With respect to the remainder of the LDRZ within Frankton, the 'gentle density' approach will apply where a maximum of one residential unit per 300m² is allowed as a controlled activity, subject to additional units having a 5.5m height. Given this and the other built form controls outlined within Chapter 7, I anticipate that the character of Frankton will not be unduly compromised.

10.60 The majority of the abovementioned submitters have also specifically raised concerns that recession planes will not apply to sloping sites within Frankton and therefore the built form is only controlled by a 7m height restriction and a 2m boundary setback. The submitters are concerned about the potential significant effect upon outlook, privacy, views, sunshine and property values of existing dwellings as a result of this.

10.61 In comparing the ODP and PDP rules in relation to building height and recession planes, I note that with the exception of the recession plane angles and their application to only accessory buildings on sloping sites, the provisions are the same. Furthermore, as outlined above, I have recommended that recession planes for accessory buildings on sloping sites be included within rule 7.5.8. Consequently, both the heights and recession plane provisions are being maintained (or being recommended) between the ODP and PDP for the LDRZ.

10.62 With regard to setbacks, the primary difference between the ODP and the PDP is the reduction of the 4.5m setback requirement from one of the internal boundaries to a 2m requirement. Although this boundary setback requirement has been reduced, a maximum building coverage of 40% is being maintained from the ODP into the PDP. This site coverage restriction will regulate the built form both in relation to the overall site coverage but will also indirectly mitigate the effects of building bulk adjacent to all of the site boundaries. Furthermore, the 16m continuous building length remains but is limited to first floor and above.

10.63 Overall, the built form control changes between the ODP and PDP are considered to allow more flexibility in the design of dwellings and are not anticipated to result in significant changes to the built form within the LDRZ. As a result, I recommend that the submissions in relation to retention of the ODP rules in "Old Frankton" be rejected.

Height within the Frankton Visitor Accommodation Subzone

10.64 A Visitor Accommodation (VA) Sub-Zone has been identified over the LDRZ on the corner of Yewlett Crescent and Lake Avenue in Frankton. A number of submitters⁴⁷ have requested that the existing ODP rule 7.5.6.3(iii)(a)(vii) be incorporated into the PDP. K Syme (66) states that this rule in the ODP was added after the affected residents spent considerable time and money to have the height restrictions from the Transitional District Plan reinstated into the ODP when they realised that they had been omitted.

10.65 Although the VA Sub-Zones have been identified on the planning maps, the PDP does not include any specific provisions relating to them. These provisions are to be included within Stage 2 of the PDP. Consequently, the ODP zone rules (in particular ODP rules 7.5.6.3(iii)(a)(vii) and 7.5.6.3(iii)(b)(vi)) in relation to VA sub-zones continue to apply. Furthermore, as the VA provisions in relation to the LDRZ are now also included within Stage 2 of the PDP review, this will allow comprehensive consideration of all of the VA provisions relating to the LDRZ.

Arrowtown

10.66 Notified policy 7.2.5.2 relates to development within Arrowtown and states:

"Flat roofed housing forms are avoided."

10.67 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 The s32 analysis outlined that one of the objectives of Chapter 7 was to provide flexibility to small scale commercial uses (and alterations) where they are of benefit to the surrounding community. Furthermore, an additional issue has been raised through the submissions seeking flexibility to allow for the establishment and operation of community activities within the zone. Both of these issues will be addressed below.

47 Submitters 144 (P Sherriff), 206 (L Jackson) and 66 (K Syme)

Commercial Activities

- 11.2 David Barton (269) has submitted in relation to policy 7.2.9.2 (revised chapter 7.2.6.2) requesting that the words within the brackets "*(100m² or less gross floor area)*" be removed as the assessment should be whether the activity meets all of the other objectives and policies. I concur with the submitter in this regard as I consider that a quantitative parameter is more suited to a rule than a policy. The inclusion of this restriction also goes against the intent of the effects based approach in the PDP.
- 11.3 Given the non-complying activity status for Commercial Activities within notified rule 7.4.6, the wording of objective 7.2.9 (revised chapter 7.2.6) and its associated policies which include the words "*small scale*", "*low scale and intensity*" and "*is of a design, scale and appearance compatible with its surrounding residential context*", I consider that the deletion of the 100m² reference within policy 7.2.9.2 (revised chapter 7.2.6.2) is suitable. This will provide some flexibility in design but will still ensure Community Activities are of small scale and low impact.
- 11.4 The submitter has also recommended rewording notified policy 7.2.9.3 (revised chapter 7.2.6.3) which states:
- Commercial activities that generate adverse noise effects are not supported in the residential environment.*
- 11.5 The submitter states that this policy should be reworded to support adverse noise effects if they are controlled, for example, by soundproofing or hours of operation. I do not agree that this policy requires amendment for this reason, as the assessment of the potential adverse noise effects of a proposed Commercial Activity as part of a resource consent application would take into account any noise mitigation measures proposed. I do however note that the policy does not allow the surrounding context to be taken into account in the assessment as to whether potential adverse noise effects may be acceptable. Furthermore, the notified policy only refers to 'adverse noise effects' which could be construed by some as *any* noise emitted by the Commercial Activity. As a result, I have recommended that the policy be amended to ensure that noise effects associated with commercial activities are considered in terms of the context of the site and will not detract from residential amenity.
- 11.6 Submitter David Barton (269) also recommends the inclusion of a new policy as follows:

Commercial activity that encourages walking, less car use, increases sense of community and provides amenity to the local residents should be supported.

