

QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on the Proposed District Plan

Report 17-1

Report and Recommendations of Independent Commissioners Regarding
Queenstown (other than Wakatipu Basin) Planning Maps

Commissioners

Denis Nugent (Chair)

Jan Crawford

David Mountfort

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Appendix 1: Amended Planning Maps

1. PRELIMINARY MATTERS

1.1. Introduction

1. This hearing considered submissions and further submissions relating to Hearing Stream 13, Queenstown mapping. This stream is concerned with rural and urban zones and planning map notations covered in the PDP (i.e., in Stage 1) in the Wakatipu Ward, excluding the Wakatipu Basin (as defined by the Shotover and Kawarau Rivers and the ONL boundary around the Basin) and the Crown Terrace.
2. The format of our reports is that, in this report we canvas some preliminary issues by way of overview, before addressing submissions related to zoning and/or planning map notations such as the location of ONL, ONF and SNA lines in a further 11 reports.
3. Generally submissions are considered individually. However, in three instances we have grouped submissions for our discussion. A number of submissions relate to the area we have referred to as Frankton North (northern side of SH6 from Hansen Road to Ferry Hill Drive) and these are addressed as a group. Similarly, submissions in the Queenstown Town Centre and in the vicinity of McBride Street, Frankton, are grouped together.

1.2. Terminology in Reports 17-1 to 17-12

4. Throughout these reports, we use the following abbreviations:

Act	Resource Management Act 1991
AMUZ	Airport Mixed Use Zone ¹
AZ	Airport Zone
BMUZ	Business Mixed Use Zone
Clause 16(2)	Clause 16(2) Of the First Schedule to the Act
Council	Queenstown Lakes District Council
DCM	Dwelling Capacity Model
HDRZ	High Density Residential Zone
LDRZ	Lower Density Suburban Residential Zone ²
LINZ	Land Information New Zealand
LSCZ	Local Shopping Centre Zone
LTP	Long Term Plan, Queenstown Lakes District Council
MDRZ	Medium Density Residential Zone

¹ This was the name given to the zone as notified.

² Noting that, as notified, this zone was called Low Density Residential

NPSUDC 2016	National Policy Statement on Urban Development Capacity
NPSET 2008	National Policy Statement for Electricity Transmission 2008
NPSFM 2014	National Policy Statement for Freshwater Management 2014
NZTA	New Zealand Transport Authority
NZIA	NZIA Southern Branch and Architecture + Southern Women
ONF	Outstanding Natural Feature(s)
ONL	Outstanding Natural Landscape(s)
PDP	Stage 1 of the Proposed District Plan for Queenstown Lakes District as publicly notified on 26 August 2015
PRPS	the Proposed Regional Policy Statement for the Otago Region dated 1 October 2016, unless otherwise stated
QAC	Queenstown Airport Corporation
QLDC	Queenstown Lakes District Council (or 'the Council')
QPL	Queenstown Park Ltd
QTCZ	Queenstown Town Centre Zone
RCL	Rural Character Landscape
RPL	Remarkables Park Ltd
RPS	the Operative Regional Policy Statement for the Otago Region dated October 1998
RZ	Rural Zone
RRZ	Rural Residential Zone
RLZ	Rural Lifestyle Zone
RVZ	Rural Visitor Zone
SASZ	Ski Area Sub-Zone
Stage 2 Variations	The variations, including changes to the existing text of the PDP, notified by the Council on 23 November 2017
UGB	Urban Growth Boundary

VASZ Visitor Accommodation Sub-Zone

WCO Water Conservation Order made under Part 9 of the Act

1.3. Topics considered

5. The subject matter of this hearing (Stream 13) was the submissions made in relation to the PDP Planning Maps for that part of the District within the catchment of the Kawarau River generally excluding the area subject to the Wakatipu Basin Planning Study³ and the Arrowtown urban area. The exceptions to this exclusion were submissions relating to land in Tucker Beach Road where submitters requested they be heard in Stream 13⁴. Accordingly, it encompassed submissions on Planning Map 6, part of Planning Map 7, Planning Map 9, part of Planning Map 10, Planning Map 12, part of Planning Map 13, including 13a and 13b, Planning Maps 14 and 15, 25, part of each of Planning Maps 26, 29, 30, 31 and 31a, and Planning Maps 32, 33, 34, 35, 36, 37, 38 and 39.
6. The area subject of the hearing included the urban areas of Queenstown Hill, central Queenstown, Fernhill, Frankton, Arthurs Point, Kelvin Heights, Glenorchy and Kingston. It also included the rural areas on both sides of Lake Wakatipu and south of the Kawarau River, the Gibbston Valley area to the boundary of the District at Roaring Meg. The SASZs (Soho/Cardrona, Coronet Peak and Remarkables⁵) were excluded as the submissions on those areas were heard separately in the Stream 11 Hearing and are the subject of a separate report⁶.
7. The subject of the hearing related to requests to extend or create new urban areas, often accompanied by requests to alter the location of UGBs and ONL/ONF lines, change the zoning within urban areas, create bespoke zoning for rural land, rezoning rural land for rural living purposes, along with minor adjustments of the application of zonings. In addition, associated with the hearing of submissions in relation to 1 Hansen Road, Frankton, we heard submissions on the zone provisions specific to that site which had been transferred to us from the Stream 8 hearing⁷.

1.4. Hearing arrangements

8. The Stream 13 hearing was held in Queenstown over 25 days, commencing on Monday, 24 July 2017 and ending on 13 September 2017. Due to one of the Panel members suffering a bereavement, it was necessary to adjourn the hearing from 27 July 2017 to 7 August 2017. This unforeseen circumstance involved the re-arrangement of the hearing schedule which required the co-operation of the Council and submitters and their representatives. We wish to thank those people for their understanding.

9. The parties we heard from were:

³ The area of this Planning Study has been rezoned by Variation 2 and is therefore outside the scope of this report.

⁴ Variation 2 proposes rezoning some of the land in Tucker Beach Road that were the subject of submissions heard in Stream 13. We discuss this below, but essentially, we make no recommendations in respect of those submissions or parts of submissions subject to Variation 2.

⁵ The submission on the Remarkables SASZ also sought to extend this onto an area adjoining SH6. That also was dealt with in Stream 11 and is dealt with in Report 15.

⁶ Recommendation Report 15

⁷ Minute Directing that Certain Submissions be Transferred to Mapping Hearings, dated 2 December 2016

Council

- Sarah Scott (Counsel)
- Kim Banks (author of Section 42A Reports on Strategic Issues and Group 1B – Queenstown Urban – Frankton and South)
- Ruth Evans (author of the Section 42A Report on Group 1A – Queenstown Business and Industrial)
- Rosalind Devlin (author of the Section 42A Report on Group 1C – Queenstown Urban – Central, West and Arthurs Point)
- Vicki Jones (author of the Section 42A Report on Group 1D – Queenstown Urban – Jacks Point Extension)
- Robert Buxton (author of the Section 42A Report on Group 2 – Rural)
- Philip Osborne
- Ulrich Glasner
- Dr Marion Read
- Denis Mander
- Glenn Davis
- Wendy Banks
- Timothy Heath
- Helen Mellsop

Jardine Family Trust and Remarkables Station Limited⁸

- Phil Page (Counsel)
- Ben Espie
- Jason Bartlett
- Christopher Hansen
- Nicholas Geddes

Peter Manthey⁹

Joanna and Simon Taverner¹⁰

- Joanna Taverner

Getrude's Saddlery Limited¹¹ and Larchmont Developments Limited¹²

- Warwick Goldsmith and Rosie Hill (Counsel)
- Peter Nicholson
- John McCartney
- Jason Bartlett
- Andrew Carr
- Ben Espie
- Carey Vivian

Sharpe Family Trust¹³

- Kirsty Sharpe

⁸ Submission 715

⁹ Submission 75

¹⁰ Further Submission 1293

¹¹ Submission 494

¹² Submission 527 and Further Submission 1281

¹³ Further Submission 1036

Bruce Grant¹⁴ and W & M Grant¹⁵

- Lucy Millton

Spence Farms Limited¹⁶

- John Edmonds

Queenstown Airport Corporation Limited¹⁷

- Rebecca Wolt (Counsel)
- Rachel Tregidga
- Christopher Day
- John Kyle

Ian and Dorothy Williamson¹⁸

- Ian Williamson

Hansen Family Partnership¹⁹; FII Holdings²⁰; Peter and Margaret Arnott, Fernlea Trust²¹; The Jandel Trust²²; and Universal Developments Limited²³

- Warwick Goldsmith and Rosie Hill (Counsel)
- James Bentley
- Andrew Carr
- Christopher Ferguson

MJ Williams and RB Brabant²⁴

- Richard Brabant

Christopher & Suzanne Hansen²⁵ and Brett Giddens²⁶

- Jayne Macdonald (Counsel)
- Jason Bartlett
- Brett Giddens
- Nicholas Geddes

Body Corporate 22362²⁷

- Sean McLeod

¹⁴ Submission 434

¹⁵ Submission 455

¹⁶ Submission 698. We were advised by Mr Edmonds that the new owner of 1 Hansen Road (the site the submission largely related to) was Staff Accommodation at Frankton Road Limited but have received no formal notice that that company is the successor under section 2A of the Act.

¹⁷ Submission 433 and Further Submission 1340

¹⁸ Submission 140

¹⁹ Submission 751

²⁰ Submission 847

²¹ Submission 399

²² Submission 717

²³ Submission 177

²⁴ Further Submission 1283

²⁵ Submission 840

²⁶ Submission 828

²⁷ Submission 389

Sean and Jean McLeod²⁸

- Sean McLeod

Coherent Hotels Limited²⁹

- Jeremy Brabant (Counsel)
- Nicholas Grala

Middleton Family Trust³⁰

- Jayne Macdonald (Counsel)
- Jason Bartlett
- Nicholas Geddes

Middleton Family Trust³¹

- Nicholas Geddes

Neil McDonald³²

- Nicholas Geddes

Remarkable Heights Limited³³

- Nicholas Geddes

Oasis in the Basin Association³⁴

- Rosie Hill (Counsel)
- Warwick Goldsmith
- Stephen Skelton
- Jeffrey Brown

Allium Trustees Limited³⁵

- Amanda Leith

Neville Mahon³⁶

- Amanda Leith

Sue Knowles³⁷; Angela Waghorn³⁸; and Diane Dever³⁹

- Sue Knowles
- Angela Waghorn
- Diane Dever

28 Submission 391
29 Submission 699 and Further Submission 1172
30 Submission 338
31 Submission 336
32 Submission 409
33 Submission 347
34 Further Submission 1289
35 Submission 718
36 Submission 628
37 Submission 7
38 Submissions 76
39 Submission 193

PR Queenstown Limited⁴⁰; Nicki Patel⁴¹; and Hamish Munro⁴²;

- Peter Ritchie
- Carey Vivian

Kerr Ritchie Architects⁴³

- Jeffrey Bryant
- Carey Vivian

F S Mee Developments Co Limited⁴⁴

- Warwick Goldsmith (Counsel)
- Jeffrey Bryant
- Patrick Baxter

Mount Crystal Limited⁴⁵

- Sean Dent

Otago Foundation Trust Board⁴⁶

- Alyson Hutton

Ngai Tahu Tourism Limited⁴⁷

- Ben Farrell

Queenstown Lakes District Council⁴⁸

- Stephen Skelton
- Rebecca Holden
- Dan Cruickshank

Darryl Sampson & Louise Cooper⁴⁹

- Jayne Macdonald (Counsel)
- Ben Espie
- Carey Vivian

Trustees of Lakeland Park Christian Camp⁵⁰

- Murray Frost
- Jason Moss

P J & G H Hensman & Southern Lakes Holdings Limited⁵¹

- Timothy Walsh

40 Submission 102
41 Submission 103
42 Submission 104
43 Submission 48
44 Submissions 425 and 429
45 Submission 150
46 Submission 408
47 Submission 716
48 Submission 790
49 Submission 495
50 Further Submissions 1039 and 1328
51 Submission 543

Land Information New Zealand⁵²

- Jeffrey Bryant
- Patrick Baxter
- Scott Edgar

Jacks Point Residents & Owners Association⁵³; Jacks Point⁵⁴; and Henley Downs Land Holdings Limited⁵⁵

- Maree Baker-Galloway (Counsel)
- Michael Coburn
- Ken Gousmett
- Christopher Ferguson
- Andrew Carr

