

BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act
1991

AND

IN THE MATTER of the Proposed District Plan
(Chapter 24)

STATEMENT OF EVIDENCE OF CHRISTOPHER BRUCE FERGUSON

Darby Planning LP (#2376)
Lake Hayes Ltd (#2377)
Lake Hayes Cellar Ltd (#2378)
Glencoe Station Ltd (#2379)
The Crown Investment Trust (#2307)

13 June 2018

ANDERSON LLOYD
LAWYERS
QUEENSTOWN

Solicitor: M Baker-Galloway
(maree.baker-galloway@andersonlloyd.co.nz)

Level 2,
13 Camp Street,
PO Box 201,
QUEENSTOWN 9348
DX ZP95010
Tel 03 450 0700
Fax 03 450 0799

INTRODUCTION

Qualifications and Experience

- 1 My name is Christopher Bruce Ferguson. I hold the position of Associate Partner with the environmental consultancy firm Boffa Miskell Limited (**Boffa Miskell**). I am based in Queenstown and have been employed by Boffa Miskell since April 2015.
- 2 I have 22 years' experience as a resource management practitioner and am a full member of the New Zealand Planning Institute. I have held positions as a Planner in both local government and private practice within Selwyn District Council, Christchurch City Council, and Queenstown Lakes District Council, as well as in London, England.
- 3 Prior to commencing employment at Boffa Miskell, I was employed by AECOM New Zealand Limited as a Principal Planner, based in Christchurch. My work experience in Queenstown has included employment with Civic Corporation Ltd from Feb 2000 to Nov 2001, planning manager at Clark Fortune McDonald & Associates Ltd from 2003 to 2010 and then as Director of planning consultancy company Ferguson Planning Ltd.
- 4 I have been involved with many policy processes within Queenstown over the last decade, including Plan Changes 6, 8 and 10 (Amenity in the High Density Residential Zone), Plan Change 11 (Ground Level), Plan Change 19 (Frankton Flats) throughout the process to final environment court decision, Plan Change 30 (Urban Boundary Framework), Plan Change 41 (Shotover Country) as well as preliminary work for the Queenstown Lakes District Council (**the Council**) on the District Plan review (National Policy Statement for Renewable Energy Generation (**NPS-REG**), Earthworks and Utilities).
- 5 More recently, I have been involved in the preparation of submissions and evidence for a range of clients involved in Stage 1 of the Proposed District Plan (PDP), including the hearings in Steam 01B Strategic Directions, Stream 02 Rural, Stream 04 Subdivision, Stream 05 Noise, Stream 07 Designations, Stream 09 Jacks Point Zone, Stream 11 Ski Area Sub Zones, Stream 12 Upper Clutha Mapping (Parkins Bay Preserve) and Stream 13 Queenstown Mapping.

- 6 In accordance with the directions of the Hearing Panel Chair, this evidence has been prepared and presented in the same manner as expert evidence presented to the Environment Court. I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note. This evidence has been prepared in accordance with the Practice Note and I agree to comply with it. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

Scope of Evidence

- 7 I have been asked to prepare evidence on Chapter 24 of the PDP by Darby Planning LP (#2376), Lake Hayes Limited (#2377 and #2784), Lake Hayes Cellar Ltd (#2378 and #2783), Glencoe Station Ltd (#2379 and #2782) and The Crown Investment Trust (#2307). Chapter 24 sets out the provisions for the Wakatipu Basin Rural Amenity Zone and the Wakatipu Basin Lifestyle Precinct. For each of the above clients I was involved in the initial assessment of the notified provisions, and the preparation of submissions and further submissions.
- 8 Following the minute and directions of the Hearings Panel Chair,¹ this brief of evidence has been structured to include all of the submitters I represent within this hearing stream (as detailed above). This brief of evidence consists of six sections to present a structured assessment of the issues, as follows:
- (e) Issue 1 – Integration of Chapter 24 into the higher order PDP provisions
 - (f) Issue 2 – Chapter 24 Wakatipu Basin Zone - Policies
 - (g) Issue 3 – Chapter 24 Wakatipu Basin Zone – Building and dwelling rules
 - (h) Issue 4 – Status of subdivision within the Wakatipu Basin Zone
 - (i) Issue 5 – Planning Map/ Rezoning request
 - (j) Issue 6 - Matters deferred from Stage 1
- 9 In preparing this evidence I have reviewed:
- (a) The Otago Regional Policy Statement 2013 (**ORPS**);

¹ Dated 25 January 2016

- (b) The proposed Otago Regional Policy Statement (**pORPS**);
- (c) The Council's decisions on Stage 1 of the PDP, including Chapter 3 Strategic Directions and Chapter 6 Landscapes.
- (d) The section 32 report associated with Chapter 24 Wakatipu Basin;
- (e) The relevant submissions and further submissions of other submitters; and
- (f) The Council s.42A Reports prepared in relation to Chapter 24 Wakatipu Basin.

EXECUTIVE SUMMARY

- 10 This evidence has been prepared for the hearing on Chapter 24 Wakatipu Basin of the PDP. It addresses the key planning issues and matters raised in the submissions to these chapters by Darby Planning LP (#2376), Lake Hayes Limited (#2377 and #2784), Lake Hayes Cellar Ltd (#2378 and #2783), Glencoe Station Ltd (#2379 and #2782) and The Crown Investment Trust (#2307).
- 11 My evidence is that the Wakatipu Basin Rural Amenity Zone cannot be inserted into the structure of the PDP without undertaking a range of changes to the policies within Chapter 6 Landscapes. These changes are necessary to distinguish this area from the management of rural character landscape across the remainder of the District's rural land not otherwise classified as ONL or ONF.
- 12 The submissions from Lake Hayes Ltd et al seek a number of changes to the policies and rules of Chapter 24 Wakatipu Basin Rural Amenity Zone. Those changes seek to:
 - (a) Modify the wording of the policies to provide a more focussed set of provisions, which better reflect s7 of the Act
 - (b) Remove the policies, rules and assessment matters relating to the retention of all existing vegetation greater than 4m
 - (c) Introduce a new policy to recognise established residential building platforms and enable building within them
 - (d) Increase the maximum height of building from 6m to 8m
 - (e) Amend the road boundary setback within the Lifestyle Precinct from 75m to 20m

- 13 My evidence also supports a number of the changes proposed within the Council's s42A Report to amend the standards relating to building coverage and the introduction of new rules to provide for building within established residential building platforms as a permitted activity. The Council's decision on Stage 1 of the PDP have created a framework for the establishment of building platforms as a discretionary activity through the land use rules of the rural lifestyle zone or as a restricted discretionary activity through the subdivision rules. The s42A Report recommends a nearly identical approach for the Wakatipu Basin Lifestyle Precinct. I support this approach, but not if that also includes the further restrictive development standards proposed in relation to building height and the setback of buildings from road boundaries that would double up the management of like issues.
- 14 I also support in principle the addition of new site density rules but make further suggestions in how that is achieved to recognise and provide for building on existing titles less than 1ha in area.
- 15 The submissions by Lake Hayes Ltd et al seek to also enable subdivision within the Lifestyle Precinct. The approach to subdivision generally has been influenced by the Council's release of decisions on Stage 1 of the PDP, which has opted for restricted discretionary activity status as the default within both the rural living and urban areas. I have given evidence to the hearings panel on Stage 1 (Stream 4) on this matter. Without resiling from those opinions, I do not see any fundamental differences in the character and attributes of the Wakatipu Basin Rural Amenity Zone that would justify a different approach.
- 16 The submission from Lake Hayes Cellar Ltd is focussed on the need to recognise and provide for use and development of the Amisfield facilities and vineyard. Specifically sought in relation to this hearing are provisions to support a commercial overlay over the site and a range of proposed changes to the objectives, policies and rules for the Lake Hayes Cellar Precinct. The proposed objective, policies and rules for the commercial overlay will in my opinion ensure the recognition of this established facility which is not rural in character and will appropriately provide for future development of the site. Associated with the rezoning of the Lakes Hayes Cellar land are a range of consequential and other amendments to the rules and standards within Chapter 27 subdivision and Chapter 36 Noise to appropriately integrate these provisions into the PDP.

- 17 The submission from The Crown Investment Trust supports the identification of an area of Lifestyle Precinct over its land at 64 Fitzpatrick Road. The Council's evidence and s42A Report likewise support the notified rezoning. Based on the attributes of the site I consider it to be well suited to this zone.

STATUTORY FRAMEWORK

- 18 Section 79 provides for a review of district plans in the manner set out in Part 1 of Schedule 1 of the Resource Management Act 1991 (**RMA**).
- 19 In changing its district plan, the Council is required to:
- (a) "give effect to" any national policy statement;²
 - (b) "give effect to" any regional policy statement;³
 - (c) "must not be inconsistent with" a regional plan;⁴ and
 - (d) "have regard to" any proposed regional policy statement.⁵
- 20 There are a number of national policy documents of potential relevance across the Wakatipu Basin, including the National Environmental Standards for Electricity Transmission Activities (**NES-ETA**) and the National Policy Statement for Freshwater Management 2014 (**NPS-FM**).
- 21 The NPS-FM will have greater importance for activities resulting in earthworks and is therefore of particular importance in relation to Chapter 25 Earthworks, which is included within Stage 2 of the PDP but is subject to a separate hearing (Stream 15).
- 22 The National Grid may also be relevant to specific areas within the Wakatipu Basin, but none of the submitters included within the scope of this evidence are affected by the national grid corridor. Accordingly, I have not considered the provisions of either the NPS-FW or NES-ETA any further in this evidence.

² RMA s 75(3)

³ Ibid

⁴ RMA s 75(4)

⁵ RMA s 74(2)

- 23 The National Policy Statement of Urban Development Capacity (**NPS-UDC**) is intended to apply to urban environments.⁶ The Council's s42A report states that the land identified within the Wakatipu Basin Zone is not an urban environment as defined in the NPS-UDC.⁷ None of the submitters subject to the evidence seek to create urban environments within the Wakatipu Basin. On this basis, I have not considered the provisions of the NPS-UDC any further within the scope of this evidence.
- 24 The pORPS is well advanced through the appeal phase. Darby Planning LP was involved in mediation on these provisions in 2017, along with the Council and other parties. While memoranda of agreement have been reached between most of the parties, there are a small number of residual issues proceeding to hearing before the Environment Court. In this case, and until consent orders have been issued by the Environment Court, the provisions of both the ORPS and pORPS apply to the Wakatipu Basin.

Otago Regional Policy Statement

- 25 In changing its district plan, the Council is required to "give effect to" any regional policy statement.⁸ The relevant policies of the ORPS are contained within **Appendix 1**.
- 26 The ORPS provides a very general policy framework for the management of the land resource areas in the region. The objectives of most relevance are Objective 5.4.1 relating to the sustainable management of Otago's land resource; Objective 5.4.2 seeking to avoid, remedy or mitigate degradation of natural and physical resources from activities using the land resource; and Objective 5.4.3 seeking to protect outstanding natural features and landscapes from inappropriate subdivision, use and development.
- 27 Policy 5.5.4 promotes the diversification and use of the land resource to achieve sustainable land use and management systems.
- 28 Policy 9.5.4 addresses the effects of urban development and settlement. This policy is concerned with the management of the effects of urban growth and in particular the discharges to the environment, landscape qualities and a range of further matters including community values, Kai

⁶ Defined within the NPSUDC as meaning "*an area of land containing, or intended to contain, a concentrated settlement of 10,000 people or more and any associated business land, irrespective of local authority or statistical boundaries.*"

⁷ Statement of evidence of Craig Barr 30 May 2018 at [5.33]

⁸ s.74(2), Resource Management Act 1991

Tahu cultural and spiritual values, heritage, amenity, ecosystems and the habitats of trout and salmon.

- 29 Associated with this is Policy 9.5.5 addressing the quality of life for people and communities within Otago’s built environments through the identification and provision of an acceptable level of amenity; management of effects on communities’ health and safety from the use, development and protection of natural and physical resources; and managing effects on landscape values.

