

Queenstown Lakes District Proposed District Plan – Stage 1

Section 42A Hearing Report For Hearing commencing: 7 March 2016

Report dated: 19 February 2016

Report on submissions and further submissions
Chapter 6 Landscapes

File Reference: Chp. 6 S42A

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1. Executive Summary

- 1.1. The framework, structure and majority of the provisions in the Proposed District Plan (**PDP**) Landscape Chapter (6) should be retained as outlined and supported in the section 32 (**s32**) assessment. I consider that the provisions, with my recommended changes, are more effective and efficient than the Operative District Plan (**ODP**) and better meet the purpose of the Resource Management Act 1991 (**RMA**). Key reasons include:
- The objectives and policies, and limited rules in this chapter, provide a more appropriate platform than the ODP to manage land use, subdivision and development and the protection of the District's landscapes from inappropriate development, through providing better specificity of the activities that could be contemplated within specified areas and landscape classifications.
 - The policies have been drafted to be distinct from the assessment matters located within the Rural Zone Chapter (21), so that they offer a higher order framework to assess development proposals, and provide added value to the analysis and decision making process.
 - The policy framework recognises that traditional pastoral farming and the retention of large landholdings is an important element of rural character, and that this attribute is a value of its own and is distinct from amenity values.
 - The identification of a new landscape category 'Rural Landscape' to replace the ODP Visual Amenity Landscape and Other Rural Landscape categories recognises the value of rural character and the openness and lack of domestic elements where these are present within the landscape.
 - The framework and style is more concise, accessible and engaging.
 - The issue of contemplating cumulative effects is brought to the fore. This is an important issue that is difficult to quantify because the Rural Zone does not require a minimum allotment size or separation space for residential development. A qualitative assessment is required on a case-by-case basis, rather than identifying a minimum allotment size or separation of buildings as a benchmark to contemplate whether cumulative effects are at issue.
 - The removal of the Visual Amenity Landscape classification better equips the PDP with the ability to manage cumulative effects of subdivision and development.
- 1.2. Several changes are considered appropriate, and these are shown in the Revised Chapter attached as **Appendix 1** (Revised Chapter).

2. Introduction

- 2.1. My name is Craig Alan Barr. I am employed by the Council as a senior planner and I am a full member of the New Zealand Planning Institute. I hold the qualifications of Bachelor of Science and Master of Planning from the University of Otago. I have been employed in planning and development roles in local authorities and private practice since 2006. I have been employed by the Queenstown Lakes District Council (including former regulatory provider Lakes Environmental Limited) since 2012, in both district plan administration and policy roles.
- 2.2. In addition to my experience administering the ODP, my experience relevant to the Landscape Chapter includes working at other local authorities in New Zealand with rural and landscape issues. These include employment at the Christchurch City Council administering the Banks Peninsula District Plan and Christchurch City Plan, and at the Auckland Council based on Waiheke Island administering the Hauraki Gulf Islands District Plans.

- 2.3. I am the principal author of the notified PDP Landscape (6) Chapter and s32 report Landscape, Rural Zone and Gibbston Character Zone.

3. Code of Conduct

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

4. Scope

- 4.1. My evidence addresses the submissions and further submissions received on the proposed Landscape (6) Chapter (**Landscape Chapter**). I discuss issues raised under broad topics, and where I recommend substantive changes to provisions I assess those changes in terms of s32AA of the RMA. The Table in **Appendix 2** outlines whether individual submissions are accepted, accepted in part, rejected, out of scope or deferred to another hearing stream.
- 4.2. Although this evidence is intended to be a stand-alone document and also meet the requirements of s42A of the RMA, a more in-depth understanding can be obtained from reading the Landscape, Rural and Gibbston Character zones, Surface of Water Lakes and Rivers, Indigenous Vegetation and Wilding Exotic Trees s32 reports. The principal s32 is the Landscape, Rural and Gibbston Character Zones report, which is attached at **Appendix 3**, although the relevant extract for this hearing is the section on Landscape. The Rural, Landscape and Gibbston Character Zone s32 report contains several landscape reports attached as Appendices and these, along with Monitoring reports can be found of the Council's website at www.QLDC.govt.nz.
- 4.3. Due to the breadth of the PDP and submissions, the hearing of submissions is separated into the respective chapters or grouped into themes as much as practical. Submissions associated with the rules for residential activity, buildings and non-farming buildings will be addressed in the hearing on the rural areas. Submissions associated with rezoning, urban growth boundaries and the location of outstanding natural features and landscapes will be heard in those respective hearings at a later date. **Appendix 2** indicates whether a submission or further submission has been deferred to another hearing stream.
- 4.4. Some submissions that are fundamentally on landscape but have been summarised as being more relevant to a rule in the Rural Zone (Chapter 21) will be considered in the evidence in the Rural Stream hearing. An example is Submitter 145 (Upper Clutha Environmental Society (**UCES**)), the majority of their submission is considered in this evidence, however where the UCES seek relief to change the activity status of rules¹ the submission has been summarised and will be considered in the Rural Hearing Stream.
- 4.5. This evidence analyses submissions for the benefit of the Hearings Panel to make recommendations on the Landscape Chapter. The Landscape Chapter's objectives, policies and rules are related to and implemented through rules in other chapters. Specifically, the rules and landscape assessment matters in the Rural Zone (21) and Gibbston Character Zone (23) chapters. These provisions are not within the scope of this evidence and hearing, however they will be identified and discussed in broad terms where necessary to illustrate the relationship and connection with the higher order provisions in the Landscape Chapter.
- 4.6. I have read and considered the evidence of Dr Marion Read, attached as **Appendix 4**.

¹ Refer to Submission items summarised as 145.10 and FS1034 that seek relief associated with the UCES commentary on the RMA Reform Bill, currently being consulted on.

5. Background - Statutory

- 5.1. The Landscape, Rural and Gibbston Zones s32 is attached as Appendix 3 and provides a detailed overview of the higher order planning documents applicable to the Landscape Chapter. In summary, the following documents have been considered.
- 5.2. The RMA, in particular Part 2, Purpose and Principles.

The District's landscapes and natural environment are highly recognised and valued. The Council's Economic Development Strategy 2015 states:

'The outstanding scenery makes the District a highly sought after location as a place to live and visit.' And, 'The environment is revered nationally and internationally and is considered by residents as the area's single biggest asset.'

The Queenstown Lakes District is one of the fastest growing areas in New Zealand and a strategic policy approach is essential to manage future growth pressures in a logical and coordinated manner to promote the sustainable management of the valued landscape resource.

5.3. Iwi Management Plans

When preparing or changing a district plan, Section 74(2A)(a) of the RMA states that Council's must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district.

Two iwi management plans are relevant:

- The Cry of the People, Te Tangi a Taurira: Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 (MNRMP 2008).
- Kāi Tahu ki Otago Natural Resource Management Plan 2005 (KTKO NRMP 2005).

5.4. Operative Otago Regional Policy Statement 1998 (RPS)

Section 75(3) of the RMA requires that a district plan prepared by a territorial authority must "give effect to" any operative Regional Policy Statement. The operative Otago Regional Policy Statement 1998 is the relevant regional policy statement to be given effect to within the District Plan.

The operative RPS contains a number of objectives and policies of relevance to plan review, specifically Objectives 5.4.1 to 5.4.4 (Land) and related policies which, in broad terms promote the sustainable management of Otago's land resource by:

- Maintaining and enhancing the primary productive capacity and life supporting capacity of land resources.
- Avoiding, remedying or mitigating degradation of Otago's natural and physical resources resulting from activities utilising the land resource.
- Protect outstanding natural features and landscapes from inappropriate subdivision, use and development.

These objectives and policies highlight the importance of the rural resource both in terms of the productive resources of the rural area and the protection of the District's outstanding natural features and landscapes. I consider that the PDP Landscape Chapter gives effect to the RPS.

5.5. Proposed Otago Regional Policy Statement 2015 (PRPS)

Section 74(2) of the RMA requires that a district plan prepared by a territorial authority must “have regard to” any proposed Regional Policy Statement. The evaluation and provisions in the PDP have regard to the PRPS. In particular, there are consistencies in the application of the PRPS Schedule 4 ‘Criteria for the identification of outstanding natural features and landscapes’ and the Landscape assessment matters in outstanding natural landscapes and features, for guiding decision makers when considering proposals for activities within identified outstanding natural landscapes and features.

The PRPS was notified on 23 May 2015, the hearing of submissions was held in November 2015 and at the time of preparing this evidence the Hearing Panel were deliberating the submissions. A decision on the submissions has not been issued.

- 5.6. Local Government Act 2002, in particular s14, Principles relating to local authorities.

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

6. Background – Overview of the issues

- 6.1. The District’s landscapes are of significant conservation, economic and intrinsic value to the District. The Landscape Chapter is the framework to manage this important resource.
- 6.2. The ODP framework for managing subdivision and development in the Rural Zone is different to many other parts of rural New Zealand in that there is no minimum allotment size. What this does is prevent any ‘development right’ for residential subdivision and development, associated with a minimum landholding area, but requires proposals for subdivision and development to prove that the development would be appropriate in terms of effects on the landscape and, other factors including hazards, rural production and reverse sensitivity issues.
- 6.3. When a discretionary or non-complying activity status subdivision and/or development is proposed, the ODP provisions require an appraisal to determine whether the landscape values are one of an ‘outstanding natural feature’, ‘outstanding natural landscape’, ‘visual amenity landscape’, or ‘other rural landscape’. On this basis an assessment of the proposal is undertaken against a prescribed suite of ‘assessment criteria’.²
- 6.4. The s32 report identified that the most appropriate method to manage the landscape resource was to retain the fundamental structure of the ODP. That is, a discretionary activity status has been retained in conjunction with not having any minimum allotment size. By having a discretionary class of activity status the proposed approach provides the ability to assess the variable nature of issues that present alongside development in the Rural Zone, and encourages innovative and design-led approaches to ensure activities are appropriate in terms of the landscape resource.
- 6.5. It is recognised that not having a minimum allotment size associated with residential activity and subdivision presents issues in terms of quantifying the potential for cumulative degradation of landscape values, especially from residential subdivision and development. While cognisant of this issue, overall it is preferred to retain this regime because it maintains and reinforces a landscape-based management regime that demands a site specific design response.

² Noting that some subdivision and development could qualify as a controlled or restricted discretionary activity and not be subject to requiring the application of the landscape classification. Refer to Parts 5.3.3.2 (Controlled Activities) and 5.3.5.1 (Site Standards) Rural General Zone (ODP) where the matters of control or discretion for these activities are specified, and Part 15.2.3.2(i) (ODP) for controlled activity subdivision.

6.6. While retaining the fundamental components of the ODP framework, substantial changes have been made to the structure, objectives and provisions to address the following identified issues (within the operative framework):

- A lack of certainty and inefficient plan administration from the requirement to identify the landscape classification with every proposal for resource consent, notice of requirement or plan change. The PDP has established a framework to identify outstanding natural features, landscapes and rural landscapes on the planning maps.
- The removal of the 'visual amenity landscape' and 'other rural landscape' classifications. A deficiency with the ODP 'visual amenity landscape' landscape provisions is that they anticipate the maintenance, if not the creation of, a specific type of landscape, with the ODP rules using the words being 'arcadian' or 'pastoral in the poetic sense'³. However, much of the rural land that falls within this classification has varying types of landscape character. A consideration of the different characters of the Wakatipu Basin⁴ and the Upper Clutha Basin illustrates this point. Parts of the District's rural areas within the existing 'visual amenity landscape' are actual working landscapes, characterised by relatively large paddocks and an absence of domestic buildings and associated activities and curtilage that can disrupt the rural character characterised by pastoral farming. In many areas, the predominant (introduced) vegetation patterns are for sheltering stock and paddocks, rather than creating amenity and shelter associated with housing. The landscape character of these areas and the management of them with regard to subdivision and development do not benefit from the existing visual amenity landscape provisions. To rectify this deficiency, a new, 'Rural Landscape' category has been included in the PDP.
- Notwithstanding the development pressure for rural living opportunities, this matter may be a reason why there have been a relatively high number of residential building platforms approved in the Wakatipu and Wanaka Basins. It is difficult to suggest, or for the Council to quantify that the amount of consented development has reached a cumulative adverse effect, when the provisions in the ODP anticipate the creation of an 'arcadian' or 'pastoral in the poetic sense' landscape. Aerial photographs of the Wakatipu Basin and Wanaka area, updated in February 2016 are attached to this evidence as **Appendix 5**. The images provide an indication of the amount and location of established and consented development.
- A case in point here is the difference in character between parts of the Wakatipu Basin compared to the Wanaka and Hawea Basins, Luggate and parts of the Crown Terrace. These areas are for the most part typically categorised as being a visual amenity landscape but do not exhibit the characteristics of an 'arcadian' or 'pastoral in the poetic sense' visual amenity landscape. Instead they have a rural working character and are characterised by productive farming, linear shelterbelts and an absence of residential housing.
- The ODP has one principal landscape objective and 43 policies grouped into 17 themes.⁵ These are phrased in a similar 'effects based' manner to the landscape assessment criteria⁶ and do not offer effective specificity and value over and above the assessment criteria, many of which are structured and phrased as policies in themselves.

6.7. With regard to the PDP, the objective and policy framework has been restructured and written to establish a clearer regulatory framework and address activities within identified areas and themes.

³ Refer to Appendix 1 of the Landscape, Rural and Gibbston Valley section 32: Read Landscapes Limited 'Report to Queenstown Lakes District Council on appropriate landscape classification boundaries within the District, with particular reference to Outstanding Natural Landscapes and Features' 2014.

⁴ Refer to Appendix 2 of the Landscape, Rural and Gibbston Section 32 titled: Read Landscapes Limited 'Wakatipu Basin Residential Subdivision and Development: Landscape Character Assessment' June 2014.

⁵ Part 4.2 - Landscape and Visual Amenity – District Wide Issues

⁶ Part 5.4.2 Assessment Matters – Rural Areas – Rules, Part 5.8.2 Assessment Matters – Gibbston Character Zone

- Objective 6.3.1 sets the framework for rules and provides general policies to apply when considering development proposals.
- Objective 6.3.2 establishes a policy framework to manage cumulative effects.
- Objectives 6.3.3 to 6.3.5 establishes a policy framework for the three identified landscape classifications.
- Objective 6.3.6 establishes a policy framework for activities on the surface of water.
- Objective 6.3.7 provides a policy framework that recognises indigenous vegetation and nature conservation values as part of the District's landscapes.
- Objective 6.3.8 recognises the dependence of tourism on the District's landscapes and relationship with activities locating within a range of visually sensitive and important locations.
- A 'rules' section (6.4.1) has been introduced into this Landscape Chapter to clarify the application of the landscape classifications, assessment matters and higher order objectives and policies.

