

Queenstown Lakes District Proposed District Plan – Stage 1

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

Report dated: 7 April 2016

Report on submissions and further submissions

Chapter 21 Rural Zone

File Reference: Chp. 21 S42A

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Appendix 5. QLDC and New Zealand Fire Service Memorandum of Understanding.

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

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

Stephen Chiles, Acoustic Specialist – statement dated 6 April 2016.

Mr Philip Osborne, Economist – statement dated 6 April 2016.

Mr Glenn Davis, Ecologist – statement dated 6 April 2016.

1. EXECUTIVE SUMMARY

1.1. The framework, structure and majority of the provisions in the Proposed District Plan (**PDP**) Rural Zone Chapter 21 should be retained as outlined and supported in the section 32 (**s32**) assessment. I consider that the provisions as recommended are more effective and efficient than the Operative District Plan (**ODP**) and more effective and efficient than the changes pursued by submitters that I have rejected, and better meet the purpose of the Resource Management Act 1991 (**RMA**). Key reasons include:

- a. The Objectives, policies, rules and assessment matters provide a balanced platform to manage the effects of permitted activities and the effects of new activities on permitted or established activities, activities that could be contemplated including rural living, a range of recreational and tourism opportunities, and activities that are not contemplated.
- b. The provisions are efficient in that they allow the ability to undertake anticipated activities including building and altering houses within approved building platforms and the establishment of modest sized farm buildings, within a range to ensure the impacts of these would be negligible.
- c. The provisions are balanced in that they contemplate a range of activities to occur in the Rural Zone, and at the same time appropriately manage the effects of these activities in terms of established and permitted activities, the retention of the soil resource, rural amenity and landscape values.
- d. The standards will help safeguard the environment from the potential adverse effects of intensive farming.
- e. There is certainty as to the status and potential adverse effects of commercial activities.
- f. The rules relating to informal airports will provide a balanced regime that enables the ability for aircraft to take off and land in the Rural Zone while providing appropriate maintenance of rural amenity.
- g. A broad range of commercial and recreation activities are provided for within the Ski Area Sub Zones.
- h. The direction for industrial and service activities that are related to the rural activities within the Rural Industrial Sub Zone.
- i. The management of surface of water; lakes and rivers recognising the importance of this resource for its appreciative values and the benefits derived from commercial activities.
- j. The rules and standards for activities have been grouped into respective themes. This is considered a significant improvement on the ODP structure that identified activities through the type of resource consent that would be required. The ODP structure was cumbersome because a person would have to read almost the entire chapter to determine if their activity needed a resource consent, or what type. In comparison the PDP structure directs the

reader to the first table, and then the corresponding table that has standards for that activity.

- k. The landscape assessment matters in Part 21.7 are based on the ODP assessment matters but refined to be more effective at determining what the effects of subdivision, use and development would be.

- 1.2. A number of changes are considered appropriate, and these are shown in the Revised Chapter attached as **Appendix 1 (Revised Chapter)**.

2. INTRODUCTION

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

- 2.2. I am the principal author of the notified PDP Rural Zone Chapter.

3. CODE OF CONDUCT

- 3.1. Although this is a Council hearing, I confirm that I have read the Code of Conduct for Expert Witness contained in the Environment Court Practice Note and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person. I am authorised to give this evidence on the Council's behalf.

4. SCOPE

- 4.1. My evidence addresses the submissions and further submissions received on the proposed Rural Zone chapter. I discuss issues raised under broad topics, and where I recommend substantive changes to provisions I assess those changes in terms of s32AA of the RMA. The Table in **Appendix 2** outlines whether individual submissions are accepted, accepted in part, rejected, considered to be out of scope or deferred to another hearing stream.

- 4.2. Although this evidence is intended to be a stand-alone document and also meet the requirements of s42A of the RMA, the following supporting s32 evaluations are attached in **Appendix 3**. The

electronic versions of these reports also link to further material/reports supporting the s32 evaluations:

- a. Landscape Rural and Gibbston Character Zone.
- b. Informal Airports.
- c. Rural Industrial Subzone.
- d. Surface of water rivers and lakes.

- 4.3. Due to the breadth of Stage 1 of the PDP and submissions on the notified chapters, the hearing of submissions has been separated into the respective chapters or grouped into themes as much as practical. Submissions associated with rezoning requests affecting Rural Zoned land and the location of landscape lines will be heard at a later time. There is also some very specific submissions where the changes they seek to the zone chapter are directly related to the rezoning request, and I have recommended that that specific relief be deferred and be heard at the same time as the rezoning request, as the two cannot be considered in isolation. **Appendix 2** indicates whether a submission or further submission has been deferred to another hearing stream.
- 4.4. For example, where Submitter 806 (Queenstown Park Limited (**QPL**)) seeks new objectives policies and rules to enable a proposed 'Remarkables Alpine Recreation Area', these are rejected for the purposes of the evidence for this Rural Hearing, but will be considered in the report/evidence prepared for the hearings on rezonings.
- 4.5. This evidence analyses submissions for the benefit of the hearings panel to make recommendations on the Rural Zone Chapter.
- 4.6. I have read and considered the evidence of Landscape Architect Dr. Marion Read, Dr Stephen Chiles, Acoustic Specialist, and Mr Philip Osborne, Economist.

5. BACKGROUND - STATUTORY

- 5.1. The respective s32 reports are attached as **Appendix 3** and provide a detailed overview of the higher order planning documents applicable to the Rural Zone Chapter. Rather than repeating that information, I summarise the key documents that have been considered.

(a) The RMA:

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

- ii. Section 6 'Matters of national importance' of the RMA states in achieving the purpose of the RMA, shall recognise and provide for the following matters of national importance:
 - (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development
 - (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:
 - (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:
 - (d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:
 - (e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:

- iii. Section 7 'Other Matters' Identifies a range matters that persons shall have particular regard to. All of these are relevant in the Rural Zone and the following especially so in the Queenstown Lakes District:
 - (a) the efficient use and development of natural and physical resources
 - (b) the maintenance and enhancement of amenity values:
 - (c) intrinsic values of ecosystems:
 - (d) maintenance and enhancement of the quality of the environment:
 - (e) any finite characteristics of natural and physical resources:
 - (f) the protection of the habitat of trout and salmon:

- iv. Section 31 'Functions of territorial authorities under this Act', requires that a function of councils is to achieve the integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district.

(b) The Local Government Act 2002:

- i. In particular s14, Principles relating to local authorities; and

- ii. The provisions emphasise a strong intergenerational approach, considering not only current environments, communities and residents but also those of the future. They demand a future focussed policy approach, balanced with considering current needs and interests. Like the RMA, the provisions also emphasise the need to take into account social, economic and cultural matters in addition to environmental ones.

(c) Iwi Management Plans

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

(d) Operative Otago Regional Policy Statement 1998 (RPS)

- i. Section 75(3) of the RMA requires that a district plan prepared by a territorial authority must "give effect to" any operative Regional Policy Statement. The operative Otago Regional Policy Statement 1998 is the relevant regional policy statement to be given effect to within the District Plan.
- ii. The operative RPS contains a number of objectives and policies of relevance to the Rural Zone Chapter, specifically Objectives 5.4.1 to 5.4.4 (Land) and related policies which, in broad terms promote the sustainable management of Otago's land resource by:
 - (a) Objective 5.4.1 To promote the sustainable management of Otago's land resources in order:
 - To maintain and enhance the primary productive capacity and life-supporting capacity of land resources; and
 - To meet the present and reasonably foreseeable needs of Otago's people and communities.
 - (b) Objective 5.4.2 To avoid, remedy or mitigate degradation of Otago's natural and physical resources resulting from activities utilising the land resource.

- (c) Objective 5.4.3 To protect Otago's outstanding natural features and landscapes from inappropriate subdivision, use and development.
- iii. These objectives and policies highlight the importance of the rural resource both in terms of the productive resources of the rural area and the protection of the District's outstanding natural features and landscapes.
- iv. The RPS contains issues, objectives, policies and methods on two subjects of relevance to the surface of lakes and rivers. These are the subjects of water and biota, which are discussed in Chapters 6 and 10 respectively.

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

- i. Section 74(2) of the RMA requires that a district plan prepared by a territorial authority must "have regard to" any proposed Regional Policy Statement. There are consistencies in the application of the PRPS and the PDP, in particular these are:
 - (a) Objective 2.1 The values of Otago's natural and physical resources are recognised, maintained and enhanced. Corresponding Policy 2.1.2 is 'Managing for the values of beds of rivers and lakes, wetlands, and their margins. Policy 2.1.7 is 'Recognising the values of natural features, landscapes and seascapes.
 - (b) Objective 2.2 is 'Otago's significant and highly-valued natural resources are identified, and protected or enhanced'. Corresponding Policies 2.2.3, 2.2.4, 2.2.5 and 2.2.6 identify and manage ONF/ONLs and special amenity landscapes. Policies 2.2.12 to 2.2.15 address outstanding water bodies and highly valued soil resources.
 - (c) Schedule 4 'Criteria for the identification of outstanding natural features and landscapes' and the Landscape assessment matters in outstanding natural landscapes and features, for guiding decision makers when considering proposals for activities within identified outstanding natural landscapes and features.
- ii. The PRPS was notified on 23 May 2015, the hearing of submissions was held in November 2015 and at the time of preparing this evidence the Hearing Panel were deliberating the submissions. A decision on the submissions has not been issued.

(f) The Otago Regional Plan: Water for Otago:

- i. This Regional Plan became operative on 1 January 2004. It contains rules in Part 13: Land use on Lake or River Beds which outline the activity status for the erection or

placement of structures within lakes and rivers. The rules of most relevance with regard to the surface of lakes and rivers are as follows:

- (a) The erection or placement of any fence, pipe, line or cable over the bed of a lake or river is a permitted activity subject to certain listed requirements (Rule 13.2.1.1).
 - (b) Minor structures (such as fences, pipes, lines and cables which do not comply with the listed requirements), whitebait stands, eel traps, maimai, jetties, bridges or culverts in, on, under, or over the bed of any lake or river are a restricted discretionary activity (Rule 13.2.2).
 - (c) All other activities require a discretionary activity resource consent from the Otago Regional Council (Rule 13.2.3).
- ii. The Regional Plan: Water, also contains other rules of relevance to the surface of lakes and rivers relating to alterations, demolition activities and the like; and rules relating to the introduction or planting of vegetation.

(g) Other statutory documents

- i. There are several other statutory documents that apply to specific parts of the District which are also relevant to activities on, or in, the surface of lakes and rivers. These include:
 - (a) **Water Conservation (Kawarau) Order 1997** and as amended in 2010 in respect of the Nevis River – This requires the outstanding amenity and intrinsic values of the Kawarau River to be protected.
 - (b) **Lake Wanaka Preservation Act 1973** – This Act establishes 'Guardians of Lake Wanaka' to protect water quality and ensure that the lake levels of Lake Wanaka are retained.
 - (c) **Ngai Tahu Claims Settlement Act Statutory Acknowledgments** – these are pursuant to the Ngai Tahu Claims Settlement Act 1998 and apply to the following lake and rivers within the Queenstown Lakes District:
 - Lake Hawea
 - Lake Wanaka
 - Lake Wakatipu
 - Clutha River

- (d) **QLDC Navigation Safety Bylaws, 2009 and 2011** – these contain rules, pursuant to the Harbours Act 1950, relating to navigation and water activities, including access lanes and reserved areas, moorings and foreshore structures, and commercial activities.
- (e) **QLDC Proposed Navigation Safety Bylaw 2014** – notified for public submissions on 5 July 2014. Forty two submissions were received, 24 in support, 9 opposed and 9 partially opposed.
- (f) **Shotover River Bylaw 2009** – this Bylaw relates to Shotover Jet Limited to operate on the Shotover River.

(h) Non-statutory Policy Context

- i. I have also considered the following QLDC non-statutory documents in preparing this evidence:
 - (a) **Queenstown Bay Waterfront Development Plan (undated)** – This Plan specifies areas in which various activities can occur in Queenstown Bay and contains objectives that can be used by as a matter under section 104(c) when considering resource consent applications. It is **noted** that some of the objectives and methods in this document are now considered to be out of date.
 - (b) **Jetties and Moorings Policy for the Frankton Arm and Other Environs of Lake Wakatipu (undated)** – This non-statutory document specifies standards applicable to jetties, moorings and boat sheds, relating to engineering and amenity issues, ownership and **management** of these structures. It is noted that the document specifies that jetties must be wooden and attached to the lake foreshore. However, since this document was adopted by the QLDC, the technology relating to jetties has changed, and jetties can now be constructed from lighter metals and float, rather than be fixed to the waterway bed.
 - (c) **Amenity Issues Relating to Jetties and Moorings in the Frankton Arm of Lake Wakatipu (undated)** – This **contains** a landscape assessment of the character and amenity of the Frankton Arm foreshore, issues and problems, and options for processing applications for jetties and moorings. This

document was used to formulate the Jetties and Moorings Policy. It is noted that some of the landscape information in this document is becoming dated.

(i) Transfer of functions with the Otago Regional Council

- i. The Council and Otago Regional Council share a deed entered into on 23 March 1994 that transfers the functions of the Otago Regional Council to the Council for the administration of resource consent applications under s13(1)(a) of the RMA for structures. That section states:

13 Restriction on certain uses of beds of lakes and rivers

(1) No person may, in relation to the bed of any lake or river,—

- a. use, erect, reconstruct, place, alter, extend, remove, or demolish any structure or part of any structure in, on, under, or over the bed; or*

...

- ii. The deed requires the Council to provide a copy of consent applications to the Otago Regional Council in the following instances, and the Otago Regional Council then has discretion to resume processing of the application:
- (a) Are **located** or proposed to be located on the bed of rivers;
 - (b) Are solid or effectively solid structures (as distinct from open piled structures);
 - (c) Involve excavation of the bed, disturbance of the shoreline or significant disturbance to the lake bed; or
 - (d) Are owned or proposed by the District.
- iii. This process appears to have resulted in efficiencies and avoidable overlaps within QLDC and Regional Council plans, with regard to structures on water bodies, particularly in case of applications for jetties and moorings on lakes.

6. BACKGROUND – OVERVIEW OF THE ISSUES

- 6.1. An overview of the issues addressed within the Rural Chapter are set out in the respective s32 reports. By way of summary, these are summarised and grouped as follows:

Rural Zone s32:

- a. The management of the District's landscapes;
- b. The management of farming and other activities:
 - Existing and anticipated activities;
 - Rural amenity;
 - Contamination of water bodies and riparian areas;
 - Farm Buildings;
- c. Effective and efficient resource management;
- d. Commercial activities;
- e. Managing the Ski Area Sub Zones;
- f. The activity status of unspecified activities,
- g. Plan Change 35, and
- h. Residential Flats;

Informal Airports s32:

- i. The amount of resource consents generated by the ODP rule for airports;
- j. Clarity of the ODP provisions for airports

Surface of Water on Rivers and Lakes s32:

- k. Activity status of rules relating to boating activities;
- l. The management of jetties within the Frankton Arm and consistency with the QLDC non-statutory policy: Jetties and Moorings in the Frankton Am;
- m. Assessment criteria relating to activities on or in lakes and rivers;
- n. Historic consents for boating activities;
- o. Consistency with the Navigational Safety Bylaw 2014;

Rural Industrial Sub Zone s32:

- p. The management of rural industrial activities.

7. ANALYSIS

- 7.1. 1973 points of submission have been categorised on the Rural Zone Chapter (noting that some of the submission points are on rezoning or the location of landscape lines and not on a specific part of the Rural Zone Chapter).
- 7.2. The RMA, as amended in December 2013 no longer requires a report prepared under 42A report or the Council decision to address each submission point but, instead, requires a summary of the issues raised in the submissions.
- 7.3. Some submissions contain more than one issue, and will be addressed where they are most relevant within this evidence.
- 7.4. The following key issues have been raised in the submissions. I note that I respond to these in provision order as they appear in the chapter, rather than within the order of Issues set out in Section 6 above.

Issue 1 – Farming activity and non-farming activities (page 13)

Issue 2 – Separation of buildings and activities (page 21)

Issue 3 – Farm buildings (page 27)

Issue 4 – Residential activity, residential and non-farming buildings (page 32)

Issue 5 – Standards for structures and buildings (page 37)

Issue 6 – Other activities (page 41)

Issue 7 – Ski Area Activities within the Ski Area Sub Zones (page 52)

Issue 8 – Queenstown and Wanaka Airports (page 65)

Issue 9 – Informal Airports (page 69)

Issue 10 - Surface of Water on Rivers and Lakes (page 78)

Issue 11 – Non notification of resource consent applications (page 91)

Issue 12 – Landscape assessment matters (page 92)

Issue 13 – Other matters (page 99)

Issue 14 – Mining (page 103)

8. ISSUE 1 – FARMING ACTIVITY AND NON-FARMING ACTIVITIES

- 8.1. Farming is a permitted activity in the Rural Zone. The activity is emphasised in the purpose statement, objectives and provisions in the Rural Zone Chapter.
- 8.2. Although the ODP is more 'effects based' than the PDP, I consider that it singles out farming as the predominant land use in the Rural zone. For reference, Part 5.3.1.1 'Zone Purposes – Rural General Zone' is:

5.3.1 Zone Purposes

5.3.1.1 Rural General Zone

The purpose of the Rural General Zone is to manage activities so they can be carried out in a way that:

- protects and enhances nature conservation and landscape values;
- sustains the life supporting capacity of the soil and vegetation;
- maintains acceptable living and working conditions and amenity for residents of and visitors to the Zone; and
- ensures a wide range of outdoor recreational opportunities remain viable within the Zone.
- protects the on-going operations of Wanaka Airport.

The zone is characterised by farming activities and a diversification to activities such as horticulture and viticulture. The zone includes the majority of rural lands including alpine areas and national parks.

- 8.3. Submitters including Upper Clutha Environment Society (**UCES**) (Submitter 145) are concerned that the PDP has taken more of an activity based approach to managing the effects of activities. Parts of the PDP, and in particular the Rural Zone chapter do take a more activity based approach, for example it lists the activities that are permitted, and does not have any 'nature and scale' standards for non-specified activities. However, I do not consider that making farming a permitted activity in the PDP to be a significant departure from the ODP in terms of what activities characterise the zone.
- 8.4. Rules 21.4.1 to 21.4.4 establish that farming, the construction of farm buildings and factory farming where it complies with the standards in the tables in 21.5 is a permitted activity. The framework of the Rural Zone chapter establishes through Rule 21.4.1 that any activity not identified shall be a non-complying activity (noting that submitters are asking that this be changed to fully discretionary, which I come back to below). I consider this method provides certainty to plan users in terms of the outcome sought and where an activity stands in terms of permitted status and will provide certainty in terms of plan administration. The ODP is structured on the presumption that activities not otherwise specified are permitted and I consider this makes the ODP Rural General Zone in particular cumbersome and complicated.
- 8.5. I consider that the ODP's reliance on site and zone standards to manage activities that are not contemplated is also a deficiency. By way of example, in the ODP an industrial activity would be permitted,¹ despite there being a restricted discretionary standard that specifically limits industrial activities to wineries.²

¹ ODP Rule 5.3.3.1 that states any activity, which is not listed as a Prohibited, Non-Complying, Discretionary or Controlled Activity and which complies with all the relevant Site and Zone Standards, shall be a Permitted Activity.

² ODP Rule 5.3.3.3.x Discretionary Activities: Industrial Activities, limited to wineries and underground cellars within a vineyard.

- 8.6. Another example is the management of a range of activities through a site standard that limits the maximum gross floor area of buildings, storage of materials outside a building, and requires that manufacturing is undertaken within a building.³ A scenario is the use of land for a contractors yard or industrial activity only potentially being subject to a site standard, with non-compliance being a restricted discretionary activity.
- 8.7. In my view, a clearer way is to specify that any activities not listed in Tables 1 to 10, to be non-complying through Rules 21.4.1 (contractors yard/service activity) and Rule 21.4.36 (industrial activities).
- 8.8. Submitter 615 (Cardrona Alpine Resort Ltd) seek that tourism and visitor accommodation activities are excluded from Rule 21.4.1 and that tourism activities not otherwise specified are a discretionary activity. There is no need for this exclusion for visitor accommodation, as that activity is already provided as discretionary activities (in Rule 21.4.20 – visitor accommodation). This rule is effectively carried over from the ODP, so there is no need for an exclusion to Rule 21.4.1 (and under the structure of the chapter, putting exclusions into Rule 21.4.1 would be in appropriate). In terms of the changes sought for tourism, the chapter already provides that commercial activities ancillary to and located on the same site as recreational activities (in Rule 21.4.15) is a discretionary activity (again, effectively carried over from the ODP). Without any further explanation to support the submission I recommend that it is rejected. In terms of Rule 21.4.15 only incorporating commercial activities ancillary to and located on the same site as recreational activities, commercial activities without any affiliation to wineries or recreation activities are a non-complying activity, and I consider this status should remain because there is the potential that a wide range of commercial activities could establish under the guise of supporting tourism based activities, such as restaurants, or offices for tourism companies that may not have legitimate need to locate in the Rural Zone. Mr Osborne's evidence identifies the need for planning mechanisms to manage tourism related activities in the Rural zone, I rely on that evidence. I also wish to reiterate that commercial activities not otherwise specified are also a non-complying activity under the ODP.⁴
- 8.9. Submitter 624 (D & M Columb) seek that any rule not otherwise specified is fully discretionary, rather than a non-complying activity. It is my preference that a non-complying activity status is retained in Rule 21.4.1 because I consider that the non-complying status suits activities that are not necessarily contemplated in the zone's objective and policy framework. Requiring proposals to be subject to s104D of the RMA assists with ensuring that activities that are not contemplated in the zone are appropriate in terms of the tests set out in s104D.

³ ODP Site Standard 5.3.5.1.iii Scale and nature of Activities.

⁴ ODP Rule 5.3.3.4 (a).

- 8.10. I recommend that these submissions are rejected and that a non-complying resource consent is required for activities that are not specified.
- 8.11. Farming is the predominant and longstanding land use in the Rural Zone, and because of the social and economic wellbeing derived from the utilisation of the soil resource. Also, because from a landscape perspective, the rural character of large landholdings is an important element and historical influence of the District's landscapes both in terms of the ONF/L and RL landscapes.
- 8.12. I acknowledge that other activities including recreation and conservation are well established in the Rural Zone, as are commercial recreation and tourism based activities. However, farming is the principal land use contemplated in the Rural Zone that needs to be protected from other land uses, often these 'other uses' are sensitive and could have the potential to constrain farming activities.
- 8.13. Other activities that are established in the Rural Zone, adjacent to the Rural Zone or designated also need to be protected from other activities that are sensitive and could have the potential to cause conflict. A non-fanciful example includes the desire to establish a resort style activity such as a restaurant or visitor accommodation activity where the operator and patrons expect high levels of amenity. Established and permitted activities that could affect amenity include:
- a. Traffic or improvements to Stage Highway 6.
 - b. Airports, including permitted informal airports for farming.
 - c. Frost fans or the use of helicopters for frost fighting.
 - d. Silage pits.
 - e. Pest control such as rabbit shooting.
- 8.14. Notwithstanding the above, the natural, physical and cultural resources also need to be protected from the potential adverse effects of farming activities.
- 8.15. The objectives and policies that establish and manage this framework for permitted activities are fundamentally the first four objectives (21.2.1 – 21.2.4) and related policies in the Rural Zone Chapter. In short these objectives address:
- a. Objective 21.2.1 enables farming, other permitted activities and established activities subject to the protection of effects on the values of natural resources and amenity.
 - b. Objective 21.2.2 seeks to sustain the life supporting capacity of soils.
 - c. Objective 21.2.3 seeks to safeguard the life supporting capacity of water.
 - d. Objective 21.2.4 seeks to manage the effects of sensitive activities becoming established in the rural area that could impinge on permitted and established activities including farming,

infrastructure, the State Highway, and informal airports used for farming or other activities that have obtained a resource consent.

- 8.16. Submitter 145 (**UCES**) considers that farming has been elevated to a point that would weaken the protection of the landscape resource. I disagree and note there are new rules that manage landscape and amenity by controlling the location of silage pits and effluent storage associated with dairy grazing.⁵ I also wish to emphasise that if farming remains a viable activity in the Rural Zone there is less likely to be pressure to convert Rural Zoned land to other land uses or activities, such as residential subdivision or development. The further submission from UCES (FS 1034) further reinforces their view that agriculture has been elevated disproportionality in favour of other activities. As outlined above, I accept that farming is singled out as a permitted land use, however I consider that there is a suitable framework in place that manages the impacts of farming on natural and cultural resources.
- 8.17. Submitters including 375 (Jeremy Carey-Smith), 407 (Mount Cardrona Station Ltd) and 806 (QPL) consider that other activities have not been adequately identified. These activities include tourism related commercial activities, recreation and conservation activities. Submitters seek to 'enable' activities that also 'rely on rural resources', or a rural location. This relief includes placing tourism based activities in, or at the same level as, the policies that recognise and provide for farming activities. In particular Submitter 437 (Trojan Helmet Ltd) states that the importance of farming has been over emphasised and the provisions do not address other activities that rely on rural locations, such as golf courses. Submitter 430 (Ayrburn Farm Estate Ltd) is of the view that farming is one method for utilising rural resources, but its long term economic opportunities, in many rural parts of the District, are very uncertain. Ayrburn Farm Estate opine that there are very few farmers that derive their income entirely from farming, particularly within the Wakatipu Basin.
- 8.18. I consider that non-farming activities, in particular tourism and other commercial activities that seek to locate and utilise the rural resources, in particular landscape, surface of water and resources associated with public conservation land are already appropriately contemplated and provided for in the PDP policy framework and rules. For example, there are policies and rules that contemplate commercial recreation,⁶ while recreation is identified as a permitted activity.⁷ The desire, and often justified need for commercial activities to locate in the Rural Zone is acknowledged in the PDP, more so, I consider than in the ODP, however, elevating tourism or other commercial activities to the same status as farming is not supported.
- 8.19. Objectives 21.2.1 to 21.2.4 and the majority of policies are supported by a broad spectrum of submitters including 600 (Federated Farmers), 706 (Forest and Bird), 791 (NZTA), 791 (Tim Burdon) and 332 (Rachel Brown).

⁵ PDP Rules 21.5.4 to 21.5.7.

⁶ Rule 21.5.21 and noting that it has increased from 10 to 15 persons from the ODP.

⁷ Rule 21.4.27.

- 8.20. I acknowledge that in certain circumstances non-farming activities could have environmental, social and cultural benefits, and could be a better use of the land resource than farming. However, if this is the case, proponents can prove this through the plan change or resource consent process. I consider that commercial activities seeking to locate in the Rural Zone should be subject to the scrutiny provided through the resource consent process and framework of the PDP.
- 8.21. Objectives 21.2.9, 21.2.10, 21.2.11, 21.2.12, 21.2.13 and related policies contemplate the potential for non-farming activities that seek to utilise the rural resource. Their appropriateness and efficacy is discussed under the respective issue statements in the Rural s32 report (in **Appendix 3**). Issue 6 in particular discusses the chapter's provisions for other activities.
- 8.22. I consider that the Rural Zone chapter in addition with District Wide chapters including Indigenous Vegetation and Biodiversity (33) and Wilding Exotic Trees (34) contemplate the potential for a wide variety of activities that could seek to establish in the zone and these have been provided for.
- 8.23. Infrastructure and utilities are also contemplated in the Rural Zone and while not specifically identified in the Rural Zone policy framework they are sufficiently provided for in higher order provisions in the Strategic Direction Chapter and Landscape Chapter⁸ and the Energy and Utilities Chapter. I also note that the Council officers involved in the Strategic Direction and Landscape hearings have provided an increased policy recognition of infrastructure. The bespoke identification of policies to facilitate infrastructure within the Rural Zone chapter, such as those sought by submitter 805 (Transpower) is not supported. The protection of legally established infrastructure would be managed under Objective 21.2.4 that seeks to recognise permitted and lawfully established activities. I also note that the designation process and notice of requirement is available to requiring authorities.
- 8.24. To summarise, I consider that the overall approach of the Rural Zone chapter policy framework is adequate in that it provides for farming activity while contemplating non-farming activities on a case by case basis. The requests to elevate activities such as commercial tourism by the submitters identified above, alongside farming are not supported.
- 8.25. In terms of the effectiveness of the four objectives and policies identified above. It is noted that submitter 608 (Darby Planning LP Ltd (**Darby Planning**)) criticises Objective 21.2.1 for being *'worded more in the form of a policy than an inspirational outcome to be achieved. Furthermore it seeks the protection of the listed values, resulting in a disconnect with the supporting policies and*

⁸ Refer to the Section 42A reports and Revised Chapters. <http://www.qldc.govt.nz/planning/district-plan/proposed-district-plan/proposed-district-plan-hearings/strategic-direction-urban-development-and-landscape-chapters-3-4-and-6/>

rules which enable the modification of such values through use and development. The figure below is a snapshot of the relief sought.

Objective 21.2.1	<p>Oppose</p> <p>The objective is worded in the form of a policy rather than an aspirational outcome to be achieved. Furthermore it seeks the protection of the listed values, resulting in a disconnect with the supporting policies and rules which enable the modification of such values through use and development.</p> <p>Protection of the listed values would be an inappropriately high test for use and development to meet, except where such protection is appropriate, e.g. to avoid adverse effects on outstanding natural features and landscapes, and significant indigenous flora and fauna. Protection of such resources is otherwise addressed in the objectives and policies in Chapters 3 and 6 of the Plan.</p>	<p>Amend Objective 21.2.1 as follows:</p> <p><i>Enable farming, permitted, and established activities while protecting, maintaining and enhancing landscape, ecosystem services, nature conservation and rural amenity values.</i></p> <p><i>Land uses which maintain or enhance the landscape, natural, cultural, and amenity values of rural areas are enabled.</i></p>
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Excerpt from Submission 608

8.26. I agree in so far that improvements can be made to the objective so it is phrased as an outcome/goal. However, removing the specificity to farming, abridging the values identified to protect, maintain and enhance and placing the verb 'enabled' at the end of the sentence still retains the action statement. The proposed changes in my view simply result in an objective that is less specific.

