

**BEFORE THE HEARINGS PANEL  
FOR THE QUEENSTOWN LAKES PROPOSED DISTRICT PLAN**

**IN THE MATTER** of the Resource  
Management Act 1991

**AND**

**IN THE MATTER** of Hearing Stream 08  
– Business Zones

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**REPLY OF AMY BOWBYES  
ON BEHALF OF QUEENSTOWN LAKES DISTRICT COUNCIL**

**16 BUSINESS MIXED USE ZONE CHAPTER**

**13 December 2016**

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**Appendix 1 – Revised Chapter 16 Business Mixed Use Zone**

**Appendix 2 – s32AA Evaluation**

## 1. INTRODUCTION

1.1 My name is Amy Bowbyes. I prepared the section 42A report for the Business Mixed Use Zone (**BMUZ**) Chapter 16 of the Proposed District Plan (**PDP**). My qualifications and experience are listed in that s42A report dated 2 November 2016.

1.2 I attended the hearing on 29 November 2016, where I presented my Summary of Evidence and responded to questions from the Hearing Panel (**Panel**). I have reviewed the evidence filed by other expert witnesses on behalf of submitters, attended parts of the hearing between 28 November and 6 December 2016, and have been provided with information from submitters and counsel at the hearing, including reports of what has taken place at the hearing each day when I was not in attendance.

1.3 This reply evidence covers the following issues:

- (a) whether including a reference to *visitor accommodation* in Objective 16.2.1 would be appropriate;
- (b) whether the use of 'avoid' in redraft Policy 16.2.1.6 is the intended meaning of the policy;
- (c) whether redraft Policy 16.2.2.8 is appropriately phrased;
- (d) further consideration of redraft Policy 16.2.2.9 and Rule 16.4.2 insofar as it pertains to Horne Creek, having regard to comments from the Panel and the submissions made by Mr Freeman<sup>1</sup> and Ms Macdonald<sup>2</sup> and Mr Ridd;<sup>3</sup>
- (e) further consideration of redraft Policy 16.2.1.4 and Rule 16.5.3, having regard to the evidence submitted by Mr Freeman;<sup>4</sup>
- (f) whether the first two bullet points of Rule 16.4.2 are matters of discretion or assessment matters;
- (g) consideration of Rule 16.4.3 (final bullet point) responding to questions from the Panel and having regard to the evidence

1 For GH & PJ Hensman, High Peaks Limited (545), Ngai Tahu Property Limited (550), Skyline Enterprises Limited (556) and Trojan Holdings Limited (634).

2 For High Peaks Limited (545) and Trojan Holdings Limited (634).

3 For Erna Spijkerbosch (392, FS 1059).

4 Mr Freeman's evidence in chief at paragraphs 33 to 36.

provided by Ms Sian Swinney for QLDC on the same rule for the Queenstown Town Centre Chapter;

- (h) further consideration of redraft Rule 16.5.10 regarding the phrase "*and so as to limit the effects on the night sky*" as I understand them to be *ultra vires*;
- (i) consideration of the default permitted activity in Rule 16.4.1;
- (j) consideration of non-substantive changes to improve the consistency of drafting across the chapters heard in Business Zones Hearing Stream 08; and
- (k) providing information requested by the Panel regarding industrial activities currently operating within the Gorge Road area of the BMUZ.

**1.4** Where I am recommending changes to the provisions as a consequence of the hearing, I have included these in the recommended chapter in **Appendix 1 (Revised Chapter)**. I have attached a section 32AA evaluation in **Appendix 2**.

**1.5** In this Reply:

- (a) if I refer to a provision number without any qualification, it is to the notified provision number and has not changed through my recommendations;
- (b) if I refer to a 'redraft' provision number, I am referring to the s 42A recommended provision number; and
- (c) if I refer to a 'reply' provision number, I am referring to the recommended provision number in **Appendix 1** to this Reply.

## **2. OBJECTIVE 16.2.1**

**2.1** The Panel has requested that I give further consideration to Objective 16.2.1, and specifically whether *visitor accommodation* should be inserted into the objective (as sought by NZIA Southern and Architecture + Women Southern (238.94) (opposed by further

submitters FS1314, FS1107, FS1226, FS1234, FS1239, FS1248, FS1249 and FS1242) and as considered in my s42A Report.<sup>5</sup>

2.2 I agree with the Panel that interpreting the Policy does rely on the plan user having an understanding of the definition of *Residential Activity* in the PDP Chapter 2 (Definitions). However, in my view the Objective does not result in uncertainty as to the status of visitor accommodation activities. If any uncertainty was to arise this would be easily resolved by referring the plan user to the definition of *Residential Activity* in Chapter 2, which is the purpose of defining the term in Chapter 2.

2.3 The view detailed in my s42A Report<sup>6</sup> therefore remains unchanged and as such I do not recommended any changes to this Objective.

### 3. REDRAFT POLICY 16.2.1.6

3.1 The Panel has requested that I consider the use of *avoid* in redraft Policy 16.2.1.6 and whether this is the intent of the policy. I agree that this policy does warrant being reworded, as it would be impractical to expect reverse sensitivity effects to be avoided. In my view the policy should be reworded to *limit reverse sensitivity effects* rather than *avoid* them.

3.2 As no submission was received seeking that this policy is amended it is my view that there is no scope to make the amendment. I therefore have not recommended any changes to this policy, but have noted the recommended change in **Appendix 1**.

### 4. REDRAFT POLICY 16.2.2.8

4.1 The Panel has requested that I reconsider the drafting of redraft Policy 16.2.2.8 to ensure that it is expressed in a manner that provides for the intended action. I note that this matter was initially raised in the Bunnings Limited submission (746). Mr Norwell's

5 S42A Report for the Business Mixed Use Zone at paragraphs 9.2 and 9.3.

6 S42A Report for the Business Mixed Use Zone at paragraphs 9.2 and 9.3.

evidence tabled for Bunnings<sup>7</sup> supports the inclusion of redraft Policy 16.2.2.8 and Mr Freeman<sup>8</sup> is also of the view that the policy is appropriate, and furthermore notes that the policy would apply to both new and existing non-residential activities operating within the BMUZ.

**4.2** In my view the policy should not prescribe the 'operational and functional' matters to be considered, as these will vary between the many non-residential activities enabled in the BMUZ. In my view the s42A version of the policy is appropriately worded and no further amendments are necessary.