6.8. Non-Statutory Consultation

- 6.9. Between 9 January and 10 February 2015 draft landscape and rural chapters and s32 reports were made available for informal consultation. The information was placed on the Council's website and circulated to persons on the Council's District Plan Review distribution list, persons with an interest in the changes and statutory consultation parties required by the RMA. Written feedback was received from, in the order of 40 persons/groups.

7. Section 32

- 7.1. A s32 report was also prepared during the preparation of this chapter to assist in and provide a record of the analysis and decision making undertaken during the preparation of the proposed zone/chapter provisions. The s32 is attached at **Appendix 3**.

8. Submissions

- 8.1. The submissions received relating to the Landscape Chapter and whether the submission is recommended to be rejected, accepted, or accepted in part is attached at **Appendix 2**. I have read and considered all submissions.
- 8.2. Submissions are considered by issue. Where applicable they are considered by provision. **Appendix 2** contains a summary of the submission points and recommendation.
- 8.3. The PDP was notified on 26 August 2015. The submission period closed on 23 October 2015. A summary of submissions was notified on 3 December. The further submission period closed on 16 December 2015.
- 8.4. A further summary of submissions was notified on 28 January 2016 following the identification of several submissions that were not summarised in the initial period.
- 8.5. 211 submissions or further submissions were received with 1202 points of submission itemised on the Landscape Chapter (noting that some of the submission points are on rezoning or the location of landscape lines and not on a specific part of the Landscape Chapter).

9. Analysis

- 9.1. The RMA, as amended in December 2013 no longer requires a report prepared under 42A or the Council decision to address each submission point but, instead, requires a summary of the issues raised in the submissions.
- 9.2. Some submissions contain more than one issue, and will be addressed where they are most relevant within this evidence.
- 9.3. The following key issues have been raised in the submissions and are addressed in broad terms:
- Issue 1 – Retention of the ODP.
 - Issue 2 – The PDP provisions are too restrictive.
 - Issue 3 – Providing for infrastructure and electricity generation.
 - Issue 4 – Consistency with RMA phrasing.
 - Issue 5 – Whether the PDP provides for the management of rural character.
 - Issue 6 – Hydro Generation Zone and Hydro Generation Activity.
- 9.4. Following the above, an analysis of the key issues identified by submitters is provided for each objective and related policy. Where a policy has not been submitted on or where the submission is without any coherent basis the submission point is not likely to have been discussed (although a recommendation for the latter is set out in **Appendix 2**). I have set out my analysis of the provisions by issue (as above) and then by objective as follows:
- Objective 6.3.1 - The framework for rules and general policies.
 - Objective 6.3.2 - Cumulative effects.
 - Objective 6.3.3 - Outstanding Natural Features.
 - Objective 6.3.4 - Outstanding Natural Landscapes.
 - Objective 6.3.5 - Rural Landscapes.
 - Objective 6.3.6 - Lakes and Rivers.
 - Objective 6.3.7 - Indigenous vegetation and nature conservation values.
 - Objective 6.3.8 - The relationship with tourism and landscapes.
 - Rules 6.4 – Rules - Application of the landscape provisions.

9.5. Issue 1 – Retention of the Operative District Plan

- 9.6. A relatively small number of submissions including submitters 145 (Upper Clutha Environmental Society (**UCES**)) and 643, 688, 693 and 702⁷ request that the Landscape Chapter is deleted and the ODP provisions are reinstated. The reasons include that the PDP weakens environmental protection (145), and the landscape provisions were heavily scrutinised over several years before the ODP was settled, they have been applied for many

⁷ Submitters 643 (Crown Range Enterprises), 688 (Justin Crane and Kirsty Mactaggart), 693 (Private Property Limited), 702 (Lake Wakatipu Station Limited) (represented by John Edmonds & Associates Limited).

years and practitioners are familiar with how they are applied and considered against the RMA, and retaining the ODP provisions aids consistent interpretation.

9.7. The submitters (643, 688, 693, 702) analysis of the PDP states:

By comparison the proposed landscape chapter objectives and policies suffer from the following issues:

- Long winded and excessive numbers of objectives and policies
- Ambiguous wording (e.g. reference to “rural zones”)
- Repetition of matters covered in objectives and policies in other chapters
- Wording that inappropriately restricts development
- Excessively elevating landscape matters in areas where they are but one of many valid considerations (for example by not properly distinguishing the distinct tests appropriate for different landscape categories).

Overall, it would be significantly more efficient and effective in achieving the purpose of the Act to continue to apply Section 4.2 of the Operative District Plan in Section 6 with no more than minor and inconsequential amendments.

9.8. For the reasons set out in the s32, in sections 4 and 5 of this evidence and generally in the analysis of submissions, I consider that these criticisms better reflect the framework and provisions of the ODP. This submission point is rejected.

9.9. Submitter 643 (Crown Range Enterprises) requests that all the objectives and policies in Chapter 6 are deleted and replaced with those that already exist in s4.2 of the ODP, while making minor wording amendments such as replacing Visual Amenity Landscapes with Rural Landscape. For the reasons set out in the Background discussion in section 3 of this evidence, the s32 and further within this evidence, it is considered that this would not be the most appropriate way to meet the purpose of the RMA. The replacement of the Visual Amenity Landscapes (**VAL**) and Other Rural Landscapes (**ORL**) categories with the Rural Landscape classification are more than just the consolidation of two classifications into one. It has been identified that the VAL and ORL planning frameworks are not the most appropriate way to manage the landscape resource and the entire policy framework and assessment matters in part 21.7 have been modified to reflect that the landscape quality should not be based on the terms of an ‘arcadian or pastoral in the poetic sense’ landscape. I also refer to Dr Read’s evidence (see Section 5.6) where her view is that that the qualities that characterise the VAL were developed with reference to the Wakatipu Basin, and fail to value the characteristics of other locations such as the Upper Clutha landscape. This submission is rejected.

9.10. Submission 145 (UCES) requests that the retention of the ODP, subject to minor modifications is necessary because the PDP Landscape Chapter would weaken the protection of landscapes such that rural subdivision and development and farming are more likely to gain consent in inappropriate locations in a manner that will degrade landscape values. In my opinion, I do not accept this submission point and that the objectives and provisions in the PDP Landscape Chapter provide sufficient protection of the landscape resource while contemplating development. I also consider that they are better framed and structured, which is an improvement on the ODP provisions by being more concise, direct and providing specificity of the types of development activities that are likely to be appropriate in the Rural Zone.

9.11. In my view, the PDP Landscape objectives and provisions are more effective at recognising and managing the values derived from rural character, in that they are different from ‘amenity values’. The matter of recognising the finite capacity of rural areas to absorb development and to sustain the quality and character, and amenity of the District’s landscapes is also better acknowledged in the PDP provisions.

9.12. I consider that the PDP Landscape Chapter, utilised in conjunction with the provisions in the Rural Zone (21) Chapter are considered to provide a more efficient and effective framework to

assess activities and manage the use, development and protection of the District's landscape resource.

- 9.13. For the reasons set out above, in the s32 report, and in parts 4 and 5 of this evidence, these submissions are rejected. In my view, the PDP Landscape Chapter, subject to recommended modifications set out in **Appendix 1** is the most appropriate way to meet the Purpose of the RMA.
- 9.14. Issue 2 – The provisions are too restrictive
- 9.15. By contrast to submission 145 (UCES), several submitters (including but not limited to 456, 375, 433, 635, 531-537, 570, 610 and 806⁸) submit that the PDP Landscape Chapter does not weaken landscape protection but is too restrictive for development proposals contemplating activities in the Rural Zone.
- 9.16. Examples include submission 537 (Slopehill Joint Venture) and others that consider Policy 6.3.2.1 is not appropriate because '*no development could be achievable if amenity values are to be sustained*' and Policy 6.3.2.2 does not go far enough to recognise that there are rural areas that can absorb development, whether they be new or infill. Submitter 430 (Ayrburn Farm Estate) considers that the PDP as notified does not strike an appropriate balance between accepting the inevitability of growth and how landscape values should be managed in the face of this growth. The submission goes on to state that the PDP is weighted too far in the direction of protection of all landscapes, and that this will frustrate appropriate development proposals.
- 9.17. Submitters including 456 (Hogans Gully Farming Limited) and 635 (Aurora Energy Limited (**Aurora**)) have also submitted that the use of the phrase 'inappropriate', for example, in Objective 6.3.1 has been incorrectly applied to the Rural Landscape Classification, and that this phrase is a test/matter reserved only for outstanding natural landscapes because s6(b) of the RMA uses this word. In my view, the word 'inappropriate' does not need to be placed in a vacuum because it is used in s6(b) of the RMA, and therefore, only for the reserve of outstanding natural features and landscapes. If this argument was accepted in the context of Objective 6.3.1, then inappropriate subdivision and development would be acceptable in the Rural Landscape areas.
- 9.18. Related to this point, are the submissions of 513, 515, 522, 531, 537 and 608⁹ who request that the word 'inappropriate' is inserted into policy 6.3.5.1, which is a policy for the Rural Landscapes classification, and clearly not a policy for ONL/ONF areas. The reasons given for the requested change are to better reflect RMA purpose and terminology, and that the policy (as notified) sets a higher threshold of protection than provided for in s6 of the RMA¹⁰. This point illustrates the divergence of views from submitters as to what constitutes 'RMA terminology' and where and to what extent it should be applied.
- 9.19. If objectives and policies were compelled to be written in strict accordance with all words or phrases contained within the RMA then, an objective for the Rural Landscape areas would, in accordance with s7(c) need to have 'particular regard' to the amenity values of this resource. Objectives and policies phrased in this manner could, in my view, be meaningless.
- 9.20. Objective 6.3.2 relating to cumulative impacts of subdivision, land use and development has also been criticised for being too strong in terms of restricting future development and may foreclose the opportunity for proposals for which adverse effects can be appropriately remedied or mitigated. My response to that point is that the objective and related policies are intended to set a high bar, especially in the context of the development pressures faced in the Rural Zone, the value of the landscape resource and that no minimum allotment size is

⁸ Submitters 456 (Hogans Gully Farming Limited), 375 (Jeremy Carey-Smith), 433 (Queenstown Airport Corporation), 635 (Aurora Energy Limited), 531 (Crosshill Farms), 532 (Walker Family Trust et. al.) 534 and 535 (G W Stalker Family Trust et. al.), 537 Slopehill Joint Venture), 608 (Darby Planning LP Limited), 610 (Soho Ski Area Limited and Blackmans Creek No. 1 LP).

⁹ Refer to footnote above and 513 (Jenny Barb), 515 (Wakatipu Equities), 522 (Kristie Jean Brustad and Harry James Inch).

¹⁰ Refer to Submission 515, page 6, Wakatipu Equities Limited.

identified for the Rural Zone. The matter at the heart of cumulative adverse effects is that it is the sum of a number of effects from developments that on their own, have been determined to be appropriate. For this reason the submissions of 537 (Slopehill Joint Venture) and 581 that seek to have the phrase 'caused by *inappropriate* development' replaced with '*incremental*' are also rejected.

- 9.21. Submitter 456 (Hogans Gully Farming Ltd) seeks that subdivision and development should be allowed in the Rural Landscapes on the basis that it does not '*significantly adversely affect*' the landscape quality or character, as opposed to '*degrade*' as proposed in Policy 6.3.5.1. I consider that accepting these changes would weaken the provisions to protect the landscape resource and are not supported.
- 9.22. Further, the repetition of 'RMA phrases' is not considered to offer added value to persons contemplating development or decision makers assessing the merits of the development on the landscape resource. The merits of a development proposal could include 'remediation or mitigation measures' that would ultimately contribute toward avoidance of the impact identified in the objective or policy. These aspects are inherently part of decision making and the contemplation of activities under the framework of the RMA and are not considered necessary to be repeated in every circumstance through a district plan objective or provision.
- 9.23. Overall, I consider that the landscape objectives and policies are appropriately balanced and are adequately phrased. Some changes requested by submitters are accepted and these are identified in **Appendix 1**. These changes are considered to improve the provisions and ensure their application is clear and efficient.
- 9.24. Issue 3 – Providing for infrastructure and electricity generation
- 9.25. Submitters including 635 (Aurora), 805 (Transpower) and 433 (Queenstown Airport Corporation (QAC)) have submitted that the landscape objectives and policies are too restrictive, particularly where infrastructure must locate within the District's ONFs and ONLs or that the Rural Landscape areas have too high a level of protection afforded to them. The relief sought includes the addition of bespoke references or policies that provide recognition of infrastructure to facilitate development.
- 9.26. The importance of regionally significant infrastructure and energy generation is acknowledged, and is recognised in the Strategic Direction (3) Chapter policy framework, and the Energy and Utilities Chapter (30). Providing exemptions and add-ons to policies as requested, particularly within the higher-order Landscape Chapter policies is not considered necessary or appropriate. For example, the changes sought to Policies 6.3.1.3 and 6.3.1.4 by Aurora and Transpower, if appropriate at all, would be better suited to lower order provisions.
- 9.27. Submitter 805 (Transpower) has also requested amendments to recognise and provide for its regionally significant infrastructure and the national grid, noting the National Policy Statement on Electricity Transmission 2008. It is considered that both the PDP Strategic Direction Chapter¹¹ (3) and Energy and Utilities Chapter (30) recognise and provide for regionally significant infrastructure and the National Grid, in particular its ongoing operation, maintenance and upgrading within the District. I have reviewed and agree with Mr Paetz's recommended definition of 'regionally significant infrastructure', as attached to his evidence in Appendix 1. The Landscape objectives and provisions as recommended in my **Appendix 1** are appropriate and in my view meet the purpose of the RMA in the context of the importance of the landscape resource to not only the District and region, but nationally.
- 9.28. Notwithstanding the above, I consider that it is appropriate to acknowledge the matter of the importance of the contribution that regionally significant infrastructure (the recommended definition includes the National Grid) makes to social and economic wellbeing and health and safety, with location constraints in the District.