8.27. I do not agree with Darby Planning Ltd that having the word 'protect' in the objective results in a disconnect. Non-compliance of the standards associated with these activities could result in a wide range of adverse effects and have a range of corresponding activity status. The objective and policy suite inform and provide a basis for a range of permitted activities to be undertaken within the parameters of the permitted or controlled standards in Parts 21.4 and 21.5 of the Rural Zone chapter.

8.28. I recommend the Objective amended as follows:

Objective 21.2.1 - ~~Enable~~ Undertake a range of land uses including farming, permitted and established activities while protecting, maintaining and enhancing landscape, ecosystem services, nature conservation and rural amenity values.

8.29. I further note that protection of the values listed in Objective 21.2.1 would not in my view be an inappropriately high test, despite this being asserted by Darby Planning. The resources within the Rural Zone are highly valued, comprising the soil resource, landscape, indigenous biodiversity, surface or and margins of rivers and lakes and large parts of the Conservation Estate. Objective 21.2.1 and its associated policies set the framework and provide guidance of the appropriateness of the nature and scale of activities contemplated in the Rural Zone.

8.30. The context of the word 'protect' in these policies stems from s5(2) of the RMA where sets out that the concept of sustainable management means *managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and*

communities to provide for their social, economic, and cultural well-being and for their health and safety. In many instances the permitted or controlled status of farming activities is the use and development component on the basis the resources are also protected.

- 8.31. I recommend that Submission 608 is accepted in far as the objective can be better phrased as an objective, and that the objective is modified as recommended above.
- 8.32. Submitter 122 (Queenstown Rafting Ltd) and several supporting further submissions⁹ seek a new objective is added that '*recognise and provides for recreation, including commercial recreation and tourism activities*'. I consider that recreation, commercial recreation and commercial activities generally including tourism based activities are adequately contemplated and managed. This matter is addressed in Issue 13, Other Matters, later in this report.
- 8.33. In terms of rules commercial activities are non-complying, while commercial activities associated with a recreation activity are discretionary, the same as the ODP. These activities, compared to the commercial activities, are likely to have a more direct relationship with the rural resource. It is my recommendation that tourism activities are not given the same enabling status as farming because not all tourism activities need to locate in the Rural Zone, and therefore such activities should be subject to the resource consent or plan change process.
- 8.34. A similar theme has also emerged from many of the same submitters to advance commercial recreation and tourism activities in the Purpose Statement (21.1) of the Rural Zone Chapter¹⁰. I consider that the purpose statement appropriately acknowledges the desire for a range of commercial and tourism activities. I do not support the 'enabling' or 'providing for' of these activities. While I acknowledge that some commercial and tourism activities have a necessity to locate in the Rural Zone, many do not and I also consider it important that these activities are subject to the resource consent process where there are potential impacts in terms of the viability of the commercial zones, landscape, rural character and amenity, traffic generation, noise, visual impacts from buildings and impacts on established activities.
- 8.35. For these reasons I recommend that these submissions are rejected.
- 8.36. Submitters seeking to advance skiing activities¹¹ seek that it is recognised that the use of the infrastructure within the Ski Area Sub Zones are emerging as year-round commercial recreation and recreation activities. I accept these submissions in part and recommend that a minor change is added to the Purpose Statement that reflects this. The majority of submissions on Ski Area Submissions are discussed within Issue 7 below.

⁹ Submitters FS1154 (Hogans Gully Farm Ltd), FS1158 (ZIV (NZ) Ltd), FS1097 (Queenstown Park Ltd).

¹⁰ Submitters 122 (Skydive Queenstown Ltd), FS1154 (Hogans Gully Farm Ltd), FS1158 (ZIV (NZ) Ltd), 430 (Ayrburn Farm Estate).

¹¹ Submitters 610 (Soho Ski Area Limited and Blackmans Creek No. 1 LP), FS1229 (NZSki Ltd), 613 (Treble Cone Investments Ltd), 615 (Cardrona Alpine Resort Ltd).

8.37. Overall, I consider that the purpose statement appropriately identifies the activities in the zone that are anticipated as permitted, contemplated through their merits including the need to obtain a resource consent, and that the key resources are identified. Submissions from 706 (Forest and Bird), that seek to advance that the status of indigenous biodiversity is not sufficient, are not accepted because the matters raised to do with the decline of indigenous biodiversity on the basin floors is addressed throughout Chapter 33 Indigenous Vegetation and Biodiversity Chapter, which I have prepared a separate s42A report for.¹²

8.38. Similarly, I do not consider it necessary to make specific provisions for infrastructure because this resource is provided for in the Strategic Direction, Landscape and Energy and Utilities Chapters and does not need to be repeated in the purpose statement in the Rural Zone. I agree with the further submission of Federated Farmers (FS 1132.63) where they state:

The submitter seeks the same addition throughout the zone based chapters. This weakens the intent of the introduction to these chapters, particularly in the rural area where the 'functional, locational and operational' needs outlined are significantly less. The submitter's concerns are better addressed through an amended reference within the Energy and Utilities Chapter.

8.39. Overall, I consider that the purpose statement and objectives and policies outlined above that manage the impacts and effects from anticipated and established activities in the Rural Zone are appropriate as notified, although with the change recommended in the Revised Chapter.

9. ISSUE 2: SEPARATION OF BUILDINGS AND ACTIVITIES

9.1. Standards have been included in the PDP that require separation of buildings and activities. These standards are included to protect established activities from impacts of those that are more sensitive locating nearby, and to protect natural and cultural resources and amenity values.

9.2. The standards are generally located in 'Table 2 – General Standards' (Rules 21.5.1 to 21.5.11).

9.3. Rule 21.5.1 requires a 15m setback of buildings from internal boundaries. Non-compliance would be a restricted discretionary activity. Rule 21.5.3 requires a 30m setback of buildings housing animals and non-compliance would also be a restricted discretionary activity.

9.4. Rule 21.5.2 requires a minimum setback of buildings from roads. This rule is carried over from the ODP, as are the two standards requiring a 20m setback generally and a 50m setback along State Highway 6 between Lake Hayes and Frankton. A new component that was included in the

¹² Refer to the Indigenous Vegetation and Biodiversity Chapter S42A Evidence and Appendix 1; Revised Chapter.

PDP following consultation feedback from the New Zealand Transport Agency (**NZTA**) was a 40m setback from State Highways where the speed limit was 70km/hr or greater.

9.5. In their submission NZTA (Submitter 719) have requested that additional standards are included to require dwellings within 80m of the seal edge comply with minimum noise levels.

9.6. The majority of resource consents in the Rural Zone are notified, or at the minimum where the site adjoins or has access to a State highway, consultation with NZTA would usually be required, particularly if the road is declared a Limited Access Road (**LAR**) under the Government Rounding Powers Act 1989 because the NZTA have enhanced powers with respect to managing vehicle crossings onto these roads. There are no automatic development rights for residential and commercial activity in the Rural Zone and I consider specific performance standards such as those identified by the NZTA would be better implemented as conditions of resource consent. In addition, the specific parameters associated with achieving noise attenuation within the requested standard could change, and if included in the rule would not be able to be updated without a variation or plan change. For these reasons, I recommend that the NZTA's submission is rejected.

9.7. Rule 21.5.4 is:

<p>Setback of buildings from Water bodies</p> <p>The minimum setback of any building from the bed of a wetland, river or lake shall be 20m.</p> <p>Discretion is restricted to all of the following:</p> <ul style="list-style-type: none"> • Indigenous biodiversity values. • Visual amenity values. • Landscape and natural character. • Open space. • Whether the waterbody is subject to flooding or natural hazards and any mitigation to manage the adverse effects of the location of the building. 	<p>RD</p>
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9.8. Rule 21.5.4 requires a minimum setback of buildings of 20m from the bed of a waterbody including wetland, lake or river. The definition of waterbody shall be the same as the RMA (refer chapter 2, definitions). The rule was introduced in to the PDP to provide the Council the opportunity to manage the potential impacts on nature conservation values, rural amenity, landscape, hazards, open space and indigenous biodiversity values. The rule is considered important in the context that there is a related change between the ODP and PDP in that farm buildings are also proposed to become a permitted activity.

- 9.9. Submitters 600 (Federated Farmers), 706 (Forest and Bird) and 384 (Glen Dene Ltd) support the rule as proposed. Submitter 624 (D & M Columb) requests that the setback from streams less than 3 metres wide is reduced to 5m. While I acknowledge that 3m is not necessarily a large waterbody and could not be likely to have as high amenity values, I consider that a 5m setback is considered too small. I consider that locating buildings within 20m should be considered through the resource consent process.
- 9.10. Submitter 806 (QPL) request amendments so that buildings located on jetties where they are for the purposes of public transport. It is acknowledged that buildings, both associated with public or private use that are purposefully intended to be located up to or over the waterbody such as jetties or boatsheds would trigger the rule. However, these buildings would require a resource consent in any case (refer to the rules in Table 9: 21.5.40 – 21.5.43 - Activities on the surface of lakes and rivers) and the rule as it stands is not considered to generate unnecessary resource consents. Furthermore, the potential impact of buildings on waterbodies should apply irrespective of whether the intended use is for public or private reasons.
- 9.11. I recommend that these submissions from D & M Columb and QPL are rejected and it is recommended that the rule is retained as notified.
- 9.12. Rule 21.5.5 is:

<p>Dairy Farming (Milking Herds, Dry Grazing and Calf Rearing)</p> <p>All effluent holding tanks, effluent treatment and effluent storage ponds, shall be located at least 300 metres from any formed road or adjoining property. Discretion is restricted to all of the following:</p> <ul style="list-style-type: none"> • Odour. • Visual prominence. • Landscape character. • Effects on surrounding properties. 	RD
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- 9.13. Rule 21.5.5 requires that effluent holding tanks, effluent treatment and storage ponds are located 300m from any formed road or adjoining property. The rule is intended to provide certainty and safeguards on rural amenity values by imposing controls on intensive farming such as dairy farming milking sheds and effluent ponds, recognising it is a more intensive type of farming than traditional sheep or beef farming and having a higher potential for degrading rural amenity values.
- 9.14. The standards are associated with making farm buildings a permitted activity, but providing a buffer from more sensitive land uses and encouraging a greater setback from roads. Allowing

farm buildings as a permitted activity provides the opportunity for farmers to establish these buildings without the need to obtain a resource consent.

- 9.15. Submitters 384 (Richard Burdon), 600 (Federated Farmers) and 335 (Nic Blennerhassett) support the rule. Submitter 332 (Rachel Brown) also supports the rule but seeks that sheep farming and silage pits are added. Submitter 400 (James Cooper) requests that the rule is deleted, although gives no reason.
- 9.16. Submitter Rachel Brown's request to add sheep farming and silage pits to the restricted discretionary rule would have the potential to capture a much wider range of activities, many of which are not as intensive as dairy farming and by their nature do not have the same scale and potential for adverse effects as dairy farming and grazing. I recommend that the request is rejected.
- 9.17. Submitter 659 (Longview Environmental Trust) oppose the rule on the basis that it does not include the margins of any lake or river. Lakes and rivers in the District are not likely to be on the same site as dairy farming activity and therefore the qualifier requiring a boundary setback is appropriate.
- 9.18. I recommend that Rule 21.5.5 is retained as notified.
- 9.19. Rule 21.5.6 is:

<p>Dairy Farming (Milking Herds, Dry Grazing and Calf Rearing)</p> <p>All milking sheds or buildings used to house or feed milking stock shall be located at least 300 metres from any adjoining property or formed road.</p>	<p>D</p>
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- 9.20. Submitters 335 (Nic Blennerhassett), 384 (Richard Burdon), 600 (Federated Farmers) support the rule. Submitters FS1091 (JBIL), 701 (Paul Kane) and FS1162 (James Cooper) oppose the rule or seek a lesser distance. I consider that the rule is appropriate, particularly in the context that Farm Buildings are capable under the PDP of being established as a permitted activity on landholdings over 100ha.
- 9.21. Submitter 659 (Longview Environmental Trust) oppose the rule on the basis that lakes or rivers should be included as qualifiers. I do not consider this is necessary because PDP Rule 21.5.4 requires a 20m setback of buildings from waterbodies.
- 9.22. I recommend the rule is retained as notified.
- 9.23. Rule 21.5.7 is:

<p>Dairy Farming (Milking Herds, Dry Grazing and Calf Rearing)</p> <p>Stock shall be prohibited from standing in the bed of, or on the margin of a water body.</p> <p>For the purposes of this rule:</p> <ul style="list-style-type: none"> • Margin means land within 3.0 metres from the edge of the bed. • Water body has the same meaning as in the RMA, and also includes any drain or water race that goes to a lake or river. 	<p>PR</p>
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- 9.24. Dairy farming constitutes a more intensive use of land with generally higher numbers of stock located in relatively small areas, than traditional pastoral deer, sheep and beef farming grazing situations. In particular, higher intensities can occur where dairy grazing stock are break-fed or wintered in relatively small paddocks and supplemented with food.
- 9.25. Where dairy grazing stock have access to water bodies, the potential for stock to damage riparian areas and contaminate water bodies is higher than in traditional lower intensity farming.
- 9.26. Stock entering water bodies has the potential for contamination resulting from pugging, release of sediments and turbidity. Livestock grazing on the banks of water bodies can cause damage to riparian areas, reducing the ability for vegetation to establish, which can affect fauna habitat and degrade amenity values. Livestock, by grazing on the banks of water bodies and entering them to drink, directly input animal wastes to waterways. The resulting pollution degrades water bodies and amenity values.
- 9.27. Dairy farming and its effects are relevant to the function of the territorial authority to '*achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district*' (section 31(1)(a) RMA) and falls within the ambit of permitted farming activities.
- 9.28. I consider that it is a function of the Council to manage the potential adverse effects of land uses where the stocking rates are higher and the nature and scale of the type of stock could have a higher potential for adverse effects on water bodies and riparian areas than less intensive forms of farming. The potential adverse effects that can result from stock degrading water bodies is not only a water quality issue. Degraded riparian areas can reduce indigenous biodiversity, landscape and amenity values.
- 9.29. I consider that Rule 21.5.7 complements the functions of the Otago Regional Council by encouraging dairy grazing stock to be kept out of water bodies and the immediate margins.

- 9.30. Introducing a new rule to encourage the exclusion of dairy grazing stock from water bodies will also complement the Dairy NZ, The Sustainable Dairying: Water Accord (**Water Accord**).¹³ In particular, this will address the circumstances where there is the potential for a third party or person not bound to the Accord to graze dairy stock.
- 9.31. This is because the Water Accord excludes dairy grazing situations where the land is used under a third party grazing arrangement between the owner of dairy cattle and another landowner for the purpose of temporary grazing. The Water Accord also excludes situations where land is owned or leased by the same person or entity as the milking platform, but which is not regularly used for dairy grazing.
- 9.32. The Water Accord's definition of 'land used regularly for dairy grazing' is land used each year for grazing dairy cattle throughout the off-season (i.e. that part of the year when cows are not being milked).
- 9.33. In these instances there is no obligation to comply with the Water Accord and it cannot be relied upon in the absence of provisions under RMA plans. The introduction of a rule in the PDP will encourage persons responsible for grazing dairy cattle to exclude stock from water bodies, irrespective of them being bound to the Water Accord.
- 9.34. The Otago Regional Council (Submitter 798) supports the inclusion of controls that reduce the risk of contaminants entering water, however express concern that the rule results in overlap with regional rules. I have considered the PDP rule against the Regional Plan: Water, Rule 12.C.0.1, which prohibits any activity that would contaminate a water body. The rule is effects based and has qualifiers with regard to any odour being 'objectionable', or a 'conspicuous' oil or grease film, scum or foam.
- 9.35. I consider the PDP rule is complementary, rather than a duplication as suggested by the Otago Regional Council because the PDP rule intervenes with the use of land in a certain way that is likely to result in an adverse effect that would not achieve sustainable management of natural and physical resources. This could include excluding stock from riparian areas and water bodies where the nature of the grazing activity would be more likely than not to have an adverse effect.
- 9.36. Excluding dairy grazing stock from water bodies and requiring an identified buffer area to ensure riparian areas are not damaged manages rural amenity values and wider landscape values. In this regard I consider that the proposed rule is within the scope of the function of QLDC and the PDP, in order to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district.

¹³ <http://www.dairynz.co.nz/media/209792/Sustainable-Dairying-Water-Accord.pdf>

- 9.37. Submitters 289 (A. Brown), 353 (Nic Blennerhassett), 384 (Richard Burdon), 383 (DoC) support the rule, while Submitter 706 (Forest and Bird) seek that deer and beef cattle are added. Federated Farmers and James Cooper seek that the rule is deleted. I do not support the inclusion of adding deer and beef cattle because grazing of those animals is generally of a lower intensity than dairy farming. For the reasons already set out above, I do not support deletion of the rule.
- 9.38. I also note that other territorial authorities have rules in their district plans controlling the proximity of dairy cows from water bodies. For example, Rule 9.11.1 of the Selwyn District Plan excludes dairy cows from land within 10m of a waterbody while Rule 9.11.2 excludes all dairy cows on separate off-farm land areas from any waterbody¹⁴. Similarly, the Stratford District Plan¹⁵ requires a resource consent for intensive farming with discretion afforded to 'management of the activity to avoid, remedy or mitigate actual and potential effects on the environment'¹⁶. I consider that in utilising its discretion the Stratford District Council would have regard to waterbodies and margins.

10. ISSUE 3 – FARM BUILDINGS

- 10.1. Farm Buildings are recognised as an important part of farming and are not required to undergo assessments under the 'discretionary regime' involving the application of assessment matters that non-farming, and residential land use is subject to.
- 10.2. The framework for farm buildings is provided through Objective 21.2.1, Policy 21.2.1.2, and Rule 21.4.3 that states they are permitted subject to compliance with the standards in Table 4: Rules 21.5.18 – 21.5.20. Non-compliance with the standards would require a resource consent as a restricted discretionary activity. Farm buildings are also subject to the standards in Table 2 such as; Rule 21.5.4 – setback of buildings from water bodies.
- 10.3. The fundamental components of the rule are retained as in the ODP, with the exception of the following:
- a. Under the ODP, farm buildings that comply with the standards are a controlled activity. In the PDP, where the standards are met they are a permitted activity. In response to making farm buildings permitted, new standards are included as follows:
 - Farm buildings, if located within an ONL, are required to be less than 4m in height and a floor area of 100m² (Rule 21.5.18.4).
 - Farm buildings, if located in the Rural Landscape are required to be less than 5m in height and a floor area of 300m² (Rule 21.5.18.6).

¹⁴ Selwyn District Plan Operative 10 June 2008. Part C. 9 Rural Rules – Activities.

¹⁵ Stratford District Plan Operative 19 February 2014 Rule B1.2.1.2.

¹⁶ Method B1.2.1.3.1(f) Matters to which discretion is reserved.

- b. A qualifier is added that states farm buildings shall not protrude onto a skyline or above a terrace edge when viewed from adjoining sites, or formed roads within 2km of the location of the proposed building (Rule 21.5.18.7).
 - c. The standards have changed from allowing a density of one building per 50ha to one building per 25ha (Rule 21.5.18.2).
 - d. Farm buildings are required to comply with a range of colours (Rule 21.5.19), which Dr Read has addressed in her evidence.
- 10.4. In terms of submissions, the UCES opposes the entire concept of farm buildings becoming a permitted activity. It seeks that all of the provisions relating to farm buildings contained in the ODP are rolled-over in their exact current form. For the reasons set out in the s32, I recommend this submission is rejected.
- 10.5. A number of submitters support the concept to build a farm building as a permitted activity, subject to complying with standards¹⁷.
- 10.6. Submissions have been received on the specific parts of the rule/standards, which I now address.

The permitted height and size of farm buildings

- 10.7. Submitter 384 (Richard Burdon) requests that farm buildings in the ONL are able to be 5m in height and 200m². The notified (permitted) limits are 4m in height and a floor area of 100m².
- 10.8. I acknowledge that the permitted size is modest, however the rule is intended to provide for modest farm buildings in the ONL as a permitted activity, where compliance with the parameters (not less than 100ha landholdings, less than 600m elevation, density of buildings not greater than one per 25ha, not located on a ridge or protrude into the skyline). I consider that where the proposed buildings exceed either 4m or a floor area of 100m² a resource consent should be required to ensure the impacts of the farm building on the landscape are avoided, remedied or mitigated. I refer to and rely on Dr Read's evidence where she discusses the importance of landscape. From a planning perspective, the proposed rule provides an appropriate balance at providing for farm buildings while ensuring the landscape values are maintained.
- 10.9. The parameters in the rule are not absolute and do not predetermine that any building exceeding these are inappropriate. Rather, the assessment matters provide the opportunity to undertake an appropriate enquiry on the merits of a proposal that does not meet the permitted standards, and the potential adverse effects on the landscape and visual amenity.

¹⁷ 45 (Maree Horlor), 325 (John Young), 384 (Richard Burdon), 600 (Federated Farmers).

The limit of 600m² (Rule 12.5.18.5)

10.10. Submitter 829 (Isabella Anderson) requests that the permitted elevation is increased from 600 meters above sea level (**masl**) to 900masl. The 600masl limit is carried over from the ODP. I consider that the limit should be retained at 600masl because over this height, there is a higher potential for buildings to be located in areas that are visual vulnerable. I acknowledge that some farms, or at least large parts of them are located over 600masl elevation,¹⁸ however I do not support changing the limitation to 900masl, especially in the context of the permitted activity status.

10.11. I recommend the permitted standard is retained as notified.

The permitted range of colours

10.12. The permitted range of colours are set out in Rule 21.5.19 and are:

21.5.19.1 All exterior surfaces shall be coloured in the range of browns, greens or greys (except soffits).

21.5.19.2 Pre-painted steel, and all roofs shall have a reflectance value not greater than 20%.

21.5.19.3 Surface finishes shall have a reflectance value of not greater than 30%.

10.13. Submitter 608 (Darby Planning LP) seeks that the standards are relaxed so that range of natural materials/finishes are included. The changes sought are identical to those for Rule 21.5.15 that address non-farming buildings. The requested changes are:

¹⁸ For example, Cardrona Village is at approximately 560 masl.

	<p>Amend Rule 21.5.19 as follows:</p> <p style="text-align: center;"><i>Exterior colours of buildings</i></p> <p><u>Exterior materials shall be:</u></p> <p>21.5.19.1 All exterior surfaces shall be coloured in the range of browns, greens or greys (except soffits).</p> <p>21.5.19.2 Pre-painted steel, and all <u>For</u> roofs shall have a reflectance value not greater than 20%.</p> <p>21.5.19.3 Surface finishes shall For all other external surfaces have a reflectance value of not greater than 30%. Except that this rule shall not apply to any locally sourced stone (e.g. schist)</p> <p>Discretion is restricted to all of the following:</p>
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10.14. Dr Read's evidence on these submissions is that there is a risk of including materials because of the variability of colours that can occur under a specified material, or even worse emotive qualifiers such as 'raw' or 'of the region'. I refer to her evidence and do not support the changes sought by the submitter because the revision would be inconsistent where it states colours, then focuses on materials. In addition, the phrasing '*any locally sourced stone (e.g. schist)*' does not provide any certainty for a permitted activity standard. A locally sourced stone could be subject to differing interpretation, for instance, schist is present from the main divide, eastwards to New Brighton, near Dunedin, while limestone could also be regarded as a local sourced stone, there are commercial quarries in a neighbouring district (Waitaki). There are also derivatives of schist used for construction from a range of quarries used throughout Central Otago and even the West Coast.

10.15. The fundamental aspect is that the changes requested do not reflect the purpose of the rule. Modern farm buildings are generally clad in pressed steel, such as corrugated iron, and are not usually clad in expensive materials such as schist, cedar cladding, or items used in modern architecture such as corten steel. In addition to the likely higher material and labour costs, stone clad buildings usually require specific foundation design and bracing elements. I consider that for cost reasons alone, the use of stone in farm buildings, compared to for instance, pressed steel such as corrugated iron mean that the use of stone in modern farm buildings would be rare.

10.16. I do not support changing the rule and I recommend these aspects of it are retained as notified.

Density

10.17. Standard 21.5.18.2 states that the density of all buildings on the site inclusive of the proposed buildings will be less than one farm building per 50ha.

- 10.18. The UCES (145) oppose the opportunity for farm buildings to be built as a permitted activity. I rely on the s32 report that sets out the transactional costs associated with obtaining resource consent for small to modest sized farm buildings. UCES request in their submission that the controlled activity status of the ODP is reinstated. I do not support this for the reasons set out in the s32 report. I note in the UCES submission they compare the transaction costs of a farm building to the transaction costs of undertaking a residential building platform. I consider that this is out of context.
- 10.19. I note that Dr Read does not support the permitted density of one farm building every 25 ha, and is of the view that 50 ha is more appropriate because there is a risk to the landscape from a proliferation of built form.
- 10.20. I rely on the evidence of Dr Read on this matter and recommend the density is changed from 25 ha to 50 ha. The submission of the UCES is accepted in part.

Matters of discretion

- 10.21. The matters of discretion for non-compliance with Rule 21.5.18 (Farm Buildings) are:
- a. Rural Amenity values.
 - b. Landscape character.
 - c. Privacy, outlook and rural amenity from adjoining properties.
 - d. Visibility, including lighting.
 - e. Scale.
 - f. Location.
- 10.22. Federated Farmers and JBIL Ltd seek that the 'open ended' scope of the assessment matters are refined. JBIL consider that the discretion is so open ended as to nullify the restricted discretionary activity status, and that non-compliance essentially functions as a discretionary activity.
- 10.23. I disagree with this submission because the matters of discretion are restricted to effects on the landscape, consistent with the ODP. The assessment matters do not identify other matters that could also be applicable to development such as vehicle access and trip generation, servicing (if any), natural hazards or noise.
- 10.24. I accept that scale and location are broad, but this is a relevant potential adverse effect associated with not compliance with the rule.

- 10.25. The matters of control for controlled activity farm buildings¹⁹ under the ODP are:
- a. location anywhere within the property;
 - b. external appearance;
 - c. provision of water supply, sewage treatment and disposal, electricity and communication services (where necessary).
- 10.26. By comparison, I consider that these matters of control are very broad and in terms of the concerns expressed by JBIL, nullify the rationale for a controlled activity status associated with a land use. The PDP matters of discretion apply broad matters of discretion such as 'location' and 'scale' where compliance is not achieved. These matters are relevant and I recommend that they should be retained.
- 10.27. KTKO Ltd request that wahi tupuna is added as an assessment matter where buildings affect ridgelines and slopes. I consider that this matter is addressed in Policy 21.2.7 which is:
- Have regard to the spiritual beliefs, cultural traditions and practices of Tangata Whenua.*
- 10.28. This policy can already be addressed in terms of s104 of the RMA. The submitter also requests an inclusion to the assessment matter in terms of effects on ridgelines and slopes, this matter is already addressed in the identified matters of discretion.
- 10.29. I recommend the assessment matters are retained as notified, and overall for the reasons set out above, the rules for farm buildings are retained as notified.

11. ISSUE 4 – RESIDENTIAL ACTIVITY AND RESIDENTIAL/ NON-FARMING BUILDINGS

- 11.1. The framework for managing residential activity, residential/non-farming buildings in the PDP is fundamentally the same as the ODP in that:
- a. There is no minimum allotment size associated with residential activity or development rights.
 - b. Any non-farming buildings require resource consent as a discretionary activity.
 - c. The absence of a minimum allotment size associated with residential activity and buildings emphasises the high importance placed on the management of the District's landscapes and emphasising a design led approach.
- 11.2. The notable change is removing the controlled activity status for buildings located within an approved building platform and making these a permitted activity, subject to standards.

¹⁹ ODP Rule 5.3.3.2i(d)

- 11.3. The established approach under the ODP is that a controlled activity resource consent is generally considered to provide an acceptable balance between an applicant being certain that consent would be granted, and the Council being able to ensure development is undertaken in accordance with the specified matters of control.
- 11.4. These matters of control in the ODP include location, external appearance, access and servicing. Aspects of these matters of control are considered inefficient because the merits of whether a building is appropriate in that location have already been considered as part of the consent to identify a building platform.
- 11.5. In addition, site specific matters have already been addressed and any mitigation considered appropriate or necessary will be attached to the approval associated with that building platform. These are generally registered on the site's computer freehold register in the form of a consent notice (subdivision consent) or covenant (land use resource consent for residential activity/building platform).
- 11.6. Generally these conditions will set out controls on the bulk, height, and colour of buildings, servicing, and any landscaping requirements. A departure from these requirements would result in enforcement or the requirement to apply for resource consent for a variation to these conditions, which require a 'discretionary' class of resource consent.
- 11.7. Without undermining the emphasis on managing the visual effects of buildings, ensuring development is consistent with the conditions attached to the 'approval in principle', and the importance of protecting the District's landscape resource, the PDP introduces standards that enable the construction and alteration to buildings as a permitted activity subject to performance standards controlling colour and the bulk and location of buildings. I support this approach.
- 11.8. I acknowledge that the Council would not have as much control over landscaping. However, I consider that the emphasis on any important landscaping critical to the acceptance of the proposal would be better dealt with at the time of subdivision, particularly in situations where integrated landscaping affecting the entire area (multiple allotments if any) to be subdivided is beneficial.
- 11.9. The adequacy of servicing can be assessed through the building consent process and applications would be subject to compliance checks with the District Plan and other conditions, as for all building consent applications.
- 11.10. The more prescriptive, activity based structure of the Rural Zone chapter, than the ODP Rural General Zone rules in my view provides better clarification as to what activities require resource consent and how the rules are to be administered.