Proposed Otago Regional Policy Statement

- 30 In reviewing its District Plan, the Council is required to “have regard to” any proposed regional policy statement.⁹ The Otago Regional Council released its decision on submissions to the pORPS on 1 October 2016 and many appeals are now well advanced towards resolution.
- 31 The provisions of the pORPS that are of most relevance to the Wakatipu Basin relate to the identification and management of landscape values and urban growth and development. The relevant provisions from the pORPS are contained within **Appendix 2**.
- 32 In relation to landscapes, the relevant objective is for Otago’s significant and highly-valued natural resources to be identified, and protected or enhanced.¹⁰ The policy framework of the pORPS acknowledges the identification and management of both outstanding landscapes, as well as special amenity landscapes. The special amenity landscapes are equivalent to the Rural Character Landscapes identified under the PDP (in accordance with section 7 of the RMA). Policy 3.2.4 seeks to ‘protect, enhance and restore’ outstanding natural landscapes.
- 33 The pORPS expects District Plans to set objectives, policies and methods to implement policies in the pORPS as they relate to the District Council’s areas of responsibility, and to identify and manage areas of outstanding or special amenity landscapes.
- 34 The extent of the Wakatipu Basin Rural Amenity Zone generally contains all of the land within the Basin that is not part of any Outstanding Natural Features (**ONF**) or Outstanding Natural Landscapes (**ONL**). However, it is noted that the hearing of submissions from Stage 1 of the PDP on the

⁹ s.74(2), Resource Management Act 1991

¹⁰ Objective 3.2, Otago Regional Policy Statement (Decision Version), 1 October 2016

landscape lines has been carried through into this hearing and will ultimately inform the extent of this zone. The focus of the provisions within the Wakatipu Basin Rural Amenity Zone will therefore be on having regard to the policies in the pORPS relating to special amenity landscapes.

- 35 The oRPS policy framework for managing special amenity landscapes and highly valued features adopts a similar structure to the layered approach for outstanding natural landscapes and features, but differs in terms of its focus to 'protect or enhance' special amenity landscapes by avoiding significant adverse effects on those values which contribute to the high value of that landscape (among other matters).¹¹
- 36 Schedule 24.8 of Chapter 24 contains a detailed map of the landscape character units within the Wakatipu Basin landscape and related tables setting out the values that are evident within each of those character units. Conceptually this approach provides a very useful benchmark upon which to assess the effects on the "values" of any particular landscape character unit, because of the very detailed way in which those values have been described. I am not qualified to offer a view on the accuracy of the mapping of the landscape character units and the contents of the summary tables, but rather consider the approach and mechanism itself as a sound basis for implementing the pORPS policy for managing special amenity landscapes and highly valued natural features.
- 37 Strategic Objective 3.2.5.2 seeks that the rural character and visual amenity values in identified rural character landscapes are maintained or enhanced by directing new subdivision, use or development to occur in those areas that have the potential to absorb change without materially detracting from those values. This objective is supported in the PDP by Policy 3.3.32, which seeks to only allow further land use change in areas of the rural character landscapes able to absorb that change and limit the extent of any change so that landscape character and visual amenity values are not materially degraded.
- 38 In comparing the pORPS with the PDP policies relating to s7 landscapes, the PDP adopts a much more directive approach to managing the landscape resource, by directing or allowing further change to occur only in areas able to absorb change. Under the PDP, the extent of change is brought back to the values of that landscape, where they are "not materially

¹¹ Policy 3.2.6, *Ibid*

degraded". This raises a question as to whether avoiding significant adverse effects on landscape values as set out in the PRPS can be aligned with or indeed is at conflict with the PDP seeking landscape character and visual amenity values to be not materially degraded.

- 39 In my view, it may not be a direct conflict but I consider that the differences in wording are significant and create a misalignment of policy outcomes between the PDP and the pORPS that could lead to future tensions in administration. I return to this issue further below when considering the integration of Chapter 24 with the Strategic Directions and Landscape chapters of the PDP.
- 40 The provisions of the pORPS provide much greater support for urban growth and development than the operative RPS, with the primary objective that urban growth and development is well designed, reflects local character and integrates effectively with adjoining urban and rural environments.¹² The nature of the subdivision, use and development arising from the Wakatipu Basin Zone is unlikely to be considered urban under the pORPS, consistent with the definition of Urban Development under the PDP.¹³
- 41 Of more relevance are the policies in the pORPS relating to rural activities that seek to manage activities in rural areas, to support the region's economy and communities, by minimising the loss of significant soils; restricting the establishment of activities in rural areas that may lead to reverse sensitivity effects; minimising the subdivision of productive rural land into smaller lots that may result in rural residential activity and providing for other activities that have a functional need to locate in rural areas, including tourism and recreation activities that are of a nature and scale compatible with rural activities.¹⁴
- 42 It is understood that there is no land of high productive potential with highly versatile soils within the Wakatipu Basin. The general lack of productive rural land within the basin would also ensure that areas proposed for rural

¹² Objective 4.5, *Ibid*

¹³ Means development which is not of a rural character and is differentiated from rural development by its scale, intensity, visual character and the dominance of built structures. Urban development may also be characterised by a reliance on reticulated services such as water supply, wastewater and stormwater and by its cumulative generation of traffic. For the avoidance of doubt, a resort development in an otherwise rural area does not constitute urban development.

¹⁴ Policy 5.3.1, *Ibid*

living i.e. the Wakatipu Basin Lifestyle Precinct can occur in a manner consistent with Policy 5.3.1. That part of Policy 5.3.1 providing for tourism activity is relevant also in terms of the submission by Lake Hayes Cellar, addressed further below.

ISSUE 1 – INTEGRATION WITH HIGHER ORDER PDP PROVISIONS

- 43 The submissions by Darby Planning LP, Lake Hayes Ltd and Lake Hayes Cellar Ltd seek changes to the provisions within Chapter 3 Strategic Directions. The submissions also seek amendments to the proposed variation to Chapter 6 Landscapes and Rural Character that were consequential to proposed Chapter 38 Open Space and Recreation. These matters will be addressed within the Stream 15 hearing.
- 44 The changes sought in the submissions by the entities above are proposed to provide the necessary form of policy support for the Wakatipu Basin Lifestyle Amenity zone at a strategic level and in terms of the landscape values within the Wakatipu Basin, recognising that the zone seeks to approach the management of the land resource within the Wakatipu Basin differently to the remainder of the rural areas in the District.

Summary of Proposed Relief

- 45 The relief sought in the submissions above sought the following general outcomes with respect to Chapters 3¹⁵ and 6¹⁶ of the PDP:
- (a) to recognise that the Wakatipu Basin has landscape qualities that are distinct from the rural landscape classification;
 - (b) that the character and amenity values of the Wakatipu Basin are mapped and landscape guidelines are formulated;
 - (c) that areas of rural living are provided through the Wakatipu Basin Lifestyle Precinct; and
 - (d) that subdivision, use or development within the Wakatipu Basin responds to its identified characteristics and values.
- 46 The way in which these outcomes are integrated into the PDP has been affected by the release of decisions on Stage 1 of the PDP and, following the analysis of the pORPS above, the policies for special amenity landscapes in the pORPS. The analysis below explores how these general outcomes can be integrated into the higher order provisions of the PDP (decision version)

Evaluation

- 47 The purpose of the Wakatipu Basin Rural Amenity Zone is to protect, maintain and enhance the particular character and amenity of the rural landscape which distinguishes

¹⁵ Notified version, prior to the release of decisions on Stage One

¹⁶ As varied through Stage 2, but prior to the release of decisions on Stage One.

the Wakatipu Basin from other parts of the District that are zoned rural.¹⁷ While the physical extent of the Wakatipu Basin Rural Amenity Zone has been defined as comprising all land that is not in an ONL or ONF within the Wakatipu Basin, the zone purpose and detailed landscape analysis supporting it suggests that it is also not part of what is now termed the Rural Character landscape (**RCL**).

- 48 The provisions of Chapter 6 Landscapes and Rural Character are therefore of particular relevance in considering the strategic context for Chapter 24.
- 49 Policy 6.3.1 classifies the rural zoned landscapes in the district as being:
- (a) Outstanding Natural Features;
 - (b) Outstanding Natural Landscapes;
 - (c) Rural Character Landscapes
- 50 Beyond this three-way classification of rural landscapes, Policy 6.3.3 provides a separate regulatory regime for particular areas including Gibbston Valley, the Rural Residential Zone, Rural Lifestyle Zone and the Special Zones within which the ONF/Ls and RCL categories and the policies of Chapter 6 relating to those categories do not apply (unless otherwise stated). It is noted that the Wakatipu Basin is not specifically referred to in this policy framework.
- 51 In order to address this omission, there appear to be two possible options to provide recognition for managing the landscape values of the Wakatipu Basin:
- (a) Classification as a separate landscape, such as the Wakatipu Basin Amenity Landscape, as a fourth landscape under Policy 6.3.1; or
 - (b) Through a further and separate regulatory regime of the type provided for through Policy 6.3.3.
- 52 At a practical level, the creation of a separate classification of landscape for the Wakatipu Basin under Policy 6.3.1 would necessitate an entirely new suite of strategic and landscape policies to support that new landscape, whereas the inclusion of a reference to the Wakatipu Basin Rural Amenity Zone in Policy 6.3.3 and the creation of a “separate regulatory regime” may be capable of being more readily worked into the existing policy structure of Chapters 3 and 6.
- 53 The Wakatipu Basin is part of a s7 landscape, whether that be classified in the PDP as a rural character landscape or something else. The motivation set out in the s32 Report

¹⁷ Chapter 24 as notified, clause 24.1

for treating it differently to the remainder of the s7 landscapes of the District are not so much derived from the Wakatipu Basin being inherently higher or lower in value in a landscape sense, but rather subject to more intense pressures for subdivision, use or development than in other rural parts of the district and values which are differently composed.

54 Having determined that the Wakatipu Basin remains as a s7 landscape, the rationale for a separate regime clearly exists for wider planning reasons, which would suggest that the addition of the Wakatipu Basin Zone into Policy 6.3.3 would be a more efficient path to implement the objectives of the PDP. I also think this option helps to maintain the legibility of the PDP in that having two types of s7 landscape could be confusing to some.

55 The Council's s.42A report recommends the addition of a new Policy 6.3.XA, as follows:

6.3.XA: Provide a separate regulatory regime for the Wakatipu Basin Rural Amenity Zone, within which the Outstanding Natural Feature, Outstanding Natural Landscape and Rural Character Landscape categories and the policies of this chapter related to those categories do not apply. (3.2.1.1, 3.2.1.7, 3.2.1.8, 3.2.5.2, 3.3.20-24, 3.3.32).

56 I agree that the wording of this policy would provide the necessary integration into Chapter 6.

57 Working upwards into the Strategic Directions chapter, the submissions sought to further distinguish the qualities of the Wakatipu Basin landscape through the insertion of a new policy in Chapter 3. The Council's decision on Chapter 3 has rationalised the landscape objectives within Chapter 3 to a high-level objective for "*the retention of the District's distinctive landscape*",¹⁸ followed by two detailed objectives focused on the three landscape classifications of the Rural Zoned land – ONFs, ONLs and RCLs.¹⁹

58 In this context, the Wakatipu Basin Rural Amenity Zone would implement the higher-level objective as it is a distinctive part of the District's landscape. The more detailed policy guidance on these landscapes and the other areas, where separate regimes apply, have been incorporated into Chapter 6 through the addition of the suggested policy above. Provided this separate policy is inserted, management of the Wakatipu Basin landscape within the framework of Chapters 3 and 6 can be appropriately achieved without conflict with the detailed objectives relating to ONF/Ls and RCLs.

59 This management of the Wakatipu Basin via a separate regime also has the benefit of avoiding any further tension between the policies of the pORPS and the PDP relating to

¹⁸ Objective 3.2.5, PDP (Decision Version)

¹⁹ Objectives 3.2.5.1 and 3.2.5.2, *Ibid*

the special amenity landscapes and highly valued features, which as stated above seek to protect or enhance highly valued natural features, landscapes and seascapes by avoiding significant adverse effects on those values which contribute to the high value of the natural feature, landscape or seascape.

- 60 The Council s42A Report is concerned with the overlap of appeals on the Stage 1 PDP provisions within Chapters 3 and 6 and in response sets out a set of replicated provisions within Chapter 6 for the management of activities in the Wakatipu Basin Rural Amenity Zone.²⁰ The new policies are related in the first instance to the Wakatipu Basin Rural Amenity Zone, and at first glance fail to also refer to the Lifestyle Precinct. However I note that General Rule 24.3.3.1 states that the Wakatipu Basin Lifestyle Precinct is a sub-zone of the Wakatipu Basin Rural Amenity Zone.
- 61 The additional policies recommended for Chapter 6 within the s42A report for the Wakatipu Basin Rural Amenity Zone replicate many of the policies that are designed for managing activities in the Rural Zone, Gibbston Character Zone, the Rural Residential Zone and the Rural Lifestyle Zone; as well as for managing activities in the Rural Character Landscapes.
- 62 Acknowledging the point relating to the potential overlap of appeals on Stage 1 PDP and this variation and the creation of this new suite of policies within Chapter 6, I consider it important for the new suite of Chapter 6 provisions to address the landscape basis underpinning:
- (a) the identification of the character and amenity values of the Wakatipu Basin through detailed mapping and the formulation of related landscape guidelines;
 - (b) the identification of the Lifestyle Precinct; and
 - (c) how subdivision, use or development within the basin responds to the identified characteristics and values for this area
- 63 These important aspects of managing landscape and rural character factors are not adequately addressed in the recommended provisions contained within the s42A Report. Set out below are three further policies that I suggest are placed under the heading of the new suite of policies proposed for the Wakatipu Basin within Chapter 6:
- (a) Insert new Policy 3.3.34, as follows:

²⁰ Paragraph 38.31, Page 185 – 186, QLDC s.42A Report – Stream 14 Wakatipu Basin and Appendix 3.