¹¹ With recommended changes as presented to the Hearings Panel and described in the S42A report.

9.29. Because of the often steep topography, and lakes and rivers that characterise this District, regionally significant and national grid infrastructure is likely to be affected by location constraints and there may not be any legitimate alternatives to locate. In this context these submissions are recommended to be accepted in part. A new policy is recommended under Objective 6.3.1 that addresses this resource issue.

9.30. An assessment of the recommended changes pursuant to s32AA of the RMA follows:

Recommended Policy (6.3.1.12 in Revised Landscape Chapter)
<u>Regionally significant infrastructure shall be located to avoid degradation of the landscape, while acknowledging location constraints.</u>

Costs	Benefits	Effectiveness & Efficiency
<ul style="list-style-type: none"> • The policy is weighted toward protection of landscape over infrastructure (relative cost to infrastructure). • Introducing a policy that contemplates the location of infrastructure in ONL/ONF areas could be construed as providing for infrastructure that would degrade landscape values (cost to landscape values). 	<ul style="list-style-type: none"> • The policy acknowledges that notwithstanding the District has high landscape values, there are likely to be circumstances where it is necessary for infrastructure to locate within landscapes that are vulnerable to degradation. • The policy acknowledges the necessity of regionally significant and national grid infrastructure (noting that national grid is included in the definition) and location constraints (benefit to infrastructure). • The policy acknowledges higher order planning instruments such as the NPSET 2008 (benefit to infrastructure). • The policy offers decision makers the ability to consider the location constraints and potential for limited or no viable alternatives. 	<ul style="list-style-type: none"> • Adding the policy complements the Landscape Chapter policy framework by acknowledging that regionally significant and national grid infrastructure is located within landscapes that are vulnerable to degradation. • The policy would need to be contemplated with other provisions and does not provide for regionally significant and national grid infrastructure upgrades and development to be contemplated without consideration of the landscape resource and potential for impacts leading to degradation. • The policy is effective in that it provides decision makers with the ability to directly reconcile the tension between landscape and necessity for regionally significant infrastructure and national grid upgrades and development. Particularly in the terms of s5 of the RMA.

9.31. Issue 4 – Consistency with RMA phrasing

9.32. A number of submissions recommend the adoption of using ‘RMA phrases’. Requested amendments include adding ‘remedying or mitigating adverse effects’ after the use of the word avoid, or replacing a verb such as ‘degrade’ with ‘adverse effects’. The divergence of views from submitters as to what constitutes ‘RMA terminology’ and where it and to what extent it should be applied, is also discussed in Issue 2 above.

9.33. While acknowledging that s5(2)(c) of the RMA includes the phrase ‘avoiding, remedying, or mitigating any adverse effects of activities on the environment’, as part of promoting the sustainable management of natural and physical resources. I do not consider it necessary to repeat these phrases throughout the objectives or provisions in the Landscape Chapter.

Furthermore, while the word 'inappropriate' is specified in s6(b) of the RMA with regard to outstanding natural features and landscapes, it does not require that this word is only for the exclusive domain of matters specified in s6 of the RMA.

- 9.34. The use of these phrases in the Landscape Chapter has been purposefully used sparingly. The RMA and its 'tests' are the legislative framework that need to be given local expression in a way that is appropriate to local issues. There is no compulsion to paraphrase parts of the RMA and this habit has been reduced in the Landscape Chapter and PDP overall, in an attempt to make the objectives and policies relevant to the local context and have specificity to the types of activities that could be contemplated. Refraining from the repetition of RMA phrases and similar jargon is also intentional to encourage readers to engage with the PDP. The repetitive use of long drawn out phrases could in my view alienate the wider community from the PDP.
- 9.35. In addition, the phrases 'adverse effects' and whether they are of a 'minor' scale or not have been purposefully avoided, despite a number of submitters requesting the inclusion of these phrases. These phrases have an association with s95 and s104D of the RMA and are primarily the domain of the administration of resource consents. The objectives, policies and landscape assessment matters are intended to be considered against a broader range of development proposals including plan change requests, notice of requirements and outline plans, and resource consent applications that require consideration under s104 of the RMA broadly, not just s104D, which requires a determination of whether the adverse effects will be minor.
- 9.36. By comparison s104(a), utilised for assessing discretionary activities requires, 'to have regard to any actual and potential effects on the environment of allowing the activity'. Yet, it is common practice in resource consent decisions for discretionary activities to use the phrase 'minor' as a pass mark of whether an activity is appropriate.
- 9.37. In this regard, the use of the word 'degrade' within the landscape policies is preferred over the use of the phrase 'avoids, remedies or mitigates adverse effects'. The Oxford English Dictionary¹² describes the meaning of degrade as '*lower the character or quality of*'. This is the matter at issue which the Landscape Chapter addresses.
- 9.38. Issue 5 – The management of character
- 9.39. That the District's landscapes have been influenced by productive farming and rural character is a prevalent landscape character element throughout the District I refer to Section 4.1 of Dr Read's evidence where she notes that while a large portion of the District's high quality landscapes are within the Conservation Estate, much of the landscapes within the ambit of the Council is utilised for farming. As set out in the background discussion (Part 6) to this evidence, and the Landscape s32, recognition and management of rural character has been identified as a resource issue that is not being appropriately managed by the ODP, particularly in the case of (ODP) VAL and ORL landscapes.
- 9.40. Submitter 145 (UCES) considers that the PDP as notified would weaken landscape protection such that the ODP should be reinstated, while submitter 248 (Shotover Trust) opposes policy 6.3.5.6 where it seeks to manage openness within the Rural Landscapes and a further submission by Arcadian Triangle Ltd (FS1255)¹³ states that '*Open character is a recognised attribute of Outstanding Natural Landscapes but not of other rural landscapes. The proposed amendments inappropriately attribute this value to all rural landscapes.*
- 9.41. Related to this matter is a decision on a recent resource consent application for residential development in the Rural Zone (RM150550). The decision maker came to the view that '*in its present form, the PDP contains no provisions which distinguish rural character from visual amenity or landscape values*'¹⁴.

¹² <http://www.oxforddictionaries.com/definition/english/degrade> Accessed 19 February 2016.

¹³ Further submission on 238 (NZIA and Architecture + Women Southern).

¹⁴ RM150550 Decision of the Commission. Para 57.

- 9.42. In coming to this view the decision maker reviewed the PDP Strategic Direction and Rural Zone Chapters. It appears that the PDP Landscape Chapter has been purposefully overlooked because the decision maker emphasises the distinction between 'landscape' being something that constitutes visual amenity or aesthetic values, and 'rural character' as a separate element that is not wholly reliant on landscape alone, perhaps more suited to the provisions in the respective zone.
- 9.43. In comparison, I consider that rural character is one of many elements, or subsets of the landscape, and for the reasons that follow, the PDP Landscape Chapter and provisions in the PDP Rural Chapter in my view sufficiently address the matter of rural character.
- 9.44. It is acknowledged that rural character could comprise multiple sensory attributes such as smell, sounds, how the land is actually used irrespective of how it appears, and a sense of open space or lack of domestic elements. These elements all contribute to the quality and character of the landscape, and therefore rural character is considered to be an element of the landscape and wider landscape values of the District.
- 9.45. To emphasise this further, the resource consent application was declined due to effects on rural character, with precedent issues and plan integrity being contributing factors. To my understanding the application was not declined because the proposed land use would have impacts on the productive capacity of the rural land or soil resource, or reverse sensitivity effects on a rural or other legally established activity.
- 9.46. To this end, the issue comes back to landscape, albeit not so much a visual amenity issue but a rural character issue. In drafting the PDP Landscape Chapter and related provisions in the Rural Zones (Chapters 21-23), I have made a concerted effort to identify landscape character as distinct from visual amenity. This allows the Council to manage effects on scenery (visual amenity) but also recognises that there are differences in landscape character within the District and that these different character areas are valued. The removal of references to 'arcadian' and 'pastoral in the poetic sense' as used within the VAL classification in the ODP is a case in point. The reasons for this include that a landscape does not need to have significant or outstanding visual amenity values to be valued as a landscape in its own right, particularly if the landscape is characterised by openness or productive pastoral farming.
- 9.47. The PDP Landscape Chapter identifies rural character as a distinct landscape attribute which requires consideration separate from other landscape identified attributes such as 'landscape quality' or 'amenity'.
- 9.48. I consider the following statements that recognise rural character, and that conclude that it could comprise openness in Part 6.2 of the PDP Landscape Chapter, to be relevant in light of the relief sought by the submitters identified above and the comments made in RM150550:

The open character of productive farmland is a key element of the landscape character which can be vulnerable to degradation from subdivision, development and non-farming activities. The prevalence of large farms and landholdings contributes to the open space and rural working character of the landscape. The predominance of open space over housing and related domestic elements is a strong determinant of the character of the District's rural landscapes'.

Some rural areas, particularly those closer to Queenstown and Wanaka town centres and within parts of the Wakatipu Basin, have an established pattern of housing on smaller landholdings. The landscape character of these areas has been modified by vehicle accesses, earthworks and vegetation planting for amenity, screening and shelter, which have reduced the open character exhibited by larger scale farming activities.

- 9.49. In terms of provisions, 'character' is specified in many of the Landscape Chapter's Objectives and policies and include the following components:
- Policy - 6.3.1.10 Recognise that low-intensity pastoral farming on large landholdings contributes to the District's landscape character.

- Policy - 6.3.1.11 Recognise the importance of protecting the landscape character and visual amenity values, particularly as viewed from public places.
- Objective - 6.3.2 Avoid adverse cumulative effects on landscape character and amenity values caused by incremental subdivision and development.
- Policy 6.3.2.1 Acknowledge that subdivision and development in the rural zones, specifically residential development, has a finite capacity if the District's landscape quality, character and amenity values are to be sustained.
- Policy 6.3.2.2 Allow residential subdivision and development only in locations where the District's landscape character and visual amenity would not be degraded.
- Policy 6.3.2.4 Have particular regard to the potential adverse effects on landscape character and visual amenity values from infill within areas with existing rural lifestyle development or where further subdivision and development would constitute sprawl along roads.
- Policy 6.3.2.5 Ensure incremental changes from subdivision and development do not degrade landscape quality, character or openness as a result of activities associated with mitigation of the visual effects of proposed development such as screening planting, mounding and earthworks.
- Policy 6.3.5 Objective - Ensure subdivision and development does not degrade landscape character and diminish visual amenity values of the Rural Landscapes (RLC).

9.50. The provisions in the PDP Rural (21) Zone chapter identify landscape character as part of the rural resource in the following:

- Policy 21.2.1.3 relating to rural activities.
- Policy 21.2.5.4 relating to mineral extraction activities.
- Policies 21.2.9.2 – 3 relating to commercial and forestry activities.
- Policy 21.2.10 relating to non-farming activities.
- Policies 21.2.12.2, 4 and 5 relating to the surface of lakes and rivers and their margins.
- Objective 21.2.13 relating to the Rural Industrial Sub Zone.
- Rule 21.4.14 relating to retail sales of garden produce.
- Rules 21.5.1, 2, 4, 5, 14, 15, 16, 17, 18, 19, 20, 32, 34 and 35 - relating to the matters of discretion for performance standards associated with buildings and retail activities.

9.51. In addition, the landscape assessment matters in Chapter 21.7 (which are not within the scope of this hearing) identify 'character' as a distinct attribute for consideration in 22 places. It is however acknowledged that because the PDP is in its infancy, only the objectives and policies were applied¹⁵ and provisions such as the landscape assessment matters were not able to be assessed (in decision making on RM150550).

9.52. While the decision on resource consent RM150550 is not within scope, the commentary in the decision is relevant in the context of the submissions received on the Landscape Chapter. In particular, whether the provisions that manage rural character should be located in the Landscape Chapter. In my opinion, which is supported by Dr Read's landscape evidence attached as **Appendix 4**, where the elements of rural character primarily relate to visual aspects, they are a subset of landscape and are appropriately placed within the Landscape

¹⁵ Refer to s104(b)(vi) of the RMA 'have regard to any relevant provisions of a plan or proposed plan'. In addition, noting that an appraisal of the rules (assessment matters) was constrained by s86B of the RMA.

Chapter. Where the matter affecting Rural Character was more to do with other elements such as the type and intensity of traffic generation, noise, odour, and lighting or whether the proposed activity would be sensitive to permitted or legally established rural activities, the provisions are provided for within the respective zone chapter¹⁶.

- 9.53. On this basis it is considered that the PDP sufficiently identifies character as a resource issue that is managed appropriately.
- 9.54. Issue 6 – Hydro Generation Zone and Hydro Generation Activity
- 9.55. Submitter 580 (Contact Energy) questions whether the landscape classifications apply to the Hydro Generation Zone, which include Lake Hawea and the area zoned for a potential future dam of the Clutha River at Luggate.
- 9.56. The Hydro Generation Zoned areas and the Hydro Generation Zone Chapter have not been notified in Stage 1 and are programmed for Stage 2 of the District Plan Review. The PDP planning maps have included the Hydro Generation Zone as presented in the ODP planning maps for information purposes only – no chapters have been notified. The PDP Landscape Chapter and s32 report has purposefully been silent on Hydro Generation Activities within the Hydro Generation Zone.
- 9.57. Landscape lines have however been notified over or within the geographic area of the Hydro Generation Zone (the latter identified on the Planning Maps for information purposes only). The Hydro Generation Zone and provisions only apply to Hydro Generation Activity, other activities are subject to the rules of the Rural General Zone, as confirmed in Part 12.13.3 of the ODP. Therefore, in the context of the PDP planning maps and Rural Zone activities, the identification of landscape lines is appropriate (although the location of those lines is not within the scope of this hearing). In addition, the management of activities under the Rural Zone rules, other than Hydro Generation Activity is considered especially important because Contact Energy has been disposing of land in the Luggate area.
- 9.58. Policy 6.3.4.4 sets out that large scale renewable electricity generation or mineral extraction activities are not likely to be compatible with the maintenance of the district's outstanding natural landscapes. For clarification, Policy 6.3.4.4 is not intended to be applicable to Hydro Generation Activity within the Hydro Generation Zone. Hydro Generation Activity is contemplated within this zone and a planning framework is established under the ODP (to be notified for the PDP in Stage 2). It is understood that the development of the Luggate power project is not imminent and the Hydro Generation Zone, and any provisions required in the Landscape Chapter to provide clarification are appropriate to be deferred until Stage 2 of the district plan review (although the landscape lines will be considered in the Rural hearing).
- 9.59. Contact Energy has also requested the addition of a policy that *recognises that electricity generation facilities and structures may cause significant changes in landscape quality, character and visual amenity on a day to day or seasonal basis*. The effects of fluctuating lake levels and structures are established, and the limitations are governed by Otago Regional Council consents, or are contemplated by the relevant ODP Hydro Generation Zone. The requested policy is not considered necessary or appropriate because the impacts that the submitter seeks are established or could be contemplated through the Hydro Generation Zone. I recommend that the requested policy is rejected.
- 9.60. Objective 6.3.1: The District contains and values Outstanding Natural Features, Outstanding Natural Landscapes, and Rural Landscapes that require protection from inappropriate subdivision and development.
- 9.61. Objective 6.3.1 establishes the framework for managing landscapes, setting the rules and general policies.