Gibbston Valley Station Limited⁵⁶

- Michael Parker (Counsel)
- Sascha Herbert
- Tony Milne
- Brett Giddens
- Andrew Carr
- Ken Gousmett
- Gregory Hunt

Jed Frost⁵⁷

- Nicholas Geddes

Te Anau Developments Limited⁵⁸

- Fiona Black
- Ben Farrell

N Gutzewitz & J Boyd⁵⁹

- Nicholas Geddes

New Zealand Tungsten Mining Limited⁶⁰

- Rosie Hill (Counsel)

Karen & Murray Scott⁶¹

- Jayne Macdonald (Counsel)
- Ben Espie
- Carey Vivian

52 Submission 661
53 Further Submission 1277
54 Further Submission 1275
55 Further Submission 1269
56 Submission 827
57 Submission 323
58 Submission 607
59 Submission 328
60 Submission 519
61 Submission 447

Temple Peak Limited⁶²

- Carey Vivian

Cabo Limited⁶³

- Carey Vivian

Bobs Cove Developments Limited⁶⁴

- Ben Farrell
- Donald Reid
- Stephen Skelton

Mount Christina Limited⁶⁵

- Rosie Hill (Counsel)
- Stephen Skelton
- Christopher Ferguson

Remarkables Park Limited⁶⁶ and Queenstown Park Limited⁶⁷

- John Young (Counsel)
- Stephen Brown
- Rick Spear
- Justin Ralston
- Tim Johnson
- Rebecca Skidmore
- Anthony Penny
- Robert Greenaway
- John Ballingall
- Stephen Hamilton
- Alastair Porter
- David Serjeant
- Paul Anderson

DJ and EJ Cassells, the Bulling Family, the Bennett Family, and M Lynch⁶⁸; and Friends of the Wakatipu Gardens and Reserves⁶⁹

- Rosie Hill (Counsel)
- Dr Andrea Farminer
- David Cassells

Tim & Paula Williams⁷⁰

- Tim Williams

⁶² Submission 486
⁶³ Submission 481
⁶⁴ Submission 712
⁶⁵ Submission 764
⁶⁶ Submission 807 and Further Submission 1117
⁶⁷ Submission 806 and Further Submission 1097
⁶⁸ Submission 503
⁶⁹ Submission 506
⁷⁰ Submission 601 and Further Submission 1252

Halfway Bay Lands Limited⁷¹

- Graeme Todd (Counsel)
- Stephen Skelton
- Gary Dent
- Paul Faulkner
- Ben Farrell

New Zealand Transport Agency⁷²

- Jo Appleyard (Counsel)
- Anthony Sizemore
- Anthony MacColl

Skyline Enterprises Limited⁷³

- Graeme Todd (Counsel)
- Michelle Snodgrass
- Sean Dent

ZJV (NZ) Limited⁷⁴

- John Young (Counsel)
- Jeffrey Brown
- Trent Yeo

**Grant Hylton Hensman, Sharyn Hensman & Bruce Herbert Robertson, Scope Resources Ltd,
Grant Hylton Hensman & Noel Thomas van Wichen, Trojan Holdings Ltd⁷⁵**

- Jayne Macdonald (Counsel)
- Michelle Snodgrass
- Derrick Railton
- Michael Copeland
- Glenn Davis
- Jason Bartlett
- Alyson Hutton

10. The following witnesses pre-lodged evidence but were excused from attending the hearing, as after reading the evidence concerned, the Panel found they had no questions for those witnesses:

For the Council

- Dr Stephen Chiles
- Walter Clarke
- Dr Kelvin Lloyd
- Charlie Watts

For Jardine Family Trust and Remarkables Station Limited⁷⁶

- David Rider

⁷¹ Submission 478

⁷² Submission 719 and Further Submission 1092

⁷³ Submissions 556 and 574

⁷⁴ Further Submission 1370

⁷⁵ Submission 361

⁷⁶ Submission 715

For Queenstown Park Limited⁷⁷

- Simon Beale
- Robert Bond
- Alison Dewes
- Paul Faulkner
- Simon Milne

11. A brief of evidence by Grant Bulling was tabled on 7 September 2017 in support of Submissions 503 and 506.
12. Evidence was received after parties had been heard as follows:
 - a. From QAC⁷⁸:
 - i. Memorandum of Counsel dated 18 August 2017 explaining QAC's position regarding the residential use of 1 Hansen Road;
 - ii. Memorandum of Counsel dated 25 August 2017 providing noise monitoring results requested by the Panel.
 - b. From Universal Developments Limited & Ors⁷⁹:
 - i. Memorandum of Counsel dated 22 August 2017 providing information requested by the Panel related to vehicle access limitations, internal roading and revised building height provisions.
 - c. From Middleton Family Trust⁸⁰:
 - i. An Addendum to Mr Geddes evidence lodged on 18 August 2017 providing suggested provisions for inclusion in Chapters 7 and 27.
 - d. For Oasis in the Basin Association⁸¹:
 - i. Supplementary Attachment D to Mr Skelton's evidence, dated 22 August 2017.
 - e. For Queenstown Lakes District Council⁸²:
 - i. Information requested by the Panel showing possible subdivision plans for Vancouver Drive land and an image of the Kerry Drive site showing the pedestrian page and zoning overlays, lodged on 28 August 2017.
 - f. For DJ and EJ Cassells and Ors⁸³:
 - i. A Memorandum of Counsel dated 13 September 2017 answering our questions as to the workability of the provisions proposed by the submitters.
 - g. For Jardine Family Trust and Remarkables Station Limited⁸⁴:
 - i. Memorandum from Lowe Environmental Impact Ltd to Nick Geddes dated 22 August 2017 in response to our questions concerning on-site effluent disposal.
 - ii. Memorandum of Traffic Conferencing dated 5 September 2017
 - h. For Jacks Point Residents and Owners Association⁸⁵:
 - i. Supplementary Evidence of Mr Gousmett in response to the Memorandum of Lowe Environmental Impact Ltd to Nick Geddes above.
 - ii. For Gibbston Valley Station Limited⁸⁶:

⁷⁷ Submission 806 and Further Submission 1097

⁷⁸ Submission 433 and Further Submission 1340

⁷⁹ Submissions 751, 847, 399, 717 and 177

⁸⁰ Submission 338

⁸¹ Further submission 1289

⁸² Submission 790

⁸³ Submissions 503 and 506

⁸⁴ Submission 715

⁸⁵ Further Submission 1277

⁸⁶ Submission 827

- iii. Draft Standards and a copy of the proposed Structure Plan, lodged on 4 September 2017;
 - iv. A Joint Witness Statement of Messrs Giddens and Buxton dated 9 October 2017.
- i. For Hensman and Ors⁸⁷:
- i. An undertaking offered by Scope Resources Limited to not implement land use consent RM070294 pending the decision of the Council on Submission 361;
 - ii. A Joint Witness Statement of Ms Hutton and Mr Buxton setting out the results of their caucusing, dated 15 September 2017.
 - iii. A revised version of the proposed Coneburn Industrial Zone prepared by Ms Hutton following the caucusing.
 - iv. A letter from Mr Bartlett dated 15 September 2017 confirming that his traffic assessment remained unaltered as a result of the amendments suggested in the Joint Witness Statement.
13. In addition to the parties who appeared, evidence was tabled by Don Lawrence⁸⁸ and Z Energy Limited⁸⁹. A brief of evidence was lodged by Mr Vivian in support of a submission by Lloyd James Vient, Acardia Station⁹⁰. This submission was in support of the Arcadia Rural Visitor Zone, which was not part of Stage 1. By email dated 28 August 2017, Mr Vivian withdrew the submission (and the evidence) and vacated the hearing time allocated.
14. Prior to the hearing, the we visited all of the submission sites and the neighbourhoods of those sites. Site visits were carried out over seven consecutive working days, commencing on Monday 10 July 2017 and concluding on Tuesday, 18 July 2017. Richard Kemp, a consultant, assisted the panel by arranging these visits. Mr Kemp's assistance was limited to logistics and IT support (e.g., use of GPS to identify property boundaries) and he took no part in discussions on the planning issues raised in submissions as required by the terms of the confidentiality agreement accompanying his appointment. We were also assisted by consultants/parties. However this assistance was limited to OSH matters, driving us around and pointing out features of the site shown/referred to in submission. No discussion of the evidence or merits of the submissions or further submissions took place on these familiarisation visits.
15. From time to time during the hearing, we revisited some sites and/or neighbourhoods.
- 1.5. Procedural Issues:**
16. Over 255 submitters and further submitters were listed for hearing in this Hearing Stream, covering over 930 submission points. To assist programming the hearing of submissions, we issued a Minute on 7 February 2017 providing an indication that the hearings would commence in July 2017 and requesting indications from submitters:
- a. whether they intended to appear or not;
 - b. if appearing the number of persons presenting to the Panel and their expertise; and
 - c. an indication of the time likely to be required to present their case, in the knowledge that evidence would be pre-lodged and read in advance by the Panel.
17. Utilising the information provided by the submitters, the Chair issued a Minute on 11 April 2017 attaching an indicative hearing schedule and making directions for the release of Section 42A Reports (25 May 2017), the date for lodgement of submitter evidence (9 June 2017), the date for the Council to lodge development capacity outputs and associated evidence (16 June

⁸⁷ Submission 361
⁸⁸ Submission 16
⁸⁹ Submission 312
⁹⁰ Submission 480

2017), the date for the lodgement of rebuttal evidence (7 July 2017), and advising of the arrangements being made for site visits.

18. Following release of the indicative hearing timetable various requests were made by submitters for amended times, or to be included. The various amendments to accommodate these requests were set out in the Chair's Tenth Procedural Minute dated 22 May 2017, along with a revised hearing schedule.
19. In addition to these Minutes dealing with the general process, the following were also issued:
 - a. In a Minute dated 8 February 2017 the Chair advised Aurora Energy Ltd that whether it should present evidence in Stream 13 or not was the submitter's decision.
 - b. In a Minute dated 28 February 2017, we directed that Submission 338 and that part of Submission 501 which sought to rezone land around Lake Johnson and Hansen Road be heard in Stream 13.
 - c. In a Minute dated 6 March 2017 we declined an application by Bridesdale Farm Developments Ltd, Shotover Country Ltd, Michaela Meehan, Private Property Ltd and Ayrburn Farm Estate Ltd to have their submissions heard in Stream 13 as they were within the Wakatipu Basin and would more logically be heard in the hearing of submissions related to that area.
 - d. In a Minute dated 30 March 2017 we requested the Council consider a timetable which would enable sufficient time for submitters to lodge rebuttal evidence in respect of the Council's DCM evidence.
 - e. In a Minute dated 5 May 2017 we extended the time Skyline Enterprises Ltd had to lodge certain evidence if an Environment Court hearing the relevant witnesses were involved in, extended into an additional week.
 - f. In a Minute dated 5 May 2017 we sought clarification from the Council as to the boundary between the Queenstown Mapping Stream and the Wakatipu Basin, and the Council's position on a request for certain submission points to be transferred to the Wakatipu Basin Stream.
 - g. In a Minute dated 12 May 2017 we clarified the hearing process we expected to follow in respect of certain further submissions lodged by RPL and QPL.
 - h. In a Minute dated 12 May 2017 we enquired of two submitters whose submissions related to land in Tucker Beach Road (J Waterson; and K Hindle & D Wright) whether they wished to be heard in Stream 13 or the Wakatipu Basin Hearing Stream.
 - i. In a Minute dated 15 May 2017 we provided the Council and RPL with an opportunity to comment on a memorandum filed by QAC seeking directions limiting the scope of evidence and argument that RPL could present in the Stream 13 hearing in relation to the extent of the Airport Mixed Use Zone as it applied to Queenstown Airport. The result of this Minute was a Joint Memorandum from Counsel for QAC, RPL and the Council dated 19 May 2017 requesting that the Panel make its decision on the extension of the Airport Mixed Use Zone on the basis of the information received in the Chapter 17 hearing in December 2016. We confirmed that we would follow this course in a Minute dated 19 May 2017.
 - j. In a Minute dated 17 May 2017 we transferred the relevant submission points for Submissions 500, 467, 473 and 310 to the Wakatipu Basin Hearing Stream, and confirmed that Submission 476 would remain in Stream 13.
 - k. In a Minute dated 17 May 2017 we declined a request to transfer Submission 338 to the Wakatipu Basin Hearing Stream.
 - l. In a Minute dated 23 May 2017 we granted an extension of time to lodge evidence to the Trustees of Lakeland Park Christian Camp.

