

## Queenstown Lakes District Proposed District Plan – Stage 1

### Section 42A Hearing Report For Hearing commencing: 2 May 2016

Report dated: 6 April 2016

Report on submissions and further submissions

### Chapter 22 Rural Residential and Rural Lifestyle

File Reference: Chp. 22 S42A

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

Dr Marion Read Landscape Architect – statement dated 6 April 2016.

## 1. EXECUTIVE SUMMARY

- 1.1. The framework, structure and majority of the provisions in the Proposed District Plan (**PDP**) Chapter 22 Rural Residential and Rural Lifestyle Zones (**Chapter 22**) should be retained as outlined and supported in the section 32 (**s32**) report. Except where I am in agreement with submitters and have recommended a change to the provisions, I consider that the notified provisions are more effective and efficient than the changes sought by submitters, and that the recommended Chapter better meets the purpose of the Resource Management Act 1991 (**RMA**) than the Operative District Plan (**ODP**). Key reasons include:
- a. The objectives and policies as recommended to be modified are the most appropriate way to enable rural living opportunities while protecting, maintaining and enhancing amenity within the Rural Lifestyle and Rural Residential Zones, and protecting, maintaining and enhancing amenity of the wider Rural Zoned landscape values.
  - b. The rules making buildings within an approved building platform, and additions to established buildings outside of a building platform permitted subject to standards controlling colour, the size of any one building and height, are the most appropriate way to efficiently manage anticipated development.
  - c. The new rule providing an opportunity for residential building platforms to establish through a land use consent is an improvement on the existing regime.
  - d. The objectives, policies and rules focus on residential, farming and home occupation activities as the predominant land uses, but do recognise opportunities for community activities where the intensity and location would be appropriate.
- 1.2. Several changes are considered appropriate, and these are shown in the Revised Chapter attached as Appendix 1 (**Revised Chapter**).

## 2. INTRODUCTION

- 2.1. My name is Craig Alan Barr. I am employed by the Queenstown Lakes District Council (**QLDC**) as a senior planner and I am a full member of the New Zealand Planning Institute. I hold the qualifications of Bachelor of Science and Master of Planning from the University of Otago. I have been employed in planning and development roles in local authorities and private practice since 2006. I have been employed by the QLDC (including former regulatory provider Lakes Environmental Limited) since 2012, in both district plan administration and policy roles.

- 2.2. I am the principal author of the notified PDP Chapter 22 Rural Residential and Rural Lifestyle Zones.

### **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. 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 purpose statement, objectives and provisions of the PDP Chapter 22.
- 4.2. My evidence does not address the submissions and further submissions on rezoning requests. My evidence also does not address the submissions and further submissions that challenge the appropriateness of the Rural Residential and Rural Lifestyle Zones as notified in the PDP and as they apply to the land in question (as these are essentially rezoning requests). This includes the Wyuna Rural Lifestyle Zone. Other areas include the 'new' Rural Lifestyle Zone areas being pursued within the Wakatipu Basin, which are rezoning submissions. These submissions and further submissions will be addressed at the hearing on mapping (and this is set out in the Accept / Reject table in Appendix 2 to this evidence.
- 4.3. For clarification, Submitters 694 (Glentui Heights Ltd) and 712 (Bobs Cove Developments Ltd) have requested that the Bob's Cove Rural Residential Sub Zone be deleted and that the area is instead subject to the Rural Residential Zone objectives and provisions, with the exception of a new Objective and Policy. The submission is unclear how this area will be defined and subject to the requested objective and policy because the area is contiguous with other Rural Residential Zoned Land<sup>1</sup>. Although there are submissions on the specific provisions (ie, the new Objective and Policy), this matter is fundamentally a rezoning request and the following categorised submission points will be deferred to the hearing on mapping:
- a. 694.3 to 694.20.
  - b. 712.6 to 712.10.

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<sup>1</sup> Refer to PDP Planning Map 38.

- 4.4. Another submission that I clarify here that has parts that are out of scope is that of Lake Hayes Cellar (Submitter 767) with respect to its property on the corner of State Highway 6 and Arrowtown Lake Hayes Road. The property comprises Amisfield Bistro, a cellar door and vineyards.
- 4.5. Lake Hayes Cellar have requested that the land be rezoned from Rural to Rural Residential with the addition of a commercial overlay. A substantial amount of the relief sought relates to objectives and provisions on the requested commercial overlay and these submission points are also deferred to the hearing on mapping, as they cannot be considered in isolation from the wider rezoning request. The Table in Appendix 2 sets out what parts of the submission are deferred.
- 4.6. There are two Visitor Accommodation Subzones, one is in the Rural Residential Zone at Speargrass Flat Road and the other is in the Rural Lifestyle Zone located off the Glenorchy Queenstown Road. Submitters 243 (Christine Byrch) and 811 (Marc Scaife) have requested the removal or amendment of the proposed visitor accommodation subzone, particularly in relation to the proposed changed subzone of the Matakauri Lodge. These submissions to delete the sub zone are deferred to the hearing on rezoning. Where the matter is on a provision strictly on the sub zone, these are within scope and addressed below. The submission matters raised by Mr Scaife that are within scope are addressed in the Table in Appendix 2.
- 4.7. I discuss issues raised under broad topics, and where I recommend substantive changes to provisions I assess those changes in terms of s32AA of the RMA (which is set out in Appendix 5). The Table in Appendix 2 outlines whether individual submissions are accepted, accepted in part, rejected, out of scope or deferred to another hearing stream.
- 4.8. Although this evidence is intended to be a stand-alone document and also meet the requirements of s42A of the RMA, the s32 Rural Residential and Rural Lifestyle Zones report is attached in Appendix 3 and this also links through to supporting documents referenced the s32 (on page 43 of that report).
- 4.9. This evidence analyses submissions for the benefit of the hearings panel to make recommendations on the Rural Residential Zone and Rural Lifestyle Zone Chapter.
- 4.10. I have read, referred to, and relied on the evidence of Ms Marion Read (Landscape Architect) in preparing this report.

## 5. BACKGROUND - STATUTORY

5.1. The s32 report is attached as Appendix 3 and provides a detailed overview of the higher order planning documents applicable to the Rural Residential and Rural Lifestyle Zones. In summary, the following documents have been considered in the preparation of this chapter.

- a. **The RMA**, in particular the purpose and principles in Part 2, emphasises 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).
- b. **The Local Government Act 2002**, in particular s14, Principles relating to local authorities. The provisions 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.
- c. **Iwi Management Plans**: When preparing or changing a district plan, Section 74(2A)(a) of the RMA states that Council's 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 Taurira*: Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 (MNRMP 2008).
  - *Kāi Tahu ki Otago* Natural Resource Management Plan 2005 (KTKO NRMP 2005).
- d. **Operative Otago Regional Policy Statement 1998 (RPS)**: 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 is the relevant regional policy statement that the PDP must give effect to. The operative RPS contains a number of objectives and policies of relevance to the Rural Residential and Rural Lifestyle Zones, specifically Objectives 5.4.1 to 5.4.4 (Land) and related policies which, in broad terms promote the sustainable management of Otago's land resource by:
  - Objective 5.4.1 To promote the sustainable management of Otago's land resources in order:

- (a) To maintain and enhance the primary productive capacity and life-supporting capacity of land resources; and
  - (b) To meet the present and reasonably foreseeable needs of Otago's people and communities.
- Objective 5.4.2 To avoid, remedy or mitigate degradation of Otago's natural and physical resources resulting from activities utilising the land resource.
  - Objective 5.4.3 To protect Otago's outstanding natural features and landscapes from inappropriate subdivision, use and development.

These objectives and policies highlight the importance of the rural resource both in terms of the location of rural living opportunities within the District so that it does not compromise the Districts Outstanding Natural Features and Landscapes, and important amenity landscapes in terms of sections 7(c), (f) and (g) of the RMA and, the soil resource.

- e. **Proposed Otago Regional Policy Statement 2015 (PRPS):** Section 74(2) of the RMA requires that a district plan prepared by a territorial authority must "have regard to" any proposed Regional Policy Statement. The Proposed RPS was notified for public submissions on 23 May 2015, and contains the following objectives:

- 1.2 *Kai Tahu values, rights and customary resources are sustained*
- 2.1 *The values of Otago's natural and physical resources are recognised, maintained and enhanced*
- 2.2 *Otago's significant and highly-valued natural resources are identified, and protected or enhanced*
- 3.1 *Protection, use and development of natural and physical resources recognises environmental constraints.*
- 3.4 *Good quality infrastructure and services meet community needs.*
- 3.5 *Infrastructure of national and regional significance is managed in a sustainable way.*
- 3.6 *Energy Supplies to Otago's communities are secure and sustainable*
- 4.4 *Otago's communities can make the most of the natural and built resources available for use.*

- f. **Council's Economic Development Strategy 2015:** The Council's Economic Development Strategy 2015 states:

*'The outstanding scenery makes the District a highly sought after location as a place to live and visit.<sup>2</sup>' And, 'The environment is revered nationally and internationally and is considered by residents as the area's single biggest asset.'<sup>3</sup>*

The Queenstown Lakes District is one of the fastest growing areas in New Zealand<sup>4</sup> and a strategic policy approach is considered essential to manage future growth pressures in a logical and coordinated manner to promote the sustainable management of the valued landscape resource.