- 11.11. PDP Rules 21.4.5 – 21.4.12 list the contemplated activities associated with residential activity. Some submitters including 414 (Clark Fortune McDonald & Associates Ltd) request that rule 21.4.6, which requires that more than one residential unit within a building platform would require resource consent as a discretionary activity is deleted. I recommend that the request is rejected because it is generally contemplated that each building platform, and often associated fee simple computer freehold register created contemplates one residential unit.
- 11.12. I consider that non-complying activity status provides a suitable method to assess the effects of more than one residential unit within a building platform. The PDP does not readily contemplate that multiple residential units would establish within any single building platform. However, the reasons or circumstances could be as variable as the need for a second kitchen for dependant family members, or separate residential activity that could result in unanticipated subdivision outcomes. It is also reiterated that one residential flat is permitted as part of a residential unit (refer Rule 21.4.12) and therefore a mix of accommodation options including semi-independence for dependant family members is provided for.
- 11.13. There is support²⁰ for making building within an approved building platform a permitted activity, except for Submitter 145 (UCES), who seeks that the same rules as the ODP are retained. For the reasons I have outlined above, as well as the reasons as set out in the s32 report attached as **Appendix 3** to this report, I continue to support permitted activity status with associated standards. Fundamentally, it is considered that making these activities permitted instead of a controlled activity will significantly reduce the amount of resource consents and ongoing approvals for building alterations, without compromising the environmental outcomes and terms set associated with the initial approval.
- 11.14. There is also broad support²¹ for permitting relatively small alterations and additions to lawfully established buildings not located within approved building platforms. The PDP permitted rules recognise that there are buildings located within the rural zone that were established before the regime of the ODP. The standards associated with the permitted construction and alteration of such buildings is addressed below.
- 11.15. UCES request that subdivision and development in the outstanding natural landscapes becomes a non-complying activity. A draft version of the Rural Zone made available for consultation in January 2015, which identified these activities as a non-complying activity. Feedback received was generally negative, with consultation responses suggesting that the existing regime under a 'discretionary' activity status resource consent was more appropriate and preferred. Upon further analysis, the discretionary activity status was retained. In my opinion, a fundamental reason for retaining the discretionary activity status is that the PDP framework (and ODP) overtly

²⁰ Submitters 384 (Richard Burdon), 608 (Darby Planning LP Ltd).

²¹ Submitter 608 (Darby Planning Ltd) and FS1097 (QPL).

contemplates through the objectives and provisions, the analysis of buildings within the ONL/ONF.

11.16. In this regard the discretionary activity status is more appropriate than non-complying class of resource consent. The non-complying activity status is better used for activities that are not contemplated in the zone. Section 104D of the RMA requires that a non-complying activity can only be granted if the adverse effects on the environment are minor or, the application is not contrary to the objectives and policies of the relevant plan.

11.17. UCES (FS 1034) has also emphasised that subdivision and development associated with residential activity in the Rural Zone should be a non-complying activity, because of proposed changes to section 95A to the RMA that would require Council's to preclude public notification of resource consent applications for residential activity. It seems that the UCES consider that the changes to s95A would compel the Council to process resource consent applications without public notification.

11.18. It is understood that the changes referred to by UCES is the Resource Legislation Amendment Bill 2015. At the time of preparing this hearing report the Bill had its first reading and was referred to the Local Government and Environment Select Committee for consideration. Public submissions were open until 14 March 2015²².

11.19. Until such time as the Bill is passed it is not law, and the PDP needs to be prepared in accordance with the RMA as it stands. With regard to the provisions in question, Section 95A(6), states:

(6) *In subsection (5), residential activity means an activity associated with the construction, alteration, or use of a dwellinghouse on land that, under a district plan, is intended to be used solely or principally for residential purposes.*

11.20. It clearly states that the land where this provision would apply '*is intended to be used solely or principally for residential purposes*'. The sole or principal use of Rural Zoned land is not for residential activity. The definitions in both the ODP and PDP for 'Farming Activity' are:

Means the use of land and buildings for the primary purpose of the production of vegetative matters and/or commercial livestock. Excludes residential activity, home occupations, factory farming and forestry activity. Means the use of lakes and rivers for access for farming activities.

²² <http://www.mfe.govt.nz/rma/rma-reforms-and-amendments/about-resource-legislation-amendment-bill-2015>. Sourced 25/1/16.

11.21. The activity based framework of the Rural Zone chapter makes it clear that farming is the principal land use in the Rural Zone. This matter raised by the UCES in opposition to the identification of farming is a case in point that by providing specificity and certainty as to what activities are permitted, it is also clear where other activities stand.

11.22. By comparison, the ODP purpose statement for the Rural General Zone states²³:

The purpose of the Rural General Zone is to manage activities so they can be carried out in a way that:

- *protects and enhances nature conservation and landscape values;*
- *sustains the life supporting capacity of the soil and vegetation;*
- *maintains acceptable living and working conditions and amenity for residents of and visitors to the Zone; and*
- *ensures a wide range of outdoor recreational opportunities remain viable within the Zone.*
- *protects the on-going operations of Wanaka Airport.*

The zone is characterised by farming activities and a diversification to activities such as horticulture and viticulture. The zone includes the majority of rural lands including alpine areas and national parks.

11.23. The lack of specificity in the ODP purpose statement means that a wide variety of activities are contemplated in the Rural General Zone. This does not align with the appropriateness of having certain rules in plan, that ensure there is less scope to debate what a plan means, when a council administers their planning functions under the RMA.

11.24. For these reasons, UCES' submission to make subdivision and development in the ONL and ONF a non-complying activity is rejected. The submitter also requests that the PDP is withdrawn and re-notified because the Rural, Landscape and Gibbston Character Zone s32 did not adequately address why the discretionary activity status was retained. Although this submission is not "on" the proposal, it is also rejected in terms of process. The s32 addresses the activity status by virtue of the analysis, retention and refinements of the discretionary regime.

11.25. The rules also clarify that the construction and use of buildings for non-farming activities would require resource consent as a discretionary activity; this includes associated earthworks, access, lighting and landscaping (Rules 21.4.5 and 21.4.10). Submitters 636 (Crown Range Holdings Ltd) seek that these elements are removed as they '*imply that resource consent is required for inappropriately minor matters*'. I consider that the rule is appropriate because activities such as lighting, access, landscaping and earthworks associated with the construction of buildings not

²³ Part 5.3.1.1 QLDC Operative District Plan.

provided for by any other rule can have an impact on landscape, as stated in Dr Reads evidence and it clarifies that activities associated with domestic/rural living are not inadvertently undertaken under the guise of a permitted activity. This rule would not impact on farming activities because farming is permitted by Rule 21.4.2.

- 11.26. Submitters 693 (Private Property Ltd) and 702 (Lake Wakatipu Station Ltd) consider that where Rule 21.4.9 encourages building platforms to be between 70m² and 1000m² as a discretionary activity, defaulting to a non-complying activity if outside these parameters is arbitrary because '*if the effects of a rural building platform sized outside of this range can be shown to be appropriate, there is no reason it should not be considered on a discretionary basis*'.
- 11.27. I do not disagree with this point. However, if the rule was removed I am concerned that it could create a potential for proposals to identify building platforms that are very large (while taking the risk of having the application declined) and this in itself would be arbitrary. Similarly, if the effects of a rural building platform are appropriate irrespective of the size it would more than likely accord with s104D of the RMA. Therefore, I recommend that these submissions are rejected.
- 11.28. Overall, I consider that Rules 21.4.5 to 21.4.12 that apply to residential activity and permitted status for buildings located within building platforms, and alterations to buildings located outside of platforms is retained as notified.

12. ISSUE 5 – STANDARDS FOR STRUCTURES AND BUILDINGS

- 12.1. Related to the above issues are standards for managing structures and buildings in the Rural Zone, in particular the standards for permitted activities. While the standards relating to colour and materials for buildings are new, the introduction of these rules are considered both efficient and effective because compliance with these standards reduces the need for a controlled activity resource consent as required under the ODP framework.
- 12.2. Issues raised by submitters include that the range of colours and materials that are permitted are too restrictive. The 'colours' permitted are in the range of browns, green and greys and are based on the luminous reflectance value (**LRV**) of 20% for pre-painted steel and 30% for all other surface finishes. I accept that these permitted limits are reasonably conservative however, many associated consent notice instruments associated with subdivision and development have restrictions that are at least this restrictive, if not more²⁴. It is also accepted that there will be instances where a LRV or colour that is not permitted could be appropriate, however whether or not this is acceptable is best determined through the resource consent process. I accepted that these rules will create resource consents (if not using the permitted range of colours and

²⁴ For example: RM160075, RM151062, RM150891

materials), however, the provisions as notified will significantly reduce the amount of resource consents required for buildings than under the ODP framework, as set out in the s32 report.

- 12.3. In addition, Submitter 368 (Anna-Marie Chin and Phil Vautier Architects) takes issue that some buildings that are long established in the Rural Zone and are finished in lighter colours should not need to comply with the standards and, that it would affect the character of the buildings, in particular heritage buildings. I agree with this point but reiterate that in the context of the ODP framework any addition to an existing building not located within a building platform requires resource consent as a discretionary activity²⁵ in any event. In addition, there could be instances where additions to an existing building could be of a scale, or the surrounding area could have been modified over time, such that the proposed colours not complying with the permitted standards should be assessed through a resource consent process. The location of the building and whether it is long established or has a presence of screening and other established elements would be considered as part of any resource consent application. I also note that any repainting or recladding could also be permitted in terms of s10 of the RMA and existing uses.
- 12.4. A number of submissions oppose the requirement for permitted buildings to meet colour requirements. Submitters Anna-Marie Chin and Phil Vautier Architects (368) are concerned that these rules will create a very dull and dark built landscape, and consider that all buildings should be assessed on a case by case basis. The result would be the same framework as the ODP, a controlled activity regime that has been identified in the s32 as being inefficient.
- 12.5. I wish to emphasise that the expectation is that the approval in principal for the building and development rights within the Rural Zone is provided for on the basis that the future buildings are appropriate in terms of the ability of the landscape to absorb development, and the assessment and approval in principal is typically done so on the basis that any future buildings will be in recessive colours. Assessing all buildings on a case by case basis is inefficient, and a large number of submitters support the concept of adhering to a range of colours (or materials as requested by some submitters) accept the use of recessive colours as a permitted activity. For these reasons I recommend that the submission of Anna-Marie Chin and Phil Vautier Architects is rejected.
- 12.6. While the permitted standards will not suit all circumstances it provides significant efficiencies overall, particularly when compared to the ODP framework that requires a controlled activity for *any* building within a building platform and a discretionary activity resource consent for *any* building, including additions to existing buildings not located within a building platform.
- 12.7. The activity status for non-compliance with Rule 21.5.15 is restricted discretionary, this is because the impacts of any non-compliance can be contemplated with a degree of certainty and,

²⁵ Rule 5.3.3.3.i(a)(i) Operative District Plan.

it provides the Council the ability to decline an application if necessary. In many instances there will be a related consent notice interest that has similar conditions that would require a discretionary activity resource consent to vary if a building proposal is not complied with.

- 12.8. Submitters including 608 (Darby Planning LP) support the permitted standards but seek amendments to provide the opportunity to include 'natural' materials such as stone and unpainted timber cladding.
- 12.9. I do not support the changes because the revision proposed would be inconsistent where it states colours, then focuses on materials, in addition, the phrasing '*any locally sourced stone (e.g. schist)*' does not provide certainty. As discussed above in Issue 3 (Farm Buildings), a locally sourced stone could be subject to differing interpretation and does not provide sufficient certainty for a permitted activity standard.
- 12.10. In practice, cladding materials such as cedar, larch, macrocarpa, either left untreated or stained a 'natural' timber colour and locally sourced schist stone are typically accepted as being suitably recessive in appearance. I acknowledge that applying this discretion through the resource consent process is easier than within the requirements of a rule, however both rules and conditions (whether on a resource consent or registered as an instrument) must provide certainty and be enforceable.
- 12.11. I do not support the identification of materials and construction techniques because cladding and construction techniques will change. Any permitted standards associated with allowing a range of materials need to be carefully considered and phrased because there can be a wide variance in the colour of materials, including variances in stone, pre-fabricated concrete, weathered steel and timber. Further to this, resource consent conditions often stipulate that materials must be 'raw' and 'local stone'. These phrases are problematic in terms of applying them to a rule and could introduce complexity and reduce certainty.
- 12.12. Rule 21.5.15 is set out below, and I have set out some modifications to the rule to include the opportunity to include a range of materials that cannot be measured against and LRV criteria. I accept that the phrasing introduces value based qualifications, however for the reasons set out I am reluctant to accept the seemingly simple identification of certain materials used in construction.
- 12.13. I have also recommended a modification to ensure that windows are not included, this is inherent but for the purposes of clarification I recommend this point is made.

<p>Buildings</p> <p>Any building, including any structure larger than 5m², that is new, relocated, altered, reclad or repainted, including containers intended to, or that remain on site for more than six months, and the alteration to any lawfully established building are subject to the following:</p> <p>All exterior surfaces* shall be coloured in the range of browns, greens or greys (except soffits), including;</p> <p>21.5.15.1 Pre-painted steel and all roofs shall have a <u>luminous</u> reflectance value not greater than 20%; and,</p> <p>21.5.15.2 All other surface finishes** shall have a <u>luminous</u> reflectance value of not greater than 30%.</p> <p>21.5.15.3 In the case of alterations to an existing building not located within a building platform, it does not increase the ground floor area by more than 30% in any ten year period.</p> <p>Discretion is restricted to all of the following:</p> <ul style="list-style-type: none"> • External appearance. • Visual prominence from both public places and private locations. • Landscape character. • Visual amenity. <p><u>* Excludes soffits, windows and skylights (but not glass balustrades).</u></p> <p><u>** Includes cladding and built landscaping that cannot be measured by way of luminous reflectance value but is deemed to be suitably recessive and have the same effect as achieving a luminous reflectance value of 30%.</u></p>	RD
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12.14. Rule 21.5.16 is:

<p>Building size</p> <p>The maximum ground floor area of any building shall be 500m².</p> <p>Discretion is restricted to all of the following:</p> <ul style="list-style-type: none"> • External appearance. • Visual prominence from both public places and private locations. • Landscape character. • Visual amenity. • Privacy, outlook and amenity from adjoining properties. 	RD
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12.15. This rule has been introduced in the PDP and is associated with the permitted status for buildings. It limits the size of any one building, in lieu of the ODP controlled activity framework. The rule provides the ability to assess the impacts of buildings of a scale that is likely to be

prominent. Submitters oppose this for reasons including that it will encourage houses to be built at two storeys in order to comply with the rule and that the rule limits a development right associated with building within an approved building platform. It is not common that a building covers the entire 1000m² identified for building platforms, and it raises the question of whether decision makers, when contemplating future built form within a proposed building platform approve the building platform on the basis the entire area would be built out.

- 12.16. The rule as notified would provide QLDC with the discretion to determine whether, due to the size of the building, any additional mitigation is required or whether the building has adverse effects that do not accord with the basis for the approval in principal.
- 12.17. I consider that it is appropriate to retain the rule. One option to appease submitters' concerns could be to change it to a controlled activity status. The controlled activity status would not remove the development rights within a building platform (or any perception of a loss), but does provide the discretion, through a resource consent to assess the impacts of the scale and nature of the building.
- 12.18. It is however my preference that the restricted discretionary status is retained because it would encourage applicants to undertake a design or mitigation that ensures landscape and visual amenity values are avoided or mitigated.
- 12.19. Submitters 610 (Soho Ski Area Limited and Blackmans Creek No. 1 LP) and 613 (Treble Cone Investments Ltd) seek that Rules 21.5.15 and 21.5.16 not apply to the Ski Area Sub Zones because these matters are addressed via the continuance of the requirement to obtain a controlled activity resource consent for the construction and alteration of buildings. I accept this submission and recommend the provisions are modified to reflect this matter. This change is not one of substance, but is a matter of clarifying the effect of the rule.
- 12.20. Overall, I consider that the standards for structures and buildings is retained, except as discussed above and set out in the recommended revised provisions attached as **Appendix 1**.

13. ISSUE 6 – OTHER ACTIVITIES

- 13.1. There is the desire for a broad range of activities to locate in the Rural Zone. Many of these have legitimate location necessities and the basis for the commercial operation relies on the landscape, lakes and rivers, such as tourism and commercial recreation activities.
- 13.2. Some activities also seek to locate in the Rural Zone because they support the rural and primary production industry, while some activities that provide a wider service such as contractors' yards or storage depots seek to locate within rural areas because the land could be cheaper or more

readily available than commercial or industrial zoned land. In addition, some noxious activities seek to locate in the Rural Zone because they prefer a separation from other sensitive activities.

- 13.3. Infrastructure and utilities such as power and telecommunications also have a locational necessity and the designation process and the PDP Chapter 30 Energy and Utilities chapter has specific objectives and provisions for such activities.
- 13.4. Objectives 21.2.9, 21.2.10, 21.2.11, 21.2.12, 21.2.13 and related policies contemplate the potential for non-farming activities that seek to utilise the rural resource:

Ensure commercial activities do not degrade landscape values, rural amenity, or impinge on farming activities.

Policies

- 21.2.9.1 *Commercial activities in the Rural Zone should have a genuine link with the rural land resource, farming, horticulture or viticulture activities, or recreation activities associated with resources located within the Rural Zone.*
- 21.2.9.2 *Avoid the establishment of commercial, retail and industrial activities where they would degrade rural quality or character, amenity values and landscape values.*
- 21.2.9.3 *Encourage forestry to be consistent with topography and vegetation patterns, to locate outside of the Outstanding Natural Features and Landscapes, and ensure forestry does not degrade the landscape character or visual amenity values of the Rural Landscape.*
- 21.2.9.4 *Ensure forestry harvesting avoids adverse effects with regards to siltation and erosion and sites are rehabilitated to minimise runoff, erosion and effects on landscape values.*
- 21.2.9.5 *Limit forestry to species that do not have any potential to spread and naturalise.*
- 21.2.9.6 *Ensure traffic from commercial activities does not diminish rural amenity or affect the safe and efficient operation of the roading and trail network, or access to public places.*

- 13.5. For the purposes of a broad overview, the rules for commercial activities²⁶ require a discretionary resource consent for commercial recreation involving more than 10 persons in any one group (21.5.21). Activities up to 10 persons are permitted. Other relevant rules are:

²⁶ Refer to the respective issues for other commercial based activities such as mining and activities on the surface of water.

- a. Allow home occupations up to 150m² (21.5.22).
- b. Allow retail sales of produce grown on site up to 25m² (21.5.23).
- c. Provide for retail sales of garden / farm produce grown on site as a controlled activity (21.4.14).
- d. Commercial activities ancillary to and located on the same site as recreational activities are a discretionary activity (21.4.15).
- e. Cafes and restaurants located within a vineyard are a discretionary activity (21.4.17)
- f. Visitor Accommodation is a discretionary activity (21.4.20).
- g. Require a non-complying resource consent for industrial activity, retail activity, and commercial activity (not otherwise identified).
- h. Require a discretionary resource consent for forestry in the RL areas and a non-complying activity resource consent in the ONF/ONL (21.4.21 and 21.4.1).

13.6. The rules generally hinge on activities being regarded as commercial activities. A broad range of land uses are captured by the PDP definition of commercial activity, while the definition of commercial recreation is more defined. The relevant definitions from Chapter 2 of the PDP are:

Commercial	Means involving payment, exchange or other consideration.
Commercial Activity ²⁷	Means the use of land and buildings for the display, offering, provision, sale or hire of goods, equipment or services, and includes shops, postal services, markets, showrooms, restaurants, takeaway food bars, professional, commercial and administrative offices, service stations, motor vehicle sales, the sale of liquor and associated parking areas. Excludes recreational, community and service activities, home occupations, visitor accommodation, registered holiday homes and registered homestays.
Commercial Recreational Activities	Means the commercial guiding, training, instructing, transportation or provision of recreation facilities to clients for recreational purposes including the use of any building or land associated with the activity, excluding ski area activities.

13.7. The definition of 'service activity' is:

Service Activity	Means the use of land and buildings for the primary purpose of the transport, storage, maintenance or repair of goods.
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13.8. Many tourism activities are a discretionary activity pursuant to Rule 21.4.15 - 'commercial activities ancillary to and located on the same site as recreational activities'. The word ancillary is not defined and therefore its ordinary meaning must be applied in identifying what is ancillary and

²⁷ Submitter 433 (QAC) seeks the definition is retained. Submitter 746 (Bunnings Limited) request the definition is amended. This relief sought is a district wide matter and will be addressed at the hearing on definitions.

what is not. Commercial recreation activities are permitted up to 10 persons in any one group and any more would require a discretionary activity resource consent pursuant to Rule 21.5.21.

- 13.9. Submitters 607 (Te Anau Developments Ltd (**TADL**)) and 621 (Real Journeys Ltd), supported by various further submissions²⁸ seek a new definition of 'Tourism Activity' which is:

Means the use or development of a resource for the purpose of attracting visitors to the district, and includes associated buildings, structures, transport activities, and administration activities.

- 13.10. Corresponding relief sought by TADL is:

9	All Rules in the plan	Amend rules as required to ensure: <ul style="list-style-type: none"> (i) Tourism activities outside or not affected by a value protected by s6 of the RMA are enabled via the permitted, controlled, or restricted discretionary activity status; (ii) Tourism activities within or affected by a value protected by section 6 of the RMA are provided for as a restricted discretionary or discretionary activity; (iii) Tourism activities are not classified as a non-complying or prohibited activity.
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- 13.11. The requested definition is very broad and I am not convinced that it offers added value, more importantly, the motivation for the definition appears to be not so much for the application of it against the PDP (as notified) provisions, but to facilitate the corresponding relief sought by TADL. Again, while I understand the intent of the submission I do not find it of assistance in terms of contemplating the consequence of applying provisions to give effect to this relief. The submitter could have at least, made this clearer by comparing or applying this relief against the PDP rules.

- 13.12. The relief requested as it is currently framed is vague, especially in the context that there are submissions yet to be heard on the location of landscape lines that would help identify where s6(b) values are. In some respects the relief sought actually 'downzones' the rights of commercial operators because Commercial recreation is a permitted activity up to 10 persons irrespective of the location, and according to the relief sought this activity would be likely to become either a restricted discretionary or discretionary activity if it was located on or at the margin of a lake or river and a s6(a) value (e.g. walking tours, cycle tours), or in the mountains (e.g. heli/back country guided skiing). The PDP as notified provides for these activities up to a certain scale and intensity as a permitted activity,²⁹ which is more enabling.

- 13.13. I also consider that making tourism activities permitted, controlled or restricted discretionary activities outside a "s6 RMA value" is not appropriate because there is more to manage than just the identified values in s6 of the RMA. For example, ad hoc development of rural land for commercial activities. According to the relief requested, a tourism operator could establish its administration offices in the Rural Zone, Rural Landscape Classification areas as a permitted, controlled or restricted discretionary activity yet there could be resource management issues to

²⁸ 1097 (QPL), 117 (RPL), 1152 (K Jet).

²⁹ Refer to Rule 21.5.25 informal airports on public conservation land and Rule 21.5.21 commercial recreation activity.

address including but not limited to viability of effects on town centres, sustaining the soil resource, rural amenity and integrity of the urban growth boundary (**UGB**).

- 13.14. I consider that a definition of tourism activity could be helpful where it would distinguish from commercial activities generally, however for the above reasons I recommend that the requested definition and most certainly the relief sought in terms of rules are rejected.
- 13.15. I also note that submitter 574 (Skyline Enterprises Ltd) are seeking a rezoning to a new sub zone³⁰ within the Rural Zone that they propose calling 'Commercial Tourism and Recreation Sub Zone' (this is a matter to be considered in the rezoning hearings). However despite the geographic area being defined and a suite of provisions proposed, no definition of commercial tourism is provided in the submission.
- 13.16. I now turn to the submissions specifically on Objective 21.2.9 related policies.
- 13.17. QPL seeks that amendments are made to Objective 21.2.9 including that the objective 'provides for a range of activities'. Given how broad the definition of 'commercial activities' is, the addition of 'a range of activities' would not constitute a substantial change in the type of uses contemplated under the objective. I accept the addition of 'provide for' because this would infer that the various activities would have permitted or controlled activity status and the majority of activities require resource consent as a discretionary or non-complying activity. Notwithstanding this, I also accept that the objective would benefit from being phrased as more of a goal or aspirational statement, and could benefit from capturing a broader range of activities. I recommend the submission is accepted in part.
- 13.18. Related to this, submitter 671 (Queenstown Trails Trust (**QTT**)), seeks that a new policy is added that fosters the establishment of businesses on or near the trail network, including cafes, homesteads and cafes and that this would recognise the social, cultural and economic wellbeing that might derive from inclusionary policies.
- 13.19. I accept this submission point, however I consider that the corresponding rules should not be modified or made more lenient to provide for trails or any commercial activity derived from them. I consider that it is important that the effects of these activities are able to be considered on a case by case basis. However, a policy that has regard to the potential benefits of trails generally is considered appropriate.

³⁰ The rezoning request is not within the scope of this hearing evidence and will be addressed at the hearing on rezoning.

13.20. The policy suggested by QTT is:

To enable commercial activities that are associated with, are complimentary to and in close proximity of the Queenstown Trail and Upper Clutha Tracks Trail network.

13.21. Because I do not support changing any rules, and nor do QTT request relief to any rules in the Rural Zone, I do not support the use of the word 'enable'. I consider that a policy should be focused on the potential for the establishment of supporting activities that are complimentary to the trail on the basis they accord with landscape matters, rural amenity and established activities.

13.22. In response to QTT's submission I recommend the following new policy:

Provide for a range of activities that support the vitality, use and enjoyment of the Queenstown Trail and Upper Clutha Tracks Trail network on the basis landscape and rural amenity is protected, maintained or enhanced and established activities are not compromised.

13.23. Notified Policy 21.2.9.1 is:

Commercial activities in the Rural Zone should have a genuine link with the rural land resource, farming, horticulture or viticulture activities, or recreation activities associated with resources located within the Rural Zone.

13.24. QPL request that 'tourism' is added to the policy. For the reasons set out above, 'commercial' encompasses tourism, therefore, having 'commercial' at the start of the policy means that the policy is already targeted toward a range of activities including tourism operations that seek to locate in the Rural Zone. I consider that the policy already meets the desire to include tourism, and the submission is rejected.

13.25. I recommend adding water as a resource to be managed. I consider that it is inherent because activities on the surface of water are deemed to be a use of land, however adding this will assist with clarity. This matter is related to clarification. A section 32AA is attached at **Appendix 4.**

13.26. Notified Policy 21.2.9.2 is:

Avoid the establishment of commercial, retail and industrial activities where they would degrade rural quality or character, amenity values and landscape values.

13.27. QPL, supported by Darby Planning LP (FS 1313.55) seek to remove the word *avoid* and make other changes that effectively make the policy enabling on the basis that adverse effects are

avoided, remedied or mitigated. I maintain that the use of the word avoid is appropriate because commercial activities have the potential to undermine the rural resource and have potential for significant landscape and rural amenity effects. However, I accept that the policy could be phrased in a more positive manner. I therefore accept in part these submissions and recommend the following amendments:

~~Avoid~~ Provide for the establishment of commercial, retail and industrial activities only where theyse would degrade protect, maintain or enhance rural quality or character, amenity values and landscape values.

13.28. The qualifiers of 'protect, maintain or enhance' are derived from the overall goal of achieving sustainable management in terms of Part 2 of the RMA. Maintaining or enhancing are added as other available avenues to contemplate the merits of a proposal. I prefer the use of 'protect, maintain or enhance' over 'avoid, remedy or mitigate' as suggested by QPL (and taken directly from s5(2)(c) of the RMA). The use of the RMA language could isolate consideration of proposals from limbs (a) and (b), that are also of fundamental importance and are particularly important in terms of the Rural Zone resources.

13.29. Notified Objective 21.2.9.3 is:

Encourage forestry to be consistent with topography and vegetation patterns, to locate outside of the Outstanding Natural Features and Landscapes, and ensure forestry does not degrade the landscape character or visual amenity values of the Rural Landscape.

13.30. There are three submissions on this policy. Forest and Bird and Evan Alty have identical submissions seeking the following changes:

~~Encourage~~ Require forestry to be consistent with topography and vegetation patterns, to locate outside of the Outstanding Natural Features and Landscapes, significant natural areas and ensure forestry does not degrade the landscape character, nature conservation values or visual amenity values of the Rural Landscape.

13.31. There is a further submission from James Cooper (FS1162) that is in general opposition to the entire Forest and Bird submission.

13.32. I do not support modifying encourage to require because this could imply a prohibited activity status, however I do support the policy identifying significant natural areas because this provides a useful cross reference to rules that restrict the planting of exotic vegetation in SNAs. I do not support the inclusion of nature conservation values because the elements within this definition are specified. I therefore recommend that this submission is accepted in part.

- 13.33. Overall, I accept a number of submissions that would make the objective and policies applicable to a broader range of commercial activities including tourism, that have the potential to locate within the Rural Zone. The recommended revised version is attached at **Appendix 2** and the relevant s32AA evaluations are attached at **Appendix 4**.
- 13.34. Rule 21.5.21 allows commercial recreation activity up to 10 persons in any group. The equivalent ODP rule allows only 5 persons.
- 13.35. Submitter 315 (The Alpine Group) support the limit of 10 persons, while a number seek certain specific higher limits such as Submitter 122 (Skydive Queenstown Ltd). Submitter 489 seeks that the limit is 5 people in any one group because that is what people have had to apply for resource consent for since 1998. I consider that the limit of 10 people is balanced in that it provides for a group that is commensurate to the size of groups that could be contemplated for informal recreation activities. Ten persons is also efficient in that it would fit a min-van or a single helicopter, which I would consider as one group. I recommend the rule is retained as notified.
- 13.36. Rule 21.5.22 is for Home Occupations and has three qualifiers that permit home occupation up to 150m², no goods or materials are to be stored outside the building, and all manufacturing or processing is to be undertaken indoors.
- QPL submit that the rule should be amended so that is effects based. I consider the rule is adequate as drafted because it provides clear parameters and certainty. Submitter 719 (NZTA) seek that the rule is retained and I accept this submission.
- 13.37. Objective 21.2.10 is:

Recognise the potential for diversification of farms that utilises the natural or physical resources of farms and supports the sustainability of farming activities.