- m. In a Minute dated 29 May 2017 we agreed to QAC's request to file a single brief of evidence for each expert, notwithstanding those briefs would relate to 33 individual zoning requests.
- n. In a Minute dated 29 May 2017 the Chair clarified that it was permissible for a submitter to seek the application of an ODP zone to land as part of this process.
- o. In a Minute dated 8 June 2017 the Chair clarified that a submission seeking a change of zoning from Rural to Rural Visitor Zone was "on" the PDP, but that the Rural Visitor Zone was not part of the PDP notwithstanding that the zoning was shown for information purposes on the notified Planning Maps.
- p. In a Minute dated 9 June 2017 we granted an extension to lodge evidence from specified submitters to noon on Monday 12 June 2017.
- q. In a Minute dated 26 June 2017 we removed the hearing time allocation for Submission 354 as that submission had been withdrawn in Hearing Stream 6.
- r. In a Minute dated 26 June 2017 we changed the date we requested legal submissions be filed in advance to 14 July 2017.
- s. In a Minute dated 7 July 2017 we granted a late request by Jacks Point Residents and Owners Association for hearing time in respect of Further Submission 1277.
- t. In a Minute dated 15 July 2017 we granted requests by RPL, QPL and Gibbston Valley Station Limited to file legal submissions at later dates.
- u. In a Minute dated 15 July 2017, we granted a request by Jacks Point Residents and Owners Association (FS1277) and Jacks Point group (FS1275) for a 30 minute hearing slot; and declined a request to amend each further submission in opposition to Submission 361 by extending the reasons for the opposition.
- v. In a Minute dated 21 July 2017, we advised the Council that we had no questions for: Dr Chiles; Mr Clarke; Dr Lloyd; or Mr Watts.
- w. In a Minute dated 6 August 2017 we granted leave for F S Mee Developments Co Limited to file a late request for a hearing time and to file late evidence.
- x. In a Minute dated 15 August 2017 we confirmed a timetable for the receipt of additional information offered by Jardine Family Trust & Remarkables Park Station Ltd.
- y. In a Minute dated 2 September 2017 we amended the timetable for the receipt of additional information from Jardine Family Trust & Remarkables Park Station Ltd.
- z. At the hearing, on 1 September 2017, Ms Macdonald, counsel for Submitter 361, applied to strike out Further Submissions 1275 and 1277 on the grounds they had not been served on the submitter as required by the Act. In a Minute dated 13 September 2017, we requested proof from Further Submitters 1275 and 1277 that the further submissions had been filed on Submitter 361. A memorandum of counsel for Further Submitters 1275 and 1277 received on 20 September 2017 attached a copy of an email sent on Friday 18 December 2015 to, among others, Ms Macdonald attaching the further submissions of Further Submitter 1275. This memorandum, out of an abundance of caution, also sought a waiver to serve FS1277 late as counsel could not find proof of service. In a decision dated 9 October 2017 the Chair granted the waiver of service sought in respect of Further Submission 1277.
- aa. By a memorandum of counsel dated 14 September 2017, F S Mee Developments Co Limited⁹¹ sought leave to either amend Submission 425 or to file a late submission so as to enable consideration by the Panel of a zoning outcome addressed at the hearing which fell outside scope of the submission as lodged. By a decision of the Chair made on 20 September 2017 this application was refused.
- bb. By a Minute dated 27 September 2017 we asked all submitters who sought the inclusion of structure plans or partial rezoning of their site to provide digital copies of the changes

⁹¹ Submission 425

sought so that they could be included in the Council GIS if we were minded to recommend acceptance of the relevant submissions.

- cc. By a Minute dated 29 September 2017 we requested a joint witness statement from Messrs Giddens and Buxton concerning provisions sought by Gibbston Valley Station Limited.
- dd. By a Minute dated 29 September 2017 we granted an extension of time to the Council to file its reply in respect of the submission by Gibbston Valley Station Limited.
- ee. By a Minute dated 16 October 2017 we sought clarification from Council of the zoning status of the Kerry Drive reserve subject to Submission 790, in the light of the forthcoming variation.
- ff. By a Memorandum dated 2 November 2017 the Council advised that the draft maps the Panel had been provided with the Reply evidence had incorrectly shown the Kerry Drive reserve as subject to the proposed Open Space Zone. The Memorandum also identified that a piece of land known as the Commonage was also incorrectly shown as proposed Open Spaces Zone on those draft maps.
- gg. In a Memorandum dated 14 December 2017 the Council provided an updated Table of Recommendations to Group 1B Submissions.
- hh. In a Memorandum dated 9 February 2018, counsel for the Council drew our attention to the recent decision of the High Court in *Royal Forest and Bird Protection Society Inc v Bay of Plenty Regional Council*.⁹²

1.6. Stage 2 Variations

- 20. On 23 November 2017, the Council notified the Stage 2 variations to the District Plan. In relation to the Queenstown Mapping Hearings, this included:
 - a. The rezoning of most Council-owned reserve land to one of eight Open Space zones or sub-zones;
 - b. The rezoning of the land zoned Rural, Rural Lifestyle and Rural Residential (and their respective sub-zones) within the Wakatipu Basin to Wakatipu Basin Rural Amenity Zone, with some portions being in the Wakatipu Basin Lifestyle Precinct sub-zone;
 - c. The application of Visitor Accommodation Sub-Zone onto various Planning Maps.
- 21. By virtue of Clause 16B(1) of the First Schedule to the Act, submissions on any provision the subject of a variation are automatically carried over to the hearing of the variation.
- 22. Counsel for the Council filed a memorandum dated 23 November 2017 advising the Hearing Panel on the effect of notification of the PDP Variation 2 and stage 2, advising among other things that:
 - a. The submission of Skyline Enterprises Limited⁹³ (and the relevant further submissions⁹⁴) in relation to a sub-zone sought to be applied to the land occupied by the Skyline Gondola and associated terminal activities should be treated as transferred⁹⁵;
 - b. That the submission by Middleton Family Trust⁹⁶ as it related to the Trust's land notified as Rural within the Rural Landscape Classification⁹⁷ was to be treated as transferred;

⁹² [2017] NZHC 3080

⁹³ Submission 574

⁹⁴ FS1063 and FS1370

⁹⁵ There is actually a small area of land outside the land rezoned by the Stage 2 Variations which we deal with in Report 17-2

⁹⁶ Submission 338

⁹⁷ Confirmed in Memorandum of counsel dated 18 December 2017

- c. Various other submissions⁹⁸ relating to land in Tucker Beach Road should be treated as transferred;
23. Submissions seeking imposition of Visitor Accommodation zoning over land not currently so zoned would be able to be made as part of the Stage 2 process, so long as the land concerned is the subject of either Stage 1 or Stage 2 of the District Plan Review⁹⁹. We had several submissions before us in this category, and we have factored that information into our consideration of them.

1.7. Format of Stream 13 Reports

24. The number of submissions required to be considered in this hearing stream, and the extent of the cases advanced by a number of submitters means that it is impractical for us to report to Council on all of the matters we heard in one report. We have therefore adopted the following approach to drafting our reports:
- a. This report canvasses the background to the Stream 13 hearing, the parties we heard, the procedural directions made, and the general approach adopted to our considerations of the submissions we heard;
 - b. Separate Reports consider and make recommendations on specific requests for rezoning or map amendments. These are ordered geographically and each report contains several sections, each dealing with individual sites or groups of sites:
 - i. Report 17-2: Central Queenstown;
 - ii. Report 17-3: Fernhill;
 - iii. Report 17-4: Arthurs Point;
 - iv. Report 17-5: Queenstown Hill;
 - v. Report 17-6: Frankton – Lake Johnson - Tucker Beach Road;
 - vi. Report 17-7: Kelvin Peninsula;
 - vii. Report 17-8: Coneburn Valley – Queenstown Park – Jacks Point;
 - viii. Report 17-9: Wye Creek – Kingston;
 - ix. Report 17-10: West side of Lake Wakatipu;
 - x. Report 17-11: Closeburn to Kinloch;
 - xi. Report 17-12: Gibbston Valley
 - c. In each of these reports we have not undertaken a separate Section 32AA analysis. Rather, our analysis in terms of the requirements of that section is set out in the body of the report where we discuss the recommended changes. That includes those instances where we recommend the inclusion of additional provisions in the text of the PDP.
 - d. Where we do make recommendations that additional provisions be included in the text of the PDP, we make those recommendations to the Council after having consulted the Hearing Panel that heard the submissions on the relevant chapter to ensure consistency of provisions, style and appropriate location of the provisions.

2. APPROACH TAKEN WHEN CONSIDERING SUBMISSIONS

2.1. General Approach to Rezoning Applications:

25. The tests to be employed in finalising the terms of the PDP are outlined in Report 1. We refer to and rely on that discussion.
26. The current context (submissions on the planning maps) raises particular issues that require some discussion at a general level. Most of the submissions we had to consider sought a different zoning for land from that shown on the planning maps. Where submissions also

⁹⁸ Submissions 501, 310, 396, 467, 500 and 473.

⁹⁹ Counsel for the Council's Memorandum dated 23 November 2017 at [13]

sought alteration of ONL/ONF/RCL boundaries, or SNAs or the UGB we have dealt with that in the same report as the zoning request, but treating the matters as separate issues.

27. In relation to rezoning applications, counsel for the Council submitted to us that our recommendations “must consider whether the zone assists the Council to carry out its functions in order to achieve the purpose of the Act, and whether the zone is in accordance with Part 2 of the RMA.”¹⁰⁰
28. We understand that there is no presumption that the notified zone is the most appropriate, and Ms Scott confirmed that proposition, but submitted that submitters still needed to provide a level of detail and analysis that corresponded to the scale and significance of the environmental effect anticipated from the implementation of the new zone¹⁰¹.
29. While there is no presumption in favour of the notified PDP, it has been the subject of extensive analysis under section 32, and to the extent that the Council position before us was to support the existing notified zoning, it provided further evidence supporting that initial section 32 analysis.
30. Any change in zoning of land from that shown in the planning maps requires evaluation under Section 32AA.
31. If the only material we had before us was the existing Section 32 analysis and further Council evidence supporting the notified zoning, we have no basis on which to undertake the required Section 32AA evaluation in respect of any alternative zoning and must necessarily recommend rejection of any submissions seeking an alternative zoning¹⁰².
32. The practical application of these principles means that for the large number of submissions seeking rezoning where the submitter did not appear and call evidence as to why their submission should be accepted and the evidence for the Council recommends rejection of the submission, we have necessarily been put in the position where acceptance of that recommendation is the only position open to us. The only potential exception would be if the material provided as part of the original submission was sufficiently extensive that it provided the basis for a Section 32AA evaluation of the alternative rezoning sought. While some submissions did indeed include a substantial volume of material supporting the requested relief, by and large, these were the submissions that were the subject of evidence before us.
33. In each of those instances we have set out in our reports our assessment of whether adequate information was provided.
34. We also note that the evidence for Council does not have any head-start over the evidence for any other party. It is the cogency of the evidence when considered within the framework of legal tests we have to apply that counts. Among other things, that means that where the evidence for Council supports a rezoning proposal, we have to be satisfied that the reasoning prompting a change of position on the part of Council is sound, just as we would need to be satisfied that the evidence for a submitter should be preferred to the analysis set out in the section 32 reports supporting the notified zoning. In some instances where the Council

¹⁰⁰ Opening Legal Submissions for Queenstown Lakes DC, Stream 13 – Queenstown Mapping, 21 July 2017 at paragraph 2.1

¹⁰¹ Ibid at paragraph 3.3

¹⁰² This is a specific example of the principles discussed in Recommendation Report 3 related to the Strategic Chapters of the PDP, at paragraphs 30-33

position has changed to one of full or partial support for the requested rezoning in response to the evidence of the submitter, we have disagreed with both the Council and the submitter, and recommended rejection of the submission or an outcome between that recommended by the Council and that sought by the submitter(s).

