

Appendix E

A copy of the relevant part of the Decision relating to Ayrburn Farm

E

1. INTRODUCTION

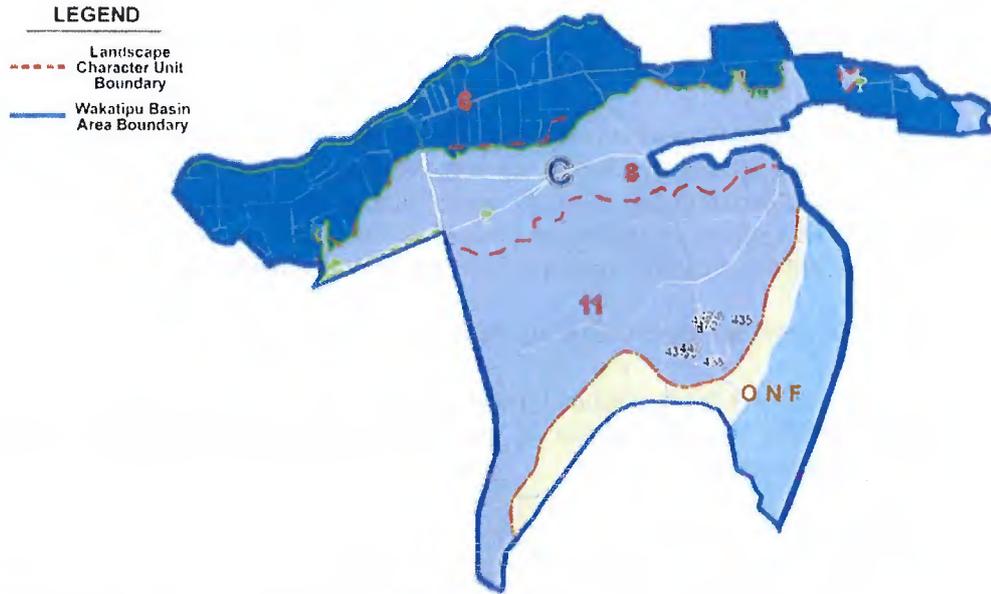
1.1 Preliminary

1. This report needs to be read in conjunction with Reports 18.1 and 18.2. Report 18.1 sets out the overall hearing process for Stream 14 and the approach we have taken to assessing the submissions in terms of the statutory requirements. In addition, it contains the Stream 14 Hearing Panel's recommendations on Chapter 24 Wakatipu Basin and the various variations to the text in Stage 1 of the PDP notified in conjunction with Chapter 24.
2. The abbreviations we use in the report are set out in Report 18.1, as is the list of persons heard.
3. Report 18.2 set out the background to the zoning issues dealt with in Stream 14 and explains how we divided the area subject to our deliberations for the purposes of preparing the recommendation reports.

1.2 Overview

4. This area includes LCUs 6 Wharehuanui Hills, 8 Speargrass Flats and 11 Slope Hill 'Foothills' and that part of LCU 23, immediately to the south of the Waterfall Park Zone, which applies to the property referred to as Ayrburn Farm as shown on Figure 1 below. It also includes the northern slopes of Slope Hill and the western half of Lake Hayes, zoned Rural in Stage 1 and identified as ONF.
5. Outside of the Slope Hill/Lake Hayes ONF, this area was zoned a combination of Precinct and Rural Amenity Zone in Stage 2 as notified. The areas of Precinct were generally confined to LCU 6 and the lower land either side of Arrowtown-Lake Hayes Road at the eastern end of LCU 8.
6. When looked at in terms of existing and consented dwellings and building platforms, this area can be divided into four areas correlating with the three constituent LCUs and the open ONL areas of Slope Hill. LCU 6 in the north encompasses the rolling landform of the Wharehuanui Hills which contains a generally low density of dwellings and building platforms, with some concentration of development on Hunter and Dalefield Roads. LCU 11 in the south comprises the northern and western lower slopes of Slope Hill. Much of this area has been subdivided for rural-living purposes, particularly along Slope Hill Road and Lower Shotover Road. Between these two LCUs and running further east, north of the rural-living area of North Lake Hayes and east of Arrowtown-Lake Hayes Road, LCU 8 is rural pasture land almost devoid of dwellings and consented building platforms. It sits in contrast to the existing development either side of it.

7/



Area C – Central Basin

Figure 1: the Central Basin

7. The notified version of Chapter 24 listed the capability of this area to absorb additional development as follows:

LCU Number	LCU Name	Capability to Absorb Additional Development
6	Wharehuanui Hills	High
8	Speargrass Flat	High: around Lake Hayes Rural Residential LCU 12 edges Low: Elsewhere
11	Slope Hill 'Foothills	Low
23	Millbrook (part)	Moderate

8. A large part of this area also lies within the Lake Hayes catchment, as shown on Figure 2 below. Our conclusions in Report 18.1 (Section 2.8) were that the time to consider up-zoning of land to Precinct (or any other zone with higher development potential) is when it can be demonstrated that such a zoning would not result in further degradation of water quality feeding into Lake Hayes (and not before then), and that such an approach gives effect to both the Partially Operative RPS 2019 and the NPSFM.