Policies:

21.2.10.1 Encourage revenue producing activities that can support the long term sustainability of farms in the district.

21.2.10.2 Ensure that revenue producing activities utilise natural and physical resources (including buildings) in a way that maintains and enhances landscape quality, character, rural amenity, and natural values.

21.2.10.3 Recognise that the establishment of complementary activities such as commercial recreation or visitor accommodation located within farms may enable landscape values to be sustained in the longer term. Such positive

effects should be taken into account in the assessment of any resource consent applications.

13.38. By way of background, the s32 report evaluated the appropriateness of the objective as follows:

<p>21.2.10 (Rural Zone)</p> <p>Recognise the potential for diversification of farms that utilises the natural or physical resources of farms and supports the sustainability of farming activities.</p>	<p>The objective is the most appropriate way to meet the purpose of the RMA because it recognises the opportunity for alternative land uses on farms can help support the viability of traditional pastoral farming on large landholdings. The retention of large farming operations is a part of the character of the District's landscape.</p> <p>Consistent with the following Strategic Directions objectives:</p> <ul style="list-style-type: none">• 3.2.5.3 Objective - Direct new subdivision, use or development to occur in those areas which have potential to absorb change without detracting from landscape and visual amenity values.• 3.2.5.5 Objective - Recognise that agricultural land use is fundamental to the character of our landscapes. <p>Gives effects to RPS objectives 5.4.1, 5.4.3 and policies 5.5.2, 5.5.3 and 5.5.4 (Land)</p> <p>Gives effect to RPS objective 9.4.3 and policy 9.5.4 (Built Environment).</p> <p>Has regard to the Proposed RPS 2015:</p> <ul style="list-style-type: none">• Objective 2.2 – Otago's significant and highly-valued natural resources are identified, and protected or enhanced.• Objective 2.3 - Natural Resource systems and their interdependence are recognised• Objective 4.3 – Sufficient land is managed and protected for economic production
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Excerpt from s32 (Page 54)

13.39. The genesis of the objective and related policies was on the basis that it was applicable to the diversification of farming to assist with the ongoing viability of farming and the maintenance of rural character. I do not consider that the objective and policies were intended to apply to activities on landholdings that were not principally used for farming.

13.40. Submitter 437 (Trojan Helmet Limited) have made submissions on this objective. I also note that Trojan Helmet seek a rezoning to establish a new resort zone 'Chapter 45 The Hills Resort Zone'. The rezoning is not within the scope of this hearing, and will be considered at the hearing on rezoning.

13.41. Notwithstanding this, the relief sought by Trojan Helmet, which is echoed by other submitters including QPL and John Mcquilkin seeking to advance opportunities for commercial activities is:

4.2.3.2 **Objective 21.2.10 and associated policies relating to the potential for diversification of farms**

(a) **The Submitter SUPPORTS and OPPOSES** the objective and policies and seeks modifications as follows.

21.2.10 Objective *Recognise the potential for diversification of rural activities (including farming activities) farms that utilises support the sustainability of the natural or and physical resources of farms rural areas and supports the sustainability of farming activities.*

Policies **21.2.10.1** *Encourage revenue producing activities that can support the long term sustainability of farms in the rural areas of the district.*

13.42. Without derogating from the original aspiration of the objective, I consider that the suggested changes have merit where they broadens the range of land uses that are applicable to the objective and related policies, providing the objective supports the sustainability of natural resources, both in the productive/efficient use context and in terms of the protection of landscape and natural resource values.

13.43. By contemplating a broader range of activities, these modifications would also make the objective more 'effects' based in that the objective supports a broad range of activities on the basis that the Rural Zone's natural and physical resources are managed sustainably.

13.44. I accept in part these submissions and provide the following recommended amendments.

~~*Recognise the potential for Diversification of farmsing and other rural activities that utilises the natural or physical resources of farms and supports the sustainability of farming activities natural and physical resources.*~~

Policies:

21.2.10.1 Encourage revenue producing activities that can support the long term sustainability of farmsing and rural areas of ~~in~~ the district.

21.2.10.2 *Ensure that revenue producing activities utilise natural and physical resources (including buildings) in a way that maintains and enhances landscape quality, character, rural amenity, and natural ~~values~~ resources.*

21.2.10.3 *~~Recognise~~ Have regard to ~~that~~ the establishment of ~~complementary~~ activities such as tourism, commercial recreation or visitor accommodation located within farms where these may enable landscape values and indigenous biodiversity to be sustained in the longer term. ~~Such positive effects should be taken into account in the assessment of any resource consent applications.~~*

13.45. Objective 21.2.11 is for Informal Airports and this is addressed later in this report. Informal Airports are a matter of concern for a broad range of submitters including commercial operators.

13.46. Objective 21.2.12 is for the surface of water, rivers and lakes, this is addressed later in this report. This issue also affects a wide range of people including commercial operators.

13.47. Objective 21.2.13 is for Rural Industrial Activities located within identified Rural Industrial Sub-zones. The sub zone provides opportunities for industrial and yard based activities that support farming activities. There is one sub-zone located at Luggate and the submissions on this are addressed in **Appendix 2**.

13.48. In summary on this Issue, I consider that the framework within the Rural Zone, and more so with the recommended amendments set out above, adequately contemplates and provides for activities that rely on the rural resource, while protecting the Rural Zone's resources with respect to the benefits and adverse effects that have the potential to arise from commercial activities in the Rural Zone.

13.49. As set out in Mr Osborne's evidence, it is important to the economic, social and cultural wellbeing of the district that a range of activities are provided for in the Rural Zone and I consider it equally important that the resources that make the Rural Zone a desirable place to locate are appropriately managed.

14. ISSUE 7 – SKI AREA ACTIVITIES WITHIN THE SKI AREA SUBZONES

14.1. The Ski Area Sub Zones are managed through Objective 21.2.6 as follows:

Encourage the future growth, development and consolidation of existing Ski Areas within identified Sub Zones, while avoiding, remedying or mitigating adverse effects on the environment.

Policies

21.2.6.1 *Identify Ski Field Sub Zones and encourage Ski Area Activities to locate and consolidate within the sub zones.*

21.2.6.2 *Control the visual impact of roads, buildings and infrastructure associated with Ski Area Activities.*

21.2.6.3 *Provide for the continuation of existing vehicle testing facilities within the Waiorau Snow Farm Ski Area Sub Zone on the basis the landscape and indigenous biodiversity values are not further degraded.*

14.2. The relevant Rules/standards are as follows :

	Table 1: Activities	Activity
21.4.18	Ski Area Activities within the Ski Area Sub Zone.	P
21.4.19	Ski Area Activities not located within a Ski Area Sub Zone, with the exception of heli-skiing and non-commercial skiing.	NC
	Table 7: Standards for Ski Area Activities within the Ski Area Sub Zones	Activity
21.5.27	<p>Construction, relocation, addition or alteration of a building.</p> <p>Control is reserved to all of the following:</p> <ul style="list-style-type: none"> • Location, external appearance and size, colour, visual dominance. • Associated earthworks, access and landscaping. • Provision of water supply, sewage treatment and disposal, electricity and communication services (where necessary). • Lighting. 	C

21.5.28	<p>Ski tows and lifts.</p> <p>Control is reserved to all of the following:</p> <ul style="list-style-type: none"> • The extent to which the ski tow or lift or building breaks the line and form of the landscape with special regard to skylines, ridges, hills and prominent slopes. • Whether the materials and colour to be used are consistent with the rural landscape of which the tow or lift or building will form a part. • Balancing environmental considerations with operational characteristics. 	C
21.5.29	<p>Night lighting.</p> <p>Control is reserved to all of the following:</p> <ul style="list-style-type: none"> • Hours of operation. • Duration and intensity. • Impact on surrounding properties. 	C
21.5.30	<p>Vehicle Testing.</p> <p>In the Waiorau Snow Farm Ski Area Activity Sub Zone; the construction of access ways and tracks associated with the testing of vehicles, their parts and accessories.</p> <p>Control is reserved to all of the following:</p> <ul style="list-style-type: none"> • Gravel and silt run off. • Stormwater, erosion and siltation. • The sprawl of tracks and the extent to which earthworks modify the landform. • Stability of over-steepened embankments. 	C

21.5.31	<p>Retail activities ancillary to Ski Area Activities.</p> <p>Control is reserved to all of the following:</p> <ul style="list-style-type: none"> • Location. • Hours of operation with regard to consistency with ski-area activities. • Amenity effects, including loss of remoteness or isolation. • Traffic congestion, access and safety. • Waste disposal. • Cumulative effects. 	C
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14.3. The provisions provide for the economic and recreational benefits of skiing to the District by making a broad range of contemplated activities a controlled activity. The provisions accept the continuation and growth of skiing and vehicle testing, on the basis the adverse effects on the District's landscapes and indigenous biodiversity in the wider context are minor.

14.4. The majority of submitters on this matter are the respective ski operators. In this instance I consider it is clearer to consider their respective submissions separately because many of the submissions on the PDP provisions are within scope of this hearing, but the submissions also include requested extensions to existing Sub Zones, or new areas and these are not within the scope of this hearing. The latter will all be considered at the hearings on rezoning.

Submitter 806 Queenstown Park Limited (QPL)

14.5. QPL seek that the objectives and policies are amended to better provide for the sustainable management of the Remarkables Ski Activity Area, recognise the potential growth of the area, provide for sustainable gondola access, and provide for summer and winter activities within the ski field area.

14.6. QPL do not provide any justification for this, for instance in terms of how the notified provisions do not achieve this, or by way of amendments to the objectives and policies. In the absence of any explanation, I recommend that the submission is rejected.

14.7. QPL also seek a new objective and suite of policies for what they propose to call the 'Remarkables alpine area', and for recreation and gondola access within this. The first requested policy seeks that the importance is recognised, and growth and development is supported. The second policy facilitates gondola access and the third policy supports the construction and operation of a gondola because it has benefits to the local, regional and national economy.

- 14.8. Part C.1.1.1(d) (page 2) of their replacement submission³¹ states, "*in all cases, QPL seeks the expansion of the Ski Area Sub-Zone south to the Doolans and/or the renaming of that sub-zone to the 'Remarkables Alpine Recreation Area' in accordance with the relief sought*".
- 14.9. The function of the requested new objective and policies relies on either the extension of the Ski Area Sub Zone at Remarkables (irrespective of the title that would be applied), or a new zone, such as the new special zone requested by QPL called 'Queenstown Park Special Zone'. Therefore I consider that the requested provisions are applicable in the event there is a rezoning and are not on the Sub Zones as notified. Therefore I do not consider the relief sought for the new objective and policies to be within the scope of the Rural Hearing and the matter is deferred to the hearing on rezoning.

Submitter 572 NZ Ski Limited (NZ Ski)

- 14.10. NZ Ski seek the following:
- a. Expansions to the Ski Area Sub Zones at Coronet Peak and Remarkables. These extensions will be addressed in the rezoning hearing and are deferred to that hearing.
 - b. The creation of a 'Ski Area Sub-Zone (B)' as identified in Appendix A of Submission 572 to provide for the establishment of buildings, parking, storage, entranceway signage, commercial activities and accommodation ancillary to Ski Area Activities. This land is currently zoned Rural and the creation of a new Ski Area Sub Zone B would require a rezoning. This matter is also deferred to the rezoning hearing.
 - c. Alterations to Table 1 of Chapter 21 to provide for visitor accommodation within ski area sub zones limited to the ski season. This matter is to do with the regulations of an existing Ski Area Sub Zone and is addressed below.
 - d. Changes to Table 4 of Chapter 21 to make indigenous vegetation clearance within the Ski Area Sub Zones permitted Activities. This matter is addressed in my evidence for Chapter 33: Indigenous Vegetation and biodiversity, also part of the Rural Hearing.
- 14.11. NZ Ski seek that visitor accommodation is a controlled activity within the Ski Area Sub Zones between 1 June and 31 October in any calendar year.
- 14.12. Parts 4.28 to 4.33 of their submission set out the reasons why this would be appropriate and note that there are a number of 'club huts' already in operation in the Coronet Ski Area. In principle, I do not object to visitor accommodation as a land use in these sub zones, noting that the Wairau Snow Farm located on the Pisa range near Cardrona has visitor accommodation facilities. However, the scale and intensity of the visitor accommodation is not defined, and without a better

³¹ Received 30 October 2015.

understanding of this, coupled with the expansive areas covered by the Sub Zones including Coronet and Remarkables, I am reluctant to recommended acceptance of these with a controlled activity status, where there is no scope for the Council to decline an application.

Submitter Mt Cardrona Station Ltd (MCSL) (407)

14.13. MCSL seek to advance the opportunities for access and passenger transport between the Cardrona Ski Area Sub Zone and the Mt Cardrona Station Special Zone by extending the Ski Area Sub Zone zoning to connect direct with the Mt Cardrona Special Zone.

14.14. The Mt Cardrona Station Special Zone has not been notified as part of Stage 1 of the PDP and the submitter has not requested any modifications to that zone. The extension of the Sub Zone is a rezoning and is not within scope of this hearing, and is deferred to the hearing on rezoning.

14.15. However, the submissions and relief sought by MCSL are on provisions on the PDP as notified. MCSL seek to add a definition of 'Passenger Lift Systems' that would replace the reference to 'Ski tows and lifts' in Rule 21.5.28.

14.16. The requested definition is:

Passenger Lift Systems	Means <u>any mechanical system used to convey or transport passengers within or to a Ski Area Sub-Zone, including chairlifts, gondolas, T-bars and rope tows, and including all moving, fixed and ancillary components of such systems such as towers, pylons, cross arms, pulleys, cables, chairs, cabins, and structures to enable the embarking and disembarking of passengers.</u>
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14.17. MCSL also seek to modify the definition of 'Ski Area Activities' as follows:

Ski Area Activities	<p><i>Means the use of natural and physical resources for the purpose of providing for:</i></p> <p>(a) <i>recreational activities either commercial or non commercial.</i></p> <p>(b) <i>chairlifts, t-bars and rope tows to facilitate commercial recreational activities.</i> <u>passenger lift systems</u></p> <p>(c) <i>use of snowgroomers, snowmobiles and 4WD vehicles for support or operational activities.</i></p> <p>(d) <i>activities ancillary to commercial recreational activities.</i></p> <p>(e) <i>in the Waiorau Snow Farm Ski Area Sub Zone vehicle and product testing activities, being activities designed to test the safety, efficiency and durability of vehicles, their parts and accessories.</i></p> <p><u>(f) buildings for or ancillary to the activities in (a) – (e) above</u></p>
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- 14.18. MCSL consider that the relief sought is necessary because the definition of Ski Area Activities should include the term 'gondola'. I agree with the submission and consider that the new definition is beneficial in that it captures a broad range of transport systems contemplated within the Sub Zones. In turn, the definition can be referenced in the rule(s) without having to repeat the specific transport systems. I recommend the submission is accepted.
- 14.19. MCSL identify in their submission that Table 7 and Rules 21.5.27 – 21.5.31 do not specify the standards for the activity and this is ambiguous. In terms of structure, Table 1 generally sets out the activities and the resultant tables are the standards for identified activities. The header in the right hand column in Table 7 states 'Non-Compliance Status' and I accept that this phrase is relevant to the activity status where the identified standards are not complied with. I accept that this does not suit the listed activities in Table 7 and their corresponding activity status. I recommend the table status is updated. This matter is a drafting correction.
- 14.20. It appears as a consequence of this matter, and the requested changes to the definition of 'Ski Area Activities' MCSL seek, that buildings would become a permitted activity within the Sub Zones through adding 'buildings' to the requested modification to the definition. I do not support this because the controlled regime afforded to buildings is already liberal, the size of the Sub Zones is relatively vast and the requirement to maintain control of the visual impact of buildings as well as important aspects such as servicing and hazards is important. I consider that the controlled activity regime is appropriate and MCSL have not provided any justification for departing from this.
- 14.21. In summary, I accept the submission of MCSL, for a new definition of 'passenger lift systems', accept in part the definition of 'ski area activities' and accept in part changes to the provisions.

14.22. MCSL also seek that objective 21.2.6 is modified to integrate with urban zones, namely the Mt Cardrona Station Special Zone. I do not support this because I do not consider the 'special zones' generally to be urban development. In addition, I consider the outcome would be too bespoke and inward looking. I do not support this addition because it would read as though there is an expectation that urban zones are expected to establish where they could easily integrate and connect to the Ski Area Sub Zones, while MCSL are of the view that this is relevant I do not consider it appropriate to apply broadly to all the Sub Zones. The requested amendments to the objective appear to advance their rezoning, rather than the use of resources associated with the Ski Area Sub Zones overall. I recommend this submission is rejected.

14.23. MCSL also request a new policy that is related to this matter and is associated with transport, it states:

21.2.6.4: Provide for appropriate alternative (non-road) means of transport to Ski Area Sub Zones from nearby urban resort zones and facilities including by way of gondolas and associated structures and facilities.

14.24. Clearly this policy is requested to advance the associated rezoning. However I consider this concept has merit in a broader context and is applicable across the entire range of Ski Area Sub Zones (as notified) because these all require access from a road on the valley floor to the base area. The vehicle accesses can have adverse visual effects and require maintenance (as would gondolas, their construction and related infrastructure) and the location of car parks on the valley floor. There is also the issue of safety associated with the use of private vehicles on the access roads.

14.25. The matter of non-road access is also relevant generally in terms of the interests of other submitters such as QPL. I am aware of the following resource consent applications for gondolas in the District:

- a. RM060587 Snowline Holdings Ltd construct and operate a Gondola to Treble Cone Ski Field from the Base Station to Wanaka Mt Aspiring Road (lapsed).
- b. RM070610 One Black Merino Ltd construct and operate a gondola to the Wairau Snow Farm from Cardrona Valley Road (lapses 15 May 2018).

14.26. I do not support the policy in so far as it seeks connections between the Ski Area Sub Zones and any nearby urban zones. However I will discuss below the merit of a policy associated with non-road access.

Submitter Treble Cone Investments Ltd (Treble Cone) (613) and Submitter Soho Ski Area Limited and Blackmans Creek no. 1 LP (Soho Ski) (610).

- 14.27. Treble Cone and Soho Ski seek to expand the existing Ski Area Sub Zone at Treble Cone, which is deferred to the hearing on rezoning, and also seeks to advance activities in the Ski Area Sub Zones generally. Treble Cone also seek to make subdivision a controlled activity within the Ski Area Sub Zone, this matter is not within scope and is deferred to the hearing on subdivision.
- 14.28. In particular in terms of what is within the scope of this hearing, Treble Cone seeks the addition of commercial activities associated with any recreation activity, including the recognition of these areas as year-round destinations, and the provision of on-mountain visitor and residential accommodation.
- 14.29. Treble Cone support Objective 21.2.6 and Policies 21.2.6.1 to 21.2.6.3 as notified and seek the following additional policies associated with accommodation and transport:

Requested new Policy 21.2.6.4:

Enable commercial, visitor and residential accommodation activities associated with ski area activities within SASZ, which are complementary to outdoor recreation activities, can realise landscape and conservation benefits and that avoid, remedy or mitigate adverse effects on the environment.

Requested new Policy 21.2.6.5:

To recognise and provide for the functional dependency of ski area activities to transportation infrastructure, such as land access and passenger lift based or other systems, linking on-mountain facilities to the District's road and transportation network.

- 14.30. As discussed in response to NZ Ski's submission, I am generally supportive of the opportunity for visitor accommodation, however I do not support residential activity, especially where this would be a precursor to separate land tenure. Treble Cone have not provided any information as to what type of residential activity could be envisaged in these mountainous environments or the impacts on amenity associated with residential activity and subdivision such as the loss of remoteness or isolation, and the impact on the public generally as fee-paying users of Treble Cone's infrastructure and facilities. Further, I am not necessarily opposed to opportunities for workers accommodation located near the base buildings on the mountain.

- 14.31. I consider that the requested policy relating to transportation infrastructure has merit in that there is a functional dependency of Ski Area Activities and their relatively remote locations to transport. While non-road transport can have potential for adverse effects, so too can the construction and maintenance of access roads.
- 14.32. Treble Cone seeks that the rule that sets out that Ski Area Activities within the Ski Area Sub Zone are permitted, in Table 1, is relocated to Table 7. I prefer the location of these rules as notified. Table 1 is intended to set out the activity status of the land use in a specific area, while the resultant tables, such as Table 7 lists the standards for contemplated activities.
- 14.33. Treble Cone seek that a new rule is added within Table 7 to facilitate residential and visitor accommodation activities in the Ski Area Sub Zones. The submission does not state what the activity status would be, although the rule states that '*the Council's discretion is restricted to*', and that the use of development of land within any SASZ for visitor or residential accommodation purposes in the absence of resource consent granted under Rule 21.5.32 is a discretionary activity. Therefore, I infer that the activity status is restricted discretionary.
- 14.34. The rule as requested appears to have the following qualifier:

Information Requirements:

Any applications for resource consent under this rule shall include a Landscape and Ecological Management Plan in respect of the particular part of the SASZ (noting this may not relate to the whole of the SASZ).

- 14.35. I consider that the 'information requirements' would be better framed as matters of discretion, with the submission of this information likely to support applications. In addition, the matters of discretion include elements that would be impacts more by buildings and location of parking or associated infrastructure, rather than the activity itself. In any case, I do not support residential accommodation in this Sub Zone, I also infer that what is meant by 'residential accommodation' goes beyond worker accommodation because the matters of discretion include subdivision layout.
- 14.36. In summary, I support in part the submission of Treble Cone to add policies associated with transportation, and a rule that provides for the opportunity for visitor accommodation and worker accommodation. I do not support residential activity or subdivision for residential activity. I consider that enabling residential activity and subdivision in the Ski Area Sub Zones could have the potential to impinge on the viability of these areas.

14.37. Treble Cone also seek to modify the definition of Building to exclude:

All components associated with passenger lift or other systems systems [sic], including lift towers, cross arms, pulleys, cables, chairs, cabins, and top and bottom stations and all associated infrastructure, services and facilities located within the SASZs.

14.38. I am aware that the two resource consent applications for gondolas identified above involved debate as to whether the gondola and any of the associated infrastructure qualified as a 'building' under the definition in the ODP. However I will defer this part of Treble Cone's submission to the hearing on definitions because this matter relates to gondolas generally, and is not confined to those associated with Ski Area Activities, the Sub Zones or the Rural Zone.

14.39. Treble Cone also seek that the definition of 'Ski Area Activities' is modified as follows:

Means the use of natural and physical resources for the purposes of providing for establishing, operating and maintaining the following activities and structures:

(a) recreational activities either commercial or non commercial

(b) chairlifts, t-bars, and rope tows, passenger lift or other systems to facilitate access and commercial recreational activities.

(c) use of snowgroomers, snowmobiles and 4WD vehicles for support or operational activities.

(d) activities ancillary to commercial recreational activities.

(e) in the Waiorau Snow Farm SASZ vehicle and product testing activities, being activities designed to test the safety, efficiency and durability of vehicles, their parts and accessories

(f) Visitor and residential accommodation associated with ski area activities

(g) Commercial activities associated with ski area activities or recreation activities

(h) Guest facilities including ticketing, offices, restaurants, cafes, ski hire and retailing associated with any commercial recreation activity

(i) Ski area operations, including avalanche control and ski patrol

(j) Installation and operation of snow making infrastructure, including reservoirs, pumps, snow makers and associated elements.

(k) The formation of trails and other terrain modification necessary to operate the SASZ.

(l) The provision of vehicle and passenger lift or other system access and parking

(m) The provisions of servicing infrastructure, including water supply, wastewater disposal, telecommunications and electricity

14.40. I support the modifications to the preamble because it is clearer and more certain. In terms of the change sought to the definition, my view is as follows:

- a. I prefer the definition and suggestion made by Submitter MCSL (407), addressed above;
- b. The addition of *visitor* and *residential accommodation* is not necessary because specifying whether these activities (which are also defined elsewhere in the Definitions Chapter) require a certain type of resource consent does not mean they need to be included in the definition of Ski Area Activities. They are an activity and they are either contemplated or not, within a location specified location, being a zone, or a sub zone. The more appropriate approach is to give these activities their own rule, as suggested by NZ Ski.
- c. *Commercial activity* is not supported because it is defined elsewhere in the notified District Plan and is provided for as a controlled activity pursuant to Rule 21.5.31.
- g. The addition of '*Ski Area Operations, including avalanche and ski patrol*' is accepted. I am not aware of ski area operations including avalanche control requiring resource consent however for the sake of certainty I accept these.
- h. '*Installation and operation of snow making infrastructure, including reservoirs, pumps, snow makers and associated elements*'. I consider that these are appropriate activities although I note that are likely to fall within the ambit of '(d) activities ancillary to commercial recreation activities, However for the sake of providing certainty I accept this addition. I note that depending on the scale of these, they could be considered a building (e.g. over 5m² in area and 2m height).
- i. I also consider that '*the formation of trails and other terrain modification necessary to operate in the SASZ*' are likely to fall within the ambit of '(d) activities ancillary to commercial recreation activities, However for the sake of providing certainty I accept this addition.
- j. *Passenger lift systems* are recommended to be defined separately and are provided for as a specified activity., they do not need to be included in the definition of Ski Area Activities. In addition, because Ski Area Activities are permitted, the corresponding rule that makes them a controlled activity would cause confusion.
- k. I do not support the inclusion of *infrastructure* including water supply, wastewater because these could have adverse effects in terms of their development, use and maintenance and included in the respective identified activities for buildings or the recommended rule for visitor accommodation.

14.41. Based on the above, I accept in part the requested amendments to the definition of Ski Area Activities. A recommended revised version is included in **Appendix 1**.

Cardrona Alpine Resort limited (CARL) (615)

14.42. CARL states in its submission that it caters as a summer resort, offering lift accessible mountain biking, gravity karts, walking and adventure trails as well as night time sightseeing adventures.

- 14.43. CARL seeks that the Cardrona Ski Area Sub Zone is renamed to '*Cardrona Alpine Resort Area*', and that this zone is extended. The latter matter is to be considered in the rezoning hearing and is not within the scope of this hearing. However the submitter has requested a number of changes to the rules for Ski Area Sub Zones in Table 7. I am unsure whether the majority of the submission should be deferred because what is sought is effectively a replacement zone, and this should be dealt with in the hearing on rezoning, or these requests are within scope because they seek changes to the Ski Area Activities generally. For the avoidance of doubt I will assess the requested changes to the provisions on the basis that as well as the requested Cardrona Alpine Resort Area, they would affect Ski Area Activities generally.
- 14.44. CARL seeks a number of bespoke additions to policies and rules. Generally I do not support these because they do not provide any substantial benefit to the Cardrona Ski Area Sub Zone, compared to the other zones. For instance, the request for a new policy '*providing for the expansion of four season tourism and accommodation activities in the Cardrona Alpine Resort Zone*' does not substantially advance the position of this area (in terms of the Cardrona Ski Area Subzone as notified), over and above the notified and recommended amendments discussed elsewhere and recommended in **Appendix 1**.
- 14.45. CARL requests that earthworks and vegetation clearance are included in the definition of Ski Area Activities and therefore, would be permitted activities in the subzones. The earthworks rules are located within the Earthworks Chapter. That chapter is not included in the District Plan Review, however I note that the recently updated Earthworks Chapter 22 to the ODP, exempts earthworks in the Ski Area Sub Zones. Therefore, the relief sought by CARL impinges on their development rights compared to the provisions in the ODP. The ODP earthworks provisions are not within scope.
- 14.46. Therefore the submission relating to earthworks as a permitted activity subject to qualifiers are rejected (requested Rule 21.5.27A). I do not support the reinvention of earthworks standards through a zoning chapter, that would duplication the Earthworks chapter in the ODP. In addition the permitted standards of 50,000m³ undertaken per allotment in a 12 month period is relatively small and I am reluctant to offer a recommendation on this matter until the submitter responds in terms of the relationship with the requested provisions and those in Chapter 22 of the ODP, particularly in terms of permitted activity Rule 22.3.2.1(c) that makes earthworks in the Ski Area Sub Zones exempt from the District Plan. On this basis the submission is rejected.
- 14.47. The submitter seeks that vegetation clearance is permitted, this matter is dealt with in the Hearing Report on Chapter 33: Indigenous Vegetation Biodiversity.

- 14.48. I do not support making buildings permitted, subject to the building footprint not increasing more than 25% within a consecutive 5 year period and the alterations not being visible from the Crown Range Road or any adjoining allotment (requested Rule 21.5.27B). The submission does not state why the Crown Range is more important than other roads, or why 25% increase is appropriate. I consider the provisions as notified that provide for a buildings as a controlled activity to be appropriate. I recommend the submission is rejected.
- 14.49. Again requested rule 21.5.27C that makes construction and use of new infrastructure or structures a permitted activity providing it is not seen from the Crown Range Road to be without basis, relative to other roads. Structures are considered buildings under the PDP definitions, so this rule conflicts the definitions, and I consider that the recommended provisions attached at **Appendix 1** already provide for snow making and operational infrastructure. I recommend the submission is rejected.
- 14.50. I also consider that requested Rules 21.5.27 C and D that relate to unlimited snow grooming and ski tows or lifts as a controlled activity are already provided for in the recommended provisions attached as **Appendix 1**. In addition, the submissions seem to be unfounded and I would prefer evidence that shows that snow grooming could require resource consent based on the PDP rules as notified, before recommending there is an issue and these activities need to be excluded.
- 14.51. Based on the forgoing I recommend these submissions are rejected.