2.2. Relevance of higher order provisions to our inquiry:

35. The first general point that we should address relates to the practical application of the section 32 tests to a rezoning proposal. The zones shown on the planning maps are provisions of the PDP. Sitting behind those provisions, there is a suite of objectives and policies that vary according to the zone identified on the planning maps. Sitting at a higher level, Chapters 3-6 of the PDP provide strategic direction and contain higher level objectives and policies.
36. Above the strategic objectives and policies in Chapters 3-6 again, there are the higher-level documents that we need to factor into our decision making, giving effect to some (the Operative RPS and higher still, National Policy Statements) and having regard to others (in particular, the Proposed RPS and the Iwi Management Plans). Above them all, there is the purpose of the Act, which any objectives are measured against, supported by the balance of Part 2 of the Act.
37. The particular question that requires consideration in the context of rezoning applications is, when section 32(1)(b) talks about examining whether the provisions in a proposal are the most appropriate way to achieve the objectives, which objectives are relevant for this purpose?
38. Recommendation Report 1 discusses the extent to which the Hearing Panels considering the provisions of the PDP seeking to implement the strategic direction provided by Chapters 3-6 should go beyond the strategic chapters into an inquiry as to the implications of the higher-level documents and other statutory provisions. It concludes that while the intention of the Hearing Panel making recommendations on Chapters 3-6 is that they faithfully reflect the legal requirements in the Act as regards higher level documents and other guidance, those recommended provisions are necessarily not 'settled' and accordingly, reference is required back to the higher-level provisions. Specifically, in relation to Part 2 of the Act, the Hearing Panel has to consider whether the strategic directions are complete, clear and in accordance with the legal requirements¹⁰³. We do not therefore, need to discuss those matters further.
39. The issue for us is whether, when measuring the appropriateness of particular zonings, the reference point is the objectives of the relevant zone, or the objectives of the strategic chapters, or both.
40. We accept counsel's submission when comparing two or more zones and deciding on which is the most appropriate, that comparison cannot be completed in isolation from the provisions within the zones themselves, but the objectives and policies (methods) in a particular zone should reflect the broader objective and policies located in Chapters 3 to 6¹⁰⁴.

2.3. Site specific plan provisions:

41. Thus far, our reasoning reflects the relatively simple case where a submission seeks to employ an existing zone in the PDP without amendment. That was not, however, the position that

¹⁰³ The decision of the High Court in *Royal Forest and Bird Protection Society Inc v Bay of Plenty Regional Council* noted above would appear to confirm that this approach is correct, at least as regards higher order National and Regional Policy Statements.

¹⁰⁴ Opening Legal Submissions for Queenstown Lakes DC, Stream 13 – Queenstown Mapping, 21 July 2017 at paragraphs 3.1 and 3.2

applied to several submissions we heard which sought a site specific zone, or the inclusion of site specific assessment matters or controls. In addition, there were instances where submissions on notified site specific provisions had been deferred to be heard in this Hearing Stream in conjunction with submissions seeking rezoning.

42. Submissions seeking a new zone of their own specification reinforces the need to look beyond the immediate objectives a zone seeks to implement, to the strategic direction of the PDP (and higher). Looking solely at the zone provisions the submitter had drafted would be an entirely circular exercise since they were obviously designed to facilitate the activities the zone provides for.
43. While no issue can be taken regarding the jurisdiction to insert site-specific Plan provisions if a submission seeks that relief, a proliferation of such site-specific provisions raises issues in terms of Plan administration.
44. One of the features of the ODP is the extent to which it already provides, through the mechanism of a series of 'special' zones, bespoke planning provisions for particular areas of the district. Most, but not all of those special zones have been reserved for subsequent stages of the District Plan review process¹⁰⁵ and so we do not know whether and to what extent that position will be perpetuated. What we do know, however, is that to the extent existing special zones have been rolled over (in Chapters 41-43 of the PDP), those provisions provide a precedent for what the submitters before us were seeking.
45. Accordingly, we do not think an objection in principle to site specific planning provisions could be sustained. Having said that, however, this is a matter of scale and degree. At a certain point, there are so many site-specific planning provisions that a plan loses overall direction and coherence. It also expands in size as general provisions affecting large-areas are replaced or overlaid in respect of relatively small areas – often a single site. Even in an age where increasing use of electronic documents is becoming the norm, this affects the usability of the PDP.
46. In Section 32 terms, these issues affect the efficiency of the provisions in achieving the objectives.
47. Another issue that arose under this heading was those submissions seeking the application of the ODP Rural Visitor Zone to their land. We have noted above the two Minutes issued in May and June 2017 dealing with the question of whether a submission could seek the application of the ODP Rural Visitor Zone to land notified as Rural in the PDP. The first Minute set out the following as the approach to be used in such an assessment:

"4 ... if a submitter seeks to zone the land using a set of provisions that are not one of the Stage 1 zones, that submitter would need to show how those provisions fit within the overall strategic directions chapters of the PDP. If the provisions do not give effect to and implement the strategic directions chapters, it would likely be difficult to conclude that they were the most appropriate way to achieve the objectives in those chapters.

5 Where a submitter has chosen to identify an ODP zoning, such as the Rural Visitor Zone, as the set of provisions as being appropriate, that test of giving effect to and implementing the strategic directions chapters remains relevant. In addition, there are

¹⁰⁵ The Council's website advises that a number of Special zones will be the subject of Stage 4 of the District Plan Review, with notification targeted for the second quarter of 2019.

two matters that submitters need to consider in seeking the implementation of an ODP zone. First, there is no evidence that those ODP zones will become part of the PDP. Second, the Hearing Panel would need to understand the entire objective, policy and rule framework proposed so the Panel can understand what actual and potential effects on the environment the rezoning would have and whether that was consistent with the overall objectives and policies of the PDP. I can foresee difficulties in this regard if a submitter seeks to rely on ODP provisions unaltered, as the entire structure of the PDP is different.

6 *This approach means that is open to submitters to seek to apply a zone that is not in those presently part of Stage 1 of the PDP, but they must provide a solution that fits within the PDP. It also means that it is not open to the Council to say that the submission cannot be considered because an ODP zone is sought, at least not at the s.42A report stage. If a submitter fails to file evidence showing how the provisions sought fit within the PDP and relies solely on ODP zone provisions, then the Council is fully entitled to adduce rebuttal evidence identifying aspects of those provisions that do not give effect to and implement the PDP higher order objectives and policies.”*

48. We did not understand that approach to be questioned by the Council or submitters.
49. Our approach to this question has been to hear submissions and evidence on requests to apply a rezoning in a consistent manner, whether the rezoning sought was one of the zones notified in the PDP, a zone applied in the ODP or a proposed new zone. In each case we have, as discussed above, considered whether the proposed provisions gave effect to and implemented the strategic direction chapters, and the likely effect on the environment of applying the proposed zone. We have also considered whether the proposed provisions were drafted in a manner consistent with the resource management approach of the PDP.
50. Where we have concluded a different zone was appropriate for the land in question, but the options put before us in the evidence did not meet the matters outlined in the previous paragraph, we have recommended the Council reconsider the zoning with a view to initiating a variation to apply an appropriate zone, or apply an appropriate zoning in a later Stage of the District Plan Review.

2.4. Approach Taken to Annotations on Planning Maps

51. During the period leading up to the hearings, we found it necessary to clarify how we would deal with annotations on the Planning Maps which were applied to land not zoned in Stage 1. This arose in response to a memorandum from counsel for the Council¹⁰⁶ and was the subject of two minutes from the Chair¹⁰⁷, and a further memorandum from counsel for the Council¹⁰⁸.
52. This issue has arisen because, when the PDP was notified, the Council chose to show ODP zone notations on land that did not form part of the PDP. In addition, the Council also chose to place annotations such as Landscape Classification lines, UGB lines, Air Noise Boundary and Outer Control Boundary over land that was not included in Stage 1.
53. Relevant to the Stream 13 hearings, for example, Planning Map 31a shows:
- The ODP Quail Rise Special Zone, with a Landscape Classification line running across it;
 - The Frankton Flats Special Zone with the Outer Control Boundary running across it;

¹⁰⁶ Dated 6 June 2017

¹⁰⁷ Dated 12 June 2017 and 21 July 2017

¹⁰⁸ Dated 30 June 2017

- c. The Industrial A Zone with the Outer Control Boundary running across it;
 - d. The Remarkables Park Special Zone with a Landscape Classification line, the Air Noise Boundary and the Outer Control Boundary running across it.
54. We understood the Council’s position to be that where any of those four annotations (Landscape Classification, UGB, Air Noise Boundary, Outer Control Boundary) were shown over land which was shown on the Planning Maps as having an ODP zoning, the relevant line was to be taken as part of the PDP and could have been subject to submission.¹⁰⁹
55. We were concerned that the Public Notice of Stage 1 of the PDP, the notified text in Chapter 1 of the PDP, and the text on the Legend and User Information page of the Planning Maps may have led people to reasonably believe that they did not have the need or ability to lodge submissions on matters affecting their land when it was identified as having an ODP zoning.
56. The consequence of this in relation to the Stream 13 Hearings is that:
- a. We have not heard submissions or evidence from the council or submitters in relation to annotations on the Planning Maps applied to those ODP zones shown on the maps for information purposes;
 - b. We have treated submissions seeking a rezoning of an ODP zone, or submissions supporting an ODP zone, as out of scope as they are not ‘on’ the PDP.

3. NPS ON URBAN DEVELOPMENT CAPACITY 2016

3.1. Giving effect to the NPSUDC 2016

57. The NPSUDC 2016 covers development capacity for both housing and business and its provisions are therefore relevant to the PDP, particularly the purpose and extent of Residential, Commercial and Industrial zones. It requires councils to provide in their plans enough development capacity to ensure that demand can be met. This development capacity must be commercially feasible to develop and supported by infrastructure. Local authorities are also required to prepare a housing and business development capacity assessment and to regularly monitor market indicators, to ensure there is sufficient capacity to meet demand. The Queenstown Lakes District is a high growth urban area. Therefore it is required to meet the requirements of the NPSUDC 2016.¹¹⁰
58. The NPSUDC came into force on 1 December 2016, more than a year after the PDP was notified (26 August 2015) and well into the hearings. To give immediate effect to the NPSUDC 2016 as required, the Council initiated a review of the Dwelling Capacity Model 2015 (the DCM) and business development capacity in March 2017. The first phase of this work was completed in mid-2017. Consequently, the modelling results were introduced progressively through the Council’s Section 42A Reports and evidence, primarily in Hearing Streams 12 Upper Clutha Mapping and 13 Queenstown Mapping (the last hearing in this stage of the plan review). The DCM results were adjusted during the hearing on Stream 13 as recorded in the Council’s evidence and legal submissions in reply.
59. Policy PB1 in the NPSUDC 2016 required the Council to prepare a full housing and business development capacity assessment by 31 December 2017. In March 2017, the Council advised that it was working towards this date and was undertaking a number of workstreams that ‘may

¹⁰⁹ Based on Counsel for the Council’s Memorandum dated 6 June 2017 at paragraph 8

¹¹⁰ Preamble, NPSUDC 2016, pp4-5.

not be concluded in time for rezoning evidence'.¹¹¹ This proved to be the case. Therefore the Council's evidence to the hearing is best described as a 'work in progress'. We were satisfied nonetheless that it was a reliable basis for evaluating rezoning requests because the District is well-supplied with zoned, undeveloped [feasible capacity] Residential and Business land in the short and medium term. We considered there was a low risk associated with relying on the findings of this 'work in progress' because of the requirements for monitoring and reporting within the NPSUDC 2016. Specifically, policy PC3 requires local authorities to initiate a response within twelve months when the evidence base or monitoring obtained in accordance with policies PB1 to PB7 indicates that development capacity is not sufficient in any of the short, medium or long term.¹¹² If circumstances change or the final housing and business development capacity assessment came to a significantly different conclusion, the Council is obliged to respond by providing further development capacity and enabling development.