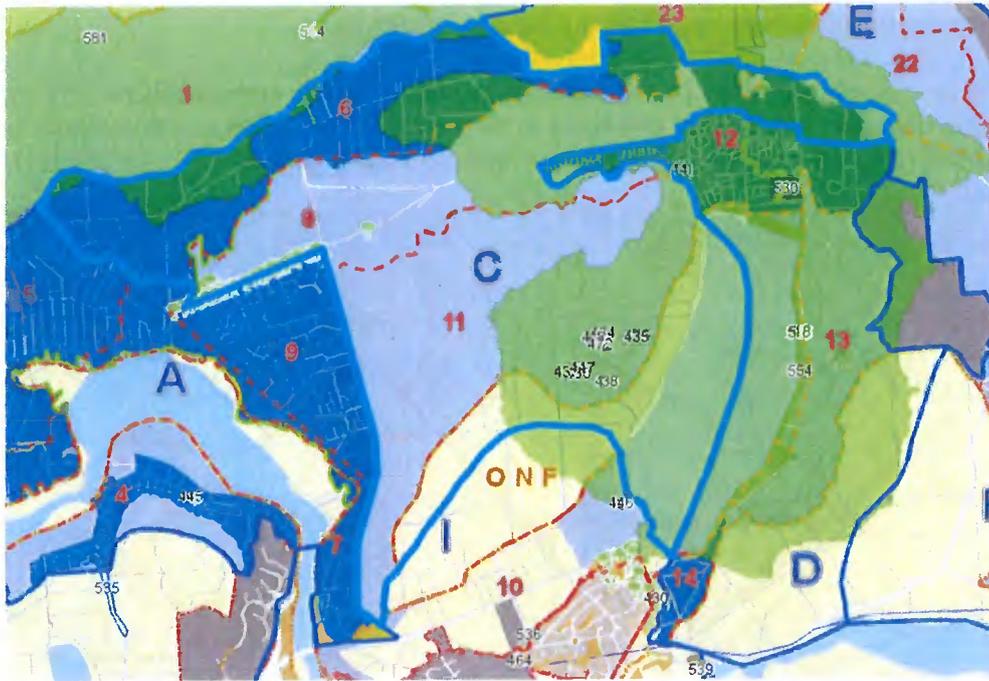


Figure 2: Area C shown outlined light blue, with the Lake Hayes Catchment shown shaded green

1.3 Submissions Covered in this Report

9. Mr Langman identified 36 submissions on mapping issues in this area. Of these, we heard from 16. This report also addresses the submission by Hamilton & Hayden¹, which relates to land that straddles the boundary of this area and Area B – Northern Basin and was reported on by Mr Langman in relation to LCU 1.
10. Section 2 of our report discusses submissions relating to the Slope Hill ONF boundary. Zoning and planning map notations are discussed in Section 3 and subsequent sections.
11. It is convenient to consider the submissions in four groups:
 - a. The eastern end of LCU 8 that lies within the Lake Hayes catchment along with the small portion of LCU 23 south of the Waterfall Park Zone²;
 - b. The upper plateau area at the eastern end of LCU 6 adjoining Millbrook Resort Zone³;
 - c. The remainder of LCU 6⁴;
 - d. LCU 11⁵.
12. The submission by Wakatipu Equities Limited⁶, while mainly focussed on land in LCU 11 also sought rezoning of some of the lower land in LCU 8 as Precinct. It is convenient to consider this small area along with LCU 11 rather than by itself.

¹ Submission 2422
² Submissions 2239, 2385, 2388, 2559 and 2619 (part)
³ Submissions 2135, 2229, 2295 and 2619 (part)
⁴ Submissions 2123, 2272, 2422, and 2610
⁵ Submissions 2270, 2296, 2475, 2479, 2500, 2535 and 2591
⁶ Submission 2479

2. OUTSTANDING NATURAL FEATURE BOUNDARY – SLOPE HILL

13. Several submitters⁷ requested amendments to the boundary of the Slope Hill ONF. We have discussed the amendments requested in the vicinity of the Glenpanel Homestead in Report 18.11. The amendments requested are depicted in Figure 3 below.