¹⁶ Refer to Objectives 21.2.1, 21.2.2 and 21.2.3 and related policies in the Rural Zone Chapter of the PDP.

- 9.62. Further to the points raised in Issue 2 above, submitters 375, 430 and 456¹⁷ consider that the phrase ‘inappropriate’ should not apply to the Rural Landscape areas and request the following amendments:

6.3.1 Objective ***The District contains and values Outstanding Natural Features, Outstanding Natural Landscapes, and Rural Landscapes that require protection from inappropriate subdivision and development and Rural Landscapes where the adverse effects of subdivision and development are appropriately managed.***

- 9.63. The requested amendments are not considered to offer any added value, be better suited for the landscapes not afforded ONF or ONL status, nor do they in my view better fulfil a planning framework, or expectations for subdivision and development in the Rural Landscapes.
- 9.64. I do not see any tangible difference between the amendment requested which aspires to ‘the appropriate management of Rural Landscapes’ and protecting them from ‘inappropriate development’ as stated in the objective as notified. These statements have the same objective. The more specific policy provided for the ONF, ONL and RL areas within the respective objective in the Landscape Chapter and the assessment matters in Part 21.7 (Rural Zone) respectively provide more detailed thresholds for whether a development is appropriate. These submissions are rejected and it is recommended the objective is retained as notified.
- 9.65. Policies 6.3.1.1 and 6.3.1.2 set the framework for the identification of landscapes. Submitter 456 (Hogans Gully Farming Ltd) suggests that the phrase ‘classification’ is removed as it may cause confusion with the abbreviation ‘RLC’. This is accepted, and it is also considered that these two policies can be merged into one as they are closely related and of a mechanical nature. This change is a mechanical/drafting one, not one of merits.
- 9.66. Policies 6.3.1.3 and 6.3.1.4 set out that proposals shall be assessed against the assessment matters in parts 21.7 depending on the landscape classification. The policies formally establish a procedural requirement, and they also set out that development in the ONF/ONL is inappropriate in almost all locations but there will be exceptional cases. In the RL, development is inappropriate in many locations, and successful applications will be, on balance, consistent with the assessment matters.
- 9.67. These statements relating to the appropriateness of development have been taken from Part 1.5.3 of the ODP, where explanatory text describes why a discretionary activity status has been afforded to development in the Rural General Zone. The statements have been taken and used as a policy in the PDP to reinforce the vulnerability of landscapes to development and that applications must be carefully scrutinised against the provisions. It is acknowledged that they are conservative statements, and have attracted a number of submissions¹⁸ requesting that these phrases are deleted from the policy
- 9.68. Submitter 437 requests that the policies are amended so that the reference to directing an assessment against the assessment matters in part 21.7 are removed. This request is rejected, the policies as notified are in my view effective in that they provide administrative direction and set a basis for the quality of any development granted in the Rural General Zone.
- 9.69. Similar amendments such as those requested by submitters 513, 456, 581 and 598¹⁹ attempt to make the policies more generic by employing RMA terminology such ‘avoid, remedy or mitigate’ phrasing and disable the administrative component that specifies the use of the

¹⁷ Submitters 375 (Jeremy Carey-Smith), 430 (Ayrburn Farm Estate Ltd), 456 (Hogans Gully Farming Ltd).

¹⁸ Submitters 249 (Willowridge Developments Ltd), 251 (Power Net Ltd), 355 (Matukituki Trust), 375 (Jeremy Carey-Smith), 378 (Peninsula Bay Joint Venture), 502 (Allenby Farms Ltd).

¹⁹ Submitters 456 (Hogans Gully Farming Ltd), 513 (Jenny Barb), 581 (Lesley and Jerry Burdon), 598 (Straterra).

Assessment Matters in part 21.7. In my view there is no benefit from accepting these changes and it is recommended they are rejected.

- 9.70. Policy 6.3.1.5 is 'Avoid urban subdivision and development in the Rural Zones'. The policy was drafted with the intention to be absolute in that resource consent applications for urban subdivision and urban development are to be discouraged. The intention was that successful private or Council initiated plan changes for urban development would circumvent this policy through rezoning the land from Rural, to an urban zone. The assessment of the plan change and justification through a strategic evaluation is preferred in terms of identifying new urban land.
- 9.71. The policy is supported by 719 (NZTA), while submitters 768 (Z Energy Ltd, BP Oil NZ Ltd and Mobil Oil NZ Ltd) and 806 (Queenstown Park Ltd) request changes that contemplate development based on the scale and intensity of activity and the management of effects. Submitter 356 (X-Ray Trust Ltd) requests that the policy is deleted for reasons including that urban subdivision is not defined in the PDP. Submitter 806 (Queenstown Park Ltd) seek that the word 'avoid' is replaced with phrasing that manages the extent and location of urban subdivision and development.
- 9.72. Because of the vulnerability of the District's landscapes to degradation from urban development, I am reluctant to accept these changes. The policy was also intended to avoid the establishment of urban development in these zones to maintain integrity and confidence in the administration of the PDP.
- 9.73. Having considered the policy against the submissions and upon further consideration I accept that the policy as notified in the PDP is problematic for the following reasons:
- It is not clear that the policy is intended to apply principally to resource consent applications.
 - The policy is intended to directly provide for plan integrity and instil confidence in administration. These matters are not policy statements and are determined through the administration of the policies against development proposals. The quality and articulation of the policy will help consistent decision making that upholds the integrity of the District Plan.
 - The wording of the policy is prohibitive in that there are not any qualifying parameters to 'avoid', it sought to avoid a certain type of activity, rather than the impacts/effects on the landscape resource. As notified it therefore had the potential to unintentionally include all development. This would discord with other PDP objectives and provisions, particularly those that contemplate urban growth in appropriate locations.
- 9.74. The ODP has a similar suite of policies relating to urban development²⁰, however they differentiate between the ONF, ONL and VAL landscape categories, and are generally more contemplative of urban development in the VAL, focussing on avoiding adverse effects of sprawl along roads. The ODP policies also recognise openness in the ONL, however as identified throughout this evidence, openness is an element of character that is also prevalent throughout the rural areas and not just the ONL.
- 9.75. For these reasons I still consider that it is important to provide a policy for the protection of landscape from inappropriate urban subdivision and urban development in the Rural Zones. However, I remain of the view that the ODP policies are not appropriate. In the context of the above, an amended policy is recommended and I further evaluate it below in terms of s32aa of the RMA.

Recommended Amendment to Policy 6.3.1.5 (6.3.1.4 in Revised Landscape Chapter)

²⁰ Part 4.2.5.6 (a) – (d) Landscape and Visual Amenity. QLDC ODP.

Avoid Urban subdivision and urban development in the Rural Zones shall:

- Avoid degradation of the Outstanding Natural Features and Landscapes;
- Be located only in those parts of the Rural Landscape that have capacity to absorb change.

Costs	Benefits	Effectiveness & Efficiency
<ul style="list-style-type: none"> • From a landscape protection perspective the amended policy contemplates urban subdivision and urban development, including through resource consents. • The granting of resource consents for urban subdivision has the potential to impact on District Plan integrity and confidence in its administration. This could affect the ability for the Council to refuse resource consents based on precedent and plan integrity matters. • The amended policy is not as strong at discouraging proponents from applying for resource consents. Resource consents are often preferred by proponents over plan change requests as they are seen as being a faster process. It is preferred that proponents seek zone changes for urban subdivision and development in the Rural Zones because it creates an administrative burden for the Council by apply bulk and location standards through interests on the computer freehold register of the lots and can frustrate the end-resident/home builder. 	<ul style="list-style-type: none"> • The policy contemplates the impacts of urban development proposals and provides added value to decision making. • The policy is more open at contemplating development, subject to conservative parameters, as opposed to being prohibitive toward contemplating urban subdivision and urban development. 	<ul style="list-style-type: none"> • The policy is effective in so far it now specifies that it applies to urban development, and removes the potential for unintentionally including all 'development', such as rural living development. There are other policies and assessments matters that help evaluate the merits of rural living development. The policy focuses on urban development. • The policy provides parameters to gauge the appropriateness of development by seeking to avoid 'degradation' in the ONF/ONL and to locate within the RL areas where there is capacity to absorb change. The policy therefore provides added value to decision making by encouraging urban development to locate within locations that accord with these parameters. • The policy is more useful to use in conjunction with the Strategic Direction objectives and the objective and policies of the Urban Development Chapter. • The policy also supports the Strategic Direction and Urban Development objectives associated with managing the sprawl of development and uncoordinated and inefficient demand for infrastructure. These matters are addressed in Mr Paetz's evidence supporting the urban development s42A.

9.76. The amended Policy 6.3.1.5 is considered to go at least some way to meeting the relief sought by the submitters identified above. I recommend that these submissions are accepted in part and the amended policy is approved.

- 9.77. Policy 6.3.1.6 is 'Enable rural lifestyle living through applying Rural Lifestyle Zone and Rural Residential Zone plan changes in areas where the landscape can accommodate change'.
- 9.78. Submitters 513 (Jenny Barb), 522 (Kristie Jean Brustad and Harry James Inch) and 515 (Wakatipu Equities) request the following amendments:
- 'Enable rural living through rural living zones in areas where landscape can accommodate change and through carefully considered development applications'*
- 9.79. Submitter 456 (Hogans Gully Farming Ltd) has a similar request, although has retained the identification of the Rural Lifestyle and Rural Residential Zones.
- 9.80. The intent of the policy is to encourage plan change proponents seeking rural living opportunities to utilise the PDP Rural Lifestyle and Rural Living Zones in areas that can accommodate change. The further proliferation of special zones is not encouraged, particularly where the development sought is for rural living. Therefore, it is preferred that the Rural Lifestyle Zone and Rural Residential Zone is identified in the policy, instead of 'rural living zones' as requested. In addition, it is inherent that any development worthy of acceptance in the District's Rural Zone would be carefully considered. The requested phrase reads literally as though development applications would be acceptable if they are 'carefully considered'. If the intent of the request is to be able to contemplate the merits of a development proposal through the resource consent then it should be explicit on that matter.
- 9.81. The majority of policies in the Landscape Chapter that contemplate development are tailored to be applicable to plan changes, resource consents and notice of requirements. However, Policy 6.3.1.6 provides specific guidance associated with contemplating plan changes. I prefer that it remains this way.
- 9.82. One item identified by Submitter 456 (Hogans Gully Farming Ltd) was the use of the reference to rural lifestyle living. This may be misconstrued with the name of the zone 'Rural Lifestyle'. For this reason it is recommended that the policy is amended slightly to reduce the potential for uncertainty. This matter is associated with grammar and clarity.
- 9.83. Submission 696 (Millbrook Country Club Ltd) seeks the inclusion of 'resort development' on the basis that the Millbrook Resort Zone is also a zone where lifestyle development is enabled within a rural environment, and that the PDP should recognise and provide for resort zones for activities such as golf tourism. This is a valid point, noting that the framework for the Rural Lifestyle and Rural Residential Zones does not readily contemplate commercial activities, in particular commercial recreation and tourism based commercial land uses.
- 9.84. On this basis an amended policy is identified below that evaluates the inclusion of resort zones and the potential for associated commercial activities.

Recommended Amendment to Policy 6.3.1.6 (6.3.1.5 in Revised Landscape Chapter)
Enable rural lifestyle living through applying Rural Lifestyle, Zone and Rural Residential and <u>Resort Zone</u> plan changes in areas where the landscape can accommodate change.

Costs	Benefits	Effectiveness & Efficiency
<ul style="list-style-type: none"> Contemplating resort zone plan changes has the potential to compromise rural character and amenity values derived from rural productive landscapes. Noting that plan changes would need to accord with the limb of the policy where it contemplates development in areas only with capacity to absorb 	<ul style="list-style-type: none"> The amendments contemplate the opportunity for resort and tourism based enterprises to establish by zone changes. Recognising that resort and tourism based commercial activities such as golf courses, accommodation and services are an important part of the District's economy. 	<ul style="list-style-type: none"> Amending the policy is effective in so far that it recognises for resort activities and the importance of tourism and commercial recreation based activities to the District.