60. Our duty when hearing submissions was to consider whether, in terms of policy PA1, the PDP provided sufficient housing and business development capacity in the District's urban environment over the short, medium and long term. This same question was considered by the Hearing Panel for Stream 12 Upper Clutha Mapping with respect to the Wanaka Ward.¹¹³ The NPSUDC 2016 provides for a review after 10 years therefore it was particularly important that we evaluated whether there was sufficient residential and business development capacity enabled by the PDP in the short and medium term.
61. The Panel hearing evidence in Stream 12 observed that the NPSUDC 2016 " *does not prescribe where any particular urban development capacity needs to be located merely that sufficient capacity has to be provided in terms of policy PA1 and that, in terms of policy PA3(a), particular regard has been had to provision for choices meeting the needs of people and communities and future generations.*"¹¹⁴
62. That Panel went on to say that the NPSUDC 2016 provides general background to the rezoning applications but does not dictate which rezoning submissions should be accepted.¹¹⁵ We agree with both observations and relied on them when approaching the evaluation of submissions seeking rezoning in Wakatipu.
63. Given the timing of notification, whether the zone provisions in the PDP gave effect to the NPSUDC 2016 was addressed by the Panel prior to completion of the hearings on the text. In a minute dated 4 February 2017, the Panel asked the Council to confirm it was satisfied that the provisions of the PDP 'which have already been heard' gave effect to the NPSUDC 2016. Counsel for the Council responded with a memo dated 3 March 2017 stating that it is the Council's position that a number of the objectives and policies of the NPSUDC 2016 that took immediate effect were given effect to by the provisions of the PDP chapters.¹¹⁶ The Hearing Panel agreed with this position therefore we have retained the number, nature and type of urban zones as notified, albeit the Hearing Panel has recommended changes to the objectives, policies and other provisions.

¹¹¹ Memorandum of Counsel on behalf of QLDC regarding the NPSUDC 2016 dated 3 March 2017, para 22.

¹¹² Short term is defined as 'within 3 three years', medium term is 'within 3 - 10 years' and long term is 10 - 30 years.

¹¹³ Report 16; Relevance of NPSUDC

¹¹⁴ Ibid, paragraph 120

¹¹⁵ Ibid, paragraph 121

¹¹⁶ Memorandum of Counsel on behalf of QLDC regarding the NPSUDC 2016 dated 3 March 2017, para 3.

64. Consequently, we have relied on the text of the relevant Residential and Business chapters as recommended by other Hearings Panels when considering the appropriateness and extent of these zones ‘on the ground.’¹¹⁷
65. Strategically, the Urban Growth Boundary is a method adopted in the PDP as one means of managing urban growth. The notified proposal for identification of UGBs is supported by the Panel for several reasons including its role in giving effect to the NPSUDC 2016. This matter is addressed fully in Recommendation Report 3.¹¹⁸ We relied on this recommendation and the accompanying amended text in Chapter 3 when considering submissions on the location of the UGB.
66. Together, the recommended PDP policies relating to the location of the UGB, the recommended provisions of the zone chapters and strategic capacity enablement provided by the DCM results, assist the Council to give effect to the NPSUDC 2016. In our deliberations, we considered these matters in the context of the subject site or area and in light of the zoning principles (see below) in order to recommend an appropriate zone and/or planning map notation. Because the DCM results provided some confidence that there was sufficient residential and business development capacity enabled by the PDP for the District, the relief sought needed to be supported on some other relevant basis.

3.2. The DCM - supply of land for residential, commercial and industrial purposes

67. Underlying the DCM are growth projections for the QLDC area prepared by Mr Walter Clarke, infrastructure advisor at Rationale Limited.¹¹⁹ The Council adopted Mr Clarke’s recommended ‘modified’ growth scenario as the basis for development capacity modelling.¹²⁰ Mr Clarke’s evidence on population projections was not challenged therefore we accept and rely on it.
68. In summary, the population in the District is projected to increase to approximately 49,300 by 2028 (the life of this plan or the ‘medium term’ as defined in the NPSUDC 2016) and to nearly 66,500 by 2048 (‘long term’ as per NPSUDC 2016). Mr Clarke expected the population to double by 2058 with the rate of growth highest in the next ten to fifteen years.¹²¹ This scenario has implications for the zoning strategy in this PDP and long term urban growth management.
69. Mr Clarke’s ‘modified growth’ model predicted there would be a demand in the District for 24,700 dwellings in 2028 and 31,600 dwellings by 2048.¹²² For the Wakatipu ward, the model predicted a demand for 15,254 dwellings by 2018 and 20,261 dwellings by 2048 compared to a baseline of 12,128 dwellings in 2018.
70. Mr Clarke’s population growth predictions and, consequently, his predicted demand for dwellings were utilised in the DCM. We accept there is always uncertainty in modelling, particularly when looking a long way into the future. We also accept that the approach to assessing and monitoring housing and business development capacity enablement required by the NPSUDC 2016 will result in further calibration of the inputs to the DCM as new data comes to hand. Accordingly, we were satisfied that it was reasonable to rely on the outputs

¹¹⁷ Refer to Recommendation Reports 9A and 11.

¹¹⁸ See Section 6.3.

¹¹⁹ W Clarke, EIC, 19 June 2017. Section 6.1 Table 4 sets out the population projections and section 6.2 summarises key findings. For the full analysis, see Appendix 2, QLDC Growth Projections to 2058.

¹²⁰ W. Clarke, EIC, 9 June 2017, paragraph 5.8 and Figure 3

¹²¹ Ibid, section 6.2(c)

¹²² Ibid, Table 1

from Mr Clarke's modelling as inputs to the DCM. The notified PDP enabled sufficient residential capacity to meet demand beyond 2048 which meant there was a low risk that uncertainty with respect to the population predictions would not result in a significant risk of failing to meet the requirements of the NPSUDC 2016 in the short to medium term.

3.3. Dwelling capacity

71. Dwelling capacity modelling was undertaken by Mr Philip Osborne, an economic consultant with Property Economics Ltd. Mr Osborne's EIC (24 May 2017) and Reply Evidence (6 October 2017) described how the DCM was constructed and then adjusted to satisfy policy PC1 of the NPSUDC 2016. This policy requires local authorities to provide an additional margin of feasible development capacity over and above projected demand of at least 20% in the long term and 15% in the short and medium term. Mr Osborne's initial approach was to discount the estimates of feasible development capacity in recognition of higher than average levels of land speculation and banking (the 'development chance'). This approach did not satisfy the method specified in policy PC1 which requires a general approach of providing an additional margin to projected demand of 20% to 10 years (short to medium term) and 15% in the long term (30 years). The differing rates recognise the ability for the market to 'average out' over the longer term. The consequence of this added margin to projected demand is then, that feasible capacity must also meet that higher demand projection. The table in his Reply Evidence set out the revised results calculated in accordance with policy PC1.¹²³ For Queenstown, there would be a surplus of 18,232 dwellings enabled in the short term and 15 783 dwellings in the medium term.
72. Having adjusted the DCM to satisfy policy PC1, Mr Osborne maintained his evidence that there is sufficient development capacity enabled in the PDP to meet the likely demand for housing in the short to medium term. Indeed, the feasible capacity in the PDP exceeds projected demand for dwellings across each of the timeframes in policy PA1 i.e., in the short, medium and long terms. In other words, there is more than enough land zoned Residential in the PDP to meet the likely demand for housing long term. Given this generous supply of feasible capacity and the Special Housing Areas programme, we consider there is no pressing need to extend the area of Residentially-zoned land in Queenstown.
73. Mr Osborne's evidence was not challenged by anyone similarly qualified. However, Mr Nick Geddes, a resource management practitioner, addressed the DCM in supplementary evidence presented on behalf of three submitters.¹²⁴ He raised concerns about the capacity estimates (data utilised in existing zones, the approach to special zones and the role of special housing areas) and compliance with the policies of the NPSUDC 2016. Ms K Banks, a planner for the Council, responded by explaining the differences between the capacity estimates prepared as a desk-top exercise for the DCM 2015 and the updated 2017 model which is more robust.¹²⁵ Based on this explanation and our own questioning of the witnesses, we were satisfied that the capacity estimates presented in Mr Osborne's reply evidence were reliable. Further, there is more than enough existing Residential zoning in the PDP to meet short and medium term demand and thus to satisfy the requirements of the NPSUDC 2016.
74. Another concern addressed by Mr Geddes was the role of land banking and speculation in Queenstown, which poses a risk to affordability because land that is enabled for development is not coming to market in timely fashion. In his opinion, this was partly due to the cost of

¹²³ P. Osborne, Reply Evidence, 6 October 2017, paragraphs 2.3 – 2.6 re methodology and table within paragraph 2.7

¹²⁴ N. Geddes, EIC, Submissions 338, 328 and 715, 4 July 2017.

¹²⁵ K. Banks, Summary of evidence for Group 1B, 21 July 2017, paras 24 – 38.

development. For example, intensification within the UGB is costly due to the topography and higher standards in the plan rules.¹²⁶ With respect to large areas of undeveloped Residentially-zoned land within the UGB, he said that returns on development needed to be in the order of 33% before land would be subdivided whereas Mr Osborne assumed a 22% return. Landowners would simply withhold their land until the returns are acceptable. Be that as it may, land banking is an acknowledged issue in Queenstown. However the problem of relying on a few large landholdings for the vast majority of the land supply cannot be solved by this PDP alone.

75. In reply to questions from the Panel about the role of land banking and how the PDP might assist the Council to deal with that issue, Mr Osborne recommended increasing the area of medium density residential zoning as a means of lowering the unit cost of a dwelling. This, in turn, would improve the chance of development occurring, i.e. of land being released. In addition, as neighbourhoods within the existing urban area age, the ratio of improvements to land value reduces which also facilitates intensification. Mr Sean McLeod confirmed this advice in answer to questions when he presented evidence in support of increasing the area of MDRZ in Goldfield Heights, on Queenstown Hill and in Fernhill and Sunshine Bay.¹²⁷ We accept this evidence which is grounded in market experience. In our opinion, it is desirable to promote intensification by providing more medium and high density zoning for several reasons including affordability and lifestyle choice. However it is prudent to expect that it will take some time before higher density zoning within the UGB results in meaningful numbers of new dwellings coming to market.

76. In summary, we accept Mr Osborne's evidence on dwelling capacity and conclude that there is more than enough feasible development capacity enabled by the PDP in Queenstown to satisfy the requirements of the NPSUDC 2016.¹²⁸ Further, we conclude that there are no constraints or directions imposed on our recommendations by the DCM results because of the generous surplus of enabled residential capacity compared to demand in the short, medium and long term. We acknowledge the limited ability of the PDP to address the issue of land banking. However, where appropriate, we have taken opportunities to increase the extent of MDR zoning in existing urban areas where this is consistent with the Strategic Direction for the District and zoning principles e.g., Fernhill and Frankton North.

3.4. Business capacity – Commercial (retail, service and office activities)

77. The NPSUDC 2016 applies to the supply of business land as well as residential development capacity. Evidence on commercial (retail, service and office) capacity was given by Mr Tim Heath, property consultant, retail analyst and urban demographer with Property Economics Ltd. His analysis reviewed the current supply of business zoned land, estimated the vacant commercial zoned land 'available' to meet future demand and compared this supply to projected demand (by using the Property Economics Retail Expenditure Model) over the period 2017-2048.¹²⁹ Office land requirements were assessed by Mr Osborne for the purpose of this analysis.

78. As a result of questions from the Panel, minor changes were made to the table showing the Retail and Commercial Zoned Area and consequentially the table showing feasible capacity

¹²⁶ N. Geddes, EIC for Middleton Family Trust Submission 338, paragraphs 6.13 - 6.16.

¹²⁷ S. McLeod, EIC for Submissions 389 & 391, 9 June 2017

¹²⁸ The Panel hearing the Upper Clutha Mapping submissions came to a similar conclusion in regard to the Wanaka Ward. See Report 16, paragraph 139

¹²⁹ T. Heath, EIC, Commercial Land Requirements, 24 May 2017; Reply Evidence, 6 October 2017.

i.e., of Commercial Land Requirements. The updated tables were included in Mr Heath's Reply Evidence.¹³⁰

79. Mr Heath concluded that:

*"In the context of the total retail and commercial zoned land area within the District, this update has no consequential effect on my findings in my evidence in chief, which was that the supply of retail and commercial zoned land within the Wakatipu Ward is sufficient for the next 20 years (to 2038), and it is not until the 20-30 year planning horizon (between 2038-2048) that the Wakatipu Ward may experience a shortfall and require additional land capacity for retail and commercial service activities. The land demand estimates included in Table 4 (in both my evidence in chief and above), include the NPS 'margin' as required in PC1 of the NPS. This is confirmed in paragraph 7.4 of my evidence in chief."*¹³¹

80. Mr Heath's evidence was not challenged during the hearing, therefore we accept and rely on it. We find there is sufficient estimated feasible capacity to meet projected commercial land requirements in the short and medium term in the Wakatipu and Wanaka wards (i.e., the district to 2038). Mr Heath's analysis identified that additional commercial land may be required in the Wakatipu Ward in the long term (to 2048). This is not a matter that requires an immediate response however it does point to the importance of monitoring commercial trends. As noted earlier, the NPSUDC 2016 places a higher onus on Council to monitor the uptake of housing and business land and to respond within 12 months if monitoring identifies any shortfall.¹³² With this safeguard, changes in demand for commercial land can be addressed in a timely manner. We are satisfied that the current business zonings in the PDP meet the requirements of the NPSUDC 2016 with respect to business land capacity enablement in the short and medium terms.

