

Queenstown Lakes District Proposed District Plan – Stage 1

Section 42A Hearing Report For Hearing commencing: 28 November 2016

Report dated: 2 November 2016

Report on submissions and further submissions
Chapter 16 – Business Mixed Use Zone

File Reference: Chp. 16 S42A

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

Mr Tim Church, Urban Design – statement dated 02 November 2016

1. EXECUTIVE SUMMARY

1.1. It is recommended that the framework, structure and majority of the provisions in the Proposed District Plan (**PDP**) Business Mixed Use Zone (**BMUZ**) Chapter 16 should be retained as outlined and as supported in the section 32 (**s32**) assessment (see **Appendix 3**).

1.2. A number of changes are also considered appropriate, and these are shown in the Recommended Revised Chapter attached as **Appendix 1 (Revised Chapter)** to this evidence. The changes include minor wording changes that provide better expression. For substantive changes, I have undertaken an assessment in terms of section 32AA (**s32AA**) of the Resource Management Act 1991 (**RMA**) (see **Appendix 4**). The most significant recommended amendments are:

- i. Maintaining the building heights as notified, however in respect of the restricted discretionary building heights for the Gorge Road area of the BMUZ, I recommend significant amendments to notified Policy 16.2.2.7, and the inclusion of additional matters of discretion and an additional rule to notified Rule 16.5.7.
- ii. Acknowledgement of Horne Creek in the Gorge Road area of the BMUZ and a new policy and matters of discretion to encourage naturalisation of the creek and its incorporation into site layout, design and landscaping.
- iii. Introduction of minimum landscaping requirements.
- iv. Relaxation of height recession planes applied at the northern boundary of BMUZ sites that adjoin a residential zone.

1.3. I consider that the recommended amendments to the BMUZ are more effective and efficient than the equivalent provisions within the notified chapter. In addition, I consider that the amendments are more effective and efficient than changes sought by submitters that I have rejected, and more effective and efficient than the Operative District Plan (**ODP**) and better meet the purpose of the RMA. The recommended amendments broadly seek to assist with achieving the objective of creating a high quality mixed use environment.

2. INTRODUCTION

2.1. My name is Amy Bowbyes, I am employed by the Queenstown Lakes District Council (**Council**) as a Senior Policy Planner (part time). I hold the qualifications of Bachelor of Science and Bachelor of Arts from Victoria University. I have primarily worked for local authorities in policy and district plan administration roles since 2005.

2.2. I note that I am not the author of the notified Chapter 16 – Business Mixed Use Zone or the accompanying s32 report.

2.3. My current role is Senior Policy Planner, which I have held since February 2015, prior to this I was employed at Council as Senior Policy Planner (fixed term, part-time 20 hours per week) from August 2014.

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.

3.2. I am authorised to give this evidence on Council's behalf.

4. SCOPE

4.1. My evidence addresses the submissions and further submissions received on the notified BMUZ chapter.

4.2. Although the purpose of this report is not to undertake an assessment nor make recommendations on the appropriateness of the zonings, as this will be undertaken for the rezoning hearings, the relevant maps which include areas of the BMUZ are attached in **Appendix 5**. Consequently, my evidence relates only to the written provisions which relate to the proposed BMUZ and I have not considered any submission points that relate to the acceptability of the specific locations of the BMUZ as these will be heard within the rezoning/mapping hearing(s). On this basis, I have considered the BMUZ provisions in the context of all of the proposed BMUZ land.

4.3. Although this evidence is intended to be a stand-alone document and also meet the requirements of section 42A of the RMA (**s42A**), the s32 Evaluation Report (**s32**) is attached as **Appendix 3** for information and reference purposes. This report also links to supporting documents.

4.4. Where I recommend substantive changes to provisions I assess those changes in terms of s32AA (see **Appendix 4**). The table in **Appendix 2** outlines whether individual submissions are accepted, accepted in part, considered to be out of scope or transferred to another hearing stream.

4.5. Twelve submission points have been transferred to the rezoning/mapping hearing(s) (as shown in **Appendix 2**). The submission points seek either:

- i. that additional land is zoned BMUZ; or
- ii. that in the alternative to the principal relief sought, an alternative zone that enables industrial activities replaces the BMUZ by the HW Richardson Group (252.11).

5. BACKGROUND – STATUTORY AND NON-STATUTORY DOCUMENTS

5.1. The BMUZ s32 provides an overview of the relevant legislation and higher order planning documents that were considered in the preparation of the BMUZ. In addition, a more detailed summary of relevant legislation and documents is also provided below.

The Resource Management Act (RMA)

5.2. The RMA and in particular the purpose and principles in Part 2, which require councils to promote the use, development and protection of the natural and physical resources for current and future generations in order to provide for the 'four well beings' (social, economic, cultural and environmental), is relevant in the development of the BMUZ. While the BMUZ does not relate to any matters of national importance in s6, the following s7 matters are relevant and shall be had regard to when preparing and deciding on the chapter:

- i. The efficient use and development of natural and physical resources;
- ii. the maintenance and enhancement of amenity values;
- iii. maintenance and enhancement of the quality of the environment; and
- iv. any finite characteristics of natural and physical resources.

The Local Government Act 2002 (LGA)

5.3. The LGA and in particular Section 14, which emphasises the importance of taking an intergenerational approach to decision-making and the need to take into account the four well beings (social, economic, cultural and environmental).

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

5.4. Section 75(3) of the RMA requires that a district plan prepared by a territorial authority must "*give effect to*" any regional policy statement. In particular Chapter 9 of the Operative RPS relates to the Built Environment.

5.5. The relevant objectives and policies include Objectives 9.4.1 and 9.4.3 and Policies 9.5.1 - 9.5.5. Together these strive to achieve sustainable management of the built environment in a manner that meets the needs of the community and which avoids, remedies, or mitigates adverse effects by recognising cultural relationships; promoting the efficient development and use of infrastructure (including the transport network); minimising effects of urban development on the environment (including in relation to noise, amenity, and community values); and enhancing people's quality of life (including people's health and safety).

5.6. In my opinion, for the reasons outlined in the s32 report, the BMUZ gives effect to this policy framework, as it makes efficient use of resource, will meet the foreseeable future needs, minimises adverse effects, and also strives to result in positive effects.

Proposed Otago Regional Policy Statement 2015 (PRPS)

5.7. Section 74(2) of the RMA requires that a district plan prepared by a territorial authority shall "have regard to" any proposed Regional Policy Statement. The PRPS was notified for public submissions on 23 May 2015, and on 1 October 2016 the Otago Regional Council issued a public notice stating that decisions had been made in the PRPS submissions.

5.8. The following objectives and policies of the Decision version (**PRPS 2016**) are relevant to Chapter 16:

- i. Objective 4.4 (notified as 3.6) and Policy 4.4.6 (notified as 3.6.6).
- ii. Objective 4.5 (notified 3.7 and 3.8 combined) and policies 4.5.1, 4.5.3, 4.5.4, 4.5.5, 4.5.6 (notified as 3.8.1, 3.7.1, 3.7.2, 3.7.3, 3.7.4)
- iii. Objective 5.3 (notified 4.3) and Policy 5.3.3 (notified as 4.3.4)

5.9. In summary, together these objectives and policies aim to ensure energy supplies to communities are secure and sustainable; that urban growth and development is well designed, reflects local character and integrates effectively with adjoining urban and rural environments; and that sufficient land is managed and protected for economic production.

5.10. I note the changes made to the PRPS through the decisions are relatively minor and, in my opinion, do not fundamentally change the conclusion reached in the s32 report (that the chapter has due regard for the PRPS) and will not have any effect on the appropriateness of the recommended BMUZ provisions. In the event that the decisions on the PRPS are made operative I consider that the BMUZ gives effect to the objectives and policies.

Iwi Management Plans

- 5.11. When preparing or changing a district plan, section 74(2A) of the RMA states that local authorities 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:
- i. *The Cry of the People, Te Tangi a Taurira*: Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 (**MNRMP 2008**); and
 - ii. *Kāi Tahu ki Otago* Natural Resource Management Plan 2005 (**KTKO NRMP 2005**).

Proposed National Policy Statement on Urban Development Capacity (NPSUDC)

- 5.12. The Minister for the Environment notified the Proposed NPSUDC for public consultation on 2 June 2016, with submissions closing on 15 July 2016. The scope of the proposed NPSUDC relates to the provision of development capacity in local authority plans to address both housing and business needs. The NPSUDC is in draft only and does not hold any statutory weight.
- 5.13. The proposed NPSUDC identifies Queenstown as a 'secondary urban area' and a high growth urban area as Queenstown is projected to experience population growth of over 10% in the next 10 years. The NPSUDC applies objectives and policies for local authorities to implement through its planning documents. I note that QLDC lodged a formal submission (dated 14 July 2016) with the Ministry for the Environment which, amongst other matters, seeks clarification as to the extent of the geographic area that the NPSUDC would apply to (i.e. whether the references to 'Queenstown' include the entire Wakatipu Basin). Insofar as the remaining geographic area of the District, Wanaka is not listed as a 'main urban area' or a 'secondary urban area' in Appendix 1 of the NPSUDC Consultation Document, as such is NPSUDC has less bearing on areas of the District outside of Queenstown.
- 5.14. The following objectives of the proposed NPSUDC are of relevance:
- i. OA1: To support effective and efficient urban areas that enable people and communities to provide for their social, economic and cultural wellbeing.
 - ii. OA2: To provide sufficient residential and business development capacity to enable urban areas to meet residential and business demand.
 - iii. OA3: To enable ongoing development and change in urban areas.