Identify the characteristics and amenity values of the Wakatipu Basin through the mapping of those areas of landscape character and the formulation of associated landscape guidelines. (3.2.5, 3.2.22, 3.3.23, 3.3.24, 3.3.32)

(b) Insert new Policy 3.3.35, as follows:

Maintain or enhance the landscape of the Wakatipu Basin by avoiding significant adverse effects on those values which contribute to the distinctive and high value of that landscape. (3.2.5, 3.2.22, 3.3.23, 3.3.24, 3.3.32) [s7(a) and PRPS Policy 3.2.6]

(c) Insert new Policy 3.3.36, as follows:

Provide for rural living opportunities within the Wakatipu Basin through identification of the Wakatipu Basin Lifestyle Precinct located within those parts of the landscape having higher capacity to absorb change (3.2.1.8, 3.3.22, 3.3.24)

64 In other respects, I agree with the additional policies proposed to be inserted within Chapter 6 by Mr Barr. Of these policies recommended to be replicated within Chapter 6 for the Wakatipu Basin, I suggest the following modifications:

6.3.45 Avoid significant adverse effects on landscape and visual amenity values from subdivision, use and development that:

- a. *is highly visible from public places and other places which are frequented by members of the public generally (except any trail as defined in this Plan); or*
- b. *forms the foreground for an Outstanding Natural Landscape or Outstanding Natural Feature when viewed from public roads. (3.2.1.1, 3.2.1.8, 3.2.5.1, 3.2.5.2, 3.3.20-21, 3.3.24-25, 3.3.30, 3.3.32).*

65 These changes are sought primarily to better align with Policy 3.2.6 of the PRPS.

ISSUE 2 - CHAPTER 24 WAKATIPU BASIN ZONE POLICIES

Summary of Proposed Relief

- 66 The submissions by Lake Hayes Ltd et al seek a range of changes to the policies within Chapter 24 to achieve the following outcomes:
- (a) A more balanced set of policy provisions that better reflect the management of amenity values under s7 of the Act;
 - (b) Recognition of the established development rights secured under the operative District Plan; and
 - (c) Removal of the blanket approach taken for the retention of all vegetation within the Zone.

S42A Report

- 67 The recommendations contained within the Council's s42A Report:
- (a) Concur with many of the submissions seeking to remove the requirement that all buildings be a restricted discretionary activity, including building within established building platforms, but does not however extend this outcome in the rules to the inclusion of an appropriate policy linking to the proposed new rules within Chapter 24.
 - (b) Consider that the word 'protect' contained within Objective 24.2.1 and Policies 24.2.1.1 and 24.2.1.8 is warranted and the most appropriate way to achieve the objectives of Chapter 24.
- 68 On the theme of 'protection' being referenced throughout the provisions the s42A Report acknowledges this as being akin to s6 landscapes and that the Wakatipu Basin Zone is a s7(c) landscape where the Act seeks to maintain and enhance amenity values. Despite this understating of the statute, Mr Barr considers that retention of references to 'protection' within the objectives and policies is necessary because of:
- (a) Development issues present in the Wakatipu Basin
 - (b) The amenity values of the Wakatipu Basin
 - (c) the Wakatipu Basin has a bearing on the appreciation of the ONFs within the basin and the ONL enclosing the valley floor.

Evaluation

Zone Purpose

- 69 The submission by Lake Hayes Ltd *et al* seeks to amend the second to last paragraph of the Chapter 24 Zone Purpose, as follows:

“In the Precinct a ~~limited~~ opportunity for subdivision is provided with a minimum lot size of 6,000m² ... “

- 70 The reason for this change was to align the provisions within the zone purpose with the rules. Under the recommendations proposed by the Council in the s42A Report residential activity must not exceed one unit per hectare and achieve a minimum net area of 6,000m². Having identified the Lifestyle Precinct as being within those parts of the Wakatipu Basin that have a greater capacity to absorb change, the statement that only limited opportunity for subdivision is provided for is at odds with the rules (as stated above) and which anticipate a density of 1/ha. It might be more correct to state that within the Wakatipu Basin as a whole there are limited opportunities for lifestyle development, through the identified Lifestyle Precinct, but that does not seem to be the intent.

- 71 Accordingly, I consider the change sought by Lake Hayes Ltd *et al* appropriate and would ensure the policies align with the rules for the Zone.

“Protection” of Landscape Values

- 72 Whether the Wakatipu Basin Rural Amenity Zone has the attributes sufficient to make it an ONL or s7 landscape requires a factual assessment based on the inherent quality of the landscape itself.²¹ It follows that if the values of the landscape are so significant as to be outstanding then the landscape should be classified as an ONL and afforded “protection” through s6. Requiring protection as one of the policy approaches within Chapter 24 should not in my view occur if the landscape is not determined to be an ONL. If the provisions of Chapter 24 seek to provide protection as a policy option there is the potential for internal inconsistencies within the areas of the basin, such as the Lifestyle Precinct, that have been identified as having greater potential to absorb change.

- 73 Amenity is a widely defined term and includes *“those natural or physical qualities and characteristics of an area that contribute to peoples appreciation”* of that landscape or area.²² Through the detailed mapping of the landscape character units (Schedule 24.8), Chapter 24 has the potential to implement a greater level of sophistication in management of the qualities of this distinctive high value landscape, including the

²¹ Man O War Station Ltd v Auckland Council [2017] NZCA 24

²² RMA s2 Definition of “Amenity Values”

development pressures that it faces. Addressing the concerns expressed in the s42A report I consider it more appropriate for the provisions to offer a higher level of policy support where the particular qualities of the landscape of the Wakatipu Basin require that, such as in proximity to the ONL encircling the basin or any of the ONFs within the basin.

74 Inclusion of “protection” as part of the policy approach does not necessarily manage those issues in an effective and efficient way. Cumulative effects for example might be better addressed through techniques such as the imposition of a minimum allotment size and the mapping of the landscape through inclusion of the outcomes of the Wakatipu Basin Landscape Study and the related schedule 24.8 included within Chapter 24.

75 The policy structure that I have built on from the s42 Report for Chapter 6 (above) aligns with this more targeted approach and includes strong policy protection as follows:

3.3.34 *Avoid urban development and subdivision to urban densities in the rural zones. (3.2.2.1, 3.2.5.1, 3.2.5.2, 3.3.13-15, 3.3.23, 3.3.30, 3.3.32)*

3.3.38 *Ensure that subdivision and development in the Outstanding Natural Landscapes and Rural Character Landscapes adjacent to Outstanding Natural Features does not have more than minor adverse effects on the landscape quality, character and visual amenity of the relevant Outstanding Natural Feature(s). (3.2.5.1, 3.3.30).*

6.3.42 *Ensure incremental changes from subdivision and development do not degrade landscape quality or character, or important views as a result of activities associated with mitigation of the visual effects of proposed development such as screen planting, mounding and earthworks. (3.2.1.1, 3.2.1.8, 3.2.5.2, 3.3.21, 3.3.24, 3.3.32)*

6.3.45 *Avoid adverse effects on visual amenity from subdivision, use and development that: a. is highly visible from public places and other places which are frequented by members of the public generally (except any trail as defined in this Plan); or b. forms the foreground for an Outstanding Natural Landscape or Outstanding Natural Feature when viewed from public roads. (3.2.1.1, 3.2.1.8, 3.2.5.1, 3.2.5.2, 3.3.20-21, 3.3.24-25, 3.3.30, 3.3.32).*

76 Inclusion of protection as a policy outcome, alongside maintain and enhance within the Chapter 24 objective and policies simply establishes a scattered selection of outcomes without real substance and meaning; and does not in my view align with any of the policies suggested to manage the Wakatipu Basin within Chapter 6. Accordingly, I suggest making the following changes to the Objective and Policies for Chapter 24:

- (a) Amend 24.1 Purpose to remove wording relating to the “protection” of landscapes.
- (b) Amend Objective 24.2.4.1, as follows:

Landscape and visual amenity values are ~~protected~~, maintained and enhanced.

- (c) Amend Policy 24.2.1.1, as follows:

Implement minimum and average lot sizes within the Wakatipu Basin Rural Amenity Zone and the Wakatipu Basin Lifestyle Precinct to ~~protect~~ maintain landscape character and visual amenity values.

- (d) Amend Policy 24.2.1.8, as follows:

Ensure land use activities ~~protect~~, maintain and enhance the range of landscape character and visual amenity values associated with the Zone, and Precinct ~~and wider Wakatipu Basin area.~~

- (e) Amend Policy 24.2.5.1, as follows:

Provide for rural residential subdivision, use and development within the Wakatipu Basin Lifestyle Precinct ~~only where it protects, maintains or enhances the landscape character and visual amenity values as described within the landscape character unit as defined in Schedule 24.8~~

Policy 24.2.1.9

- 77 Policy 24.2.1.9 as notified seeks to “Provide for activities that maintain a sense of openness and spaciousness in which buildings are subservient to natural landscape elements”. The submissions from Lake Hayes Ltd et al seek deletion of this policy because of the ill-defined nature of the outcomes being sought, it being capable of wide interpretation and in particular to promote outcomes associated with outstanding natural landscapes and features.
- 78 Mr Barr considers the policy would be interpreted in the context of the objectives, rules and provisions and is therefore appropriate.²³
- 79 Bearing in mind that this policy applies to all parts of the Zone, including the Lifestyle Precinct which seeks to create a density of development of 1 ha/site, it is hard to see how activities could provide for a sense of openness and spaciousness in which buildings are subservient to natural landscape elements in all cases.
- 80 The primary policy for the Zone is 24.2.1.3 and that seeks to maintain and enhance the landscape character of the Wakatipu Basin as described in Schedule 24.8. Through this policy, if qualities such as openness are important for a particular landscape character unit they can be maintained. I consider that the outcomes sought through policy 24.2.1.9 are at conflict with Policy 24.2.1.3 and the higher order policies suggested for

²³ Paragraph 20.62, Page 104, S42A Report – Stream 14 Wakatipu Basin

incorporation into Chapter 6 (particularly Policy 6.3.35). As retention of policy 24.2.1.9 counteracts other policies I consider it to be an inefficient and ineffective method to implement the relevant objectives of the Plan and consider that it should be deleted.

Policy 24.2.5.6 Retention of Vegetation

81 Policy 24.2.5.6 seeks to retain vegetation where it contributes to landscape character and the visual amenity values of the Precinct and is integral to the maintenance of the established character of the Precinct. The submissions from Lake Hayes Ltd et al seek deletion of Policy 24.2.5.6 and the related rules as they are contrary to the higher order policies relating to wilding species clearance and enhancing natural conservation values.

82 The recommendations contained within the s42A Report are to add a new Policy 24.2.4.7, as follows:

24.2.4.7 Encourage the removal of trees with wilding potential as part of development proposals, and where necessary, provide non-wilding species as replacements to maintain landscape character and amenity values.

83 In addition, Mr Barr proposes to amend Policy 24.2.5.6 as follows:

24.2.5.6 Retain vegetation where it does not present a high risk of wilding spread and/or where this vegetation contributes to landscape character and visual amenity values of the Precinct and is integral to the maintenance of the established character of the Precinct.

84 The changes suggested in the s42A Report address the concerns raised in terms of retaining vegetation with potential for wilding spread, however maintains a fundamental position that existing vegetation should be maintained as a trade-off for the generally more permissive regime created through the 1ha average lot size and as existing vegetation becomes more important for amenity values in such areas.

85 The evidence of Ms Gilbert appears to be more focussed on the role of exotic planting serving to assist the integration of building development in the Precinct areas. Despite this, the outcome from the proposed policy is to retain a strong direction to maintain existing vegetation where it does not present a risk of wilding spread across all part of the Zone, including areas outside of the Lifestyle Precinct.

86 Appreciating that the nature of the rules relating to the Wakatipu Basin are proposed to change and in particular through the Lifestyle Precinct, the regime proposed for the retention of existing vegetation applies across the entirety of the Zone where arguably subdivision, use or development has been made less permissive. Despite these changes to development potential for some areas, the starting point for the imposition of

new regulation has to be grounded in a resource management issue that is causing a problem.