**4.3** I therefore do not recommend any changes to this policy.

## **5. HORNE CREEK (REDRAFT POLICY 16.2.2.9 AND RULE 16.4.2)**

**5.1** Mr Freeman<sup>9</sup> provided his view on the new policy and rule regarding the naturalisation of Horne Creek (redraft Policy 16.2.2.9 and part of Rule 16.4.2). Mr Freeman highlights a number of practical issues associated with daylighting Horne Creek, and he is of the view that there would be uncertainty regarding the application of Policy 16.2.2.9 and the relevant part of Rule 16.4.2. I accept that the drafting of these provisions may result in uncertainty as to their application due to the use of the phrases "*substantially develop or redevelop*" and "*where practicable*".<sup>10</sup>

**5.2** Mr Ridd<sup>11</sup> also expressed concern with potential health and safety issues that may arise in the event that public access is required along the length of the Creek. In Mr Ridd's view, the requirement for development to integrate with the Creek should only apply when ground floor residential or visitor accommodation activities are proposed.

7 Mr Norwell's evidence at paragraph 3, bullet point 1.

8 Mr Freeman's evidence in chief at paragraph 51.

9 Mr Freeman's evidence in chief at paragraphs 52 to 61.

10 Mr Freeman's additional comments/supplementary evidence submitted to the Panel on 6 December, at paragraph 5.

11 For Erna Spijkerbosch (392; FS 1059).

- 5.3 Ms Macdonald<sup>12</sup> in legal submissions questioned whether a rule requiring the opening up of Horne Creek is a matter within the jurisdiction of the District Council, and rather whether it falls within the control of the Otago Regional Council (**ORC**).
- 5.4 I remain of the view that Horne Creek should be acknowledged in the BMUZ. However, having considered the views of Mr Freeman and Mr Ridd regarding the potential practicalities of implementing redraft Policy 16.2.2.9, and Ms Macdonald's comments regarding jurisdictional matters, I have reconsidered my view as to the appropriateness of the policy.
- 5.5 It would not, in my view, be appropriate to require implementation of a policy that relies on an applicant also obtaining third party approval (in this case obtaining resource consent from the ORC). I therefore recommend that redraft Policy 16.2.2.9 is amended to *encourage*, rather than *require* the integration of the Creek with a proposed development.
- 5.6 I recommend that the policy and associated element of Rule 16.4.2 are simplified so that they are less prescriptive in respect of treatment of the culverted sections of the creek. Further to this, I accept Mr Freeman's view that to require daylighting of the culverted sections may also require multiple landowners to agree to redirect the Creek. In the absence of such an agreement between landowners, redirection of the Creek to achieve daylighting, whilst limiting the impact of the ability of sites on the eastern side of Gorge Road to be developed would be very difficult to achieve.
- 5.7 In light of this, I recommend that the references to daylighting are removed from the policy. I consider that it would be appropriate for the matter of daylighting to be pursued through the formulation of the Design Guide for the BMUZ, if it is to be pursued.
- 5.8 The recommended changes to the policy and associated matter of discretion in Rule 16.4.2 are shown in **Appendix 1**.

12 Ms Macdonald's submissions at paragraph 1.

**6. REDRAFT POLICY 16.2.1.4 AND RULE 16.5.3 – RESIDENTIAL AND VISITOR ACCOMODATION ACTIVITIES**

- 6.1** Mr Freeman<sup>13</sup> has highlighted an interpretation issue with redraft Policy 16.2.1.4 and Rule 16.5.3 due to the potential uncertainty arising from use of the term *fronting* in both these provisions. Mr Freeman suggests that a more appropriate alternative is the introduction of a prescribed setback for ground floor residential and visitor accommodation activities on sites adjoining Gorge Road.
- 6.2** I agree with Mr Freeman that prescribing a setback would provide greater certainty regarding the application of the policy and associated rule. I also agree that the term *fronting* is not defined and would be open to differing interpretations.
- 6.3** In my view (as outlined in my Summary of Evidence<sup>14</sup>) it would be appropriate to replace the word *fronting* with *adjoining* in both the policy and the rule, so that it is clear that the provisions apply only to sites adjoining Gorge Road. In addition (and as also outlined in my Summary of Evidence) I consider that it would be appropriate to amend the policy and rule to only apply to residential and visitor accommodation activities at ground floor level located within 10m of the site boundary adjoining Gorge Road. This is the distance suggested by Mr Freeman.<sup>15</sup>
- 6.4** Mr Freeman confirmed that he supports this approach when he appeared on 6 December 2016.<sup>16</sup>
- 6.5** I consider that submission point 238.98, which seeks amendments to redraft Policy 16.2.1.4 to improve the clarity of the policy (amongst other suggested changes) provides sufficient scope to make these amendments. The recommended amendments to Rule 16.5.3 would,

13 Mr Freeman's evidence in chief at paragraphs 33 to 36.

14 Summary of Evidence, 25 November 2016 Chapter 16 Business Mixed Use Zone – Hearing Stream 08 at paragraph 6.

15 Mr Freeman's evidence in chief at paragraph 36.

16 Mr Freeman's additional comments/supplementary evidence submitted to the Panel on 6 December, at paragraph 3.

in my view, further assist with the correct implementation of the recommended revised policy.

**6.6** Consequently, the recommended changes to the policy and rule are included in **Appendix 1** and are considered in the s32AA evaluation in **Appendix 2**.

## **7. RULE 16.4.2 – BUILDINGS**

**7.1** The Panel requested that I consider whether the first two bullet points of Rule 16.4.2 are assessment matters, rather than matters of discretion.

**7.2** I have reconsidered these provisions and agree with the Panel's comments. As shown in **Appendix 1**, I recommend that the two bullet points remain within Rule 16.4.2, however I recommend that they are shown under a heading specifying that they are assessment matters.

## **8. RULE 16.4.3 – LICENSED PREMISES**

**8.1** The Panel noted the evidence of Ms Sian Swinney for QLDC on Rule 12.4.4 of the Queenstown Town Centre Zone chapter that concerns itself with licensed premises. Ms Swinney<sup>17</sup> supports removal of the final bullet point of the rule that lists, as a matter of discretion, *consideration of any relevant Council alcohol policy or bylaw*. The reason stated by Ms Swinney is that there is currently no alcohol policy in place and breach of any bylaw could result in enforcement action being required.

**8.2** The Panel have asked that I consider whether Rule 16.4.3, which includes the same matter of discretion, should also be amended.

**8.3** I accept Ms Swinney's view and consider that, on the face of it, it would be appropriate to amend Rule 16.4.3. However as no submission was received on this rule it is my view that there is no scope to make the amendment.

<sup>17</sup> Ms Swinney's evidence at paragraph 5.32.

8.4 I therefore do not recommend any changes to this rule, but have noted this issue in the revised chapter.

## 9. REDRAFT RULE 16.5.10 – NIGHT SKY

9.1 The Panel has asked that I reconsider my position on redraft Rule 16.5.10, having regard to submissions received that specifically consider the effects of lighting on the night sky. I have subsequently considered the submissions of Grant Bisset (**Bisset**) (568) and Ros and Dennis Hughes (**Hughes**) (340).