- iv. OB1: To ensure plans and regional policy statements are based on a robust, accurate and frequently-updated evidence base.
 - iii. OC1: To promote coordination within and between local authorities and infrastructure providers in urban areas, consistent planning decisions, integrated land use and infrastructure planning, and responsive planning processes.
 - iv. OD1: To ensure that planning decisions enable urban development in the short, medium and long-terms.
 - v. OD2: To ensure that in the short and medium terms local authorities adapt and respond to market activity.
- 5.15. The above objectives (although they hold no legal weight at present) are reflected in the BMUZ provisions through enabling more capacity within the Zone than that enabled by the ODP Business Zone for both residential and business activities.
- 5.16. I became aware on 1 November, when finalising this s42A report, that the final NPSUDC has been approved. I have not had an opportunity to consider the approved version in this s42A, but will do so prior to the Business hearing.¹

PDP Strategic Directions – Chapter 3

- 5.17. This chapter sets out the over-arching strategic direction for the management of growth, land use and development in the District and gives direction to the rest of the plan. The following objectives² are relevant to the BMUZ:

Objective 3.2.1.1 - The Queenstown and Wanaka town centres are the hubs of New Zealand's premier alpine resorts and the District's economy.

Objective 3.2.1.4 - The significant socioeconomic benefits of tourism activities across the District are provided for and enabled.

Objective 3.2.1.5 - Development of innovative and sustainable enterprises that contribute to diversification of the District's economic base and create employment opportunities.

Objective 3.2.2.2 - Development in areas affected by natural hazards is appropriately managed.

1 http://www.mfe.govt.nz/sites/default/files/media/Towns%20and%20cities/National_Policy_Statement_on_Urban_Development_Capacity_2016-final.pdf

2 Strategic Direction Hearing – Recommended Revised Chapter – Reply 07/04/2016

Objective 3.2.3.1 - A built environment that ensures our urban areas are desirable and safe places to live, work and play.

Objective 3.2.3.2 - Development is sympathetic to the District's cultural heritage values.

Objective 3.2.6.3 - A high quality network of open spaces and community facilities.

Objective 3.2.6.4 - Safe and healthy communities through good quality subdivision and building design.

- 5.18. The BMUZ, as recommended, is considered to be consistent with these objectives and the supporting policies which, in my view, provide clear and concise direction in relation to how the council aims to maintain and enhance the commercial hubs of the District.

Urban Development – Chapter 4

- 5.19. This chapter sets out the objectives and policies for managing the spatial location and layout of urban development within the District. The following objectives³ are relevant to the BMUZ:

Objective 4.2.1 - Urban development is integrated with infrastructure and services and is undertaken in a manner that protects the environment, rural amenity and outstanding natural landscapes and features.

Objective 4.2.3 – Within Urban Growth Boundaries, provide for a compact and integrated urban form that limits the lateral spread of urban areas, and maximises the efficiency of infrastructure operation and provision.

Objective 4.2.4 - Manage the scale and location of urban growth in the Queenstown Urban Growth Boundary.

- 5.20. I consider that the BMUZ, as recommended, is consistent with these objectives and the supporting policies. These, in my view, provide clear and concise direction in relation to how the council aims to manage growth within the urban growth boundaries.

3 Strategic Direction Hearing – Recommended Revised Chapter – Reply 07/04/2016

Tangata whenua – Chapter 5

5.21. This chapter sets out the objectives and policies for ensuring tangata whenua issues are appropriately considered throughout the District Plan. The following objective and policy⁴ is most relevant to the BMUZ:

5.4.2 Objective - Provide for a Ngāi Tahu presence in the built environment

5.4.2.1 Collaborate with Ngāi Tahu in the design of the built environment including planting, public spaces, use of Ngāi Tahu place names and interpretive material.

5.22. I consider the BMUZ to be consistent with this Objective and Policy as the BMUZ would not, in my view, place any inappropriate barriers on the ability for Ngāi Tahu to influence development within the zone.

Other reports

5.23. In addition to the above higher-order documents, the following non-statutory documents were considered in the s32 report:

- i. Review of District Plan Business Zones Capacity and Development of Zoning Hierarchy prepared by McDermott Miller Strategies Ltd and Allan Planning & Research Limited (November 2013).⁵
- ii. Peer Review of the McDermott Miller Business Zones Capacity Report prepared by McDermott Consultants Ltd (January 2014).⁶

5.24. I note that a Monitoring Report for the Business and Industrial Zones was produced in November 2011⁷ that has not been referenced or relied upon in the s32 analysis. The report included the findings of a survey conducted in 2010 and made the following recommendations for the ODP Industrial and Business Zone:⁸

1. *A revision of the Objectives and Policies to reflect the role of these zones more effectively.*

4 Strategic Direction Hearing – Recommended Revised Chapter – Reply 07/04/2016

5 See http://www.qldc.govt.nz/assets/OldImages/Files/District_Plan_Review_Brochures/Business_Zones_Capacity_15_Nov_2013.pdf

6 See http://www.qldc.govt.nz/assets/OldImages/Files/District_Plan_Review_Brochures/Business_Zones_Planning_Peer_review_January_2014.pdf

7 See http://www.qldc.govt.nz/assets/OldImages/Files/Monitoring_Reports/06e_-_Monitoring_Report_for_the_Business_and_Industrial_Zones.pdf

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2. *A revision of provisions related to reverse sensitivity issues to better enable the sustainable management of these zones for the activities they are primarily intended for.*
3. *A revision of application of standards such as parking and access to prevent further intensification worsening these issues.*
4. *A review of rules relating to retail activity and the adequacy of associated assessment matters.*
5. *Whether a more comprehensive commercial/business section is needed to enable the role and impact of other commercial zones that have been added since the plan was developed to be considered more holistically. For example Remarkables Park Special zone, Three Parks Special zone, North Three Parks, Ballantyne Road Mixed Use zone and recent applications for commercial zoning.*

5.25. While the recommendations in the monitoring report are not binding, I consider that the Notified Chapter addresses matters 1, 2 and 4. I consider that the matters related to parking can be included as part of the review of the transportation chapter planned for Stage 2. I do not consider matter 5 to be practicable to advance because of the staged nature of the District Plan Review and that the Remarkables Park Zone is excluded from the District Plan Review.

6. BACKGROUND – OVERVIEW OF THE ISSUES

Location of the BMUZ

6.1. The BMUZ replaces the Business Zone of the ODP. The BMUZ, as shown on the notified Planning Maps, is in 2 locations, namely Anderson Heights in Wanaka (**Anderson Heights**) and part of the Gorge Road area of Queenstown (**the Gorge Road area**).

6.2. The notified BMUZ is proposed to apply to all areas currently zoned Business in the ODP, with the exemption of the Industrial Place⁹ area of Gorge Road (as shown on the notified Planning Map 32 included in **Appendix 5**). Industrial Place will be considered for inclusion in an Industrial Zone in Stage 2 of the District Plan Review.

6.3. The notified BMUZ also extends across the following additional sites that adjoin the ODP Business Zone in the Gorge Road area:

- i. The 37,893m² site currently occupied by Wakatipu High School at 68 Fryer Street, which is currently zoned High Density Residential Sub-Zone 1. The school will be vacating its

⁹ The zoning of Industrial Place will be considered in Stage 2 of the District Plan Review as part of the review of the operative Industrial Zones.

current site and moving to a new site¹⁰ at Remarkables Park, which is scheduled to open at the start of the 2018 school year.

- ii. 2 and 4 Hilton Place (746m² and 525m² respectively), which are currently zoned High Density Residential Sub-Zone 1 and currently contain a car rental business.
- iii. 50 Gorge Road (804m²), which is currently zoned High Density Residential Sub-Zone 1 and currently contains a physiotherapy business.

6.4. In Anderson Heights the physical extent of the BMUZ (as shown on the notified Planning Maps 20 and 21, included in **Appendix 5**) is the same as that of the ODP Business Zone.

Key Issues Identified

6.5. The s32 evaluation considered whether the Zone Purpose of the ODP Business Zone should fundamentally shift¹¹ to encouraging a mixed use environment, given the location of the Gorge Road area and Anderson Heights within walking distance of the Queenstown and Wanaka Town Centres, and given the current issues with housing supply and affordability. The lack of 'worker accommodation' in Queenstown was also identified.

6.6. The ODP Business Zone places strict parameters around the provision of residential activities, with one residential unit per site for the purpose of on-site custodial management enabled as a permitted activity.¹² The s32 considered that the shift to being more enabling of residential activities in the BMUZ would contribute to enabling additional residential capacity, and would provide more opportunities for diversity in housing typologies, such as high density apartment-style living.

6.7. In interrogating what this shift would mean, using the ODP Business Zone as a base-line, the following key issues were identified in the s32 analysis:¹³

- *Development controls currently guide the appropriate height, bulk, location and density of buildings without sufficient consideration of the management of appropriate urban design methods to achieve greater amenity throughout the Zone, to continue to encourage a diverse built form.*

10 Source: <http://www.wakatipu.school.nz/new-school.html>

11 The Zone Purpose of the ODP Business Zone (Rule 11.2.1) is... “[...]to provide for the continued viability of light industrial, processing, storage and retailing of bulky or larger goods plus the opportunity for vehicle orientated service and retail uses.”

12 Rule 11.2.5.1(i) of the ODP

13 See page 3 of the s32 included in Appendix 3.

- *Current development controls are very restrictive, limiting the available uses of the land within the operative zoning regime.*
- *Providing for a diverse range of new development that expands on the established uses within the zone and introducing residential activities to assist with addressing issues with housing supply, affordability, and diversity. This enables higher intensity and compatible land uses, and contributes to more diverse and well-located housing options. In addition, a greater variety of development options increases the economic resilience and adaptability of these business areas. In reflecting the required change to the operative policy framework to address this issue, it is proposed to rename the zone Business Mixed Use.*
- *Placing stricter limits on activities that are more appropriate for industrial areas would further clarify the purpose of this Zone and create a clearer distinction between it and the Industrial Zones.*
- *Providing support and enhancing the functionality and future strength of the Queenstown and Wanaka Town Centre Zones through enabling services that complement, enable and support the town centres.*
- *Addressing natural hazards in a consistent manner by including hazards in the matters for discretion for buildings. This is particularly important for the Gorge Road area, which is subject to known natural hazards. This approach would give effect to the District-wide natural hazards policies contained in Chapter 23,¹⁴ which would be referenced within the Business Mixed Use Zone provisions. For instances where risk from natural hazards cannot be avoided, managed or mitigated to appropriate levels, providing a restricted discretionary activity status for buildings would enable any such proposal to be declined.*

6.8. As detailed in the s32 analysis, the overarching purpose of the BMUZ seeks to enable a variety of compatible commercial and residential activities that contribute to economic growth and increase the supply and diversity of the current housing supply. This may then assist with addressing acknowledged housing affordability issues.