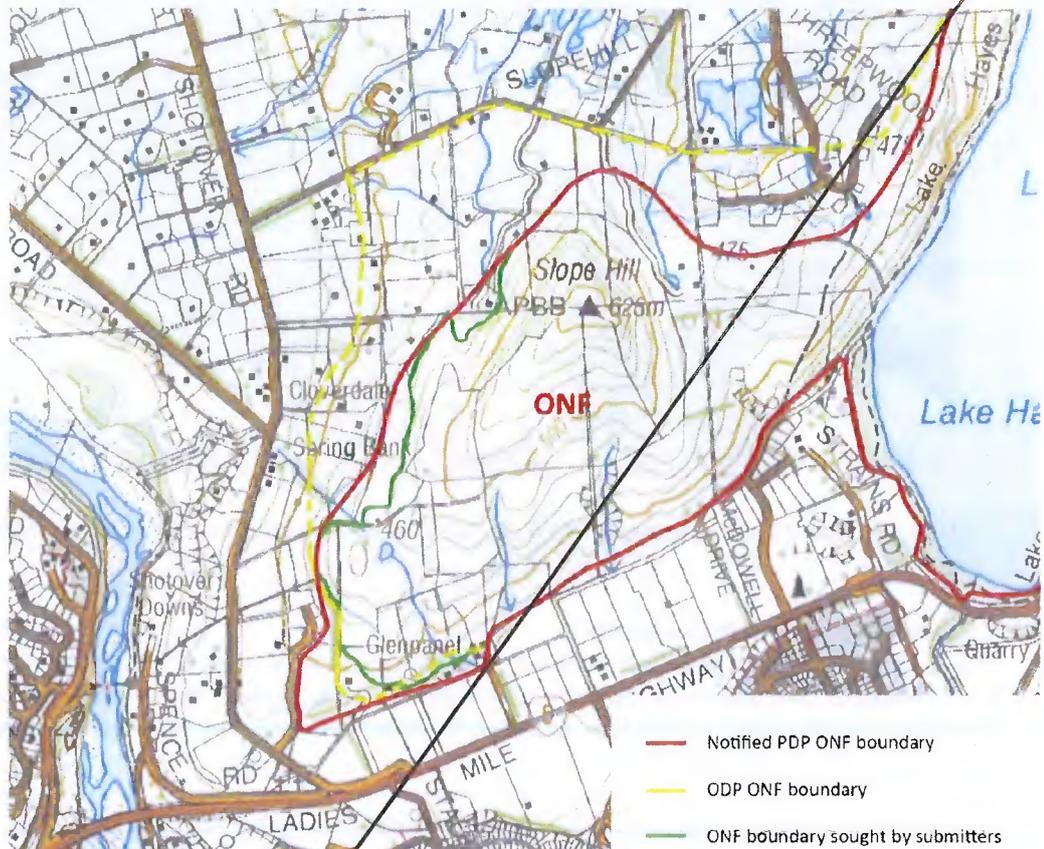


Figure 3: Slope Hill ONF boundaries in the ODP, PDP and as requested by submitters
(Source: H. Mellsop, Evidence in Chief, Figure 4, page 18)

14. We did not hear any evidence from the submitters in support of the requested amendments. Ms Mellsop described Slope Hill as having a high level of visibility within the Wakatipu Basin and commented in her evidence in chief that this *'visibility is associated with a high level of shared and recognised scenic value.'*⁸ Ms Mellsop concluded that the ONF boundary is appropriately located on the western side of Slope Hill.
15. We accept Ms Mellsop's advice and accordingly, we recommend that the Slope Hill ONF boundary remain as notified, other than the amendments recommended in Report 18.11.

⁷ Submissions 534, 353, 535, 813, 2553
⁸ At 6.19

3. ZONING – EASTERN END OF LCU 6

3.1 Introduction

16. As notified, an area of land on both sides of Arrowtown-Lake Hayes Road north of Speargrass Flat Road and Hogans Gully Road was zoned Precinct. This was generally the valley floor in this area, although the face of Christine’s Hill immediately to the west of Mill Creek was also zoned Precinct. On the west side of Arrowtown-Lake Hayes Road the Precinct zoning was a continuation of the existing rural-residential area along the north side of Speargrass Flat Road (which is within LCU 12 and dealt with in Report 18.6) as far as the Queenstown Trail, which at this point runs from Millbrook down Christine’s Hill to Speargrass Flat Road. The small area of LCU 23 extending south of the Waterfall Park Zone was zoned Rural Amenity. East of the Queenstown Trail a strip of land varying from approximately 200m to 400m in width running parallel to the Trail was zoned Rural Amenity, as was the land in LCU 8 west of the Queenstown Trail.
17. It is convenient to name the three parts of this area as follows:
 - a. East of Arrowtown-Lake Hayes Road – the Boxer Hills Trust land⁹;
 - b. Between Arrowtown-Lake Hayes Road and the Queenstown Trail – Ayrburn Farm;
 - c. The sites subject to submissions west of the Queenstown Trail – the Trusts’ lower land¹⁰.
18. The issues before us were:
 - a. The zoning of Ayrburn Farm, with submitters variously seeking a bespoke zone, Lifestyle Precinct, or Rural Amenity Zone;
 - b. The zoning of the Trusts’ lower land Precinct subject to a structure plan and bespoke provisions;
 - c. the zoning of the Boxer Hills Trust land.
19. We record that to the extent submissions sought rezoning to urban zones, we discussed the potential application of the NPSUDC in section 1.3 of Report 18.2, and do not address it further in this report.

3.2 Ayrburn Farm

20. Waterfall Park Developments Limited¹¹ sought the application of an “Ayrburn Zone” over this land subject to a structure plan. Figure 4 below shows the structure plan initially proposed.

⁹ Not all of the area zoned Precinct was in the ownership of Boxer Hills Trust, but the bulk of it was.

¹⁰ This land involved three sites owned by X-Ray Trust and Avenue Trust.

¹¹ Submission 2388, opposed by FS2710, FS2772

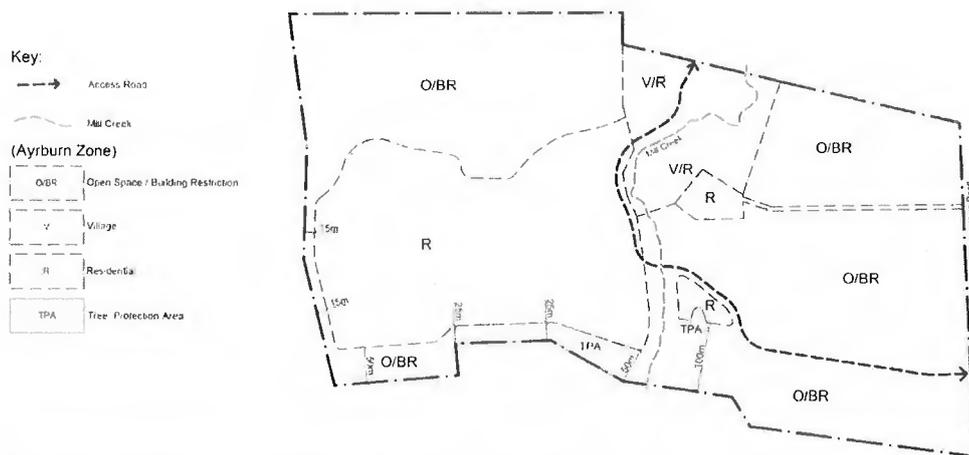


Figure 4: Ayrburn Zone Structure Plan from J Brown's evidence in chief dated 13 June 2018