- 87 The Council's rural monitoring report points to an increase of vegetation associated with domestication of the landscape that accompanies lifestyle block development, including planting designed to mitigate individual consented developments.²⁴ A series of photographs are used to compare changes within the Wakatipu Basin over time, with one of the most notable changes in the landscape being the degree of planting that has occurred and the extent that already planted trees have grown over time.
- 88 This report establishes the following relevant points:
- (a) The basin has become an increasingly vegetated landscape through human involvement, primarily through the planting established as part of lifestyle block development;
 - (b) Much of that development can be linked to the mitigation of the visual effects of building development;
 - (c) The amount of planting as part of this development is extensive and is likely to change the landscape considerably over the long term; and
 - (d) This regime has occurred in the absence of district plan rules preventing the removal of vegetation, but rather a landscape focussed regime that seeks to encourage subdivision and development within areas of greatest potential to absorb change – the absorption of change can and is aided considerably by vegetation.
- 89 The Wakatipu Basin Zone does not promote a radical change from the landscape-based approach, which features prominently in the objectives and policies proposed by Mr Barr. There is no evidence to suggest that the existing planting is being removed at a scale detrimental to the character of the landscape and in fact the evidence points to it continuing to expand.
- 90 There are no higher order strategic policies within the PDP, the ORPS, pORPS or other national policy documents mandating a regime seeking to retain all existing vegetation within this area. I note that the focus of the pORPS is on protecting and enhancing areas of significant indigenous vegetation²⁵.

²⁴ Page 16, QLDC "District Plan Monitoring Report - Monitoring the Effectiveness and Efficiency of the Rural General Zone" (April 2009)

²⁵ Policy 3.2.2, pORPS (2016)

- 91 In terms of the PDP structure, Chapter 32 of Protected Trees establishes a framework for the identification and protection of trees that have been identified as having high botanical, amenity and heritage values from avoidable removal. Policy 32.2.1.1 provides for that through the identification and schedule in the District Plan. The planning maps included within the decision on Stage 1 of the PDP for the Wakatipu Basin identify numerous protected trees.
- 92 Inclusion of a second suite of rules protecting all trees has the potential to confuse users of the PDP, including by raising uncertainty over the veracity of Chapter 32 if further rules are required to protect trees that were not included in Schedule 32.7 of Chapter 32, by raising questions as to which policy framework would be most relevant for the removal of trees (Chapter 24 or 32?) and to potentially diminish the value of listed protected trees under the chapter 32 now having the same status as all trees within the Wakatipu Basin.
- 93 In summary, I consider that Policy 24.2.5.6 should be deleted, together with the attendant rules and assessment matters because:
- (a) There is no change in the way in which planting will continue to aid mitigation and absorption of buildings into the landscape of the Wakatipu Basin
 - (b) There is no evidence of any threats to that vegetation
 - (c) There is no support in policy from any of the higher order strategic policies of the PDP or the ORPS or pORPS
 - (d) There is confusion as to the application of the policies and rules of Chapter 32 Protected Trees of the PDP
 - (e) Policy 24.2.5.6 does not to address a significant of known resource management issue.

New Policy – established development rights

- 94 The submission by Lake Hayes Ltd *et al* sought to insert a new Policy 24.2.1.13 seeking to:
- Recognise established residential building platforms and enable building subject to achieving appropriate standards*
- 95 The recommendations contained within the s42A Report seek to modify the regime proposed within the Wakatipu Basin Zone to provide for the construction of residential buildings within a residential building platform approved through the Chapter 24 rules and any previous resource consent as a permitted activity subject to compliance with standards relating to density and colour. Despite this change the s42A Report fails to establish appropriate policy support for this approach.

96 To avoid a policy disconnect I consider it important for Chapter 24 to contain appropriate policy support for building within established building platforms, in the same way that development occurring outside of any building platform is subject to appropriate policy rigour.

97 Therefore I propose that the following policy is included in Chapter 24:

Recognise established residential building platforms and enable building subject to achieving appropriate standards

ISSUE 3 – WAKATIPU BASIN ZONE RULES

Activity Status of Buildings

Relief Sought in Submissions

- 98 The submissions by Lake Hayes Ltd *et al* sought to amend the rules within Chapter 24 to achieve the following outcomes:
- (a) Permitted activity status for buildings within the Lifestyle Precinct;
 - (b) Permitted activity status for buildings outside of the Lifestyle Precinct where they are located within an established residential building platform; and
 - (c) To include new rules for the establishment of a residential building platform within the Zone as part of any subdivision or land use activity.
- 99 Chapter 24 as notified provided for the construction of buildings throughout the Wakatipu Basin Rural Amenity Zone as a restricted discretionary activity (including alterations to existing buildings and buildings located within an existing approved/registered building platform).

S42A Report

- 100 The Council's s42A Report recommends the establishment of a new rule 24.4.XA providing for the identification of a residential building platform as a restricted discretionary activity, subject to the standards within 24.3; the creation of a new permitted activity Rule 24.4.XB for the construction and exterior alteration of buildings located within a building platform; and a new permitted activity status Rule 24.4.XC for the exterior alteration of any established building where there is no residential building platform, subject to compliance with the standards in Table 24.3.
- 101 The changes proposed by the Council s42A report address two of the three matters raised above, but do not enable buildings within the Lifestyle Precinct as a permitted activity (with or without a residential building platform). I also note that the evidence of Ms Gilbert continues to support the restricted discretionary activity framework for building.

Evaluation

- 102 The regime for building within the Rural Lifestyle and Rural Residential Zones has changed over time, as follows:
- (a) Under the Operative District Plan, building is a controlled activity, provided it is located within an approved residential building platform and non-complying within the Rural Lifestyle Zone where it is not. However, the process to establish a

building platform did not exist in the land use rules and could only be created through subdivision, which was a controlled activity where the relevant standards such as minimum lot size were met

- (b) Within Chapter 22 Rural Residential and Rural Lifestyle, as notified through Stage 1 of the PDP, building within an approved building platform was a permitted activity, with a rule introduced providing for the identification of a building platform as a discretionary activity.
- (c) Within Chapter 22 Rural Residential and Rural Lifestyle, decision version (2018), the rules permitting building within an approved building platform remain, as does the rule providing for the identification of a building platform as a discretionary activity. However, subdivision now requires resource consent as a restricted discretionary land use activity and that provides an alternate pathway to establishing a building platform.

103 At the core of all of the planning documents above is the enablement of building as either a permitted or controlled activity within an established residential building platform. I support the approach take in the rules, as modified through the Councils s42A Report to enable building within an approved building platform as a permitted activity.

104 The approach recommended within the Council's s42A Report replicates the Council's decision version of the Rural Residential and Rural Lifestyle Zone (Chapter 22) rules in relating to building. The characteristics of the Lifestyle Precinct are not sufficiently different so as to justify a different approach to building than what has been determined as appropriate for the Rural Residential and Rural Lifestyle Zones.

105 The regime for the Wakatipu Basin Lifestyle Precinct however seeks to further limit aspects of development, as compared to the Chapter 22 Rural Residential and Rural Lifestyle Zone, through increased building setbacks from roads and lower building height.

106 In the event the Panel determines that resource consent is required as a discretionary activity to establish a residential building platform (or restricted discretionary through subdivision), I do not then support the additional controls over building height and road setbacks that would create an overly complex regime resulting an ineffective and inefficient rule framework. I address these rules further in my evidence below.

Building Coverage

107 The submissions by Lake Hayes Ltd et al sought to amend Rule 24.5.1 Building Coverage so that the standard relates to ground floor area or any individual buildings. The relief is similar to that proposed for Chapter 22 (Stage 1 PDP).

- 108 The Council's s42A Report recommends amending Rule 24.5.1 Building Coverage, as follows:

Building coverage

The maximum building coverage for all any buildings shall be 15% of lot area, or 500m² gross ground floor area whichever is the lesser

- 109 In effect the report accepts the relief sought in the submissions and I agree this outcome is appropriate. This approach is appropriate given that the characteristics of the Lifestyle Precinct, being any area having a greater capacity to absorb change, less visibility and established landscape planting (in most instances), which would mitigate the visual impact of building.

Building Height

- 110 The submissions by Lake Hayes Ltd *et al* seek to amend Rule 24.5.3 which establishes the maximum height of any building of 6m within the Zone, and seeks that this is amended to a maximum height of 8m. The reasons for this are that 6m is considered overly restrictive considering the character of the existing environment, comprising generally larger but appropriately recessive buildings and the attributes of the Lifestyle Precinct as having higher capacity to absorb change. A maximum height limit of 8m is sought to be consistent with the rural lifestyle zones.
- 111 Ms Pfluger prepared landscape evidence in support of the submissions on stage one for the rural and rural lifestyle zone.²⁶ She addressed submissions opposing the proposed 8m height limit in the Stage 1 PDP zones and considers that:

While it would be possible to build a double storey building with an 8 metres height limit, it would in my view be unlikely that a “box style” building would be implemented to take up the permitted maximum size and height. In my experience, it is more likely that variations in building facades and modular buildings are used and that variations in roof lines with gables and dormers are preferred styles from an architectural point of view. While an 8 metres height limit is reasonably permissive, it allows for a number of creative solutions and the ability to follow landform variation on undulating sites.

- 112 I agree with Ms Pfluger in this regard. The s42A Report makes a comment on the context of the “inherent development right afforded by the Zone” where building height is relatively conservative. This is a theme pervading the s42A Report relating to the context of development rights enabled through the Lifestyle Precinct as pseudo justification for

²⁶ Statement of Evidence of Yvonne Pfluger Stream 02: Chapters 21 and 22 (21 April 2016)

more restrictive development controls. Whilst I agree that the overall extent of the Lifestyle Precinct could be seen as significant, I disagree this provides justification for imposing greater development controls across the whole Precinct.

- 113 The Precinct has been formulated from established rural residential and rural lifestyle zones (under the ODP) as well as new areas previously zoned rural that have been identified through the landscape study as having greater capacity to absorb change. The approach by the Council's experts reflects an underlying tension in the zoning approach where a single precinct has been created to cover environments that each have slightly different characteristics, derived in part from historic planning regimes. Height is one expression of those differences. The s42A acknowledges this point, where it states:

It is my experience that it is generally considered to be acceptable to have buildings up to 8m in the ODP Rural Residential and Rural Lifestyle Zones.²⁷

and

Therefore, it is my view that while the ODP has a height limit of 8m for residential buildings, retaining the 8m height limit is not justified in areas of the Amenity Zone and Precinct currently zoned Rural.²⁸

- 114 The Council s42A Report recommends the submission by Lake Hayes *et al* in part by establishing a two-tiered rule permitting buildings up to 6m, triggering restricted discretionary consent above 6m and triggering non-complying activity status for buildings above 8m. The report acknowledges that 8m is generally considered to be acceptable within the ODP rural residential and rural lifestyle zones, but that many conditions volunteered during consent would limit height to between 4.5m to 6m. In the opinion of the Council s42A author, retaining the 8m height limit is not justified in areas of the Zone and the Precinct, which are currently zoned rural.
- 115 The basis for lowering height is not based on any inherent problems with an 8m height limit in such areas, but rather the consequences of that change being expanded into those parts of the Precinct previously zoned rural.
- 116 Given the regime proposed by the Council in the s42A Report in relation to buildings, whereby the establishment of a residential building platform is a discretionary activity or restricted discretionary activity if created through subdivision, I consider that the Council has the tools to appropriately address the landscape and visual amenity effects of building height at that time and can impose conditions or refuse consent, should the effects of building height determine that is necessary.

²⁷ Para 29.19, Page 137, s42A Report Stream 14 Hearing: Wakatipu Basin

²⁸ Para 29.22, *Ibid*

117 Having regard to this additional regulatory option, I do not consider the lowering of building height within the Wakatipu Basin Lifestyle Precinct to be an effective or efficient option to give effect to the relevant objectives of the PDP. Accordingly, I consider that the maximum height limit for building should be amended to be 8m.

Setback of Buildings from Roads

118 The submissions by Lake Hayes Ltd *et al* seek to maintain a 10m setback from roads anywhere within the Zone and to delete the proposed 75m setback from roads in the Lifestyle Precinct. The submission sets out the reasons for these changes as follows:

- (a) The Precinct has been identified as having greater capacity for change, deriving in part from the nature of existing development undertaken in accordance with operative District Plan zone.
- (b) Imposing a setback 65m greater than under the existing regime will establish a meaningless standard that cannot be defended against the established environment in many instances.
- (c) Establishing a 20m for the Zone generally, outside of the Precinct, will exacerbate problems in the context of areas with supposedly higher landscape qualities

119 In reliance on the landscape evidence by Ms Gilbert, the Council s42A Report recommends rejecting the relief sought in these submissions and that the rule be retained as notified.