6.9. As such, the ODP Business Zone provisions were comprehensively reviewed and the suite of objectives, policies and rules for the notified BMUZ have a very different focus.

14 I note that the correct reference for the Natural Hazards Chapter of the PDP is Chapter 28.

Special Housing Area

- 6.10. I note that the BMUZ, as it applies to the Gorge Road area, was recommended by Council and approved by the Minister for Building and Housing as a Special Housing Area (**SHA**) (known as the BMUZ (Gorge Road) SHA) on the 20 June 2016¹⁵). One means of achieving the targets set in the Queenstown Lakes District Housing Accord (**the Accord**) is through the establishment and development of SHAs.
- 6.11. The SHA process is separate to the District Plan Review, however it is relevant, as applications for proposals within the BMUZ (Gorge Road) SHA are assessed against the BMUZ provisions, as a third tier consideration under section 34(1)(c) of the Housing Accords and Special Housing Areas Act 2013 (**HASHAA**). The weight that the objectives, policies and rules of the PDP will be given is dependent on the status of the PDP at the time of submission of the resource consent or Plan Change application made under that Act. The Housing Legislation Amendment Act 2016 has clarified that local authorities must use the version of the Plan that applied at the time the application was submitted, unless the applicant requests otherwise. This means that the applicant has the flexibility to choose whichever version of the Plan that may be more beneficial to the assessment of the proposal.
- 6.12. The BMUZ (Gorge Road) SHA will be disestablished on 23 June 2017. This means that resource consents must be received on or before this date to be processed under the HASHAA. The Council's Lead Policy titled: Housing Accords and Special Areas Act 2013 Implementation Guidelines is currently being reviewed.¹⁶ This will not impact on the processing of existing SHAs, only as it applies to new SHAs.

7. SUBMISSIONS

- 7.1. The RMA, as amended in December 2013, no longer requires a report prepared under s42A of the Council decision to address each submission point. Instead, it requires a summary of the issues raised in submissions.
- 7.2. 29 submitters made a total of 95 submission points regarding the notified BMUZ. A total of 188 further submission points were received in relation to principal submissions.
- 7.3. In addition, 4 submissions and 4 further submissions that were made on the notified Chapter 2: Definitions are considered in this s42A analysis and 1 submission and 27 further submissions that have been transferred from other Hearings are also considered. These points of submission are all shown in **Appendix 2**.

15 QLDC Council Report dated 6 October 2016; Agenda Item: 9, titled Update of changes to the Housing Accords and Special Housing Areas Act 2013 and an analysis of the Accord, the Lead Policy and SHAs.

16 Reference: QLDC Council Report dated 6 October 2016; Agenda Item: 9, titled Update of changes to the Housing Accords and Special Housing Areas Act 2013 and an analysis of the Accord, the Lead Policy and SHAs.

7.4. Submissions are considered by issue, or as they relate to a specific BMUZ provision. Some submissions contain more than one issue, and will be addressed where they are most relevant within this evidence.

7.5. A summary of submission points received and a recommendation on whether the submission is recommended to be rejected, accepted, accepted in part or transferred to a future hearing is attached as **Appendix 2**. I have read and considered all submissions, including further submissions.

8. ANALYSIS

8.1. The following key issues have been raised in the submissions and are addressed in this report under the following headings:

a. Issue 1 – Urban Design

- High quality design outcomes
- Objective 16.2.2
- Amenity – residential activities
- Use of the Urban Design Panel
- Horne Creek
- Landscaping

b. Issue 2 - Enabling the right mix of activities

- Commercial activities
- Residential activities

c. Issue 3 - Bulk and location of buildings and outdoor storage

- Building heights
- Recession lines
- Outdoor living
- Outdoor storage

d. Issue 4 - Activity status of buildings (Rule 16.4.2)

- Restricted discretionary vs controlled activity status
- Buildings for Trade Supplier Activities
- Matter of discretion – natural hazards

e. Issue 5 –Other matters

- Glare

- Noise
- Submission points supporting various provisions of the notified version
- Submission points rejecting various provisions of the notified version
- Drafting style for objectives and policies
- Recommended changes for clarification and improvement
- Subdivision
- BMUZ Design Guide – Potential future Variation

8.2. Where a provision has not been submitted on, or where a submission is not accompanied by any clear basis or reasoning, the submission is unlikely to have been directly discussed in this report (however recommendations in respect of all submissions received are set out in **Appendix 2**).

9. ISSUE 1 – URBAN DESIGN

9.1. The BMUZ proposes a significant shift in the desired urban design outcomes, when compared to the operative Business Zone. In particular, notified Objective 16.2.2 seeks that... *New development achieves high quality design outcomes that minimise adverse effects on adjoining residential areas.* Notified Policies 16.2.2.1 to 16.2.2.7 provide a framework for the implementation of this Objective.

High quality design outcomes

9.2. The NZIA Southern and Architecture + Women Southern (**NZIA**) (238.94) (opposed by further submitters FS1314, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249, FS1242) requests that notified Objective 16.2.1 is amended in the following manner:

An area comprising a high intensity mix of compatible residential, visitor accommodation and non-residential activities is enabled within a high quality urban environment.

9.3. I note that notified Objective 16.2.2 refers to 'high quality design outcomes', and the policies beneath that Objective concern themselves with building design, whereas notified Objective 16.2.1 concerns itself principally with achieving a compatible mix of activities. In my view visitor accommodation falls within the broad category of non-residential activities (it is excluded from the notified definition of *Residential Activity* in Chapter 2 (Definitions) of the PDP) and does not, in my view, warrant being singled out. As such, I recommend that the requested relief is rejected.

- 9.4. Bunnings Ltd (**Bunnings**) (746.3) seek that the urban design-related matters for restricted discretion on all buildings (Rule 16.4.2) are 'de-tuned' to allow for flexible built form for non-residential activities. Bunnings (746.2) also request the inclusion of the following policy:

Ensure that the operational and functional requirements of non-residential activities are recognised and provided for.

- 9.5. I agree to some degree with the inclusion of the above policy and that a flexible and pragmatic approach should be taken by decision makers and Plan users to the design and use of land. However, the BMUZ contemplates a mix of activities including visitor accommodation and residential activity. I therefore consider that it is important that all buildings, especially those that can impact the amenity of the public realm and environment, have regard to design consideration.

- 9.6. I therefore, accept in part the submission but consider alternative phrasing of a policy is more appropriate. In addition, because the submission by Bunnings appears to be on design, I consider the policy is more appropriately located under Objective 16.2.2. I therefore recommend the following policy, which is included in **Appendix 1**:

16.2.2.8 Apply consideration of the operational and functional requirements of non-residential activities as part of achieving high quality building and urban design outcomes.

- 9.7. I have sought urban design evidence from Mr Tim Church regarding the appropriateness of providing a lower 'design bar' for non-residential activities in a mixed use zone. Mr Church does not support the relief sought by Bunnings.¹⁷ While I agree with Mr Church and rely on his evidence, I also consider that the policy framework can be improved and would be more balanced at recognising the wide range of activities and functional requirements by the addition of the recommended policy. I do not consider the recommended policy to conflict with Objective 16.2.2.

- 9.8. Mr Church, in his response to submission 746.3, also notes in his evidence that notified Policy 16.2.2.1, which concerns itself with the relationship of new development with the public realm, is not adequately implemented through the matters of discretion of notified Rule 16.4.2. I have therefore sought to address this by rephrasing the matters of discretion to use the same language as that of the notified Policy (which Mr Church supports).

17 Evidence of Mr Tim Church, at paragraph 28.4.

- 9.9. This recommended change also aligns with the submissions of the NZIA (238.6), which highlight the importance of consideration of streetscape in achieving high quality urban design outcomes.
- 9.10. These recommended changes to notified Rule 16.4.2 are shown in **Appendix 1**. I also recommend changes to rephrase notified Rule 16.4.2, as the notified version, in my view, is articulated as a list of assessment matters, rather than matters of discretion. In my view this element of change to notified Rule 16.4.2 is minor and is not substantive.
- 9.11. The NZIA (238.101) (supported by further submissions FS1059 and opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248, FS1249) submit that a new policy should be introduced that requires the undergrounding of all overhead wires to enable a successful streetscape to evolve. I consider that the undergrounding of wires is beyond the scope of matters to be considered by the BMUZ, as it relates to activities within the roading corridor, which is not within the BMUZ. I therefore consider that this submission is out of scope, as shown in **Appendix 2**.

Objective 16.2.2

- 9.12. The NZIA (238.103) (opposed by FS1314, FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248, FS1249) seeks that the following amendments are made to notified Objective 16.2.2:

New development achieves high quality building and urban design outcomes that minimise adverse effects on adjoining neighbours and public spaces.

- 9.13. I note that Villa del Lago (380.57) supports notified Objective 16.2.2, however does not provide any reasons for this position.
- 9.14. I consider that the changes sought by the NZIA are appropriate, given that a strong emphasis on urban design is a common thread that runs through the notified Policies and Rules. The interface with the street and other public spaces is a component of the urban design considerations that are addressed in the notified LSCZ.
- 9.15. Most notably, notified Policies 16.2.2.1 to 16.2.2.6 and Rule 16.4.2 (matters of discretion for buildings) implement urban design treatments, including consideration of the impact of development on the public realm.
- 9.16. I recommend that the relief sought by submission 238.103 and submission 380.57 is accepted in part, with the recommended changes shown in **Appendix 1**.