21. Mr Brown, planning witness for the submitter, described the Ayrburn Zone as providing for up to 200 residential units, a village area centred on the historic buildings on the site, and open space/building restriction areas. These latter would be largely along Arrowtown-Lake Hayes Road and on the face of Christine's Hill.
22. Queenstown Lakes District Council¹² sought that the face of Christine's Hill and the area of land notified as Precinct immediately adjoining the Waterfall Park Zone be rezoned Rural Amenity Zone. J and R Hadley¹³ sought that the entire property be rezoned Rural Amenity.
23. The relevant issues to consider are landscape; water quality, traffic, infrastructure, natural hazards and consistency with higher order provisions in the PDP.

3.3 The Trusts' Lower Land

24. X-Ray Trust Limited and Avenue Trust Limited¹⁴ sought that the portion of their sites on the valley floor adjacent to Speargrass Flat Road be rezoned Precinct, subject to a structure plan. Figure 5 below shows the requested Arrowburn Structure Plan¹⁵.

¹² Submission 2239, opposed by FS2785

¹³ Submission 2559, supported by FS2710, opposed by FS2795

¹⁴ Submission 2619, opposed by FS2710, FS2797

¹⁵ P Blakely, EIC, Appendix 2

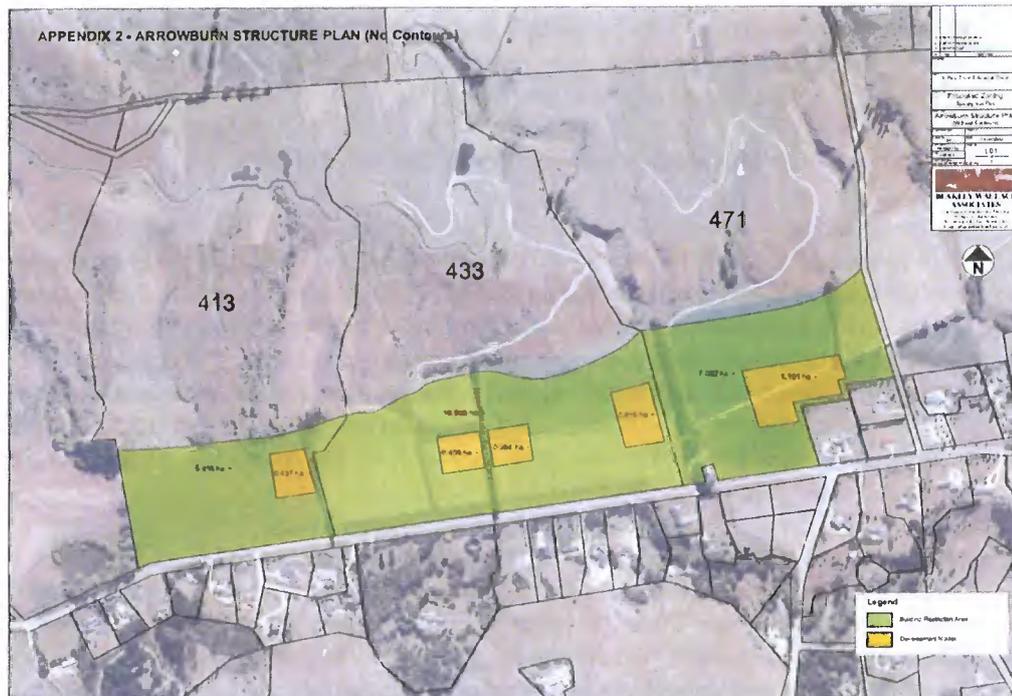


Figure 5: Proposed Arrowburn Structure Plan

25. The main issues to be considered in this instance are landscape, water quality and consistency with the higher order provisions of the PDP.
26. When appearing for Waterfall Park Developments Limited, Mr Goldsmith provided us with copies of the Computer Freehold Registers for the Trusts' land and the consent notices attached to them. These provide that there shall be no further subdivision of the relevant lots and that buildings may only be located within the defined residential building platform on each site. We asked Ms Macdonald, counsel for the Trusts, about these consent notices. Ms McDonald told us that the consent notices were of no relevance to us. In our view, this is not correct. They are an integral part of the consent history, and if we are to consider the 'rights' created by approved building platforms, as we were often urged to do by counsel for various parties; then we must also consider the presence of any restrictions on those rights, such as those imposed in these consent notices.

3.4 Boxer Hills Trust Land

27. Boxer Hills Trust¹⁶ supported the Precinct zoning on this land but sought that provisions in the PDP be amended to enable more intense development of the land. In particular, the submitter sought that the minimum site size be reduced to 4,000m² together with a relaxation of coverage and height standards.
28. J and R Hadley¹⁷ sought that the entire area in LCU 6 east of Arrowtown-Lake Hayes Road be rezoned Rural Amenity.