Ski Area Activities not within a Ski Area Sub Zone (Rule 21.4.19)

- 14.52. Rule 21.4.19 specifies that Ski Area Activities not located with a Ski Area Sub Zone, with the exception of heli-skiing and non-commercial skiing, are a non-complying activity.
- 14.53. The Reason for this is to encourage Ski Area Activities into the identified Ski Area Sub Zones. One of the reasons for this is that Ski Area Activities will involve activities that adversely impact on the landscape and rural amenity. This is accepted on the basis it occurs within specified areas and the overall impact on the District's outstanding natural landscapes would be contained to within these areas.
- 14.54. Submitter QPL seeks that this rule is deleted, however I consider that it is important that it is retained.
- 14.55. In the context of the above analysis of submissions, the introduction of a policy that has regard to, or contemplates the merits of providing non-road transportation systems such as passenger lift systems could conflict with this rule because passenger lift systems such as gondolas are likely to be located on land that is not within the Ski Area Sub Zones, at least in the case of the

two resource consents referred to above. Therefore, on the basis that Rule 21.4.19 could discourage activities that, subject to their merits, have the potential for a positive outcome in terms of reducing the requirement or dependence for road transport to ski areas, I recommend that an exemption is added to Rule 21.4.19 that excludes passenger lift systems. I note that this does not necessarily provide an easier consenting path because overall, these activities would be likely to be a discretionary activity associated with pylons, and for the related base buildings and activities. However I consider that it is important to acknowledge this.

14.56. I also note that this matter may not be relevant in the event a number of submitters obtain the rezoning as requested. Therefore, this matter may need to be revisited by the Hearing Panel following deliberations on the respective rezoning.

14.57. For the time being, and on the basis of the above I recommend that an exemption for Passenger Lift Systems is added to Rule 21.4.19. I am of the view that this matter is within scope of this hearing because Submitter QPL seeks it is deleted.

Summary and Overall Recommendations on Issue 7

14.58. Overall, in consideration of the relief sought by the submitters, I recommend the following amendments:

- a. A new definition of passenger lift systems.
- b. Modification of the definition of 'Ski Area Activities' to reflect the above definition.
- c. Modification to Rule 21.5.28 to reflect the new definition of Passenger Lift Systems.
- d. Exempting Passenger Lift Systems from Rule 21.4.19.
- e. A new rule to provide for the opportunity for visitor accommodation as a restricted discretionary activity, subject to satisfying matters of discretion relating to the scale and intensity of the activity, location, including whether the scale and intensity means that the activity is better located near the base buildings, parking, water supply and sewage, and cumulative effects.

15. ISSUE 8 – QUEENSTOWN AND WANAKA AIRPORTS

15.1. Restrictions on the use of Rural Zoned land in the vicinity of Queenstown and Wanaka Airports are generally continued at the current level of intervention as the ODP. The relevant components of the Rural Zone Chapter are:

- a. Objective 21.2.7 and policies 21.2.7.1 to 21.2.7.4.
- b. Activity Rules 21.4.28 and 21.4.29 – Activities within the Outer Control Boundary at Queenstown and Wanaka Airports.

c. Standards Rules in Table 2 – Rules 21.5.12 and 21.5.13.

- 15.2. Submitter 443 (Queenstown Airport Corporation (**QAC**)) has requested changes to Objective 21.2.7 which relates to controlling activities within identified air noise outer control boundaries to ensure the airports operations are not constricted by activities sensitive to aircraft noise. The submitter sets out that the changes would make the objective consistent with components of Plan Changes 26 and 35 to the ODP.
- 15.3. The requested objective is, which has the intent of combining the two sub-clauses of the notified objective that apply to Queenstown and Wanaka airports separately:

Retention of an area containing activities that are not sensitive to aircraft noise, within an airport's Outer Control Boundary, to act as a buffer between airports and Activities Sensitive to Aircraft Noise.

- 15.4. I consider that the requested amendments are more efficient grammatically and are effective at providing an appropriate outcome statement for both Queenstown and Wanaka Airports. I have not identified any matters in the policy that either advance or detract from the position of the QAC. I recommend that request is accepted. In coming to this recommendation I note the further submission of QPL (FS1097) and I do not consider the revised objective diminish their position. I do not consider this change to be inconsistent with Plan Changes 26 and 35.
- 15.5. Submitter 806 (QPL) seeks amendments to Objective 21.2.7 to recognise that the Kawarau River is an important strategic transport link. This matter has little, if anything to do with activities sensitive to aircraft noise from Queenstown and Wanaka Airports. I recommend the submission is rejected. Water based transport matters and QPL's submission are discussed within the issues on the surface of water, rivers and lakes.

Wanaka Airport

Submission 443 (Wanaka Airport) – Designation and Underlying Rural Zoning

- 15.6. QAC manages and operates the Wanaka Airport on behalf of QLDC, who is the Requiring Authority for the Airport's designation for aerodrome purposes³² (with QLDC as requiring authority). The purpose of Designation 64 is to "protect the operational capability of the Airport, while at the same time minimising adverse effects from aircraft noise". One of QAC's concerns regarding the efficiency of the designation and underlying Rural zoning, as set out in their submission is that other users of the Airport cannot utilise the enabling provisions provided by the designation, because the designation only benefits QLDC as the requiring authority. The

³² Wanaka Airport is also designated for "Approach and Land Use Control" purposes (Designation 65).

submission states that other users must therefore comply with the provisions of the underlying zoning, which in practical terms they need to obtain resource consent before using the Airport, notwithstanding their activities are consistent with the intent and purpose of the Aerodrome Purposes designation.

- 15.7. QAC then contends that the underlying Rural Zoning is not appropriate for Wanaka Airport. It is accepted, that the Rural Zone's purpose is fundamentally different to the nature and scale of activities at Wanaka Airport. QAC seek to resolve this matter by retaining the Rural Zoning, but introducing a suite of provisions to enable any person to undertake activities that emulate the scope of the Wanaka Airport designation. These include new definitions, objective, policies and rules to enable airport development activities.
- 15.8. The addition of a bespoke planning framework for Wanaka Airport within the Rural Zone is not supported. The requested changes would unnecessarily bulk out and complicate the Rural Zone chapter for an established, unique activity that does not have any resemblance to the purpose of the Rural Zone. Creating a framework for the development and use of the Wanaka Airport within the Rural Zone would be likely to create significant inefficiencies with the interpretation and administration of the PDP. It could also create the potential for a lack of confidence in the administration in the PDP. Instances include where a non-complying resource consent application is made within the Wanaka Airport land for an airport related activity, an assessment would be undertaken against the Rural Zone objectives and policies, which do not anticipate airport activities of this nature.
- 15.9. It is recommended that the submission is rejected, but that at Stage 2 of the District Plan Review, investigations are made by the Council's planning and development staff as to whether it is appropriate to identify a new zone for the Wanaka Airport that emulates the activities contemplated by the designation. The location of these provisions would also most likely better sit outside Part 4 (Rural Areas) of the PDP, perhaps as a separate zone/component and framework within Chapter 17 (Queenstown Airport Mixed Use Zone).
- 15.10. In the interim, it is suggested that the QLDC as requiring authority of the Wanaka Airport designation lodge an outline of works on the behalf of its tenants seeking to undertake development activities. This would significantly reduce inefficiencies with current administration issues, and would appear to resolve the concerns that QAC has raised in its submission about requiring authority status.

Submission 443 (QAC) - Runway End Protection Area (REPA)

- 15.11. QAC has identified that a runway end protection area (**REPA**) is necessary at the terminus of the runway at Wanaka Airport to protect the public from the risk of an aircraft undershooting or

overshooting the runway. Two policies are requested to sit under the bespoke objective requested to recognise and provide for Wanaka Airport (to emulate the scope of the Wanaka Airport designation). One policy seeks to recognise a buffer to provide for the REPA to maintain and enhance the safety of the public. The second policy seeks to avoid activities which may generate effects that compromise the safety of the operation of aircraft arriving at or departing from Wanaka Airport.

- 15.12. A rule is requested, with a prohibited activity status for any activity within the REPAs that involves the following:

Within the Runway End Protection Areas, as indicated on the District Plan Maps,

- a. *Buildings except those required for aviation purposes;*
- b. *Activities which generate or have the potential to generate any of the following effects:*
 - i. *mass assembly of people*
 - ii. *release of any substance which would impair visibility or otherwise interfere with the operation of aircraft including the creation of smoke, dust and steam*
 - iii. *storage of hazardous substances*
 - iv. *production of direct light beams or reflective glare which could interfere with the vision of a pilot*
 - v. *production of radio or electrical interference which could affect aircraft communications or navigational equipment*
 - vi. *attraction of birds*

- 15.13. The overall intent of the request is supported, in so far as to recognise the importance of safety associated with Wanaka Airport. However, because the dedicated objective and planning framework for Wanaka Airport within the Rural Zone is not supported, it is not considered necessary to include both policies as requested. The first policy which seeks to recognise a buffer for the Airport and the REPA is accepted, but should in my view be located under Objective 21.2.8, which is an overarching objective for identified activities that have been identified as being unsuitable for certain types of development. The second policy seeks to avoid activities which may generate effects that compromise the safety of the operation of aircraft arriving at or departing from Wanaka Airport. This policy is superfluous because there are policies under Objective 21.2.4 that recognise and protect established activities.

- 15.14. I consider that the prohibited status of the requested rule is too onerous, at least in the context of the activities that are identified as being prohibited. Reasons include that only buildings not required for aviation purposes are prohibited. It is unclear why a building for aviation purposes is more appropriate within the REPA, than a building not used for aviation purposes, if the intent of

the REPA is to avoid buildings that could conflict with aircraft. In addition, the range of activities identified as prohibited includes smoke and dust. These events could be caused by natural or unintended circumstances, rather than a deliberate use of land. However the landowner would be liable if the effect originated from their land. For these reasons I recommend that the requested rule is rejected.

15.15. However if the Hearings Panel are of a view that the REPA should be installed I suggest the matter can be accommodated within the PDP Rural Zone provisions in a more efficient manner than requested by QAC, as set out below:

- a. The REPA can be identified on the planning maps as a 'building restriction area' annotation.
- b. The policy identifying the REPA is included as part of the policies for identified areas unsuitable for development under Objective 21.2.8.
- c. In accordance with the established PDP rule framework, the construction of buildings in this area would require a non-complying activity resource consent.

16. ISSUE 9 – INFORMAL AIRPORTS

16.1. The relevant (notified) Objective, policies and rules for informal airports are:

Objective 21.2.11 Manage the location, scale and intensity of informal airports.

Policy 21.2.11.1 Recognise that informal airports are an appropriate activity within the rural environment, provided the informal airport is located, operated and managed so as to minimise adverse effects on the surrounding rural amenity.

Policy 21.2.11.2 Protect rural amenity values, and amenity of other zones from the adverse effects that can arise from informal airports.

16.2. Rule 21.4.25 establishes that informal airports are permitted activities subject to compliance with the following standards:

	Table 6 - Standards for Informal Airports	Non-Compliance
21.5.25	Informal Airports Located on Public Conservation and Crown Pastoral Land Informal airports that comply with the following standards shall be permitted	D

	Table 6 - Standards for Informal Airports	Non-Compliance
	<p>activities:</p> <p>21.5.25.1 Informal airports located on Public Conservation Land where the operator of the aircraft is operating in accordance with a Concession issued pursuant to Section 17 of the Conservation Act 1987;</p> <p>21.5.25.2 Informal airports located on Crown Pastoral Land where the operator of the aircraft is operating in accordance with a Recreation Permit issued pursuant to Section 66A of the Land Act 1948;</p> <p>21.5.25.3 Informal airports for emergency landings, rescues, fire-fighting and activities ancillary to farming activities;</p> <p>21.5.25.4 In relation to points (21.5.25.1) and (21.5.25.2), the informal airport shall be located a minimum distance of 500 metres from any formed legal road or the notional boundary of any residential unit or approved building platform not located on the same site.</p>	
21.5.26	<p>Informal Airports Located on other Rural Zoned Land</p> <p>21.5.26.1 Informal Airports that comply with the following standards shall be permitted activities:</p> <p>21.5.26.2 Informal airports on any site that do not exceed a frequency of use of 3 flights* per week;</p> <p>21.5.26.3 Informal airports for emergency landings, rescues, fire-fighting and activities ancillary to farming activities;</p> <p>21.5.26.4 In relation to point (21.5.26.1), the informal airport shall be located a minimum distance of 500 metres from any formed legal road or the notional boundary of any residential unit of building platform not located on the same site.</p> <p>* note for the purposes of this Rule a flight includes two aircraft movements i.e. an arrival and departure.</p>	D

16.3. In addition, the following provisions in the PDP Noise Chapter (36) are applicable to sound from helicopters and fixed wing aircraft:

- a. Rule 36.5.13 permits helicopter noise up to 50 dB L_{dn}. Sound is to be measured and assessed in accordance with NZS 6807:1994 Noise Management and Land Use Planning for Helicopter Landing Areas (**NZS 6807**); and

- b. Rule 36.5.13 permits fixed wing aircraft up to 55 dB L_{dn}. The sound is measured and assessed in terms of NZS 6805:1992 Airport Noise Management and Land Use Planning **(NZS 6805)**.
- 16.4. The rules of the PDP Noise Chapter are not within the scope of this evidence or hearing. The Noise Chapter will be considered as part of the hearing on District Wide matters.
- 16.5. Chapter 2 of the PDP defines 'Informal airports' as the use of land or water for the landing, departure, movement or servicing of aircraft and excludes any designated aerodrome, namely Glenorchy airstrip, Queenstown and Wanaka airports.
- 16.6. The ODP³³ provisions for informal airports capture almost every aircraft arrival and departure undertaken within the District. In many circumstances this is inefficient and, where the landing is undertaken on land that is administered by the Department of Conservation or Commissioner of Crown Lands, contributes to a 'doubling up' of statutory approval processes between the Council, Department of Conservation and Commissioner of Crown Lands.
- 16.7. Requiring a resource consent from the Council for flights undertaken in remote areas, in addition to the approvals described above adds a secondary layer of cost and on-going compliance to the aircraft operators and has generated a large number of resource consents, as discussed in the s32 and monitoring report.
- 16.8. The use of land or water for informal airports can also cause a nuisance effect to people. This issue is often exacerbated in rural living areas and rural areas adjacent to urban locations.

Permitted Activity Standards

- 16.9. Standards have been proposed to enable informal airports within the Rural Zone provided they are set back a sufficient distance from adjacent sites and roads and used for only a small number of flights a week. This is a more permissive regime than that in the ODP, which requires resource consent for the use of land for all take-offs and landings, subject to exemptions for emergency landings, rescues, fire-fighting, and activities ancillary to farming.
- 16.10. The permitted standards as notified in the PDP require a 500m setback from the notional boundary of a residential unit or building platform and any road, and a limit of three flights a week. In addition, the PDP standards permit informal airports on public conservation or crown pastoral land with unrestricted flights provided the operator is operating in accordance with a concession or recreation permit to undertake the activity, and the activity is setback 500m from dwellings, building platforms or roads.

³³ Part 5.3.3.3.v Rural General. ODP.

- 16.11. There was general support for permitting informal airports,³⁴ with commercial operators recognising the ability to undertake flights as a permitted activity, compared to the ODP which requires a resource consent for any take-off or landing. There was also opposition to the setback requirements as it was submitted these were too stringent and that the number of permitted flights was too low.³⁵ Where changes are requested to the rules to better enable informal airports, the majority of submissions³⁶ seek that the setback distances from roads and neighbouring properties are reduced or removed, and the restriction of three flights a week is relaxed or removed.
- 16.12. Some commercial operators appear to seek a complete liberalisation with unlimited flights providing compliance with the noise rules in Chapter 36 (Noise).³⁷
- 16.13. On the other hand, a number of submitters opposed the introduction of any permitted standards for informal airports and seek that any aircraft landing requires a resource consent,³⁸ preferring the ODP regime.
- 16.14. The 500m setback from the notional boundaries of residential units or building platforms was selected as it was the distance at which compliance with the 50 dB L_{dn} would occur for helicopters. This is irrespective of wind direction, type of aircraft used or topography, and the adverse effects from noise, dust, exhaust fumes, health and safety and amenity can adequately be avoided with certainty.
- 16.15. Many of the submitters identified above have also requested that the setback from the notional boundary of residential units or building platforms be reduced from 500m to 100m or 200m. This is because the setback distance of 500m restricts the use of smaller allotments in the Wakatipu Basin and Wanaka surrounds for informal airports.
- 16.16. Prior to notification, QLDC sought advice from Acoustic Engineer Dr Stephen Chiles (report dated 15 September 2012). That report is Appendix 1 to Dr Chile's evidence filed alongside this Officer's Report. Dr Chiles advice was that NZS 6807 and the 50dB L_{dn} criterion provide appropriate control over helicopter noise, but he noted that relying on the noise standard alone would require an acoustic expert to assess operations to ensure they comply with the relevant noise standard. I note that this would not also address effects in relation to amenity, character or dust.

³⁴ #382 (Helicopters Queenstown Ltd), 571 (Totally Tourism Ltd).

³⁵ Submitters including 723 (Wakatipu Aero Club), 730 (Adrian Snow), 732 (Revell William Buckham), 736 (Southern Lakes Learn to Fly), 760 (Southern Lakes Aviation Ltd).

³⁶ Submitters including 405 (Trilane Industries Ltd), 211 (Aircraft Owners and Pilots Assn NZ Inc), 723 (Wakatipu Aero Club), 730 (Adrian Snow), 732 (Revell William Buckham), 736 (Southern Lakes Learn to Fly), 760, (Southern Lakes Aviation Ltd). #122 (Skydive Queenstown Ltd).

³⁷ Submitters including 238 (NZIA), 457 (Robert Cranford), 310 (Jon Waterston), 213 (Clive Manners-Wood), 209 (Michael Green), 500 (David Broomfield), 109 (Steve Couper), 143 (Richard Bowman).

16.17. For these reasons the relief sought by Submitter 122 (Skyline Queenstown Ltd) is not efficient or effective in terms of relying on the noise limit alone. Another matter apparently overlooked by this submitter and others that seek unlimited flights, subject to compliance with the 50dB L_{dn} is that the noise limits subject to a site are not exclusive to noise from one particular activity, such as informal airports.

Setbacks

16.18. In his pre-notification report, Dr Chiles used a noise contour diagram designed for a flat site in no wind to show noise contours of a landing helicopter (see Appendix 2 to Dr Chile's evidence):

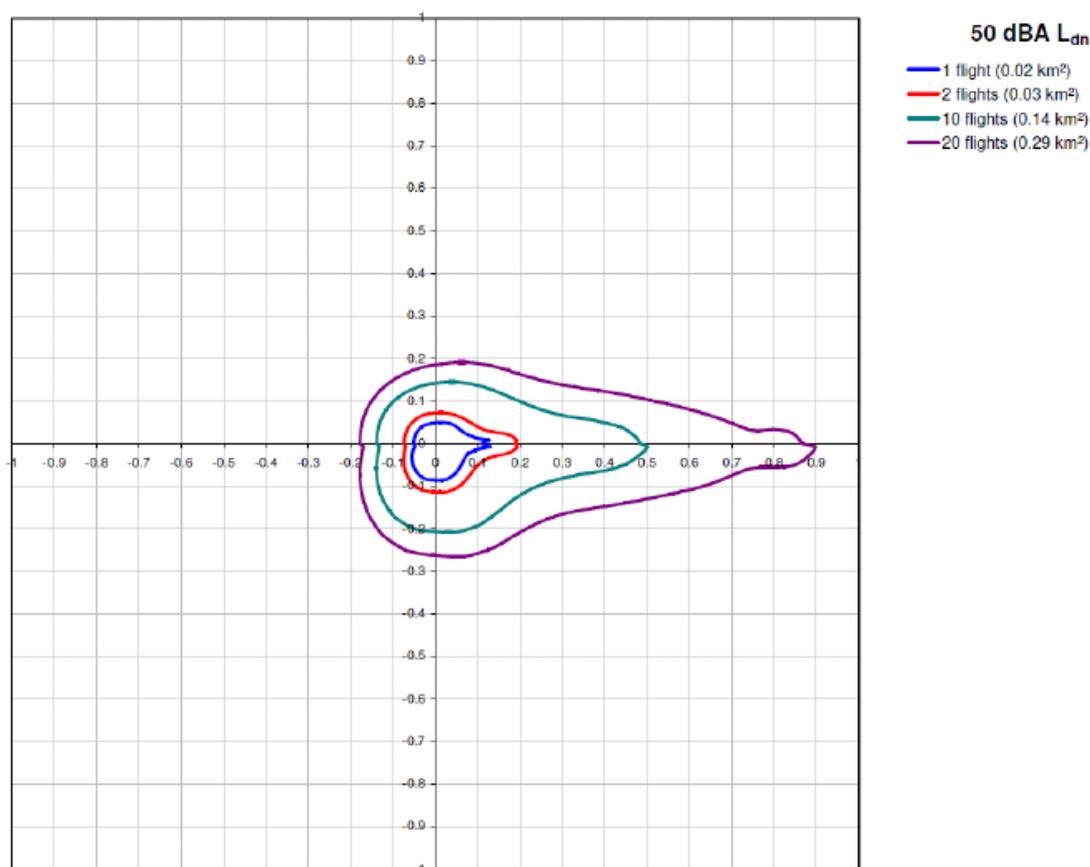


Illustration of a hypothetical airport on flat ground with an AS350 helicopter, illustrating the 50 dB L_{dn} contour for different flight numbers. Excerpt of Dr Child's advice in the s32 report.

16.19. The illustration shows that on a flat site with no wind, and an average size helicopter, at a frequency of 10 flights a day, the 50 dB L_{dn} noise contour reaches the 500m mark. Two flights a day extends the noise contour out to the 200m mark.

16.20. In his report, Dr Chiles states "*The proposed 500m setback would generally result in a noise level at neighbouring land within the NZS 6807 criterion of 50dB L_{dn} , which we consider*

acceptable...This is a relatively conservative approach that has the advantage of being straightforward to monitor and avoids the need for an acoustics specialist" (page 4-5).

- 16.21. If three landings were proposed to be permitted within one day, there would be potential for the noise contour to extend towards the 500m mark if circumstances in the model vary. Such circumstances include the type of aircraft, topography, wind speed and direction, and flying habits of the pilot. It is considered that due to these matters that cannot be applied to a generic model, this scenario would be too close to exceeding the 50 dB L_{dn} without more specific scrutiny of the specific activity.
- 16.22. Therefore, it is considered that the 500m setback distance is appropriate as it provides certainty to submitters. Specifically that any informal helicopter operation undertaken as a permitted activity would comply with the 50 dB L_{dn} with a 500m setback from the notional boundary of a residential unit or building platform. For these reasons, the 500m setback control from the notional boundary of a residential unit or building platform is recommended to be retained. Dr Chiles has prepared evidence for this hearing, and he continues to support this approach.
- 16.23. It is acknowledged that the proposed distance is more conservative than what is required to comply with a single flight and the relevant noise standards. However, the 500m setback requirement will provide a level of confidence that compliance with the 50dB L_{dn} criterion would be achieved.
- 16.24. The 500m setback also provides operators with the assurance that compliance is achieved without the onus of requiring an assessment from an acoustic expert in order to ascertain whether an operation is within permitted noise limits, and the costs that come with providing such an assessment.
- 16.25. I would consider it an onerous and inefficient planning regime if the 500m setback was reduced, but all informal airports required a certificate of compliance or some other confirmation of permitted activity status that required advice from a noise specialist.
- 16.26. Several submitters³⁹ consider that they would like the existing rule in the ODP retained, or a more restrictive activity status imposed. However, it is noted that a 500m setback would likely restrict informal airports in the locations over which the submitters expressed concern, such as rural lifestyle properties, reserves and urban areas near the Rural Zone. To ensure informal airports are setback a sufficient distance from other zones that are likely to contain activities sensitive to informal airports, a minimum setback of 500m from the boundary with any other zone has been recommended to be appended to the standard 21.5.26.

³⁹ Submitters 238 (NZIA), 457 (Robert Cranford), 310 (Jon Waterston), 213 (Clive Manners-Wood), 209 (Michael Green), 500 (David Broomfield), 109 (Steve Couper) and 143 (Richard Bowman).

- 16.27. Submitter 296 (Royal New Zealand Aero Club inc./Flying NZ) has requested that the proposed setbacks only apply to commercial operators. However, it is considered that the adverse effects from the landing and take-off of aircraft are the same regardless of whether the operation is private or commercial. Therefore this submission is rejected. The matter at issue is the intensity of the use of informal airports, the nature of the activity and the location.
- 16.28. Submitters 137 (Glenorchy Air) and 224 (Queenstown Milford User Group) have submitted that the setback requirement from a building platform be removed. I consider this submission should be rejected as a residential building platform in the rural zone has a development right to construct a residential unit in that location on the site. It will contain a residential unit upon which effects can occur. I consider it is important to acknowledge this situation, and it is recommended that the setback from building platforms be retained.
- 16.29. In relation to the proposed 500m setback from any formed legal road, several submitters⁴⁰ have suggested that this requirement is not necessary and requested it be removed.
- 16.30. The 500m setback from roads was proposed to retain rural amenity as experienced from roads, as well as avoid adverse effects in relation to driver distraction. However, it is noted that designated aerodromes such as Queenstown and Wanaka airports are close to, if not adjacent to, roads and State highways and driver distraction is not known to be a fundamental issue from these busy airports. Informal airports operating within the ambit of a permitted activity will have a significantly lower intensity and it is considered that effects on drivers on terms of distraction and safety are unlikely. In this regard effects on amenity from persons using the formed road would also be infrequent and for a short duration.
- 16.31. I therefore recommend that the 500m setback requirement from roads be removed from Rules 21.5.25 and 21.5.26.

Frequency of flights

- 16.32. Another issue raised by submitters⁴¹ is the frequency of flights permitted. A flight is considered to include one landing and one take off. The notified standard restricts flights to 3 a week to manage effects on character and amenity.
- 16.33. The noise contours in the illustration above show that there is certainty that two flights a day at any one informal airport will comply with the relevant noise standards, providing the 500m setback is retained from the notional boundary of a residential unit or building platform. Having considered the submissions and revisited the advice from Dr Chiles, I recommend that two flights a day is an appropriate number of flights, in conjunction with a 500m setback from the

⁴⁰ 778 (Over the Top), 738 (Hank Sproull)

⁴¹ 738 (Hank Sproull) and 739 (Aaron Pearse)

boundary of a residential unit, building platform or zone boundary. I recommend the change to two flights a day. This limit, in combination with the 500m setback is considered sufficient to ensure noise levels of any permitted landing and take-off activity will be below the 50dB Ldn criterion (for helicopters).

Standards for Department of Conservation operational activities

16.34. Submitter 373 (DoC) has requested that Department of Conservation operational activities be considered an exemption to the proposed standards. However I consider that where DoC is operating an informal airport within 500m of the boundary this rule should apply. I do not consider this is onerous and would curtail their activities given the large area under the administration of DoC. This submission is accepted and I recommend that flights associated with the Department of Conservation operational activities are included within the exemptions. I consider that the 500m set back should apply to maintain amenity on residencies and rural amenity located nearby to DoC land.

Other

16.35. Submitter 613 (Treble Cone Investments) has also requested that activities associated with ski area activities be exempted in order to allow the landing and take-off of aircraft for medical purposes as well as amenity use. I consider that the current exemption for emergencies would allow the use of helicopters to move patients off the ski field. In addition any other activity will likely comply with the new proposed permitted standards. It is noted that should ski areas wish to use informal airports more, resource consent can be sought for more frequent use. Given these reasons, I recommend that this submission is rejected.

16.36. Submitter 217 (Jay Berriman) has requested clarification with regard to whether the use of site for landing or launching hot air balloons would be considered an informal airport. The PDP definition of Aircraft is: any machine that can derive support in the atmosphere from the reactions of the air otherwise than by reactions of the air against the surface of the earth. I consider that this definition includes hot air balloons. I consider that a hot air balloon falls within the definition of an aircraft and, therefore, a site on which a balloon lands or from which a balloon launches would be considered an informal airport.

16.37. Several submitters with an affiliation to recreational flying⁴² oppose the rules and raised issues with regard to existing use rights and request that existing airstrips be recognised and protected by the PDP. I reiterate that the proposed rules are more permissive than the existing rules in the ODP, that require any use of land as an airport to obtain a discretionary activity resource consent, and that Section 10 of the RMA provides protection for existing airports. The burden of

⁴² Submitters including 285 (Debbie MacColl), 288 (Barn Hill Ltd), 186 (Shaun Gilbertson), 296 (Royal New Zealand Aero Club inc./Flying NZ), 436 (Paul Cooper), 385 (Frank Wright), 162 (Carlton Campbell).

proving existing use rights is on the proponent and not on the Council. If these submitters wish to have existing use right recognised in my view the most appropriate one for this to occur is that they apply for an existing use rights certificate. It is my preference that the PDP does not have any text recognising any existing uses, especially in this instance as the PDP is less restrictive than the ODP.

16.38. Furthermore I wish to reiterate that the proposed rules do not prohibit the use of land for informal airports if they do not comply with the standards. Rather, the operator would be required to apply for resource consent and the effects of the proposal would be subsequently assessed.

16.39. An assessment of the recommended changes pursuant to Section 32AA of the RMA is provided in **Appendix 4**. A summary of the recommended changes are:

Recommended Changes to Rules 21.5.25 and 21.5.26	
<ul style="list-style-type: none"> • Delete the requirement for a 500m setback from legal formed roads; • Amend the frequency of flights from a maximum of three per week, increasing to 2 per day and a maximum of 14 per week; • Amend the standards so that a 500m setback is required from the boundary with any other zone; and • Amend the standard so there is no setback requirement from roads. 	