Amenity – residential activities

9.17. Ledge Properties and Edge Properties Ltd (**Ledge**) (700.1) (opposed by FS1059 and FS1314) expresses concern that notified Policy 16.2.1.4 will invite applications for (and approvals of) poor building designs and the submitter suggests the following amendments to the policy:

Residential and visitor accommodation activities of a nature consistent with a mixed use environment are enabled, while ~~acknowledging that there will be a lower level of amenity than residential zones due to the mix of activities provided for.~~

9.18. It is my view that the notified policy seeks to acknowledge that residents of the BMUZ cannot expect the same amenity that might be expected in a residential zone. However, I agree with the submitter insofar that the wording of the policy is problematic. Furthermore, notified Policy 16.2.2.3 requires a high standard of amenity to be achieved and therefore I consider that the two policies are contradictory.

9.19. In a similar vein, the NZIA (238.97) (opposed by further submitters FS1314, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249, FS1242) disagrees that amenity will be lower than that provided within a residential zone, and seeks that the notified policy is removed and replaced with the following policy:

A high level of amenity will be achieved by creating an interesting vibrant street life by bringing together a diverse range of people and activities.

9.20. I question how 'bringing together a diverse range of people' is to be directly achieved through a District Plan. I consider the 'amenity' arm of the suggested policy is already articulated through notified Policy 16.2.2.3.

9.21. I therefore recommend that notified Policy 16.2.1.4 is deleted, as shown in **Appendix 1**, and no further changes are required. Submissions 700.1 and 238.97 are therefore recommended to be accepted in part, as shown in **Appendix 2**.

Use of the Urban Design Panel

9.22. Various submissions of the NZIA (238.92, 238.103, 238.104, 238.105, 238.106, 238.107) (opposed by further submitters FS1314, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249, FS1242) seek that use of the Urban Design Panel (**UDP**) should be incentivised.

- 9.23. Presently the Wanaka and Queenstown UDPs are used principally to provide advice regarding proposals for new buildings in the Town Centre Zones. This occurs either prior to the resource consent process formally commencing or during the course of assessing an application for resource consent.
- 9.24. Advice from the UDP is also sought on an ad hoc basis on a range of applications in various zones, including for buildings for community use, visitor accommodation and comprehensive residential developments. In these instances the processing planner uses their discretion as to whether advice from the UDP, or an urban designer, is required.
- 9.25. It is my view that a requirement for urban design review in the manner suggested by the submitter is not necessary. Notified Rule 16.4.2 triggers a restricted discretionary resource consent for buildings. The matters of discretion provide opportunity for design elements and building integration to be considered. Therefore the processing planner has the ability to use their discretion as to whether urban design advice is required on a case-by-case basis.
- 9.26. NZIA request that proposals should have a restricted discretionary activity status if they are assessed by the UDP, and if not assessed by the UDP have a discretionary activity status. I do not consider it would be appropriate to hinge the activity status on third party approval.
- 9.27. I therefore recommend that submissions 238.92, 238.103, 238.104, 238.105, 238.106, 238.107 are rejected on this basis.

Horne Creek

- 9.28. The NZIA (238.92) (opposed by further submitters FS1314, FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249, FS1242) submits that Horne Creek should be 'opened up' to provide an urban interface between the BMUZ and the adjoining residential zone. I note that this submission also recommends mapping changes that have been deferred to the Hearing on mapping, as shown in **Appendix 2**.
- 9.29. In reviewing the s32 analysis, I note that the presence of Horne Creek (**the Creek**) was not specifically addressed in the evaluation and may have been overlooked. I am of the view that the Creek would provide a source of local amenity and does warrant specific consideration.
- 9.30. An image showing the location of the Creek is attached as **Appendix 6**. The Creek runs from the wetland located to the north and east of the BMUZ, and is also fed from Bush Creek. It is my understanding that the Creek is currently culverted as it runs through private land on the eastern side of Gorge Road and beneath Gorge Road, and is open as it wraps around the rear

of the Hylton Place properties zoned BMUZ, as shown in notified Planning Map 32 included in **Appendix 5**.

- 9.31. I am advised by the QLDC Property and Infrastructure Team that the Creek is used for stormwater discharge, and that the daylighting of the Creek may assist with water attenuation, with vegetation slowing water speeds compared to flow speeds through culverting. I am advised that this would have a positive benefit from a stormwater perspective, particularly during periods of high rainfall.
- 9.32. I have sought advice from Mr Church regarding the issues raised in submission 238.92 and I accept his views, however I note that where the Creek runs through properties on the eastern side of Gorge Road (as shown in the **Appendix 6** image), it cuts through the centre of a number of the sites.
- 9.33. As such, I am hesitant to require that daylighting is achieved in every instance due to the limitations that it might place on the ability for these sites to be developed or redeveloped. I have recommended a new policy, included in **Appendix 1**, that provides flexibility for instances when daylighting may not be appropriate. I also recommend the introduction of a new matter of discretion to be added to notified Rule 16.4.2, requiring consideration of the Creek. This recommended change is also shown in **Appendix 1**.
- 9.34. With regard to the suggestion that public access should be secured along the margins of the Creek, it is my view that if this element of the relief sought is to be furthered it should follow a separate consultative process with the individual landowners, rather than through this Hearings process.
- 9.35. I therefore recommend that the relief sought by the NZIA (238.92) is accepted in part.

Landscaping

- 9.36. In her submissions, Mrs Spijkerbosch (392.13) requests consideration of *landscaping of 2m (for example) at [the] street front to soften the appearance of taller buildings on either side*.
- 9.37. Mrs Spijkerbosch has not specified that her submission should only apply to the Gorge Road area of the BMUZ, so I will consider her submission as applying to the zone generally.
- 9.38. Although the notified BMUZ has emphasis on high quality building design and a high standard of amenity (notified Policy 16.2.2.3), it does not specify a minimum requirement for landscaping at the 'rule' level. Notified Rule 16.4.2 (matters of discretion for buildings) does not include landscaping as a matter of discretion.

- 9.39. I note that the s32 analysis does not specifically contemplate landscaping, and the ODP Business Zone does not include any rules prescribing a minimum landscaping requirement.
- 9.40. Given the significant emphasis on providing a high quality environment in the BMUZ, I consider that the issue of landscaping requires further consideration.
- 9.41. I have sought advice from Mr Church regarding the appropriateness of requiring landscaping in the BMUZ, and I accept and rely on his evidence supporting the inclusion of landscaping as an additional matter of discretion for buildings (notified Rule 16.4.2), and including a landscaped front yard setback of 2m depth in conjunction with residential activities at ground floor level (notified Rule 16.5.3).
- 9.42. I note that the notified Wanaka and Queenstown Town Centre Zones (Chapters 12 and 13 of the PDP) do not include landscaping requirements, which, in my view is appropriate for these high intensity town centre environments.
- 9.43. With regard to landscaping provided in conjunction with car parking, I note that Stage 2 of the District Plan Review will include a Transport chapter, and I understand this will include a review of the on-site parking and access requirements for the BMUZ. As an indicator, I have considered the relevant rules of the ODP Transport Section:14 that have relevance, namely:
- i. ODP Rule 14.2.2.2(i) – 'carparking areas' in the ODP Business Zone are a controlled activity in respect of their access, location, landscaping, separation from pedestrians, compatibility with surrounding activities and method of provision.
 - ii. ODP Rule 14.2.4.1 Table 1 sets out the number of parks required for various activities, including visitor accommodation, commercial activities, offices etc.
 - iii. ODP Rule 14.2.4.1(xvi) prescribes the following minimum standards (my underlining added):
 - (a) Other than for residential activities and activities within the Town Centre, Business, Industrial and Corner Shopping Centre Zones, every outdoor carpark shall include landscaping at a minimum rate of 6% of the total area of the car park or 1.5m² per parking space, whichever is the lesser.

(b) *Landscaping may be provided in strips or blocks provided the minimum internal dimension of any strip or block shall be not less than 1.5m.*

[...]

9.44. The ODP Transport Section: 14 therefore contemplates landscaping associated with car parking. In my view, keeping this structure will ensure that a consistent approach will be applied to the structure of the PDP, and that landscaping specifically for the purpose of mitigating adverse visual effects of car parking should be considered in conjunction with consideration of the parking thresholds that would apply to the BMUZ. I therefore do not propose to introduce a rule into the BMUZ requiring landscaping for car parking areas.

9.45. Considering the submitter's view and the evidence of Mr Church it is my view that it would be appropriate to introduce a minimum landscaping requirement in conjunction with new development.

9.46. Mr Church recommends inclusion of a rule that prescribes a minimum landscaped coverage of 10%. I support his view, and consider that a minimum requirement would assist with achieving the high levels of amenity sought for the BMUZ by notified Policy 16.2.2.3. I also recommend that this Policy is amended to specifically include landscaping. The changes are shown in **Appendix 1**.

9.47. In considering the standards of the notified BMUZ that set minimum thresholds for site layout, I note the following:

- i. Notified Rule 16.5.1: buildings shall be set back a minimum setback of 3m from a Residential Zone boundary, with breaches requiring restricted discretionary resource consent.
- ii. Notified Rule 16.5.4: maximum building coverage of 75%, with breaches requiring discretionary resource consent.

9.48. I note that no submissions were received specifically seeking to alter either of the above thresholds. Given the site coverage and setback requirement, it is my view that these minimum site thresholds anticipate that an entire site will not be occupied by buildings, and the addition of an onsite landscaping rule would not conflict with these standards.

9.49. Also of note is that notified Rule 16.4.4 (activity status of visitor accommodation) lists landscaping as a matter of discretion. Onsite landscaping is therefore contemplated in the notified BMUZ, albeit in a limited manner.