## **6. BACKGROUND – OVERVIEW OF THE ISSUES**

- 6.1. The purpose of both of the Rural Residential and Rural Lifestyle Zones is generally to provide residential living opportunities within specific locations amidst the wider Rural Zone.
- 6.2. The Rural Residential zone generally provides for development at a density of up to one residence every 4000m<sup>2</sup>. The Rural Lifestyle zone provides for rural living opportunities, having a development density of one residential unit per hectare with an overall density of 1 residential unit per 2ha across a subdivision. Building platforms are identified at the time of subdivision to manage the sprawl of buildings, manage adverse effects on landscape values and to manage other identified constraints such as natural hazards and servicing.
- 6.3. An overview of the issues addressed within the equivalent ODP chapters is set out in the s32 report. By way of summary, these are summarised and grouped as follows:

### **Management of landscape and rural living amenity (Issue 1)**

- a. While recognising the ability for this land to be developed for residential activity, it is located amidst and/or adjacent to the District's valued landscape resource. Subdivision and development undertaken at a higher density than anticipated has a higher likelihood for adverse effects on the landscape resource.

### **Reducing the number of resource consents required (Issue 2)**

- b. Effective and efficient resource management: Anticipated residential development in the Rural Residential and Rural Lifestyle zones require resource consent as a controlled activity. Consequently, the alteration of buildings also require a resource consent, as do changes in colour or changes to previously approved site and landscape plans.

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<sup>2</sup> QLDC Economic Development Strategy, 2015, Page 10 paragraph 5.

<sup>3</sup> QLDC Economic Development Strategy, 2015, Page 10 paragraph 4.

<sup>4</sup> Bird, C (2016). Statement of Evidence of Clinton Arthur Bird on Behalf of Queenstown Lakes District Council, Urban Design, page 6 paragraph 4.2.

- c. In the period from January 2011 to June 2014, 505 resource consents were granted in the Rural Residential and Rural Lifestyle zones (363 Rural Residential zone and 142 Rural Lifestyle zone). Of these, 331 (65%) were identified as a resource consent for a 'controlled activity', with relatively straightforward design and appearance related resource consents. Averaged over a five year period, these resource consents constitute approximately 18% of the resource consents issued by the Council per year.
- d. This reflects a relatively high amount of intervention for development which is anticipated to occur.
- e. Standards can be introduced that enable residential buildings as a permitted activity subject to performance standards controlling colour and the bulk and location of buildings.

### **Protecting amenity values for inhabitants (Issue 3)**

- f. The maintenance of amenity values and a pattern of development consistent with the expectations of inhabitants is an important determinant of the character and amenity of the two zones.

### **Rezoning the ODP Zones that had been developed to an urban density (Issue 4)**

- g. Subdivision of an urban density has occurred in the Rural Residential and Rural Lifestyle zones and it is not appropriate for the planning provisions to not recognise these outcomes.

### **Natural Hazards (Issue 5)**

- h. Continuing the existing provisions for managing natural hazards in the Makarora Rural Lifestyle Zone.

### **Retaining existing provisions and other matters (Issue 6)**

- i. Retaining bespoke provisions for identified areas including Bobs Cove and Ferry Hill.
- j. The structure of Chapter 22 and requiring a resource consent for non-specified activities.
- k. Making Residential Flats permitted.

## **Managing the effects of rural activities (Issue 7)**

- I. The recognition that the zones are located amidst the Rural Zone where a broad range of activities are occurring.

### **Matakauri Lodge Visitor Accommodation Sub Zone**

- m. The Rural Lifestyle zoning and its purpose is not reflective of the visitor accommodation character and built form present on the Matakauri site. As a result alterations to or expansion of the operation is uncertain and makes planning for further investment in the operation challenging.
- n. A visitor accommodation sub zone has been identified on this site.

### **Wyuna Rural Lifestyle Zone <sup>5</sup>**

- o. A rural lifestyle zone has been identified to provide rural living opportunities that are sensitive to the wider Outstanding Natural Landscape in the Glenorchy area.

### **Rural Lifestyle Zones in the Wakatipu Basin<sup>6</sup>**

- p. The following areas within the Wakatipu Basin have been identified as having capacity to absorb Rural Lifestyle density residential development and are proposed to be zoned from Rural to Rural Lifestyle through the PDP:
  - Alec Robins Road.
  - Mooney Road.
  - Fitzpatrick Basin.
  - The base of Slope Hill.
  - The 'Hawthorn Triangle' on the basis of consented environment.
  - An extension to the existing Rural Lifestyle zone at the Dalefield Road area.

## **7. ANALYSIS**

- 7.1. 1044 points of submission have been categorised on Chapter 22 (noting that some of the submission points are on rezoning and not on a specific part of the Rural Zone Chapter, or are on the addition or removal of provisions that are specifically related to a rezoning).

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<sup>5</sup> No submissions have been received on the Wyuna Rural Lifestyle Zone provisions. There are submissions on the appropriateness of the zone for the land in questions, which are deferred to the rezoning hearings.

<sup>6</sup> There are submissions on the appropriateness of the Rural Lifestyle Zone within the Wakatipu Basin, which are deferred to the rezoning hearings. These are essentially rezoning submissions.

- 7.2. The RMA, as amended in December 2013 no longer requires a report prepared under s42A or the Council decision to address each submission point but, instead, requires a summary of the issues raised in the submissions.
- 7.3. Some submissions contain more than one issue, and will be addressed where they are most relevant within this evidence.
- 7.4. The analysis of submissions is grouped by the issues that have been raised. Submissions are also set out by Objectives and provisions where these are addressed within the issue. While this is not in the numerical order of Chapter 22 , I consider it best groups and addresses for the Panel the matters of contention and related provisions. Where it is more efficient to address provisions separately they are set out on their own.

## **8. RESIDENTIAL DENSITY – RURAL LIFESTYLE ZONE**

- 8.1. The PDP has retained the density approach used in the ODP Subdivision Chapter<sup>7</sup> in relation to lot size in the Rural Lifestyle Zone. The respective rules allow for a minimum allotment size of 1ha but require an average of 1 residential unit per 2ha. A large number of submitters<sup>8</sup> have requested that Rule 22.5.12.2, which requires a maximum of 1 residential unit on sites less than 2ha, is removed and a density limit of 1 residential unit per hectare .
- 8.2. The majority of submitters identified above, have suggested that the relief sought should be granted because it would promote the efficient use of land to enable more housing to be provided within the District. None of the submissions appear to have attempted to qualify what the impact would be on the landscape, nor on the rural living character and amenity within any identified area.
- 8.3. I do not consider that the primary purpose of the Rural Lifestyle Zone is to provide opportunities to increase the District's housing supply. The purpose of the Rural Lifestyle Zone is to provide for rural living opportunities, and by their own nature, rural living opportunities result in a very low density (in the context of residential housing supply). I accept that the Rural Lifestyle Zone does not result in the most efficient use of the land resource both in terms of the potential removal of land from being utilised for primary production and use of the soil resource, nor is this type of development very efficient in terms

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<sup>7</sup> There are not any density rules in the ODP Rural Living Zone Chapter (Section 8). Density is controlled through the subdivision provisions. Construction of buildings within an approved building platform is a controlled activity and Non-complying if the building is not located within a building platform.

<sup>8</sup> 231 (Strain et. al ), 233 (Gallagher), 248 (Shotover Trust), 546 (Davies et. al ), 557 (Spear Grass Trust), 497 (Arcadian Triangle), 513 (Jenny Barb), 532 (Walker et. al). Refer to Appendix 2, issue reference 'Residential Density: Rural Lifestyle Zone'.

of housing supply and efficient energy usage, including transportation. However, it is a housing choice that is available.