<p>change, and other policies in the Rural Zone that manage the soil resource and seek to protect rural productive land uses and established activities from the effects sensitive activities.</p> <ul style="list-style-type: none"> • The nature and intensity of development in the Rural Lifestyle and Rural Residential Zones can be contemplated with certainty because the provisions are established and typically, are generic across the entire zone. Whereas, the inclusion of 'resort zones' could encourage more bespoke zones, and lead to unnecessary complexities in the District Plan. The ODP Part 12 – Special Zones are a case in point. Many of these zones cater predominantly for residential activity only. 	<ul style="list-style-type: none"> • Adding resort activities to the policy would be likely to encourage these types of activities to establish through plan changes, rather than resource consent applications. 	
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- 9.85. Policy 6.3.1.7 requires consideration of the impacts associated with extending urban growth boundaries within ONFs and ONLs, and to minimise the impacts on the values of open rural landscapes. Submitter 806 (Queenstown Park Limited) requests this policy is deleted because it is repetitive, although provides no further explanation, while submitter 378 (Peninsula Bay Joint Venture) requests the phrase 'remedy or mitigate the effects of' is added after avoid. These submissions are rejected. However it is recommended the word 'disruption' is replaced with 'degradation', being considered a more appropriate word in terms of its meaning, 'to lower the rank or quality of', and consistent with other policies in the Landscape Chapter.
- 9.86. Policy 6.3.1.8 is '*Ensure that the location and direction of lights does not cause glare to other properties, roads, and public places or the night sky*'. Submitter 621 (Real Journeys Ltd) requests that exemptions are provided for lighting required for navigational and other safety requirements. In my view, the necessity of navigational safety lights and any dispensations or approvals can be determined on a case by case basis through resource consents, if one was required. The submitter has not provided any evidence to support the relief requested and it is recommended the submission is rejected.
- 9.87. Submitter 806 (Queenstown Park Ltd) requests the policy is deleted and located in other chapters/zones, while submitter 761 (ORFEL Ltd) requests the policy be deleted because '*Whilst the policy is appropriate to manage the effects of glare, the policy is not intended to manage effects on landscape values, and therefore would more appropriately sit elsewhere in the plan*'.
- 9.88. The impacts of lighting on the night sky associated with development are an important component of the landscape. Lighting associated with development should have regard to the potential impact on the appreciation of landscape by night. The Council have a strategy to manage the impact of street and public space lighting on the night sky.²¹
- 9.89. In my view, it is appropriate to have a policy that considers the impact of lighting on the night sky, and this matter is particularly important in the context of the location of development

²¹ Southern Light: A lighting strategy for the Queenstown. QLDC. Adopted 15 December 2006.

within sensitive landscapes and that any efforts to ‘mitigate’ the effects of buildings through design and recessive colours could be undone if they are lit up at night.

- 9.90. The point made by submitters ORFEL Ltd and Queenstown Park Ltd has merit in so far that the reference to impacts of glare on other properties, roads and public places is not so much the matter at issue, as the impacts of lighting on the night sky, landscape character and the sense of remoteness that is part of the District’s rural character. An amended policy is recommended as evaluated in accordance with s32AA of the RMA.

Recommended Amendment to Policy 6.3.1.8 (6.3.1.7 in Revised Landscape Chapter)

Ensure that the location and direction of lights ~~does not cause glare to other properties, roads, and public places or~~ avoids degradation of the night sky, landscape character and sense of remoteness where it is an important part of that character.

Costs	Benefits	Effectiveness & Efficiency
<ul style="list-style-type: none"> The removal of the reference to glare and effects on properties and roads means the policy would not be able to utilised for smaller scale situations. E.g. property to property to impacts. However the respective zones have provisions controlling glare. 	<ul style="list-style-type: none"> The policy is more focused on the impacts of development on the night sky landscape. It is more relevant to the objective and its placement within the Landscape Chapter. Amending the policy provides a more appropriate focus of the potential impacts of lighting on the night sky, rather than the impacts at a smaller scale or property to property level associated with glare. The amended policy strengthens the protection of the landscape resource because it recognises the night sky and that it is an important element of landscape character and remoteness, where these elements are present. 	<ul style="list-style-type: none"> Amending the policy is effective because it would better manage the potential impact of development on the night sky and the appreciation of the night sky landscape.

- 9.91. I therefore accept in part submissions of ORFEL Ltd and Queenstown Park Ltd in so far that the revised policy is more relevant to the impacts of lighting from development on the night sky.
- 9.92. Policy 6.3.1.9 is ‘*Ensure the District’s distinctive landscapes are not degraded by forestry and timber harvesting activities*’. No submissions of substance have been made on this policy and I recommend that it is retained as notified.
- 9.93. Policy 6.3.1.10 is ‘*Recognise that low-intensity pastoral farming on large landholdings contributes to the District’s landscape character*’. This policy acknowledges that traditional low intensity pastoral farming is long established and has influenced the rural character of the District, including the openness of the landscape in many locations.
- 9.94. In recognising this influential factor on the District’s landscapes, the policy also requires consideration of the impacts that subdivision and development could have on rural character. Submitter 238 (NZIA Southern and Architecture + Women Southern (NZIA)) requests that ‘*both large and small*’ landholdings are recognised. However this is not what the policy is

seeking to recognise and manage. A prevalence of small landholdings would change the rural character. While this is not necessarily detrimental, because there are and will be locations where small landholdings will be appropriate, the intent of the policy is to recognise rural character created, and currently maintained, by large landholdings based on pastoral farming.

- 9.95. Submitter 325 (Solobio Ltd) supports the policy without modification, while submitters 590 (Sam Kane) and 600 (Federated Farmers of New Zealand) support the policy but seek the reference to large landholdings is removed. For the reasons set out above I consider that the reference to large landholdings is retained. While the points made by submitter 590 that 'large landholding' is not defined in terms of size, and that the size of farms are based economic viability, have validity, removing the reference to large landholdings, or coming up with an arbitrary figure would not be of any assistance to decision makers because the policy would become meaningless. It is considered that the policy is appropriate in its current form and no amendments are recommended.
- 9.96. Policy 6.3.1.11 is '*Recognise the importance of protecting the landscape character and visual amenity values, particularly as viewed from public places*'. The policy emphasises the importance of the District's landscapes as viewed from public locations.
- 9.97. Submitters Solobio Ltd and 356 (X-Ray Trust Ltd) support the policy. Submitters 581 (Lesley and Jerry Burdon) and 608 (Queenstown Park Ltd), and several submitters represented by Anderson Lloyd (502, 513, 515, 519, 522, 531, 532, 534, 535 and 537)²² request that the phrase '*avoiding, remedying or mitigating adverse effects*' replaces the word 'protecting'. This change would not provide any added value in my view. In a situation where a development proposal proved that it could either avoid, remedy or mitigate any adverse effects, then the proposal would accord with the policy because these values would be protected. These submissions are rejected and I recommend the policy is retained as notified.
- 9.98. Policy 6.3.1.12 is *Recognise and provide for the protection of Outstanding Natural Features and Landscapes with particular regard to values relating to cultural and historic elements, geological features and matters of cultural and spiritual value to Tangata Whenua, including Tōpuni*. Submitter 810²³ (KTKO) request 'Manawhenua' replaces Tangata Whenua, and wahi tupuna replaces Topuni. For the reasons set out in the S42A report on Chapter 5 Tangata Whenua, this submission is rejected.
- 9.99. Submitter 355 (Matukituki Trust) requests amendments including adding the phrase '*from inappropriate subdivision, use and development*' and that particular regard given to values '*identified by a method in this plan*'. These additions are not considered necessary and in addition it is sometimes not known if a development proposal has potential impacts on cultural, geologic or historic elements or values because it is not possible or necessary to identify every resource in the district in the District Plan. A case in point is the discretionary activity status for subdivision and development in the Rural Zone, the discretionary activity status for subdivision in the PDP, and, the extensive range of the matters of control for controlled activity subdivision in the ODP²⁴.
- 9.100. I reject the submission and it is recommended the policy is retained as notified.
- 9.101. Objective 6.3.2 – Avoid adverse cumulative effects on landscape character and amenity values caused by incremental subdivision and development.
- 9.102. The matter of cumulative effects in the PDP has been highlighted through a dedicated objective and five supporting policies. The consideration of cumulative effects is particularly important because of development pressure in the District for rural living and resort activity

²² Submitters 502 (Allenby Farms Ltd), 513 (Jenny Barb), 515 (Wakatipu Equities), 519 (New Zealand Tungsten Mining Limited), 522 (Kristie Jean Brustad and Harry James Inch), 531 (Crosshill Farms Limited), 532 (Bill and Jan Walker Family Trust), 535 (G W Stalker Family Trust), 537 (Slopehill Joint Venture).

²³ Submitters 810 (Te Runanga o Moeraki, Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou and Hokonui Runanga collectively Manawhenua) represented by Kai Tahu ki Otago Ltd (KTKO).

²⁴ Refer to Section 15. Subdivision, development and financial contributions. QLDC ODP.

opportunities, and that the ODP and PDP provisions are focused on a design-based response, and do not have a minimum allotment size requirement associated with subdivision and development.

- 9.103. With regard to areas not located within the ONF/ONL, an additional matter identified above, is that the ODP policies and assessment matters for the visual amenity landscape anticipate the maintenance of an 'arcadian' or 'pastoral in the poetic sense' landscape, without appropriate regard to the existing character of the landscape in its own right. It is considered that the ODP anticipates that the following type of landscape is advanced over other landscape character types:

They (Visual amenity landscapes) are landscapes which wear a cloak of human activity much more obviously - pastoral (in the poetic and picturesque sense rather than the functional sense) or Arcadian landscapes with more houses and trees, greener (introduced) grasses and tend to be on the District's downlands, flats and terraces.²⁵

- 9.104. By default, the majority of the District's rural areas that are not ONF/ONL are classified as visual amenity landscapes. I consider that this contributes to the difficulty under the ODP to identify whether a threshold has been reached with regard to cumulative effects. While there are policies and assessment matters that require consideration of the cumulative adverse effects, it is considered that the stated issues for visual amenity landscapes contribute to the problem of addressing cumulative effects. The maps contained in **Appendix 5** illustrate the relatively high levels of consented development in the Wakatipu Basin and Wanaka area.
- 9.105. To reiterate, this is another reason why the VAL and ORL classifications have been removed and why there is an emphasis on landscape character. The PDP policies do not predetermine the maintenance of a type of landscape, but aim to recognise the value of all landscapes including pastoral, rural working landscapes in the functional sense.
- 9.106. No quantifiable sum such as a minimum density or allotment size has been identified in the policies to help guide whether a cumulative effects threshold has been reached. Nor, is it in my view efficient to identify the character of every rural zoned landscape unit and apply policy with identified density parameters. As discussed in issue 2 above, Objective 6.3.2 recognises that cumulative effects are the sum of more than one development proposal that, when considered in isolation could be considered appropriate. However, at some point the culmination of further development, irrespective of its quality or redeeming features would degrade the identified values of the landscape it is located within. For this reason the submissions requesting that the word 'incremental' is replaced with 'inappropriate' or similar are not supported. Objective 6.3.2 is recommended to be retained as notified.
- 9.107. The policies direct consideration of the finite capacity of rural areas to absorb development (Policies 6.3.2.1 and 6.3.2.2), that proposals seeking support from existing and consented development have potential for cumulative adverse effects (Policy 6.3.2.3), the impacts of infill and sprawl along roads (Policy 6.3.2.4) and, that efforts to mitigate the visual effects of development such as screening, earthworks or planting do not cumulatively contribute to degradation of the landscape.
- 9.108. Submitters 430, 513 and 535²⁶ and others request that the policies identify significant adverse effects only, recognise that there will be parts of the rural area that have capacity for development, and that these only apply where important views are at stake. It is inherent that development proposals which accord with the policy would fit within the description of the requested changes. Therefore, these amendments would not in my view offer added value from either a conservation, development or administration perspective and are rejected.
- 9.109. Submitter 513 (Jenny Barb) and others request that Policy 6.3.2.1 is deleted because sustaining landscape quality, character and amenity values is not an appropriate RMA policy.

²⁵ Part 4.2.4(3) Operative District Plan.

²⁶ Submitters 430 (Ayrburn Farm Estate Ltd), 513 (Jenny Barb), 535 (G W Stalker Family Trust).

The submitter does not state why it is inappropriate and without any further explanation or evidential basis the submission is not supported.

- 9.110. Submitter 761 (ORFEL Ltd) considers that Policies 6.3.2.3, 6.3.2.4 and 6.3.2.5 should be combined into one policy to avoid duplication and improve clarity and provide certainty. The suggested policy is:

Ensure incremental subdivision and development in the rural zones and sprawl along roads does not degrade landscape character or visual amenity values, including as a result of activities associated with mitigation of the visual effects of proposed development such as screening planting, mounding and earthworks.

- 9.111. It is considered that the requested change is not appropriate because it reduces the effectiveness of identifying and considering the different circumstances that could contribute to cumulative effects. The requested amendment is trying to do too many different things in one statement. It is recommended that the policies are retained as notified.

- 9.112. Submitter 624 (D & M Columb) requests that Policy 6.3.2.5 requests the following amendments:

Ensure incremental changes from subdivision and development do not degrade the overall quality of the district's significant landscape values, ~~character or openness as a result of activities associated with mitigation of the visual effects of proposed development such as screening planting, mounding and earthworks~~

- 9.113. The requested changes are not considered more appropriate because the phrase 'overall quality' and 'significant' introduces vagueness and weakens the ability for cumulative effects to be recognised. The requested changes also remove the focus of the policy which is to consider the cumulative impacts of screening and mitigation could have. The submission is rejected.

- 9.114. In summary, it is considered important that the issue of cumulative effects are recognised and given priority for decision makers. I don't consider that the submissions have provided a better case or applied any evidential basis that cumulative effects should be managed in another way, particularly in the context of the planning regime for the Rural Zone of the District. In addition, the submission points received on the cumulative effects objective and policy do not convince me that they are not appropriate or that there is a more suitable alternative. It is therefore recommended the objective and policies are retained as notified.

- 9.115. A grammatical change has been made to Policy 6.3.2.3.

- 9.116. Objectives 6.3.3 and 6.3.4 - Protect, maintain or enhance Outstanding Natural Features and Landscapes

- 9.117. These two objectives and related policies seek to avoid subdivision and development that would not protect, maintain or enhance the ONF and qualities and character of the ONL. Policy 6.3.3.2 requires consideration of development located adjacent to ONFs to ensure it does not degrade the qualities of the ONF.

- 9.118. Submitter 285 (Debbie MacColl) requests that the ONL line is moved where it affects their property and requests that the features that are protected are defined. Further submission FS1221 (Robins Farm Ltd) supports this submission, stating that the identification ONL/ONF significantly compromises the ability to manage pastoral land. The matter relating to the location of ONF/ONL areas will be considered at the hearing of submissions on the landscape lines and are deferred to that time.

- 9.119. Submitter 355 (G W Stalker Family Trust) requests that Objective 6.3.3 and Objective 6.3.4 are deleted because they are ambiguous. The submission states that '*the objectives are ambiguous as to what components of the feature or landscape in question are to be*

maintained or enhanced. It is also unclear what level of protection is to be afforded to ONF's from subdivision, use and development'.