11.7 I consider that the intent of this additional policy is already provided for in the notified policy 7.2.9.1 (revised chapter 7.2.6.1) which seeks to ensure that Commercial Activities "*serve...local residents*". Hence their placement encourages walking or cycling, and seeks to "*enhance social connection and vibrancy of the residential environment*", which equates to increasing the sense of community and providing amenity. Consequently, I do not recommend the inclusion of the additional policy.

Community Activities

11.8 Both the Southern District Health Board (**SDHB**) (678) and the Ministry of Education (**MoE**) (524) have submitted in relation to the definitions of 'Community Activity' and 'Community Facility' and seek that the activity status for rule 7.4.8 be amended from discretionary to permitted.

11.9 The SDHB submission directly relates to the Lakes District Hospital⁴⁸ located within the LDRZ in Frankton. Under the ODP, the hospital is within the LDRZ; however it is also within the 'Community Facility Subzone'. The MoE submission is not related to any specifically defined property, however it raises similar matters.

11.10 With regard to the definitions, the SDHB supports the definition of 'Community Activity', however the MoE requests the replacement of the word 'schools' with 'education activities'. Both the SDHB and the MoE seek deletion of the definition of 'Community Facility' as the definition states that it only relates to the community facility sub zone of which there are none within the notified PDP maps.

11.11 It is noted that the ODP provides a number of provisions specifically for 'Community Facilities' within the 'Community Facility Sub-Zone' that differ from the built form controls for residential development within the surrounding LDRZ. These include a controlled activity status for the construction of buildings (rule 7.5.3.2), greater road and internal setbacks, landscaping and screening site standard, as well as increased building coverage and heights. Conversely, the PDP applies the same built form controls for 'Community Activities / Facilities' as for residential dwellings, whilst making the activity status for 'Community facilities and/or activities' discretionary.

11.12 While the Section 32 report provides limited reasoning for this proposed change in activity status and reduction in specific built form provisions, it does state:

48 20 Douglas Street, Frankton

Provision for community and commercial uses of an appropriate scale may therefore be considered within the Low Density Residential Zone, where there are potential benefits to be realised for economic and social interaction.

11.13 In order to guide the establishment and operation of community activities and facilities, notified objective 7.2.6 (revised chapter 7.2.4) and its related policies provide for community activities and facilities located in residential environments where they are of a design, scale and appearance compatible with the residential context and do not have adverse effects on residential amenity. This aligns with the above reasoning from the s32 report.

11.14 I consider that the proposed approach in the PDP to allow the establishment and operation of community uses such as hospitals, schools, libraries and the like within the LDRZ is of merit given this will allow local communities to be more self-sufficient for daily needs and encourage walkability within communities. Overall, the definition of Community Activity is:

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

11.15 I consider that retaining a discretionary activity status is appropriate to apply against the potentially broad range of effects and issues that could arise from such activities. I also note that the scale and intensity of the activity are likely to be important factors because of the location of these within the LDRZ and potential effects on amenity.

11.16 I also agree with the approach of applying the same built form controls to buildings associated with 'Community activities and/or facilities' as this will ensure that the amenity of adjacent residential properties is protected. I concur with the proposal by the SDHB and the MoE to delete the definition of 'Community Facility' in the context of the notified residential chapters. However, taking a wider view, I do not want to preclude the opportunity for community facility sub-zones to be included within the Stage 2 PDP review. Consequently, given there are no community facility sub-zones identified within the LDRZ, I recommend deletion of its reference within the Zone Purpose, notified objective 7.2.6 (revised chapter 7.2.4) and its associated policies as well as rule 7.4.8 to remove reference to facilities, and to change the term 'community

uses' into 'community activities' for the avoidance of doubt. However, I recommend retention of the definition of 'community facility'.

11.17 Both the SDHB and the MoE seek that the activity status for community activities be altered from discretionary to permitted. The SDHB seeks this change on the basis that the objectives and policies for community activities within the LDRZ are clear on what effects Council is seeking to control, and that the activity status does not recognise the critical importance of the Lakes District Hospital and its services. Furthermore, the SDHB points out that the cost of obtaining a resource consent will be taking away funding that could be used to deliver hospital and health services to the community. I accept this but am mindful of this sentiment being an overstatement. Good design, planning and site location could result in consenting costs that are insignificant to the cost of the build. The MoE seek the change in activity status on the basis that community activities are identified as being anticipated within the LDRZ. The proposed discretionary activity status will require every aspect of a new development to be considered which MoE states is inconsistent with the objectives and policies of the zone.

11.18 I agree with the SDHB and MoE in that objective 7.2.6 (revised chapter 7.2.4) and its associated policies do identify many of the potential effects associated with Community Activities. However, by virtue of their definition, Community Activities are diverse in their nature and the listed possible effects in these provisions are not exhaustive. For example, the effects of the establishment of a new hospital are likely to be different to the effects of a new detention centre.

11.19 A review of the resource consents within the last five years for the Community Facility Subzone associated with the Lakes District Hospital identified that two resource consents have been obtained in that period for additions and extensions to the existing buildings. Consent was required for both developments for non-residential buildings within the Community Facility Subzone which is a controlled activity under the ODP. Both of these consents had a restricted discretionary activity status by virtue of their breach of site standards which included breaches of setbacks, floor area, building length and earthworks. The average cost of these two consents was just over \$2000.