- 8.4. I do not consider the location of many of the Rural Lifestyle Zones to be in locations that support a density of 1 residential unit per hectare. The average of 2ha anticipated across the zone is important at providing a design led response in terms of subdivision design that is sympathetic to the landscape, flexibility in terms of creating a range of lot sizes for the market, while maintaining rural living character and amenity values. This is especially the case where the Rural Lifestyle Zones are located in what would otherwise be included within an ONL on the planning maps (for example, the Makarora and Mt Barker Rural Lifestyle Zones), or amidst Rural Landscape Classification<sup>9</sup> parts of the Rural Zone where the landscape is vulnerable to change (for example, the Hawea Flat and Slope Hill Rural Lifestyle Zone). The Rural Lifestyle Zones are part of a wider Rural Zone area and changes to these areas have the potential to impact wider landscape values.
- 8.5. I refer to and rely on Dr Read in section 10 of her evidence that also states that the 2ha is the minimum size that ensures a sense of spaciousness and the maintenance of other aspects of rural amenity.
- 8.6. Dr Read considers that the Hawthorn Triangle could absorb development at the density of 1ha allotments, but considers that the same increase in the density of development in other Rural Lifestyle Zones would result in adverse effects.<sup>10</sup> I do not consider it worthwhile to replicate this development right by way of provisions in Chapter 22 because this area has reached a development capacity. One of the reasons for making this land Rural Lifestyle is because the consented outcome is significantly less than that contemplated in the Rural Zone (despite their not being a minimum allotment size associated with residential development) but a lower density than the Rural Residential Zone that is 4000m<sup>2</sup> in most areas.
- 8.7. Given the above, I consider that the removal of the 2 ha average would reduce the ability of these areas to maintain a sense of rural living character and amenity and the contribution that the spaciousness of the zone makes to the wider Rural Zoned landscapes. Therefore I recommend the submissions should be rejected and the standard as proposed retained.
- 8.8. Submitters<sup>11</sup> have also requested the removal of the restriction of one residential unit located within a residential building platform in the Rural Lifestyle Zone, as required by Rule 22.5.12.1. The submitters' reasons for allowing two residential units within building platforms include that this would enable more innovative and efficient design. In addition, the rule is

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<sup>9</sup> Referring to the "other" parts of the Rural Zone that are not identified on the planning maps as either an Outstanding Natural Feature or Landscape.

<sup>10</sup> Evidence of Marion Read, dated 6 April 2016, section 10.

<sup>11</sup> 331 (The Station at Waitiri), 411 (McDonald Family Trust), 535 (Stalker et. al). Refer to Appendix 2, issue reference 'Residential Density: Rural Lifestyle Zone'.

contrary to Strategic Direction Objective 3.2.6.1, where it seeks to ensure a mix of housing opportunities. In addition, submitters consider that the effects of two dwellings within a platform are not much greater than one dwelling. However, as with the request to delete the requirement for a 2 ha average, enabling two units to be constructed within one building will increase the density of the Rural Lifestyle Zone in such a way as to affect the rural character of the zone.

- 8.9. I also consider that enabling more than one residential unit within a building platform could create an ill-conceived perception that it is anticipated that a subdivision is contemplated, based on the argument that the 'effect' of the resultant residential unit is already established.
- 8.10. In terms of providing accommodation options, I note that although non-complying, a case for a resource consent could be made on its merits. Submitter 497 (Arcadian Triangle Limited) has cited Strategic Direction Objective 3.2.6.1 on multiple occasions as leverage for increasing density in the Rural Lifestyle Zone. I consider that this is overextending the intent of this Objective. When considered with all the zoning and housing options available throughout the PDP, the Rural Lifestyle Zone as notified is appropriate and is but one of many housing options available. The Strategic Direction and Urban Development s32 and s42A reports set out and confirm that the place for increasing density is within the mapped Urban Growth Boundary (**UGB**). In addition, the PDP has made Residential Flats more efficient to establish<sup>12</sup> and further enabling them through use of permitted activity status (Rule 22.4.6). This is considered sufficient to provide for a range of housing opportunities within the Rural Lifestyle Zone. I consider that the provisions as notified are appropriate and recommend that the limit of one residential unit within a building platform be retained.
- 8.11. Through Rule 22.4.3 the identification of a building platform for the purposes of a residential unit requires a restricted discretionary activity consent. Several submitters oppose this, while some support the rule.
- 8.12. The rule enables the identification of a residential building platform through a land use consent. The equivalent ODP rules<sup>13</sup> only allowed the identification of a building platform through subdivision. While this works in situations on the premise that a development right/creation of a building platform is only desired with the subdivision of land, it has resulted in the requirement to obtain a non-complying activity resource consent for the construction of a building not within a building platform<sup>14</sup> where a subdivision is not proposed, irrespective of whether the proposal meets the anticipated density requirements for the Rural Lifestyle Zone.

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<sup>12</sup> Refer to the S32 report for Definitions. <http://www.qldc.govt.nz/planning/district-plan/proposed-district-plan/section-32-documents/> .

<sup>13</sup> Refer to Part 8: Rural Living Areas, ODP and Part 15 Subdivision, Development and Financial Contributions.

<sup>14</sup> Rule 8.2.2.4.vi a) Non Complying Activities: Any Residential Unit not contained within a Residential Building Platform approved under Rule 15.2.6.3.

- 8.13. I am aware of at least one situation where a subdivision was undertaken, including the resultant scheme plan approval and survey plan certification processes to create a residential building platform<sup>15</sup>. The ability to apply for a land use consent is in my view a significant improvement in terms of efficiency and effectiveness.
- 8.14. I consider that a discretionary activity status is appropriate to ensure that the Council has the ability to assess the potential broad spectrum of issues that could arise for applications under this rule. In addition to matters such as servicing, access, landscape and amenity matters and natural hazards, an analysis could be require to ensure the proposed residential building platform would not undermine the overall density and resultant activity of any previous subdivisions.
- 8.15. For the latter reason in particular I recommend the controlled activity status is rejected. However, a matter identified by submitters is that when the rule is read in isolation, it could be misconstrued that a discretionary activity resource consent regime is proposed similar to the Rural Zone. This is not the intention of the rule in this instance. The fundamental residential development rights of the Rural Lifestyle Zone are set out in the Subdivision Chapter and corresponding density standards in Rule 22.5.12. I recommend that a clarification point is made within Rule 22.4.3.3 that the rule does not apply where a residential building platform is proposed through Rule 27.5.1.1, therefore, removing the duplication of resource consents where a residential building platform is proposed through a subdivision.
- 8.16. I also consider that Rule 22.5.12.3 that states for the purpose of calculating any average, any allotment greater than 4ha, including the balance, is deemed to be 4ha is important. This rule ensures that a subdivision, or series of subdivisions are not undertaken that create a multitude of 1ha sites relying on balance land. The Rural Lifestyle Zone comprises relatively large areas in certain locations and I am not sure whether, when the zoning was first established in these location in the ODP, that the landscape, servicing and hazard constraints were assessed as well as they could have been. It is also difficult to ascertain this because the Rural Lifestyle zones were established through submissions on the formation of the ODP. Where submitters<sup>16</sup> have requested this rule is deleted I consider they should specify the landholdings specifically so the merits can be determined. In summary I reject these submissions.
- 8.17. Rule 22.5.11 requires a density of 4000m<sup>2</sup> per residential unit and is carried over from the ODP. Submitter David Clarke (26) requests that a rule from the ODP that was specific to the Rural Residential Zone at the north of Lake Hayes is 'reinstated'. The relevant rule in the ODP states:

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<sup>15</sup> RM120787 Du Pont Family Trust. Subdivision to identify a residential building platform. Mt Barker Road. Wanaka.

<sup>16</sup> 166 (Bruce McLeod), FS1157 (Trojan Helmet), 253 (Sim), 233 (Gallagher).

**Site Standard 8.2.4.1<sup>17</sup>**  
**vi Residential Density**

*In the Rural Residential zone at the north of Lake Hayes*

- (a) *for allotments less than 8000m<sup>2</sup> in size, there shall be only one residential unit;*
- (b) *for allotments equal to or greater than 8000m<sup>2</sup> there shall be no more than 1 residential unit per 4000m<sup>2</sup>, on average.*
- (c) *In each area of the Deferred Rural Lifestyle zone east of Dalefield Road up to two residential allotments may be created with a single residential building platform on each allotment pursuant to Rule 15.2.6.3 (iii)(a).*
- (d) *The land in the Deferred Rural Lifestyle (Buffer) zone shall be held in a single allotment containing no more than one residential building platform pursuant to Rule 15.2.6.3 (iii)(a).*

8.18. Components (a) and (b) appear to relate to the Rural Residential Zone at the north of Lake Hayes. The rules provide a more flexible density regime, and I consider it is appropriate to retain this pattern of development that has been established in this area. Submitter Juie QT Ltd (219) seeks the rule is retained but does not make specific reference to the Rural Residential Zone at the North of Lake Hayes.

8.19. I recommend that the density rules are modified to reflect the ODP and the submission of Mr Clarke is accepted.

**Purpose Statement, Objectives and Policies relating to Residential Density**

8.20. Several of the submitters identified above, and in particular Submitters 497 (Arcadian Triangle Limited) 513 (Jenny Barb), 515 (Wakatipu Equities) and 522 (Brustad and Inch) with similar submissions prepared by Anderson Lloyd, seek amendments to the objective and policies to, in their view, better facilitate housing opportunities. Generally, I do not support the changes requested, especially those to the purpose statement expressing the significant growth pressures that exist in the District. As have set out above, and in section 10 of Dr Read's evidence, I consider that the Rural Lifestyle Zone density standards should be retained as notified.

8.21. Notwithstanding the above, I consider that some of the changes requested improve the phrasing and effectiveness of the Objectives and Policies and I accept these changes.

8.22. The two objectives and suite of policies that relate to residential activity and density are Objective 22.2.1 and Objective 22.2.2. I have provided these below where changes are recommended. A s32AA evaluation is set out in Appendix 4.