- 9.120. The components of a particular ONF or ONL would need to be identified on a case-by-case basis against the nature, scale and intensity of the development proposal. It is noted that the ODP policy for outstanding natural features²⁷ does not identify the components of ONFs, except to describe the desirability of development to not compromise landscape values and natural character in a generic sense. The justification for the identification of ONF and ONL on the planning maps would identify the components that are valued and worthy of ONF/ONL status. The submission is rejected. It is noted that further submission FS1320 (Just One Life Limited) opposes submission 355 (G W Stalker Family Trust).
- 9.121. In addition, the PDP landscape assessment matters in part 21.7 (Rural Zone) utilise the criteria for determining ONF/ONL and through the use of these assessment matters the qualities of the landscape can be identified and their vulnerability to development can also be assessed. It is considered that the outcome sought by Submitter 355 is met through the PDP landscape assessment matters (Part 21.7 Rural Zone). Submission 355 (G W Stalker Family Trust) is rejected.
- 9.122. Submitter 433 (QAC) has requested that infrastructure, location constraints and the necessity to locate within the ONF/ONL is recognised in the policy. This submission is supported by further submissions FS1106 (Chorus New Zealand), FS1208 (Vodafone New Zealand Ltd), FS1253 (Spark New Zealand Trading Limited), FS1077 (BARNZ) and FS1092 (NZTA). This issue has been addressed above in Issue 3 and a new policy is recommended that addresses this matter. These submissions are accepted in part.
- 9.123. Submitters 325, 380, 600, FS1209²⁸ support the two objectives as notified.
- 9.124. Submitter 355 (Matukituki Trust) requests that Policy 6.3.3.2 is deleted because it contains the word 'degrade' and is unnecessarily subjective. For the reasons set out under Issue 4 above, I consider the word degrade is appropriate and this submission is rejected.
- 9.125. Submitter 519 (New Zealand Tungsten Mining Limited) supports Objective 6.3.4, however seeks that Policy 6.3.4.4 is deleted because it does not take into consideration the merits of a mining project, the likely effects on the environment and proposals for avoiding, remedying or mitigating adverse effects. An example cited is an underground mine.
- 9.126. Policy 6.3.4.4 is:
- The landscape character and amenity values of the Outstanding Natural Landscape are a significant intrinsic, economic and recreational resource, such that large scale renewable electricity generation or new large scale mineral extraction development proposals including windfarm or hydro energy generation are not likely to be compatible with the Outstanding Natural Landscapes of the District.*
- 9.127. As discussed in Issue 6 above, it is accepted that the policy is directive and does not readily contemplate the opportunity for regional or national scale electricity generation or extraction activities to accord with the policy. The policy is intended to protect the District's landscape resources from the impacts of these activities, however there will be circumstances where these types of activities could accord, as the phrase, 'not likely to be compatible' within the policy provides the opportunity for these activities to be contemplated. The policy is considered appropriate and the submission is rejected.
- 9.128. Submitter 608 (Darby Planning LP) has requested a policy is added under Objective 6.3.4 to provide for offsetting for wilding tree control within ONF/ONLs. It seems that the submitter wishes to trade the removal of a pest for accepting degradation of the landscape resource. This is not supported, In addition, Objectives 6.3.3 and 6.3.4 are to 'protect, maintain or

²⁷ Part 4.2.5 ODP.

²⁸ Submitters 325 (Solobio Ltd), 380 (Villa del Lago), 600 (Federated Farmers) FS1209 (Richard Burdon).

enhance', and these sorts of activities could be contemplated though the enhancement component of the objective. The submission is rejected.

- 9.129. In summary, it is considered that the Objectives for ONF and ONL are the most appropriate way to meet the purpose of the RMA. I do not consider that the submissions have offered a more appropriate method to manage the District's landscapes.
- 9.130. Objective 6.3.5: Ensure subdivision and development does not degrade landscape character and diminish visual amenity values of the Rural Landscapes.
- 9.131. This objective sets the policy framework for managing the impacts of subdivision and development on the rural areas of the District not identified as an ONF/ONL. These areas contain rural land with varying character and amenity that will have differing capacity to either absorb development, or be vulnerable to subdivision and development, depending on the nature and scale of the development proposed.
- 9.132. The objective and related policies 6.3.5.1 – 6.3.5.5 do more than just replace the ODP visual amenity and other rural landscape categories. The objectives and policies remove any assumption that a certain type of landscape is contemplated, and require that the important qualities of that particular landscape are recognised in their own right, particularly in the context of the landscape to absorb change (Policy 6.3.5.1).
- 9.133. The majority of submissions seek that the objective is amended to replicate language that in the opinion of the submitters better reflects the intent of the RMA. Two examples often submitted those submissions filed by Brown & Company Planning Group Ltd and Anderson Lloyd, who seek the following amendments respectively:
- Submitter 456 (Hogans Gully Farming Ltd): *Ensure that subdivision and development does not degrade avoids, remedies or mitigates adverse effects* landscape character and *diminish* visual amenity values of the Rural Landscapes.
- Submitter 513, 515, 528, 532, 535, 537²⁹: *Ensure Enable subdivision and development which will avoid, remedy or mitigate the adverse effects on does not degrade* landscape character and *diminish* visual amenity values of the Rural Landscapes.
- 9.134. This matter is addressed in Issue 4 above. In addition, and related to this matter, submitters also seek changes to be able to more readily contemplate development by adding 'Enable' and 'avoid, remedy or mitigate' phrasing. I consider that the objective as notified is appropriately worded and fit for purpose to appropriately manage the District's landscapes by requiring decision makers to 'ensure' that subdivision and development does not degrade landscape values. I also consider that the objective is balanced in that it contemplates change within rural areas, subject to the merits of the development proposals and the ability of the landscape to absorb development. It is recommended that the objective is retained as notified.
- 9.135. Policy 6.3.5.1 is 'Allow subdivision and development only where it will not degrade landscape quality or character, or diminish the visual amenity values identified for any Rural Landscape'.
- 9.136. Submitter 456 (Hogans Gully Farming Ltd) requests amendments to allow development where it would not *significantly adversely affect* landscape, in favour of the word degrade. These changes would allow subdivision and development up to a 'significant' threshold. The use of the word 'significant' is not considered to be more appropriate than the word 'degrade'. I consider using the word significant in this context introduces vague parameters and would weaken the ability of the PDP to appropriately manage the landscape resource and would also be likely to not accord with the other objectives and policies in the Landscape and

²⁹ Submitters 513 (Jenny Barb), 515 (Wakatipu Equities), 532 (Bill and Jan Walker Family Trust), 535 (G W Stalker Family Trust), 537 (Slopehill Joint Venture).

Strategic Direction Chapters. It is recommended that the requested changes by Hogans Gully Farming are not accepted.

- 9.137. Submitters 513,515, 522, 531, 537 and 608³⁰ who request that the policy is amended so that it '*avoids, remedies or mitigates adverse effects from inappropriate development*'. The requested changes do not offer any added value in terms of managing the resource or guidance for decision makers. It is recommended that the policy is retained as notified.
- 9.138. Policy 6.3.5.2 is intended to protect the Rural Landscape classified areas from adverse effects associated with development that would be highly visible from roads and public places. The policy excludes any trail as defined in the PDP (same definition as the ODP), having regard to the outcomes of Plan Change 28,³¹ which was a response to concerns that walking trails were not being created due to landowners reluctance to allow public access across their land. This was because of a view that, due to the wording of the ODP, creating public access could compromise the future (non-farming) development potential of land.
- 9.139. Policy 6.3.5.2 is:
- Avoid adverse effects from subdivision and development that are:*
- *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); and*
 - *Visible from public roads.*
- 9.140. Submitters including 456 (Hogans Gully Farming Ltd) request that the words 'remedy or mitigate' are included after avoid, and that the second limb of the policy 'visible from public roads' is deleted.
- 9.141. The policy is considered an important mechanism to recognise the inherent value of the landscape resource and its importance to the District as appreciated from public places. It is from roads that most tourists and many residents experience the landscape, and that the landscape as a scenic resource for tourism and intrinsically for residents is important. It is considered that the preamble that requires 'avoiding adverse effects' is an appropriate statement given the importance of landscape views from public places, and in particular roads. The policy is not considered to be too absolute, or stringent because in an overall sense, avoiding an adverse effect also includes the consideration of mitigation or other redeeming elements.
- 9.142. I recommend that the policy is retained as notified.
- 9.143. Policy 6.3.5.3 is '*Avoid planting and screening, particularly along roads and boundaries, which would degrade openness where such openness is an important part of the landscape quality or character*'.
- 9.144. The policy will require consideration of the impacts created from efforts to screen the development itself, and that mitigation measures such as planting, screening or earthworks do not degrade openness where this is an important part of landscape quality or character. The policy takes care to distinguish between quality and character and visual amenity, recognising that character and visual amenity are two different elements. In this case the policy is not requiring a response in terms of effects on amenity, but how the planting or screening could impact the character. The policy does not discourage planting or screening in situations that would not affect openness, or where it is a part of the local character.
- 9.145. Submitters³² request that the word 'views' replace 'openness'. This is not supported because it is not just a view that could be at issue, but openness in terms of the landscape character.

³⁰ Submitters 513 (Jenny Barb), 515 (Wakatipu Equities), 522 (Kristie Jean Brustad and Harry James Inch), 531 (Crosshill Farms Limited), 537 (Slopehill Joint Venture) and 608 (Darby Planning LP).

³¹ Plan Change 28. Made Operative 10 June 2010. <http://www.qldc.govt.nz/council-online/council-documents/agendas-and-minutes/full-council-agendas/2010-full-council-agendas/25-may-2010/>.

³² Submitters 513 (Jenny Barb), 515 (Wakatipu Equities), 532 (Bill and Jan Walker Family Trust), 535 (G W Stalker Family Trust), 537 (Slopehill Joint Venture).

- 9.146. Submitter 356 (X-Ray Trust Ltd) requests that the policy is amended so that it only seeks to avoid this situation where the adverse effects would be significant. Again, the use of the word significant is not favoured because it is vague and could weaken landscape protection. This is not considered appropriate.
- 9.147. I recommend that the policy is retained as notified.
- 9.148. Policy 6.3.5.4 is *'Encourage any landscaping to be sustainable and consistent with the established character of the area'*.
- 9.149. This policy encourages landscaping to be sustainable in terms of maintenance, selecting species that are not reliant on heavy water use (particularly once established) and can adapt to local climate conditions. The reference to the 'established character of the area' requires consideration of the context in which a proposal is locating. The policy does not automatically predetermine what type or design of planting is appropriate. There could be instances where traditional linear planting is appropriate if this replicates the character of the area. In other areas a more clustered planting design could be appropriate.
- 9.150. The policy has the phrase 'encourage', because there could be instances where linear planting along a road boundary could be at odds with Policies 6.3.5.1 – 6.3.5.3. In this context the policy would need to be balanced against the overall impacts of the proposal and it does not encourage planting at the expense of other landscape policies.
- 9.151. I recommend that the policy is retained as notified.
- 9.152. Policy 6.3.5.5 is *'Encourage development to utilise shared accesses and infrastructure, to locate within the parts of the site where they will be least visible, and have the least disruption to the landform and rural character'*.
- 9.153. Submitter 719 (NZTA) and 806 (Queenstown Park Limited) supports the policy, while Submitter 635 (Aurora Energy limited) requests that the phrase *'where operationally and technically feasible'* is added to recognise location constraints and practicalities associated with infrastructure.
- 9.154. Submitter 836 (Arcadian Triangle Limited) submits that the policy:
- 'seems to assume that visibility of development is automatically adverse, whereas the surrounding rural character of a particular proposed development may be such that visibility is either not an issue, or is not such as issue that the development must necessarily be located where it is least visible. There is no automatic need to force development to locate in the biggest hole in the ground on the relevant site'*.
- 9.155. This is a valid point, and while noting that the policy states 'encourage' and is not as directive or compelling as another word, such as 'require', therefore does not compel development to locate within the parts of the site where it will be least visible. I do not consider the policy compels development to locate in the most recessive part of the site.
- 9.156. The amended policy suggested by Submitter 836 is:
- Encourage development to utilise shared accesses and infrastructure, and to locate within the parts of the site where ~~they~~ it will be least visible, ~~and have the least~~ minimise or mitigate disruption to the landform and rural character'*.
- 9.157. The point made by Arcadian Triangle Ltd has merit in so far that it is more balanced and merits based than the policy as notified. It certainly removes any doubt as to whether the policy automatically requires development to locate in the least visible part of the site. The merits or nature and scale of the proposal, or unique circumstances should be able to be considered without being penalised by this policy. I recommend that the change sought be added to the policy, except that the word mitigate is not necessary and should be excluded

because any proposal that satisfactorily minimises development will be more than likely to have mitigating elements.

Recommended Amendment to Policy 6.3.5.5

Encourage development to utilise shared accesses and infrastructure, and to locate within the parts of the site where ~~they it will be least visible, and have the least~~ minimise disruption to the landform and rural character.

Costs	Benefits	Effectiveness & Efficiency
<ul style="list-style-type: none"> Removing the references to 'least visible or least disruption' is less forthright in terms of expectations where development will locate within a site. The amendments will reduce the protection of landscapes to a small degree, noting that any proposal would need to accord with other provisions. 	<ul style="list-style-type: none"> The amendments would enable a wider consideration of the circumstances associated with the location of development and infrastructure within a site, including the replacement of an existing house or the location of development near or within an existing node of development. The amendments recognise that while not located in the 'least visible location' development could be more appropriate if it is located in a location that offers the least disruption. 	<ul style="list-style-type: none"> The amended policy is more effective than the notified version that could have discorded with a large number of proposals and situations where the design and merits are adequate but the development was not located within the least visible part of the site. The policy is more balanced at contemplating design-led responses.

9.158. Any proposal that accords with the intent of the policy to 'minimise' would be likely to have mitigating circumstances or elements that are encapsulated within the context of minimise. I therefore accept the submissions of Arcadian Triangle Ltd and Aurora in part. It is considered that the changes would not affect the NZTA's concerns. These are understood to be associated with reducing crossing places onto the State highways, as the fundamental element that encourages access and infrastructure to share is retained.

9.159. I consider that the request of Arcadian Triangle Ltd is incorporated into the amended policy through my recommended changes, noting that the policy is to encourage development to utilise shared accesses and infrastructure, and does not compel in every case. The merits of a particular location and the co-location or sharing of infrastructure can be assessed on a case by case basis.