11.20 A review of the consents obtained by the MoE within the last five years has found that the majority of state schools within the Queenstown Lakes District are operated under a designation which necessitates the requirement for an Outline Plan rather than a resource consent for works. Notwithstanding, it is acknowledged that given the projected population increase in the Queenstown Lakes District, new schools may be

required in the District and that there are also a number of private schools in the District. Therefore consideration of the LDRZ provisions should still take this into account.

11.21 Overall, given the range of uses encompassed within the 'Community Activity' definition and the variable possible effects which may occur as a result, I consider that the discretionary activity status is most suitable to allow Council to consider all of the effects that may arise. Furthermore, I also recommend the change to the definition of 'Community Activity' requested by submitter 524 (MoE) to replace the reference to 'schools' with 'education activity' as this term encompasses a broader range of activities that can occur in conjunction with education.

11.22 In line with the above, the MoE (524) has also sought for the notified definition of 'Educational Facility' to be replaced with a new definition of 'Education Activity'. The Submitter seeks deletion of the 'Educational Facility' definition as it does not cover all activities undertaken by an education facility. The proposed definition of 'Education Activity' states:

"Means the use of land and buildings used for the primary purpose of regular instruction or training including early childhood education, primary, intermediate and secondary schools, tertiary education and including ancillary administrative, cultural, recreational, health, social and medical services (including dental clinics and sick bays) and commercial facilities."

11.23 The above proposed definition is considered to be more encompassing than the notified definition of 'Educational Facility' and provides more certainty to both education providers and the community as to the range of activities associated with education that are acceptable. For this reason, I recommend acceptance of the proposed deletion of the 'Educational Facility' definition and adoption of the new definition of 'Education Activity'. Given that the term 'Education Activity' is encompassed within the definition of 'Community Activity', only a change to the definition of 'Community Activity' is required. No further chapter changes are necessary.

11.24 The MoE (524) also seek an amendment to the definition of 'Day Care Facility' to specify that this definition does not encompass early childhood education that provides the Ministry of Education early childhood education curriculum. I consider that given the recommended adoption of the new definition of 'Education Activity', which expressly includes early childhood education, this amendment to 'Day Care Facility' is not required.

11.25 The New Zealand Fire Service (**NZFS**) (438) has stated that it supports the definition of 'Community Activity' however also propose a new definition of 'Emergency Service Facility'. The submitter states that the inclusion of this definition is necessary to acknowledge the key role that emergency services have within the community and to distinguish this from a community activity. I acknowledge the importance of these services; however I do not see a need to distinguish this from a community activity. The definition of 'Community Activity' includes "*the use of land and buildings forhealth, welfare, care, safety...*" and also specifically mentions police stations and fire stations. For the purposes of administering the RMA, I consider that the definition of 'Community Activity' is sufficient.

11.26 I note that the NZFS (438) may have confused the definitions of 'community activity' and 'community facility' in that the definition of 'community facility' does not include reference to all emergency service facilities as 'community activity' does. Given that there are no community facility sub-zones within the Stage 1 PDP review, I still do not consider that the relief sought is warranted.

Built Form Controls for Community Activities

11.27 The NZFS (438) has submitted in relation to rules 7.5.1: Building Height (flat sites), 7.5.2: Building Height (sloping sites) and 7.5.5: Building Coverage (revised chapter 7.5.6), seeking exemptions from these standards for fire station drying towers (height) and for fire station buildings (coverage). Whilst I acknowledge that community services such as the fire service have special requirements to enable their establishment and operation within the LDRZ, being located within the LDRZ requires a balance between these requirements and the potential effects upon the residential amenity of the surrounding area.

11.28 As outlined above, I consider that community activities should be subject to the same built form controls as other development within the LDRZ so that the potential effects of any non-compliances can be assessed. Notified objective 7.2.6 (revised chapter 7.2.4) and its associated policies seek to 'enable' or 'ensure' the establishment of community activities where impacts can be avoided and where a development is compatible with its context. As such, I recommend no changes to the abovementioned provisions on this basis.

12. ISSUE 4 – NOISE

- 12.1 A common issue raised by submitters in relation to the LDRZ is for the protection of existing activities from noise related reverse sensitivity effects associated with both the operation of Queenstown Airport and also the use of State Highways. These matters will be addressed below.

Setbacks from State Highways

- 12.2 The NZTA (719) seek to add another policy to objective 7.2.10 (revised chapter 7.2.7) as follows:

Ensure all new and altered buildings for residential and other noise sensitive activities (including community uses) located within the State Highway road noise effects area are designed to meet internal sounds levels of AS/NZ 2107:2000.