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<sup>17</sup> Page 8-9 ODP. Part 8 Rural Living.

22.2.1 ~~Objective - Maintain and enhance the District's landscape quality, character and visual amenity values~~ are maintained and enhanced while enabling rural living opportunities in areas that can absorb development ~~avoid detracting from these landscapes.~~

Policies

22.2.1.1 Ensure the visual prominence of buildings is avoided, remedied or mitigated particularly development and associated earthworks on prominent slopes, ridges and skylines.

22.2.1.2 Set ~~minimum~~ density and building coverage standards in order to maintain ~~so the open space, natural and rural qualities of the District's distinctive rural living character, amenity and landscapes are not reduced values.~~

8.23. I accept the submission of Arcadian Triangle Ltd which states that Objective 22.2.1 as notified is phrased more like a policy because it contains verbs at the commencement of the sentence. I accept in part the requested relief to the second part of the Objective. Instead of focusing development in areas that would 'avoid detracting from landscapes', the Objective is recommended to be phrased so that rural living development is directed where the landscape can absorb development. I consider that the Objective has the same intent, however I also accept that the removal of the words 'avoid' and 'detracting' in the same sentence are also likely to provide more certainty for development to be enabled, which for the Rural Lifestyle and Rural Residential Zones is appropriate.

8.24. In this circumstance I support the addition of 'remedied or mitigated' to be placed after avoid in Policy 22.2.1.1. I consider this policy to be useful for guidance as to the location of development, however avoiding without any associated qualifiers is too conservative in the Rural Lifestyle and Rural Residential Zones where development is more readily contemplated.

8.25. I have generally accepted the substantial amendments sought by Arcadian Triangle Limited to Policy 22.2.1.2. I accept that the reference to 'natural and rural qualities' could be open to criticism especially where the reference to 'natural' has connotations with s6(b) of the RMA and this policy is applicable to the impacts of development both within the Rural Residential and Rural Lifestyle zones, and on the wider Rural Zone. However I recommend that the phrase 'open space' is retained. The phrase is defined in the PDP (carried over unmodified from the ODP) as follows:

<b>Open Space</b>	Means any land or space which is not substantially occupied by buildings
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	and which provides benefits to the general public as an area of visual, cultural, educational, or recreational amenity values.
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8.26. Open space as defined in the PDP is applicable to the Rural Lifestyle and Rural Residential Zones because as stated in the definition, it encapsulates *any land or space which is not substantially occupied by buildings and which provides benefits to the general public as an area of visual...amenity values.*

8.27. Retaining open space in the policy is important in terms of the density expectations for the Rural Lifestyle Zone. I also note that 'open space' is referenced in the matters of discretion associated with standards 22.5.2 (Building Coverage; Rural Residential Zone); 22.5.3 (Building Size); Rule 22.5.4 (Setback from internal boundaries); Rule 22.5.6 Setback of buildings from water bodies; and, Rule 22.5.13 (Building Coverage for Visitor Accommodation in the Rural Lifestyle Zone). The reference to open space in Policy 22.2.1.2 is important in terms of facilitating the outcomes sought from lower order provisions.

8.28. Notified Objective 22.2.2 is:  
                   22.2.2 *Objective - Ensure the predominant land uses are rural, residential and where appropriate, visitor and community activities.*

8.29. Arcadian Triangle Limited seeks modifications to Objective 22.2.2 as follows:  
                   **22.2.2 Objective - ~~Ensure the~~ Within the rural residential and rural lifestyle zones predominant land uses are rural, residential and where appropriate, visitor and community activities.**

8.30. The policy as notified already included the words 'where appropriate'. I do however accept rephrasing of the Objective to remove the word 'ensure' from the start of the sentence. This matter relates to clarity and grammar, through redrafting as a true objective.

8.31. Policy 22.2.2.2 is:  
                   *Any development, including subdivision located on the periphery of residential and township areas, shall avoid undermining the integrity of the urban rural edge and where applicable, the urban growth boundaries.*

8.32. Arcadian Triangle and Jenny Barb request Policy 22.2.2.2 is deleted because in their view "*it is unclear because the integrity of the urban rural edge is not defined or explained. The edge of the rural / rural residential zones is arbitrarily placed and does not provide for recognition of particular property boundaries and landscape values*".

8.33. I disagree, and consider that the submission is aimed more at the merits of a rezoning issue. I consider the notified policy provides important guidance on whether it is necessary to deter subdivision and development that would exceed the density expectations of the Rural Lifestyle and Rural Residential Zones, and constitute urban development outside zoned area and the urban growth boundary if applicable. The Policy is complementary to Urban Development Objective 4.2.3 (as notified) within UGBs, 'provide for a compact and integrated urban form that limits the lateral spread of urban areas, and maximises the efficiency of infrastructure operation and provision'.

### **C and M Burgess (Submitter 669)**

8.34. The submission from C and M Burgess requests that Objective 22.2.1 is deleted and rewritten because there is no grammatical distinction between the objective and policies. Although the specific amendments requested is not supported, the objective (as I have discussed above) is recommended to be modified. The submission is accepted in part.

8.35. C and M Burgess criticise Policy 22.2.1.2 and state that the setting of maximum density standards is not an effective method for developing rural land and can lead to inefficient use. However, this statement is not qualified. I disagree and while not taken up as a management option in the Rural Zone in the PDP, it is my opinion that setting minimum allotment sizes is effective and is used by many district plans (both first and second generation) for rural areas to maintain the productive capacity of soil resources. The minimum areas can relate to the land uses anticipated, and production potential of the soils (including climate as a factor). The minimum allotment size is also used effectively as a surrogate baseline to maintain the rural character and landscape values of that district.<sup>18</sup>

8.36. Amendments to the policy are sought from C and M Burgess. I consider that the relief sought is met in part through the amendments I recommend are made based on the analysis of submissions as outlined above. However the recommended amendments are not based on this submission point. I also note that the zones at issue are the Rural Residential and Rural Lifestyle Zones and these primarily provide for rural living opportunities, not rural productive activities.

8.37. C and M Burgess also take issue with use of the phrase 'distinctive landscapes' in Policy 22.2.1.2. While I acknowledge that this phrase is recommended to be deleted, this is based on the merits of other submissions. I wish to clarify, with regard to the C and M Burgess submission, that the reference is in the context of activities within the Rural Residential and

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<sup>18</sup> See for example: Operative Dunedin City District Plan Rule 6.5.2(iii) (Rural Areas) and 18.5 (i) Subdivision. Operative Christchurch City plan. Bank Peninsula Section. Which requires a residential development right at a density of 40 hectares and 100 hectares above an elevation within the identified ONL (Subdivision Rule 1b and dwelling density standard 2.1).

Rural Lifestyle Zones that can impact on the rural character and landscape values of the surrounding Rural Zoned land. By virtue of the relief requested by other submitters and as set out in Appendix 1, the submission is accepted in part.

8.38. The requested new policy from C and M Burgess is:

*Establish maximum density standards so as to indicate what at a minimum is a reasonable development density in the Rural Lifestyle Zone*

8.39. I do not support this policy because in my opinion Policy 22.2.1.2 (both as notified and as recommended to be amended) states and achieves the same outcome.

8.40. C and M Burgess propose an additional policy and further amendments to Policy 22.2.1.3 that in their words:

*establish the ability to 'guide a discretionary regime that enables such outcomes over and above the standard maximum density rules that should be viewed as what can be achieved as of right. Such a regime would allow for innovation in development patterns and the efficient use of the Rural Lifestyle Zone, potentially alleviating pressure on the more landscape sensitive parts of the District.*

8.41. The requested amendments to Policy 22.2.1.3 are:

*Allow for flexibility of the density provisions, where ~~design-led and innovative patterns of subdivision and residential development, roading and planting would enhance the character of the zone and the District's landscapes.~~ effects on landscape and amenity values would be no worse than that of a proposal which complies with the maximum density provisions.*

8.42. The consequential changes to provisions sought by C and M Burgess are to establish a 1ha lot size as of right in the Rural Lifestyle Zone and make non-compliance a restricted discretionary activity.

8.43. In my opinion, if C and M Burgess's reason for the changes are to allow innovation in development patterns I am surprised that they seek to remove the parts of the policy that openly contemplate 'design led and innovative patterns of subdivision and residential development'. I consider that the requested phrase: 'would be no worse than that of a proposal which complies with the maximum density provisions' offers no added value, and detracts from guiding how activities should be undertaken within the zones because 'no worse' is vague and subjective and would conflict with s5 of the RMA. I also consider this statement to more or less be a justification in terms of s104(a) of the RMA when considering

the actual and potential effects of a proposal, and s104(2) of the RMA with regard to permitted baseline issues. The phrase is also generic and of no assistance to the Rural Lifestyle Zone and could be applied to nearly any activity in a resource management context. I do not support the relief sought or justifications put forward by C and M Burgess.