9.160. Policy 6.3.5.6 is '*Have regard to the adverse effects from subdivision and development on the open landscape character where it is open at present.*'

9.161. Submitter 248 (Shotover Trust) takes issue with this policy and states: '*This policy in effect is seeking to maintain open space in the rural zone, irrespective of the landscape classification.*' This is the intent of the policy, and a fundamental change between the 'VAL' and 'Rural Landscapes' classification in the ODP in that where the landscape is open, that this open character should be recognised. The policy does not automatically assume that all land within the Rural Landscape classification is open or that openness needs to be preserved.

9.162. Similarly, Submitter 456 (Hogans Gully Farming Ltd) seeks that policy 6.3.5.6 is deleted and relocated to the policy for ONL (6.3.4). Arcadian Triangle Limited in their further submission FS1255.23 state that '*Open character is a recognised attribute of Outstanding Natural Landscapes but not of other rural landscapes.*'

- 9.163. I consider that recognising open landscape character where it is open at present is an important component of managing the Rural Landscape resource. This is reinforced by Dr Read in Section 5 of her evidence and I rely on it in terms of supporting the policy approach of the PDP. Having regard to openness only within the ONL would be disregarding an important element of the Rural Landscape Resource. To reiterate, this is a fundamental reason for the removal of the policy framework of the ODP and replacing it with the PDP Rural Landscape classification and policy framework.
- 9.164. Submitters³³ seek that the policy is amended to focus on views, and whether or not they are uninterrupted at present. The emphasis here is not only on views, these are covered by policy 6.3.5.2 and the assessment matters in Part 21.7 (Rural Zone), but also on the openness of the landscape character which includes many parts of the District. For example, the areas classified Rural Landscape in the PDP Planning Maps³⁴ that have an open, rural character include Luggate, Hawea (including the area around Maungawera Valley Road), the Wanaka Basin area (in particular around Ballantyne and Mt Barker Roads), and in the Wakatipu area, Morven Ferry Road area and the northern side of Malaghans Road.
- 9.165. These submissions are recommended to be rejected because it is not just a view that could be at issue, but openness in terms of the Landscape character. I recommend that the policy is retained as notified.
- 9.166. Objective 6.3.6 is 'Protect, maintain or enhance the landscape quality, character and visual amenity provided by the lakes and rivers and their margins from the adverse effects of structures and activities'.
- 9.167. The related policies seek to control the location, scale and intensity of structures (policy 6.3.6.1), and identify specific locations that have an urban character and intensity with corresponding rules in the respective zone chapters, being Frankton (Chapter 21) and Queenstown Bay (Chapter 12).
- 9.168. Submitters 766 (Queenstown Wharves GP Limited) and 806 (Queenstown Park Limited) request that a greater level of guidance is provided. This is not considered necessary, it is clear in the respective chapters that these areas contain a different suite of rules than the rules for activities on the surface of lakes and rivers³⁵, structures and moorings generally in the Rural Zone. The submission is rejected.
- 9.169. Queenstown Wharves GP Limited also seeks that the objective is deleted or amended, submitting that the objective is worded too strongly and does not reflect the fact that in some cases adverse effects can occur³⁶. The following relief is sought:

~~6.3.6 Objective - Protect, maintain or enhance the~~ Recognise and provide for the landscape quality, character and visual amenity, recreational and tourist values provided by the lakes and rivers and their margins and avoid, remedy or mitigate from the adverse effects of inappropriate structures and activities.

- 9.170. I do not support the requested amendments, especially where the submitters seeks to '*recognise and provide for ... recreational and tourist values provided by the lakes and rivers*'. By identifying certain activities, such as recreation or tourism, it excludes the values or elements that are also applicable. These could include more passive appreciation, or simply the intrinsic values and appreciation derived from this resource. I also maintain that the objective is not too strongly worded in that it contemplates development activities and is balanced appropriately with the first policy (6.3.6.1):

³³ Submitters 513 (Jenny Barb), 515 (Wakatipu Equities), 522 (Kristie Jean Brustad and Harry James Inch), 531 (Crosshill Farms Limited), 537 (Slopehill Joint Venture) and 608 (Darby Planning LP).

³⁴ Noting that the location of the ONF/ONL and RL landscape classifications are subject to the hearing of submissions.

³⁵ Refer to Rules 12.4.3, 12.4.7, 12.4.7, 12.4.8 (Queenstown Town Centre Chapter 12 PDP) and Rule 21.5.40 relating to the Frankton Arm (Rural Zone 21 PDP).

³⁶ Refer to Part 1.7.1 of Submission 766 Queenstown Wharves GP.

Policy 6.3.6.1: Control the location, intensity and scale of buildings, jetties, moorings and utility structures on the surface and margins of water bodies and ensure these structures maintain or enhance the landscape quality, character and amenity values.

- 9.171. The submission is rejected and I recommended that the objective is retained as notified.
- 9.172. Submitter 580 (Contact Energy) requests as additional policy to recognise that existing electricity generation facilities and structures may cause significant changes to landscape quality on a day to day or seasonal basis. It is also noted that submitter FS1040 (Forest and Bird) opposes this submission. An additional policy is not considered appropriate or necessary for the reasons set out under Issue 5 above. In summary where Contact Energy's submission relates to the effects of existing development and activities within the Hydro Generation Zone, these are established and are undertaken irrespective of the objective. In the situation where Contact Energy wished to pursue other electricity development outside the Hydro Generation Zone or the ambit of any development rights, the objective and policies would be applicable.
- 9.173. Policy 6.3.6.1 contains reference to controlling utility structures. It is considered that a more consistent phrase, in light of the amendments under Objective 6.3.1 through use of the word 'infrastructure' is more appropriate. The preference of 'infrastructure' over 'utility structure' does not affect the scope or nature of activities subject to the policy, nor are any costs and benefits identified. The policy will however, be more effective and efficient in terms of consistency and administration.
- 9.174. Submitter 810 (KTKO Ltd) requests that Manawhenua values are provided for in policy 6.3.6.1. Any changes in this regard would prefer the reference to Tangata Whenua for the reasons described in Mr Pickard's planning evidence for Chapter 5 'Tangata Whenua'. It is considered that this reference is not necessary, as Tangata Whenua values and statutory obligations are appropriately recognised in more specific provisions including Policy 21.2.12.1 and assessment matters in Part 21.7 (Rural Zone).
- 9.175. With the exception of the identified wording change, it is recommended the objective and policies are retained as notified.
- 9.176. Objective 6.3.7 is: '*Recognise and protect indigenous biodiversity where it contributes to the visual quality and distinctiveness of the District's landscapes*'. Indigenous biodiversity is an important element of the landscapes of the Queenstown Lakes District.
- 9.177. Policy 6.3.7.1 is '*Encourage subdivision and development proposals to promote indigenous biodiversity protection and regeneration where the landscape and nature conservation values would be maintained or enhanced, particularly where the subdivision or development constitutes a change in the intensity in the land use or the retirement of productive farm land*'.
- 9.178. The policy is intended to encourage the consideration of compensatory measures associated with subdivision and development proposals. The policy also encourages a wider consideration of the use of land and future land use associated with subdivision and development, and requires consideration of the potential to recognise, protect or regenerate indigenous biodiversity where the land use is likely change from a focus on rural production to rural living or a commercial tourism basis. The policy is supported by Submitters 373 (Department of Conservation), 519 (New Zealand Tungsten Mining), 598 (Straterra) with further submissions supporting the policy. The policy is recommended to be retained as notified.
- 9.179. Submitter 806 (Queenstown Park Limited) requests that the policy is amended to recognise that landscape values should be able to change over time. It is considered that without further qualification or evidence, the policy directly considers landscape change through contemplating subdivision and development and opportunities to protect indigenous biodiversity values.

- 9.180. Submitter 608 (Darby Planning) request that biodiversity offsetting principles and mechanisms are added under Objective 6.3.7. I do not consider these amendments necessary or appropriate. The PDP contemplates opportunities for indigenous biodiversity through Policy 6.3.7.1 and the Landscape assessment matters in Part 21.7 (Rural Zone) provide finer grained provisions on offsetting or compensation. Chapter 33; indigenous Vegetation also addresses biodiversity offsetting and indigenous vegetation clearance and is reserved for the Rural hearing Stream. This submission is rejected.
- 9.181. Policy 6.3.7.2 is '*Avoid indigenous vegetation clearance where it would significantly degrade the visual character and qualities of the District's distinctive landscapes*'.
- 9.182. The policy is supported by Submitter 600 (Federated Farmers). Submitter 519 (New Zealand Tungsten Mining Ltd) and 598 (Straterra) requests that '*remedy and mitigate*' is added after the word avoid, while Submitter 806 (Queenstown Park Limited) seeks that the policy is deleted because it applies to indigenous vegetation while using the term significant, and it may be open to interpretation what is meant by significant.
- 9.183. The policy is a stand-alone statement that recognises the contribution and distinctiveness that indigenous biodiversity makes to the District's landscape. The policy is separate in the context of the provisions in PDP Chapter 33 Indigenous Vegetation and Biodiversity in so far that the latter primarily relate to the intrinsic value of indigenous biodiversity from a preservation perspective. The values identified in this instance are more from a conservation, human centric basis.
- 9.184. For the reasons set out in issues 2 and 4 of this evidence I do not recommend accepting the addition of the phrase 'remedy or mitigate'. With regard to the submission of Queenstown Park Limited, I accept that the word 'significant' would be open to a degree of interpretation, just like any decision maker needs to apply their interpretation and judgement of the various statutory tests. In my opinion, clearance of indigenous vegetation that could constitute 'significant degradation of the landscape' as acknowledged in the policy would need to be over a relatively large area within landscapes that are visually vulnerable to degradation. An example could be where the landscape represents particularly high natural values and would not be likely to have been previously modified, or modified for a long time.
- 9.185. Overall, it is recommended the policy is retained as notified.
- 9.186. Objective 6.3.8 'Recognise the dependence of tourism on the District's landscapes'.
- 9.187. The intent of the objective and related policies is to acknowledge the importance of tourism to the District, that tourism is dependent on the quality of the landscape, the dependence of tourism on landscapes and that some tourism and commercial recreation activities, by necessity, will require locating within environments that are valued as matters of national importance in terms of s6(a), (b), and (e) of the RMA, and can be vulnerable to degradation.
- 9.188. Policies 6.3.8.1 and 6.3.8.2 are intended to assist with decision making by acknowledging the location dependency of some commercial recreation activities, and that these can be contemplated within these environments, subject to the nature, scale and design response of the proposal. Policies 6.3.8.3 and 6.3.8.4 are more administrative and provide a framework to facilitate commercial ski activities within identified Ski Area Sub Zones, and within the Gibbston Character Zone, for wine making and producing activities.
- 9.189. Objective 6.3.8 is supported by Submitters 285, FS1097, 380, 608, 610, 613, 768³⁷ without any requested modification. Submitter 806 (Queenstown Park Limited) requests that the objective is amended to acknowledge that landscapes will change over time and to recognise the importance of ski area activities.

³⁷ Submitters 285 (Debbie MacColl), FS1097 (Queenstown Park Ltd), 380 (Villa Del Lago), 608 (Darby Planning LP), 610 (Soho Ski Area Limited and Blackmans Creek No. 1 LP), 613 (Treble Cone Investments Ltd), 768 (Z Energy Ltd, BP Oil NZ Ltd and Mobil Oil NZ Ltd).

- 9.190. It is considered that the objective inherently fulfils the requests sought by Submitter 608 (Darby Planning LP) and does not require more text. It is noted that the ODP landscape related objective and policies in Part 4.2³⁸ focus on the potential adverse effects on activities, and do not contemplate the location requirements of certain commercial recreation activities. Therefore, the objective as proposed, and the related policies are a significant advancement in terms of providing a framework to reconcile tourism based activities with the protection of the landscape resource in terms of s6(b) of the RMA, having regard to other matters in s7, with Part 2 of the RMA.
- 9.191. The submission is rejected and it is recommended the objective is retained as notified.
- 9.192. Policy 6.3.8.1 is '*Acknowledge the contribution tourism infrastructure makes to the economic and recreational values of the District*'. Submitter 806 requests that the policy is more direct and to '*recognise and provide for the important contribution tourism infrastructure and activities make*'. Similarly, Submitter 677 (Amrta Land Ltd) and 696 (Millbrook Country Club Ltd) requests the addition of tourism activities and development to the policy.
- 9.193. Amending the policy to 'recognise and provide for' is not in my view appropriate as it would lean too heavily in favour of any tourism related development without the opportunity to contemplate the effects, merits or location requirements of the proposal. The policy is not intended to enable tourism activities within valued landscape areas just because it is a tourism activity. In addition, the requested amendments to include 'activities and development' are not considered necessary because infrastructure encapsulates development, and the lasting effects on the landscape are not so much the activity itself, but the infrastructure, both temporary and permanent that make the activity possible. It follows that these submissions are rejected.
- 9.194. Submitters 610 (Soho Ski Area and Blackmans Creek No.1 LP), 613 (Treble Cone Investments Ltd) seek the policy is retained without modification.
- 9.195. It is recommended that the policy is retained as notified.
- 9.196. Policy 6.3.8.2 is '*Recognise that commercial recreation and tourism related activities locating within the rural zones 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 values*'.
- 9.197. Submitters 610 (Soho Ski Area and Blackmans Creek No.1 LP), 613 (Treble Cone Investments Ltd) request the policy is phrased so that adverse effects of tourism related activities are managed in terms of effects on landscape quality, character and visual amenity values. A number of further submissions also support this request. I do not consider the request is appropriate, as the requested changes would lose meaning in the context of the overall intent of the policy that recognises the location requirements and desirability of tourism activities to locate within the valued landscape resource. In addition, the policy as notified seeks to enhance appreciation on the basis the landscape resource is protected. Reducing the policy to managing adverse effects is not in my view a desirable outcome, would be at odds with the overall thrust of the Landscape and Strategic Direction Chapters and would not accord with Part 2 of the RMA. The submission is rejected and it is recommended the policy is retained as notified, with regard to these submissions.
- 9.198. Submitter 810 (KTKO Ltd) requests 'Manawhenua' values are included in the policy. Any changes in this regard would prefer the reference to 'Tangata Whenua' for the reasons described in Mr Pickard's planning evidence for Chapter 5 'Tangata Whenua'. It is considered that this reference is not necessary, as Tangata Whenua values and statutory obligations are appropriately recognised in more specific provisions including the Tangata Whenua Chapter, policies and assessment matters in the Rural Zone, which these applications would be subject to. The submission is rejected and it is recommended the policy is retained as notified.