9.50. I consider that the recommended changes to the notified BMUZ as shown in **Appendix 1**, would assist with the implementation of the notified and recommended revised version of Objective 16.2.2 and would assist with implementing notified Policies 16.2.1.1 and 16.2.2.2..

10. ISSUE 2 – ENABLING THE RIGHT MIX OF ACTIVITIES

Commercial activities in the BMUZ

10.1. As detailed in paragraphs 9.4 to 9.6 above, I recommend that the submission of Bunnings (746.2), which seeks the inclusion of a new policy that acknowledges the operational and functional requirements of non-residential activities, is accepted in part.

10.2. The NZIA (238.96) supports notified Policy 16.2.1.3 with the following amendments:

Avoid activities that have noxious, offensive or undesirable qualities from locating within the business-mixed use zone to ensure that appropriate levels of amenity are maintained a high quality urban environment is maintained.

10.3. The NZIA states that the emphasis of the policy should be on the desired outcomes, and notes that amenity is a difficult word to assess.

10.4. I consider that revising the wording of the policy in the manner suggested by the NZIA would be more effective in implementing notified Objective 16.2.1 and recommended revised Objective 16.2.2. I do not, however, support the deletion of word *Business* from the name of the zone. I therefore recommend that the relief is accepted in part. The changes are shown in **Appendix 1**.

10.5. The submission of HW Richardson Group (252.11) requests that the Allied Concrete site at 105 Gorge Road is either rezoned to a zone that permits service and industrial activities or, in the alternative, requests that the BMUZ is amended to provide for these activities as permitted. The rezoning component of the submission will be heard at the Hearing on Mapping.

10.6. I note that notified Rule 16.4.7 prescribes a non-complying activity status for Industrial Activities, unless otherwise specified in the Activities Table (16.4).

10.7. The site at 105 Gorge Road is a rear site on the eastern side of the road, with access located opposite the entrance to Sawmill Road. It is therefore centrally located within the Gorge Road area of the BMUZ.

- 10.8. I note that the submitter does not provide an analysis against the relevant objectives and policies of the BMUZ, nor do they suggest how the policy framework and the overarching Zone Purpose should be adjusted to cater for the relief they are seeking.
- 10.9. I acknowledge that the shift in Zone Purpose from that of the ODP Business Zone to that of the BMUZ may result in uncertainty for existing industrial activities within the BMUZ.
- 10.10. However, it is my view that enabling industrial activities in the BMUZ may result in effects that would not achieve the levels of amenity consistent with a mixed use environment. It is also my view that the relief sought would not assist with achieving notified Objectives 16.2.1 and 16.2.2, nor would it assist with the implementation of notified Policies 16.2.1.1, 16.2.1.2, 16.2.1.3, redraft Policy 16.2.1.5, and notified Policy 16.2.2.3.
- 10.11. I therefore recommend that the changes to the BMUZ provisions sought by submission 252.11 are rejected.
- 10.12. With regard to visitor accommodation activities, Erna Spijkerbosch (392.13) (opposed by further submissions FS1216, FS1228, FS1238, FS1246, supported by further submissions FS1288 and FS1059) seeks that visitor accommodation is excluded from the BMUZ. Mrs Sijkerbosch is of the view that enabling visitor accommodation is not consistent with the aim of increasing worker accommodation stock near the town centre.
- 10.13. I note the thrust of the notified Zone Purpose (16.1) is to provide for a mix of commercial and residential uses. Providing 'worker accommodation' is not an explicit goal of the BMUZ, however I accept that the zone would provide the opportunity for increased supply and diversity of the current housing stock, as highlighted in the s32 analysis¹⁸ in **Appendix 3**.
- 10.14. It is my view that a mixed use zone, such as the BMUZ is an appropriate location for visitor accommodation. The Anderson Heights area in Wanaka and Gorge Road in Queenstown are within close proximity to the respective town centres, which are the District's two main hubs for tourism activities. I am therefore not persuaded by the submitter's argument that it would be appropriate to exclude visitor accommodation activities from the BMUZ and recommend that this element of submission 392.13 is rejected.
- 10.15. Insofar as the activity status of visitor accommodation activities, several submitters being GH & PJ Hensman (542.3), High Peaks Ltd (545.3) (supported by FS 1059.82), Ngai Tahu Property Ltd (550.3), Skyline Enterprises Ltd (556.8), Totally Tourism Ltd (571.20), Trojan Holdings Ltd

18 Page 3, paragraph 1, bullet point 3.

(634.8) (opposed by FS1059.91) and Morraine Creek Ltd (1366.20) seek that the activity status is shifted from restricted discretionary to controlled.

10.16. Notified Rule 16.4.4 lists visitor accommodation as a restricted discretionary activity with the following matters of discretion:

- *The location, provision, and screening of access and parking and traffic generation;*
- *Landscaping;*
- *The location, nature and scale of visitor accommodation and ancillary activities relative to one another within the site and relative to neighbouring uses;*
- *The location and screening of bus and car parking from public places; and*
- *Where the site adjoins a residential zone:*
 - *Noise generation and methods of mitigation; and*
 - *Hours of operation, in respect of ancillary activities.*

10.17. I note that these matters are very similar to those of notified Rule 12.4.2 of the Queenstown Town Centre Zone, notified Rule 13.4.3 of the Wanaka Town Centre Zone, and notified Rule 14.4.3 of the Arrowtown Town Centre Zone which provide for visitor accommodation activities as a controlled activity, however the notified Local Shopping Centre Zone provides for visitor accommodation activities as restricted discretionary (notified Rule 15.4.4).

10.18. I also note that the s32 analysis does not provide any specific analysis of the merits of controlled verses restricted discretionary activity status. Also of note is that the submissions received on this point do not provide specific reasons for the relief sought.

10.19. It is my view that, due to the proximity of the BMUZ within walking distance of the Wanaka and Queenstown Town Centres, which are the District's two main centres for tourism, it is appropriate for visitor accommodation to be afforded the certainty of controlled activity status. I consider that the notified matters of discretion would be appropriate matters of control. This approach is also supported by the relevant submissions.

10.20. I therefore recommend that these submission points are accepted, with the changes to notified Rule 16.4.4 shown in **Appendix 1**.

Residential Activities within the BMUZ

10.21. The NZIA (238.98) (supported by further submission FS 1059, opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248, FS1249) seeks that notified Policy 16.2.1.5 (redraft Policy 16.2.1.4) is removed and replaced with the following wording:

16.2.1.5 For sites fronting Gorge Road (and other main streets) avoid residential activities on the ground floor

10.22. In my view the notified policy is more appropriate than that suggested by the submitter as it provides the opportunity for residential activities at ground floor level on sites fronting Gorge Road, so long as commercial activities are the main use at the street interface.

10.23. I do, however recommend one minor change to the policy to remove the reference to 'high density' residential, thus ensuring that the policy applies to any form of residential activity. This recommended change is shown in **Appendix 1** and I recommend that submission 238.98 is therefore accepted in part.

11. ISSUE 3 – BULK AND LOCATION OF BUILDINGS AND OUTDOOR STORAGE

Building Heights

11.1. Notified Rule 16.5.7.1 concerns itself with building heights in the Gorge Road BMUZ. Buildings up to 12m are provided for as a permitted activity and buildings of 12m to 20m are provided for as a restricted discretionary activity, with the following matters of discretion:

- *the design and quality of the building, including the use of articulated facades and active street frontages;*
- *The avoidance of large monolithic buildings; and*
- *The impact on the street scene.*

11.2. Notified Rule 16.5.7.1 also stipulates that buildings exceeding 20m height in the Gorge Road area of the BMUZ would require resource consent for a non-complying activity, as would buildings exceeding 12m height in the Anderson Heights area under notified Rule 16.5.7.2.

11.3. Mrs Erna Spijkerbosch (392.13) (opposed by further submissions FS1216, FS1228, FS1238, FS1246, supported by further submissions FS1288 and FS1059) submits that the 20m restricted discretionary height should only apply on the eastern side of Gorge Road. Mrs Spijkerbosch also submits that up to 25m heights should be 'allowed' at the eastern edge of the BMUZ, and building heights should be staggered to a height of 12m at the Gorge Road frontage. The submitter is also of the view that the limits on notification for building heights between 12m and 20m in the Gorge Road area in notified Rule 16.6.2 should be removed. I address this element of the submission from paragraph 11.22, below.

11.4. I note that Mrs Spijkerbosch's submissions regarding building heights are limited to consideration of heights in the Gorge Road area, and I therefore do not extend my

consideration of notified Rule 16.5.7 (redraft Rule 16.5.8) to the Anderson Heights area of the BMUZ.

- 11.5. I also note that no specific urban design evidence or reasoning has been provided by the submitter, however I consider that the submission warrants further investigation, particularly as the BMUZ seeks to introduce significant changes in building heights compared to the Operative Business Zone (the operative regime enables buildings of 7m as a permitted activity (Rule 11.2.5.1vi of the ODP), with height breaches considered as a restricted discretionary activity (Rule 11.2.3.3ii of the ODP)).
- 11.6. Mr Church has provided his views, from an urban design perspective, as to the suitability of enabling the restricted discretionary heights across the entire Gorge Road BMUZ, including modelling and illustrations appended to his evidence. Mr Church supports Mrs Spijkerbosch's submission that seeks the retention of the 12 to 20m restricted discretionary heights on the eastern side of Gorge Road, with the exception of two areas at the northern and southern ends of the eastern side of Gorge Road (as described in paragraphs 32.34 – 32.35 of Mr Church's evidence).
- 11.7. Mr Church also supports the submitter's view that the notified 12-20m restricted discretionary building heights on the western side of Gorge Road should be reduced due to the potential for development of a visually dominant band of tall buildings stretching across the valley floor and up the lower slopes of Ben Lomond,¹⁹ amongst other considerations.
- 11.8. I have considered Mr Church's evidence, however I also consider that urban design considerations should be balanced against other matters.
- 11.9. The Gorge Road BMUZ, in my view, provides a significant opportunity for brownfield development within walking distance of the Queenstown town centre, which is the District's principal hub for commercial activities, employment, and tourism.
- 11.10. As highlighted in the s32 analysis (**Appendix 3**) the additional residential capacity enabled within the BMUZ would assist with supplying more land zoned for residential uses. Building heights are an important component in considering the capacity of the zone, given that most residential activities would be provided for above street level. It is likely that the dominant housing typology that would be enabled in the BMUZ is apartment-style housing. This would result in further diversification of the current housing stock enabled in the District. It would also provide significant opportunity for 'worker accommodation' to be provided in close proximity to

¹⁹ Evidence of Mr Church, at paragraph 31.37.

the Queenstown Town Centre, as highlighted in Mrs Spijkerbosch's submission on visitor accommodation (392.13).