120 As discussed above, the regime proposed for building within the Wakatipu Basin Lifestyle Precinct require resource consent as a discretionary activity to establish a residential building platform, or as a restricted discretionary activity through subdivision. Once a residential building platform has been created, building them appropriately becomes a permitted activity. The framework proposed for the assessment of any new residential building platform within the Wakatipu Basin Lifestyle Precinct requires a consideration of the location and design of buildings and ancillary elements, building height and the extent to which development maintains visual amenity in the landscape and from public places (such as roads).

121 Given this robust framework and the explicit recognition of the Lifestyle Precinct as having a greater capacity to absorb change I consider the imposition of a 75m building setback unnecessary and would be an ineffective and inefficient method to implement the relevant objectives for the Wakatipu Basin Lifestyle Precinct. On this basis I consider that Rule 24.5.4 Setback from Road, should be amended as follows:

Setback from roads

The minimum setback of any building from road boundaries shall be 20m in the Zone and 75m in the Precinct.

Site Density

- 122 The submissions by Lake Hayes Ltd *et al* seek to establish a new density rule for residential land use within the Lifestyle Precinct to enable no more than one residential unit per site; and for sites greater or equal to 1ha, no more than 1 residential unit per hectare, on average.
- 123 The reasons for seeking to introduce this new rule were to provide a land use mechanism equivalent to the minimum and average lots size standards established for the Lifestyle Precinct within Chapter 27 Subdivision.
- 124 The Council's s42A Report recommends the insertion of a new Rule 24.5.XB to establish a site density standard for the Lifestyle Precinct as follows:

Residential Density: Wakatipu Basin Rural Lifestyle Precinct

Residential activity must not exceed more than one residential unit per 1 hectare minimum average, subject to rule 24.5.XB.1. [where a breach of this standard is a non-complying activity]

24.5.XB.1 Residential activity minimum net area less than 6000m². [where a breach of this standard is a discretionary activity]

Evaluation

- 125 I support the general recommendation by the Council in its s42A Report to establish a residential density rule within the Lifestyle Precinct, for the reasons expressed within the submission.
- 126 It is unclear from the density rules suggested by the Council the status of building on an existing title. Given that the Lifestyle Precinct incorporates land previously identified as part of the Rural Residential Zone (Stage 1 PDP), those areas will contain sites at or about 4,000m² in area. The rule proposed in the submission by Lake Hayes Ltd *et al* would provide a better basis for recognising existing titles less than 1 ha in area, including those created in compliance with the former rural residential zone. On that basis, I suggest amending the wording of the Council's suggested new Rule 24.5.XB, as follows:

24.5.XB Residential Density: Wakatipu Basin Rural Lifestyle Precinct

~~Residential activity must not exceed more than one residential unit per 1 hectare minimum average, subject to rule 24.5.XB.1.~~

~~24.5.XB.1 Residential activity minimum net area less than 6000m².~~

25.4.5.XB.1 There shall be no more than one residential unit per site

25.4.5.XB.2 For sites equal or greater than 1ha, there shall be no more than
1 residential unit per hectare, on average

[where a breach of this standard is a non-complying activity]

Building Materials and Colours

127 The submissions by Lake Hayes Ltd *et al* seek to establish a new Rule 24.5.18 relating to building materials and colours to accompany the proposed new rules relating to the Zone seeking to enable building within the Lifestyle Precinct as a permitted activity and building anywhere within the Zone within an established residential building platform as a permitted activity. The proposed building materials and colours rule replicates a similar rule proposed through the Stage one PDP for the rural lifestyle zones.

128 The Council's s42A Report recommends accepting the relief sought and proposes to insert a new Rule 24.5.XC, as follows:

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:

24.5.XC.1 All exterior surfaces must be coloured in the range of browns, greens or greys, including;*

24.5.XC.2 Pre-painted steel and all roofs must have a light reflectance value not greater than 20%; and

*24.5.XC.3 All other surface ** finishes except for schist, must have a light reflectance value of not greater than 30%.*

** Excludes soffits, windows and skylights (but not glass balustrades).*

*** Includes cladding and built landscaping that cannot be measured by way of light reflectance value but is deemed by the Council to be suitably recessive and have the same effect as achieving a light reflectance value of 30%.*

Discretion is restricted to:

- external appearance;*
- visual prominence from both public places and private locations;*
- landscape character*

129 I agree that the proposed new rule 24.5.XC would achieve what is intended through the submissions above. I propose one minor amendment to clause 24.5.XC.3, to make it clear that all other finishes are related to exterior surfaces, as follows:

*24.5.XC.3 All other exterior surface ** finishes except for schist, must have a light reflectance value of not greater than 30%.*

ISSUE 4 – SUBDIVISION WITHIN THE WAKATIPU BASIN

- 131 The submissions by Lake Hayes Ltd *et al* seek to enable subdivision within the Lifestyle Precinct as a controlled activity, based on the attributes of this area having greater capacity to absorb change.
- 132 The s42A Report refers to the Council's decision on Stage one of the PDP, which has applied a restricted discretionary activity status for subdivision throughout the urban and rural lifestyle zones. One exemption provided from the restricted discretionary regime is for subdivision that occurs in accordance with a Structure Plan included within the District Plan that is a controlled activity, although this might not be an option available within the Wakatipu Basin Rural Amenity Zone.
- 133 My evidence to the Panel on the Stage one hearing for the subdivision chapter (Stream 04 Hearing) was critical of the discretionary activity status for subdivision proposed through Chapter 27 as notified and supported controlled activity status as the default for subdivision within the urban and rural lifestyle zones. That evidence was accepted in part as far as removing the full discretionary activity status, with the Council ultimately favouring restricted discretionary activity status with some important refinements to the matters of discretion (i.e. subdivision design); the introduction of exemptions for areas that have a structure plan; and boundary adjustments or multi-unit commercial or visitor accommodation development that has received land use consent.
- 134 I have expressed a view on the appropriateness of controlled activity status for subdivision in my evidence for the stage one PDP (Stream 04) hearing and refer this hearing Panel to that evidence.²⁹ For the purposes of this hearing, the Wakatipu Basin Lifestyle Precinct is considered sufficiently similar to the living zones in Chapter 22 of the PDP. Given the purpose of this Precinct is fundamentally to provide for rural living within appropriate densities, I considered that a controlled activity regime best serves the purpose of that zone.
- 135 Subject to changes that may emerge through the course of appeals, the question is whether subdivision within the Lifestyle Precinct of the Wakatipu Basin has characteristics that are any different to subdivision generally, and that would justify a lower status for subdivision than the general approach adopted by the Council through the stage one PDP decisions.
- 136 The Council's s32 Report identifies the amenity values of the Wakatipu Basin as being distinct and that this area is subject to considerably higher development pressure. The

²⁹ Statement of evidence of Christopher Bruce Ferguson, Stream 4 Hearing: Chapter 27 Subdivision (15 July 2016)

Lifestyle Precinct has been identified within discrete areas of the Wakatipu Basin following detailed landscape analysis and has a greater capacity to absorb change than elsewhere in the Wakatipu Basin. I consider that there is nothing inherent to the attributes of the Lifestyle Precinct that would distinguish this area from other similar zones such as the rural residential or rural lifestyle zones such that a less onerous activity status for subdivision could be justified.

ISSUE 5 – PLANNING MAPS

Lake Hayes Cellar (Amisfield)

- 138 Lake Hayes Cellar Ltd ('LHC') owns land at 10 Arrowtown Lake Hayes Road (the LHC land), at the intersection with State Highway 6 which contains the established Amisfield Bistro and Cellar Door and a related area of vineyards to the north.
- 139 LHC made a submission on Stage 1 of the PDP seeking to rezone the LHC land from Rural Zone to Rural Residential, to better reflect the character of the area and the surrounding zoning pattern. In addition, the LHC submission seeks to recognise and provide for the character of the established commercial activities on the site (cellar door and bistro) through the introduction of a commercial overlay and related provisions.
- 140 Under the Stage 2 proposals, the land has been identified within the Wakatipu Basin Rural Amenity Zone. The submission by LHC on Stage 2 generally opposes the Wakatipu Basin Rural Amenity Zone, but in the event that this zone is retained, proposes a number of changes to better provide for the established character of the LHC land along with a framework to allow a number of related commercial activities not already consented and to make an efficient use of the available land resource, recognising its underlying character and attributes.
- 141 LHC commissioned Ms Pfluger to provide landscape evidence in support of the submissions on stage one for the Rural and Rural Lifestyle zones.³⁰ That evidence supports the inclusion of a new rule providing for commercial activities within the commercial overlay proposed to apply to the LHC land. The evidence and conclusions of Ms Pfluger in relation to the outcomes sought by LHC are as relevant for the relief sought by LHC under its submission on Stage 2 as it seeks almost the same outcome as under Stage 1.
- 142 Accordingly, I have prepared my statement of evidence taking into account the conclusions made by Ms Pfluger as to the appropriateness from a landscape perspective of the outcomes sought in the LHC submission. In summary, the key findings made by Ms Pfluger are:
- (a) Currently the winery is within the Rural Zone and the neighbouring properties (across Arrowtown Lake Hayes Road) fall within the Low Density Residential Zone.
 - (b) I consider that the control of the bulk, location and external appearance of the buildings, as well as landscaping to be important considerations to ensure that future development is in character with the existing structures and landscaping on

³⁰ Statement of Evidence of Yvonne Pfluger Stream 02: Chapters 21 and 22 (21 April 2016)

site. This would also ensure that the rural amenity experienced from outside the site can be maintained.

Description of the Site

- 143 The site is located on the north-eastern side of the intersection of State Highway 6 and Arrowtown Lake Hayes Road. The address of the land owned by LHC is 10 Arrowtown Lake Hayes Road. The sites contains the established Amisfield Bistro and Cellar Door as well as an area of vineyards to the north. Vehicle access to the site is from established vehicle crossings onto the Arrowtown Lake Hayes Road.
- 144 The LHC land is legally described as Part Lot 1 DP 326378, being 1.6863 hectares in area and contained within Computer Freehold Register 107260.
- 145 While the submission by LHC is primarily concerned with the LHC land and the site of the Amisfield Bistro and Cellar Door, the LHC land falls within a broader landscape character unit which the submission seeks to also address within the scope of its proposed relief.
- 146 The location and context of the LHC land is illustrated on the aerial image, extracted from the Council's GIS below.



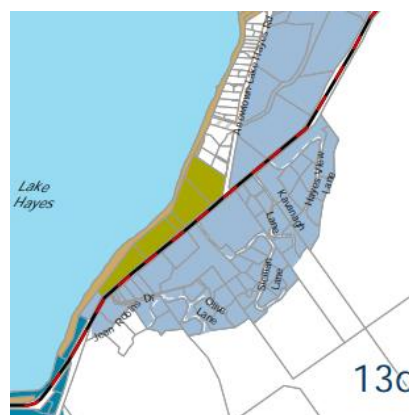
Background and Resource Consent History

- 147 Amisfield has become an integral part of the Queenstown Lakes District. Amisfield is recognised, both within New Zealand and internationally, as an iconic destination at which to experience premium New Zealand food and wine in an unrivalled landscape setting.

- 148 LHC holds approved resource consents, now implemented, to establish and operate a winery (RM970591), to establish signage (RM040075), construct additions to the winery building (RM041030 and RM0060442) and to hold an art exhibition (RM071218). On June 2003 resource consent RM020982 was granted by the Council to operate a restaurant, allow for the existing winery complex to host private functions, and enable the sale of liquor from the winery and restaurant. That decision was appealed to the environment court, with a consent order resolving matters issued on 9 September 2004.
- 149 The LHC land is identified within the Wakatipu Basin Rural Amenity Zone under the Stage 2 PDP proposal and within the Rural Zone under the Stage 1 PDP. However, the land either side of the site includes the low density residential zone along the western side of the Arrowtown Lake Hayes Road and an area of Rural Residential zone under the operative District Plan on the eastern of State Highway 6. The LHC land occupies an isolated wedge between these two zones.
- 150 Below are extracts of Planning Map 30 as per Stage 1 of the PDP and of Stage 2 of the PDP showing the area of the LHC land and the surrounding zoning.