9.2 My original position on redraft Rule 16.5.10, as set out in my s42A report, was that while I considered that the following words should be deleted from redraft Rule 16.5.10.1, *and so as to limit the effects on the night sky*, there was no scope to make this change.<sup>18</sup>

9.3 The Bisset submission<sup>19</sup> seeks that the effects of light pollution are appropriately controlled in order to limit the effects on the night sky.

9.4 The Hughes submission relates specifically to Chapter 3 (Strategic Directions) and Chapter 6 (Landscapes) (both district wide chapters), however the submission<sup>20</sup> generally highlights the importance of the night sky as a natural feature and seeks that it is a consideration in the design of lighting infrastructure.

9.5 The matter of scope is addressed in the Council's Reply legal submissions. I understand from those submissions that there isn't scope to delete the phrase, but there is scope to make the zone provisions (ie, the phrase) more measurable and specific, as "a greater level of direction" is sought in submission 568.

9.6 In any event, I understand that the phrase "*and so as to limit the effects on the night sky*" is *ultra vires* for uncertainty as also discussed in the Council's Reply Legal Submissions. I therefore consider that the part of the phrase "*and so as to limit the effects on*

18 S42A Report for the Business Mixed Use Zone at paragraph 13.12.

19 Submission 568, paragraphs 4.14 and 4.15

20 Submission 340, paragraph 4, bullet 2.

*the night sky*" should be deleted in Rule 16.5.10), as shown in **Appendix 1** to this report.

## **10. RULE 16.4.1 – DEFAULT PERMITTED ACTIVITY RULE**

**10.1** The Panel has asked that consideration be given to whether Rule 16.4.1 is necessary. This rule provides the 'default' permitted activity status for activities which comply with all standards and are not otherwise listed in the activity table.

**10.2** This matter is discussed in the Right of Reply provided by Ms Vicki Jones for the Queenstown Town Centre Chapter.<sup>21</sup> I concur with Ms Jones' view and the reasons outlined in her Reply.

**10.3** I therefore have not recommended any changes to this rule.

## **11. NON-SUBSTANTIVE CHANGES FOR CONSISTENCY**

**11.1** The Panel has pointed to a number of minor drafting inconsistencies between the PDP chapters heard in Business Zones Hearing Stream 08. I have consulted with Ms Vicki Jones and Ms Rebecca Holden (who are the other authors of the s42A Reports for this hearing) and I recommend minor changes to the following provisions to increase consistency between the chapters:<sup>22</sup>

- (a) Rule 16.4.4: remove the words "*in respect of*" and replace with "*Control is reserved to the following*";
- (b) Rules 16.4.2, 16.4.3, 16.4.5, 16.4.6, 16.5.1, 16.5.2, 16.5.3 and redraft Rule 16.5.7: amend so that the text in each rule consistently says: "*Discretion is restricted to consideration of the following...*";
- (c) Rule 16.4.10: amend to make the layout consistent across the chapters heard in Business Zones Hearing Stream 08 which contain this rule by separating Rule 16.4.10 into three

<sup>21</sup> Ms Jones' Right of Reply for the Queenstown Town Centre Chapter at paragraph 3.1 to 3.4.

<sup>22</sup> These changes increase consistency between the following PDP chapters: Queenstown Town Centre Zone, Wanaka Town Centre Zone, Arrowtown Town Centre Zone, Local Shopping Centre Zone, Business Mixed Use Zone and the Airport Mixed Use Zone.

rules (shown in **Appendix 1** as reply Rule 16.4.10, reply Rule 16.4.11 and reply Rule 16.4.12);

- (d) Reply Rule 16.5.9 to clarify which parts of the rule are exemptions and which are explanatory notes; and
- (e) Rule 16.4.5 to amend the final bullet point.

**11.2** The Panel also requested that I consider amending redraft Rule 16.5.8 to make the format of the rule consistent with that of Rules 12.5.9 and 12.5.10 of the Queenstown Town Centre Chapter. I have considered the changes suggested by the Panel, however I remain of the view that the current format of the rule (as shown in **Appendix 1**) is sufficiently clear, such that in my view no amendment is necessary.

## **12. INDUSTRIAL ACTIVITIES OPERATING WITHIN THE GORGE ROAD AREA OF THE BMUZ**

**12.1** The Panel has requested that I provide information regarding the activities currently operating within the Gorge Road area of the BMUZ that would fall within the PDP definition of *industrial activity*.

**12.2** I note that the definition of industrial activity in the notified version<sup>23</sup> of PDP Chapter 2 (Definitions) is as follows:

### ***Industrial Activity***

*Means the use of land and buildings for the primary purpose of manufacturing, fabricating, processing, packing, or associated storage of goods.*

**12.3** I visited the Gorge Road area of the BMUZ on 30 November 2016 and noted the following activities operating that, on the face of it, would be captured by the above definition:

- (a) Rockgas: 119 Gorge Road;
- (b) Otago Southland Waste Services: 121 Gorge Road; and
- (c) Allied Concrete: 105 Gorge Road.

<sup>23</sup> No changes have been recommended to this definition in the s42A reports and rights of reply for Hearing Streams 01 to 08.

**12.4** The Panel also requested that I provide site areas for these established activities. However, these activities appear to occupy only part of the sites they are situated on. As such I cannot with any confidence provide the site area of the activities to the Panel. Although, I can confirm that they are established in a cluster on the eastern side of Gorge Road between the intersections with Sawmill Road and Bowen Street.

**12.5** The *total* area of these sites (as shown on the Council's GIS maps) is as follows:

- (a) 119 and 121 Gorge Road (shown as one single cadastral parcel Lot 1 DP 10731 BLK XX SHOTOVER SD): 9,530m<sup>2</sup>; and
- (b) 105 Gorge Road (Lot 1 DP11297): 1,965m<sup>2</sup>.

### **13. CONCLUSION**

**13.1** Overall, with the incorporation of the above-mentioned changes, I consider that the recommended revised chapter as set out in **Appendix 1** is the most appropriate way to meet the purpose of the RMA.



**Amy Bowbyes**  
**Senior Policy Planner**  
**13 December 2016**

**APPENDIX 1**  
**REVISED CHAPTER 16 BUSINESS MIXED USE ZONE**

# BUSINESS MIXED USE ZONE 16

## Key:

Recommended changes to notified chapter are shown in red underlined text for additions and ~~red strike through~~ text for deletions, Appendix 1 to Right of Reply, dated 13 December 2016

Recommend changes to notified chapter are shown in underlined text for additions and ~~strike through text~~ for deletions. Appendix 1 to s42A report, dated 2 November 2016.

## 16 Business Mixed Use Zone

### 16.1 Purpose

The intention of this zone is to provide for complementary commercial, business, retail and residential uses that supplement the activities and services provided by town centres. Higher density living opportunities close to employment and recreational activities are also enabled. Significantly greater building heights are enabled in the Business Mixed Use Zone in Queenstown, provided that high quality urban design outcomes are achieved.

### 16.2 Objectives and Policies

#### 16.2.1 Objective – An area comprising a high intensity mix of compatible residential and non-residential activities is enabled.