¹⁶ Submission 2385, supported by FS2784

¹⁷ Submission 2559, supported by FS2710, opposed by FS2795

29. We note that although the submission by P Blakely and M Wallace¹⁸ was drafted in a very general way, when Mr Blakely appeared in support of their submission, he specifically identified this land as being, in his view, inappropriately zoned Precinct.
30. The main issues to be considered are landscape and water quality.

3.5 Water Quality

31. All of this area lies within the catchment of Lake Hayes. We discussed the issue of water quality with various witnesses, including Ms Jarvis and Mr Davis for the Council, and Dr Goldsmith, an ecologist who gave evidence for Waterfall Park Developments Limited. We have discussed the evidence we heard on Lake Hayes water quality issues in Section 2.8 of Report 18.1. In brief, we heard evidence that agricultural activities and rural residential land uses would contribute nitrates to the catchment. As discussed in greater detail in Report 18.1, Dr Schallenberg supported a requirement for new development to be connected to existing reticulated wastewater systems.
32. Dr Goldsmith gave evidence for Waterfall Developments Ltd of OVERSEER¹⁹ modelling suggesting that conversion of the existing working sheep farm to the proposed residential uses would reduce nitrogen loss to water by approximately 15% (from 27kgN/ha/yr to 23kgN/ha/yr)²⁰. Two members of the Hearing Panel had had some previous experience with the use of OVERSEER and found both modelled predictions somewhat surprising; the first because it was so high (for a sheep farm) and the second, because we were unaware that OVERSEER could generate predictions for residential activities. We note that Dr Goldsmith acknowledged that OVERSEER was not designed for assessing nitrogen loss from residential activities, but told us that nitrogen loss had been conservatively calculated based on wastewater being dealt with by connection to the Council reticulated treatment system and an assumed proportion of each residential site being in cultivated garden.
33. Dr Goldsmith also made it clear that these predictions were the result of the work of a third party. Accordingly, when we sought to understand better how they had been arrived at, she was unable to assist us further. This meant that we could put little weight on her evidence in this regard. Among other things, we had no information as to what the comparison of nitrogen loss would be if the development were unable to connect to the Council wastewater network. Dr Goldsmith's evidence did not therefore provide us with a basis to depart from our general approach to Lake Hayes water quality issues.
34. In summary, after considering the relevant policy framework of the NPSFM and Partially Operative RPS 2019, we have concluded that unless land within the catchment is served by a reticulated wastewater treatment scheme, we should recommend that land be zoned Rural Amenity. At the time of preparing this report, none of the land in this area was served by a reticulated wastewater scheme.

¹⁸ Submission 2499

¹⁹ OVERSEER is a proprietary model that is used to model nitrogen loss from a number of agricultural systems. While there are issues with its accuracy in absolute terms, and its use predicting losses from non-dairy systems, both the Environment Court (*Carter Holt Harvey Ltd et al v Waikato Regional Council* A123/08; *Day et al v Manawatu-Wanganui Regional Council* [2012] NZEnvC 182) and a Board of Inquiry (Re Tukituki Catchment Proposal BoI Report 18 June 2014 and 19 June 2015) have found it useful in formulating nutrient limits and targets in the context of Regional Water Plans in other parts of New Zealand.

²⁰ Dr R Goldsmith, EIC at paragraph 3.4.1

3.6 Transport and Infrastructure

35. As we have discussed in Report 18.1, Mr Smith opposed all requests for rezoning that would increase the density of development.
36. Council's Infrastructure evidence did not oppose the majority of rezoning requests in this area. Ms Jarvis' overall view was that she was satisfied that the minimum site sizes (as notified) would be sufficient for sites to be serviced privately with on-site three waters infrastructure. Where submissions requested variations to the densities or could not demonstrate that there was sufficient capacity in Council's network, this was opposed by Ms Jarvis and Mr Crowther²¹. However, this issue is moot given our conclusions on the impacts on water quality in the Lake Hayes Catchment.
37. We do record that Mr Goldsmith told us that the Aryburn Farm proposal could be linked to reticulated services. In the absence of confirmation in the affirmative, we conclude from an infrastructure perspective that it is more appropriate that this land is zoned Rural Amenity, although this is not the key reason for our recommendation regarding that land (if it had been, we would have sought feedback from Council on the subject).

3.7 Landscape

38. We turn now to the opinions offered by the landscape architects that gave evidence in relation to the submissions in this area; these were Ms Gilbert, Mr Blakely, Ms Hadley and Mr Skelton. We record that Ms Hadley clarified that she lives on the northern side of Speargrass Flat Road, to the west of the Queenstown Trail running down the hill from Millbrook to Speargrass Flat Road. While we have accorded some weight to the evidence of Ms Hadley, we have accorded it less weight than that of the other landscape experts, as she cannot be entirely independent, a position we understood she accepted.
39. Ms Hadley and Mr Blakely were both in agreement with the need for breathing space between nodes to support the wider landscape character value of the Wakatipu Basin. However, they had different views on how this could be achieved.
40. Mr Blakely, giving evidence for the Trusts, advised us that he had carefully selected and sized the nodes of development proposed by that submitter on the valley floor north of Speargrass Flat Road. He saw merit in the proposal, as it would reduce the one-sided, linear development creep on the south side of Speargrass Flat. In contrast, Ms Hadley placed considerable importance on the rural character of Speargrass Flat/Hogans Gully. She described it as having the '*highest continuous rural character of any other landscape*'²² after Malaghans Valley and Crown Terrace. In her words, this rural character is '*fundamental to supporting the wider landscape character value of the Wakatipu Basin*'²³.
41. As we noted above, when Mr Blakely appeared in support of his own submission, he commented on the Boxer Hills Trust land, stating:

We consider this is an important piece of open, rural land on the road between the increasingly built up Lake Hayes and Arrowtown. Rural Lifestyle Precinct zoning will destroy the important ruralness and amenity values of the significant location on the tourist route between lake Hayes and Arrowtown. The proposed 75m setback strip will do little to protect these values.