Stage 1 PDP Planning Map 30



Stage 2 PDP Planning Map 30

Summary of Proposed Relief

- 151 Through its submission, LHC seeks the following general relief:
- (a) Based on the general concerns raised above, deletion of the provisions of Chapter 24 and the associated changes to other chapters sought through the Stage 2 PDP and rezone the Amisfield land as rural residential, together with the creation of a commercial overlay in the manner sought through its submission on the Stage 1 PDP; or
 - (b) In the alternative:

- (i) Amend the Planning Maps to identify the LHC land within a new Lake Hayes Cellar Precinct; and
- (ii) Amend the provisions of Chapter 3 Strategic Directions and Chapter 6 Landscapes to provide appropriate objective and policy support for the Zone, including to:
 - Recognise that the Wakatipu Basin has landscape qualities distinct from the Rural Landscape Classification;
 - Identify the characteristics and amenity values of the Wakatipu Basin through a proper and comprehensive mapping of the landscape character areas within it;
 - Recognise and provide for areas of commercial activities within the basin and provide for them through a new Lakes Hayes Cellar Precinct;
 - Recognising the opportunities for low density housing within the rural setting;
 - Provide an appropriate policy structure in support of the proposed areas of landscape character and guidelines underpinning Chapter 24; and
 - Ensure that the landscape categories within Chapter 6 do not apply within the Lakes Hayes Cellar Precinct.
- (iii) Amend the provisions of Chapter 24 Wakatipu Basin Rural Amenity Zone to recognise and provide for commercial activity within a new Lakes Hayes Cellar Precinct and to carry through the general relief into this new chapter from the Stage 1 PDP submission.

152 The detailed changes sought to the provisions of the PDP to incorporate the relief sought by LHC are contained within **Appendix 3**.

153 The purpose of the Lakes Hayes Cellar Precinct, as sought by LHC is to recognise and provide for the nature of the established activities on the LHC land, but also to provide a wider base of support in the PDP to enable the land resource to be diversified into a range of related permanent activities appropriate to these amenities, including:

- (a) Conferences and events
- (b) Weddings and functions
- (c) Exhibitions
- (d) Retail sales of regionally produced food and wine

154 I also note that LHC has lodged further submissions in support of those submissions seeking to rezone all of the land within Landscape Character Unit 13 as Wakatipu Basin Lifestyle Precinct.

S.42A Report

155 The Council's s42A report considers that providing for a spot zone in relation to the activities in this location, that are already provided for by way of consent, is not the most appropriate way to deal with landscape values for the Wakatipu Basin in an integrated manner.

156 The landscape evidence for the Council takes a wider perspective of the Landscape Character Unit, finding that much of the development that has occurred within this area has been relatively unsympathetic and detracts from the landscape character and visual amenity values of the area. The character unit is considered by Ms Gilbert to be sensitive to landscape change, resulting in a rating of low with respect to its ability to absorb additional development. Notably, the evidence of Ms Gilbert does not address the merit of the LHC submission, and does not recognise the specific characteristics of the buildings on this site and the merit or otherwise of the creation of the Lake Hayes Cellar Precinct.

Section 32AA Evaluation

157 The following summary evaluation has been prepared under section 32AA of the Act to supplement the proposed rezoning sought for the LHC land to Rural Residential with Commercial Overlay. S.32AA requires that a further evaluation under sections 32(1) to (4) is necessary for any changes that have been made to the proposal since the evaluation report for the proposal was completed.

158 In accordance with s.32AA(1)(c) this evaluation has been undertaken at a level of detail which corresponds to the scale and significance of the changes.

Proposed District Plan Policy Framework

Chapter 3 Strategic Directions

159 The Councils decision on stage one of the PDP have introduced and amended a number of key policies relevant to the changes sought by LHC through its submission on the Wakatipu Basin Rural Amenity Zone, as follows:

- (a) The development of a prosperous, resilient and equitable economy in the District³¹

³¹ Objective 3.2.1, PDP Decision Version 2018

- (b) The significant socioeconomic benefits or a well design and appropriately located visitor industry facilities and services are realised across the District³²
- (c) Diversification of the District's economic base and creation of employment opportunities through the development of innovative and sustainable enterprises³³
- (d) Diversification of land use in rural areas beyond traditional activities, including farming, provided that the character of rural landscapes, significant nature conservation values and Ngai Tahu values, interests and customary resources are maintained³⁴
- (e) The Districts residents and communities are able to provide for their social, cultural and economic wellbeing and their health and safety³⁵

160 Enabling commercial activity to grow on the LHC land is considered to positively implement each of these Strategic objectives by contributing to the development of a prosperous and resilient economy; realising the socioeconomic benefits of a well-designed visitor facility; diversifies the economic base for the District, including beyond traditional farming.

161 The Strategic objectives within Chapter 3 and supported by several Strategic Policies also considered relevant to the relief sought in the submission by LHC, as follows:

Visitor Industry

- (a) Avoid commercial zoning that could undermine the role of the Queenstown and Wanaka town centres as the primary focus for the District's economic activity³⁶
- (b) Avoid additional commercial zoning that will undermine the function and viability of the Frankton commercial areas as the key service centre for the Wakatipu Basin, or which will undermine increasing integration between those areas and the industrial and residential areas of Frankton³⁷
- (c) Avoid commercial rezoning that would undermine the key local service and employment function role that the centres outside of the Queenstown and Wanaka town centres, Frankton and Three Parks fulfil³⁸

³² Objective 3.2.1.1, *Ibid*

³³ Objective 3.2.1.6, *Ibid*

³⁴ Objective 3.2.1.8, *Ibid*

³⁵ Policy 3.2.6, *Ibid*

³⁶ Policy 3.3.3, *Ibid*

³⁷ Policy 3.3.6, *Ibid*

³⁸ Policy 3.3.10, *Ibid*

162 The nature and scale of the commercial functions sought for the Lake Hayes Cellar Precinct seek to reinforce the established winery and bistro and enable a range of complimentary visitor and commercial activities. These are aligned to the existing use established through resource consent and would not compete with in terms of scape or type of activity with the roles of the District's town centres, not of the function of the Frankton commercial area. The additional area of land proposed to be included within the Lake Hayes Cellar Precinct would provide for a degree of additional employment and broader services that are more aligned with the wineries otherwise located within other parts of the rural area and not other centres.

Rural Activity

(a) Recognise that commercial recreation and tourism related activities seeking to locate within the Rural Zone may be appropriate where these activities enhance the appreciation of landscapes, and on the basis they would protect, maintain or enhance landscape quality, character and visual amenity values³⁹

163 The addition of the Lake Hayes Cellar Precinct would give recognition to this established tourism related activity and promote further rules that would ensure the effects of any further building development are appropriate to and would continue to enhance appreciate of the landscape and visual amenity values of this area.

Chapter 6 Landscapes

164 The relationship between Chapter 24 and Chapter 6 is traversed in detail above and following the recommendations from the s42A Report has resulted in the introduction of a number of new policies relevant to the management of landscapes within this zone, as follows

(a) New Policy 6.3.XA (s42A Report) *Provide a separate regulatory regime for the Wakatipu Basin Rural Amenity Zone, within which the Outstanding Natural Feature, Outstanding Natural Landscape and Rural Character Landscape categories and the policies of this chapter related to those categories do not apply. (3.2.1.1, 3.2.1.7, 3.2.1.8, 3.2.5.2, 3.3.20-24, 3.3.32)*

(b) New Policy 3.3.34 (my recommendation) *Identify the characteristics and amenity values of the Wakatipu Basin through the mapping of those areas of landscape character and the formulation of associated landscape guidelines. (3.2.5, 3.2.22, 3.3.23. 3.3.24. 3.3.32)*

³⁹ Policy 3.3.21, *Ibid*

- (c) New Policy 3.3.35 (my recommendation) *Maintain or enhance the landscape of the Wakatipu Basin by avoiding significant adverse effects on those values which contribute to the distinctive and high value of that landscape. (3.2.5, 3.2.22, 3.3.23, 3.3.24, 3.3.32)*
- (d) New Policy 6.3.41 (S42A Report) *have particular regard to the potential adverse effects on landscape character and visual amenity values where further subdivision and development would constitute sprawl along roads. (3.2.1.1, 3.2.1.7, 3.2.5.2, 3.3.21, 3.3.24-25, 3.3.32)*
- (e) New Policy 6.3.45 (s42A Report with my edits) *Avoid significant adverse effects on landscape and visual amenity values from subdivision, use and development that:*
 - a. *is highly visible from public places and other places which are frequented by members of the public generally (except any trail as defined in this Plan); or*
 - b. *forms the foreground for an Outstanding Natural Landscape or Outstanding Natural Feature when viewed from public roads. (3.2.1.1, 3.2.1.8, 3.2.5.1, 3.2.5.2, 3.3.20-21, 3.3.24-25, 3.3.30, 3.3.32).*

- 165 Landscape evidence has been prepared to address the relief sought in the submission by LHC by Ms Gilbert on behalf of the Council and Ms Pflüger for LHC (through her stage 1 PDP Statement at the Stream 02 Hearing). As summarised above, the evidence of Ms Gilbert takes a holistic approach to the rezoning requests made in respect to the whole of the relevant Landscape Character Unit and considers that enabling further rural residential development where such development has already detracted from the landscape character is not supported from a landscape perspective.
- 166 The evidence of Ms Pflüger however notes that the site currently does not display the landscape characteristics generally associated with the Rural Zone due to the existing level of development and that the restrictions in the rules proposed would ensure rural amenity experienced from outside the site can be maintained.
- 167 The purpose of the Lake Hayes Cellar Precinct is not to facilitate building of any significant scale, but rather establish an appropriate planning framework to recognise the character of the existing activities and to facilitate a range of allied commercial and tourism related activities. Commercial activities within the Precinct would require resource consent as a controlled activity through proposed new Rule 24.4.30 (**Appendix 3**), where effects of the bulk, location and external appearance of any building can be addressed.
- 168 Based on the nature and scale of the proposed activity and the addition of further controls over building, including application of the standards relating to building development, the

proposal would not in my view detract from the overall character of the landscape. A further aspect of the Site and the proposed Lake Hayes Precinct is that it is well delineated by road boundaries along two sides that contain the extent of further development potential and avoid sprawling development along roads.

- 169 On this basis, I consider that the proposal will maintain the landscape of the Wakatipu Basin by avoiding significant adverse effects on those values which contribute to the distinctive and high value of that landscape; will not result in sprawl along roads; and will avoid any further adverse effects on landscape and visual amenity values that are highly visible from public places or in the foreground to an ONL.
- 170 In my view the proposal for the LHC land is a sustainable outcome that positively implement many of the higher order strategic objectives and policies and maintains the values of this part of the landscape contributing to its significant.

Further Submissions

- 171 Following the notification of the summary of submissions made on Stage one of the PDP, two further submissions have been made in respect of the original submission by LHC, including by Straterra (#FS-1015) and New Zealand fire Service (FS-1125).
- 172 Straterra opposed the proposed changes to Policy 22.2.2.3, but sought for the submission to be allowed subject to amendments, as follows:

*Discourage commercial and non-residential activities in areas outside of the commercial overlay, including restaurants, visitor accommodation and industrial activities where the amenity, quality and character of the Rural Residential and Rural Lifestyle zones would be adversely affected, **except in the case of location-specific and/or temporary activities**, and the vitality of the District's commercial zones is **maintained** not undermined.*

- 173 The suggested changes from Straterra do not undermine principle changes relating to the commercial overlay being sought by LHC.
- 174 The further submission by the New Zealand Fire Service Commission relates to the changes sought to the status of subdivision and again, do not oppose the changes relating to the commercial overlay.
- 175 For the submissions made by LHC of Stage 2 of the PDP no further submissions were made.
- 176 In summary, there have been no further submissions in respect to the LHC submission opposing the proposed rezoning, creation of the Lake Hayes Cellar precinct or of the

addition of any of the new objective, policies or rules relating to the Lake Hayes Cellar Precinct.

Identification of other reasonably practicable options for achieving the objectives s.32(1)(b)(i)

- 177 The reasonably practicable options available to provide for the use and development of the site under the PDP include:
- (a) Retention of the *status quo* where all of the site is located within the Rural Zone (as proposed through Stage 1 of the PDP) and continued use and development is managed through resource consent.
 - (b) Retention of the land within the Wakatipu Basin Rural Amenity Zone (as proposed through Stage 2 of the PDP) and continued use and development is managed through resource consent.
 - (c) Rezone all of the LHC land as Wakatipu Basin Lifestyle Precinct (as sought through many other submissions made on Stage 2 PDP).
 - (d) Rezone all of the LHC land as Lake Hayes Cellar Precinct (as sought in the submission by LHC).
- 178 Retaining the Rural Zone or inclusion within the Wakatipu Basin Rural Amenity Zone would ensure those objectives of the PDP aimed at managing the effects of subdivision, use, and development within rural landscapes are achieved. Retention of the *status quo* also relies on managing the continued commercial activities through existing resource consent conditions and any further development or changes through further resource consent on an ad-hoc basis. Under Chapter 24, as amended through the evidence for the Council, any commercial activity not otherwise provided for in Table 24.1 is a non-complying activity.⁴⁰
- 179 Inclusion of the land within the Lifestyle Precinct would also recognise the landscape character of the established pattern of settlement within the Character Unit 13 Lake Hayes Slopes and resolve tensions regarding any loss of development opportunity. I also consider that in the context of this established character, which has been derived by a mosaic of rural residential and rural lifestyle zones and smaller rural landholdings across the Lake Hayes Slopes character unit, inclusion within the Lifestyle Precinct would better manage the cumulative effects of future subdivision, use or development. That is because the outcomes of the Wakatipu Basin Rural Amenity Zone, which limit

⁴⁰ Rule 24.4.23, Chapter 24 Wakatipu Basin (Appendix 3 QLDC s42A Report)

subdivision to a minimum allotment size of 80ha, are so far removed from the nature of the existing environment that future administration would be a difficult proposition.