- 12.3 Linked to the above policy, the submitter has also suggested an additional sub-rule be included within rule 7.5.9: Minimum Boundary Setbacks to require any new residential unit (or building containing activities sensitive to road noise) located within 80m of the edge of the seal of a State Highway with a speed limit of 70km or greater, or located within 40m of the edge of the seal of a State Highway with a speed limit of less than 70km to have acoustic attenuation such that internal noise levels do not exceed 35 dB LAeq(1 hr) inside bedrooms, or 40 dB LAeq(1 hr) inside other habitable spaces in accordance with AS/NZ2107:2000.
- 12.4 Overall, I concur with the intent of the NZTA's (719) submission in ensuring that any new residential units are designed or insulated to minimise the disturbance from noise associated with the use of the State Highway network. I note that the majority of the proposed LDRZ land located within 40-80m of the State Highway network is already developed for residential purposes; however the intent of this rule is to capture the development of noise sensitive uses moving forward.
- 12.5 Dr Chiles has stated that the NZTA has previously published a case study in relation to the costs of acoustic treatment for road noise, showing them to be approximately \$10,000 on top of the cost of a new building three bedroom house. I consider that this additional cost is significant, particularly when affordability within the District is an issue; however the importance of the State Highway network is also significant.
- 12.6 I note that the proposed LDRZ properties adjacent to Kawarau Road and adjacent to Frankton Road (eastern end) are located within the ANB or OCB which are already

subject to acoustic attenuation measures in rules 7.5.3 (revised chapter 7.5.4) and 7.5.4 (revised chapter 7.5.5). Dr Chiles has stated that the parameters for airport noise and road noise differ on the basis of the different characteristics of the two sources and the lesser annoyance caused by road noise. I considered aligning these rules to prevent the need to comply with two different noise standards, however Dr Chiles has recommended against this for the following reasons:

It is not practical to combine these requirements as each house will be exposed to airport noise and road-traffic noise to different extents. For each house, the exposure to each source would need to be assessed, and then acoustic treatment implemented to address the more onerous of the two requirements. This should then satisfy the less onerous requirement without additional treatment.

12.7 I therefore concur with Dr Chiles' advice in this regard and acknowledge that a second rule may be required.

12.8 Having identified a need for the additional policy and sub-rule, the proposed wording also requires review. The proposed wording of the policy (revised chapter 7.2.7.3) includes the words '*located within the State Highway road noise effects area*'. This area is not defined anywhere, consequently, I recommend the wording be altered to say '*within proximity of the State Highway*', with the qualifiers of the distance being included within the rule.

12.9 In relation to the new rule proposed by the NZTA (719), I find the proposed wording to be problematic. Firstly, with regard to the reference of the edge of the seal of the State Highway. The edge of the seal is not mapped and may move following re-sealing or modifications; it is not set in the same way as a property boundary. Consequently, the road boundary should be used as this is fixed.

12.10 Dr Chiles has provided comment in **Appendix 4** as to the internal sound level criteria proposed by the NZTA (719). Dr Chiles recommends that the criterion be amended to 40 dB $L_{Aeq(24h)}$ for all habitable spaces including bedrooms rather than the levels specified by the submitter. Dr Chiles notes that this is consistent with both NZS 6806 and NZTA's published guidance and, consequently, I concur with this.

12.11 Dr Chiles also recommends that the AS/NZS 2107 standard not be included within the proposed policy or rule for the following reason:

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.

12.12 I concur with Dr Chiles' advice in relation to the proposed rule as compliance with the proposed level is a clear trigger rather than the reference to the standard. However, I do not recommend replication of the noise criterion within the proposed policy (revised chapter 7.2.7.3), as a non-complying activity resource consent may be sought at times to breach the rule. Consequently, a policy specifying the same limit might essentially result in a prohibited activity status as the development would be contrary to the policy. I do not anticipate that breaches of the rule will be sought frequently and I cannot think of any situations to hand where this may be acceptable; however there may be some unforeseen cases where this is suitable. Consequently, I recommend that the policy still reference the standard rather than the noise limit.

12.13 In addition to the above, I note that the NZTA (719) has recommended that the new rule be included within existing rule 7.5.9, however I recommend that this be a standalone separate rule (revised chapter 7.5.15). The notified (and recommended) activity status for rule 7.5.9 is discretionary, however I propose a non-complying activity status for the new proposed rule (revised chapter 7.5.15) to correlate with the activity status proposed for rules 7.5.3 (revised chapter 7.5.4) and 7.5.4 (revised chapter 7.5.5) relating to acoustic measures as a response to Queenstown Airport operations. I acknowledge this recommendation is different to Mr Barr's recommendations in the rural chapter. However, the situation is different within the LDRZ where residential development is permitted and setbacks are less.

Queenstown Airport

12.14 With regard to Queenstown Airport, submitters⁴⁹ support the inclusion of the provisions relating to sound insulation and mechanical ventilation in rules 7.2.10.1 (revised chapter 7.2.7.1), 7.2.10.2 (revised chapter 7.2.7.2), 7.5.3 (revised chapter 7.5.4) and 7.5.4 (revised chapter 7.5.5). Consequently, the only remaining matter to address is with regard to relocated buildings and notification.

49 H Tapper (24), K Hubber Family Trust No. 2 (35), M McKellar & A Stevenson (36), KE & HM Hamlin and RD Liddell (43), B Williams (141), P Sherriff (144), L Jackson (206) supported by FS1062 and opposed by FS1274, J Phelan and B Herdson (485), BARNZ (271) opposed by FS1117 and FS1097, QAC (433) opposed by FS1117 and FS1097

12.15 A submission and further submission on Chapter 35: Temporary Activities and Relocated Buildings is of relevance to the consideration of the LDRZ chapter, in particular, rules 7.5.3 (revised chapter 7.5.4) and 7.5.4 (revised chapter 7.5.5) which relate to development within the ANB and the OCB. Submitter 496 (House Movers Section of New Zealand Heavy Haulage Association Inc) has submitted on Chapter 35 seeking a permitted activity status for relocated buildings subject to compliance with a number of criteria. The QAC in its further submission 1340 has opposed this relief on the basis that all relocatable dwellings should be subject to the performance standards of the zone in which they will be located, including any requirement to provide acoustic treatment.