- 8.44. The reference in Policy 22.2.1.3 to 'flexibility of the provisions, where design led and innovative patterns' stems from the respective provisions that allow averaging and as requested by C and M Burgess could also be applied where the minimum allotment sizes are not met and the merits of a proposal accord with the remaining qualifiers in the policy, namely: *enhance the character of the zone and the District's landscapes*.
- 8.45. I also do not support the request for a 1 ha maximum allotment size (instead of 1ha minimum, with an average of 2 ha as notified) on the basis of the changes requested to the policy framework because many Rural Lifestyle zoned areas have been subdivided in accordance with this framework under the ODP. The removal of the 2ha average requirement would facilitate a subdivision pattern that has been dictated by previous layouts to achieve the average overall and there is no guarantee the outcomes requested in the revised policy would be achieved.
- 8.46. For these reasons I recommend the relief sought by C and M Burgess is rejected.
- 8.47. In summary I recommend the majority of the provisions are retained as notified where they relate to density outcomes. Some modification are considered are appropriate and these are set in the recommended revisions to Chapter 22 in Appendix 1.

## **9. VISITOR ACCOMMODATION, COMMUNITY ACTIVITIES AND COMMERCIAL ACTIVITIES**

- 9.1. The framework for visitor accommodation (VA), community activities and commercial activities within the two zones is provided through Objective 22.2.2, which seeks that the predominant land uses are rural, residential and where appropriate VA and community activities, and through Objective 22.2.5 that seeks to manage reverse sensitivity both in the zone and with respect to the surrounding rural areas.
- 9.2. Submitter 764 (Mt Christina Ltd) request changes to Policy 22.2.2.3 because in their view the policy is worded in such a manner that complementary activities would not be allowed. Mt Christina Ltd seeks relief that is more accommodating of these activities where they are appropriate. I agree in so far that the policy is intended to guide decision making where the non-residential activity would be commensurate with the nature and scale of the environment, and maintain rural living amenity. The relatively subtle changes to the policy open up contemplation for non-residential activities based on their potential effects. The changes also

provide relief for the Arcadian Triangle Ltd who seek that small scale VA does not have a non-complying activity status, this matter is discussed below.

### Visitor Accommodation

- 9.3. I am comfortable changing the activity status of VA from non-complying to discretionary because the policy framework and standards provide an adequate measure of whether a particular environment has capacity for the VA activity, subject to the merits of the proposal and sensitivity of the environment. I acknowledge therefore that in doing so I recommend the rejection of the submission and further submission of J Hadley (674 and FS1082.7), Mark McGuinness (FS 1089.8) and Lee Nicholson (FS 1146.7), who all seek to retain the non-complying status. In my view a discretionary framework, with objectives and policies are appropriate at managing the scale and intensity of community activities.
- 9.4. Mt Christina Ltd also seek that visitor accommodation is made a restricted discretionary activity. I do not support this because of the variable nature of the impacts, usually associated with the nature and scale of the activity. I consider that retaining a full discretionary status ensures that a full range of matters can be assessed. I consider that the matters of discretion suggested by Mt Christina Ltd would not fully address the potential impacts. I therefore recommend this submission is rejected, and instead recommend that Rule 22.4.11 is changed from Non-complying to fully discretionary activity status.
- 9.5. Having reviewed Policy 22.2.2.3 in light of these submissions I also consider that it could be better phrased and is too long and hard to understand where it tries to achieve two separate matters in one sentence. The first matter is to manage the amenity, quality and character of the Rural Residential and Rural Lifestyle Zones from the adverse effects of non-residential activities. While the other is to ensure the vitality of commercial zones are not undermined. I consider that the policy is better to be separated at least, to better distinguish these matters, I also consider that foremost the policy should be concerned with the effects of activities within the zone. There are other higher order provisions in the Strategic Chapters (Chapters 3, 4 and 6) that manage the effects of land uses within unintended locations. On this basis I recommend the policy is amended accordingly. A s32AA evaluation is attached at Appendix 4.
- 9.6. The recommended revised version of Policy 22.2.2.3 I suggest is:

*Discourage commercial and non-residential activities, including restaurants, visitor accommodation and industrial activities, so that would diminish the amenity, rural living quality and character of the Rural Residential and Rural Lifestyle zones are not diminished and the vitality of the District's commercial zones is not undermined.*

## Community Activity

9.7. Submitter 844 (Queenstown Congregation of Jehovahs Witnesses (**QCJW**)) seek changes to the Rural Residential Zone in particular, because in their view community activities can have positive effects. Ten modifications are sought that ultimately make Community Activities a controlled activity processed on a non-notified basis. While I accept that community activities can have positive effects, they can also disrupt the rural living character and amenity through large buildings, car parking, traffic and noise, and generally disrupt the coherence of the Rural and Residential and Rural Lifestyle Zones.

9.8. I also note that the definition in the PDP (Carried over from the ODP) of community activity is:

<b>Community Activity</b>	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.
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9.9. The definition covers a broad range of activities. While community activities can provide an important service and support function they can have the potential to modify the environment. In many respects the matter relates to nature and scale. For these reasons I consider that a discretionary activity status is the most appropriate method to manage the potential adverse effects of these activities.

9.10. Amongst other relief, QCJW seek a new policy within Objective 22.2.2 that would 'recognise and provide for community activities and the positive effects they can have on the environment'. I consider the framework as notified (and recommended to be revised as set out above) to be more appropriate because Objective 22.2.2 distinguishes that visitor accommodation and community activities *could* be appropriate. Policy 22.2.2.1 provides for community activities on the proviso they are compatible and enhance the environment, while Policy 22.2.2.3 discourages commercial and non-residential activities. Therefore, I consider that community activities are already provided for to the extent that is reasonable and balanced.

9.11. I recommend that the submission of QCJW is rejected.

## Commercial Activities

- 9.12. Several submitters<sup>19</sup> have submitted in support of the proposed non-complying activity status for commercial activities in the Rural Residential and Rural Lifestyle Zones. While Submitter 674 (J. Hadley) in particular seeks that there are strong assessment standards so that non-residential activity is not allowed. I note there are not any assessment matters for non-complying commercial activities in the PDP. I consider that there is sufficient direction in the Objectives and policies of Chapter 22 to assist decision making. The submission does not state whether the provisions are deficient and therefore I maintain that they meet the intent of the submission.
- 9.13. However, submitters<sup>20</sup> also seek that commercial activities are encouraged, in particular where these are in close to Cycle Trails.
- 9.14. The primary purpose of the Rural Residential and Rural Lifestyle Zones is to provide rural living opportunities and maintain rural amenity. I consider that enabling commercial activities is going too far and the impacts on amenity generally from commercial activities, on the (at times) quietness and spaciousness of residences in the Rural Residential and Rural Lifestyle Zones is not supported. Additionally, and compared to the surrounding Rural Zone, I do not consider commercial activities should be as readily contemplated because the Rural Residential and Rural Lifestyle zones are not as expansive as the Rural Zone.
- 9.15. The non-complying activity status does not 'prohibit' commercial development but rather sets an expectation that these activities are not contemplated. Applications will however, fall on their merits and the circumstances of the nature and intensity of the activity on the environment.
- 9.16. Therefore I recommend that commercial activities in the Rural Residential and Rural Lifestyle Zones are retained as a non-complying activity.

## Prohibited Commercial Activities

- 9.17. Rule 22.4.17 sets out a range of activities that are prohibited. This rule has been carried over from the ODP.
- 9.18. Submitter 127 (Simon Chisolm) has requested that secondary meat processing be a discretionary activity in these zones to enable the making of high end sausages as home occupations. The submitter contends that the effect of such a proposal would be manageable

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<sup>19</sup> 236 (Perkins), 674 (J. Hadley) and further submissions from Mark McGuiness (FS1089.2) and Lee Nicholson (FS 1146.8).

<sup>20</sup> 221 (Susan Cleaver), 248 (Shotover Trust), 265 (Philip Bunn), 423 (Carol Bunn), 577 (Garrick).

and acceptable within the Rural Residential and Rural Lifestyle Zones and the effects would be no greater than any other home occupation activity.

- 9.19. I accept these points and recommend that Rule 22.4.17 be amended to exclude commercial fish or meat processing undertaken as part of a Home Occupation.
- 9.20. Submitter 486 (Temple Peak Ltd) has requested that motor vehicle repair also be removed from the list of prohibited activities as the maintenance of vehicles used for rural purposes are an anticipated aspect of managing rural and rural residential properties. However, it is noted that the maintenance and repair of private motor vehicles would be considered an activity ancillary to residential activities, and therefore provided for as a permitted activity. If however an individual wished to undertake a commercial operation in relation to mechanical repair of vehicles, I consider that this activity potentially would not be in keeping with the anticipated activities or purpose of the zone, and could therefore have adverse effects if undertaken within this zone. It is recommended the submission be rejected and the provisions be retained as notified.