81. We took this finding into account when considering a number of requests for rezoning from Residential to Business,¹³³ changes from one type of Business zone to another and when evaluating the appropriate zoning for Frankton North. It means there is no justification for increasing the area of Business zoning in this PDP solely to enable greater commercial capacity. Such submissions need to be supported on some other relevant basis.

82. The Council asked Mr Heath to comment on proposals to rezone Frankton North as LSCZ or BMUZ, both options being within scope. Frankton North has an area of 6.85ha and is opposite Frankton Flats, an emerging business centre. Mr Heath said that:¹³⁴

....it is difficult to see how all this land in Frankton North could be commercially viable and sustainable as a LSCZ without having adverse effects on other centres within the network and the integrity of the LSCZ, which is intended to provide for small scale convenience activities.

83. BMUZ was an alternative option which Mr Heath said could potentially result in a range of large format retail and large scale office activities establishing given its high profile location.

¹³⁰ T. Heath, Reply Evidence, 6 October 2017, Table 4

¹³¹ Ibid, paragraph 2.5

¹³² Opening submissions for the Council, 21 July 2017, para 5.14.

¹³³ For example, Submissions 141, 828 and 840 relating to the McBride Street/Terrace Junction area; Submission 425 Kelvin Heights; and Submission 102 Gorge Road

¹³⁴ T. Heath, Reply Evidence, 6 October, para 3.4

In his opinion, this zone had the “potential to undermine investment in the centres network and in the development of vacant land”.¹³⁵

84. Pragmatically, Mr Heath preferred BMUZ but with site specific rules that manage the development potential of retail and office activity. We understood the economic basis for this pragmatic solution. However, we were not prepared to recommend rezoning a significant part of Frankton North at BMUZ because we agreed with Mr Heath. BMU zoning had the potential to undermine the centres network (Strategic Objective 3.2.1.2) and zoning strategy which provides for BMU zoning in close proximity to Queenstown town centres. Frankton North is distant from Queenstown which means that BMU zoning would not support the role of that centre. Furthermore, it would likely undermine the role of Frankton Flats as an industrial and commercial service centre. We saw no need therefore to increase the area of Business zoning at Frankton North for capacity reasons and Mr Heath’s evidence convinced us there was a commercial risk to the centres strategy from rezoning to BMUZ.
85. Nevertheless, we have recommended rezoning from Rural to BMUZ a 90m deep strip of land in Frankton North with frontage to SH6 lying west of Hansen Road, widening to encompass the land as far as Hansen Road (amounting to less 4 ha of developable land).¹³⁶ This recommendation was based factors other than capacity including the unsuitability of the Rural Zone, the land’s location within the UGB and the lack of viable land uses due to constraints imposed by the OCB. In our view, a relatively small area of BMUZ zoning in this location would not lead to significant economic effects on the centres network provided the activities are limited to avoid ASAN, retailing and large format development.¹³⁷ Due to the proposed roading upgrades, we expect it will be some years before this land will come to market.
86. The appropriateness of LSCZ for McBride Street was also considered by Mr Heath.¹³⁸ In his opinion, assuming 1 Hansen Road remains LSCZ and an additional 6.85 ha was rezoned BMUZ at Frankton North, rezoning this land as LSCZ would oversaturate the market. We agree with his conclusion that LSCZ is not appropriate for McBride Street. However, we reached our view in reliance on the results of the feasible development capacity study which shows that no additional Business land is required in the PDP in the short to medium term and also because there were would be adverse effects on the residential amenity values. The submitters did not make a case that other relevant factors supported their requested rezoning.¹³⁹
87. We asked Mr Heath whether it would be appropriate to enable office activities on the McBride Street properties while retaining Residential zoning. In his opinion, this would undermine the zoned provision for office activities. We inferred from the discussion that it was his opinion that the Business zones, together with the enablement of home offices in Residential zones, provided sufficient opportunities for small scale offices to establish throughout the urban area.
88. Whether rezoning to Business or up-zoning can be justified for reasons other than capacity enablement is addressed with respect to specific submissions in later sections of this report.

¹³⁵ Ibid, para 3.5

¹³⁶ Report 17-06; see discussion on Submission 455 and others in Part A and for proposed zoning, see Appendix 2 Zoning Map

¹³⁷ Ibid, Appendix 1 Amended provisions for Chapters 8, 16 and 27

¹³⁸ Ibid, paras 4.1-4.3

¹³⁹ Report 17-06, Part N

3.5. Business capacity - industrial

89. Evidence on the District's business market was given by Mr Osborne. Mr Osborne described the economic drivers, outlined the current business environment and compared projected demand and supply of business land. His EIC concluded that:¹⁴⁰

*In terms of industrial land, neither Wakatipu nor Wanaka have sufficient land to meet 2048 demand requirements. However, the current zoned land is sufficient to meet the market needs until 2030.*¹⁴¹

90. This conclusion was later refined to acknowledge the effect of applying buffers on demand as required by policy PC1 of the NPSUDC 2016.¹⁴² Mr Osborne's revised opinion was that industrial land capacity is likely to be absorbed by the beginning of 2030 which represented a subtle difference in timing.
91. The only other evidence on industrial capacity was presented in relation to the Coneburn Industrial Estate by Mr Michael Copeland, an economist.¹⁴³ Mr Copeland cited the 2013 McDermott Miller report which analysed supply and demand for commercially zoned land in the Wakatipu-Arrowtown area for the period 2013-2031.¹⁴⁴ This study found that a shortage of industrial land may arise by 2026 under three of the higher population and building consent scenarios.¹⁴⁵
92. Both analyses concluded that land zoned industrial was likely to be in short supply within 9-12 years in Wakatipu and the witnesses were in agreement in this regard. The differences between the witnesses focused on whether it was timely to respond to this likely shortfall by zoning land at Coneburn in the PDP, and the type of land uses in the submitters' proposed Coneburn Industrial Zone. With respect to timing, Mr Buxton, the Council's planning witness, considered that the provision, location and release of industrial land should be strategically planned for given the approximate 2030 timeframe.¹⁴⁶ We agree with Mr Buxton because there is a long lead time in bringing industrial land to market.
93. Mr Osborne's evidence on industrial capacity to 2048 was not materially challenged and accordingly we find that the current industrial land supply is sufficient to meet market needs until approximately 2030 in Wakatipu.¹⁴⁷ Based on his evidence, we are reasonably confident that the demand for industrial land will continue to increase and that the supply of existing zoned land will be taken up in the medium term (by early 2030). However, the rate of uptake is influenced by many factors, not just land supply. For this reason, we think it is prudent to increase the supply of industrial land in Wakatipu in this PDP to ensure there is adequate supply in the short and medium term and to maintain a level of competition in the market.
94. Mr Osborne's concerns about retail and office land uses were resolved by agreement. The submitter proposed that most forms of residential, retail and offices activities be excluded

¹⁴⁰ P. Osborne, EIC, 24 May 2017, para 5.16

¹⁴¹ Ibid, Table 13 in Appendix 1 Queenstown Lake District Business Land Demand and Supply Balance (HA 2048)

¹⁴² P. Osborne, Summary Statement, 21 July 2017, para 26(a)

¹⁴³ M. Copeland, EIC, 9 June 2017; Summary of Evidence for Submission 361, 12 September 2017

¹⁴⁴ McDermott Miller Strategies Limited in association with Allan Planning and Research, Review of District Plan Business Zones Capacity and Development of Zoning Hierarchy, 2013.

¹⁴⁵ M. Copeland, EIC, 9 June 2017, para 4.1.5

¹⁴⁶ Cited in Report 17-8, Part E

¹⁴⁷ P. Osborne, EIC, 24 May 2017, paragraph 5.26

from the proposed Coneburn Industrial Zone to ensure that it is developed to serve the needs of industrial activities, particularly those that are more expansive, yard-based businesses.¹⁴⁸ We heard evidence that these activities were being driven out of Frankton Flats, for example, due to competition from commercial services. The District therefore needs an area where such activities can be established efficiently. Accordingly, we have recommended rezoning land in the Coneburn Valley for industrial purposes and the inclusion of a new Chapter 44 Coneburn Industrial Zone.¹⁴⁹ Routine monitoring as required by the NPSUDC 2016 will identify whether the rate of uptake exceeds that anticipated enabling a timely planning response.

95. We note that the Council is undertaking a comprehensive analysis of industrial land needs for the purposes of future stages of the Plan review (Industrial zones were not notified in Stage 1). The results of this analysis will be fed into later hearings. Meanwhile, we rely on the information presented at this hearing as being the best available in coming to a view on various requests for rezoning.

3.6. Summary

96. We conclude that there is sufficient feasible development capacity enabled to accommodate the demand for housing and commercial (retail, service and office) activities in the PDP in the short and medium term. However, there is a risk that the supply of industrial land in Wakatipu will not be sufficient to meet demand in the life of this PDP. Therefore we recommend that additional land be zoned Industrial at Coneburn.¹⁵⁰ Overall, we are satisfied that the provisions and zonings we are recommending give effect to the NPSUDC 2016.

4. OTHER GENERAL MATTERS

4.1. Urban Growth Boundary

97. An Urban Growth Boundary is a method of describing the scope of acceptable urban expansion beyond land which is already utilised for this purpose.¹⁵¹ As notified, Chapter 3 of the PDP (Strategic Direction) set a goal of strategic and integrated management of urban growth (3.2.2 Goal) and provided for the fixing of UGBs around identified urban areas as a means of implementation (Policy 3.2.2.1.1). Chapter 4 Urban Development included Objective 4.2.2 establishing UGBs as a tool to manage the growth of major urban centres within distinct and defensible urban edges.
98. The Stream 1B Hearing Panel recommends retaining the overall direction of the PDP with respect to urban growth and its containment within UGBs. Recommendation Report 3 sets out in full the reasons for recommending retention of UGBs as a method in the context of the overall strategic direction of urban growth management.¹⁵²
99. Recommended changes to Chapter 3 Strategic Direction included the addition of a list of issues that need to be addressed to enable the retention of the special qualities of the District (3.1 Purpose).¹⁵³ Issue 2 is:

Growth pressure impacting on the functioning and sustainability of urban areas, and risks detracting from rural landscapes, particularly its outstanding landscapes

¹⁴⁸ Report 17-8, Part E, citing outcome of expert conferencing by planners

¹⁴⁹ Report 17-8, Part E

¹⁵⁰ Report 17-8, Part E

¹⁵¹ Report 3, Section 3.5

¹⁵² Ibid, Section 3.5 Urban Growth Management; Section 5.5 Urban Growth; Section 9.2 UGBs.

¹⁵³ Ibid, para 107.