²¹ For example, in relation to submissions 2385 and 2388

²² Ibid

²³ Ibid

42. Mr Skelton's evidence focused on the Ayrburn Farm land. It was his view that with the placement of the residential development on the western and central parts of the site, it would be screened from the surrounding roads by the existing rural residential development. Buffer areas along the southern boundary would also reduce the visibility of the residential development from the existing development. While the western side would be open, his understanding was that the consent notices restricting buildings on the adjacent sites to the west (the Trusts' land) would mean that any views of the residential development from that direction would be very distant²⁴.
43. Mr Skelton considered the place where the interior and western extents of the site would be visible to the public would be from the Christine's Hill portion of the Queenstown Trail²⁵. Mr Goldsmith provided us with copies of the easements showing that parts of the Queenstown Trail on Christine's Hill were on easements on the submitter's land. He acknowledged when we discussed it with him that the adjacent trail zigzags onto and off the unformed road and insofar as it is on unformed road, it is public land, so that views from it are relevant to our consideration of development on the Ayrburn site. We note also that where the Queenstown Trail crosses the flat land on the western boundary of the Ayrburn Farm site, it is on unformed road.
44. Mr Skelton agreed in part with Ms Gilbert that the Ayrburn Zone development would be more urban than rural residential, but did not consider that out of place given the urban forms of development allowed in the Millbrook Resort Zone and the Waterfall Park Zone²⁶.
45. Mr Skelton considered that the Precinct, if preferred over the Ayrburn Zone, would alter the character of the landscape such that it would appear as a moderately more spacious extension of the existing North Lake Hayes rural residential area. He considered the 75m set back would provide some semblance of openness and breathing space²⁷.
46. As a result of our questioning, after the hearing, Mr Skelton proposed additional Tree Protection Areas to mitigate views of the development from Arrowtown-Lake Hayes Road²⁸.
47. We heard no landscape evidence in support of the Precinct zoning of the Boxer Hills Trust land other than that of Ms Gilbert. She considered that 75m set back from Arrowtown-Lake Hayes Road would retain the sense of openness on that land²⁹. Discussing it with us, she suggested that this area was effectively a "lost cause" as a result of development that has been approved on the south side of Hogans Gully Road.

3.8 Natural Hazards

48. Mr Dent provided a report prepared on flood and stormwater management. We asked Mr Dent to provide copies of the plans showing flood effects and management proposals superimposed on the structure plan for the Ayrburn Zone. This was provided under cover of a memorandum of counsel on 26 July 2018.
49. These plans show that the access road shown on the structure plan is in part a flood mitigation measure in respect of the small area of residential land proposed south of that road. They also show that that area would need to be filled or surrounded by a bund to ensure freeboard of

²⁴ S Skelton, EIC paragraph 24ff

²⁵ Ibid, paragraph 23

²⁶ Ibid at paragraph 31

²⁷ Ibid, paragraphs 42-43

²⁸ Memorandum of Counsel for Waterfall Park Developments Limited, dated 27 July 2018

²⁹ B Gilbert, Rebuttal Evidence at paragraph 11.17

0.5m above the 100yr ARI maximum water level. Additionally, an area of retention ponds would need to be located north of the access road and south of the residential area to mitigate discharge rates to pre-development levels.

3.9 Planning

50. Mr Brown gave planning evidence in relation to the proposed Ayrburn Zone. He provided extensive evidence evaluating the three options³⁰ before us in terms of the rezoning principles, relevant plans, the former operative RPS and Section 32. Mr Brown did not consider the proposal to constitute sprawl or sporadic development, as it would be integrated with the Waterfall Park Special Zone through shared road access and servicing. He described it as a smaller rural settlement, while acknowledging the significant change that is occurring in adjacent areas. He considered that the requested zone would have the benefit of improved public access and better protection of the natural values of Mill Creek through riparian planting and protection. He concluded that Ayrburn Zone would better achieve the strategic objectives of the plan and the RPS.
51. Mr Brown provided a complete set of provisions for the Ayrburn Zone, including amendments to Chapter 27. A final version was provided after the hearing to take account of comments and questions at the hearing³¹.
52. Mr Langman was critical of Mr Brown's evaluation of the rezoning principles and the strategic direction of the plan. In his rebuttal evidence, he described the Ayrburn Zone as *'an urban tack on to the Waterfall Park Zone, which is a resort zone'*³². Mr Langman considered that a new urban development in this location would promote sporadic and sprawling development. He reiterated this in his reply evidence and said he still considered the proposal to be inappropriate from both a landscape and transport perspective³³.
53. Ms Taylor gave expert planning evidence for the Trusts³⁴. She supported the rezoning of the flat land adjacent to Speargrass Flats Road as Precinct. She proposed that development be provided for in that flat area through inclusion of a structure plan called the 'Arrowburn Structure Plan'. She also provided amendments to the provisions in Chapters 24 and 27 to provide for the proposal.
54. As discussed in Section 2.1 of Report 18.1, Ms Taylor agreed that the purpose of the proposal should be tested against the strategic chapters. We agree and consider the objectives we recommend for Chapter 24 are also relevant. Relying on Mr Blakely's evidence, she considered that nodes of development with a balance area was preferable to development at an average of 1ha. She concluded that the suite of provisions to be the most appropriate method to achieve the relevant district plan objectives.
55. Mr Langman disagreed with Ms Taylor. Relying on Ms Gilbert's evidence, he advised that the clustering of development would appear incongruous. He was also concerned that the proposed zoning would *'significantly weaken the edge of the Precinct land with little or no defensible boundary'*³⁵. He supplied copies of the relevant consent notices that apply to the Trusts' land at Appendix C to his reply evidence.