12.16 Within her Section 42A report on Chapter 35, Council planner Ms Kim Banks has accepted in part submission 496 and specified that relocatable dwellings are to be permitted activities subject to the relevant zone controls. This is appropriate within the LDRZ; however I note that policies 7.2.10.1 (revised chapter 7.2.7.1) and 7.2.10.2 (revised chapter 7.2.7.2) as well as rules 7.5.3 (revised chapter 7.5.4) and 7.5.4 (revised chapter 7.5.5) which relate to sound insulation and mechanical ventilation of buildings within the ANB and OCB only refer to 'new' buildings. Consequently, this could be interpreted to mean that relocated dwellings are not covered by this rule and could present a potential loophole. As a result, to coincide with Ms Banks' recommendation, I recommend that the word 'New' within policies 7.2.10.1 (revised chapter 7.2.7.1) and 7.2.10.2 (7.2.7.2) and rules 7.5.3 (revised chapter 7.5.4) and 7.5.4 (revised chapter 7.5.5) is deleted so that reference is only to the word 'building'.

12.17 The QAC (433)⁵⁰ has submitted requesting a new provision under 7.6 to specify that Queenstown Airport should be served notice for any development which does not comply with rules 7.5.3 (revised chapter 7.5.4) or 7.5.4 (revised chapter 7.5.5). I do not consider that this is necessary given that the activity status for breaches of 7.5.3 (revised chapter 7.5.4) and 7.5.4 (revised chapter 7.5.5) is non-complying which would allow consideration of effects upon Queenstown Airport and possible notification.

13. ISSUE 5 – TRANSPORT AND INFRASTRUCTURE

Transport

13.1 The Otago Regional Council (**ORC**) (798) has submitted upon the objectives in 7.2 of the PDP stating that uncontrolled urban development puts the ability to provide public transport services and connections and their viability at risk. As a result, the ORC has

50 Supported by FS1077 and opposed by FS1117 and FS1097

requested that development enable the efficient use of public transport services, making use of existing services.

- 13.2 The approach of the PDP is to allow increased densities within the urban growth boundaries so as to prevent or limit the outward sprawl of the urban areas into the surrounding greenfield areas. In the LDRZ, densities are proposed to be increased through allowing greater infill development. This potential infill development will increase the population numbers within areas which will in theory increase the viability of existing and future public transport links to the LDRZ. Consequently, I consider that the proposed LDRZ approach of increased densities will allow efficient use of existing and future public transport services in line with the ORC submission. Therefore no changes to the PDP are proposed in this regard.
- 13.3 M Lawton (117) has submitted in relation to objective 7.2.6 (revised chapter 7.2.4) recommending that the purpose of this objective should include catering for people being able to walk or cycle rather than drive due to the proximity of community activities to the residents that use their services. I note however that policy 7.2.7.3 (revised chapter 7.2.5.3) already seeks to ensure that development is integrated with and improves connections to both public transport and active transport networks. This policy would also apply to community activities; therefore there is no reason to replicate this within 7.2.6 (revised chapter 7.2.4). Furthermore, the location of community activities within the LDRZ is to allow ready accessibility to the services by residents within the surrounding area, which in turn does promote walking, cycling and the like.
- 13.4 The NZTA (719) seeks to amend policy 7.2.7.3 (revised chapter 7.2.5.3) to also ensure developments are integrated with all transport networks, not just public transport and active transport networks. I support this submission point and agree that developments should integrate with all transport networks. Accordingly, I recommend acceptance of the proposed change to policy 7.2.7.3 (revised chapter 7.2.5.3).
- 13.5 NZTA (719) has submitted in relation to the matter of discretion in notified rule 7.4.10.2 which relates to the construction of two or more dwellings per site in Arrowtown and three or more on sites in the remainder of the LDRZ. The submission specifically relates to the matter of discretion relating to parking and access (6th bullet point in notified version of chapter) and requests a minor modification to the matter to specify the efficiency of the *roading network*, due to the present drafting not qualifying what is intended to be efficient. I do not support this modification as the current wording is more general and will allow consideration of parking and access effects in relation to both the road network as well as on site.

13.6 NZTA (719) has also submitted on notified rule 7.6.2 which states:

The following Restricted Discretionary activities shall not require the written consent of other persons and shall not be notified or limited-notified:

7.6.2.1 Residential development

13.7 The submitter notes that for residential development requiring access on to a State Highway, only the NZTA as road controlling authority can assess the access and safety and efficiency of the State Highway. Consequently, the submitter has requested modification of 7.6.2.1 to seek an exemption for *"residential development adjacent to the State highway where the road controlling authority shall be deemed an affected party"*.

13.8 I note that there are numerous LDRZ properties which are located along the State Highway, many of which have access directly on to the State Highway. Infill development or redevelopment of these properties which access on to the State Highway does have the potential to affect the safety and functioning of the road. Consequently, I agree with the submitter that an exception for properties along the State Highways is required. I disagree however with the submitter's use of the word "adjacent" within its proposed wording of the provision, as I do not consider that the NZTA would necessarily be affected by development occurring on land adjacent to the State Highway, only those which are having direct access. Although I support an addition to the rule, I have recommended alternative wording only relating to proposals which seek direct access on to the State Highway.