## **10. INFORMAL AIRPORTS**

- 10.1. Rule 22.4.13 makes informal airports a discretionary activity. Submitter 126 (Hunter Leece) has requested they are made a non-complying activity while Submitter 243 (Christine Byrch) requests they are prohibited. I consider the discretionary status is appropriate because these activities could be acceptable dependant on the location, scale and intensity of the activity. In this respect informal airports should be able to be contemplated, subject to their merits according with the policy framework. I recommend these submissions are rejected and the discretionary activity status is retained.

## **11. HOME OCCUPATION**

- 11.1. Rule 22.5.7.3 requires a maximum net floor area dedicated for home occupation activities on a site of 60m<sup>2</sup> in the Rural Residential Zone and 150m<sup>2</sup> in the Rural Lifestyle Zone. The increase in the Rural Lifestyle Zone is commensurate to the allotment sizes and ability for the larger sites anticipated in the Rural Lifestyle zone to absorb the impacts of home occupation activities. Submitter 127 (Simon Chisolm) has requested that the maximum net floor area is increased to 80m<sup>2</sup> and 180m<sup>2</sup> respectively for the two zones.
- 11.2. Mr Chisolm considers that this is necessary to accommodate the many occupations that are suitable for rural living areas, and gives examples of machinery and storage requirements. I accept the point but the submission has not stated how the proposed floor areas are deficient or that the requested increase of 10m<sup>2</sup> and 30m<sup>2</sup> in the respective zones would achieve the

relief sought. I consider that the area as notified is appropriate and recommend the areas are retained as notified.

11.3. No other submissions were received on the Home Occupation Rule.

## **12. STANDARDS FOR STRUCTURES AND BUILDINGS**

### **Rule 22.4.3.2**

- 12.1. Rule 22.4.3.2 is specific to the Rural Lifestyle Zone and permits the exterior alteration of any lawfully established building located outside of a building, providing it does not exceed 30% in a ten year period.
- 12.2. Rule 22.4.3.2 allows the opportunity for extensions to existing buildings, up to a relatively conservative size relative to the building. Similar to the issues raised by NZIA (Submission 238) for an equivalent rule in the Gibbston Character Zone, chapter 23, NZIA submit that this activity should be discretionary to incentivise working within approved building platforms, and that the effects of building platforms have been thoroughly addressed at the time of assessment as a discretionary activity and any work outside a building platform should be assessed with the same rigour.
- 12.3. The rule is intended to apply to buildings lawfully established before the consenting regime introduced by the ODP circa 2002, or for buildings that have obtained resource consent but did not identify a building platform. The rule is applicable to existing buildings. In the event a building is proposed where there is no building platform, or where it is sought to locate part of or an entire building outside of a platform, a non-complying resource consent would be required pursuant to Rule 22.4.1.
- 12.4. I also note that where a building platform has been registered on the computer freehold register of a site, a discretionary resource consent pursuant to s221 of the RMA would be required if any conditions on the consent notice are contravened and it is necessary to vary the consent notice.
- 12.5. I consider that the intent of NZIA's submission is already met through Rule 23.4.10. In the event NZIA oppose the ability for permitted building extensions in the circumstances that qualify under Rule 23.4.6, I consider that the ability to extend up to 30% in a ten year period is reasonable and would reduce the requirement for resource consents for relatively small scale additions to existing buildings. This matter is emphasised by further submissions from ORFEL Ltd (FS1150.3) and R & E Heywood (FS1273.2). I also note that these activities (helicopter

and fixed wing) need to comply with the respective limits in Chapter 36. I consider the rule is appropriate and recommend that the submission is rejected.

### **Rule 22.5.1 Colour of buildings**

- 12.6. Rule 22.5.1 controls external materials and colours. The rule has received many submissions stating that the proposed controls are too restrictive and do not offer the ability for a range of materials<sup>21</sup>. Some submitters have argued that the proposed restriction that requires surface finishes to have a light reflectance value (LRV) of 30% or less results in the use of materials such as schist requiring resource consent. It is noted that the rule does not list appropriate materials, only colours and reflectance values. I consider it reasonable that a 'typical Central Otago derived' dark grey schist would be considered to comply with the proposed standards. The inclusion of a standard that identifies locally sourced stone as an anticipated material would be difficult to administer as there are no parameters around what sort of stone is considered to be locally sourced. Some local stones, such as Oamaru stone, are highly reflective and would not be considered appropriate within the Rural Residential or Rural Lifestyle Zones.
- 12.7. Submitter 368 (Anna-Marie and Chin and Phil Vautier) highlights that the proposed LRV restrictions of 30% will also restrict the use of concrete, unpainted timber, unpainted steel, copper or zinc. The submitter has requested that the rule enable more flexibility in terms of planners' ability to interpret and administer the Rule. While lighter materials may be appropriate in some locations, other locations of the Rural Lifestyle and Rural Residential Zones are substantially more sensitive and it is considered that if buildings in these locations are going to be permitted, standards should be included as proposed to ensure that they are appropriately recessive. While this will result in darker built form, which may not provide as much architectural interest, it will also ensure built form does not dominate the landscape.
- 12.8. I also refer to and rely on Dr Read's evidence where this matter is discussed in section 5. It is important that the enabling of building does not have substantial adverse effects on rural living character and amenity within the respective zones and, adverse effects on the wider Rural Zoned areas.
- 12.9. Overall I consider that these controls are appropriate. If individuals would prefer lighter colours, they can apply for resource consent and the circumstances can be considered on a case by case basis. The resource consent process enables more flexibility with regard to the use of materials. In addition, factors such as heritage value can be addressed through resource consent applications, as they are now. I reiterate that the equivalent regime in the

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<sup>21</sup> Refer to the Table in Appendix 2 Issue Reference: Standards for Structures and Buildings 22.5.1.

ODP was for a controlled activity resource consent and the proposed rules will reduce a significant amount of resource consents.

- 12.10. Submitter Arcadian Triangle Ltd seeks that a range of untreated timber or stones be included in the rule. Similar to the amendments recommended for the Rural Zone (Rule 21.5.15), I recommend that the rule can be clarified to specify what 'materials' are considered to fall within the range of permitted 'colours'.
- 12.11. I accept that this standard will create a number of resource consents however as explained in the s32 report the proposed regime will overall, significantly reduce the number of resource consents and that overall, this method is considerably more efficient than the ODP and overall I consider the most appropriate method to manage this matter.
- 12.12. Overall, I recommend that the rules are retained as notified.

#### **Rule 22.5.3 Maximum size of a building**

- 12.13. Rule 22.5.3 states that the maximum permitted size of buildings shall be 500m<sup>2</sup>. The reasoning behind this provision is to provide for the ability to assess and control buildings where their bulk has potential to have adverse effects on amenity, and in some cases there would also be the potential for adverse effects on the wider Rural Zoned landscapes. I accept that the 500m<sup>2</sup> figure could be criticised as arbitrary and is a blunt tool, but I consider that 500m<sup>2</sup> is a relatively large building, especially where the permitted buildings are residential, and I consider that buildings over this size, without the ability to manage landscape and external appearance could create adverse effects in terms of amenity values and impacts on the wider Rural Zoned areas. This matter is also addressed by Dr Read in section 5 of her evidence where she raises concerns with the 500m<sup>2</sup> figure. Her view is that the appropriate standard for a permitted activity is 300m<sup>2</sup>. In response to this concern, I note there are no submission points challenging the maximum permitted building size of 500m<sup>2</sup> (ie, seeking that it be reduced). The majority of submissions instead request that the rule is deleted and there is no size limit (as addressed below).
- 12.14. Submitter 444 (Mark and Jane Taylor) have requested that the controlled activity status for buildings in this zone be retained, and in doing so this rule is not necessary. As is detailed in the Section 32 report, it is considered that the controlled activity status for building in these zones creates a large and unnecessary amount of resource consent applications. The Submitter has stated that if controlled activity status is not retained, they consider the activity status for non-compliance with this rule should be controlled rather than restricted discretionary, as restricted discretionary is more onerous than the existing regime. With respect to the activity status, It is my preference that the restricted discretionary status is

retained because it would encourage applicants to undertake a design or mitigation that ensures landscape and visual amenity values are avoided or mitigated.