11.11. Notified Rule 16.5.7 provides for buildings up to 12m as a permitted activity in the Gorge Road (and Anderson Heights) areas. It does not permit buildings between 12m and 20m in the Gorge Road area, however it does anticipate them through the use of the restricted discretionary activity status.

11.12. This is a significant shift from the operative permitted building height enabled by the ODP Business Zone. However, it is noteworthy that the changes to the operative heights, promulgated through the BMUZ, attracted just one submission point in opposition. Mrs Spijkerbosch's submission provides the following reasons for requesting the changes to building heights:²⁰

This preserves some 'openness' to the street, rather than having a built up corridor. This [is] one of only two entrances to town, so strict design rules need to be enforced to ensure it is still an attractive entrance. This may be more important in the future as growth and increases in traffic place more demand on existing entrances to town. [...]

11.13. It is my view that the restricted discretionary status of buildings between 12m and 20m and the accompanying policy framework, which sets a high expectation for the design of buildings, would achieve the 'strict design rules' that the submitter seeks. Height recession planes would apply for sites adjoining residential-zoned properties, which would limit the ability of sites adjoining a residential zone to be built above the permitted 12m threshold.

11.14. Also of relevance are the submissions received in support of notified Rules 16.5.7 and 16.5.7.1 from Coronet Property Investments Ltd (321.4) and Fletcher Distribution & Mico New Zealand Ltd (344.9). Mrs Spijkerbosch has made a further submission supporting primary submission 344.9 (FS1059.62).

11.15. Given that the relief sought in Mrs Spijkerbosch's primary submission is at odds with the view imparted through her further submission, I am uncertain as to her final view on heights. I do, however note that her further submissions against other primary submission points (namely FS FS1059.80 and FS1059.84, amongst others) do further her view that development on the western side of Gorge Road should be limited to 12m and heights on the eastern side could be increased above the 20m threshold of the notified BMUZ.

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11.16.I have reviewed the relevant higher order goals, objectives and policies of the Strategic Directions Chapter,²¹ and consider that the following have particular relevance to this issue:

- **Goal 3.2.3:** *A quality built environment taking into account the character of individual communities.*
- **Objective 3.2.3.1:** *A built environment that ensures our urban areas are desirable and safe places to live, work and play.*
- **Policy 3.2.3.1.1:** *Ensure development responds to the character of its site, the street, open space and surrounding area, whilst acknowledging the necessity of increased densities and some change in character in certain locations.*
- **Policy 3.2.3.1.2:** *That larger scale development is comprehensively designed with an integrated and sustainable approach to infrastructure, buildings, street, trail and open space design.*
- **Objective 3.2.4.8:** *Respond positively to climate change*
- **Policy 3.2.4.8.1:** *Concentrate development within existing urban areas, promoting higher density development that is more energy efficient and supports public transport, to limit greenhouse gas emissions in the District.*
- **Objective 3.2.5.3:** *New urban subdivision, use of development will occur in those areas that have the potential to absorb change without detracting from landscape and visual amenity values.*
- **Goal 3.2.6:** *Enable a safe and healthy community that is strong, diverse and inclusive for all people.*
- **Objective 3.2.6.1:** *Access to housing that is more affordable.*
- **Policy 3.2.6.1.1:** *Enable opportunities for low and moderate income Households to live in the District in a range of accommodation appropriate for their needs.*
- **Policy 3.2.6.1.2:** *In applying Plan provisions, have regard to the extent to which minimum site size, density, height, building coverage and other controls influence Residential Activity affordability.*

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- **Objective 3.2.6.2:** *A mix of housing opportunities is realised.*
- **Policy 3.2.6.2.1:** *Promote mixed densities of housing in new and existing urban communities.*
- **Policy 3.2.6.2.2:** *Enable high density housing adjacent or close to the larger commercial centres in the District.*

11.17. The Urban Development Chapter²² has the following objectives and policies that I also consider relevant to the issue of building heights and capacity in the BMUZ:

- **Objective 4.2.1:** *Urban development is integrated with infrastructure and services and is undertaken in a manner that protects the environment, rural amenity and outstanding natural landscapes and features.*
- **Policy 4.2.1.3:** *Encourage a higher density of residential development in locations that have convenient access to public transport routes, cycleways or are in close proximity to community and educational facilities.*
- **Policy 4.2.1.5:** *Urban development is contained within existing settlements.*
- **Objective 4.2.3:** *Within Urban Growth Boundaries, provide for a compact and integrated urban form that limits the lateral spread of urban areas, and maximises the efficiency of infrastructure operation and provision.*
- **Policy 4.2.3.2:** *Enable an increased density of residential development in close proximity to town centres, public transport routes, community and education facilities.*
- **Policy 4.2.4.2:** *Ensure that development within the Queenstown Urban Growth Boundary:*
 - *Provides a diverse supply of residential development to cater for the needs of residents and visitors*
 - *Provides increased density in locations close to key public transport routes and within convenient access to the Queenstown Town Centre*
 - *Provides an urban form that is sympathetic to the natural setting and enhances the quality of the built environment.*
 - *Provides infill development as a means to address future housing demand*

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- *Provides and range of urban land uses to cater for the foreseeable needs of the community*
- *Maximises the efficiency of existing infrastructure networks and avoids expansion of networks before it is needed for urban development*
- *Supports the coordinated planning for transport, public open space. Walkways and cycleways and community facilities.*
- *Does not diminish the qualities of significant landscape features.*

11.18. In considering the above higher order goals, objectives and policies I provide the following views:

- i. The BMUZ is consistent with the strategic direction to encourage intensification within existing urban areas that are close to town centres.
- ii. When a high quality design bar, such as that of the BMUZ is met, enabling taller buildings significantly increases the zone's capacity. The Gorge Road area of the BMUZ is strategically located and, in my view, is an appropriate location for taller buildings. The landscape values of our District pose constraints on the ability for intense forms of development to be provided.
- iii. The BMUZ is consistent with the strategic direction to enable a mix of housing typologies close to town centres. Providing the opportunity for taller buildings in the BMUZ would assist with realising this goal due to the increased capacity that height enables.

11.19. Having considered the views of Mrs Spijkerbosch and the evidence of Mr Church, as well as considering the above higher order provisions, I recommend that notified Policy 16.2.2.7 is amended and that additional matters of discretion are added to notified Rule 16.5.7 (redrafted Rule 16.5.8), which give effect to the changes recommended at the policy level. These are shown in **Appendix 1** and are discussed in further detail in the s32AA analysis in **Appendix 4**.

11.20. In order to achieve the 'openness' along the street frontage of Gorge Road sought by Mrs Spijkerbosch's submission, I recommend the inclusion of an additional rule that requires a stepped frontage of buildings from the fourth storey and above. Mr Church supports the introduction of this rule to notified Rule 16.5.7 (redraft Rule 16.5.8), as shown in **Appendix 1**.

11.21. Insofar as the remaining elements of relief sought by Mrs Spijkerbosch, I consider that the 20m maximum restricted discretionary height is sufficient, with heights exceeding 20m requiring resource consent for a non-complying activity. I do not consider it necessary to taper heights to 12m at the Gorge Road frontage. This view is supported by the evidence provided by Mr

Church insofar as he supports the retention of the 12-20m restricted discretionary height range in areas east of Gorge Road.²³

11.22. Mrs Spijkerbosch (392.13) also submits that buildings over 12m should be notified, unless located on the eastern side of Gorge Road. The submission relates to notified Rule 16.6.2, which lists restricted discretionary activities that shall not require the written consent of other persons and shall not be notified or limited notified. The notified rule includes *Building Heights between 12m and 20m in the [BMUZ] in Queenstown*.

11.23. I note that the following submissions were received in support of notified Rule 16.6: Julie Rogers (30.3), Erna Spijkerbosch (392.14) (supported by further submissions by Pinewood (FS1288.9) and Erna Spijkerbosch (FS1059.49).

11.24. In the absence of any reasons for the change requested by submission 392.13 to Rule 16.6.2, and given that Mrs Spijkerbosch also supports the rule that she has sought to have amended (392.14 and FS1059.49), I am unsure of her position and am unable to support her requested relief.

Recession Lines

11.25. Several identical submission points from Skyline Enterprises Ltd (556.9), Trojan Holdings Ltd (634.9), Ngai Tahu Property Ltd (550.4) and GH & PJ Hensman (542.4) seek that the height recession line element of notified Rule 16.5.1 is relaxed so that the recession line is applied at an angle of 45 degrees.

11.26. Notified Rule 16.5.1 requires that buildings on sites adjoining, or separated by a road from, a Residential Zone shall not project beyond a recession line constructed at an angle of 35 degrees inclined towards the site from points 3m above the Residential Zone boundary.

11.27. I accept and rely on the evidence provided by Mr Church who has undertaken modelling of the 35 degree and 45 degree scenarios. Mr Church supports the 45° angle sought by the submitters, but only as it applies to the northern boundary of a site. Furthermore, it is Mr Church's view that the matters of discretion of notified Rule 16.5.1 should be amended to include consideration of screen planting, and to provide further specificity to the concepts of 'dominance' and 'privacy'.