Proposed changes to the rules (no changes to objective or policies)

	Table 6 - Standards for Informal Airports	Non-Compliance
21.5.25	<p>Informal Airports Located on Public Conservation and Crown Pastoral Land</p> <p>Informal airports that comply with the following standards shall be permitted activities:</p> <p><i>21.5.25.1 Informal airports located on Public Conservation Land where the operator of the aircraft is operating in accordance with a Concession issued pursuant to Section 17 of the Conservation Act 1987;</i></p> <p><i>21.5.25.2 Informal airports located on Crown Pastoral Land where the operator of the aircraft is operating in accordance with a Recreation Permit issued pursuant to Section 66A of the Land Act 1948;</i></p>	D

	Table 6 - Standards for Informal Airports	Non-Compliance
	<p>21.5.25.3 <i>Informal airports for emergency landings, rescues, fire-fighting and activities ancillary to farming activities, or the Department of Conservation or its agents;</i></p> <p>21.5.25.4 <i>In relation to points (21.5.25.1) and (21.5.25.2), the informal airport shall be located a minimum distance of 500 metres from any <u>other zone</u>, formed legal road or the notional boundary of any residential unit or approved building platform not located on the same site.</i></p>	
25.5.26	<p>Informal Airports Located on other Rural Zoned Land</p> <p>Informal Airports that comply with the following standards shall be permitted activities:</p> <p>21.5.26.1 <i>Informal airports on any site that do not exceed a frequency of use of 3 2 flights* per <u>day</u> week;</i></p> <p>21.5.26.2 <i>Informal airports for emergency landings, rescues, fire-fighting and activities ancillary to farming activities;</i></p> <p>21.5.26.3 <i>In relation to point (21.5.26.1), the informal airport shall be located a minimum distance of 500 metres from any <u>other zone</u>, formed legal road or the notional boundary of any residential unit or building platform not located on the same site.</i></p> <p>* note for the purposes of this Rule a flight includes two aircraft movements i.e. an arrival and departure.</p>	D

17. ISSUE 10 – SURFACE OF WATER, RIVERS AND LAKES

- 17.1. The policy framework for activities on the surface of water is located under Objective 21.2.12, and the activities and standards are listed in Table 9.
- 17.2. Submitters 607 (Te Anau Developments Limited (**TADL**)) and 621 (Real Journeys Limited (**RJL**)) request that the provisions relating to activities on the surface of water are removed from the Rural Zone and placed in a specific chapter that focuses on development and activities carried out on the surface of water and the margins of waterways. Other relief requested from TADL seeks to advance the interests of tourism activities.

- 17.3. The submission of TADL is not clear whether the reason to locate these activities within a new (presumably District-wide) chapter is to better protect the resource or to advance commercial activities. It is my preference that the objectives, policies and rules for activities on the surface of water remain located within the Rural Zone Chapter. This would ensure that the nature conservation values of this resource are appropriately managed, including the ability to apply other provisions of the Rural Zone chapter against these activities, including the identification and application of the landscape classification and policy. In rejecting this submission point, I have come to the view that creating a new zone and new chapter in the PDP would result in unnecessary duplication.
- 17.4. Furthermore, the PDP structure has been carefully arranged to ensure that activities are grouped as much as possible. Therefore the principal provisions in the PDP are Objective 21.2.12 and policies, Rule 21.2.24 in Table 1 that establishes that non-specified activities are permitted, and Table 9 for specified activities and standards. While other activities and standards apply depending on the type of activity proposed, the PDP structure is significantly easier than the ODP, which by comparison, arranged activities and standards by the type of resource consent required.
- 17.5. Submitter RJL also seeks that the following two policies are added that advance tourism based activities:

New Policy - water chapter	Insert new policy to ensure that, within the Frankton Arm, decision-makers on resource consent applications should prioritise the safety and operational functions of structure over landscape and amenity values. Suggested wording is as follows: <u>Prioritise the safety and function of jetties and structures over effects on landscape and amenity values when determining resource consent applications for jetties and structures located in the Frankton Arm.</u>
New Policy – water chapter	Insert new policy to protect established key tourism activities: <u>Protect key tourism and transport activities by ensuring the following principles are applied when considering proposals that will occupy water space:</u> i. <u>activities that promote the districts heritage and contribute public benefit should be encouraged;</u> ii. <u>activities that result in adverse effects on established activities should be discouraged;</u> iii. <u>long term occupation of water space should be avoided unless it has been strategically planned and is integrated with adjoining land and water use;</u> iv. <u>occupation of water space shall not interfere with key navigational routes and manoeuvring areas;</u> v. <u>adverse effects on the continued operation, safety and navigation of the "TSS Earnslaw";</u> vi. <u>activities that adversely effect the operation, safety, navigation, and ability to maintain or upgrade the "TSS Earnslaw" and her supporting slipway facilities, are to be avoided.</u>

- 17.6. The first policy is considered completely inappropriate because while it is accepted that safety is paramount, it does not mean that a poor or unsympathetically designed jetty should trump landscape and amenity values. I consider that the submission is rejected.
- 17.7. The second policy is also considered inappropriate because while some of the principles could be well founded (such as i, ii, iii, iv), these can be assessed at the time of a specific proposal. Requested principles v and vi are not justified. I am not aware of any actual activities that threaten viability from an effects or safety perspective that can be contemplated under the RMA. Without any further compelling evidence I recommend this submission is rejected.

17.8. Objective 21.2.12 is:

Protect, maintain or enhance the surface of lakes and rivers and their margins.

17.9. A number of submitters⁴³ support the objective as notified while several seek that the objective is expanded to provide for a range of specified activities such as recreational⁴⁴, commercial recreation⁴⁵ or transport opportunities⁴⁶. It is my preference to not itemise, which would result in the enabling of, or providing for activities that could, overall conflict with protecting or maintaining the surface of lakes and rivers, and their margins. The suite of policies that are drafted to implement the objective are more specific.

17.10. Forest and Bird recommend that the word protect is replaced with 'preserve'. The Oxford Dictionary meaning of preserve to 'maintain in its original or existing state'. In respect of surface of lakes and rivers the objective and policies must contemplate change and land use activities, that is the reason for managing this particular resource. I consider that this word is not appropriate and the submission is rejected. On the other hand, I consider that an objective that uses the word 'protect' contemplates change or activities of some type although a prerequisite is that they are done in such a way that the resource is protected from degradation.

17.11. I recommend that these submissions are rejected and the objective is retained as notified.

17.12. The policies provided to implement objective 21.2.12 are listed below. A discussion of the submissions is provided for the more contested issues raised, while a more succinct summary is provide in **Appendix 2**.

⁴³ 758 (Jet Boating New Zealand Ltd), 356 (X-Ray Trust), 600 (Federated Farmers).

⁴⁴ Submitter 758 (Jet Boating New Zealand Ltd).

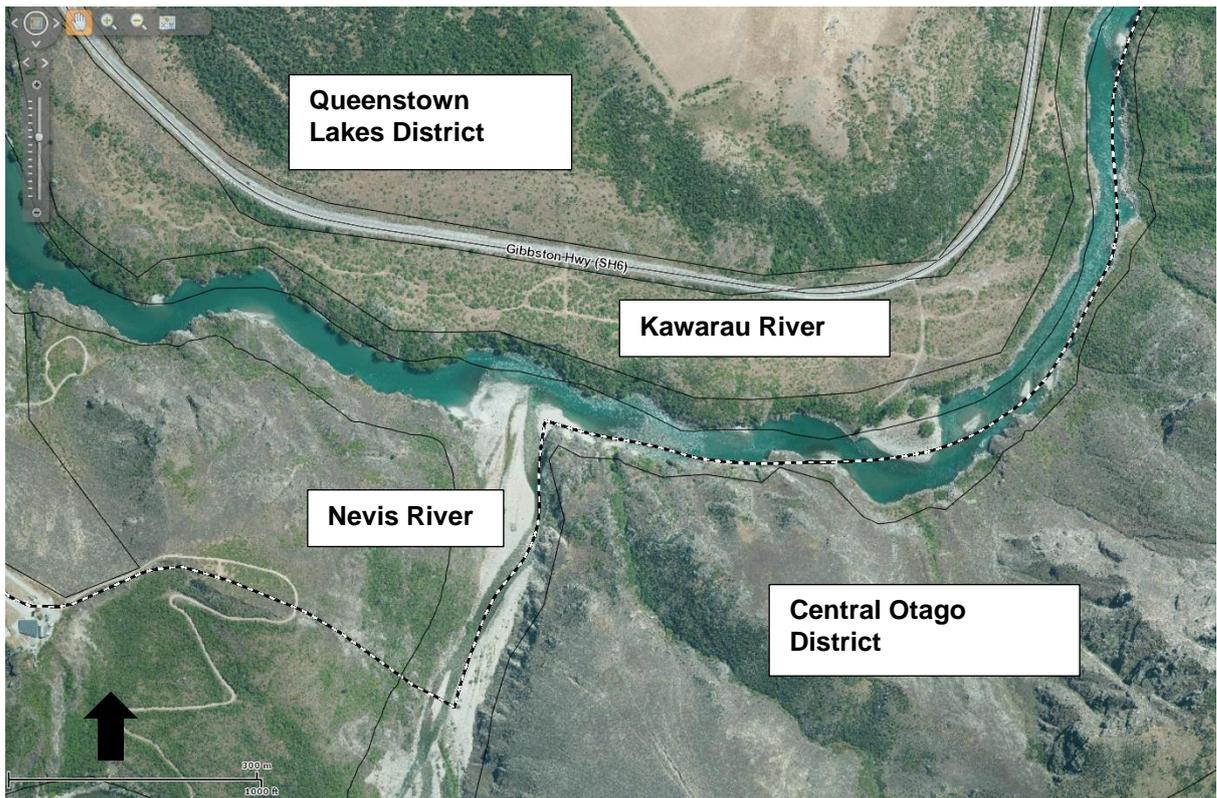
⁴⁵ Submitter 307 (Kawarau Jet Services Holdings Ltd).

⁴⁶ Submitter 756 (Queenstown Wharves GP Ltd).

- 21.2.12.1 *Have regard to statutory obligations, the spiritual beliefs, cultural traditions and practices of Tangata Whenua where activities are undertaken on the surface of lakes and rivers and their margins.*
- 21.2.12.2 *Enable people to have access to a wide range of recreational experiences on the lakes and rivers, based on the identified characteristics and environmental limits of the various parts of each lake and river.*
- 21.2.12.3 *Avoid or mitigate the adverse effects of frequent, large-scale or intrusive commercial activities such as those with high levels of noise, vibration, speed and wash, in particular motorised craft in areas of high passive recreational use, significant nature conservation values and wildlife habitat.*
- 21.2.12.4 *Recognise the whitewater values of the District's rivers and, in particular, the values of the Kawarau and Shotover Rivers as two of the few remaining major unmodified whitewater rivers in New Zealand, and to support measures to protect this characteristic of rivers.*
- 21.2.12.5 *Protect, maintain or enhance the natural character and nature conservation values of lakes, rivers and their margins, with particular regard to places with nesting and spawning areas, the intrinsic value of ecosystem services and areas of indigenous fauna habitat and recreational values.*
- 21.2.12.6 *Recognise and provide for the maintenance and enhancement of public access to and enjoyment of the margins of the lakes and rivers.*
- 21.2.12.7 *Ensure that the location, design and use of structures and facilities are such that any adverse effects on visual qualities, safety and conflicts with recreational and other activities on the lakes and rivers are avoided or mitigated.*
- 21.2.12.8 *Encourage the development and use of marinas in a way that avoids or, where necessary, remedies and mitigates adverse effects on the environment.*
- 21.2.12.9 *Take into account the potential adverse effects on nature conservation values from the boat wake of commercial boating activities, having specific regard to the intensity and nature of commercial jet boat activities and the potential for turbidity and erosion.*
- 21.2.12.10 *Ensure that the nature, scale and number of commercial boating operators and/or commercial boats on waterbodies do not exceed levels where the safety of passengers and other users of the water body cannot be assured.*

- 17.13. Submitter RJL seeks that Policy 21.2.12.3 is amended to provide for a range of commercial activities including *'large scale and potentially intrusive commercial activities along the Kawarau River on the Frankton Arm'*. I do not consider that this is appropriate. Activities that are 'potentially intrusive', but could have some wider benefit in terms of public transport or commercial recreation and tourism can be considered on their merits at the time a specific proposal is sought.
- 17.14. There would be a risk to the environment associated with introducing policy that accepts large scale and potentially intrusive commercial activities'. I do not consider this policy to meet section 5 of the RMA.
- 17.15. I also consider the same applies for the relief sought by Submitter 766 (Queenstown Wharves GP Ltd), who seek similar changes to several of the policies that would enable commercial transport activities in the Kawarau Arm. I consider that the policies as notified are appropriately balanced and prefer that they are retained as notified in that they can be applied across the whole of the District. For example, if the part of the Kawarau River between the Kawarau Falls Bridge and Chard Farm is an important resource for a transportation link as opined by Submitter 766, then this can be investigated and considered at the time of a specific development proposal.
- 17.16. Policy 21.2.12.4 recognises the Water Conservation Order in place on the Kawarau River and the scenic and recreational values of the Shotover River. Forest and Bird seek that the Nevis River is included, recognising an amendment made to the Kawarau Water Conservation Order 1997⁴⁷, in 2013. Schedule 2 of the amended Order includes the Nevis River main stem gorge from the Nevis Crossing Kawarau River Confluence. Based on the information provided by QLDC's webmap viewer, a small part of the Nevis River, at the confluence of the Kawarau is located within the Queenstown Lakes District, the remaining area is located within the Central Otago District. On this basis I accept the submission of the Forest and Bird and recommend the Nevis River is included in this policy. The matter is related to clarity and recognises protection established through legislation. The image below is a screenshot of the Council's webmap viewer illustrating the parts of the confluence of the Nevis and Kawarau within the District.

⁴⁷ <http://www.nzlii.org/cgi-bin/download.cgi/cgi-bin/download.cgi/download/nz/cases/NZEnvC/2013/131.pdf>. Downloaded 27 February 2016.



QLDC webmap image of the confluence of the Nevis and Kawarau Rivers. The black and white dotted line is the territorial boundary of Queenstown Lakes and Central Otago Districts.

17.17. Policy 21.2.12.8 is:

Encourage the development and use of marinas in a way that avoids or, where necessary, remedies and mitigates adverse effects on the environment.

17.18. Submitter 194 (John Ecroyd) seeks to specify that jetties and other structures are included in Policy 21.2.12.8. I consider that the word 'marina' encapsulates jetties and other structures. The Oxford English Dictionary⁴⁸ meaning of marina is 'A specially designed harbour with moorings for pleasure yachts and small boats.' Notwithstanding this I consider that it would provide clarity to add jetties and moorings. This matter is related to clarity.

17.19. Submitter RJL seeks that Policy 21.2.12.8 is amended to 'provide' for marinas, instead of 'encourage'. I prefer the use of encourage as the Strategic Direction and overall intent of the PDP is not to provide for these types of structures, but when they are contemplated to encourage the appropriate location, design and scale. Submitter RJL seeks that the words, 'where necessary' are deleted. I accept this part of their submission because 'where necessary' does not offer any added value in so far that when a particular activity or development is proposed the nature and scale and design will dictate whether aspects are necessary or not.

17.20. Notified Policy 21.2.12.9 is:

⁴⁸ <http://www.oxforddictionaries.com/definition/english/marina>. Downloaded 27 February 2016.

Take into account the potential adverse effects on nature conservation values from the boat wake of commercial boating activities, having specific regard to the intensity and nature of commercial jet boat activities and the potential for turbidity and erosion.

- 17.21. Submitter RJL seeks that the policy is amended only so that it relates to jet boating. Although specifically identified in the policy, it is not only jet boating that has potential to create these impacts, any activity with a propeller could have impacts such as turbidity and many vessels could create wash that has potential for erosion. I recommend that the submission is rejected, and that the policy is retained as notified.
- 17.22. Submitter RJL also seek amendments to Policy 21.2.12.10 that appear to protect the interests of established commercial operators. The relief sought is:

Amend policy as follows:

Protect historical and well established commercial boating operations from incompatible activities and manage new commercial operations to ensure that the nature, scale and number of new commercial boating operators and/or commercial boats on waterbodies do not exceed levels where the safety of passengers and other users of the water body cannot be assured.

- 17.23. I consider that the amendments are not necessary or appropriate because the policy as notified inherently requires the consideration of the potential impacts on new activities on established activities. Established activities would have a resource consent and therefore whether or not they are 'well established' is irrelevant. In addition, I consider that introduction of the word 'incompatible' is not appropriate in this context, as the qualifiers in the policy that refer to nature, scale and number will help determine whether an activity is incompatible. I recommend the policy is retained as notified.
- 17.24. Submissions on the rules associated with activities on the surface of water have raised the following issues:
- Appropriateness of Restricted discretionary activity status for non-motorised boating activities.
 - Providing for public transport opportunities, particularly within the Frankton Arm and Kawarau River.
 - Prohibiting the ability to operate motorised boats on certain waterbodies.

Restricted discretionary activity status for non-motorised boating activities

- 17.25. Rule 21.5.39 is a new rule that specifies that non-motorised commercial boating activities are a restricted discretionary activity with discretion restricted to:
- Scale and intensity of the activity.

- b. Amenity effects, including loss of privacy, remoteness or isolation.
- c. Congestion and safety, including effects on other commercial operators and recreational users.
- d. Waste disposal.
- e. Cumulative effects.
- f. Parking, access safety and transportation effects.

17.26. The specified matters of discretion provide proponents with certainty of the issues (ie potential adverse effects) that would be required to be addressed in a resource consent application.

17.27. Submitter 45 (Maree Holor) supports the distinction between motorised and non-motorised commercial boating, while Submitter 167 (Queenstown Rafting Ltd) requests that the rule is deleted and that all commercial boating be a discretionary activity. Queenstown Rafting Ltd's reason for this is associated with safety concerns and that the 'present level of scrutiny is applied'. The submission also cites a number of deaths and injuries caused by boating accidents prior to 1995. While I acknowledge these concerns, I wish to draw attention to the assessment matter that specifies regard to *congestion and safety, including other commercial and recreational users*. It is my opinion therefore that the restricted discretionary status is appropriate. I am not aware of any provisions in the PDP or the RMA that indicate that restricted discretionary status allow lower levels of scrutiny to be applied. It is my preference that the activity is retained as a restricted discretionary activity.

17.28. RJL seek that 'location' is added as an assessment matter, I accept that this would provide more scope to assess the merits of a proposal.

Providing for public transport opportunities, particularly within the Frankton Arm and Kawarau River

17.29. Submitters 621 (RJL) and 766 (Queenstown Wharves) seek to advance the opportunities for commercial public transport in the Kawarau River and the Frankton Arm. The corporate submission of the Queenstown Lakes District Council (383 (QLDC)) also seeks that recognition is made for public transport opportunities. QLDC submit that a distinction be introduced into Rule 21.5.47.1 for public transport opportunities in the area of the Frankton Arm. The rule currently results in non-complying activity status for the operation of commercial motorised craft outside the hours of 0800 – 2000, on the Kawarau, Lower Shotover River Downstream of Tucker Beach and the Frankton Arm.

17.30. RJL requests that structures associated with water based public transport are a controlled activity rather than non-complying, that a controlled activity status rule is introduced for commercial

motorised boating activities carried out for the purposes of water based public transport, and that jetties and moorings in the Frankton Arm for existing public transport are a controlled activity.

- 17.31. I understand from the submissions of RJL and QLDC that the submissions focus on the advancement of commuter/shuttle transport across and along Frankton Arm. It appears the submission of Queenstown Wharves and QPL is along the same theme, but more specific to the part of the Kawarau River adjacent to the Remarkables Park Zone.
- 17.32. I consider that any changes to the rule framework to advance, or at least better recognise the benefits of this type of transport would need to be carefully worded. By way of example and to demonstrate this need for care, commercial jet boating and commercial recreation activities could also be defined as a type of commercial motorised public transport, as just like a commuter ferry, the general public pay a fare to be taken somewhere. It would be in appropriate for the rule to apply so widely, and I continue to support fully discretionary activity status for those commercial jet boating and commercial recreation activities.
- 17.33. That matter aside, I acknowledge that opportunities for public 'ferry' systems could make a positive contribution to transport in Queenstown. I have identified the following rules that have potential to hinder a public transport ferry activity:
- a. Rule 21.5.40 – This rule makes jetties and moorings in the Frankton Arm a restricted discretionary activity, noting that under the ODP they are a discretionary activity.
 - b. Rule 21.5.41 – This rule makes structures and moorings not in the Frankton Arm a discretionary activity.
 - c. Rule 21.5.43 – The rule makes structures within a location identified on the PDP Planning Maps 32, 33, 34 a non-complying activity.
 - d. Rule 21.5.43 – Makes commercial boating activities a discretionary activity.
 - e. Rule 21.5.47.1 – The rule would require commercial boating to between the hours of 0800 – 2000 to maintain a discretionary activity status. Activities operating outside these hours would be a non-complying activity.
- 17.34. Except for Rule 21.5.40, all these rules are carried over from the ODP in essentially the same form and activity status.
- 17.35. I agree with the submitters that an opportunity for a public ferry system across and/or along the Frankton Arm would benefit Queenstown's transportation options and would also advance the Strategic Directions chapter. The question is to what degree do the notified rules actually hinder these types of development opportunities or rather, help ensure that development proposals would be appropriate? The only rule I consider a hindrance generally is the non-complying status

associated with Rule 21.5.47.1. This could be perceived as a disincentive for public ferry operations.

17.36. I do not agree with the controlled activity status for structures and jetties and commercial boating for water based transport sought by RJL. In addition, I do not think a controlled activity status with a matter of control as broad as 'location' to be appropriate at all. It is recognised in the s32 that the Frankton Arm has more of an urban character and therefore, is not subject to the landscape classification and assessment matters in Part 21.7⁴⁹. However, the waterbody and its margins have amenity values and are a valued active and passive recreational resource. Therefore, I consider that the restricted discretionary activity status is appropriate, as is a discretionary, or non-complying activity status for other areas as identified in the provisions.

17.37. I consider that, like other forms of commercial boating (such as commercial recreation jet boating), public ferry transport would be best retained as a discretionary activity. There would be a broad range of matters that need to be assessed both on-shore and on the water, all with a potentially wide variance depending on the location, scale and intensity.

17.38. Overall it is my preference that controlled activity status rules for public transport jetty and moorings, as well as for commercial boating are rejected.

17.39. I do however consider that Rule 21.5.47.1 that makes commercial boating a non-complying activity if undertaken outside the hours of 0800-2000, could be an issue because public transport is expected to operate at a time that is convenient to people commuting. However, I do not recommend removing the rule altogether because it could be used as an indicator for commercial boating in remote or tranquil locations or particularly noisy activities such as jet boating.

17.40. Therefore, I recommend the rule is amended so that public transport is exempt from this rule. I consider that using the word 'Ferry' in the exemption appropriately distinguishes public transport from other types of commercial boating such as cruises or adventure tourism activities.

17.41. The Oxford English Dictionary of 'ferry' is:

*A boat or ship for conveying passengers and goods, especially over a relatively short distance and as a regular service*⁵⁰.

17.42. Further, 'convey'⁵¹ means to transport or carry to a place, which I consider is a distinct activity and identifies a function more so than the expectations of a commercial boating activity for commercial recreation joyrides. I recommend the rule is amended so that public transport is

⁴⁹ Part 6.4.1.3.b PDP Landscape Chapter. Revised Chapter 19/02/2016.

⁵⁰ <http://www.oxforddictionaries.com/definition/english/ferry>.

⁵¹ http://www.oxforddictionaries.com/definition/english/convey#convey__2.

exempt from this rule. I consider that using the word 'Ferry' in the exemption appropriately distinguishes public transport from other types of commercial boating such as cruises or adventure tourism activities. A s32AA evaluation is in **Appendix 4**.

Prohibiting the ability to operate motorised boats on certain waterbodies

17.43. This matter relates primarily to the submission of 758 (Jet Boating New Zealand Ltd (**JBNZL**)), whom seek that changes are made to Rule 21.5.38 related to jet boat races on the Clutha River and Rule 21.5.44 that sets out several prohibited activities for motorised craft on certain water bodies.

17.44. JBNZL oppose the controlled activity rule that enables up to 6 jet boat races in each year on the Clutha River, on the grounds that it duplicates QLDC bylaws and is not necessary.

17.45. Rule 21.5.38 is:

Jetboat Race Events

Jetboat Race Events on the Clutha River, between the Lake Outlet boat ramp and the Albert Town road bridge not exceeding 6 race days in any calendar year.

Control is reserved to all of the following:

- *The date, time, duration and scale of the jetboat race event, including its proximity to other such events, such as to avoid or mitigate adverse effects on residential and recreational activities in the vicinity.*
- *Adequate public notice is given of the holding of the event.*
- *Reasonable levels of public safety are maintained.*

17.46. The equivalent rule in the ODP (Rule 5.3.3.2.v Controlled Activities) is:

Jetboat Race Events

Jetboat Race Events on the Clutha River, between the Lake Outlet boat ramp and the Albert Town road bridge, in respect of the date, time and duration of the event, public notification of the holding of the event, and any measures to avoid adverse effects on residential and recreational activities in the vicinity of the river.

Note: *Any more than six jetboat race days per year are Prohibited Activities in terms of Rule 5.3.3.5.*

- 17.47. The PDP rule as drafted in 21.5.38 and 21.5.44.10 has the same development rights and matters of control as the equivalent ODP rule., The only change is that it has been rearranged so that the qualifier that makes more than 6 races a prohibited activity is located in the respective location for prohibited activities in the PDP. I consider it poor drafting to include a prohibited status rule as a note in a controlled activity rule.
- 17.48. No specific s32 assessment was undertaken for this rule because it is not fundamentally modified from the ODP. I consider that the rule should be retained as notified and the submissions of JBNZ is rejected. In the absence of any specific evidence do not accept JBNZL's reasons to be compelling enough to relax the rule and allow more than 6 jet boat races in each year to be permitted.
- 17.49. JBNZL also oppose Rule 21.5.44.1 that prohibits motorised craft on the Hawea River and does not provide an exemption for 6 days to undertake jet sprint events. JBNZL cite an Environment Court Decision⁵² that allows motorised craft on the jet sprint course identified on the planning maps for up to six days per year, subject to conditions.
- 17.50. Rule 21.5.44 prohibits the use of motorised craft as specified in Rules 21.5.44.1 to 21.5.44.10. The rules are fundamentally continued from the ODP, except an exemption in the ODP allowed the Hawea River to be used as a jet sprint course for 6 days in each year.
- 17.51. The ODP rule allowing the exemption for a jet spring course on the Hawea River is:

5.3.3.5.i The following shall be Prohibited Activities

...

*a. **Hawea River** - Motorised craft, except:*

a. on the one lawfully established jet-sprint course; as shown on the District Plan Maps

b. on six days in each year (including at least four (4) days in the months January to April, November and December) provided the following conditions are met:

(i) The Jet Boat Association of New Zealand ("JBANZ") (JBANZ or one of the Otago and Southland Branches as its delegate) administers the activity on each day;

(ii) The prior written approval of Central Otago Whitewater Inc is obtained if that organisation is satisfied that none of its member user groups are organising activities on the relevant days; and

⁵² *New Zealand jet Boating Association – Otago Branch, New Zealand Jet Boat Association – Southland Branch v Queenstown Lakes District Council, Env Christchurch C 109/2003 13 August 2003.*

- (iii) *JBANZ gives two (2) calendar months written notice to the Council's Harbour-Master of both the proposed dates and the proposed operating schedule;*
- (iv) *The Council's Harbour-Master satisfies himself that none of the regular kayaking, rafting or other whitewater (non-motorised) river user groups or institutions (not members of Central Otago Whitewater Inc) were intending to use the Hawea River on that day, and issues an approved operating schedule;*
- (v) *JBANZ carries out, as its expense, public notification on two occasions 14 and 7 days before the proposed jet boating;*
- (vi) *Public notification for the purposes of (v) means a public notice with double-size font heading in both the Otago Daily Times and the Southland Times, and written notices posted at the regular entry points to the Hawea River.*

17.52. I do not support the retention of a Jet Sprint Course on the Hawea River. While having regard to previous decisions on the ODP, its retention is not automatically guaranteed in the PDP, especially if the development right has never been exercised (and it is not 13 years since the Environment Court's decision was issued). I consider that the ability to operate a jet sprint course on the Hawea River should be rejected for the following reasons:

- a. There is not any 'one approved jet sprint course' on the ODP planning maps. I accept this is not the fault of the submitter, however it illustrates that the rule has not been exercised.
- b. The qualifiers in the exemption to the prohibited status are cumbersome and subject to third party approvals from a whitewater group and the Queenstown Harbour Master.
- c. There is a jet sprint course constructed and in operation near the Wanaka Airport⁵³ for these activities that negate the need to manage risks to safety, amenity and nature conservation values as required in the qualifiers in Rule 5.3.3.5(a) through undertaking the activity on the Hawea River.
- d. The jet sprint course near Wanaka Airport held a New Zealand Jet Sprint Championship event, however the resource consent was for a one-off event⁵⁴. While these activities require a resource consent the physical works associated with constructing a jet sprint course are already done.
- e. The jet sprint course on the Hawea River has not been used for a long time and is disused. The Council's Albert Town Reserve Management Plan 2010⁵⁵ noted this and states that the jet sprint course was not compatible with the quiet values of the reserve and adjacent

⁵³ <http://www.jetsprint.co.nz/tracks/oxbow-aquatrack-wanaka/> Downloaded 28 February 2016.

⁵⁴ RM130098 Oxbow Limited. To hold the fifth round of the New Zealand Jet Sprint Championship on the 30 March 2013 and undertake earthworks to construct the jet sprint course.

⁵⁵

http://www.qldc.govt.nz/assets/OldImages/Files/Reserve_Management_Plans/Albert_Town_Recreation_Reserve_Mgmt_Plan_2010.pdf

camping areas and, Central Otago Whitewater have expressed an interest in using the disused course for a pond to complement the kayak slalom site.