#### Policies

16.2.1.1 Accommodate a variety of activities while managing the adverse effects that may occur and potential reverse sensitivity.

16.2.1.2 To enable a range and mix of compatible business, residential and other complementary activities to achieve an urban environment that is desirable to work and live in.

16.2.1.3 Avoid activities that have noxious, offensive, or undesirable qualities from locating within the Business Mixed Use Zone to ensure that appropriate levels of amenity are maintained ~~a high quality urban environment is maintained.~~

Comment [AB1]: 238.96

16.2.1.4 ~~Residential and visitor accommodation activities are enabled, while acknowledging that there will be a lower level of amenity than residential zones due to the mix of activities provided for.~~

Comment [AB2]: 700.1; 238.97

16.2.1.54 For sites fronting adjoining Gorge Road in Queenstown, discourage the establishment of high density residential and visitor accommodation activities at ground floor level, except where commercial and/or business activities continue to have primacy at the interface with the street.

Comment [AB3]: 238.98; amendment provides further clarity regarding the application of the policy

Comment [AB4]: 238.98

16.2.1.65 Provide appropriate noise limits to minimise adverse noise effects received within the Business Mixed Use Zone and by nearby properties.

16.2.1.76 Ensure that residential development and visitor accommodation provide acoustic insulation over and above the minimum requirements of the Building Code to avoid reverse sensitivity.

Comment [AB5]: No scope to amend this policy but on the merits, recommend rewording from "avoid" to "limit reverse sensitivity effects"

16.2.1.87 Ensure that the location and direction of lights does not cause significant glare to other properties, roads and public places and promote lighting design that mitigates adverse effects on the night sky, and provide a safe and well lit environment for pedestrians.

Comment [AB6]: 238.101

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16.2.1.98 Ensure that outdoor storage areas are appropriately located and screened to limit any adverse visual effects and to be consistent with the appropriate levels of amenity on public places and adjoining residential zones.

Comment [AB7]: 238.102

16.2.1.9 Minimise opportunities for criminal activity through incorporating Crime Prevention Through Environmental Design (CPTED) principles as appropriate in the design of lot configuration and the street network, carparking areas, public and semi-public spaces, accessways/pedestrian links/lanes, and landscaping.

Comment [AB8]: 238.101, 392.13

16.2.2 **Objective – New development achieves high quality building and urban design outcomes that minimises adverse effects on adjoining residential areas and public spaces.**

Comment [AB9]: 238.103

### Policies

16.2.2.1 Require the design of buildings to contribute positively to the visual quality, vitality, safety and interest of streets and public spaces by providing active and articulated building frontages, and avoid large expanses of blank walls fronting public spaces.

16.2.2.2 Require development close to residential zones to provide suitable screening to mitigate adverse visual effects, loss of privacy, and minimise overlooking and shading effects to residential neighbours.

16.2.2.3 Require a high standard of amenity, and manage compatibility issues of activities within and between developments through site layout, landscaping and design measures.

Comment [AB10]: 392.13

16.2.2.4 Utilise and, where appropriate, link with public open space nearby where it would mitigate any lack of open space provision on the development site.

16.2.2.5 Incorporate design treatments to the form, colour or texture of buildings to add variety, moderate their scale and provide visual interest from a range of distances.

16.2.2.6 Where large format retail is proposed, it should be developed in association with a variety of integrated, outward facing uses to provide reasonable activation of building facades.

16.2.2.7 Provide for significantly taller development above the permitted height limit in the Business Mixed Use Zone in Queenstown, subject to high design quality.

Allow buildings between 12m and 20m heights in the Queenstown Business Mixed Use Zone in situations when:

- The outcome is of high quality design;
- The additional height would not result in shading that would adversely impact on adjoining residential-zoned land and/or public space; and
- The increase in height would facilitate the provision of residential activity.

Comment [AB11]: 392.13

16.2.2.8 Apply consideration of the operational and functional requirements of non-residential activities as part of achieving high quality building and urban design outcomes.

Comment [AB12]: 746.2

16.2.2.9 Encourage the layout and design of new buildings, location of outdoor living spaces and landscaping to integrate with Horne Creek (applies only to sites in the Gorge Road area that contain a daylighted section of Horne Creek).

Comment [AB13]: 238.6; FS1226

For any proposal to substantially develop or redevelop a site containing Horne Creek in the Gorge Road area, the following shall apply:

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~~a) For sites that contain any section of the creek that is not culverted:~~

- ~~• Require the layout and design of new buildings, location of outdoor living spaces and landscaping to integrate with the creek;~~
- ~~• Require any landscaping on the banks of the creek to consist of native plant species that will have a positive effect on the ecology of the creek.~~

~~b) For sites that contain any section of the creek that is culverted (excluding where it passes beneath a road or driveway):~~

- ~~• Require the daylighting of the creek to assist with improving the creek's ecological values and to provide visual amenity, acknowledging that this may not be possible on sites where the creek is located within the main body of the site and when daylighting would have a significant impact on the ability for the site to be developed.~~
- ~~• Where daylighting occurs, part (a) of this policy applies.~~

Comment [AB14]: 238.6

## 16.3 Other Provisions and Rules

### 16.3.1 District Wide

Attention is drawn to the following District Wide chapters. All provisions referred to are within Stage 1 of the Proposed District Plan, unless marked as Operative District Plan (ODP).

1 Introduction	2 Definitions	3 Strategic Direction
4 Urban Development	5 Tangata Whenua	6 Landscapes
24 Signs (18 <u>Operative DP</u> )	25 Earthworks (22 <u>Operative DP</u> )	26 Historic Heritage
27 Subdivision	28 Natural Hazards	29 Transport (14 <u>Operative DP</u> )
30 Utilities and Renewable Energy	31 Hazardous Substances (16 <u>Operative DP</u> )	32 Protected Trees
33 Indigenous Vegetation	34 Wilding Exotic Trees	35 Temporary Activities and Relocated Buildings
36 Noise	37 Designations	Planning Maps

Comment [AB15]: Minor, non-substantive change for clarification only.

### 16.3.2 Clarification

#### Advice Notes

Comment [AB16]: Minor, non-substantive change for clarification only.

16.3.2.1 Where an activity does not comply with a Standard listed in the Standards table, the activity status identified by the 'Non-Compliance Status' column shall apply unless otherwise specified. Where an activity breaches more than one Standard, the most restrictive status shall apply to the Activity.