- 12.15. Arcadian Triangle Ltd states that there is no justification in terms of sustainable management for this rule. I reject that submission because I consider the rule to be an important balance between providing for social and economic wellbeing while avoiding, remedying or mitigating adverse effects on the environment, in particular in the context of sections 7(c) and (f), being amenity values and the quality of the environment. The s32 report identified that the controlled activity status for all building construction and alterations has been a significant constraint and that providing a permitted regime, subject to standards is more efficient. Rule 22.5.3 is a consequence of the proposed permitted regime. As stated above, the amount of resource consents required for this rule is likely to be significantly less than the existing regime that requires a resource consent for all buildings and alterations. I consider that the amount of resource consents this rule will generate will be significantly less than the ODP regime that requires a controlled activity for every building and alteration.
- 12.16. Submitter 367 (John Borrell) requests the permitted size is reduced to 400m<sup>2</sup>. I note that the provisions made available for consultation in January to March 2015 had 300m<sup>2</sup> as a standard. Based on feedback, and upon further analysis of the overall suite of rules I recommended 500m<sup>2</sup>. While 500m<sup>2</sup> is a relatively large building, particularly in the context of the permitted 8 metre building height for most Rural Residential and Rural Lifestyle areas, I consider that this size is adequate.
- 12.17. Submitters including 368 (Anna-Marie Chin & Paul Vautier) have pointed out that in the case of the Rural Residential Zone the building size is already controlled by Rule 22.5.2, which restricts building coverage to 15% of the site. On a 4000m<sup>2</sup> site, this would restrict built form to 600m<sup>2</sup>. Further, building size is restricted to the 1000m<sup>2</sup> building platform. However, this is reliant on sites being 4000m<sup>2</sup> and a site larger than this could result in a much larger building. Therefore removing the rule would result in an unacceptable permitted baseline and there would not be enough control associated with managing the potential adverse effects of large buildings. Such a change would go against Dr Read's evidence which recommends a maximum building size of 300m<sup>2</sup>.<sup>22</sup>
- 12.18. Mark and Jane Taylor request that if no other relief is granted, at the least the 4<sup>th</sup> bullet point assessment matter is deleted. The matters of discretion are identified below (including the recommended amendment from Submitter FS1255 – which is appropriate):

- *Visual dominance.*
- *The effect on open space, rural living character and amenity.*

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<sup>22</sup> Evidence of Marion Read, dated 6 April 2016, section 5.

- *Effects on views and outlook from neighbouring properties.*
- *Building design and reasons for the size.*

12.19. Submitters 243 (Christine Byrch), and Mark and Jane Taylor have also requested that the fourth point of discretion listed under Rule 22.5.3 Building size – Building design and reasons for the size, be removed.

12.20. I accept that 'reasons for the size' is not necessarily an effects based matter to consider. I recommend this part of the matter of discretion is rejected.

12.21. I consider that building design, particularly the style of roof and whether it blends with the environment in terms of topography or whether it breaks a slope or ridgeline, the height of the building and the colours and materials selected, can have a significant effect with regard to either minimising or exacerbating adverse effects resulting from the bulk of a large dwelling. Therefore I recommend that control over building design is retained.

#### **Rule 22.5.5 Setback from Roads**

12.22. Notified Rule 22.5.5 requires that the minimum setback of any building from a road boundary shall be 10m, except in the Rural Residential Zone at the north of Lake Hayes, the minimum setback from Speargrass Flat Road shall be 15m.

12.23. Dalefield Trustees Ltd (Submitter 350) seeks the setback in the Rural Lifestyle Zone is extended to 15m because 10m is not spacious, would not meet the intent of Objective 22.4.1, and a larger setback is required in other areas. The submission is opposed by ORFEL Ltd (FS1150.10).

12.24. While the 10m setback requirement is well established, being carried over from the ODP, I agree with the submission of Dalefield Trustees. Given that the anticipated minimum allotment size is 1ha, a 15m setback, is not considered a significant or onerous change.

12.25. Submitter 367 (John Borrell) has requested a 30m setback. I consider that this is too onerous and could create a large amount of resource consents, particularly where buildings are anticipated to be located within their respective building platforms. Submitter 719 (NZTA) has requested a setback of 20 metres from State Highways for both Rural Residential and Rural Lifestyle Zones.

12.26. Overall, I recommend that because the minimum allotment size in the Rural Lifestyle Zone is 1ha, a 20m setback would more appropriately meet the Objectives. I recommend that the NZTA's submission is accepted for the Rural Lifestyle Zone but that it applies to all roads and

not just land fronting a State Highway. This change is within scope because Mr Borrell has requested a 30m setback.

- 12.27. I consider that a 20m setback is too large for the Rural Residential Zone. Having analysed the allotment shape of some established Rural Residential Zoned areas throughout the District, a typical allotment shape is 50m x 80m (4000m<sup>2</sup>). This would require a 20m road setback where the road frontage part of the allotment is 50m deep, and this could unreasonably constrain the ability for a dwelling to be built to maximize sun, outlook and privacy. I consider that 15m is more appropriate and goes some way to supporting the relief sought by NZTA.
- 12.28. Although the submission from NZTA is on reducing the potential for effects of noise and vibration from the State Highway, increasing the setback from roads enhances the open space of the Zones as viewed from roads and accords with Objectives 22.2.1 and 22.2.2.
- 12.29. In summary, I recommend the setback from roads is increased to 20m in the Rural Lifestyle Zone and 15m in the Rural Residential Zone where the road is a State Highway.

### 13. OTHER PROVISIONS

#### Zone Purpose 22.1

- 13.1. The NZIA (Submitter 238) supports the intent behind the zone descriptions except seeks the deletion of description of 'buffer edges' between urban and rural areas because it implies the encouragement of sprawl. Arcadian Triangle Limited's further submission (FS1255.28) has supported their submission and states:

*Rural Residential and Rural Lifestyle zonings should not be used to provide a so called 'buffer' to an urban zone because that 'buffer' almost inevitably crumbles under development pressure. It is preferable to have a strong urban edge between an urban zone and a rural zone.*

- 13.2. In my opinion whether or not the buffer 'crumbles' is up to the strength of the policy and plan administration. Whether a strong urban edge or gradational transition of densities from rural to urban areas is the best outcome depends on the circumstances of specific locations and the context. I do not support the further submission in its entirety but I do accept that there would be no loss if the test was removed. I accept the submission of NZIA and recommend the reference to buffer areas is removed.

13.3. Submitter 286.2 (Urs & Rosalle Metzger) seeks that the word 'generally' is removed from the purpose statement where the Rural Residential Zone density is described. I understand that this is to provide more certainty that urban development would not occur in the Zone. I acknowledge this but am reluctant to do so because the Rural Residential Zone has differing density requirements where some are averaged, this is even more relevant if the recommendation within Mr Clarke's submission (submission 26) is accepted, as that would require an average of one residence every 8000m<sup>2</sup> at the Rural Residential Zone at the north of Lake Hayes. I do not consider this statement to be a precursor to further residential intensification because of the corresponding policy and rule framework. I recommend this submission is rejected.

### **Objective 22.2.3 and policy**

13.4. This objective seeks to manage the risks of natural hazards and development. Submitter 699 (C and M Burgess) considers that these duplicate those in the Natural Hazards Chapter. I accept this to an extent, but do not consider the policy should be deleted because the Rural Lifestyle and Rural Residential Zones are located in areas susceptible to natural hazards (for example at Wanaka Mt Aspiring Road from landslide, and from flooding from the Cardrona River along Riverbank Road near Wanaka). More specifically the existing provisions have detailed methods to manage the risk of development and natural hazards in the Makarora Rural Lifestyle Zone. Because these are specific to this area, I consider that in this case, it is better to 'leave within' the respective zone chapter, rather than relocate to the Natural Hazards District Wide Chapter.

13.5. On this basis I recommend the submission is rejected.

13.6. Submitters<sup>23</sup> request that the Objective is rephrased to become a more aspirational statement. I accept these submissions. The submitters request that Policy 22.2.3.1 is deleted because it is imprecise and does not clearly specify the action required to from development to manage natural hazard risks, and because it is not necessary because of s106 of the RMA.

13.7. I accept that the policy is imprecise but that it is inevitable where these zones are scattered throughout rural areas and are subject to a multitude of potential natural hazards. I also note that s106 only applies to subdivision, and therefore this policy is important for applications for discretionary activities in the Rural Lifestyle Zone to identify a building platform where there has not previously been a subdivision.

13.8. I recommend that the policy is retained as notified.

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<sup>23</sup> 761 (OREFL Ltd), 763 (Lakes Hayes Ltd), and 764 (Mount Christina Ltd).

## **Policies (general)**

- 13.9. Submitters 339 (Evan Alty) and 706 (Forest and Bird) have requested that nature conservation values be included as a value in this zone alongside rural living character and landscape, particularly in the relevant policies. Further Submissions FS1150 and FS1015 have opposed the inclusion of nature conservation values in the policies directing the assessment of development with these Zones, as they consider an assessment of nature conservation values could be overly onerous and unworkable.
- 13.10. I agree with the further submissions in that this assessment matter is very broad and could conflict with the underlying intent of the zone. In addition, landscape is addressed and the matter associated with ecosystems in the context of indigenous biodiversity is addressed in Chapter 33, Indigenous Vegetation and Biodiversity. I do not support its application within these zones.