13.9 Arcadian Triangle Ltd (836) has also submitted in relation to 7.6.2 and notes that there is no specific activity defined as "Residential development" within the LDRZ chapter and that the non-notification rule should refer specifically to the activity being referred to. I agree with this submitter and consider that the intent was for the non-notification status to apply to rule 7.4.10. As notified, this rule allowed the infill development of three or more residential units (two or more in Arrowtown) as a restricted discretionary activity, and now as recommended relates to residential development on sites with a net site area of between 300m² and 449m² as a controlled activity. Consequently, I recommend that rule 7.6.2.1 be amended to cross-reference to 7.4.10.

13.10 Aurum Survey Consultants (166) has submitted in relation to rule 7.5.15: Parking – Residential Flat and queried why the other residential car parking requirements are not included and whether this rule should reside with the other car parking rules. As I

am unaware of any car parking related assessments being undertaken in support of this rule, I agree with the submitter that this rule should be included with all of the other car parking related rules within the Transportation Chapter which will be reviewed as part of Stage 2 of the District Plan review. I recommend deletion of this rule.

Infrastructure

- 13.11 Transpower New Zealand Ltd (805) recommends that objective 7.2.7 (revised chapter 7.2.5) be amended 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. Further submissions 1121 (New Zealand Defence Force) and 1340 (QAC) support this submission. I do not consider that the relief sought is warranted for the LDRZ as the location and likely built form parameters are well defined and the outcome of development can easily be identified.
- 13.12 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. 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 notified policies 30.2.6.1 and 30.2.6.4. I note that Mr Barr has recommended changes to these policies within his s42A report 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 LDRZ.
- 13.13 The Kelvin Peninsula Community Association (72) supported by the Kawarau Village Holdings Limited (FS1352) questions whether existing infrastructure is adequate to sustain planned and zoned growth in Kelvin Heights, in particular sewerage.
- 13.14 Mr Glasner in his evidence in relation to Chapter 7⁵¹ responds to these submissions stating that there is capacity within the Kelvin Heights sewerage system for the planned growth and that additional upgrades are also planned over time as identified within the current Long Term Plan.

51 Paragraph 3.2

13.15 John Harrington (309) also questions whether stormwater in Arrowtown would become an issue as a result of the proposed increased density. This will still allow for the disposal of stormwater to ground. Mr Glasner states⁵² that most of Arrowtown relies upon a ground soakage stormwater system and that notified rule 7.5.7: Landscaped Permeable Surface Coverage requires a minimum of 30% site area to be permeable landscaped surface in the LDRZ which will ensure that this can continue to occur.

13.16 Overall, I consider that the notified LDRZ chapter including objective 7.2.7 (revised chapter 7.2.5) and its policies, in particular 7.2.7.2 and 7.2.7.3 (revised chapter 7.2.5.2 and 7.2.5.3) will be effective in their application.

14. ISSUE 6 – OTHER MATTERS

Non-Complying Activity Status for Unlisted Activities

14.1 Totally Tourism Limited (571) has submitted against the non-complying activity status of rule 7.4.1 which relates to activities which are not listed within the activity table. This submission is on the basis that the Visitor Accommodation provisions have been removed from the LDRZ chapter and are being re-visited as part of Stage 2. The Submitter states that if the LDRZ chapter becomes operative before Stage 2 is commenced, landowners will be required to seek a non-complying activity consent under the PDP (with no objectives and policies to guide the assessment) as well as consent under the existing ODP rules.

14.2 It is my understanding that Council is intending to notify Stage 2 prior to a decision being made on the Stage 1 PDP. Notwithstanding, decisions on the District Plan are frequently the subject of appeals, as such, I anticipate that it will be some time until Stage 1 of the PDP becomes operative. Consequently, I consider that the likelihood of the scenario put forward by the submitter is low.

14.3 I support the non-complying activity status in rule 7.4.1 to ensure that all of the potential effects of any future unanticipated uses can be assessed and that they are not contrary to the objectives and policies of the chapter. I consider that this robust assessment is necessary in order to protect the amenity of the LDRZ.

⁵² Paragraph 3.4

Definitions

14.4 Numerous submissions have been received in relation to the definitions of words included within the LDRZ chapter but defined within Chapter 2 – Definitions. Where these have not been addressed above in relation to a wider matter, these are addressed below.

Building

14.5 Submitter 170 (C Steele) has submitted in relation to the definition of 'building', in particular the last bullet point in the definition which states:

"Notwithstanding the definition set out in the Building Act 2004, a building shall include:

- *Any vehicle, trailer, tent, marquee, shipping container, caravan or boat, whether fixed or moveable, used on a site for residential accommodation for a period exceeding 2 months."*

14.6 I note that Ms Kimberly Banks in her section 42A report in relation to Chapter 35: Temporary Activities and Relocated Buildings has recommended a change to this definition as follows:

Any vehicle, trailer, tent, marquee, shipping container, caravan or boat, whether fixed or moveable, used on a site for a residential accommodation unit for a period exceeding 2 months.

14.7 The submitter seeks the deletion of this point on the basis that short term accommodation is needed by many seasonal workers in Queenstown and will continue to be for some time.