11.28. I accept and agree with Mr Church's views and recommend the changes to notified Rule 16.5.1, as shown in **Appendix 1**.

23 Evidence of Mr Church, at paragraph 31.28.

11.29.Mrs Spijkerbosch (392.13) (opposed by further submissions FS1216, FS1228, FS1238, FS1246 and supported by FS1288 and FS1059) seeks that residential neighbours are consulted if breaches in setbacks or sunlight access are more than minor.

11.30.I note that notified Rule 16.6.3 restricts public notification of such breaches; however the rule does not limit the opportunity for limited notification. I therefore consider that the submitter's relief is addressed in the notified rule and no subsequent amendments are recommended.

Outdoor living

11.31.The NZIA (238.106) (opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1248, FS1249, FS1242) seeks that the matters of discretion for buildings (notified Rule 16.4.2) are amended to include a requirement for outdoor living areas.

11.32.I note that notified Rule 16.4.2 includes the following as a matter of discretion:

Where residential units are proposed as part of a development, the extent to which open space is provided on site either through private open space or communal open space, or a combination thereof[...]

11.33.Notified Rule 16.4.2 therefore does not set any minimum requirements for outdoor space accompanying residential activities, but it does however require provision of outdoor space to be considered.

11.34.I do not consider that the BMUZ should require a minimum outdoor living area rule. I consider that this would be difficult for many developments to comply with given that residential activity is anticipated to be located above the ground floor, and the notified building heights are permitted to 12m, and restricted discretionary 20 metres in the Gorge Road area. These parameters of the BMUZ clearly contemplate apartment style living. I do not consider a minimum outdoor living requirement is necessary as a rule, and I consider that if this was imposed it has the potential to be at odds with the overall thrust of the BMUZ and the above mentioned higher order strategic direction and urban development goals, objectives and policies. I note that Mr Church does not share my view, however I have balanced his evidence against other matters, and I consider that not all living arrangements should be expected to have outdoor living requirements. I also note that this is reflected in the notified High Density Residential Zone.

11.35.In my view, using the matters of discretion for buildings (notified Rule 16.4.2) provides scope for significant flexibility in the provision of outdoor living areas, particularly insofar as it enables outdoor space to be provided communally. While I acknowledge that this could be criticised for

being a 'toothless' matter of discretion, I do not consider it appropriate to require a minimum standard for outdoor living space and I consider that the costs of such as requirement would outweigh the benefits.

11.36. The outcome sought through notified Objective 16.2.2 and implementing notified Policies 16.2.2.1 to 16.2.2.6 is that the high amenity outcomes will primarily be delivered through built form and not through the provision of outdoor living. I therefore recommend that the submission is rejected.

Outdoor storage

11.37. The NZIA (238.102) (opposed by further submissions FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248 and FS1249) seeks that notified Policy 16.2.1.9 (redraft Policy 16.2.1.8) is amended in the following manner:

Ensure that outdoor storage areas are appropriately located and screened to limit any adverse visual effects ~~and be consistent with the appropriate levels of amenity.~~

11.38. The submitter questions how one would define 'appropriate levels of amenity'. I agree that the notified policy is subjective and may result in uncertainty as to the outcomes that the policy is trying to achieve.

11.39. Rather than using the concept of amenity, it is my view that tying the policy to the effects of outdoor storage on public places and residential zones (as is articulated in notified Rule 16.5.2) would provide more certainty than notified Policy 16.2.1.9. I therefore recommend that submission 238.102 is accepted in part, with the incorporation of the recommended changes shown in **Appendix 1**.

12. ISSUE 4 – ACTIVITY STATUS OF BUILDINGS (RULE 16.4.2)

Restricted discretionary vs controlled activity status

12.1. Submitters Skyline (566.10), Trojan Holdings (634.7) Coronet Property Investments Ltd (321.3), GH & PJ Hensman (542.2), High Peaks Ltd (545.2), Ngai Tahu (550.2) submit that notified Rule 16.4.2 should be amended to shift the activity status of buildings from restricted discretionary to controlled.

- 12.2. The s32 analysis²⁴ included in **Appendix 3** sets out the reasoning behind the decision to attribute the restricted discretionary status to all buildings in the BMUZ, and the evidence provided by Mr Church also addresses this.
- 12.3. While requiring a restricted discretionary consent for all buildings would create greater uncertainty and cost, it is my view that the emphasis on high quality design in the BMUZ cannot be effectively implemented through consent conditions, and the ability imparted through the restricted discretionary status to decline proposals that would result in poor quality design outcomes should be maintained. A controlled activity status would in my view result in a regime whereby an application could only be modified through conditions of consent. I consider that it would be inappropriate for the Council in its regulatory role to effectively undertake a fundamental redesign of a proposal through conditions on a controlled activity consent. The BMUZ seeks high quality design outcomes (as per notified and redrafted Objective 16.2.2). In my view in order to effectively achieve this goal it is appropriate for the Council to retain the ability to decline an application. For example, this would ensure that proposals that are of poor quality, such that urban design issues cannot be resolved through discussions or conditions, can be declined. Therefore the restricted discretionary activity status is in my view the more appropriate method to achieve the objective. Furthermore, the non-notification clause for restricted discretionary buildings (notified Rule 16.6.2) will reduce uncertainty, cost and time delays that may otherwise have resulted due to the notification process.
- 12.4. I also emphasise that the liberal building bulk and location provisions, coupled with the range of land uses contemplated with the BMUZ require oversight of design to ensure applications constituting poor outcomes are modified, or if required, declined.
- 12.5. I therefore recommend that the submissions are rejected, as shown in **Appendix 2**.

Buildings for Trade Supplier activities

- 12.6. Various submissions received from Fletcher Distribution Ltd and Mico Ltd (**Mico**) (344.6, 344.10) (supported by FS1059), (344.11) (supported by FS1164 and opposed by FS1314) seek relief relating to Trade Supplier Activities, I address the elements of relief in turn below.

Amend Rule 16.4.2 so that the activity status for the establishment building or trade suppliers up to 1000m2 GFA is a controlled activity:

- 12.7. The submitter correctly points out that the BMUZ permits a range of activities, however buildings for those activities require restricted discretionary consent. It is the submitter's view that, because the activities listed are permitted, then a controlled activity status for the buildings

should follow. I do not support this view. As set out in the above paragraphs 12.1 to 12.5 I consider it important that the Council retain oversight of the design of buildings and that if necessary, have the ability to decline proposals that would result in poor design outcomes. It is my view that notified Rule 16.4.2 should not be amended to provide a separate activity status for buildings for trade supplier activities.

12.8. I also note that buildings in the Queenstown Town Centre Zone (notified Rule 12.4.6) require resource for a restricted discretionary activity. I therefore recommend that this submission is rejected.

Amend the notified definition of 'Building Supplier' to remove the reference to Three Parks and Industrial B Zones:

12.9. The submitter notes that Placemakers and Mico would fit within the notified definition of Building Supplier, however the definition is currently limited in its application. The notified definition is as follows:

Building Supplier (Three Parks and Industrial B Zones)

Means a business primarily engaged in selling goods for consumption or use in the construction, modification, cladding, fixed decoration or outfitting of buildings and without limiting the generality of this term, includes:

glaziers;

locksmiths; and

suppliers of:

- *awnings and window coverings;*
- *bathroom, toilet and sauna installations;*
- *electrical materials and plumbing supplies;*
- *heating, cooling and ventilation installations;*
- *kitchen and laundry installations, excluding standalone appliances;*
- *paint, varnish and wall coverings;*
- *permanent floor coverings;*
- *power tools and equipment;*
- *safes and security installations; and*

- *timber and building materials.*

12.10. It is my view that the limitation of the definition so that it only applies to Three Parks and the Industrial B Zone may result in inconsistency in the application of the term *Building Supplier* in the PDP. It is therefore appropriate, in my view, to remove the reference to Three Parks and the Industrial B Zone. I recommend this element of the relief is accepted.

- Insert a new definition of *Trade Supplier* as follows:

means a business engaged in sales to businesses and institutional customers and may also include sales to the general public, and wholly consists of suppliers of goods in one or more of the following categories:

- *automotive and marine suppliers;*
- *building suppliers;*
- *catering equipment suppliers;*
- *farming and agricultural suppliers;*
- *garden and patio suppliers;*
- *hire services (except hire or loan of books, video, DVD and other similar home entertainment items);*
- *industrial clothing and safety equipment suppliers; and*
- *office furniture, equipment and systems suppliers.*

12.11. The submitter correctly points out that notified Rule 16.4.6 refers to Trade Suppliers, however the notified Chapter 2: Definitions does not define this activity.

12.12. It is my view that the term does need to be defined to ensure that notified Rule 16.4.6 is able to be effectively implemented.

12.13. In my view the list of activities included in the definition are appropriate, and these activities should be afforded the restricted discretionary activity status prescribed by notified Rule 16.4.6. I note that the definition would result in *Building Suppliers* becoming a subcategory of *Trade Suppliers*. This would result in the activities listed within the *Building Suppliers* definition also being subject to notified Rule 16.4.6. I consider that this is also appropriate in the context of the BMUZ as, in my view the activities listed in the *Building Suppliers* definition warrant the restricted discretionary activity status prescribed by notified Rule 16.4.6. I note that I have undertaken a word search of the use of these terms in the notified Stage 1 Chapters and the term *Building Supplier* does not occur in any notified Chapter (aside from notified Chapter 2: Definitions), and the term *Trade Supplier* only occurs in the BMUZ. I therefore recommend that the relief sought by submission 344.11 is accepted.

12.14. Bunnings Limited (**Bunnings**) (746.4, 746.5 and 746.6) (supported by FS1164) also seek changes in respect of notified Rule 16.4.6. I consider that submission 746.4, which seeks deletion of notified Rule 16.4.6 is without a sound basis. The activities listed in this rule in my view may result in the construction of large utilitarian buildings. It is my view that these activities do warrant the specific consideration provided by notified Rule 16.4.6.