100. This issue is addressed by the recommended objectives and policies of Chapter 3 Strategic Direction and Chapter 4 Urban Development. Chapter 3 provides for urban growth to be managed in a strategic and integrated manner (Objective 3.2.2.1) and for UGBs to be applied around the urban areas in the Wakatipu Basin (including Jack's Point), Wanaka and Lake Hawea (Policy 3.3.13). Chapter 4 reiterates the role of UGBs 'as a tool to manage the growth of larger urban areas within distinct and defensible urban edges' (Objective 4.2.1). The policies address the location of UGBs (Policy 4.2.1.1), their use to contain urban development within the defined UGBs (Policy 4.2.1.3), ensuring sufficient area for future needs and to achieve specific outcomes (Policy 4.2.1.4) and avoiding adverse effects on landscape values (Policy 4.2.1.5). UGBs will be reviewed and amended from time to time, by way of plan changes (Policy 4.2.1.6). A further policy seeks containment of urban development of existing rural settlements that have no defined UGB within land zoned for that purpose (Policy 4.2.1.7).
101. Accordingly, we considered these objectives and policies when evaluating requests to rezone land from rural to urban in Queenstown. Where we have recommended including land within an urban area, we have also recommended the line of the UGB e.g., Coneburn Industrial and Arthurs Point.
102. When requested, we also considered the ONL/ONF line because of the relationship between the location of the UGB and ONL/ONF lines in the strategic framework of the PDP. The UGB sits on the boundary between urban development and the rural area therefore the ONL and UGB lines coincide in places. Where the ONL has been identified and evaluated prior as the first step in the process, this approach is supported. There were instances however where the ONL lines had not been reviewed prior to notification of the review (e.g., Kelvin Heights) or it was difficult to maintain a defensible urban boundary because of the historical pattern of development e.g., Queenstown Hill. In these situations, our recommendations were tinged with pragmatism.
- 4.2. Landscape classification – ONL, ONF and RCL mapping**
103. Issues relating to the PDP's approach to identification and management of ONLs, ONFs and RCL are addressed in the Panel's reports on Strategic Directions, Upper Clutha Mapping and Chapter 21.¹⁵⁴ Many of these same issues arose with respect to submissions on the Queenstown maps. In our deliberations, we came to similar conclusions as earlier panels with respect to the strategic direction of the PDP and its approach to ONLs, ONFs and RCL. We therefore adopt their reasoning and recommendations in this regard. We do not canvass these matters any further.
104. In considering requests to amend the ONL line, UGB and/or to rezone land in Queenstown, we have based our recommendations on an evaluation of the evidence received and the PDP's strategic direction on landscape matters. We have given weight to recommended Policy 6.3.1¹⁵⁵ when forming a view on the location of landscape classification boundaries. Both the notified and recommended versions of this policy provide that land within ONLs, ONFs and RCLs should be zoned Rural. This alignment between the Rural Zone and landscape classification is a key element of the PDP's planning framework and is reinforced by the strategic approach to growth management by means of UGBs.
105. However, while Chapter 6 provides for land within an ONL to be zoned Rural, in fact the PDP has included land within an ONL in other zones e.g., Jacks Point Zone. There are also other

¹⁵⁴ Reports 3, 16-1 and 4A respectively

¹⁵⁵ Notified Policy 6.3.1.2

methods available for managing effects on an ONL e.g., building line restrictions within an urban zone. We ourselves have recommended building line restrictions at Camp Hill and Arthurs Point to avoid split zoning¹⁵⁶, which we consider is necessary to ensure the desired PDP outcomes are achieved. Consequently, we consider there is a need to review the Strategic objectives and policies (particularly those in Chapter 6) to better align with the reality of the PDP and to enable a wider array of methods to be applied to ONLs and ONFs in future. This need is acknowledged by, and tentatively addressed in, the Stage 2 Variations where changes to Rules 6.4.1.2 and 6.4.1.3 are proposed providing for the landscape assessment matters to apply in other zones (as well as the Rural Zone). The primary purpose of these amendments is related to the proposed introduction of Open Space and Recreation Zones, many of which are located within an ONL. In our opinion, a more broadly based strategic review than this is warranted given the geographical diversity and extent of the District's ONLs, the pace of urban growth and the community's aspirations for development.

106. We also consider there is a need to revisit the identification of ONLs, at least in some areas. Identification of ONLs and ONFs is a discrete task and the planning consequences flow from landscape classification, not in the reverse direction. However, in some cases the zoning pattern in the ODP was carried forward in the PDP without reviewing the ONL e.g., Kelvin Heights. As a result, we were not prepared to recommend rezoning land from Rural to urban at Kelvin Heights because there was little logic to the location of the ONL line.¹⁵⁷ A review of the ONL in this area is required before evaluating the costs and benefits of ONL protection in terms of other desired economic, community and environmental outcomes. In other circumstances, urban zoning has been slowly encroaching into the existing ONL, consent by consent, indicating that review is necessary e.g., Queenstown Hill. Finally, where expert evidence established a robust ONL line, we took this evidence into account when deciding whether to recommend rezoning and/or amendments to the UGB e.g., the western section of the Mee property at Kelvin Heights.¹⁵⁸
107. We consider that the method of landscape evaluation should also be reviewed because, to date, it has not included any consideration of the values placed on landscape by the Queenstown community. Ascertaining those values is relevant to the classification of landscapes and the planning responses to be promulgated.

4.3. Arthurs Point

108. It came to our attention during the hearing that the LDR and RV-AP zones at Arthur's Point were embedded within the ONL. However, on the notified planning maps there is no ONL line around the perimeter of the Arthurs Point settlement, notwithstanding that the LDR and RV-AP zones were carried forward from the ODP. In response to questions from the Panel, Dr Read confirmed that the absence of an ONL line was not a 'mapping error'. An ONL line was not drawn around the LDRZ at Arthurs Point simply because it wasn't needed. The PDP framework does not provide for the assessment of landscape matters within urban zones, therefore the presence or absence of an ONL line is immaterial when processing resource consents.¹⁵⁹
109. Ms K Banks addressed the ONL issue in her Reply evidence.¹⁶⁰ In her opinion, it is appropriate to draw the ONL line around the edge of the LDRZ and RVZ at Arthurs Point because, if the

¹⁵⁶ See our separate discussion on this issue below.

¹⁵⁷ Report 17-7, Part C re Submission 48

¹⁵⁸ Report 17-7, Part D

¹⁵⁹ Reply evidence, Ms K Banks, dated 6 October 2017, para 2.2 records Dr Read's oral evidence.

¹⁶⁰ Reply evidence, Ms K Banks, dated 6 October 2017, paras 2.1 – 2.5

LDRZ remained within the ONL, 'the existing developed and low natural character of the urban areas would allow development that ... would compromise the provisions of Chapter 6'.¹⁶¹ We agree.

110. Whether there is scope to apply an ONL line around Arthurs Point was addressed by Ms K Banks¹⁶² and in the Council's legal submissions.¹⁶³ In her Section 42A Report, Ms Banks directed the Panel to the submission point of Universal Developments Ltd¹⁶⁴ which requested that the planning maps be amended so that the ONL lines are only shown on land that is zoned Rural.¹⁶⁵ Universal Developments Ltd has an interest in land within Frankton North, however the point is generic. In our view, it is not open to us to accept this submission point because it specifically asks for the ONL to include land that is zoned Rural whereas there are several cases where we have included other zonings within the ONL e.g., residential or Rural Residential zoning with a building line restriction applicable to identified areas has been recommended as a method of managing landscape effects at Camp Hill and Arthurs Point.
111. The Panel asked whether Clause 16(2) could be used to fix the planning maps. Counsel for the Council submitted that there would be no regulatory effect from applying an ONL around the LDR and RV-AP zones because the landscape assessment matters in Chapter 21 (Rural Zones) do not apply to consent processing in these zones. In other words, applying an ONL in these circumstances is neutral in terms of plan administration and therefore is of 'minor effect'. We agree although in saying this, we acknowledge the implications of the amendments to the rules in Chapter 6 as proposed in the Stage 2 Variations. We have given little weight to these proposed amendments at this juncture.
112. We consider that an ONL line is required at Arthurs Point to ensure efficient and effective planning. A defined ONL line would provide greater certainty when making decisions on rezoning requests and resource consents.
113. In considering specific submissions in Arthurs Point where the location of the ONL was an issue, we have relied on the evidence received in recommending the exact location of the ONL line.¹⁶⁶ Otherwise, we have recommended aligning the ONL with the notified UGB and/or the UGB as amended in response to submission (see Planning Map 39a as recommended).
114. Therefore we recommend to the Council that:
- a. an ONL boundary be defined around Arthurs Point to exclude the LDR and RV-AP zones from the wider ONL; and that
 - b. This ONL boundary be aligned with the UGB as shown on Planning Map 39a.

4.4. Natural hazards

115. Submissions requiring consideration of natural hazards fell into two groups; requests to change a rural zone to an urban one and requests for changes within the existing urban zones.
116. In considering the most appropriate zone or which is the 'better' zone for a site or area, the risks of natural hazards were a relevant factor. Whether there was sufficient geotechnical

¹⁶¹ Reply evidence, Ms K Banks, dated 6 October 2017, para 2.4

¹⁶² Reply evidence, Ms K Banks, dated 6 October 2017, para 2.5

¹⁶³ Legal submissions in reply, Ms Scott for the Council, dated 6 October 2017, paras 9.7 – 9.15

¹⁶⁴ #177

¹⁶⁵ Section 42A report/statement of evidence Strategic and common themes, Ms K Banks, dated 25 May 2017, para 29.11

¹⁶⁶ Report 17-4; Part C re Submission 494 and Part E re Submission 495

evidence identifying the hazards on a site, the nature of the risks and means of avoiding or managing those risks were matters considered by the Council and the Panel with respect to mapping submissions.

117. From the outset, we recognised that the PDP's planning framework for natural hazards required a case-by-case risk-based assessment. Rather than taking a 'no risk' approach, the PDP allows for some level of risk where land is being rezoned or developed. Consequently, our aim was to ensure there was sufficient evidence to understand the nature of the natural hazard risks, and whether these could be avoided, remedied or mitigated before recommending any rezoning. The level of information required for consideration of rezoning requests is not as detailed as that required for consenting purposes because the Council has additional powers for dealing with natural hazards at the site-specific level.
118. In the PDP, the strategic chapters of the PDP guide the zoning pattern and Chapter 28 Natural Hazards and Chapter 27 Subdivision & Development contain provisions dealing with natural hazards.
119. Broadly, the PDP seeks to ensure a balanced approach between enabling higher density development within the District's scarce urban land resources and addressing the risks posed by natural hazards to life and property. The Strategic Direction Chapter, as recommended, includes Policy 3.2.2 which requires urban development to occur in a logical manner so as to (among other things) 'minimise the natural hazard risk, taking into account the predicted effects of climate change'. Accordingly, our consideration of requests to rezone land with identified natural hazards took into account the nature and extent of the natural hazard risk.
120. Chapter 28 Natural Hazards provides a policy framework to address natural hazards throughout the District. The District is recognised as being subject to multiple hazards and as such, a key issue is ensuring that when development is proposed on land potentially subject to natural hazards, the risk is managed or mitigated to tolerable levels. In instances where the risk is intolerable, natural hazards will be required to be avoided. Council has responsibility to address the developed parts of the District that are subject to natural hazard risk through a combination of mitigation measures and education, to lessen the impacts of natural hazards.
121. The Council maintains a natural hazards database and development proposals affected by, or potentially affected by, natural hazards as identified in the database will require an accompanying assessment of natural hazard risks commensurate with the level of risk posed by the natural hazards.
122. Natural hazards were addressed in the work programme leading up to the PDP's notification. In 2012, a report was prepared by Opus¹⁶⁷ concerning the framework for natural hazards in the district plan review. This report made several recommendations in terms of further study required to better assess natural hazards¹⁶⁸. However, the Council did not undertake detailed hazard studies of the Queenstown urban area as a preliminary to this review. Consequently, the indicative broad scale GIS information together with the hazards register (which is updated as new information comes to hand) were relied on when determining the zoning pattern¹⁶⁹.

¹⁶⁷ Queenstown Lakes District Council Review of District Plan Natural Hazards, Opus International Consultants Ltd, 2012.

¹⁶⁸ Ibid, section 4.2

¹⁶⁹ <http://maps.qldc.govt.nz/qldcviewer/>

123. This same information is used in plan administration to screen applications for private plan changes and resource consents, particularly subdivision. When this information identifies a real or potential risk of natural hazards, the Council requires a site specific geotechnical report. The adequacy of the geotechnical evidence and its implications for decision making are determined case by case. A higher level of certainty is needed to better understand and manage the risk of natural hazards at the site-specific level compared to zoning.
124. Chapter 27 Subdivision & Development states that ‘all subdivision is able to be assessed against a natural hazard through the provisions of section 106 of the RMA. In addition, in some locations natural hazards have been identified and specific provisions apply.’ Natural hazards are matters of discretion to be assessed when consents are lodged e.g., Rule 27.5.7.
125. When assessing a subdivision, the Council also relies on section 106 RMA which provides that a consent authority may refuse to grant subdivision consent, or may grant a subdivision consent subject to conditions, if it considers that there is a significant risk from natural hazards.
126. In addition, sections 71 – 74 of the Building Act 2004 apply to construction of buildings. Section 71 provides that a building consent authority (the Council in this case) must refuse to grant consent for construction of a building, or major alterations to a building, if the land is likely to be subject to one or more natural hazards, or the building work is likely to accelerate, worsen, or result in a natural hazard on that land or any other property. The Council has a range of powers with which to address natural hazard risks when development occurs.
127. The management of significant risks from natural hazards is a matter of national importance in the Act (section 6(h) inserted by section 6 of the RLAA 2017) to be recognised and provided for when decision making and in preparing a plan or plan review. An assessment under section 6(h) does not apply to our recommendations. However, it will apply to the Council’s decisions on applications for consent and to the preparation and consideration of future plan changes and reviews. Recourse to section 6(h) will fortify the weighting given to minimising natural hazard risks when decision-making on consents.
128. In summary, given the geology of the Wakatipu Basin and its location near the Alpine fault, the historical pattern of development in the Queenstown urban area and reliance on broad scale geotechnical information when zoning land, it is expected that consent to subdivide or develop land will be refused in some cases or conditions imposed when a site-specific analysis identifies a degree of risk from natural hazards. This method of managing risk is consistent with the strategic approach in the PDP and recognises the appropriate level of information for each type of RMA decision making ie zoning vs site specific development.