- 17.53. For the above reasons it is my preference that the rule is retained as notified, meaning that the use of the jet sprint course on the Hawea River for motorised craft would be prohibited.
- 17.54. JBNZL also seek that Rule 21.5.47.7 that prohibits motorised craft from the Hunter River during the months of May to October inclusive is removed because they state it would '*prohibit recreational opportunities in certain months which is a permitted activity under the Operative District Plan*'. I note that the notified rule is carried over from Rule 5.3.3.5i.(f) of the ODP. It is therefore, not permitted in the ODP and I do not accept JBNZL's assertion that this rule should be removed. In addition, JBNZL asserts that the primary reason for the prohibited status is attributed to low flows and that it can be addressed under the Navigational and Safety Bylaw. I consider that navigational and safety bylaws are primarily about safety and, the Environmental impacts of motorised craft such as fish spawning and bird roosting are better addressed through the PDP.
- 17.55. Submitter 716 (Ngai Tahu Tourism Ltd) seeks to amend Rule 21.5.44.3 so that motorised craft on the Beansburn River are a permitted activity. The submission does not contain any evaluation or rationale that safety effects can be addressed, or that natural conservation values or amenity values of other recreational users would not be impacted. Without further evidence I recommend the submission is rejected and the prohibited activity status remains.
- 17.56. Ngai Tahu Tourism Ltd also seek to amend Rule 21.5.47.4 to reduce the number of commercial jet boat operators on the Dart River, upstream of the confluence of the Beansburn River from two to one. There is no evaluation or justification support this and it is my preference that the rule is retained as notified. On this basis I recommend that the submissions of Ngai Tahu Tourism are rejected.
- 17.57. Overall I recommend the provisions relating to water surface of lakes and rivers are retained as notified, except for the amendments set out in the Revised Chapter attached as **Appendix 1**.

18. ISSUE 11 NON-NOTIFICATION OF RESOURCE CONSENT APPLICATIONS

- 18.1. Part 21.6 of the Rural Chapter sets out what activities shall be processed without notification. No activities have been identified as requiring notification. The following activities are identified as being processed on a non-notified basis:
- a. Controlled activity retail sales of farm and garden produce and handicrafts grown or produced on site (Rule 21.4.14), except where the access is onto a State highway.

- b. Controlled activity mineral exploration (Rule 21.4. 31).
 - c. Controlled activity buildings at Closeburn Station (Rule 21.5.48).
- 18.2. Submitters 600 (Fed Farmers) support Provision 21.6.1 where controlled activity retail selling is processed on a non-notified basis. Submitter 719 (NZTA) also support this rule with the caveat that this does not apply where the access is onto a State highway.
- 18.3. Submitter 307 (Kawarau Jet Services) also supports these provisions on the basis that no activities on the surface of water are identified for processing on a non-notified basis, particularly where safety between commercial operators is at issue.
- 18.4. Submitter 701 (Paul Kane) requests that buildings are non-notified because buildings can have limited impact upon the environment and the community. I am not certain whether this relates to farm buildings or any buildings. I consider that it is important that all buildings have the potential for processing on a notified or limited notified basis. Farm buildings that do not comply with the permitted standards and other buildings can have adverse effects on landscape, visual amenity and established uses from both adjoining property and broader public perspectives. I recommend that this submission is rejected, as are the submissions in support of this rule from QPL that seek non-notification of buildings.
- 18.5. Overall, I recommend Part 21.6 is retained as notified.

19. ISSUE 12 LANDSCAPE ASSESSMENT MATTERS

- 19.1. The landscape assessment matters are largely carried over from the ODP although contain changes to improve their effectiveness in terms of achieving sections 6 and 7 of the RMA and reflect the change in structure. A substantial change is the integration of the ONL District Wide and ONL Wakatipu Basin.
- 19.2. The PDP assessment matters 'flesh out' the policy in the Landscape Chapter (6). The landscape assessment matters provide a finer grained analysis to assist with whether a development would accord with the policies. Because of the detail in the assessment matters, the policies in the Landscape Chapter do not need to repeat this. For example, assessment matters 21.7.1.3 (d) and (e), and 21.7.1.4(e) discourage buildings and structures from breaking the line of slopes and ridgelines within the ONF and ONL. This issue and the assessment matters help inform whether a development proposal would accord with ONF and ONL Policies 6.3.3.1 and re-numbered 6.3.3.3 (notified as 6.3.4.1), without having to repeat the specific components.
- 19.3. The ODP assessment criteria are, in my view deficient at assessing the adverse effects of subdivision, use and development where they do not appropriately distinguish between visual

amenity and character. The entire suite of PDP assessment matters have been refined to assist with investigating whether a development proposal is acceptable in terms of landscape character, visual amenity, the design and density of the proposal.

- 19.4. Another key change is the removal of the visual amenity landscape 'circles' assessment criteria of the ODP⁵⁶ because they are not considered effective. The main reason for their removal is because they did not suit the design-led focus and absence of a minimum allotment size, and they are often interpreted inconsistently. I consider that they are inappropriately used as a surrogate to determine whether cumulative adverse effects are at issue.
- 19.5. The ONLs of the District comprise large areas, and within these there will be locations that will have varying degrees of sensitivity to development and capacity to absorb development. Undertaking an appraisal of the criteria provided in the assessment matters will inform both proponents and decision makers of the appropriateness of a proposed development within the ONL/ONF.
- 19.6. The landscape assessment matters for the RLC focus on identifying the important attributes on a case by case basis and to what extent the proposed development will degrade/have adverse effects on the landscape. The ODP presumption on maintaining a 'visual amenity landscape' based on 'pastoral in the poetic sense' and 'arcadian attributes' has been removed.

The ODP Assessment Criteria

- 19.7. The Read Landscapes Report June 2014⁵⁷ and QLDC Rural General Monitoring Report April 2009⁵⁸ identified the components of the ODP assessment criteria that work well and do not work well. These matters have also been addressed in Dr Read's evidence for the Strategic Directions Hearing Stream dated 19 February 2016 (in particular section 3) and for this Hearing Stream (in particular section 4).
- 19.8. The Read Landscapes report identified the following issues with the ODP assessment criteria:
 - a. The assessment matters repeatedly confuse matters of landscape character with visual amenity.
 - b. There is too much of a focus on the visual that could be attributable to the high number of consents granted in the VAL areas.

⁵⁶ ODP provision 5.4.2.2(3)(c)(v)(a) and (b) page 5-29.

⁵⁷ Read Landscapes Limited 'Wakatipu Basin Residential Subdivision and Development: Landscape Character Assessment' June 2014. Attached to the s32 report Landscapes, Rural and Gibbston Character Zones.
<http://www.qldc.govt.nz/planning/district-plan/proposed-district-plan/section-32-documents/>

⁵⁸ Rural General Zone Monitoring Report April 2009. <http://www.qldc.govt.nz/planning/other-planning-information/monitoring/>

- c. The character of the visual amenity landscape has been compromised by planting of amenity trees, particularly along avenues and driveways and enclosure of the pastoral landscape.
- d. The separation of landscape character and visual amenity could simplify the assessment matters considerably. Each landscape category would have a set of assessment matters tailored to the assessment of effects on the landscape character and quality it is considered important to maintain and/or enhance.

19.9. The Rural General Zone Monitoring Report identified the following aspects and issues with the ODP assessment criteria.

- a. The report stated that *'The assessment has a significant landscape focus guided by the detailed policies and assessment matters. Notably, the assessment matters for the ONL(WB)/ ONF are tests which must be passed/met in order for the approval to be obtained whereas they are simply criteria to be considered in the other landscape categories'*⁵⁹. The Report suggested whether making these tests in the other areas would assist with strengthening the management of landscapes.
- b. I infer that the 'tests' the Report is referring to are Policy 4.2.4.3(a)(iii) for ONL WB, and for ONFs, Policy 4.2.4.5(a). In my words these policies seek to avoid development unless it will not result in adverse effects that are more than minor on (i) landscape values and natural character; and (ii) visual amenity values (my emphasis).
- c. These 'tests' have not been carried over into either the PDP Landscape Chapter (6), Rural Chapter (21) policies or assessment matters because of concern that the phrase 'minor' and its application has evolved since its inception into the ODP, and the Rural Monitoring Report was completed in 2009. In the context of the RMA, the phrase 'minor' is associated with the repealed s93-s94 of the RMA and, current s95A(2)(a)⁶⁰ that specifies that a consent authority must publicly notify the application if the activity will have or is likely to have adverse effects on the environment that are more than minor. Therefore, if these provisions are applied against the ODP there is the potential that activities in these areas that meet the 'tests' in the ODP would not need to be notified. Furthermore, the 'minor' phrase is also a test associated with the 'gateway' test for non-complying activities in s104D. Discretionary activities rather, are required to be considered against s104(1)(a) which states any actual or potential effects on the environment of allowing the activity.
- d. For these reasons I am reluctant to carry over these types of phrases when they are also utilised as tests in the RMA.
- e. The Monitoring Report 2009 suggested that it would be worthwhile to repeat the presumption of why activities are a discretionary activity from Part 1.5.4 in the Rural General Zone of the ODP.

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Page 4.

⁶⁰

Section 95A: inserted, on 1 October 2009, by section 76 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

- f. This suggestion has been taken forward in the PDP and the statements from Part 1.5.4.iii⁶¹ have been utilised in the PDP Landscape Policies (6.3.1.2 and 6.3.1.3) and set out as provisions in Parts 21.7.1 for ONL and 21.7.2 for the RLC.
- g. Being assessment matters, I do not consider it is ideal to apply these statements as tests. They are therefore included in the assessment matters as guiding provisions. I note that similar statements are included as policies in the landscape chapter where it is suitable to apply these as tests.
- h. I also note that the phrase from Part 1.5.4 of the ODP is often relied upon as a basis and that there is a strong presumption toward protecting landscape values. This phrase is often cited in decisions and Environment Court commentaries on development proposals⁶².
- i. The Report suggests that the provisions and in particular, the VAL assessment matters could be streamlined to reduce repetition without reducing the effectiveness and may well serve to reduce the time taken in preparing and processing the application⁶³.
- j. The Report suggested possible actions and changes to the provisions⁶⁴, these include:
 - Simplify the provisions by reducing the number of assessment matters, particularly for the VAL in order to reduce duplication and avoid matters actually being overlooked due to the sheer number of them.
 - Consider whether the assessment matters relating to visibility should encourage mitigation (through mounding and vegetation) to the degree that they currently do.
- k. The Report recommends further consideration of ways of improving how the ODP currently manages cumulative effects. Possible options would include undertaking a full, finer-grain landscape assessment in order to develop thresholds to better guide the assessment of cumulative effects.

The PDP Assessment Matters

19.10. I consider that the PDP landscape assessment matters refine and enhance the ODP assessment matters. The assessment matters, particularly those in 21.7.1 for the ONF/ONL provide an appropriate platform to assess the impacts of subdivision, use and development by:

- a. Describing the landscape.
- b. Understanding the character, land use patterns and natural and cultural influences.
- c. Evaluating the extent to which these features are distinctive or representative.
- d. Evaluating the sensitivity and/or capacity of the landscape to absorb change.
- e. Identifying any opportunities, risks or threats to the landscape.

19.11. I consider that the assessment matters are effective at implementing these parameters for landscape assessments and are consistent with the NZILA Best Practice Guide – Landscape

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Page 40.

⁶²

See for example Upper Clutha Environmental Society and Queenstown Lakes District Council. Env. C 173/2009.

⁶³

Page 50.

⁶⁴

Page 61.

Assessment and Sustainable Management, 2010, where these parameters are derived to assess the equality of the landscape and what parts of it are valued and could be vulnerable to development.

19.12. As mentioned, the PDP has restructured the assessment matters and is set out in three sections:

- a. ONF and ONL (21.7.1)
- b. RL classification (21.7.2)
- c. Other factors and positive effects, applicable in all the landscape categories (21.7.3).

19.13. The statement concerning the application of assessment matters (ODP Provisions 1.5.3.iii and 5.4.2.1), that they "*are to be stringently applied to the effect that successful applications will be exceptional cases*" (ONF and ONL), and that "*the applicable activities are inappropriate in almost all locations with in the zone*", has been carried over into PDP provisions 21.7.1 and 21.7.1.1 (ONF/ONL), and 21.7.2 and 21.7.2.1 (RL).

19.14. The statement associated with the Council having the discretion to disregard tree plantings prior to a certain date as either beneficial or part of the permitted baseline in Provisions 5.4.2.2(1) (2) and (3) and been retained in the PDP (Provisions 21.7.1.2 and 21.7.2.2).

19.15. The PDP ONF/ONL Assessment Matters:

- a. Require an assessment to ascertain what the important elements of the landscape are, and the extent to which the proposed development would affect these elements in the context of landscape quality and character. The parameters are derived from the Modified Pigeon Bay Criteria (Provisions 21.7.1.3 a. – e.).
- b. Are similar to the ODP, except the assessment matters are separated into whether a proposed development would satisfy the following:
 - Effects on Visual Amenity (Provision 21.7.1.4)
 - Design and Density of Development (Provision 21.7.1.5)
 - Cumulative Effects of Subdivision and Development on the Landscape (Provision 21.7.1.6).

19.16. The PDP RLC Assessment Matters

- a. Are similar to the ODP, except the assessment matters are separated into whether a proposed development would be consistent with the following:
 - Effects on Landscape Quality and Character (Provision 21.7.2.3)
 - Effects on Visual Amenity (Provision 21.7.2.4)
 - Design and Density of Development (Provision 21.7.2.5)

- Tangata Whenua, Biodiversity and Geological Values (Provision 21.7.2.6)
- Cumulative Effects of Development on the Landscape (Provision 21.7.2.7)

19.17. The PDP Assessment Matters: Other Factors and Positive Effects, Applicable In All the Landscape Categories (ONF/ONL/RLC).

- Contemplate whether there are merits associated with a specific building design rather than relying on the design to mitigate future unspecified development (Provision 27.3.1).
- For developments other than residential or farming, contemplate whether the buildings or activity itself are consistent with activities that rely on the rural resource and would enhance appreciation of the landscape (Provision 21.7.3.2).
- Consider any positive effects or remedying or mitigating opportunities and circumstances (Provision 21.7.3.3) including:
 - protection through open space covenants or esplanade reserves;
 - opportunities to undertake restoration or enhancement to biodiversity, specifically in the context of the Threatened Environment Classification⁶⁵.
 - opportunities for environmental compensation and public access
 - opportunities to retire marginal farming/productive land and revert it to indigenous vegetation.
 - Whether there are any merits for compensation.
 - Whether the proposed development assists in retaining the land use in low intensity farming where that activity maintains the valued landscape character.

Linking the PDP landscape policy and assessment matters and comparison with the ODP provisions

19.18. Table 1 on page 110 provides a comparison of the PDP assessment matter against the relevant ODP provision and a summary of rationale for the assessment matter. The following text addresses some of the submissions raised on the assessment matters that do not fit neatly within the table.

19.19. QAC (433) submit that the assessment matters do not acknowledge the functional, technical, operational and safety related requirements for infrastructure, and that further drafting is required to take this into account as well as the economic, social, and safety benefits that accrue from enabling infrastructure.

19.20. I do not support this submission because the assessment matters are intended to provide a basis to understand the qualities of landscape and assess the extent to which development proposals could impact upon it. These are landscape assessment matters and I do not support the

⁶⁵ Refer to the s32 and s42A reports for Chapter 33: Indigenous Vegetation.

inclusion of provisions that require sympathy for activities that are considered essential or have location constraints. This is the place of policies (and/or higher order planning documents). I also note that changes have been recommended to the Strategic Direction chapter, to acknowledge the issues being raised in this submission point by QAC.

- 19.21. Several submitters⁶⁶ oppose the provisions in 21.7, 21.7.1, 21.7.2 and 21.7.2.1 that have transcribed the provision statements in 1.5.3.iii(iii) of the ODP⁶⁷. Upon consideration of these submissions and taking into consideration the views of Dr Read in paragraphs 6.4 – 6.6 of her evidence, I consider that these be refined be phrased to ensure the assessment matters are not a 'test' and to remove the word 'exceptional' because this has a direct connotation with section 104D of the RMA for non-complying activities and the activity status contemplated for subdivision, use and development that is generally applied to these activities is a discretionary activity status⁶⁸.
- 19.22. The recommended modifications also better align with the Council's reply to the S42a recommendations (**Attachment A**). In this regard these submissions are considered to be accepted in part and I recommend these modifications
- 19.23. Submitters 345 (John McQuilkin) and 456 (Hogans Gully Farm Ltd) seek that the assessment matters for the Rural Landscape are deleted and replaced by the ODP assessment criteria for 'Other Rural Landscapes'. The submission states:

The ORL category of landscapes, that were established through Environment Court processes and which are well understood within the community, apply to many parts of the District and these have been replaced with a more general category for which the assessment matters are weighted towards the higher "Visual Amenity Landscape" category. The established terminology and language for Other Rural Landscapes, in particular, should be reinstated in the redrafted assessment matters.

- 19.24. I do not agree, the 'ORL' classification has rarely been used, with most Rural General Zoned land not identified as ONL / ONF falling into the VAL category. I consider that the 'ORL' assessment criteria as drafted in the ODP are too lenient toward development being inevitable and would not maintain the landscape amenity values, quality of the environment or finite characteristics of natural and physical resources in the context of s7(c), (f) and (g). I also refer to and rely on Dr Read's evidence where she does not support the reinstatement of the ORL assessment criteria (in particular section 6 of her evidence). I also refer to and rely on Dr Read's evidence at Paragraphs 6.18 and 6.19 where she notes that the ORL has only been applied in two circumstances. I recommend these submissions are rejected.

⁶⁶ Submitters: Spark Trading NZ Ltd (191) J McQuilkin (345), Hogans Gully Farm Ltd (456), Powernet (251), Willowridge Developments Ltd (249), Darby Planning LP (608).

⁶⁷ Refer to Table 1.

⁶⁸ PDP Rules, 21.4.5, 21.4.9, 21.4.10.

19.25. Overall, I recommend the assessment matters are retained as notified.

20. ISSUE 13: OTHER MATTERS

Fire Fighting in non-reticulated areas

- 20.1. Submitter 438 (New Zealand Fire Service (**NZFS**)) requests that standards are inserted that require compliance with the NZFS Code of Practice SNZ PAS 4509:2003 in relation to water supply and access in non-reticulated areas. This matter is also discussed in the s42A report for Chapters 22 and 23.
- 20.2. In principle, I support the management of this issue because it is important, particularly because of the seasonal fire hazard in Queenstown Lakes and Central Otago areas. However, for the following reasons I am reluctant to accept the request to include this standard in the PDP. The reasons are:
- a. The rule would have to rely on the relevant Standards New Zealand COP and this would mean directing people to provisions outside the plan for permitted activity status;
 - b. The rule/permitted activity status would be entirely reliant on the whole COP. There are components of the COP that provide the ability to apply more discretion than I consider is sufficiently certain to be a permitted activity standard;
 - c. Referencing the standard would mean the council need to undertake a plan change if/when the standard is updated. If not, council are obliged to administer the old standard and this matter has caused problems with the administration of the ODP (e.g. having to rely on a superseded noise standard in terms of administering the rule but in terms of assessment the more recent standard is preferred. The administration of resource consents for helicopter landings and departures being one example);
- 20.3. The QLDC and NZFS have a memorandum of understanding (MOU) that sets out the requirements for firefighting provisions in non-reticulated areas. The MOU requires 20,000 litres of water for a firefighting reserve, whilst the Code of Practice (COP) requires 45,000 litres. The MOU conflicts with the COP and this further reinforces why it is not appropriate to broadly apply the COP as a rule. A copy of the MOU is attached at **Appendix 5**
- 20.4. The Council has a longstanding practice of assessing and imposing conditions on this matter when subdivision and development is approved in the Gibbston Character Zone. There are unlikely to be any consented but unbuilt developments that do not have conditions, usually registered on a property's computer freehold register that do not require suitable access for fire

appliances, a fire fighting reserve, and connection (if applicable), and the suitable distance to and from the buildings.

- 20.5. Because there are not any development rights for habitable buildings in the Rural Zone I do not consider this rule is necessary. For these reasons I recommend that the submission is rejected, and note I have made the same recommendation in the Gibbston Character Zone and Rural Lifestyle Zones s42A reports.

Lighting

- 20.6. Submitter 568 (Grant Laurie Bisset) requests that an Objective, two policies and the following standards are imposed for outdoor lighting. The requested changes are:

Objective - Maintenance of the ability to view and appreciate the naturalness of the night sky.

Policy To avoid unnecessary light pollution of the night time sky in the District, so as not to adversely affect the ability for astronomical, astrophysical and atmospheric research or people's ability to view the night sky.

Policy To promote the use of LED street lighting in all new subdivision and development proposals and the replacement of the Council's existing streetlights with LED's as they reach the end of their life span.

Outdoor Lighting

- (1) All outdoor lighting shall be a Permitted Activity provided it complies with all of the following Standards:
- (i) **Shielding:** All outdoor lighting shall be shielded from above in such a manner that the edge of the shield shall be below the whole of the light source.
 - (ii) **Filtration:** All outdoor lighting shall have a filter to filter out the blue or ultraviolet light, provided the light source would have more than 15% of the total emergent energy flux in the spectral region below 440nm. The filters used must transmit less than 10% of the light at any wavelength less than 440nm. This therefore includes, but is not limited to, fluorescent, mercury vapour and metal halide lamps.

Any breach of this rule shall require a Discretionary Activity Consent.

- 20.7. I support aspects of this submission, however I do not support the specificity of LED lighting over other types and while agreeing that it is important to manage the impacts of lights in terms of glare on other properties and the night sky, do however note that the permitted standards appear quite technical. I note that a similar standard for the Rural Industrial Sub Zone is:

21.5.37	<p>Lighting and Glare</p> <p>21.5.37.1 All fixed exterior lighting shall be directed away from adjoining sites and roads; and</p> <p>21.5.37.2 No activity on any site shall result in greater than a 3.0 lux spill (horizontal and vertical) of light onto any other site measured at any point inside the boundary of the other site, provided that this rule shall not apply where it can be demonstrated that the design of adjacent buildings adequately mitigates such effects.</p> <p>21.5.37.3 There shall be no upward light spill.</p>	NC
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20.8. I recommend that this same standard is transposed into Table 3 in chapter 21, general standards so that it is not confined only to the Rural Industrial Sub Zone. I also consider that the matter is already adequately addressed in Policy 21.2.1.5 and landscape assessment matters 21.7.1.4(f) ONF/ONL and 21.7.2.4(e) RLC. I recommend this submission is accepted in part. I refer to Dr. Read's evidence where she states that the absence of any lighting controls in the ONF/L is an oversight and is of the opinion that the lighting standards should apply District Wide. The recommendation achieves this matter.

20.9. QLDC's corporate submission (383) requests that the provisions relating to lighting and glare in Rule 21.5.37, be relocated to Table 2 - General Standards. In addition, suggested wording, 'Lighting shall be directed away from adjacent roads and properties, so as to limit effects on the night sky'.

20.10. I do not support the requested standard because it is too subjective in that the rule itself would limit effects on the night sky. This is too difficult to ascertain as a permitted standard. I recommend the submission is accepted in part.

Objective 8 and areas not suitable for development

20.11. Notified Objective 21.2.8 and related policies are:

Objective – Avoid subdivision and development in areas that are identified as being unsuitable for development.

Policies

21.2.8.1 *Assess subdivision and development proposals against the applicable District Wide chapters, in particular, the objectives and policies of the Natural Hazards and Landscape chapters.*

21.2.8.2 *Prevent subdivision and development within the building restriction areas identified on the District Plan maps, in particular:*

a. In the Glenorchy area, protect the heritage value of the visually sensitive Bible Face landform from building and development and to maintain the rural backdrop that the Bible Face provides to the Glenorchy Township.

b. In Ferry Hill, within the building line restriction identified on the planning maps.

20.12. Objective 21.2.8 is intended to provide a basis to manage areas that are constrained from certain developments, usually rural living or commercial development from a range of constraints such as identified landscape or rural amenity reasons, hazards or from noxious land uses. The ODP contained a number of building area restrictions or similar constraints.

20.13. Submitter QPL seeks this objective is deleted along with the building restriction area near the Queenstown Airport and Shotover River, and 356 (X-Ray Trust) seek the objective is deleted because the objective is a vague provision, while a number of other submitters including Crown Range Holdings Ltd (636) seek that is rephrased. I consider the Objective to be valuable as it provides the basis for a number of provisions. However I accept that the Objective could be rephrased so it is not so absolute, and that it is better framed as an objective. With regard to X-Ray Trust's submission, I consider that the policies will help better define where these areas are applicable.

20.14. QAC seek that Policy 21.2.8.1 is deleted because it is inherent that these aspects need to be considered. While I accept this, I consider that it is important that a separate policy is provided because it provides direction when assessing proposals in areas where there is no development right and the zoning regime has not predetermined the suitability of land. The inclusion of a policy provides clarity and removes any scope for debate. I recommend amendments to the policy to make it more useful, as set out in **Appendix 1**.

20.15. No submissions were received on policy 21.2.8.2 relating to the building restriction areas at Glenorchy and Ferry Hill.

20.16. Rule 21.4.26 requires a non-complying resource consent for any building located within a building restriction area.

- 20.17. Dr Read supports a reduction of the building restriction area on the Allenby Farms land (Submitter 502) and I accept her view. I recommend the submission is accepted in part.
- 20.18. QPL request that the building restriction area identified on Planning Map 31 to the east of Queenstown Airport is removed. The further submission of QAC (FS1340) requests that it is retained. QPL have not provided any evidence to justify its removal and how this would affect or constrain surrounding land uses. I recommend the building restriction area is retained on the planning map as notified and QPL's submission is rejected.

Visitor Accommodation

- 20.19. Rule 21.4.20 specifies that visitor accommodation is a discretionary activity. I note that this is the same activity status as the ODP. Submitters 320 (Lesley and Jerry Burdon seeks that visitor accommodation is treated differently in rural areas compared to urban because the demand on services is not the same. Submitter QPL supports a less 'restrictive activity status' citing that the use of visitor accommodation of residential activities located within a residential building platform is not treated the same as urban areas. Any comparison with urban needs to be treated with caution because these provisions have been withdrawn from Stage 1 of the District Plan Review. I consider that a discretionary status is not necessarily onerous, and the nature and scale of the activity and sensitivity of the location will play a large part in the complexity of an application or whether the proposal is approved. I recommend that the discretionary activity status is retained.
- 20.20. I note that I have addressed Visitor Accommodation to an extent, in the section on Ski Area Sub Zones.

21. ISSUE 14: MINING

- 21.1. The ODP addresses mineral extraction through an issue statement, Objective and policies and a suite of rules⁶⁹. Mining activities in the PDP are essentially the same in terms of the rule framework in that mineral prospecting is permitted, mineral exploration is a controlled activity, and all other mining exceeding these standards is a discretionary activity.
- 21.2. The PDP has organised all the rules into one part of the Plan, whereas in the ODP the rules were peppered throughout the Rural Zone rules because it is arranged by the status of the activity. The PDP Objective, policies and rules are:

⁶⁹ Resource Management Issues 5.1.v, Objective 5 and Policies 5.1 – 5.4 and implementation methods and explanation and principal reasons for adoption, Mining limited to mineral exploration (Controlled Activity 5.3.3.2 iv), Discretionary Activity excluding exemptions (Rule 5.3.3.3 viii).

21.2.5 Objective - Recognise for and provide opportunities for mineral extraction providing the location, scale and effects would not degrade amenity, water, landscape and indigenous biodiversity values.

Policies

- 21.2.5.1 *Recognise the importance and economic value of locally sourced high-quality gravel, rock and other minerals for road making and construction activities.*
- 21.2.5.2 *Recognise prospecting and small scale recreational gold mining as activities with limited environmental impact.*
- 21.2.5.3 *Ensure that during and following the conclusion of mineral extractive activities, sites are progressively rehabilitated in a planned and co-ordinated manner, to enable the establishment of a land use appropriate to the area.*
- 21.5.4 *Ensure potential adverse effects of large-scale extractive activities (including mineral exploration) are avoided or remedied, particularly where those activities have potential to degrade landscape quality, character and visual amenity, indigenous biodiversity, lakes and rivers, potable water quality and the life supporting capacity of water.*

	Mining Activities	
21.4.30	<p><i>The following mining and extraction activities are permitted:</i></p> <ul style="list-style-type: none"> <i>a. Mineral prospecting.</i> <i>b. Mining by means of hand-held, non-motorised equipment and suction dredging, where the total motive power of any dredge does not exceed 10 horsepower (7.5 kilowatt); and</i> <i>c. The mining of aggregate for farming activities provided the total volume does not exceed 1000m³ in any one year.</i> <i>d. The activity will not be undertaken on an Outstanding Natural Feature.</i> 	<i>P</i>

21.4.31	<p><i>Mineral exploration that does not involve more than 20m³ in volume in any one hectare</i></p> <p><i>Control is reserved to all of the following:</i></p> <ul style="list-style-type: none"> • <i>The adverse effects on landscape, nature conservation values and water quality.</i> <p><i>Rehabilitation of the site is completed that ensures:</i></p> <ul style="list-style-type: none"> • <i>the long term stability of the site.</i> • <i>that the landforms or vegetation on finished areas are visually integrated into the landscape.</i> • <i>water quality is maintained.</i> • <i>that the land is returned to its original productive capacity.</i> 	C
21.4.32	<p><i>Any mining activity other than provided for in rules 21.4.30 and 21.4.31.</i></p>	D

21.3. There are six principal Submitters to these provisions⁷⁰. Submitters 519 (New Zealand Tungsten Mining Company (**NZTM**) and 598 (Straterra) seek through their submissions to advance mining. The submissions from Evan Alty and Forest and Bird essentially seek that the provisions do not advance mineral extraction at the cost of nature conservation values.

21.4. NZTM has requested a suite of definitions, modifications to the objective and policies as notified and a new objective and policies that advance mineral exploration. I consider that the objective and policies as notified are balanced in that they acknowledge the economic benefits derived from mining and the locational requirements or constraints of mining, while ensuring that the PDP has appropriate provisions in place to provide for the use of and safeguard of natural and physical resources, particularly in terms of s6 and 7 of the RMA.

21.5. I consider that some of the modifications requested are appropriate, in particular that Policy 21.2.5.1 is broadened to be applicable to more than minerals for road making and construction.