- 180 Whilst the Lake Hayes Cellar Precinct is indeed a spot zoning, that is not a bad planning outcome if the planning framework aligns with the nature and scale of activity within that zone. Amisfield is somewhat unique in terms of the nature of the activity and is location within a rural setting (outside of the Gibbston Character one). The Lake Hayes Cellar is well supported by a range of strategic objectives and policies, as detailed above. Arguably none of those provisions support zoning over resource consent, but the benefit of a zoning outcome is that it can provide a more coherent framework for the management of the land without the uncertainty of the resource consent process.
- 181 In addition, the proposed new policies and changes to the rules are practical in ensuring that the commercial overlay approach is clear and able to be appropriately interpreted.

Assessment of efficiency and effectiveness of provisions s.32(1)(b)(ii) and s.32(2)(a)

(a) Effectiveness:

As outlined in the evaluation of the PDP objectives above, rezoning the site to create a new Lake Hayes Cellar Precinct will be effective in that it will achieve the objectives of the PDP.

(b) Efficiency

| Benefits | Costs |
|---|--|
| <p><i>Environmental</i></p> <p>The Lake Hayes Cellar Precinct would allow additional commercial development opportunities in an area where there is established commercial activity, thereby reducing pressure for commercial activity in other rural locations.</p> <p><i>Economic:</i></p> <p>The addition of the Lakes Hayes Cellar Precinct will better recognise and provide for the operation tourist related land use and infrastructure, which serves an important employment function and contributes to the economic wellbeing of the District.</p> | <p><i>Economic</i></p> <p>Overdevelopment of the area would lead to a loss of landscape amenity values and therefore a reduction of visitors to the area.</p> <p><i>Social & Cultural</i></p> <p>Insensitive development would negatively impact on landscape amenity and the character of the area.</p> |

182 Compared with retaining the Rural Zone and the proposed Wakatipu Basin Rural Amenity Zone, inclusion of the Lake Hayes Slopes Character Unit with a Lakes Hayes Cellar Precinct over the LHC land will be efficient as the benefits will outweigh any costs. While rezoning would facilitate some loss of rural land, that economic cost is low because of the relative small size of the land and the nature of the existing non-rural uses. Furthermore, that loss will be compensated by reducing pressure for commercial development in other rural locations and the better recognition of the use and development of tourism infrastructure on this land.

Summary of reasons for proposed provisions s.32(1)(b)(iii)

183 The Lakes Hayes Cellar Precincts provide the most appropriate way of achieving the relevant objectives of the PDP because:

- (a) It provides additional commercial opportunities in an area where such development would be consistent with the dominant character, and there is capacity to absorb visual change without degrading landscape character or visual amenity values; and
- (b) In so doing, it will reduce pressure for such development in other areas of the rural environment where there is limited capacity for commercial activity.
- (c) It will recognise and provide for the use, development and consolidation of commercial activities on the land that is an important part of the tourist infrastructure and will provide for the economic well-being of the District.

The Crown Investment Trust (#2307)

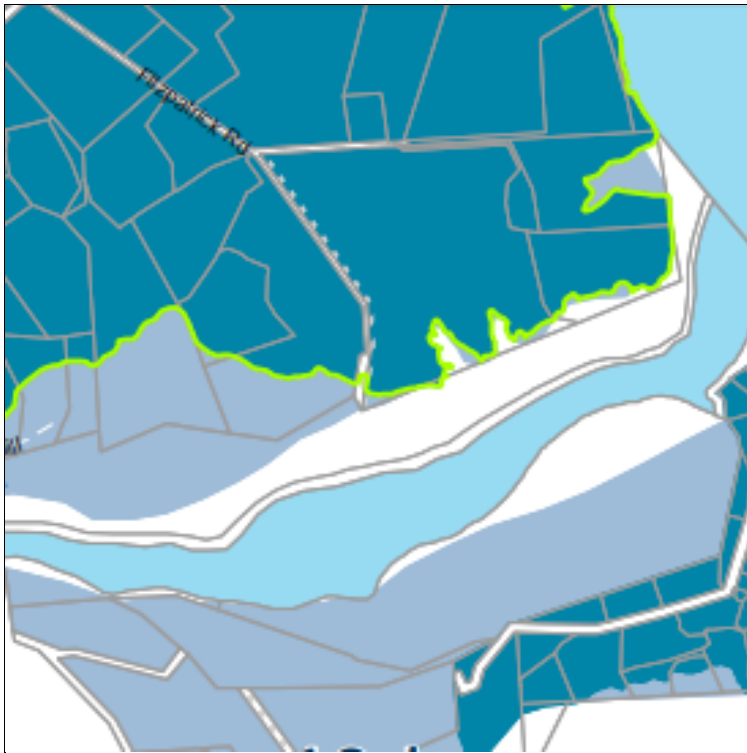
184 The Crown Investment Trust (**CIT**) has lodged a submission on Stage 2 of the PDP supporting the inclusion of its land within the Wakatipu Basin Lifestyle Precinct.

Description of the Site

185 The CIT land is in a single title, legally described as Lot 1 DP476877, being 19.9574 hectares and contained within Computer Freehold Register 660779. The Council has included the majority of the CIT land within the Wakatipu Basin Lifestyle Precinct, with a small area around two gullies located within the Wakatipu Basin Rural Amenity Zone.

186 Below is an extract from the Stage 2 PDP Planning Map showing the area of the site and surrounding zoning.

PDP Stage 2 Planning Map 31 (Lower Shotover)



Proposed Relief

187 The relief sought in the submission by CIT is to support the Council's Stage 2 PDP proposals to include its land within the Lifestyle Precinct, as shown in Planning Map 31.

S42A Report

188 The Council's s42A Report, prepared by Mr Langman with landscape evidence by Ms Gilbert, supports the retention of the Lifestyle Precinct within Character Unit 2 Fitzpatrick Basin including over the CIT land.

Evaluation

- 189 The Council's experts support the notified area of Lifestyle Precinct over the CIT and there are no further submissions opposing that outcome.
- 190 I agree with the Council's experts that the inclusion of this land within the Lifestyle Precinct is a sustainable outcome that will continue to support the objects for Chapter 24 as well as the new policies proposed to be included within Chapter 6 (above).

ISSUE 6 - MATTERS DEFERRED FROM STAGE 1

ONF/L Boundaries of the Wakatipu Basin

- 191 The submission by Glencoe Station Ltd (**GSL**) raises concerns with the mapping of the Wakatipu Basin Zone as this zone is defined by all of the non-ONF/L land within the Wakatipu Basin which has yet to be determined through the stage 1 PDP decisions. The concern being with the way in which boundaries for the Zone have been established and the assessment methodology for establishing the Landscape Character Units.
- 192 I understand from the notice of hearing and associated Council's s42A Report for Stream 14 that the scope of the hearing on Stream 14 includes both the Wakatipu Basin Zone and the matters deferred from the Stage 1 PDP hearings. The evidence for the Council prepared by Ms Mellsop, evaluates submission concerning the ONL/F classification within and around the Wakatipu basin.
- 193 Through this dual consideration of the landscape classification deferred from Stage 1 and the hearing on the mapping of the Wakatipu Basin zone with the same hearing (Stream 14), the terms of the process are now clear .

Lake Hayes Cellar

- 194 Associated with the submission by LHC are a number of changes to other parts of the PDP, including Chapter 27 Subdivision and Chapter 36 Noise. Details of the specific relief sought in included within **Appendix 3**. Each of these matters are addressed below.

Chapter 27 Subdivision

- 195 The submission by LHC opposed restricted discretionary activity status for subdivision located within the Lakes Hayes Cellar Precinct. The submission by LHC seeks to provide for subdivision as a controlled activity within the Lake Hayes Cellar Precinct.
- 196 I address the status of subdivision within the Lifestyle Precinct in Issue 5 above. In summary, I consider that while I have supported controlled activity status for subdivision across the District the Panel's decision on Chapter 27 has determined that restricted discretionary activity status for subdivision within the rural and rural living areas is more appropriate.
- 197 Working from Chapter 27 as amended through decisions (2018), I proposed to accommodate subdivision within the Lake Hayes Cellar Precinct, as follows:
- (a) Amend Rule 27.5.8, as follows:

All subdivision activities, unless otherwise provided for, in the District's Rural Residential Zone, ~~and~~ Rural Lifestyle Zones, and Wakatipu Basin Rural

Amenity Zone (including Wakatipu Basin Lifestyle Precinct and Lake Hayes Cellar Precinct)

[are identified as a restricted discretionary activity]

- (b) Amend Rule 27.6.1 No lots to be created by subdivision, including balance lots, shall have a net site area or where specified, an average net site area less than the minimum specified

Wakatipu Basin:

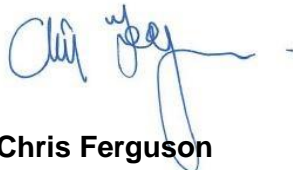
- Wakatipu Basin Rural Amenity Zone 80ha
- Wakatipu Basin Lifestyle Precinct 1ha minimum average, 6,000m² minimum
- Lake Hayes Cellar Precinct 1ha minimum average, 6,000m² minimum

Chapter 36 Noise

- 198 The submission by LHC sought to amend the rules and standards of Chapter 36 Noise, to identify an appropriate noise standard for the Lake Hayes Cellar Precinct.
- 199 The change sought by LHC from the general framework of noise rules applicable within the rural zone is to extend the day time noise limit of 50 dB from 8:00pm to 10:00pm, with corresponding changes to the night time standard. There are no changes proposed to the noise limits themselves and it is proposed that a breach of any standard trigger consent as a restricted discretionary activity. As the LHC land is located land currently included within the rural zone and in proximity to land within the low density residential zone, across the other side Arrowtown Lake Hayes Road, a dual assessment location is proposed that applies the noise limit at any point within a residential zone and at any point within the notional boundary in a rural zone.
- 200 As above, no further submissions have been made opposing this relief.

202 Working from the decision version of Chapter 36, the relief sought in the LHC submission, can be incorporated into Chapter 36 as follows:

| Rule Number | General Standards | | | | Non-compliance Status |
|-----------------|---|---|-----------------------|--|---|
| | Activity or sound source | Assessment location | Time | Noise Limits | |
| <u>36.5.2.1</u> | <u>Lakes Hayes Cellar Precinct (Within the Wakatipu Basin Rural Amenity Zone)</u> | <u>At any point within a Residential Zone and at any point within the notional boundary in a Rural Zone</u> | <u>0800h to 2200h</u> | <u>50 dB L_{Aeq(15 min)}</u> | RD |
| | | | <u>2200h to 0800h</u> | <u>40 dB L_{Aeq(15 min)} 75 dB L_{AFmax}</u> | RD <u>Discretion is restricted to the extent of effects of noise generated on adjoining zones.</u> |



Chris Ferguson

13 June 2018

APPENDIX 1 – RELEVANT RPS OBJECTIVES AND POLICIES

Chapter 5 Land

Objective 5.4.1 To promote the sustainable management of Otago’s land resources in order:

- (a) To maintain and enhance the primary productive capacity and life-supporting capacity of land resources; and
- (b) To meet the present and reasonably foreseeable needs of Otago’s people and communities.

Objective 5.4.2 To avoid, remedy or mitigate degradation of Otago’s natural and physical resources resulting from activities utilising the land resource.

Objective 5.4.3 To protect Otago’s outstanding natural features and landscapes from inappropriate subdivision, use and development.

Policy 5.5.2 To promote the retention of the primary productive capacity of Otago’s existing high class soils to meet the reasonably foreseeable needs of future generations and the avoidance of uses that have the effect of removing those soils or their life-supporting capacity and to remedy or mitigate the adverse effects on the high class soils resource where avoidance is not practicable.

Policy 5.5.3 To maintain and enhance Otago’s land resource through avoiding, remedying or mitigating the adverse effects of activities which have the potential to, among other adverse effects:

- (a) Reduce the soil’s life-supporting capacity
- (b) Reduce healthy vegetative cover
- (c) Cause soil loss
- (d) Contaminate soils
- (e) Reduce soil productivity
- (f) Compact soils
- (g) Reduce soil moisture holding capacity.

Policy 5.5.4 To promote the diversification and use of Otago’s land resource to achieve sustainable landuse and management systems for future generations.