16.3.2.2 The following abbreviations are used within this Chapter.

P	Permitted	C	Controlled
RD	Restricted Discretionary	D	Discretionary
NC	Non Complying	PR	Prohibited

## BUSINESS MIXED USE ZONE 16

### 16.4 Rules - Activities

	Activities located in the Business Mixed Use Zone	Activity status
16.4.1	Activities which are not listed in this table and comply with all standards	P

# BUSINESS MIXED USE ZONE 16

<p>16.4.2</p>	<p><b>Buildings</b></p> <p>RD*</p> <p>*Discretion is restricted to consideration of <del>all of</del> the following: <del>external appearance, materials, signage platform, lighting, impact on the street, Horne Creek (in the Gorge Road area) and natural hazards to ensure that:</del></p> <ul style="list-style-type: none"> <li><del>The impact of the building on the streetscape including whether it contributes positively to the visual quality, vitality, safety and interest of streets and public places by providing active and articulated street frontages and avoids large expanses of blank walls fronting public spaces;</del></li> <li><del>Whether the design of the building blends well with and contributes to an integrated built form and is sympathetic to the surrounding natural environment;</del></li> <li>The external appearance of the building is sympathetic to the surrounding natural and built environment;</li> <li>Building materials:             <ul style="list-style-type: none"> <li>Glazing treatment;</li> <li>Symmetry;</li> <li>Vertical and horizontal emphasis;</li> <li>Location of storage;</li> <li>Signage platforms;</li> <li>Landscaping;</li> </ul> </li> <li><del>The detail of the facade is sympathetic to other buildings in the vicinity, having regard to; building materials, glazing treatment, symmetry, external appearance, vertical and horizontal emphasis and storage;</del></li> <li>Where residential units are proposed as part of a development, the extent to which the provision of open space is provided on site either through private open space or communal open space, or a combination thereof; and</li> <li><del>Where substantial development or redevelopment is proposed for a site containing Horne Creek (in the Gorge Road area), the integration of the development with the Horne eCreek (in the Gorge Road area), including site layout, and landscaping and, where practicable, the daylighting of culverted sections of the creek; and</del></li> <li>Where a site is subject to any Natural hazards and where the proposal <del>to</del> results in an increase in gross floor area, an assessment by a suitably qualified person is provided that addresses <del>including considering</del> the nature and degree of risk the hazard(s) pose to people and property, whether the proposal will alter the risk to any site, and the extent to which such risk can be avoided or sufficiently mitigated.<sup>[1]</sup></li> </ul> <p><b>Assessment matters relating to buildings:</b></p> <ul style="list-style-type: none"> <li>The impact of the building on the streetscape including whether it contributes positively to the visual quality, vitality, safety and interest of streets and public places by providing active and articulated street frontages and avoids large expanses of blank walls fronting public spaces;</li> <li>Whether the design of the building blends well with and contributes to an integrated built form and is sympathetic to the surrounding natural environment;</li> </ul>	<p>RD*</p>
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**Comment [AB17]:** Minor, non-substantive change to make consistent with other chapters

**Comment [AB18]:** Minor, non-substantive changes to re-phrase to be matters of discretion rather than assessment matters, and addition of further matters of discretion to further assist with the implementation of Policy 16.2.2.1.

**Comment [AB19]:** 238.6

**Comment [AB20]:** Further minor non-substantive change to specify as assessment matters, rather than matters of discretion. The matters have been shifted under 'Assessment matters' heading beneath the matters of discretion within this rule.

**Comment [AB21]:** Minor, non-substantive changes to re-phrase to be matters of discretion rather than assessment matters, and addition of further matters of discretion to further assist with the implementation of Policy 16.2.2.1.

**Comment [AB22]:** 392.13

**Comment [AB23]:** Minor, non-substantive changes to re-phrase to be matters of discretion rather than assessment matters, and addition of further matters of discretion to further assist with the implementation of Policy 16.2.2.1.

**Comment [AB24]:** 238.6

**Comment [AB25]:** 238.6; FS1226

**Comment [AB26]:** 238.6

<sup>[1]</sup> Policies that guide the assessment of proposals on land affected by natural hazards are located in Chapter 28.

## BUSINESS MIXED USE ZONE 16

	<p>Assessment Matters relating to natural hazards:</p> <ul style="list-style-type: none"> <li>the nature and degree of risk the hazard(s) pose to people and property;</li> <li>whether the proposal will alter the risk to any site; and</li> <li>whether such risk can be avoided or sufficiently reduced.</li> </ul>	
16.4.3	<p><b>Licensed Premises</b></p> <p>Premises licensed for the consumption of alcohol on the premises between the hours of 11pm and 8am, provided that this rule shall not apply to the sale of liquor:</p> <p>This rule shall not apply to the sale and supply of alcohol:</p> <p>16.4.3.1 to any person who is residing (permanently or temporarily) on the premises; and/or</p> <p>16.4.3.2 to any person who is present on the premises for the purpose of dining up until 12am.</p> <p>*Discretion is restricted to consideration of <del>all of</del> the following:</p> <ul style="list-style-type: none"> <li>The scale of the activity;</li> <li>Car parking and traffic generation;</li> <li>Effects on amenity (including that of adjoining residential zones and public reserves);</li> <li>The configuration of activities within the building and site (e.g. outdoor seating, entrances);</li> <li>Noise issues;</li> <li>Hours of operation; and</li> <li>Any relevant Council alcohol policy or bylaw.</li> </ul>	RD*
16.4.4	<p><b>Visitor Accommodation</b>, <del>in respect of:</del></p> <p><del>*Discretion is restricted to consideration of all of the following:</del></p> <p><u>Control is reserved to the following:</u></p> <ul style="list-style-type: none"> <li>The location, provision, and screening of access and parking and traffic generation;</li> <li>Landscaping;</li> <li>The location, nature and scale of visitor accommodation and ancillary activities relative to one another within the site and relative to neighbouring uses;</li> <li>The location and screening of bus and car parking from public places; and</li> <li>Where the site adjoins a residential zone: <ul style="list-style-type: none"> <li>Noise generation and methods of mitigation; and</li> <li>Hours of operation, in respect of ancillary activities.</li> </ul> </li> </ul>	RDC*
16.4.5	<p><b>Daycare Facilities</b></p> <p>*Discretion is restricted to consideration of <del>all of</del> the following:</p> <ul style="list-style-type: none"> <li>The compatibility of the development with respect to existing land uses on the subject site and nearby properties;</li> <li>Potential reverse sensitivity issues;</li> <li>Traffic, parking and access limitations; and</li> <li>Noise <del>associated with the activity on the subject site.</del></li> </ul>	RD*

**Comment [AB27]:** Minor, non-substantive change to re-phrase to be a matter of discretion, with the accompanying guidance clearly listed as assessment matters. The change also implements notified Policy 28.3.2.3 of Chapter 28 (Natural Hazards), which lists the information requirements for natural hazards assessments and does not include a requirement for all natural hazard assessments to be undertaken by a suitably qualified person.

**Comment [AB28]:** Minor, non-substantive change to make consistent with other chapters

**Comment [AB29]:** Recommend that this be removed from a merits perspective as the Council does not have a Council alcohol policy and breach of any bylaw could result in enforcement action being required, but as there is no scope within submissions this change has not been made.