³⁰ The options being: the zoning as notified, the proposed Ayrburn Zone and the Rural Amenity Zone

³¹ Memorandum of Counsel for Waterfall Park Developments Limited, dated 27 July 2018

³² At 13.10

³³ At 13.10

³⁴ Submission 2619

³⁵ At 12.5

56. Mr Brown's evidence in relation to the Boxer Hills Trust land was directed at how he considered the Precinct provisions should be amended to enable more varied allotment sizes.

3.10 Discussion and Conclusions

57. Although we heard landscape evidence from Ms Gilbert and some landscape experts for submitters that supported the extent of Precinct as notified and/or requested by submitters, we are required to consider this alongside other effects of the development potential that would be conferred by the zoning of land. These effects include those on water quality in the Lake Hayes catchment and our duty to give effect to both the NPSFM and the Partially Operative RPS 2019. As discussed in Section 2.8 of Report 18.1, it is our conclusion that to give effect to those documents, the Rural Amenity Zone is the most appropriate zone for all land within the Lake Hayes catchment that is not within an area served by a reticulated sewage scheme.
58. However, that is not the sole reason for our recommendations. Turning first to the Trusts' land and the Arrowburn Structure Plan, we were not persuaded that the proposed setback from Speargrass Flat Road of the nodes of development was appropriate. We agree with Ms Hadley and Ms Gilbert that development nodes in the Basin generally should be broken up by open space, and we note that Mr Blakely took the same position with the land further to the east. In our view, the extent of existing development in the Lake Hayes Rural Residential area and ribbon development on the southern side of Speargrass Flat Road makes the openness of the northern side of Speargrass Flat Road even more important. Further, the function of areas as a 'breathing space' or buffer between more developed areas was one of the key methodologies in the WB Landscape Study. We also have reservations about the effectiveness of cluster style development with no defensible boundary in an area that has high demand for rural residential development. We think it would be subject to development creep over time.
59. We therefore recommend this lower portion of the Trusts' land retain the Rural Amenity Zone as notified, as shown on Figure 7 below.
60. Turning to the Ayrburn Farm land, there appeared to be no dispute that the Council's submission was correct, and that mapping of Christine's Hill as Precinct was an error. Waterfall Park Developments Limited, for instance, identified the area as Open Space/Building Restriction on its proposed Structure Plan.
61. Having considered the development proposed in the submitter's Ayrburn Zone, including by walking/rolling down the Queenstown Trail from Millbrook to Speargrass Flat Road, we conclude that the proposal would read as an urban area juxtaposed on to the less dense rural residential development of Lake Hayes North. It would be highly visible from those parts of the adjacent trail that are public road. The extent to which the development areas needs to be "hidden" from roads and the existing rural-residential area by setbacks and tree planting suggests that the proposed zone is incongruous in this location, rather than a natural extension of existing development.
62. We consider that Mr Langman is correct and that it would be contrary to the strategic directions of the plan and the Partially Operative RPS 2019. The definition of urban development in the PDP (now beyond appeal) draws a distinction between urban development and resorts, as defined. The rationale for Waterfall Park continuing to be identified in the PDP is because it is identified as a resort zone. It would be inconsistent with the strategic chapters to leverage off the Waterfall Park Zone to identify a new island of urban development on the adjacent land.