5. ZONING PRINCIPLES

5.1. Considerations in the Analysis of the Most Appropriate Zoning

129. Ms Kim Banks set out the zoning principles and other factors that were considered in the analysis of rezoning submissions, in addition to the statutory tests for deciding on what are the *most appropriate provisions* or zones in a district plan. Key strategies of the Strategic Directions chapter were also considered. This analysis was based on the capacity of land within the notified Queenstown UGB and the reply version of the PDP Stage 1 chapters.¹⁷⁰

¹⁷⁰ Section 42A Report, Strategic Overview and Common Themes, 25 May 2017, paras 15.3 – 15.5

130. In addition to 13 principles, the other two factors are consideration of the proposal in the context of a site or geographic area and relevant local contextual elements such as street layout, topography, accessibility and ability to absorb development.
131. We have examined the principles and other factors one by one and recommend changes designed to remove repetition, improve clarity and sharpen their focus to create an integrated set of guiding principles. Giving effect to the Strategic Direction of the PDP and the ORPS are over-arching principles and therefore should be first and second in the order. The following table sets out the Council's proposed principles and our comments/assessment.

Table 1-1: Zoning principles and other factors applied to the consideration of the most appropriate zoning

Council's zoning principles and evaluation matters Refer to section 42A report, Ms Kim Banks, Strategic Overview and Common Themes, paras 15.3 – 15.5	Panel's comments/assessment
(a) whether the change is consistent with the objectives and policies of the proposed zone. This applies to both the type of zone in addition to the location of the zone boundary;	This principle is unclear especially in light of (b) which requires a comparison between the notified zone and the requested zone. It appears to be saying that the land should be suitable for the zone being proposed. This principle should go further down the list after the principles dealing with the Strategic Direction and giving effect to the ORPS. We recommend revised wording as follows: whether the objectives and policies of the proposed zone can be implemented on the land.
(a) whether the zone proposed / sought is more appropriate than the notified zone;	This is not a principle rather it is the outcome of considering the zoning request by reference to the statutory requirements, principles and other factors. It is therefore deleted.
(b) whether the change is consistent with and does not compromise PDP Strategic chapters and in particular the Strategic Direction, Urban Development and Landscape Chapters;	We agree with the thrust of this principle however we prefer wording such as 'implement the purpose of' or similar. This should be the first principle because zoning is a method of implementing the Strategic Direction of the PDP.
(c) the overall impact of the rezoning gives effect to the ORPS;	Agreed. The PDP must give effect to the ORPS under s 75(3) RMA and is the second principle because it has a directive impact on zoning strategy.

(d) economic costs and benefits are considered;	Agreed because this is required by s32 RMA. It is important to consider both costs <u>and</u> benefits.
(e) zone changes should take into account the issues debated in recent plan changes;	<p>The issues debated in recent plan changes are not a relevant matter for the Panel when making its recommendations and therefore we have deleted this principle. Where material relating to recent plan changes was presented at the hearing, we dealt with it as an evidential matter.</p> <p>We consider that the purpose and content of proposed changes is however a relevant matter in preparing a proposed plan.</p>
(f) changes to zone boundaries are consistent with the maps in the PDP that indicate additional overlays or constraints (e.g., Airport Obstacle Limitation Surfaces, SNAs, Building Restriction Areas, ONL/ONF);	We don't entirely agree with this principle as it may lead to split zoning which we do not favour. However, in general, alignment between zone boundaries and planning notations is desirable, especially the identification of ONLs. In some cases, it may be preferable to adjust the zone boundaries to recognise where non-alignment leads to a better outcome.
(g) changes should take into account the location and environmental features of the site (e.g., the existing and consented environment, existing buildings, significant features and infrastructure);	Agreed
(h) zone changes recognise the availability or lack of major infrastructure (e.g., water, wastewater, roads);	<p>We agree with the general thrust of this principle however we consider it is important to ensure there is alignment between enabling development capacity and its servicing. We recommend the following wording:</p> <p>Zone changes are not inconsistent with long term planning for the provision of infrastructure and its capacity.</p>
(i) zone changes take into account effects on water, wastewater and roading network capacity, and are not just limited to site specific effects of extending infrastructure;	In light of the changes made to (i) above, this principle needs to focus on the environmental effects of

	onsite servicing. We recommend the following wording: Zone changes take into account the effects on the environment of providing infrastructure onsite.
(j) there is adequate separation between incompatible land uses;	Agreed
(k) rezoning in lieu of resource consent approvals, where a portion of a site has capacity to absorb development does not necessarily mean another zone is more appropriate; and	Agreed. This is trying to say that we shouldn't rezone land when a r/c is the right way to go.
(l) zoning is not determined by existing resource consents and existing use rights, but these will be taken into account.	Agreed. This principle should be limited to existing use rights because (h) deals with the consented environment.
Other factors	
Context of a site or geographic area	Agreed
Relevant local context factors including: (a) the layout of streets and location of public open space and community facilities; (b) land with physical challenges such as steep topography, poor ground conditions, instability or natural hazards; (c) accessibility to centres and the multiple benefits of providing for intensification in locations with easy access to centres; and (d) the vulnerability of the wider area the subject land is part of to absorb development.	Agreed. We recommend clarifying the wording of (d) as follows: The ability of the environment to absorb development. This is a key consideration in achieving the Strategic Direction for Landscapes set out in recommended Chapter 6.

132. The recommended zoning principles and other factors are:
- a. whether the change implements the purpose of the PDP Strategic chapters and in particular the Strategic Direction, Urban Development and Landscape Chapters;
 - b. the overall impact of the rezoning gives effect to the ORPS;
 - c. whether the objectives and policies of the proposed zone can be implemented on the land;
 - d. economic costs and benefits are considered;
 - e. changes to zone boundaries are consistent with the maps in the PDP that indicate additional overlays or constraints (e.g., Airport Obstacle Limitation Surfaces, SNAs, Building Restriction Areas, ONL/ONF);
 - f. changes should take into account the location and environmental features of the site (e.g., the existing and consented environment, existing buildings, significant features and infrastructure);
 - g. zone changes are not inconsistent with long term planning for the provision of infrastructure and its capacity;
 - h. zone changes take into account effects on the environment of providing infrastructure onsite;
 - i. there is adequate separation between incompatible land uses;

- j. rezoning in lieu of resource consent approvals, where a portion of a site has capacity to absorb development does not necessarily mean another zone is more appropriate; and
- k. zoning is not determined by existing use rights, but these will be taken into account.

Other factors:

Context of a site or geographic area.

Relevant local context factors include:

- a. the layout of streets and location of public open space and community facilities;
- b. land with physical challenges such as steep topography, poor ground conditions, instability or natural hazards;
- c. accessibility to centres and the multiple benefits of providing for intensification in locations with easy access to centres; and
- d. the ability of the environment to absorb development.

5.2. Split zoning

133. Split zoning can have undesirable consequences due to the PDP's definition of a 'site' which provides (among other matters) as follows:

b) If any site is crossed by a zone boundary under this Plan, the site is deemed to be divided into two or more sites by that zone boundary.

134. Adopting different zones for different parts of a site will inevitably lead to subdivision on an arbitrary basis due to the inclusion of this 'deeming rule' within the definition. This provision could result in sites being created without consideration of servicing and legal access and, more importantly, their suitability for use in accordance with the purpose of the zone. For example, a split zone could result in a small site being allowed in the Rural Zone that is not suitable for rural uses. In this situation, residential development is the most likely feasible use. However, enabling housing would not promote the outcomes sought by adopting Rural Zoning in the first place.

135. This concern was raised during the Stream 4 hearing on Chapter 27 Subdivision and in the Stream 10 hearing on Chapter 2 Definitions. The Stream 10 Hearing Panel has recommended a variation deleting the '... existing provisions that a site crossed by a zone or district boundary is divided into separate sites as a result'.¹⁷¹ Meanwhile, this 'deeming rule' remains in the definition.

136. In this hearing stream, split zoning was a matter considered in Frankton North, Arthurs Point and Kerry Drive. We have avoided split zoning wherever possible due to the problematic consequences arising from the wording of the definition of 'site'.

5.3. Queenstown Airport Corporation Limited Further Submissions¹⁷²

137. QAC lodged further submissions in opposition to 16 submissions¹⁷³, in each case giving the following reason for the opposition:

QAC is concerned rezoning requests that will result in the intensification of ADSAN establishing within close proximity to Queenstown Airport [sic].

¹⁷¹ Report 14 on Stream 10, para 384

¹⁷² Further Submission 1340

¹⁷³ Submissions 16, 48, 125, 150, 318, 328, 336, 338, 347, 389, 391, 425, 429, 434, 527 and 661

The proposed rezoning is a significant departure from the nature, scale and intensity of ASAN development currently anticipated at this site and may potentially result in adverse effects on QAC over the longer term.

The proposed rezoning request should not be accepted.

138. Ms Wolt presented very complete submissions to us explaining the purpose of these further submissions. As we understood QAC's position, it was that passenger growth at the airport meant that the noise produced by planes taking-off and landing at the airport would reach the limits imposed by Designation 2, as delineated by the ANB and the OCB shown on the Planning Maps, earlier than anticipated.¹⁷⁴ We understood QAC was seeking to limit the development of land outside the OCB so as to limit the population that could be affected by future noise effects of the airport. Mr Kyle expressed this as *"the best form of protection to avoid reverse sensitivity effects."*¹⁷⁵
139. The Council's position was that it was not appropriate or necessary for the PDP to go beyond the limitations imposed by PC35, particularly where QAC was not pursuing an amendment to its OCB.¹⁷⁶
140. We agree with the Council on this point. The ANB and OCB provide, by being imposed as conditions on Designation 2, a limitation on the amount of noise that aircraft operations at Queenstown Airport can create. Through the public process of amending the designation (generally referred to as PC35) the local community accepted a certain level of noise and associated limitations on development within the ANB and OCB, in part as a reflection of the reduction in amenity values resulting from the increased noise.
141. If QAC wish to increase aircraft operations such that it can no longer comply with the noise limitations imposed by the ANB and OCB, then it would need to commence a new public process to amend the conditions on Designation 2. We have no knowledge of what, if any, amendments to the ANB or OCB will be made in the future. There can be no certainty that the community will accept increased noise from the airport, in the same way that there can be no certainty that Ms Tregidga's *"significant increase in passenger numbers in the future"*¹⁷⁷ will eventuate.
142. We do not consider it to be sound resource management practice to limit development potential in the face of such uncertainty, particularly in a location such as Queenstown which has topographical constraints that limit the land available for urban development.

6. SUMMARY OF RECOMMENDATIONS

143. Our recommended changes to the PDP are set out in detail in Reports 17-2 – 17-12 that accompany this report. For convenience, we have attached a summary of those recommendations, together with any recommendations as to consequential matters at the end of each accompanying report.

¹⁷⁴ Legal Submissions for Queenstown Airport Corporation Limited dated 26 July 2017, at paragraph 104ff

¹⁷⁵ J Kyle, EIC, 9 June 2017, paragraph 6.7

¹⁷⁶ Opening Legal Submissions for the Council dated 21 July 2017, at paragraph 12.5

¹⁷⁷ R. Tregidga, EIC, 9 June 2017, paragraph 47

144. Most of the recommended changes manifest themselves as changes to the planning maps for the Wakatipu Ward. Copies of those maps amended by our recommendations are attached in Appendix 1.
145. We recommend all the planning maps considered in our hearing stream, subject to the amendments described above, be adopted.

For the Hearing Panel



Denis Nugent, Chair
Date: 4 April 2018

Appendix 1: Amended Planning Maps