12.15. As alternative relief Bunnings seeks that notified Rule 16.4.6 is amended to delete the reference to Trade Suppliers and replace it with Building Suppliers, as this term is defined in the PDP. I consider that this matter is addressed in the changes recommended in response to the Mico submissions, above. In addition, I do not support the amendment sought by Bunnings to the matter of discretion in notified Rule 16.4.6, which would see the second matter limited to applying only to neighbouring *residential* properties. The notified BMUZ anticipates a mix of residential and non-residential activities. The relief sought would, in my view, mean that the impact of buildings on adjoining properties within a residential zone would be able to be considered, but not the impact on residential activities occurring within the BMUZ. In my view this would not be appropriate amendment to notified Rule 16.4.6.

12.16. Regarding Bunnings' submission 746.5, I consider that this matter is more appropriately addressed by the changes sought by Mico submissions 344.10 and 344.11. I therefore recommend this submission point is accepted in part.

12.17. Bunnings (746.5) seeks that the definitions of "Commercial Activity", "Retail Activity" and "Large Format Retail" to specifically exclude "Building Supplier" to exclude *Building Supplier*. I do not consider that these changes are necessary, and the matter is sufficiently addressed in the recommended changes in response to the Mico submissions.

12.18. Bunnings (746.6) also seek that the notified definitions of *Commercial Activity*, *Retail Activity* and *Large Format Retail* are amended to specifically exclude *Building Supplier*. The submitter provides the following reasons for this change:

It is assumed that "Building Supplier" will be appropriately provided for in the Business and Industrial zone provisions that will be notified as part of Stage 2 of the PDP review. However, without being able to review those provisions now as part of Stage 1, consequential amendments to definitions, including "Commercial Activity", "Retail Activity" and "Large Format Retail" are required now to specifically exclude "Building Supplier" from these definitions. This will ensure a clear understanding of which activities are included and excluded from Rule 16.4.6...

12.19. It is my view that the recommended changes to definitions shown in **Appendix 1** would provide an appropriate degree of certainty as to the activities that Rule 16.4.6 captures. In my view the

relief sought would not provide a clearer interpretation of the rule and I recommend that it be rejected.

Matter of discretion – natural hazards

12.20. Ledge Properties Ltd and Edge Properties Ltd (700.2) states concern regarding the practicality of meeting the requirements of the matter of discretion pertaining to natural hazards in notified Rule 16.4.2 (bullet point 5). The submitter goes on to point out that in their view there need to be exemptions for small consents and minor natural hazards.

12.21. The relevant matter of discretion (as notified) is as follows:

Where a site is subject to any natural hazard and the proposal results in an increase in gross floor area: an assessment by a suitably qualified person is provided that addresses the nature and degree of risk the hazard(s) pose to people and property, whether the proposal will alter the risk to any site, and the extent to which such risk can be avoided or sufficiently mitigated.

12.22. I agree that the notified version would place a burdensome requirement on applicants proposing minor developments, or for instances where the risk posed by the natural hazard is low. It is also a partial mix of an assessment matter and a matter of discretion.

12.23. While I recommend that the matter of discretion remains, I consider that the requirement for an assessment by a suitably qualified person is removed, as shown in **Appendix 1**. I consider that the recommended change would provide flexibility for the assessment to be commensurate to the level of risk posed. I also consider that this approach is consistent with notified Policy 28.3.2.3, which provides further guidance as to information requirements and does not stipulate a requirement for all hazard assessments to be completed by a suitably qualified person.

12.24. Also of note is that the recommended revised wording is consistent with that recommended for the other chapters within the Business and Residential Hearing streams (the latter to come through the right of reply), which provides a consistent approach.

12.25. I therefore recommend that the relief sought by 700.2 is accepted in part, as shown in **Appendix 1**.

13. ISSUE 5 – OTHER MATTERS

Glare

- 13.1. The NZIA (238.101) (supported by further submission FS1059 and opposed by FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248, and FS1249) seeks that notified Policy 16.2.1.8 (redrafted Policy 16.2.1.7) is amended in the following manner:

Ensure that the location and direction of street lights does not cause significant glare to other properties roads and public places and promote lighting design that mitigates adverse effects on the night sky, and provide a safe well lit environment for pedestrians.

- 13.2. I consider that the suggested amendments are appropriate as they would incorporate Crime Prevention Through Environmental Design (**CPTED**) principles. I also consider it would be appropriate to introduce a new policy that requires CPTED principles to be incorporated in site design. A similar policy applies to the notified Town Centre chapters of the PDP (refer to notified Policy 12.2.4.3 of the Queenstown Town Centre Zone). I consider it is appropriate that it also applies to the BMUZ also, and would also assist with implementing the recommended changes to notified Rule 16.5.7 (redraft Rule 16.5.8), which includes CPTED considerations as a new matter of discretion for restricted discretionary building heights in the Gorge Road area.
- 13.3. I recommend that the relief sought by submission 238.101 is accepted and a further policy is also included, as shown in **Appendix 1**.

Noise

- 13.4. The NZIA (238.100) (opposed by further submissions FS1107, FS1226, FS1234, FS1239, FS1241, FS1242, FS1248, and FS1249) submits that the noise thresholds should be set out at the Policy level by amending notified Policy 16.2.1.7 (redraft Policy 16.2.1.6).
- 13.5. I note that notified Rule 16.5.8 sets out the thresholds for noise generated within the BMUZ.
- 13.6. The approach taken in the notified BMUZ, of having the specific thresholds set out at the rule level, rather than in a policy is consistent with the treatment of such requirements in the other business zones of the PDP. It is my view that putting the thresholds in the policy would remove any flexibility for applications that breach the noise thresholds to be approved. However at the rule level, such breaches are considered a non-complying activity. I also note that the submitter does not propose any changes to notified Rule 16.5.8.

13.7. I am unsure of the submitter's rationale for elevating the thresholds to the policy level, as no reasons are provided in the submission. In the absence of any reasons, I am not persuaded that the relief sought should be accepted.

Submission points supporting various provisions of the notified version

13.8. A number of submission points support various proposed objectives and provisions of the notified BMUZ with no further comment provided by the submitter. These points are listed in **Appendix 2** and are not discussed in further detail as the submissions support the various provisions and do not seek further relief. For instances where I do not recommend changes in the Recommended Revised Version in **Appendix 1**, I recommend these submission points are accepted.

Submission points rejecting various provisions of the notified version

13.9. I recommend that submission points rejecting a notified BMUZ provision that do not provide any reasons or rationale for the requested change, and have not been otherwise submitted on, are rejected. This recommendation is made in the absence of any evidence or reasoning that alters my view that the notified objectives and provisions, with the incorporation of the changes shown in **Appendix 1**, are appropriate in meeting the purpose of the Act. These submissions are shown in **Appendix 2**.

Drafting style for objectives and policies

13.10. In the Panel's Fourth Procedural Minute dated 8 April 2016, concern was expressed that many objectives and policies were not framed as such. I have reviewed the notified Objectives and Policies and do not recommend any changes in this regard.

Recommended changes for clarification and improvement

13.11. A number of non-substantive changes are recommended to be made to the provisions to clarify the intent and improve the drafting of the chapter. A number of these have been discussed in other hearing streams and in the interests of consistency I have also recommended these changes. I consider that the changes do not alter the regulatory effect or change the geographic application of the provision and I consider the Panel are able to recommend these changes are made without a submission on the provisions.

13.12. I have identified some provisions in the notified BMUZ that could be improved, however no submissions have been made on these and the changes recommended would lessen the regulatory effect of the rule. Therefore, I do not consider there is scope within submissions for me to be recommending these changes. These provisions are:

- i. Notified Rule 16.5.9.1 (redraft Rule 16.5.10.1) because the component of the rule where it states... *as to limit effects on the night sky* ...provides too much discretion and subjectivity associated with whether a activity would be compliant.

13.13. In any event, this rule is considered to be ultra vires and therefore in my view should be removed from the PDP.

13.14. In addition, I note that the notified BMUZ does not include a requirement for development of large sites to provide a Comprehensive Development Plan. Introducing this requirement would give effect to Strategic Direction Policy 3.2.3.1.2 which seeks that development on large sites is undertaken in a comprehensive manner. The introduction of a rule akin to 12.4.6.2 of the notified Queenstown Town Centre Zone (and accompanying notified Policy 12.2.2.9) would, in my view be an appropriate addition to the BMUZ and is also supported by Mr Church.

Subdivision and Development Chapter 27 of the PDP

13.15. The Subdivision and Development Chapter was heard in Hearing Stream 04 between 25 July and 17 August 2016.

13.16. Subdivision of land within the BMUZ is a restricted discretionary activity in accordance with Rule 27.5.6 of the Subdivision Chapter (Chapter 27).²⁵ In addition, Rule 27.6 prescribes a minimum lot area for subdivision of 200m² within the BMUZ.

13.17. I note that no submissions were received specifically seeking to amend the above density regime as it applies to the BMUZ, and therefore no changes are recommended.

BMUZ Design Guide – Potential future Variation

13.18. It is my view that a design guide for the BMUZ, similar to that of the town centre zones, would be a useful tool to illustrate the quality of urban environment that the Zone seeks to achieve.

13.19. A design guide may also provide an opportunity to include pedestrian linkages and other urban design elements that are not presently captured by the BMUZ. A design guide may also be able to be incorporated by reference, similar to the Arrowtown Design Guidelines 2016.

13.20. I note that the above view is my own, and is supported by the evidence provided by Mr Church, however this may not necessarily be the view of Council.

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14. CONCLUSION

14.1. On the basis of my analysis within this evidence, I recommend that the changes within the Revised Chapter in **Appendix 1** are accepted.

14.2. 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.



Amy Bowbyes
Senior Planner
2 November 2016