14.8 The Section 32 report identified an issue with the ODP definition of a building (which did not include the abovementioned clause) as follows:

From time to time issues arise with vehicles being used for accommodation on a long term basis. In this regard the 2004 Act only includes the following in its definition of building...

(s8(1)(b)(iii)) "...a vehicle or motor vehicle (including a vehicle or motor vehicle as defined in section 2(1) of the Land Transport Act 1998) that is immovable and is occupied by people on a permanent or long-term basis."

This leaves a gap in how the Plan deals with moveable vehicles that are occupied on a site on a long-term basis.

- 14.9 I believe that the inclusion of the last bullet point is important as it allows Council to consider the potential effects of these vehicles and structures upon residential amenity and can ensure that adequate servicing is provided (where necessary). In saying this, where these vehicles or structures are classified as buildings, they would be subject to the same built form controls as other buildings within the zone. Consequently, this amendment is not considered onerous and would still allow the short term use of these vehicles and structures for storage and other purposes but will also allow temporary short term accommodation up to two months. As a result, I reject this submission point and recommend retention of the notified definition of 'building'.

Activity Sensitive to Aircraft Noise (ASAN)

- 14.10 Submitter 243 (C Byrch) has stated that the definition of ASAN should specifically include outdoor spaces associated with residential, visitor accommodation, community and day care activities as people do not live all of their lives inside. Furthermore, BARNZ (271) requests that educational classrooms, buildings and playgrounds are included within the definition of ASAN.

- 14.11 The definition of ASAN in the PDP states:

Means any residential activity, visitor accommodation activity, community activity and day care facility activity as defined in this District Plan including all outdoor spaces associated with any educational facility, but excludes activity in police stations, fire stations, courthouses, probation and detention centres, government and local government offices.

- 14.12 The Section 32 report in relation to the definition of ASAN states that it has been copied from Plan Change 35. Although this is not yet operative, all of the changes to definitions have been resolved by agreement of all parties.

- 14.13 In relation to the LDRZ, the inclusion or exclusion of outdoor areas associated with the abovementioned uses does not result in any additional implications. All of the associated provisions including policies 7.2.10.1 (revised chapter 7.2.7.1), 7.2.10.2 (revised chapter 7.2.7.2) and rules 7.5.3 (revised chapter 7.5.4) and 7.5.4 (revised chapter 7.5.5) relate to the requirement for buildings (and additions and alterations to buildings) to be designed to the noise levels, rather than uses.

14.14 To extend the definition to include outdoor spaces, and for this change to be meaningful would also require a change to the policies and rules. However, this change could potentially result in all of the LDRZ land within the ANB or OCB being incapable of development for ASAN activities such as residential or community activities, by virtue of outdoor spaces not being able to be designed or insulated like indoor spaces to mitigate noise effects. Consequently, I do not support the proposed addition of outdoor spaces associated with residential, community and day care facilities to the definition of ASAN.

14.15 With regard to the relief sought by BARNZ (271), I note that the notified definition of ASAN includes 'Community Activity' and the notified definition of 'Community Activity' includes the use of land and buildings for the purpose of education and expressly refers to schools. Consequently, I consider that the relief sought is already provided for within the notified definition.

14.16 As outlined above (Issue Reference 4), NZTA (719) has recommended an additional policy and rule in relation to road noise sensitive activities, however there is no corresponding definition. Consequently, as a consequential amendment to the NZTA (719) submission, I recommend that the definition of ASAN also refer to activities sensitive to road noise.

Residential activity, Residential, Residential Unit, Residential Flat, Dwelling

14.17 Submitter 243 (C Byrch) has submitted in relation to the definitions of Residential Activity, Residential Flat and Residential Unit stating that these definitions need to be clearly written and renamed to make clear whether it is the building or activity being referred to.

14.18 I consider that these definitions, when read in conjunction with one another, are clear in their intent. Specifically, the definition of 'Residential Activity' includes 'the use of land and buildings' which makes it clear that the 'Residential Unit' and 'Residential Flat' definitions (which include the words 'residential activity') relate to both the residential building and the activity.

14.19 QAC (433) seeks that the definitions of 'Residential Activity' and 'Residential Unit' be retained as notified, however that the definition of 'Residential Flat' is amended to clarify that a residential flat is limited to one per residential unit or one per site, whichever is less. Further submissions (RPL (FS1117) and QPL (1097)) have

opposed all of these submission points where the definitions are inconsistent with Plan Change 35.

14.20 The implications of QAC's (433) request to limit the number of residential flats per property to one per unit or site, whichever is less, would apply to residential flats throughout the District, not only those within the ANB or OCB over which Submitter 433 has an interest. In the interest of increasing housing diversity and affordability within the District, I consider that the construction of residential flats should be promoted. Furthermore, residential flats can provide greater flexibility over time for households which can provide financial and social advantages. For example, a flat could be rented out for a few years until a teenage family member or extended family take residence.

14.21 Overall, I consider that the limitation of a maximum of one residential flat per property is in opposition to the intent of the PDP to address growth and affordability issues. Consequently, I recommend that this submission be rejected. I also note that the definition of 'Residential Flat' was not amended by Plan Change 35 and therefore my recommendation is consistent with this plan change.