³⁸ ODP. Part 4.2 District Wide. Landscape and Visual Amenity.

- 9.199. Policy 6.3.8.3 is 'Exclude identified Ski Area Sub Zones from the landscape categories and full assessment of the landscape provisions while controlling the impact of the ski field structures and activities on the wider environment'. The policy sets the framework for enabling activities within identified ski area sub zones. The policy is supported by Darby Planning LP, Soho Ski Area and Blackmans Creek No.1 LP, and Treble Cone Investments Ltd.
- 9.200. Darby Planning LP Ltd requests the policy is amended to identify access corridors, presumably irrespective of these being located within a ski area sub zone. Further submitter FS1229 (NZ Ski Limited) support this request, and also support the opportunity for a gondola access to the Remarkables Ski Area.
- 9.201. I do not consider the requested amendments to be appropriate. Although it is important to manage the visual impact of access to these areas, proponents can apply to have areas intended for access as part of the Ski Area Sub Zone, which would cater for their request. I recommend that the policy is retained as notified.
- 9.202. No submissions were received for Policy 6.3.8.4.
- 9.203. 6.4 Rules – Application of the landscape provisions
- 9.204. This section of the Landscape Chapter provides clarification and confirmation of where the landscape provisions apply at a high level. The ODP does not have a corresponding framework. The application of provisions and exemptions are peppered throughout the ODP or left to deciphering the provisions.
- 9.205. Some submitters have used this section as a dumping ground and wish list for activities that they would like to see more control over, or be exempted. For example Submitter 110 (Alan Cutler) seeks that a clause is added to address modern large irrigators, while Submitter 671 (Queenstown Trails Trust) seeks that a controlled activity rule is added guarantying a development right for the construction of walking tracks. In my view these requests are not appropriate for this chapter, as its purpose is to provide a management framework and set the direction for administration at a high level³⁹. Submitter 806 (Darby Planning LP) requests that the 'Remarkables Alpine Recreation Area' and gondola access routes are exempt. My strong preference is that these matters are deferred to the respective hearing stream on rezoning.
- 9.206. Provision 6.4.4.1 is:
- "The term 'subdivision and development' includes subdivision, identification of building platforms, any buildings and associated activities such as roading, earthworks, lighting, landscaping, planting and boundary fencing and access / gateway structures".*
- 9.207. The phrase is taken from Part 5.4.2 of the ODP where it sets out the application of the assessment criteria. The provision is important because it confirms what is meant by the term 'subdivision and development' and that activities such as landscaping, driveway construction and earthworks are considered as part of the overall proposal. The phrase is used repeatedly in the Landscape Chapter and the Rural Zone Chapters (21-23). The phrase is directly related to the impacts on Rural Zoned landscape and is not as important or even applicable in urban zones. It is my preference that this provision is located in the Landscape Chapter, rather than, for example, the Definitions Chapter. Locating the phrase in the Landscape Chapter also provides confirmation to people not familiar with the planning regime that 'subdivision and development' in the Rural Zones that it includes these types of activities⁴⁰.
- 9.208. Submitter 254 (PowerNet Limited) request that infrastructure is not included as part of subdivision and development. This is not appropriate and I consider, for the reasons that follow, that it is important that infrastructure is included. It is also noted that many

³⁹ Also refer to the QLDC Practice note 1/2014 Centre pivot and linear irrigators under the QLDC District Plan. <http://www.qldc.govt.nz/planning/resource-consents/practice-notes/>

⁴⁰ In this context, the term 'development' in this phrase is not related to the definition of 'development in the PDP (and ODP). The definition in the PDP and ODP of development is related to financial contributions.

infrastructure providers have requiring authority status, and there are designations, and policies and rules in the PDP and recommended provisions in the Landscape Chapter that recognise infrastructure. A case can be made for the advancement of infrastructure through these provisions. Also, it is important that the impacts of infrastructure are considered as part of subdivision and development, not just in the context of utility or regionally significant infrastructure, but also smaller scale infrastructure associated with subdivision and development. The submission is rejected. Further submissions from the NZTA (FS109.62) and Queenstown Park Limited (FS1097.93) seeking the submission is advanced from the respective perspectives of the State highway and a 'proposed gondola' are also rejected for the same reason.

- 9.209. Provision 6.4.1.2 is *'The landscape categories apply only to the Rural Zone. The Landscape Chapter and Strategic Direction Chapter's objectives and policies are relevant and applicable in all zones where landscape values are at issue.'*
- 9.210. The intent of this provision is that the landscape assessment matters and rules⁴¹ apply only within the Rural Zone. Like the ODP's District Wide; Landscape and Visual Amenity chapter, the objectives and policies of the Landscape Chapter of the PDP applies to any activity where landscape values are at issue.
- 9.211. In the context of district plan administration, the application of the Landscape chapter provisions are naturally constrained by the underlying development right of a particular zone. For example, permitted activities are not subject to the provisions because there would not be any resource consent application required. Controlled activities would generally be unlikely to be required to be considered against higher order objectives and policies because of the planning framework that has been afforded to these activities. However, depending on why a resource consent was required, any restricted discretionary, discretionary or non-complying activity would be subject to the objective and policies of the Landscape Chapter if landscape was a matter at issue (as is the case with the ODP and the use of the District Wide provisions).
- 9.212. The submission of 443 and 452 (Trojan Helmet Ltd) seek that the provisions of the Landscape Chapter apply only to the Rural Zone. For the reasons set out above, and to emphasise that the Landscape Chapter is located within the PDP Strategic section, these submissions are not considered appropriate and are rejected.
- 9.213. Submitter 836 (Arcadian Triangle Ltd) states that the provision is awkwardly worded, and recommends changes, noting that the Strategic Direction Chapter does not need to be identified because it 'obviously informs the entire plan'. While some points are accepted, the requested relief is not supported in its entirety because the amendments would cancel the ability of the Landscape Chapter objectives and policies to be applied in other zones. That is the complete opposite of the meaning and wording as notified in Provision 6.4.1.2.
- 9.214. Submitter 694 (Glentui Heights Ltd) and 712 (Bobs Cove Developments Ltd) have also requested that clarification is required that the landscape objectives and policies do not apply to the Rural Residential Zone. As set out above, the meaning and wording of Provision 6.4.1.2 confirms that the Landscape Chapter objectives and policies would apply to these zones where landscape values are at issue and there is the ability to do so without any constraints imposed on the parameters that can be assessed.
- 9.215. Submitter 696 (Millbrook Country Club Ltd) requests clarification as to whether the landscape objectives and policies for the ONF, ONL and RL⁴² classifications apply to zones such as the Millbrook Zone. To assist with responding to the submission and interpreting the provision generally, I have phrased the matter as a broader question: 'Because the landscape classifications are applied in the Rural Zone, would Objectives 6.3.3, 6.3.4 and 6.3.5 that refer respectively to the ONF, ONL and RL landscapes as identified on the planning maps⁴³ be applicable to other zones located within rural areas?' I consider that they do, in particular

⁴¹ For example Rules 21.4.1, 21.4.5 – 12.4.12 and the assessment matters in Part 21.7 of the PDP.

⁴² Refer to 6.3.3, 6.3.4 and 6.3.5.

⁴³ Noting that the location of these is yet to be finalised at the hearing on landscape lines.

noting that policy 6.3.3.2 seeks to protect ONF's by managing development adjacent in the ONL or RL landscapes.

- 9.216. Discretion would need to be applied as to whether the ONL or RL objectives and policies are relevant.
- 9.217. Scenarios would be that activities in the Millbrook Zone⁴⁴ would be assessed against the Landscape Chapter's objectives and policies, in particular Objective 6.3.5 because the surrounding Rural Zoned area is classified RL. A different scenario is that the ONL objective and policies would be more relevant to an activity in the Rural Lifestyle Zone at Makarora⁴⁵, or an activity within the Arcadia Special Zone⁴⁶ because it is clear the surrounding Rural Zoned land is classified ONL.
- 9.218. I also emphasise that, similar to the application of the ODP Landscape and Visual Amenity objectives and policies⁴⁷ and in my experience administering the ODP, in practice, an activity would be likely to be a substantial departure from the activities contemplated within the respective zone or be of a substantial scale to require an assessment against the Landscape Chapter's objectives and policies. The rationale for these zones, having gone through bespoke plan change processes is to contemplate specified activities and that these (readily contemplated) activities are not subject to the ODP District Wide objective and policies and PDP Strategic Chapters.
- 9.219. Provision 6.4.1.2, has two main components. Separated as follows, the first sentence is:
- The landscape categories apply only to the Rural Zone.
- The second sentence is:
- The Landscape Chapter and Strategic Direction Chapter's objectives and policies are relevant and applicable in all zones where landscape values are at issue.'
- 9.220. Arcadian Triangle Limited's submission is accepted where the two limbs could be separated so that the first sentence 'The landscape categories apply only to the Rural Zone' is located in provision 6.4.1.3, which confirms in what areas of the Rural Zone the landscape categories apply.
- 9.221. Provision 6.4.1.3 is:
- The landscape categories do not apply to the following within the Rural Zones:
- a. Ski Area Activities within the Ski Area Sub Zones.
 - b. The area of the Frankton Arm located to the east of the Outstanding Natural Landscape line as shown on the District Plan maps.
 - c. The Gibbston Character Zone.
 - d. The Rural Lifestyle Zone.
 - e. The Rural Residential Zone.
- 9.222. The provision provides clarification that these areas located within the rural section of the PDP are not subject to the landscape categories. This is particularly critical for the areas in (a) and (b) because they are zoned Rural, but belong within a sub-zone/sub set of the Rural Zone. The areas identified in (c) – (e) are well established to anybody familiar with the ODP planning framework - the landscape classifications do not apply in terms of rules or application of the assessment matters, which are located within Part 21 Rural Zone in any case. However, clarification is provided for those who are unfamiliar with the plan and application of the annotations on the planning maps.

⁴⁴ Refer to PDP Planning Map 26.

⁴⁵ Refer to PDP Planning Map 05.

⁴⁶ Refer to PDP Planning Map 09.

⁴⁷ ODP Part 4.2 District Wide.

- 9.223. Submitters 407 (Mt Cardrona Station) and 836 (Arcadian Triangle Limited) have also taken issue with clause (a) where it excludes only Ski-Area Activities within the Ski Area Sub Zones because, in the view of Arcadian Triangle Ltd, excluding an activity, and not an area '*means that the landscape categories apply to some activities within the Ski Area Sub Zones. That is a nonsense*'.
- 9.224. It is important that the provision clarifies exactly what is exempt from the landscape classifications. The Ski Area Sub Zones are located within the ONL, and the exemptions provide for anticipated activities within identified areas. In the situation that an activity not fitting the definition of Ski Area Activity is proposed within the Ski Area Sub Zone, and it requires a resource consent (e.g. non-farming) it is important that it is subject to the full assessment of the provisions of the PDP, primarily the rule framework, assessment matters in Chapter 21 (Rural Zone) and the full objective and policies of the Landscape Chapter. For information, the definition of Ski Area Activities in the both ODP and PDP is:

Ski Area Activities	Means the use of natural and physical resources for the purpose of providing for: <ul style="list-style-type: none"> (a) recreational activities either commercial or non commercial (b) chairlifts, t-bars and rope tows to facilitate commercial recreational activities. (c) use of snowgroomers, snowmobiles and 4WD vehicles for support or operational activities. (d) activities ancillary to commercial recreational activities. (e) in the Waiorau Snow Farm Ski Area Sub Zone vehicle and product testing activities, being activities designed to test the safety, efficiency and durability of vehicles, their parts and accessories.
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- 9.225. Identifying a type of activity in the provision is appropriate and already established In the ODP and PDP through the management of farm buildings.⁴⁸ The method is also accepted in terms of s76(4) (District Rules) of the RMA.
- 9.226. For the reasons set out above, this point is rejected and it is recommended that the reference to ski area activities is retained.
- 9.227. A valid point made by Arcadian Triangle Ltd is the provision that confirms that landscape categories apply only to the Rural Zones would be better suited in provision 6.4.1.3, than as notified within 6.4.1.2. Changes are recommended to Provision 6.4.1.3. This matter is related to clarity.
- 9.228. Provision 6.4.1.4 is: '*The landscape categories apply to lakes and rivers. Except where otherwise stated or shown on the Planning Maps, lakes and rivers are categorised as outstanding natural landscapes*'.
- 9.229. Arcadian Triangle Ltd opposes the provision and has made the following supporting statement, which is supported by several further submissions:

<p>(a) Policy 6.4.1.4 is unnecessary and inappropriate and legally incorrect. Lakes and rivers are features. The landscape categories apply to landscapes. There is no issue with lakes and rivers within identified ONLs comprising part of that ONL, but it is a separate exercise to classify an individual lake or river as an ONL (rather than an ONF), and any such approach is not supported by the Council's s32 Analysis.</p>
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- 9.230. In Section 3.2 of her evidence, Dr Read has confirmed that the PDP as notified identified the landscape classification of any particular lake or river where it was different to the landscape classification of the surrounding Rural Zone. I agree that the provision can be removed because it is unnecessary.
- 9.231. Provision 6.3.1.5 is '*Where a utility is to be located within the Rural Zone and requires resource consent as a discretionary activity, the objectives and policies of the landscape chapter are applicable*'.

⁴⁸ Farm Buildings are addressed in the rural hearing, set for a later date.

- 9.232. The meaning is purely for clarification associated with the range of activities that have been identified in the PDP Energy and Utilities Chapter (Chapter 30). This does not disqualify non-complying activities, for example, but to confirm that activities including small scale and community-distributed electricity generation and solar water heating, and renewable electricity generation activities, or lines and support structures and wind electricity generation (Rules 30.4.3, 30.4.5, 30.4.12, 30.5.3) could have landscape related impacts and are required to be assessed against the objectives and policies of the Landscape Chapter.
- 9.233. No submissions have been recorded against this provision. It is recommended the rule is retained as notified.

10. Conclusion

- 10.1. On the basis of my analysis within this evidence, I recommend that the changes within the Revised Chapter in **Appendix 1** are accepted.
- 10.2. The changes will improve the clarity and administration of the Plan; contribute towards achieving the objectives of the Plan and Strategic Direction goals in an effective and efficient manner and give effect to the purpose and principles of the RMA.



Craig Barr
Senior Planner
19 February 2015