21.6. The new objective and policies requested by NZTM to '*recognise the existence of mining buildings within the rural zones*' is in my view not appropriate and overstates the importance of mining buildings in the context of the resources that require management. Mining buildings can have potential for adverse effects on landscape and visual amenity, and I consider they should be subject to the control and framework provided for other non-farming buildings.

21.7. Nor do I consider that additional policies are required to '*identify the location and extent of existing or pre-existing mining and encourage future mining to be carried out in these locations*'. The submitter has not identified these existing locations and I consider that the location

⁷⁰ 339 (Evan Alty), 519 (NZZTM), 706 (Forest and Bird), 798 (Otago Regional Council), 806 (QPL), 598 (Straterra).

necessity, nature and scale of mining proposals should be considered on their merits on a case by case basis. I do not support the submission of NZTM where it seeks predetermined support for mining without first knowing the location or actual and potential effects on the environment. If a mining proposal location has evidence of past use, this should be advanced through the specific proposal.

- 21.8. I do not support the requested policy for off-setting or environmental compensation. Offsetting is provided for in the Indigenous Vegetation Chapter⁷¹ because offsetting is related to biodiversity and does not need to be repeated in these provisions. Similarly, environmental compensation in the broader sense, particularly where it relates to landscape and visual amenity and not related to indigenous biodiversity is already identified in Landscape Assessment Matter 21.7.3.3(e).
- 21.9. In addition, the requested policies associated with recognising potential reverse sensitivity impacts on established mining is not considered necessary because these policies are provided in in the notified PDP at Objective 21.2.4 and Policy 21.2.4.1 and 21.2.4.2.
- 21.10. For these reasons I recommend that the abovementioned changes are for the most part rejected.
- 21.11. NZTM request new definitions for 'exploration', 'mining', and 'mining building', and replacing the PDP definitions of mining activity and prospecting.
- 21.12. The PDP definitions of 'mining activity' is:

Mining Activity	Means the use of land and buildings for the primary purpose of the extraction, winning, quarrying, excavation, taking and associated processing of minerals and includes prospecting and exploration.
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- 21.13. The requested definition of 'mining activity' is similar to 'mining operations' in the CMA. I have included below the CMA definition with the components omitted by NZTM (highlighted yellow):

⁷¹ Chapter 33 Indigenous Vegetation and Biodiversity Policy 33.2.1.8: 33.2.1.8 Where the adverse effects of an activity on indigenous biodiversity values cannot be avoided, remedied or mitigated, consideration will be given to whether there has been any biodiversity offset proposed and the extent to which any offset will result in no net loss and preferably, a net indigenous biodiversity gain. As recommended in the s42a report.

mining operations—

- (a) means operations in connection with mining, exploring, or prospecting for any Crown owned mineral; and
- (b) includes, when carried out at or near the site where the mining, exploration, or prospecting is undertaken,—
 - (i) the extraction, transport, treatment, processing, and separation of any mineral or chemical substance from the mineral; and
 - (ii) the construction, maintenance, and operation of any works, structures, and other land improvements, and of any related machinery and equipment connected with the operations; and
 - (iii) the removal of overburden by mechanical or other means, and the stacking, deposit, storage, and treatment of any substance considered to contain any mineral; and
 - (iv) the deposit or discharge of any mineral, material, debris, tailings, refuse, or wastewater produced from or consequent on the operations; and
 - (v) the doing of all lawful acts incidental or conducive to the operations; and
- (c) includes any activities relating to the injection into and extraction of petroleum from an underground gas storage facility

21.14. I consider that the definition as requested is more appropriate because it includes exploring and prospecting.

21.15. The PDP definition of prospecting is:

Prospecting	Means any activity undertaken for the purpose of identifying land likely to contain exploitable mineral deposits or occurrences; and includes: <ul style="list-style-type: none">• Geological, geochemical, and geophysical surveys;• The taking of samples by hand or hand held methods;• Aerial surveys.
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21.16. NZTM request the definition of prospecting is replaced with 'Mineral Prospecting' as follows:

Means any activity undertaken for the purpose of identifying land likely to contain ~~exploitable~~ mineral deposits or occurrences; and includes the following activities:

- *Geological, geochemical, and geophysical surveys;*
- *The taking of samples by hand or hand held methods;*
- *Aerial surveys.*
- *Taking small samples by low impact mechanical methods.*

21.17. I generally agree with the changes requested except that I do not know what NZTM are intending by seeking to include 'low impact mechanical methods'. For these reasons, and because

prospecting has a permitted activity status (Rule 21.4.30) I recommend the submission is accepted in part, however the reference to 'low impact mechanical methods' are omitted.

21.18. NZTM also request a new definition of 'mining building' which would be:

Means a building (as defined) necessary for the undertaking of mining activities.

21.19. I note that both the PDP definition and the requested definition contain buildings as part of mining activity. The reason seems to be where NZTM seek that mining buildings are not included in the standards for building height (Rule 21.5.7). It is my preference that this request is rejected because mining is a discretionary activity, therefore creating a disjunction between removing standards for all buildings and mining buildings. In addition, the locational constraints emphasised by NZTM are likely to mean that these buildings are located within the ONL or ONF. Therefore, I recommend that mining buildings are not provided any exemptions.

21.20. The definition of 'exploration' requested by NZTM is the same as the CMA and is:

exploration means any activity undertaken for the purpose of identifying mineral deposits or occurrences and evaluating the feasibility of mining particular deposits or occurrences of 1 or more minerals; and includes any drilling, dredging, or excavations (whether surface or subsurface) that are reasonably necessary to determine the nature and size of a mineral deposit or occurrence; and to explore has a corresponding meaning.

21.21. Relevantly, NZTM seek that exploration is added to the list of permitted activities in Rule 21.4.30, and it appears as though the controlled activity rule for 'mineral exploration' is removed (Rule 21.4.31) because the submission is silent on this matter in terms of relief sought⁷². On this basis I accept the addition of the definition of 'exploration' but I do not support the removal of the controlled activity rules that restrict exploration to 20m³ in any one hectare. I recommend Rule 21.4.31 is retained, along with Rule 21.4.32 that makes any other mining, including exploration over 20m³ per hectare a discretionary activity.

21.22. Forest and Bird seek that 'wetlands' are added to Objective 21.2.5, and that the reference to 'large scale' extractive activities is removed because it is not only large scale activities that can have adverse effects. I accept this submission and recommend the Objective and policy is amended.

21.23. Forest and Bird also seek that SNAs are included in Rule 21.4.30, however I do not consider this is necessary because there are already standards controlling the disturbance of land and

⁷² Refer to Page 22 of Submission 519.

clearance of indigenous vegetation within SNAs in Chapter 33. I recommend this submission is rejected.

21.24. The matters of control in Rule 21.4.31 for controlled activity mineral exploration states that rehabilitation ensures 'that the land is returned to its original productive capacity'. Forest and Bird request that indigenous vegetation is included because it may be preferable to rehabilitate disturbed land to indigenous vegetation in some circumstances. I agree and recommend the submission is accepted. I recommend that parameters are included to ensure that rehabilitation to indigenous vegetation is applicable where the indigenous vegetation coverage attained a certain standard and that the land cover comprised indigenous vegetation prior to the exploration activity. I would not consider it fair on the persons responsible for rehabilitation to undertake indigenous vegetation rehabilitation if the indigenous vegetation didn't comprise a minimum coverage or the indigenous vegetation had been cleared previously for other land uses.

21.25. Overall, a recommended revised version of the definition and modifications to the provisions are set out in **Appendix 1**.

22. CONCLUSION

22.1. On the basis of my analysis within this evidence and the technical evidence relied upon, I recommend that the changes within the Revised Chapter in **Appendix 1** are accepted.

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



Craig Barr
Senior Planner
7 April 2015

Table 1 Issue 12: Landscape Assessment Matters: cross referencing with PDP Landscape Policy and ODP assessment matters

PROVISION NO.	PDP METHOD/ASSESSMENT MATTER	RELATED ODP PROVISION	COMMENT/ANALYSIS OF SUBMISSIONS
Glossary of abbreviations:	Proposed District Plan (PDP) Operative District Plan (ODP) Outstanding Natural Landscape Wakatipu Basin (ONL WB) Outstanding Natural Feature District Wide (ONF DW) Outstanding Natural Landscape District Wide (ONL DW) Visual Amenity Landscape (VAL) Other Rural Landscape (ORL)		
21.7.1	<p>Outstanding Natural Features and Outstanding Natural Landscapes (ONF and ONL).</p> <p>These assessment matters shall be considered with regard to the following principles because, in or on Outstanding Natural Features and Landscapes, the applicable activities are inappropriate in almost all locations within the <u>zone Wakatipu Basin, and inappropriate in many locations throughout the District wide Outstanding Natural Landscapes:</u></p>	<p>5.4.2.2(1) and (2)</p> <p>1.5.3.iii(iii) which states: <i>because, in or on outstanding natural features and landscapes, the relevant activities are inappropriate in almost all locations within the zone, particularly within the Wakatipu Basin or in the Inner Upper Clutha area.</i></p>	<p>Numerous submitters⁷³ seek that the provisions in 21.7.1 and .1 for ONF/ONL and 21.7.2 and 21.7.2.1 for the RL are deleted. Reasons include because:</p> <ul style="list-style-type: none"> • They are too onerous; • They do not relate to assessing an effect on the environment; • They predetermine the outcome; • They should only be applicable to the ONL WB and ONF's as set out in ODP.
21.7.1.1	<p>The assessment matters are to be stringently applied to the effect that successful applications will be exceptional cases.</p>	5.4.2.2(1) (ONL WB and ONF DW)	<p>These provisions are considered important to ensure that development proposals are of a high quality and that the assessment matters set a high bar for successful applications.</p> <p>As stated in provision 1.5.3.iii(iii) of the ODP, the statement relating to 'activities are inappropriate in almost all locations' applies district wide.</p> <p>I consider the phrase containing 'exceptional' should be removed for the reasons set out in the s42a.</p>
21.7.1.2	<p>Existing vegetation that:</p> <p>a. was either planted after, or, self-seeded and less than 1 metre in height at 28 September 2002; and,</p> <p>b. obstructs or substantially interferes with views of the proposed development from roads or other public places, shall not be considered:</p> <ul style="list-style-type: none"> • as beneficial under any of the following assessment matters unless the Council considers the vegetation (or some of it) is appropriate for the location 	5.4.2.2(2)(a) and (b)	<p>Submitter 249 (Willowridge Developments Ltd) consider this provision should be deleted because 'planting is permitted and screening is often used as mitigation for new development'.</p> <p>I consider that this provision is important because it removes the potential for mitigation planting to be established as a precursor to applications for development. These premeditated activities can change landscape character and impact on visual amenity values and landscape quality. I recommend this submission is rejected.</p>

⁷³ Including submitters Spark Trading NZ Ltd (191) J McQuilkin (345), Hogans Gully Farm Ltd (456), Powernet (251), Willowridge Developments Ltd (249), Darby Planning LP (608).

	<p>in the context of the proposed development; and</p> <p>as part of the permitted baseline.</p>		
21.7.1.3	<p>Effects on landscape quality and character</p> <p>In considering whether the proposed development will maintain or enhance the quality and character of Outstanding Natural Features and Landscapes, the Council shall be satisfied of the extent to which the proposed development will affect landscape quality and character, taking into account the following elements:</p>	<p>No direct reference.</p> <p>Related to and derived from: 5.4.2.1 Step 1 Analysis of the site and surrounding landscape.</p> <p>5.4.2.2(1) (ONL WB and ONF DW)</p> <p>(a) Effects on Openness of landscape;</p> <p>(b) visibility of development;</p> <p>(c) visual coherence and integrity of landscape).</p> <p>5.4.2.2(2) (ONL DW)</p> <p>(a) Potential of the landscape to absorb development;</p> <p>(b) effects on openness of landscape;</p>	<p>No specific comment. I recommend the assessment matter is retained.</p>
21.7.1.3 a.	<p>Physical attributes:</p> <ul style="list-style-type: none"> • Geological, topographical, geographic elements in the context of whether these formative processes have a profound influence on landscape character; • Vegetation (exotic and indigenous); • The presence of waterbodies including lakes, rivers, streams, wetlands. 	<p>Refer to statement above (21.7.1.3)</p>	<p>No specific comment. I recommend the assessment matter is retained.</p>
21.7.1.3 b.	<p>Visual attributes:</p> <ul style="list-style-type: none"> • Legibility or expressiveness – how obviously the feature or landscape demonstrates its formative processes; • Aesthetic values including memorability and naturalness; • Transient values including values at certain times of the day or year; • Human influence and management – settlements, land management patterns, buildings, roads. 	<p>Refer to statement above (21.7.1.3)</p>	<p>No specific comment. I recommend the assessment matter is retained.</p>
21.7.1.3 c.	<p>Appreciation and cultural attributes:</p> <ul style="list-style-type: none"> • Whether the elements identified in (a) and (b) are shared and recognised; • Cultural and spiritual values for tangata whenua; • Historical and heritage associations. <p>The Council acknowledges that Tangata Whenua beliefs and values for a specific</p>	<p>Refer to statement above (21.7.1.3)</p>	<p>No specific comment. I recommend the assessment matter is retained.</p>

	location may not be known without input from iwi.		
21.7.1.3 d.	In the context of (a) to (c) above, the degree to which the proposed development will affect the existing landscape quality and character, including whether the proposed development accords with or degrades landscape quality and character, and to what degree.	Refer to statement above (21.7.1.3) and specifically; 5.4.2.2(2) (ONL DW) (a) (i) – (iii)	No specific comment. I recommend the assessment matter is retained.
21.7.1.3 e.	any proposed new boundaries will not give rise to artificial or unnatural lines (such as planting and fence lines) or otherwise degrade the landscape character.	Refer to statement above (21.7.1.3) and; 5.4.2.2(1) (ONL WB and ONF DW) (c) (iii). 5.4.2.2(2) (ONL DW) (iii) and (iv).	No specific comment. I recommend the assessment matter is retained.
21.7.1.4	Effects on visual amenity In considering whether the potential visibility of the proposed development will maintain and enhance visual amenity, values the Council shall be satisfied that:	5.4.2.2(1) (ONL WB and ONF DW) - (b) Visibility of development. 5.4.2.2(2) (ONL DW) - (a) Potential of the landscape to absorb development.	No specific comment. I recommend the assessment matter is retained.
21.7.1.4 a.	the extent to which the proposed development will not be visible or will be reasonably difficult to see when viewed from public roads and other public places. In the case of proposed development in the vicinity of unformed legal roads, the Council shall also consider present use and the practicalities and likelihood of potential use of unformed legal roads for vehicular and/or pedestrian, cycling, equestrian and other means of access;	5.4.2.2(1) (ONL WB and ONF DW) (b) (i) – Visibility of development.	No specific comment. I recommend the assessment matter is retained.
21.7.1.4 b.	the proposed development will not be visually prominent such that it detracts from public or private views of and within Outstanding Natural Features and Landscapes;	5.4.2.2(1) (ONL WB and ONF DW) (b) (ii) – Visibility of development.	No specific comment. I recommend the assessment matter is retained.
21.7.1.4 c.	the proposal will be appropriately screened or hidden from view by elements that are in keeping with the character of the landscape;	5.4.2.2(1) (ONL WB and ONF DW) (b) (iii) – Visibility of development.	No specific comment. I recommend the assessment matter is retained.
21.7.1.4 d.	the proposed development will not reduce the visual amenity values of the wider landscape (not just the immediate landscape);	5.4.2.2(1) (ONL WB and ONF DW) (b) (v) – Visibility of development.	No specific comment. I recommend the assessment matter is retained.
21.7.1.4 e.	structures will not be located where they will break the line and form of any ridges,	5.4.2.2(1) (ONL WB and ONF DW) (c) (i) –	No specific comment. I recommend the assessment matter is retained.

	hills and slopes;	Visual coherence and integrity of landscape	retained.
21.7.1.4 f.	any roads, access, lighting, earthworks and landscaping will not reduce the visual amenity of the landscape.	5.4.2.2(1) (ONL WB and ONF DW) (c) (ii) – Visual coherence and integrity of landscape	No specific comment. I recommend the assessment matter is retained.
21.7.1.5	<p>Design and density of Development</p> <p>In considering the appropriateness of the design and density of the proposed development, whether and to what extent:</p>	5.4.2.2(3) (VAL) (c) Form and Density of Development	No specific comment. I recommend the assessment matter is retained.
21.7.1.5 a.	opportunity has been taken to aggregate built development to utilise common access ways including roads, pedestrian linkages, services and open space (ie. open space held in one title whether jointly or otherwise);	5.4.2.2(3) (VAL) (c) (ii) Form and Density of Development	No specific comment. I recommend the assessment matter is retained.
21.7.1.5 b.	there is merit in clustering the proposed building(s) or building platform(s) within areas that are least sensitive to change;	5.4.2.2(3) (VAL) (c) (iii) Form and Density of Development	No specific comment. I recommend the assessment matter is retained.
21.7.1.5 c.	development, including access, is located within the parts of the site where it would be least visible from public and private locations;	Do direct reference.	No specific comment. I recommend the assessment matter is retained.
21.7.1.5 d.	development, including access, is located in the parts of the site where it has the least impact on landscape character.	Do direct reference.	No specific comment. I recommend the assessment matter is retained.
21.7.1.6	<p>Cumulative effects of subdivision and development on the landscape</p> <p>Taking into account whether and to what extent existing, consented or permitted development (including unimplemented but existing resource consent or zoning) may already have degraded:</p> <p>a. the landscape quality or character; or, b. the visual amenity values of the landscape.</p> <p>The Council shall be satisfied the proposed development, in combination with these factors will not further adversely affect the landscape quality, character, or</p>	<p>5.4.2.2 (1) (ONL WB and ONF DW) (e) - cumulative effects of development on the landscape.</p> <p>5.4.2.2(2) (ONL DW) (c) (iii) and (iv) - cumulative effects of development on the landscape.</p>	Provisions 5.4.2.2(2) (ONL DW) (c) (i) and (ii) are not directly related to cumulative effects. These have not been carried over into the PDP.

	visual amenity values.		
21.7.2	<p>Rural Landscape Classification (RLC)</p> <p>These assessment matters shall be considered with regard to the following principles because in the Rural Landscapes the applicable activities are inappropriate <u>unsuitable</u> in many locations:</p>	<p>Derived from 1.5.3(3)(iv) that states: '<i>because in other visual amenity landscapes the relevant activities are inappropriate in many locations</i>'. </p>	<p>Refer commentary at 21.7.1 above. Refer to the commentary in s42a report and the Council's reply on the Landscape Chapter.</p>
21.7.2.1	<p>The assessment matters shall be stringently applied to the effect that successful applications are, on balance, consistent with the criteria.</p>	No direct reference.	
21.7.2.2	<p>Existing vegetation that:</p> <p>a. was either planted after, or, self seeded and less than 1 metre in height at 28 September 2002; and,</p> <p>b. obstructs or substantially interferes with views of the proposed development from roads or other public places, shall not be considered:</p> <ul style="list-style-type: none"> • as beneficial under any of the following assessment matters unless the Council considers the vegetation (or some of it) is appropriate for the location in the context of the proposed development; and • as part of the permitted baseline. 	5.4.2.2(3) (VAL) (a) and (b).	<p>Submitter 249 (Willowridge Developments Ltd) consider this provision should be deleted because 'planting is permitted and screening is often used as mitigation for new development'.</p> <p>I consider that this provision is important because it removes the potential for mitigation planting to be established as a precursor to applications for development. These premeditated activities can change landscape character and impact on visual amenity values and landscape quality. I recommend this submission is rejected.</p>
21.7.2.3	<p>Effects on landscape quality and character:</p> <p>The following shall be taken into account:</p>	5.4.2.2 (3) (VAL) (a) – effects on natural and pastoral character.	No specific comment. I recommend the assessment matter is retained.
21.7.2.3 a.	where the site is adjacent to an Outstanding Natural Feature or Landscape, whether and the extent to which the proposed development will adversely affect the quality and character of the adjacent Outstanding Natural Feature or Landscape;	5.4.2.2 (3) (VAL) (a) (i)	No specific comment. I recommend the assessment matter is retained.
21.7.2.3 b.	whether and the extent to which the scale and nature of the proposed development will degrade the quality and character of the surrounding Rural Landscape;	5.4.2.2 (3) (VAL) (a) (ii)	No specific comment. I recommend the assessment matter is retained.

21.7.2.3 c.	whether the design and any landscaping would be compatible with or would enhance the quality and character of the Rural Landscape.	No direct reference.	No specific comment. I recommend the assessment matter is retained.
21.7.2.4	Effects on visual amenity: Whether the development will result in a loss of the visual amenity of the Rural Landscape, having regard to whether and the extent to which:	5.4.2.2 (3) (VAL) (b) – Visibility of development.	No specific comment. I recommend the assessment matter is retained.
21.7.2.4 a.	the visual prominence of the proposed development from any public places will reduce the visual amenity of the Rural Landscape. In the case of proposed development which is visible from unformed legal roads, regard shall be had to the frequency and intensity of the present use and, the practicalities and likelihood of potential use of these unformed legal roads as access;	5.4.2.2(3) (VAL) (b)(i)	Simplified. Relates to visibility from public places. No specific comment. I recommend the assessment matter is retained.
21.7.2.4 b.	the proposed development is likely to be visually prominent such that it detracts from private views;	5.4.2.2(3) (VAL) (b)(ii) and (v)	The reference to 'public views' is removed because this is addressed in the previous assessment matter. Submitters 567 (Slopehill Joint Venture), 535 (Stalker Family Trust et. al) and 522 (Kristie Brustad and James Inch) seek that this provision is deleted. I consider the provision is appropriate in that it takes into account views from private property. The submissions are recommended to be rejected.
21.7.2.4 c.	any screening or other mitigation by any proposed method such as earthworks and/or new planting will detract from or obstruct views of the Rural Landscape from both public and private locations;	5.4.2.2(3) (VAL) (b)(iii)	No specific comment. I recommend the assessment matter is retained.
21.7.2.4 d.	the proposed development is enclosed by any confining elements of topography and/or vegetation and the ability of these elements to reduce visibility from public and private locations;	5.4.2.2(3) (VAL) (b)(iv)	No specific comment. I recommend the assessment matter is retained.
21.7.2.4 e.	any proposed roads, boundaries and associated planting, lighting, earthworks and landscaping will reduce visual amenity, with particular regard to elements which are inconsistent with the existing natural topography and patterns;	5.4.2.2(3) (VAL) (b)(vii)	No specific comment. I recommend the assessment matter is retained.
21.7.2.4 f.	boundaries follow, wherever reasonably possible and practicable, the natural lines of the landscape or landscape units.	5.4.2.2(3) (VAL) (b)(viii)	No specific comment. I recommend the assessment matter is retained.

21.7.2.5	<p>Design and density of development: In considering the appropriateness of the design and density of the proposed development, whether and to what extent:</p>	5.4.2.2(3) (VAL) (c) VAL – Form and Density of Development.	No specific comment. I recommend the assessment matter is retained.
21.7.2.5 a.	opportunity has been taken to aggregate built development to utilise common access ways including roads, pedestrian linkages, services and open space (ie. open space held in one title whether jointly or otherwise);	5.4.2.2(3) (VAL) (c)(ii)	No specific comment. I recommend the assessment matter is retained.
21.7.2.5 b.	there is merit in clustering the proposed building(s) or building platform(s) having regard to the overall density and intensity of the proposed development and whether this would exceed the ability of the landscape to absorb change;	5.4.2.2(3) (VAL) (c)(ii)	<p>Submitter 145 (UCES) supports the proposed clustering assessment matter and seeks that the assessment matter 21.7.2.5(b) is incorporated into the assessment matters in the Operative District Plan between the assessment matters 5.4.2.2.3 (c) (iv) and (v) with the addition of the sentence: "Where clustering is merited the balance of the subject site shall be covenanted against further subdivision and development in perpetuity."</p> <p>UCES seeks the inclusion in part 5.4.2.2.3. [c] of the Operative District Plan a spatial development tool assessment matter based on the existing 500m and 1.1km assessment matter where the desired spatial patterns of development, meaning the distances between nodes of development are clearly set out.</p>
21.7.2.5 c.	development, including access, is located within the parts of the site where they will be least visible from public and private locations;	5.4.2.2(3) (VAL) (c)(i)	I recommend that the PDP wording is retained, and I also reiterate that the 'spatial development tool' requested by the UCES is inappropriate because it is arbitrary and could send a wrong message that if activities comply with this, then it meets all requirements. I recommend this submission is rejected.
21.7.2.5 d.	development, including access, is located in the parts of the site where they will have the least impact on landscape character.	No direct reference.	Encourages development to locate where it would have the least impact on landscape character.
21.7.2.6	<p>Tangata Whenua, biodiversity and geological values:</p>		
21.7.2.6 a.	whether and to what extent the proposed development will degrade Tangata Whenua values including Tōpuni or nohoanga, indigenous biodiversity, geological	5.4.2.1 – Landscape Assessment Criteria Process.	Encourages an analysis of whether there is value of the landscape to Tangata Whenua. This process is part of the

	<p>or geomorphological values or features and, the positive effects any proposed or existing protection or regeneration of these values or features will have.</p> <p>The Council acknowledges that Tangata Whenua beliefs and values for a specific location may not be known without input from iwi.</p>		<p>assessment under 21.7.1.3(c) for ONF/ONL. Because this evaluation is not required for Rural Landscapes, the matter and other appreciative elements (biodiversity and geological values) that are not directly related to a landscape assessment are included.</p>
21.7.2.7	<p>Cumulative effects of development on the landscape:</p> <p>Taking into account whether and to what extent any existing, consented or permitted development (including unimplemented but existing resource consent or zoning) has degraded landscape quality, character, and visual amenity values. The Council shall be satisfied;</p>	<p>5.4.2.2 (1) (ONL WB and ONF DW) (e) - cumulative effects of development on the landscape.</p>	<p>Although this is derived from ONL WB and ONF in the ODP, the statement is useful in that it requires consideration of consented yet unbuilt development.</p> <p>Submitters 513 (J. Barb) and 519 (Crosshill Farms) seeks that the provision is removed because it creates inconsistencies with case law and applying the permitted baseline. I disagree, the provision adequately describes the permitted baseline and this is appropriate.</p>
	<p>the proposed development will not further degrade landscape quality, character and visual amenity values, with particular regard to situations that would result in a loss of valued quality, character and openness due to the prevalence of residential or non-farming activity within the Rural Landscape.</p>	<p>5.4.2.2(3) (VAL) (d) (i) – (v).</p>	<p>No specific comment. I recommend the assessment matter is retained.</p>
	<p>where in the case resource consent may be granted to the proposed development but it represents a threshold to which the landscape could absorb any further development, whether any further cumulative adverse effects would be avoided by way of imposing a covenant, consent notice or other legal instrument that maintains open space.</p>	<p>5.4.2.2(3) (VAL) (d) (vii).</p>	<p>No specific comment. I recommend the assessment matter is retained.</p>
21.7.3	<p>Other factors and positive effects, applicable in all the landscape categories (ONF, ONL and RLC)</p>	<p>Combination of all landscape categories.</p>	<p>Submitter 251 (Powernet Ltd) seek that this is amended to allow for recognition of utilities. it is my preference that this submission is rejected because the landscape can be affected by all development and ant utilities developments that would require assessment of these applications (e.g. discretionary or non-complying activities in the Rural Zone, or notice's of requirement) are assessed against these provisions.</p>
21.7.3.1	<p>In the case of a proposed residential activity or specific development, whether a specific building design, rather than nominating a building platform, helps</p>	<p>No direct reference.</p>	<p>No specific comment. I recommend the assessment matter is retained.</p>

	demonstrate whether the proposed development is appropriate.		
21.7.3.2	Other than where the proposed development is a subdivision and/or residential activity, whether the proposed development, including any buildings and the activity itself, are consistent with rural activities or the rural resource and would maintain or enhance the quality and character of the landscape.	No direct reference.	Includes activities that rely on the rural resource and whether they are compatible.
21.7.3.3	In considering whether there are any positive effects in relation to the proposed development, or remedying or mitigating the continuing adverse effects of past subdivision or development, the Council shall take the following matters into account:	5.4.2.2(2) (ONL DW) (d) Positive Effects	No specific comment. I recommend the assessment matter is retained.
21.7.3.3 a.	whether the proposed subdivision or development provides an opportunity to protect the landscape from further development and may include open space covenants or esplanade reserves;	5.4.2.2(2) (ONL DW) (d) Positive Effects	No specific comment. I recommend the assessment matter is retained.
21.7.3.3 b.	whether the proposed subdivision or development would enhance the character of the landscape, or protects and enhances indigenous biodiversity values, in particular the habitat of any threatened species, or land environment identified as chronically or acutely threatened on the Land Environments New Zealand (LENZ) threatened environment status;	5.4.2.2(2) (ONL DW) (d) (i) Positive Effects	No specific comment. I recommend the assessment matter is retained.
21.7.3.3 c.	any positive effects including environmental compensation, easements for public access such as walking, cycling or bridleways or access to lakes, rivers or conservation areas;	5.4.2.2(2) (ONL DW) (d) Positive Effects (vi)	No specific comment. I recommend the assessment matter is retained.
21.7.3.3 d.	any opportunities to retire marginal farming land and revert it to indigenous	No direct reference.	The merits of any opportunities to remedy past adverse effects on

	vegetation;		indigenous biodiversity.
21.7.3.3 e.	where adverse effects cannot be avoided, mitigated or remedied, the merits of any compensation;	No direct reference.	Whether there are other compensatory measures.
21.7.3.3 f.	whether the proposed development assists in retaining the land use in low intensity farming where that activity maintains the valued landscape character.	No direct reference.	No specific comment. I recommend the assessment matter is retained.

Appendix 1. Recommended Revised Chapter

Appendix 2. List of Submitters Points and Recommended Decisions

Appendix 3. Section 32 Report

Appendix 4. Section 32AA

Appendix 5: MOU between NZFS and QLDC