## **14. NON-NOTIFICATION OF APPLICATIONS**

- 14.1. Two activities have been identified for processing without the need to consider the application needs to be limited or publicly notified. These are controlled activity Home Occupation and Controlled Activity Visitor Accommodation within a Visitor Accommodation Subzone.
- 14.2. Submitter 719 (NZTA) seek that exemptions are provided to the two instances so that where the access is onto a State Highway, the non-notification clause does not apply:
- a. Rule 22.4.9 for Home Occupations involving retail sales limited to handicrafts or items grown or produced on site; and,
  - b. Controlled activity for visitor accommodation within a visitor accommodation Sub Zone.
- 14.3. Rule 22.4.9 is anticipated to capture activities of a low intensity and scale. However this does not necessarily mean that there are not any valid matters that the NZTA could have an interest in, most likely the location and sight distance of the vehicle crossing place. I accept the NZTA's submission.
- 14.4. Currently, the two visitor accommodation subzones are In the Rural Residential Zone off Speargrass Flat Road and in the Rural Lifestyle Zone (Matakauri) on the Glenorchy Queenstown Road. I am not aware of any Rural Residential or Rural Lifestyle Visitor Accommodation Sub Zones that have access to a State Highway. For these reasons I recommend the submission is rejected.

## 15. ASSESSMENT MATTERS

- 15.1. The assessment matters (Provision 22.7) not otherwise specified in the respective rules are limited to those relating to natural hazards at Makarora.
- 15.2. There are not any assessment matters<sup>24</sup> for discretionary or non-complying activities. These methods are not a mandatory requirement under s75 of the RMA<sup>25</sup>. I consider that the policy framework on its own provides appropriate guidance as to the likely nature and scale of the adverse effects of activities.
- 15.3. Submitter 674 seeks that a number of assessment matters that were contained in Chapter 8: Rural Living of the ODP are retained, both specifically<sup>26</sup> with regard to Mill Creek and Lake Hayes and generically<sup>27</sup>. I do not support the reinstatement of these assessment matters because some of them appear to conflict with the inherent development rights of the Rural Residential and Rural Lifestyle Zones<sup>28</sup>. I consider that Mr Hadley's submission is met because the policies in Chapter 22 and Chapters 3 to 6, if necessary to be applied, provide sufficient protection of amenity and rural living character.

## 16. NEW ZEALAND FIRE SERVICE (NZFS) SUBMITTER 438

- 16.1. The NZFS requests that standards are inserted that require compliance with the NZFS Code of Practice SNZ PAS 4509:2003<sup>29</sup> in relation to water supply and access in non-reticulated areas.
- 16.2. In principle, I support the management of this issue because it is important, particularly because of the seasonal fire hazard in Queenstown Lakes and Central Otago areas. However, for the following reasons I am reluctant to accept the request to include this standard in the PDP. The reasons are:
- a. The rule would have to rely on the relevant standards New Zealand Code of Practice (CoP) and this would mean directing people to provisions outside the plan for permitted activity status;

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<sup>24</sup> With the exception of controlled activity buildings subject to natural hazards in Makarora (22.7.1).

<sup>25</sup> Contents of District Plans .

<sup>26</sup> Submission point 674.4.

<sup>27</sup> Submission point 674.5.

<sup>28</sup> Refer to ODP Part 8.3.2i. General. Nature Conservation values, and iii. Controlled Activity – All Buildings, including whether the building is appropriate within in the rural context. This seems at odds with the underlying development right.

<sup>29</sup> Note that the Standards referenced in the submission, and those used by the QLDC for assessing subdivision and development is: SNZ PAS 4509: 2008.

- b. The rule/permitted activity status is entirely reliant on the whole document. There are items in the CoP that provide more discretion than what either legal or practical and fair in terms of enforcing the rule;
  - c. Referencing the CoP would mean QLDC need to undertake a plan change if/when the CoP is updated. If not, QLDC would be obliged to administer the old standard/CoP and this matter has caused problems with the administration of the ODP (e.g. having to rely on a superseded noise standard in terms of administering the rule but in terms of assessment the more recent standard is preferred. The administration resource consents for helicopter landings and departures being one example).
  - d. The QLDC and NZFS have a memorandum of understanding (MOU) that sets out the requirements for firefighting provisions in non-reticulated areas. The MOU requires 20,000 litres of water for a firefighting reserve, whilst the COP requires 45,000 litres. The MOU conflicts with the COP and this further reinforces why it is not, in my view, appropriate to broadly apply the COP as a permitted activity standard.
- 16.3. The Council has a longstanding practice of assessing and imposing conditions on water supply and access in non-reticulated areas when subdivision and development is approved in the Rural Residential and Rural Lifestyle Zones. There are unlikely to be any consented but unbuilt developments that do not have conditions, usually registered on a property's computer freehold register that do not require suitable access for fire appliances, a fire fighting reserve, and connection (if applicable), and the suitable distance to and from the buildings.
- 16.4. In terms of the Rural Lifestyle Zone, because there are not any permitted activity development rights for habitable buildings I do not consider this rule is necessary. For these reasons I recommend that the submission is rejected.
- 16.5. In terms of the Rural Residential Zone, the PDP does provide for the establishment of residential activity as a permitted activity, subject to density controls. Therefore, there is the potential that residential activity could be undertaken without a subdivision as a permitted activity, and the opportunity for the QLDC to apply fire-fighting provisions to conditions of land use resource consents or subdivision consents could be missed.

16.6. I consider it is appropriate that a rule is added to the Rural Residential Zone that ensures the provision of firefighting. However for the reasons set out above I do not support the methods suggested by the NZFS that would require broad adoption of the COP. I recommend that the essential elements can be drafted in a rule that will provide certainty and clarity. A recommended rule is provided below (which is only recommended for the Rural Residential Zone as that is where you can build as a permitted activity) and a s32AA evaluation is attached at Appendix 5.

16.7. In terms of the detail of the rules, the s32AA evaluation provides an explanation of the formulation of the rule.

16.8. Recommended Rule in Table 2: Standards Rural Residential and Rural Lifestyle Zones

	<b>Table 2: Standards Rural Residential and Rural Lifestyle Zones</b>	<b>Non-compliance status</b>
<b><u>22.5.X</u></b>	<p><b><u>Fire Fighting water and access: Rural Residential Zone</u></b></p> <p><u>New buildings where there is no reticulated water supply or it is not sufficient for fire-fighting water supply shall provide the following provision for firefighting:</u></p> <p><u>22.5.x.1 A water supply of 20,000 litres and any necessary couplings.</u></p> <p><u>22.5.x.2 A hardstand area adjacent to the firefighting water supply capable of supporting fire service vehicles.</u></p> <p><u>22.5.x.3 Firefighting water connection point within 6m of the hardstand, and 90m of the dwelling.</u></p> <p><u>22.5.x.4 Access from the property boundary to the firefighting water connection capable of accommodating and supporting fire service vehicles.</u></p> <p><u>Discretion is restricted to all of the following:</u></p> <ul style="list-style-type: none"> <li>• <u>The extent to which SNZ PAS 4509: 2008 can be met including the adequacy of the water supply.</u></li> <li>• <u>The accessibility of the firefighting water connection point for fire service vehicles.</u></li> <li>• <u>Whether and the extent to which the building is assessed as a low fire risk.</u></li> </ul>	RD

16.9. Policy 22.2.1.7 addresses fire risk from vegetation to people and buildings. I have considered whether the policy could be modified to also include the provision of firefighting water but prefer to leave these two distinct issues separate (and note also that NZFS have not requested such a change to the policy).

16.10. I consider useful the policy requested by the NZFS in the evidence of Ms McLeod<sup>30</sup> associated with providing adequate property access and firefighting water. NZFS have requested the following policy under Goal 3.2.6 of the Strategic Direction Chapter:

*Provide adequate property access and firefighting water to ensure an efficient and effective emergency response.*

16.11. I recommend modifying the policy so that the matter to do with 'property access' is on the ability for fire appliances, or fire service vehicles in a broader sense, to firstly reach, and then park next to the fire-fighting reserve, and not 'property access'. The respective transportation rules<sup>31</sup> address property access (usually the space of land between the edge of the road carriageway and the property boundary) and driveway requirements. The reference to 'fire service vehicle' and not vehicles generally encapsulates a specific type of vehicle that is required to assist with firefighting. Both appliances and tankers are covered by the reference to fire service vehicles.

16.12. A recommended revised policy is suggested below and a s32AA evaluation in attached at Appendix 5.

16.13. I therefore recommend a new Policy 22.2.1.8, as follows:

*Provide adequate firefighting water and fire service vehicle access to ensure an efficient and effective emergency response.*

16.14. I recommend that this policy is added within Chapter 22, under Objective 22.2.1 because this objective addresses rural living opportunities. If the Hearings Panel accept the NZFS's submission on the Strategic Direction Chapter to add an objective and two policies under Goal 3.2.6, this policy may not be necessary in this chapter. In the event this is the case, I recommend that my iteration of the policy is adopted.

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<sup>30</sup> Statement of Evidence of Ainsley Jean McLeod: on behalf of the New Zealand Fire Service Commission. 26 February 2016.

<sup>31</sup> Not part of Stage 1 of the PDP, however part 14 of the ODP 'Transportation' will provide an indication of the Objectives, policies, rules and methods.

## 17. CONCLUSION

- 17.1. On the basis of my analysis within this evidence, I recommend that the changes within the Revised Chapter in Appendix 1 are accepted.
- 17.2. 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.



Craig Barr  
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6 April 2015