63. Mr Goldsmith sought to rely on the evidence for Millbrook Country Club that indicated Millbrook does not principally provide temporary visitor accommodation and therefore is not a resort, as defined. While there is merit in his argument, we understand that Millbrook was originally conceived as a resort and the balance between visitor accommodation and permanent residents has shifted over time. We note also that the Visitor Accommodation Variation recommended by Hearing Stream 15 provides a more liberal regulatory regime for visitor accommodation in the Millbrook Resort Zone (and the Waterfall Park Zone) than any other zone in the district. More importantly, we do not regard the proposed Ayrburn Zone as being a natural extension of the Millbrook Resort Zone in any relevant sense. In particular, while relatively close in distance, the change in elevation and the topography of the intervening hillside (and the removal of the Precinct zoning of Christine's Hill we recommend), means that they are in different visual catchments.
64. Mr Brown and Mr Skelton both accepted that the Ayrburn Zone would constitute urban development. Mr Brown suggested that an Urban Growth Boundary encompass the Waterfall Park Zone and the Ayrburn Zone³⁶. Mr Skelton suggested such an UGB also include the Millbrook Resort Zone³⁷. The Strategic Objectives and Policies related to new urban areas are focused on them being integrated into existing urban areas, not located in a rural area attached to rural-residential development³⁸. Even accepting that the continued categorization of Millbrook as a resort is problematic, we do not consider the proposed urban area as being integrated with Millbrook, for the reasons discussed above. As regards Waterfall Park, there is nothing in the Strategic Objectives and Policies which promotes the attachment of new urban areas to areas identified as resorts.
65. We also note that the Ayrburn Zone provisions provided by Mr Brown suggest that rather more development could occur in the proposed zone than was put to us. We note that the provisions proposed no minimum site size in the zone³⁹ and that development of more than 200 residential units would only be limited by the capacity of Council reticulated water supply and wastewater services⁴⁰. The provisions also effectively required a discretionary activity consent to erect buildings in the Open Space/Building Restriction Areas⁴¹ and there were no policies proposed to clearly enunciate the extent to which buildings should be allowed in those areas or otherwise. The provisions also included some confusion between activities and standards that would require redrafting if we were minded to recommend their acceptance⁴².
66. Added to those factors, we are not satisfied that sufficient information was provided regarding the extent of fill required to avoid flooding on the part of the site, and the potential effects the building up of that land could have in terms of visibility. Ms Gilbert advised, for instance, that she had not taken account of the flood prone nature of that area of the site, or the mitigation works necessary to address that risk, in her assessment. We also consider that if a 'breathing space' is to be provided between the rural residential development in North Lake Hayes and the development adjoining Millbrook and Arrowtown, as promoted by Ms Hadley and Mr Blakely, merely retaining a visual setback from Arrowtown-Lake Hayes Road would be insufficient. Users of the public areas of the Queenstown Trail equally need to experience such a space. We do not

³⁶ J Brown, EIC at paragraph 3.1

³⁷ S Skelton, EIC at paragraph 40

³⁸ See Objective 3.2.2.1, Policies 4.2.1.2, 4.2.1.4 and 4.2.2.14

³⁹ Proposed amendment to Rule 27.5.1

⁴⁰ Proposed Rule 47.4.2

⁴¹ Proposed Rule 47.4.1

⁴² Proposed Rules 47.4.10 and 47.4.11 are one example.

consider the 15m set back proposed by the submitter, nor the 75m set back proposed by Ms Gilbert, adequate to retain that experience.

67. It is our conclusion that the Ayrburn Zone or Precinct zoning on Ayrburn Farm would remove that 'breathing space', and as a consequence, along with the reasons discussed above relating to water quality, natural hazards and consistency with the PDP Strategic Objectives and Policies, it should be zoned Rural Amenity Zone as shown on Figure 7 below.
68. We also agree with Ms Hadley and Mr Blakely concerning the zoning of the Boxer Hills Trust land. We do not agree with Ms Gilbert that a 75m set back would be adequate or that this area is a lost cause. On that point we consider Ms Gilbert's evidence to be inconsistent with her opinion with respect to other areas in the Basin on the opposite side of the road to approved development, such as the area of LCU 8 north of the Hawthorn Triangle, or the area in LCU 11 along Lower Shotover Road opposite the Hawthorn Triangle. We conclude that there are landscape reasons in addition to the water quality reasons for zoning this land Rural Amenity Zone as shown on Figure 7 below.
69. As a consequential amendment, relying on the landscape evidence we heard, we also recommend that the table in Schedule 24.8 for LCU 8 be amended so that the "Capability to absorb additional development" reads "Low". We also recommend consequential amendments to the sections entitled "Settlement patterns" and "Environmental characteristics and visual amenity values to be maintained and enhanced" to delete references to Precinct zoning, which, as a result of our recommendations, is no longer applied in LCU 8.

4. ZONING - EASTERN UPPER PLATEAU OF LCU 6

4.1 Introduction

70. This area comprises the elevated parts of three sites (the Trusts' upper land) and an adjoining site of some 21.6 ha (the Donaldsons' land). This area is to the south of Millbrook Resort Zone (which three of the sites adjoin) and the area in question was zoned Precinct when Stage 2 was notified. A Landscape Feature line was applied along the southern border of the Precinct Zone.
71. Four submissions related to this land. The Trusts' submission⁴³ sought that the entire upper plateau be zoned Rural Amenity. That of Millbrook Country Club Limited ('Millbrook')⁴⁴ sought that all of the Trusts' upper land be rezoned Rural Amenity and the Donaldsons' land be partially rezoned Rural Amenity. The Donaldsons' submission⁴⁵ supported the Precinct zoning on their own land. The submission lodged by David Shepherd⁴⁶ was expressed as general opposition to the Precinct throughout the Wakatipu Basin. However, Mr Shepherd's evidence presented at the hearing was directed to seeking replacement of the Precinct on the Donaldsons' land with Rural Amenity.
72. Each of the four sites have a residential building platform approved within the area zoned Precinct as notified. The building platform on 413 Speargrass Flat Road was the only one built at the time of the hearing. As noted above, the Trusts' sites have consent notices applied

⁴³ Submission 2519, opposed by FS2710, FS2797

⁴⁴ Submission 2295, supported by FS2710, FS2773, FS2821, opposed by FS2745, FS2785, FS2797, FS2720, FS2723, FS2724

⁴⁵ Submission 2229

⁴⁶ Submission 2135, opposed by FS2797