14.22 Submitter 836 (Arcadian Triangle Limited) has also submitted in relation to the definition of 'Residential Flat' and requested that the definition be amended to remove the 70m² reference and to reinstate the ODP 35% floor area limitation, along with deletion of the reference to 'leasing' and to clarify the intention of the last two notes. This submission has also been considered in a rural context in Hearing Stream 2 which included the Rural Zone (Chapter 21), Rural Residential and Rural Lifestyle Zones (Chapter 22) and the Gibbston Character Zone (Chapter 23). A modification to the notified definition was recommended by Council planner, Mr Craig Barr within his right of reply (change proposed in Right of Reply underlined):

"Means a residential activity that comprises a self-contained flat that is ancillary to a residential unit and meets all of the following criteria:

- *Has a total floor area not exceeding 70m², and 150m² in the Rural Zone and Rural Lifestyle Zone, not including the floor area of any garage or carport;*
- *contains no more than one kitchen facility;*
- *is limited to one residential flat per residential unit; and*
- *is situated on the same site and held in the same ownership as the residential unit, but may be leased to another party.*

Notes:

- *A proposal that fails to meet any of the above criteria will be considered as a residential unit.*
- *Development contributions and additional rates apply."*

- 14.23 The s 32 report identified a number of issues with the ODP definition of 'Residential Flat' stating that it enables the construction of very large residential flats where associated with a large dwelling and has encouraged the construction of oversized garages to enable a large floor area for a flat. The s 32 also noted that the use of Gross Floor Area is confusing, there is no mention of provision of a bathroom and that overall the definition lacks clarity.
- 14.24 As a result, the s32 report states that the proposed 70m² maximum floor area (excluding garages and carports) will ensure that flats remain ancillary to the main residential unit and will still enable a basic one or two bedroom flat to be constructed. Furthermore, garages and carports have been excluded so that the 70m² limit only applies to the habitable floor area of the flat. In consideration of the residential context, I concur with the findings of the s32 report and consider that the 70m² floor area limit is more appropriate than the 35% proposed by the submitter.
- 14.25 Submitter 836's (Arcadian Triangle Limited) request for the deletion of the 'leasing' reference is on the basis that it could mean any form of use by somebody other than the occupants of the residential unit, whether commercial or non-commercial. The submitter therefore recommends the deletion of this point or moving it to the advice notes. With regard to this point, the s32 report states that flats can continue to be leased which is a continuation of the status quo under the ODP.
- 14.26 I anticipate that the inclusion of this 'leasing' statement is as a point of clarification in the context of the preceding clause *"is situated on the same site and held in the same ownership as the residential unit..."*, and that it may be the word 'leasing' causing the problem. This word could be replaced by 'rented' to give a more residential context, however this wording could also have implications for the ability or restriction on the letting of residential flats for visitor accommodation purposes, which is to be considered in Stage 2 of the District Plan review for the residential zones. I note that the notified definitions of both 'Residential Activity' and 'Residential Unit' do not preclude renting of properties for permanent residential purposes. Consequently, given the above considerations, I recommend that the reference to leasing to another party is deleted as it is not necessary.
- 14.27 With regard to Arcadian Triangle Limited's (836) request to make it clear that the last two bullet points of the 'Residential Flat' definition are advisory only, I concur and recommend the insertion of the word 'Advice'.
- 14.28 Submitter 836 has also submitted in relation to the definition of 'Dwelling' and raises the following issue:

"The Operative District Plan refers only to a "residential unit" and contains no reference to "Dwelling". That approach has operated very well for the past 20 years, without causing any difficulties. It is unclear why a new definition of "Dwelling" has now been included, particularly when it is intended to have the same meaning as "residential unit". Including this new definition, together with use of the term "Dwelling" in other parts of the plan, adds an unnecessary complication without achieving anything."

14.29 The s32 report in relation to this definition states that the definition has been introduced into the District Plan Residential zones and is linked to the definition of 'Residential Unit' which is the overarching definition that captures various means of providing residential activities.

14.30 I agree with the submitter in that there is no need for the inclusion of the new definition of 'Dwelling', as I consider that the conjunction of the 'Residential Activity', 'Residential Unit' and 'Residential Flat' definitions are adequate to describe and regulate the provision of residential accommodation. Whilst I consider that the term 'Dwelling' would be more familiar to lay persons or people unfamiliar with the Queenstown Lakes District Plan, I do not believe that the other residential related definitions are too obscure. Consequently, I support the proposed deletion of the definition of 'Dwelling'. This recommended deletion requires deletion of the reference to 'Dwelling' within the definition of 'Residential Unit' and also necessitates deletion or replacement of the word 'Dwelling' to 'Residential Unit' within a number of the provisions in the chapter. This recommendation also necessitates changes to provisions within Chapters 8 – 11.

Bulk Material Storage

14.31 'Bulk Material Storage' is included as a prohibited activity in rule 7.4.5; 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 this effect; however this change will reduce the potential for confusion.

Drafting style for objectives and policies

14.32 In the Panel's fourth procedural minute dated 8 April 2016, concern was expressed that many objectives and policies were not framed as such. Accordingly, I have amended the wording being careful not to alter the intent of the provisions within the LDRZ chapter as identified in **Appendix 1**.

14.33 I have also applied the same approach to the matters of restricted 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 7.4.10 and 7.5.11.

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 above the typed name and title.

Amanda Leith

Senior Planner

14 September 2016