**Comment [AB30]:** Non-substantive change for consistency with other PDP Chapters and to improve clarity for Plan users

**Comment [AB31]:** 542.3, 545.3, 550.3, 556.8, 571.20, 634.8, 1366.20.

**Comment [AB32]:** Minor, non-substantive change to make consistent with other chapters

**Comment [AB33]:** Minor non-substantive change to remove wording that could be open to misinterpretation

## BUSINESS MIXED USE ZONE 16

16.4.6	<b>Warehousing , Storage &amp; Lock-up Facilities (including vehicle storage) and Trade Suppliers</b>  *Discretion is restricted to consideration of <del>all of</del> the following: <ul style="list-style-type: none"> <li>• The impact of buildings on the streetscape and neighbouring properties in terms of dominance impacts from large, utilitarian buildings;</li> <li>• The provision, location and screening of access, parking and traffic generation; and</li> <li>• Landscaping.</li> </ul>	RD*
16.4.7	<b>Industrial Activities not otherwise provided for in this Table</b>	NC
16.4.8	<b>Service Stations</b>	NC
16.4.9	<b>Panelbeating, spray painting, motor vehicle repair or dismantling.</b>	NC
16.4.10	<b>Fibreglassing, sheet metal work, bottle or scrap storage, motorbody building or wrecking, <del>fish or meat processing (excluding that which is ancillary to a retail premises such as a butcher, fishmonger or supermarket), or any activity requiring an Offensive Trade Licence under the Health Act 1956.</del></b>	PR
<del>16.4.11</del>	<del><b>Fish or meat processing (excluding that which is ancillary to a retail premises such as a butcher, fishmonger or supermarket).</b></del>	
<del>16.4.12</del>	<del><b>Any activity requiring an Offensive Trade Licence under the Health Act 1956.</b></del>	
16.4.143	<b>Factory Farming</b>	PR
16.4.124	<b>Mining Activities</b>	PR
16.4.135	<b>Forestry Activities</b>	PR
16.4.146	<b>Airport</b>	PR

**Comment [AB34]:** Minor, non-substantive change to make consistent with other chapters

**Comment [AB35]:** Minor, non-substantive change to make consistent with other chapters (relates to 16.4.10, 16.4.11 and 16.4.12)

# BUSINESS MIXED USE ZONE 16

## 16.5 Rules - Standards

	Standards for activities located in the Business Mixed Use Zone	Non-compliance status
16.5.1	<p><b>Setbacks and sunlight access – sites adjoining a Residential zone or separated by a road from a Residential zone</b></p> <p>16.5.1.1 Buildings on sites adjoining, or separated by a road from, a Residential zone shall not project beyond a recession line constructed at <del>an</del> <u>the following angles of 35°</u> inclined towards the site from points 3m above the Residential zone boundary:</p> <p style="padding-left: 40px;">(a) <u>45° applied on the northern boundary; and</u></p> <p style="padding-left: 40px;">(b) <u>35° applied on all other boundaries</u></p> <p>16.5.1.2 Where a site adjoins a Residential Zone all buildings shall be set back not less than 3m.</p> <p>*Discretion is restricted to consideration of <del>all of</del> the following:</p> <ul style="list-style-type: none"> <li>• <u>the visual effects of the height, scale, location and appearance of the building, in terms of visual dominance and loss of residential privacy on adjoining properties and any resultant shading effects; and</u></li> <li>• <u>screen planting.</u></li> </ul>	RD*
16.5.2	<p><b>Storage</b></p> <p>Outdoor storage and storage of waste and recycling shall be screened from public places and adjoining Residential zones.</p> <p>*Discretion is restricted to consideration of <del>all of</del> the following:</p> <ul style="list-style-type: none"> <li>• the effects on visual amenity;</li> <li>• the location relative to the public realm and adjoining residential properties;</li> <li>• consistency with the character of the locality; and</li> <li>• whether pedestrian and vehicle access is compromised.</li> </ul>	RD*

**Comment [AB36]:** 556.9, 634.9, 550.4, 542.4

**Comment [AB37]:** Minor, non-substantive change to make consistent with other chapters

**Comment [AB38]:** 556.9, 634.9, 550.4, 542.4

**Comment [AB39]:** Minor, non-substantive change to make consistent with other chapters

## BUSINESS MIXED USE ZONE 16

	Standards for activities located in the Business Mixed Use Zone	Non-compliance status
16.5.3	<p><b>Residential activities and visitor accommodation activities located on-sites fronting Gorge Road in Queenstown</b></p> <p>(a) All residential activities and visitor accommodation activities fronting on sites adjoining Gorge Road in Queenstown located within 10m of the boundary adjoining Gorge Road shall be restricted to first floor level or above, with the exception of foyer and stairway spaces at ground level to facilitate access to upper levels.</p> <p>(b) In all instances where residential activities occur at ground floor level, a landscaped front yard setback of a minimum depth of 2m shall be provided along the site frontage, excluding accessways.</p> <p>*Discretion is restricted to consideration of <del>all of</del> the following:</p> <ul style="list-style-type: none"> <li>• the effects of residential and visitor accommodation activities at ground floor level on surrounding buildings and activities;</li> <li>• location of residential and visitor accommodation activities at ground floor level relative to the public realm; and</li> <li>• the maintenance of active and articulated street frontages; and</li> <li>• the effects on privacy for occupants and visual amenity.</li> </ul>	RD*
16.5.4	<p><b>Building Coverage</b> Maximum building coverage of 75%</p>	D
16.5.5	<p><b>Acoustic insulation</b></p> <p>For all residential development and visitor accommodation the following shall apply:</p> <p>16.5.5.1 A mechanical ventilation system shall be installed for all critical listening environments in accordance with Table 6 in Chapter 36; and</p> <p>16.5.5.2 All elements of the façade of any critical listening environment shall have an airborne sound insulation of at least 40 dB <math>R_w+C_{tr}</math> determined in accordance with ISO 10140 and ISO 717-1.</p>	D
16.5.6	<p><b>Fencing</b> A solid fence of 1.8m shall be erected on the boundary of any residential zone.</p>	D

**Comment [AB40]:** 238.98; amendment provides further clarity regarding the application of redraft Policy 16.2.1.4; and introduction of the 10m setback for ground floor residential and visitor accommodation activities also ensures that policy 16.2.1.4 is achieved without requiring all residential and visitor accommodation activities on sites adjoining Gorge Road to be above ground floor level, which is not the intent of the policy.