Policy 5.5.6 To recognise and provide for the protection of Otago’s outstanding natural features and landscapes which:

- (a) Are unique to or characteristic of the region; or
- (b) Are representative of a particular landform or land cover occurring in the Otago region or of the collective characteristics which give Otago its particular character; or
- (c) Represent areas of cultural or historic significance in Otago; or
- (d) Contain visually or scientifically significant geological features; or
- (e) Have characteristics of cultural, historical and spiritual value that are regionally significant for Tangata Whenua and have been identified in accordance with Tikanga Maori.

Chapter 9 Built Environment

Objective 9.4.1 To promote the sustainable management of Otago’s built environment in order to:

- (a) Meet the present and reasonably foreseeable needs of Otago’s people and communities; and
- (b) Provide for amenity values, and
- (c) Conserve and enhance environmental and landscape quality; and
- (d) Recognise and protect heritage values.

Objective 9.4.2 To promote the sustainable management of Otago’s infrastructure to meet the present and reasonably foreseeable needs of Otago’s communities.

Objective 9.4.3 To avoid, remedy or mitigate the adverse effects of Otago’s built environment on Otago’s natural and physical resources.

Policy 9.5.2 To promote and encourage efficiency in the development and use of Otago’s infrastructure through:

- (a) Encouraging development that maximises the use of existing infrastructure while recognising the need for more appropriate technology; and
- (b) Promoting co-ordination amongst network utility operators in the provision and maintenance of infrastructure; and
- (c) Encouraging a reduction in the use of non-renewable resources while promoting the use of renewable resources in the construction, development and use of infrastructure; and
- (d) Avoiding or mitigating the adverse effects of subdivision, use and development of land on the safety and efficiency of regional infrastructure.

Policy 9.5.4 To minimise the adverse effects of urban development and settlement, including structures, on Otago’s environment through avoiding, remedying or mitigating:

- (a) Discharges of contaminants to Otago’s air, water or land; and
- (b) The creation of noise, vibration and dust; and
- (c) Visual intrusion and a reduction in landscape qualities; and
- (d) Significant irreversible effects on:
 - (i) Otago community values; or
 - (ii) Kai Tahu cultural and spiritual values; or
 - (iii) The natural character of water bodies and the coastal environment; or
 - (iv) Habitats of indigenous fauna; or
 - (v) Heritage values; or
 - (vi) Amenity values; or
 - (vii) Intrinsic values of ecosystems; or
 - (viii) Salmon or trout habitat.

Policy 9.5.5 To maintain and, where practicable, enhance the quality of life for people and communities within Otago’s built environment through:

- (a) Promoting the identification and provision of a level of amenity which is acceptable to the community; and

- (b) Avoiding, remedying or mitigating the adverse effects on community health and safety resulting from the use, development and protection of Otago's natural and physical resources; and
- (c) Avoiding, remedying or mitigating the adverse effects of subdivision, landuse and development on landscape values.

APPENDIX 2 - RELEVANT PROVISIONS OF THE PROPOSED OTAGO REGIONAL POLICY STATEMENT (DECISION VERSION OCTOBER 2016)

Part B Chapter 3 – Otago has high quality natural resources and ecosystems

Objective 3.2 Otago’s significant and highly-valued natural resources are identified, and protected or enhanced

Policy 3.2.3 Identifying outstanding natural features, landscapes and seascapes

Identify areas and values of outstanding natural features, landscapes and seascapes, using the attributes in Schedule 3.

Policy 3.2.4 Managing outstanding natural features, landscapes and seascapes

Protect, enhance and restore outstanding natural features, landscapes and seascapes, by all of the following:

- a) Avoiding adverse effects on those values which contribute to the significance of the natural feature, landscape or seascape;
- b) Avoiding, remedying or mitigating other adverse effects;
- c) Recognising and providing for the positive contributions of existing introduced species to those values;
- d) Controlling the adverse effects of pest species, preventing their introduction and reducing their spread;
- e) Encouraging enhancement of those areas and values which contribute to the significance of the natural feature, landscape or seascape

Policy 3.2.5 Identifying highly valued natural features, landscapes and seascapes

Identify natural features, landscapes and seascapes, which are highly valued for their contribution to the amenity or quality of the environment but which are not outstanding, using the attributes in Schedule 3.

Policy 3.2.6 Managing highly valued natural features, landscapes and seascapes

Protect or enhance highly valued natural features, landscapes and seascapes by all of the following:

- a) Avoiding significant adverse effects on those values which contribute to the high value of the natural feature, landscape or seascape;
- b) Avoiding, remedying or mitigating other adverse effects;
- c) Recognising and providing for positive contributions of existing introduced species to those values;
- d) Controlling the adverse effects of pest species, preventing their introduction and reducing their spread;
- e) Encouraging enhancement of those values which contribute to the high value of the natural feature, landscape or seascape.

Part B Chapter 4 – Communities in Otago are resilient, safe and healthy

Objective 4.5 Urban growth and development is well designed, reflects local character and integrates effectively with adjoining urban and rural environments

Policy 4.5.1 Managing for urban growth and development

Manage urban growth and development in a strategic and co-ordinated way, by all of the following:

- a) Ensuring there is sufficient residential, commercial and industrial land capacity, to cater for the demand for such land, over at least the next 20 years;
- b) Coordinating urban growth and development and the extension of urban areas with relevant infrastructure development programmes, to provide infrastructure in an efficient and effective way;
- c) Identifying future growth areas and managing the subdivision, use and development of rural land outside these areas to achieve all of the following:
 - i. Minimise adverse effects on rural activities and significant soils;
 - ii. Minimise competing demands for natural resources;
 - iii. Maintain or enhance significant biological diversity, landscape or natural character values;
 - iv. Maintain important cultural or historic heritage values;
 - v. Avoid land with significant risk from natural hazards;
- d) Considering the need for urban growth boundaries to control urban expansion;
- e) Ensuring efficient use of land;
- f) Encouraging the use of low or no emission heating systems;
- g) Giving effect to the principles of good urban design in Schedule 5;
- h) Restricting the location of activities that may result in reverse sensitivity effects on existing activities.

PART B Chapter 5 People are able to use and enjoy Otago's natural and built environment

Objective 5.3 Sufficient land is managed and protected for economic production

Policy 5.3.1 Rural activities

Manage activities in rural areas, to support the region's economy and communities, by all of the following:

- a) Enabling primary production and other rural activities that support the rural economy;
- b) Minimising the loss of significant soils;
- c) Restricting the establishment of activities in rural areas that may lead to reverse sensitivity effects;
- d) Minimising the subdivision of productive rural land into smaller lots that may result in rural residential activities;
- e) Providing for other activities that have a functional need to locate in rural areas, including tourism and recreational activities that are of a nature and scale compatible with rural activities.

Objective 5.4 Adverse effects of using and enjoying Otago's natural and physical resources are minimised

Policy 5.4.5 Pest plants and animals

Control the adverse effects of pest species, prevent their introduction and reduce their spread, to safeguard all of the following:

- a) The viability of indigenous species and habitats for indigenous species;
- b) Ecosystem services that support economic activities;
- c) Water quality and water quantity;
- d) Soil quality;
- e) Human and animal health;
- f) Recreation values;
- g) Landscapes, seascapes and natural character

APPENDIX 3 - CHANGES TO PDP SOUGHT BY LAKE HAYES CELLAR LTD

Chapter 24 Wakatipu Basin

- (a) Add a new paragraph 24.1 Purpose, as follows:

With the Zone are areas of land containing commercial activity that for historical reasons, accommodate activity which are not entirely consistent with the amenity outcomes anticipated within the Zone. The Lakes Hayes Cellar Precinct has been identified to recognise and provide for commercial activity within areas having access to primary road corridors, reticulated services and a scale of built form distinct from the remainder of the Zone. The Precinct seeks to minimise the adverse effects of commercial use and development of land on the wider Zone.

- (b) Introduce a new Objective 24.2.6 Lakes Hayes Cellar Precinct, as follows:

24.2.6 Objective – Wakatipu Basin Lakes Hayes Cellar Precinct. Recognise and provide for the non-residential character of the Lakes Hayes Cellar Precinct, which is distinct from other parts of the zone.

- (c) Insert the following new policies which are proposed to implement the new Objective 24.2.6, as follows:

24.2.6.1 To enable commercial activities within the Lakes Hayes Cellar Precinct, where their effects on the environment can be appropriately managed.

24.2.6.2 To encourage building associated with commercial activities within the Lakes Hayes Cellar Precinct to achieve a high level of design and external appearance.

24.2.6.3 To recognise the scale of building associated with commercial activities within the Lakes Hayes Cellar Precinct as being greater than development anticipated within the zone.

24.2.6.4 To recognise that noise and hours of operation of activities located within the Lakes Hayes Cellar Precinct are different in character from the surrounding zone and other Precincts:

- (d) Amend General Rule 24.3.3.1, as follows:

a) The Wakatipu Basin Lifestyle Precinct and the Lakes Hayes Cellar Precinct are a-sub-zones of the Wakatipu Basin Rural Amenity Zone and all rules in Table 24.1 apply to the Precincts. Where specific rules and standards are identified for the Precincts in Tables 24.2, 24.3 and 24.34, these shall prevail over the Zone rules in Table 24.1.

- (e) Insert a new Table 24.3, below Table 24.2, providing for Commercial Activities within the Commercial Precinct as a controlled activity, as follows:

| | Table 24.3: Activities in the Lakes Hayes Cellar Precinct | Activity Status |
|---------------------|--|-----------------|
| <u>Rule 24.4.30</u> | <p><u>Commercial activities, limited to conferences and events, exhibitions, the retail sales of farm and garden produce and wine, located within the Lakes Hayes Cellar Precinct.</u></p> <p><u>Councils control is limited to:</u></p> <ul style="list-style-type: none"> • <u>The bulk, location and external appearance of the building</u> • <u>Traffic generation, access and parking</u> • <u>Servicing infrastructure</u> • <u>Signs</u> • <u>Landscaping</u> | <u>C</u> |
| <u>Rule 24.4.31</u> | <p><u>Cafes and restaurants</u></p> <p><u>Councils control is limited to the matters provided for within Rule 24.4.30</u></p> | <u>C</u> |

(f) Amend Rule 24.5.1 Building Coverage, as follows:

- a) The maximum building coverage for all any individual buildings shall be 15% of lot area, or 500m² gross ground floor area whichever is the lesser, except within the Lakes Hayes Cellar Precinct where the maximum ground floor area of any building shall be limited to 25% of the net site area

Chapter 27 Subdivision

(g) Add a new Rule 27.5.6, as follows:

All subdivision activities within any Rural Lifestyle Zone, Rural Residential Zone, the Wakatipu Basin Lifestyle Precinct or the Lakes Hayes Cellar Precinct

Council's control is limited to:

- a. The matters of control listed within Rule 27.5.5;
- b. The location of building platforms in any rural lifestyle zone;
- c. Orientation of lots to optimise solar gain

(h) Establish a minimum lot area of 6,000m² and a minimum average lot area of 1 ha within the Lake Hayes Cellar Precinct.

Chapter 36 Noise

(i) Amend Rule 36.5.4, as follows:

| Table 2 | General Standards | | | | Non-compliance Status |
|---------|---|---------------------------|----------------|--|-----------------------|
| | Activity or sound source | Assessment location | Time | Noise Limits | |
| 36.5.4 | ... Rural Residential Zone, except within the Lakes Hayes Cellar Precinct ... | Any point within the zone | 0800h to 2000h | 50 dB L Aeq(15 min) | NC |
| | | | 2000h to 0800h | 40 dB L Aeq(15 min) 75 dB L AFmax | NC |

(j) Insert a new Rules 36.5.4.1:

| Table 2 | General Standards | | | | Non-compliance Status |
|----------|-----------------------------|--|----------------|--|---|
| | Activity or sound source | Assessment location | Time | Noise Limits | |
| 36.5.4.1 | Lakes Hayes Cellar Precinct | At any point within a Residential Zone and at any point within the notional boundary in a Rural Zone | 0800h to 2200h | 50 dB L Aeq(15 min) | RD |
| | | | 2200h to 0800h | 40 dB L Aeq(15 min) 75 dB L AFmax | RD <u>Discretion is restricted to the extent of effects of noise generated on adjoining zones.</u> |

Planning Maps

(k) Amend Planning Map 13d and 30 (Stage 2 PDP), as follows:

- (i) Remove all of the land within Character Unit 13 Lakes Hayes Slopes from the Wakatipu Basin Rural Amenity Zone;
- (ii) Identify a new Lakes Hayes Cellar Precinct overlay over the LHC land, contained within Part Lot 1 DP 326378; and
- (iii) Rezone the remainder of the land within the Lake Hayes Slopes character unit as Wakatipu Basin Lifestyle Precinct