**Comment [AB41]:** 392.13

**Comment [AB42]:** Minor, non-substantive change to make consistent with other chapters

**Comment [AB43]:** 392.13

## BUSINESS MIXED USE ZONE 16

	Standards for activities located in the Business Mixed Use Zone	Non-compliance status
<b>16.5.7</b>	<p><b>Landscaping</b></p> <p>Landscaping shall be provided on a minimum of 10% of the site area.</p> <p>Discretion is restricted to consideration of <del>all of</del> the following:</p> <ul style="list-style-type: none"> <li>• <u>Design, scale and type of landscaping, including the species used;</u></li> <li>• <u>Location of landscaping;</u></li> <li>• <u>Amenity values;</u></li> <li>• <u>Where appropriate, the use of indigenous species within the Horne Creek riparian area that supports the establishment of ecological corridors.</u></li> </ul>	<b>RD</b>
<b>16.5.78</b>	<p><b>Maximum building height</b></p> <p>The maximum building height shall be:</p> <p><b>16.5.78.1 Queenstown</b></p> <ul style="list-style-type: none"> <li>a. Up to 12m – Permitted</li> <li>b. 12m to 20m – Restricted Discretionary*</li> </ul> <p><b>16.5.78.2 Wanaka</b></p> <ul style="list-style-type: none"> <li>a. Up to 12m – Permitted</li> </ul> <p>*Discretion is restricted to consideration of all of the following:</p> <ul style="list-style-type: none"> <li>• the design and quality of the building, including the use of articulated facades, active street frontages and the treatment of corner sites;</li> <li>• modulated roof forms, including screening of plant and services</li> <li>• material use and quality;</li> <li>• the avoidance of large monolithic buildings; and</li> <li>• the impact on the street scene;</li> <li>• privacy and outlook for residential uses</li> <li>• sunlight access to adjoining residential zoned land and/or public space;</li> <li>• Crime Prevention Through Environmental Design (CPTED) considerations;</li> <li>• where appropriate, the integration of Horne Creek into the development and landscaping; and</li> <li>• facilitation of the provision of residential activities.</li> </ul> <p><b>16.5.8.3 Any fourth storey (excluding basements) and above shall be set back a minimum of 3m from the building frontage.</b></p>	<b>NC</b>

Comment [AB44]: 392.13

Comment [AB45]: Minor, non-substantive change to make consistent with other chapters

Comment [AB46]: 392.13

Comment [AB47]: 238.6

Comment [AB48]: 392.13

Comment [AB49]: 392.13

## BUSINESS MIXED USE ZONE 16

	Standards for activities located in the Business Mixed Use Zone	Non-compliance status												
<b>16.5.79</b>	<p><b>Noise</b></p> <p>16.5.89.1 Sound* from activities shall not exceed the following noise limits at any point within <b>any other site in this zone</b>:</p> <table style="margin-left: 40px;"> <tr> <td>a. Daytime</td> <td>(0800 to 2200hrs)</td> <td><b>60 dB</b></td> <td><math>L_{Aeq(15 \text{ min})}</math></td> </tr> <tr> <td>b. night-time</td> <td>(2200 to 0800hrs)</td> <td><b>50 dB</b></td> <td><math>L_{Aeq(15 \text{ min})}</math></td> </tr> <tr> <td>c. night-time</td> <td>(2200 to 0800hrs)</td> <td><b>75 dB</b></td> <td><math>L_{AFmax}</math></td> </tr> </table> <p>*measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008</p> <p>Exemptions:</p> <ul style="list-style-type: none"> <li>• The noise limits in rule 16.5.8.1 shall not apply to construction sound which shall be assessed in accordance and comply with NZS 6803:1999.</li> </ul> <p><b>Note:</b></p> <ul style="list-style-type: none"> <li>• Sound from activities which is received in another zone shall comply with the noise limits set in the zone standards for that zone.</li> </ul>	a. Daytime	(0800 to 2200hrs)	<b>60 dB</b>	$L_{Aeq(15 \text{ min})}$	b. night-time	(2200 to 0800hrs)	<b>50 dB</b>	$L_{Aeq(15 \text{ min})}$	c. night-time	(2200 to 0800hrs)	<b>75 dB</b>	$L_{AFmax}$	<b>NC</b>
a. Daytime	(0800 to 2200hrs)	<b>60 dB</b>	$L_{Aeq(15 \text{ min})}$											
b. night-time	(2200 to 0800hrs)	<b>50 dB</b>	$L_{Aeq(15 \text{ min})}$											
c. night-time	(2200 to 0800hrs)	<b>75 dB</b>	$L_{AFmax}$											

**Comment [AB50]:** Minor non-substantive change for clarity

## BUSINESS MIXED USE ZONE 16

	Standards for activities located in the Business Mixed Use Zone	Non-compliance status
<b>16.5.910</b>	<p><b>Glare</b></p> <p>16.5.910.1 All exterior lighting installed on sites or buildings within the business zone shall be directed away from adjacent sites, roads and public places, except footpath or pedestrian link amenity lighting, <del>and so as to limit the effects on the night sky.</del></p> <p>16.5.910.2 No activity shall result in a greater than 10 lux spill (horizontal or vertical) of light onto any adjoining property within the Business Mixed Use Zone, measured at any point inside the boundary of any adjoining property.</p> <p>16.5.910.3 No activity shall result in a greater than 3 lux spill (horizontal or vertical) of light onto any adjoining property which is in a Residential zone measured at any point more than 2m inside the boundary of the adjoining property.</p> <p>16.5.910.4 External building materials shall either:</p> <ol style="list-style-type: none"> <li>a. Be coated in colours which have a reflectance value of between 0 and 36%; or</li> <li>b. Consist of unpainted wood (including sealed or stained wood), unpainted stone, unpainted concrete, or copper;</li> </ol> <p>Except that:</p> <ul style="list-style-type: none"> <li>• Architectural features, including doors and window frames, may be any colour; and roof colours shall have a reflectance value of between 0 and 20%.</li> </ul>	<b>NC</b>

**Comment [AB51]:** Recommend that this be removed from a merits perspective but no scope so has not been struck out. See paragraph 13.12 of the s42A report.

Recommended that this be removed as it is understood to be *ultra vires* for uncertainty.

## **BUSINESS MIXED USE ZONE 16**

### **16.6 Non-Notification of Applications**

- 16.6.1 Applications for Controlled activities shall not require the written consent of other persons and shall not be notified or limited-notified.**
- 16.6.2 The following Restricted Discretionary activities shall not require the written consent of other persons and shall not be notified or limited-notified:**
- 16.6.2.1 Buildings.
- 16.6.2.2 Building Heights between 12m and 20m in the Business Mixed Use Zone in Queenstown.
- 16.6.3 The following Restricted Discretionary activities will not be publicly notified but notice will be served on those persons considered to be adversely affected if those persons have not given their written approval:**
- 16.6.3.1 Setbacks and sunlight access – sites adjoining, or separated by a road from, a Residential zone.

# BUSINESS MIXED USE ZONE 16

## RECOMMENDED CHANGES TO DEFINITIONS:

### **Building Supplier** (~~Three Parks and Industrial B Zones~~)

Comment [AB52]: 344.10

means a business primarily engaged in selling goods for consumption or use in the construction, modification, cladding, fixed decoration or outfitting of buildings and without limiting the generality of this term, includes:

- glaziers;
- locksmiths; and
- suppliers of:
  - awnings and window coverings;
  - bathroom, toilet and sauna installations;
  - electrical materials and plumbing supplies;
  - heating, cooling and ventilation installations;
  - kitchen and laundry installations, excluding standalone appliances;
  - paint, varnish and wall coverings;
  - permanent floor coverings;
  - power tools and equipment;
  - safes and security installations; and
  - timber and building materials.

### **Trade Supplier**

means a business engaged in sales to businesses and institutional customers and may also include sales to the general public, and wholly consists of suppliers of goods in one or more of the following categories:

- automotive and marine suppliers;
- building suppliers;
- catering equipment suppliers;
- farming and agricultural suppliers;
- garden and patio suppliers;
- hire services (except hire or loan of books, video, DVD and other similar home entertainment items);
- industrial clothing and safety equipment suppliers; and
- office furniture, equipment and systems suppliers.

Comment [AB53]: 344.11

**APPENDIX 2**  
**SECTION 32AA EVALUATION**

## Appendix 2

### Section 32AA Evaluation

Note: The relevant provisions from the revised chapter are set out below, showing additions to the notified text in underlining and deletions in ~~strike through~~ from the s42A report and recommended changes from the Reply are shown in red underlined text for additions and ~~red strike through~~ text for deletions, (ie as per the revised chapter).

The section 32AA evaluation then follows in a separate table underneath the provisions.

#### Location of residential and Visitor accommodation - promoting commercial activities at street level on Gorge Road

<b>Recommended updated Policy 16.2.1.5 (redraft Policy 16.2.1.4) and Rule 16.5.3</b>	
<b>16.2.1.54</b>	For sites <u>fronting adjoining</u> Gorge Road in Queenstown, discourage the establishment of <del>high density</del> residential and visitor accommodation activities at ground floor level, except where commercial and/or business activities continue to have primacy at the interface with the street.
<b>16.5.3</b>	<b><del>Residential activities and visitor accommodation activities located on sites fronting Gorge Road in Queenstown</del></b>
(a)	All residential activities and visitor accommodation <u>activities fronting on sites adjoining Gorge Road in Queenstown located within 10m of the boundary adjoining Gorge Road</u> shall be restricted to first floor level or above, with the exception of foyer and stairway spaces at ground level to facilitate access to upper levels.

Costs	Benefits	Effectiveness & Efficiency
<ul style="list-style-type: none"> <li>• None identified.</li> </ul>	<ul style="list-style-type: none"> <li>• The amendment removes the word 'fronting' from the policy and rule and replaces it with 'adjoining'. This provides greater certainty regarding the application of the provisions.</li> <li>• Introducing the 10m setback for residential and visitor accommodation activities at ground floor level on sites adjoining Gorge Road assists with implementation of the policy. It provides the opportunity for these activities to occur at ground floor level, whilst achieving the key aim of the policy, to ensure that business and commercial activities have primacy at the street interface. Restriction of</li> </ul>	<ul style="list-style-type: none"> <li>• The recommended changes are efficient and effective as they provide greater certainty regarding the application of redraft Policy 16.2.1.4. They also ensure that the outcome sought by the Policy is implemented by Rule 16.5.3(a) without placing unintended restrictions on residential and visitor accommodation activities establishing on sites adjoining Gorge Road.</li> </ul>

	<p>ground floor residential and visitor accommodation activities on the entire site area of sites adjoining Gorge Road is not the intent of redraft Policy 16.2.1.4.</p>	
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Horne Creek

**Recommended updated redraft Policy 16.2.2.9 and matter of discretion within Rule 16.4.2:**

**Updated redraft Policy:**

16.2.2.9 Encourage the layout and design of new buildings, location of outdoor living spaces and landscaping to integrate with Horne Creek (applies only to sites in the Gorge Road area that contain a daylighted section of Horne Creek).

~~For any proposal to substantially develop or redevelop a site containing Horne Creek in the Gorge Road area, the following shall apply:~~

~~a) For sites that contain any section of the creek that is not culverted:~~

- ~~• Require the layout and design of new buildings, location of outdoor living spaces and landscaping to integrate with the creek;~~
- ~~• Require any landscaping on the banks of the creek to consist of native plant species that will have a positive effect on the ecology of the creek.~~

~~b) For sites that contain any section of the creek that is culverted (excluding where it passes beneath a road or driveway):~~

- ~~• Require the daylighting of the creek to assist with improving the creek's ecological values and to provide visual amenity, acknowledging that this may not be possible on sites where the creek is located within the main body of the site and when daylighting would have a significant impact on the ability for the site to be developed.~~
- ~~• Where daylighting occurs, part (a) of this policy applies.~~

**Updated Rule:**

**16.4.2 Buildings**

\*Discretion is restricted to consideration ~~of all~~ of the following:

- ~~• [...]~~
- ~~• Where substantial development or redevelopment is proposed for a site containing Horne Creek (in the Gorge Road area), the integration of the development with the creek, including site layout, landscaping and, where practicable, the daylighting of culverted sections of the creek; and [...]~~
- ~~• Integration of the development with Horne Creek (in the Gorge Road area), including site layout and landscaping; [...]~~

Costs	Benefits	Effectiveness & Efficiency
<ul style="list-style-type: none"> <li>• Financial costs to applicants/developers associated with implementing the policy.</li> </ul> <p>Note: The reply policy and matter of discretion will have fewer costs than the s42A redraft version as the recommended revised policy would only apply to sites that contain daylighted reaches of the creek (i.e. the policy would not apply to the culverted sections of the creek).</p>	<ul style="list-style-type: none"> <li>• The reply policy and rule provide greater certainty as to their application when compared to the s42A version, which included terms such as 'substantially develop or redevelop' and 'where practicable' which have a degree of uncertainty as to their application.</li> <li>• As works within the bed of waterbodies are within the jurisdiction of the Otago Regional Council (<b>ORC</b>), shifting the policy from 'require' to 'encourage' is more appropriate, as implementing the policy may also require consent from the ORC.</li> <li>• In the absence of a strategy for the redirection of the creek on sites where the creek is culverted, the recommended revised policy is amended to only apply to sites that contain daylighted reaches of the creek. This provides clarity regarding the application of the policy with respect to the reaches of the creek that are not daylighted.</li> </ul>	<ul style="list-style-type: none"> <li>• The acknowledgement of Horne Creek and amended matter of discretion that seek to ensure daylighted sections of the creek are incorporated into site design is an effective and efficient method to further assist with implementing the objectives and policies that seek to achieve a high quality urban environment.</li> <li>• In the absence of a strategy regarding the daylighting and realignment of the culverted sections of the creek, the recommended revised policy is more appropriate than the redraft version.</li> </ul>